
MONDAY, JUNE 20, 2011

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Dupont, Commissioners Lauman and Holmquist, 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 June 21, 2011.

TUESDAY, JUNE 21, 2011

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Dupont, Commissioners Lauman and Holmquist, 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 June 22, 2011.

WEDNESDAY, JUNE 22, 2011

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

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

Jerry Murphy, 474 Electric Avenue stated he has been involved with many improvements in the Bigfork community and briefly reviewed them. He then asked for commissioner help in improving the unsightly and potentially dangerous entrance into Sliter Memorial Park.

James Hopkins stated he is a disabled citizen that makes his living as a dumpster diver by recycling material obtained at the site, which he intends to continue doing. The county he said is taking it upon themselves to take away his God given right as a citizen to feed his family and not be a leech to society. He explained it is his opinion that citizens need to take responsibility regarding identify theft upon themselves, and stated 99 percent of identity theft is done off the internet. Hopkins said he has spoken to many people in Bigfork that are outraged that recycling will no longer be allowed.

Turner Askew said he understands why they have concerns regarding the Interlocal Agreement with the City of Whitefish, and why they are choosing to terminate the agreement. He stated he would hope the Whitefish City Council and the Commissioners would move forward and work together as they both represent the citizens.

Rebecca Norton, 530 Scott Avenue said she is shocked this is being considered today without any public input from Whitefish residence. She stated at the public hearings held 80 percent of the county residences were in favor of keeping planning in Whitefish, and 100 percent of those living in the city were in favor of it. Norton said this seems very political and finds it offensive that language would be put on the resolution that states: Whereas in the spring of 2011 a group of Whitefish activists gathered signatures to force a referendum. She stated as citizens it is a legal right they have if they don't agree with the direction their leaders are taking them. If you are going to do something radical after being lobbied strongly by one group of people you at least should give courtesy warnings and notification of doing so she added.

Joan Vetter Ehrenberg, 744 Hidden Valley Drive said the Whitefish City Council represents her. She stated you don't represent Bigfork, Somers, Columbia Falls or anybody. She said I hope you will someday and that public comment will be respected and valued; right now, the commercial strip overlay over the whole county is not representing Whitefish and the interlocal agreement. Ehrenberg then spoke about greenbelt zoning and tourism being the main stay of the valley.

Dick Zoellner, 1365 Voerman Road said he feels it is a sad day when we have commissioners that put their signature down, and before the ink is dry on a document, you want to rescind it. He stated there seems to be no more honor in anyone. Zoellner said it could be that the citizens of Whitefish would like the county to take over; nobody knows.

Richard Hildner, 104 E. 5th Street encouraged postponement of any decision on the resolution being considered this morning, to allow all residence of the county to have a chance to respond regarding the resolution.

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

WEDNESDAY, JUNE 22, 2011
(Continued)

MEETING W/ JOHN SINRUD RE: WATER COMPACT COMMISSION DRAFT ADMINISTRATIVE ORDINANCE PROVISIONS, SECTIONS 1-1-107, 2-2-117, 2-2-107 & 2-2-108

[9:02:33 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Deputy County Attorney Peter Steele, John Sinrud, Clerk Kile

Sinrud met with the commission and reviewed the current proposed Unitary Management Ordinance from the Water Compact Commission. He reviewed proposed modifications to the ordinance and explained his concerns regarding the ordinance and how water rights will be passed out for individual wells and developments.

CONSIDERATION OF ADOPTION OF RESOLUTION: ONE-YEAR TERMINATION NOTICE TO CITY OF WHITEFISH FOR 2010 INTERLOCAL AGREEMENT GOVERNING THE DOUGHNUT AREA

[9:15:38 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Tara Fugina, Deputy County Attorney Peter Steele, Planning & Zoning Director B. J. Grieve, Lyle Phillips, Rick Blake, John Duncan, Jerry Murphy, Mary VanBusick, Turner Askew, David Taylor, Gary Witmer, Dick Zoellner, Rebecca Norton, Joan Vetter Ehrenberg, Frank Sweeney, David Skinner, Richard Hildner, Clerk Kile

Steele said the proposed resolution would terminate the interlocal agreement signed with the City of Whitefish in December, 2010. He explained there is a provision in the document that either side may terminate the agreement by giving one years notice.

Chairman Dupont asked Lyle Phillips to give an explanation as to why they have come to this point. Phillips read the following letter:

Over the past year, the donut settlement has been the subject of at least 16 public meetings. It resulted in the 2010 Interlocal Agreement that both the city and county acknowledge is valid and enforceable.

A lot of hard work from many people made the compromise and settlement possible, including Commissioner Dupont and Councilors Bill Kahle and Chris Hyatt. I served along with Diane Smith with this group during this laborious process.

I want to thank the County Commissioners and Whitefish City Council for their consideration and hard work on reaching an agreement that allows both parties to work in a cooperative manner for what we all thought was in the best interest of the doughnut area.

