
MONDAY, JANUARY 7, 2008

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

8:00 a.m. Weed & Parks Board meeting @ Weed & Parks Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 8, 2008.

TUESDAY, JANUARY 8, 2008

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

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

Doug Averill said that he is concerned about a letter written by Mahlon Randall after the public hearing held on December 12, 2007, in which he summarized his perception of the conditions for preliminary plat approval of Saddlehorn. He then stated that he needed clarification of the letter received from the Ranch Water District. Averill then said that discussion was held about the road system during preliminary plat approval of Saddlehorn with conditions #20 and #21; with clarification needed in regards to Saddlehorn's responsibilities. Averill then added that the water system was rebuilt in Ranch Subdivision this past summer with monies received from grants, and in order to build the water system a ½ million dollar lot from Saddlehorn was given to the Ranch Water District, as well as an easement to get to the tank and payment for half of the water tank; which will eventually feed into Saddlehorn. He further noted that the road system through Ranch Subdivision is owned by Quarter Circle Subdivision, but Ranch homeowners have an easement to use the road, which was torn up when the water system was put in. Averill also noted that they have had good cooperation between Saddlehorn and Ranch Subdivision all the way through the project, but this last letter is alarming to them. It was then stated that there seems to be a disagreement between the Ranch homeowners and Ranch Water District. Averill further said that when this all started an EA road was needed to connect to Saddlehorn, so the end lot was purchased in Ranch Subdivision, and the homeowners granted an easement to go through the lot to Saddlehorn; they in turn granted the Ranch homeowners a safe EA, through a mutual agreement. Averill then pointed out that the request that came in from Ranch Water District was that all the roads should be rebuilt. He then spoke about the width of the road surface that needs to be resolved, the agreement between Ranch Subdivision and Quarter Circle and gating off of the road. He then pointed out to simplify this they are suggesting that they build a portion of the road to (inaudible) and the main artery road be built to secondary standards. If the water district improves their road width to 20 feet, they will take it to 22 feet which seems like a simple fix, and then everyone will be doing what they said they would do.

Commissioner Brenneman then stated that this needs to go through the Planning Staff.

Chairman Hall said that the letter from Mr. DeJana in regards to point #2 is that they can't impose any additional conditions. He then added that he didn't feel that is what they are doing, that they are basically clarifying issues raised.

Ralph Walton said that his letter suggested some changes to two conditions to clarify the intent of the parties, given all the issues. He then added that they were surprised at how the discussion ensued during preliminary plat, because widening of the road had not been discussed prior to the public hearing on December 12, 2007. Walton then said that they were trying to figure out the best course of action with a potential ½ million dollar project that they were unaware of, until after the meeting.

Doug Averill then said that the elongated cul-de-sac at the end of Pommel Drive that was built 30-35 years ago, does meet fire marshal standards and would be adequate if the rock placed in it is removed. He then added that they are feeling kicked around by the water district pushing costs off to them and that they are doing more than their share to rebuild roads to standards.

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

QUARTERLY MEETING W/ MARCIA SHEFFELS, SUPT OF SCHOOLS

[9:15:23 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, Supt. of Schools Marcia Sheffels, Clerk Kile

Marcia Sheffels presented the Statistical Report of Schools for Flathead County for 2007. She then noted that this report is compiled each year, in which the County Superintendent's Office collects and compiles factual data from schools to provide information in regards to school finances. The figures are taken from the previous year's financial summary, school district budgets and enrollment data. Sheffels added that in K-8 there are 9,160 students across the valley, which is an increase of 270 students and 4,407 students in high schools for an increase of 80 students.

PRELIMINARY PLAT: LONETREE SUBDIVISION

[9:27:25 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Andrew Hagemeyer, Keriann Lynch, Ken Farnum, Clerk Kile

Hagemeyer reviewed the application submitted by Linda Dutton with technical assistance from F & H Land Surveying and A2Z Engineering for preliminary plat approval of Lonetree Subdivision; a two lot minor subdivision on 9.99 acres located north of Whitefish on Hwy 93, north of the intersection of Beaver Lake Road. The applicant proposes to split one lot that has two existing homes, into one lot with a home and a remainder with a home.

Discussion was held relative to a variance for the road and an easement.

Commissioner Brenneman made a **motion** to adopt Staff Report FSR 07-17. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve preliminary plat of Lonetree Subdivision with a variance. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

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 4.7.17(iv), FCSR]
2. The applicant shall show proof of a completed approach permit from the Montana Department of Transportation, indicating the approach has been built and received final inspection. [Section 4.7.17, FCSR]
3. Except for sewer and water lines, underground utilities (if placed in the road right-of-way or easement) shall be located between the roadway and the right of way or easement line to simplify location and repair of lines. These underground facilities shall be installed after the road has been brought to grade and before it is surfaced. Utility lines shall be designed by utility firms in cooperation with the subdivider, subject to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities. At the time of final plat, letters shall be provided from the appropriate utilities stating that the lines constructed meet these requirements and any of their additional requirements. [Section 4.7.24, FCSR]
4. Utility easements shall be 10 feet wide unless otherwise specified by the utility company. These easements shall be shown on the face of the final plat. [Section 4.7.24(c), FCSR]
5. The proposed water and sewage treatment systems and storm drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Sections 4.7.21 and 4.7.22, FCSR]
6. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
7. The applicant shall provide an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved and implemented. The Weed Control Plan shall be implemented prior to final plat application. The County Weed Supervisor may charge a fee to inspect the subdivision and approve the implementation. [Section 4.7.26, FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
9. The developer shall contact the Superintendent of Schools and, if required, provide and improve a location for the safe loading and unloading of students. [Section 4.7.30, FCSR]
10. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.24, FCSR]
 - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed.
 - e.

Waiver of Protest

Participation in Special Improvement District

[per County Resolution 503-M]

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

11. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), MCA]
12. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.2.19), FCSR]
13. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 4.2.15, FCSR]
14. Preliminary plat approval is valid for three years. [Section 4.2.13, FCSR]

The following conditions are suggested to mitigate the impacts and effects of this subdivision as outlined in the findings of fact:

UNIQUE CONDITIONS

15. 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]

16. The following statements shall appear on the face of the final plat:

- a. The Bonneville Power Administration (BPA) imposes certain conditions on the portions of these lots encumbered by its high voltage transmission line right-of-way. BPA does not allow structures to be built within the right-of-way, nor does it allow access to be blocked to any transmission facilities. Any activity that is to occur within the right-of-way needs to be permitted by BPA prior to installation or construction. Information regarding the permitting process for proposed uses of the right-of-way may be addressed to BPA Real Estate Field Services at (406) 751-7821.

