
MONDAY, SEPTEMBER 7, 2009

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

COUNTY OFFICES CLOSED – LABOR DAY

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 8, 2009.

TUESDAY, SEPTEMBER 8, 2009

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

Chairman Lauman opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Chairman Lauman closed the public comment period.

MONTHLY MEETING W/ LAURIE REBUCK, JUVENILE DETENTION CENTER

[9:35:46 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Juvenile Detention Director Laurie Rebeck, Clerk Kile

Rebeck reported their population is presently at eight with perhaps three to four of them long term. She then spoke about an incident involving a leg injury in which security cameras are being reviewed for possible charges. Rebeck noted a new cell punch system will be installed at the end of next month and maintenance is currently in the process of repairing the back porch entrance.

MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE RE: KILA BIKE PATH

[10:00:36 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Clerk Kile

Harris reported the federal highway administration audited the Kila bike path and found at the end of the trail where it hits Smith Lake Road, design missed putting an ADA insert into the ground. He then explained the price to install one is around \$900.00 which Peccia stepped up and volunteered to put in.

Hogle reported the entire section that runs from Meridian Road to Smith Lake Road (11 miles) is now completed.

AUTHORIZE COUNTY ATTORNEY'S OFFICE TO ACCEPT SERVICE: SAUERBIER V. THELINE & FLATHEAD COUNTY

[10:15:05 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Deputy County Attorney Peter Steele, Clerk Kile

Commissioner Dupont made a **motion** to authorize the County Attorney's Office to accept service for Sauerbier vs. Theline and Flathead County. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

TUESDAY, SEPTEMBER 8, 2009
(Continued)

DOCUMENT FOR SIGNATURE: NOMAD CONTRACT/ 911 CENTERS

[10:20:41 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

OES Director Mark Peck, Clerk Kile

Peck reported the 911 Board voted to purchase a new mobile unit that will replace the one they have which is limited size wise the way it is designed; the new unit will provide emergency operations and have dispatch capabilities. He explained the technology in it will be paid for through the bond issue, and the trailer and physical plant will be paid for through OES and the trade in value of the current trailer along with \$10,000.00 from the Fire Service Area. Peck noted the unit can be used for everything from SWAT calls to mass casualties.

Commissioner Dupont made a **motion** to approve the Nomad contract and authorized the chairman to sign. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

CONSIDERATION OF ADOPTION OF RESOLUTION: CORRECT RESOLUTION #797FB/ ROBINSON SAND & GRAVEL ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT

[10:16:00 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Deputy County Attorney Jonathan Smith, Clerk Kile

Smith explained the correction is to correct a legal description that was not complete.

Commissioner Dupont made a **motion** to adopt Resolution 797FB. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

RESOLUTION NO. 797 FB

WHEREAS, the Board of Commissioners of Flathead County, Montana, considered a proposal to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business);

WHEREAS, the Board of Commissioners, after following the procedures set forth in Section 76-2-205, M.C.A., adopted a final resolution (Resolution No. 797 FA, dated August 4, 2009) changing the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business);

WHEREAS, in the adoption of that Resolution, the legal description contained a typographical error in describing the parcel upon which the Board of Commissioners changed the zoning designation; and

WHEREAS, the Board of Commissioners wishes to correct that error *nunc pro tunc* in order that the records of the County show that the zoning designation is applied to the correct property.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts this Resolution amending Resolution No. 797 FA to set forth the proper description as set forth on Exhibit A attached hereto, on which the zoning designation was changed from R-1 (Suburban Residential) to B-2 (General Business) as those terms are used and defined in the Flathead County Zoning Regulations.

DATED this 8th day of September, 2009.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Dale W. Lauman
Dale W. Lauman, Chairman

By: Absent
Joseph D. Brenneman, Member

By/s/James R. Dupont
James R. Dupont, Member

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy Clerk

TUESDAY, SEPTEMBER 8, 2009
(Continued)

Exhibit "A"

Lot 10 and 11, Block 4 of Bernard's Park, Kalispell, Montana according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

EXCEPTING THEREFROM, the North 75 feet of said Lot 10.

