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**MONDAY, AUGUST 15, 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.**

**CONSIDERATION OF DRIVING POLICY FOR VOLUNTEERS / HUMAN RESOURCE OFFICE**

[9:56:24 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Raeann Campbell, Robin Boon, David Prunty, Jed Fisher

David Prunty gave a brief overview of the reason for this request to change the driving policy for volunteers. After discussion it was decided to bring this to the department head meeting first.

Commissioner Watne made a **motion** to approve the six new employee policies excluding the driving policy for volunteers. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: APPENDIX A OF AMENDED FEE SCHEDULE / ALLEGIANCE BENEFIT PLAN**

[10:06:10 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Raeann Campbell, Robin Boon, David Prunty, Jed Fisher

Commissioner Watne made a **motion** to approve the Allegiance Benefit Plan appendix A referring to the amended fee schedule, and authorize the chairman to sign. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

**PUBLIC HEARING: OBERLITNER ZONE CHANGE / HIGHWAY 93 ZONING DISTRICT**

[10:13:32 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Peggy Goodrich, Jeff Harris

Goodrich reviewed Staff Report #FZC-05-12.

Chairman Hall opened the public hearing to anyone wishing to speak in favor or opposition.

No one present to speak Chairman Hall closed the public hearing.

Commissioner Watne made a **motion** to adopt Resolution 837BI. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

RESOLUTION NO. 837 BI

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 15<sup>th</sup> day of August, 2005, concerning a proposal by, Tom and Brenda Oberlitner, to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on August 4 and August 11, 2005;

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

WHEREAS, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural), that area being described on Exhibit "A" hereto.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Highway 93 North Zoning District to be amended, the general character of the proposed designation for the area to be

amended, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Highway 93 North Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Highway 93 North Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty per cent (40%) of the freeholders protest the proposed change in said district, then the change will not be adopted.

DATED this 15<sup>th</sup> day August, 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  
By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser

Deputy

TOM AND BRENDA OBERLITNER  
ZONE CHANGE FROM SAG- 10 to SAG-S  
STAFF REPORT #FZC-05-12

Location and Legal Description of Property:

The site proposed for the map amendment is located between Whitefish Stage Road and U.S. Highway 93, south of Birch Grove Road. The area included in the proposal can be legally described as Tracts 4GA and 40 in Section 7, Township 29 North, Range 21 West, P.M.M, Flathead County, Montana. Location maps are included for reference.

Commissioner Watne made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION  
HIGHWAY 93 NORTH ZONING DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 837 BI) on August 15, 2005, to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from SAG-5, to R-2 are set forth on Exhibit "A".

The proposed change would change the character of the zoning regulations applicable to the property which, in both SAG-10 and SAG-5 districts, are intended to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized, by providing for estate type residential development and by reducing the minimum lot size from 10 acres to five acres.

The regulations defining the SAG-10 and SAG-5 are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Highway 93 North Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 15<sup>th</sup> day of August, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

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

By/s/Kimberly Moser

Deputy

Publish on August 18 and August 25, 2005.

TOM AND BRENDA OBERLITNER  
ZONE CHANGE FROM SAG- 10 to SAG-S  
STAFF REPORT #FZC-05-12

Location and Legal Description of Property:

The site proposed for the map amendment is located between Whitefish Stage Road and U.S. Highway 93, south of Birch Grove Road. The area included in the proposal can be legally described as Tracts 4GA and 40 in Section 7, Township 29 North, Range 21 West, P.M.M, Flathead County, Montana. Location maps are included for reference.

**CONSIDERATION OF ADOPTION OF RESOLUTION: LEVEL II FIRE RESTRICTIONS**

[10:17:09 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jon Smith

Commissioner Watne made a **motion** to deny to adopt Resolution 1874. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

Resolution No. 1874

WHEREAS, due to hot and dry conditions, the fire danger in Flathead County is in the extreme category;

WHEREAS, the weather forecasts for Flathead County indicate little relief from the very dry conditions;

WHEREAS, the Forest Supervisors for the Kootenai and Flathead National Forests issued Stage II restrictions effective August 14, 2005; and

WHEREAS, fire occurrences in Northwestern Montana are potentially sufficiently numerous that the Interagency Fire Committee has recommended issuance of Stage II Restrictions for all of Flathead County.

