
MONDAY, OCTOBER 3, 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.

MEETING W/ ALEX HOGLE, PLANNING & ZONING RE: TIGER GRANT/ FVCC & KRMC

[9:18:30 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman
Commissioner Pamela J. Holmquist Seated ([9:23:43 AM](#))

Others present:

Assistant Mike Pence, Planning & Zoning Director B. J. Grieve, Planner Alex Hogle, Clerk Kile

Hogle reviewed with the commission details regarding a potential \$10 million dollar TIGER grant FVCC is considering applying for. He explained the proposed project would provide pedestrian improvements at the college campus, hospital facility and along the Highway 93 corridor. Hogle said he reported at their meeting the county is not in the position to maintain the infrastructure.

General discussion was held relative to the request for a letter of support from the commission. The commission unanimously agreed to hold off sending a support letter to the college until they find out if they made it through the pre-application process.

BI-MONTHLY MEETING W/ JOE RUSSELL, HEALTH DEPT.

[9:31:00 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Public Health Dept. Director Joe Russell, Clerk Kile

Russell met with the commission and reported influenza shot season has started at the clinic. He explained the biggest reservoir for the flu in our community is in school age children. There was general discussion held relative to the importance of vaccinations. Russell spoke about shingles, polio, TDML concerns, food borne illnesses, dog licenses and pending changes to the delivery model upstairs in the Community Health Center.

QUARTERLY MEETING W/ MARCIA SHEFFELS, SUPT. OF SCHOOLS

[10:00:53 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Superintendent of Schools Marcia Sheffels, Clerk Kile

Sheffels reviewed routine business for July, August and September, which included review and approval of 132 bus routes, completion of school budgets and publication of each schools financial reports year ending June 30, 2011. She explained by statute her office completes budget work; designates the distribution of federal, state, and county funds amongst the 23 school districts; registers, monitors and informs schools about teacher licensure; monitors qualifications and organization of school boards, administers oaths of offices; actively pursues conflict resolutions and conducts hearings if requested.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ANNEXATION INTO BIGFORK FIRE DISTRICT/ MARCUS

[10:15:48 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

Commissioner Lauman made a **motion** to authorize publication of the Notice of Public Hearing request for annexation into Bigfork Fire District. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

MONDAY, OCTOBER 3, 2011
(Continued)

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 7-33-2126, M.C.A., that it will hold a public hearing to consider a petition to withdraw territory from the Creston Rural Fire District and annex it to the Bigfork Fire District; said territory to be withdrawn and annexed is located in that portion of Parcel B of COS 18431 lying only in the NW ¼ SW ¼ of Section 11, Township 27 North, Range 20 West, Flathead County, Montana, and is located in Bigfork, MT.

The Board of Commissioners has received a petition in writing by the owners of 100% of the privately owned lands of the area to be withdrawn and annexed, who constitute a majority of the taxpaying freeholders within that area, according to the last-completed assessment roll, asking that such area be transferred to and included in the Bigfork Fire District.

The public hearing will be held on the 20th day of **October, 2011**, at **10:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed transfer and will consider whether protests by owners of 40% or more of the real property in either district and owners of property representing 40% or more of the taxable value in either district, were received.

DATED this 3rd day of October, 2011.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on October 6 and October 13, 2011.

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: FAITH BAPTIST CHURCH ZONE CHANGE/
EVERGREEN & VICINITY ZONING DISTRICT**

[10:14:49 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, Planner Allison Mouch, Clerk Kile

Mouch noted one protest letter was received from an adjacent property owner within the district.

Commissioner Holmquist made a **motion** to adopt final Resolution # 797FL/ Faith Baptist Church Zone Change. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

RESOLUTION NO. 797 FL

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the on the 18th day of August, 2011, to consider a proposal by Faith Baptist Church, to change the zoning designation on property in the Evergreen and Vicinity Zoning District from R-2 (One Family Limited) to B-2 (General Business);

WHEREAS, the Board of Commissioners heard 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 Evergreen and Vicinity Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 797 FK, dated August 18, 2011) to change the zoning designation from R-2 (One Family Limited) to B-2 (General Business); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on August 23, 2011 and August 30, 2011, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

MONDAY, OCTOBER 3, 2011
(Continued)

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Evergreen and Vicinity Zoning District to change the zoning designation from R-2 to B-2, as those terms are used and defined in the Flathead County Zoning Regulations, being described as (Tract 3AB and Tract 5FAB) Parcel A of Certificate of Survey No. 18835, located in the Northeast Quarter of Section 32, and the Northwest Quarter of the Northwest Quarter of Section 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. The property is located at 108 West Reserve Drive and containing .65 acres.

