
MONDAY, MARCH 22, 2010

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

9:00 a.m. Commissioner Brenneman: Flathead Regional Wastewater Management Group meeting @ Environmental Health Conference Room
2:00 p.m. Commissioner Brenneman: Health Board Budget Committee meeting @ Earl Bennett Bldg. Conference Room A

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 23, 2010.

TUESDAY, MARCH 23, 2010

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

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

Tom Thomas, 1000 Point of View Ranch Drive a resident in the donut area of Whitefish stated the Whitefish City Council has requested a 90 day postponement of a court decision in order to rebuild a broken trust that they flagrantly messed up by their arrogance. He noted they have a new City Council yet that won't change things because as soon as the others are back in power it will be the same as before. Thomas said trust is an interesting word with former Commissioner Hall agreeing to change the Interlocal Agreement that he did so in good faith between the people of Whitefish hoping that in good faith Whitefish could be trusted. The residents trusted them, Commissioner Hall trusted them; did Hall deserve a second chance. He didn't get elected. Sunday a health bill was rammed down our throats with three out of four people in the country saying "no" and our congress didn't give a hoot. Will Baucus and Tester get a second chance; I don't think so. The Whitefish City Council has proven time and time again they can't be trusted. The only way they should get a second chance is by the Commissioners letting this case go through the court the way it has been set up. If Whitefish wants to rebuild trust let them rebuild it after the court's decision. Their proposal again is for more government and we don't need more government.

Dick Smith, 2451 Wolf Tail Pines said he feels the agreement put in place was put there through trust. He then stated he was thankful the Commission stepped in after they realized it wasn't working as they felt it was going to work. Smith said right now there isn't anything that he can do and no one that he can vote for to change things; in the end he would like to have a vote for a solution. It could come in the form of the Commission having the final decision or in the form of going back the way it was where they have the ability to say they will take it back over again in 60 days. That would put the City of Whitefish on notice and they won't go as far as they did last time; bottom line is they went way too far last time.

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

BI-MONTHLY MEETING W/ MINDY COCHRAN/GIS

[9:30:57 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, GIS Director Mindy Cochran, Clerk Kile

Cochran reported the new mapping website was recently released with very few problems. She then spoke about other projects being worked on which included assisting Environmental Health with a mosquito control mapping project, importing a new data set of aerial photography, analysis of fuel tax data, various map requests, ownership lists and GPS data collection of county culverts. Cochran noted they have completed auditing Cemetery Districts, Fire Districts, Lighting Districts, RSID's and TV Districts and will be auditing the County Fire Service Area, Whitefish Fire Service Area, Soil Conservation District and Water and Sewer Districts.

Discussion was held relative to mapping weed problems within the county.

TUESDAY, MARCH 23, 2010
(Continued)

OPEN BIDS: BADROCK RSID #146 CHIP SEAL PROJECT

[10:01:19 AM](#) & [10:24:05 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Jim Williamson, Clerk Kile

For the record it was noted no bids were received.

Jim Williams with 48 North explained the project had good exposure and a pre-bid meeting was held with three potential contractors to bid on the project. He then spoke about potential issues in regards to why no bids were possibly received.

Discussion was held relative to bidding the project with the contractor doing the base work also.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD NAME APPEAL/ ANIMAL HEAVEN LANE

[10:02:35 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to authorize publication of the Notice of Public Hearing and authorized the chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

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 **ANIMAL HEAVEN LN.**

Road generally running westerly off Sandy Hill Lane and located in the NW ¼ Section 16, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **8th day of April, 2010, 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 **ANIMAL HEAVEN LN.**

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

Dated this 23rd day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Chairman

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on March 27 and April 3, 2010.

MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE RE: NON-DOT DRUG & ALCOHOL TESTING POLICY

[10:15:12 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Sheriff Mike Meehan, Health Director Joe Russell, Deputy County Attorney Tara Fugina, Deputy County Attorney Jonathan Smith, Clerk Kile

Campbell presented a draft copy of a Non-DOT Drug & Alcohol Testing Policy to the Commission and noted she has previously spoke about Flathead County implementing the policy. She explained Sheriff Meehan approached her in regards to putting something together and they have had discussions with the County Attorney and Deputy County Attorney's.

