
MONDAY, DECEMBER 18, 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 December 19, 2006.

TUESDAY, DECEMBER 19, 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.

Bob Keenan spoke in regards to the process that was used in appointing the Flathead County Planning Board, which he submitted an application for. He then spoke about the interview process in which 18 people applied for the board; 4 of the applicants were seeking re-appointment. He stated that he was one that was not interviewed and expressed his concern in that it was an exclusive process, where he was not afforded an opportunity to meet with the board for an interview. He questioned why he was excluded to meet with the Commission.

Commissioner Brenneman explained what happened in the process and explained that it was an oversight in his forwarding the application to the correct person. When he realized that had happened Commissioner Hall and Commissioner Brenneman in discussion stated that they knew him, and only brought in to interview those that they did not know.

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

OPEN BIDS: RECORDING SOFTWARE/ CLERK & RECORDER'S OFFICE

[9:14:54 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Paula Robinson, Monica Eisenzimer, Jonathan Smith

Commissioner Brenneman made a **motion** to take the request for proposals from Computer Software Associates, Tyler Technologies, Perceptive Software and AT Pack under advisement. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

MONTHLY MEETING W/ JIM ATKINSON, AOA

[9:27:52 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jim Atkinson, Jonathan Smith

Discussion was held in regards to AOA funding and the completion of the Glacier Park agreement. It was stated that a Great Falls company is interested in installing passenger shelters in exchange for advertising that they will do within the shelters. The reorganization of Eagle Transit operations is in the process and discussion was also held in regards to Eagle Transit providing rides for DUI Task Force.

MEETING W/ERICA WIRTALA/ SANDS SURVEYING RE: SUMMIT VIEW, CONDITION #12

[9:58:50 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jeff Harris, Kirsten Holland, Nicole Lopez-Stickney, Erica Wirtala, Jerry Lipp

Discussion was held relative to condition 12 in regards to Summit View Subdivision. It was stated that the Planning Board recommended during board discussion to put in a level 2 septic system on the 3 new lots which were approved. The basis for requiring this was that there were ground water issues on the 2 lower lots which already have septic systems on them. The 3 upper lots are different in elevation. She spoke about feeling the level 2 septic system is the wrong band aid for what the Planning Board wanted to insure for water quality. It was stated that if you have a ground water problem then you ask for elevated sand mounds and if you have a nitrate problem you ask for a level 2 treatment system. She then stated that after the Commissioners approval of the Preliminary Plat, Jerry Lipp had a nitrate analysis done and it shows hardly any nitrates in the area. She spoke about coming back to the Commission and being told that since the Planning Board had made that recommendation that they should go back and present condition 12 to the Planning Board, which was done and the Planning Board refused to re-consider the request.

Jerry Lipp presented the technical data that showed the nitrate level was barely detectable and then spoke about spending \$60,000 to take out nitrates that are not there. He then spoke about the replacement of the 2 systems when they fail, that they would build an elevated ground mound to replace them.

Nicole Lopez-Stickney spoke in regards to the original request to change condition 12, which was if they could get the support of the Planning Board then the Commission would reconsider changing it. When it was brought to the Planning Board they did not want to consider changing it, and explained that we don't want to wait until the aquifer has a high level of nitrates when we know there is high ground water in the area. It was then stated that when they put a set of conditions on a subdivision they see it as a whole package that they are voting on.

Jeff Harris stated that at the Planning Boards Public Hearing the water quality to the ground water was talked about in great detail and at that time they placed the condition for the level 2 system on as a separate motion and then voted to deny the subdivision. The condition was put on to protect the water quality in the area. He then stated that it is an unusual request to pick out a condition and take it back to the Planning Board for re-consideration. He spoke about some of the information that was presented to the Commission that he doesn't believe was presented to the Planning Board during the hearing.

Erica Wirtala spoke about the only different information being the nitrate sample, which is not required in the EA. She also presented drawings showing the difference from the back lots to the front lots. She then noted that when Glen Gray reviewed the subdivision as part of the agency comment, he noted that there was high ground water in the area, but he did not recommend a level 2 septic system.

Jeff Harris spoke about the issue being water quality and from a technical standpoint the Planning Office does not get involved and from a policy standpoint to maintain water quality and not degrade it, he feels it is in the providence of the Planning Board and the Commission. He stated that the Planning Board was fairly adamant in saying that it is not an anti-degradation type issue, but that it is an issue of water quality in areas of shallow ground water. He then stated that it remains their recommendation.

Erica Wirtala spoke about the original staff report not recommending a level 2 septic system and added that if you have a level 2 treatment system you can shorten your drain fields and drive your nitrates up to 7.5, which is allowable by law and by requiring a level 2 treatment system you are not protecting your aquifer by having lower nitrates.

