
MONDAY, MAY 14, 2007

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

Chairman Brenneman opened public comment on matters within the Commissions' Jurisdiction.

Pat Arnone spoke in regards to Tombstone Subdivision and then read a letter in opposition to the subdivision that said if this were a dry piece of land it is still too dense for the neighborhood and is more suited for one dwelling.

Ron Mumford spoke about the wildlife corridor that is used by various animals and spoke of his concern of the property being approved for 14 septic systems. He then stated that he doesn't feel it's about affordable housing; that it is all about money. Mumford then read a letter from his wife Joan that said development on this land would be unsuitable and destructive to the area of Blackmer Lane and asked that the proposal be denied.

Ed Baldwin said that he owns property on the other side of the road from the proposed Tombstone Subdivision and stated that there are too many important environmental issues involved with the project. Baldwin then said that the area is an ecologically sensitive area and believes that part of the EA is inaccurate and misleading. He then pointed out that the water table is too high for a sewage treatment system or for any kind of a housing project, and then said that as far as he is concerned that the field should remain at a natural state.

Ellen Horowitz a property owner next to the proposed Tombstone Subdivision spoke in concern of the high density of the subdivision being incompatible with the neighborhood, high water table and a septic approval that was denied previously. Horowitz then asked that the commission deny Tombstone Estates.

Mike Corbett said that his concern is that the Tombstone Subdivision does not fit the land with it being a sanctuary right at the base of the mountain with mule, elk, deer and grizzly frequenting the area. Corbett then spoke about the high ground water and his concern of the infrastructure for the subdivision being in ground water. He questioned where we draw the line on what is acceptable and what is sacred. He then said in looking at this piece of property, he feels that one dwelling would be appropriate.

Tom Lewis a resident of Bigfork with property that lies between Marina K and downtown Bigfork spoke in regards to an issue with the sewer line that connects downtown Bigfork to the treatment plant, which is sewer line "A". Lewis said that he has been attending the sewer district meetings for several years and spoke of his concern about the sewer line, which they have considered abandoning because of its age. His concern is with the integrity of the bank that has been receding over the years with the sewer district now ready to rebuild the lift station. Lewis then said that now would be an appropriate time to review and consider doing something with the sewer line, in which he said he made an offer and it was taken as a bribe.

Bill Myers representing Bay Side Park and Marina Center spoke about the bank sloughing and eroding up and down the line from anywhere from 6 to 15 feet from the high water mark. He then said if the line collapses it will all end up in Bigfork Bay and downtown Bigfork will not have any sewer service even if the lift station is rebuilt as they are planning. He then spoke about a permit that was issued to the Bigfork Sewer District and said they are not being forthright with the DEQ in regards to facts. He then asked that this be an agenda item on the Commissioners agenda and is requesting that an agenda be set aside with the 3 Commissioners in attendance as well as Jed Fisher from Weed & Parks, Jeff Harris from the Planning Department, Mike Pence the County Administrator and someone from the Road Department and that it also be requested that the sewer district be in attendance to sit down and come to a resolution.

Tom Arnone said that with the expanding economy and increasing population, development is necessary and inevitable. He then said that good development is an asset to the community and that bad development is nothing more than exploitation of the situation. Arnone stated that Tombstone Estates is exploitation not development.

Frank Vitale a resident on Blackmer Lane with property that lies adjacent to the development said that the commission needs to consider 1 house on 20 acres with the high level of concern with the development.

Blake Hendrick spoke regarding the density and the sanctuary the area is. He said that he was in the process of making a minor clarification of his covenants and had to visit all the landowners that were governed by those covenants. He then said that the neighbor's number one concern is protecting the 5-10-20 acre parcels.

Clarence Watts a resident on Lauman Road stated that his property is to the south of the proposed subdivision and that he has lived there since 1943 and knows the property. He said that the runoff from the property runs into the creek and also spoke about the wildlife in the area. Watts then stated that the project is strictly out of character for the land.

Kimber Erb a resident on Blackmer Lane said that she was born and raised in the valley and bought at the Blackmer Lane location specifically because of the large parcels and the beauty of the area. Erb then said that she personally considered buying the property, but chose not to because of the concern of not being able to build on it with water standing on the marshy property. She then stated that the property might be appropriate for one home if they could find a place to build on it.

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

MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS

This meeting was cancelled.

PRELIMINARY PLAT: TOMBSTONE

9:30:27 AM

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Planner Annie Thompson, Ed Baldwin, Ron Mumford, Mike Corbett, Blake Hendrick, Bettye Watson, Tom Arnone, Pat Arnone, Annabel Petty, Norm Petty, Clarence Watts, Ellen Horowitz, Frank Vitale, Bill Myers, Tom Lewis, Sharon Lewis, Kimber Erb, Bret Bouda, Andy Belish, Clerk Diana Kile

Thompson entered Staff Report FPP 06-62 into record. Thompson then reviewed the application submitted by Tombstone Estates, LLC with technical assistance from Flathead Geomatics for preliminary plat approval of Tombstone Estates; a 14 lot major subdivision located at 1050 Blackmer Lane, west of Lauman Road and north of Lake Blaine. This subdivision is proposed on 20.12 acres with lot sizes ranging from 0.70 acres to 1.08 acres. Community wells and septic systems are to be placed in the parkland common area.

Thompson then reviewed the reasons for denial by the Planning Board which included:

Wildlife, density, use of parkland as septic drain field unacceptable, owner haul of garbage, high groundwater, poor soil, incompliance with Growth Policy and major environmental constraints.

Thompson then reviewed the Findings of Fact as Amended and the Adoption of Finding of Facts 8-9.

Commissioner Hall made a **motion** to adopt staff report FPP 06-62 as findings of fact as amended by Planning Board. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Commissioner Hall said that after studying the report and listening to the comprehensive and thorough staff report that he can not find any reason to support the application with there being too many things that point to denial; with the facts speaking for themselves. Hall then said that he can not find any way to mitigate the impacts.

Commissioner Lauman spoke of his concerns in regards to high ground water being a definite situation in the area. Lauman also spoke of concerns with sewers, a community type water system and placing a roadway in the soft soil area.

Chairman Brenneman stated that he agreed with the Planning Board.

