

\*\*\*\*\*

## MONDAY, SEPTEMBER 14, 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.

Tab Young spoke about an ongoing concern in regards to monthly fees being charged for boarding horses at the fairgrounds. He then stated they pay \$50.00 per horse per month and they keep saying they need to raise the price, but they can't give them a breakdown of what it costs to haul away the waste and the cost of electricity and water; if they could get a breakdown of the costs they would know what it is actually costing and everyone would feel better about the prices instead of just being told they have to be increased. He further stated they haven't asked for a lot and have even asked if they could work the track themselves in order to help save on the cost, and have been told they can't drive a vehicle there. Young explained he is a volunteer on the Smith Valley Fire Department and can drive a fire truck, but cannot drive a tractor around the track that would be at no expense to the county. He then said they would like a concrete answer that doesn't keep changing; they need consistency with their communications.

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

### MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS

[8:59:04 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Fair Director Jay Scott, Clerk Kile

Scott reported that all in all the Fair went well although carnival sales were down approximately 4½ percent, gates tickets are still being calculated and the market sale went well considering the economy. He then explained the gun show over the weekend went very well and they are scheduled to be busy over the next several months. Discussion was then held relative to entertainment for next year and concerns brought forth by Tab Young earlier today in regards to a breakdown of boarding fee costs.

### BOARD APPOINTMENTS: EMS ADMINISTRATIVE BOARD AND FLATHEAD COUNTY PLANNING BOARD

[9:18:20 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Ardis Larsen, Barb Miller, Clerk Kile

Commissioner Brenneman made a **motion** to appoint Jason Spring as the North Valley representative and Velinda Stevens as the Kalispell Regional Medical Center representative to the Flathead County Emergency Medical Services Administrative Board. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

Chairman Lauman noted those that applied were: Larry Linne, Gene Shellerud, James Bonser, Charles Lapp, Greg Stevens, David Fischlowitz and James Mahnke

Commissioner Brenneman commented concern has been expressed to him in that people have asked why they should apply when those that are appointed are those that put up the most yard signs or are most involved in campaigns and no real analysis is done. He then stated I know both commissioners are persons of integrity and try their best to appoint people that are the best qualified for the positions. Brenneman then said that he went through the applicants names and made a visual aid evaluation where their education was considered, their planning experience, whether or not they have an agenda, the amount of time in the valley; although not a whole lot and whether or not there was an apparent conflict of interest, and my analysis indicated that David Fischlowitz would be the best qualified.

Commissioner Brenneman made a **motion** to appoint David Fischlowitz. Motion **died** for lack of a second.

Commissioner Brenneman then said through his analysis the person that came in second was Larry Linne.

Commissioner Brenneman made a **motion** to appoint Larry Linne. Motion **died** for lack of a second.

Commissioner Dupont said he certainly understands where Commissioner Brenneman is coming from on appointments, and doesn't like the allegation that putting up signs has anything to do with appointments. He stated when he looks at the applicants names he likes those that are action guys that not only complain about certain issues, but jump in with both feet and try to fix them; they don't come up with complaints without solutions. He further stated the person he wants to nominate he has known only this year; one can say he supported me in my election, but that has absolutely nothing to do with it, I look at what he does. When we had problems with the road standards he volunteered to get on the committee and work on them. It seems Mr. Lapp is always there volunteering and seems to be an easy person to get along with; he isn't opinionated and has objective thinking, and seems to really know what he is doing. Charles Lapp is not a personal friend of mine and I have only known him since I ran for commissioner; going through all these applications, I see the most common sense approach is to nominate Charles Lapp.

Commissioner Dupont made a **motion** to appoint Charles Lapp to the Flathead County Planning Board. Commissioner Brenneman **seconded** the motion.

**MONDAY, SEPTEMBER 14, 2009**  
**(Continued)**

Chairman Lauman said he looked at all the applicants and feels each has good points and is very knowledgeable; any one of them would add to our planning board. He then stated he appreciated those that applied and hoped each would remain interested in applying for county boards and being a part of the decisions made in Flathead County.