TUESDAY, MARCH 23, 2010
(Continued)

Sheriff Meehan noted he is in support of the policy and for liability reasons feels it is a good idea under certain circumstances: pre-employment, post-accident/incident, random and reasonable suspicion.

Discussion was held relative to implementing the policy.

Campbell explained the proposal is to post the policy for 60 days and action can be taken on July 1.

Following discussion the Commission agreed they felt it was worth pursuing.

CONSIDERATION OF LAKESHORE PERMIT: WARREN

10:30:28 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Planner Bailey Iott, Clerk Kile

Iott entered into record Lakeshore Permit FLP 10-06; an application submitted by Joe Warren to construct a new retaining wall of natural stone located in the same spot as a collapsed wall approximately 85 feet long by 3 ½ feet high at 725 Lakeside Boulevard.

Commissioner Lauman made a **motion** to approve Lakeshore Permit FLP 10-06. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: PROPOSED MOU/ EAGLE'S NEST HOMEOWNERS ASSOCIATION & FLATHEAD COUNTY

10:45:07 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Clerk Kile

Commissioner Lauman made a **motion** to authorize publication of the Notice of Public Hearing and authorized the chairman to sign. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

NOTICE OF PUBLIC HEARING
On a proposed Memorandum of Understanding

The Board of Commissioners of Flathead County, Montana, hereby gives notice, in accordance with Section 7-1-2121, M.C.A., that the Board of Commissioners will hold a public hearing to consider a proposed Memorandum of Understanding between Flathead County and the Eagles Nest Homeowners Association.

When the Montana Department of Transportation rebuilt the road going up Big Mountain, some sections of the old road were not used for the route of the new road. One remaining section of "orphaned" road runs from the old Holbrook Overlook to the Eagles Nest Switchback. The old road below and south of Eagle's Nest switchback to its junction with the newly constructed road was obliterated.

The proposed Memorandum of Understanding to be considered pertains to access and maintenance of the orphaned section of road between Holbrook Overlook and the Eagles Nest switchback. Under the Memorandum, pedestrian and bicycle travel would be allowed but vehicle travel would be restricted by a gate. The gate would allow access to emergency vehicles and to vehicles belonging to individuals whose property abuts the orphaned road, including vehicles belonging to the United States Forest Service. The Eagles Nest Homeowners Association would maintain the orphaned section of road.

Further information is available at the Office of the Clerk and Recorder or the Flathead County Commissioners Office, both located at 800 South Main, Kalispell, Montana.

The public hearing will be held on the 15th day of April, 2010, at 10:00 o'clock, a.m., in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, 800 South Main, Kalispell, Montana. At the hearing the Board of Commissioners will give members of the public an opportunity to be heard regarding the proposed memorandum of Understanding.

Dated this 23rd day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Chairman

ATTEST:
Paula Robinson, Clerk and Recorder

By/s/Diana Kile
Diana Kile, Deputy

Publish on March 27 and April 3, 2010.

TUESDAY, MARCH 23, 2010
(Continued)

OPEN RFP: GOING TO THE SUN TRANSIT PROJECT THIRD PARTY ADMINISTRATION

[10:48:46 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Deputy County Attorney Peter Steele, Eagle Transit Director Dave Polansky, Clerk Kile

RFP's were received from: Express Services and LC Staffing.

Commissioner Lauman made a **motion** to take the RFP's under advisement and refer them to Eagle Transit. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: EMPLOYMENT CONTRACT/ SAMPEY

[11:16:01 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

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

Commissioner Lauman made a **motion** to approve the employment contract with Sampey. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

CONSIDERATION OF PARTICIPATION IN NACO SHOWCASE PROGRAM

[11:04:48 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Deputy County Attorney Tara Fugina, Kellie Danielson, Kim Morisaki, Clerk Kile

Chairman Brenneman presented an informational website that could be linked to Flathead County's home page that would stream online videos highlighting what the community has to offer residents, visitors and businesses.

Fugina explained her concerns in regards to Flathead County's Advertising Policy recently adopted, control of advertisements by GCI, copy right ownership and indemnification.

