
MONDAY, JANUARY 23, 2006

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

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

MONTHLY MEETING W/ JOE RUSSELL, HEALTH DEPT.

9:08:13 AM

Members present:

Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Clerk Diana Kile & Joe Russell

Discussion was held relative to a seminar in San Diego that Joe was leaving today to attend on Rapid Detection of Food Borne diseases. Joe was asked to put a time limit of 15 minutes on the upcoming city meeting. Discussion was also held in regards to sewage treatments needs in the Flathead. Joe indicated that maybe the county should look at a county wide sewer district. Gary asked if he had checked into buying the State Farm bldg next to them that would be used for additional health care needs in the flathead valley.

PRELIMINARY PLAT: ROCKY TOP

9:28:50 AM

Members present:

Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Clerk Diana Kile, Traci Sears -Tull, Rick Breckenridge, Steven Russell, Jo Anne Russell, Jeff Harris

Sears-Tull reviewed the application submitted by Steven & JoAnne Russell for preliminary plat approval of Rocky Top Subdivision, a major subdivision that will create 3 single-family residential lots. The subdivision proposed on 5.38 acres and will be served by individual water and septic systems. The property is located off of Horseshoe Drive north of Bigfork in the Many Lakes Subdivision, and is unzoned. There are 18 attached conditions. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report FPP-05-76 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Steve Russell spoke in regards to condition #11 in which he would like to give back a portion of the land he purchased from the county as parkland. It is undeveloped swamp land that is wet in the spring. Condition # 11 was changed to read the applicant will provide comparable parkland appraisals in the many lakes area for the calculation of parkland fees.

Commissioner Hall made a **motion** to approve the preliminary plat of Rocky Top Subdivision with the condition #11 amended. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

CONDITIONS

1. Driveways will conform in all locations to maximum grade standards. [Section 3.6(E) and 3.9, Table 2, FCSR]
2. The applicant will receive physical addresses in accordance with Flathead County Resolution #1626. The addresses will appear on the final plat. [Section 3.9(I)(7), FCSR]
3. The applicant will obtain and show proof of a completed approach permit from the Flathead County Road Department for access onto Horse Shoe Drive, indicating the approaches have been built and received final inspection. [Section 3.8(A), FCSR]
4. 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]
5. 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]
6. The applicant will comply with reasonable fire suppression and access requirements of the Creston Fire District and Montana DNRC. Letters from both the Creston Fire Chief and Montana DNRC stating an agreement has been made will be submitted with the application for final plat. [Section 3.20, FCSR]
7. 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]
8. 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]
9. 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]
10. 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. 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.
- f. Defensible Space Standards shall be incorporated around all primary structures.
- 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.

- 11. *The applicant will provide three comparable parkland appraisals, in the Many Lake Area, for the calculation of the Parkland cash-in-lieu fee. The applicant is required to pay the fee amount calculated by the County Planning and Zoning Office. [Section 3.19, FCSR]*
- 12. During construction of infrastructure improvements, no silt-laden water or excess shall flow to downstream areas, particularly across the street to John Lake or the abutting Cree Lake. Erosion control measures are required and will be enforced, since the portion of lots that abut Cree Lake are critical bank stabilization areas and wildlife corridor. [Section 3.13, FCSR]
- 13. The design and development of the subdivision shall contain satisfactory building sites properly related to topography and shall preserve the natural terrain, drainage, existing topsoil, trees, natural vegetation, wildlife and fish habitats to the extent possible. [Section 3.2, FCSR]
- 14. All lots shall be certified by a professional engineer or a licensed surveyor that they contain a buildable pad that does not exceed 25% in cross slope. Each building site pad which exceeds 25% in cross slope shall be required to undergo a geo-technical soils analysis conducted by a licensed professional engineer prior to final plat approval. Said report must find that development of this lot would pose no significant geological hazards to either this lot or neighboring properties and the applicant would be required to comply with the recommendations of said report. [Section 3.6.]
- 15. Alterations or fill to Cree Lake should not be allowed. Any alterations or fill may require permits from the Army Corp. of Engineers or other various agencies. [Agency Comment]
- 16. All required improvements shall 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]
- 17. 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]
- 18. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

FINAL PLAT: MARSHALL SUBDIVISION

[9:50:39 AM](#)

Members present:

Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman

Members absent:

Chairman Robert W. Watne

Others present:

Clerk Diana Kile, Rick Breckenridge, Jeff Harris, Kristen Holland

Others absent:

Assistant Michael Pence

Holland reviewed the application submitted by Melvin P Marshall for final plat approval of Marshall Subdivision, a one-lot residential subdivision with a remainder on Ashley Lake Road west of Kalispell. The subject property is 1.12 acres and unzoned. Preliminary plat was waived on September 18, 2003 subject to 5 conditions. All conditions have been met. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report FWP-05-16 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the final plat of Marshall Subdivision.. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #06-07-5-11-008-0

[10:00:06 AM](#)

Members present:
Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT
Members absent:
Chairman Robert W. Watne
Others present:
Clerk Diana Kile

Commissioner Hall made a **motion** to accept the document for signature. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: SERVICE AGREEMENT / SPECIAL FRIENDS ADVOCAY & EAGLE TRANSIT

[10:02:01 AM](#)
Members present:
Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman
Members absent:
Chairman Robert W. Watne
Others present:
Clerk Diana Kile
Others absent:
Assistant Michael Pence

Commissioner Hall made a **motion** to accept the three documents for signature. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

FINAL PLAT: BIG SKY VIEW ESTATES

[10:19:58 AM](#)
Members present:
Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman
Members absent:
Chairman Robert W. Watne
Others present:
Clerk Diana Kile, Kirsten Holland, Jeff Harris, Dawn Marquardt, Debbie Shoemaker
Others absent:
Assistant Michael Pence

Holland reviewed the application submitted by Dawn Marquardt for final plat approval of Big Sky View Estates, which will create five residential lots. The site is located off US Highway 2, approximately 1 mile west of Kalispell. Preliminary plat approval was granted on April 2, 2002, with a one-year extension granted on January 2, 2005, subject to nine conditions. All conditions have been met.

Commissioner Hall made a **motion** to approve the final plat of Big Sky View Estates. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

MONTHLY MEETING W/ RICK TREMBETH, FIRE WARDEN

[10:22:19 AM](#)
Members present:
Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT
Members absent:
Chairman Robert W. Watne
Others present:
Clerk Diana Kile, Rick Trembath Fire Chief

Discussion was held relative to the duties listed on Resolution # 1916 for the Flathead County Fire Chief. Rick is questioning duties listed on the resolution in regards to whether he is responsible for the operational or planning end of it. He would like to appoint deputies to take over if he isn't available. He is suggesting a proposed change in the wording of the resolution. Commissioner Brenneman will work on the wording that would change a couple of the items listed and will do another resolution after the wording is suitable to Rick. Discussion was also about who is responsible for Flathead Lake in emergency situations. By default Bigfork is called when various different agencies can be involved and have the capabilities to do better.