DATED this 3rd day of October, 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/Pamela J. Holmquist
Pamela J. Holmquist, Member

By/s/Diana Kile
Diana Kile, Deputy

DOCUMENT FOR SIGNATURE: ARRA CAPITAL CONTRACT CFDA 20.509 GRANT MT86-X001-00/ AOA

10:15:53 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, AOA Director Jim Atkinson, Sherry Stevens,
Clerk Kile

Pence noted the contract is between MDOT and Eagle Transit for one passenger bus.

Commissioner Lauman made a **motion** to approve the document for signature/ AARA Capital Contract CFDA 20.509 Grant for AOA. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

CONTINUATION OF CONSIDERATION OF CTEP ADMINISTRATIVE POLICIES

10:30:51 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, Planning & Zoning Director B. J. Grieve, Public Works Director Dave Prunty, Weed & Parks Director Jed Fisher, Finance Director Sandra Carlson, Clerk Kile

Grieve reported the document presented today has improved language after working with the County Attorney, Treasurer and Finance Director to flush out procedural and legal concerns. He explained a contract will be required to be in place between the local private organization, and the county to clarify exactly what their responsibilities are as well as where they start and stop.

General discussion was held relative to trail maintenance.

**FLATHEAD COUNTY
COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM (CTEP)
ADMINISTRATIVE POLICIES**

INTRODUCTION & BACKGROUND

The Program:

The Community Transportation Enhancement Program (CTEP) is a federally funded reimbursement program administered by the Montana Department of Transportation (MDT) that provides annual funding to local communities to develop pedestrian and bicycle trails and other transportation-related enhancements. CTEP funding currently covers 86.58% of the cost of approved projects and local communities are responsible for the remaining 13.42%, an amount referred to as the "local match."

CTEP funded projects are planned, applied for, and overseen directly by the local tribal, municipal or county government. Typically, local matching funds are budgeted and provided by the municipal or county government. Historically, Flathead County has not budgeted for the local match, thus private organizations have initiated trail projects and raised funds to provide the required local match portion. The Flathead County Planning and Zoning Office (FCPZ) has provided support to private organizations by preparing, submitting and administering CTEP projects and overseeing construction to ensure compliance with CTEP program requirements. A typical CTEP project will follow an approximately 36-month lifespan from the initial application by the private organization through project completion.

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(Continued)**

The Pros:

The Flathead County model for CTEP projects has created a variety of pedestrian and bicycle trails throughout the county that provide safe routes to schools, serve active recreation interests and promote transportation alternatives. Private organizations that have worked hard to develop specific trails have a sense of ownership and are therefore more likely to help maintain the trail and organize promotional events and subsequent fundraisers. Taxpayer costs are lessened because local matching funds are privately raised and only the administration of the program (staff time) is funded by local tax dollars.

The Problems:

The Flathead County model for CTEP projects has led to some problems as a result of unclear policies and guidelines. Projects are planned and applications are accepted for trails wherever a private organization has the interest and means to have a trail built. This method of trail programming has led to 1-3 mile bits of trails spread throughout the county, with less than optimum coordination to connect existing trails or guide new trail construction towards areas with maximum public benefit.

Initial planning and application materials generated by volunteer private organizations without professional oversight may lack sufficiently accurate project details and cost estimates. Once a trail project is approved, Flathead County government is recognized as the applicant and project owner by MDT but has no funding budgeted for local matching funds. Inadequate original cost estimates and shortfalls in private organization fundraising can lead to project cost overruns and frustration for all involved. Furthermore, once CTEP projects are complete, the ongoing maintenance requirements and associated expense can be burdensome without an additional revenue stream to match the additional expense.

POLICIES

This policy document is intended to complement the Flathead County Trails Plan and provide guidelines specific to privately initiated and sponsored CTEP trail projects administered by FCPZ. Non-CTEP trails addressed in the plan using other public, private, or combinations of funds are not specifically subject to these policies.