**Aye** - Lauman and Dupont. **Opposed** - Brenneman. Motion carried by quorum.

**PRELIMINARY PLAT: MOUNTAIN VIEW, LOT 17, BLOCK 2**

[9:31:22 AM](#)

Members present:

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

Others present:

Planner Andrew Hagemeyer, Eric Mulcahy, Clerk Kile

Hagemeyer entered into record Staff Report FSR 09-06 Mountain View Amended Lot 17, Block 2; an application submitted by Alice Blasdel with technical assistance from Sands Surveying for a two lot minor subdivision on 1.38 acres located northeast of Kalispell on Maple Drive in Evergreen. Staff recommends approval with 13 conditions and a variance for the road width.

Commissioner Brenneman made a **motion** to adopt Staff Report FSR 09-06 with the variance included. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

Discussion was held relative to condition 2 which will be changed to eliminate shared driveway.

Mulcahy stated he feels condition 4 should be stricken since the fire department has already commented that everything is acceptable in the subdivision.

Condition 4 will be stricken with the understanding it is only being eliminated because of the location.

Commissioner Dupont made a **motion** to approve preliminary plat of Mountain View, Lot 17, Block 2 as amended. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**Conditions**

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626A. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.18(iv), Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit for the driveway access from the Flathead County Road and Bridge Department, indicating the approach has been designed and built to County standards and received final inspection and approval. [Section 4.7.18, FCSR]
3. A dust control plan shall be submitted that addresses measures to minimize construction dust and includes post-construction dust mitigation measures. [Section 4.7.15, FCSR]
4. 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 application. [Section 4.7.27, FCSR]
5. 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 4.7.25, FCSR]
6. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed and approved by the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 4.7.14, FCSR]
7. 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 4.7.30, FCSR]
8. 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 4.7.28.c, FCSR]
  - b. All utilities shall be placed underground. [Section 4.7.25, FCSR]
  - c. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.24, FCSR]
  - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.27, 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 4.7.15, FCSR]

MONDAY, SEPTEMBER 14, 2009  
(Continued)

- 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.

9. The final plat shall comply with state surveying requirements. [Section 76-3-608(b) (i), M.C.A.]
10. 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 4.2.19, FCSR]
11. 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 4.2.15(a), FCSR]
12. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. [Section 4.2.13, FCSR]

**DOCUMENT FOR SIGNATURE: 911 CENTER, MOU AMENDMENT**

[10:01:21 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Clerk Kile

Commissioner Brenneman made a **motion** to approve the MOU amendment and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: MONTANA WOOL GROWERS ASSOCIATION MOU**

[10:02:30 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Brenneman made a **motion** to approve the Montana Wool Growers Association MOU. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**1:00 p.m. Commissioner Brenneman: RC&D Annual Meeting @ Smith's Lookout Tower, Whitefish**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 15, 2009.

\*\*\*\*\*

**TUESDAY, SEPTEMBER 15, 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.

**10:00 a.m. Commissioner Brenneman: Flathead Basin Commission meeting in Polson**  
**11:45 a.m. Commissioner Lauman: Kalispell Chamber of Commerce lunch meeting @ FVCC**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 16, 2009.

\*\*\*\*\*

## WEDNESDAY, SEPTEMBER 16, 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.**

### **PUBLIC HEARING: ROAD ABANDONMENT #474**

[9:30:52 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk DeReu

**Chairman Lauman opened the public hearing to anyone wishing to speak in favor or opposition of the road abandonment.**

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

Commissioner Dupont made a **motion** to approve Road Abandonment #474 with easement conditions. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

### **TAKE ACTION: PAINTED HORSE RANCH**

[9:44:05 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director BJ Grieve, Clerk DeReu

Chairman Lauman stated this property is a twelve lot development in the Columbia Falls area. The Board of Commissioner granted a one year extension for Painted Horse Ranch on September 19, 2008 to September 19, 2009. The Planning Department did not receive an application for final plat. On September 19, 2009 the extension for Painted Horse Ranch expired.