NOW, THEREFORE, BE IT RESOLVED that, at the request of the Interagency Fire Committee, the Board of Commissioners of Flathead County, Montana, hereby establishes the following Stage II fire restrictions on all State forested lands and on private forested lands open to the public in Flathead County, Montana, and the following acts or uses are prohibited:

- a) Building, maintaining, attending or using a fire, campfire or stove fire. [36CFR 261.52(a)]
- b) Smoking, except within an enclosed vehicle or building; a developed recreation site; or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material. [36CFR 261.52(d)]
- c) Between the hours of 1:00 p.m. and 1:00 a.m., the following acts are prohibited:
  - 1. Operating a chainsaw or other equipment powered by an internal combustion engine for felling, bucking, skidding, road building, and woodcutting, during industrial operation or firewood gathering.
  - 2. Blasting, welding or other activities that generate flame or flammable material.
- d) A patrol is required for two hours following cessation of all work related to clause c) of this resolution.
- e) Operating motorized vehicles off of designated roads and trails. [36CFR 261.56]

BE IT FURTHER RESOLVED that the foregoing restrictions shall take effect at 0001 hours (12:01 a.m.) on August 16, 2005, and shall remain in effect until rescinded by the Board of Commissioners of Flathead County, Montana.

DATED this 15th day of August, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By not approved  
Gary D. Hall, Chairman

By not approved  
Robert W. Watne, Member

By \_\_\_\_\_  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By not approved

Deputy

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: GRANITE HOLDINGS TEXT AMENDMENT / FLATHEAD COUNTY MASTER PLAN**

[10:18:06 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Watne made a **motion** to adopt Resolution 789Y. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

RESOLUTION NO. 789 Y

WHEREAS, Granite Holdings, LLC, has requested a revision to the Flathead County Master Plan by amending the Flathead County Master Plan by changing the designation of approximately 40.28 acres of land from Agricultural to Suburban Residential, to allow for new residential housing opportunities to meet the market demand;

WHEREAS, the Flathead County Planning Board recommended that the Board of Commissioners adopt the revision to the Flathead County Master Plan;

WHEREAS, the Board of Commissioners passed a resolution of intent (Resolution No. 789 W) to consider the requested plan change on July 6, 2005, and gave notice that it would consider public comment received prior to August 10, 2005; and

WHEREAS, the Board of Commissioners has considered the information presented to it since the adoption of that resolution of intent.

NOW THEREFORE, BE IT RESOLVED, pursuant to Section 76-1-604, M.C.A., by the Board of Commissioners of Flathead County, Montana, that it hereby adopts a revision to the Flathead County Master Plan by the adoption of the amendment changing the designation of land, from Agricultural to Suburban Residential allowing for new residential housing opportunities to meet the market demand. The property is described as Lot 1, Subdivision #128, in Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana containing approximately 40.28 acres.

DATED this 15<sup>th</sup> day of August, 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

By \_\_\_\_\_  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By /s/Kimberly Moser  
Deputy

#### **CONSIDERATION OF PRINTING BIDS: PLANNING & ZONING OFFICE**

[10:19:36 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Watne made a **motion** to approve the bid submitted by Great Northern Printing in the amount of \$39.90 for business cards. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

#### **PRELIMINARY PLAT: MOUNTAIN MEADOW ESTATES**

[10:37:30 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Traci Sears-Tull, Debbie Shoemaker

Sears-Tull reviewed the application submitted by FR Kirk Co for preliminary plat approval of Mountain Meadow Estates Subdivision, a minor subdivision creating four single-family residential lots. The subdivision is proposed on 40.09 acres and will be served by individual water & septic systems. The property is located off of Mountain Meadow Road, approximately fifteen miles southwest of Whitefish. The property is located in the West Valley Zoning District. There are 15 conditions of approval. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report #FSR-05-53 as findings of fact. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