Commissioner Lauman made a **motion** to deny Tombstone Subdivision on the basis of the Planning Boards Findings of Fact and the soft road. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: FARLEY, ET AL, ZONE CHANGE/ LOWER SIDE ZONING DISTRICT

[10:35:06 AM](#)

Members present:

Commissioner Gary D. Hall PT
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planning and Zoning Director Jeff Harris, County Attorney Jonathan Smith, Clerk Diana Kile

Commissioner Lauman made a **motion** to adopt Resolution # 957BA. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

RESOLUTION NO. 957 BA

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, after publication of legal notice, on the 28th day of August, 2006 which was continued on several occasions until March 26, 2007, when it was closed, to consider a request to change the zoning designation in a portion of the Lower Side Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural);

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

WHEREAS, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Lower 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. 957 AZ, dated March 26, 2007) to change the zoning designation in a portion of the Lower Side Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural) and;

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on March 29 and April 5, 2007, 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 Lower Side Zoning District to change the zoning designation for the area described on Exhibit "A" hereto, from SAG-10 to SAG-5, 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 14th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: _____
Joseph D. Brenneman, Chairman

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

By: /s/Dale W. Lauman
Dale W. Lauman, Member

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

**DIEDE, FARLEY, BRUFF, BURROWS, HOBACK AND MEUCHAL
ZONE CHANGE FROM SAG-10 TO SAG 5**

LOCATION AND LEGAL DESCRIPTION OF PROPERTY:

The property is located on the east side of Airport Road. The property is legally described as Tracts 3A, 3AA, 8B, 8BB, 10ACA, Section 28, T21N, R32W, P.M.M., Flathead County, Montana.

The properties are located at 2635 Airport Road, 2691 Airport Road, 2589 Airport Road, 2601 Airport Road, 2615 Airport Road, and 2621 Airport Road respectively. The total acreage for the above mentioned properties is 73 acres. The properties are legally described as follows:

That portion of Section 32, Township 28 North, Range 21 West, P.M., M., Flathead County, Montana, described as follows:

Beginning at the center $\frac{1}{4}$ corner, Section 32; thence
Along the East line of the Southwest $\frac{1}{4}$ Section 32, South $00^{\circ}10'57''$ East 19.93 feet; thence
North $89^{\circ}52'39''$ West 1344.22 feet; thence
North $00^{\circ}18'26''$ East 19.98 feet to the South line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence
Along the South line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, North $89^{\circ}52'39''$ West 840.44 feet to the Southwest corner of Tract 1 as shown on Certificate of Survey No. 7799; thence
Along the Westerly line of Tract 1, Certificate of Survey No. 7799, North $22^{\circ}22'53''$ West 425.10 feet to a point on the Easterly line of Montana Highway No. 404; thence
Northerly along the Easterly line of the Highway 950 feet, more or less, to the North line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence
Along the North line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, South $89^{\circ}47'24''$ East 1188.52 feet to the Northwest corner of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence
Along the North line of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, South $89^{\circ}46'46''$ East 1314.14 feet to the Northwest corner of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; thence
Along the North line of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, South $89^{\circ}59'20''$ East 193.96 feet; thence
South $39^{\circ}34'49''$ West 303.74 feet to the East line of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence
Along the East line of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, South $00^{\circ}08'17''$ East 1084.36 feet to the Point of Beginning.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: BLASDEL ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT

[10:34:48 AM](#)

Members present:

Commissioner Gary D. Hall PT
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planning and Zoning Director Jeff Harris, County Attorney Jonathan Smith, Clerk Diana Kile

Commissioner Lauman made a **motion** to adopt Resolution #797EG. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

RESOLUTION NO. 797 EG

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the on the 11th day of September, 2006, which was continued on several occasions until March 26, 2007, when it was closed, 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-3 (One-Family 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 EF, dated March 26, 2006) to change the zoning designation from R-1 (Suburban Residential) to R-3 (One-Family Residential); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on March 29 and April 5, 2007, 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-3 (One-Family 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 14th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: _____
Joseph D. Brenneman, Chairman

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

By: /s/Dale W. Lauman
Dale W. Lauman, Member

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

**ALICE BLASDEL
ZONE CHANGE FROM R-1 TO R-3**

Location and Legal Description of Property

The property can legally be described as a tract of land, situated, lying and being in the southeast quarter of the northeast quarter of Section 33, Township 29 North, Range 21 West, P.M., M., Flathead County, Montana, and more particularly described as follows to wit:

Lot 17, Block 2 of the Plat of Mountain View (records of Flathead County, Montana) and containing 1.39 acres; subject to and together with all appurtenant easements of record.

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

[10:35:42 AM](#)

Members present:

Commissioner Gary D. Hall PT
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planning and Zoning Director Jeff Harris, County Attorney Jonathan Smith, Olaf Ervin, Clerk Diana Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the Chairman to sign. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. 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 Kopje Holdings LLC, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to R-2 (One Family Limited Residential).

The boundaries of the area proposed to be amended from R-1 to R-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a residential district, with a minimum lot size of one acre, intended to provide estate type development, normally located in rural areas away from concentrated urban development, or in areas where it is desirable to permit only low density development, e.g., extreme topography, areas adjacent to flood plains, airport runway alignment extension, etc., to a residential district, with a minimum lot size of 20,000 square feet, intended to provide for large tract development, in suburban areas, beyond sanitary sewer and/or water lines.

The regulations defining the R-1 and R-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the **29th day of May, 2007, at 10:30 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.

Written comments are encouraged and will be reviewed by the Commissioners prior to the hearing if received by the Flathead County Commissioners' Office at least three business days prior to the hearing.

DATED this 14th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Gary D. Hall PT
Joseph D. Brenneman, Chairman

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on May 17 and May 24, 2007.

**KOPJE HOLDINGS LLC
ZONE CHANGE FROM R-1 TO R-2**

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 Evergreen Drive on Alpine Lane. The property is legally described as Tract 5J in SE4 SW4 Section 27, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

MEETING W/ OLAF ERVIN/ MONTANA MAPPING ASSOCIATES RE: MANY LAKES VACATION VILLAGE 2, LOT 661

[10:45:30 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Olaf Ervin, Clerk Diana Kile

Harris reviewed the waiver of preliminary plat for resubdivision of Many Lakes Vacation Village 2, Lot 661, that was waived in June of 2004. The deadline for preliminary plat is June of 2007, in which the applicant is asking for a one year extension waiver until June of 2008. Harris then said that the conditions didn't seem onerous and that the letter received from the applicant did not indicate why an extension was needed.

