
MONDAY, SEPTEMBER 20, 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 September 21, 2010.

TUESDAY, SEPTEMBER 21, 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.

MONTHLY MEETING W/ JIM ATKINSON, AOA

[8:45:50 AM](#)

Members present:

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

Others present:

- Assistant Mike Pence, AOA Director Jim Atkinson, Clerk Kile

Jim Atkinson presented a monthly statistics report to the Commission for services to seniors and reported bus ridership continues to increase. He explained a legal advice and document clinic for seniors is being hosted by the state at the Salvation Army which will help seniors put together wills or power of attorneys at no charge. Atkinson then reported the relocation committee will come before them shortly with information regarding three different options they are proposing for a new location.

MEETING W/ DAVE PRUNTY, ROAD DEPT. RE: TRAFFIC SIGNS AT THREE MILE DRIVE & WEST VALLEY DRIVE

[9:15:28 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, Road & Bridge Dept. Jim Mohn, Clerk Kile

Dave Prunty presented an overview of a proposal to change signage on West Valley Drive and Three Mile Drive.

Jim Mohn explained currently West Valley Drive is controlled by a "Yield" sign which is a remnant before Three Mile Drive was paved. He reported there have been three accidents so far just this year. Mohn stated the proposal is to make West Valley Drive the through road and make Three Mile Drive stop which may alleviate the failure to yield issues they have.

Discussion was held relative to the hill in regards to winter conditions and new signage that will be installed.

Unanimous Commissioner approval was given to move forward with new signage.

OPEN BIDS: ELECTION DEPT. STORAGE

[9:30:34 AM](#)

Members present:

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

Others present:

- Assistant Mike Pence, Clerk & Recorder Paula Robinson, Mike Absalonson, Susan Dykhuizen, Clerk Kile

Bids were received with bid bonds enclosed from:

	<u>Base Bid #1</u>	<u>Alternate Bid #1</u>
Robert W. Ross	\$278,877.00	\$25,712.00
Meredith Construction Company	\$253,000.00	\$17,000.00
Hammerquist Casalegno	\$259,830.00	\$17,485.00

Commissioner Dupont made a **motion** to take the bids received under advisement. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

TUESDAY, SEPTEMBER 21, 2010
(Continued)

TAKE ACTION: SUBDIVISION NO. 123, LOT 1

[9:45:44 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Chairman Brenneman read into the record Subdivision No. 123, Lot 1 is declared a dead file and will not proceed to final plat.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: TAX INCENTIVE REQUEST/ TOTAL LABEL USA

[9:45:20 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 authorize publication of the Notice of Public Hearing and authorized the chair to sign. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Sections 15-24-1402 and 76-15-103, M.C.A., that it will hold a public hearing to consider the application of Total Label USA, LLC, located at 500 Label Lane in Whitefish, Montana, seeking the application of tax reducing benefits for the additional \$917,000 worth of new equipment and improvements added to the current facility. If the application is granted, the increased value will be taxed at fifty percent of its taxable value in the first five years after approval; in each year thereafter, the percentage will be increased by 10 percent until the full taxable value is attained in the tenth year.

The public hearing will be held on the **14th day of October, 2010, at 9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Montana, Courthouse, West Annex, 800 South Main Street, Kalispell, Montana. At the public hearing, the Board of Commissioners will give members of the public an opportunity to be heard regarding the application for tax reduction of the Total Label USA, LLC facility.

DATED this 21st day of September, 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 September 25 and October 9, 2010.

CONTINUATION OF MOTION FOR ROAD ABANDONMENT #482 (LOT 36 WAGSMITH VILLA)

[9:46:05 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Bill Kavanagh, Tom Beck, Lloyd Crabtree, Clerk Kile

Bill Kavanagh explained Hungry Horse Water District's concern in regards to the abandonment and stated they do not want the road abandoned as it would minimize their ability to do monthly maintenance.

Tom Beck noted if the road is abandoned it would not allow access to the fire hydrant and would limit fire protection to his property.

Chairman Brenneman explained the request for the road abandonment was because of transients using the property as a campground and claiming since it is a public right-of-way they have a right to be there.