17. The applicant will need to submit a land use application and acquire a Land Use Agreement from the BPA in regards to the proposed driveway. A copy of this Land Use Agreement from the BPA will be required for final plat.

18. With the application for final plat, the applicant shall provide a Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.16(e), FCSR]

19. The applicant shall build a 12 foot unpaved driveway with access off Highway 93 through the easement as shown on the preliminary plat prior to final plat approval.

20. Physical Access for Lot 1 and the remainder may not cross the property of neighboring lot 2ADCA. Any physical access connecting Lot 1 and or the remainder through lot 2ADCA shall be abandoned prior to final plat approval.

21. The applicant shall grant a 10 foot easement to Flathead County along the southern portion of the remainder that touches Beaver Creek Road for the purpose of bringing the easement of Beaver Creek Road closer to 60 feet.

22. The applicant shall obtain a variance to Flathead County Subdivision Regulations Section 4.7.7 (c.) prior to final plat approval.

MONTHLY MEETING W/ LAURIE REBUCK, JUVENILE DETENTION CENTER

[9:43:22 AM](#)

Members present:

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

Others present:

Juvenile Detention Director Laurie Rebuck, Clerk Kile

Discussion was held relative to the Juvenile Detention Teacher, heater work that is still ongoing and the population which is currently low.

MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE

[10:00:29 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Campbell reported on the personnel transactions for the month of December.

Commissioner Brenneman made a **motion** to approve the HR transactions for the month of December and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Campbell then reported the turnover statistics for the year 2007 by individual departments. She then stated the trust fund balance is up by \$220 thousand dollars from one year ago, and claims are up by approximately \$580 thousand dollars. It was then reported that the total days off from work for work related accidents for the year were 579 days, compared to 750 last year. Campbell then closed with noting that more sexual harassment training was done in December.

COS REVIEW: PHILLIPS

[10:19:29 AM](#)

Members present:

Chairman Gary D. Hall

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Planner Andrew Hagemeyer, Dawn Marquardt, Debbie Shoemaker, B. Phillips, Clerk Kile

The subject parcel is located on Coon Hollow Road south of Kila and is accessed from Truman Creek Road, off of Browns Meadow Road. The proposal is to transfer 1.15 acres to Ashley Phillips.

Dawn Marquardt noted that there is not a COS showing the parent tract, because the property was created by a foreclosure.

Hagemeyer then reviewed the chain of title for the COS request from Phillips.

B. Phillips said that he proposed to split off a piece of land to his daughter

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

MONTHLY MEETING W/ MARK PECK, OES

[10:35:40 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, OES Director Mark Peck, Clerk Kile

Peck reported that the legal opinion he has received is that the county has no obligation to provide free dispatch services to cities. He then added the classification process for a Radio Engineer Communications Administrator position has been started.

Discussion was also held relative to the direction the 911 Board is moving.

Peck also reported the ICS100 - 200 training will be January 10 and the 300 training is scheduled for February 18-20, 2007. He then stated they had great turnout for the Incident Management Team meeting that was held. It was also reported they have started to work on a policy for emergency hiring, the annual operating plan and the Co-op plan with DNRC. Peck then spoke about live fire exercises that will be held with DNRC and wildland fire training that will be held with the Weed Department.

PUBLIC HEARING: CREATION OF RSID #144 (LODGEPOLE DRIVE) AND RSID #145 (SNOWGHOST DRIVE)

[11:01:36 AM](#)

Members present:

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

Others present:

Assistant Mike Pence, County Attorney Jonathan Smith, Clerk & Recorder Paula Robinson, Joe Garza, Tom Esch, Tammi Fisher, Phil Cardan MD, Chris Cooper, Dawn Melcer, Bob Melcer, Denise Hanson, Bill Buxton, Mark A Gluth, Rachel Vandervoort, Alex Vandervoort, Andrew Mutulionis, Robert Cotner, Whitey Boughton, Tom Gorton, Noel Gorton, Mark Galbrath, Gabe Gluth, Connie Kao, Val Kao, Marty Beale, Annette Bain Wilson, T. Bain, Clerk Kile

RSID #144 LODGEPOLE DRIVE

Denise Hanson with Morrison and Maierle presented a staff report and discussed the RSID process and where they are currently at in the process. She then stated that the homeowners came to them to start the process of creating an RSID and decisions were made in deciding where the boundaries should be and how it will be accessed. Hanson then added that there are 4 different ways to access the lots, and it is their job to come up with a preliminary process to provide a number for a starting point. The number they come up with is a rough number, because at this point there is no design for the project. It was then pointed out that after the RSID is created it then goes to design and out to bid; if the bids come in too high, then the entire process has to start over. Hanson added that the RSID is being accessed on a per lot basis with the 70 lots.

Chairman Hall opened the public hearing to anyone wishing to speak in favor or opposition of the creation of RSID #144.

Robert Cotner a property owner on Lodgepole Drive spoke in support of the RSID.

Jeff Bain a lot owner spoke in support of the RSID for Lodgepole Drive.

Connie Kao a property owner on Lodgepole Drive said that she is in favor of paving the road, but said she feels it is too much.

No one else rising to speak, Chairman Hall closed the public hearing for Lodgepole Drive (RSID #144).

Mike Pence reported the number of protests received were three, which is .04%. He then added that there is not adequate protest to kill the project with it having received strong support.

Connie Kao questioned if another vote would be taken. She further added that the petition was for \$800.00, not \$6,000.00.

Mike Pence then said that he and Terry Richmond with Morrison and Maierle met with the neighborhood group in Marion this past summer, and at that time Terry Richmond laid out these numbers. He then said that they are aware that when the project started that the neighborhood contacted a contractor to get a price on what it would cost to pave the road, which didn't include

any engineering costs. Pence then stated that all of this information was put up on a board at the meeting to clarify the discrepancy between the numbers, and it was made clear at that meeting that the least expensive way to do a project is to not do and RSID, and to come up with the funding as a neighborhood. He further added that the neighborhood group approached the Commission to form the RSID, and the legal process is that the protest is allowed by the law and we have only received three protests out of 70.

Val Kao said that it was her understanding from the meeting that all 70 of the neighbors would have a chance to vote.

Mike Pence added that the vote is actually the protest, and the only votes that are counted are the protest votes.

Chairman Hall asked how many letters of support were received.

Mike Pence replied that support letters are not required; that protests are the only thing counted.

Connie Kao then said that this is all a big misunderstanding.