Ervin then said that he agreed with everything Harris stated and then gave the history of the preliminary plat with the change of ownership of the property six months ago causing the delay. It was then stated that the only condition that cannot be met before the deadline is the DEQ review.

Commissioner Hall then said that he felt the extension was justifiable.

Commissioner Lauman said that he realizes that you cannot speed up DEQ.

Chairman Brenneman said that the waiver was granted to the individual who had the right to develop the property for three years, and the personal situation is not relevant to consideration of the waiver; that it was up to the applicant to follow through on what needed to be done, with the new owners knowing that preliminary plat in this stage of development would unlikely be able to be completed in that time frame.

Commissioner Lauman made a **motion** to grant the extension waiver request. Commissioner Hall **seconded** the motion. **Aye** - Hall and Lauman. **Opposed** – Brenneman. Motion carried by quorum.

CONSIDERATION OF EXTENSION REQUEST: LAKESIDE MARINA PUD

[11:00:47 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, County Attorney Jonathan Smith, Marc Lechti, Johna Morrison, Trevor Schaeffer, Clerk Diana Kile

Grieve reported that the Lakeside Marina PUD extension request was a miscommunication mix up, and that the PUD does not exist anymore. Grieve stated that with the settlement the PUD is gone; it does not exist anymore. It was stated that what happened is that a letter was sent out to the applicant before the expiration of the PUD to notify them that it would expire on May 19, 2007, but there never was a subdivision preliminary plat at all connected to the file. The major lakeshore variance doesn't need to be extended, because it was set aside and now all the terms of the lakeshore variance are in the settlement language that has all been squared away.

Johna Morrison said that a letter was sent in requesting an extension, because the letter received was unclear as to what they needed an extension for. Her concern is that it was linked somehow with the Marina, so to cover the bases a letter was sent in for an extension.

Jonathan Smith then said that there originally was a PUD that was approved and District Court null and voided it because it was more than one owner; regulations require that it be single ownership. It was then stated that as it turned out they didn't need the PUD to do what they wanted to do anyway.

Trevor Schaeffer said that his only concern was that in the settlement agreement they specifically excluded any timelines and after receiving the letter stating that it was expiring then he was concerned. It was then stated that as long as it is agreed that the settlement agreement does not have a time associated with the construction.

Grieve then said that it does have timelines, but they are all in the settlement language.

Chairman Brenneman then explained that the PUD has been replaced by the Court Order and we are now operating under the terms of the settlement and are in agreement with the applicant as to what those terms are, and there is no need to consider an extension.

CONSIDERATION OF PRINTING BIDS: PLANNING & ZONING OFFICE

[11:06:23 AM](#)

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D. Hall
Commissioner Dale W. Lauman
Others present:
Clerk Diana Kile

Commissioner Hall made a **motion** to approve the print bid from Insty Prints for 2 sets of 500 business cards for \$49.90. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

MEETING W/ MIKE MEEHAN, SHERIFF RE: ADDITIONAL EMPLOYEES

11:15:04 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Assistant Michael Pence, Sheriff Mike Meehan, UnderSheriff Pete Wingert, Finance Director Laurel Raymond, HR Director Raeann Campbell, Karen Moore, Luke Foster, David Hutton, Brad Stahlberg, Kipp Tkachyk, Jordan White, Lance Norman, Eric Morrison, Ray L Young, Josh Buls, Sam Cox, Nic Salois, G W Schneider, K Burns, Tracy Finn, Rod Vestre, Logan Shawback, Eric Depree, Bob Provo, Michelene Provo, Brad Partan, Geno Cook, Glen Fulton, Pat Walsh, Dave Kauffman, Ernie Freebury, Dave Leib, Aaron Westphal, Clerk Diana Kile

Sheriff Meehan reported on the critical need for additional deputies in the Sheriff's Department, that he is proposing in the fiscal budget for this year to hire. The five new Deputies would only represent one additional Deputy on the street, 24 hours a day, 7 days a week. He then spoke about the growth in the valley exploding since 2000 and reported that his office has been at 46 Deputies since 1999; in the budget year of 2006, he did receive one additional Deputy which puts them up to 47. Currently they have 4 man minimums on shifts; which extremely restricts the use of vacation and comp time. The man power shortage has been devastating their overtime budget and is a safety issue at current staffing levels. Meehan stated that the officers are only re-active not pro-active; with them not having enough time to follow up on calls, which in turn puts an increased workload on the detective division. When two domestics are going on at the same time; with four people on, and they are two man calls, it leaves areas uncovered. He then presented comparison data to the Commission, in which Cascade County has a population of 79,385 people, however 56,000 live in Great Falls where they have their own municipal police department. So they have approximately 23,047 people in the county with 35 Deputies, which is a ratio of one Deputy per 658 people. Gallatin County has a population of 80,921 with only 35,829 living in the county with 50 Deputies. The Cascade County land mass being 2,708 square miles and Gallatin County 2,631 square miles and in Flathead County we have 5,253 square miles. He then said that 55,000 of the 85,000 people live outside of the city limits. Currently the Flathead is at one Deputy per 1,202 citizens and by increasing the staffing by more Deputies, they would start to get caught up, however with the subdivisions that the Planning Office has received so far this year, with requests for an additional 2,054 homes to be built within the county, based on 3.6 people per household represents an additional 7,394 citizens that have to be served with law enforcement services. Meehan stated that he feels public safety is a vital part of the government and needs to be addressed.

Wingert then presented graphs on workloads that have been experienced over the past few years, with 15,333 calls in 1996 and last year 38,013 calls; with the calls being more than doubled with the steady growth rate. The year the Deputies were increased, the calls per Deputy did go down slightly, but since that time it has gone upwards. In 1996 they had 374 calls per Deputy per year, and in 2006 they had 826 calls per Deputy per year. Wingert stated that the national sworn average is 1 Deputy Sheriff per 770 citizens with Flathead Counties average of 1 Deputy Sheriff per 1,202 citizens. He then said that if they were to add an additional 5 Deputies they would have a staffing ratio of 1 Deputy Sheriff for 1,213.

Sheriff Meehan then said that he feels this is a public safety issue and understands budget restraints, although he feels this needs to be prioritized and addressed.

Commissioner Lauman asked how many street Deputies we have now, in which Meehan stated we have 30 road Deputies with one injured and another headed to Iraq.