Chairman Lauman read into the record that Painted Horse Ranch is now a dead file.

### **CONSIDERATION OF PRINTING BIDS: ELECTION DEPT.**

[9:46:18 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk DeReu

Commissioner Dupont made a **motion** to approve the print bid from The Towne Printer for 4,500 #10 Mail Ballot Affirmation Envelopes at \$380.87 for the Election Department. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

### **PUBLIC HEARING: TOURIS & SNEED ZONE CHANGE/ BIGFORK ZONING DISTRICT**

[10:00:18 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, County Attorney Jonathan Smith, Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Al Johnson, John Bourquin, Paul Guerrant, Mike Touris, Chuck Sneed, Edd Blackler, Jasmine Linabarry, Dennis Kelleher, Tammi Fisher, Erica Wirtala, Clerk DeReu

Alex entered into record staff report FZC-09-03. Alex gave a brief description of the request to change zoning the property from SAG-5 (Suburban Agricultural to I-1 (Light Industrial). Alex also explained that the two separate subject properties referred to as Tract 2 are owned by Michael and Patricia Touris and Tract 2D is owned by William Sneed. The property is located one-half mile east of the intersection with Montana Highway 35. Alex stated Tract 2D currently has a non-conforming commercial use, United Tool Rental and Tract 2 is developed with a recently constructed building which is currently vacant and intended for a plumbing contractor's supply business. Alex also explained the parcels are surrounded completely by zoning designated as SAG-5.

**WEDNESDAY, SEPTEMBER 16, 2009**  
(Continued)

BLUAC met on July 30, 2009 regarding this zone change request. BLUAC did recommend the staff recommendation to approve the request specifically as Light Industrial Highway as opposed to Light Industrial. The Planning Board did adopt the findings of fact for the zone change and the board did unanimously approve the motion to amend the request to Light Industrial Highway (I1H). Alex stated this is supported by the Flathead County Zoning Regulations. According to Alex the Planning Staff does strongly recommend I1H which is compatible with the Light Industrial designation of the land use map.

**Chairman Lauman opened the public hearing to anyone wishing to speak in favor or opposition of the zone change.**

Erica Wirtala employed by Sands Surveying and representing her clients Mr. Touris and Mr. Sneed. Erica reiterated that they had a positive staff report and the findings of fact did support the I1 zone application as it was submitted. She took that to BLUAC and they approved the zone change recommendation I1H with a recommendation of I1H and it was approved by the Planning Board. Also Erica stated they submitted with the application a petition with a significant number of names both from Flathead County and the area of Bigfork as well as nine letters of support from immediate land owners.

Al Johnson, member at large with Bigfork Land Use Advisory Committee. Al stated that Mr. Touris desire to operate a contractors warehouse on this piece of property is completely reasonable. Al explained that his disagreement is with the method being imposed. Al inquired to the Commissioners if they received the letter he had sent. Al stated he felt this is spot zoning which would allow high density industrial uses in an area that is completely surrounded by SAG 5 and SAG 10 zones. Al stated this is a drastic departure from the surrounding zoning and that it is just bad policy. Al also felt that this contractor's warehouse request could be accomplished by an administrative conditional use permit and there does not need to be a zone change. Al explained he submitted a petition with 61 signatures and all the signatures were gathered in the Bigfork area by residents from the Bigfork Zoning District in a very short amount of time. Al continued with discussion regarding BLUAC's endorsement. Al stated he felt BLUAC's vote was frankly solely predicated on the fact that the Commissioners had unilaterally changed the land use map and could not vote to disapprove the zoning change considering the action of the Commissioners in changing their land use map. Al also stated there was no finding of fact sufficient to allow a recommendation to deny the zone change on land that had been changed on their land use map. Al reiterated that operating a contractor's warehouse makes sense but urged the Commissioners to not adopt this zone change to accomplish this because he felt it is vastly unnecessary and creates collateral damage that far outstrips the benefits for Mr. Touris.