Initial Project Proposals

- FCPZ will create a CTEP funding cycle with an annual deadline for initial project proposals from private organizations and estimated major checkpoints, deliverables and deadlines over a 36-month project lifespan. This document will be a guideline to improve understanding of the CTEP process by all participating entities and to determine how projects are progressing and will not be construed as binding or regulatory on any participating entity.
- Initial project proposals prepared by a private organization must contain:
 1. Cover letter addressing in detail the criteria found in Appendix C of the Flathead County Trails Plan (Trails Plan) (available on the FCPZ website), along with supporting documents;
 2. A preliminary engineering report containing an estimate of the total cost of the proposed project. The cost of the report is not reimbursable with CTEP funds;
 3. Evidence that easements exist for the proposed trail;
 4. An acknowledgement of the group's requirement to raise 50% of the local match amount (local match is 13.42% of total project cost, as determined at this point in preliminary engineering report) prior to the Flathead County Board of Commissioners (Commission) signing the Project Specific Agreement (PSA) with MDT, an additional 25% of the local match amount prior to signing a contract with a consulting engineer and the final 25% of the local match amount prior to signing a contract with a construction contractor;
 5. A trail maintenance plan, to include a signed agreement to raise funds for a project maintenance fund, a plan to continue fundraising for this account, and a plan for routine maintenance of the proposed trail. Criteria for this plan are found in Chapter 3 of the Trails Plan.
- If no project proposals are received prior to the initial project proposal deadline, Flathead County's unencumbered allocation may be accrued and applied to future annual funding cycles or redistributed to one of the other local entities within Flathead County, at the County's discretion.

Project Selection

- FCPZ staff will provide a review of initial project proposals for content and adequacy prior to forwarding to the Flathead County Parks Board (Parks Board).
- The Parks Board will evaluate CTEP project proposals and make a recommendation to the Commission, per Appendix C of the Trails Plan.
- The Commission will make the final selection of initial project proposals that will proceed to preparation by FCPZ staff of the formal MDT CTEP project application.
- If a project proposal does not meet the evaluation criteria found in Appendix C of the Trails Plan, or if funding, maintenance commitments, and/or easement provisions are not adequate, the project will not be selected.
- If a project proposal is not selected by the Commission, private organizations may re-apply for future funding cycles.
- If no project proposals are selected, or if a portion of annual CTEP funding remains unencumbered, Flathead County's unencumbered allocation may be accrued and applied to future annual funding cycles or redistributed to one of the other local entities within Flathead County, at the County's discretion.

Project Administration

- FCPZ will prepare application materials for MDT applications for those projects selected by the Commission.
- All local match for CTEP project costs will be the responsibility of the private organization sponsoring the project.
- The private organization sponsoring the project will be responsible for creating a project maintenance fund for long-term maintenance. The fund must be "seeded" by the private organization with an amount equal to or exceeding 50% of the local match amount (as determined in the preliminary engineering report) prior to the Commission signing the PSA.
- Prior to signing the PSA, the Commission will require from the private organization:
 1. A contract signed by the private organization and the Flathead County Commissioners establishing the roles, responsibilities, and expectations of each party for the successful completion of the project.
 2. Evidence that 50% of the local match exists in the account that the private organization will use to reimburse Flathead County for project costs.
 3. Evidence that a separate, additional project maintenance fund account unique to the project has been established with the Flathead County Treasurer's Office containing 50% or more of the local match amount, as determined in the preliminary engineering report. The purpose of the project maintenance fund is to generate revenue off the principal amount for routine maintenance of the project and for the principal to be available as needed over time for larger trail expenditures such as crack or pothole filling, sealing, etc. Contributions, donations and/or gifts to this fund shall be unconditioned and use of said funds shall be at the sole discretion of Flathead County for issues pertaining to the specific trail.
 4. Acknowledgement that the scope of the project will be reduced if necessary to keep the project within the approved budget and avoid cost overruns.

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(Continued)**

- Prior to substantial completion of the project, Flathead County will match the amount in the project maintenance fund account, up to 50% of the local match amount as determined in the preliminary engineering report.
- Proceeds from the separate project maintenance fund account shall be directed to the Flathead County Weed, Parks and Building Maintenance Department and that department shall use those proceeds for short and long term maintenance of the project.
- Selection of an engineering firm to perform design engineering and construction engineering will be done by the Commission, after review of candidates by professional county staff, to include the Public Works Director, the Weed, Parks and Building Maintenance Director, the Planning Director and a Deputy County Attorney.

Project Construction

- Construction bid documents prepared by the project engineer shall limit the scope of the project to fit within the budget approved by the Commission when the project specific agreement was signed.
- Change orders needed to avoid significant and immediate threats to public health and safety (such as ruptured water lines, power supplies, etc.) may be approved by the CTEP Administrator/Planning Director or his/her designee if time does not permit review and approval by the Commission. Change orders requested as a result of unanticipated design complications, which have multiple potential solutions, shall be reviewed and approved by the Commission. MDT shall also be consulted on all change orders.
- Change orders shall be approved prior to work being performed and costs being incurred.