I agreed with the settlement – not because it gave the doughnut residents everything they thought should be in it, but I understood it was a compromise and ended the current litigation. It brought the county and city together. It promised certainty and stability for the doughnut, which we desperately need in this current real estate market and also provided representation for us in the doughnut.

The reason for my request is the referendum on Whitefish's ballot this fall. This referendum seeks to throw out the doughnut settlement between the county and city. If Whitefish voters approve this referendum, it guarantees more litigation.

There will be litigation about the effect of the referendum. What happens when one party to a settlement unilaterally withdraws from an enforceable settlement?

There will be litigation about whether the 2005 Interlocal Agreement is still in effect. Some say it disappears within the 2010 agreement, others say it does not. Who is right?

There will be litigation about whether the referendum is legal. State law only allows referendums on legislative matters. Is a lawsuit settlement a legislative matter?

We in the donut are tired of litigation. We have suffered through more than three years of litigation with the current lawsuit. These legal fights hurt our property values. Legal turmoil makes it difficult to improve or sell our properties, or in some cases settle estate inheritances. We currently have to sign disclosures stating that we or nobody else knows what we can do with our property, because of this legal uncertainty. People are reluctant to spend money on improvements that create jobs for our local builders and suppliers, because we don't know what the rules are.

And now this referendum comes along promising more lawsuits. In fact, one of the sponsors of the referendum, Richard Hildner, who is running for Whitefish City Council, has filed pleadings in the pending lawsuit asking the court to allow him to keep litigating the case that the county and city have settled. Mr. Hildner not only wants to resurrect this settled case, he is pushing a referendum that will result in more lawsuits. He is a lawyer's dream.

But while Mr. Hildner and Whitefish voters get to vote on the referendum the doughnut people do not. Once again, we will have no voice in our destiny if they have their way. The sponsors of the referendum continue to strive to make sure we have no say, and no representation.

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For three years, we have worked to fashion an arrangement between the county and city that worked for both parties and brought representation to the doughnut. The 2010 Interlocal Agreement was the result of the effort. But with the referendum sponsors wanting to throw out this settlement, we are back to where we started three years ago, with years of litigation looming ahead of us.

At some point, reasonable people must conclude that there is no way to make this arrangement work. We are at that point. We all tried and we all worked hard. But there are divisive elements in the Whitefish community that make it impossible to work together.

I respectfully request that you terminate the 2010 interlocal agreement and take the steps necessary to assume jurisdiction over the doughnut.

Chairman Dupont commented after his working with the Whitefish City Council they came up with the 2010 Interlocal Agreement, which both sides compromised on. He said when the issue was brought up by the city to disband the 2010 Interlocal Agreement it was disheartening. He stated if the referendum does pass it will put everyone in turmoil, and we have been three plus years working through that with the majority of the doughnut people, still not knowing what they can and can't do with their property. If the referendum passes, it will continue to be challenge after challenge for the residence. Dupont added either way if the referendum passes or fails in November they are half way to working out the issues of the 2010 interlocal; should the referendum pass, this will shorten the time span somewhat. He stated he considers this somewhat of a failure as they thought they had it all worked out, yet there are too many people arguing, and too much litigation to solve this in a common sense human being approach of how we are all going to get along and jointly come to a conclusion.

Commissioner Lauman said he too supports the one-year termination notice regarding the 2010 Interlocal Agreement. He stated this opens up another stepping-stone to open up an area where people can sit down and work together. Lauman said until we can become a cohesive group of people working for the betterment of Flathead Valley we are working against each other.

Commissioner Holmquist said the litigation could go on forever and they need to come to a resolution.

Commissioner Holmquist made a **motion** to approve Resolution 2297 for a one-year termination notice to the City of Whitefish regarding the 2010 Interlocal Agreement governing the doughnut area. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

RESOLUTION NO. 2297

WHEREAS on March 13, 2008, the Board of County Commissioners approved Resolution No. 1783B, rescinding the County's approval of the 2005 Interlocal Agreement between the County and the City of Whitefish.

WHEREAS on March 18, 2008, the City of Whitefish filed a lawsuit against Flathead County alleging that its resolution to rescind the 2005 Interlocal Agreement should be declared void. The lawsuit is styled City of Whitefish v. Board of County Commissioners of Flathead County, DV 08-367A.

WHEREAS on May 1, 2008, the District Court denied Whitefish's motion for preliminary injunction. Whitefish appealed that decision to the Montana Supreme Court. On December 23, 2008, the Supreme Court reversed the District Court, and ordered the Court to enter a preliminary injunction pending a trial on the merits.

WHEREAS in 2009, the District Court allowed Hieko and Elizabeth Arndt and Westridge Development LLC to intervene.

WHEREAS during the summer and fall of 2009, the parties filed motions for summary judgment. After these motions were filed, the parties requested that the District Court refrain from issuing a decision on the merits while the parties engaged in settlement discussions.