Commissioner Watne made a **motion** to approve the preliminary plat of Mountain Meadow Estates subject to 15 conditions. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

#### **CONDITIONS**

1. The developer shall obtain and or show proof of a completed approach permit from the Montana Department of Transportation for all access from U.S. Highway 93, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
2. The applicant shall receive physical addresses and name all roads in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7), FCSR]
3. The developer shall contact the local postmaster to confirm area mail delivery and establish an appropriate location for mailbox placement in accordance with Flathead County Subdivision Regulations [Section 3.22 FCSR].
4. The design and development of the subdivision shall contain satisfactory building sites properly related to topography and

- shall preserve the natural terrain, drainage, existing topsoil, trees, natural vegetation, wildlife and fish habitats to the extent possible. [Section 3.2, FCSR]
5. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with a plan approved by the County Weed Department. [Section 3.12(J), FCSR]
  6. Electrical and telephone utilities shall be extended underground to abut and be available to each lot in accordance with Flathead County Subdivision Regulations. Utility plans shall be approved by the applicable utility companies. [Sections 3.17 and 3.18 FCSR].
  7. The subdivision lots shall be reviewed and approved by the Flathead City-County Health Department and the Montana Department of Environmental Quality for individual sewer and water facilities and storm water management. [Sections 3.14(A) and 3.15(A), FCSR]
  8. The following statements shall be placed on the face of the final plat applicable to all lots:
    - a) All addresses shall be visible from the road, and at the driveway entrance or on the house. [3.20(D), FCSR]
    - b) All utilities shall be placed underground. [3.17(A), FCSR]
    - c) Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed. [3.12(J), FCSR]
    - d) All driveways shall be a 10% maximum grade to ensure access by emergency vehicles. [Section 3.6 E FCSR]
    - e) Only Class A and Class B fire resistant roofing materials are allowed. [Section 3.21 F]
    - f) Defensible Space Standards shall be incorporated around all primary structures as described in Appendix G of the Flathead County Subdivision Regulations. [Section 3.21 F]
    - g) Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game such as deer and bear is illegal in Montana. Lot owners are strongly encouraged to contact the Montana Department of Fish, Wildlife and Parks to obtain information on methods for safely living near wildlife and minimizing habitat impact. The following are required:
      - i. Dogs must be kept under owner control at all times, either leashed or confined.
      - ii. Bear-proof containers are required for refuse and feed for pets or livestock.
      - iii. Compost piles are prohibited unless secured by electrical fencing or otherwise enclosed.
      - iv. Pets must be fed indoors or food dishes must be brought in at night.
      - v. Bird feeders must be placed out of reach of deer, bear, and other large game.
  9. The following statement shall appear on the face of the final plat:
 

Waiver of Protest - Special Improvement District

\_\_\_\_\_ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes \_\_\_\_\_ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that \_\_\_\_\_ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. \_\_\_\_\_ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for \_\_\_\_\_ Subdivision [County Resolution 503-M]
  10. Except as modified above, the subdivision shall comply with Chapter 3 of the Flathead County Subdivision Regulations. [Chapter 3, FCSR]
  11. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
  12. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
  13. The applicant shall comply with *reasonable* fire suppression and access requirements of the Whitefish Rural Fire District. A letter from the Fire Chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
  14. A variance to a single lot shall not be divided by a public road in section 3.6 of the Flathead County Subdivision Regulations shall be granted for lots 2 & 3. [Section 7.1, Flathead County Subdivision Regulations]
    15. Each lot shall have a building site (minimum 40 foot by 40 foot square pad) on existing undisturbed terrain of 30% or less slope and each building site must be able to be accessed by a minimum 12 foot wide drive with a maximum 10% slope. [Section 3.6(E), FCSR]

#### **PRELIMINARY PLAT: SUBDIVISION NO. 257**

[10:49:30 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Peggy Goodrich, Erica Wirtala

Goodrich reviewed the application submitted by Joyce Debsanire-Thomas, Glen Thomas, and Robert & Catherine Harvey for preliminary plat approval of Subdivision No. 257, a minor subdivision creating one single-family residential lot with a remainder. The subdivision is located on the west side of Farm To Market Road, south of the intersection of Farm To Market and Tally Lake Road. The property is unzoned. There are 11 conditions of approval. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report #FSR-05-44 as findings of fact. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