DOCUMENT FOR SIGNATURE: CTEP APPLICATION / EVERGREEN BIKE PATH

[11:01:18 AM](#)
Members present:
Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT
Members absent:
Chairman Robert W. Watne
Others present:
Clerk Diana Kile, Jonathan Smith, Jim Atkinson, Rebecca Shaw, BJ Grieve

Commissioner Hall made a **motion** to sign the Evergreen Bike Pike, the Willow Glen Bike Path, and the Kila Bike Path applications. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: CTEP APPLICATION / WILLOW GLEN BIKE PATH

[11:01:18 AM](#)

Members present:

Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Clerk Diana Kile, Jonathan Smith, Jim Atkinson, Rebecca Shaw, BJ Grieve

Commissioner Hall made a **motion** to sign the Evergreen Bike Pike, the Willow Glen Bike Path, and the Kila Bike Path applications. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: KILA BIKE PATH

[11:01:18 AM](#)

Members present:

Commissioner Gary D. Hall
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Clerk Diana Kile, Jonathan Smith, Jim Atkinson, Rebecca Shaw, BJ Grieve

Commissioner Hall made a **motion** to sign the Evergreen Bike Pike, the Willow Glen Bike Path, and the Kila Bike Path applications. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Commissioners Hall and Brenneman to attend National Institute of Corrections interview at the Sheriff's Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 24, 2006.

TUESDAY, JANUARY 24, 2006

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

Chairman Watne opened the public comment on matters within the Commissions' Jurisdiction,

Jack Tuholske stated that he was speaking on behalf of the Middle Canyon Group an organization that is opposed to this proposed gravel permit. He stated that he just wanted to touch on a couple of points this morning because there are a lot of people that would like to speak. He first stated that one of the primary issues that the commissioners have to face is to have to decide whether or not this is a non conforming use, and if in fact it is a non conforming than it violates the zoning regulations that are duly enacted and it has to be denied, the commissioners are well aware that there have been some conflicting information that they are going to have to sort through, submitted to the commissioners and to the planning staff with respect to the previous use of the gravel pit. He asked the commissioners to use there common sense and say that the original reports that were filed in the 1990's were filed contemporaneously by the owners of the pit, that clearly stated that for a number of years that there was no gravel extracted, and compare those, there is no agenda or motivation other than to file accurate and honest reports, and the later reports that surfaced in 2005 surfaced after someone had an agenda and had to demonstrate that those earlier reports, if they were allowed to stand, would have meant an automatic disqualification, so which of the report, using common sense, are more credible. He then stated that the other credible piece of information that they have to consider is the information, an affidavit and a letter filed by a realtor who listed the property for over 400 days, and during those 400 days that person was on the property numerous times, and it was listed as residential, not as a gravel pit, and that person who has no agenda or interest in the outcome of this case as it stands right now, said that there was no continuous gravel operation, and he did not see any gravel being removed in that time. He stated that using there common sense to way that information it is apparent that the more credible information are the reports that were filed without an agenda at the time that operation was ongoing back in the 1990's, and those stated that no gravel was removed during a number of years. He continued by saying that in addition to that he would ask them to consider the private property right of the homeowners, and private property is an important issue, and the homeowners have private property, vested property rights, in relying upon the zoning obligation, the zoning requirements, that the commissioners and there predecessors have passed. He stated that this zoning plan is a property right that goes with the homeowners and they have a right to rely on the fact that major industrial operations are not going to appear next to one of the crown jewels of the national park system in an area that is clearly residential and rural and not suited for industrial use. He then stated that in addition the private property rights of one of the land owners who has an easement through this property, that easement can not be expanded from what was originally an easement for a residential lot to allow for a full blown commercial development to use that easement. He finished by saying that his last point is that no one was there to argue that gravel is not important to Flathead County, and to the State of Montana, and that really is not the issue. He stated that there are one hundred and twenty two gravel pits in Flathead county, and there are appropriate places for gravel operations and there are a number of gravel operations that are going on in areas that are properly zoned industrial or clearly have been long standing operations, and no one is asking the commissioners to shut those down, but this is a pit that does not need to be approved. He stated that it violates the land use plan, the zoning regulations that were adopted by the county and have been relied upon by the residents.

Dan Weinberg, a state senator in Montana for District 2, stated that the gravel pit under consideration today is in his district. He stated that he does do what the commissioners do, and they do what he does, and they are all office holders, and he thinks that they have perhaps a common understanding of what makes there system work. He stated that he believes that what makes their system works is that people need to be heard, people deserve to be treated truthfully, and their success, and the citizens success depends upon a bond of trust, and they deserve to be able to trust them, and they need to earn their trust. He stated that he is very aware of that in his position in the Senate, and he would hope that the commissioners feel the same way. He then stated that in this matter before them today a pivotal issue is the reports, the annual reports that told whether or not gravel was extracted from the pit. He stated that for ten years reports were filed, usually on a timely basis, but over ten years they were filed and said that no gravel was extracted. He then stated that would clearly point to the fact that, because of the regulations with the county, no grandfather clause would be appropriate. He stated that the grandfathering says that gravel had to be extracted, except for one hundred and eighty days, gravel would have to be extracted to be able to grandfather the permit. He stated that for ten years the report said that no gravel had been extracted, and then miraculously when the current owner found that out and was challenged by the grandfathering clause, and the pulling of his permit, new amended reports appeared. He

stated that the reports all said the same thing and appeared that they had all been written the same day, long after the fact, ten or twelve years after the fact. He then stated that DEQ, against their better judgment, somebody at DEQ accepted those amended reports, until it became an issue, and now of course DEQ has backed off of accepting those. He stated that he has been talking to Richard Opper, head of the DEQ, and he thinks that he understand what is going on, and that his lawyers have told him not to take sides on the report issue, but as the commissioners know, they have received the communication from DEQ, and DEQ is backing off of their acceptance of the amended reports. He then stated that he believes that all that needs to be done today is to be rationale, and to understand what is truthful and what is not, and he would strongly encourage the commissioners to look at the evidence and understand that the original reports that show that the pit should not be grandfathered are the truthful and accurate ones