Discussion was held relative to the water department's lines that run under the road and access of them.

Chairman Brenneman explained they would still have an easement to access utilities if the road was abandoned.

TUESDAY, SEPTEMBER 21, 2010
(Continued)

Lloyd Crabtree said in 1962 the road that was designed to go there was abandoned at which point the property was split in half; Stephanie his neighbor now owns half and they own the other half. He explained they own lot one as well and citizens are trespassing across that in order to get to the alley which is fully landlocked by private landowners who all signed the petition saying they were in favor of the abandonment.

Commissioner Dupont asked Peter Steele if he actually saw the easement.

Peter Steele explained it would be part of Wagsmith Addition which was dedicated as a county road which means there is an easement across the road. He noted the roadway could be abandoned with the exception of utilities. Steele said if there was a fence to be put in the fire department and utility company could have a key; they have a right to maintain their easement just like Bonneville Power does.

General discussion continued in regards to right-of-way access and installing a gate.

Lloyd Crabtree presented a map and explained the route the water district uses in order to maintain the facilities.

Peter Steele explained that usually when roads are abandoned the utility easement remains afterwards; you just aren't allowed to drive on them and that apparently is the problem at this point.

Chairman Brenneman said I feel we are all in agreement that we need to guarantee the water district has access to their facilities, and we want to remove the portion of property (road easement) that might present a public safety hazard for the applicants use as a church.

Lloyd Crabtree explained he would put a fence on the one lot which concerns them the most before people start camping there for the winter.

Commissioner Lauman made a **motion** to continue Road Abandonment #482 pending legal review. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

PUBLIC HEARING: LARGE TRACT RURAL TEXT AMENDMENT/ FLATHEAD COUNTY ZONING REGULATIONS

[10:00:29 AM](#)

Members present:

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

Others present:

Deputy County Attorney Peter Steele, Interim Planning & Zoning Director B J Grieve, Planner Allison Mouch, Gordon Cross, Paul McKenzie, Mary Ann Applegate, Gina Klempel, Sharon DeMeester, Anne Shaw Moran, Bob Spoklie, Donna Thornton, Garren Hartman, Clarice Ryan, Steve Rosso, Terry Schutt, Milt Carlson, Robin Steinkraus, Mayre Flowers, Bruce Barrett, John Vore, Charles Jacquette, David Greer, Clerk Kile

Allison Mouch entered into record Staff Report FZTA 09-03; an application for a zoning text amendment to create a new use district designated "Large Tract Rural (L-T-R)" for inclusion into the Flathead County Zoning Regulations. The text amendment includes amendments to applicable sections of the regulations to cross reference the L-T-R use district as well as a new definition for low impact mineral extraction to correspond with language in the L-T-R text. Mouch explained L-T-R is unique in that it is density based which is different from any other zoning districts that require minimum lot sizes. L-T-R begins with a base density of one unit per 40 acres and requires a minimum district size of 320 acres with the intent being to protect traditional resource base uses; therefore, it is not a residential classification but more of an agricultural zoning designation. Part of the intent is that it would allow greater flexibility for large tract land owners and allows/encourages cluster development through open space set aside; which is not a requirement, but clearly a choice for future development. The timeline for the proposed amendment was then reviewed. It was pointed out this is a text amendment and not a proposed zoning district. Mouch stated the text amendment is supported by the staff report and 12 findings of fact and recommended approval with clarification to Section 3.44.

B J Grieve stated he wanted to clarify this is a text amendment and not a map amendment. He said there is a misunderstanding that areas that are unzoned would be suddenly zoned and that is not the case. He explained the current zoning regulations are like a menu of zoning options and this would just add an item to the menu; it would not take the item on the menu and apply it to any lands in Flathead County.

Chairman Brenneman said it was explained this is a different type of zoning of what has been done in the past because it is density based. He clarified should this be adopted there would not be any more zoning in Flathead County than there was the minute before we adopted it. Brenneman asked what the process would be for a landowner to get 320 acres zoned.