Commissioner Hall asked about the 10 mil funding in which they ended up with 3 mil, which was never pursued.

Sheriff Meehan said that his concern with constant levies is putting a burden on the taxpayer. He then said that they are at a critical stage now coming into summer; with summer being the busiest time, especially swing shift.

Commissioner Hall then said that he is asking them to be creative, in which Meehan said that they have thought about a plan.

Sheriff Meehan then said that he felt it necessary for the commission to understand how critical this is with the growth continuing.

Commissioner Hall then spoke about the Road Department being faced with DEQ issues and fuel costs.

Sheriff Meehan then said that he understands that the Road Department has increased costs; however the Road Department is not being faced with emotionally charged people with guns, like the Deputies are on a daily basis with the seriousness of calls escalating.

Commissioner Lauman said that he does appreciate all the sheriffs office does for the county and realizes they are understaffed and feels that Flathead County is understaffed compared to other counties within the state.

Mike Pence then said that they are having individual workshops with all department heads for the budget, in which Commissioner Hall stated that he feels they need to do something over and above that with this unique situation.

Chairman Brenneman questioned the effect of this on overtime and asked if there is currently money being spent on overtime by backing up another deputy and finishing paperwork.

Sheriff Meehan then said that it doesn't cover the officer safety concern.

Chairman Brenneman then said that we are already spending some of this money in overtime now.

Sheriff Meehan then said that he can't say how much overtime would be lowered.

Chairman Brenneman then asked if he knew what the total budget for the Sheriff's Department in Cascade County is, and how it is allocated. Brenneman also questioned research in crime reduction and officer safety.

General discussion was then held in regards to resolving the situation.

8:00 a.m. Commissioner Brenneman meeting w/ Debbie Pierson

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 15, 2007.

TUESDAY, MAY 15, 2007

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

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

MONTHLY MEETING W/ DEBBIE PIERSON, GRANT WRITER

[9:15:37 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Grant Writer Debbie Pierson, Clerk Diana Kile

Pierson reported that the AFG Grant for CAD, hardware and software in which they applied for \$916,000.00 is finished; they will now have to wait until September or January to see if they will receive the grant. It was stated that Ed Burlingame helped with the process greatly. It was reported that the GIS Department received \$142,440.00 for the MLIA Grant, in which Tom Reynolds did most of the technical work. The grant is for the Montana State Address and Transportation Data Model; that is a tool needed to populate the model. Pierson also reported on the Brown Field Phase I assessment that has been contracted with Tetra-Tech and the Bigfork Water and Sewer in which a source of money is being checked into.

COS REVIEW: WALKER

[9:37:03 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Planner Kirsten Holland, Louise Walker, Joe Kauffman, Clerk Diana Kile

Holland reviewed the chain of title for the Walker request in which Mrs. Walker is proposing to transfer a parcel to each child. The parcels range in size from just over 1 acre to under 2 acres in size and are located off Holt Stage Road, west of East Valley Estates.

Chairman Brenneman stated that he knows the family and recused himself.

Commissioner Hall then said that it looks like it's a subdivision; with no review or road requirements.

Joe Kauffman then said that Louise Walkers husband just passed away and that it was his wish to give property to the grandchildren.

Commissioner Hall questioned if any of it would be turned around and sold.

Louise Walker then said that she has lived on the property for 35 years and that they are a close family. She then said that all of the children want to live here and it was her and her husbands concern that they would not be able to afford to live here. It is also her desire to have the children living by her.

Holland asked if there would be a possibility to do a hammerhead turn around.

Louise Walker then said that it would be.

Lauman spoke of his concern with the road also for emergency services.

Commissioner Hall made a **motion** to approve the Walker family transfer. Commissioner Lauman **seconded** the motion. **Aye** - Hall and Lauman. **Abstain** - Brenneman. Motion carried by quorum.

COS REVIEW: REYNOLDS

[9:46:50 AM](#)

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D. Hall

Commissioner Dale W. Lauman

Others present:

Planner Kirsten Holland, Joe Kauffman, Norma Reynolds, Shawn Reynolds, Clerk Diana Kile

Holland reviewed the family transfer request in which Shawn and Norma Reynolds wish to transfer 3 parcels to family members.

Commissioner Hall questioned what the plan was for the parcels, in which Norma Reynolds stated that the property would be given to family members.

Commissioner Lauman questioned access to one of the parcels.

Joe Kauffman said that he has explained the 509 criteria very thoroughly to the applicant.

Holland then asked if the applicant would consider putting in a hammerhead turnaround, since they cannot condition the transfer.

Commissioner Lauman made a **motion** to approve the family transfer. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: SHAWWOOD LANE, LITTLE BIG HORN TRAIL AND ROSE HEIGHTS LANE NAMING

[10:05:34 AM](#)

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D. Hall

Commissioner Dale W. Lauman

Others present:

Clerk Diana Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing for road namings and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. 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 **SHAWWOOD LANE**.

Road generally running southerly and westerly off the proposed Little Bighorn Trail and located in the SW1/4NE1/4 of Section 32, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **29th day of May, 2007, at 10:00 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 **SHAWWOOD LANE**.

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

Dated this 15th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Diana Kile
Diana Kile, Deputy

Publish on May 19 and May 26, 2007.

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 **LITTLE BIGHORN TRAIL**.

Road generally running southerly and easterly off Smith Lake Road and located in the W1/2NE1/4 and SE1/4NE1/4 of Section 32, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **29th day of May, 2007, at 10:00 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 **LITTLE BIGHORN TRAIL**.

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

Dated this 15th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Diana Kile
Diana Kile, Deputy

Publish on May 19 and May 26, 2007.

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 **ROSE HEIGHTS LANE**.

Road generally running northerly off US Highway 2 W and located in the S ½ of the SE ¼ of Section 11, Township 28 N, Range 22 W, P.M.M., Flathead County, Montana.

The public hearing will be held on the **29th day of May, 2007, at 10:00 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 **ROSE HEIGHTS LANE**.

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

Dated this 15th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Diana Kile
Diana Kile, Deputy

Publish on May 19 and May 26, 2007.