Chairman Hall said they have had several RSID's where they have had 100% participation and support.

Robert Cotner said that when the meeting was held in Marion that it was made very clear to them as to what would take place, and if they opposed it they should file a complaint.

Marty Beale said that he missed the meeting held and asked what the disadvantage of assessing by lineal feet was.

Denise Hanson replied with some of the lots would only half a small portion abutting the road, and some of the lots don't actually even touch the road.

Chairman Hall asked if the method of assessment was agreed upon by those in the district.

Mike Pence said that there was one couple that voiced opposition to the per lot basis, and that everyone else at the meeting supported the most equitable method of assessment. He further added that very seldom will they have an RSID project done without protests, and that it is unfortunate that everyone is not in favor of the RSID. Pence then said that it is supported by the neighborhood and that it is their right to use the RSID law to improve their infrastructure.

Commissioner Lauman made a **motion** to approve Resolution #2113A to create Lodgepole Drive RSID #144. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 2113A

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 144; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY'S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Flathead County, Montana (the "County"), as follows:

Section 1. Passage of Resolution of Intention. This Board, on December 4, 2007, adopted Resolution No. 2113 (the "Resolution of Intention"), pursuant to which this Board declared its intention to create a rural special improvement district, designated as Rural Special Improvement District No. 144 of the County (the "District"), under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), for the purpose of financing a portion of the costs of certain improvements described therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of rural special improvement district bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund") and the establishment of a reserve account securing the Bonds in the District fund (the "Reserve Account").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on January 8, 2008, this Board conducted a public hearing on the creation or extension of the District and the making of the Improvements. At the hearing, this Board heard and passed on all protests made during the period ended 30 days after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period"). The meeting of this Board at which this resolution was adopted is the first regular meeting of the Board following the expiration of the Protest Period.

Section 3. Protests. Within the Protest Period, 3 protests representing 3 lots, tracts, or parcels in the District were filed with the County Clerk and Recorder and not withdrawn by the owners of property in the District subject to assessment representing (i) 4 % of the total costs of the Improvements and incidental costs to be financed with proceeds of the Bonds in accordance with the method of assessment in the Resolution of Intention; (ii) 4 % of the total number of owners of property in the District subject to assessment; and (iii) .5% of the total taxable value of the properties in the District subject to the assessment in the District.

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period are hereby found to be insufficient. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed, including, without limitation, the findings and determinations relating to the Revolving Fund and Reserve Account.

Section 5. Reimbursement Expenditures.

51. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the County for project expenditures paid by the County prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the County adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than

three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.2. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iii) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the County before the date 60 days before the date of adoption of this resolution.

5.3. Declaration of Intent. The County reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$430,820.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

5.4. Budgetary Matters. As of the date hereof, there are no County funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the County's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.5. Reimbursement Allocations. The County's Treasurer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the County to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the County maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the Board of County Commissioners of Flathead County, Montana, this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Mike Pence then asked if the road would be built this spring.

Denise Hanson said that once the RSID is set up to be created the next process is to get it surveyed and designed, and then in the spring it can go out to bid. When they get the actual price for the project then bonds will be sold.

Chairman Hall asked if the bids came in less than what is being projected if that would show on their tax bill.

Mike Pence replied that this is the highest assessment that it can be.

Annette Bain Wilson asked if they would have the choice to pay off the assessment.

Jonathan Smith said they would have to wait until the bonds are actually sold, but that it could be paid off shortly thereafter. He then added that the way the law is set forth is that it is impossible for them to accept payment before the bonds are actually sold.

RSID #145 SNOWGHOST DRIVE

Denise Hanson with Morrison and Maierle presented a staff report and discussed the RSID process and where they are currently at in the process. She then stated that the homeowners have decided to go with a per lot basis with the 14 lots in the district. Hanson said that there are a few of the tracts that are larger with the same assessor number and they are being considered one lot. She further added that the biggest issue of concern is with stormwater with them having major drainage issues that need addressed.

Chairman Hall asked who would absorb the extra cost if the estimate is way too low.

Denise Hanson said if the project comes in over \$290 thousand dollars then the RSID project would have to start over. She then added that you want to weigh the numbers heavy with uncertainties, but if the numbers are too high then it scares off the homeowners.

Bill Buxton said that a contingency is added to catch the unknowns.

Commissioner Brenneman said that it sounds as though the major concern with the project is stormwater drainage and asked if they were comfortable with the estimate addressing this issue.

Denise Hanson said that the biggest concern is that the stormwater is not being addressed. She then noted that the status of the RSID is not at design stage yet.

Commissioner Brenneman said that one of the suggestions in a letter that was received is that a time of consideration be made, so that it would allow the engineer to explain to those with concerns how the issue of drainage would be addressed.

Denise Hanson said that the general concern is that some of the people were unsure of the whole process and are uncomfortable with the time frame. She then added that she felt it would be beneficial for Snowghost to have a meeting with the homeowners and someone from the county to explain the process clearly. Hanson then said that another concern with the protest letters was the method of assessment of per lot basis. She further said that because of the topography of the area she would not want to go on a square footage basis, with several of the lots having huge drainages running right through the middle of them. It was then stated that if they went on a square footage basis that the largest lot would be assessed approximately \$90 thousand dollars and the smallest lot would be assessed \$4 thousand dollars. She then noted that another concern is the 15 year loan term verses a longer term, and her concern is that you don't want the loan to outlast the life of the improvements. Hanson added that it is a private road and the homeowners would still be responsible for plowing the road. Also noted were costs removed from the original engineering report.

Chairman Hall opened the public hearing to anyone wishing to speak in favor or opposition of the creation of RSID #145.

Bob Melcer a property owner on Snowghost Drive stated that he had several questions in regards to comments made. He then stated that it was said that they all agreed on splitting the lots equitably and he questioned where that information came from.

Denise Hanson said that initially when the homeowners came to them with the RSID, that those who were directly contracting with Morrison and Maierle made the decision.

Bob Melcer then asked how many made the decision, if it was one person or two; because it was stated that all the homeowners.

Denise Hanson replied with not all the homeowners.

Bob Melcer then said okay that is a false statement that all the homeowners did not agree that they wanted the lots accessed equally.

Bob Melcer then pointed out on the map that several on the road currently have a road agreement of how the road is maintained and taken care of. He also noted that they pay on how the sections are used, not equally, which is much more equitable than all lots. Melcer further added that it was stated that all people use the road equally which is incorrect.

Denise Hanson then said that she was trying to say that for each lot there is one person using the road.