ALSO EXCEPTING THEREFROM the Southeasterly 30 feet of Lots 10 and 11 of Block 4 of Bernards Park, in the Southwest Quarter of the Southwest Quarter, Section 3, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

MONTHLY MEETING W/ CINDY MULLANEY, OES & LINCOLN CHUTE, FIRE SERVICES AREA MANAGER

[10:30:41 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Deputy Director OES Cindy Mullaney, Fire Services Area Manager Lincoln Chute, Clerk Kile

Discussion was held relative to criteria accidents need to meet before the commission wants to be notified by OES when they are directly involved. Mullaney explained when they do respond incident reports are completed which can be forwarded after the fact. She then reported she has been asked to assist with a presentation at the Fall DES Conference in Lewiston and has been asked to coordinate an exercise for the state. Also reported was people in Oregon that do river forecasting have contacted Ray Nickolas from the weather service and are asking for input in regards to closing the Essex and Polebridge sites.

Dupont said the Nyack area is where it normally floods and it was stated that we have 8-10 hours notice if we know there is flooding in Essex before it gets further down and is critical information to us.

Mullaney then reported Whitefish has expressed a desire to resurrect the Urban Search and Rescue and Kalispell is interested in working with them. Discussion was then held relative to the LAPC, development of new software and possible support for the Health Department in regards to H1N1.

Chute reported on two local spills totaling between 20 – 30 gallons that were in a high visible area in which booms were thrown out quickly, as well as secondary booms and a sea curtain. He also reported a piece of machinery was rolled into the river by the Old Steel Bridge that required additional work from the spill team. A wildland fire update was then given which included a 33 acre fire between Rogers Lake and Marion Mountain that is totally burning out now with several fire departments responding and working together; another fire was reported at Lost Trail caused by a lightning strike. Chute then noted RC&D received funding for fuels reduction work in Whitefish for approximately a quarter of a million dollars and also spoke about fuel reduction work up past Coram to Essex. He then spoke about possibly starting a fire service area in the Ashley Lake area and is working with GIS in regards to bringing parts of the North Fork into a fire district.

MONTHLY MEETING W/GUY FOY, ROAD DEPT.

[11:00:51 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Deputy County Attorney Jonathan Smith, Operations Manager Road & Bridge Dept Guy Foy, Clerk Kile

Smith explained negotiations have been held at the Road Department in regards to working four - 10's when a holiday falls within the week. General discussion was held in this regard.

Foy updated the commission on work that has started with the crusher and said they are looking at putting out a larger than normal crushing contract at Four Corner's Pit. He then reported that Grayling Road work is progressing with the guardrail scheduled to be installed this week along with approaches, and McMannamy Draw is still unsettled with residents wanting more details of the work proposed. Discussion was then held relative to paving issues in the Happy Valley area and an updated overlay list with cost estimates was presented to the commission.

Foy asked for commissioner authorization for Cory at the Road Department to be able to spend capital improvement fund monies for equipment purchases.

Commissioner Dupont made a **motion** to authorize Cory Pilsch to make equipment deals by spending capital improvement funds. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

TUESDAY, SEPTEMBER 8, 2009
(Continued)

DOCUMENT FOR SIGNATURE: CC&R WAIVER PAGE/ NORTHWOODS #2

[11:35:22 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner James R. Dupont

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kile

Chairman Lauman explained the waiver waives the requirement of approval from the Board of Commissioners for changes to Covenants, Conditions and Restrictions to Northwoods #2.

Commissioner Dupont made a **motion** to approve the document for signature. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

9:00 a.m. Commissioner Brenneman: Interoperability Montana Finance Committee meeting in Helena (till noon)

1:00 p.m. Commissioner Brenneman: Interoperability Montana Governance Committee meeting in Helena (till 5)

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 9, 2009.

WEDNESDAY, SEPTEMBER 9, 2009

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

9:00 a.m. Commissioner Brenneman: Interoperability Montana Project Director's meeting in Helena

11:00 a.m. County Attorney meeting @ Co. Atty's Office

1:15 p.m. 911 Board meeting @ OES Conference Room

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 10, 2009.

THURSDAY, SEPTEMBER 10, 2009

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

Chairman Lauman opened public comment on matters within the Commissions' Jurisdiction.

