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**MONDAY, SEPTEMBER 18, 2006**

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

**Commissioner Brenneman PT opened the public comment on matters within the Commissions' Jurisdiction, no one rising to speak, Commissioner Brenneman PT closed the public comment period.**

**MONTHLY MEETING W/ JIM ATKINSON, AOA**

9:06:53 AM

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jim Atkinson

Discussion was held relative to the resignation of one council member and the approval of two individuals as council members. Carolyn Jonason, representing Immanuel Lutheran Corporation is leaving her position, and in her place Kathy Buffington will represent Immanuel Lutheran Corporation on the council. Shirley Pitman retired from the council and Adeline Schumacher conceded to fill the position to complete Shirley's term. Discussion was also held relative to the problems they had with the new telephone system for the first couple of weeks. He also spoke about the process he is working through in getting the \$100,000 for the bus they intend to purchase with federal government money.

**PUBLIC HEARING: TAX INCENTIVE REQUEST/ TOTAL LABEL USA**

9:37:26 AM

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Diana Kile

Commissioner Brenneman PT opened the public hearing for anyone wishing to speak in favor or opposition of the tax incentive request for Total Label

No one rising to speak, Commissioner Brenneman PT closed the public hearing.

Commissioner Hall made a **motion** to approve Resolution 1975 for a tax incentive request from Total Label Inc. Commissioner Brenneman seconded the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

RESOLUTION NO. 1975

WHEREAS, the Board of Commissioners of Flathead County, Montana, passed Resolution No. 476 on April 8, 1983, and Resolution No. 476A on February 21, 1984, allowing tax benefits for new or expanding industry in Flathead County;

WHEREAS, Total Label USA, LLC of Whitefish, Montana, has applied for the tax benefits with regard to the additional purchase of equipment and improvements added to the current facility located at 500 Resource Lane, Whitefish;

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing under the provisions of section 15-24-1402, M.C.A., on the 18<sup>th</sup> day of September, 2006, concerning the request for tax benefits filed by Total Label USA, LLC; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, having reviewed the application of Total Label USA, LLC, and the testimony presented at the public hearing, has concluded that the application for tax reduction benefits meets the requirements of the applicable statutes and resolutions.

NOW, THEREFORE, BE IT RESOLVED that the additional \$883,186 worth of new equipment and improvements added to the Total Label USA, LLC located on 500 Resource Lane, Whitefish, Montana, shall be granted the tax benefits set forth in Resolution Nos. 475 and 475A and Section 15-24-1402, M.C.A., and the added value will be taxed at at fifty percent of its taxable value in the first five years after approval; in each year thereafter, the percentage will be increased by 10 percent until the full taxable value is attained in the tenth year.

DATED this 18<sup>th</sup> day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By: s/s Diana Kile  
Deputy

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: N. W. DEVELOPMENT GROUP ZONE CHANGE/  
EVERGREEN & VICINITY ZONING DISTRICT**

9:31:35 AM

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Erica Wirtala, Jonathan Smith

Erica Wirtala spoke on behalf of an out of state client that wants to hold a Public Hearing for a zone change after the October 1, 2006 deadline for the Growth Policy.

Commissioner Hall made a **motion** to approve the Notice of Public Hearing for the NW Development Group Zone Change/ Evergreen & Vicinity Zoning District and authorize the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Northwest Development to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from SAG-10 (Suburban Agricultural) to I-1H (Light Industrial, Highway) and R-4 (Two-Family Residential).

The boundaries of the areas proposed to be changed from SAG-10 to I-1H and R-4 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from allowing a district designed 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, to areas (1) allowing for light industrial uses and service, located along state and federal highways uses, that typically do not create objectionable characteristics (such as dirt, noise, glare, heat, odors, smoke, etc.) which extend beyond the lot lines and (2) urban development, requiring all public utilities and all community facilities, and allowing duplexes. The SAG-10 classification has a minimum lot size of 10 acres; a change to I-1H would result in a minimum lot size of 1 acre and a change to R-4 would result in a minimum lot size of 6,000 square feet.

The regulations defining the SAG-10, I-1H and R-4 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

The public hearing will be held on the **2<sup>nd</sup> day of October, 2006, at 9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

DATED this 18<sup>th</sup> day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: s/s Joseph D. Brenneman PT  
Joseph D. Brenneman

ATTEST:  
Paula Robinson, Clerk

By: s/s Diana Kile  
Deputy

Publish on September 21 and September 28, 2006.

**NW DEVELOPMENT, LLC  
ZONE CHANGE FROM SAG -10 to I1H AND R-4  
STAFF REPORT #FZC-06-04  
May 10, 2006**

**Location and Legal Description of Property:**

Tract 1:  
That portion of the Northeast ¼ and the Southeast ¼ pf Section 28, Township 29 North,  
Range 21 West., P.M.M., Flathead County, Montana. Shown as Parcel 1 of Certificate of Survey No. 16242.

Tract 2:  
That portion of the Southeast ¼ of the Northeast ¼ of Section 28, Township 29 North,  
Range 21 West, P.M.M., Flathead County, Montana. Shown as Parcel 2 of Certificate of Survey No. 16242.

Tract 3:  
The portion of the Northeast ¼ of Section 28, Township 29 North, Range 21  
West, P.M.M., Flathead County, Montana. Shown as Parcel 3 of Certificate of Survey No. 16242.

Tract 4:  
That portion of the Southwest ¼ pf the Northeast ¼ of Section 28, Township 29 North,  
29 North, Range 21 West, P.M.M., Flathead County, Montana. Shown as Parcel 4 of

**CONSIDERATION OF ADOPTION OF RESOLUTION: REITERATE COMMISSIONERS' REQUEST TO FLATHEAD COUNTY PLANNING BOARD RE: GROWTH POLICY**

[9:50:07 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jonathan Smith

Jonathan Smith spoke in regards to the Planning Board being questioned about the Resolution to do a Growth Policy.

Discussion was held relative to the October 15<sup>th</sup>, 2006 deadline to have the Growth Policy in place.

Commissioner Hall made a **motion** to approve the adoption of Resolution 1976. Commissioner Brenneman PT **seconded** the motion. **Aye** –Hall and Brenneman. Motion carried by quorum.