DOCUMENT FOR SIGNATURE: HEALTH PROMOTION CONTRACT – WHITEFISH GOLDEN AGERS/ AOA

10:06:51 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Clerk Diana Kile

Commissioner Hall made a **motion** to approve the Health Promotion Contract and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #07-07-4-51-103-0

10:07:20 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Clerk Diana Kile

Commissioner Lauman made a **motion** to approve the DPHHS Contract 07-07-4-51-103-0 and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF MOSQUITO CONTROL BOARD MEMBER

[10:08:00 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Clerk Diana Kile

Commissioner Hall made a **motion** to approve sending a letter to a mosquito board member. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

MEETING W/ RUSSELL SWINDELL RE: SUBDIVISION REGULATIONS

[10:11:54 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

Russell Swindell, Bob Lilienthal, Clerk Diana Kile

General discussion was held relative to concerns of Russell Swindell in regards to the proposed Subdivision Regulations that included setback requirements and floodplains. He then asked if we are trying to protect the river corridor to be a wild scenic type area for the future in the valley; or is it a place to live. He then also questioned if the regulations from DNRC and DEQ protect water quality, in which Chairman Brenneman said that indications from research done on the lake would say no. Also discussed was looking at how the lake is trending, in that it is not getting any cleaner or staying the same; that it is getting more and more nutrient loading year by year.

EXIT INTERVIEW W/ DENNING, DOWNEY & ASSOCIATES

[10:32:28 AM](#)

Members present:

Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

Others present:

County Attorney Jonathan Smith, Clerk & Recorder Paula Robinson, Finance Director Laurel Raymond, Treasurer Adele Krantz, Fair Director Jay Scott, Paul Atkinson, Ted Dykstra, I.T. Director Vicki Saxby, Bob Denning, Clerk Diana Kile

Bob Denning reviewed his findings in auditing Flathead County Fair last summer and reported on small insignificant errors; also discussed were premium checks. Denning then reported on the audit of the fiscal year 2006 for Flathead County in which the county was given an unqualified audit report. He then said that the list of comments this year is only half as long as it was the previous year. The comments that were made were in regards to checks and balances, exceeding budget authority, Eagle Transit controls, accounts receivable for Solid Waste, GASB reports, transfers between funds, checks and balances within the HR Department, federal comments, transportation funds, AOA reimbursement requests and financial statements for GASB. Also discussed were comments that were not in the report that came to his attention during the audit which included the January Report to the State, Mosquito Districts that were closed and an employee claiming exempt status. He then concluded with fewer comments this year and big improvements.

FINAL PLAT: FOSTER INVESTMENTS SUBDIVISION

[11:30:24 AM](#)

Members present:

Commissioner Gary D. Hall PT
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Erica Wirtala, Clerk Diana Kile

Commissioner Lauman made a **motion** to approve the SIA for Foster Investments Subdivision and authorized the Chairman to sign. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to approve final plat of Foster Investments Subdivision. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

FINAL PLAT: SUBDIVISION NO. 268

[11:36:24 AM](#)

Members present:

Commissioner Gary D. Hall PT
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planner Annie Thompson, Erica Wirtala, Clerk Diana Kile

Thompson reviewed the application request from Roger M Fricke and Thomas Sands, with technical assistance from Sands surveying and Environmental Consulting for final plat approval of Subdivision No. 268; a five lot minor subdivision with a remainder located on Blackmer Lane, just off Hwy 206. Preliminary plat approval was granted on May 30, 2006, subject to 11 conditions; which have been adequately met.

Commissioner Lauman made a **motion** to approve the SIA for Subdivision No. 268 and authorized the Chairman to sign. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to approve Subdivision No. 268. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

SUBDIVISION REGULATIONS @ EARL BENNETT BUILDING

6:00:24 PM

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D Hall

Commissioner Dale Lauman

Others present:

Planning & Zoning Director Jeff Harris, Planner Kirsten Holland, County Attorney Peter Steele, Charles Lapp, Bill Baum, Narda Wilson, Al Moonen, Brian Launius, Jeff Larsen, Larry Anderson, Marguerite Anderson, Mark Deleray, Russ Crowder, Dawn Marquardt, Ardis Larsen, Paul McKenzie, Len Ford, Dan Testa, Richard Stevens, Joe Kauffman, Tom Abel, Mindy Breckenridge, Rick Breckenridge, Erica Wirtala, Bill Myers, Linda Tutvedt, Steve Peterson, Mark Holston, Roxanne Brothers, Dick Quist, Johna Morrison, Laney Houzel, Fred Hodgeboom, Susannah Casey, Pat Arnone, Lynn Pearce, Bruce Tutvedt, Pam Holmquist, Russell Swindall, Sharon DeMeester, Gary Krueger, Janis Taylor, Mel Sheeran, Clerk Diana Kile

Chairman Brenneman introduced the board and welcomed those attending.

Commissioner Lauman welcomed everyone that came out and spoke about the work on the Growth Policy being a long process that will be revised or changed until we have a satisfactory document.

Commissioner Hall then said that he has spent a lot of time since the last public hearing working on the Subdivision Regulations and stated that since then several items have been taken out. Hall then said that 20 plus items have been referred back to the Planning Board for further review after going through all the comments received. He then also spoke of his concern with an interim document and stated that he would personally like to have a complete set of regulations adopted. He then spoke of proposed changes that he has, and said that the driving force of working with the regulations is the unintended consequences.

Discussion was held relative to going through the proposed changes or opening the Public Hearing.

Chairman Brenneman stated that he feels we should proceed with the Public Hearing and schedule a workshop at a later time that would be announced.

Commissioner Hall questioned Jeff Harris about the Subdivision Regulations that were pulled for the Planning Boards consideration that are still in the Interim Regulations.

Jeff Harris then stated that at the workshop the Commission directed staff to remove certain provisions that were the most controversial and refer them to the Planning Board. Harris then said that there were other provisions that the Commission felt should be kept in the document, but still referred to the Planning Board for consideration. He then said that the ones that he thinks were pulled out were actually left in and still referred back to the Planning Board.

Commissioner Hall then stated that he obviously would not be ready to adopt Interim Regulations until 4.7 is addressed.

Jeff Harris then said that 4.7 was pulled out as well as the setbacks and that the floodplain provisions were referred back to the Planning Board and left in for the time being.

Chairman Brenneman advised that comments given this evening should be addressed towards the Interim Subdivision Regulations and then gave the ground rules for those wishing to speak.

Chairman Brenneman opened the public hearing for anyone wishing to speak in regards to the Interim Subdivision Regulations.