Donald Missman, 863 Blacktail Road spoke about his concern in regards to his road being naming Howling Place which he stated is slang language according to the dictionary. He then said he was under the impression you couldn't use a business name for a street name; a business is down the road which is calling Howling Place. Missman stated he would like to see the name changed to a more civil name like Whispering Pine or anything else.

Karlene Khor, 229 7th St. W, Kalispell stated the staff report prepared for Riverpark Subdivision by the Planning Board was inadequate and pointed out the reason it was inadequate, was because it did not contain important information that was brought to the Planning Board meeting by members of the public, neighbors and other experts who provided information that for some reason was left out. She further said many neighbors were so deeply concerned that they wanted to assist and make sure their comments were brought to your attention and were given consideration; although this is not a condemnation of the Planning Board's staff report, what it is, is a condemnation of that it should have been in a manner that included the important information the Planning Board needed in order to create a finding of fact that was strong for the commission to consider. Khor said the Planning Board felt strong about the denial and struggled in regards to amending the findings to provide a basis for denial. She went on to say as a group they have spent hours and have consulted professionals and have included public comment and evidence that was excluded from the staff report as well as new documentation and produced a set of findings to support the denial that they are asking consideration be given to when the task is taken on today.

Karlene Khor then reviewed the following letter that was presented:

THURSDAY, SEPTEMBER 10, 2009
(Continued)

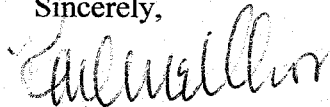
My name is Karlene Khor and I live at 229 7th Street West in Kalispell, Montana. I board my horse, a Norwegian Fjord, a breed of less than 5,000 horses in the United States, at Bobbie Hall's horse facility in Whitefish, Montana. I take riding lessons from Bobbie Hall and she trains my horse.

Certainly, in these economic times, it goes without saying that the preponderance of lots available is significant. In point of fact, at this moment, Flathead County developers and sellers are offering over 2500 lots to non-existent buyers. Buyers of second homes or second home sites have almost disappeared from this valley. I am sure I do not have to list the number of failing and foreclosed subdivisions to the Commissioners. Another most startling statistic involves the coveted Flathead Lake property market, the Daily Inter Lake reported from January 1st to July 1st of 2009 not one property had sold around the Lake. It is difficult for me to see the pressing need for yet another development to sit empty. As a city resident, I realize my property taxes actually pay the bulk of the county needs of those residents who choose to not live in the city but in the rural areas. It's extremely unfair.

As to the location of this proposed subdivision, the property lines of their lots to the location of the horse arena, the horse playpen area and other training sites used to train horse and rider are dangerously close to each other. They actually meet along the entire western side of Bobbi Hall's horse training ranch. This presents a clear safety hazard for riders, horses and the potential homeowners and their families who may purchase and choose to live on those proposed subdivision lots. If these homeowners have children or dogs, the threat to horse and rider and human safety exponentially increases.

As a beginner rider with a valuable horse, I will not allow my horse or myself to be subjected to the danger this subdivision presents and if this subdivision is allowed to move forward I will have no choice but to remove my horse and find myself another trainer. I am rather certain other riders who train with Bobbi Hall are on the same sentiment. Clearly, this subdivision will cost Bobbi Hall most of her clients and business.

Sincerely,



Karlene Khor

Bobbi Hall a neighbor of the proposed Riverpark Subdivision presented 12 pictures to the commission in regards to high water and flooding in the area from 1997 to 2008. A well log was also presented in which she stated her well is domestic for three homes, stock and irrigation; if more wells go in close to hers, it puts her business and livestock in jeopardy. Hall stated she has been a lifetime agricultural farmer and has lived here her entire life and has developed a good business and feels it will be impacted by the proposed subdivision. She went on to say she has a down's daughter she takes care of and is concerned about the impact to her income. Hall also said the subdivision is inappropriate for the area and is concerned about the strain it will put on law enforcement.

Pam Rozell with Potter's Field Ministries stated their property is used for staff housing and livestock. She then spoke about her concern in regards to protecting water rights for the five acres they own which she currently is checking into whether they have. Rozell noted that when she left the Planning Board meeting the developer informed her that he had cut one of the water lines running down to the Stillwater River and they needed to talk. She also spoke about the soil on the property which she said is clay based, which causes extreme flooding in the spring that does not dry up until the second week of July.

