
MONDAY, NOVEMBER 5, 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.

Present for public comment included: Jerry Nix, Mayre Flowers, Myrtt Webb

Jerry Nix, 43 Sunrise Drive, commented that he was representing himself and Siderius Limited Partnership in regards to the TAC recommendation for the by pass in which they have worked hard to try to get the preference to start on the south side so that they can begin to get a bypass around the city; as of date the only improvements that have been made from bypass funding has been on the north side. He then spoke about all the traffic on the north side being created by the current retail establishments on the north side; with the bypass not even there yet. Nix then stated that it would only be common sense that money would be withheld for bypass funding to correct current deficiencies that have been created by retail establishments. He then added that it would be fairer for the city to figure out an alternative funding mechanism to fund road improvements in the area created by the retail traffic; that it doesn't have anything to do with the bypass. He then urged that all funding in the bypass budget be put towards acquisition of right-of-ways, so that they can get a real live bypass around Kalispell starting on the south side.

Mayre Flowers, Citizens for a Better Flathead, commented on the consideration of the TAC recommendation. She then said that she and Commissioner Hall sat on the development coalition when the idea first came forward many years ago when everyone pulled together to endorse funding for the bypass. Most recently when this issue came up again in terms of where the funding should go, over 400 citizens sent comments to MDOT urging them to prioritize the funding to begin in the south. Flowers then added that they have seen portions of the money diverted for the high school and safety issues regarding the school and she strongly urged that they stay with the former position that was intended to address safety issues and downtown needs by staying with the southern position. She then spoke about Riverdale concerns and stated that she feels the Planning Board and Planning Staff have worked very hard to improve the public process in making it fair and open.

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

CONSIDERATION OF TAC RECOMMENDATION FOR HWY 93 BYPASS

[9:00:00 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Tom Jentz, Mayre Flowers, Jerry Nix, Clerk Kile

Commissioner Hall asked Tom Jentz why the City of Kalispell didn't have the developers in Hutton Ranch build part of the road. Hall then stated that they are the ones that should be paying for the road, not the taxpayers.

Tom Jentz replied that Hutton Ranch came after the bypass design; that it was platted and placed as they were modifying the intersection at Reserve Drive and Hwy 93 which lay dormant for years.

Chairman Brenneman said that rarely do they see such a crystal clear example of how box stores suck tax dollars out of the downtown area. He then said that there is no way that this money that was appropriated for the bypass should be spent on land that had it been planned properly would have been developed with transportation plans in mind.

Tom Jentz then said that it is an unfortunate situation with the changing retail economy and that they are working on impact fees that would help significantly.

Commissioner Hall stated that the Technical Advisory Committee's has spent hours discussing the bypass and propose that the money be spent on the north side.

Commissioner Hall made a **motion** to support the Technical Advisory Committee's recommendation for the Hwy 93 bypass phasing. Commissioner Lauman **seconded** the motion. **Aye** - Hall and Lauman. **Opposed** - Brenneman. Motion carried by quorum.

CONSIDERATION OF WAIVER: SHERIFF'S OFFICE

[9:16:16 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Sheriff Mike Meehan, Kathy Frame, Clerk Kile

Discussion was held relative to seeking a waiver for a detention center position.

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

MEETING W/ LONG RANGE PLANNING TASK FORCE RE: LAND USE PRESENTATION

[9:19:48 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Mayre Flowers, Myrtt Webb, Velvet Phillips-Sullivan, Chuck Roady, Karen Reeves, Jennifer Gerber, Kerry Finley, Turner Askew, Clerk Kile

Myrtt Webb presented the commission with the Land Use Committee's Report that was approved by the Task Force. He then gave a brief power point presentation. Webb reported that the committee started meeting in February and met every two weeks during which time they looked at special issues in regards to transportation, pathways, natural resources, land use and affordable housing. He then added that professionals were consulted in various areas and that the GIS Department assisted in making a map with 22 various overlays that helped with their analysis. Webb reported that all the data collected is not a report of personal opinions; instead the report contains conclusions based upon data collected and individuals that were consulted. Members then gave a brief overview of findings and their recommendation.

Discussion was held relative to the Task Force scheduling another meeting at which time official action will be taken in adopting the document as an addendum to the Growth Policy.

MEETING W/ ELECTRONIC SECURITY SYSTEM & SECURITY BADGE COMMITTEE

[10:11:43 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, IT Vicki Saxby and Jae Carnsew, Sheriff's Dept. Jordan White and Pete Wingert, Health Department Joe Russell, Clerk of Court Bonnie Olson and Peg Allison, Clerk Kile

Jae Carnsew gave a brief overview of the current security systems that are being used within Flathead County and the need for standardization and consistency; with three different security systems throughout the county. He then stated that it is the committee's recommendation to move forward with an ID badge system for all county employees and also look at choosing a vendor to assist with the installation of a door proximity reader system and possibly another security system that would allow for automated door lock downs in the event of an emergency. It was then added that an ID badge system would allow the county to build a standardized employee data base to keep track of any specialized training that employees have.

Discussion was held relative to the approval of Phase I, which would be to move ahead with the security ID badge system and the creation of an employee data base. Phase II would be choosing a specific vendor to consolidate the security systems. Unanimous approval was received from the Commission to proceed with Phase I.

PRELIMINARY PLAT: MC GREGOR OVERLOOK

[10:33:27 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Planner Annie Thompson, Dave DeGrandpre, Peter Strellinger, C. Arendt, Ed Spotts, Clerk Kile

Thompson entered into record report Staff Report FPP 07-26 and then reviewed the application submitted by David Greer, Plum Creek Land Company with technical assistance from Land Solutions, Eby & Associates and PBS & J for preliminary plat approval of Mc Gregor Overlook; a proposal to create 35 single family residential lots north of Hwy 2 West, above the west end of Mc Gregor Lake. The lots will be served by individual wells and septic systems. Access to the lots is proposed from an internal subdivision road system which includes a horseshoe road and three cul-de-sacs. The subdivision is proposed on 361.79 acres of unzoned property with the average density of 10.3 acres.

Thompson then reviewed findings of fact as amended:

- A. Neighborhood and agency comments received
- B. Compliance with the Flathead County Zoning Regulations
- C. Compliance with the Growth Policy

Thompson then reviewed findings of fact as amended by the Planning Board.

Commissioner Hall made a **motion** to adopt Staff Report FPP 07-26 as findings of fact as amended. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Chairman Brenneman questioned the applicant in regards to problems with conditions.

Peter Strellinger stated that they concur with all the condition #1-29; except #17A in regards to no further subdivision of the lots. Their request is that lots 34 and 35 be allowed to be subdivided once.

Chairman Brenneman then asked the applicant if they wanted the Commission to go against the recommendation of the Marion Fire Chief.

Peter Strellinger said that the Marion Fire Chief is unaware of the extensive discussion they have in their CC&R's about wildland fire interface with residents; with them including every one of DNRC's fire wise recommendations.

Dave DeGrandpre said that when the application was being put together they were unsure as to what subdivision regulations they would be under; so they tried to address all the items in the new regulations with one of the new requirements being a fire hazard mitigation plan, which was produced.

Commissioner Hall said that he would like to add language that states there shall be no further subdivision of lots without concurrence of the Fire Chief.

Chairman Brenneman said that he feels they have two considerations; leave it the way it is and the other being as the applicant suggested that there shall be no further subdivision of lots 1-33 and lots 34 and 35 shall only be subdivided once each. He then advised the Commission that from the stand point of liability that to proceed against the advice of a Fire Chief seems to be unwise.

Thompson stated that when developers come into their office for pre-application meetings they are asking about densities in surrounding areas. She then added that this subdivision is the biggest in the area by far and that it would be setting precedence. Thompson further added that the two lots are the most sensitive part of the whole property with slope, drainage, water quality and natural habitat issues.