[9:41:33 AM](#) Chris Dalimata stated that he was from NIAC, and that according to the senator they need to be truthful and honest, and use justice, and that he agrees with him one hundred percent, except for the fact that a gravel pit is a gravel pit, and has been a gravel since he was a little kid. He stated that he has hauled gravel out of that gravel pit just about every year, but that he does not have it written down, but he know that in the late nineties he hauled gravel out of there, not a lot, but he helped out a lot of old people in West Glacier who needed there roads fixed, and that whether they did it with there back hoe or shoveled a few pickup loads out to take down there. He again stated that it is a gravel pit, and it has always been a gravel pit, and he does not think that anyone can deny that. He stated that since he spoke last time at the meeting there has been a pretty significant change in the safety of Badrock Canyon. He stated that the Department of Transportation has decided not to work on that road through Badrock Canyon until 2011, but they have been supposed to work on it for quite a while. He then stated that it is a very dangerous section of road, and they have put it off for another five years for whatever reason, but they do not know the reason, or he does not know the reason. He also stated that they have condemned five more people to death by accident in Badrock Canyon in the next five or six years. He stated that in the last nine years there have been twelve fatalities in Badrock Canyon, and numerous maiming's and accidents. He stated that there are going to be accidents all of the time because of the way that people drive, but the commissioners have the opportunity to significantly reduce that, because if there is a gravel pit in West Glacier that gravel is going to be coming out of that pit just because of the economic sense of it. He stated that they are not going to haul from one of the other one hundred and twenty two gravel pits in the county up there because of the price of diesel and it is going to come out of the closest pit that is possible. He then stated that if there is not a gravel pit up there that gravel is going to come down through Badrock Canyon, across that South Fork Bridge, and that is a deadly bridge. He also stated that he is on the Quick Response Unit, and he responds to the calls that are there, and it is no fun. He stated that the commissioners have the opportunity to reduce truck traffic through that area, and that the state has put one bullet in the cylinder for the next five years, and that by the commissioners denying this put it would put another bullet for the people who drive through that area. He stated that safety, for him, is the biggest issue, and that one life, one maiming, one person who can not walk anymore because of an accident makes all of these other issues moot. He went on to say that he does not care if Bob Spoklie makes any money on his gravel pits, and that if there is gravel that needs to be in the canyon he has other gravel pits, and he will haul it up there, and would probably make more money doing that, but that is not the issues here. He stated that the issue is safety and property rights. He stated that Spoklie and everyone who owns the land has a quality of life, and that his quality of life is just as important as other peoples. He continued by saying that their fore fathers fought, shed their blood and died in the American Revolution to free them from just this kind of tyranny that they were seeing there, and that they freed them from that. He asked the commissioners to please honor what they fought for years ago, and honor the people of the county, and everyone that drive up and down that road. He stated that from a safety stand point it is very important.

[9:46:05 AM](#) Brace Kayden, a representative of Superintendent Gil Lausk at Glacier National Park, stated that Glacier National Park strongly supported the development of the Canyon Plan, and the Canyon Land Use Regulatory System that was subsequently adopted by the Board of County Commissioners in 1994. He stated that Park has supported the land use restrictions that are found in these zoning regulations as they are designed to protect the scenic corridor approaching Glacier National Park, and the rural nature of this area. He stated that there was over twenty hearings held in the Canyon regarding this plan prior to it's adoption. He stated that they note, from the testimony that was given before the planning board earlier, that there are numerous inconsistency's with this gravel pit with the plan as adopted. He then stated that his second point that he wanted to make was that Glacier National Park currently has no contractual agreement for use of gravel from the Spoklie gravel pit. He stated that it has been implied in the permit request and at public hearings, that gravel from this pit would support rehabilitation of the Going to the Sun Road. He stated that this is merely speculation on the part of the current owner, and that the Going to the Sun Road project is not contingent upon the availability of gravel from this pit. He concluded by pointing out that Glacier National Park is a class one air shed, as recognized by the EPA, which gives the superintendent a very a strong responsibility to protect the air resources of the park, and they note that dust plums from this pit, and they assume the haul road, have been visible in the past.

[9:47:47 AM](#) Bruce Barrett stated that he was familiar with this pit, and he thinks that there has been some noise, dust, and safety concerns, and he thinks that the stipulations as proposed are reasonable and address that. He stated that there are some major changes proposed. He then stated what they were not told was the complete story of the history of the pit. He stated that the pit had been in operation for more than fifty years. He stated that there was a lawyer that stood up and said say that the listing agent did not see any activity, however what was not told was that the person listing the property in fact excluded the gravel piles that were on the property. He asked why they would do that if they were not going to sell them. He stated that if you look at the photo documentation you will see that this pit, at the time of the sale, was actively being mined, and that you can see the pit mine materials that were pulled off of those banks. He stated that they were eroding banks, and you can clearly see that. He then stated that this pit was originally permitted in 1991 by Schellinger through Evans. He stated that Evans obtained the permit, and at that time it was really clear in the documentation that that pit had been operated. He then stated that Schellinger got a permit through Evans to extract forty thousand tons involving two acres, and that is all Evans could afford was a bond reclamation, and that it did not include the permitting requirements now. He continued by saying that what they had not been told was, by George and Jeff Harris, is that there was quite a lengthy email exchange in December, and it documented the permit requirements, the grandfather issue, and that this gravel pit was in fact in operation, there was gravel sold there, and the work area was 7.8 acres, or there about. He stated that they can look at the photos and see that. He stated that they can take the 91 photographs and compare them with the 2002 and see the same footprint, and certainly there was not great numbers of trucks hauling out, but they have to think about the times. He then stated that he was here in 1995 and there was not that big of activity, and then in 1996 and 1997 they saw an increase in demand, but there was gravel sold. He also stated that even the local resident that lives there, who may state otherwise, has told him at his kitchen table, that yes there were gravel trucks going by, and that this was further collaborated by affidavits from gravel haulers. He continued by saying that he believes that they have to look at the entire picture, is this a reasonable location for the pit. He then stated that George Harris, when he talked to him, originally stated that yes that was a great location, and that it was out of sight and if they were going to have a gravel pit in the canyon area you could not look for a better location.

[9:51:10 AM](#) Sally Thompson, a resident of West Glacier who has lived and worked there for over thirty years, stated that there is a lot to reflect on, and a lot of repetition that they are going to hear. She stated that back in the early nineties their whole community got together and discussed to come up with a Middle Canyon Plan, and they all agreed then that they would abide by

that plan, and that this area where the proposed gravel pit is was zoned residential because of reported inactivity in that area. She then stated that she believes that they all realize that they have had to make stipulations in their own business and workings that they must go along with this Middle Canyon Plan, which she thinks the majority of them have done. She stated that they have adopted what she likes to call a buffer mentality. She also stated that it is not like a subdivision that is going to be built in the Lower Valley, or near one of the other one hundred and twenty two gravel pits, but it is at the entrance to Glacier National Park, and she thinks that is what they have to remember. She then stated that there is no question that they need gravel, but they just do not need a gravel pit there, and she thinks that it does not go along with the Middle Canyon Plan, it does not go along with the recommendations of the professional planners of Flathead County, and she would recommend that the Commissioners deny the request.