Tom Perkins a neighbor bordering on the west side read the Environmental Study he received from Todd Hall, Senior Environmental Engineer with M.S. Engineering in which he stated he had several concerns that he would recommend be brought to the attention of the Planning Board and Commissioners. The concerns were in regards to surface water runoff, groundwater contamination and groundwater availability. Perkins went on to say there are four to five commercial wells in the area and 11 more wells are proposed in the subdivision, which he and the whole neighborhood are concerned about.

Stephanie Weaver a resident on Bobbi Halls property for 14 years commented she has lived at the affordable rental for this long because she loves the area and her fear is if this subdivision is approved, that she would fear for the safety of her animals and would not want to live there any longer, which would severely impact Bobbi's income. She explained they spent countless hours going over the staff report in hopes of bringing to their attention facts that were not brought to the Planning Boards attention which she hopes they have done today.

Karlene Khor explained that the information individuals spoke of is contained in the new proposed findings of fact submitted.

Commissioner Brenneman asked if the Planning Board had seen the information she submitted today.

Karlene Khor stated it was just completed last night; that the Planning Board heard at various times the evidence, but the planning staff did not put the evidence into the report turned over to the Planning Board.

No one else rising to speak, Chairman Lauman closed the public comment period.

THURSDAY, SEPTEMBER 10, 2009
(Continued)

MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE

[9:00:54 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Planning & Zoning Director Jeff Harris, Clerk Kile

Harris presented a zoning violation report to the commission and explained the circumstances in regards to Shot Gun Ranch which is operating under a non-conforming use. He then reported on the three plans currently moving through the process which included: Parks and Rec Master Plan with a public hearing to be held on Oct 21 by the Planning Board in order to incorporate the plan into the Growth Policy; Transportation Plan with a workshop to be held by the Planning Board on November 11; Lakeside Neighborhood Plan with a public workshop scheduled for October 7. Harris also reported several zoning amendments are moving through the process and they are ready to go before the Planning Board with newly organized Floodplain Regulations. He noted they are receiving pressure to approve signage along the highway to set up large video monitors. Statistics for between 1,700 to 1,800 applications processed in the past four years were then reviewed.

PUBLIC HEARING: AMERICAN RECOVERY & REINVESTMENT ACT/ BUS BARN FOR EAGLE TRANSIT

[9:30:27 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Eagle Transit Director Dave Polansky, AOA Director Jim Atkinson, Gary Walrack, John Peterson, Clerk Kile

Polansky reviewed the history of the American Recovery and Reinvestment Act funds that became available for a proposed new bus barn. He then presented a site layout of the new proposed Eagle Transit Bus Barn to be constructed at 1333 Willow Glen Drive with ARRA Funds. Polansky stated the grant is for \$980,585.00 with a portion of it to be to connect the existing facility to public utilities in order for the bus wash to drain into the city septic system. The building itself is \$752,000.00 with the remainder going towards connections for utilities.

Chairman Lauman opened the public hearing to anyone wishing to speak in regards to the American Recovery and Reinvestment Act/ Bus Barn for Eagle Transit.

No one rising to speak, Chairman Lauman closed the public hearing.

TAKE ACTION: DEER CREEK HEIGHTS

[9:45:23 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Clerk Kile

Chairman Lauman read into the record final plat for Deer Creek Heights has not been filed and expires on Dec 12, 2009; as a matter of record is now a dead file.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD NAME APPEAL/ DOUGLAS DRIVE

[9:47:13 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Clerk Kile

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing for road name appeal: Douglas Drive and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **DOUGLAS DRIVE**.

Road generally running southerly off the proposed Sage Lane which will run southeasterly off Anderson Lane and located in the SW¼ SE¼ Section 9, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **28th day of September 2009, at 9:30 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **DOUGLAS DRIVE**.

THURSDAY, SEPTEMBER 10, 2009
(Continued)

This notice shall be mailed to each landowner who has access off of the proposed **DOUGLAS DRIVE**, who has an address assignment on the proposed **DOUGLAS DRIVE** or who owns property along the proposed **DOUGLAS DRIVE**.