Commissioner Brenneman commented that they have four choices and that it would take legislative action for them to have a fifth choice. He then added that using the tools they have for the procedure that is all they have for choices.

Bob Melcer said that maybe the county needs to do something to make the RSID's a more viable solution for people to get on board. He then said that maybe this should be two separate RSID's. Melcer further added that they are in agreement that they need the drainage issues solved, and questioned if the report done by River Design was looked at. He then said that he doesn't see why he should be paying for a road that he doesn't use or have the right to use, since it is not in their subdivision.

Mike Pence said that the article in the newspaper referred to not having to go through the bond council, and if that is eliminated then they can eliminate that cost, but it cannot be guaranteed.

Bob Melcer then closed by saying that they want to understand the project and make it more equitable and they need more time to do that.

Tammi Fisher an attorney representing the Melcer's added that pursuant to the counties own regulations that while it disclaims that the maintenance costs would not be bore by the county, the county will require separate legal entities and maintenance responsibilities, or will create a maintenance district with the RSID. She then said that there is no legal entity in the area or homeowners association that encompasses all of the lots, and without the legal entity the county is left with having to institute a maintenance RSID, which has to follow all of the MCA code with regards to assessments, and how the county will determine how the road is maintained. The county will determine what the assessments are and there will be an additional administrative fee. The county also has to come out every year with its proposed assessments for maintenance, so yes the county would then have authority to impose all of the maintenance on the road and they would have to by statue, by its own regulations with no legal entity. To say that the maintenance agreement as it sits now for the road would stand isn't true, because by these regulations you have to develop a maintenance RSID. As a legal entity she doesn't know if all of the homeowners would be opposed to establishing an actual homeowners association encompassing all of the area, so they could work with the county for maintenance. The big issue is that the process moved so fast that the residents didn't feel like they were fully informed as to what was going on. Fisher added that Mike Pence and Morrison and Maierle have always been available to meet with the homeowners, but the homeowners didn't know that. The project was spearheaded by a few homeowners in the area and some have felt that they have been left out of the loop and are asking for more time to investigate. They all feel that paving is a good idea, but there possibly is a more equitable way to do it. The four methods of assessment that are set out in statue, within the statue, as well as the underlying policy, are to make sure that the county has it assessed based upon the benefits each lot receives. She the pointed out that you can use a combination of all four methods to come up with an assessment, that it doesn't have to be one or the other. Fisher closed with saying that she doesn't feel at this point that all of the factors are in play, and asked that there be a 60 day delay for time to investigate and try to get all of the homeowners together.

Marty Beale reviewed on the map his property and said that he was opposed to the RSID in that the cost is not equitable according to road use. He then said if this is all for dust control he is curious as to why another road is being completely disregarded. Beale then said that he proposed separate action for a RSID on the other road and to give them more time to investigate.

Alex Vandevort pointed out that the road is currently split up into three sections. He then spoke about a section of the road that is worse than the rest that is brought down through a major drainage, with a lot of cost involved in bringing it up to county standards. It was also stated that the road was poorly designed when it was first put in with nothing taken in account in regards to storm water coming off of it causing issues with Morrison Road. Vandevort then added that he is totally in support of the RSID and feels he has had plenty of time to think about it.

Marty Beale noted that when his property was split off that they did go to the expense of following all the suggestions for his given area; which included two water dips and two plastic converters, so they would have minimal runoff down the road. He then added that since the work was done that things are actually working in draining water off to the side.

Alex Vandevort then noted that Marty Beale's road is not the total problem; that there does need to be improvements, but it doesn't all need to come from him, that it would involve other homeowners too.

Tom Esch the Attorney representing Tom Armbruster began with expressing Mr. Armbruster's gratitude to the engineers, county and especially his neighbors who have worked very hard to get to the point they are at right now. He then said that Mr. Armbruster is in favor of a paved road, but he is not in favor of doing it this way right now, the way it is proposed. Esch then stated that a protest was filed by Mr. Armbruster with his concerns being the way it is set up right now doesn't seem fair to him. He then pointed out that Mr. Armbruster is a large property owner and his road is not slated for improvements under the current RSID. He then said that what Mr. Armbruster would be in favor of would be paving part of the road and allowing everyone beyond that point to pave their own. Esch then pointed out that he didn't know if it is lawful to bundle assessor numbers together. Also questioned was when the improvement was done on the road if it would meet county standards. He then stated that what they are doing today is raising people's taxes against their consent. Esch then closed with asking that it be postponed for 60 days, at which time they would have meetings to talk about the fairness of the proposal.

Phil Cardan, MD thanked the Commission for allowing them the opportunity to pave a road that would otherwise be a dust bowl. He then said that you have heard the passion of a lot of people today, in that you have people that are seriously opposed and seriously in favor of the project. He then said that the problem they have is that they have desperate folks with everyone having their own personal concerns. He then added trying to get them all together in a room has been pretty tough. Cardan further added that the process has been going on all summer with two meetings, e-mails going out to everyone, phone calls going back and forth and one neighbor sending out reports to notify neighbors where the RSID is at. He then noted that 12 out of 14 neighbors signed the petition in favor of the RSID at a meeting, and then it was total silence until two weeks ago, and now we have a fire drill and are asking for two more months. It was then stated that after hearing the passion today that this will now degenerate to further discussions and the project will not go any further and be stopped. He then said that what remains is the fact that this county has dirt roads that are causing health issues and the only way they will get them paved is through an RSID. Cardin then stated that they now have a situation where they do not have enough protests by law and he then advocated that the RSID be passed today.

Mark Galbraith stated that he was representing Robert Galbraith who is in favor of the RSID. He then commented that all taxes are raised involuntarily. Galbraith spoke about his concern with the storm water and said that they would be getting a two for one deal out of the RSID with the storm water being taken care of and the road paved. Also added was that the three detention basins are all on private property.

General discussion was held relative to the drainage issues that need addressed.

Noel Gorton, 578 Creston Road questioned the paving of Sandy Hill and Shady Lane in regards to the depth that was reduced from 3 inches to 2 ½ inches.

Andrew Mutulionis a property owner in the proposed RSID district stated that he understands the opposition, but is in favor of the RSID going through. He then noted that he is a full time resident and sees safety and environmental concerns that need to be addressed.

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

Mike Pence then reported that of the 14 property owners five protest letters were received, which is a 36% protest.

Jonathan Smith then added that according to the assessment value that the protest is actually 34%.

Chairman Hall said that for years they have strongly encouraged RSID's. He then added that there is some validity in having more time with it possibly improving the project.