[9:52:38 AM](#) Catherine Richter stated that she was there to see that the Commissioners do justice, and that they all follow the zoning laws that were put in 1994. She then stated that they wanted to give an acreage to each of their children, and one to themselves to retire on, this way when they come back they could help them in the summers and have a small home that they grew up in. She stated that she followed the procedures and was turned down. She then stated that other people wanted to buy a motel and tear it down and build a modern one, and you said they had to keep the same old style looking building. She asked the commissioners if they would want to stay an old worn down looking building. She answered with that no they would want a more modern one. She stated that if they allowed a gravel pit than other business can do what they want. She then stated that this big business contractor of many gravel pits and subdivisions who has people working for him to find out where the zoning and no zoning are must be totally incompetent not to realize that there was a zoning law in the area. She also stated that he totally chose to ignore the laws, and that the DEQ did not do their job, and they feel that he should have a fine and jail time, like she had for very minimal things. She stated that he is no better than the rest of them. She then stated that belly dumps traveling down the highway on the county roads, and jake braking do not make for happy camping for the people staying and walking down the lake, jogging, biking, and getting there exercise in the forest area. She stated that visiting Glacier National Park is a big draw to this area, and they all know they have to make a living. She stated that their group of 4-H children told the highway department what was needed, and they designed the road for the safety of the bikers, the horse back riders, big motor home, along with the truckers and loggers. She then asked why they have a judge in California telling them that they do not need a bike path, a horse path, or a four lane road. She stated that they have proven that judge wrong, and asked if the commissioners wanted to follow the same path. She stated that they live their and know what is needed, and that they need places for people to gather for computer use, competitions, square dancing, ice skating, family reunions, arm wrestling, bowling, shuffle board, tennis courts, racket ball, and movie theaters where they can show the ones that can not hike so they can see pictures on the big screen. She stated that they could be used for all kinds of shows and conferences, and that not all people want to spend twenty four hours in Glacier Park and need other activities. She then stated that she does not think that the gravel pit is an activity that they would want. She stated that they came to the county from over the hill and are true Montana people. She stated that they moved to the area in 1960 building a bridge in Glacier Park, and decided to put in a few spaces for trailers, hoping they could fill spaces and have an extra income. She stated that they did not get it completed, and when the flood hit the area workers needed places to live, they needed to do the clean up and rebuilding from the damage of the 1964 flood, and that is when the campground and the trailer park came to be. She then stated that they helped others in need for a clean living space. She stated that this was to be their money for retirement but, when someone else takes over and wants to build on it, you have laws that stop that, and that is not right. She stated that the commissioners need to start thinking of the tourists and use the land to its fullest and that as long they abide by the health standards that is number one. She stated that they need to accommodate the tourists. She continued by saying that this is tourist country and they have to have fun things to try to keep them here longer. She stated that they have good rules but when it comes to the tourists, which is their number one economy here in the summers, they need to update their demands to the tourist industry. She stated that Spoklie Construction could put in some box stores to fill the hole that he created. She stated that she feels that this was done without the planning and zoning knowledge, and that they did not take the proper action, and now the commissioners have this problem. She stated that the County Attorney's and the Commissioners are giving this business man what he wants, and that is not how they read the laws. She asked the commissioners if it was going to be Justice, or is it was going to be an okay and do as they want up there and forget all proper channels, such as zoning. She asked why they were doing all this work to keep it clean and fun. She stated that they have to be able to, according to the demands of the tourist industry, and they have to update the tourist industry. She stated that they have no way to provide fun things for the people who come to see Montana. She stated that if the commissioners allow the gravel pit to go in they will be breaking all of the zoning laws. She stated that she sees a big fine and jail time for Spoklie. She also asked the commissioners to remember that they would be breaking the handicap law with there loose gravel that they recommend business to have. She stated that the commissioners have to be accountable and now is the time for them to do it. She again stated that she feels that Spoklie needs a big fine and jail time, because they knew what the zoning laws were, and they did not abide by them

[9:57:39 AM](#) Monica Jungster, a resident of the valley for fifty years, stated that she was requesting denial of the gravel pit application. She stated that in her view there has never been a question of what to do with Mr. Spoklie's gravel pit, and an industrial size gravel pit does not meet Middle Canyon zoning regulations. She stated that the Middle Canyon zoning regulations are not up for review at this time to make changes to consider road safety, and some of these other outside issues, and they are not up for negotiation or discussion after the fact of violations committed by Mr. Spoklie have occurred. She then stated that zoning regulations exist as a majority approved by a citizen vote, and then they are approved by the county commissioners. She also stated that zoning regulations are requirements that have to be met as they stand. She stated that a letter from DEQ director Richard Opper, of January 9th, states that DEQ inadvertently approved the three Spoklie permit amendments without first obtaining documentation from Flathead County that the proposed amendments were in compliance with county zoning regulations as required by the State of Montana open cut mining rules, and that he also indicates that there was no consideration or understanding of any materials that were going to be sold to the park service for the Going to the Sun Road project. She continued by reading the letter where it stated that the commissioners at this time as they make their decision may ask for guidance from the State Attorney General's office for questions of law and conflicting documents on Mr. Spoklie's application process that first went to the DEQ and not to the county as it should have, and that the review process continues at the State DEQ. She stated that as they make decisions today she believes they all know that it can go to District Court, or it could end up at the Montana Supreme Court. She also stated that they are in the commissioner's part of the process right now. She continued by saying that the Montana Constitution states that all persons are born free and have certain inalienable rights which include the right to a clean healthful environment, the rights of pursuing life's basic necessities, enjoying defending their lives and liberties, acquiring and protecting property, seeking their safety health and happiness in all lawful ways, and in enjoying these rights all persons recognized corresponding responsibilities. She stated that that is what brings them here today. She then stated that some people may see these rights and rules as something to be tested and broken and she does not. She stated that she owns a gift shop in Apgar Village and the rules and policies that she makes for employees are the same whether she has known someone for one day or their families, and they have been doing business for forty five years. She stated that at this time they all need to uphold these rights and the zoning with commitment, diligence, ethics, and due process. In conclusion she asked the commissioners to please vote no.

[10:00:55 AM](#) Patrick Ford thanked everyone for attending the meeting. Referring to a map he pointed out the Coram Experimental Forest, which overlaps Glacier National Park, and stated that in 1976 the United Nations referred to this as a biosphere. He stated that both biospheres overlap right in his backyard, and that this is exactly where the gravel pit is. He then stated that he owns the gravel pit that is on the road that goes back to the gravel pit, and that it has been overburdened and misused. He also stated that he has gone through quite a bit of abusive, verbal abuses as well as physical abuses. He stated that he is a veteran and came out here from New York back in 1970 and landed here in 1973 and established himself in West Glacier. He then stated that he has been here for thirty three years and he considers himself a valuable person to the community. He stated that if there was approval of this it would completely change the environmental aspect of the whole situation, and that it would also compromise the education and studies that this 1976 biosphere, by the United Nations, was developed. He then stated that his main reason for being there is his backyard, and that he has trucks going within ten feet of his garage and fifty feet of his front door. He stated that he has dealt with dust problems. He continued by saying that they had oiled this last year, but unfortunately the oiling was done without his permission, and within fifty feet of his well head, which is four hundred and eighteen feet down, and it took him a long time to dig up the fourteen thousand dollars to put his well in. He then stated that this is his American dream so if they are talking about property right, and what is right and wrong, like he said he could not live in the cities back in the 1970 when he came back from Vietnam so he came out west. He stated that this is where he settled, where he lives, and this is where he wants to die. He concluded by saying that he has a spot on his property where he plans on being planted, and with the grace of the commissioners he will be able to maintain his life and where he lives.