Commissioner Hall said that his position still remains that we have two lots that would only be allowed to be split once with the overall density still remaining at 9.7 acres.

Commissioner Lauman asked if language could be added in regards to fire-wise technology that could be discussed with the Marion Fire Chief.

Discussion was held relative to division of the lots.

Peter Strellinger said that he feels this issue could be worked out with the Marion Fire Chief with appropriate conditions.

Commissioner Hall suggested that the language be changed to: There shall be no further subdivision of lots 34 & 35 without concurrence from the local fire chief and no more than one division.

Commissioner Hall made a **motion** to approve no further subdivision of lots 1-33 and only one additional lot can be created from lots 34 and 35. Commissioner Lauman **seconded** the motion. **Aye** - Hall and Lauman. **Opposed** - Brenneman. Motion carried by quorum.

Mark Peck questioned if the lots would be annexed into the Marion Fire Service area, in which he was told they will have to meet the requirements and that they are trying to do so.

Commissioner Lauman made a **motion** to approve preliminary plat of McGregor Overlook. Commissioner Hall **seconded** the motion. **Aye** - Hall and Lauman. **Opposed** - Brenneman. Motion carried by quorum.

STANDARD CONDITIONS

1. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire authority. A letter from the fire authority stating that an agreement has been made shall be submitted with the application for Final Plat. Fire suppression shall be built prior to final plat approval. [Section 3.20, FCSR]
2. The applicant shall show proof of a completed approach permit from the Montana Department of Transportation indicating the approaches have been built and received final inspection. [Section 3.8(A), FCSR]
3. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
4. The proposed water and septic treatment systems and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
5. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
6. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
7. The developer shall provide written documentation from the Superintendent of Schools, indicating school bus stop requirements have been met. [76-3-608, MCA]
8. The developer shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
9. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All addresses will be visible from the road at the driveway entrance or on the house.
 - b. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - c. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
 - d.

Waiver of Protest

Participation in Special Improvement District

[per County Resolution 503-M]

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.

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

PROJECT-SPECIFIC CONDITIONS

- 13. The applicant shall provide a letter of agreement from Montana Department of Transportation with regard to the right-of-way abutting US Hwy 2 prior to final plat. [Agency Comment]
- 14. The applicant shall provide proof of completing the recommendations outlined in the Fire Risk Assessment and Mitigation Plan submitted with this application. [Section 3.21, FCSR].
- 15. The following statements shall appear on the face of the final plat:
 - a. Building sites are prohibited on any slope that exceeds 30% and at the apex of "fire chimneys" (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).
 - b. Only Class A and Class B fire-rated roofing materials are allowed.
 - c. Defensible Space Standards shall be incorporated around all primary structures, as described in Appendix G of these Regulations.
- 16. The applicant shall comply with the reasonable annexation requirements of the Marion Fire District. [76-3-608, MCA]
- 17. The following statements shall appear on the face of the final plat:
 - a. There shall be no further subdivision of Lots 1 – 33. Only one additional lot may be created from Lots 34 and 35 each.
- 18. The following statements shall appear on the face of the final plat:
 - a. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game is illegal, as it not only has negative impacts on the animals themselves, it increases the presence of dangerous predatory animals. They are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including:
 - i. Keeping dogs under owner control at all times.
 - ii. Using bear-proof garbage containers, stored inside garages or other secure facilities.
 - iii. Removing obvious sources of food.
 - iv. Securing compost piles with electrical fencing.
 - v. Feeding pets indoors or bringing food dishes in at night.
 - vi. Placing bird feeders out of reach of deer and other big game. [76-3-608, MCA]
- 19. A 50-foot building setback and vegetative buffers along the intermittent streams and wetlands (as shown on the USGS quadrangle map) shall be shown on the face of the final plat. [76-3-608, MCA]
- 20. The applicant shall provide proof of payment for \$200 per lot to the Marion School District. [76-3-608, MCA].
- 21. With final plat application, the applicant shall submit a park plan for approval. The plan shall outline all proposed improvements to be made to the park areas. All improvements shall be constructed as proposed prior to final plat application. [76-3-608, MCA]
- 22. The developer shall provide written documentation from Montana Fish, Wildlife, and Parks, indicating that an agreement has been reached to address the impacts of this subdivision on the Thompson Chain of Lakes Fishing Access Site. [Agency Comment; 76-3-608, MCA]
- 23. The subdivider shall contract with a solid waste hauler and shall provide a central off-street area and containers for solid waste collection. The central area shall be conveniently accessible to collection vehicles and appropriately screened. [Section 3.16(B)]. The containers shall be wildlife-proof. [76-3-608, MCA]
- 24. The following statements shall appear on the face of the final plat:
 - a. This subdivision is located in a silvicultural/agricultural area and potential nuisances such as noise, dust, odors, and irregular hours of operation are commonplace. As such, the right to farm on adjoining properties shall not be restricted as a result of the development or occupancy of this subdivision.
- 25. The private, internal subdivision road shall consist of a 60-foot right-of-way, 24-foot paved driving surface, and a cul-de-sac driving surface radius of 50-feet with an outside right-of-way radius of 55-feet and be designed by a licensed, professional engineer and upon completion of construction shall be certified by a licensed professional engineer for compliance with AASHTO and Section 3.9 of the Flathead County Subdivision Regulations. [Section 3.9, FCSR]
- 26. The applicant shall provide proof that the stormwater drainage facilities have been built as proposed prior to the application for final plat. The stormwater drainage facilities shall be certified by a licensed engineer. [Section 3.12, FCSR]
- 27. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions, and except that the following statement shall not be on the final plat: "No further subdivision of Lots 1-33."
- 28. The following statement shall appear on the face of the final plat:
 - a. A 50 foot setback exists along US Hwy 2 W. This is a no build zone.
- 29. The following statement shall appear on the face of the final plat:
 - a. The access to State of Montana School Trust Lands through Lot 34 shall not be gated and shall remain open to the public for access.

MEETING W/ RIVERDALE NEIGHBORHOOD GROUP

11:38:15 AM

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Jan Gellein, Robert Parker, Lacy Galpin, Hank Galpin, Herb Koenig, Vonnie Koenig, Gordon Cross, Gary Krueger, Megan McCrae, Archie Weigum, Bill Spunzen, Jeremy Ferkin, Clerk Kile

Chairman Brenneman began by stating that the Commission cannot look at the Riverdale Neighborhood Plan until it is presented by the Planning Board. He then said that he feels the Planning Board is doing their work and that time will be needed to get through the plan in order to produce a satisfactory product.

Robert Parker, 6495 Farm to Market, commented that he received a call from his council in which he was told that a resolution is not required from the Planning Board.

Chairman Brenneman then asked if a copy of the advice from their council would be given to the Commission.

Robert Parker then stated that through the process with the Planning Board not being able to come to a resolution that they have failed to do their job and feels that the Commissioners should look at their plan. He then added that they feel their civil rights and rights to due process have been violated; with conflicts of interest and bias out of the Planning Board. Parker then said that they don't want to start any legal action, but feels there is a lack of fairness with the Planning Board.

Chairman Brenneman said that there is no doubt that if the Planning Board sends a resolution to the Commission that there is an uncertainty with how the Commission will act on it. He then spoke of concern in setting them up for a long legal determination if someone wants to litigate.

Commissioner Hall then asked what the Planning Boards intentions are in regards to finishing the process.

Gordon Cross replied that it was tabled so that it could be brought back at any time and then stated his concerns in regards to having a quorum. He then added that the intentions would be to bring it off the table as soon as they could and that a resolution would be passed and then forwarded to the Commission to proceed on with the process.

Jeff Harris said that there was a motion before the motion to table that would have killed the project and that motion died for a lack of a second.