Following discussion the Commission agreed to move forward with the program.

CONSIDERATION OF PRINTING BIDS: HEALTH DEPT.

[11:17:21 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner James R. Dupont

Others present:

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

Commissioner Lauman made a **motion** to approve the print bid from Insty Prints for 1,360 Score Placards for \$259.10 for the Health Department. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

9:30 a.m. Commissioner Dupont: Meeting w/ Whitefish City Council members
12:00 p.m. Commissioner Brenneman: CDC Board meeting @ CDC Office
1:00 .m. Commissioner Lauman: View Road Abandonment #480 (County ROW S10-T29N-R23W)
w/ Jim Burton
5:00 p.m. Commissioner Dupont: Refuse Board meeting @ Solid Waste District Office
7:00 p.m. Commissioner Brenneman: Flathead County River Commission meeting @ Earl Bennett
Bldg., Conf. Room C

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 24, 2010.

WEDNESDAY, MARCH 24, 2010

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

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

PUBLIC HEARING: SCHEFFER & WATTS ZONE CHANGE/ HAPPY VALLEY ZONING DISTRICT

[9:02:56 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Allison Mouch, Deputy County Attorney Jonathan Smith, Narda Wilson, Dan Scheffer, Clerk Kile

Mouch entered into record Staff Report FZC 09-05; an application submitted by Daniel Scheffer and Melody Watts to request a zone change from R-2 to B-1 on one acre of land within the Happy Valley Zoning District. The subject property is located at 4899 Hwy 93 South between Kalispell and Whitefish. It was noted the applicant's intent is to apply for a conditional use permit to construct a coffee stand.

Chairman Brenneman opened the public hearing to anyone wishing to speak in regards to the proposed zone change.

Dan Scheffer, owner of Midway Mini Mart the applicant of the zone change stated he has owned the property for the past 17 years. He noted currently the lots are zoned residential and there is no way they would ever be used as residential lots. Scheffer explained there is limited space available on the property and getting on/ off the lots would not be a problem.

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

Commissioner Lauman made a **motion** to adopt Resolution 692B and authorized publication of the Notice of Passage of Resolution of Intent and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** – Brenneman, Lauman and Dupont. Motion carried unanimously.

RESOLUTION NO. 692 B

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 24th day of March, 2010, to consider a request by Daniel Scheffer and Melody Watts to change the zoning designation in a portion of the Happy Valley Zoning District from R-2 (One Family Limited Residential) to B-1 (Neighborhood/Professional Business);

WHEREAS, notice of that hearing was posted for at least 45 days prior to the public hearing and published on March 10 and March 17, 2010, pursuant to Section 76-2-205(1), M.C.A.;

WHEREAS, the Board of Commissioners received public comment on the proposed zoning change; and

WHEREAS, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Happy Valley Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning for a portion of the area in the Happy Valley Zoning District from R-2 to B-1 described as the boundaries of Lots 285 and 286 of Happy Valley Homesites located in Section 25, Township 30 North, Range 22 West, P.M.M, 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 that portion deeded to the State of Montana in Bargain and Sale Deed recorded August 1, 1991 as Instrument No. 91-213-10430 and ALSO EXCEPTING THEREFROM that portion deeded to the State of Montana in Quitclaim Deed recorded February 5, 1996 as Instrument No. 96-036-08070. The property is located on the east side of US Highway 93 between Whitefish and Kalispell, near the entrance to the Happy Valley Homesites Subdivision on Timber Lane and contains approximately .98 acres

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Happy Valley Zoning District to be changed, the general character of the proposed change in regulations for the area, 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 Evergreen and Vicinity Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Happy Valley 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 owners of real property who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**WEDNESDAY, MARCH 24, 2010
(Continued)**

BE IT FURTHER RESOLVED that if forty per cent (40%) of the owners of real property within the Happy Valley Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 24th day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Chairman

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

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

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
HAPPY VALLEY 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. 692 B) on March 24, 2010, to change the zoning designation in a portion of the Happy Valley Zoning District from R-2 (One Family Limited Residential) to B-1 (Neighborhood/Professional Business).