[10:02:38 AM](#) Brian McKean, a resident of West Glacier, asked the commissioners to vote no on the Spoklie gravel permit in West Glacier. He stated that there is one reason that the commissioners must vote no, which is the sole premise of Mr. Spoklie's argument of operating this pit, and that is that his amended statements of operation of the pit for the 1990's have been called questionable but they are not, they are bogus. He stated that the commissioners know they are and that he knows they, and anyone who has heard anything about these amended statements knows that they are. He then stated that the reports were concocted for the purpose of making Mr. Spoklie's gravel pit legitimate so that he can make money. He continued by saying that Mark Felt, the infamous deep throat of Watergate, once said in regards to the Watergate burglaries, follow the money trail. He urged the commissioners, in regards to Mr. Spoklie's permit application, to think about who might have something to gain from the amended statements of operation. He finished by saying that he like Mark felt say to follow the money trail.

[10:03:43 AM](#) Heidi Haugen, a third generation Flathead Valley resident, stated that in December the Middle Canyon Planning Board recommended denial of Mr. Spoklie's gravel pit expansion, which was followed by the recommendation of denial of this application for expansion by the professionals at the Flathead County Planning Office. She stated that the fact that the planning board chose to deliberately override these recommendations defies logic. She stated that for them to place twenty eight conditions upon this project reinforces the notion that this application is terminally flawed. She then stated that the continued and possibly increased activity of the gravel mining operation directly affects the quality of life, and safety of the families in their community. She also stated that Belton Stage Road is a winding, primarily gravel, county road that runs through a residential area, and is enjoyed daily by walkers, joggers, and summer time bikers. She then stated that it is a lovely road and should not be permanently transformed to accommodate one person. She stated that eighteen wheel belly trucks full of gravel would not be safe on Belton Stage whether it is paved or not. She then stated that Mr. Spoklie has shown that he has no control over the behavior and responsibility of the truck drivers that serve his pit. She also stated that they heard from a previous speaker that was concerned about the safety on their highways, and her question would be what about the safety of the families on their road. She then stated that a commercial gravel mining operation would absolutely be a non conforming use in this area. She stated that this is where they live, that she works at home, and in early November they had nearly seventy dump truck loads pass her house in one afternoon. She stated that they live about one hundred yards off of the road and still felt and heard every single load, along with seeing and smelling the black exhaust shooting out of the top of each truck. She then stated that no matter which direction the trucks travel they pass directly by people's homes. She stated that they did not buy property, and build their home in West Glacier to live this way. She also stated that they expect a certain quality of life in the area, the Middle Canyon zoning supports that, and they would expect the county commissioners to support that as well. She urged the commissioners to listen carefully to the citizens before them today, and that they are speaking from their hearts not their bank accounts. She stated that they were good people that deserve to be protected by their local government. She then stated that compromise and conditions area not a solution to this issue, that wrong is wrong, and it can not be mitigated. She then asked the commissioners to please vote no on the application.

[10:05:54 AM](#) Lisa McKean stated that her family, two small daughters and a husband, live in the vicinity of Belton Stage Road, and while she feels that there are many reasons to oppose this gravel pit that Mr. Spoklie has already been operation this last year, she wants to speak directly to the safety issues for herself and her family. She stated that her and her two small daughters often enjoy walking along the serene and tranquil roads and areas, and last spring while walking along the Belton Stage Road in ten minutes they were passed by six gravel trucks spewing dust and exhaust and it has completely made this road unsafe for any travel with families. She also stated that she feels that all of the gravel in West Glacier is not worth one single life, and she asked the commissioners to oppose the gravel pit.

[10:07:03 AM](#) Riley McClelland stated that he has had the privilege of doing wildlife research in the West Glacier are for more than forty years, and in his view this pit operation will cause significant negative impacts to sensitive species in the area, such as Bald Eagles, Grizzly Bears, and Elk. He then stated that attaching conditions to the permit would not transform the pit operation into a benign activity. He stated that he respectfully urges the commissioners to protect the wildlife resource, to support their constituents, and to support the Middle Canyon Plan.

[10:07:51 AM](#) Beth Blacker, a resident of West Glacier, stated that she is passionate about her neighborhood, and that her American Dream realized after twenty years of working and saving for a home is threatened by the decision facing the commissioners. She stated that no where in her dream did she envision a gravel pit in her neighborhood anymore than their dream included building a plant to mill the logs that made their homes. She then stated that she has been involved in the planning process in her neighborhood, and that she is a proponent of the valley wide planning process. She asked the commissioners to please not make a mockery of them, and look at their planning process, and vote against this proposal.

[10:09:18 AM](#) Pat McClelland, a resident of West Glacier in the Middle Canyon, stated that she would like to look at the history of the development of their zoning plan. She stated that in June 1922 the canyon citizens initiated zoning groups, and CCIZ was formed to guide the planning process for the canyon communities, in response to the lack of regulation, planning and zoning for the growth push going on at that time. She then stated that it was felt that the valley did not really understand the communities, the culture, and the landscape of the Middle Canyon, and the people who lived up there wished to preserve their inheritances. She also stated that as the result of two years of development, with input from the federal agencies, input of funding, grant money, and donations they produced the Canyon Plan, which is the growth policy for the canyon, and the Middle Canyon plan is under that growth policy. She then stated that the Canyon Area Use Regulatory System was adopted December 29, 1994, and that under their major land uses they have no category for gravel pits. She stated that if a use is not permitted it is assumed not to be done. She concluded by saying that there is not gravel pit designation.

[10:11:23 AM](#) Mike Jopek, a Whitefish farmer and the state rep for the area, stated that Flathead County has a long history of issues with gravel pits to the point where an opinion that was rendered from the county led to new legislation in the state, which was House Bill 451. He stated that he sponsored that particular bill, which clearly outlines the ability of counties to regulate gravel in certain zones, and it is up to the commissioners to come to terms with where those zones are. He then stated that he had been speaking quite a bit with people at the state level about the problematic approach to looking at gravel in Flathead County, since they do have some gravel issue here. He then urged the commissioners to embrace that approach, because he thinks that they have the ability to look at revamping it, and they have the ability to look at where residential areas are. He stated that he knows that there is tremendous conflict between residential areas, and industrial gravel pits, and it is good to be proactive on that. He then asked the commissioners to embrace that approach when it comes before them next month. He also stated that, as an elected official himself, sometimes it is painfully difficult to make the decisions, and he asked the commissioners to make this decision as opposed to passing it along to any appointed board.

[10:13:01 AM](#) Richard B Hunt, a resident of West Glacier, stated that he had attended two public meetings in reference to the application from Robert Spoklie concerning a gravel pit on Belton Stage Road. He stated that he had followed many of the letters to the editor, heard many comments about that matter of the gravel pit and its murky history, and he has also read informational letters and posters regarding the long term growth master plan being discussed throughout the valley. He then stated that efforts by citizens to contribute ideas and hopes to that plan would rely on placing their trust in the process, and expecting that good will come and that it will be protected. He also stated that they are deluged by reports, and stories of government, and elected officials in government having lost the trust of the people. He stated that in the Flathead they elect neighbors who are of the people, and place their trust in them that they understand why they live here, and why they vote to protect their neighborhoods with zoning and land use rules developed by the people. He stated that they vote for them because they believe that they know and trust them to act for the people. He confessed to being somewhat naive and idealistic about their government. He stated that a failure by their representatives to apply the approved land use rules breaches the trust expected when they elect them, it makes him feel betrayed, and it would diminish, not eliminate, his faith in the government founded on those words used above, of, by, and for the people. He then stated that it is because he has faith and trust in their system that he urged the commissioners to acknowledge the efforts of the people of the Middle Canyon and West Glacier area to protect their neighborhood, and deny the application for Mr. Spoklie. He also stated that because he is naive, and idealistic, does not mean that he is a fool, and he knows when trust has been breached.