RESOLUTION NO. 1976

WHEREAS, the Flathead County Planning Board is engaged in the process of preparation of a Growth Policy for Flathead County, Montana, pursuant to the provisions of Title 76 of the Montana Code Annotated;

WHEREAS, Sections 76-1-601 and 76-2-201, M.C.A., require that local governments with land use regulatory authority adopt a Growth Policy that complies with Section 76-1-601 by October 1, 2006, in order to continue to adopt new zoning regulations and to revise zoning regulations that were adopted prior to October 1, 2006;

WHEREAS, the Flathead County Planning Board has been questioned as to whether a formal request, pursuant to Section 76-1-106, M.C.A. has been made by the Board of Commissioners for the Planning Board to prepare a Growth Policy; and

WHEREAS, the Board of Commissioners has committed resources to the drafting of a Growth Policy, initially by an consultant and more recently by the staff of the Flathead County Planning and Zoning Office, attempting to have a Growth Policy that complies with Title 76 in place by the October 1, 2006, statutory deadline.

WHEREAS the Board of Commissioners of Flathead County, Montana, has determined that reiteration of its request for the Flathead County Planning Board to prepare a Growth Policy that complies with Section 76-1-601 is appropriate.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that it hereby reiterates its request to the Flathead County Planning Board to prepare a Growth Policy for the jurisdictional area of that Planning Board, for adoption by the Board of Commissioners.

BE IT FURTHER RESOLVED that the Board of Commissioners hereby requests that the Flathead County Planning Board make use of the draft prepared over the last several months by the Planning staff in its preparation of that Growth Policy.

BE IT FURTHER RESOLVED, in light of the October 1, 2006, deadlines set forth in Title 76 of the Montana Code Annotated, that the Board of Commissioners hereby requests that the Flathead County Planning Board conclude its preparation of a Growth Policy and transmit it to the Board of Commissioners as quickly as possible, and not later than October 15, 2006.

Dated this 18<sup>th</sup> day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By \_\_\_\_\_  
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/Diana Kile  
Deputy

**CONSIDERATION OF TEMPORARY ROAD CLOSURE: BIRCH GROVE/ MISSION MOUNTAIN RAILROAD**

[9:43:01 AM](#)    [9:55:51 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jonathan Smith, Charlie Johnson

Discussion was held relative to the temporary road closure of Birch Grove for approximately 2 hours on 9/20/06 for rail repair.

Commissioner Hall made a **motion** to temporarily close Birch Grove for repair. Commissioner Brenneman PT **seconded** the motion. **Aye** – Hall and Brenneman. Motion carried by quorum.

#### **CONSIDERATION OF APPROVAL OF CHOSEN TERM LIMITS: LONG RANGE PLANNING TASK FORCE**

[9:45:56 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jonathan Smith

Discussion was held relative to appointing staggered terms for the Long Range Planning Task Force with six positions appointed. Two members were appointed to each of the 1 year, 2 year & 3 year terms. Appointed to the 1 year terms were Richard Surynt and Diana Blend; appointed to the 2 year terms were Karen Reeves and a vacant position that will be advertised; and appointed to the 3 year terms were Jane Leivo and Myrtt Webb.

Commissioner Hall made a **motion** to approve the staggered term limits for the Long Range Planning Task Force. Commissioner Brenneman **seconded** the motion. **Aye** – Hall and Brenneman. Motion carried by quorum.

#### **PRELIMINARY PLAT: SUBDIVISION NO. 123, RESUBDIVISION OF LOT 1**

[10:01:49 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne [10:05:21 AM](#) Seated

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jeff Harris, Nicole Lopez-Stickeny, Olaf Ervin, Sarah Arrigoni

Lopez-Stickeny reviewed the application submitted by Mark Robison and Melvin Oftedahl with technical assistance from Montana Mapping for Preliminary Plat approval of Resubdivision of Lot 1, of Subdivision 123, a minor subdivision that will create 4 single family residential lots on 20.096 acres. The Flathead County Planning Board reviewed the application on July 12<sup>th</sup>, 2006 and recommends approval. The subdivision is located at 1100 Spring Hill Road in Kila. Planning staff recommends denial.

Olaf Ervin spoke in regards to the reason the variance was applied for and the problems with access to Lot 1.

Jeff Harris spoke in regards to the reason for the confusion with the staff report. The staff report was based on the map they originally received from the applicant. The applicant then submitted a revised map prior to the Planning Board meeting, but after the staff report was prepared, which was based on the original map. He stated that the revised maps were sent directly to the Planning Board and not all the planners or staff received copies of the revised map. Because of the process there was confusion. The Planning Board was contacted by the applicant and decided to take the revised plat even though the staff report was based on a different plat. At that point the Planning Board backed out.

Olaf Ervin discussed why they dropped everything off to staff the day the packet went out to the Planning Board and didn't follow the normal procedures.

Jeff Harris stated that their recommendations for denial without conditions were given because of the high fire hazard conditions for the land. There would be no way out if a fire was at the base of the hill. When they recommended denial to the Planning Board, they wanted to know what the conditions could be. They were asked to go back and work with the applicant to develop conditions. Planning staff is still of the opinion, that this is not the best place to subdivide. At the request of the Planning Board they did put together conditions, and pulled their recommendation of denial.

Commissioner Hall spoke in regards to the road being a concern with him as far as them having a right of way to build the road.

Olaf Ervin stated that they already have a 60 foot easement and the emergency access is 60 feet also.

Commissioner Hall spoke in regards to wanting to move ahead with the Preliminary Plat on the basis that the Planning Board gave a unanimous recommendation. He indicated that he would like to condition it to make sure they have a road that leads to the primary access.

Olaf Ervin spoke in regards to condition 25 in changing the wording to "they shall" instead of "they will" have access to Lot 1 from the primary access.

Commissioner Brenneman spoke about his concerns with the possible fire danger and problem with the road.

Commissioner Hall made a **motion** to adopt Staff Report FPP 05-84 as findings of fact. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried by quorum.

Commissioner Hall stated that condition 25 should read "shall access" onto primary road and that condition 4, that the crash gate should be moved to the western boundary of lot 1.

Commissioner Watne made a **motion** to approve the Preliminary Plat of Resubdivision of Lot 1 of Subdivision 123 subject to amended conditions. Commissioner Hall **seconded** the motion. **Aye** – Watne and Hall **Opposed** – Brenneman Motion carried by quorum.