The boundaries of the area proposed to be amended from R-2 to B-1 are the boundaries of Lots 285 and 286 of Happy Valley Homesites located in Section 25, Township 30 North, Range 22 West, P.M.M, 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 that portion deeded to the State of Montana in Bargain and Sale Deed recorded August 1, 1991 as Instrument No. 91-213-10430 and ALSO EXCEPTING THEREFROM that portion deeded to the State of Montana in Quitclaim Deed recorded February 5, 1996 as Instrument No. 96-036-08070. The property is located on the east side of US Highway 93 between Whitefish and Kalispell, near the entrance to the Happy Valley Homesites Subdivision on Timber Lane and contains approximately .98 acres.

The proposed change would generally change the character of the zoning regulations applicable to the property from providing a residential district for large tract development in suburban areas, beyond sanitary sewer and/or water lines, to providing for neighborhood/professional business district to provide for commercial and professional office uses where such uses are compatible with adjacent residential areas, serving as a buffer between residential areas and other land-use districts; intended to meet the daily needs of those nearby residents living within one (1) mile of the district while not allowing businesses that require outdoor display, sale and/or storage of merchandise, outdoor services or operation, or outdoor consumption of food and beverages; and being formed as an island rather than a strip.

The regulations defining the R-2 and B-1 Zones are contained in the Flathead County Zoning Regulations, 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. Documents related to the proposed zone change are also on file for public inspection at the Office of the 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 Happy Valley Zoning District from persons owning real property within that 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 24th day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Chairman

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on March 29, 2010 and April 5, 2010.

WEDNESDAY, MARCH 24, 2010
(Continued)

PUBLIC HEARING: ROSEMAN, ET AL, ZONE CHANGE/ HWY. 93 NORTH ZONING DISTRICT

[9:15:06 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Allison Mouch, Deputy County Attorney Jonathan Smith, Narda Wilson, Clerk Kile

Mouch entered into record Staff Report FZC 09-06; an application submitted by Kara Roseman and Ryan Rowe with technical assistance from Narda Wilson with Northstar Land Use to request a zone change from SAG-10 to SAG-5 within the Highway 93 North Zoning District. The subject properties are generally located at the northeast corner of Whitefish Stage Road and Rose Crossing. Mouch noted three properties in the proposed zone change could be further divided.

Chairman Brenneman opened the public hearing to anyone wishing to speak in regards to the proposed zone change.

Narda Wilson, North Star Land Use said all the properties in the area are 10 acres or less and the three that are over 10 acres would have limited development potential. The 10 properties less than 10 acres would be either brought into compliance with the zoning or closer to compliance with the zoning.

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

Commissioner Dupont made a **motion** to adopt Resolution 837BS and authorized publication of the Notice of Passage of Resolution of Intent and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** – Brenneman, Lauman and Dupont. Motion carried unanimously.

RESOLUTION NO. 837 BS

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 24th day of March, 2010, concerning a proposal by Kara Rosman and Ryan Rowe to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on March 10 and March 17, 2010;

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

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District; and

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, 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 Highway 93 North Zoning District from SAG-10 to SAG-5, the boundaries of said area are described on the attached Exhibit A.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Highway 93 North 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 Highway 93 North Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Highway 93 North 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 owners of real property within the Highway 93 North Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 24th day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Chairman

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

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

WEDNESDAY, MARCH 24, 2010
(Continued)

Exhibit "A"

That portion of the West 1/2 of the Southwest 1/4 of Section 20, Township 29 North, Range 21 West P.M.M., Flathead County Montana, described as follows:

Beginning at the West 1/4 corner of Section 20;
Thence along the North and East line of the West 1/2 of the Southwest 1/4, South 89°39'38" East 1324.25 feet and South 00°31'52" East 2003.21 feet to the Northeast corner of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4; Thence along the North and West lines of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4, North 89°47'07" West 663.32 feet and South 00°29'47" East 668.21 feet to the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4, which point is on the centerline of Rose Crossing, a County Road; Thence along the South line of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4, also being the centerline of Rose Crossing, North 89°49'38" West 663.72 feet to the Southwest corner of Section 20, which point is the intersection of the centerlines of Rose Crossing and Whitefish Stage, a County Road; Thence along the West line of the Southwest 1/4, also being the centerline of Whitefish Stage, North 00°27'42" West 2674.75 feet to the Point of Beginning, containing 71.2 acres of land. Subject to County Road right of way over the West 30 feet and over the South 30 feet thereof.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
HIGHWAY 93 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. 837 BS) on March 24, 2010, to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from SAG-10 to SAG-5 are described on Exhibit "A" attached hereto. The property is located on the east side of Whitefish Stage Road and north of Rose Crossing.

