
MONDAY, NOVEMBER 7, 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.

8:00 a.m. Weed & Parks board Meeting at the Weed & Parks Office

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

TUESDAY, NOVEMBER 8, 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.

BOARD APPOINTMENTS: ROADLESS RULE TASK FORCE

[9:19:36 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser

Commissioner Hall reviewed the variety of interests that have been received and the applicant's qualifications.

Commissioner Brenneman made a **motion** to appoint Richard Funke, Bill Baum, Dave Hadden, Edwin Fields, Lisa Bate, Victor Workman, Ron Stuber, Doug Denmark, Fred Hodgeboom, Robbie Holman, John E Hansen, and Chuck Rody to the Roadless Rule Task Force. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

MONTHLY MEETING W/ KAROLE SOMMERFIELD, 4-H OFFICE

[10:09:07 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Karole Sommerfield

Discussion was held relative to a map of the extension offices in Montana, articles in the newspaper about the 4-H program, a recent conference attended by Karole, the current food drive service project, and the current leader training conferences.

BUDGET AMENDMENTS

[10:13:36 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser

Assistant Pence reviewed the Budget Resolutions.

Commissioner Brenneman made a **motion** to adopt Resolution 1898. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**BUDGET AMENDMENT RESOLUTION
RESOLUTION NO. 1898**

WHEREAS, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2005-2006, 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 2005-2006; 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 8th day of November, 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 - FY06
RESOLUTION # 1898

DATE ISSUED: _____ VOUCHER NO.: **0511-05**
DATE OF RECORD: _____

MCA 7-6-4006	ACCOUNTING COPY	"B" Entry		
Account Number	Description	Line	Debit General Ledger	Credit General Ledger
2964-0190-331125	Youth Suicide Prevention	1	\$ 10,000.00	
2964-172000	Revenue Control	2		\$ 10,000.00
		3		
2964-0190-440113-210	Office Supplies	4		\$ 700.00
2964-0190-440113-228	Educational Supplies	5		\$ 800.00
2964-0190-440113-380	Training Suppies	6		\$ 7,400.00
2964-0190-440113-398	Contracted Services	7		\$ 1,100.00
2964-242000	Expense Control	8	\$ 10,000.00	
		9		
	To establisd budget for approved	10		
	block grant effective 9/15/05	11		
	As per attached detail	12		
		13		
		14		
		15		
		16		
		17		
		18		
		19		
		20		
		21		
		22		
		23		
		24		
		25		
		26		
		27		
		28		
		29		
		30		
		31		
		32		
		33		
		34		
		35		
	Total		\$ 20,000.00	\$ 20,000.00

Explanation:

by: Gary L Como,
Finance

Approved by: Commissioners by Resolution

Commissioner Watne made a **motion** to adopt Resolution 1899. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

BUDGET AMENDMENT RESOLUTION
RESOLUTION NO. 1899

WHEREAS, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2005-2006, 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 2005-2006; 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 8th day of November, 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 - FY06
RESOLUTION # 1899

DATE ISSUED:
DATE OF RECORD:

VOUCHER NO.: **0511-06**

MCA 7-6-4006	ACCOUNTING COPY	"B" Entry		
Account Number	Description	Line	Debit General Ledger	Credit General Ledger
2398-0221-342045	Hazmat Containment	1	\$ 3,860.00	
2398-172000	Revenue Control	2		\$ 3,860.00
		3		
2398-0221-420600-110	Salaries	4		\$ 4,428.00
2398-0221-420600-141	Unemployment	5		\$ 11.00
2398-0221-420600-142	Work-Comp	6		\$ 317.00
2398-0221-420600-144	FICA	7		\$ 275.00
2398-0221-420600-146	Sheriff's Retirement	8		\$ 69.00
2398-0221-420600-147	Medicare	9		\$ 61.00
2398-0221-420600-212	Small Item Equipment	10		\$ 820.00
2398-0221-420600-220	Operating Supplies	11		\$ 2,200.00
2398-0221-420600-229	Other Operating Supplies	12		\$ 200.00
2398-0221-420600-231	Gas,Oil,Diesel	13		\$ 500.00
2398-0221-420600-311	Postage	14		\$ 19.00
2398-0221-420600-312	Freight	15		\$ 540.00
2398-0221-420600-378	Travel	16		\$ 420.00
2398-0221-420600-301	Bdgt Amendment-Holding	17	\$ 6,000.00	
2398-242000	Expense Control	18	\$	

			3,860.00	
		19		
		20		
		21		
		22		
		23		
		24		
	Increase spending authority to	25		
	account for additional revenues	26		
	received on A101-0509-	27		
	457,458,677			
	A101-0510-704)	28		
	Re-Allocate approved amount in	29		
	Bdgt Amendment Holding	30		
		31		
		32		
		33		
		34		
		35		
	Total		\$ 13,720.00	\$ 13,720.00

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

AUTHORIZATION TO PUBLISH CALL FOR BIDS: NEW ROOF / JUSTICE CENTER

[10:16:54 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Jed Fisher

Jed Fisher reviewed the budgeted amounts and the current preliminary assessments.

Commissioner Watne made a **motion** to approve the call for bids and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids for the replacement of the roof on the Flathead County Justice Center, 920 South Main, Kalispell, Montana.

The project will consist of removing and replacing the current EDMF roof with a new 45 mil thick roof of equivalent material, including moving and replacing of ballast materials, sealing of the roof around the structures and drains on the roof, replacing the metal cap and all other processes required to replace the existing roof. The roof is approximately 21,600 square feet in size. Potential bidders are encouraged to inspect the roof and may arrange to do so by calling Don Mills at 758-5798. A contract form is also available from Mr. Mills.

Each bidder must specify the warranty that will be included with the project and must produce a schedule showing when the work can be started and completed. Warranties and schedules will be considered when determining the bid that is in the best interest of Flathead County and will be included in the contract for replacement of the roof.

Each bidder must deposit with his bid, a bid security in the amount of ten percent (10%) of the bid to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the completion of the project. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States, a cashier's check, certified check, bank money order, or bank draft issued by a Montana bank, or bid bond executed by a surety corporation authorized to do business in Montana.

No bidder may withdraw a bid after the actual date of the opening thereof.

A Performance Bond and Labor and Materials Payment Bond each in the amount of One Hundred percent (100%) of the contract sum will be required of the successful bidder, to secure the contractor's covenant to faithfully perform all of the conditions of the contract in accordance with the law and that contract. The successful bidder will also be required to provide proof of Workers' Compensation insurance and General Liability and Automobile insurance policies, with Flathead County as an additional insured, each in the amount of at least \$1,000,000.00.

The successful bidder must contract to pay prevailing wage rates, set by the Montana Department of Labor, and will be subject to withholding of 1% of all payments for transmittal to the Department of Revenue to pay the public contract tax. The Contractor and all subcontractors will be required to have a certificate of registration from the Montana Department of Labor and Industry in the proper classification. The successful bidder must contract to give preference to the employment of bona fide residents of Montana in the performance of the work. A resident bidder will be allowed a preference against the bid of any nonresident bidder from any state or country that enforces a preference for resident bidders equal to the preference given in the other state or country.

All sealed bids, plainly marked "Justice Center Roof Bid" must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, Montana 59901, at or before 5:00 o'clock p.m., on November 25, 2005. Bids will be opened and read at 9:30 o'clock a.m., on November 28, 2005, in the Commissioners' Office at the Courthouse, West Annex, 800 South Main, Kalispell, Montana.

