
MONDAY, OCTOBER 18, 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.

FINAL PLAT: PEACEFUL RIDGE SUBDIVISION

[8:45:42 AM](#)

Members present:

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

Others present:

Planner Allison Mouch, Kaveh Rehu, Clerk Kile

Allison Mouch entered into record Final Plat FFP 10-08, Peaceful Ridge Subdivision, an application submitted by Kaveh Ruhu with technical assistance from Bob Erickson with Jackola Engineering for final plat approval of a two lot subdivision located at 230 Conrad Point Road. Preliminary plat approval was granted on October 24, 2006, subject to 12 conditions. A preliminary plat extension was granted on May 12, 2009, extending the subdivision expiration date through October 24, 2010. Mouch noted following approval there was an amendment to original condition #12 and the addition of condition #13. It was noted unique condition #2 required that an easement be sought across adjacent property for an emergency access, which the owner would not grant.

Commissioner Lauman made a **motion** to approve final plat of Peaceful Ridge Subdivision, FFP 10-08. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

MONTHLY MEETING W/ JIM ATKINSON, AOA

[9:00:22 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 met with the Commission and presented statistics on bus ridership and independent living services. He noted ridership in Glacier Park increased from 170,000 in 2010 compared to 150,000 in 2009. He then spoke about food sales at Gateway West Mall which have continued to increase. Atkinson then reported Sara Cowger, Director of RSVP is producing good results for the program.

BI-MONTHLY MEETING W/ JED FISHER, WEED/ PARKS/ MAINTENANCE

[9:30:17 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Weed & Parks Maintenance Director Jed Fisher, Pam Holmquist, Clerk Kile

Jed Fisher met with the Commission and reported on issues related to the new Volunteer Park at Lakeside, problems with the new tennis court at Ben Williams Park, neighborhood concerns with potential development of Vetville Park and encroachment concerns near Lake Park Addition. He then spoke about the need for additional labor with the spreading of tansy ragwort near Lost Prairie Sky Diving area and a new invader west of town called Yellowflag Iris. Fisher then reviewed building maintenance concerns and reported on building projects.

CONTINUATION OF PUBLIC HEARING: DISSOLUTION OF RSID #148 (TROUTBECK RISE)

[10:00:25 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Rich DeJana, Terry Richmond, Greg Lukaski, Ronald Clark, Pam Holmquist, Darold Schaffer, Dore Schaffer, Charlotte Lau, LeRoy Lau, Louise Atkinson, Robert Zion, Larry Heinold, Scott Ring, Marc Liechti, Cara Campbell, Chris Campbell, Holly Granlund, Roger Granlund, Jim Atkinson, Clerk Kile

Tara Fugina explained RSID #148 was created in January 2010 for the purpose of undertaking road improvements. She noted the bids came back higher than the estimate and because of the way the RSID's are structured it necessitated the dissolution of RSID #148 and the creation of a new district.

Chairman Brenneman opened the public hearing to anyone wishing to speak in regards to dissolution of RSID #148, which he stated they have no intention or could they proceed if they had the intention at this point.

MONDAY, OCTOBER 18, 2010
(Continued)

No one rising to speak, Chairman Brenneman closed the public hearing regarding dissolution of RSID #148.

Commissioner Lauman made a **motion** to adopt Resolution 2234C to dissolve Troutbeck Rise RSID #148. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

RESOLUTION NO. 2234C

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 148;
DISSOLUTION OF THE DISTRICT

WHEREAS, Rural Special Improvement District No. 148 was created on January 26, 2010 by Resolution No. 2234A for the purpose of undertaking road improvements;

WHEREAS, the estimated cost of the improvements as stated in Resolution 2234A were \$453,506;

WHEREAS, the actual bids received for the construction of the improvements greatly exceeded the estimate;

WHEREAS, Rural Special Improvement District No. 148 has accumulated no assets and no property owners within the boundaries of this District have been assessed any fees pursuant to the creation of this District;