Robert Parker then added that their contentions have been that they have not been given due process after they have given them ample opportunity to let them know what is going on.

Chairman Brenneman said that certainly they share similar feelings on various things they have done in the past and added that he feels their frustration.

Robert Parker then said that there is evidence of certain information being withheld from them that is public record.

Commissioner Hall said that he appreciated the effort they have put into their Neighborhood Plan with all the public involvement. He then added that he has taken pages of notes from the DVD and looks forward to the Planning Board finishing the process so that it can come before them.

Jan Gellein said that they have come together as a group in support of each other and that they say the same things every single time they come. She then said that the Planning Board under the direction of the planning staff has been informed that it is the county's plan and when Mr. Cross asked who the applicant was; Mr. Harris stated it was the county. Gellein then added that it is not the county that the applicant is Riverdale and that with them thinking it was their plan they could shred it. It was stated that they don't have the right to revise the plan; they have the right to make recommendations only. That it will become a county plan if it is adopted and they will have 90 days to bail on it. She further added that withholding information is critical and that they need to get through the system without the bias of obstructionist.

Jeremy Ferkin said what is most confusing for everyone is what a neighborhood plan is. He then read section 44.1 from the county growth plan that states: We are to be able to develop an expedited and simplified subdivision and development review process. Develop a guide to assist landowners and residents who desire neighborhood plans. He then added that what is unfortunate is that they have worked with the county planning group and planners and when they go to the Planning Board they change the plan; when the plan is suppose to be the neighborhoods plan. Ferkin said that according to state statue the person whose opinions matter are the landowners and that the county Planning Boards job is to ensure that it is consistent with current neighborhood plans as well as the growth policy, which it is per Mr. Harris.

Chairman Brenneman said that as he understands the process the community does their work and they by statue give the work to the Planning Board whose job is to advise the Commission. He then added that the Planning Board makes the changes they think should be made and the people who make the decisions are the Commissioners. It was stated that when the Planning Board makes changes that you don't like; you can keep track of them and you then have a chance to lobby the Commission.

Jeff Harris then said that everyone is forgetting about the public input which is clearly a function of the Planning Boards responsibility in formulating recommendations. He then added that the Planning Board makes their recommendations from both oral and written comments they receive.

Commissioner Hall said that the public hearing process of the meeting was disturbing.

Jeremy Ferkin added that when you are dealing with their land it does become emotional and they are engaged in the process. He then said that state statue and the county growth policy has guided them to make sure they are preparing and encouraging the kind of growth they see consistent with what they want for their land. He then spoke about the unanimous involvement of the group that has worked with the community to make sure they have done everything right. Ferkin then stated that the irritation part for them is part of the growth the county is going through and that the Planning Department doesn't clearly know what their role really is; are they to adhere to what is stated in the growth policy or to what is in the state plan. It was then noted that the group was promised in writing that they would not be held under the current growth policy plan, because it was before the current growth policy plan was to be enacted. Ferkin added that the roles and responsibilities of the Planning Board need to be clearly understood.

Lacy Galpin, 1885 Stillwater Road, stated that she was disappointed that she did not get the legal opinion from the County Attorney in regards to legal issues that were brought up last time they met. She then added that she certainly does not want a lawsuit but hopes they will be taken seriously. Galpin then said that she knows information was withheld from them that was used against them at the hearing.

Chairman Brenneman further reviewed that the first legal question was in regards to whether the Commission can act without a resolution, in which he stated that it is their opinion that they need a resolution from the Planning Board, up or down before they can act. The next question had to do with a letter that was given to Jeff Harris that is available now if they want it.

Lacy Galpin again stated that the plan is their plan; not the counties.

Chairman Brenneman said that it is their plan but for it to be a legally enforceable plan the county is under state statute responsible for implementing it; when it comes from the community to the county the governing body is the one whose plan it is. He then added that it is not something being taken away from them, that they have been aware all along that they develop the plan that then goes to the governing body through the Planning Board and then to the Commission to implement the neighborhood plan.

Lacy Galpin then explained where she was coming from in regards to the Planning Office calling their plan the Planning Office's plan, and that they could make all the changes they wanted; they owned the plan and that there was nothing they could do about it. She then added that they found out that was not true; they can make recommendations and suggestions to the Commission and you would have the final word. After meeting with Jeff Harris and being told month after month that it wasn't their plan and would be totally out of their hands the moment they went to a public workshop. Galpin further noted that during the meeting they wanted it made clear that any changes, recommendations or suggestions made by the Planning Board would be written on a separate sheet of paper; that they wouldn't actually change the plan itself, because when the changes were made to the plan itself they would have to call everyone to get together, and if it had been on a separate sheet of paper copies could have been given to members.

Chairman Brenneman said that the Commission would get a copy of the original plan and a copy of changes by the Planning Office.

Commissioner Lauman stated that he had hoped the plan would have come before them by now, but hopes the process can be worked through and brought to them in the near future.

Jan Gellein then said that they were promised a long time ago that they would be pushed through with Doug Averill and Semitool; with the only plan not being processed three years later being Riverdale. She then added that the Planning Board is out of control and they are not asking for anything other than due process.

Lacy Galpin said that Kim Fleming had plenty of opportunity to give the notes to Riverdale, yet she refused. She then added that if Kim had attended the workshops that it would have been helpful and that they would have been willing to compromise.

Chairman Brenneman again reminded the members that until it gets to the Commission nothing has been decided for sure.

Bob Parker stated that they want to make this right for the county also and questioned how long they have to wait for due process or another date from the Planning Board.

Gordon Cross said that potentially it could be taken off the table as soon as they have a quorum. Cross then reviewed the Planning Boards next meetings.

Chairman Brenneman then asked Cross if he would endeavor to take it off the table for consideration Wednesday, November 7, 2007, or set a date to consider it on an open evening.

Jeremy Ferkin said that they would like to get some kind of level of decisiveness around what the Planning Boards ability to make material changes are; when clearly the growth policy and state statute surrounding it show that the neighborhood plan comes from the community of neighbors. He then asked if the County Attorney could give them a level of their vision of read out for what those elements are; with their understanding that it clearly shows that the plan is to be created by the neighborhood community and is to be reviewed for consistency.

Jeff Harris said that if you want the neighborhood plan under statute and the growth policy to be adopted that the language states almost verbatim that a growth policy may have plans. If there is going to be an adoption or amendment to the growth policy to include those neighborhood plans, then it necessitates following the procedures outlined in the growth policy section of the statutes. He then added that the public hearing comments make it available for the county through the Planning Board to make any change they would like to make to a plan that is going through the process; based on public comment.

Jeremy Ferkin then said that the struggle based upon state statute and the growth policy is that he doesn't believe it is just a "may" include, that neighborhood plans are encouraged to be adopted and something that is sought for communities of interest to use for planning. He then said that what he wants clarity on is in regards to their role; is it to be the ones creating the plan or is their role to be the ones making sure it is consistent with the growth policy.

Gordon Cross stated that there were two things in regards to Riverdale that the Planning Board had in mind at the hearing. The first being that this was the first neighborhood plan proposal since he had been on the board for; with three boards members present when the Two Rivers plan came through. Prior to the meeting discussion was held in regards to the procedure in which he felt it was important to follow; Kim Fleming described the process at the very beginning once the public hearing portion was over. The second thing in regards to what they did was that it has constantly been explained to them throughout the process that they have been monitoring the meetings and staff has been coming back and telling the Planning Board what has been happening with neighborhood plans that are in formulative stages. At some point in time during the process the neighborhood plan comes before the county and at that point it becomes county property and it is up to the representatives of the county to try to apply some kind of county wide perspective to what has come before them; in which Jeff Harris repeatedly told them that it would be deployed to the Commission at a public hearing and that is when the line is crossed and that is when it is appropriate for various members of the Planning Board to propose changes that would give it a county wide perspective and then the Commission can make an ultimate determination in what they want to approve.