Flathead County reserves the right to accept or reject any bid and to waive any irregularities which are deemed to be in the best interest of the County.

The award of bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of November, 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: November 12 and November 19, 2005.

CONSIDERATION OF RELEASE OF COLLATERAL: SIA / MICKINAW ESTATES

10:19:03 AM

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the release of collateral for Mackinaw Estates. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

PUBLIC HEARING: WACHHOLZ, KEMP & PIERSON ZONE CHANGE / BLANCHARD LAKE ZONING DISTRICT

10:34:43 AM

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Madelyn Kempf, Jerry Kempf, Jay Sandelin, John Krack, Johna Morrison, Traci Sears-Tull, Jeff Harris, Jonathan Smith, John Bowdish

Sears-Tull reviewed Staff Report FZC-05-19.

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

Johna Morrison as a representative of the applicants presented the commissioners with a map that shows the surrounding zoning. She stated that the Wachholz and Bowdish zone changes were formally one application but were split by the planning department. She stated that there are not plans to develop at this point, but that they have created an internal roadway. Using the map she reviewed where the roadway would be. She also stated that the Wachholz property does plan to develop. She stated that she does believe it is in compliance with the growth policy and then reviewed the current uses of the property.

Jonathan Smith stated that the commissioners would have to change the findings that this did not comply with the master plan before they could adopt this zone change. He stated that this has been designated as prime farmland but has not been used as farm land. He also stated that he believes the commissioners could find this as in compliance.

Jeff Harris reviewed why the request was found to not be in compliance with the growth policy. He read a portion of the subdivision regulations. He also reviewed comments that had been received at the planning board on the possibility that changing the property to an R-1 might be a better idea. Jeff stated that if the applicant wanted to do any more intense changes they would have to do a master plan amendment.

Jerry Kempf showed on the map where his piece of the property lies. He stated that the land is timbered and rocky and would not work for agricultural purposes. He stated that this is not prime farmland.

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

Sears-Tull reviewed proposed language for condition one changing the second sentence of criteria one stating that the application is in compliance with the Flathead County Growth Policy.

Commissioner Watne made a **motion** to incorporate the change to the criteria stating that the application is in compliance with the growth policy. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Johna Morrison stated that the intention is for these sites to have PUD overlays.

Commissioner Watne made a **motion** to adopt Resolution 966N. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

RESOLUTION NO. 966N

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 8th day of November, 2005, concerning a proposal by Paul Wachholz, Jon Krack, and Jerry and Madelyn Kempf, to change the zoning designation in a portion of the Blanchard Lake Area and Highway 93 North Zoning Districts from AG-20 (Agricultural) and AG-40 (Agricultural) to SAG-5 (Suburban Agricultural).;

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on October 27 and November 3, 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 recommendation of the Flathead County Planning Board regarding the proposed change in the Blanchard Lake Area and Highway 93 North Zoning Districts.

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 as modified by this 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 Blanchard Lake Area and Highway 93 North Zoning Districts from AG-20 (Agricultural) and AG-40 (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 Blanchard Lake Area and Highway 93 North Zoning Districts to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Blanchard Lake Area and Highway 93 North Zoning Districts, 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 Blanchard Lake Area and Highway 93 North Zoning Districts 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 within the Blanchard Lake Area and Highway 93 Zoning Districts protest the proposed change in said districts, then the change will not be adopted.

DATED this 8th day of November, 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

EXHIBIT "A"
PAUL WACHHOLZ – c/o – KRACK, KEMPF & PIERSON
REQUEST FOR ZONE CHANGE FROM AG-20 AND AG-40 TO SAG-5
STAFF REPORT #FZC-05-19
Legal

Location and Legal Description of Property: The property proposed for rezoning is located on the west side of Highway 93 North, southwest of the city of Whitefish and consists of 182.96 acres. The site in the Blanchard Lake Zoning District can be described as Tracts 1AA, 1ADB, 1ABB, 3A and 1AC in Section 25, Township 30 North and Range 22 West P.M.M. and the site in the Highway 93 North Zoning District can be described as Tracts 3G, 2A and 3E in Section 36, Township 30 North and Range 22 West P.M.M., Flathead County, Montana.

Commissioner Watne made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, 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 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 966N) on November 8, 2005, to change the zoning designation in a portion of the Blanchard Lake Area and Highway 93 North Zoning Districts from AG-20 (Agricultural) and AG-40 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be changed from the AG-20 and AG-40 classification to the SAG-5 classification are set forth on Exhibit "A" hereto.

The proposed change would generally change the character of the zoning regulations applicable to the property from those 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 and the AG-40 classification has a minimum lot size of 40 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-20, AG-40 and SAG-5 Zones are contained in the Flathead County Comprehensive 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 Blanchard Lake Area and Highway 93 North Zoning Districts from persons owning real property within those Districts 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 8th day of November, 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 November 12 and November 19, 2005.

EXHIBIT "A"
PAUL WACHHOLZ – c/o – KRACK, KEMPF & PIERSON
REQUEST FOR ZONE CHANGE FROM AG-20 AND AG-40 TO SAG-5
STAFF REPORT #FZC-05-19
Legal

Location and Legal Description of Property: The property proposed for rezoning is located on the west side of Highway 93 North, southwest of the city of Whitefish and consists of 182.96 acres. The site in the Blanchard Lake Zoning District can be described as Tracts 1AA, 1ADB, 1ABB, 3A and 1AC in Section 25, Township 30 North and Range 22 West P.M.M. and the site in the Highway 93 North Zoning District can be described as Tracts 3G, 2A and 3E in Section 36, Township 30 North and Range 22 West P.M.M., Flathead County, Montana.

PUBLIC HEARING: BOWDISH & VARS ZONE CHANGE / PRAIRIE VIEW ZONING DISTRICT

10:56:24 AM

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Traci Sears Tull, Jeff Harris, Johna Morrison, Madelyn Kempf, Jerry Kempf, Jay Sandelin,
John Krack, John Bowdish

Sears-Tull reviewed staff report #FZC-05-20.

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

Johna Morrison spoke as a representative of Mr. Bars and Mr. Bowdish. She showed where the property is on the map and the acreage amount. She stated that her previous comments also applied to this application.

Dana Bowdish stated that he applied for this and came here to address it. He stated that the land has been in the property for a long time, and would like to develop it with the past in mind. He also stated that they would like to maintain a lot of open space one this property. He stated that he does believe that they will have something that is compatible and will compliment the surrounding areas.

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

Commissioner Watne made a **motion** to make the same changes that were done on the Wachholz zone change. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to adopt Resolution 813B. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

RESOLUTION NO. 813B

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 8th day of November, 2005, concerning a proposal by Dana Bowdish and Harry Thomas Vars to change the zoning designation in portions of the Prairie View and Highway 93 North Zoning Districts from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on October 27 and November 3, 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 portions of the Prairie View and Highway 93 North Zoning Districts.

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 as modified by this 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 Prairie View and Highway 93 North Zoning Districts 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 Prairie View and Highway 93 North Zoning Districts to be amended, the general character of the proposed designation for the area to be amended, that the regulations for said districts 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 Prairie View and Highway 93 North Zoning Districts, 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 Prairie View and Highway 93 North Zoning Districts 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 8th day November, 2005.