Commissioner Brenneman questioned the 7.5 discharge.

Jerry Lipp stated that it would be a 100 foot mixing zone.

Erica Wirtala stated that the Planning Board is applying the wrong band aid to the problem, with it being a ground water issue.

Jerry Lipp spoke about ground monitoring data that says it is around 48" and the key to fix that is elevated sand mounds.

Commissioner Brenneman questioned if they fail as to if they can be required to put in elevated sand mounds.

Jerry Lipp stated that they would write the recommendation into the approval statement that says; upon failure of said systems on tract 1 & 2 replacement systems shall consist of an elevated sand mound designed by a professional engineer. He then spoke about the nitrogen not being there.

Commissioner Brenneman said that presumably elevated sand mounds on all the lots would do more to preserve the water quality verses a level 2 system.

Jerry Lipp stated that the rule says that you want a 4 foot separation between the top of the ground water and the bottom of your drain field ditch, with the maximum depth of a drain field ditch at 3 feet. According to the DEQ and Health Department rules there is enough material to give the sewage effluent proper treatment before it hits the ground water with the 7 foot separation.

Jerry Lipp then spoke about a 50 year phosphorus breakout.

Commissioner Brenneman spoke about the system failing and the nitrogen still going down into the water.

Jerry Lipp spoke about his definition of a septic system failure and his definition is when the sewage effluent surfaces on the ground.

Commissioner Brenneman spoke about the water table being at 7 feet then it would never surface to the ground.

Jerry Lipp stated that what happens is the bacterial growth becomes so thick that the water no longer permeates down through the soil and will blow out the sides.

Commissioner Brenneman questioned if that would be a visible failure.

Jerry Lipp stated that it would be visible.

Commissioner Brenneman spoke about systems in the Flathead that have failed, but no one is aware of it with it not being visible.

Jerry Lipp spoke about putting in sand mounds and with the 1 foot of sand underneath the rock you would have a blow out on the sides and the system would have to be replaced. The sand would provide adequate filtration as the affluent moves down through it.

Commissioner Brenneman questioned the price of a sand mound system.

Jerry Lipp stated that it was around \$7,000.

Commissioner Brenneman questioned if the requirement of sand mound systems on all five lots would address the issue of water quality.

Jerry Lipp stated that if they could not maintain a 4 foot separation on the back 3 lots then they would propose sand mounds, but because they have at least 8 feet to ground water then theoretically they can still maintain the same separation with a standard ditch. He then stated that if he wanted to put sand mounds back in that it would be okay.

Commissioner Brenneman then stated that it sounds to him like a failure would be more visible with a sand mound than without.

Erica Wirtala stated that would be fine.

Jeff Harris then stated that these are issues that the Commission should not ask the applicant to do technically because the Public Hearing is closed. The only action before them today should be whether to re-consider condition 12, which is to require a level 2 system or not.

Jerry Lipp spoke about the water quality being an issue and that they are giving them an option to protect the water quality. He then spoke about increasing the distance between ground water and the drain field.

Commissioner Brenneman stated that he would be willing to do that, but that he would not be willing to throw away the level 2 system.

Jeff Harris then stated that the applicant has the option to come back in with another application at any time and to withdraw their Preliminary Plat application.

Erica Wirtala spoke about not having any nitrate levels throughout the DEQ process. She then spoke about them asking for something that is not necessarily required by the conditions on the property.

Commissioner Brenneman spoke about Jonathan Smith's advice to the Commission in that they should get the Planning Boards permission before changing any conditions.

Chairman Watne stated that he feels that a level 2 system is not necessary.

Commissioner Brenneman then stated that what is coming back to them is that they are trying to work to make developments work so that they are safe. He then spoke about the Planning Board's denial of the subdivision and suggested that they go back to the Planning Board and emphasize that they are willing to put in sand mounds and see if they will look at it then.

Erica Wirtala spoke about the Planning Board not wanting to re-visit a condition.

Nicole Lopez-Stickney spoke about the Planning Board in regards to looking at individual conditions in that they see the subdivision as a package.

Commissioner Brenneman stated that he was willing to change condition 12 to read: the community water system and raised sand mound septic systems for all 5 lots be reviewed by the DEQ. He also advised the applicants that if this was to be litigated in court that they would not defend it.