TUESDAY, SEPTEMBER 21, 2010
(Continued)

Allison Mouch explained an application would need to be submitted to their office after discussing it with neighbors as to whether there is support for it; typically they need to see a level of support (70 - 80 percent) of the area proposed for the new district. The application would follow the public process that is set forth under the regulations and entail a public hearing before the Planning Board, public notice and a public hearing before the Commissioners with a 30 day protest period.

Chairman Brenneman asked if a large land owner such as Plum Creek decides they really like this and decide to zone 250,000 acres L-T-R what the process would be.

Allison Mouch said the notification process would be similar to any other district which is if your property sits within 150 feet of any property of Plum Creek's that is proposed in the zoning district you would receive notification of it with a public hearing date.

Chairman Brenneman clarified there would be a public hearing and the Planning Board would make a recommendation and then come before the Commissioners and they could say obviously everyone in the zone wants it; although its owned by one individual they could deny it.

Allison Mouch stated they could and the applicant would have no recourse since R-2 zoning is imposed by the County Commissioners.

Chairman Brenneman opened the public hearing to anyone wishing to speak in regards to the L-T-R text amendment to the Flathead County Zoning Regulations.

Bob Spoklie said he owns several tracts of land in the county that do not touch county maintained roads. He stated he sees this as just another stage of bureaucracy that makes the private property owner jump through more hoops to make use of his private property and questioned why this has to be done during the economic hardship times. Spoklie said every time the government gets involved it takes him longer and longer to get things done and all those who are in favor of this all get paid for their time and work. He asked that it not be voted on today, unless it is turned down.

Donna Thornton a large tract property owner in Flathead County said she agreed with the comments made by Mr. Spoklie. She explained she received no notification this was going on and after making phone calls last summer after hearing a rumor in regards to it she was assured it wasn't going to happen. She stated a requirement when you are creating a zoning district is that all property owners have to be notified. Thornton said subdivision regulations are in effect already; we have zoning in effect already with plenty of state laws that govern what they can do with their property. She said she understands Plum Creek and Stoltz Lumber are highly in favor of this because of the types of property they have; if Plum Creek and Stoltz want to zone their property she stated she doesn't have a problem with that, but the maps include all the private land owners that aren't zoned and they are quite extensive and thought out. She stated the planner said this could be used to create a zoning district to zone the rest of the county, but more public meetings would have to take place. Thornton stated the problem with public meetings is that it will cost the county a lot of money to do that and feels it probably is just Plum Creek and Stoltz that want this; if they do. She questioned why any private land owner should have to set aside land for public use. She added they don't want any types of restrictions other than what's already in place with the growth policy and subdivision regulations placed on any of their property.

Bruce Barrett said he owns several tracts in the Bierney Creek area and stated he sees this as an option for land classification. He noted no land is being designated in the category; it is an option. He stated he is afraid of his land being zoned without public comment or him being able to provide input, but doesn't see this as a particular threat. Barrett said what he sees as a threat are unscrupulous developers that use family transfers to create minor subdivisions and make hazards for him which he has seen in his area. He said we talk about individuals rights and stated he too has a right to public safety which has been compromised in the Bierney Creek area by a developer who moved in to turn a dollar.

Steve Rosso, 189 Medicine Rock Lane said he doesn't disagree with adding a choice to other zoning options, but stated he feels this particular one needs to be improved upon and changed a little before it is applied. He explained we need to recognize that clean water and wildlife are protected by appropriate land uses and limits on development. He noted he is concerned about the building setback of 50 feet and feels it should be larger than that. Rosso then said he feels there is a mistake in the permitted lot coverage table and explained concerns related to open space requirements.

Charles Jacquette, 765 Jacquette Road said he just heard about the text amendment proposal and isn't sure what his thoughts are as he spends long hours working. He said he feels there are farmers who have large tracts that have not even heard about it and asked that they consider not voting on the amendment today.

Mary Ann Applegate, 1491 Ashley Lake Road said she attended a meeting held in July in regards to the text amendment and stated the public comment notice was posted on the county website; not in any well published newspaper. She stated that a lot of people don't have time to look at the Flathead County website and notification wasn't what it should have been. She explained the report that accompanies the amendment is very detailed and lengthy. Applegate spoke about permanent conservation easements and stated this is a zoning district and it states so in the first page of the amendment. She further spoke about taking of private land and restricting its use and said the private land owners do not need another tool in their tool box and they need to stand by the Montana Constitution.