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

EXHIBIT "A"
DANA BOWDISH & HARRY THOMAS VARS
REQUEST FOR ZONE CHANGE FROM SAG-10 TO SAG-5
STAFF REPORT #FZC-05-20
Legal

Location and Legal Description of Property: The property proposed for rezoning is located on the west side of Highway 93 North, southwest of the city of Whitefish and consists of 185.18 acres. The site in the Prairie View Zoning District can be described as Tracts 2, 4F and 1C in Section 36, Township 30 North and Range 22 West P.M.M. and the site in the Highway 93 North Zoning District can be described as Tract 3D in Section 36, Township 30 North and Range 22 West P.M.M., Flathead County, Montana.

Commissioner Watne made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, 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 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 813B) on November 8, 2005, to change the zoning designation in a portions of the Prairie View and Highway 93 North Zoning Districts from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from SAG-10, to SAG-5 are 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, and providing for estate type residential development, 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 in portions of the Prairie View and Highway 93 North Zoning District from persons owning real property within those Districts 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 8th day of November, 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 November 12 and November 19, 2005.

EXHIBIT "A"
DANA BOWDISH & HARRY THOMAS VARS
REQUEST FOR ZONE CHANGE FROM SAG-10 TO SAG-5
STAFF REPORT #FZC-05-20
Legal

Location and Legal Description of Property: The property proposed for rezoning is located on the west side of Highway 93 North, southwest of the city of Whitefish and consists of 185.18 acres. The site in the Prairie View Zoning District can be described as Tracts 2, 4F and 1C in Section 36, Township 30 North and Range 22 West P.M.M. and the site in the Highway 93 North Zoning District can be described as Tract 3D in Section 36, Township 30 North and Range 22 West P.M.M., Flathead County, Montana.

PUBLIC HEARING: FETVEIT ZONE CHANGE / WEST SIDE ZONING DISTRICT

[11:03:11 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Kirsten Holland, Traci Sears-Tull, Jeff Harris, Dawn Marquardt, Debbie Shoemaker, Don Hines, Gary Mahugh, Vincent Grillo, Tara Harbin,

Holland reviewed staff report #FZC-05-21.

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

Don Hines stated that he did take in and address the annexation issue with the City of Kalispell. He stated this has taken place elsewhere in the county. He stated that the City of Kalispell stated that they would work on annexing properties in this area.

Dawn Marquardt stated that this property has a property to the west that has been annexed into the city. She stated that that property has a road that extends to this property which insures that this property will not be isolated.

When questioned, Commissioner Brenneman stated that he was not concerned with the fire protection issues. He stated that he believes there is adequate fire protection for this piece of property.

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

Commissioner Brenneman made a **motion** to adopt Resolution 678AP. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

RESOLUTION NO. 678 AP

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 21st day of September, 2005, concerning a proposal by Steve Fetveit to change the zoning designation in a portion of the West Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on October 27 and November 3, 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 recommendation of the Kalispell City-County Planning Board regarding the proposed change in the West Side Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, 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 West Side Zoning District from AG-80 (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 West Side Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the West Side 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 West Side 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 in the Westside Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 8th day of November, 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

EXHIBIT A
FETVEIT ZONE CHANGE FROM AG-80 TO SAG 5
STAFF REPORT FZC-05-21
LEGAL

Location and Legal Description of Property: The site for the map amendment as located north of Three Mile Drive and accessed from Meadow Lane, a County Road. The area included in the proposal is legally described as Tract 1BF in Section 2, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

Commissioner Brenneman made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, 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 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 678 AP on November 8, 2005, to change the zoning designation in a portion of the West Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-80 to SAG-5 are set forth on Exhibit A hereto.

The proposed change would generally change the character of the zoning regulations applicable to the property from a district intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions and to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development, to a district intended to protect and preserve agricultural land for the performance of smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be

minimized, and to provide areas for estate-type residential development. The AG-80 classification has a minimum lot size of 80 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-80 and 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.

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 West Side 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 8th day of November, 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 November 12 and November 19, 2005.

EXHIBIT A
FETVEIT ZONE CHANGE FROM AG-80 TO SAG 5
STAFF REPORT FZC-05-21
LEGAL

Location and Legal Description of Property: The site for the map amendment as located north of Three Mile Drive and accessed from Meadow Lane, a County Road. The area included in the proposal is legally described as Tract 1BF in Section 2, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

PRELIMINARY PLAT: BELTERRA

[11:14:37 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Traci Sears-Tull, Kirsten Holland, Jeff Harris, Dawn Marquardt, Debbie Shoemaker, Don Hines, Gary Mahugh, Vincent Grillo, Tara Harvin,

Sears-Tull reviewed the application submitted by Westwood Development for preliminary plat approval of Belterra Subdivision, a major subdivision that will create 16 single family residential lots. The subdivision is proposed on 100.66 acres and will be served by individual water & septic systems. The subdivision is located north of McCaffery Road in Bigfork, and is unzoned. The planning board recommends denial based on the developer should revise the proposal to incorporate clustering provisions for the entire project. There are 19 conditions attached.

Sears-Tull reviewed the reasons that the planning board recommended denial. Sears-Tull reviewed the changes that have been made by the applicant to address the concerns of the planning board. She also stated that the applicant has been working with the Creston Fire Department on the concerns and that she believes an agreement has been made.

Dawn Marquardt stated that the applicants have proposed a chip sealing on the internal road and the subdivision regulations allows for this. She stated that the applicant would prefer this surface for aesthetic reasons.

Vincent Grillo stated that they feel that dust abatement can be achieved by a properly chip sealed road. He also stated that the chip sealing would be a more aesthetically appealing to the neighborhood. He stated that they would put down as much chip sealing as the county requires at least.

Dawn Marquardt stated that they had not considered a cluster subdivision and do not feel it is appropriate for a cluster subdivision. She stated that Tim Calaway, who made the suggestion, had never been to the property at the time he made the suggestion. She also stated that since then he has changed his mind on the clustering.

Don Hines stated that Mr. Calaway after viewing the property was very comfortable with the new building site plan.

Gary Mahugh stated that he has been working with the applicant and other groups on working on a neighborhood agreement. He stated that they are working on a way to come up with a neighborhood water supply. He also stated that this plan is coming along that will allow for a 30,000 gallon water supply for the neighborhood. He stated that after visiting the site it appears that they have come to an agreement. He reviewed the current plans for the system. Gary reviewed the reasons for wanting a 30,000 gallon system. He also stated that ultimately with the covenants, money would be paid into a special account for the fire department to maintain the system. He stated that they are very satisfied with this arrangement. Gary also stated that his concerns on the road slope have been addressed.

Don Hines stated that staff had prepared a letter stating that the developers had come up with plans that were agreeable with Mr. Callaway and the developers. He stated that Mr. Callaway brought back to the planning board and they unanimously approved the support of the developer's changes.

Jeff Harris stated that staff is now recommending approval.

Don Hines stated that in the future it might be more appropriate to delay action when they have questions.

Commissioners Brenneman questioned the total acreage in the subdivision. He also questioned what guarantee the county has that the applicant will use the current building sites.

Jeff Harris stated that there would not be a guarantee.

Dawn Marquardt reviewed the new map of the proposed subdivision. She stated that the covenants state that a builder can not build in the areas set aside as the wildlife corridor.

Jeff Harris stated that having it in the CC&R is a good idea. He also stated that he was not sure how it was addressed on the final plat.

Commissioner Hall stated that you could put a condition requiring a statement on the final plat and have a deed restriction.

Commissioner Brenneman stated that he would prefer that they wait on this and have someone come back with appropriate language for the no build zone. He stated that he does not have a problem approving this subdivision if they have legal language for the no build zone. He stated that the chip sealing would be okay if it is an approved and inspected road.