Commissioner Brenneman questioned the method of assessment of what they can consider at this point.

Jonathan Smith said that they cannot go back and combine the four different assessment methods without starting over.

Commissioner Brenneman said that he has heard from two attorneys representing clients who have said if given more time, that they would in all likelihood be able to support the RSID. He then noted that the protest period is over and they actually have the authority at this point to create the district. Brenneman then suggested that they postpone the decision for 45 days and at the end of the 45 days he would anticipate that the attorneys would have worked this out and at that time would support the RSID.

Commissioner Brenneman made a **motion** to postpone the decision for 45 days and take it under advisement.

Commissioner Brenneman then changed his **motion** to postpone the decision for 30 days and take it under advisement.

Bill Buxton noted that the longer this is postponed, that the price will go up.

General discussion was held as to how many days to postpone the decision.

Commissioner Brenneman made a **motion** to postpone the decision for 45 days and to take it under advisement. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

PRELIMINARY PLAT: TOMBSTONE

[12:20:23 PM](#)

Members present:

Chairman Gary D. Hall

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman
Others present:
Assistant Planning & Zoning Director BJ Grieve, Andy Beleski, Jeff Swenson, Tom Esch, Clerk Kile

Grieve entered into record Staff Report FSR 07-19. He then reviewed the application submitted by Tombstone Estates, LLC with technical assistance from Flathead Geomatics for preliminary plat approval of Tombstone Subdivision; a subdivision that will create 2 residential lots. The subject property consists of 20.12 acres with proposed lot sizes of .70 acres to 13.08 acres. This property is located at 1050 Blackmer Lane, west of Lauman Road and north of Lake Blaine. This application was previously reviewed by the Commission on May 14, 2007 in which amended Findings of Fact were unanimously approved.

Grieve reviewed the summary of finding and the variance request in which he stated the subdivision meets the required criteria for a variance.

Commissioner Brenneman made a **motion** to adopt Staff Report FSR 07-19 as findings of fact. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Discussion was held relative to 16 (b) and 16 (l) with the language changed from not allowed to should be discouraged.

Commissioner Lauman made a **motion** to approve preliminary plat of Tombstone Subdivision as amended. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

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 4.7.17(iv), FCSR]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road Department indicating the approach has been built and received final inspection. [Section 4.7.17, FCSR]
3. Except for sewer and water lines, underground utilities (if placed in the road right-of-way or easement) shall be located between the roadway and the right of way or easement line to simplify location and repair of lines. These underground facilities shall be installed after the road has been brought to grade and before it is surfaced. Utility lines shall be designed by utility firms in cooperation with the subdivider, subject to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities. At the time of final plat, letters shall be provided from the appropriate utilities stating that the lines constructed meet these requirements and any of their additional requirements. [Section 4.7.24, FCSR]
4. Utility easements shall be 10 feet wide unless otherwise specified by the utility company. These easements shall be shown on the face of the final plat. [Section 4.7.24(c), FCSR]
5. The proposed water and sewage treatment systems and storm drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Sections 4.7.21 and 4.7.22, FCSR]
6. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
7. The applicant shall provide an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved and implemented. The Weed Control Plan shall be implemented prior to final plat application. The County Weed Supervisor may charge a fee to inspect the subdivision and approve the implementation. [Section 4.7.26, FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
9. The developer shall contact the Superintendent of Schools and, if required, provide and improve a location for the safe loading and unloading of students. [Section 4.7.30, FCSR]
10. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.24, FCSR]
 - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed.
 - e.

Waiver of Protest

Participation in Special Improvement District

[per County Resolution 503-M]

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

11. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), MCA]
12. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27 (for major subdivisions) or Section 4.2.19 (for minor subdivisions), FCSR]
13. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 4.4.23 (for major subdivisions) or Section 4.2.15 (for minor subdivisions), FCSR]

14. Preliminary plat approval is valid for three years. [Section 4.4.20 (for major subdivisions) or Section 4.2.13 (for minor subdivisions), FCSR]

PROJECT-SPECIFIC CONDITIONS

15. The following statement shall appear on the face of the final plat:

- a. Landowners are notified that this subdivision is approved for (single family/ multifamily/commercial, etc.) use. Any changes that materially alter any portion of the approved subdivision plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations, per the Flathead County Development Code. [Section 4.2.18/4.4.26, FCSR]

16. The following statement shall appear on the face of the final plat:

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs, and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant nonpalatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Landscape plantings of certain species of native vegetation are less likely to suffer extensive feeding damage by deer.
- b. Gardens, fruit trees, or orchards attract wildlife such as bear and deer. Fruit bearing trees and shrubs are not recommended in this subdivision because they can regularly attract bears in the late summer/fall. Keep produce and any fruit, such as strawberries, picked and off the ground. Ripe or rotting fruit or vegetable material can attract bears, deer, skunks, and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller, or electric fences utilized
- c. Garbage must be stored either in secure, bear-resistant containers or indoors (or both) to avoid attracting wildlife such as bears. If stored indoors, garbage cans may not be set out until the morning of garbage pickup (or until being transported to an authorized disposal site) and must be brought in no later than that same evening. If sites are occupied seasonally or if the occupants are to be away from the household for 7 days or more, garbage from the home, other buildings, or containers must be removed from the property prior to their departure.
- d. Do not feed wildlife or offer supplements (such as salt or mineral blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that can lead to overuse of vegetation, disease transmission, and other adverse effects to wildlife (such as foundering of deer). Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer concentrations might attract mountain lions to the area.
- e. Birdseed is an attractant to bears and deer. Use of bird feeders is not recommended from April 1 through November 30. If used, bird feeders must: a) be suspended a minimum of 10 feet above ground level (measured from bottom of catch plate), b) be at least 4 feet from any support poles or points, and c) be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds. Hummingbird feeders will follow the same criteria.
- f. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not allowed to roam, as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals, and the owner may also be held accountable (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. Pet food must be stored indoors, in closed sheds, or in bear-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, etc. When feeding pets, do not leave food out overnight. Pets must be fed indoors or inside kennels so that wild animals do not learn to associate food with your home.
- h. Barbecue grills must be stored indoors, and permanent outdoor barbecue grills shall not be allowed in this subdivision. Keep all portions of the barbecues routinely clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Fencing of lot boundaries is discouraged. If used, rail or smooth wire fences will be erected that are no higher than 48" at the top rail/wire and no lower than 18" at the bottom rail/wire in order to facilitate wildlife movement and help avoid animals becoming ensnared and killed by the fence or injuring themselves when trying to jump the fence.
- j. Compost piles can attract bears and skunks and may not be used.
- k. Beehives can attract bears in this area and are not allowed in this subdivision.
- l. Livestock or domestic animals, such as pigs, sheep, goats, llama, poultry, etc. (including those kept as 4H projects), are discouraged in this subdivision because they can attract bears, mountain lions, coyotes, and wolves.
- m. No further subdivision of lots will be allowed.