Clarice Ryan stated she would address sections in the text amendment she questions and how loosely they are worded. She said a conservation easement should be voluntary as well as use of the land at the discretion of the owner. Ryan read Section C – Page 3 in regards to public access and the use of land. She said she is seeing more and more conservation easements being written into rules and regulations as a requirement or mandated. She stated this is basically public management of land at the expense of the owner.

TUESDAY, SEPTEMBER 21, 2010
(Continued)

David Greer, representative from Plum Creek stated he supports the L-T-R classification which he has been involved in for the last year and a half. He stated staff has done a really good job putting it together and the Planning Board worked hard in making amendments and a better document of it. He said the classification has a whole lot of improvements over the existing classifications; this is density not minimum lot size. Greer explained if you had 320 acres and have 8 lots eligible they don't all have to be 40 acre squares. He stated there are a lot of incentives for open space and clustering; they are not requirements but incentives. Resource management is another positive he noted and the open space allows for continued resource management. Greer explained the open space conditions and requirements will protect water quality. He stated if you look at the existing classifications of AG80, AG40, AG20, SAG10, SAG5 those are the choices you have now and they create little squares out on the landscape; what is being proposed is density based (voluntary) and you don't have to create squares out on the landscape.

Robin Steinkraus, representing Flathead Lakers; a non-profit organization founded in 1958 to protect water quality, a healthy eco-systems and lasting quality of life in the Flathead watershed. She stated comments were submitted yesterday and to the Planning Board last October and again in July. Steinkraus said the proposal was reviewed focusing on potential impacts to water quality and the lands to sustain clean water. She stated they believe the intent of the proposal is very good but have concerns that the latest draft does not provide adequate protection for water quality, which is particularly important since the proposed regulations could affect a very large portion of the county; including critical lands along the Flathead River and the north shore of Flathead Lake. The current draft they also feel would fail to achieve its stated intent to protect traditional natural resource based uses in rural areas. The following recommended changes to the proposal were reviewed:

- Assign a range of base densities based on landscape characteristics which would help ensure that development occurs where there would be limited impacts to sensitive areas and traditional land uses and that the areas targeted for open space provide public benefits. If the approach is not adopted the recommendation is to increase the base density.
- To include requirements or incentives for cluster development. Scattered 40 acre or smaller lots which are allowed in the district will not achieve the proposals stated purpose; cluster development should be rewarded rather than simply encouraged.
- Include criteria for open space designation. Recommend strengthening requirements in the current draft. Without criteria the proposal allows large property owners and developers to decide where development should and should not occur without consideration of the public interest in protecting water quality and wildlife.
- Include criteria for where subdivisions should be located. The recommendation includes avoiding prime agricultural soils, locating development as close as possible to available public services and infrastructure, and setting a specific density threshold which would require public or community sewer and water.
- Increase screen buffers. Recommendation is for a minimum vegetative buffer of 100 feet from streams, rivers, lakes and wetlands and a larger buffer for large rivers. Scientific studies clearly show that a 100 foot buffer along water bodies is needed to protect water quality.

Steinkraus stated in conclusion they believe it is important to be cautious in developing policies and regulations that will guide growth and development to ensure that future development does not degrade the very qualities that make the county special and contribute to the areas economy and quality of life.

John Vore, Montana Fish Wildlife & Parks said four comment letters have been sent by them during this process. He noted it has been described as a district to protect traditional natural resource based uses in rural areas which FWP whole heartedly supports. He stated natural resource base uses include such things as timber management, agriculture, rock picking and gravel extractions. Vore said what is to concern to them is that hunting was left off as a traditional use in the last draft prepared. He stated hunting has been a traditional use in Montana since the last ice age, before Europeans got here; much longer than timber management as we know it now. He explained Montana has the highest participation rate of any state in the union in hunting and wildlife based recreation. Also noted it is important economically as in 2009 Montana timber sold for \$110 million dollars compared to the benefits and worth of fish and wildlife resources in 2002 which was one billion dollars with Flathead County accounting for \$28 million dollars so there is a substantial economic value to fish and wildlife resources, which he encouraged to be included in the definition along with the other traditional natural resource uses. Vore stated they would encourage any land owner to consider the character of the landscape.