Commissioner Brenneman made a **motion** to change the wording on condition 12 to say that the community water system and raised sand mound septic systems for all 5 lots be reviewed by the DEQ. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

FINAL PLAT: STILLWATER AT WHITEFISH

[10:38:05 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Clerk Diana Kile, Jeff Harris, Kirsten Holland

Others absent:

Assistant Michael Pence

Holland reviewed the application submitted by DKRW, LLC with technical assistance from Sands Surveying for Final Plat approval of Stillwater at Whitefish, which consists of 12 residential lots. The property is located off Farm to Market Road, approximately 2 miles south of the intersection of Hwy 93, north of Whitefish. Preliminary Plat approval was granted on April 12, 2005, subject to 22 conditions. All conditions have been met. Staff recommends approval.

Commissioner Brenneman made a **motion** to approve Final Plat for Stillwater at Whitefish. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

MONTHLY MEETING W/ RICK TREMBATH, FIRE WARDEN

[10:44:57 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Clerk Diana Kile, Rick Trembath, Mark Peck

Others absent:

Assistant Michael Pence

Rick Trembath reported that he meet with Glacier Park, DNRC and the Forest Service and stated that things are progressing on the annual operating plan with some minor revisions. A draft copy will be given out at the chief's meeting in January for them to review for 1 month and to hopefully have the final in February. He spoke about the safety record report that is reported on state wide as being a good report this year with no fatalities. He then spoke about the Bigfork Steering Committee calling a meeting among all the community service organizations to get together and talk about how they are doing with growth and development within the community. He stated that he has taken a temporary position with the Kalispell Fire Station for 2 months to replace Brett Kristofferson.

CONSIDERATION OF HR TRANSMITTAL: RECORDING-ELECTION OFFICE MANAGER/ CLERK & RECORDER'S OFFICE

[11:01:15 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile

Commissioner Brenneman made a **motion** to approve the HR transmittal for a Recording-Election Office manager for the Clerk & Recorder's Office. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

CONSIDERATION OF REJECTING BIDS: SEWER PROJECT/ ROAD DEPT

[11:01:51 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile

Discussion was held relative to the reason for rejecting the sewer project bids.

Commissioner Brenneman made a **motion** to accept the road department's letter of rejection for the sewer project bid from Sandon Construction. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

CONSIDERATION OF PRINTING BIDS: ELECTION DEPT

[11:02:47 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile

Commissioner Brenneman made a **motion** to accept the printing bid from American Printing for 2,000 brochures for \$498.21 and 5,000 envelopes for \$191.97. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

PRELIMINARY PLAT: BLACK GOLD TRACTS SUBDIVISION, AMENDED PLAT OF LOT 3

[11:18:57 AM](#)

Members present:
Chairman Robert W Watne
Commissioner Joseph D Brenneman
Members absent:
Commissioner Gary D Hall
Others present:
Clerk Diana Kile
Others absent:
Assistant Michael Pence, Jeff Harris, Eric Giles, Joe Kauffman, Carol Duval

Giles reviewed the application submitted by Carol Duval with technical assistance from Big Sky Surveying for Preliminary Plat approval of Black Gold Tracts Subdivision, amended plat of lot 3, a major subdivision that will create 2 residential lots. The subdivision is proposed on 4.32 acres.

Discussion was held relative to the subdivision regulations that state that with the high transmission lines that the land is unsuitable for development.

Joe Kauffman stated that lots 2 & 3 of Black Gold tracts originally should not have been created because of the high voltage lines. The other fault on the original subdivision is that county regulations specifically state that an easement shall not bisect a property and on lot 2 & 3 it does.

Giles spoke about recently having a class with BPA and they went through what was a hazard when you are located near these areas with high voltage lines. He stated that the hazards were related to structures being adjacent to the lines that there were no concerns as far as cancer goes, it would only be the actual physical damage to the lines that could injure someone within the vicinity.

Joe Kaufman spoke about the existing power lines being on lot 3B which is quite away from lot 3A. He spoke about the comment that there is only ½ acre of usable ground and that it was not enough and he stated that it is plenty for what they want to do with the property.

Giles spoke about the approved drain field and septic having to be moved because BPA stated that they did not want any portion of the drain field in their easement.

Carol Duval spoke about the existing well and septic approval being for the part that they want to build the shop on. The BPA easement that goes across the property is 200' wide and the 150' is on the west side where they want the lot and the 50' is on the side that they built their house and shop. She stated that the only reason they wanted to do this was simply to get the piece of property broke off so that their construction company could have a shop there for extra building materials.

Giles spoke about the risk of having a shop built close to the lines and that the application was processed as a residential application.

Commissioner Brenneman made a **motion** to adopt Staff Report FPP 06-58 as findings of fact. **Motion** dies for lack of a second.