WHEREAS in early 2010, the County and City appointed a "doughnut resolution committee" to seek compromise and settle the lawsuit. Over the course of about seven months, this committee held nine public meetings, with the last meeting in September 2010. The Whitefish City Council held at least four public meetings on the lawsuit settlement with its last meeting on November 15, 2010. The County Commission held two public hearings, with its last meeting on November 30, 2010. All together, there were at least 16 public meetings to seek public input and fashion a settlement.

WHEREAS as a result of these settlement discussions, the City and County entered the 2010 "Restatement of Cooperative Interlocal Agreement." Both parties agree, as their lawyers have set forth in pleadings, that 2010 Agreement now "is in effect and fully operational."

WHEREAS in the spring of 2011, a group of Whitefish activists gathered signatures to force a referendum on the ordinance whereby Whitefish granted approval to the 2010 Agreement. This referendum has been certified for the Whitefish 2011 general election ballot in November. This referendum fatally attacks the compromise and settlement reflected in the 2010 Agreement and when all of the legal questions about the referendum are litigated in district court and then appealed to the Montana Supreme Court, there will be at least three to five more years of uncertainty and attorney's fees.

WHEREAS the only way to end many more years of litigation, and to grant representation to doughnut property owners, is to terminate the Interlocal Agreement.

WHEREAS the process for termination is set forth in paragraph 13 of the 2010 Agreement which provides in part:

A party may withdraw from this Agreement upon lawful resolution passed by the governing body of that party and service of written notice thereof on the remaining party at least one (1) year prior to the requested date of termination. During the one-year period of time from notice of the requested withdrawal and termination of the Interlocal Agreement, the party providing notice shall specify the nature and grounds for withdrawal within ten (10) days of the date of the notice, and allowing the remaining party ninety (90) days to investigate and propose a resolution.

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After ninety (90) days from the date of the notice for withdrawal, if the parties are unable to reach a mutually agreeable resolution, the parties shall attempt to resolve the stated ground for the withdrawal and termination of the Interlocal Agreement through non-binding mediation, and, the parties shall jointly select a mediator. In the event the parties do not voluntarily and timely select a mediator within fifteen (15) days from the mediation request, the eleventh judicial district court on application of a party shall appoint a mediator. The mediator so appointed by the parties or the district court shall assist the parties to attempt to resolve their difference as provided by Section 26-1-813, MCA.

This Agreement shall remain in full force and effect for the parties throughout the full one (1) year period of time following service of notice of the withdrawal of a party.

WHEREAS the County expresses its appreciation to the Whitefish City Council and its individual councilors who worked tirelessly to resolve the doughnut dispute. It is regrettable that the referendum sponsors have attacked this compromise and left Flathead County with no choice but to terminate the Interlocal Agreement.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, Montana, that Flathead County hereby gives notice to the City of Whitefish that the Interlocal Agreement with the City of Whitefish governing the doughnut shall terminate one year from the date this resolution is served on the City of Whitefish. The Chairman of the Board is authorized to deliver the letter to the City of Whitefish in substantially the form as set forth in Exhibit "A."

DATED this 22 day of June, 2011.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

By/s/Pamela J. Holmquist
Pamela J. Holmquist, Member

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

EXHIBIT "A"

Mayor Mike Jensen
Councilor Turner Askew
Councilor Chris Hyatt
Councilor Bill Kahle
Councilor Phil Mitchell
Councilor John Muhlfeld
Councilor Ryan Friel
City of Whitefish

RE: 2010 Restatement of the Cooperative Interlocal Agreement

Dear Mayor and Councilors:

The county election clerk has certified for the ballot a referendum that seeks to repeal the City of Whitefish's Resolution No. 10-46. This resolution approved the settlement between Flathead County and the City of Whitefish in the "doughnut" lawsuit that Whitefish initiated.

If the Whitefish voters approve this referendum this fall, it will create more litigation that could potentially continue for years. Consequently, this letter is notice of the County's intent to terminate pursuant to paragraph 13 of the 2010 Restatement of the Cooperative Interlocal Agreement. We enclose Resolution No. 2297.

The County and City have worked hard to resolve the doughnut lawsuit. Over the course of many months last year, the settlement committee consisting of city and county officials held nine public meetings to discuss and recommend resolutions to the lawsuit. Our Commission held two public hearings on possible resolution. Your City Council held at least four public meetings on the resolution. All together, we had at least 16 public meetings to seek public input and come to a settlement.

As with any settlement, nobody got everything it wanted. Both parties compromised on issues to make the settlement happen. Both public bodies understood that good neighbors communicate and cooperate, not litigate. Compromise brought us together. Unfortunately, the referendum has fatally attacked this compromise.

While we at the County had hoped that the 2010 Agreement would allow us to begin a new cooperative relationship with the City of Whitefish, we cannot postpone governance of the doughnut indefinitely while the referendum and its inevitable litigation plays out. The reasons for this are simple.

First, so long as governance of the doughnut remains unsettled, it undermines economic development. This lawsuit has cost the doughnut, and by extension the entire County, jobs, stability, and a return to the economic vitality that we need these days.