Paul McKenzie, Resource Manager for Stoltz Land & Lumber stated they have been involved in the process for the past couple years and commended the Planning Board and staff for their hard work. He explained out of the 38,000 acres that Stoltz owns less than one third of it is zoned. He said out of the options there are that there is not any zoning that would work for zoning the rest of the property that would even come close to be considered an asset. He stated L-T-R is an option; not perfect and not applicable everywhere but is an option that would work for landowners in certain locations. McKenzie stated Stoltz Lumber has a long standing tradition of allowing public access on their land as do most of the private land owners in the valley; that access is a privilege and not a right. He explained hunting is a great benefit to the valley but there are very few landowners in the area that ever see any of the benefit. He noted Stoltz Lumber is not for county wide zoning and would not be in favor of an initiative like that coming out of the designation and doesn't believe that was the intent for development of the zone. McKenzie encouraged support for the amendment.

Ann Shaw Moran, Planner with the DNRC Kalispell unit stated she is representing the Kalispell unit and Northwest Land Office of Montana Department of Natural Resources and Conservation. She said as you are probably aware they have tens of thousands of acres of land within the county and trust lands. She explained trust lands have a different mandate than other kinds of state land and constitutionally they were set up with a specific purpose of raising money for schools and educational institutions, and any use of the land is required to be compensated for. Moran stated they do support the L-T-R designation and have attended the many meetings held over the past couple of years. She noted like Stoltz Lumber they look carefully at each piece of land before they consider an applicable zoning designation and like the idea of having one more option. Moran stated they feel strongly about the text comment in regards to the genesis of state trust lands in that they may not automatically be assumed to fulfill open space requirements, which came from a general misunderstanding that developers and the public have in that the lands are available for them to consider as open space in their developments; again any use of state trust land the beneficiaries must be compensated for. She stated they would like to see the ODP option available to them and other developers or agencies in the county.

TUESDAY, SEPTEMBER 21, 2010
(Continued)

Mayre Flowers, Citizens for a Better Flathead said they also have participated in work sessions and public hearings and their comments previously submitted should be part of the record as well as additional comments submitted yesterday for their review. She then stated they remain concerned that the zoning tool as currently proposed fails to be grounded in an initial and comprehensive analysis of the appropriate development given the natural landscape features and natural resources of lands eligible for this zoning district. The analysis is vital in order to ensure that the zoning tool and pattern of development it allows and the development proposals it invites will be finalized only after a comprehensive review of potential cumulative impacts of the L-T-R zone; given the potential significant implications of the level of development possible under L-T-R zoning a mere site by site review at the time of development is proposed cannot adequately identify and evaluate these cumulative impacts. Flowers explained currently a neighborhood plan can be done on a 40 acre parcel so this doesn't meet the level of regional planning that she feels needs to be in place before a zone like this could be applied. She stated a ODP is required if you are doing a subdivision larger than 320 acres and a flaw in this proposal before you is that an ODP can be applied on any size subdivision; therefore any use can be applied on any size subdivision proposed within the development. Another concern is given the lack of standards an ODP basically requires that a developer do an EA that would be required at a subdivision level and there are no standards in which to evaluate this adequately with information provided. Flowers spoke about concerns related to open space and cumulative impacts and stated they feel this proposal needs to be tabled and go back to the drawing board.

Sharon DeMeester, 415 Chestnut Drive said initially the concept of the zone is good yet it has some problems. She stated what is standing out to her is the 320 acres plus you can add another 160 acres that isn't connected and group them together. She explained one of the prime problems you see in the Flathead now was created by the City of Kalispell who zoned school trust land three miles south of town; not connected to the city and ran all the sewer services out there. The same was done with Silverbrook Estates another three miles north of the city. DeMeester said now there are properties that want to connect into the sewer and the problem is the City of Kalispell has a new \$20 million dollar addition to their sewer plant and the sewer lines won't accommodate hooking onto this so they have to run a new sewer line. She said she spoke to a neighbor that wants to develop property next to where she lives and he told her it was going to cost him \$5 million dollars to hook onto the line. She stated this is an example of what poor planning does without thinking about the future and potential ramifications you have with decisions you make; the plan may sound good now but what is the future going to bring us.