MEETING W/ MIKE FRASER/ THOMAS, DEAN & HOSKINS RE: SADDLEHORN

[11:37:01 AM](#)
Members present:
Chairman Robert W Watne
Commissioner Joseph D Brenneman
Members absent:
Commissioner Gary D Hall
Others present:
Clerk Diana Kile, Jeff Harris, Nicole Lopez-Stickney, Kirsten Holland, Doug Averill, Chase Averill, Mike Fraser
Others absent:
Assistant Michael Pence

Doug Averill reported that he is having to make some huge decision soon and would like to make sure that he is on the same page in regards to some of the changes in the Preliminary Plat. He stated that the project is still on track and that they need to submit to DEQ soon, which requires an engineering plan. He spoke about the condensed road approval, the S curve that was taken out and the lots that were reconfigured. He then spoke about Pacifi-Corp that has 200 acres along side Saddlehorn and he is trying to get them to put it into a conservation easement for the community. He reported that he has also purchased land along side Saddlehorn that will allow them to bring sewer and water into the project without going down the highway.

Jeff Harris spoke about the changes being made to the approved Preliminary Plat and PUD Plan in less than 30 days and with the changes that they are making being physical changes he does not feel it needs to go back through the process. He stated that as soon as they get the amended Preliminary Plat and PUD Plan application they will get it to the Commission for approval by the end of January.

Doug Averill stated that they wanted the Commission to get a feel for the new layout and to get this going by next summer.

Mike Fraser spoke about this being an evolutionary process in the changes that are being made.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 20, 2006.

WEDNESDAY, DECEMBER 20, 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.

9:15 a.m. RSVP meeting @ Windward Place
11:00 a.m. County Attorney meeting @ Co. Atty's Office
12:00 p.m. Commissioner Brenneman to DUI Task Force meeting @ The Summit

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

THURSDAY, DECEMBER 21, 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.

BI-MONTHLY MEETING W/ JED FISHER, WEED/ PARKS/ MAINTENANCE

This meeting was not held.

MONTHLY MEETING W/ MONICA EISENZIMER, ELECTION DEPT

This meeting was not held.

AUTHORIZE COUNTY ATTORNEY'S OFFICE TO ACCEPT SERVICE: KILA-SMITH LAKE COMMUNITY DEVELOPMENT v. COUNTY; ALLEN, ET AL. v. COUNTY

[9:42:31 AM](#)

Members present:
 Chairman Robert W Watne
 Commissioner Joseph D Brenneman
Members absent:
 Commissioner Gary D Hall
Others present:
 Assistant Michael Pence
 Clerk Diana Kile

Commissioner Brenneman made a **motion** to approve the County Attorneys office to accept service from Kila-Smith Lake Community Development v. County and Allen et al, v. County from the Commission in their official capacity. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: PROFESSIONAL SERVICES CONTRACT/ DOOLEY

[9:43:54 AM](#)

Members present:
 Chairman Robert W Watne
 Commissioner Joseph D Brenneman
Members absent:
 Commissioner Gary D Hall
Others present:
 Assistant Michael Pence
 Clerk Diana Kile

Commissioner Brenneman made a **motion** to approve the document for signature for contract work from Cindy Dooley. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: SECTION 5311 CAPITAL CONTRACT/ EAGLE TRANSIT

[9:46:06 AM](#)

Members present:
 Chairman Robert W Watne
 Commissioner Joseph D Brenneman
Members absent:
 Commissioner Gary D Hall

Others present:
Assistant Michael Pence
Clerk Diana Kile

Commissioner Brenneman made a **motion** to approve the document for Eagle Transit section 5311 capital contract to purchase radios. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

CONSIDERATION OF HR TRANSMITTALS: OPERATIONS LEAD/ EAGLE TRANSIT AND LIBRARY TECHNICAL ASSISTANT II

9:46:48 AM

Members present:
Chairman Robert W Watne
Commissioner Joseph D Brenneman
Members absent:
Commissioner Gary D Hall
Others present:
Assistant Michael Pence
Clerk Diana Kile

Commissioner Brenneman made a **motion** to approve an operations lead for Eagle Transit and a technical assistant for the Library. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

PUBLIC HEARING: JEFFREY LANE, MISTY LANE, UNDERDAHL LANE, SANCTUARY FARM LANE AND LENZ RANCH ROAD NAMING

10:06:48 AM

Members present:
Chairman Robert W Watne
Commissioner Joseph D Brenneman
Members absent:
Commissioner Gary D Hall
Others present:
Assistant Michael Pence
Clerk Diana Kile, F C Bailey

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

FC Bailey spoke in favor of Sanctuary Farm Lane.