Jeff Harris stated that he is not sure if there is a county standard for chip sealing. He also stated that they would like to add the condition requiring covenants and addressing the community water system.

Commissioner Watne stated that chip sealing has not worked well for the county and he would prefer paving. He stated that he feels that the longevity of the paving would be preferred.

Commissioner Brenneman made a **motion** to continue this subdivision until the planning staff can come up with new condition language. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

FINAL PLAT: SHILO, LOT 5

[11:49:01 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Traci Sears-Tull, Erica Wirtala

Sears-Tull reviewed the application submitted by Bill & Marie Phillips for final plat approval of the Resubdivision of Lot 5, Shilo Subdivision, which will create two residential lots on Lot 5 of Shilo Subdivision. The site is located off Shilo Drive which is on the north side of Rose Crossing Road. Preliminary plat approval was granted on May 31, 2005, subject to sixteen conditions. All conditions have been met. Staff recommends approval.

Commissioner Brenneman made a **motion** to approve the final plat of the Resubdivision of Lot 5 of Shilo Subdivision. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

PRELIMINARY PLAT: RIVER PARK AT ASHLEY CREEK #2

[11:49:53 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser

Sears-Tull reviewed the application submitted by Russell Swindall for preliminary plat approval of River Park at Ashley Creek #2, a minor subdivision that will create one single-family residential lots and a 3.588 acres park. The subdivision is proposed on 5.703 acres and will be served by individual water & sewer systems. The property is located off Lower Valley Road south of Kalispell, and is unzoned. There are 20 attached conditions. Sears-Tull reviewed the request made by Fish Wildlife and Parks that the applicant allow for public use of the park area.

Erica Wirtala spoke on her concerns of the condition requiring paving of the subdivision road. Sears-Tull stated that she believes that this condition needs to stay. She also addressed some of the concerns she has with other conditions. Addressing the parkland Erica stated that she could visit with the applicant about opening the parkland to the public but that the possibility would be slim.

Commissioner Hall stated that he felt that condition 1 and 2 need to stay and that condition 4, 6 and 14E should be deleted and that condition three should have the last sentence removed.

Commissioner Brenneman made a **motion** to adopt Staff Report FSR-05-57 as findings of fact. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the preliminary plat of River Park at Ashley Creek #2 subject to amended conditions including the removal of conditions 4, 6 and 14E and the deletion of the second sentence of condition 3. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

CONDITIONS

1. The private shared access approach will consist of a 60-foot right-of-way, minimum 20-foot paved driving surface and be designed and certified by a licensed, professional engineer. [Section 3.9, Flathead County Subdivision Regulations]
2. Roads and driveways will conform in all locations to maximum grade standards [Section 3.6(E) and 3.9, Table 2, FCSR]
3. The applicant will receive physical addresses ~~and road names~~ in accordance with Flathead County Resolution #1626. The addresses and road names will appear on the final plat. [Section 3.9(I)(7), FCSR]
4. ~~A road identification sign and stop sign will be installed at the intersection of the internal shared access and Lower Valley Road.~~

~~[Section 3.9(I)(8), FCSR]~~

5. The applicant will obtain and show proof of a completed approach permit from the (Montana Department of Transportation or Flathead County Road Department) for access onto Lower Valley Road, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
- ~~6. Lot owners within the subdivision will participate in a Road Users' Agreement or Property Owners Association for the internal subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]~~
7. The applicant will dedicate a 15-foot bicycle/pedestrian easement along Lower Valley Road frontage. [Section 3.18(A), FCSR]
8. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
9. The proposed water and septic treatment systems for the subdivision will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
10. The applicant will comply with reasonable fire suppression and access requirements of the Somers Fire Department. A letter from the fire chief stating that an agreement has been made will be submitted with the application for Final Plat. [Section 3.20, FCSR]
11. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
12. If required by the local postmaster, the developer will provide a common mailbox facility in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
13. The developer shall contact the Child Transportation Committee and, if required, provide and improve a location for the safe loading and unloading of students. [Agency comment]
14. The following statements will be placed on the face of the final plat applicable to all lots:
 - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
 - b. All utilities will be placed underground.
 - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - d. No structures shall be located in the 100-year floodplain.
 - ~~e. The property owners association or road users' agreement will govern maintenance of the internal shared approach. The shared approach will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.~~
 - f. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
 - 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.
 - h.

Waiver of Protest

Participation in Special Improvement District
[per County Resolution 503-M]
- _____ (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.
15. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
16. The portion of the park that is traversed by Ashley Creek must place a minimum width of 10 feet area that parallels the lines of Spring Creek in conservation easement or right of way for maintenance purposes. [Section 3.18(E), FCSR]
17. The area along the creek is a critical bank stabilization area. Removal of vegetation from the 10 foot width portion of property that parallels the lines of Spring Creek *shall* not be allowed. Any alteration to this area *shall* go through Flathead County Floodplain Permit Process and the Flathead County Conservation 310 Permit Process. [Agency Comment]
18. No development shall take place in the 100-year floodplain. [Agency Comment]
19. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
20. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

9:30 a.m. Juvenile Detention Facility Tour
12:00 p.m. Commissioner Hall to attend Columbia Falls Chamber of Commerce Luncheon at North Valley Community Center

WEDNESDAY, NOVEMBER 9, 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.

11:30 a.m. Long Range Planning Task Force Affordable Housing Committee meeting at the Earl Bennett Building

1:00 p.m. Commissioner Brenneman to attend LEPC Executive Committee meeting

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 10, 2005.

THURSDAY, NOVEMBER 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,

8:48:42 AM

Michael Golebeski presented the commissioners with maps and photos on a specific property on Capastrono Lane. He reviewed the family transfer rules. He formally requested that the commissioners have the 509 committee review the property that was already granted a preliminary approval to proceed with a family transfer. He spoke with the commissioners on the flooding issues he has seen on this property. He stated that he was requesting this review based on two grounds. The first being that the parcel in question is 7 narrow acres with a house up front and is proposed to be divided into two lots, and the rear parcel will be land locked. He stated that when he was asked for an easement he declined. He also stated that the property sits so close to its own boundaries that there is not even a sixty foot easement on both sides of the property, which he stated is one reason the property owner is doing a family transfer, because he did not want to go through the requirements of a sixty foot easement. He stated that the property is bordered on the west by spring creek and the survey is not available for review regarding the high water mark at the creek and this is a department requirement for septic set back in regards to waste water degradation on creek waters. He continued by stating that clearly subdividing the property less than five acres goes against the final draft of the Helena Flats Neighborhood Plan. He then stated that the second reason for his request is that in Resolution 509D it states that if a division is made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a straw person it would be an evasion. He also stated that the COS is not available to read from a statement from the landowner, and the property has been on the open market for sale as early as mid June. He stated that the property was bought in May and stayed unoccupied by the owner until they sold a home in Lakeside, and that they are from California. He then stated that the action approving the family transfer had not even occurred and in late September the owner moved on to the resident. He stated that both for sale signs still remain.

Commissioner Hall asked when this family transfer would come before them.

Michael Golebeski stated October 5.

Commissioner Hall stated that it had already passed then.

Michael Golebeski stated that it did not pass but that they gave preliminary approval on the survey. He stated that he came through the whole circle asking for a way to dump all of this in someone's lap so it would flag the property and no one could help him, or knew what to do. He also stated that what he finds a little bit confusing is that the surveyor actually confronted him with the same procedure and a contract, and was going to tell him how to evade the transfer if he was so interested to sell his back five acres.