Second, the doughnut residents cannot remain in legal limbo with no representation. The doughnut residents deserve representation which we all agreed was provided by the 2010 Agreement. Doughnut residents deserve the same level of self-determination that the City of Whitefish referendum seekers have so robustly exploited for themselves.

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(Continued)

Lastly, the only thing certain about the referendum is more lawsuits. The doughnut lawsuit that we settled has been ongoing for three years, and it still is in district court. When the many legal questions about the referendum are litigated in district court and then appealed to the Montana Supreme Court, we can expect at least three to five more years of uncertainty and attorney's fees. We can't afford the insanity of needless attorney's fees and our residents can't afford up to five years of uncertainty.

Our doughnut constituents don't need more litigation and the uncertainty it brings to their property. They are having troubles selling their home. They are reluctant to improve their property, and hire more electricians or plumbers, because they don't know the rules. We need an environment that fosters economic activity, predictable rules of law, a stable real estate market, and more construction activities that create jobs.

It's imperative that we end this legal turmoil. Our county doughnut residents have suffered more than three years of uncertainty about their property arising from doughnut litigation. It is not acceptable or fair that they face a future with more lawsuits. At some point common sense and fairness must triumph over endless pleadings and appeals.

Since both the City of Whitefish and the County agree that the 2010 is in full force and effect ("The City and County agree that the 2010 Agreement is in effect and fully operational...", page 4 of the Board of County Commissioners and City of Whitefish's Reply Brief in Support of Joint Motion for Summary Judgment), we must regrettably deliver this termination notice as of the date of this letter is served.

We recognize that, in accordance with the 2010 Agreement, this withdrawal and termination is not effective for one year. You have 90 days from the date of this letter to propose a resolution, and we must engage in mediation. We look forward to receiving your proposal to end the specter of never-ending litigation and to allow doughnut residents representation, meaning they can vote for or against candidates who will govern them. We also suggest that along with your written proposal, you provide the names of possible mediators.

Councilors Kahle and Hyatt, we recognize your service on the doughnut resolution committee and willingness to work so diligently on this matter. On behalf of the doughnut residents, and the County Commissioners, we thank you and the Whitefish City Council for all efforts to resolve this legal dispute and begin an era of communication and cooperation. We regret that the referendum has attacked the results of this hard work, leaving Flathead County with no choice but to terminate the Interlocal Agreement.

FLATHEAD COUNTY
BOARD OF COMMISSIONERS

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

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

By/s/Pamela J. Holmquist
Pamela J. Holmquist, Member

CONSIDERATION OF PRELIMINARY PLAT EXTENSION AGREEMENT: SUBDIVISION NO. 274

[9:29:55 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Planner Alex Hogle, Marc Liechti, Clerk Kile

Hogle reviewed the request to extend preliminary plat for Subdivision No. 274. The agreement will extend preliminary plat to July 10, 2012.

Commissioner Lauman made a **motion** to grant a one-year extension to Subdivision No. 274. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

MEETING W/ PAT MC GLYNN & STEVE SIEGELIN, MSU EXTENSION OFFICE

[9:33:16 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, MSU Extension Agent Pat McGlynn, MSU Extension Director Steve Siegelin, Clerk Kile

Siegelin met with the commission and discussed appointing a temporary interim 4-H Director through the months of July and August. He stated Karole Sommerfield did a great job as both an agent and prior to that as support staff. Discussion was held relative to salary that would be paid for the temporary position. A draft copy of the position to be posted was presented to the commission for review.

Commissioner Lauman made a **motion** to authorize the extension office to hire an interim 4-H Director. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

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(Continued)

CONSIDERATION OF LAKESHORE PERMIT: MONTANA FISH, WILDLIFE & PARKS

[9:53:06 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Planner Bailey Minnich, Clerk Kile

Minnich reviewed Lakeshore Permit FLP 11-15; an application submitted by Montana Fish, Wildlife and Parks to install a concrete boat ramp for a public fishing access site on Lake Five. The total length of the concrete boat ramp will be 36 feet long by 16 feet wide.

Commissioner Holmquist made a **motion** to approve Lakeshore Permit FLP 11-15. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF AMENDED RESOLUTION: FLATHEAD COUNTY MUSEUM BOARD

[9:55:38 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

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

Steele explained the proposed resolution re-establishes the board and reduces membership from (7) seven to (5) five.