**CONDITIONS:**

1. Proposed Lots 1 and 2 will be combined to create one lot totaling 6.25 acres in size. [Section 3.4, FCSR]
2. The applicant will obtain a variance to Section 3.6(B) of the Flathead County Subdivision Regulations for the road easement located on the northeastern portion of the property. [Section 7.1, Flathead County Subdivision Regulations]
3. The private primary access road will consist of a 60-foot right of way and minimum 22-foot gravel travel surface. The cul-de-sac will consist of a minimum 50-foot gravel travel surface radius and 55-foot outside right of way radius. [Section 3.9, FCSR]
4. The secondary access road will consist of a 40-foot right-of-way and minimum 20-foot gravel travel surface. The road will be crash-gated and signed at its intersection both with Spring Hill Road and the western boundary of Lot 1. [Section 3.8(D), FCSR]
5. A cul-de-sac will be installed on the subdivision property located at the intersection of Spring Hill Road and the northern property boundary. The cul-de-sac will consist of a minimum 50-foot gravel travel surface radius with a 55-foot outside right-of-way radius. [Section 3.9 and 3.20, FCSR]
6. The road system shall be designed by a licensed professional engineer and, upon completion of construction, be certified by a licensed professional engineer for compliance with AASHTO standards. [Section 3.9, FCSR]
7. Roads and driveways will conform in all locations to maximum grade standards. Certification that these standards have been met will be submitted by a licensed professional engineer with the application for Final Plat. [Section 3.6(E) and 3.9, Table 2, FCSR]
8. The applicant will receive physical addresses and road name in accordance with Flathead County Resolution #1626. The road name will appear on the final plat. Street addressing will be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
9. A road identification sign and stop sign will be installed at the intersection of the private primary access road and Spring Hill Road. [Section 3.9(I)(8), FCSR]
10. The applicant will provide evidence that the necessary easement has been acquired and that the easement encompasses the nature and intensity of use which will result from development of the subdivision for the private primary access road and the secondary access road. [Section 3.9(J)(2), FCSR]
11. The applicant will obtain and show proof of completed approach permits from the Flathead County Road Department for encroachment of the private primary access road and the secondary access road onto Spring Hill Road, indicating the approaches have been built and received final inspection. [Section 3.8(A), FCSR]
12. Lot owners within the subdivision will establish a Road Users' Agreement or Property Owners Association for the private primary access road and secondary access road subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the roads in their entirety. [Section 3.9(J)(3), FCSR]
13. During construction of infrastructure improvements, no silt-laden water or excess shall flow to downstream areas. Erosion control measures are required and will be enforced. [Section 3.13, FCSR]
14. 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]
15. 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]
16. The proposed stormwater, 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]
17. The applicant will comply with reasonable fire suppression and access requirements of the Smith Valley Fire District which at minimum include the following:
  - a. All structures constructed shall have residential sprinkler systems installed during construction.
  - b. Structures constructed shall have noncombustible exterior siding and roofing material. (No cedar shakes allowed)
  - c. The emergency access shall be open and maintained year round for emergency vehicle access.
  - d. All landscaping shall be in conformance with current Firewise program and recommendations.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]
18. 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]
19. A 50-foot "no-build" easement will be established parallel the seasonal creek identified on the plat. The easement will be located so that 25-feet extend from both sides of the creek and will cover the entire length of the creek. [Section 3.18(E), FCSR]
20. 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]
21. 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 private primary access road and secondary access 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:

1. Dogs must be kept under owner control at all times, either leashed or confined.
2. Bear-proof containers are required for refuse and feed for pets or livestock.
3. Compost piles are prohibited unless secured by electrical fencing or otherwise enclosed.
4. Pets must be fed indoors or food dishes must be brought in at night.
5. 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.

22. 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]
23. 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]
24. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
25. The primary access road will be continued to the western boundary of Lot 1 so that Lot 1 shall access onto the primary access road.

#### **FINAL PLAT: BONNIE ACRES, LOT 1**

[10:41:19 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jeff Harris, Traci Sears-Tull

Sears-Tull reviewed the application submitted by Bonnie Kenny, with technical assistance from Montana Mapping, for Final Plat approval of Bonnie Acres, Lot 1, a two lot major subdivision. The property is located south of Conn Road off of Turkey Road. Preliminary Plat approval was granted on December 8, 2005. All conditions have been met. Staff recommends approval.

Commissioner Hall made a **motion** to approve the Final Plat of Bonnie Acres, Lot 1. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **FINAL PLAT: KOESTER MEADOWS**

[10:42:13 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Annie Thompson, Jeff Harris, Debbie Shoemaker

Thompson reviewed the application submitted by Donna Lynn Koester, with technical assistance from Marquardt & Marquardt Surveying, Inc. The property is located east of the southern portion of Green Tree Meadows Subdivision, between Demersville and Lower Valley Roads. Preliminary Plat approval was granted on February 22<sup>nd</sup>, 2005, subject to 8 conditions. All conditions have been met or otherwise addressed. Staff recommends approval.

Thompson indicated that on September 16<sup>th</sup>, 2006 a letter was received from Green Tree Meadows board of directors stating that they would like them to know that access to the proposed Koester Meadows Subdivision cannot be allowed through Green Tree Meadows. There is 1 lot that would have to have access through Green Tree Meadows, but the applicant's technical assistance has addressed this with the land owners. Green Tree Meadows CC&R say that no lot may be further subdivided.

Commissioner Hall made a **motion** to approve the Final Plat of Koester Meadows Subdivision. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **FINAL PLAT: WEST VALLEY SUBDIVISION NO. 2**

[10:47:34 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Annie Thompson, Jeff Harris, Erica Wirtala

Thompson review the application submitted by Jeffrey and Karen Middleton with technical assistance from Sands Surveying. The property is located at the southwest corner of West Valley Drive and West Reserve Drive. Preliminary Plat approval was granted on January 10<sup>th</sup>, 2005, subject to 10 conditions. All conditions have been met. Staff recommends approval.

Commissioner Hall made a **motion** to approve the Final Plat of West Valley Subdivision No. 2. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

### **MEETING W/ DOUG AVERILL RE: SADDLEHORN SUBDIVISION**

11:10:15 AM

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Jeff Harris, Kirsten Holland, Annie Thompson, Traci Sears-Tull, Doug Averill, Ryan Purdy, Ralph Walton, Jim Frizzell, Jonathan Smith

Doug Averill spoke in regards to the PUD application submitted for the Saddlehorn Subdivision that he indicated seems to be stuck in the middle of the growth policy. He has a PUD project well under way that is scheduled to be heard by the county planning board on October 11<sup>th</sup>, 2006. He indicated that he has done some research and has a differing opinion on whether the county can put a freeze on planning. His concern is that he has 21 million committed already and without the entitlements to the project, it puts him in a difficult position possibly being put on hold. He stated that he has a lot at stake on the project and would like to suggest that since the PUD application is in that they should be able to proceed on schedule. He indicated that once you have entered the process then you are vested.