Commissioner Hall asked who the surveyor was.

Michael Golebeski stated that the surveyor was Rick Breckenridge with Montana Mapping. He stated that on the instrument it states family transfer's, boundary line adjustments, and amended plats, so he guesses that he is in the business of family transfers, or at least he was with him, and he just refused to do it. He stated that the conversation basically started because he was out back repairing a section of fence and Ron came over, and he noticed the for sale signs, and stated to him that he just got the place and then Ron stated that they were going to subdivide it. He stated that when he questioned Ron he told him that they were going to do a survey and a family transfer and it is a slam dunk process to go in and get it done. He stated that he just wanted to make note of this situation, and that he finds it that in their documentation of a family transfer they seem to have it backwards, where you should have for the people next door the provision to go through the document and look for both a pattern and or an evasion and then make a decision. He continued by stating that on the paperwork it goes the other way around, and he was told next door that there was not a pattern to this, and he responded that he knew there was not a pattern but that their was an evasion. He stated that they told him that after it is determined that there is not a pattern than they just go ahead and pass it on through.

Commissioner Brenneman stated that this never came to them.

Commissioner Hall stated that he would look into the situation.

Shirley Anderson spoke in regards to the Mackin Subdivision proposal. Referring to a map Shirley reviewed the density of the surrounding area and the surrounding subdivisions. She stated that the in 2002 two subdivisions were approved, and at that time their committee was not tracking minor subdivisions, if they had, they would have protested. She stated that as you go farther south on Helena Flats you come to North Helena Flats Subdivision that was defeated unanimously by the commissioners because it had four lots on six acres so it was not considered compatible with the surrounding area. She also stated that Lot 2 subdivision Carter Fritz asked to redivide a lot and on his preliminary plat he stated that he would like to observe the five acre density, which he did do, and subsequently there were two lots of 2.59 and they set aside 7.41 acres as open space, so the five acres density was observed for that latest subdivision proposal.

Karen Morehouse stated that she has lived on 20 acres off of Bayou road for the last twenty five years and has witnessed traffic and safety issues on those roads. She stated that she has personally gone off Birch Grove in the winter. She also stated that

concentrated development in this low lying area, with its tendency to flood, would threaten the high water table that the septic's would be over. She is also concerned about setting this one acre precedence in an area that is not like other areas in the valley, and is afraid that this would open the door to more one acre development, which would put more strain on the aquifer. She asked the commissioners not to ignore the affect on water quality.

John Korpi stated that he is in opposition of the Mackin Subdivision, and that it is not consistent with what is in the neighborhood. He stated that Carter put in his little subdivision and complied with the five acre density. He stated that they have had subdivisions come that were denied due to their non compliance. He also stated that he is concerned about the shallow aquifer in that area. Referring to Cosco he stated that they did not add on to their building there due to the aquifer issues. He stated that this is a concern and has been a concern of all of them in that neighborhood, and he knows that aquifer is shallow from personal experience. He stated that once the one acre density starts it is not going to stop.

Carey Mackin stated that she does not want to live in the middle of suburbia either, but she has submitted a letter with twenty signatures from Helena Flats resident that do not have a problem with them dividing this property, and that this represents more people that are okay with this than that are against it. She stated that they have lived there for twenty two years and have had a couple of years of hardship, and it was a hard decision to subdivide the property. She also stated that they are not doing this to make a lot of money, but that it is their only choice to stay in their Home. She reviewed the one acre lots around their property. She asked the commissioners to consider this.

Joe Kauffman, technical assistance for Mackin Subdivision, presented the commissioners with a copy of the FEMA flood plain maps that show the property is in Flood Zone B which does not require flood insurance. He addressed his concerns with the Staff Report including the flooding history, and that there are pictures of the flood of 1964 and this whole area was flooded so, that was considered a five year flood. He also stated that mapping has been provided by Flathead Lake Regional biological station and it shows that there is a concern in that area. He also stated that test pipes were put in the ground during the spring and were monitored during the runoff to find that the water table did not come up to a substantial level that would degredate the drainfield system. He then addressed the comment on the one acre density issues by presenting a copy of the ARM's which discuss one acre lot sizes. Addressing condition 11, which stated that the road needs to be improved to 24 feet wide it is stated that the existing roadway is only 20 feet wide, he stated that according to the copy of the edge of pavement distances that he shot and the distance on the road range from 21.43 to 22.58 and so it is under 24 feet but it is greater than twenty.

Commissioner Hall asked to be reminded, that when and if the Pressentine gets built, was that developer planning to upgrade that road to an adequate width.

Commissioner Brenneman stated that he believes it was just from the north boundary of the subdivision and down.

Joe Kauffman presented the commissioners with a section map of the area. He stated that a concern he has is that a lot of these subdivisions are really being nitpicked apart, not just this subdivision, but a lot of the subdivisions that people are trying to go through the regulations and meet all of the requirements and they are spending a lot of time and frustration getting some of these things through. He commented that he believes that this is one of the reasons they are seeing so many family transfers since they are not subject to the subdivision act. He stated that the statement in the staff report that states that this land is subject to flooding is false since it is in Flood Zone B, which is a five hundred year flood designation. He stated they have already proved with pirk test and test pipes that the groundwater is adequate for DEQ. He addressed his confusion in regards to the Helena Flats Neighborhood Plan, as far as not knowing if it is a zoning designation or more of a master plan. He stated that the way the county is treating is as an unzoned property, so they would be able to do a one acre split or a two acre split with a family transfer. He continued by saying that he believes that the Mackin's are doing their best to go through the subdivision review process. He also stated that on the staff recommendation that lots 1 through three do not meet the DEQ requirements according to the ARM's they do, so that statement is also false.

Commissioner Hall asked if Joe had given testimony to the planning board when they met on this subdivision.

Joe Kauffman stated no since this is a minor subdivision. He also stated that some the minors might me better reviewed as a major.

Commissioner Brenneman questioned how long they stated the road was.

Joe Kauffman stated that the road is 21.43 to 22.2 in the middle and then to 22.58, so it is shorter than the twenty four foot requirement. He also stated that the other goofy thing is that the section line is not in the center of the road, and the power lines are basically right in the center of the easement.

Commissioner Brenneman stated that he had a letter from Mr. Birk stating that the road was in excess of twenty three feet.

Bret Birk stated that, as he stated in his letter, he did not personally measure the road and it could be point of measure on the asphalt, but that it is in excess of twenty feet and consistent with the rest of the road there. He stated that his concern in that regard is that Cottonwood volunteered to widen the road in that area and the Road Department had concerns with Private contractors working on the county road, and just widening the road in a helter skelter fashion instead of with an overall plan that the county devises. He also stated that he would like to discuss this issue with Charlie and be sure of what he wants before they commit to something that is not in the best interest. He agreed with the Joe Kauffman's statement that the four points in the staff report he reviewed are false, and reviewed the reasons why. He stated that this subdivision was submitted before the neighborhood plan was adopted. He also stated that there is not currently a board for the Helena Flats Neighborhood Plan and he thinks that to get a representative board of the neighborhood they can not assume what they will and will not approve, and that there is some disagreement in the community about what that plan is to accomplish, and there is also some disagreement as to whether the subdivision is appropriate or not.

Commissioner Hall question when this subdivision was submitted.