Redistribution of CTEP Funding

- When Flathead County chooses to redistribute CTEP funding to other local entities, those entities will be notified of the redistribution and requests will be collected. Other local entities to which Flathead County's CTEP funding could be redistributed are the Confederated Salish and Kootenai Tribes and the cities of Columbia Falls, Kalispell and Whitefish.
- Requests for redistribution from other local entities must contain a description of projects for which the allocation will be used, and requests will be reviewed by the Parks Board, using the criteria found in Appendix C of the Trails Plan.
- Priority will be given to projects that meet the criteria as well as provide the most benefits to both residents of the local entity as well as Flathead County.
- After considering the recommendation of the Parks Board, the Flathead County Commissioners shall choose the local entity and project to which CTEP funding is redistributed.

Commissioner Holmquist made a **motion** to approve the CTEP Administrative Policy presented. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

MONTHLY MEETING W/ DAVE PRUNTY, ROAD DEPT.

[11:05:32 AM](#)

Members present:

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

Others present:

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

Prunty reported Flathead County is right in the middle of the range for chip sealing costs incurred, with Flathead County's cost being \$1.37, MDOT \$1.09 and other cities \$2.25 per square yard. He explained the total cost for Flathead County comes in at \$18,500 per mile, which is competitive. He spoke about upcoming gravel road maintenance, concern regarding the availability of salt for their winter mixture and gravel spec sampling results from the Demersville Pit.

DOCUMENT FOR SIGNATURE: STRIPING CONTRACT/ ROAD DEPT.

[11:00:30 AM](#)

Members present:

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

Others present:

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

Commissioner Holmquist made a **motion** to approve the road striping contract with Pro-Mark. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

Commissioner Holmquist made a **motion** to authorize chair to sign the notice to proceed contract. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: MEDIATION CONFERENCE

[11:00:53 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, Clerk Kile

Fugina noted the mediator for the Lakeside case drafted the document for signature.

Commissioner Lauman made a **motion** to approve the document for signature and authorized chair to sign. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

MONDAY, OCTOBER 3, 2011
(Continued)

MEETING W/ DARRELL SCHAEFER, ET AL. RE: TROUTBECK RISE ROADS

[11:30:05 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Public Works Director Dave Prunty, Darrell Schaefer, Elmer Whitcraft, Ron Clark, Larry Heinold, Chris Campbell, Tracy Bleck, Clerk Kile

Schaefer met with the commission regarding roads in the Troutbeck Rise area, and explained he feels the residence should not have to pay for an RSID to pave their roads; yet they have road issues they feel the county should take care of since they are county roads, and the county receives a significant tax base from them. He noted the RSID proposed was cancelled due to objections from homeowners to the cost. He said they received some relief from dust this past summer due to the dust cost share program offered by the county. Schaefer stated the request is to explore the possibility of paving the road without the use of an RSID or install speed bumps and lower the speed limit on the road. He also reported there are drainage issues that need resolved.

Whitcraft noted the dust abatement done this year was certainly better than anything they have had done by a private contractor over the last several years. He spoke about water running down the road and washing material and the abatement off the road. Whitcraft explained he feels if the speed could be kept down, it would help with dust issues.

Bleck said she personally cannot afford to put the road in herself and feels others in the neighborhood are in the same situation. She stated it would be nice to have speed limit signed installed down to 20 MPH.

Whitcraft stated if the Sheriff's Office would spend some time patrolling the area it would help with speeding problems.

Clark said part of the reason he is on the HOA board is to become more active and proactive rather than reacting to issues. He stated law enforcement could do a lot for them in enforcing the speed limit. Clark explained he owns three lots in the subdivision and the first one on the main curve has drainage issues. He noted speed bumps and signs would help their situation.

General discussion was held relative to culverts, driveway approach requirements, drainage issues, speed limit signs and speed bumps.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 4, 2011.

TUESDAY, OCTOBER 4, 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.

BI-MONTHLY MEETING W/ VICKI SAXBY, I.T.