Garren Hartman, representing Montana Forest Products said he has been at the public meetings held over the past couple of years as well as workshops and is familiar with the document. He stated he supports the zoning option with large land owners not having many options available to them.

Gordon Cross, 1600 Conn Road explained the Planning Boards involvement in the text amendment. He stated they have probably spent more time on this in the five years he has been a member on the Planning Board than anything else other than the Growth Policy or the Subdivision Regulations. Cross said what they heard through the process is basically what is being heard today in that there are opinions all over the map which shows you what they have been wrestling with. He stated what they have produced is a balanced response to all the various opinions. Cross said this is the first attempt to give large land owners a tool in order for them to think about the future of their lands in an orderly fashion. He explained hunting was originally in the document as a public use but the question is we were mostly talking about private land and the hunting that is allowed is the choice of the landowner; not a traditional use that the county should be in the business of saying this is something that has to be perpetuated. Cross stated he didn't know if the document could be greatly improved and that some of the fears that have been voiced today are well founded; what it all comes down to it is strictly a zoning designation and not a zone which the Commissioners control. He then urged them to adopt the amendment.

Gina Klempel, 1484 Ashley Lake Road said she believes the document is written to promote the will of the largest landowners who have now turned their focus towards the real estate development business. She stated that is okay for Plum Creek and Stoltz Lumber if they choose to do so; however, being a large tract owner she added she does not want to be lumped into the scenario. Klempel urged them to allow the private land owner and other large tract owners to opt out of the scenario.

John Vore, FWP added to his earlier comments and stated the inclusion of hunting as a traditional use does not mean nor imply that the individual land owner has to provide that anymore than the inclusion of timber or agricultural implies that an individual land owner has to allow a timber company to come in and cut their timber, or a gravel company come in an open a gravel pit on their land. Vore said to say it is not a traditional use is an error and not true.

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

Commissioner Lauman thanked everyone for their input and stated he doesn't oppose conservation easements and land trusts; people who choose to do this and it fits their needs it's wonderful, but Section 3.44.070 (a) in regards to density gives him heartburn.

Commissioner Dupont said he has read the document two or three times and is still somewhat confused as to what it says and doesn't say; which is a major issue. He stated if this was strictly for Stoltz Lumber or Plum Creek he wouldn't have an issue with it at all, but questions the fortune it would cost a farmer who might choose to sell his land and the cost it would be to him if he wanted to make adjustments. Dupont said he felt this is currently not an issue for Flathead County to begin with, yet doesn't feel all the information should go to waste and down the road in the future could be worked on.

Chairman Brenneman noted 21 public meetings and two public hearings were held in regards to the proposal and said, unless you send someone to everyone's door in the county that this is an example of extraordinary effort of public involvement. He stated the issue of public access brought to mind the fact that we in Flathead County as hunters and residence have long gotten the benefit of using private lands for our recreation, and appreciates what Plum Creek and Stoltz Lumber have allowed us to do. Brenneman said the public use of their land is a privilege that has been given to us that we have no right to. He then said he asked planning staff at the last minute to look at subdivisions that have gone in the county in areas for which this is targeted.

**TUESDAY, SEPTEMBER 21, 2010
(Continued)**

Allison Mouch explained as an example Haskell Mountain which was originally approved for 70 lots on just over 500 acres based on adjustment criteria meets both the site location and density adjustments. She stated essentially without any open space if this had been zoned L-T-R and had gone through the subdivision review process they would have been limited to 39 units on 505.5 acres and in order for them to get the 70 units originally proposed they could have set aside at minimum 50 percent of the 75 percent of open space on site to give them additional density credits, or they could have set aside 310 acres off site in permanent off site conservation easements. Also noted was while this wouldn't have precluded them from developing in the manner they saw fit there would have been additional standards applied to the subdivision as well as a requirement to go through the overall development process which is required on a subdivision over 320 acres.

