

MONDAY, JANUARY 10, 2005

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

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

MONTHLY MEETING W/JAY SCOTT, FAIRGROUNDS

Present at the January 10, 2005 9:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Fair Director Jay Scott, Assistant Webb, and Clerk Eisenzimer.

General discussion was held relative to wedding expo; progress on new livestock building; plans for the Northwest Montana Fair.

CONSIDERATION OF LAKESHORE PERMIT: SCHMID

Present at the January 10, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Traci Tull, Scott Schmid, Assistant Webb, and Clerk Eisenzimer.

Traci Tull – This is a pre-existing homeowner's nightmare. The gentleman that owned this property prior to Mr. Schmid actually I believe the County Attorney actually made them do a few things, one of them was that they actually had cut back the roof on their existing dwelling because it went, it exceeded into the Lakeshore Protection Zone by almost 10 feet so Mr. Schmid is trying to clean up the area. If you look at the project as Mr. Schmid would quote, he says it looks like somebody came out there with a six pack and a weekend job with some teenagers. They actually did a whole bunch of work on the lakeshore so he's got some problems that he's trying to alleviate at this point. It's permit #FLV-04-07. This is on Whitefish Lake, the applicant would like to upgrade the existing nonconforming structures on this property, remove the existing retaining wall and wooden ramp on the south end of the property, and reduce their wood deck area. The applicant is proposing to complete the following projects in the Lakeshore protection zone of Whitefish Lake and replace the existing wooden deck in front of the home, the concrete deck and wooden railing system, the deck measures 408 sq. feet. The applicant proposes to reduce the structure to 381 sq. ft and approximate 11% reduction but I'm going to address this issue again. Actually, it's 35% because the ramp that he's proposing to remove is actually attached to this deck and when I was out there this week with Jim Stack we're going to look at the entire project as one structure or actually the deck and the ramp as one structure. I'll address that as I get further into this. The applicant is proposing to install a steel foundation with a concrete deck surface instead of wood. In order to install the new wood deck, the applicant has stated that he would have to excavate the existing concrete patio instead of recapping it. To add a footing to wood bolt to wood deck and also to match a concrete patio. He would like to recap the existing patio and walks with 4-5" of concrete, the impervious cover on that would be 280 sq. ft. he'd like to remove the retaining wall and the wooden ramp that protrudes into the lake. That is approximately 70 sq. ft. He would like to reside and reroof the patio storage shed to match the home. Replace the crumbling rock work on the face of the retaining wall below the lawn in front of the house and he'd like to add some native trees to the patios. The total impervious cover currently on the lot, I have my report as 1,113 sq. ft and this is not an accurate statement because a large portion of the existing dwelling to include all overhangings in the Lakeshore protection zone and is not accounted for in this figure. We're trying to look back at prior permits and have not been able to locate this one. I think it happened probably about seven years ago if I'm not mistaken. We haven't been able to find when they did the original work on that. So we're still looking in our office for that file. The total impervious cover with the proposed project would be 1,030 sq. ft, again this is not an accurate statement because we don't account for dwelling. The maximum allowable impervious surface on this lot is 1,824 sq. ft. These totals do not reflect the square footage of the retaining wall that the applicant is proposing to remove. The applicant has stated that with the removal of the retaining wall, wooden ramp and deck reduction, the entire structure would be 35%. That's a big thing we can get into the deck, the nonconforming deck that he has on his project. On December 8, the Whitefish Lake and Lakeshore Protection Committee discussed the proposed project at their monthly meeting, the committee approved the second motion in which the committee recommended denial of the remodel of existing wooden deck, Conditions 8-14 of the staff report. In the denial of the resurfacing of concrete patio, condition 15-17 of the Staff report.

Chairman Hall – okay, so basically that's conditions 8-14 and they recommended denial of that portion of the permit but you've got another alternative.

Traci Tull – I believe when we met with Mr. Stack, we met Mr. Stack on Friday, Mr. Schmid and I met with Mr. Stack and as far as the resurfacing of the concrete patio, the reason that they had denied it at the meeting is because we were not aware that the dwelling went into the Lakeshore Protection Zone and so we didn't have an accurate impervious surface coverage area listed. Mr. Stack I believe he said as far as recapping or resurfacing of the concrete patio, they're for that but it's as far as the wooden deck, the problem that we have with the wooden deck is he is proposing to reduce it by 20% but he wants to use concrete instead of wood and it's simply not allowed in the Lakeshore Protection regs.

Commissioner Hall – okay, thank you and we're going to come back and address each of these.

Traci Tull – Correct. The committee also approved the third motion in which they recommended approval of the remainder of the application as submitted with the following modifications. Approve revegetation as per conditions 18-20 of the staff report, approve the removal of the retaining wall and the wooden ramp as per conditions 21 of the staff report and approve residing and reroofing of the patio storage shed as per conditions 22 through 29 of the staff report with the following amendment to condition 24 underline, there shall be no change in the nature of the character of the nonconforming use or in the size of the structure. For to approve the replacing rockwork on the face of the retaining wall as per conditions 30-38 of the staff report and last to an accurate accounting of the constructed surface area in the lakeshore protection zone to be provided prior to resubmitting any new application for the deck or patio.

As far as discussion goes, the applicant is requesting a minor lakeshore variance from the construction requirements in the design standards of the Whitefish and Lost Coon Lake and Lakeshore Protection regulations for work described above. Minor variances from the construction requirements or design standards or said regulations may be granted when the governing body determines that due to unusual circumstances a strict enforcement of such a requirement and standards would result in undue hardship, no reasonable alternatives exist which do not meet the standards and granting the variance will not have adverse impact on the lake or lakeshore in terms of the policy criteria for issuance of a permit. The following is further explanation and evaluation of each of the proposed projects. Nonconforming structures on the lake and lakeshore protection zone, section 6.4 of the Whitefish and Lost Coon Lake and Lakeshore Regulations address nonconforming structures in the lakeshore protection

zone. A structure that is nonconforming shall not be added to or enlarged unless the structures need to conform to the requirements to these regulations, any segment of the nonconforming structure that is located outside of the lakeshore protection zone maybe modified or enlarged provided it does not alter the usage of that portion of the nonconforming structure. No interior placement of an undamaged nonconforming structure shall be allowed subject to the following conditions. Complete conformance with regulations would result in the forfeiting of grandfathered rights which would otherwise and likely be unbanded. A reduction of 20% in constructed surface area is made in the proposed replacement. The replacement would result in less material and visual impact on Whitefish Lake. All materials conform to standards set in these regulations and there is no change in the nature of character in the nonconforming use. We also go into remodel the existing wooden deck. Decks including decks on top of or balconies from boat houses, storage buildings, dwelling units etcetera are prohibited. The applicant proposes to replace the existing wooden deck in front of the home with a concrete deck and wooden railing system. The square footage on the deck will be reduced from 408 sq. ft to 381 feet located entirely within the Lakeshore protection zone. Replace the concrete patio and walkways, stairways and walkways constructed of impervious material shall have a maximum width of 4 feet and shall be designed to provide access only. Stairways or walkways of poured in place concrete are prohibited. The applicant proposes to recap the existing concrete patio and walkways due to the deterioration of the existing concrete. The project will not deviate from the existing 208 sq. ft of patio and walkways. The applicant is proposing to use 4 – 5" concrete cap over existing patio and walkways. Reside and reroof the patio storage shed. The applicant is proposing to renovate the grandfathered storage shed to make it consistent with the surrounding structures on the property. Conditions of approval, 1-7 are just general that apply to all the lakeshore permits. Number 8 we come into 8A is addressing the remodeling of the existing wooden deck. 8A is to deny it or 8-14 is to approve it. Concrete patio and walkways, 15A is to deny it and 15-17 is to approve it. The revegetation, could not find a problem with that, it's 18-20. The remodel of the retaining wall and wooden ramp, 21 is fine. Reside and reroof the patio storage shed, 22-29 we find is okay and replace rockwork on the face of the retaining wall and that's 30-37 and we find that this is okay and 38 of course if just stating that the permit shall be valid for one year from the date of issuance.