John Bourquin also a member of BLUAC. John stated he is here today to ask the Commissioners to rescind the Bigfork Neighborhood Land Use Map to deny the zone change from SAG 5 to Industrial. This zone change only accommodates two individuals Mr. Touris and Mr. Sneed. John stated this zone change is a direct result of the map of the Bigfork Neighborhood Land Use map change. John discussed the letter sent to the Commissioners by the Bigfork Steering Committee dated August 13<sup>th</sup>. John stated it is a good summary of the sentiment of those who spoke at the September 1<sup>st</sup> meeting at the Commissioner's office. John stated there was also a letter sent from BLUAC dated the 14<sup>th</sup> of September which gave an excellent option to solving the zone change problem from SAG 5 to Industrial

Paul Guerrant, 120 Conifer Lane Bigfork. Paul stated he was vice chair member of BLUAC. He wanted to urge the Commissioners to consider the option of the conditional use permit which is the vehicle to provide the intent of the Touris property and the wishes of Bigfork to maintain the existing current zoning.

Edd Blackler who also lives in Bigfork and wishes to speak in favor of what was currently said regarding the zone change that has occurred. Edd explained that in 1993 when they originally created the Bigfork Land Use Area Plan they spent extensive time talking with land owners who live within the area to try and determine their wishes in and around the area. This resulted in the SAG 5 and SAG 10 that surrounds the property that is along the highway. They also designated an industrial area that is further down on Highway 83 and on the corner of the Echo Lake Café. Edd stated there is no need for additional industrial zoning along that area. This plan according to Edd was endorsed by many residents over a period of years and the subsequent re-evaluation of the Neighborhood Plan which many hours have been spent bringing together the information and the wishes of the people of Bigfork. Edd stated he is very disappointed to learn that by one action by the Commissioners this zone change was made possible. Edd stated that as fast as this action was taken it can be rescinded. Edd stated this issue could be resolved by approving a conditional use permit which would allow the use which is being requested and would not impact the work of the residents of Bigfork. Edd discussed the amount of signatures on the petition mentioned by Al Johnson and stated many more signatures would have been listed if there had been more time.

Dennis Kelleher, 255 Moose Ridge Lane Bigfork. Dennis stated the last time he attended a meeting there was a different Chairman. Dennis stated they have gone through the process and now they are having difficulty getting it approved. He commented that BLUAC approved the change and now they are saying they do not approve of the change. Dennis explained there are two commercial buildings on either side of Mr. Touris. Mr. Touris has put in an application that will suit his business and will work for everybody in the area. Dennis commented this has become a political process instead of just common sense.

Mike Touris, 27157 Broken Leg Road. Mike stated that in two years this is the 10<sup>th</sup> public meeting held and there still is not one person from the public here against us.

Tammi Fisher stated she is representing Mr. Sneed and Mr. Touris. Tammi commented that BLUAC believes a conditional use permit could happen on this property. Tammi explained this is a fundamental misunderstanding of the zoning regulations regarding conditional use permits and land use law. An administrative conditional use permit for a minor amendment can only occur if there is already a conditional use permit in place. Tammi also stated that the only way a conditional use permit can be granted is if the Commissioner place certain required conditional use permits into an administrative review category. Tammi explained this has not been done and it is impossible to do an administrative conditional use permit for this property. Tammi commented about a member of a land use advisory committee actively soliciting through a petition public support against a zone change that the government board has approved. There was brief discussion regarding the role of a land use advisory member. Tammi commented that the I1 zone change makes the most sense.

Al Johnson explained that the petition that was circulated was not a member of BLUAC but was a member of the Bigfork Steering Committee which is a volunteer organization consisting of a hundred plus members of the Bigfork community. Al also stated that a conditional use permit can be put in place and briefly explained the process. Al commented that he feels BLUAC had no choice in their initial decision based on the Commissioners changing the land map.

Dennis Kelleher commented regarding petitions and being able to get signatures throughout Flathead County.

**WEDNESDAY, SEPTEMBER 16, 2009**  
(Continued)

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

Commissioner Brenneman asked Erica Wirtala if she contacted Martel Construction to include him in the application.