WHEREAS, the purpose of the existence of Rural Special Improvement District No. 148 cannot be fulfilled within the cost restrictions imposed by Resolution 2234 and 2234A;

WHEREAS, the Board of County Commissioners passed Resolution No. 2234B, a Resolution of Intent to Dissolve Rural Special Improvement District No. 148, a copy of which was published as required by law;

WHEREAS, a public hearing was scheduled for October 12 and continued to October 18, 2010, regarding Resolution 2234B;

WHEREAS, no protests were received regarding the dissolution of Rural Special Improvement District No. 148; and

WHEREAS, it is the wish of the Board of County Commissioners to dissolve this District as it no longer serves any purpose.

NOW, THEREFORE, BE IT RESOLVED that Rural Special Improvement District No. 148 is hereby dissolved.

PASSED AND ADOPTED by the Board of County Commissioners of the County of Flathead, Montana, this 18th day of October, 2010.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

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

By/s/Diana Kile
Diana Kile, Deputy

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

CONTINUATION OF PUBLIC HEARING: CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT TO CREATE RSID #150 (TROUTBECK RISE)

10:02:40 AM

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Rich DeJana, Terry Richmond, Greg Lukaski, Ronald Clark, Pam Holmquist, Darold Schaffer, Dore Schaffer, Charlotte Lau, LeRoy Lau, Louise Atkinson, Robert Zion, Larry Heinold, Scott Ring, Marc Liechti, Cara Campbell, Chris Campbell, Holly Granlund, Roger Granlund, Jim Atkinson, Clerk Kile

Tara Fugina reported there are 72 lots/tracts/parcels included in RSID #150; 38 valid written protests were received with one additional one that was unclear and another received late. She noted there were more than 50% in opposition and under Montana law that requires a six month moratorium on any action taken.

Chairman Brenneman asked if they could take action at the end of six months.

Tara Fugina explained they could overrule the protests or move to dissolve it at that time.

Chairman Brenneman clarified that in light of the protest received they cannot proceed with the intention of the resolution; should they even want to.

Tara Fugina stated that is correct; yet anyone that wants to comment is allowed to.

Chairman Brenneman opened the public hearing to anyone wishing to comment on the adoption of the Resolution of Intent to create RSID #150.

**MONDAY, OCTOBER 18, 2010
(Continued)**

Rich DeJana, Attorney for Ron Clark, Robert Zion and Larry Heinold stated he was asked to represent them. He noted Deputy County Attorney Tara Fugina is absolutely right in reading statute to state that you can't go forward with creating the district but it also says you can't do anything. He stated there are a lot of reasons not to move forward which he noted were expressed in the letter he sent. DeJana suggested if this is brought up again that notice be given and an opportunity for public input.

Darold Schaffer a resident in Big Arm said he owns two lots with one of them empty. He stated he was unaware of any input being given from the residents for them to move forward with RSID #150 and questioned if that was valid. Schaffer spoke about current lot values and said it seems foolish to him to put another \$9,000 value on a lot that will not be paid back.

Robert Zion, 186 Skookum Road stated he owns three lots with his home on the center lot and the lots on each side are vacant. He reviewed the tax bills he has paid in the past and said the tax on the lots would go up from \$2,862.41 to \$5,200.00 each year for 15 years, which doesn't reflect any increase in the regular property taxes they pay which increases year to year. Zion stated he isn't opposed to improving the road, but is adamantly opposed to paying that kind of money to have it done.