Chairman Hall – you're recommending, I mean we obviously we can either go with the or or the denied and before we get into what Scott needs or wants to say, these seem like pretty reasonable additions besides the denials so we could basically make a motion to approve all of these and not deny any of them.

Scott Schmid – I made you some picture books. The second page is the area that the lakeshore committee didn't want to approve. One half of it as you can see is concrete, and the other half is wood and basically as I understand it, from Jim Stack that there's three reasons why not. One, my square footage was incomplete with what was in the zone and so I went out at Traci's suggestion and measured every inch of it yesterday. The other thing is that it would set precedence. He agrees that it would soften the look of the house but it would set precedence in allowing me to use concrete in the lakeshore zone. Number three was even if they agreed to it, I would never get it by you. So, if you go back to the first page, I mean that's the house, it is an eye sore on the lake and if I redo it in concrete and I get planters in it, I can get trees in front of it and it will soften the look of the house. If I redo it in wood, by the way, the deck is there, it was a treated deck and so I would be removing treated material from the lakeshore zone and if I replace it with raw wood, I'm just going to be back in here in ten years, it's not going to stay and I'm not going to be able to plant trees in it, so if you don't look at that rule about concrete, what's best for everybody concerned is for me to do it in concrete and according to the Lost Coon and Whitefish lake rules, concrete is not prohibited from being used, it says it's the least desirable of the approved building materials but it's the only one that's realistic and as far as precedence goes.

Chairman Hall – I think one of the main issues is in Lakeshore Protection Zone or area isn't it more than the actual what the deck's made out of.

Traci Tull – well even on stairways and decks, and even as far as docks are concerned, they have to be untreated wood or they can use the plastic lumber. I think that the only problem that the Lakeshore Committee has here is they don't mind him redoing it but they do not want him to do it in concrete and we stand behind them on that as well. I think as far as the recapping, I think that is an issue that we can readdress because I think everybody feels pretty confident that that needs to be recapped. I mean, I think even without having impervious surface but as far the deck's surface, not in concrete but they can use some other medium. I mean if he has to replace it, I mean that's what every homeowner on all the Lakeshore areas, they'll have to replace their structures whether it be stairways or if they have nonconforming decks they are all allowed to use untreated wood or plastic lumber.

Scott Schmid, but you still put the plastic lumber on raw wood. You nail down raw wood so it's still not going to last and do you agree that Jim Stack's statement was that he would support it if it wasn't for the issue of precedence.

Traci Tull – I don't believe that that is the message that he was trying to convey.

Scott Schmid – what was he trying to convey.

Traci Tull – I think that he agreed with you that aesthetically it might be more appealing aesthetically but that again is in the eye of the beholder. What's nice to somebody is completely, like he was going into some people like it absolutely natural with all just the natural surroundings and some people like to see it all nice and landscaped. I mean it's a difference on what is aesthetically appealing from one person to another but I don't believe, I think that is the only thing he agreed with you, he thought that it would be more aesthetically appealing but that he was adamantly against putting the concrete in the lakeshore protection zone and one of the issues is precedence.

Scott Schmid – But that's the one it keeps coming back to.

Chairman Hall – but that's a part of their regulations, the Whitefish Lakeshore protection committee.

Scott Schmid – I don't even see it as a variance, I am proposing to replace a nonconforming building material, treated wood with a conforming building material, concrete and the Gambles 4 years ago replaced, has approved a nonconforming building material with a nonconforming building material.

Chairman Hall – what is he talking about.

Traci Tull – there was a case and I wasn't familiar with it. It's the Gamble, there is a property, one of the things that was a big problem was that they had creosote ties set up as a retaining wall and it was actually the retaining wall when it was at full pool, when the Whitefish Lake was at full pool, this retaining wall was completely under water and so they did come up with kind of a okay, you can replace a couple items here. I mean there was different things, one was the creosote retaining wall, another one was a pump house that I think was 16 feet high and at the time, the Lakeshore regulations didn't specify that the total impervious surface that you had reduce by 20% so Mr. Gamble actually reduced the height of the building and I think that there was some

issues there that they weren't too happy with the permit that he received and what he did on that property. I mean it really pushed over the edge if it was violation or not.

Scott Schmid – It was approved right here that he redid the retaining wall in block.

Traci Tull – Retaining walls though are normally, when you do.

Scott Schmid – block is not an approved building material.

Traci Tull – but that was something to get the creosote ties out. Creosote ties is very toxic.

Scott Schmid – I'm going to be removing a treated deck, same issue and all of these steps up here are all creosote ties. They can be removed too, there's eighteen creosote tie steps.

Traci Tull – This is the first time we've heard of the steps.

Scott Schmid – I had to do my research. Anyway, the first time I submitted it to the lakeshore committee, I submitted it if you look at the back page there, where the retaining wall and backfill. They suggested that I resubmit it using a wood deck because the back fill wouldn't be permitted and because the concrete probably wouldn't be permitted. Well, I said I would, but then I went home and I thought about it and I go, you know, it's ridiculous to jerryrig something together just because you know you're trying to follow things exactly by the rules. It needs to be built right and so I submitted it with a steel understructure and a concrete surface which is not visible in anyway from the lake and I said if that's not good enough, I'll spend the extra \$15-20,000 and put a stone surface on top of that. So, the concrete is in no way comes in contact with the lake, it can't be seen from the lake, it's just accomplishing my goal of replacing the structure with something that I don't have to replace in ten years and that I can get trees in to soften the look of that house.

Commissioner Brenneman – Can't you attach the plastic wood to a steel substructure?

Scott Schmid – I could, but it's still jerry rigged, I mean that's not the right way to do it. It's a valuable piece of property and I don't want to jerry rig it together.

Commissioner Brenneman – why is that more jerry rigged than concrete.

Scott Schmid – that plastic deck looks horrible after it's been around for ten years. It just gets beat up and I mean it's, once it gets beat up, what do you do with it.

Commissioner Watne – I don't know what to do with it. I don't see where concrete would hurt it, where you can't view it from the lake.

Chairman Hall –but you can view it from the lake

Traci Tull –you can view it from the lake but it does create, you know concrete is usually intended for retaining walls and the only time you ever see concrete is usually on boat ramps, but you know how strict it is to get boat ramps and also if somebody has a nonconforming structure where they had previously used concrete.

Scott Schmid – Can you see the surface of this deck, we're on the lake right there, on that picture. Can you see the surface of the deck?

Chairman Hall –no, but we also have lakeshore protection regulations that we have to follow. I mean we're setting precedent.

Scott Schmid – Gary, it's right here, that paragraph right there, least desirable but if you're going to use it, this is what we want you to do.