Shirley Anderson stated that it was submitted September 13 of 2005.

Commissioner Hall asked Mrs. Mackin when the subdivision was submitted.

Carey Mackin responded by stating that they met with the planning board in August.

Commissioner Hall asked when the plan was adopted.

Shirley Anderson stated that it was adopted September 13, 2005

Someone stated that in August when they brought the application to the planning board they were advised by Jeff Harris that the plan was in the process and asked them if they wanted to spend the money on this procedure without knowing the outcome of the plan, and they chose to go forward.

Ron Mackin stated that this was a hard place to come to for them. He stated that he is a fourth generation valley native and did not want it to change from the way it was when he was young. He stated that they are in a position where they need to do something, and have jumped through all of the hoops to try and do this right. In regard to the road concerns he stated that it was his idea to use shared driveways on the lots versus having four driveways into there, because he had some safety concerns there. He stated that the application came in a little late due to the extremely wet year compared to last year and they had to monitor ground water well into late July versus the end of June. He continued by saying that even with a high ground water year they still met the water requirements. He reviewed some of the one acre lots that are surrounding his property. He stated that they have signatures from all of the one acre parcel land owners that they do not disapprove of the subdivision. He also the commissioners that the Helena Flats Neighborhood plan is not a regulatory document.

Wayne Veeneman spoke in regards to the fire district switching from what is now the West Valley Fire District and into the Whitefish Fire District. He presented the commissioner with a map of the existing fire districts. He showed the commissioner where on the map the Whitefish Fire District sub station lies, also stating that the Plantation Pine subdivision is included in the Whitefish District, he also showed where the Whitefish Fire District cuts off. He stated that he happens to live in an area where the whole block of ten to fifteen homeowners who would like to be included in the Whitefish Fire District as well. He stated that the primary reasons for this are that they are all within one to two miles of the Whitefish sub station versus five to six miles down Whitefish Stage for the West Valley Fire District's sub station. He reviewed the obvious advantages to this being quicker response time, better service, and that they are already included in the Whitefish EMS ALS boundaries, which extend beyond Tetrault Road and over to the Whitefish River. He stated that he does not understand why they would not be included in the Whitefish Fire District as well, because it is the same personnel responding to fire or EMS. He also stated that he understands that the requirements for having a petition with all of the people who are interested in coming on board and agreeing to this. He stated that his question to the board of commissioners is why should they be burdened with a three thousand dollar mailing to get the word out to all of these people when they are already included in the EMS district which is the same coverage, so as he understands it if they have an emergency for EMS or for ambulance service it is okay for them to respond, but if it is a fire district problem than they are not able to respond.

Commissioner Hall stated that when they included that corner into the Whitefish Fire District they went through the mailing process. He asked if he had talked to the planning board to see what the actual procedure would be.

Clerk Moser stated that a letter would have to be sent to every person not only in the West Valley Fire District, but in the Whitefish Fire District as well. She also stated that the county passed a resolution to pass those costs for mailing onto applicant to ease the monetary burden to the county for an unanticipated expense.

Commissioner Hall questioningly stated that they are wanting to include that into the Whitefish Fire District and you would have to go through the process of petitioning and notify.

Commissioner Brenneman stated that the process is defined, and he does not think they can just arbitrarily change it. He also stated that he looked at those statutes about how you do that. He asked if the trustee to the two fire districts could decide to do that.

Clerk Moser stated that due to the taxing jurisdictions this would also change their taxes and that is why they have to mail to all of the individuals involved.

Commissioner Brenneman again asked if the trustees could decide to do it.

Commissioner Hall stated not without notification.

Wayne Veeneman stated that so it looks like they are going to be stuck with a three thousand dollar mailing fee. He asked how that would be assessed, in other words if they get a petition together with all of the signatures of all ten to fifteen people a three thousand dollar mailing would be a big amount.

Clerk Moser stated that that number comes from the approximate cost of the last mailing.

Commissioner Brenneman asked if the people want to switch can just petition to switch.

Clerk Moser stated that yes they can, but they must have a letter from both fire districts which it sounds like you already have those letters.

Wayne Veeneman stated that he does not have a letter from West Valley, but he could very easily get a letter from Dave Sipe, the fire chief in Whitefish. He stated that he is more than agreeable to take them into that location. He again stated that the Whitefish substation is less than a mile from his house.

Commissioner Hall stated that there is no argument from any of them that it would be a good move, it is just how can they help him accomplish it.

Clerk Moser stated that statute just defines changing from one fire district into another, and that it would be easier if he was moving from the fire service area into a fire district.

Commissioner Brenneman questioned if Jonathan Smith had explained this as well.

Clerk Moser stated that just the two of them had looked over the statutes, but during the plantation pine process Wayne stated that the commissioners were going to try to find a quicker process to that, and he just wanting to find out if you had been able to work on this.

Wayne Veeneman stated that it boils down to financially West Valley in their area is rated as a ten, and Whitefish is rated as an eight and this creates a big difference in their insurance rates.

Commissioner Brenneman question if in the short term is Whitefish automatically dispatched on a structure fire in that area.

Wayne Veeneman stated no that is the problem, that there is a conflict between the West Valley Fire Chief and the Whitefish Fire Chief. He stated that they seem to have a little bit of bad blood between them, and it is his understanding that if a fire call goes in it is routed to the particular fire district that has coverage in that particular area, and they are the ones that must call for mutual aid from Whitefish or Columbia Falls or wherever, and both are closer the them than West Valley. He stated that his understanding is that they would never do that because there is a personality conflict or a conflict of interest between that particular fire chief.

Assistant Pence asked if they should call Jonathan Smith and see if he is available to send him over.

Commissioner Hall stated that the statute has already been reviewed and it is pretty clear.

Commissioner Brenneman stated that Jonathan does need to be involved, and that this does seem to be a strange deal. He also stated that he believes that there is such a thing as automatic dispatch in some areas, such as if a call came from here West Valley is dispatched and Whitefish, but that the mechanics of how that would work on scene might be a little bit problematic, but he thinks that the message needs to be sent that they are talking about peoples property possibly burning up and possible life being threatened and this kinds of thing is not acceptable.

Wayne Veeneman stated that this seems to be for the good of all of the people for them to be included into that Whitefish district.

Commissioner Hall stated that he believes that he needs to talk to Jonathan, but to share the costs he may want to expand his vision and include some of the property because the cost is going to be three thousand whether it is going to be this group or whether it is a larger group. He stated that for this fire hall to go down Hodgson a little way to this big subdivision, happy valley included, might make a little more sense than doing it in pieces, because when they will have to go through the same thing that Plantation Pines went through.

Commissioner Watne agreed that he should talk to Jonathan.

Mark Cahoon, the manager for the Candy Bar Ranch, stated that they do have a letter from Dave Sipe saying that they will take them in.

Commissioner Hall stated that he knows why he would want to take them in, that it is a good thing for them, and it will increase their financial base.

Mark Cahoon commented further. He stated that it is to bad that they have to fire chief that one so negative to the other.

Commissioner Brenneman questioned if insurance rates would be affected if there was an automatic dispatch or mutual aid agreement that would cover that area.

Wayne Venneman stated that he would think that it would be, and that maybe that is the answer. He stated that possibly within the commissioner jurisdiction they could provide something that states that it will be automatic dispatch and it does not necessarily go through West Valley Fire District if they are in that proximity. He asked why they could not come up with something like that.

Commissioner Hall stated that they could, but that Dave Sipe would not be in favor of something like that.