Ron Clark, owner of three lots in Troutbeck Rise Subdivision stated he financially is in the same position as Mr. Zion. He said what bothers him the most is the process they have gone through with there not being a lot of openness in how the process came about. He noted that from talking to Mr. DeJana that the state allows it, but the county has adopted rules and regulations and criteria that he doesn't believe the Commission has followed. He questioned the petition process in which he said both parties that own a parcel are required to sign the petition or protest and that the county allowing only one person to sign, whereas it was made very clear in RSID #150 that all owners registered on the lot had to sign the protest. He said he finds it difficult to understand that the wording "a sufficient number" of signatures is required. Clark said he questioned Brenneman in regards to asking him if a number were assigned in place of a word what that number would need to be. He stated his response was 60 to 70% and in no way shape or form have there ever been 60% of the homeowners in favor to create the RSID. He stated the process we have gone through could be a learning experience for all of us in that the public could believe the conditions set forth by the Commission are being followed.

Scott Ring, 187 Troutbeck Rise spoke in favor of the RSID and said he has been excited about potentially having the road paved. He stated he totally respects everyone's views and opinions and said from the background he has looked at that maybe the process wasn't done correctly. Ring said he respects those that are concerned with being owners of three lots with the increased cost to them. He noted there is a whole other side to this and said paving the roads may not bring a value to what people perceive. Ring encouraged everyone to keep their mind open in paving this because right now he truly believes as a realtor that a \$9,000 cost to a lot with a home seems like a lot but in possibly 1, 2 or 3 years time you will see the whole Troutbeck Rise area gain it back again. He stated there are those that would like pavement and still see it come about whatever the process is.

Holly Granlund, 340 Char Court said we all want pavement. She then stated it was her understanding a long time ago the county was going to pave the road and they changed their mind; so now we are going through all of this. She said it is really wonderful to think about the future, but we are thinking about right now and not about an investment; I'm there to live the rest of my life and then die there. Granlund said you are making it almost impossible for anyone on a fixed income and that is where we are as well as many others. She stated they started out at \$9,000 per lot and are now at \$14,000 and the numbers keep increasing; as far as I know we are in a recession and have to think about right now.

LeRoy Lau, 111 Wulff Lane said he also respects those that own three lots, however, something needs to be done whether chip sealing or whatever. He stated when they purchased their home they would see a maximum of three cars a day and now they are probably up to 200 cars; people come down Bernie Creek and can go to the school, church or grocery store. Lau said there needs to be something done in order to control the dust and they as a unit need to do something.

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

Chairman Brenneman clarified as they have been told they can take no action at this time.

Commissioner Lauman stated he appreciated those that came today and realizes and understands both sides. He said as a development he hoped they could sit down and come up with a solution to the problem.

Commissioner Dupont concurred with Lauman's comments.

Chairman Brenneman thanked those that came in and said this is in fact how the public process works best. He stated our job is to present options and if the people want an RSID it is an option; certainly if we could rush down there and pave your road from the county checkbook we would do so. He suggested if you own multiple lots and have no intention of ever selling them you might want to consider aggregating the lots.

DOCUMENT FOR SIGNATURE: PECCIA & ASSOCIATES CONTRACT MODIFICATION NO. 2/ SAM BIBLER-WILLOW GLEN TRAIL

[10:31:04 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Planning & Zoning Director B J Grieve, Planner Alex Hogle, Clerk Kile

Ryan Mitchell with Peccia & Associates reviewed the three driveway improvements done and explained the four additional days which warrant Contract Modification No. 2.

MONDAY, OCTOBER 18, 2010
(Continued)

Commissioner Dupont made a **motion** to authorize the chair to sign the change order and certificate of substantial completion. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

BJ Grieve explained an additional change order in regards to quantity rectification will be before them also.

DOCUMENT FOR SIGNATURE: COPS GRANT/ SHERIFF'S OFFICE

[10:44:17 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Sheriff Mike Meehan, HR Director Raeann Campbell, Clerk Kile

Sheriff Meehan explained the COPS Grant is for one additional position for an officer that is federally funded over a three year grant period. He noted the county would be responsible to sustain the position for a minimum of 12 months following the federally funded position.