17. The following statement shall be placed on the face of the final plat:

- a. This subdivision is located in an agricultural/silvicultural area and potential nuisances such as noise, dust, odors, and irregular hours of operation are commonplace. As such, the right to farm and the right to active timber management on adjoining properties will not be restricted as a result of the development or occupancy of this subdivision.

18. The applicant shall receive a variance from Section 4.7.7(c), FCSR to allow for a shared driveway access for the two proposed lots.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: AG & SAG CLUSTERING SETBACK TEXT AMENDMENT/ FLATHEAD COUNTY ZONING REGULATIONS

[12:28:02 PM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing for the setback text amendment and authorized the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

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 change to the text of the Flathead County Zoning Regulations proposed by Flathead County and the Flathead County Planning and Zoning Office.

The proposed amendment would amend the Bulk and Dimensional Requirements for Sections 3.04.040 (Agricultural, AG-80), 3.05.040 (Agricultural, AG-40), 3.06.040 (Agricultural, AG-20) 3.07.040 (Suburban Agricultural, SAG-10) and 3.08.040 (Suburban Agricultural, SAG-5) in the Flathead County Zoning Regulations to clarify that residential clustering setbacks for AG and SAG districts found in the Performance Standards are different from setbacks set forth in the AG and SAG districts where clustering is not employed.

The Flathead County Zoning Regulations are on file for public inspection at the Office of the Clerk and Recorder in Permanent File number 93270 13500. Documents related to the proposed amendment are on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana and the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana.

The public hearing will be held on the **23rd day of January, 2008 at 10:00 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 to the text of the Flathead County Zoning Regulations.

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 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 12 and January 19, 2008.

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

[12:30:34 PM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing for the Jones Zone Change request and authorized the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

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 Daniel & Virginia Jones, DBA Northwest Equipment, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-1 (Neighborhood/Professional Business).

The boundaries of the area proposed to be amended from R-1 to B-1 are the boundaries of Tract 5E in Section 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

The proposed change would change the general character of the zoning regulations applicable to the property from an area 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 neighborhood/professional business district to provide for commercial and professional office uses where such uses are compatible with adjacent residential areas, serving as a buffer between residential areas and other land-use districts; intended to meet the daily needs of those nearby residents living within one (1) mile of the district while not allowing businesses that require outdoor display, sale and/or storage of merchandise, outdoor services or operation, or outdoor consumption of food and beverages; and being formed as an island rather than a strip.

The regulations defining the R-1 and B-1 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. Documents related to the proposed amendment are on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana and the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana.

The public hearing will be held on the **24th day of January, 2008, at 9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

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 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

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

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 12 and January 19, 2008.

AUTHORIZATION TO PUBLISH CALL FOR BIDS: TIRES, CRUSHED WASHED GRAVEL, ASPHALT, EMULSIFIED ASPHALT, PROPANE, GASOLINE & DIESEL

[12:30:58 PM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Brenneman made a **motion** to authorize the publication of the Call for Bids for tires, crushed washed gravel, asphalt, emulsified asphalt, propane, gasoline and diesel and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids on the following:

TIRES

Tires for Flathead County Road and Bridge Departments.

Bids for new tires, tubes, recaps, and recapping.

Bidder will deliver and pick up tires at the Flathead County Shop Compound, 1249 Willow Glen Drive, Kalispell, MT.

There may be one bid for new tires and tubes and one bid for recaps and recapping.

Bid to be "firm" throughout contract period of February 1, 2008 through January 31, 2009, or until the County Commissioners call for new bids.

Bidder to furnish Net State Prices.

Tire Sizes: New Tires

11R24.5 12 ply (minimum) Highway

11R24.5 12 ply (minimum) Summer Traction

1400R24 12 ply (minimum) Non Directional Grader Tires

20.5X25 L5 Loader Tires

23.5X25 L5 Loader Tires

225/60R16 Speed Rated All Season

225/60R16 Speed Rated Mud and Snow

235/85R16 10 ply All Season

235/85R16 10 ply Mud and Snow

Tire Sizes: Recap Tires

11R24.5 Gripper Caps (Using County Casings)

Any other specialty tires needed will be purchased at Net State Prices.

Bidder to attach a typed copy of the above tire sizes listing the brand, size, tread style, grade or quality, and prices for bid comparison and to be attached to the contract if awarded the bid. Bidder is requested to include a catalog of their bid products that would include photos of tires and treads.

Delivery: Pickup and/or delivery/shipping will be F.O.B. to the Flathead County Shop at 1249 Willow Glen Dr. Kalispell, MT. 59901.

Each bidder must deposit with his bid, a bid security in the amount of one thousand dollars (\$1,000.000) to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the period of February 1, 2008, through January 31, 2009. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order or bank draft issued by a Montana bank, or a bid bond executed by a surety corporation authorized to do business in Montana.

The successful bidder must be able to deliver materials within ten (10) days of their being ordered by the County.

Should continued problems arise with the materials being supplied by the bidder or if the bidder cannot supply the materials needed, Flathead County reserves the right to purchase the bid items from another supplier in order to maintain operations and safety standards.

The form of contract to be signed is on file and may be obtained at the Clerk and Recorder's Office in the Courthouse at Kalispell, MT.

All sealed bids, **plainly marked as such**, must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, MT 59901, on or before 5:00 p.m. on January 23, 2008. Bids will be opened and read at 10:00 a.m. on January 24, 2008, in the Commissioner's Office in the West Annex of the Courthouse.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interest of Flathead County.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/ Diana Kile
Diana Kile, Deputy

Publish on January 12 and January 19, 2008

CALL FOR BIDS

Notice is hereby given that sealed bids for the purchase of gravel will be received by the County Board of Commissioners of Flathead County, Montana.