Wayne Veeneman that he thinks that he would.

Commissioner Hall stated that he believes with his understanding that if they take in that district than the fire service fee goes to the Whitefish Department, so he would not receive any financial benefit from an automatic dispatch.

Wayne Veeneman stated that as he explained to him they would dispatch if they were called by West Valley for mutual aid anyway.

Commissioner Hall recommended proposing that question to Dave, and talk to Jonathan Smith.

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

MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE

[9:36:41 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Jeff Harris

Discussion was held relative to the results of the fee increase in the planning department, the work with Charlie Johnson to put together a study on corridors in the valley and standards on road, current project including requests for bike and pedestrian easements on any upcoming plats, additional staff position request, growth policy progress, the resource analysis progress, and the subdivision regulation update progress.

PUBLIC HEARING: ROAD ABANDONMENT #439 (PORTION OF SUNSET POINT)

[9:49:37 AM](#)

Members present:

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

Others present:
Clerk Kimberly Moser

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

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

Commissioner Brenneman made a **motion** to approve Road Abandonment #439 subject to the conditions listed on the viewers report. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Condition

- 1) That any existing easement for utilities be retained in the abandoned portion as utilities do exist.

PUBLIC HEARING: ROAD ABANDONMENT #438 (LOTS 11 & 12, EVERGREEN SUBDIVISION)

[9:50:38 AM](#)

Members present:

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

Others present:

Clerk Kimberly Moser, Rick Goacher, Judy Sharpe

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

Rick Goacher the surveyor on this property stated that he is performing a survey that will incorporate this abandonment.

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

Commissioner Brenneman made a **motion** to approve Road Abandonment #438 subject to the conditions listed on the viewers report. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Condition

- 1) That any existing easement for utilities be retained in the abandoned portion as utilities do exist.

INTRODUCTORY MEETING W/ BEN FRANKLIN, WHITEFISH RIVER PROPERTIES

[10:05:44 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Robert W. Watne

Others present:

Clerk Kimberly Moser, Ben Franklin, Karen Franklin, Debbie Street, Jerry Nix

Discussion was held relative to Ben Franklin introducing himself to the commissioners. He spoke in regards to a piece of property he has purchased and his plans for the subdividing that property. He reviewed the history that he and his wife have in development. He also spoke in regards to the recent planning board meeting where the preliminary plat was recently rejected.

PRELIMINARY PLAT: HOLT STAGE HOMESITES

[10:15:23 AM](#)

Members present:

Chairman Gary D. Hall
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Robert W. Watne

Others present:

Clerk Kimberly Moser, Traci Sears-Tull, Jeff Harris, Rick Goacher, Joe Kauffman, Shirley Anderson, John Korpi

Sears-Tull reviewed the application submitted by Jon V & Sylvia Z Heselwood for preliminary plat approval of Holt Stage Homesites, a major subdivision that will create 4 single-family residential lots. The subdivision is proposed on 4.032 acres and will be served by individual water and septic systems. The subdivision is located off of Holt Stage Road in Creston, and is unzoned. There are 17 attached conditions. Staff recommends approval.

Sears-Tull reviewed condition 17.

Commissioner Brenneman asked for a condition requiring a bike path easement on lot 1.

Commissioner Brenneman made a **motion** to adopt Staff Report FPP-05-60 as findings of fact. Commissioner Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Rick Goacher addressed condition 17. He also questioned a condition that would require a bike path easement.

Commissioner made a **motion** to approve the preliminary plat of Holt Stage Homesites subject to 18 conditions. Commissioner Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

CONDITIONS

1. The private, internal subdivision road will consist of a 60-foot right-of-way, minimum 20-foot paved driving surface, and a 55-foot radius cul-de-sac and be designed and certified by a licensed, professional engineer. [Section 3.9, Flathead County Subdivision Regulations]
2. Roads and driveways will conform in all locations to maximum grade standards [Section 3.6(E) and 3.9, Table 2, FCSR]

3. The applicant will receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names will appear on the final plat. [Section 3.9(I)(7), FCSR]
4. A road identification sign and stop sign will be installed at the intersection of the internal subdivision road and Holt Stage Homesites. [Section 3.9(I)(8), FCSR]
5. The applicant will obtain and show proof of a completed approach permit from the (Montana Department of Transportation or Flathead County Road Department) for access onto Holt Stage Road, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
6. Lot owners within the subdivision will participate in a Road Users' Agreement or Property Owners Association for the internal subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]
7. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
8. The proposed water and septic treatment systems for the subdivision will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
9. The applicant will comply with reasonable fire suppression and access requirements of the Creston Fire District. A letter from the fire chief stating that an agreement has been made will be submitted with the application for Final Plat. [Section 3.20, FCSR]
10. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
11. If required by the local postmaster, the developer will provide a common mailbox facility in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
12. The developer shall contact the Child Transportation Committee and, if required, provide and improve a location for the safe loading and unloading of students. [citation needed]
13. The following statements will be placed on the face of the final plat applicable to all lots:
 - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
 - b. All utilities will be placed underground.
 - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - d. The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
 - e. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
 - 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.
 - g. Waiver of Protest
Participation in Special Improvement District
[per County Resolution 503-M]

_____ (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.
14. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
15. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
16. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
17. The applicant will contact the developer of Subdivision 261 to discuss sharing construction costs and access for Holt Stage Homesites' proposed internal subdivision road.
18. The developer will dedicate a 15-foot bike/pedestrian easement on the Helena Flats Road frontage. [Section 3.18(A), FCSR]

PRELIMINARY PLAT: SUBDIVISION NO. 264

[10:28:48 AM](#)

Members present:

Chairman Gary D. Hall

Commissioner Joseph D. Brenneman

Commissioner Robert W. Watne [10:31:27 AM](#) seated

Others present:

Assistant Michael Pence

Clerk Kimberly Moser, Traci Sears-Tull, Jeff Harris, Rick Goacher, Joe Kauffman, Shirley Anderson, John Korpi, Karen Morehouse, Ron Mackin, Kari Mackin, Bret Birk, Dawn Marquardt, Ardis Larsen

Sears-Tull reviewed the application submitted by Richard M Janisse & Marilyn Baker for preliminary plat approval of Subdivision #264, a major subdivision that will create 2 single-family residential lots. The subdivision is proposed on 10.006 acres and will be served by individual water and septic systems. The subdivision is located off of Swan Horseshoe in Ferndale, and is zoned SAG-5. There are 17 attached conditions. Staff recommends approval.

Commissioner Brenneman questioned a letter received from the health department.