Commissioner Watne made a **motion** to approve the preliminary plat of Subdivision #257 subject to 11 conditions. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

#### **CONDITIONS**

1. The developer shall obtain and or show proof of a completed approach permit from the Montana Department of Transportation for the access to Farm to Market Road, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]



2. A fifteen (15) foot bicycle/pedestrian path easement shall be granted by the applicant along the western side of the right of way of Farm to Market Road. [Section 3.11 (A), FCSR]
3. The applicant shall receive physical addresses and name all roads in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7), FCSR]
4. The developer shall contact the local postmaster to confirm area mail delivery and establish an appropriate location for mailbox placement in accordance with Flathead County Subdivision Regulations [Section 3.22 FCSR].
5. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with a plan approved by the County Weed Department. [Section 3.12(J), FCSR]
6. Electrical and telephone utilities shall be extended underground to abut and be available to each lot in accordance with Flathead County Subdivision Regulations. Utility plans shall be approved by the applicable utility companies. [Sections 3.17 and 3.18 FCSR].
7. The following statements shall be placed on the face of the final plat applicable to all lots:
  - a) All addresses shall be visible from the road, and at the driveway entrance or on the house. [3.20(D), FCSR]
  - b) All utilities shall be placed underground. [3.17(A), FCSR]
  - c) Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed. [3.12(J), FCSR]
  - d) Only Class A and Class B fire resistant roofing materials are allowed. [Section 3.21 F]
  - e) Defensible Space Standards shall be incorporated around all primary structures as described in Appendix G of the Flathead County Subdivision Regulations. [Section 3.21 F]
  - f) Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game such as deer and bear is illegal in Montana. Lot owners are strongly encouraged to contact the Montana Department of Fish, Wildlife and Parks to obtain information on methods for safely living near wildlife and minimizing habitat impact. The following are required:
    - i. Dogs must be kept under owner control at all times, either leashed or confined.
    - ii. Bear-proof containers are required for refuse and feed for pets or livestock.
    - iii. Compost piles are prohibited unless secured by electrical fencing or otherwise enclosed.
    - iv. Pets must be fed indoors or food dishes must be brought in at night.
    - v. Bird feeders must be placed out of reach of deer, bear, and other large game.
8. The following statement shall appear on the face of the final plat:
 

Waiver of Protest - Special Improvement District  
 \_\_\_\_\_ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes \_\_\_\_\_ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that \_\_\_\_\_ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. \_\_\_\_\_ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for \_\_\_\_\_ Subdivision [County Resolution 503-M]
9. Except as modified above, the subdivision shall comply with Chapter 3 of the Flathead County Subdivision Regulations. [Chapter 3, FCSR]
10. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
11. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

**CONSIDERATION OF LAKESHORE PERMIT: BIGFORK SHORES LANDOWNERS**

[10:59:05 AM](#)

Members present:

Chairman Gary D. Hall  
 Commissioner Robert W. Watne

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, George Smith, Carroll Blend

Smith reviewed the Lakeshore Permit application submitted by Bigfork Shores Landowners for Flathead Lake to mow encroaching pond weed from the harbor bottom. A boat mounted mower will be used, and no equipment, other than the mover and collection assembly will enter the lake waters. After completion, all plant materials will be removed from the lake, dried on a boat ramp and disposed of outside the Lakeshore Protection Zone. This permit may be renewed for one additional year upon notification of the department and payment of the permit fees.

Commissioner Watne made a **motion** to approve amendment to conditions 7 requiring a county official to be on hand to observe turbidity. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

Commissioner Watne made a **motion** to approve Lakeshore Permit #FLP-05-95 subject to 11 amended conditions. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

**CONSIDERATION OF LAKESHORE PERMIT: WEISS**

[11:04:27 AM](#)

Members present:  
Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Members absent:  
Commissioner Joseph D. Brenneman  
Others present:  
Clerk Kimberly Moser, George Smith

Smith reviewed the Lakeshore Permit application submitted by Stephen & Judy Weiss for Flathead Lake to install a fixed boat shelter over the 12-foot by 25-foot slip of an existing f-shaped dock. All work will be done from the existing dock and / or a barge, and no equipment will contact the lake.