Laney Houzel representing Flathead Lakers spoke about water quality, healthy eco systems and preserving the Flathead watershed. Hanzel then said that water shed and water quality all contribute to what is being done in the development of the Flathead Valley. He then spoke in support of protecting ground water, riparian areas, wetlands, floodplains and prevention of storm water pollution.

Mark Holston stated that he has lived in the Flathead Valley since 1948 and has a good perspective of what has happened in the valley since that time. Holston said that he still has a sense of wonderment when he flies over the valley and marvels at the intact river system and beauty of the lakes and would like to take proactive steps to protect that for the future. He then said that the streams that are afforded the highest level of protection now are on corporate timberlands and that the Subdivision Regulations in Flathead County have to have proper set backs, so these delicate areas can be protected, with development now encroaching in these areas; because that is where people want to live. He then spoke about the Canadian Mine and stated that we need to demonstrate to our neighbors to the north in British Columbia that we can manage our water resources as well as we are asking them to do on their land.

Rick Breckenridge stated that stream setbacks are legislated by the legislature not the commissioners. Breckenridge then stated that stewardship is a private property management issue and that it has long been known that liberty is tied to the institution of private property, and that Decalogue is codified private property in four words, "thou shalt not steal". He then said that this document is the foundation for the transformation of Flathead County in taking what does not belong to them, and that it is rife for abuse from bureaucrats. Breckenridge then quoted several sections of the regulations that he said the county does not have the right to regulate. It was then stated that what is disturbing to him is that there is a change from statutory prohibition to a regulatory allowance. He then spoke about floodplain regulations, legal definitions, bike paths, 511 conflicts and a 17 year old map being used for fire hazards.

Russell Crowder representing American Dream Montana stated that there have been some meetings held in the past few weeks that he feels excited about. Crowder then said that in the future Flathead County is going to have to start obeying the law in regards to land use issues or there are going to be some legal consequences. It was then stated that 76-3-511 needs to be looked at.

Charles Lapp commented on the meeting held earlier today with Russ Swindall in which he was told by the Commission that sections were taken out and referred back to the Planning Board, and now he is being told that they have not been taken out. He then stated that Russ Swindall's concerns are valid with them still being in the regulations. Lapp then spoke in regards to 4.7.7 (h), which has been interpreted differently in meetings that have been held. He then commented on off-site improvements to roads and infrastructure in the county that the developers will have to do at their expense even though the road isn't up to standards or usable now; he questions what their fair share is. Also discussed were late comer's agreements. Lapp then stated that workshops are more effective in helping the public to understand what the regulations are.

Erica Wirtala from Sands Surveying commented on the Interim Subdivision Regulations and said that from what she is understanding is that several controversial sections were pulled out and she is now questioning which regulations would she use when preparing EA's with gaping holes now in the Interim Regulations. She then asked that they wait to adopt Interim Subdivision Regulations until all the public hearing is in with all involved working out the issues and then adopting a complete document. Wirtala then went through the Interim Regulations and the ones that seemed problematic to her were: 4.1.9 variances from floodway and floodplain provisions not allowed; language too restrictive, 4.1.10 public hearings and notices; need more of a definition, 4.4.18 major subdivision commission decisions; the primary criteria the commission is to look at is what is brought out by state statute only, 4.7.5 open space parkland and recreations areas; questions what it means, 4.7.6 landscape requirements; needs to be more specific, 4.7.6 (h) land within the 100 year floodplain shall not be subdivided for residential or development purposes; cumbersome and unworkable, 4.7.6 (i) no lot shall have an average depth greater than three times its average width, unless the average lot width is more than 200 feet and has a minimum lot size of five acres; 200 feet is fine, but the 5 acres lot size is zoning regulations, 4.7.14 drainage facilities; Flathead County does not have an engineer available to review this, 4.7.17 access issue; can no longer put this on final plat, 4.7.26 parkland dedication; exceeds state statute, 4.7.26 (g) (ii) (iii) (iv) parkland dedication; one percent marshy would be a tough standard to meet. She then spoke about comments made that were not incorporated into the document.

Sharon DeMeester spoke in regards to access to public waterways and lands and stated that she was under the impression that the state of Montana owns to the high water mark. She then spoke about setbacks to streams in regards to protecting water quality. DeMeester also spoke about retaining the original language for cluster developments with the need to look at open space and would like to see more "shall" in the regulations than "may" to make the language clear.

Russ Swindall questioned sections of the Interim Regulations.

Jeff Harris then said that from the public comment that was received during the last public hearing that the Commission had them pull parts out that were not quite as controversial and those were referred back to the Planning Board for their consideration. Harris then said that all the changes that were made were based on public comment received.

Russ Swindall then questioned the stream set back requirements and asked if it was deleted or not.

Commissioner Hall & Jeff Harris affirmed that they were not back in.

Russ Swindall then said that he had always dreamed of living in Montana and has worked hard to create a place in Montana to live. He then spoke about property that he bought on Flathead River that borders Ashley Creek, with it being one of the prettiest places on the river. Swindall then said that he has worked himself to death to have this kind of a place, and his question is why do you think you have the right to tell me what I can do with my property. He then said that there is not a developer in this room that would want to pollute Flathead Lake and he questions if the 250 foot setback is a wildlife corridor being made. He then said that taking of land by regulations is destroying what he has worked hard for and then said lets try to work together.

Chairman Brenneman clarified that the comments made by Mr. Swindall earlier today needed to be made at this meeting also to be included for the record.

Suzanne Casey stated that for the last 24 years she has had a view of Flathead Lake and hopes that will continue. She spoke about the travel that her and her husband do for a business with most of the places they travel too, having a greater population than the Flathead Valley. Casey then said that with the rapid changes taking place in the valley that we must have planning to preserve and protect Flathead County. It was then stated that she would like the word "shall" instead of "may" in the regulations.