Jim Frizzell spoke in regards to the Growth Policy as to whether it is mandatory to have it adopted by October 1<sup>st</sup>, 2006. He feels there is some clarity as to the answer being no, and that is what Ryan Purdy is going to address. He stated that Jonathan Smith's opinion is yes, it is mandatory and that's what has lead them to this point. Option 1 is if they could meet the deadline by adopting an interim plan. Option 2 would be to say adopt the 1987 master plan as an interval step and then adopt the Growth Policy down the road. He indicated that if they could they would proceed under the same circumstances and conditions that were in place when the application was submitted in July. If Jonathan Smith's view of the condition remains the same and they can't convince the Commissioners that Option 1 is in place, there is a slight modification to Option 3 which they discussed last week with the staff. The option which they came up with would be to modify the subdivision application just slightly to utilize the clustering underneath the subdivision rules and regulations to try to get the same kind of results the PUD would get. One big difference that troubles them is the density bonus isn't quite as rich in the subdivision route as it is in the PUD. That's problematic for them. He stated that Jonathan Smith's opinion is that the county could not hear a PUD application; it was that they couldn't adopt a new zoning overlay prior to the Growth Policy being effective. He stated that what he would like to suggest is that if they land on option 3 that they continue to hear the PUD and evaluate it, because really if they are modifying the subdivision application with all the variances and condition uses, you are effectively hearing what the PUD would say anyway, so why not consider them both.

Commissioner Brenneman indicated that the county never adopted a freeze on anything. The legal advice they are getting is that they cannot adopt a Final Resolution until the Growth Policy is in effect. They have been advising the applicants that they have the option to continue the public hearing for 30 days and hope at that time a Growth Policy will be in effect.

Jim Frizzell indicated that the reason he is proposing the 3<sup>rd</sup> options is that it makes sense to them that they would notice both the PUD and subdivision hearing.

Jeff Harris indicated that they had sat down with the applicant and worked through most of the issues regarding the PUD. They are proceeding with the PUD based on the Growth Policy that was in place at the time. They sat down last week and walked through options. He stated that the applicant has the option of coming in with a cluster subdivision; they also had the option of coming in with a PUD prior to the Neighborhood Plan.

Jonathan Smith spoke about the law being very clear about not doing any zone change after October 1<sup>st</sup>, 2006 until the Growth Policy is in effect.

Ryan Purdy spoke about the research he has done and has looked in SB 326 that states what the statute was trying to do in SB 326 to incorporate into law. Ryan read SB 326 that says adopting a Growth Policy is optional; a county if they find it in their best interest to not have a Growth Policy or adopt one that has been used prior to the 2006 deadline is OK. Prior to 2002 the attorney generals opinion was that a Growth Policy had to cover the entire jurisdictional area. That senate bill changed the law from 2002 to 2003 to include the language that says the Growth Policy only has to encompass a small portion of; they don't have to include the whole jurisdictional area. He stated that in his research it has become clear to him that having a Growth Policy is optional.

Commissioner Hall stated that the county has chosen to have a growth policy.

Jeff Harris spoke in regards to other zoning request that they have applications for that they are working with. He stated that the Planning Department would not want to place the county at risk, with the project being a large costly project at 20 million. At the same time it was indicated that they support the project and they have been working with the applicant to come up with alternative standards and road designs.

Jonathan Smith spoke about a ruling where the City of Kalispell said they could not deny a building permit on the basis of a plan, because the property wasn't zoned. He stated that the Supreme Court said yes you can. The legislature wanted to make it clear that they didn't intend for plans to regulate land so they put that in there that plans don't regulate land use. To regulate the use of land you have to zone it.

Kirsten Holland spoke in regards to wanting to be clear that it would not go to the Planning Board as a PUD on October 11<sup>th</sup>, 2006. She stated that the Planning Office has a need to know what to legal notice, whether it's a subdivision or a PUD and subdivision.

Jeff Harris spoke about the difficulty of running the legal's side by side. He stated that staff would have to prepare an alternative Staff Report for the legal's to run side by side and the plats would have to be reviewed in a different fashion.

Doug Averill spoke in regards to the issue being confused and stated that if they stay with the PUD when the time line runs out then the Growth Policy should be in place.

Commissioner Brenneman questioned Jonathan Smith in regards to the potential of placing the county in liability exposure if we say go ahead with the PUD Hearing and see how it goes, and we will try to have a Growth Policy in place. He then stated, but be fully advised that there is legal advise that says we might not be able to adopt it.

Jonathan Smith stated that there is always some risk.

Ryan Purdy spoke in regards to the law saying that you may until October 1<sup>st</sup>, 2006 adopt or revise zoning regulations.

Jonathan Smith then stated that after October 1<sup>st</sup>, 2006 we may not, we no longer have the authority to change it until we have a Growth Policy.

Ryan Purdy questioned the options that the counties have in regards to Growth Policies.

Commissioner Hall stated that Flathead County has passed a resolution that states that they chose to have a Growth Policy. He indicated that the Commissioners have said enough that it's now between the Planning Staff and Mr. Averill.

**11:00 a.m. Commissioner Brenneman meeting with Jim Patrick**  
**7:30 p.m. MDOT bypass update meeting @ Kalispell City Council Chambers**

At 5:00 o'clock P.M., the Board continued the session at 8:00 o'clock A.M. on September 19, 2006

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## **TUESDAY, SEPTEMBER 19, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioner 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 September 20, 2006.