The specifications are as follows:

Approximately 8,000 tons of 3/8 inch crushed washed gravel for chip sealing. Crushed material to meet Montana Department of Transportation Standard Specifications for Road and Bridge Construction, 1995 edition, section M-701.029 table 701-12 for grade 4A, 3/8 inch minus cover material. **NOTE: Budget restraints could cancel the purchase of any or all chipping materials, thus any or all bids, contracts or proposals would be voided.** Actual amounts to be purchased may be determined, based upon locations of projects, funds available, unit prices and estimated material quantities for projects, to be determined by the Flathead County Road Department. Crushed material to be weighed by scales on a belt conveyor. Gradation testing shall be conducted by the contractor in accordance with MT-202. Chips to be of sufficient moisture content to meet Flathead County satisfaction at time of loading to County trucks. Supplier shall have on hand laboratory analysis of chip materials verifying they meet MDOT specifications and test results shall be available upon request to Flathead County. Material is to be located within a twelve-mile radius of Kalispell. The County will pick up the material at the contractor's pit. Bid price is to include the material and the loading of said material into County trucks. A maximum waiting period for the trucks to be loaded will be five minutes. Contact the Flathead County Road Department if there are any questions.

Flathead County may award more than one bid depending upon locations of projects, funds available, bid prices, stock pile location, etc., to reduce haul time to various locations of the County. Bid proposals must be submitted on a form to be provided for the purpose, addressed to the Board of County Commissioners, Flathead County Clerk and Recorder, 800 South Main, Kalispell, MT 59901, and enclosed in an envelope marked, **"Proposal for Crushing and Stockpiling Gravel."**

No proposal will be considered unless accompanied by a proposal security in the amount of one thousand dollars (\$1,000.00) of his bid to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the purchase and sale of said materials. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order or bank draft issued by a Montana bank, or a bid bond executed by a surety corporation authorized to do business in Montana.

Plans and specifications, forms of contract, proposal blanks, and full instructions are on file and may be obtained at the Clerk and Recorder's office in the Courthouse at 800 South Main, Kalispell, MT 59901.

Contractor shall have bid materials on hand thirty (30) days prior to July 1, of this current year. The County will notify the bidder 24 hours prior to the anticipated delivery time. Materials are to be provided on an as needed basis when requested by the County. County may cancel acceptance of material at any time due to weather conditions, project complications, condition of material, etc. If at any time the County deems the material unacceptable, they reserve the right to purchase said material from the next lowest bidder.

All sealed bids, **plainly marked as such**, must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, MT 59901, on or before **5:00 p.m. on January 23, 2008**. Bids will be opened and read at **10:00 a.m. on January 24, 2008**, in the Commissioner's Office in the West Annex of the Courthouse.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interest of Flathead County. This contract will be in effect from the date the contract is signed thru January 31, 2009.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish January 12 and January 19, 2008.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids on the following grades of LIQUID ASPHALT:

Estimated Usage

Asphalt -	PG64-22 & PG58-22	-- 2,000 tons
Asphalt -	SS 1 Tack Oil	-- 30 tons

The award of bid will be made to a single vendor who will supply both types of liquid asphalt. The award of bid will be made on the basis of an overall low bid determined by use of the County's estimated usage for each type of liquid asphalt and the bidders' price for each type of liquid asphalt. The estimated usage figures are to be used only for the purpose of determining an overall low bid; actual usage of each type of asphalt for 2008 asphalt season may vary from those estimates.

All pricing is to be by the ton F.O.B. to the Flathead County Asphalt Plant in Kalispell and/or to the Flathead County Shop in Kalispell.

All orders will be placed with the successful bidder by 4:00 p.m. on the day prior to delivery, at which time the contractor will be told the type of oil to deliver. All orders to be delivered at 7:00 a.m. the next morning. All trucks shall have pumps to unload in overhead tanks. Asphalt will be 290 degrees Fahrenheit at time of delivery. Emulsified asphalt will be 140 degrees Fahrenheit when delivered. Tanks to be equipped with factory mounted visual thermometers. Supplier shall have oil sample test results on hand and available upon request to Flathead County.

Bid to be from February 1, 2008, through January 31, 2009, or until the County Commissioners call for new bids, with the right to go to the next supplier if asphalt is not available or if the asphalt does not meet MDOT specifications from the successful bidder.

Each bidder must deposit with his bid, a bid security in the amount of three-thousand dollars (\$3,000.00), to secure the bidder's express covenant that if the bidder is awarded the contract the bidder will, within ten (10) days, enter into a formal contract; or otherwise the bidder will pay to Flathead County the difference between the amount of his bid and the amount for which Flathead County contracts with another party to complete the contract; bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order or bank draft issued by a Montana bank; or a bid bond executed by a surety corporation authorized to do business in Montana.

All sealed bids must be plainly marked "**LIQUID ASPHALT BID**" and must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, Montana, 59901, on or before 5:00 p.m. on January 23, 2008. Bids will be opened and read at 10:00 a.m. on January 24, 2008, in the Commissioners' Office in the West Annex of the Courthouse.

The form of contract to be signed is on file and may be obtained at the Clerk and Recorder's Office in the Courthouse at Kalispell, Montana.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interest of Flathead County.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish January 12 and January 19, 2008.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids on the following grades of LIQUID ASPHALT:

Estimated Usage

Emulsified Asphalt - CRS 2 -- 500 tons

Bidding is to be by the ton F.O.B. to Flathead County and the specific site, which will be disclosed at the time the order is placed. Bid price is to also include appropriate placement of materials on County site by successful bidder. Distributor to be mounted with a Bear Cat computerized spray bar with a minimum 4,000 tank or equivalent. Supplier shall have oil sample test results on hand and available upon request of Flathead County. Bidder will be responsible for proper product, temperature, consistency and application.

All orders will be placed with the successful bidder by 4:00 p.m. on the day prior to delivery. All orders to be delivered at 7:00 a.m. the next morning. Tanks to be equipped with factory mounted visual thermometers.

Bidder will be responsible to provide County with two (2) oil samples to be taken at the point of delivery, before application begins. Oil samples will be labeled and ready to be tested. Labels and attached documentation are to include date, type of material, temperature, and any other information needed for adequate testing.

Bid to be from February 1, 2008 through January 31, 2009, or until the County Commissioners call for new bids, with the right to go to the next supplier if asphalt is not available or if the asphalt does not meet MDOT specifications from the successful bidder. Bid price is to include on site delivery within Flathead County and for materials to be placed on the road by the vendor.

Each bidder must deposit with his bid, a bid security in the amount of three-thousand dollars (\$3,000.00), to secure the bidder's express covenant that if the bidder is awarded the contract the bidder will, within ten (10) days, enter into a formal contract; or otherwise the bidder will pay to Flathead County the difference between the amount of his bid and the amount for which Flathead County contracts with another party to complete the contract; bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order or bank draft issued by a Montana bank; or a bid bond executed by a surety corporation authorized to do business in Montana.