Commissioner Lauman made a **motion** to approve Resolution 1253A amending membership to the Museum Board. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

Resolution No. 1253 A

WHEREAS, Section 7-1-201 through 7-1-203, MCA, provides that County Commissioners may by resolution, establish an administrative Board for County Museums by adoption of an appropriate resolution;

WHEREAS, Resolution No. 1253, dated April 17, 1997, established the Flathead County Museum Board;
and

WHEREAS, since the April 1997 enactment of Resolution No. 1253, there have been changes in museum operations and goals that should be reflected by restating Resolution No. 1253.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby re-establishes the Flathead County Museum Board as follows:

1. The Flathead County Museum Board shall be composed of five board members, appointed by and serving at the pleasure of the Flathead County Board of Commissioners.
2. The members of the Flathead County Museum Board shall serve for terms of three years, commencing on July 1 and ending on June 30. Terms shall be staggered, with the terms of two board members expiring on a given year, one term expiring on a different year and one term expiring on yet another different year. Board members may be reappointed to serve a consecutive term upon submitting a letter of interest to the Flathead County Board of Commissioners.
3. The members of the Flathead County Museum Board shall receive no salary for their service on the Flathead County Museum Board. Board members may receive mileage for travel to and from meetings of the Flathead County Museum Board and may receive mileage per diem, in accordance with Flathead County personnel policy, for travel outside of Flathead County on business of the Flathead County Museum Board.
4. The members of the Flathead County Museum Board shall be residents of Flathead County.
5. The Flathead County Museum Board is hereby assigned the responsibility for the administration of Flathead County museum items and collections and the responsibility of creating and maintaining museum-quality displays in the old Flathead County Courthouse, which is currently being remodeled to contain several county offices. The Flathead County Museum Board shall have the following powers and duties:
 - (a) to have custody, charge, and control of Flathead County's museum items and collections;
 - (b) to maintain museum-quality displays in the old Flathead County Courthouse;
 - (c) to make rules as may be necessary and reasonable for the preservation, upkeep, care, maintenance, operation, support, and display of museum items and collections; and
 - (d) to send to the Flathead County Board of Commissioners, no later than May 1 of each year:
 - (i) a report in writing, detailing all gifts and donations made to the museum, and the receipts and expenditures during the immediately preceding fiscal year; and
 - (ii) an estimate of the amount to be budgeted for the museum in the budget of the county for the then current fiscal year.

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(Continued)**

6. Three members of the Flathead County Museum Board constitutes a quorum for the purpose of conducting business and exercising powers and responsibilities. Action may be taken by a majority of members present and voting.

7. The Flathead County Museum Board shall organize by electing one of its member's president and one of its members vice-president.

8. The Flathead County Museum Board shall provide for the keeping of written minutes of its meetings, which shall include the final vote on all actions and the vote of each member. A copy of the approved minutes from each meeting shall be forwarded to the Flathead County Board of Commissioners in a timely manner. The Commissioners shall file a copy with the Flathead County Clerk and Recorder.

9. The members of the Flathead County Museum Board may be removed from the Flathead County Museum Board by a majority vote of the Flathead County Board of Commissioners.

DATED this 22 day of June, 2011.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

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

By/s/Diana Kile
Diana Kile, Deputy

By/s/Pamela J. Holmquist
Pamela J. Holmquist, Member

BI-MONTHLY MEETING W/ KIM CROWLEY, LIBRARY

[10:00:49 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Library Director Kim Crowley, Clerk Kile

Crowley reported kickoff of the summer reading program has begun with around 600 currently signed up to participate. She spoke about continued work with the Whitefish Library.

CONTINUATION OF MEETING W/ ALEX HOGLE, PLANNING & ZONING OFFICE RE: CTEP UPDATE

[10:15:49 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Planning & Zoning Director B. J. Grieve, Planner Alex Hogle, Public Works Director Dave Prunty, Marc Liechti, Allen Sieler, Jim Watson, Clerk Kile

Grieve stated the Planning and Zoning office is responsible for administering local use of CTEP allocations. He explained past procedures involved putting a notice in the paper and asking for potential projects. He noted the Planning & Zoning office recognizes that there is a need for more coordination between them and the Paths Committee, along with the Parks Department regarding trails.

Hogle explained the inefficiencies regarding administering CTEP funds. He noted there is a lack of coordination between the Parks Board and the current process. Hogle stated he would like to prepare a draft document for commissioner review and approval that would outline proposed framework for enhanced communication and more efficient use of CTEP funds. Hogle reviewed the potential plan, whereas the Weed and Parks Board would scrutinize the viability of the project, and ensure it is practical and achievable before being adopted.

Chairman Dupont stated time and time again we had people coming in from civic groups that come out with a great plan with nothing to support it whatsoever, other than talk. He noted a perfect example has been the Red Bridge project in Columbia Falls. The Sam Bibler Willow Glen Trail he noted is now complete and the group behind it doesn't have the match money to pay their portion, and now the county who is not hiring anyone new and laying people off has to come up with money for cost overruns. He said we are taking away from county funds to do trails, which is okay if planned for. Dupont spoke about trails that are now falling apart with no plans or provisions for maintenance.

Commissioner Holmquist said she agreed totally with Dupont and stated setting up another advisory committee might not be the answer to take care of the situation; that something needs to come from the commissioners. She suggested the group could come to commissioner meetings and give input to them.

Chairman Dupont suggested a workshop be held to develop trail guidelines.

Commissioner Lauman said he realizes there needs to be some changes regarding maintaining trails and building of them.

General discussion was held relative to a long-term solution without creating additional boards and coming up with a policy and maintenance plan in the next few weeks.