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## **WEDNESDAY, SEPTEMBER 20, 2006**

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

**Commissioner Watne opened the public comment on matters within the Commissions' Jurisdiction, no one rising to speak, Commissioner Watne closed the public comment period.**

### **CONSIDERATION OF HR TRANSMITTALS: JUVENILE DETENTION CHIEF/ SHERIFF'S OFFICE, DETENTION CHIEF/ SHERIFF'S OFFICE, DEPUTY/SHERIFF'S OFFICE, DEPUTY ATTORNEY/ COUNTY ATTORNEY'S OFFICE, PLANNER I/ PLANNING & ZONING OFFICE, GIS ANALYST/GIS, OAI/ PLAT ROOM, OFFICE ADMINISTRATOR/ PLAT ROOM**

**9:19:23 AM**

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Raeann Campbell, Vicki Eggum, Ed Corrigan

Commissioner Brenneman made a **motion** to sign HR transmittal for Juvenile Detention Chief/ Sherriff's Office. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to deny HR transmittal for Detention Chief/ Sherriff's Office. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the HR transmittal for the Deputy/Sheriff's Office. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.



Commissioner Hall made a **motion** to approve the HR transmittal for the Deputy Attorney/ County Attorney's Office. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the HR transmittal for Planner I/ Planning & Zoning Office. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the HR transmittal for GIS Analyst/ GIS. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to deny the HR transmittal for OAI/ Plat Room. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman

Commissioner Brenneman made a **motion** to deny the HR transmittal for Office Administrator/ Plat Room. Commissioner Watne **seconded** the motion. **Aye** – Watne and Brenneman **Opposed** - Hall

#### **CONSIDERATION OF LETTERS TO BNSF re: BIRCH GROVE DRIVE/ WHITEFISH**

[9:27:29 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Charlie Johnson

Discussion was held relative to Birch Grove Drive and the problems with trains blocking the crossing.

Commissioner Hall made a **motion** to approve sending a letter to BN to tell them to stop blocking the crossing. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman

#### **AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROCKY MOUNTAIN DRIVE, BEAVER CREEK RANCH ROAD, PARKER MEADOW ROAD, FARRIER LANE, PETERSON CREEK LANE, BEAR RIDGE TRAIL AND SYLVINE LANE NAMING**

[9:30:53 AM](#)

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 Notice of Public Hearing for Rocky Mountain Drive, Beaver Creek Ranch Road, Parker Meadow Road, Farrier Lane, Peterson Creek Lane, Bear Ridge Trail and Sylvine Lane. Commissioner Hall **seconded** the motion and authorized the Chairman to sign. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **ROCKY MOUNTAIN DRIVE**.

**Road generally running southerly & northwesterly off Emils Crest Road and located in the S½ of the SW¼ of Section 12, Township 26 North, Range 21 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **ROCKY MOUNTAIN DRIVE**.

This notice shall be mailed to each landowner who has access off of the proposed **ROCKY MOUNTAIN DRIVE**, who has an address assignment on the proposed **ROCKY MOUNTAIN DRIVE** or who owns property along the proposed **ROCKY MOUNTAIN DRIVE**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup>, 2006.

#### **NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **BEAVER CREEK RANCH ROAD**.

**Road generally running westerly off Farm To Market Road and located in the W ½ W ½ of Section 20 and in the S ½ N ½ and N ½ S ½, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **BEAVER CREEK RANCH ROAD**.

This notice shall be mailed to each landowner who has access off of the proposed **BEAVER CREEK RANCH ROAD**, who has an address assignment on the proposed **BEAVER CREEK RANCH ROAD** or who owns property along the proposed **BEAVER CREEK RANCH ROAD**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup>, 2006.

#### NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **PARKER MEADOW ROAD**.

**Road generally running easterly off Parker Lakes Road and located in the SE1/4 of the NW1/4 of Section 12, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **PARKER MEADOW ROAD**.

This notice shall be mailed to each landowner who has access off of the proposed **PARKER MEADOW ROAD**, who has an address assignment on the proposed **PARKER MEADOW ROAD** or who owns property along the proposed **PARKER MEADOW ROAD**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup>, 2006.

#### NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **FARRIER LANE**.

**Road generally running northerly off Blackhawk Lane and located in the S½ of the NE¼ of Section 22, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **FARRIER LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **FARRIER LANE**, who has an address assignment on the proposed **FARRIER LANE** or who owns property along the proposed **FARRIER LANE**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup> , 2006.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **PETERSON CREEK LANE**.

**Road generally running westerly off MT. Highway 83 and located in the NE1/4 of Section 35, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **PETERSON CREEK LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **PETERSON CREEK LANE**, who has an address assignment on the proposed **PETERSON CREEK LANE** or who owns property along the proposed **PETERSON CREEK LANE**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup> , 2006.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **BEAR RIDGE TRAIL**.

**Road generally running southerly off an unnamed road which runs southerly and westerly off Spring Creek Road and located Government Lots 7, 8 & 14 Section 34, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **BEAR RIDGE TRAIL**.

This notice shall be mailed to each landowner who has access off of the proposed **BEAR RIDGE TRAIL**, who has an address assignment on the proposed **BEAR RIDGE TRAIL** or who owns property along the proposed **BEAR RIDGE TRAIL**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup> , 2006.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **SYLVINE LANE**.

**Road generally running southerly off unnamed roads which run northerly off Sanko Creek Road and located in the S ½ SE ¼ of Section 28, Township 31 North, Range 24 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **10<sup>th</sup> day of October, 2006, at 10:15 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **SYLVINE LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **SYLVINE LANE**, who has an address assignment on the proposed **SYLVINE LANE** or who owns property along the proposed **SYLVINE LANE**.

Dated this 20th day of September, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/s/Diana Kile  
Deputy

Publish on September 24<sup>th</sup> and October 1<sup>st</sup>, 2006.

**PROTEST HEARING: RSID/ PAVING ON SANDY HILL LANE, WILLIAMS LANE AND SHADY LANE**

[9:33:05 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Pat Marshall, Thomas McCrea, Greg Lukasik, Denise Hanson, Sandi Young, June Nelson,  
Grayson Puett, Edward (Jay) Wolfe, Ralph V Panico, Bill Tidwell, Phyllis Tidwell, Bill Janes

Sandy Young spoke on behalf of Carroll Rost in opposition to the paving of Sandy Hill Lane. A letter of protest was sent in by Carroll Rost in regards to the opposition he has in being charged \$24,000. He has 4 lots on Sandy Hill Lane where others living there have only 1 lot. It was stated that when the paving of the road was first proposed it was to be paved all the way down Sandy Hill Lane to the end of the road. Mr. Rost's property is now the area that is not to be paved at all, although in the first meeting it was proposed to be paved. The first lot they are charging him for is already paved and the next lot has no access to the road and is a horse pasture. It was stated that he is not financially able to pay for this, and there would be no benefit to him.