Erica Wirtala stated she contacted Mr. Martel that lives in Bozeman; his son currently lives here and runs the business, but the ownership is in William Martel's name and he declined. They have essentially built the property out to everything they could possibly have on it and didn't see any benefit to pay extra money to get the zoning.

Commissioner Brenneman then said specific to the neighborhood plan map change, do I remember correctly that you stated you choose not to make any presentations regarding that map change to the Planning Board or to BLUAC, but instead said that you had been advised by a former BLUAC member to avoid all that and just go to the Commissioners.

Erica Wirtala then said they had been to two Bigfork Steering Committee workshops and presented the idea that maybe they could have this incorporated into the plan. Typically when a neighborhood plan or growth policy plan is being reviewed (the original one was done in 1994) that you go through the updating process, the survey has been sent out and you collect public information. They would look at the map and say we know we have this commercial district and these are not appropriate, and shouldn't be noted on the map as they were zoned; so a presentation was made to the Bigfork Steering Committee. Wirtala then stated as they were leaving the meeting it was overhead "over our dead bodies" would this ever be changed. After making their best effort with the Bigfork Steering Committee they saw it wasn't going to get any traction there and "yes" they were advised by one of the members that is not on the board at this time to utilize the right that is allowed by state law to have a meeting with the commissioners during the 30 day review process where you are allowed to revise, amend, adopt or deny a neighborhood plan.

Commissioner Brenneman said so there is no public record at a public hearing in which you presented on behalf of your clients; please make this map change to the neighborhood plan.

Erica Wirtala said I would have thought that in those 10 public meetings they had for different zone changes with planners and the Planning Board that their intent would have been very clear.

Commissioner Brenneman said but you didn't go to any of the public hearings before the Planning Board.

Erica Wirtala said they went to the workshops.

Commissioner Brenneman said when they had public hearings and asked what people thought about it and commented what changes they wanted you chose not to go.

He then asked if the application was accurate.

Erica Wirtala stated to the best of her professional ability.

Commissioner Brenneman said there is a petition included that was circulated for a few days in downtown Bigfork. He then asked if that was true.

Erica Wirtala said yes that is correct.

Commissioner Brenneman said we have six pages and on one of those days we had eight people who don't live in Bigfork come through one after the other happenstance and signed this petition in Bigfork.

Erica Wirtala said I did not circulate the petition that it was given to me by the applicant.

Commissioner Brenneman said you state in your application it was done in downtown Bigfork.

Erica Wirtala said that was her understanding.

Commissioner Brenneman said well it might not be true.

Dennis Kelleher said it is true that he did it.

Commissioner Brenneman said this was just in Bigfork and we have a list on another page and going by the phone numbers there are 20 people who came through Bigfork one after the other with none of them living in Bigfork, but they all signed the petition.

Erica Wirtala said apparently so.

Commissioner Brenneman asked Mr. Touris what was really going to happen on the property.

Mr. Touris said he would be operating the plumbing business and Chuck would be operating a rental business.

Commissioner Brenneman then said so five years from now when I drive by that's what will still be there.

Mr. Touris stated that he shouldn't be held accountable for the sins of somebody 25 years from now; I can't say what is going to happen there in the future with the term predictability not meaning anything. What's predictable is what's on the ground right now with Chuck's building already having been there for 16 years.

Commissioner Brenneman commented that he appreciated him answering the question, because he wouldn't have had to; that he could have been told to look at the application.

**WEDNESDAY, SEPTEMBER 16, 2009**  
(Continued)

Chairman Lauman then said most of his questions have been answered and said his only comment is this has been going on for 10 hearings and three years which is a long time and has created a lot of frustration, and in the future hopes that common sense would prevail and we could get through these types of situations without coming to the Commission with public hearings and the end results ending up at this desk. Lauman stated he would hope that neighbor could talk to neighbor and situations could be resolved internally.