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

DOCUMENT FOR SIGNATURE: COLLECTIVE BARGAINING AGREEMENT/ SHERIFF'S OFFICE

[10:47:06 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Sheriff Mike Meehan, HR Director Raeann Campbell, Clerk Kile

Commissioner Lauman made a **motion** to extend the contract to December 11, 2011. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

TAKE ACTION: EDMISTON SUBDIVISION

[10:48:54 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 Edmiston Subdivision is declared a dead file.

TAX REFUND: ELLETSON

[11:00:48 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Mike Pence explained Elletson was charged for incorrect acreage and recommended approval for \$305.64.

Commissioner Dupont made a **motion** to approve the tax refund for Elletson. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

TAX REFUND: VAN BRUNT

[11:00:48 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Chairman Brenneman noted the tax refund request will be rescheduled after additional research is done.

MONDAY, OCTOBER 18, 2010
(Continued)

TAX REFUND: OLYMPUS AMERICA, INC.

[11:01:32 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Mike Pence explained the DOR recommended approval based on a recording error on exempt equipment at KRMC.

Commissioner Lauman made a **motion** to approve the tax refund for Olympus America, Inc. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

TAX REFUND: MEADOW LAKE GOLF RESORT

[11:02:28 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Mike Pence explained the DOR recommended approval in the amount of \$2,407.39 which was paid by two parties on leased equipment.

Commissioner Dupont made a **motion** to approve the tax refund to Meadow Lake. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

5:30 p.m. Meeting w/ Whitefish City Council re: Interlocal Agreement @ Whitefish Council Chambers

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 19, 2010.

TUESDAY, OCTOBER 19, 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.

Commissioner Dupont PT opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Commissioner Dupont PT closed the public comment period.

CONTINUATION OF PUBLIC HEARING: ROAD ABANDONMENT #482 (PORTION OF ALLEY LOT 36 WAGSMITH VILLA)

[9:30:06 AM](#)

Members present:

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

Others present:

Deputy County Attorney Peter Steele, Thomas Beck, Bill Kavanagh, Lloyd Crabtree, Stephanie Dahl, Clerk Kile

Peter Steele explained the alley is surrounded by private or abandoned property. He then noted an easement was granted from Flathead County to the Hungry Horse Water Department for them to access their water lines. He said if the Commission approves the abandonment that it needs to be subject to all utility easements which is standard language on abandonments. He stated if the Commission decides not to abandon it, it will remain a county alleyway although there is no way to get to the property from either direction.

Commissioner Dupont PT opened the public hearing to anyone wishing to speak in regards to the road abandonment.

Bill Kavanagh said he wanted to offer a compromise from his earlier position. He stated he doesn't have a problem at all if they want to call the road closed; what I have a problem with is that I don't want to stop to open a fence or ask for permission to access water lines. Kavanagh said he feels it would be sufficient for them to have a private property sign on either end of it.

Lloyd Crabtree said the end of the alleyway is their lot 1; his private property, for his enjoyment and should they choose to close it or build something on it as long as they can provide an alternative for them to get there is a right as a property owner. He stated lot 1 is not subject to the easement. Crabtree said everyone is crossing from both directions across lot 1 to get up to the hill and into the alleyway.

Bill Kavanagh said he doesn't have a problem with him closing his road up there at all. He pointed out on a map where the water tower sits and explained the road goes all the way from the top to the bottom of Gamma.

**TUESDAY, OCTOBER 19, 2010
(Continued)**

Lloyd Crabtree noted there is another access to the tower from the backside.

Bill Kavanagh noted he crosses whatever property is necessary in order to get to the water main.

Peter Steele pointed out on a map that there is no county or city road to get to the isolated portion; although he has a right to repair his water lines.

Bill Kavanagh said he understands he has the right but does not want a fence put up.

Stephanie Dahl stated they are not asking for a fence but would like to put up a gate. She noted it is private property and the other alley is abandoned so they are already crossing private property to get to it. Dahl pointed out on a map the property she owns and explained what is currently abandoned.

No one else rising to speak, Commissioner Dupont PT closed the public hearing.