Lacy Galpin then asked that they watch the complete DVD on the hearing and stated that their neighborhood invited the Planning Board to tour all of the property in which they did not do.

8:00 a.m. Weed & Park Board meeting @ Weed & Parks Office
1:00 p.m. Commissioner Brenneman to 911 Consolidation Strategy Meeting @ OES Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 6, 2007.

TUESDAY, NOVEMBER 6, 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.

Present for public comment included: John Lacey, Robert Ivy, Tom Wiggin, Steve Rosso, Dan Manning, Fred Hodgeboom, Tip Clark, Larry Phillips, Bruce Young, Lori Giardina, Trevor Schaefer, Dave DeGrandpre, Harrison Brand, Craig Schaefer, Brent Hall, Gina Klempel, Mayre Flowers, Jed Fisher, Howard Ruby, Fran Ruby, Clerk Kile

Fred Hodgeboom began with presenting newspaper articles from the Daily Inter Lake dated October 17, 2007, titled "How close is too close to water", October 19, 2007, "Setback debate resumes" and November 1, 2007, "Setback workshop is tonight". He then stated that he has come before them today to report on the November 1, 2007 proceedings from the Planning Board hearing in regards to setbacks. Hodgeboom then presented the history of the hearing and what transpired.

John Lacey, representing Flathead Lake Protection Association stated that they strongly oppose "Eagle's Crest Subdivision". Lacey then said most of the inadequacies with the project have been documented in writing. He then read section 3.3 of the County Subdivision Regulations that describe lands unsuitable for subdivisions; which are lands on which there is evidence of hazards; such as flooding, snow, avalanches, rock falls, landslides, steep slopes in excess of 30% or more grade, high fire hazard areas, or other features that may be detrimental to your health, safety or general welfare; these are the counties own regulations and Montana law requires that they be followed. He then spoke about high fire hazard areas that require certain attention based on the risk of wildfire; with the area proposed being an extreme risk. He also spoke about sewage and waste water treatment which demands that applicants submit all information prior to plat approval; with Montana DEQ identifying the Lakeside Water & Sewer District as lacking the capacity for adding a subdivision of this massive size. He then spoke about soil and geological characteristics of the site and stated the applicant picked the worst geographical site for construction which will put all Lakeside residents at risk. He further noted that the applicant refused to submit and document its own findings of the required geotechnical aspect of the proposal and that during the review process the applicant submitted data for the wrong site. Lacey stated that the county does not have the luxury of approving the plat on a basis of an incomplete record. He then questioned why the applicant would not share with the county or the public their findings. Lacey also asked that Commissioner Lauman recuse himself since he sat on the Board of Directors for the Lakeside Water & Sewer District Board prior to being a Commissioner.

Bruce Young, board member of Flathead Lake Protection Association, realtor and resident of Lakeside spoke about Eagle's Crest Subdivision, Phases 5-9. He said that the history of the project started out as 10 and 20 acre parcels in the community and has since morphed into something different; with the reason being that some of the lots in Phases 1-4 do not perk for septic approval, so there is a need for sewer for anything else to happen there now. Young then added that this doesn't fore go the fact that the request is for excessive development to be built on a critical winter game range and ignores the study done in the area by the Planning Office that says the land is not suitable for development, because of the steep slopes and high fire zones. He then said that FWP recommends a maximum of one house per 20 acres. Also stated was the fact that the EIS does not address TDML's to Flathead Lake is atrocious. Young then said that he hopes the Commission will vote the project down and say no to this kind of planning that has issues with incomplete engineering reports, false soils reports, highway safety and winter game ranges.

Steve Rosso with Flathead Lake Protection Association and a member of Lakeside spoke about the missing soils report in the EA that he stated is just one more item on the list of misrepresentations, inaccuracies, flawed assumptions and contradictions in the application. He then said that most proponents would agree that the proposal pushes the limits on density, building slopes, traffic impacts, water supply, storm water drainage control, sewer system demand and other environmental and community concerns. Rosso then added that we must require a subdivision application as important as this one to be accurate, complete and based on reasonable assumptions; to approve the application in its current form will send a message to other developers and the public that this subdivision application process doesn't deserve our respect. It was then added that before the application is approved you must ask yourself why a developer should invest their effort in a well thought out complete and timely application if Flathead County will approve one like this. Rosso then asked that the application be denied.

Fran Ruby, 85 Springcreek Road, said that we are talking about a development at Eagle's Crest that is nearly 1,000 homes. She then asked if you could envision the lawns that would be fertilized on all the properties as well as the golf course; with it all running down into Flathead Lake. Ruby then added that she is concerned about the water quality in Flathead Lake and wished more citizens in the county did care what Flathead Lake is going to be like in the future.

Robert Ivy, 944 Angel Point Road, a member of Lakeside for approximately 20 years stated that he resides on the lake and owns property in Eagle's Crest also, where he hopes to build a home in the future. He then said that in the 20 years that he has lived in Lakeside that he has never seen such prime improvement in the community, which has been brought by Trevor Schaefer and Eagle's Crest. Ivy then added that as far as animals are concerned that he has 2.9 acres on Flathead Lake and that on any one day he has between 6-12 deer eating his landscaping; he doesn't think deer mind houses at all. He further said that as far as landslides and fires that he plans on building there and feels that as a future resident he should be more concerned than those who are not residents who speak so much against the proposal.

Mayre Flowers with Citizens for a Better Flathead said that the Commission needs to look at opening and extending public comment on significant issues. She then added that they strongly support the previous testimony given today with serious issues of inadequate information and problems that need to be more carefully considered in subdivisions in terms of high fire, storm water and density. Flowers then stated that there is the ability to do a development here that is high class and takes into account many of the issues that have been brought forth.

Dan Manning, Hwy 83, commented that he sees the development with Saddlehorn, Eagle's Crest and Kootenai Lodge and said that he is impressed with what is being done with Eagle's Crest; that it will still have a nice look to it in 20 years. He stated that he has looked at the storm water plans that have gone into the proposal and said they are the most complete and extensive plans that he has seen. Manning also said the developer is putting in a better storm water system than is necessary

and that they have also gone to great lengths to hide the water towers from view. Also stated was they plan to have fire hydrant requirements and do an extensive clean up of all the dead fall in the area.

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

PRELIMINARY PLAT: EAGLE'S CREST, PHASE V-IV

[8:57:42 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Eric Giles, Weed & Parks Director Jed Fisher, John Lacey, Robert Ivy, Tom Wiggin, Steve Rosso, Dan Manning, Fred Hodgeboom, Tip Clark, Larry Phillips, Bruce Young, Lori Giardina, Trevor Schaefer, Craig Schaefer, Dave DeGrandpre, Harrison Brand, Brent Hall, Gina Klempel, Mayre Flowers, Howard Ruby, Fran Ruby, Sherry Johns, Angela LeDuc, Tammi L Blake, Jacob Doran, Susan Handy, Ardis Larsen, Ken Kalvig, Clerk Kile

Giles reviewed the application submitted by Montana Eagle Acquisitions with technical assistance from Land Solutions, Morrison & Maierle and Orion Engineering for preliminary plat approval of Eagle's Crest, Phases 5-9; a 739 lot (including condominiums) phased subdivision south of Lakeside. The total proposed subdivision encompasses 1,353 acres or approximately 2.1 square miles. The types of structures will be single family homes, condominium units and mixed use office/residential/neighborhood commercial. The neighborhood units are intended to be supporting services such as a grocery store, coffee/bakeries, office centers, a medical facility, pub/restaurant, day cares, golf related commercial services and real estates related services. The site will utilize an existing access from previous Eagle's Crest phases and build a new southern access on Hwy 93. This phased subdivision will be platted over a period of eight years; upon final plat approval of the first phase, final plats for each successive phase must be filed within two years of the previous final plat approval.