Commissioner Watne made a **motion** to adopt Staff Report FPP-05-52 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to approve the requested variance on road width. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to approve the preliminary plat of Subdivision No. 264 subject to 17 conditions. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

CONDITIONS

1. The applicant shall obtain a variance to the primary access road width in Table 1 of Section 3.9 of the Flathead County Subdivision Regulations for Swan Horseshoe. [Section 7.1, FCSR]
2. The private, internal subdivision road will consist of a 60-foot right-of-way, minimum 20-foot hard *gravel* driving surface, and a 55-foot radius cul-de-sac and be designed and certified by a licensed, professional engineer. [Section 3.9, Flathead County Subdivision Regulations]
3. Roads and driveways will conform in all locations to maximum grade standards [Section 3.6(E) and 3.9, Table 2, FCSR]
4. The applicant will receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names will appear on the final plat. [Section 3.9(I)(7), FCSR]
5. A road identification sign and stop sign will be installed at the intersection of the internal subdivision road and Swan Horseshoe. [Section 3.9(I)(8), FCSR]
6. The applicant shall show proof of legal and physical access provided and must abut and have access to a private street or road, Swan Horseshoe. [Section 3.8(A), FCSR]
7. Lot owners within the subdivision will participate in a Road Users' Agreement or Property Owners Association for the internal subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]
8. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
9. The proposed water and septic treatment systems for the subdivision will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
10. The applicant will comply with reasonable fire suppression and access requirements of the Ferndale/Bigfork Fire District. A letter from the fire chief stating that an agreement has been made will be submitted with the application for Final Plat. [Section 3.20, FCSR]
11. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
12. If required by the local postmaster, the developer will provide a common mailbox facility in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
13. The developer shall contact the Child Transportation Committee and, if required, provide and improve a location for the safe loading and unloading of students. [Superintendent of Schools]
14. The following statements will be placed on the face of the final plat applicable to all lots:
 - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
 - b. All utilities will be placed underground.
 - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - d. The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
 - e. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
 - 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.

g. Waiver of Protest
Participation in Special Improvement District
[per County Resolution 503-M]

_____ (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.

15. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
16. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
17. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

PRELIMINARY PLAT: MACKIN SUBDIVISION

[10:39:37 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Traci Sears-Tull, Jeff Harris, Shirley Anderson, John Korpi, Karen Morehouse, Joe Kauffman, Kari Mackin, Ron Mackin, Dawn Marquardt, Bret Birk

Sears-Tull reviewed the application submitted by Ron & Kari Mackin for preliminary plat approval of Mackin Subdivision, a minor subdivision that will create four single-family residential lots with a remainder. The subdivision is proposed on 4.96 acres and will be served by individual water & septic systems. The property is located on Helena Flats Road, and is unzoned. There are 13 attached conditions. Staff recommends denial.

Commissioner Watne referring to the letter from Bret Birk stated that this addressed the flooding and ground water concerns.

Commissioner Hall stated that there is a lot of protest on this subdivision.

Ron Mackin stated that one option would be to adjust the lot sizes to meet the one acre net.

Commissioner Hall spoke in regards to the septic systems. He asked if discussion had been made to hook up to the Pressentine Ranch level II system. He also asked if discussion had been made on a one system septic and water system.

Joe Kauffman stated that the engineer found a traditional building site and so these options were not a factor.

Bret Birk stated they did not explore other option because they do meet subdivision regulations.

Jeff Harris reviewed the letter submitted by environmental health. He also requested that the commissioners refer to the Helena Flats Neighborhood Plan.

Commissioner Brenneman stated that this is not even an issue of the Helena Flats Plan but density and water issues.

Commissioner made a **motion** to deny the preliminary plat of Mackin Subdivision due to density and water quality issues. Commissioner Hall **seconded** the motion. **Aye** – Hall and Brenneman. **Opposed** – Watne. Motion carried by quorum.

FINAL PLAT: STELLA'S ACRES

[11:06:27 AM](#)

Members present:

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

Others present:

Clerk Kimberly Moser, Traci Sears-Tull, Jeff Harris, Ardis Larsen

Sears-Tull reviewed the application submitted by Steven & Colleen Johnson for final plat approval of Stella's Acres Subdivision, which will create five residential lots. The site is located off Sunny Lane which can be accessed off of Highway 2 south of Kalispell. Preliminary plat approval was granted on September 9, 2004, subject to fifteen conditions. All conditions have been met.

Commissioner Watne made a **motion** to approve the final plat of Stella's Acres Subdivision. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

PRELIMINARY PLAT: CRYSTAL CREEK SUBDIVISION

[11:21:59 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, Jeff Harris, Dawn Marquardt, Jerry Fracchid, Lynne Mattern

Sears-Tull reviewed the application submitted by Tri-Fam LLC for preliminary plat approval of Crystal Creek Subdivision, a minor subdivision that will create five residential lots. The subdivision is proposed on 67.14 acres and will be served by individual water & septic systems. The property is located off of North Fork Flathead Highway, and is unzoned. There are 15 attached conditions.

Commissioner Watne made a **motion** to adopt Staff Report FSR-05-62 as findings of fact as corrected. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

Dawn Marquardt addressed her concern with condition 4 and the condition requiring the road be paved.

The commissioners agreed to change condition one to state that 175 feet of each end of the subdivision loop road will be paved, to remove the word telephone on condition seven, and the correction to condition 4 that approach permit would be to MDOT not to the County Road Department.

Commissioner Watne made a **motion** to approve the preliminary plat of Crystal Creek Subdivision subject to 15 amended conditions. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. Motion carried by quorum.

CONDITIONS

1. The private, internal subdivision road will consist of a 60-foot right-of-way and minimum 20-foot gravel driving surface with 175 feet paved portion on both entrances to Crystal Creek Loop in compliance with Section 3.9 of the Flathead County Subdivision Regulations and shall be designed and certified by a licensed, professional engineer. [Section 3.9, Flathead County Subdivision Regulations]
2. The subdivider shall receive physical addresses and road names 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. A road identification sign and stop sign shall be installed at the intersections of the internal subdivision road and the North Fork Flathead Highway. [Section 3.9(I)(8), FCSR]
4. The subdivider will obtain and show proof of a completed approach permit from the ~~Flathead County Road Department~~ MDOT for access onto the North Fork Flathead Highway, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
5. Lot owners within the subdivision will participate in a Road User's Agreement or Property Owners Association for the internal subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]
6. The subdivider will dedicate a 15-foot bicycle/pedestrian easement along the North Fork Flathead Highway frontage. [Section 3.18(A), FCSR]
7. New electrical ~~and telephone~~ utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
8. The subdivider will submit proof that all water, septic, and storm water drainage systems will be approved by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
9. The subdivider will apply to be taken into the Blankenship Volunteer Fire Department area and shall comply with reasonable fire suppression and access requirements of either the Flathead County Office of Emergency Services or the Blankenship Volunteer Fire Department. (if accepted into department's fire area) A letter from the director of OES or the fire chief stating requirements have been met shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
10. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
11. If required by the local postmaster, the developer shall provide a common mailbox facility in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
12. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
 - b. All utilities will be extended underground.
 - c. The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs and snow removal to ensure safe all-weather travel for two-way traffic.
 - d. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
 - e. Only Class A or B fire rated roofing materials are allowed. [Section 3.21, FCSR]
 - f. Defensible Space Standards shall be incorporated around all primary structures. [Appendix G, FCSR]
 - g. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game is illegal. They are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including:
 - i. Dogs must be kept under owner control at all times.
 - ii. Residents must use bear-proof garbage containers.
 - iii. Remove obvious sources of food.
 - iv. Compost piles are prohibited unless secured by electrical fencing.
 - v. Pets to be fed indoors or food dishes brought in at night.
 - vi. Place bird feeders out of the reach of deer and other big game
 - h. Waiver of Protest

Participation in 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.

13. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
14. 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]
15. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

11:00 a.m. Commissioner Brenneman: Meeting w/ OES, Sheriff's Office and City of Kalispell re: Explosive Hazard

2:00 p.m. Long Range Planning Task Force Sewer, Water & Storm Drainage Committee meeting at the Commissioners' Meeting Room

4:00 p.m. Long Range Planning Task Force 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 November 11th, 2005.

FRIDAY, NOVEMBER 11, 2005

COUNTY OFFICES CLOSED – VETERANS' DAY