Commissioner Watne made a **motion** to approve Lakeshore Permit #FLV-05-08 subject to 18 conditions. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

**MEETING W/ TOM SANDS RE: ROAD IN BEAR HOLLOW SUBDIVISION**

11:17:37 AM  
Members present:  
Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Members absent:  
Commissioner Joseph D. Brenneman  
Others present:  
Clerk Kimberly Moser, Kirsten Holland, Tom Sands

Discussion was held relative to a preliminary plat approval for Bear Hollow Subdivision. Tom Sands stated that while constructing the internal subdivision road they ran across some hard rock, so they would like to amend the plat. They wish to change the number of lots and the length of the road. Kirsten Holland stated that the planning department did not have a problem with the change as long as it was approved by the commissioners. The commissioners came to a consensus that they did not have a problem with the change.

**7:00 a.m. Commissioner Brenneman to attend LEPC Train Trip (till 1)**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 15, 2005.

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**TUESDAY, AUGUST 16, 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.

**7:00 a.m. Commissioner Hall to attend GNESA meeting in whitefish (till noon)**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 17, 2005.

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**WEDNESDAY, AUGUST 17, 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,**

M.S. Kakuk spoke as a representative of the Montana Contractors Association. He stated that the MCA opposes the proposed text amendment. He also stated that they are committed to sitting down with the counties and interested parties to map and develop appropriate zoning.

Jerry Nix applauded the commissioners for brining forth this text amendment. He stated that it would be good for the MCA to work at mapping out appropriate zoning but that in the meantime this amendment is needed.

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

**OPEN BIDS: TRANSPORTATION 5-YEAR DEVELOPMENT PLAN / EAGLE TRANSIT**

9:06:03 AM  
Members present:  
Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman  
Others present:  
Clerk Kimberly Moser, Cheryl Talley, Jim Atkinson, Wes Hula

Landsman Transportation Planning  
Phase 1 - \$11,300  
Phase 2 - \$2642  
Phase 3 - \$3650  
Phase 4- \$5160  
Phase - \$4850  
Total - \$27,600

Rae Consultants  
Total \$29,930

LSC Transportation  
Total \$30,000

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

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: MCMANUS ZONE CHANGE / EVERGREEN & VICINITY ZONING DISTRICT**

[9:13:25 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Hugh and Alice McManus, to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to I-1 (Light Industrial).

The boundaries of the area proposed to be changed from R-1 to I-1 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a residential district intended to provide estate type development, in rural areas away from concentrated urban development or in areas where it is desirable to permit only low density development to an industrial district to provide for light industrial uses that typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odor, smoke, etc.) which extend beyond the lot lines, including light manufacturing, processing, fabrication and assembling of products or material, warehousing and storage and transportation facilities.

The regulations defining the R-1 and I-1 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

The public hearing will be held on the **6<sup>th</sup> day of September 2005, at 9:15 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 change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

DATED this 17<sup>th</sup> day of August, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser

Deputy

Publish on August 22 and August 29, 2005.

MCMANUS ZONE CHANGE  
REQUEST FOR ZONE CHANGE FROM R-1 to I-i  
STAFF REPORT #FZC-05-14

**Location and Legal Description of Property:**

These properties are on the south side of East Reserve Drive approximately one-quarter mile east of LaSalle Road generally on the southeast corner of East Reserve Drive and Ash Road. The properties proposed for rezoning are addressed as 563 Ash Road. The properties can be described as Assessor's Tracts 1K and 1L located in Section 33, Township 29 North, Range 21 West, P.M. M., Flathead County, Montana.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: BOLL & PARKER ZONE CHANGE / BIGFORK ZONING DISTRICT**

[9:14:07 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser



Commissioner Watne made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Jeff Boll and Gerald L. Parker Family Trust to change the zoning designation in a portion of the Bigfork Area Zoning District from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-20 to SAG-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from regulations intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions, intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development, to regulations intended to protect and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development. The AG-20 classification has a minimum lot size of 20 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-20 to SAG-5 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the **6<sup>th</sup> day of September, 2005, at 10:15 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 change in the regulations for the described portion of the Bigfork Area Zoning District.