The proposed change would change the character of the zoning regulations applicable to the property which, in both SAG-10 and SAG-5 districts, are intended 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, by reducing the minimum lot size from 10 acres to five acres

The regulations defining the SAG-10 and SAG-5 Zones are contained in the Flathead County Zoning Regulations, 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. Documents related to the proposed zone change are also on file for public inspection at the Office of the 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 Highway 93 North Zoning District from persons owning real property within that 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 24th day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By/s/Joseph D. Brenneman
Joseph D. Brenneman, Chairman

By/s/Diana Kile
Diana Kile, Deputy

Publish on March 29, 2010 and April 5, 2010.

Exhibit "A"

That portion of the West 1/2 of the Southwest 1/4 of Section 20, Township 29 North, Range 21 West P.M.M., Flathead County Montana, described as follows:

Beginning at the West 1/4 corner of Section 20;
Thence along the North and East line of the West 1/2 of the Southwest 1/4, South 89°39'38" East 1324.25 feet and South 00°31'52" East 2003.21 feet to the Northeast corner of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4; Thence along the North and West lines of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4, North 89°47'07" West 663.32 feet and South 00°29'47" East 668.21 feet to the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4, which point is on the centerline of Rose Crossing, a County Road; Thence along the South line of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4, also being the centerline of Rose Crossing, North 89°49'38" West 663.72 feet to the Southwest corner of Section 20, which point is the intersection of the centerlines of Rose Crossing and Whitefish Stage, a County Road; Thence along the West line of the Southwest 1/4, also being the centerline of Whitefish Stage, North 00°27'42" West 2674.75 feet to the Point of Beginning, containing 71.2 acres of land. Subject to County Road right of way over the West 30 feet and over the South 30 feet thereof.

WEDNESDAY, MARCH 24, 2010
(Continued)

MONTHLY MEETING W/ DAVE PRUNTY, SOLID WASTE DISTRICT

[9:30:03 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Public Works Director Dave Prunty, Clerk Kile

Prunty reported he will be traveling to Dallas for a training seminar for National Association of County Engineers for the Road Department along with Guy Foy. In other business he reported an employee grievance was heard by the Solid Waste Board, a new chassis for a refuse truck has been ordered and tonnage is still continuing downward. He then spoke about their preliminary budget figures with close to \$3 million of it for liner excavation work at the landfill.

Discussion included container site consolidation projects.

PRELIMINARY PLAT: TRACT 1 OF COS 16455

[10:02:43 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner James R. Dupont

Members absent:

Commissioner Dale W. Lauman

Others present:

Planner Andrew Hagemeyer, Clerk Kile

Hagemeyer entered into record Staff Report FSR 09-07, Tract 1 of COS 16455; an application submitted by Solomon/Peyton with technical assistance from Sands Surveying for preliminary plat approval of a five lot minor subdivision on 158.37 acres located at the corner of Rose Crossing and Trumble Creek Road. Two lots each 10 acres in size are proposed to be commercial, two lots 10 acres in size are proposed to be industrial and the final lot 118.36 acres in size is proposed to be residential. The applicant's intention is to re-subdivide the residential lot at some point in the future.

Hagemeyer noted the applicant has concern in regards to possible restrictions of being able to have the ability to put in a walking / bike bath along the river that would be handicap accessible. Condition 19 was amended to have an additional section that states

- iii. The following uses are allowed in a Riparian Protection Zone and exempt from these Regulations, provided, if regulated, these uses are permitted under applicable local, state and/ or federal regulations; recreational structures such as dock, boat ramps, pathways or unimproved picnic areas.

Hagemeyer recommended adding Conditions 22 and 23 in regards to a buffer zone.