[9:05:08 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, I. T. Director Vicki Saxby, Clerk Kile

Saxby reported she is continuing to gather information for the county cyber security insurance application and explained a complete update and rewrite of I.T. policies is being prepared, and will be incorporated into next year's County Personnel and Policies Manual. She stated in order for the network techs to be more involved and able to support the 911 Center and the New World software they have been attending weekly informational meetings. Saxby asked for commissioner input in regards to video recording commissioner meetings once the move is made to the remodeled courthouse. Following discussion, the commission unanimously agreed to video record all public meetings. In other business she reviewed Health Department projects and work with Finance, Weed and Parks and the Jail with software issues. She reported the Flathead County website is being redesigned in order to improve manageability and security of the site.

TUESDAY, OCTOBER 4, 2011
(Continued)

MONTHLY MEETING W/ B. J. GRIEVE, PLANNING & ZONING OFFICE

[9:22:12 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, Clerk Kile

Grieve reported the backlog regarding planning and zoning violations has been significantly reduced by staff this past month. He reviewed planning staffs duties, reviewed revenue, planning board and board of adjustment activities. Grieve noted the tracking calendar resource recently implemented is working great, and subdivisions will be added as time permits. He reported 22 board vacancies on land use committees are open and then spoke about discussions held regarding the use of CTEP funds at the Fairgrounds.

DOCUMENT FOR SIGNATURE: MDOT/ DPHHS CONTRACT #12-145-0600 (DD PROGRAM) AOA & EAGLE TRANSIT

[9:52:09 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Eagle Transit Director Dave Polansky, Clerk Kile

Polansky noted the county attorney has reviewed the contract and noted there are no limits to damages related to compliance issues.

Commissioner Lauman made a **motion** to approve the annual Eagle Transit transportation grant contract #12-145-0600. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

CONSIDERATION OF PRINTING BIDS: GRANT WRITER, HEALTH DEPARTMENT & WEED & PARKS

[10:05:12 AM](#) & [10:30:02 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 award the print bid to North Star Printing for 5,000 #10 regular business envelopes for the Weed & Parks Department for \$218.00. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

Commissioner Lauman made a **motion** to award the print bid to Bitterroot Screen Printers for a flu shot banner for the Health Department for \$235.00. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

Commissioner Holmquist made a **motion** to award the print bid to the Towne Printer for 3,525 surveys for \$133.00 and 3,525 cover letters for \$133.00 for the Bigfork stormwater survey. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

Commissioner Holmquist made a **motion** to award the print bid to Trippet's Printing for 4,500 brochures for \$415.00 for the Grant Writer. Chairman Dupont **seconded** the motion. **Aye** - Dupont and Holmquist. Motion carried by quorum.

Commissioner Holmquist made a **motion** to award the print bid to The Master's Touch for 3,525 #10 envelopes for \$143.70, 1,115 #9 return envelopes "B" for \$82.10, 2,075 #9 return envelopes "A" for \$55.23 and 350 #9 return envelopes "C" for \$33.80 for the Grant Writer. Chairman Dupont **seconded** the motion. **Aye** - Dupont and Holmquist. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: DEQ 319 GRANT/ BIGFORK STORMWATER PROJECT

[9:57:08 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 she received strong feedback from the draft proposal review sent in earlier and suggested the final application for 319 not be submitted, but instead consider utilizing administrative funds off current grants in place to do post monitoring and education and outreach activities.

Commissioner Holmquist made a **motion** to not apply for the DEQ 319 grant for Bigfork stormwater project. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

TUESDAY, OCTOBER 4, 2011
(Continued)

Commissioner Holmquist made a **motion** to authorize chair to sign the letter to DEQ requesting the use of grant administrative funds toward components of the Bigfork stormwater project. Commissioner Lauman **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: ENGAGEMENT LETTER FOR OLNEY FIRE DISTRICT FINANCIAL REVIEW W/ JOSEPH EVE, AUDIT FIRM

[10:01:38 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Finance Director Sandra Carlson, Clerk Kile

Carlson explained Joseph Eve will start out doing a financial review of Olney Fire District, and if an audit is needed a partial portion of the cost could be transferred into the cost of the audit.

Commissioner Lauman made a **motion** to authorize chair to sign the document for signature for a financial review of Olney Fire District. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #12-07-5-21-038-0 & #12-07-6-11-018/ HEALTH DEPT.

[10:07:05 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to authorize chair to sign DPHHS Contract #12-07-5-21-038-0 and #12-07-6-11-018 for the Health Department. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

MONTHLY UPDATE W/ HUMAN RESOURCE OFFICE

[10:08:43 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Human Resource Assistant Tammy Skramovsky, Clerk Kile

Skramovsky presented the September personnel transactions for review.