Dated this 10th day of September, 2009.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Dale W. Lauman
Dale W. Lauman, Chairman

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on September 15 and September 22, 2009.

MONTHLY MEETING W/ JOE GARZA, FINANCE DEPT.

[10:00:42 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Finance Comptroller Joe Garza, Clerk & Recorder Paula Robinson, Clerk Kile

Garza reported the first set of the Department of Revenue 2009 tax evaluations were received; however, they were revised and they are working on the second revision right now. He then stated the total taxable value went up about \$100,000.00 and the actual property value went up by \$11 million; 1 mil will be worth 223. Garza explained that legally they have 45 days to get tax requirement schedules prepared. The end of year cash projections should be completed by the end of September and a budget amendment resolution should be brought forth to the commission for any adjustments that may require loans or adjustments. He then reported he is working closely with Cindy Dooley and individual departments in getting capital assets updated within CSA. It was then noted the Audit Committee will meet on September 23 to further clarify the travel and credit card policy. The Permissive Medical Levy was then discussed in which 8.3 mils is being considered

General discussion was held relative to timely audits, the permissive medical levy and setting tax values.

PRELIMINARY PLAT: RIVERPARK OF WHITEFISH

[10:15:21 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Eric Mulcahy, Karlene Khor, Pam Rozell, Bobbi Hall, Tom Perkins, Rudy Koestner

Hogle entered into record Revised Staff Report FPP 08-12, Riverpark of Whitefish; an application submitted by AVKO, LLC and Stillwater Land Company with technical assistance from Sands Surveying, Inc. for preliminary plat approval of a 15 lot residential subdivision located seven miles northwest of Whitefish on the west side of Hwy 93 on a 66 acre parcel. The subject lots would range in size from 1.06 acres to 5.38 acres and would be served by a public water supply and would use individual level two septic systems. Access to all lots would be from a proposed internal subdivision road which would approach onto Hwy 93 North.

Hogle then reviewed the history of the proposed subdivision in which he explained the Planning Board held an initial public hearing on September 10, 2008, at which time the Planning Board voted 8-0 to deny the application with 22 lots. Subsequent to that recommendation the applicant requested a mid-course correction which is a provision in the subdivision regulations, whereby the applicant can integrate feedback from the Planning Board into the proposal. A Revised Preliminary Plat application was submitted; however, some of the main concerns the Planning Board had were with ground water monitoring, and the time frame was an issue since it was the middle of winter. A request was received to extend the period of time for a subsequent hearing so they could accomplish ground water monitoring. In July additional information in regards to ground water was submitted. Hogle then continued to summarize the staff report in which the Planning Board again recommended denial with a 5-3 vote.

Commissioner Brenneman said obviously the change in floodplain delineation is marked and convenient for the subdivision and questioned where it was, to where it currently is.

Eric Mulcahy explained there were areas of Flathead County where a detailed study was done in 1984; the detailed areas were primarily limited to populated and unpopulated areas of the county. They relied on a USGS quad map which has topography elevation of 20 foot contours and they did a very broad brush delineation of what the floodplain would be, and it doesn't follow contour lines and definitely doesn't follow one and two foot contour lines. It just kind of crosses over and it literally is a paint brush approach. When we had our pre app with the county the county said we need to delineate this particular area so cross sections were taken on a river, and we had topographic information at one and two foot contour intervals for the reach of river that was studied along with flow analysis; the information was packaged and shipped to FEMA and their contract engineers reviewed it and approved it. So FEMA reviewed the analysis of the floodplain and essentially changed their map which happens all the time in these undetailed areas. Mulcahy further explained he took other aerial photo maps to the Planning Board meeting along with a DNRC analysis, which stated their probably had been a 75 to 100 year flood event in 1997 on the Stillwater River. He went on to say the flood study has been checked by a completely independent third party.

THURSDAY, SEPTEMBER 10, 2009
(Continued)

Commissioner Brenneman asked if any farmers in the area had been questioned in regards to flooding in the area in the past.

Eric Mulcahy said if they were to redo their map they would take the map amendment and apply it to the floodplain boundary.

Commissioner Brenneman then asked about the test holes and monitoring wells.