Chairman Brenneman said zoning has positives and negatives and most of us agree you need to be careful when you zone things. He stated if you do there are certain advantages and one of the advantages for developers is if an area is zoned and you comply with the zoning, while it might be more expensive up front you can be fairly confident you are going to be approved and it would be much more legally defensible. He noted one of the costs developers have incurred in particular with some of these lands that have been developed is litigation costs with the neighbors having said you didn't do the proper review; to say it is more expensive is looking at a narrow piece of the picture. He then said we have a resolution that we could adopt, reject or say let's think about it further and presumably if they choose to make changes they have the ability to do so. If the changes are deemed not to be substantial the resolution can be passed.

Commissioner Dupont stated he doesn't feel the text amendment is necessary at this point; yet doesn't want it tossed either, that everything in it can be used for future developments.

Commissioner Dupont made a **motion** to reject text amendment FZTA 09-03 (Resolution 955HF). Commissioner Lauman **seconded** the motion.

Chairman Brenneman said this isn't the document that I would be willing to vote in favor of yet neither do I feel comfortable throwing out the work of a great many people and particularly addressing the issue of some of our largest land owners, so I would support a Commissioner workshop that would be more appropriate. **Aye** - Lauman and Dupont. **Nay** - Brenneman. Motion carried by quorum.

3:00 p.m. Commissioner Brenneman: Flathead Business & Education Committee meeting @ FVCC

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 22, 2010.

WEDNESDAY, SEPTEMBER 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.

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

Ross Bishop, 260 Morning View Drive spoke about concerns related to safety at the intersection of Three Mile Drive and West Valley Drive. He stated currently there is a yield sign on West Valley Drive which he would like to see removed and a stop sign installed at Three Mile Drive.

Denise Smith, FBIA said more investigation has gone into issues related to the storm water project and she stated after further conversations with members in Bigfork she feels the issues can be simplified by taking engineering and personalities out of the equation; the conspiracy theory could be eliminated by extending the public comment period. Smith said there were many with no concerns up until the most recent set of events. She stated during the last two years the understanding of individuals was that once the final project was put together they would have the ability to comment on it. She asked that they be given another two weeks to comment in order to possibly alleviate some of the problem.

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

AWARD BID: ELECTION DEPARTMENT STORAGE

[9:30:22 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk & Recorder Paula Robinson, Clerk Kile

Commissioner Lauman made a **motion** to award the Election Department storage bid to Meredith Construction. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

WEDNESDAY, SEPTEMBER 22, 2010
(Continued)

CONSIDERATION OF REJECTING BIDS: GRADERS/ ROAD DEPT.

[9:32:06 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, Shop Foreman Corey Pilsch, Clerk Kile

Commissioner Dupont made a **motion** to reject the road grader bids. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #11-07-6-11-018-0

[9:33:59 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 DPHHS Contract #11-07-6-11-018-0. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

AUTHORIZATION TO PUBLISH CALL FOR BIDS: RADIO EQUIPMENT/ ROAD DEPT.

[9:36:36 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, Shop Foreman Corey Pilsch, Clerk Kile

Commissioner Dupont made a **motion** to authorize publication of Call for Bids and authorized the chair to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

Call for Bids
Analog/Trunking Radio Equipment

The Flathead County Road and Bridge Department is calling for bids for the purchase of analog/trunking capable radio equipment for the department. The proposed purchase includes 15 VHF handheld radios; 114 VHF mobile units capable of analog, P25, and Motorola compatible Astro25 Smartzone Trunking, and associated supplies for this agency. Radios must be delivered programmed with trunking capabilities.

Detailed bid guidelines, including a complete description of the equipment and services to be provided by bidders and the required bid document may be obtained by contacting Jack Spillman, Flathead County Office of Emergency Services, 625 Timberwolf Parkway, Kalispell, MT, 59901, (406)758-2117, email: jspillman@flathead.mt.gov. Sealed bids must be received at the Flathead County Commissioners Office, 800 South Main, Kalispell, MT no later than **5:00 p.m. (MST) on October 8, 2010**. The bids will be opened publicly by the Flathead County Commission on October 12, 2010 @ 9:15 a.m. and the bid review committee will take the bids under advisement and make a recommendation at a later date to the Flathead County Commissioners.