General discussion was held relative to use of the property.

Commissioner Dupont PT said if it is abandoned it would be up to them to work out the situation; the water department does have access and the easements will remain.

Bill Kavanagh said he feels they are in agreement in that they don't intend to block either side of the straight up and down roadway; that's all he stated he is asking.

Commissioner Lauman said if they could work out an agreement in regards to access that he would motion to abandon the alleyway.

Bill Kavanagh said he wanted to stress that no fences would be allowed on the stretch.

Lloyd Crabtree suggested that it be abandoned subject to existing easements.

Commissioner Lauman made a **motion** to approve Road Abandonment #482 subject to retaining all easements. Commissioner Dupont PT **seconded** the motion. **Aye** - Lauman and Dupont. Motion carried by quorum.

TAKE ACTION: EVERGREEN BUSINESS PARK

[9:49:05 AM](#)

Members present:

Commissioner Dale W. Lauman
Commissioner James R. Dupont PT

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Planning & Zoning Director B J Grieve, Clerk Kile

Commissioner Dupont PT read into the record Evergreen Business Park is declared a dead file.

B J Grieve noted the applicants roughed in their road and put in a lot of the infrastructure and then stopped; it now sits as a half done project.

DOCUMENT FOR SIGNATURE: LEGAL SERVICES AGREEMENT/ M. DAHLUM

[9:54:02 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Mike Pence explained M. Dahlum will be on retainer to advise and assist on labor contract agreements and personnel issues.

Commissioner Lauman made a **motion** to approve the legal services document for signature. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

TUESDAY, OCTOBER 19, 2010
(Continued)

**PUBLIC HEARING: NORTH FORK ZONING SIZE & SCALE EXTRACTIVE INDUSTRIES TEXT AMENDMENT/
FLATHEAD COUNTY ZONING REGULATIONS**

[10:30:41 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, Planning & Zoning Director B J Grieve, Planner Andrew Hagemeyer, Randy Kenyon, Larry Wilson, Charles Lapp, Ken Krueger, John Fredericks, Molly Shepherd, Ellen Horowitz, Otto Meister, Clerk Kile

Andrew Hagemeyer entered into record Staff Report FZTA 10-03; an amendment to the text of the FCZR which would add a new definition to the North Fork Zoning District limiting the size and scope of extractive industries in the North Fork. This new definition would create a new (1) in Section 3.040.050 and the existing definitions would be re-numbered.

Hagemeyer noted on February 18, 2010 Governor Brian Schweitzer of the State of Montana met with the Commission regarding a MOU to restrict mineral development within the North Fork of the Flathead River watershed. He noted if the North Fork Land Use Advisory Committee had not been interested in the proposal it probably would have died, but they chose to pick it up and carry it forward. He explained in June a meeting was held where language was drafted for the amendment and again in August where unanimous approval to the language was given. Hagemeyer noted in August of 2007 during a NFLUAC meeting held that it was unanimously recognized by the citizens that the number one concern facing the residence in the North Fork is Canadian energy development; it was the only issue that they felt strongly about. Policy 2.5 in their Neighborhood Plan presently states: Industrial uses should not be allowed other than small scale extractive industries, pursuant to the CUP process; which this definition does. He reviewed concerns raised by Commissioner Lauman in regards to existing permits that remain: one active on less than five acres, one reclaimed and one that the status is unknown.

3.40.050 Definitions: The definition would only apply to the North Fork Zoning District

1. **EXTRACTIVE INDUSTRIES:** Commercial or industrial operations involving the removal and processing of natural accumulations of sand, rock, soil, gravel, or any mineral limited to no greater than 5 acres and not more than 20,000 tons (2,000 pounds per ton) per year.

Chairman Brenneman stressed this was at most a suggestion to consider the idea of doing this and the impetus for it has come from the North Fork Land Use Advisory Committee.

Chairman Brenneman opened the public hearing to anyone wishing to speak in regards to the proposed zoning text amendment.