Eric Mulcahy explained a series of test holes were installed in 2007 and again in the fall of 2008 right before the snow.

Commissioner Brenneman stated he was most interested in results from test holes on lots 8 – 9 – 10 -11 – 12.

Eric Mulcahy said they were put in during fall season and monitored all spring by the Flathead County Health Department who spot checked them.

Commissioner Brenneman asked if he was absolutely convinced that lots 8 – 9- 10 -11 – 6 - 12 were monitored in May of 2009.

Eric Mulcahy said they were and none of them showed any water at any time.

Commissioner Brenneman asked if the water rights would be in excess of 35 GPM.

Eric Mulcahy stated that potentially, yes; that it would be a requirement that they secure water rights.

Commissioner Dupont asked what the premise of denial was for the Planning Board.

Commissioner Brenneman said the Planning Board can vote against anything they don't like; we don't have that luxury. He then stated he personally doesn't feel he has that luxury because it is very clear in state law that we have to say we are going to turn this down based upon certain planning laws. The only finding that doesn't support passage of this is that it is out of character with the neighborhood, but it is a pretty tenuous claim with state law that constitutes reason for denial in my opinion. If this area were zoned it would be an entirely different matter.

Commissioner Dupont stated he concurred with Commissioner Brenneman and said it is unfortunate something wasn't done prior; that there are a lot of places in Flathead County that are out of character and its regrettable we don't have a ruling for that. Also noted was he doesn't feel law enforcement would be an issue.

Chairman Lauman asked Eric Mulcahy if during any of the FEMA and LOMA processes if water wells had been studied in the area.

Eric Mulcahy stated that well logs were provided from neighboring wells and it appears there is a lot of water from them.

Chairman Lauman asked if he was satisfied with the surface water flow.

Eric Mulcahy said that was the reason they withheld going to the Planning Board this winter and requested an extension; so they could get another full monitoring season.

Chairman Lauman asked if any meetings had been held with neighbors in regards to their concerns.

Eric Mulcahy said that he hasn't had any and didn't know if the applicant had. When they went through the first public hearing and received a unanimous denial they tried to address issues brought to the Planning Board and reduced the density by thirty percent. He further said he knows the neighbors would like to see 10 acre lots.

Commissioner Brenneman asked who owns the open space.

Eric Mulcahy stated it would be a homeowner's park; the association would own it and be responsible for it.

Commissioner Brenneman asked if the homes would be built 150 feet from the no-build zone or the 100 year floodplain.

Eric Mulcahy stated it was the 100 year floodplain that was created in an attempt to address any concerns.

Commissioner Brenneman then commented the material submitted this morning during public comment cannot be used in making their decision when the Planning Board did not see it; however, they could refer things back to the Planning Board if they felt there was relevant information the Planning Board needed to see. He then added it was stated this morning that the Planning Board didn't see this compilation here. They did hear the public comment and the Planning Board chose not to change their findings; while I am not using this information for my decision, neither do I feel it constitutes new information sufficient that we should send it back to the Planning Board.

Karlene Koch stated there is sufficient information including the water easement, ground water and FEMA.

Commissioner Brenneman said I understand there might be disagreement with my opinion.

Commissioner Brenneman made a **motion** to adopt Revised Staff Report FPP 08-12 as Findings of Fact as amended by the Planning Board. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve Riverpark of Whitefish with conditions as amended by the Planning Board. Commissioner Dupont **seconded** the motion.

Chairman Lauman commented he sees no legal reason they have to deny the development.

Aye - Lauman, Brenneman and Dupont. Motion carried unanimously.

THURSDAY, SEPTEMBER 10, 2009
(Continued)

Standard Conditions

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.17(iv), Flathead County Subdivision Regulations (FCSR)]
 2. The applicant shall show proof of a completed approach permits from the Montana Department of Transportation indicating the approaches have been built and received final inspection and final approval prior to final plat. [Section 4.7.17, FCSR]
 3. A dust control plan shall be submitted that addresses measures to minimize construction dust and includes post-construction dust mitigation measures. [Section 4.7.14, FCSR]
 4. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that the plat meets the requirements of the fire district shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
 5. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.26, FCSR]
 6. All internal subdivision roads shall be certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.17, FCSR]
 7. With the application for final plat, the applicant shall provide a Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.16(e), FCSR]
 8. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.24, FCSR]
 9. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.13, FCSR]
 10. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
 11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27.c, FCSR]
 - b. All utilities shall be place underground. [Section 4.7.24, FCSR]
 - c. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler and bear-proof containers shall be utilized. [Section 4.7.23, FCSR]
 - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.26, FCSR]
 - e. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 - f.