Commissioner Brenneman –Is the prohibition against concrete purely aesthetic or is there a.....

Traci Tull – no, it's a lot has to do with impervious surface run off. So if rainfall coming from driveways or homes, it won't absorb it'll go right into the lake. I mean that's the reason why they try to get it out of the lakeshore protection zone and that's one of the reasons why they don't want it in there at all. They'd actually like to see it all go away, it's the same reason that they have the 20% reduction and hopefully those nonconforming structures will eventually go away.

Commissioner Brenneman – so, he has the 20% reduction, he meets that criteria.

Traci Tull – correct.

Assistant Webb- well it says if concrete utilized when nothing else will work.

Traci Tull – correct

Scott Schmid – It was approved for the Gambles with no problem. They used block, nonconforming replacing conformed.

Chairman Hall –Did you make his same presentation to the Whitefish Lakeshore Protection Committee?

Scott Schmid – I didn't make any presentation to them because I didn't show up for the second when I presented this one because I thought they would approve it because I got the concrete out of view and in no way can come in contact with the lake. So, I felt like I was accomplishing what everybody wanted. What I wanted, which is a permanent surface there and what they wanted which was not having any fill or any concrete come in contact with the lake, or in view of the lake.

Chairman Hall – I think one option we have here is to send it back to them. It's just an option we're discussing with you. A lot of these things seem to have come to light after you were done with your report. What do you think of that thought, because we pay real close attention to this group in Whitefish because when they send a recommendation for approval, I know they've scrutinized it closely and done a good job on it and maybe he should go back to them and see if he can sell them on the idea and if they send a recommendation for approval then we'd be in favor of it.

Traci Tull – I believe it's their intention unless he changes his concrete or chiefcliff stones and I expressed this to him when he resubmitted his application too, that it was going to have to be wood, untreated wood treks or plastic lumber but they would probably deny it and when you submitted that, that was the one thing I did put in there and I told you that when you resubmitted it and I wasn't at the first meeting, I was actually at the planning board meeting for the marina and I have notes from Mark Crowley who actually represented the county because he had some city projects and in his notes, they specifically went back and forth between him and Jim Stack concerning using concrete in that area and Jim said no, I mean I have all of the written notes from Mark concerning their conversation. So I believe that the committee's not going to bend on this unless he changes what he's going to use for the deck, unless he comes back and says he's going to use either untreated wood treks or plastic lumber.

Scott Schmid – I wish I would have had a tape recorder because Jim very specifically said that the reason that he wouldn't approve it was because it would set precedence and because the County Commissioners wouldn't approve it anyway. I didn't have a chance to of getting it by you even if he did approve it. So, I bring you the Gamble file, it doesn't set precedence and if Jim knew that you would approve it if they did, I think that I would have a pretty good chance of convincing him to allow us to do it.

Traci Tull – I don't think so, I know I spoke with Mr. Stack on the ride home and I don't believe that Mr. Schmid could get that approved. Mr. Stack did state that the reason he thought that the Commissioners would not approve it is because it is uphold the Lakeshore Committee members, it had nothing to do with about their committee and their committee's suggestion it was that you guys always uphold the Lakeshore Protection regulations. This is the conversation.

Chairman Hall – This is what you got from Mark Crowley and Jim Stack. How long have you had the property?

Scott Schmid – 8 months. The way I see it, I own another property on the lake and we used to go on our evening cruise and this is the biggest eyesore on the lake and we used to poke fun at it and now we own it. I really just want to clean up the look of it, it's just right on the lake and it's got nothing in front of it.

Chairman Hall – Lakeshore protection, it says here on the concrete patio, lakeshore protection committee will allow the three inch concrete overlay and thee inch with steel, may continue to settle or limit disturbance by not requiring removal.

Traci Tull – That was just concerning the actual patio that's in existence.

Scott Schmid – anyway, it's my understanding that the County Commissioners have went in a different direction of the Lakeshore Committee's recommendation one time and I'm asking for two.

Commissioner Watne - I think we should send it back and let him do his case in front of the Committee again because it sounds to me like some of the stuff didn't get heard.

Scott Schmid – can I say to them that you would approve it if they recommended it?

Chairman Hall – Absolutely. It doesn't sound like you're going to get approval from them. Really, it sounds like they've had their discussions and they're kind of set.

Commissioner Brenneman – The only action I would be able to take right now is to support the Lakeshore Protection Permit as they sent it, we could take action on that and you could proceed without going back to or if you wish to go back and see if you can convince them that would be another option.

Scott Schmid – So I get a no vote without going back through them.

Commissioner Brenneman – you would from me, I can't speak for the other two.

Scott Schmid – I'll go back.

Commissioner Watne made a **motion** to send the Lake & Lakeshore Construction Permit #WLV-04-07 back to the Whitefish Lake and Lakeshore Protection Committee. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

CONSIDERATION OF HR TRANSMITTALS: MICROCOMPUTER SUPPORT SPECIALIST/COMPUTER SERVICES & LEAD WORKER/MAINTENANCE

Present at the January 10, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Computer Services Director Norm Calvert, Human Resource Director Raeann Campbell, Weeds, Parks and Maintenance Superintendent Jed Fisher, Assistant Webb, and Clerk Eisenzimer.

Campbell recommended approval of the revised job description for Microcomputer Support Specialist in Computer Services.

Commissioner Brenneman made a **motion** to approve the revised job description as presented and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Campbell recommended denial of the transmittal for lead worker for maintenance as outlined in the Flathead County Policy Manual as there are alternatives that are acceptable through the manual.

Commissioner Watne made a **motion** to continue the transmittal for lead worker for maintenance. Commissioner **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: STOLTZE LAND & LUMBER TAX INCENTIVE

Present at the January 10, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the and authorize the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Sections 15-24-1402 and 76-15-103, M.C.A., that it will hold a public hearing to consider the application of F.H. Stoltze Land & Lumber Company of Columbia Falls, Montana, seeking the application of tax reducing benefits to the installation of a new optimized small log infeed system at its sawmill at 600 Half Moon Road, Columbia Falls, Montana, in Section 2, Township 30 North, Range 21 West, P.M.M. If the application is granted, the new construction will be taxed at fifty percent of its taxable value in each of the first five years after approval; in each year thereafter, the percentage will be increased by equal percentages until the full taxable value is attained in the tenth year.

The public hearing will be held on the **1st day of February, 2005, at 10:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Montana, Courthouse, West Annex, 800 South Main Street, Kalispell, Montana. At the public hearing, the Board of Commissioners will give members of the public an opportunity to be heard regarding the application for tax reduction of F.H. Stoltze Land & Lumber Company.

DATED this 10th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/ Gary D. Hall
Gary D. Hall, Chairman

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

Publish on January 13 and January 27, 2005.

CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT & NOTICE OF PASSAGE: BIG MOUNTAIN ROAD/MDOT

Present at the January 10, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to adopt Resolution No. 1782. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

RESOLUTION NO. 1782

WHEREAS, Flathead County owns certain real property (described below) on the existing Big Mountain Road in Flathead County which is no longer necessary for the conduct of the County business; and

WHEREAS, the Montana Department of Transportation has requested that the property be transferred by the County to the Montana Department of Transportation; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, agrees that the property should be transferred to the Montana Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, pursuant to Section 7-8-101, M.C.A., hereby passes this resolution of intention to transfer the following described property to the Montana Department of Transportation:

PARCEL A: PORTION OF BIG MOUNTAIN ROAD TO BE VACATED WHEN NEW BIG MOUNTAIN ROAD IS COMPLETE

Commencing at the Southeast corner of the Southwest Quarter of the Southeast Quarter of Section 2, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, which is a found iron pin; Thence along the South boundary of said SW¼ SE¼ N89°24'56"W a distance of 431.66 feet to a found iron pin on the northwesterly R/W of a 100 foot road known as Big Mountain Road; Thence along said R/W N28°25'24"W a distance of 111.73 to the TRUE POINT OF BEGINNING of the tract of land herein described: Thence continuing N28°25'24"W a distance of 0.24 feet to a found iron pin and the P.C. of a 200.00 foot radius curve, concave Southeasterly, having a central angle of 130°55'24"; Thence along an arc length of 457.01 feet; Thence S77°30'00"E a distance of 47.69 feet to a point on the Northwesterly R/W of the proposed Big Mountain Road which is the P.C. of a 442.91 foot radius curve, concave Southeasterly (radial bearing S20°41'50"E); Thence Southwesterly along said curve through a central angle of 51°41'43" an arc length of 399.62 feet to the point of beginning and containing 0.620 Acres; Subject to and together with all appurtenant easements of record.

BE IT FURTHER RESOLVED, that notice of the passage of this resolution of intention shall be published as required by Section 7-1-2121, M.C.A., and the public shall be invited to comment on the proposal to sell the above described property to the Montana Department of Transportation.

DATED this 10th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/ Gary D. Hall
Gary D. Hall, Chairman

By /s/Robert W. Watne
Robert W. Watne, Member

ATTEST:
Paula Robinson, Clerk

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

By /s/ Monica R. Eisenzimer
Deputy

Commissioner Watne made a **motion** to authorize the publication of the and authorize the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 78-101, M.C.A., that it passed a resolution of intent (Resolution No. 1782) on January 10, 2005, to transfer the following property to the Montana Department of Transportation because it is not necessary for the conduct of County business:

PARCEL A: PORTION OF BIG MOUNTAIN ROAD TO BE VACATED WHEN NEW BIG MOUNTAIN ROAD IS COMPLETE

Commencing at the Southeast corner of the Southwest Quarter of the Southeast Quarter of Section 2, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, which is a found iron pin; Thence along the South boundary of said SW¼ SE¼ N89°24'56"W a distance of 431.66 feet to a found iron pin on the northwesterly R/W of a 100 foot road known as Big Mountain Road; Thence along said R/W N28°25'24"W a distance of 111.73 to the TRUE POINT OF BEGINNING of the tract of land herein described: Thence continuing N28°25'24"W a distance of 0.24 feet to a found iron pin and the P.C. of a 200.00 foot radius curve, concave Southeasterly, having a central angle of 130°55'24"; Thence along an arc length of 457.01 feet; Thence S77°30'00"E a distance of 47.69 feet to a point on the Northwesterly R/W of the proposed Big Mountain Road which is the P.C. of a 442.91 foot radius curve, concave Southeasterly (radial bearing S20°41'50"E); Thence Southwesterly along said curve through a central angle of 51°41'43" an arc length of 399.62 feet to the point of beginning and containing 0.620 Acres; Subject to and together with all appurtenant easements of record.

Further information concerning the proposed transfer may be received from, and written comments may be sent to, the Board of Commissioners, Flathead County, Montana, 800 South Main, Kalispell, Montana 59901. Oral comments will be received when the Board of Commissioners meets at **9:30 o'clock, a.m., on January 27, 2005**, to consider the passage of a final resolution authorizing the property transfer.

DATED this 10th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/ Gary D. Hall
Gary D. Hall, Chairman

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

Publish on January 17 and January 24, 2005.

CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT & NOTICE OF PASSAGE: WHITEFISH JURISDICTIONAL AREA INTERLOCAL AGREEMENT

Present at the January 10, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Discussion was held regarding jurisdictional boundary changes with Smith explaining that since Whitefish is a Class 2 municipality, it has authority to zone 2 miles out of the city limits.

Commissioner Brenneman made a **motion** to adopt Resolution 1783. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. **Nay** - Watne Motion carried.

RESOLUTION NO. 1783

WHEREAS, beginning in approximately 1967, Flathead County (the County) and the City of Whitefish (the City) have cooperated in creating and administering the Whitefish City-County Planning Board and that Planning Board's jurisdictional area, as permitted by Montana law;

WHEREAS, the jurisdictional area of the Whitefish City-County Planning Board extends approximately four and one-half (4-1/2) miles from the boundaries of the City, as shown on Exhibit "A" attached hereto and incorporated herein by reference;

WHEREAS, the County and the City have spend several months negotiating a reduction in the boundaries of the jurisdictional area of the Whitefish City-County Planning Board;

WHEREAS, the City has approved an Interlocal Agreement by which the boundaries of the jurisdictional area of the Whitefish City-County Planning Board County would be reduced, the jurisdiction of the City of Whitefish within the reduced boundaries would be enlarged, the jurisdiction of the County would be enlarged in the portion of the current jurisdictional area that would be outside the reduced boundaries, and the Whitefish City County Master Plan and the Flathead County Master Plan would be updated to reflect the new boundaries at a later date; and

WHEREAS the City of Whitefish held a public hearing prior to approving the Interlocal Agreement to allow its citizens an opportunity to be heard regarding that Interlocal Agreement and the Board of Commissioners believes that County residents should be afforded the same opportunity.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts this resolution of intention to approve an Interlocal Agreement with the City of Whitefish to change the boundaries of

the jurisdictional area of the Whitefish City -County Planning Board County and the jurisdiction of the City of Whitefish within the new boundaries.

BE IT FURTHER RESOLVED that the Board of Commissioners will conduct a public hearing to hear public testimony concerning the County's intention to consider executing the Interlocal Agreement to change the jurisdictional area boundaries and the jurisdiction of the City within the reduced boundaries, at **10:30 o'clock, a.m. on the 24th day of January, 2005**, at the Office of the Board of Commissioners of Flathead County, Courthouse West Annex, 800 South Main, Kalispell, Montana.

BE IT FURTHER RESOLVED that notice of the public hearing shall be published as set forth in Section 7-1-2121, M.C.A.

DATED this 10th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/ Gary D. Hall
Gary D. Hall, Chairman

By _____
Robert W. Watne, Member

ATTEST:
Paula Robinson, Clerk

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

By /s/ Monica R. Eisenzimer
Deputy

Commissioner Brenneman made a **motion** to authorize the publication of the and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. **Nay** – Watne Motion carried unanimously.

NOTICE OF PASSAGE OF RESOLUTION OF INTENT
AND PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it passed a resolution of intent to consider executing an Interlocal Agreement between the City of Whitefish ("City") and Flathead County ("County") that would produce a change in the boundaries of the jurisdictional area of the Whitefish City-County Planning Board (the "Planning Board") and a change in the City's jurisdiction with respect to zoning, subdivision approval, administration of lakeshore protection regulations, and administration of floodplain permits, and will hold a public hearing to seek public input concerning that Interlocal Agreement. The City Council of the City of Whitefish approved the proposed Interlocal Agreement.