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(Continued)

BIGFORK STORMWATER ADVISORY COMMITTEE QUARTERLY UPDATE

[10:49:38 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Grant Writer Debbie Pierson, Sue Hanson, Clerk Kile

Hanson met with the commission and briefly reviewed the following report from the Bigfork Stormwater Advisory Committee.

Grand Drive Project: The project nears completion. All that remains is the installation of the Filterra systems, which should be completed this week. Public comment has been very positive overall.

Sample Analysis Program: All testing has been completed for the Sample Analysis Program. Mike Koopal is finalizing his analysis, which will be available soon.

Watershed Restoration Programs (WRP): Mike Koopal is waiting for information necessary to complete the WRP. Estimated to be completed by July.

RSID Process: BSAC is finalizing information and questions to be included in a survey to be sent to three potential district boundaries. BSAC plans to use a consultant to review the information/questions for an independent view. The boundaries suggested 1) Bigfork Zoning District; 2) District bounded by Swan River Road (east), Hwy 83/82 (north), Flathead River (west) and Flathead County line (south); 3) Bigfork water & sewer district. Each district response would be identified by a different colored return envelope, which will maintain anonymity, but still gauge response by district. We are investigating the possibility of Flathead County using the Mail Room for a reduced bulk rate. The committee is also developing a pamphlet to be included in the mailing to provide an updated overview of the project.

River Street: Funding may be available for construction of a modified plan. The two Filterra units have been removed from the proposed plan. Catch basins and conveyance to collect stormwater are proposed to be installed to connect with the treatment devices (Hydrodynamic Separator and Embrium Jellyfish) on Grand Drive.

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 June 23, 2011.

THURSDAY, JUNE 23, 2011

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

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

MONTHLY MEETING W/ JIM ATKINSON, AOA

[9:00:31 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, AOA Director Jim Atkinson, Clerk Kile

Atkinson reviewed monthly statistics for public transportation, independent living services to seniors and meal support. He reported 481 homeless citizens participated in the homeless connect project this year. Atkinson explained sales at JR's Pizza and Margie's Café are increasing. A profit/ loss summary was reviewed and costs were discussed. Direction was given to prepare a profit /loss summary that includes rent.

THURSDAY, JUNE 23, 2011
(Continued)

QUARTERLY MEETING W/ DEBBIE PIERSON, GRANT WRITER

[9:19:57 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Grant Writer Debbie Pierson, Clerk Kile

Pierson reported on the following projects:

Commissioners/ EECBG Grant:

- All EECBG funds have been drawn for the Blue Building and Animal Shelter HVAC system. Remaining funds are for Courthouse windows which are projected to be completed by the 3rd quarter of 2011.

River Commission:

- Submitted final report to DEQ on funds related to FCRC. Requested that funds be reallocated to the Conservation District to continue work related to the re-developed FCRC.

CDBG:

- Due date for application (Intermountain) moved from May to September 22, 2011.

Historic Preservation Grant:

- Working on closeout report for HB645 funds which were utilized towards the main public lobby area rather than display cases per recommendation from the state.

OES:

- Applied for SHSP grant. We may receive a portion of our request, but not final yet. The approximate estimates are for \$328,500 for narrow band radios.
- Working with OES to submit an AFG regional grant application this cycle for communications equipment Blankenship Fire Department will host the regional request.

Bigfork Storm Water:

Working on final components of Grand Drive Construction.

Slip line on pipe above the dock will have to wait for the water levels to recede.

Hope to utilize remaining DNRC funds from '08 and new funds from '10 applications to cover phases.

Part 1 Electric Avenue

Part 2 River Street Stormwater upgrades

PUBLIC HEARING: FAITH BAPTIST CHURCH ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT

[9:30:35 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Planner Allison Mouch, Clint Theline, Robert Zunick, Noah Bodman, Tammi Fisher, Jim Schmauch, Richard Sauerbier, Grace Willis, Randi Elliott, Sandra Sievers, Dawn Marquardt, Clerk Kile

Mouch entered into record FZC 10-08; an application submitted by Faith Baptist Church/ Clint Theline with technical assistance from Marquardt and Marquardt Surveying for a zoning map amendment at 108 West Reserve Drive in the Evergreen zoning district. The proposed amendment would change the zoning on the subject property from R-2 One Family Limited Residential and B-2 General Business to all B-2 General Business. The property to the east is already zoned B-2 General Business and if the proposed amendment is approved the church could operate as a permitted use instead of a conditional use. She spoke about the encroachment violation, which has been addressed. Mouch reviewed the Kalispell City County Master Plan and designated land use map, and noted there have been a number of zone change requests along the West Reserve corridor in the past five years that had similar circumstances where they may not have complied with the land use map, but comply as far as other criteria goes.