John Fredrick, Chairman of North Fork Land Use Advisory Committee reported a hearing was held in June for the proposed definition and there was absolutely no opposition to it at all. He explained the gentlemen that delivers gravel up there has to make a trip to town anyway in order to get crushed material; to his knowledge there is no gravel pit, although there is suppose to be one but no one knows where it is. Fredrick urged the Commission to approve the amendment as it seems that's what the citizens want.

Gary Krueger, 805 Church Drive said the State of Montana has given Flathead County a tool called zoning in which it allows County Commissioners to provide for protection of health, safety and welfare of the general public. He stated zoning has criteria that is suppose to be met and questioned if this is a part of zoning or is actually a part of a MOU. He said the implementation of the MOU should not be run through zoning which again is a tool for the county to protect the health, safety and welfare of citizens. Krueger said when we as a county start using zoning in an improper fashion we create an area of distrust of county government. He noted the document does not show anywhere in the staff report that limiting the size or scope of gravel extraction in the North Fork would provide health, safety or general welfare of the public as well as create a cleaner environment; it does not support findings of fact and in fact the recommendation says it is to implement a MOU. Krueger said we have zoning regulations in Flathead County that allow the Board of Adjustments to give a permit for gravel extraction; if gravel extraction in the North Fork or a proposal would be shown to factually create an issue of pollution in that area, there is no one on the Board of Adjustments that would issue a permit. He said maybe at this time the North Fork has no proposals for gravel extraction, but as we grow and the area grows and there is a need for the road to be repaired then they will be in need of an extraction site in the area. He asked that they not move forward and stated we have to have facts as to why we do or do not do these things, and the staff report has no facts that state this is the proper course.

Randy Kenyon, 403 7th Avenue West, Kalispell stated he is a member of the North Fork Land Use Advisory Committee and is also a landowner on the North Fork Road. He reiterated the comments made by John Fredricks in that the vote was unanimous by the committee and there was no opposition whatsoever by anyone on the committee or any of the participants at the meetings. Kenyon stated the zone change is only for private land and has no jurisdiction over state or federal land and will only have a small impact on the entire North Fork. He pointed out there was an active gravel pit on possibly federal land a couple miles north of Camas, so gravel is available on the North Fork Road.

Molly Shepherd, 15333 North Fork Road said she strongly supports adoption of the proposed definition for extractive industries. She stated the definition would implement specific goals and policies that are in the North Fork Neighborhood Plan, which were already their prior to the adoption of the MOU that has been referred to this morning. Shepherd said as far as she knows no one on the North Fork Road has raised any voice in opposition to the adoption of the proposed definition; there appears to be instead wide spread agreement in limiting mining activities which would be in the best interest to the North Fork now and in the future.

TUESDAY, OCTOBER 19, 2010
(Continued)

Charles Lapp, 3230 Columbia Falls Stage Road stated he came to speak primarily because he lives adjacent to the Flathead River south of Columbia Falls. He questioned if this is being done because of the MOU to restrict mineral development within the North Fork of the Flathead River that the Governor visited with them about; if it is or isn't, it appears that it is which he stated is a concern for him even if it's just a suggestion coming from somewhere outside of Flathead County it could affect everyone in the whole county. Lapp said when you start looking at the river system and the North Fork up into Canada and British Columbia he questioned where would the river stop and where does it start. He stated his primary concern is that eventually it could affect all of us all the way down river. Lapp said if this has been created out of the staff report and they feel it is justified they should vote for it. He noted the neighborhood plan is asking for a very specific definition which he would like to see them get away from so each neighborhood plan isn't making up their own definitions

Otto Meister, 80 Beaver Drive, Polebridge stated he strongly recommends the proposal be adopted with it being what the residents of North Fork want.

Ellen Horowitz, 880 Blackmer Lane, Columbia Falls stated she and her husband have owned property in the North Fork area for 30 years and added they like the proposed definition of extractive industries.