DATED this 17<sup>th</sup> day of August, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

Paula Robinson, Clerk

By /s/Kimberly Moser  
Deputy

Publish on August 22 and August 29, 2005.

BOLL/ PARKER  
REQUEST FOR ZONE CHANGE FROM AG-20 TO SAG-S  
STAFF REPORT #FZC-05-13

**Location and Legal Description of Property:**

The property proposed for rezoning is located just east of MT Highway 35 on Parker Lakes Road. The property can be described as Assessor's Tracts 3 and 3D in Section 12, Township 27 North, Range 20 West P.M.M., Flathead County.

**BOARD APPOINTMENTS: OLNEY VOLUNTEER FIRE DISTRICT**

9:15:16 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Watne made a **motion** to appoint Renee Fredrickson, Roxanne Street, and Jeff Mielke to the Olney Volunteer Fire District. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**BUDGET AMENDMENT: AOA**

9:16:51 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Wes Hula

Commissioner Watne made a **motion** to adopt Resolution 1875. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**BUDGET AMENDMENT RESOLUTION  
RESOLUTION NO. 1875**

**WHEREAS**, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2004-2005, are required, and;

**WHEREAS**, Section 7-6-4031, M.C.A. and Budget Resolution No. 1689, allow budget transfers to be made between items in the same fund.

**NOW, THEREFORE, BE IT RESOLVED**, that the attached list of transfers and revisions shall be made in the budget for Flathead County for Fiscal Year 2004-2005; and

**BE IT FURTHER RESOLVED**, that this Resolution and the attached list of transfers and revisions shall be entered into the minutes of the Board of Commissioners.

DATED this 17<sup>th</sup> day of August, 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

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

ATTEST:  
Paula Robinson, Clerk

By: /s/Kimberly Moser  
Kimberly Moser, Deputy

**COUNTY OF FLATHEAD**  
**GENERAL JOURNAL VOUCHER**  
**BUDGET AMENDMENT - FY05**  
**RESOLUTION # 1875**

DATE ISSUED:  
DATE OF RECORD:

VOUCHER  
NO.: **0506-261**

MCA 7-6-4006	ACCOUNTING COPY	"B" Entry		
Account Number	Description	Line	Debit General Ledger	Credit General Ledger
2987-0190-331161	III-B	1	\$ 3,150.00	
2987-0190-331172	Training Grant	2	\$ 224.00	
2987-172000	Revenue Control	3		\$ 3,374.00
		4		
2987-0190-450325-378	Travel	5		\$ 3,374.00
2987-242000	Expense Control	6	\$ 3,374.00	
		7		
		8		
	To Increase Budget-Per	9		
	memorandum of agreement	10		
	(see attached)	11		
		12		
		13		
		14		
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		35		
	Total		\$ 6,748.00	\$ 6,748.00

Explanation:

by: Gary L Como,  
Finance

Approved by: Commissioners by Resolution

### **MONTHLY MEETING W/ DAVE PRUNTY, SOLID WASTE DISTRICT**

[9:37:38 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, David Prunty

Discussion was held relative to the Solid Waste Board public hearing on the new asbestos fees which are now ready to bring before the commissioners, the Creston container site project is near completion, the plans to upgrade the Somers site, liner construction is in full phase now, the tree removal mitigation process, the landfill expansion project and the DEQ review supposedly being completed today, container growth plan work being done with planning and zoning and how they can enforce the requirement for private hauling of garbage, the month of July at the Landfill was the busiest on record, the possibility of doing a mass mailing that would inform consumers of the container site rules and the possibility of sending those out with the tax bills, and the West Glacier landfill site and the proposal from a gentleman to buy the property