Commissioner Lauman made a **motion** to approve the personnel transactions as presented. Commissioner Holmquist **seconded** the motion. **Aye** - Dupont, Lauman and Holmquist. Motion carried unanimously.

6:30 p.m. Commissioner Holmquist: Library Community Meeting @ Methodist Church, Bigfork

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

WEDNESDAY, OCTOBER 5, 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 October 6, 2011.

THURSDAY, OCTOBER 6, 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.

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Lyle Phillips stated the issue has been going on long enough and on behalf of the doughnut area residence, he appreciated and applauded their consideration in letting the residence decide what their destiny may be.

Tim Grattan stated he is the developer of Lion Mountain, which is in the doughnut area. He said he is delighted they are going to consider polling the doughnut residence and urged them to poll landowners; not just registered voters.

Chairman Dupont clarified the survey list would be drawn up by land ownership.

Rick Blake a doughnut residence thanked the commission for considering the survey and allowing him to have a voice. He stated he would like jurisdiction of Whitefish to stop at the Whitefish city limits.

Derek Skees stated he represents House District 4, which is the majority of the doughnut residence. He thanked the commission for their service and said this is a phenomenal step being taken in order to give the citizens a voice.

Mayre Flowers read the following letter on behalf of Citizens for a Better Flathead regarding a proposed county action to provide a mail-in ballot survey to Whitefish doughnut property owners.

Dear County Commissioners,

Citizens for a Better Flathead appreciates the opportunity to comment today, and wishes to place on public record our concerns regarding insufficient notice, lack of a public process for an issue of significant public concern, and refusal of the county to provide requested documents prior to the discussion, and action by this commission on your 10:00 agenda item today, October 6, 2011, Consideration of Ballot Survey/ Whitefish Doughnut Area.

Issue of Significant Concern to the Public:

Clearly, the issue of who has the jurisdiction over planning, zoning and subdivision decisions in the two-mile area around the City of Whitefish is an issue of significant public concern. This issue has been the subject of a long series of meetings, public hearings, and negotiations and legal/ court challenges between the City of Whitefish and Flathead County for over three years now. Public turn out and comments at meetings and public hearings over this period have demonstrated that this is an issue of significant public concern. Additionally, Whitefish City residents, who are also county residents who you represent, have successfully petitioned to have a referendum on recent changes to the Interlocal Agreement that governs the joint planning agreement and process in this two-mile area around the city on the upcoming ballot. Furthermore, county residents in this two-mile area have repeatedly and formally requested that you establish an elected community council for this area as provided by state law and as you have done for Bigfork and Lakeside. You have not taken this requested action nor have you allowed it to be the subject of a requested initiative for this purpose.

Issues of Significant Public Concern must provide opportunity for public participation:

2-3-111. Opportunity to submit views -- public hearings.

(1) Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(2) When a state agency other than the board of regents proposes to take an action that directly impacts a specific community or area and a public hearing is held, the hearing must be held in an accessible facility in the impacted community or area or in the nearest community or area with an accessible facility.

History: En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec 24, Ch. 285, L. 1977; amd

There is no public hearing provided as part of your consideration of a ballot survey of the Whitefish Doughnut area on your agenda for October 6, 2011.

Reasonable Opportunity to Submit Comment Requires Reasonable Notice:

On September 29, 2011, you faxed a letter to the City of Whitefish notifying them that you have decided to "allow doughnut property owners themselves to decide" the question of "who they prefer to regulate them: the City of Whitefish or Flathead County." You conclude that letter by stating that you "expect to announce the details of this election process soon." This letter and the decision and actions that it establishes has not appeared on a county agenda providing any public notice of this action. Furthermore, your letter and the decisions reflected in it were not approved as we believe is required by resolution process established in laws governing county government including MCA 7-5-121 Resolution Requirements. No opportunity was provided to the city for comment despite the fact that you are legally joined in an Interlocal Agreement governing agreement calling for cooperation. No opportunity was provided to city or county residents to comment on your decision.

On October 3, 2011, I requested from the county elections office a copy of the proposed survey, but was told their office wasn't involved in the drafting and that I should contact the county attorney's office. On October 4, 2011, I contacted the county attorney's office by phone and, after finding that they also did not have a copy of the survey, I registered a complaint that this issue had not yet appeared on the county's agenda and that this letter from the county to the City of Whitefish on 9/28/11 represented a decision on an issue of significant public concern that had not been placed on the commissioner's agenda with adequate notice for meaningful public comment. On October 5, 2011, this issue was placed on the commissioner's agenda, but with no opportunity for public comment and with little more than 24 hours for notice—clearly not adequate notice for an issue of significant concern to the public as provided for in MCA 2-3-103 and 104.