Thomas McCrea spoke in favor of the paving of Sandy Hill Lane and indicated that Mr. Rost has rental property on the road that travel in and out of Sandy Hill Lane. Mr. Rost doesn't live on the property on Sandy Hill Lane, but he does receive income from the rental properties he has there. He also indicated that the horse pasture spoken about by Sandy Young does have a rental trailer on it. He also spoke in regards to there being 29 signatures on the petition in favor of paving Sandy Hill Lane.

June Nelson spoke in opposition to Sandy Hill Road being paved. She indicated that in regards to the rentals they would only benefit if Hap's road was paved.

Pat Marshall spoke in favor of paving Sandy Hill Lane.

Sandy Young spoke about a right of way agreement with State of Montana Department of Highways where Mr. Rost agreed to allow them to use his property for the road. She stated that at one point the road was his.

Greg Lukask with Morrison Maierle, Inc spoke about the misconception as to what is being paved and he then reviewed the parts of Sandy Hill Lane that is proposed to be paved.

Commissioner Hall questioned the confusion that seemed to be present.

Sandy Young spoke in regards to the issue with the first lot already being paved from the highway in.

Herb Shelly spoke in regards to having a problem with the way Williams Lane is set up in regards to some that are included and others that aren't. He stated that some would benefit more than others with the paving of the road with business owners living on the road. He expressed his concern in regards to his mother in trying to keep her living expenses down, so she can afford to stay there in the house she has lived in for 36 years. It would be an undue cost for her the way it is set up with her road frontage being small compared to others that have huge lots on Williams Lane. He stated that someone with 400 feet of road frontage is paying the same as someone with 40 feet of road frontage.

Ed Wolfe spoke in regards to being in favor of Williams Lane being paved.

Ralph Panico owns 3 lots on Williams Lane and spoke in regards to being in favor of the road being paved for health and traffic reasons.

Bill Janes spoke in regards to a business he has on Williams Lane and is in favor of the road being paved.

Grayson Puett spoke in favor of the paving of Williams Lane. He lives on Lazy Swan Lane which is a side road off of Williams Lane.

Herb Shelly spoke again in regards to the road being rural when he moved in and stated that he would like to keep it that way.

Phyllis Tidwell questioned the number of protests that were received, and with 7 protests it was calculated at 29 percent in protest. It takes 50 percent or more of the landowners to kill the RSID. She indicated that she has spoken to neighbors that are not on the RSID or who have not been properly informed. She also spoke about a neighbor that lives directly across from her that has rentals with 2 driveways that is not included on the RSID. She expressed her concern in being charged the assessed value of the property, and since she is on the riverside her assessment for paving of the road is tremendously more than those across the road. She stated that when her neighbors bought the land they knew it was a country road and is asking why they should have the opportunity to overrule those that have been there for many years and give the cost increase to them because of their unpleasant experience with the county road. She also expressed her concern on the percentage of votes and stated that in any homeowners association if you are a property owner you get to have as many votes as you have properties.

Mike Pence stated he didn't think it was set up on a per lot assessment and that the neighborhood worked with the Engineers to put the project together.

Phyllis Tidwell stated that she had real concerns with the way it's being handled and the way property owners are being informed either by the group who initiated the paving and the county following up on the procedure.

Commissioner Hall questioned why she wasn't notified of the meeting.

Phyllis Tidwell indicated that she was not informed of any of the meetings, except through a voice mail message and the meeting was over by the time she received the message.

Jonathan Smith spoke about clarification on why the numbers changed and he stated that initially it was set up to include improvement to the real property, but that was changed to the assessed value of the land.

Greg Lukasik spoke about the assessed value numbers and they were given the numbers by the county and that is how the costs were figured.

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

Commissioner Hall spoke about his concerns with the assessment on Shady Lane with 1 Lot that is not part of the assessment. As far as Sandy Hill Road it also has a couple issues with Lot 1 already being paved and another Lot that has no access to Sandy Hill Lane. He indicated that he would like to move to continue the Public Hearing / Protest Hearing on Shady Lane and Sandy Hill Road until the issues are resolved.

Jonathan Smith spoke about the benefit of the road being paved and stated that it does benefit the property owner in regards to value of the property.

Chairman Watne indicated that none of the roads have reached a 50 percent protest.

Commissioner Hall made a **motion** to adopt Resolution 1958B on Williams Lane. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to adopt Resolution 1956B on Sandy Hill Lane. Commissioner Watne **seconded** the motion. **Aye** – Watne and Brenneman **Opposed** – Hall. Motion carried by quorum.

Commissioner Hall stated his concerns as to why he is opposed to Sandy Hill Lane & Shady Lane. The law states that there has to be 50 percent in protest before it can be denied and neither road had that.

Commissioner Brenneman made a **motion** to adopt Resolution 1957B on Shady Lane. Commissioner Watne **seconded** the motion. **Aye** – Watne and Brenneman **Opposed** – Hall. Motion carried by quorum.

### **PRELIMINARY PLAT: SUMMIT VIEW**

[10:24:58 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Nicole Lopez-Stickney, Jeff Harris, Kirsten Holland, Peter Steele, Jim Burton, Jerrol Olson, Erica Wirtala

Lopez-Stickney reviewed the application for Preliminary Plat approval of Summit View Subdivision, a 5 lot residential single family subdivision on 9.9995 acres. The property is located on the western side of Mt Hwy 206 to the south of Elk Park Road and is unzoned. The planning board is recommending denial.

Lopez-Stickney spoke about condition 23 that was added that the neighbors will work together to solve access issues to the road along the north boundary of the property.

Jerrol Olson spoke with the neighbors and he didn't feel like it was going to be an issue with the neighbors.

Lopez-Stickney stated that the benefit of combining the roads would reduce one approach entering onto Hwy 206.

Erica Wirtala spoke about the access onto the road and the improvement it would be.

Lopez-Stickney reviewed conditions 9 and 10.

Erica Wirtala spoke in regards to the ground water monitoring test that was done in several locations throughout the subdivision. She stated that they would like condition 9 removed and condition 22 changed to read shared wells instead of the community wells. She also stated that condition 23 to solve access issues, would be difficult to do at this time.

Jerrol Olson the land owner spoke in regards to the plans he has for the property.

Commissioner Brenneman spoke in favor of Summit View Subdivision and stated that he would like to see an addition to condition 16 that would include the letter (g) that informs potential owners that the lots are in an area of high ground water and flooding may occur during spring run off.