Phase 5 will have approximately 190 lots plus 30 condominium units for a total of 224 dwelling units. The preliminary plat shows 62 lots to be "Village Urban Land Use".

Phase 6 will have approximately 144 lots plus 50 condominium units for a total of 192 dwelling units. The preliminary plat shows 7 lots to be "Village Urban Land Use".

Throughout Phase 5 and Phase 6 an eighteen-hole golf course will be constructed that will encompass approximately 530.23 acres (including open spaces and common areas).

Phase 7 will have approximately 126 lots for a total of 126 dwelling units. No mixed use or condominium units are shown on the preliminary plat, therefore, all lots are assumed single-family residential structures.

Phase 8 will have approximately 162 lots for a total of 162 dwelling units. The preliminary plat shows one lot to be "Village Urban Land Use".

Phase 9 will have approximately 117 lots for a total of 117 units. No mixed use or condominium units are shown on the preliminary plat, therefore, all lots are assumed single-family residential structures.

Discussion was held relative to traffic and a third access.

Commissioner Lauman stated that he was not comfortable with an access onto Blacktail Road with them having to cross several properties. He then added that Blacktail Road has already been impacted with all the development in the area.

Commissioner Hall questioned Jeff Harris in regards to him asking the developer to upgrade the intersection on Blacktail Road.

Jeff Harris then replied with they have not talked about it, with the developer not supporting the third access condition. He then added that the dilemma staff has with transportation is that the county is being asked to approve a subdivision without all of the information needed to make the decision with the TIS only approved for Phase 1, and they will then have to come in with an additional TIS and we don't know what it is going to involve.

Commissioner Hall said that if the TIS comes in and does not support the next phase, then the developer will not be able to continue on until he mitigates for traffic issues.

Jeff Harris then said they won't know what that mitigation is and that it puts them in an awkward situation, with them having to make a recommendation without understanding what they are. He then added that the county is being asked to accept on good faith that they will have a TIS without understanding what it is. Harris said their fallback to move the project through was to suggest the third access onto Blacktail Road, which if it wasn't done then the subdivision would be null and void for the future phases.

Commissioner Lauman said Tamarack Woods would not be receptive to Eagle's Crest adding traffic to their development.

Giles then continued with the staff report and reviewed the primary concerns which included: access/vehicular traffic, fire and topography/ depth to width ratio.

Chairman Brenneman then clarified that the staff report does comply with the 87 Master Plan.

Giles then continued with staff's analysis of the report and stated that a soils report was submitted as part of the new information before the September 5, 2007 Planning Board hearing and what came out of the hearing was that the soils reports submitted by the applicant did not reflect the area which the project is being proposed; that it was from somewhere on the east shore of Flathead Lake.

Discussion was then held relative to the EA in regards to finding of facts #41 that states: New information related to the EA was provided by the applicant after the July 13, 2007 deadline.

Commissioner Lauman stated that they were given a notebook with a soils report in it approximately three weeks ago by Mr. Young.

Planner Giles said that he should have required the EA to be re-written as opposed to accepting memo's and additional information piece by piece.

Chairman Brenneman then reviewed the findings of fact in which:

Finding of fact #9 was amended to state: Eagle's Crest Phases 5-9 will not comply with policies 2.7 and 2.8 of the Flathead County 1987 Master Plan. Existing commercial services in Lakeside are one mile north from the site; therefore the new commercial activities with the subdivision would not be adjacent to existing commercial development and disrupt the provision of centralized commercial services. While the locations of new commercial services in the proposed subdivision are not adjacent to downtown Lakeside the proposed development warrants neighborhood commercial services to support future resident needs. The neighborhood commercial area may reduce the number of vehicular trips onto Hwy 93.

Finding of fact #10 was amended to state: Eagle's Crest Phases 5-9 complies with policy 2.9 of the Flathead County 1987 Master Plan because the applicant will submit cash-in-lieu for parkland dedication.

Finding of fact #11 was amended to state: The applicant has created CCR's that are in compliance with policies 2.10, 2.11 and 2.12 of the Flathead County 1987 Master Plan, however, the site is located in an unzoned portion of Flathead County with no minimum bulk and dimensional requirements including setbacks from property lines and right-of-ways, height limitations or minimum lot coverage.

Finding of fact #18 was amended to state: The applicant has created CCR's that are in compliance with policy 4.19 of the Flathead County 1987 Master Plan. However, the site is located in an unzoned portion of Flathead County with no minimum bulk or dimensional requirements including setbacks from property lines, right-of-ways, height limitations or minimum lot coverage.

Finding of fact #20 was amended to state: Eagle's Crest Phases 5-9 complies with policies 5.2 through 5.9 of the Flathead County 1987 Master Plan. The project identifies 70 lots as mixed use. Sixty of the mixed use lots are clustered together in Phase 5. According to the application the majority of these uses would cater to the daily needs/services of future lot owners and may act as a traffic control device for vehicular traffic accessing Hwy 93. It does not comply with policy 5.1.

Finding of fact #24 was amended to state: Eagle's Crest Phases 5-9 complies with policy 8.3 because the emergency access road provides an alternative access out of the subdivision.

Finding of fact #28 was amended to state: As a result of the subdivision creating future vehicular traffic hazards MDOT has asked for continuing traffic studies to monitor increasing dangers and may impose new conditions between future phases if they seem necessary.

Commissioner Hall stated that he was very uncomfortable reviewing Eagle's Crest Phases 5-9 all at one time. He then asked if the applicant was asked to do the whole project at one time.

Giles replied with the developer was asked by planning staff what their plans were for the next future build out and they were given recommendations by planning staff in regards to Phases 5-9. He then added that they are already getting applications for re-subdivision of lots that have been sold in Eagle's Crest Phase I.

Finding of fact #34 was amended to state: The Montana Department of Transportation has approved approach permits onto Hwy 93 for Eagle's Crest Phases 1-5.

Finding of fact #19 was changed to: Eagle's Crest Phases 5-9 complies with policies 4.2 and 4.21 because the applicant has been able to show adequate building pads on all lots (excluding guest houses) with a 2% margin of error and has submitted a preliminary sketch for storm water facilities.

Finding of fact #36 was added that states: The following lots have an average building site cross slope greater than 25% with a 2% margin of error: Lots 16-21, 35, 36, 49, 247, 293, 296, 302, 315, 316, 318, 333, 334, 383, 384, 391, 463, 464, 471, 485, 486, 488, 490, 505, 506, 509, 512, 544, 576-579, 627, 642, 655, 666, 676 and 702.

Finding of fact #37 was added that states: The Lakeside Wastewater System 2007 Preliminary Engineering Report indicates that the system's piping and other infrastructure will be inadequate to serve the proposed subdivision, particularly as other proposed subdivisions, some of which have also received approval for connections are developed.

Finding of fact #38 was not added.

Finding of fact #39 was added that states: Covenants, conditions and restrictions are not enforceable by Flathead County.

Finding of fact #40 was not added.

Finding of fact #41 was not added.

Finding of fact #42 was added that states: New information related to the EA was provided by the applicant after the July 13, 2007 deadline.

Finding of fact #43 was not added.

Finding of fact #44 was not added.

Finding of fact #45 was not added.

Giles then submitted additional findings of fact that are standard in all subdivision reports now.

Discussion was then held relative to additional standard findings of fact in which Jeff Harris explained that there are additional conclusions/ findings that the county needs to make on all applications. Findings (A-D) were approved with (E) already covered.

Commissioner Lauman made a **motion** to approve findings of fact as amended. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Preliminary plat was then considered in which Giles said that staff supports a motion of approval for Eagle's Crest Phases 5-9 if the Flathead County Planning Board and Board of County Commissioners adopt the findings of fact and conditions as presented. Staff does not support approval if any of the conditions are deleted.