The most significant changes that would result from approval of the Interlocal Agreement are as follows:

1. The jurisdictional area of the Planning Board, which currently extends approximately four and one-half (4 ½) miles outside of the boundaries of the City, would be reduced, so that it extends approximately two (2) miles from the boundaries of the City. The proposed boundaries of the Planning Board are shown on the attached map.
2. The City's zoning jurisdiction would be extended from approximately one (1) mile outside of the City's boundaries to approximately two (2) miles from the boundaries of the City. The proposed boundaries of the Planning Board are shown on the attached map.
3. The City currently has no jurisdiction to approve subdivisions outside of its boundaries. Under this proposal, the City would have jurisdiction to approve subdivisions within an area approximately two (2) miles from its boundaries, as shown on the attached map.
4. The City currently administers lakeshore protection regulations and floodplain permits within its boundaries. Under the proposal, the City's jurisdiction to administer lakeshore protection regulations and floodplain permits would extend to approximately two (2) miles outside of its boundaries, as shown on the attached map.
5. In coordination with the City, the County would relinquish its jurisdiction for zoning, subdivision approval, lakeshore protection regulations and floodplain permits within the new proposed boundaries that are approximately two (2) miles from the boundaries of the City.
6. The City and County currently administer the Whitefish City -County Master Plan (Growth Policy) within the jurisdictional area that extends approximately four and one-half (4-½) miles outside of the City's boundaries. Under the proposal, only the City would prepare, adopt and amend the Growth Policy within the area shown on the attached map, and only the County would prepare, adopt and amend the Growth Policy outside of the area shown on the attached map.

The Interlocal Agreement contains additional terms affecting the relationship between the City and the County. Information and documents related to the proposal are on file at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead County Planning and Zoning Office, 1035 1st Ave. West, Kalispell, Montana, where they may be examined by the public.

The public hearing will be held on the **24th day of January, 2005, at 10:30 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 Interlocal Agreement. At the close of the hearing, the Commissioners may decide whether to execute the Interlocal Agreement or may continue that decision to a later date.

DATED this 10th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/ Gary D. Hall
Gary D. Hall, Chairman

ATTEST:
Paula Robinson, Clerk

By/s/ Monica R. Eisenzimer

Deputy

Publish on January 13 and January 20, 2005.

COS REVIEW: SPOKIE

Present at the January 10, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Peggy Goodrich, Tom Sands, Bob Spoklie, John Osweiler, Assistant Webb, and Clerk Eisenzimer.

Goodrich presented the Immediate Family Transfer for Robert Spoklie. Goodrich explained that creation of four lots is appropriate but the fifth created on this parcel regardless of ownership poses a pattern of development.

Commissioner Watne made a **motion** to approve the COS as presented. Chairman Hall **seconded** the motion. **Aye** – Watne and Hall **Nay** - Brenneman. Motion carried.

COS REVIEW: BENSON

Present at the January 10, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Peggy Goodrich, Ken Benson, Assistant Webb, and Clerk Eisenzimer.

Goodrich presented the Immediate Family transfer for Ken Benson.

Commissioner Watne made a **motion** to approve the COS as presented. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

FINAL PLAT: SWAN VIEW RANCHES

Present at the January 10, 2005 10:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Kirsten Holland, Debbie Shoemaker and Dawn Marquardt from Marquardt & Marquardt Surveying, Assistant Webb, and Clerk Eisenzimer.

Holland reviewed the application from Marquardt & Marquardt Surveying for final plat approval of Swan View Ranches which will create three residential lots on Tract 5AB in Section 26, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana. The site is located on Cowboy Way south of Hodgson Road, approximately three miles southwest of Columbia Falls. Preliminary plat approval was granted on February 23, 2004 subject to 17 conditions. Holland indicated that all conditions have been met or otherwise addressed.

Commissioner Watne made a **motion** to approve the Final Plat for Swan View Ranches. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

PRELIMINARY PLAT: WEST VALLEY SUBDIVISION NO. 2

Present at the January 10, 2005 10:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Johna Morrison, Tom Sands, Assistant Webb, and Clerk Eisenzimer.

Morrison reviewed the preliminary plat request submitted by Sam Middleton and Sands Surveying for West Valley Subdivision #2, which will create a two lot residential subdivision. The property is located just south of intersection and in the southwest corner of West Reserve Drive and West Valley Drive. The lots will be 5.0 acres in size and will be served by individual water and septic systems. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report #FSR-04-39 as Findings of Fact. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to approve the Preliminary plat for West Valley Subdivision No. 2 subject to 10 conditions. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

BUDGET AMENDMENT

Present at the January 10, 2005 10:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Webb advised that this amendment is to reimburse the Weed Department for the stairs on Juvenile Detention.

Commissioner Brenneman made a **motion** to adopt Budget Amendment Resolution 1784. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

COUNTY OF FLATHEAD

**GENERAL
JOURNAL
VOUCHER
BUDGET
AMENDMENT
RESOLUTION # 1784**

DATE ISSUED:

VOUCHER NO.: 0501-001

DATE OF RECORD:

MCA 7-6-4006	ACCOUNTING COPY	"B" Entry		
Account Number	Description	Line	Debit General Ledger	Credit General Ledger
2901-0201-410100-301	Bdgt Amendment -Holding	1	\$6,970.00	
2901-0201-411230-398	Contracted Services - Maint Dept	2		\$6,970.00
		3		

	To establish spending authority in non-budgeted category - Maint	4		
	Dept/Youth Crt-Outside stairwell	5		
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	Total	35	\$6,970.00	\$6,970.00

Explanation:

by: Gary L Como, Finance
Approved by:
Commissioners by
Resolution

- 11:00 a.m. Commissioner Brenneman is to attend a meeting w/Jim Patrick at City Hall**
- 1:15 p.m. Commissioners Hall and Brenneman are to view gravel pit on Coverdell Road, Bigfork**
- 3:00 p.m. Chairman Hall is to attend RAC meeting at Forest Service**
- 7:00 p.m. Chairman Hall is to attend CPIMT Mobile EOC/Incident Management Trailer at Eagle Transit Conference Room**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 11, 2005.

TUESDAY, JANUARY 11, 2005

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

- 9:00 a.m. Commissioners Hall and Brenneman are to attend KOFI Talk**
- 10:00 a.m. Chairman Hall is to attend Workforce Center Meeting at Kalispell Chamber of Commerce**
- 12:00 p.m. Columbia Falls Chamber of Commerce Luncheon at North Valley Community Center**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 12, 2005.

WEDNESDAY, JANUARY 12, 2005

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

- 11:00 a.m. County Attorney Meeting at County Attorney's Office**
- 12:00 a.m. Chairman Hall is to attend MDOT meeting at MDOT Kalispell Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 13, 2005.

THURSDAY, JANUARY 13, 2005

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

Chairman Hall opened the public comment period on matters within the Commissions' Jurisdiction

Tom Sands, Rick Breckenridge, Dan Brien, Jim Burton, Dawn Marquardt, Brian Sullivan, Debbie Shoemaker, Augusta Kickbush, Joe Kauffman,

Tom Sands – As you see, there's quite a contingent of registered surveyors here this morning and we're concerned about some of the actions that the Commissioners are taking and have taken recently. Whether or not they're, I'm not sure that legal is the word, but stretching the limits of the envelope here. Before I get into that though, you had a public hearing or a planning board meeting last night on the Two Rivers project that you guys wanted to send back to the Planning Board. It came to my attention this morning that the Chairman of the Planning Board did not let Erica speak to the project, rather that he let somebody else pretty much run the show. I mean if you're going to send us back to the planning board for more information, I would expect that you would want to get that information some way or another and the way you get that is from the applicant. If you're not going to let the applicant, I don't know why you sent it back.