Condition 22 was changed to read the applicant shall install a shared well system to serve Lots 3, 4 and 5.

Commissioner Hall made a **motion** to adopt the Staff Report #FPP 06-38 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman

Condition 9 for an easement will remain.

Commissioner Brenneman made a **motion** to approve the Preliminary Plat of Summit View Subdivision with amended conditions. Commissioner Hall **seconded** the motion. **Aye** – Watne, Hall and Brenneman

#### **CONDITIONS:**

1. All internal subdivision roads will consist of a 60-foot right of way and minimum 22-foot paved travel surface. Cul-de-sacs will consist of a minimum 50-foot travel surface radius and 55-foot outside right of way radius. The road system shall be designed by a licensed professional engineer and, upon completion of construction, be certified by a licensed professional engineer for compliance with AASHTO standards. [Section 3.9, FCSR]
2. The internal subdivision road will be paved. [Section 3.9(K), FCSR]
3. The road 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 the road name in accordance with Flathead County Resolution #1626. The road name will appear on the final plat. Street addressing will be assigned by the Address Coordinator. [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 MT Highway 206. [Section 3.9(I)(8), FCSR]
6. The applicant will obtain and show proof of a completed approach permit from the Montana Department of Transportation for access onto MT Highway 206, indicating the approach has been built and received final inspection. [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. The applicant will dedicate a 15-foot bicycle/pedestrian easement on Lots 1 and 2 along the MT Highway 206 frontage. [Section 3.18(A), FCSR]
9. The applicant will dedicate a 60-foot access easement extending from the cul-de-sac to the southern boundary of the property, shared equally on Lots 2 and 3. [Section 3.18(A)]
10. A 5-foot no access strip shall be placed on the eastern boundary of Lots 1 and 2 adjacent to MT Highway 206. [Section 3.9(B), FCSR]
11. 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]
12. The shared well and proposed individual Level II 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]
13. The applicant will comply with reasonable fire suppression and access requirements of the Badrock 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]
14. 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]
15. 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]
16. 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.
 

Waiver of Protest  
Participation in Special Improvement District  
[per County Resolution 503-M]
  - i. \_\_\_\_\_ (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.
  - g. Lots are in an area of high groundwater and may be subject to flooding in the springtime.
17. 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]
18. 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]
19. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
20. The subdivider shall pay a parkland fee equivalent to the value of 0.49975 acres of the unimproved, undivided land. The subdivider shall provide a current appraisal from a certified MAI appraiser no sooner than six months prior to the final plat application to set the baseline value of the parkland cash donation. [Section 3.19(C)(2)(a); Section 3.19 (D)(1), FCSR]
21. The applicant shall remove the existing driveways on Lots 1 and 2.
22. The applicant shall install a shared well system to serve Lots 3, 4, and 5 and shall establish a well users' agreement.
23. The neighbors shall work together to solve access issues with the road along the north boundary of the property.

NLS

**COS REVIEW: WILEY**

[10:54:43 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile, Joe Kauffman, Brian Wiley, Mikki Wiley, Kirsten Holland, Jeff Harris

Holland reviewed the Wiley family transfer request by Brian Wiley to transfer 5 acre parcels to his daughters.

Commissioner Hall made a **motion** to approve the Wiley family transfer COS. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: PEAK DEVELOPMENT ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT**

[11:01:51 AM](#)

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile

Commissioner Hall made a **motion** to approve resolution 797EC for Peak Development Zone Change/ Evergreen and Vicinity. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

RESOLUTION NO. 797 EC

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the on the 31<sup>st</sup> day of July, 2006, to consider a proposal to change the zoning designation on property in the Evergreen and Vicinity Zoning District from B-2 (General Business) to RA-1 (Residential apartment);

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

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Evergreen and Vicinity Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 797 EB, dated July 31, 2006) to change the zoning designation from B-2 (General Business) to RA-1 (Residential Apartment); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on August 3 and August 10, 2006, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Evergreen and Vicinity Zoning District to change the zoning designation, for the area described on Exhibit "A" hereto, from B-2 (General Business) to RA-1 (Residential Apartment), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 20<sup>th</sup> day of September, 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

ATTEST:  
Paula Robinson, Clerk

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

By: /s/Diana Kile

Deputy

**PEAK DEVELOPMENT, LLP  
ZONE CHANGE FROM B-2 TO RA-1  
STAFF REPORT #FZC-06-11**

**Location and Legal Description of Property:**

The property is located on the east side of U.S. Highway 2 East, directly north of the East Cottonwood Drive and U.S. Highway 2 East intersection at 145 Bando Lane. The property is legally described as Lot 4 of the Cherry Creek Village Subdivision in Section 4, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: TURNER ZONE CHANGE/ WEST SIDE ZONING DISTRICT**

[11:02:44 AM](#)

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 resolution 678AS. Commissioner Hall seconded the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

RESOLUTION NO. 678 AS

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 31<sup>st</sup> day of July, 2006, concerning a proposal to change the zoning designation in a portion of the West Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural);

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 West Side Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 678AR) on July 31, 2006, to change the zoning designation in a portion of the West Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on August 3 and August 10, 2006, and the Board of Commissioners did not receive written protests from forty percent (40%) of the freeholders within 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(6), M.C.A., hereby amends the West Side Zoning District to change the zoning designation for the area described on Exhibit A attached hereto, from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 20<sup>th</sup> day of September, 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/Diana Kile \_\_\_\_\_  
Deputy

**WAYNE E. TURNER**  
**ZONE CHANGE FROM AG-80 TO SAG-5**  
**STAFF REPORT #FZC-06-02**  
**June 14, 2006**

**Location and Legal Description of Property:**

The property is located on Stillwater Road, to the north of West Reserve Drive, and contains 16 acres. The property can legally be described as Tract 2A in Section 26, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana, or as follows:

Parcel "B"

A tract of land in the SE ¼ NE ¼ of Section 26, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana, described as follows:

Commencing at the east quarter corner of said Section 26; thence  
N00°15'34"W 30.00 feet along the east boundary of the NE ¼ of said  
Section 26 to a point on the north right-of-way of a 60 foot deeded county road known as Stillwater Road; thence S89°52'00"W 206.27 feet  
along said right-of-way to the TRUE POINT OF BEGINNING of the tract of land herein described: thence continuing S89°52'00"W  
1117.68 feet along said right-of-way to a point on the west boundary of the SE ¼ NE ¼ of said Section 26, thence N00°05'54"W 632.99 feet  
along said west boundary, thence N89°50'29"E 1115.90 feet; thence S00°1.5'34"E 633.48 feet to the point of beginning containing 16.235  
acres more or less, being subject to and  
together with all appurtenant easements as shown and of record. (Parcel 'B' of Certificate of Survey No.14346)