Note that opinions of the Montana Attorney General also support the requirement for public participation and notice: "Applicability of Open Meeting and Public Participation Laws to County Commission Meetings – Notice Required in Matters of Significant Public Interest: The gathering of a quorum of County Commissioners to discuss, either among themselves or with members of the public, issues over which the County Commission has authority is a meeting subject to open meeting laws. Meetings involving the consideration of matters of significant public interest, meaning decisions involving more than a ministerial act requiring no exercise of judgment, are subject to public participation mandates, including notice requirements and the opportunity for public participation in the decision making process." 47 A.G. Op. 13 (1998). See also 42 A.G. Op. 51 (1988).

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Montana Constitution Protects the Public's Right to Know.

On October 5, 2011, I went to the county commissioners' office and as no commissioner was in their office, I requested of the staff a copy of the proposed survey that was now on the commissioners' agenda for October 6th and a copy of the property owners that they proposed to mail this survey to and any other documents related to this agenda item. I was again directed to the county elections office for these documents. The county elections office advised me that they could not release a copy of the draft survey or the list it would be mailed to until after it had received final approval from the county commissioners. I stated that I believed that these documents were public information and should be made available to the public to allow for the public to at least have some opportunity to consider these documents and to submit comment before the final decision was made by the county commissioners. I then requested that the elections officer call the county attorney's office and confirm if she was correct in withholding these documents. She did so and was told that she was correct in withholding these documents from the public.

At a minimum, the "reasonable opportunity" standard articulated in Art. II, Sec. 8, Mont. Const., and this section for the right to participate demands compliance with the right to know contained in Art. II, Sec. 9, Mont. Const., I believe I should have been given these documents for review prior to the commissioners' decision. The decision of the court in Bryan v. Yellowstone County Elementary School District No. 2, 2002 MT 264, 312 M 257, 60 P3d 381 (2002), also supports our position that I should have been provided these documents.

The Procedure for a local government body to refer an ordinance or resolution to the electors is established in state law MCA 7-5-132 (2)

We believe that the county in proposing to conduct a "mail-in ballot survey" to "property owners" would be in fact doing so in violation of state law. We would urge the county to comply with state law that establishes the procedure to follow when seeking voter input on an existing resolution or ordinance, in this case the existing Interlocal Agreement between the county and the City of Whitefish. Furthermore, we believe that the county's proposal to conduct a "mail-in ballot survey" violates protections in state law that require such questions to be submitted to registered voters (MCA 7-5-132 and 7-5-136) not property owners, that the ballot set forth fully the ordinance or resolution sought to be repealed or retained (MCA 7-5-132(b)), be in the form prescribed in Title 13, Chapter 27 of the MCA, and be filed within the time prior to the election to allow for adequate time for voter consideration of the issue proposed (MCA 13-27-104 and 7-5-136 (2)).

Additionally, we have concerns that the proposed ballot survey process has the following flaws:

1. By requesting the "vote" of property owners rather than registered voters those owning multiple lots within the doughnut area will likely receive more votes violating constitutional safeguards of one person one vote.
2. If property is in the name of multiple owners or corporations, do they each receive a vote?
3. Signatures of registered voters may be verified in compliance with election procedures whereas those of property owners may not be verifiable, or the county likely does not have the capacity to do this.
4. Mailing ballots to property owners relies on physical addresses, which may or not have a mail receptacle disadvantaging those who use a PO Box for mail and resulting in a loss of opportunity to vote. Registered voters are required to provide both a physical address and a mailing address.
5. Mailing ballots to property owners disenfranchises voters who are not property owners including family members or relatives who are not a listed property owner, but who would otherwise be eligible to vote. It also disenfranchises renters. Additionally, it gives decision making authority to some property owners who do not live in the state or who are registered to vote outside of the doughnut, or to banks or realtors or corporations who hold property for largely investment purposes.
6. If the question proposed in the survey is one of asking should the county or the city govern in the doughnut, we feel this question does not recognize the joint planning between the city and county that is outlined in the existing Interlocal Agreement and thus misrepresents the current agreement. Additionally, your letter again fails to acknowledge the potential of an elected community council as a tool to provide more direct representation of doughnut residents.