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

Commissioner Brenneman made a **motion** to adopt resolutions #1986, #1987, #1988, #1989 and #1990. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

RESOLUTION NO. 1986

WHEREAS, Flathead County has proposed to name a private road generally **running easterly off Mooring Road and located in the N ½ of the SW ¼ of Section 10, Township 29 North, Range 20 West, P.M.M., Flathead County, Montana.**

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on December 21, 2006, concerning the proposal, after publication and mailing of notice thereof on December 10, 2006 and December 17, 2006; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **JEFFREY LANE.**

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running **easterly off Mooring Road and located in the N ½ of the SW ¼ of Section 10, Township 29 North, Range 20 West, P.M.M., Flathead County, Montana,** should be, and it hereby is, named **JEFFREY LANE.**

BE IT FURTHER RESOLVED that the naming of **JEFFREY LANE** shall be effective on December 21, 2006.

Dated this 21st day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Gary D. Hall, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Deputy

RESOLUTION NO 1987

WHEREAS, Flathead County has proposed to name a private road generally **running westerly off U.S. Highway 2 and located in the SW1/4 of the NW1/4 of Section 28, Township 31 North, Range 19 West, and in the SE1/4 of the NE1/4 of Section 29, Township 31 North, Range 19 West, P.M.M., Flathead County, Montana.**

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on December 21, 2006, concerning the proposal, after publication and mailing of notice thereof on December 10, 2006 and December 17, 2006; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **MISTY LANE.**

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running **westerly off U.S. Highway 2 and located in the SW1/4 of the NW1/4 of Section 28, Township 31 North, Range 19 West, and in the SE1/4 of the NE1/4 of Section 29, Township 31 North, Range 19 West, P.M.M., Flathead County, Montana,** should be, and it hereby is, named **MISTY LANE.**

BE IT FURTHER RESOLVED that the naming of **MISTY LANE** shall be effective on December 21, 2006.

Dated this 21st day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Gary D. Hall, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Deputy

RESOLUTION NO. 1988

WHEREAS, Flathead County has proposed to name a private road generally running **easterly off North Fork Road and located in the NE1/4 of the SE1/4 of Section 28, Township 31 North, Range 20 West, and in the SW1/4 of Section 27, Township 31 North, Range 20 West, P.M.M., Flathead County, Montana.**

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on December 21, 2006, concerning the proposal, after publication and mailing of notice thereof on December 10, 2006 and December 17, 2006; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **UNDERDAHL LANE.**

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running **easterly off North Fork Road and located in the NE1/4 of the SE1/4 of Section 28, Township 31 North, Range 20 West, and in the SW1/4 of Section 27, Township 31 North, Range 20 West, P.M.M., Flathead County, Montana,** should be, and it hereby is, named **UNDERDAHL LANE.**

BE IT FURTHER RESOLVED that the naming of **UNDERDAHL LANE** shall be effective on December 21, 2006.

Dated this 21st day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Gary D. Hall, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Deputy

RESOLUTION NO. 1989

WHEREAS, Flathead County has proposed to name a private road generally **running westerly off Farm to Market Road (Mt. Highway 424) and located in the S ½ of the NE ¼ of Section 20, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.**

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on December 21, 2007, concerning the proposal, after publication and mailing of notice thereof on December 10, 2006 and December 17, 2006; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **SANCTUARY FARM LANE**.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running **westerly off Farm to Market Road (Mt. Highway 424) and located in the S ½ of the NE ¼ of Section 20, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana**, should be, and it hereby is, named **SANCTUARY FARM LANE**.

BE IT FURTHER RESOLVED that the naming of **SANCTUARY FARM LANE** shall be effective on December 21, 2006.

Dated this 21st day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Gary D. Hall, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Deputy

RESOLUTION NO. 1990

WHEREAS, Flathead County has proposed to name a private road generally **running northerly off Deer Creek Road and located in the SW1/4 of the SW1/4 of Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana**.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on December 21, 2006, concerning the proposal, after publication and mailing of notice thereof on December 10, 2006 and December 17, 2006; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **LENZ RANCH ROAD**.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running **northerly off Deer Creek Road and located in the SW1/4 of the SW 1/4 of Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana**, should be, and it hereby is, named **LENZ RANCH ROAD**.

BE IT FURTHER RESOLVED that the naming of **LENZ RANCH ROAD** shall be effective on December 21, 2006.

Dated this 21st day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Gary D. Hall, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Deputy

COS REVIEW: PING

[10:11:51 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Peter Steele, John M Phelps, Sean Frampton, Dawn Marquardt, Debbie Shoemaker, Scott Ping

Peter Steele spoke in regards to the Scott Ping COS review that was filed and went through the 509 process as it appeared to be an invasion. It came before the Commission on November 8, 2006, and the division of land was approved. What has been

found out is that the land was in the City of Whitefish planning jurisdiction. Flathead County signed an inter local agreement with the city, which gives the City of Whitefish jurisdiction 2 miles outside the city, so the county does not have the power to make the decision so they are being asked to rescind the decision.