The bidder shall guarantee the total bid price for a period of 120 calendar days from the date of bid opening.

Each bid shall be accompanied by Bid Security made payable to Flathead County in an amount of ten percent (10%) of the Bidder's Maximum Bid price and in the form of lawful money of the United States; a cashier's check, certified check, bank money order, or bank draft as required by state statute; or a Bid bond, guaranty bond, or surety bond executed by surety corporation authorized to do business in Montana.

It is the intent of the Flathead County Road and Bridge Department to seek funding to award a contract to the lowest, responsive, responsible bidder on the basis of the total price of the bid. Flathead County reserves the right to waive irregularities and to reject bids.

Dated this 22nd day of September, 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 September 26 and October 3, 2010.

WEDNESDAY, SEPTEMBER 22, 2010
(Continued)

CONSIDERATION OF DOCUMENT FOR SIGNATURE: LAKESIDE COMMUNITY COUNCIL BY-LAWS

[9:45:03 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 Lakeside Community Councils by-laws. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

DOCUMENTS FOR SIGNATURE: STOP LOSS AGREEMENT & ADMINISTRATIVE SERVICES AGREEMENT/ HEALTH INSURANCE

[9:47:34 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman
Commissioner James R. Dupont
Others present:
Assistant Mike Pence, Clerk Kile

Commissioner Dupont made a **motion** to approve the stop loss and administrative services agreements. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

BOARD APPOINTMENT: MARION FIRE DISTRICT

[9:49:24 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 appoint Karen Marr and Larry Marr to the Marion Fire District. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: NOTICE OF AWARD/ BIGFORK STORMWATER PROJECT CONSTRUCTION

[10:30:40 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman
Commissioner James R. Dupont
Others present:
Assistant Mike Pence, Sue Hanson, Clerk Kile

The notice of award was continued.

BIGFORK STORMWATER ADVISORY COMMITTEE QUARTERLY UPDATE

[10:30:40 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman
Commissioner James R. Dupont
Others present:
Assistant Mike Pence, Sue Hanson, Clerk Kile

Sue Hanson presented the following quarterly update report from the Bigfork Stormwater Advisory Committee.

Funding:

- Final Design submitted to DEQ, DNRC and TSEP
- Letters of protest EA:
Bill Myers (hand written-no copy)
RLK Hydro Inc.
Larsen Engineering & Surveying, Inc., P.C.
James C. Bartlett, Attorney representing Bayside Park and Marine, L.L.C. (Bill Myers)
- October 12, 2010 – Travel to Helena to work with DEQ on next year's funding. Proposing funding for completion of design work to support RSID process.

WEDNESDAY, SEPTEMBER 22, 2010
(Continued)

Fall Workshop:

- Presentations: Theme "It's Up To YOU To Keep It Blue"
Tom Bansak, U of M Flathead Lake Biological Station "History, Trends, Threats".
Chad Phillips, Phillips Architecture "Green Architecture"
Christi Buffington, Flathead Lakers "What Individuals Can Do"
Tom Martinez, Northwest Concrete Works, "Pervious Paving"
Dave Martin (DNRC), Larry Van Rinsum (FCD), Dan Bangeman (FCD) "Rolling Rivers Demo."
- 18 Presenters and community members attended.
- Resourcing and Support

Phase I Grand Dr:

- Fall construction Schedule October 4 to November 14, 2010.
- Spring construction Schedule April 4 to May 14, 2011.
- 48 North presented construction design and estimated construction costs at August 25, 2010 regular meeting. 6 members of the public present. (mailed letters to business owners on Grand Dr.)

Discussion was held relative to concerns brought forth by Flathead Business Industry Association in regards to the public comment period which they have asked to have extended. Sue Hanson said she would contact Denise Smith with FBIA to ask them to have their members submit comment written or oral before September 29 at which time the Notice of Award is scheduled.

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

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

THURSDAY, SEPTEMBER 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.

NO MEETINGS SCHEDULED

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

FRIDAY, SEPTEMBER 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.

NO MEETINGS SCHEDULED

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 27, 2010.