Commissioner Brenneman said he continues to be very bothered by the method in which the map amendment changed the neighborhood plan; had a presentation even been made to the Planning Board so we had a public record of the request; the fact that the end run was done bothers me, however, the Commission made a decision to change the map and it is through that lens that I must review the project now. He then asked if it would be safe to assume a motion to rescind that would not go anywhere. No motion was made. Brenneman said after reviewing spot zoning he doesn't feel this quite meets the criteria for spot zoning. He then stated he would support the move by BLUAC that the Planning Board recommended.

Commissioner Brenneman made a **motion** to adopt Resolution 956CS that would change the zoning to I1H. Motion **died** for lack of a second.

Smith said the Planning Boards findings would need changed in order to change the zoning to I1.

Commissioner Dupont made a **motion** to approve the zoning requested by Mr. Touris and Mr. Sneed (Resolution 956CS). Chairman Lauman **seconded** the motion.

Commissioner Dupont stated that he finds it atrocious that it took over two years for the applicant to get resolution; that this could have been resolved along time ago. He further stated he isn't fully aware of what goes on with the committees but finds two years and the thousands he had to spend to get to this point ridiculous. He then added that he talked to people in Bigfork and everyone he talked to which was well over 50 felt the zoning was inappropriate to begin with. Dupont said he wanted to stay out of the politics of it; two questions specifically were asked if he knew them, because the minute you start objecting to something it seems that politics get thrown into the issue. He then spoke about receiving two letters which referred to the "good ole boy system" and stated, well I am old and I consider myself fairly good, but don't consider myself making a political decision. When you have an opinion that is one thing, but when you personally start criticizing people that is another, which did happen down there and happened to me, and I don't appreciate it.

Commissioner Brenneman commented that the issue isn't so much as the existing use of the land it is first of all the manner in which it was done, and the request is quite a change from what they are proposing there. He then stated granting this doesn't mean they can do whatever is allowed in 1H. If it is the Commissions desire to pass the resolution on the floor presently there are changes that need to be made to the findings to back that up or the action will be very clearly subject to litigation.

**Aye** - Lauman and Dupont. **Opposed** - Brenneman. Motion carried by quorum.

Commissioner Dupont made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intent and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

Jeff Harris stated consideration should be made in regards to adopting the findings of fact to support the decision. He then noted two changes should be considered which included:

- Finding of Fact #1: deleting the reference to I1H
- Finding of Fact #6: delete the last sentence

Commissioner Dupont made a **motion** to adopt Findings of Fact as amended. Chairman Lauman **seconded** the motion. **Aye** - Lauman and Dupont. **Opposed** - Brenneman. Motion carried by quorum.

RESOLUTION NO. 956 CS

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 16<sup>th</sup> day of September, 2009, concerning a proposal by Michael & Patricia Touris and William L. Sneed III to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) to I-1 (Light Industrial);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on September 5 and September 12, 2009;

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Bigfork Area Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and amended by this Board, and, in accordance with Section 76-2-205(4), M.C.A., adopts this resolution of intention to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 to I-1, the boundaries of the area to be changed being described as the boundaries of Parcel B of Certificate of Survey No. 10656 located and being in the South Half of the Southeast Quarter (S ½ SE ¼) of Section 13, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. AND Parcel A of Certificate of Survey No. 10656 located and being in the Southwest Quarter of the Southeast Quarter (SW ¼ SE ¼) of Section 13, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. The property is located off Montana Highway 83 and contains approximately 5.4 acres.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Bigfork Area Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Bigfork Area Zoning District, shall be published once a week for two weeks.

**WEDNESDAY, SEPTEMBER 16, 2009**  
**(Continued)**

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Bigfork Area Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty per cent (40%) of the freeholders within the Bigfork Area Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 16<sup>th</sup> day of September, 2009.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By/s/ Opposed  
Joseph D. Brenneman, Member

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

ATTEST:  
Paula Robinson, Clerk

By/s/D. DeReu  
D. DeReu, Deputy

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION**  
**BIGFORK AREA ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 956CS) on September 16, 2009, to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) to I-1 (Light Industrial).