Chairman Hall – If I could ask, you weren't there? I'll check into that.

Tom Sands – and I'll have another meeting with you guys I'm sure about that. Basically, the reason these guys and women are here today is when we took our test and sat for the exam for the Registered Land Surveyor, and everyone here did, we basically memorized the Montana Code Annotated regarding the Subdivision Act in order to take that test and pass it you just about have to memorize it so we know what the law says, everyone here knows what that law says and I think you're stretching that law in a couple of your passions that are being taken place here. One of them is minor subdivisions. Minor subdivisions is defined in the codes as the first five lots or less submitted as a subdivision and it also says that the first minor subdivision from a tract of record is exempt from review from environmental assessment. A tract of record is the key words here, that's what you want to look for and in 1993 they changed that definition, they came up with a definition of a tract of record and the tract of record defined in the code is basically any tract that can be described from the records in the courthouse, not by a date, not by a size, or not by anything else but by ownership but tract that can be described. I'm going to give you these three pieces of paper here that maybe you guys ought to study a little bit, and bring this iMontana Code Annotated up on the internet and study that. It'd take you about six hours to go through the whole thing and just kind of read through it. This spells out what the law is today, it may change in the legislature of course this spring, but that probably won't take effect until October and until then we're going to be running under those laws. One other thing in that code is that local regulations can be no more stringent than state law and I think there's places in the local regulations that that's happened. I think we need to look at that. One of the main concerns we've got today is the fact that you're not going to allow anymore minor subdivisions to go through as a waiver of preliminary plat. Without that what happened to the language in the statute or in the legislature where we were supposed to get an expeditious review of minor subdivisions. There's not going to be that expeditious review of minor subdivisions without that waiver. If we have a client that comes in and he's got 10 acres of ground along a county road, and wants to take it off a minor subdivision, he's got the public access, he's got the utilities, he's got everything right there, there's no need for him to go through a 35 or 45 day waiting period just so the commissioners can have a preliminary plat application submitted on everything. It's a waste of time and it's a waste of money for the client. It's going to cost him probably another \$1200-\$1500 to go through that preliminary plat stage. And that's totally unnecessary for him to take off a piece of property. You obviously don't want these guys to use the exemptions to try to create that thing and then sell it because that's not his intent. He's going to sell 10 acres, he has to go through the subdivision regulations, there's only two ways to create a piece of property in Montana. You do a subdivision or you use an exemption. So, we're asking you to be a little bit lenient on these people that need to sell a piece of property in a reasonable amount of time. I think you need to revisit that, I think you need to revisit the actions that you're taking when you're making policy here too. The last, I got a letter the other day I think on Monday morning regarding the waivers of right to protest on SID's period in Flathead County. That that statement's going to be on every plat, it doesn't say anything about county roads in that letter, it said the right to protest SID's. If you're going to change the policy in your own subdivision regulations, there's a procedure to go through that and I think you need to use that procedure.

Rick Breckenridge – I too am a registered land surveyor and the sudden change in policy, or I should say interpretation because the policy has been in place for a long long time and has been well used and has a very historical background since the inception of the Subdivision regulations. For this turn of events, what I would bring forth to this commission to consider is the economic impact of what your decision is about to take place. Now I sat in one class at the health department here last month and I sent other employees to two other ones and they were packed full and they were mainly installers. Over 60 installers per session in there and alright and they install over 1400 and some septic permits. We're the ones who begin this process and you just add up the impact just to the installers, you're looking at about a \$6 -\$7 million dollar industry just in the installation side of things. Now we're not talking about the guys down at Sliter's who's selling nails or selling boards to build the house, but you need to consider in not a short term but in the economic sense of what your decision from the approved subdivision regulations reinterpretation of the Subdivision Regulations is going to entail to the economic impact of this county because all of the service industries is all we have left. That consideration needs to take place. I'm also concerned with the sudden I guess, forstalling or fore whatever shift in policy on the waiver. That waiver is a beneficial tool that's there for a reason and to all of a sudden turn on the word may is I think a breach of the confidence that the surveying community has put in with the planning office to develop those subdivision regulations and other people with the planning board. That waiver was put in there and recognized as a reason for expediting a process and it needs to be in there and it needs to be utilized when the time is appropriate so we have several important ramifications on a sudden turn of a simple word "may" that you need to take into consideration in your deliberations and to take a look at the impact that you're going to have on the rest of the service industry that's related to development in this county.

Dan Brien – Also registered land surveyor. Briefly, what Tom and Rick both have mentioned about that waiver. One of the reasons that the waiver was adopted was to not have this office have to be so burdened with the cumbersome process of just all of the subdivision that's going on in this county. We are one of the largest, fastest growing counties and the activity. That waiver isn't determined by us, it's done at a preapp meeting with the planners. We sit down and we present the proposal to a planner and so it isn't something that just us or our clients decide we have to do. We get to kind of have a feel of when they will be allowed or not but it is an expeditious type of a review, both for the planning staff and for your staff as well as for us and for our clients, if it meets certain criteria. We're not building any new roads, utilities are all there. Things we normally present to them that the lay of the land is this a fairly accessible property, building sites are going to be nice and anything that's going to get out of the ordinary, the planner's going to say this isn't going to be eligible for review and you're going to be forced to go through the whole process. Topography maps, preliminary process and tie up all of their time and your time as well as our time but there are many times when those waivers are totally beneficial. Not only to the constituents here in this county but your board and the planning office as well. The tract of record was mentioned and a date that has been attached to that. I think the date that has been attached to that is a date that we deal with for DEQ exemptions, whenever we go through a division of

land, we have subdivision laws to deal with and state health department laws to deal with and the DEQ has established a certain date in time that says if you have certain things in prior to that date, you can be exempt from going through DEQ, well that date just for some reason got adopted into the tract of record definition. Where the tract of record does not have a date to that so that date is a little, I don't know where that came from other than it appears that it just came out of the DEQ which they have the authority under the ARM's to set certain things for DEQ review in the process that we go through so I question where that date just all of a sudden came through when we look at the definition of what a tract of record is. It doesn't have a date to that so for us to just put a date onto that, I think we are again stepping on the Statute that talks about no further stringent rules and regulations adopted than what are done in the state. We have 56 different counties the subdivision act came into effect to try to equalize the state instead of having 56 different laws and rules and regulations and that's what it was adopted for for all of the counties to follow suit so that we know what we're doing when we deal from county to county rather than to come up with different rules and regulations. Now you have some authority under the Flathead County Subdivision Regulations but again you can't adopt policy that is more stringent than what they've set at minimums that we have to deal with under the State Statutes.

Bryan Block – a registered land surveyor also. Just on that waiver of preliminary plat, I mean there's a lot of instances where a two lot subdivision will come into play and during your preapp, we ask for waivers of preliminary plat. It doesn't automatically come at the preapp meeting, at least the ones I've presented. They'll come back a week later and say okay a waiver of preliminary plat is granted so you have some time, the planners have time to look at it besides just the preapp application so to make everything have to go through review it just seems wrong and then the procedures on how you implement this, you know is there a public hearing scheduled to have public input. Like you said, was that process followed so and ditto on pretty much what everyone else is saying.