Bill Myers representing Bayside Park and Marine Center commended the Commission and Planning Department for taking out controversial sections in the document. He then asked that the comments made at prior public hearings be kept in mind. Myers then pointed out a couple of sections in regards to definitions of open space, view shed and wildlife habitat, as to how the terms can be used as takings on private property rights. He then spoke on 4.5.5 (a) (i) in regards to general standards for subdivisions created by lease or rent for road requirements that states no parking shall be permitted on an entry road for the distance of 100 feet from the point of entrance; objection is the lack of sight specific regulations, 4.7.7 (g) in regards to the 30% slope; needs to be sight specific, 4.7.7 (k) (ii) in regards to lakeshore and river front lots having a minimum average width of 100 feet with a minimum 100 foot of frontage on the river or lake measured on the high water line; many exceptions possible, 4.7.4 lands unsuitable for subdivision; in certain circumstances the 30% grade is appropriate for development if properly engineered, 4.7.13 in regards to stream riparian setback requirements, questions what is going there, 4.7.17 in regards to access, each lot shall have legal and physical access provided and must abut and have access to a public or private road; his lot is only accessed through Lake Avenue, 4.7.26 (g) (i) in regards to parkland requirements where more than five percent of the site has an average cross slope greater than two to six percent; feels this should be sight specific. Myers then stated that he has worked for the last 15 – 30 years here in the valley and has tried to build a retirement account with property that he has purchased, and if the use of that is taken away from him that it is wrong; that compensation would be due.

Mark Delrey with Montana Fish Wildlife & Parks stated that they share the concern for the protection of water for fish and wildlife habitat. He then said that FWP will continue to participate and support the county's efforts to protect the natural environment and wildlife.

Richard Stevens with the Flathead Constitutional Party spoke about property rights being very valuable to him and then said that it is totally absurd that the Commissioners ignore the Constitution. Stevens then said that he is for clean water and protection of wet lands and that they can be protected without all these regulations. He then said that the Growth Policy is a sham and disgrace to Flathead Valley and the citizens and that they need to quit trying to extend the law to meet their personal needs.

Jeff Larsen a Montana Environmental Consultant stated that he has provided professional opinions on the document. He then said that the Subdivision Regulations have portions that he is concerned with. 4.7.18 Road Design and Construction Standards; with the requirement that the County Road Department review the design of roads, 4.7.19 Roadway Improvement; references Road Design Standards that currently don't exist, 4.7.21 Walkways and Pedestrian/ Bicycle Paths and Easements; references AASHTO Standards for bike paths and the Road Design Standards should be referenced the same way also along with the Montana Public Works Standards, 4.7.9 Payment for Extension of Public Improvements; phony offsite calculation will not hold up under legal scrutiny, that they have to meet a rational nexus basis and need to look at it case by case. Larsen then spoke about a letter that he wrote to the Commission on Subdivision Regulations citing that they are more stringent than 76-3-511. He then handed out his comments again and stated that he hoped they would be listened to this time.

Fred Hodgeboom, 1125 Whispering Pines representing a typical land owner in Flathead County said that the whole process in developing the regulations is an exercise in public involvement. He then spoke about not having time to go through the legal ads in the newspaper, that he should have been notified about the public hearing. He then commended the Commission on taking out the controversial issues out of the Subdivision Regulations. 4.1.3 Permission to Enter; violates the most basic right of private property owners, 4.2.9 (b) First Minor Subdivision Consideration and Evidence, any subdivider is subject to applicable design standards set forth in section 4.7, that would require you to apply for a variance for any deviation from design standards, 4.1.6 goes on to say that variances may only be granted when strict compliance with the regulations impose undue hardship on the owner, which does not include personal or financial hardship; he questions just what is being considered a hardship, 4.1.10 Public Hearing and Notices; should require posting of hearings on county website concurrent with publication of the legal notice, 4.2.5 First Subdivision Applicable Regulations; if the regulations change during the element of sufficiency review, reviews shall be based on changed regulations, 4.7.5 Planning Considerations; questions why we now need regulations that require an easements or right of ways that parallel watercourses to allow for maintenance takings, 4.7.5 (h) Planning Considerations in Regards to Five Acre Lots in areas of seasonal groundwater 8 feet from surface, 4.7.5 (g) requirement for placing a conservation easement or restrictive covenant in areas of 30 percent slope or greater on lots abutting a river or stream. 4.7.15 Dust Control; should be a definition requiring when dust control is needed, so it is not at the discretion of the planner, 4.7.27 Weed Control; weed control should not be a mandatory requirement, 4.8.3 Criteria For Review of Exemptions; this extinguishes the right people ought to have in making a gift or sale to family members. He then spoke about not having any public forum to ask questions and get answers from the experts and still maintains that if the county invested a forum as such it would save lawsuits and asked that no action be taken on the regulations until we have a public forum as the next step.

Johna Morrison stated that she totally agrees with comments from Erica Wirtala and Jeff Larsen and feels Interim Regulations are not the way to go; she feels parts should not be taken out and put back in. Morrison also stated that she worked on the document for 7 months and is willing to go back through and work with issues if that direction is taken.

Bruce Tutvedt spoke about the document in regards to where 20 feet work on the lake and thinks it can be done on the rivers also.

Paul McKenzie 1370 4th Ave W spoke about his concern of adopting Interim Regulations and doesn't see how the document would be workable. McKenzie then stated that many issues need to be resolved and that he would like to have a workshop environment where there can be dialogue back and forth.

Narda Wilson a private land use consultant spoke about her confusion with the regulations that were on line that the only thing that was changed was the riparian setback requirements. 4.1.5 Restrictive Covenants, better ways to address issues than having the commission be a party to the covenants. Preliminary Plat Waiver if there are 5 or fewer lots is absent from the document and feels it should be added back in. 4.7.5 Planning Considerations (f) separate structures from timbered areas for fire hazard management. 4.7.5 Planning Considerations (h) limits to one resident unit per 5 acres with areas of high ground water seems arbitrary. 4.7.7 Lots (c) each lot shall abut and have access to internal subdivision roads; sometimes road are already in existence that are not internal roads and this is saying that a variance is required. 4.7.7 Lots (d) direct driveway access onto collector arterial; a clarification needs to be in for residential and not commercial subdivisions. 4.7.7 Lots (h) land within the 100 year flood plain shall not be subdivided for residential or development purposes; needs clarification. 4.7.10 Floodplain (i) roads in the boundary of the 100 year flood plain; can a road not be put in the 100 year floodplain. 4.7.12 Groundwater Provisions seems to be a conflict when it talks about surface area and 8 feet. 4.7.17 Access is a big issue in that the commission may require a second or multiple primary access road to a subdivision when the subdivision generates more than 100 vehicle trips per day; onerous that every subdivision do a traffic study if 20 lots or more. Riparian setback issues were then discussed and it was stated that she feels there could be a numeric standard established somewhere between 20 and 150 feet. Agrees that development should not take place on slopes of 30% or more and feels that there should be some type of restriction and doesn't feel it is a taking. Spoke in support of what the Planning Board and Commission is doing and stated that she too would be willing to sit in on a workshop or committee to draft regulations that everybody can live with.