Condition 22 states: In accordance with the Flathead County Zoning Regulations, a green belt easement 10 feet wide shall be placed on Lot 1 and Lot 2, along the boundary with Lot 5. The green belt easement shall be shown on the face of the final plat. The green belt easement shall be constructed according to Section 5.05.010 Flathead County Zoning Regulations prior to final plat.

Condition 23 states: In accordance with the Flathead County Zoning Regulations, a green belt easement 10 feet wide shall be placed on Lot 3 and Lot 4, along the boundary with Lot 5 and Silver Shadow Estates. The green belt easement shall be shown on the face of the final plat. The green belt easement shall be constructed according to Section 5.05.020 Flathead County Zoning Regulations prior to final plat.

Commissioner Dupont made a **motion** to adopt Staff Report FSR 09-07 as Findings of Fact. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Dupont. Motion carried by quorum.

Discussion was held relative to adding a green belt to the smaller lots.

Hagemeyer noted the applicant's technical assistance has fundamental objections to landscaping issues which are required for final plat. He explained their plan is to bond for landscaping with an SIA.

Commissioner Dupont made a **motion** to approve preliminary plat of Tract 1 of COS 16455 with conditions 19, 22 and 23 amended. Chairman Brenneman **seconded** the motion. **Aye** – Brenneman and Dupont. Motion carried by quorum.

Conditions

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626B. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.18(g)(iv), 4.7.28(c) Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road Department for lots 1-5 indicating the approaches have been built and received final inspection and final approval. [Section 4.7.18, FCSR]
3. 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 4.7.28(d), 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. [Section 4.7.27, FCSR]

WEDNESDAY, MARCH 24, 2010
(Continued)

5. The extension of Trumble Creek Road shall be certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.18, FCSR]
6. 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 Trumble Creek Road within the subdivision. [Section 4.7.17(e), FCSR]
7. 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]
8. 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 4.7.14, 4.7.22, 4.7.23 FCSR]
9. 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]
10. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.24, FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.28(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.25, FCSR]
 - c. 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]
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 4.2.19, 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 4.2.15(a) 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 4.2.13 FCSR]
17. The riparian plan (Riverbend Village Ecological Inventory 7, 13, 2007 submitted with preliminary plat) shall be approved by the Flathead County Commissioners prior to final plat [Section 4.7.12 (b), FCSR].
18. A "Riparian Protection Zone" shall be indicated on the face of the final plan. The "riparian protection zone" shall be the area from the fence line indicated on the face of the preliminary plat to the western property boundary. [Section 4.7.12, FCSR]
19. The following statements shall be made on the face of the final plat [Section 4.7.12 (d), FCSR]

The following shall apply for areas designated as "Riparian Protection Zone"

 - i. Construction and new structures. There shall be no structures of any kind, including residential buildings, outbuildings, sewage disposal systems, sewer pipes, rock or earthen fill, recreational camping vehicles, mobile homes, other buildings, or accessory structures, except as permitted under these Regulations [Section 4.7.12 (d)(i), FCSR].
 - ii. Roads, driveways, and impervious services. There shall be no roads, driveways, or impervious services such as parking lots, except as permitted under this Section [Section 4.7.12 (d)(ii), FCSR].
 - iii. The following uses are allowed in a Riparian Protection Zone and exempt from these Regulations, provided, if regulated, these uses are permitted under applicable local, state and/or federal regulations: Recreational structures such as docks boat ramps, pathways or unimproved picnic areas. [Section 4.7.12 (c) FCSR].
20. The applicant shall show an easement on the face of the final plat for the high pressure natural gas line as shown on the preliminary plat, or provide a letter from the owner of the high pressure natural gas line indicating an easement is not necessary prior to final plat [Section 4.7.25, FCSR].
21. The applicant shall provide a letter from the City of Kalispell indicating either the subject property can be served by sewer, or cannot be served by sewer prior to final plat [Section 4.7.23, FCSR].
22. In accordance with the Flathead County Zoning regulations, a green belt easement 10 feet wide shall be placed on Lot 1 and Lot 2, along the boundary with Lot 5. The green belt easement shall be shown on the face of the final plat. [Section 4.7.6 FCSR]. The green belt easement shall be constructed according with Section 5.05.010 Flathead County Zoning Regulations prior to final plat. [Section 4.7.2 FCSR]
23. In accordance with the Flathead County Zoning regulations, a green belt easement 10 feet wide shall placed on Lot 3 and Lot 4, along the boundary with Lot 5 and Silver Shadow Estates. The green belt easements shall be shown on the face of the final plat [Section 4.7.6 FCSR]. The green belt easements shall be constructed according to Section 5.05.020 Flathead County Zoning Regulations prior to final plat. [Section 4.7.2 FCSR]
24. No approach permits shall be granted for a residential driveway, commercial, or industrial use onto Rose Crossing. This does not include access for future roads. [Section 4.7.7 (c) & (d), FCSR]
25. A 60 foot road and utility easement centered on the lot line between Lot 2 and 3 shall be shown on the face of the final plat. [4.7.5, FCSR]
26. A ten foot bike/pedestrian easement shall be shown on Lot 1 and 5 adjacent to the right-of-way for Rose Crossing [Section 4.7.21, FCSR].