Dan Brien – I forgot to mention one further thing, with I know you're trying to keep a handle on the family transfer exemption use and what happens after that. This action if this is held is just going to force more family transfers to happen. We know the clients will come in. If we can't get them a waiver of preliminary plat, you're going to start seeing family transfers and the use of that what the clients will do after they get done. They don't always tell us what their reasons or what they're going to do after it's done so we don't know and we don't understand what they're plans are a month or two months or six months down the road, but I can tell you that if the waiver of preliminary plat is not going to still be in process, you are going to see a lot of us sitting here on 509 meetings trying to get family transfers through just because clients are going to say that we can't, it's going to cost us this much for just as Bryan mentioned. We have many two lot subdivisions, fairly simple things that I think that reason again for that waiver was multi purpose, but it really reduces the work load and you're work load in this county as you know is just tremendous with subdivision activity. If we force every subdivision to come through as a subdivision, you're going to really be busy in this office as well as the planning office. For us, we're just going to charge it. This is going to cost more, we're going to get paid, we just hate to see to have to have the clientele have to pay all of that if it really isn't needed. Again, if it is needed, there's a tool to have us do that, but if it isn't needed, I think it's a wise thing to still keep reinstated back into place if that's the position. I think the letter if I'm not mistaken, did that necessarily come from this office or was it just out of the planning office, from a secretary in the planning office that indicated that that would happen.

Myrt Webb – I'll tell you what happened. It was here. We had a couple of small minor subdivisions that the commissioners really didn't want to approve but they were stuck with it because it didn't get here until final plat. During one of those, two of the commissioners stood up and said no more of these waivers so that's what I told the planning department. I realize that the idea of minor subdivisions is a small lot, they're not going to have very much effect, so they shouldn't have a large process to go through and that makes sense except that's not what's happening on the ground in many cases, they're being clustered so essentially we're getting major subdivisions, two, three and four lots at a time and I think the commissioners have told me we need to start looking at some of this stuff and understand what's going on and maybe some time in the future, once they understand more about minor plats and what's happening with them, they can give some guidance to the planning department on giving back these waivers, but right now they're stuck. If the planning department gives a waiver they shouldn't, there's nothing they can do about what comes in on a final, that was the reason for it.

Rick Breckenridge – Dan brought up a point I'd just like to cover for Mr. Brenneman because he came up with the tract of record date that's in the Subdivision regulations of October 1, 1993 is a tract of record. That change in the subdivision regulations came about in 509 D on August 30, 1995. The law that Tom eluded to of the more stringent 76-3-501, it says that after April 14, 1995, the County may not adopt a rule that is more stringent than a comparable state or rule or regulation so that date of October 1, 1993 was adopted August 30 which is after that mandate of the legislature that you're not to adopt a rule more stringent after April 14, 1995 so that's where that came from. That is in the public record, you can get a copy of it, I got a copy of it from Monica here last month so if you want to research that and look at that and make your decision based on that, it's part of the record.

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

MONTHLY MEETING W/JOHNA MORRISON, PLANNING & ZONING OFFICE

Present at the January 13, 2005 9:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planning Director Johna Morrison, Assistant Webb, and Clerk Eisenzimer.

Discussion was held relative to financial position, application activity, planning board meeting, legislative bills, selection committee for the Growth Policy master plan, needs assessment, gravel pit verbage, request for comp time change,

BOARD APPOINTMENTS: MISCELLANEOUS

Present at the January 13, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Mary Sevier, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to appoint Robert Freidman and Ron Buentemeier to the Ashley Lake Land Use Advisory Committee. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to appoint to Verne Hebert and Trent Miller the Columbia Falls City County Planning Board. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to appoint Kerry Finley as the Evergreen Representative to the Flathead Long Range Planning Commission. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to appoint Diana Blend, Jerry Nix, Richard Surynt, and Turner Askew, as the Members at Large to the Flathead Long Range Planning Commission. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to appoint Karen Reeves and Jane Leivo as alternates to the Flathead Long Range Planning Commission. Commissioner Watne made a **motion** to appoint Denise Cofer and Jane Leivo as alternates to the Flathead Long Range Planning Commission. Chairman Hall **seconded** Commissioner Brenneman's motion. **Aye** – Hall and Brenneman. Motion carried.

Commissioner made a **motion** to appoint Frank DeKort to the Flathead County Planning Board as the Flathead Conservation District Representative. Commissioner **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to appoint Phillip Crissman to the LaBrant-Lindsey Lane Land Use Advisory Board. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to appoint Anna Marie Bailey to the Little Bitterroot Lake Land Board. Commissioner **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

CONTINUATION OF REAPPOINTMENT OF COMMISSIONERS TO VARIOUS BOARDS

Present at the January 13, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Discussion was held regarding Commissioner appointment to the Boards as follows:

Commissioner Brenneman –	Chemical Dependency Comprehensive Development Center Western MT Regional Mental Health Center Family Advisory Council DUI Task Force Local Emergency Planning Committee Health Department Review Committee Western MT Regional Juvenile Detention Flathead County Compensation Board GPAC Flathead Basin Commission
Commissioner Watne -	Flathead County Solid Waste/Refuse Disposal District Flathead City-County Health Board Flathead County Compensation Board Road Names & Addresses Committee
Chairman Hall -	RSVP Technical Advisory Committee AOA Transportation Advisory Board Port Authority/Flathead Valley Economic Development Authority Montana Coalition of Forest Counties Flathead County Compensation Board Resource, Conservation & Development Flathead County Building Committee

Commissioner Watne made a **motion** to appoint Commissioners to the Boards as discussed. Commissioner Brenneman **seconded** the motion. **Aye** -Hall and Brenneman and Watne Motion carried unanimously.

Commissioner Watne was excused

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #425 (PORTION COS 15447)

Present at the January 13, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioner Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. Motion carried.

NOTICE OF DISCONTINUANCE OF PUBLIC ROADWAY NO. 425

Notice is hereby given that the Board of Viewers have reported to the Board of Flathead County Commissioners on the discontinuance of that certain public roadway in Flathead County, Montana, described as follows:

A 40 foot declared County Road along the south boundary of COS 15447, S1/2 SW1/4 NE1/4 of Section 33, Township 30 North, Range 20 West. Directly across Hwy 206 from Eckelberry Drive, Columbia Falls, MT, Flathead County.

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for **Tuesday, February 1, 2005 at 9:30 A.M.** in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 13th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Gary D. Hall
Gary D. Hall, Chairman

PAULA ROBINSON,
CLERK AND RECORDER

By: /s/Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish on January 18th and 25th, 2005

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #426 (EASEMENT Tr. 2, 33-30-20)

Present at the January 13, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** –Hall and Brenneman Motion carried.

**NOTICE OF DISCONTINUANCE
OF PUBLIC ROADWAY
NO. 426**

Notice is hereby given that the Board of Viewers have reported to the Board of Flathead County Commissioners on the discontinuance of that certain public roadway in Flathead County, Montana, described as follows:

An easement, never an actual roadway, located in tract 2 which is in the SW1/4 of the NE1/4 of Section 27, Township 35, Range 21 West, PMM, Flathead County. This is easement "E" connecting existing county roadways "A" and "J"-L" in Section 27..