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: EVERGREEN WATER & SEWER ZONE CHANGE/  
EVERGREEN & VICINITY ZONING DISTRICT**

11:03:48 AM

Members present:

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

Others present:

Assistant Michael Pence  
Clerk Diana Kile

Commissioner Hall made a **motion** to approve resolution #797EE for the Evergreen Water & Sewer District zone change. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the on the 31<sup>st</sup> day of July, 2006, to consider a proposal to change the zoning designation on property in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential);

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

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Evergreen and Vicinity Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 797 ED, dated July 31, 2006) to change the zoning designation from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on July 18 and July 25, 2006, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Evergreen and Vicinity Zoning District to change the zoning designation, for the area described on Exhibit "A" hereto, from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 20<sup>th</sup> day of September, 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

ATTEST:  
Paula Robinson, Clerk

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

By: /s/Diana Kile  
Deputy

**EVERGREEN WATER & SEWER DISTRICT NO. 1**  
**ZONE CHANGE FROM R-1 TO R-2**  
**Staff Report #FZC-06-12**  
**June 7, 2006**

**Location and Legal Description of Property:**

The property is located on Mission Trail on the Bluff to the northwest of the Village Greens golf course. The property is legally described as Tracts 1AC and 1AF in Section 32, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana and can be further described as follows:

Tract 1:

That portion of the Northwest Quarter Northeast Quarter (NW ¼ NE ¼ ) of Section 32, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana, described as follows:

Beginning at the Southeast corner of Lot 10, Mission Village; thence  
along the East line of Lot 10  
North 39°47'04" East a distance of 505.46 feet to the Northeast corner of Lot 10; thence  
South 37°06'06" East a distance of 92.93 feet to a point; thence  
South 02°17'41" West a distance of 131.53 feet to a point; thence  
South 39°48' 51" West a distance of 286.09 feet to the Northerly line of Mission Trail, a County Road; thence  
Northwesterly along the Northerly line of the road to the Point of Beginning.

Tract 2:

A tract of land in the Northwest Quarter of the Northeast Quarter, (NW ¼ NE ¼) of Section 32, Township 29 North, Range 21 West, M.P.M., Flathead County, Montana, described as follows:

Commencing at the Quarter Corner common to Sections 29 and 32; thence  
South 51°28'34" East a distance of 547.93 feet to the Point of Beginning; thence  
North 5°13'57" West a distance of 154.16 feet to a point; thence  
South 70°54'59" East a distance of 113.23 feet to a point; thence  
South 37°23'59" East a distance of 123.81 feet to a point; thence  
South 84°06'31" West a distance of 168.53 feet to the Point of Beginning.

**DOCUMENT FOR SIGNATURE: EMPLOYMENT CONTRACT/ I.T. MANAGER**

11:04:13 AM

Members present:

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

Others present:

Clerk Kile, Raeann Campbell

Commissioner Hall made a **motion** to approve the document for signature for an I.T. Manager. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried by quorum.

**CONTINUATION OF ROAD ABANDONMENT #455 (PORTION OF WAGNER LANE)**

11:04:13 AM

Members present:

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

Others present:

- Clerk Diana Kile, Peter Steele, Charlie Johnson, Jeff Harris, Kirsten Holland, Jim Vashro, Richard Riedell, John Jellar, Andrew Nelson, Justin Burt, Dennis Carver

Peter Steele spoke in regards to cautioning the Commissioners in not abandoning the road until the access issue has been resolved.

Chairman Watne indicated that the Viewers Report says that a road way does exist with utilities present. County Surveyor James Burton recommended approval of abandonment with the following conditions: the new roadway as proposed be constructed to county standards with a 60 foot road and utility easement being granted to the county before the abandonment could be granted and that all the utilities be placed underground.

Peter Steele spoke about the state statue that says the board cannot abandon a county right of way used to provide existing legal access to public land or waters, including access to public recreation and use, as defined in 23-2-301 and as permitted in 23-2-302, unless another public road or right of way provides essentially the same access. He indicated that they cannot abandon the road until the new road is in place.

Mr. Vashro with FWP thanked Dennis Carver for stepping forward with a possible solution. He indicated that they have a process for attaining sites that require an environmental assessment and public hearing that takes time. He also stated that the right of way should be a 60 foot circle for turning around, and he also pointed out that there should be a gravel road that provides access in and out.

Commissioner Hall spoke in regards to the site that is on the corner of Lower Valley Road and questioned the Road Department about possible county land that could be developed for an easement.

Mr. Vashro indicated that it would be a possibility they would have to look at. The parking there is not adequate at this point, but he would have to investigate the site.

Peter Steele's advice was to not abandon the road until another access is in place.

Commissioner Brenneman asked if they were to add a 3<sup>rd</sup> condition to the Viewer's Report that says the road will not be abandoned until we receive a letter from FWP stating that it does meet the letter of the law regarding substantially the same access that is now available.

Dennis Carver spoke about being opposed to a boat ramp on Church Slough. He indicated that he is not opposed to a public access and will help all he can and to assure the county and the FWP that a substantially similar access is provided. He implied that if it takes 60 feet he does not have a problem with that.

Commissioner Hall spoke about the access that will be developed into a road as being north of the access being used now.

Peter Steele stated that it makes sense to him that they are not abandoning anything that the access will remain substantially the same and the access will still be there until another new road is in place.

Commissioner Brenneman made a **motion** to approve the abandonment # 455 on Wagner Lane with a 3<sup>rd</sup> condition added to the Viewer's Report that states the road will not be abandoned until the public access to the slough is substantially the same. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

- 11:00 a.m. County Attorney meeting @ County Atty's Office
- 12:00 p.m. Commissioner Brenneman to attend a DUI Task Force meeting at the Summit

At 5:00 o'clock P.M., the Board continued the session at 8:00 o'clock A.M. on September 21, 2006

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**THURSDAY, SEPTEMBER 21, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioner 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 September 22, 2006.

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**FRIDAY, SEPTEMBER 22, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioner 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 September 25, 2006.