Discussion was held relative to the findings of fact and conditions not being changed in order to approve Eagle's Crest, Phases 5-9.

Commissioner Hall questioned the blanket statement and stated that he had never seen it before in a preliminary plat and then asked if he changed "shall" to "should", if the Planning Board would support approval of the subdivision.

Commissioner Lauman stated that he felt the condition was placing the Commission in a precarious position.

Chairman Brenneman said that it places them in a position where they can legally approve the subdivision, because without those conditions the findings that were just adopted wouldn't add up; with 1/3 of them saying they don't comply with the regulations they used to access it. He then added with the adopted findings which he feels are accurate, without the conditions he would not support the application.

Giles then reviewed the standard and unique conditions.

Condition #8 was amended by the Planning Board to: Any street lighting shall be located within the subdivision and shall be shielded so that it does not escape onto adjoining property.

Condition #23 was amended by the Planning Board: Preliminary plat approval for phase 5 is valid for three years; each successive phase must be filed within two years of the previous final plat approval.

Commissioner Hall then said that he was uncomfortable leaving the language in that says if any of the conditions as presented were changed that the Planning Board and Planning Office would not support approval.

Harris added that they made a recommendation and were looking specifically at the road.

Discussion was held relative to condition #26 in which the developer Trevor Schaefer said that their intent with the entire development has been to not impact the surrounding area beyond what is required. He then stated that they worked diligently with MDOT; who is the governing body for traffic and they did a complete traffic impact study through Phase 5 and have said they need to do a traffic impact study for every phase, and at every point they will decide what traffic control measures are necessary; if they are not able that subsequent phase will not be approved. He then added that it is addressed by conditions already. Schaefer then said that the county planners decided that the most effective way to mitigate traffic hazards was to funnel it to Blacktail Road and that it is not their job or position to do that. He then said that they have an opportunity to take the traffic they generate and put it onto Hwy 93 and not burden the county with maintenance of Blacktail Road.

Commissioner Lauman commented that the traffic from multi big developments are never put out on secondary roads so that the state can address the traffic situation, and if the county was to put the traffic out on Blacktail Road then the county would face the problem of increased traffic and liability.

Giles said that it is their job to determine what is safest for growth in the valley and having the third access onto a county road, they would have the interconnectivity to mitigate the fire hazard and vehicular traffic hazard.

Discussion continued with mitigation of fire and traffic concerns.

Condition #26 was amended by the Commission to state: The applicant shall continue to work with MDOT for final plat of Phase 6.

Condition #27 will be stricken.

Condition #28 (c) was amended to state: No portion of the open space/common area may be further subdivided or converted to lots; nor can any construction occur in the open space/common area excluding one clubhouse.

Condition #30 was amended to state: Prior to final plat approval the applicant shall develop a conceptual park and trails plan throughout Eagle's Crest Phases 5-9 and shall record easements at the final phase of each plat.

Condition #31 was amended to state: The applicant shall provide cash-in-lieu funds for parkland dedication and provide a current appraisal from a Montana licensed certified general appraiser no sooner than six months prior to final plat application, to set the baseline value of parkland cash donations.

Condition #33 was amended to state: Any lot failing to receive a favorable recommendation from a geo-technical soils analysis conducted by a licensed professional engineer shall be aggregated into the adjacent lot. This includes lots 16, 21, 35, 36, 49, 247, 293, 296, 302, 315, 316, 318, 333, 334, 383, 384, 391, 463, 476, 471, 485, 486, 488, 490, 505, 506, 509, 512, 544, 576-579, 627, 642, 655, 666, 676 and 702 regardless of the number of lots.

Condition #35 that states: No guest houses shall be allowed on any residential lot. Condition will not be added.

Trevor Schaefer said that their CCR's preclude this and he doesn't feel it is enforceable.

Condition #36 that states: If rail fences will be erected that are no higher than 48 inches at the top rail and no lower than 18 inches at the bottom rail. Condition will not be added. This is covered in CCR's.

Condition #37 that states: There shall be no perimeter fencing around the subdivision. Condition will not be added.

Condition #38 that states: The course of Tackling Creek shall not be altered. Condition will be included.

Condition #39 that states: The subdivider shall improve the secondary emergency access shown on "Exhibit A" to county standards including a 40 foot easement and 20 foot gravel travel surface. Condition will be included.

Condition #40 in regards to water towers state: Any water towers will not be built on the ridgelines and will be camouflaged to fit in with the natural surroundings. Condition will be included.

Commissioner Lauman made a **motion** to approve conditions as amended and preliminary plat. Commissioner Hall **seconded** the motion. **Aye** - Hall and Lauman. **Opposed** - Brenneman. Motion carried by quorum.

STANDARD CONDITIONS

1. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
2. The applicant shall work with the Address Coordinator to provide adjustments to the transportation network to meet road naming requirements. The adjustments shall appear on the final plan and a letter from the Address Coordinator shall be submitted with the final plan stating that requirements have been met. [Section 3.9(I)(7), FCSR]
3. All primary access roads shall consist of a 60-foot right of way and minimum 24-foot paved travel surface. All cul-de-sac roads will consist of a 60-foot right of way and minimum 24-foot paved travel surface and 50-foot travel surface radius and 55-foot outside right of way radius and not include landscaped islands. The road system shall be designed by a licensed professional engineer and, upon completion of construction, be certified by a licensed professional engineer for compliance with AASHTO standards. [Section 3.9, FCSR]
4. Roads and driveways shall conform in all locations to maximum grade standards and shall be approved by the local Fire Marshal or Fire Chief as suitable access. [Section 3.6(E) and 3.9, Table 2, FCSR]
5. A Homeowners Association shall be established for the repair and maintenance of the private roadways, walkways and common areas. All property owners within the subdivision shall bear a pro-rata share of the costs. [3.9(J)(3) and Appendix A, FCSR]
6. The applicant shall meet all requirements of the Montana Department of Transportation for access onto US Highway 93, including mitigation requirements and encroachment permits. A letter shall be submitted with final plat stating the department's requirements have been met. [Section 3.8(A), FCSR]
7. Street or road signs and traffic control devices of the size, shape and height as approved by Flathead County shall be placed at all intersections by the developer. Traffic control devices shall be consistent with the latest edition of the "Manual of Uniform Control Devices" available from the Montana Department of Transportation [Section 3.9(I)(8), FCSR]
8. Any street lighting shall be located within the subdivision and shall be shielded so that it does not escape onto adjoining properties. [Section 3.9 J. 5., FCSR]
9. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
10. All water and sewage treatment systems shall receive final approval from the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 3.14(A, B & C) and 3.15(A), FCSR]
11. The applicant shall submit a Storm Water Drainage Plan that is certified by a licensed Professional Engineer that shall be approved and reviewed by the Flathead County City-County Environmental Health Department and the Montana Department of Environmental Quality. [Section 3.12.A, FCSR]
12. During construction of infrastructure improvements, no silt-laden water or excess shall flow to downstream areas. Erosion control measures are required and shall be enforced. [Section 3.13, FCSR]
13. The applicant shall comply with reasonable fire suppression and access requirements of the Somers Fire District. A letter from the Chief stating requirements have been met shall be submitted with the final plat materials. [Section 3.2, FCSR]
14. Only Class A or B fire rated roofing materials are allowed. [Section 3.21, FCSR]
15. Defensible Space Standards and "Firewise Principles" shall be incorporated around all primary structures. [Appendix G, FCSR]
16. Any building pad which exceeds 25% in cross slope shall be required to receive a favorable report and comply with the recommendations of a geo-technical soils analysis conducted by a licensed professional engineer prior to final plat approval. Said report must find that development of this lot would pose no significant geological hazards to either this lot or neighboring properties. [Appendix A I.(d.) and Section 3.6 (F), FCSR]
17. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
18. The subdivider shall provide a current appraisal from a certified general appraiser no sooner than six months prior to the final plat application to set the baseline value of the parkland cash donation. [Section 3.19(C)(2)(a); Section 3.19 (D)(1), FCSR]
19. The applicant shall require lot owners to have a contract with a solid waste hauler. [Section 3.16(A), FCSR]
20. The applicant shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
21. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
22. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]