### **MONTHLY MEETING W/ JED FISHER, WEED/PARKS/MAINTENANCE**

[10:00:17 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jed Fisher

Discussion was held relative to a Lakeshore Permit in Bigfork that will have a county official observing turbidity, the long term maintenance for trails in the valley and the need for a plan. Jed Fisher requested that the commissioners set a date and time to sit down and discuss the long term maintenance plan for the county trails. He reviewed the bus barns request to have all of their parking lots seal coated. Jed also discussed a proposal by the Heren family for a three way land swap, and asked the commissioners for their thoughts on proceeding with getting appraisals for these pieces of land. Jed spoke with the commissioners on the request by AOA to acquire the armory building and asked the commissioners to consider the maintenance aspect of taking care of the building. He informed the commissioners about work being done with the Marion Fire Department on the use of property for water uses by the fire department. Jed updated the commissioners on the commissioner only parking signs in the parking lot. Jed talked to the commissioners about a legislative issue that has been passed that could possibly help out with the funding of the justice center boiler upgrades. Jed informed the commissioners of the second mowing of county roads for this season. He also informed the commissioners of his work with the Mercord family on acknowledging the family for the work they did in finding funding for a park.

### **CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: GRAVEL PITS TEXT AMENDMENT / FLATHEAD COUNTY ZONING REGULATIONS**

[10:32:44 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jeff Harris, Peter Steele, Jonathan Smith, Jerry Nix, Ginny Coyle, Jeff Clardige, Butch Woodland, M. S. Kakus, Brett Fisher, Kirsten Holland, Eric Giles, Bruce Tutvedt

Jonathan Smith reviewed the work they have done on this amendment and believes that this is a good start. He stated that he does not agree with the statements made by the Montana Contractors Association. He stated that this may result in lawsuits but if they do nothing it will result in lawsuits any way, but he does believe there would be more lawsuits if they do not pass this. He stated that he is encouraging the commissioners to move forward with this proposal and then go ahead and entertain any new proposals that come forward in the future.

Peter Steele stated that Jonathan covered his thoughts. He also stated that the word residential needs to be in this proposal.

Jonathan Smith stated that he needs to remove Ag-40 and AG-20 from the final Resolution. He stated that when the original Resolution of Intent came before the commissioners they looked at amending the definition of AG-40 and AG-20 but in the end decided not to do this, and so it should have been removed from the Final Resolution.

Jeff Harris read the proposed changes. He stated that he felt that these are appropriate changes.

Commissioner Hall stated that the option would be to approve the resolution, to deny the resolution, or to approve the resolution and create a board to discuss possible changes.

Commissioner Brenneman stated that this was not rushed into, and at anytime during this whole process any one could have submitted recommendations. He stated that to turn this down or to continue it would be a mistake. He also stated that he agreed with Commissioner Halls recommendation that a committee be put together to discuss other options.

Commissioner Hall questioned what would happen if a committee comes up with a recommendation.

Jonathan Smith reviewed the process required to implement a Resolution.

Commissioner Brenneman made a **motion** to adopt Resolution 955GM. Commissioner Hall **seconded** the motion. **Aye** – Hall and Brenneman. **Opposed** – Watne. Motion carried by quorum.

RESOLUTION NO. 955GM

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 31<sup>st</sup> day of May, 2005, concerning a proposal to change the text of the Flathead County Zoning Regulations which would add a new subsection 9 to Section 3.03.020, to define zoning districts that allow residential uses as residential zones for purposes of Section 76-2-209, M.C.A., and would amend the definitions of the AG-40 (Agricultural), AG-20 (Agricultural), SAG-10 (Suburban Agricultural) and SAG-5 (Suburban Agricultural) zoning classifications, in order that regulation of operations that mine sand and gravel or that mix concrete or batch asphalt may be prohibited or conditioned in those residential zones;

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of Flathead County Planning Board regarding the proposed amendment;

WHEREAS, based upon that recommendation and the testimony of the public, 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. 955 GL dated June 29, 2005) to change the zoning regulations which would add a new subsection 9 to Section 3.03.020, to define zoning districts that allow residential uses as residential zones for purposes of Section 76-2-209, M.C.A., and would amend the definitions of the AG-40 (Agricultural), AG-20 (Agricultural), SAG-10 (Suburban Agricultural) and SAG-5 (Suburban Agricultural) zoning classifications, in order that regulation of operations that mine sand and gravel or that mix concrete or batch asphalt may be prohibited or conditioned in those residential zones;

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on July 6 and July 13, 2005, and the Board of Commissioners did not receive written protests to the change from forty percent (40%) of the freeholders.