Chairman Watne questioned the counties authority.

Peter Steele stated that the inter local agreement that was signed on February 1, 2005, says for all planning and zoning subdivision issues the city has jurisdiction. The exemption statute is under the subdivision and platting act. He then spoke about the decision that was made not counting, because they did not have the power to make the decision.

Dawn Marquardt spoke about the Commission rescinding their approval and questioned where that would leave them with specific time frames being well past. She then spoke about them coming before the Commission and having it reviewed and approved. She stated that they have completed the surveying and are ready to file the survey and she does not feel that for Mr. Ping to have to go before the city council that it would be in compliance with the time frame of the resolution.

Peter Steele spoke about 509 resolution not applying because it is a county resolution.

Dawn Marquardt stated then nothing would apply, because Whitefish does not have a mechanism for family transfers.

John M Phelps spoke in regards to this being the first 509 that has come through in which something formally decided by the county is kicked over to Whitefish. He stated that they have not adopted a counter part to the 509 yet, and that state law provides even without a 509 resolution that whomever has jurisdiction that the city or county can review if it appears to be an invasion looking at all the facts and circumstances. He then stated that from their point of view he would like it rescinded and then it would be up to the City of Whitefish and Mr. Ping to deal with the issue.

Peter Steele stated that the statute gives the governing body the authority to figure out if there is an invasion or not and that it is a county tool.

Sean Frampton representing Mr. Ping stated that he respectfully disagrees with Mr. Steele's opinion entirely and reviewed the COS. He spoke about the Commission already having an opinion from the county attorney before proceeding with the hearing. In December of 2005 is when the request was first made and shortly thereafter, is when this inter local agreement took place where Whitefish extended its jurisdiction. On November 8, 2006, the Commission approved the transfer and on November 16, 2006, the City of Whitefish asked that it be rescinded. He spoke about this being a matter of policy and not jurisdiction with there being no directive from the City of Whitefish asking them to rescind the decision. He referred to a letter from John Phelps, the city attorney, and then stated that there was no city council meeting in between the Commissions approval and the letter from the City of Whitefish. To look at the cities own zoning jurisdictions it is the zoning administrator Bob Horn that would report any violations and bring them to the attention of the city council, and that it would be the city councils decision if they want them to rescind. He then stated that it is not properly before them in the first instance and the second instance with the inter local agreement in regards to family transfer are not covered. He spoke about Mr. Pings property not being within the donut when the application was made, but after the inter local agreement it was in the jurisdiction. He stated that the regulations are silent on family transfers that there is no basis or reason that could say that they agreed to assume jurisdiction over family transfer. The Whitefish zoning regulations do not address family transfers in any way and he feels they are not covered under the cities jurisdiction. The City of Whitefish was given an opportunity to show up for the 509 review and they did not show up. He then stated that he feels they conceded their jurisdiction and said it boils down to the city having jurisdiction or it does not have jurisdiction, and if it had jurisdiction then it does not have any mechanism to review family transfers to find invasion, in which case it is automatically recorded when its submitted. He is asking that the Commission does not rescind, with him finding no basis for them to do so.

Peter Steele spoke about jurisdiction being a foundational question and his feeling when reading the inter local agreement is that you do not have jurisdiction to make a decision in this matter. He stated that when the COS comes in to get reviewed that they have to be reviewed within 5 days and he questions the dates.

Holland clarified the dates on the COS.

John M Phelps spoke about having jurisdiction and stated that the intent of the inter local agreement was to turn over to Whitefish within the donut area all subdivision planning and zoning decisions. He stated that the statutes that they are dealing with are in the state subdivision law. He is asking that they recognize the inter local agreement for what it is and honor its terms.

Chairman Watne questioned the 509D in regards to the board being defined as the County Commissioners.

Peter Steele stated that it was true, but in this particular case the 509 does not apply because it is not a county issue with the county not having jurisdiction.

Chairman Watne questioned the mechanism that the board uses for family transfers, being the 509.

Peter Steele stated that it was in every place in the county that the county has jurisdiction.

Holland spoke about the confusion being with the County Plat Room that actually has to review and approve the COS, whether it's the City of Kalispell, Columbia Falls or Whitefish and that is why their representative comes to the COS meetings.

Commissioner Brenneman spoke about not supporting an action to rescind since they did not have authorization to make a motion in the first place.

Peter Steele spoke about the Commission not having the power to make the decision in the first place, so to rescind wouldn't make much sense. He then spoke about the COS being recorded and if it was then the City of Whitefish would need to start legal action to rescind the recording.