**WEDNESDAY, MARCH 24, 2010
(Continued)**

27. The following shall be placed on the face of the final plat [Section 4.7.25, FCSR]:

- iii. The Bonneville Power Administration (BPA) imposes certain conditions on the portions of those properties encumbered by its high voltage transmission line right-of-way. BPA does not allow structures to be built within the right-of-way, nor does it allow access to be blocked to any transmission facilities, any activity that is to occur within the right-of-way needs to be permitted by BPA prior to installation or construction. Information regarding the permitting process for proposed use of the right-of-way may be addressed to BOPA Real Estate Field Services at (406) 751-7821.

BIGFORK STORMWATER ADVISORY COMMITTEE QUARTERLY UPDATE

[10:30:33 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner James R. Dupont

Members absent:

Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Sue Hansen, Dave Christensen, Brett Walcheck, Clerk Kile

Sue Hansen met with the Commission and gave a quarterly update from the Bigfork Stormwater Advisory Committee. She reviewed grant funding, stewardship awards and summer workshops. A Bigfork Stormwater sample analysis plan report prepared by Mike Koopal was also reviewed.

Dave Christensen reviewed the three year contract with 48 North which he explained would be divided into phases and includes River Street basins, Grand Avenue basins and detailed engineering.

DOCUMENT FOR SIGNATURE: 48 NORTH ENGINEERING CONTRACT/ BIGFORK STORMWATER PROJECT

[10:49:53 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Sue Hansen, Dave Christensen, Brett Walcheck, Clerk Kile

Dave Christensen explained in the assessment report there were two alternatives for treatment of stormwater. He then reviewed costs and the reason the hydro dynamic unit and filtration system was chosen.

Commissioner Dupont made a **motion** to authorize the chairman to sign the contract with 48 North Engineering. Commissioner Lauman **seconded** the motion. **Aye** – Brenneman, Lauman and Dupont. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: NACO SHOWCASE PROGRAM

[10:54:05 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to approve the contract with NACO and authorized the chairman to sign. Commissioner Dupont **seconded** the motion. **Aye** – Brenneman, Lauman and Dupont. Motion carried unanimously.

- 11:00 a.m. County Attorney meeting @ Co. Atty's Office**
- 12:30 p.m. Commissioner/ Road Dept. work session @ Solid Waste District Conference Room with Peccia & Associates (2 Year Work Plan Review)**
- 3:00 p.m. Commissioner Brenneman: Flathead Business & Education Council meeting @ FVCC Arts & Technology Bldg.**
- 5:00 p.m. Commissioner Brenneman: Fire Service Area Board meeting @ FECC Building**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 25, 2010.

THURSDAY, MARCH 25, 2010

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

- 9:00 a.m. Commissioner Brenneman: FECC Budget Finance Group meeting @ FECC Building**
- 4:00 p.m. Commissioner Lauman: Gateway Community Center Food Court Grand Opening**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 26, 2010.

FRIDAY, MARCH 26, 2010

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

NO MEETINGS SCHEDULED

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on March 29, 2010.