23. Preliminary plat approval for Phase 5 is valid for three (3) years, each successive phase must be filed within two (2) years of the previous final plat approval. Failure to meet this time frame will cause the remainder of the preliminary plat to become void, and no additional final phased plats shall be accepted. A one year extension for a phased final plat may be requested by the subdivider. [Section 2.5(D)(6), FCSR]

UNIQUE CONDITIONS

24. The applicant shall receive a variance to Flathead County Subdivision Regulations Section 3.9 Table 3 and allow Greenside Lane to remain 2,755'. [Section 7.1, FCSR]
25. The applicant shall provide 2 approved encroachment permits onto U.S. Highway 93 from the Montana Department of Transportation. [Section 3.8(A), FCSR]
26. The applicant shall continue to work with the Montana Department of Transportation for final plat of Phase 6.
27. The following statements will be placed on the face of the plat applicable to all lots:

- a. A 100' structural setback is required for all structures from Tackling Creek with the first 50' to be a natural vegetative setback.
- b. No lot may be further subdivided
- c. No portion of the open space/common area may be further subdivided or converted to lots nor can any construction occur in the open space/common area excluding one clubhouse.
- d. Any future owner of a lot designated as "Village Urban Land Use" intending to build a commercial structure shall receive an approved Building Permit/Plan Review Application from the State of Montana Department of Labor and Industry, Building Standards Division, Bureau of Building & Measurement Standards.
- e. No lot shall have an individual wastewater treatment system.
- f. All addresses shall be visible from the road, and at the driveway entrance or on the house.
- g. All utilities shall be placed underground.
- h. Lot owners should be aware they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
- i. The property owners association or road user's agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
- j. Lot owners are bound by the soil disturbance and weed management plan to which the applicant and the Flathead County Weed Department agreed.
- k. Only Class A or B fire rated roofing materials are allowed. [Section 3.21, FCSR]
- l. Defensible Space Standards shall be incorporated around all primary structures. [Appendix G, FCSR]
- m.

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

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.

28. Prior to final plat Eagle's Crest will develop and distribute to future lot owners a wildlife brochure incorporating all recommendations from the MT Fish, Wildlife, and Parks.
29. Prior to final plat approval the applicant shall develop a conceptual parks and trails plan throughout Eagle's Crest Phases 5-9 and show recorded easements at the filing of each phase for final plat. [Section 3.21 and 3.8, FCSR]
30. The applicant shall provide cash-in-lieu funds for parkland dedication and provide a current appraisal from a Montana licensed certified general appraiser no sooner than six months prior to the final plat application to set the baseline value of the parkland cash donation. [Section 3.19(C)(2)(a); Section 3.19 (D)(1), FCSR]
31. The applicant shall submit a copy of the Storm Water Pollution Prevention Plan and permit from MT DEQ. Any construction of infrastructure shall occur after the permit has been obtained. [Section 3.13, FCSR]
32. Any lot failing to receive a favorable recommendation from a geo-technical soils analysis conducted by a licensed professional engineer shall be aggregated into the adjacent lot. This includes lots 16-21, 35, 36, 49, 247, 293, 296, 302, 315, 316, 318, 333, 334, 383, 384, 391, 463, 476, 471, 485, 486, 488, 490, 505, 506, 509, 512, 544, 576-579, 627, 642, 655, 666, 676, 676 and 702.
33. The applicant shall show on the face of the final plat a 100' setback from Tackling Creek.
34. The course of Tackling Creek shall not be altered.

35. The subdivider shall improve the secondary emergency access shown on "Exhibit A" to county standards including a 40' easement and 20' gravel travel surface. [3.8(E), FCSR]

36. Any water towers will not be built on the ridgelines and be camouflaged to fit in with the natural surroundings.

4:00 p.m. Long Range Planning Task Force Affordable Housing Committee meeting @ Earl Bennett Bldg

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 7, 2007.

WEDNESDAY, NOVEMBER 7, 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.

11:00 a.m. County Attorney Meeting @ Co. Atty's Office

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

THURSDAY, NOVEMBER 8, 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 Hall PT opened public comment on matters within the Commissions' Jurisdiction.

Whitey Boughton, 1150 Lupfer Road, spoke of his concern in regards to the Impact Fee Committee not making any progress. He then stated that the biggest decision that was made during the whole meeting was when to hold the next meeting. He further added that he spoke during the meeting and told the committee that the impact fees should not be going to the Library or Jail; that they should be put towards roads in the county. Boughton then asked if Googan was going to be required to pave Lupfer Road and also questioned Mike Pence in regards to Lincoln Electric's telephone pole.

Trevor Schaefer gave a brief overview of the work that is complete in Eagle's Crest Subdivision and stated that the recommendation from Mark Leicht is that they delay the completion of the road paving until next spring, with state requirements requiring 45 degree temperatures or greater to pave and the likelihood of that happened in the second half of November is not looking good. Schaefer then stated that in the interest of getting the best possible job they are requesting an extension for Eagle's Crest Subdivision, Phase 3 until spring of 2008. He then emphasized that all the other work is complete except for the paving and asked for the opinion of the Commissioners before he submitted an extension for the SIA.

Commissioner Hall and Lauman both stated that considering the weather conditions they have no problem with extending the SIA.

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

MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE

8:59:10 AM

Members present:

Commissioner Gary D. Hall PT

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Clerk Kile

Harris reported the Planning Board approved the Natural Resource policy with no changes and it will now come before the Commission. Discussion also included the Riverdale Plan, board appointments, subdivision regulations meetings and re-organization in the office.

DOCUMENT FOR SIGNATURE: FLATHEAD COUNTY TRANSPORTATION STUDY/ PECCIA & ASSOCIATES

9:55:10 AM

Members present:

Commissioner Gary D. Hall PT

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Clerk Kile

Pence reported that the purpose of the transportation study is for a baseline study that needs to be done in order to move forward with possibly charging impact fees.

Harris reported that you have to have a baseline that is accessed on the current level of service, and if you are not defensible going in you will not win any challenge. He then stated that it is critical to have the work done in terms of identifying future corridors. Also stated was the Planning Offices' hope would be that this plan would be sufficient to adopt as an element to the growth policy.

Commissioner Lauman made a **motion** to approve the transportation study with Peccia & Associates. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE

[9:32:04 AM](#)

Members present:

Commissioner Gary D. Hall PT

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, HR Director Raeann Campbell, Clerk Kile

Campbell reported on the personnel transaction for the month of October.

Commissioner Lauman made a **motion** to approve the October transactions. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Also discussed were workman's comp claims, the trust fund balance, timely reporting of claims and training sessions that have been held in regards to Long Term Disability.

Mike Pence reported the Montana Department of Labor and Industries awarded a Health & Safety Award to Flathead County and for the record read the letter received, which stated that Flathead County Human Resources Department has been identified as one of the award recipients in 2007 for their outstanding safety program. Pence also stated that Raeann Campbell and Robin Boon attended the 2007 Governor's Conference where Raeann received the State of Montana Governor's Award for Safety & Health 2007, which says the highest honor is given to Flathead County Human Resource Department in recognition of their commitment to excellence in workplace safety and health.