John M Phelps stated that the reason they are asking them to rescind is so that they could not record the COS. He then stated that if they don't rescind it now the applicant can start transferring property and that forces them to go to court and they would like to not have to do that.

Commissioner Brenneman questioned if that would save them from not having to go to court.

Dawn Marquardt stated that if you want to say that 509 does not apply to this property in anyway, shape or form then you go back to the fact that when the survey was submitted for review it went through and they could have filed it the next day. She then spoke about Whitefish having no mechanism for family transfers and stated that they have done them in the City of Whitefish without them going through review, because the county doesn't review them with them not being part of 509. She then stated that if the City of Whitefish definitely has jurisdiction over this, then 509 is not in place and there is no mechanism for anybody to even look at the survey until it is filed.

Sean Frampton spoke about jurisdiction not being clear and stated that he looked for language in the 509 resolution to see if it applies to county land as opposed to city land, and it is silent on that. He stated that the Commission has always dealt with the county land and that is exactly where the property is, although there is the inter local agreement which is silent on family transfers. He then asked that they take no action on the request.

John M Phelps then asked that they honor the inter local agreement and asked that they rescind it so that they would all be in compliance with the inter local agreement.

Peter Steele asked that they make a motion to the effect that they lacked the jurisdiction to make the previous motion.

Chairman Watne stated that he feels it should be left alone.

Scott Ping stated that he did everything according to subdivision and family transfer regulations and he then spoke about the last time he was there, with the discussion that the 509 was not anything the city has ever used in the past. He stated that it was breezed through at the meeting and he feels that is where it is now.

Commissioner Brenneman stated that there is a legal question as to if this land can be recorded with the division until you receive approval from the city. He then advised Mr. Ping that the only way he could make sure that the transfer is okay is to take it to the city.

Scott Ping stated that from his viewpoint it should not have been brought up in the first place if the legality and jurisdiction was in question.

Commissioner Brenneman stated that even if they were to say it is taken care of the city has an extremely good case to contest it, in which case he would have to go to court.

No action taken.

PRELIMINARY PLAT: ISLAND LAKE ESTATES

[10:48:51 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Tim Rooney, John Vignali, Jay Dinning, Andy Beleski

Sears-Tull reviewed the application submitted Tungsten Holdings, Inc., with technical assistance from Flathead Geomatics for Preliminary Plat approval of Island Lake Estates. The proposed minor subdivision will create four single family residential homes located at 8755 Island Lake Road at the west end of Flathead County and border Lincoln County.

Sears-Tull spoke about the use of the lots being for recreational purposes. She stated that utilities are not on the lots and are at least 1 mile away.

Chairman Watne expressed his concern with communication, emergency services and fire.

Sears-Tull stated that they do have cell phone service.

Commissioner Brenneman questioned the staff report in regards to their recommendations.

Sears-Tull spoke about this being a unique situation in regards to putting deed restrictions on the lots that state they are for recreational purposes and that utilities are not extended at this time. She spoke about the counties concern for liability and how to mitigate them.

Commissioner Brenneman spoke about his concern of each of the lots being further subdivided.

Sears-Tull stated that is why they were discussing deed restrictions.

Commissioner Brenneman spoke about his concern of someone wanting to put in a large subdivision and would like to see some language in regards to density in the area.

Chairman Watne questioned the road in regards to it being a county or forest service road.

Sears-Tull stated that it is a county road.

Commissioner Brenneman questioned the remainder and to why it is not 5 lots.

Sears-Tull stated that the remainder has an active gravel pit on it.

Commissioner Brenneman questioned the applicants in regards to suggestions on how the county can address the issue so the lots cannot be further subdivided.

Don Valansky spoke about there being something already in place called major subdivision review that would have to go through the Planning Board and the Commission.

Commissioner Brenneman stated that they are today considering opening the door and once that is opened the precedent changes for what considerations are given to a piece of property.

Jay Dinning spoke in regards to their intentions for the properties not being for residential use is why they don't intend to bring in utilities.

Tim Rooney stated that if they needed to put deed restrictions on it now that they would do that to satisfy it. He spoke about putting deed restrictions on property for future use when the future use could be good.

Jeff Harris stated that based on the conversation it is difficult to make a decision based on assumption of a future decision. He then spoke about approving a density and that becoming a norm for the area.

John Vignali asked if it would be prudent to suggest a sunset clause in the deed restriction to say that these lots cannot be further subdivided until such time that services from Flathead County are available in the area.

Commissioner Brenneman questioned if the lots would be used for hunting purposes and cabins only.

John Vignali stated that the area dictates that.