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for **Wednesday, February 2, 2005 at 9:30 A.M.** in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 13th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Gary D. Hall
Gary D. Hall, Chairman

PAULA ROBINSON,
CLERK AND RECORDER

By: /s/Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish on January 18th and 25th, 2005

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #427(PORION OF PECK ST)

Present at the January 13, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. **Nay** – Watne Motion carried unanimously.

**NOTICE OF DISCONTINUANCE
OF PUBLIC ROADWAY
NO. 427**

Notice is hereby given that the Board of Viewers have reported to the Board of Flathead County Commissioners on the discontinuance of that certain public roadway in Flathead County, Montana, described as follows:

All that portion of Peck Street adjacent to Lots 1 through 14, Block 1 and Lots 4 through 9, Block 2 of Renville, and Lot 2 of the Amended Plat of Lots 1,2 and 3 Block 2 of Renville in NE1/4 of Section 21, Township 30 North, Range 20 West, MPM.

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for **Thursday, February 3, 2005 at 9:30 A.M.** in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 13th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Gary D. Hall
Gary D. Hall, Chairman

PAULA ROBINSON,
CLERK AND RECORDER

By: /s/Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish on January 18th and 25th, 2005

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: CREATION OF WAPITI ACRES WATER & SEWER DIST.

Present at the January 13, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** –Hall and Brenneman. Motion carried.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 7-13-2205, M.C.A., that it will hold a public hearing to consider a petition to create the Wapiti Acres County Water and/or Sewer District. The petition contains 19 signatures. The first page of the petition and Appendix A are attached hereto.

The boundaries of the proposed Wapiti Acres County Water and/or Sewer District are set forth on Appendix "A" to the Petition.

The public hearing will be held on the **31st day of January, 2005, at 10:30 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 creation of the Wapiti Acres County Water and/or Sewer District.

DATED this 13th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By /s/Gary D. Hall
Gary D. Hall, Chairman

By /s/Monica R. Eisenzimer
Deputy

Publish on January 18 and January 25, 2005.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: CREATION OF FOY'S LAKESIDE ESTATES WATER & SEWER DIST.

Present at the January 13, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** –Hall and Brenneman. Motion carried.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 7-13-2205, M.C.A., that it will hold a public hearing to consider the attached petition to create the Foy's Lakeside Estates County Water and/or Sewer District. The petition contains 10 signatures.

The boundaries of the proposed Foy's Lakeside Estates County Water and/or Sewer District are set forth on Appendix "A" to the Petition.

The public hearing will be held on the **31st day of January, 2005, 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 creation of the Foy's Lakeside Estates County Water and/or Sewer District.

DATED this 13th day of January, 2005.

BOARD OF COUNTY COMMISSIONERS

Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By /s/Gary D. Hall
Gary D. Hall, Chairman

By /s/Monica R. Eisenzimer
Deputy

Publish on January 18 and January 25, 2005.

DOCUMENT FOR SIGNATURE: SECTION 5311 CONTRACT & FORMAL APPLICATION/EAGLE TRANSIT

Present at the January 13, 2005 10:15 A.M. Meeting were Chairman Hall, Commissioner Brenneman, Assistant Webb, and Clerk Eisenzimer.

Webb advised that the contract is for bus repair and an application for funding for Eagle Transit and recommends approval.

Commissioner Brenneman made a **motion** to approve the contract and application and authorize Chairman to sign. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. Motion carried.

DOCUMENT FOR SIGNATURE: QUITCLAIM DEED/CITY OF KALISPELL (PORTION OF LEISURE DR.)

Present at the January 10, 2005 10:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Peter Steele, Assistant Webb, and Clerk Eisenzimer.

Steele presented the Quitclaim deed giving portion the City of Kalispell.

Commissioner Brenneman made a **motion** to approve the Quitclaim Deed and authorize Chairman to sign. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. Motion carried.

PRELIMINARY PLAT: KILA HILL SUBDIVISION

Present at the January 13, 2005 10:30 A.M. Meeting were Chairman Hall, Commissioner Brenneman, Planner BJ Grieve, John Parsons, Dennis Green, Assistant Webb, and Clerk Eisenzimer.

Grieve reviewed the staff report regarding a request from Dennis Green on behalf of Budget Finance for preliminary plat approval of Kila Hill Subdivision, a minor subdivision that will create three single-family residential lots. The subdivision is proposed on 3.58 acres and will be served by individual on-site wells and septic systems. The subdivision is located off of US Highway 2, approximately 7 miles southwest of Kalispell. A variance is being requested in regards to Lot 3 being 93.06' wide with a depth of 508.13'. Staff recommends approval.

Commissioner Brenneman made a **motion** to adopt Staff Report #FSR-04-49 as Findings of Fact. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. Motion carried.

Commissioner Brenneman made a **motion** to approve the Preliminary Plat of Kila Hill Subdivision subject to 17 conditions of approval. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. Motion carried.

CONSIDERATION OF REQUEST TO RETURN COTTONWOOD ESTATES, LLC/MASTER PLAN AMENDMENT TO PLANNING BOARD

Present at the January 13, 2005 10:45 A.M. Meeting were Chairman Hall, Commissioner Brenneman, Joe Beasley, Wally Wilkinson, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to return the Cottonwood Estates Master Plan Amendment to the Planning Board. Chairman Hall **seconded** the motion. **Aye** -Hall and Brenneman. Motion carried.

Commissioner Watne was seated.

CONSIDERATION OF RELEASE OF COLLATERAL: HARMONY COURT

Present at the January 10, 2005 10:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Webb advised that the improvements have been completed and a letter on Harmony Court and recommends release.

Commissioner Watne made a **motion** to release collateral on Harmony Court. Commissioner Brenneman **seconded** the motion. **Aye** -Watne, Hall and Brenneman. Motion carried.

CONSIDERATION OF RELEASE OF COLLATERAL: JOHN'S GARDEN ACRES

Present at the January 10, 2005 10:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Hall reviewed a letter from Schwarz Engineering that the improvements have been completed on John's Garden Acres.

Commissioner Watne made a **motion** to release collateral for John's Garden Acres. Commissioner Brenneman **seconded** the motion. **Aye** -Hall and Brenneman and Watne Motion carried unanimously.

CONSIDERATION OF SALE OF TAX DEED PROPERTY IMPROVEMENT #53

Present at the January 10, 2005 10:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Peter Steele, Ron Burns, Robert Burns, Assistant Webb, and Clerk Eisenzimer.

Steele advised the Board of a grant deed of transfer of Improvement #53 to Robert Burns.

Commissioner Brenneman made a **motion** to approve granting the transfer of property through grant deed. . Commissioner Watne **seconded** the motion. **Aye** –Watne, Hall and Brenneman Motion carried unanimously.

- 12:00 p.m. Commissioners Hall and Brenneman are to attend Bigfork Land Use Advisory Committee meeting**
- 2:00 p.m. Commissioner Hall is to attend AOA Board meeting at Kalispell Senior Center**
- 4:00 p.m. Commissioner Brenneman is to attend Groundwater Use agreement meeting at Hampton Inn**
- 7:30 p.m. Fair Board meeting at Fair Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 14, 2005.

FRIDAY, JANUARY 14, 2005

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Watne and Brenneman, 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 January 17, 2005.