Mayre Flowers, 35 4th St. West, Kalispell, spoke about not having any problems finding the sections that were taken out and felt the Planning Staff went to great lengths to make the documents available for the public to view. She then said that she appreciates the changes made from "may" to "shall" and feels there are still more to change that are critical. Flowers then stated that she feels the streamside setbacks that were in the Interim Regulations that have been referred back to the Planning Board should be put back into the Interim Regulations, but before doing so look at 4.7.13 Stream Riparian Setback Requirement (e) measurement in regards to steep banks; would like to see a professional review. 4.7.13 Stream Riparian Setback Requirement (g) need for clarificataion of what municipal services area. 4.7.13 Stream Riparian Setback Requirement (h) (b) allows for reconstruction of septic systems up to the high water mark; questions if they should be allowed to be reconstructed when near the high water mark. 4.7.13 Stream Riparian Setback Requirement (h) (v) (i) deals with storm water devices; needs clarification when exceptions are required. Cluster subdivision standards should be in the Interim Regulations and revert back to the original wording, which allowed for equal set aside of open space to the area being developed. Multiple accesses to extreme fire areas, dust control suggest that a dust mitigation plan address the issue of subdivision and any gravel road impacted by the subdivision. County Parks; state law allows for the collection of park fees specifically for public parks with standards in the park regulations that allow for the funds to be applied to homeowners parks, public road standards need to be clarified that they allow

for public parking, 1987 growth policy provision; that addressed winter range issues should be limited to one unit per 20 acres. Flowers then stated that she generally supports the floodplain regulations that are consistent with national, state and local regulations and would encourage a pre-application process that would invite developers to meet with the county before a lot of money would be invested. Also stated was that Whitefish provides a model for site disturbance of removal of vegetation prior to development and she would like the Commission to consider including the standards in the Subdivision Regulations.

Mel Sherhan a resident of Kila spoke about regulations and questioned if the bear containers are still in the current document. He then said that he can find no reference that the water quality in Flathead County has been compromised. Sherhan then said that he finds the county derelict with its responsibility with the roads that are put in, when developers and individuals have decided to improve their land; with no implementation of county standards on the roads going in, and not taking and responsibility for them when they are built, and yet collecting taxes. He then said that he feels it is unfair that the public is not notified appropriately of the public hearings. He feels it is ashamed that the community is not being involved and questions how we as a county think that we can violate state statues, and questions what part of the law gives you the right to violate state regulations. It was then stated that 80 percent or more of the land is already owned by the government and now the county wants to infringe on the private rights of individuals who bought their land. He then said that he feels that FWP should be trading the people for their water front property for their property if they want to take it or to give them cash for it. It was then said that he feels there should be a forum where they can ask a question and have it answered and explained why they are doing what they are doing. He then stated that he feels the people's confidence would grow if their questions would be answered.

E-Mail request from Linda Johnson:

Please make the Subdivision Regulations fairer for all by changing many "MAYS" to "SHALLS". We thank you for making any additional changes to Subdivision Regulations that would make them clear, fair and strong enough to ensure that the Flathead stays a great place to live, work and play and a model county for all of Montana to embrace! I have pinpointed a couple of items that still need your concern:

1. New standards and incentives must be put into the Interim Subdivision Regulations now, before they get adopted to allow for access to public lands and water bodies. We need connectivity to existing trails and parks as well as to public land and water.
2. Adopt the proposed riparian setbacks now. These setbacks are critical to the preservation of water quality and wildlife habitat. Do not leave these responses from the public out of the current draft. Our Commissioners and Planning Staff should be commended for developing these standards. They must be put into the Interim Regulations now.
3. Cluster subdivision provisions: These have been taken out of the Interim Regulations. The only reason for having cluster subdivisions is to help conserve open space; the landscapes that define our beautiful valley. Put these standards back into the Interim Regulations.
4. Multiple accesses are needed for areas of high or extreme fire danger; put proper standards protecting homeowner's safety and the tax payers who may have to pay for the potential liability if 2 accesses are not required.

No one else rising to speak, Chairman Brenneman closed the Public Hearing.

Commissioner Lauman said that he valued those that have given the positive feed back tonight and then spoke about taking time to develop the Subdivision Regulations and to not do Interim Regulations. Lauman then suggested that they need to appoint a committee of people to work on the Subdivisions Regulations and involve the public in working through them and to then hold another workshop.

Commissioner Hall then said that they need to have a discussion on how to have more public participation in the process. Hall then spoke about a conversation that he had with a land use attorney that suggested that they have a group of people that they can have dialogue with in working on the regulations. He then said that many things that have been said he has already addressed or considered and that some things need to be taken out or reconsidered.

Chairman Brenneman spoke about the suggestions being taken for how the process can be improved. He then spoke of his frustration in regards to state laws in regards to how meetings are held. He then stated that the open meeting laws and public's right to know sometimes make it difficult to have normal discussions.

11:30 a.m. Commissioner Brenneman to FV CDC meeting @ CDC Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 16, 2007.

WEDNESDAY, MAY 16, 2007

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

9:00 a.m. Commissioner Brenneman meeting w/ Mayor Pam Kennedy and Jim Patrick
9:15 a.m. Commissioner Lauman to RSVP Board meeting @ Heritage Place
12:00 p.m. DUI Task Force meeting @ The Summit
12:30 p.m. Commissioner Brenneman to travel to Minnesota
7:00 p.m. Commissioner Lauman to meeting @ West Valley School re: McMannamy Draw

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 17, 2007.

THURSDAY, MAY 17, 2007

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

2:00 a.m. Commissioner Brenneman to 2007 Interoperability Policy Academy in St. Paul, MN
Health Board meeting @ Earl Bennett Building
4:00 p.m. Long Range Planning Task Force Land Use Committee meeting @ Solid Waste District Office
5:00 p.m. Commissioner Hall to First Best Place Task Force meeting @ First Citizens Bank, Columbia Falls

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 18, 2007.

FRIDAY, MAY 18, 2007

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

Commissioner Brenneman Spring 2007 Interoperability Policy Academy in St. Paul, MN

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 21, 2007.