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

Chairman Brenneman said the Resolution before them as well as Notice of Passage of Resolution of Intent would give a 30 day time frame in which comments could be made to Flathead County.

Commissioner Lauman asked if extractive industries would include oil, coal or silver mining.

Peter Steele explained the definition says sand, rock, soil, gravel or any mineral limited to no greater than five acres.

Commissioner Lauman asked if extractive could be construed to include other resources.

Chairman Brenneman said anything that is a mineral would be included.

Commissioner Dupont said he has an issue with it as well and questioned how it would affect mineral rights.

Andrew Hagemeyer said mineral rights are on federal properties so would not be effected at all; on private property there would be a sliding scale that they could mine.

General discussion continued in regards to mineral rights and health and safety concerns.

Chairman Brenneman asked if they adopted the definition for the text amendment, and there was an apparent overwhelming need for an extractive industry for larger than five acres and more than 20,000 cubic tons per year if there would be any recourse.

Andrew Hagemeyer said short of changing the definition for zoning.

Chairman Brenneman said we have 11 Findings of Fact all of which support the proposed text change; Finding of Fact 11 should we adopt this states that as a part of our record public testimony and staffs comment indicate that the main motive of the North Fork Land Use Advisory Committee proposing the amendment was protecting water quality and not complying with the MOU.

Chairman Brenneman made a **motion** to adopt Resolution 955HH and authorized publication of the Notice of Passage of Resolution of Intent. Motion **dies** for lack of a second.

Chairman Brenneman called for another **motion**.

Commissioner Dupont said the biggest issue he has is in regards to the necessity of zoning which will probably never happen to begin with; I don't think zoning should be used for something we are afraid of in 30 years. He stated zoning scares him on this particular issue because it did start on the top; no one else brought it up until the Governor brought it up to begin with. He added I don't think this is going to happen and we say we are protecting water, and if you look at the map it's a long ways away from the water; if we want to protect the water we should perhaps do it near the river, not 2 ½ miles away from the river. Dupont said we already have a solution in the Neighborhood Plan that will restrict it.

Chairman Brenneman said in comment to that in fact one of the things we have in Flathead County is that groups of people can get together, and can have some determination of what they want to do and see done in their neighborhood; this in fact has gone through the appropriate channels and has been as I understand it unanimously endorsed by those living in the area and serving on the North Fork Land Use Advisory Committee. He added in effect we are refusing to go ahead with what has been unanimously recommended to us by the citizens living in the area; which is perhaps a definition of top down decision making by not taking the suggestion of a group that has done the homework, looked at every angle and lives in the area which would be my reason for supporting the resolution.

Chairman Brenneman said if there is no motion we will conclude this consideration and it could be brought back at another time; at this point the Commission chooses to not make a decision, is that the understanding.

Commissioner Lauman and Commissioner Dupont said they would like additional time to study the amendment.

Commissioner Lauman made a **motion** to take the amendment under advisement. Commissioner Dupont **seconded** the motion.

Chairman Brenneman said with the understanding that it is pulled somewhat out of limbo and at some point they will reconsider Resolution 955HH.

TUESDAY, OCTOBER 19, 2010
(Continued)

Commissioner Lauman said within a reasonable length of time; not 6, 8 or 10 months from now, I mean three weeks to a month from now that they should research it and get more input on it.

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

PUBLIC HEARING: TEMPEL ZONE CHANGE/ HIGHWAY 93 NORTH ZONING DISTRICT

11:02:48 AM

Members present:

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

Others present:

Deputy County Attorney Peter Steele, Planning & Zoning Director B J Grieve, Planner Alex Hogle, Chris Tempel, Ben Tempel, Clerk Kile

Alex Hogle entered into record Staff Repot FZC 10-04; a request submitted by Ben and Lorraine Tempel for a zoning map amendment in the Highway 93 North Zoning District. The single property requesting the zoning map amendment is located on the north side of Schrade Road between Highway 93 and Whitefish Stage approximately six miles north of the intersection of Hwy 93 and Hwy 2, and five miles south of the intersection of Hwy 93 and Hwy 40. The property is currently zoned SAG-10 and the proposal is to change the zoning use designation to SAG-5.