[10:15:51 AM](#) John Gillespie stated that he had two issues that he wanted to bring up. He started with his first issue, which is that he has lived there since 1989 and he knows Joe Evans, who is also known around as Corky, and had told him at one point, when he asked him about getting gravel at this pit, and Corky said that you could not get gravel out of the pit due to a pending EPA action. He stated that Corky never elaborated but said that no gravel could be taken from that pit. He went on to his second issue, which was that at the December 14 community meeting Mr. Spoklie had said that he was unaware that there was any kind of zoning attached to that property. He then stated that he had a copy of the warranty deed signed by Sally Evans, and made out to Mr. Spoklie, that states in Section B that Resolution 1049A adopted the Canyon Area Land Use Regulatory System, recorded under document number 199500612550 records of Flathead County Montana. He stated that it said on the warranty deed for that property falls under the Canyon Land Use Zoning.

[10:17:29 AM](#) Neil Brewster, owner of the property just south of Mr. Spoklie's forty acres, stated that he believes that their investment in their properties and homes is one of the largest investments that they make in their lifetimes. He stated that it is one of those things where they put their money into it and believe that they are going to have solitude, peace, and an escape from the rest of the world, but in the last couple of years things have changed in their neighborhood. He then stated that they believed that the Middle Canyon Zoning Plan and Area Use, would help protect their property rights, and protect their land value. He asked the commissioners to do what is environmentally proper, legally supportable, and the neighborly thing, by rejecting Mr. Spoklie's proposal and close down the gravel pit that he has expanded without proper authority, and reclaim it to what it should be. He also asked the commissioners to give them back their peaceful and safe neighborhood.

[10:18:44 AM](#) Ken Kalvig, a Kalispell attorney who represents Bob Spoklie, stated that while listening that morning, and reading some of the letter to the editor over the last couple of weeks, he heard many people say that they want the commissioners to apply the canyon plan, apply the Canyon Area Land Use Regulatory System, and follow the legal process. He stated that it was the same thing that he wanted on behalf of his client. He then stated that it would probably lead them to a different result than what most of the people in the room wanted, but he did believe that they have to follow the law. He stated that a former partner of his, by the name of Dan Hileman, once advised him that as attorneys what they have to do in analyzing their case is to think of their case as to what it is that they need to present, what should be presented, and what is the critical information on which they have to base their decision, and when he thinks of that information he must think of the shape of his case as a box, and as an attorney he needs to stay in that box. He continued by saying that during the case opposing council is going to try to pull the commissioners out of the box, and try to get the judge and jury to focus on things outside of that box, because it distracts the judge or the jury from what is critically important. He stated that he had thought about that a lot over the past week relative to the matter at hand. He then stated that there are things that are critically important for the commissioners to consider in making a lawful decision, and those things are contained within that box. He stated that a lot of the statements that had been made by members of the public or written in letters to the editor, are important things for the people to express, they are important things for the commissioners to hear, they may be compelling, they may find them good reasons for thinking about policy, but they may not apply to the decision before them, so they have to stay focused on what the Canyon Area Land Use Regulatory System says which their decision must be based on. He then stated that the language of the plan is clear that when they are looking at a major land use decision they have to take a look at the performance standards and guidelines as laid out in CALURS. He continued by saying that Mr. Spoklie did not write the performance standard or guidelines, and all he wanted was for the commissioners to follow the law and apply those to his application. He stated that CALURS states that if the performance standards are complied with, and if the performance guidelines are substantially complied with, they shall approve, or conditionally approve, an application for an expansion of an existing use. He then stated that initially staff did not analyze the request in the context of those performance standards and guidelines, but the planning board recognized that those were the critical things to be considered and sent the request back to the planning office and told them to analyze it in that context, which has been done and documented in the supplemental staff report. He stated that when they read the staff report relative to the performance standard and guidelines by his count there were approximately forty performance standards that were discussed in the supplemental staff report, and a fair reading of the staff report shows that Mr. Spoklie was not out of compliance with one of those, in other words he had one hundred percent compliance, and as to the performance guidelines, of which there are a dozen, arguably one of those he is not in compliance with, so in his opinion that is substantial compliance. He continued by saying that fifty two items that are critical to the decision that the commissioners were going to make and only one of those, a performance guideline, he may not be in compliance with, and that had to do with the adequacy of Belton Stage. He stated that they had heard many people talk about that and it is an important issue. He stated that he has a wife and three children and he was concerned about road safety as well, but what the canyon plan says about performance guidelines is that they are to incorporate those into the development, not use them as a reason to turn it down, but where appropriate make the applicant do

changes, or put conditions on it, that will address any deficiency that they see. He again stated that he wanted the commissioners to follow the law, the plan, and follow the legal process, and he believes that if they do that they have to approve the request. He stated that there were conditions that were placed on the recommendation for approval by the planning board (here he handed the commissioners a hand marked up copy of those conditions) and if they would like to discuss those further and consider further changes he would be happy to go through them with the commissioners, but for the most part Mr. Spoklie accepts the conditions as they are with a few minor changes. He stated that there were two conditions that he wanted to address, which include the requirement that Mr. Spoklie, if approved today, go through a conditional use permit process with the Board of Adjustments, and legally he does not think that is correct. He stated that if approved today by the commissioners that is a permitted use under the canyon plan, and an expansion that goes there a major land use review and is approved by the commissioners is a permitted use, and it makes no sense legally to also send that person through a conditional use process, which is done for non conforming uses.

[10:26:07 AM](#) Sonja Hartmann, who lives on the Blankenship Road that ties in with the Belton Stage, shared a conversation that her husband had with Mr. Spoklie at the planning board hearing about one month ago. She stated that Mr. Spoklie had asked why her husband was there, since they lived on the Blankenship Road and not the Belton Stage, and sort of asked why they were getting involved in the business if they did not live somewhere right near the gravel pit. She stated that she just wanted to share with the commissioners that she believes that this issue is an important community issue, but it is much bigger than that, and the trucks will run by her house but this is setting precedence for other community plans. She concluded by saying that she hoped that the plan would be upheld.

[10:27:08 AM](#) Karen Holser stated that she was in opposition of the gravel pit mostly on account of the increased traffic, dust on Belton Stage Road, and the amount of noise that would come from the equipment. She then stated that it was a quiet neighborhood and they enjoy walking and biking along that road, and just enjoy it being out in the summertime.