The timing and use of this proposed ballot survey by the County Commissioners may well constitute a violation of MCA 2-2-121 Rules of Conduct for Public Officers and Public Officials when considered in conjunction with the legal issues raised above.

This statute states:

" (3)(a) Except as provided in subsection (3)(b), a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:
(i) authorized by law; or
(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;"

In conclusion, we would respectfully request that the Flathead County Commissioners abandon this proposed ballot survey for the reasons raised in this letter and instead comply with state laws including MCA 7-5-132 that provide proper procedures to follow when seeking public input on a resolution or ordinance and county action based on such input. Additionally, we ask that you postpone any discussion or decision today on your agenda item due to lack of timely public notice, reasonable opportunity to be heard on an issue of significant public input, and failure to provide access to documents that are necessary for the public to be able to meaningfully participate.

We appreciate and ask for your careful consideration of our comments. Citizens for a Better Flathead's mission is to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead *Special Forever!* We represent over 1500 voices for sound planning in the Flathead.

Sincerely,

Mayre Flowers, Executive Director

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Rebecca Norton, 530 Scott Avenue said she is opposed to the survey which she feels is sneaky and the timing is not exactly a political. She stated numerous times during interlocal meetings if was suggested they meet with the citizens of Whitefish in the doughnut to discuss issues and it has never been followed through with.

Tim Grattan asked what could be more fair and democratic than polling those affected in the doughnut area.

Mayre Flowers said she appreciated the fact they will follow the same process as zoning, yet stated this is not a zoning process. She said it is a process covered by state law, which she believes is democratic to follow.

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

CONSIDERATION OF BALLOT SURVEY/ WHITEFISH DOUGHNUT AREA

[10:03:32 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman

Members absent:

Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Lyle Phillips, Tim Grattan, Mayre Flowers, Rebecca Norton, Dick Skees, Dave Skinner,
Clerk Kile

Commissioner Lauman made a **motion** to support the ballot survey for the Whitefish doughnut area. Chairman Dupont **seconded** the motion.

Commissioner Lauman said there has been a lot of public input on both sides, yet no one has ever given the doughnut citizens an opportunity to have a say. He stated he would like to hear from them, which the survey would allow.

Chairman Dupont commented he agreed that the survey is just that "a survey"; a tool for them to use to make decisions when they get into the obvious legal things that are going to happen in Whitefish with the referendum that is there. Dupont stated he doesn't feel a survey falls under a voter initiative. He said the survey is a simple one-question survey: Do you want to be governed by the city or the county?

Aye – Dupont and Lauman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: CHANGE ORDER NO. 7/ COURTHOUSE RENOVATION

[10:06:33 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman

Members absent:

Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Clerk Kile

Pence reviewed Change Order No. 7, which included additional painting labor and terra cotta bands for \$23,346.00, below grade foundation upgrades \$34,136.00 and various site conditions for \$12,227.00.

Commissioner Lauman made a **motion** to approve Change Order No. 7. Chairman Dupont **seconded** the motion. **Aye** – Dupont and Lauman. Motion carried by quorum.

CONSIDERATION OF H.R. TRANSMITTALS: EQUIPMENT MECHANIC/ SOLID WASTE DISTRICT, EQUIPMENT MECHANIC/ ROAD DEPT., CERTIFIED MEDICAL SERVICE ASSISTANT/ HEALTH DEPT.

[10:10:12 AM](#)

Members present:

Chairman James R. Dupont
Commissioner Dale W. Lauman

Members absent:

Commissioner Pamela J. Holmquist

Others present:

Assistant Mike Pence, Clerk Kile

Pence explained the Equipment Mechanic positions are amendments to existing job descriptions.

Commissioner Lauman made a **motion** to approve the H.R. Transmittals for Equipment Mechanics for Solid Waste and the Road Department. Chairman Dupont **seconded** the motion. **Aye** – Dupont and Lauman. Motion carried by quorum.

Pence explained the full-time Medical Service Assistant is an additional position not included in the FY12 budget; however, cost savings from other positions exist that were included in the budget.

Commissioner Lauman made a **motion** to approve the H. R. Transmittal for a Certified Medical Service Assistant at the Health Department. Chairman Dupont **seconded** the motion. **Aye** – Dupont and Lauman. Motion carried by quorum.

Commissioner Lauman questioned the idea of putting together a list of county approved jobs that are tied to federal funding that could potentially be lost.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 7, 2011.

FRIDAY, OCTOBER 7, 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 October 10, 2011.