Waiver of Protest

Participation in Special Improvement District
[per County Resolution 503-M]

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.
 12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b) (i), M.C.A.]
 13. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained and provided to the Flathead County Planning & Zoning office prior to any site disturbance or construction. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
 14. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27, FCSR]
 15. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.4.22 FCSR]
 16. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. [Section 4.4.20 FCSR]
- Project Specific Conditions**
17. Prior to Final Plat approval of Riverpark of Whitefish, the applicant shall provide evidence that applicable DNRC permit requirements for the public water supply have been met.

THURSDAY, SEPTEMBER 10, 2009
(Continued)

18. Prior to Final Plat approval, a fire suppression water storage tank with a minimum 2500 gallon per unit capacity or a dry hydrant utilizing the Stillwater River for the subdivision shall be installed, and a letter from the Whitefish Fire District indicating the facility complies with its requirements shall be submitted.
19. The applicant shall establish a compliant bus stop in a safe location and provide a letter of approval from the Flathead County Superintendent of Schools prior to final plat.
20. The final plat shall indicate the "No-Build Zone" as depicted on the preliminary plat.
21. The post-LOMA delineated 100 year floodplain boundary and elevation at the north and south subdivision boundaries shall be shown on the final plat.
22. There shall be no further subdivision of lots or Open Space, and the following note shall appear on the face of the final plat: "There shall be no further subdivision of lots or 'Open Space' as depicted on the approved plat of Riverpark of Whitefish."
23. The following statement shall appear on the face of the final plat:
"Lot owners are alerted to the presence of sensitive and potentially dangerous wildlife in the area and are reminded that **feeding big game is illegal**. Lot owners are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including such things as bear proofing, pet control, and removing food sources."
24. The submitted Road User's Agreement shall be amended to include long-term maintenance of all drainage swales within the subdivision.

FINAL PLAT: HOMESTEAD AT WHITEFISH, PHASE 2

[10:46:52 AM](#)

Members present:

Chairman Dale W. Lauman
Commissioner Joseph D. Brenneman
Commissioner James R. Dupont

Others present:

Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Eric Mulcahy, Paul Johannsen, Clerk Kile

Hogle entered into record Staff Report FFP 09-19, Homestead at Whitefish Phase 2; an application submitted by Alden Hanson with technical assistance from Sands Surveying and WMW Engineering for final plat approval Phase 2 for eight single family residential lots located northwest of Whitefish with access from Star Meadows Road via Hwy 93. A phasing request was granted in 2008 by the commission. Preliminary plat approval was granted by the commission on March 27, 2005 subject to 21 conditions. Hogle explained condition 5 in regards to an emergency egress that is functional for the whole phasing project; that will be completed prior to any subsequent phases being approved for final plat. He then explained an SIA exists for condition 18 for \$99,325.00.

Commissioner Dupont made a **motion** to approve Final Plat of Homestead at Whitefish, Phase 2. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

Commissioner Brenneman made a **motion** to accept an SIA for Homestead at Whitefish, Phase 2. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

12:00 p.m. Commissioner Brenneman: Bigfork Steering Committee Public Forum @ Bethany Lutheran
2:00 p.m. Commissioner Lauman: AOA Board meeting @ Kalispell Sr. Center
6:00 p.m. Fair Board meeting @ Fair Office
7:00 p.m. Road Advisory Committee meeting @ Solid Waste District Conference Room

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 11, 2009.

FRIDAY, SEPTEMBER 11, 2009

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Lauman, Commissioners Brenneman and Dupont, and Clerk Robinson were present.

8:30 a.m. Commissioner Brenneman: Mosquito Control Board meeting @ Earl Bennett Bldg.
9:00 a.m. Subdivision Review Committee meeting @ Commissioners' Meeting Room

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 14, 2009.