[10:27:43 AM](#) Dan Fagre, a resident of West Glacier with property on Belton Stage Road, stated that Mr. Spoklie had discussed the box and he believed that is why they were there. He stated that they want to see the decision, that the commissioners needed to make, be based on a firm factual foundation, and that was why most of the people in the room were there, because they do not believe that existed. He then stated that the request before the commissioners is not based on a firm foundation, and they think that it is fraught with all kinds of problems including legal. He stated that they had been brought out in documents, testimony, letters to the editor, and a giant stack of documents, which the commissioners had received in their office. He continued by saying that they had heard about questionable operations prior to, and around the time, of the establishment of the canyon plan and CALURS. He stated that there were reclamation orders, fines, and charges of being under bonded by the previous owner, and at this time what is clear is that there is a legal basis for this, and it strikes him that they can not base a legitimate claim on an illegitimate operation. He then stated that the existing use for expansion is not necessarily legal, and so these need to be sorted out. He continued by saying that they could not make a good decision when it is not based on a firm foundation, especially one of that magnitude that affects the future of the community and county. He stated that he believed that there were multiple lines of evidence that show that there are lapses of activity that would negate the grandfathered status, again that there were documents in DEQ, and as someone mentioned a realtor that showed a property. He again stated that there are countervailing arguments as well, but it is not a firm foundation for making a crucially important decision. He stated that he also thought that in contrast to this if they look at the plan that was formed by lots of work by residents, tax payers, voters, and citizens of the county, and they are trying to protect the quality of life and future in the finest tradition of democracy, and the intent is clear. He continued by saying that this was exactly the type of activity, the corrosive activity, that can be damaging to a community, and this is why they formed a plan and got together to try to take charge of their destiny to have a future that they could all live with. He then stated that this plan was adopted by the current commissioner's predecessors, it has worked well for the community, it has been a model for how things should work in the county, and this is its biggest test, so it is not a trivial decision. He stated that if they do not support this plan and the regulations that go along with it then they would question why they have the growth policy, he thinks that they are tied together, and if they are going to have a future in which citizens participate and in which growth policies try to find the best land uses for everybody this is the thing that they need to do to build the trust back into the county government. In conclusion he stated that the decision would be about many things, but one of them is supporting the citizens, the planning process, and the conviction that just could prevail. He asked the commissioners to support the plan and deny the request.

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

CONSIDERATION OF MAJOR LAND USE PERMIT: SPOKLIE & HOOVER / CANYON AREA LAND USE REGULATORY SYSTEM

[10:30:55 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Don Bromley, John Gillespie, Dick Hunt, Catherine Richter, Genevieve Thompson, Lori Smith, Danny cooper, Lisa McKean, Brian McKean, Dan Fagre, Tracy Lee Hobbs, Jenn Tabbert, Kevin Havgen, Herb Mains, Darlene Mains, Bill Lundgren, Kyle Thomas, Greg Larson, Dan Weinberg, Chris Dalimata, Gail Jokerst, Beth Blacker, Kathleen Flint, John Hinchey, Judy Hinchey, Kathy Lundgren, bob Lundgren, John Glader, Kevin McClelland, Robin Bailey, Grant Spoklie, Bruce Barrett, Bob Spoklie, Mary Smith, Bobby Smith, Jack Tuholske, Patrick Toavs, Monica Jungster, Sharon DeMeester, Neil Brewster, Lisa Towery, Sally Thompson, Gail Pauley, Dan Bangeman, Bill Myers, Ingalis Myers, Mary Kay Sinclair, Ann Fagre, Dan Fagre, Riley McClelland, Pat McClelland, Eleanor Bell, Beth Hodder, P David Myerowitz, Kathy Myerowitz, Dan Diamond, June Diamond, Jean Bromley, John Van Vleet, Karin Connelly, Karen Ridenour Ellingson, Larry D Smith, Jeff Harris, BJ Grieve, George Smith, Peter Steele, Jed Fisher, Marilyn Hartson, Fred Hartson, Karen Holzer, Brace Hayden, Gary Kruger, Ed Burlingame, Lisa Smith, Sonja Hartmann, Bill Baum, Jerry Nix, Nancy Lundgren

Commissioner Hall commented that they would base their decision on the facts of the case and the planning board and staffs report.

Planner George Smith reviewed Staff Report FCMU-05-03.

Jeff Harris reviewed the supplemental staff report.

Commissioners Hall discussed Canyon Land Use Advisory Board, the DEQ reports, the previous unauthorized gravel pit expansion, and the grandfathering issues. He stated that the grandfathering issue was reason enough for him to recommend denial. He also recommends that Mr. Spoklie resubmit his application and go through the process again.

Commissioner Brenneman reviewed his recommended changes to findings to support the motion that they decide to make. He also reviewed the history and the process of law. He then commented on the zoning of the property and the applicant's choice to proceed with the knowledge of the zoning. He also questioned the lack of affidavits for the years of 1998-2000. He then went on to read the annual progress report that was filed in February of 2000 where the owner specifically stated in writing that they had done nothing with the land or operation the past year.

Commissioner Brenneman made a **motion** to add a finding that there is not an existing basis that any grandfathering exists. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to adopt Staff Report #FCMU-05-03 revised as findings of fact with the amendment that there is grandfathering clause. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to deny the Spoklie & Hoover Major Land Use Permit. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

- 7:30 a.m. Commissioners Brenneman and Hall to attend Center for Community Leadership at FVCC**
- 2:00 p.m. Commissioner Hall to attend RC&D meeting at the Earl Bennett Building**
- 4:00 p.m. Roadless Rule Task Force meeting at the Earl Bennett Building (till 6)**
- 4:00 p.m. Commissioner Brenneman to attend GPAC meeting at First Interstate Bank**
- 5:00 p.m. Commissioner Watne to attend Refuse Board meeting at the Solid Waste District Office**
- 6:30 p.m. Commissioner Watne to attend a meeting with John Weaver**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 25, 2006.

WEDNESDAY, JANUARY 25, 2006

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

Chairman Watne opened the public comment on matters within the Commissions' Jurisdiction,

[8:51:06 AM](#) Debbie Biolo spoke with the commissioners in regards to the commercial cluster that is located between Happy Valley and Hodgson Road on Highway 93. She stated that she had been attending the growth policy meetings, and working with the planning department on changing the zoning for this small cluster of business, that has existed and functioned for many years on which they already pay commercial taxes, to a commercial zoning. She stated that so far the planning department has discourage her and told her it would be spot zoning, or evil sprawl. She asked the commissioners to differentiate between the issues.

The commissioner discussed different option with Debbie Biolo, and advised that she speak with Jeff Harris in the planning department.