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

Sandra Sievers, 113 Ardell Drive said at the second public meeting held it came to light by the lawyer representing the church that they intend to rent out the church as offices if this is approved. She stated the letters sent in favor of the request were probably received by citizens that do not live in the area. Sievers added she lives directly behind the church and is adamantly against the request, and stated if the citizens in the neighborhood were polled, you would find that they are also against it. Having strangers come and go would be unsafe for her grandchildren she stated.

THURSDAY, JUNE 23, 2011
(Continued)

Clint Theline, Pastor of Faith Baptist Church presented a copy of a letter Mr. Sauerbier sent throughout the neighborhood listing his reasons why he is opposed to the zone change. He stated that the comment made in that the neighbors are against him is not true, as letters from them were sent in favor of the requested zone change. He stated for the record that the church does not understand the discriminating attitude by some who serve the City of Kalispell and Flathead County. Theline reviewed comments made at the public hearings in which he stated there were several inadequacies in them. He spoke about past zoning which received approval based on facts and stated they are not asking for anything more than what others in the Evergreen Zoning District have received. He then listed facts 1-5 pertaining to reasons for approval of the request.

Tammi Fisher, 502 2nd Avenue East said she formerly represented Mr. Sauerbier and his opposition to variances, map amendments and changes to his neighborhood. She said the initial concern was when the church garnered the conditional use permit that it had built a building in non-compliance with zoning regulations and the conditional use permit. Subsequent to the last planning board meeting three years after the fact they did in fact bring the building into compliance. As far as arguments regarding bias by the neighborhood or myself, I would say there probably is a bias in that they want to maintain the character of the neighborhood. Fisher stated it's an Evergreen neighborhood that believes in good planning, and believe the infrastructure needs to be there first if the character is going to change. This would be a permanent change to the neighborhood; their conditional use permit says this specific use, as you made this promise to your neighbors that you were going to offer a church and nothing more. The neighborhood did consent to the conditional use permit. The comments received are from people that don't live there she added; the church operates on Wednesdays and Sundays, and if the request is granted it can be a commercial enterprise that can operate as a casino or tavern or some other higher use.

Dawn Marquardt, 201 3rd Avenue West said she represents the church and stated they have gotten away from the facts and instead turned it into an emotional situation. She reviewed the numerous zone changes in the neighborhood that have taken place with the one to the north being done approximately one year ago. It was on five parcels with businesses' already operating on some; an identical situation to what we are talking about right now with some of them operating with conditional use permits and being non-conformant. Marquardt stated that zone change was approved based on facts and the facts a year ago across the highway are not any different than the facts here; same type of property, same ingress/egress and probably better on this property. She noted the same infrastructure is there. Marquardt asked that a decision be made based on facts and not on emotions.

Robert Zunick, 123 Birch Drive said he is a member of Faith Baptist Church and stated the zone change makes good common sense in that the land adjacent to the east is already zoned B-2. He explained all but five feet of the property the church is on is zoned B-2. Zunick stated anyone who has driven by the church could see the church property is well maintained.

Jim Schmauch said he has no vested interest in the church or the neighborhood, yet does have an interest in driving West Reserve Drive. He spoke about existing traffic congestion.

Grace Willis, 119 Ardell Drive said it should be up to the neighbors if the zone change request should be approved not those that live elsewhere.

Randi Elliott, 117 Ardell Drive stated she opposed the zone change request.

Richard Sauerbier, 115 Ardell Drive said he has a personal opinion about the situation and stated he takes exception to personal attacks on an individual by incorrect statements. Sauerbier said he strongly believes we all have rights and that the majority of the neighborhood should rule. He explained the property owners have a right to enjoy their property and live there without commercialization. He spoke about a decision made by the Board of Adjustments regarding a master plan amendment that he stated was turned down because of lack of infrastructure. Sauerbier said it has been stated here today the infrastructure is there to support the requested zone change. He added the infrastructure referred to supports mom and pop businesses that are to the east of Faith Baptist Church and existed by conditional use permits prior to their zone change. He stated this zone change will change the neighborhood and the infrastructure is not there to support it.

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

Commissioner Holmquist said West Reserve Drive is probably not necessarily a good place for commercialization and stated a lot has been brought up today regarding infrastructure and I plan to look into that. She said she is concerned about the support letters received coming from those not living in the neighborhood, and commented on the other hand zoning recently has been allowed in the vicinity. Holmquist commented commercialization is good for jobs, yet the neighborhood may not be set up for it.

Chairman Dupont said the traffic is definitely a concern to him since he recently had an office on Reserve Drive and knows how terrible the traffic can be on the busy road. He explained he is concerned about what can happen if it is zoned commercial yet added he would throw out the arguments he has heard today regarding renting to girl scouts and turning the church into a bar. Dupont added he needs more time to review the request.

Commissioner Lauman stated he too needs more time to review the zone change request and suggested those involved save heartache and frustration by sitting down and resolving their concerns.