Commissioner Brenneman questioned what kind of development was around Island Lake now.

John Vignali spoke about some development around the south end of the lake. He then stated that the road leading up to Island Lake to the property is being used by Lincoln county residents now.

Chairman Watne questioned the subdivision regulations and to how they fit in with the electricity.

Sears-Tull spoke about the electricity being one of the big problems not having it extended to the property. She then spoke about the applicant being willing to put in some kind of deed restrictions.

Chairman Watne spoke about changes on Preliminary Plats.

Tim Rooney stated that he knows the concern is liability and questioned if buyers could agree before ownership to not hold the county liable for services.

Commissioner Brenneman spoke about them agreeing to it when they purchase the property, but when there is a problem the county winds up providing services.

Tim Rooney stated that they do not want to force anything through that they would like to find an answer to be able to do this.

Jeff Harris stated that they have a form letter for them to waive the deadline requirement and that a letter will be sent.

The applicant wishes to waive the 35 day deadline requirement and that a letter will be sent,

Commissioner Brenneman made a **motion** to continue the Preliminary Plat for Island Lake Estates until staff and the applicant work on language to restrict further development on the property and to insure that the counties services are not over taxed. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

MEETING W/ GLEN CAMERON, MDOT RE: SPEED ZONE STUDY

[11:10:00 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Glen Cameron

A report was presented to the Commission for the speed study traffic review that was done in Marion. The section they looked at was the intersection at Pleasant Valley and based on the study they do not see a need to change the speed limit. The recommendation is that they install an intersection warning sign.

FINAL PLAT: TIMBER ROCK ESTATES

[11:22:47 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jeff Harris, Rebecca Shaw, Brett Kulind, Eric Mulcahy

Shaw reviewed the application submitted by GK Family Investments with technical assistance from Sands Surveying for Final Plat approval of Timber Rock Estates, a subdivision creating 5 residential lots. This property is located off of US Hwy 93 south

of Lakeside. Preliminary Plat approval was granted on July 27, 2006, subject to 23 conditions. All conditions have been met. Staff recommends approval.

Brett Kulind spoke about the emergency turn around access and stated that he has worked with Bob in regards to being annexed into the fire district and has been told that it would not be a problem. The roads have been signed off of and he spoke about not being able to do anymore to make it work.

Commissioner Brenneman made a **motion** to approve Final Plat for Timber Rock Estates. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

PRELIMINARY PLAT: CEDAR CREEK NORTH SUBDIVISION

[11:30:50 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jeff Harris, Eric Giles, Jonathan Smith

Giles reviewed the application submitted by the City of Columbia Falls with technical assistance from F & H Land Surveying for Preliminary Plat approval of Cedar Creek North Subdivision; a minor subdivision that will create 3 single family residential lots. The subdivision is proposed on 20.082 acres and is located north of Columbia Falls.

Commissioner Brenneman made a **motion** to approve Staff Report FSR 06-23 as findings of fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

Commissioner Brenneman made a **motion** to approve Preliminary Plat for Cedar Creek North Subdivision. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

AWARD BID: LEGAL ADVERTISING 2007

[11:38:52 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jonathan Smith

Commissioner Brenneman made a **motion** to accept the bid from The Daily Inter Lake for legal advertising for 2007. Chairman Watne **seconded** the motion. **Aye** – Watne and Brenneman. Motion carried by quorum.

AUTHORIZATION TO PUBLISH CALL FOR BIDS: SHERIFF'S VEHICLES

[11:39:16 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile, Jonathan Smith

Commissioner Brenneman made a **motion** to authorize the publication for Sheriff's vehicles and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** - Watne and Brenneman. Motion carried by quorum.

FINAL PLAT: TIMBERS AT WHITEFISH

[11:41:00 AM](#)

Members present:

Chairman Robert W Watne
Commissioner Joseph D Brenneman

Members absent:

Commissioner Gary D Hall

Others present:

Assistant Michael Pence
Clerk Diana Kile

Holland reviewed the application submitted by Timbers at Whitefish, LLC with technical assistance from Schwartz Engineering for Final Plat approval. The subdivision consists of 21 residential lots and is located off Hwy 93 south of Whitefish. Preliminary Plat approval was granted on December 22, 2005, subject to 19 conditions. All conditions have been met. Staff recommends approval.

Commissioner Brenneman made a **motion** to approve Final Plat for Timbers at Whitefish. Chairman Watne **seconded** the motion. **Aye** - Watne and Brenneman. Motion carried by quorum.

2:00 p.m. Health Board meeting @ Earl Bennett Bldg.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 22, 2006.

FRIDAY, DECEMBER 22, 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 December 26, 2006.