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 Flathead County Zoning Regulations adding a new subsection 9 to Section 3.03.020, to define zoning districts that allow residential uses as residential zones for purposes of Section 76-2-209, M.C.A., and amending the definitions of the AG-40 (Agricultural), AG-20 (Agricultural), SAG-10 (Suburban Agricultural) and SAG-5 (Suburban Agricultural) zoning classifications, in order that regulation of operations that mine sand and gravel or that mix concrete or batch asphalt may be prohibited or conditioned in those residential zones as set forth on Exhibit A hereto.

DATED this 17<sup>th</sup> day of August, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

By: \_\_\_\_\_  
Robert W. Watne, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser  
Deputy

**Exhibit A**

**Amendments to the Flathead County Zoning Regulations to implement the provisions of Section 76-2-209, M.C.A., as amended by the 2005 Legislature.**

Add paragraphs 9 and 10 to Section 3.03.030, as set forth below, and amend the definition of SAG-10 to include estate type residential development.

**3.03.020 Except as provided for elsewhere in these regulations.**

9. For the purpose of applying Section 76-2-209, M.C.A., which addresses the application of zoning regulations for sand and gravel extraction operations and associated asphalt and concrete batch plants, any zoning or use district, including those overlaid with a Planned Unit Development, which provides for Dwellings, Single Family, Single Family Residential, Single Family Dwelling or Dwellings, Resort 1 – 4 plex, or similar residential use categories as a permitted use, is zoned as residential. In those districts the zoning regulations adopted and provided for herein shall specifically apply to sand and gravel extraction and asphalt or concrete batch plant use.

10. In R-1 (Suburban Residential), R-2 (One Family Limited Residential), R-3 (One Family Residential), R-4 (Two Family Residential), R-5 (Two Family Residential), RC-1 (Residential Cluster), and RA-1 (Residential Apartment) zoning or use districts, sand and gravel extraction and asphalt and concrete batch plant uses are prohibited. In other residential districts, as defined herein, sand and gravel extraction and asphalt and concrete batch plant uses shall be conditioned under the provisions of Sections 2.06 and 4.10, provided however, that if the negative impacts (including those listed in Section 2.06.080.1.D) on the surrounding area cannot be reasonably mitigated, all sand and gravel extraction and associated operations, or processing of sand and gravel, or asphalt and/or concrete batch plant uses, may be prohibited.

**SECTION 3.07 SAG-10 SUBURBAN AGRICULTURAL**

3.07.010 Definition.

A District to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.

Delete Subsection 3.09.030(14) which lists Extractive Industries as a conditional use in the R-1 (Suburban Residential) classification.

Commissioner Hall questioned the process of creating a board or a committee.

Jonathan Smith reviewed the process.

Jeff Harris stated that if this was an appointed board then the committee would be subject to the open meeting laws and could receive more public comment.

Commissioner Brenneman made a **motion** to create a board to review and come up with different options. Commissioner Hall **seconded** the motion. **Aye** – Hall, Watne and Brenneman. Motion carried unanimously.

Commissioner Hall asked Brett Fisher to head up a search while working with the planning office to get people together to be on the board.

**9:15 a.m. RSVP meeting at RSVP Office**  
**11:00 a.m. County Attorney meeting w/ County Attorney's Office**  
**12:00 p.m. Commissioner Hall to speak at the Kiwanis Club at the Outlaw Inn**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 18, 2005.

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### **THURSDAY, AUGUST 18, 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.

**2:00 p.m. Commissioner Watne to attend Health Board meeting at the Earl Bennett Building**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on August 19, 2005.

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### **FRIDAY, AUGUST 19, 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 August 22, 2005.