CONSIDERATION OF HR TRANSMITTAL: ANIMAL SHELTER ATTENDANT

[9:43:28 AM](#)

Members present:

Commissioner Gary D. Hall PT

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, HR Director Raeann Campbell, Clerk Kile

Campbell reported that since Joe Russell has taken over the shelter that he has not been fully staffed and is asking for additional staff, and to also open the shelter an additional day. The request is for a full time attendant and once the new director starts the position would be evaluated and possibly reduced to a part time position.

Commissioner Lauman made a **motion** to approve the HR transmittal for an Animal Shelter Attendant. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

FINAL PLAT: DOUBLE TREE ACRES

[9:52:14 AM](#)

Members present:

Commissioner Gary D. Hall PT

Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Planner Andrew Hagemeyer, Debbie Shoemaker, Dawn Marquardt, Clerk Kile

Hagemeyer reviewed the application submitted by Richard and Kathleen Sutton with technical assistance from Marquardt & Marquardt Surveying for final plat approval of Double Tree Acres; a three lot subsequent minor subdivision located on Smith Lake Road, off of Whale Bone Drive, west of Kalispell. Preliminary plat approval was granted on August 16, 2006, subject to 11 conditions. With all conditions being met by the applicant, staff recommends approval.

Commissioner Lauman made a **motion** to approve final plat of Double Tree Acres. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: CC&R WAIVER PAGE/ WAKEWOOD ACRES

[10:06:55 AM](#)

Members present:

Commissioner Gary D. Hall PT
Commissioner Dale W. Lauman

Members absent:

Chairman Joseph D. Brenneman

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Clerk Kile

Discussion was held relative to the Commission not taking action on covenants.

Harris stated that their CC&R's require that any changes made would need to be approved by the Commissioners; they are asking for removal of the requirement.

Commissioner Lauman made a **motion** to waive the CC&R's on Wakewood Acres. Commissioner Hall PT **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

CONSIDERATION OF PRINTING BIDS: SUPT OF SCHOOLS

[10:12:40 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to approve the print bid for 2,000 return address envelopes in the amount of \$85.00 from North Star Printing for the Superintendent of Schools. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

CONSIDERATION OF FINAL RESOLUTION: C & G PROPERTIES ZONE CHANGE/ BIGFORK ZONING DISTRICT

[10:13:28 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Clerk Kile

Commissioner Lauman made a **motion** to approve final Resolution #956CB for zoning of C&G properties. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

RESOLUTION NO. 956 CB

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, after the publication of legal notice, on the 27th day of September, 2007, concerning a proposal to change the zoning designation in a portion of the Bigfork Area Zoning District from R-4 (Two-family Residential) to B-2 (General Business);

WHEREAS, the Board of Commissioners did hear 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 Bigfork Area 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. 956 CA, dated September 27, 2007) to change the zoning designation in a portion of the Bigfork Area Zoning District from R-4 (Two-family Residential) to B-2 (General Business);

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on October 1 and October 8, 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 Bigfork Area Zoning District to change the zoning designation for the boundaries of Lot 17, Block 1, Bigfork Village, Section 36, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana., from R-4 (Two-family Residential) to B-2 (General Business), 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 8th day of November, 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Joseph D. Brenneman
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

CONSIDERATION OF LETTER OF SUPPORT FOR WILDLAND URBAN INTERFACE STUDY

10:15:19 AM

Members present:

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

Others present:

Assistant Michael Pence, Planning & Zoning Director Jeff Harris, Clerk Kile

Harris reported that the study is supported by planning staff and the county would not be impacted fiscally from the study.

Commissioner Hall stated that he does not support the research.

Commissioner Lauman made a **motion** to authorize the signature of a letter of support for the Wildland Urban Interface Study. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. **Opposed** – Hall. Motion carried by quorum.

MEETING W/ WEB ENHANCEMENT COMMITTEE

10:18:32 AM

Members present:

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

Others present:

Assistant Michael Pence, IT Director Vicki Saxby, Gil Parson, Larry Johnson, Monica Eisenzimer, Pete Wingert, Jeff Harris, Peg Allison, Clerk Kile

Saxby reported the Web Enhancement Committee is looking for direction from the commission in regards to the issue of various boards having a home page on the website. She then stated that Snow Dog is now creating home pages for each department within the county.

General discussion was held relative to the decision that needs to be made in order to create the new county website with consistency and continuity. It was stated that the committee doesn't want to set any kind of precedence for other boards that might want to have a home page on the web-site with concern as to who will pay the cost of maintaining the site. It was then added that they want to be mindful and fair to every department within the county by establishing rules and guidelines now. It was also added that the purpose of the project is to update the county website and to have the rules and guidelines for use and implementations of the website included in the county policy.

It was noted that individual departments will be responsible for county boards that pertain to their offices.

CONSIDERATION OF HR TRANSMITTAL: FINANCE TECHNICIAN/ PAYROLL

10:44:43 AM

Members present:

Chairman Joseph D. Brenneman
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Lauman made a **motion** to approve the HR Transmittal for a Finance Technician. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

BUDGET AMENDMENT

10:45:05 AM

Members present:

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

Others present:

Assistant Michael Pence, Drug Task Force Geno Cook, Clerk Kile

Commissioner Hall made a **motion** to approve Resolution #2110. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

WHEREAS, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2007-2008, are required, and;

WHEREAS, Section 7-6-4031, M.C.A. and Budget Resolution No. 1689, allow budget transfers to be made between items in the same fund.

NOW, THEREFORE, BE IT RESOLVED, that the attached list of transfers and revisions shall be made in the budget for Flathead County for Fiscal Year 2007-2008; and

BE IT FURTHER RESOLVED, that this Resolution and the attached list of transfers and revisions shall be entered into the minutes of the Board of Commissioners.

DATED this 8th day of November 2007.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Joseph D. Brenneman
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

DATE OF ISSUE:

BUDGET ENTRY

VOUCHER NO.:

DATE OF RECORD:

Resolution #2110

		FY08		LINE ITEM ADJUSTMENT			
Fund	Dept	ACTIVITY	OBJECT	ACCOUNT DESCRIPTION	DEBIT	CREDIT	
2922		172000		Revenue		12,600.00	
2922		242000		Expenditures	12,600.00		
2922	0209	382010		HIDTA Sale of Vehicles	12,600.00		
2922	0209	420142	900	Capitol Outlay		12,600.00	
					-		
Explanation					25,200.00	25,200.00	

Capitol Outlay Originally budgeted \$51,000.00. Since the budget was set, two vehicles were sold instead of being traded in for a total of 12,600.00. The income from these vehicles needs to be used for the purchase of the next HIDTA vehicle in place of a trade in. The above entry reflects the income and the expense from the sale of these vehicles.

CONSIDERATION OF RELEASE OF COLLATERAL: CHERRY CREEK VILLAGE

[10:47:20 AM](#)

Members present:

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

Others present:

- Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to release collateral for Cherry Creek Village. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

BOARD APPOINTMENT: LAKESIDE COMMUNITY COUNCIL

[10:48:19 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman
Others present:
Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to appoint Keith D. Brown to the Lakeside Community Council. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

QUARTERLY JAIL FACILITY TOUR

[10:50:19 AM](#)

Members present:
Chairman Joseph D. Brenneman
Commissioner Gary D. Hall
Commissioner Dale W. Lauman

- 9:00 a.m. Commissioner Brenneman meeting w/ Cathy Barbouletos @ Forest Service**
- 12:00 p.m. Commissioner Brenneman to Bigfork Steering Committee Public Forum @ Bethany Lutheran Church**
- 2:00 p.m. Commissioner Lauman to AOA Board meeting @ Kalispell Sr. Center**
- 4:00 p.m. Commissioner Hall to Montana West Economic Development Board meeting @ 490 W. Reserve**
- 7:00 p.m. Fair Board meeting @ Fair Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 9, 2007.

FRIDAY, NOVEMBER 9, 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.

No meetings scheduled

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 12, 2007.