The boundaries of the area proposed to be amended from SAG-5 to I-1 are described as the boundaries of Parcel B of Certificate of Survey No. 10656 located and being in the South Half of the Southeast Quarter (S ½ SE ¼) of Section 13, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana, AND Parcel A of Certificate of Survey No. 10656 located and being in the Southwest Quarter of the Southeast Quarter (SW ¼ SE ¼) of Section 13, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. The property is located off Montana Highway 83 and contains approximately 5.4 acres.

The proposed change would generally change the character of the zoning regulations applicable to the property from allowing a district designed to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized, and providing for estate type residential development, to allowing for light industrial uses and service uses that typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odors, smoke, etc.) which extend beyond the lot lines.

The Flathead County Zoning Regulations defining the SAG-5 and I-1 Zones are on file for public inspection at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana, and on the Flathead County Planning and Zoning Office's website, at: [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php). Documents related to the proposed amendment in the Bigfork Area Zoning District are also on file for public inspection at the Office of the County Clerk and Recorder and the Flathead County Planning and Zoning Office.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Bigfork Area Zoning District from persons owning real property within the Bigfork Area Zoning District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 16<sup>th</sup> 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/D. DeReu  
D. DeReu, Deputy

Publish on September 21 and September 28, 2009.

**TAX REFUND: GLACIER STEEL PRODUCTS**

10:47:02 AM

Members present:

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

Others present:

Assistant Mike Pence, Clerk DeReu

Commissioner Brenneman made a **motion** to approve Tax Refund: Glacier Steel Products. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

WEDNESDAY, SEPTEMBER 16, 2009  
(Continued)

**DOCUMENT FOR SIGNATURE: AMENDED BONDS/ RSID #147**

[10:48:19 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Clerk DeReu

Commissioner Brenneman made a **motion** to approve Amended Bond/RSID #147-20A. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**CONSIDERATION OF EXTENSION: SUMMIT VIEW**

[10:49:25 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Assistant Planning & Zoning Director B J Grieve, Erica Wirtala, Clerk DeReu

Grieve stated the applicants have asked for an extension for preliminary plat Summit View due to difficulty scheduling a time to meet with the Commissioners. He then explained that granting this extension will alleviate the applicants having to resubmit preliminary plat since they have already scheduled a time to approve final plat. Chairman Lauman confirmed this extension will last until September 20, 2010 and reiterated the final plat is scheduled in about a week or two.

Commissioner Brenneman made a **motion** to approve the extension for Summit View. Commissioner Dupont **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**OPEN REQUEST FOR QUALIFICATIONS: BLUE BUILDING AND COURTHOUSE RESTORATION PROJECT**

[10:53:08 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk DeReu

Chairman Lauman proceeded to open requests for qualifications: blue building and courthouse restoration project. The requests are listed as SRJ Architecture; CTA; Grover and Co.; Architects Design Group; Sunworks Co.; Jackola Engineering; Architects Northwest.

Commissioner Dupont made a **motion** to take under advisement the request for qualifications for the blue building and courthouse restoration project. Commissioner Brenneman **seconded** the motion. **Aye** - Lauman, Brenneman and Dupont. Motion carried unanimously.

**9:15 a.m.    RSVP Board meeting @ Heritage Place**  
**11:00 a.m.    County Attorney meeting @ Co. Atty's Office**  
**12:00 p.m.    Commissioner Brenneman: DUI Task Force meeting**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 17, 2009.

\*\*\*\*\*

**THURSDAY, SEPTEMBER 17, 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 & Commissioner Dupont: On-site viewing of Deer Trail, Happy Valley**  
**2:00 p.m.    Commissioner Brenneman: Health Board meeting @ Earl Bennett Building**  
**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 18, 2009.

\*\*\*\*\*

**FRIDAY, SEPTEMBER 18, 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: Bigfork Stormwater Project "White Board" planning meeting @ Bigfork Elementary School Office Conference Room**
- 11:30 a.m. Commissioner Lauman: Dept. of Natural Resources & Conservation Open House**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 21, 2009.

\*\*\*\*\*