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

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

Commissioner Lauman made a **motion** to adopt Resolution 837BU and authorized the chair to sign the Notice of Passage of Resolution of Intent. Commissioner Dupont **seconded** the motion. **Aye** - Brenneman, Lauman and Dupont. Motion carried unanimously.

RESOLUTION NO. 837 BU

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 19th day of October, 2010, concerning a proposal by Ben And Lorraine Tempel 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 October 5 and October 12, 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 19th day of October, 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

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

TUESDAY, OCTOBER 19, 2010
(Continued)

Exhibit "A"

A tract of land situated, lying and being in the E ½ of Lot 1, Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana; and more particularly described as follows:

Tract 1: Commencing at the Northwest Corner of said Section 7; thence S 88° 45' 50" E along the north line of said Section 7, 639.39 feet to the Northwest Corner of the E ½ of said Lot 1; thence S 00° 20' 30" E along the west line of the E ½ of said Lot 1, 599.21 feet to the true point of beginning of the tract being described; thence continuing S 00° 20' 30" E along the west line of the E ½ of said Lot 1, 686.25 feet to a point on the northerly R/W of Schrade Road, a 60 foot deeded County Road; thence S 89° 17' 17" E along the northerly R/W of said County Road, 633.22 feet to a point on the east line of said Lot 1; thence N 00° 04' 16" W along the east line of said Lot 1, 686.26 feet; thence N 89° 17' 34" W 636.46 feet to the point of beginning and containing 10.000 acres of land. Together with and subject to a 60.00 foot roadway and utility easement along the east line all as shown hereon.

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 BU) on October 19, 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 at 150 Schrade Road, Kalispell, which is on the north side of Schrade Road, roughly 600 feet east of the intersection of Schrade Road with Highway 93.

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 ten 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 19th day of October, 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 October 23, 2010 and October 30, 2010.

Exhibit "A"

A tract of land situated, lying and being in the E ½ of Lot 1, Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana; and more particularly described as follows:

Tract 1: Commencing at the Northwest Corner of said Section 7; thence S 88° 45' 50" E along the north line of said Section 7, 639.39 feet to the Northwest Corner of the E ½ of said Lot 1; thence S 00° 20' 30" E along the west line of the E ½ of said Lot 1, 599.21 feet to the true point of beginning of the tract being described; thence continuing S 00° 20' 30" E along the west line of the E ½ of said Lot 1, 686.25 feet to a point on the northerly R/W of Schrade Road, a 60 foot deeded County Road; thence S 89° 17' 17" E along the northerly R/W of said County Road, 633.22 feet to a point on the east line of said Lot 1; thence N 00° 04' 16" W along the east line of said Lot 1, 686.26 feet; thence N 89° 17' 34" W 636.46 feet to the point of beginning and containing 10.000 acres of land. Together with and subject to a 60.00 foot roadway and utility easement along the east line all as shown hereon.

1:00 p.m. Commissioner Brenneman: Interoperability Montana funding meeting @ Heritage Place

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 20, 2010.

WEDNESDAY, OCTOBER 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.

- 9:15 a.m. RSVP Board meeting @ Heritage Place**
- 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 October 21, 2010.

THURSDAY, OCTOBER 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.

- 12: 00 p.m. Commissioner Brenneman: Speaker at Rotary**
- 2:00 p.m. Commissioner Brenneman: Health Board meeting @ Earl Bennett Building**
- 6:00 p.m. Commissioner Lauman: Montana West Economic Development "One Valley, One Vision"
@ Hilton Garden Inn**

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

FRIDAY, OCTOBER 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.

NO MEETINGS SCHEDULED

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