Commissioner Holmquist made a **motion** to table the decision. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

THURSDAY, JUNE 23, 2011
(Continued)

DOCUMENT FOR SIGNATURE: DEQ 319 CONTRACT/ BIGFORK STORMWATER PROJECT

[10:11:16 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Grant Writer Debbie Pierson, Clerk Kile

Commissioner Holmquist made a **motion** to approve DEQ 319 Contract 211080. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: DNRC GRANT #RRG-10-1459/ BIGFORK STORMWATER PROJECT

[10:12:15 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Grant Writer Debbie Pierson, Clerk Kile

Pierson reported the document is a contract amendment that will extend the end date from DNRC funding.

Commissioner Holmquist made a **motion** to approve the contract amendment. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF RESOLUTION: ELECTED OFFICIALS SALARIES FY2011-2012

[10:15:47 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, H. R. Director Raeann Campbell, Clerk Kile

Commissioner Lauman made a **motion** to adopt Resolution 2298 setting salaries for elected officials for FY2011-12. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

RESOLUTION NO. 2298

ELECTED OFFICIALS SALARIES – 2011/2012

WHEREAS, the Board of County Commissioners of Flathead County, Montana is required to fix the salaries of all elected officials by resolution by August 1, 2011, in accordance with Section 7-4-2504, M.C.A.;

WHEREAS, Section 7-4-2503(4), M.C.A., establishes a County Compensation Board to recommend of the base salary for county elected officials and that Board met and, having considered relevant factors, prepared a compensation schedule for the elected county officials for recommendation to the Board of Commissioners;

WHEREAS, the County Compensation Board recommended that for the 2011-12 fiscal year that elected officials salaries should be increased by a COLA of 0 percent to the base salary; and

WHEREAS, the Board of Commissioners reviewed the recommendation of the County Compensation Board and determined that the recommendation to increase elected officials salaries by a COLA of 0 percent is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Flathead County, Montana, hereby fixes the annual salaries of the following elected officials, effective July 1, 2011, by adding a 0 percent COLA to the 2011-2012 base salary; plus adjustments provided by law for the Commissioners, Sheriff/Coroner, Treasurer/Assessor, Clerk and Recorder/Surveyor, and Superintendent of Schools; plus longevity for the Justices of the Peace and Sheriff as previously established, as follows:

Clerk of District Court	\$60,235.00
County Treasurer/Assessor	\$62,235.00
Justice of the Peace, Dept. 1	\$71,417.08
Justice of the Peace, Dept. 2	\$74,260.70
Clerk/Recorder/Surveyor	\$62,235.00
County Commissioners	\$62,235.00
Sheriff/Coroner	\$70,536.22
Superintendent of Schools	\$60,635.00
County Attorney	\$95,879.00

THURSDAY, JUNE 23, 2011
(Continued)

DATED this 23rd day of June, 2011.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

By/s/Pamela J. Holmquist
Pamela J. Holmquist, Member

DOCUMENT FOR SIGNATURE: HEALTH PLAN AMENDMENT

[10:14:12 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, H.R. Director Raeann Campbell, Clerk Kile

Campbell noted the amendment is to increase dental limits, vision limits, and adopt the Health Care Reform Act.

Commissioner Lauman made a **motion** to approve the document for signature/ health plan amendment. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

CONSIDERATION OF H. R. TRANSMITTALS: SECRETARY/ TAX APPEAL BOARD & DENTAL HYGIENIST/ HEALTH DEPT.

[10:16:38 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, H. R. Director Raeann Campbell, Clerk Kile

Pence explained in the past the position was supported by the Clerk and Recorder's office and was reimbursed by the state at \$8.50 per hour. He noted due to the increase in appeals and evaluations now being done the number of meetings have increased and explained the need to have a stand-alone employee for the position.

Commissioner Lauman made a **motion** to approve the HR Transmittal for a tax appeal secretary. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

Commissioner Holmquist made a **motion** to approve the revised job classification for a dental hygienist. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

BOARD APPOINTMENT: LABRANT LINDSEY LANE LAND USE ADVISORY COMMITTEE

[10:19:15 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Holmquist made a **motion** to appoint Tom Reynolds to LaBrant Lindsey Lane LUAC. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: JAG GRANT/ SHERIFF'S OFFICE

[10:24:25 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Undersheriff Jordan White, Clerk Kile

White noted the application submitted for \$47,652 is to purchase video recording equipment for deputies, which would allow improved evidence collection in the field. He explained the device would be placed directly on a deputy and would allow recording ability when the deputy moves away from his vehicle.

THURSDAY, JUNE 23, 2011
(Continued)

Commissioner Holmquist made a **motion** to acknowledge the grant application to purchase body cameras. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: COAST GUARD GRANT/ SHERIFF'S OFFICE

[10:28:58 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Deputy County Attorney Peter Steele, Undersheriff Jordan White, Clerk Kile

White explained the \$6,000 Coast Guard matching grant would help to provide water safety control on local lakes.

Commissioner Lauman made a **motion** to authorize chair to sign the Coast Guard grant document. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on June 24, 2011.

FRIDAY, JUNE 24, 2011

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Dupont, Commissioners Lauman and Holmquist, 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 June 27, 2011.