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

QUARTERLY MEETING W/ BOBBIE KELLY, RSVP

[9:11:04 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Bobbie Kelly

Discussion was held relative to the recent advisory council luncheon, volunteer recognition day, future and current grants, newsletter budget, advisory council member shortage, and employee sick leave.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: SEMITOOL TEXT AMENDMENT / FLATHEAD COUNTY MASTER PLAN

[9:21:58 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Jeff Harris

Commissioner Hall made a **motion** to adopt Resolution 789AE. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

RESOLUTION NO. 789 AE

WHEREAS, Semitool Inc., has requested a revision to the Flathead County Master Plan by amending the map to the Flathead County Master Plan;

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

WHEREAS, the Board of Commissioners passed a resolution of intent (Resolution No. 789 AD) to consider the requested plan change on December 12, 2005, and gave notice that it would consider public comment received prior to January 16, 2006; and

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

NOW THEREFORE, BE IT RESOLVED, pursuant to Section 76-1-604, M.C.A., by the Board of Commissioners of Flathead County, Montana, that it hereby adopts a revision to the Flathead County Master Plan by amending the map to clarify the Semitool property as being in an Industrial Land Use Category, rather than the current Agriculture/Silviculture category, and also correct an existing discrepancy between the County Zoning Map and the Master Plan Map. The zoning designation is currently SAG-10 (Suburban Agricultural) and I-1(Light Industrial). The property proposed for amendment contains 70.4 acres and is located on West Reserve Drive between U.S. Highway 93 and Whitefish Stage Road. The legal description is Tracts 3E, 3D, and 3CA in the SE ¼ of Section 30, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

DATED this 25th day of January, 2006.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

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

ATTEST:
Paula Robinson, Clerk

By /s/Kimberly Moser
Deputy

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: MODIFICATION TO RESOLUTION 509D (EVASION OF SUBDIVISION & PLATTING ACT

[9:29:31 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Jeff Harris

Discussion was held relative to family transfer requests.

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

NOTICE OF PUBLIC HEARING

FLATHEAD COUNTY SUBDIVISION EVASION CRITERIA – RESOLUTION 509D

The Board of Commissioners of Flathead County, Montana, hereby gives notice, in accordance with section 7-1-2121, M.C.A., that the Board will hold a public hearing to consider proposed revisions to Resolution 509 D, which sets forth the subdivision evasion criteria used in determining whether proposed exemptions are evasions of the Montana Subdivision and Platting Act, Section 76-3-101, et seq., M.C.A.

The proposed revisions to be considered would amend the evasion criteria by adding a new form to be filed by applicants for exemptions setting forth more information concerning proposed exemptions than is now required, to require that the grantees of property divided by use of the family transfer exemption be precluded from transferring that property for three years, to increase the fees required for review of proposed exemptions from \$35 to \$100, and to impose a fee of \$25 for review of resubmittals when errors must be corrected.

Further information is available from Kimberly Moser at the office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, 758-5537 or from Kirsten Holland at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana, 751-8200.

The public hearing will be held on the 23rd day of **February, 2006, at 9:30 o'clock, a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, 800 South Main, Kalispell, Montana. At the hearing the Board of Commissioners will give members of the public an opportunity to be heard regarding the proposed revisions to the Flathead County Subdivision Regulations.

Dated this 25th day of January, 2006.

Board of County Commissioners
Flathead County, Montana

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

Attest:
Paula Robinson, Clerk

By /s/Kimberly Moser

Deputy

Publish on January 30 and February 6, 2006.

Commissioner Brenneman made a **motion** to change the date of public hearing to February 23, 2006. Commissioner Hall **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

MONTHLY MEETING W/ DAVE PRUNTY, SOLID WASTE DISTRICT

[9:41:29 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Dave Prunty, Jeff Harris

Discussion was held relative to the new growth plan and subdivision regulations and how they will affect the Solid Waste District, new subdivision contractor hauling, Riverdale Subdivision, expansion project update, board appointments, landfill operations and tonnage increases, the closing of two container sites on Christmas Day, the new hours for the Creston container site, and the progress for the project for digging the next cell.

Discussion was also held relative to Commissioner Hall's comment that the county should have a tarp law and to a comment by Commissioner Watne on hauling with chip trucks.

GIS MEETING W/ TOM REYNOLDS

[10:10:06 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Tom Reynolds, Paula Robinson

Discussion was held relative to the recent GIS day including comments that had been received and the variety of people that attended, year end closeout progress, an audit of all of the taxation districts, work with the state on different issues, the structures layer on the IMS site, work going on with the planning department, and other layers that GIS is working on.

11:00 a.m. Commissioner Brenneman to attend a Budgeting for Outcomes Teleconference at FVCC

11:00 a.m. County Attorney meeting at the County Attorney's Office

11:30 a.m. Long Range Planning Task Force Affordable Housing Committee 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 January 26, 2006.

THURSDAY, JANUARY 26, 2006

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

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

MID YEAR PLICY VISIT W/ GREG JACKSON, MACo JPIA

[9:03:51 AM](#)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Diana Kile, Kim Thomas, Robin Boon, Greg Jackson, Tammy Skramovsky, Raeann Campbell, Paula Robinson, Laurel Raymond

Discussion was held relative to the JPIA Mid Policy report that was submitted by Greg Jackson.

PUBLIC HEARING: ROAD ABANDONMENT #442 (PORTION CARVER BAY ROAD)

Members present:

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

Others present:

Assistant Michael Pence
Clerk Diana Kile

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

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

Commissioner Brenneman made a **motion** to approve Road Abandonment #442 subject to the conditions listed on the viewers report. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Condition:

1. That any existing easements for utilities be retained in the abandoned portion.

MONTHLY MEETING W/ MONICA EISENZIMER, ELECTION DEPT

Members present:

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

Others present:

Assistant Michael Pence
Clerk Diana Kile, Monica Eisenzimer

Discussion was held relative to the new software the election department has started using and the capabilities it has. After the close of filing the election department would like to have an informational meeting for the candidates to inform them of the reports that are available to help them with their campaign. She also informed them that the county is expected to share in the cost of the new state wide data base maintenance.

DOCUMENT FOR SIGNATURE: INTERLOCAL AGREEMENT / CITY OF KALISPELL

Members present:

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

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jonathan Smith, Deb Boreson

Commissioner Hall made a **motion** that the document for signature would be postponed until Monday. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: RESTATEMENT OF 457 PLAN / HUMAN RESOURCE OFFICE

Members present:

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

Others present:

Assistant Michael Pence
Clerk Diana Kile, Raeann Campbell

Discussion was held relative to a question as to what the 457 Plan is. Raeann stated that it is the statement plan for the Lord Abbot 457.

Commissioner Watne made a **motion** to authorize the chairman to sign and approve the Restatement of the 457 plan. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

CONSIDERATION OF PRINTING BIDS: AOA

Members present:

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

Others present:

Assistant Michael Pence
Clerk Diana Kile

Commissioner Brenneman made a **motion** to approve the bid submitted by Great Northern Printing in the amount of \$19.95 for 500 Business Cards. Commissioner Hall seconded the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously

Commissioner Brenneman made a **motion** to approve the bid submitted by The Towne Printer in the amount of \$305.90 for 10,000 numbered envelopes and 10,000 return envelopes. Commissioner Hall seconded the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

DOCUMENT FOR APPROVAL: TRANSPORTATION PLAN UPDATE / EAGLE TRANSIT

[11:06:33 AM](#)

Members present:

Chairman Robert W. Watne
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence
Clerk Kimberly Moser, Cheryl Talley

Commissioner Hall made a **motion** to approve the transportation plan update. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

10:00 a.m. Quarterly Jail Facility Tour

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 27, 2006.

FRIDAY, JANUARY 27, 2006

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

NO MEETINGS SCHEDULED.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 30, 2006.