All sealed bids must be plainly marked "**LIQUID ASPHALT BID**" and must be in the hands of the County Clerk and Recorder, 800 South Main, Kalispell, Montana, 59901, on or before 5:00 p.m. on January 23, 2008. Bids will be opened and read at 10:00 a.m. on January 24, 2008 in the Commissioners' Office in the West Annex of the Courthouse.

The form of contract to be signed is on file and may be obtained at the Clerk and Recorder's Office in the Courthouse at Kalispell, Montana.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interest of Flathead County.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 12 and January 19, 2008.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids on the following:

Propane Fuel

Bidder will furnish in writing an affidavit that the bidder will be able to furnish all the materials (propane) that Flathead County will use in the next year, February 1, 2008 through January 31, 2009.

PROPANE - estimated usage - 200,000 gallons

Vendor to provide the 11,000 gallon minimum porta-pac/tank, the pump and motors, all piping and pressure regulating valves and gauges and related equipment to the liquid propane manifold which will meet the burner specifications on both volume and pressure down to a temperature of 32 degrees Fahrenheit, see attached diagram with specifications. If rental agreements are applicable, pertinent information maybe listed at the appropriate space provided. This should include the delivery and removal of the tank and equipment upon job completion and or the termination of said contract, including any man-hours required for set up or removal.

Bidder will provide the equipment necessary for the hookup between the porta-pac and the liquid propane manifold. Flathead County agrees to purchase any items needed for the hookup that are specific to our particular plant.

Once the porta-pac has been moved to the site Flathead County will bear the costs of any further relocating.

Bidder must be able to deliver materials to the Old Steel Bridge Pit, 1333 Holt Stage Road, Kalispell, MT. 59901, or to another predetermined location within Flathead County, on a keep full basis. Alternate delivery locations will be given to the vendor one-week prior to the effective date of change.

Delivery/Shipping will be F.O.B. to the specified plant location.

Bidder to furnish propane at net state prices (laid in price, rack price). At the time a net state prices (laid in price, rack price) fluctuation occurs the term contract holding vendor shall be required to supply a written, dated notice, detailing the effect the price fluctuation will have on net state prices (laid in price, rack price) and the total cost per gallon delivered.

For fuel provided under the term contract, net state prices (laid in price, rack price), delivery prices, totals per gallon, invoice total and meter reading measurements before and after delivery must be on all invoices. Invoices must be signed at the delivery point or signed at the County Shop Office after each delivery.

Bidder to state brand of propane fuel on the bid form.

Bidder is to bid only the delivery cost per gallon over the net state prices (laid in price, rack price) on the attached bid form.

Award of bid will be made only to a single vendor who can supply propane fuel, porta-pac unit, and related items needed to hook up to the liquid propane manifold. If delivery points are not kept full Flathead County reserves the right to order fuel from another supplier to maintain operations.

All fuels provided and delivered shall meet or exceed Federal Fuel Commodity Specifications.

NOTE - If quality of fuel is questioned, the County reserves the right to have fuel tested and if found unsatisfactory to refuse delivery.

Each bidder must deposit with his bid, a bid security in the amount of two-thousand dollars (\$2,000.00), to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the supply, purchase, and sale of said propane fuels. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order, or bank draft issued by a Montana bank; or a bid bond executed by a surety corporation authorized to do business in Montana.

The form of contract and the bid form to be signed are on file and may be obtained at the Clerk and Recorder's Office in the Courthouse at Kalispell, Montana.

All sealed bids, **plainly marked as such**, must be in the hands of the Clerk and Recorder on or before 5:00 p.m. on January 23, 2008. Bids will be opened and read at 10:00 a.m. on January 24, 2008 in the Commissioners' Office at the West Annex of the Courthouse.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interests of Flathead County.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 12 and January 19, 2008.

CALL FOR BIDS

Notice is hereby given that the Board of County Commissioners of Flathead County, Montana, will receive bids on the following:

GASOLINE AND DIESEL

Bidder will furnish in writing an affidavit that the bidder will be able to furnish all the materials (gasoline and diesel) that Flathead County will use in the next year, February 1, 2008 through January 31, 2009.

DIESEL - estimated usage - 325,000 gallons
REGULAR NO LEAD - estimated usage - 100,000 gallons

Bidder must be able to deliver materials to the following delivery points on a keep full basis.

Bid prices for all materials must be listed for each delivery point listed below, on the bid form.

Delivery/Shipping will be F.O.B. to the following destinations.

Delivery Points:

Martin City	Regular No Lead Gas and Red Dyed Low Sulfur Diesel
Columbia Falls	Regular No Lead Gas and Red Dyed Low Sulfur Diesel
Busch Pit	Regular No Lead Gas and Red Dyed Low Sulfur Diesel
Bigfork - Sullivan	Red Dyed Low Sulfur Diesel
Bigfork - Thoennes	Red Dyed Low Sulfur Diesel
County Shop, Road	Regular No Lead Gas and Red Dyed Ultra Low Sulfur Diesel
Mixing Plant	Red Dyed Low Sulfur Diesel Fuel
Main Courthouse	Regular No Lead Gasoline and Red Dyed Low Sulfur Diesel
Solid Waste, Dump	Regular No Lead Gasoline and Red Dyed Ultra Low Sulfur Diesel

Diesel fuel to be blended a minimum of 30% in winter months, approximately from November 1 through March 31, at the discretion of the Flathead County Road Department, depending upon winter weather.

Bidder to furnish net state prices. At the time a price fluctuation occurs the term contract holding vendor shall be required to supply a written, dated notice, detailing the effect the price fluctuation will have on his "Base Price".

For fuel provided under the term contract, prices and meter readings or "stick" measurements must be on all invoices. Invoices must be signed at the delivery point or signed at the County Shop Office after each delivery.

Bidder to state brand of gasoline and/or diesel fuel being on the bid form.

Bidder to include the following taxes with their price breakdown per gallon per delivery point on the attached form:

Gasoline include state tax no federal tax
Diesel include no state tax no federal tax

Award of bid will be made only to a single vendor who can supply both gasoline and diesel fuel. If delivery points are not kept full Flathead County reserves the right to order fuel from another supplier to maintain operations.

All fuels provided and delivered under the terms of this contract shall meet or exceed Federal Fuel Commodity Specifications as referenced below:

Fuel Quality Requirements:

Gasoline - All gasoline provided shall meet or exceed Federal Specifications, VV-G-1690B

Diesel Fuel - All diesel fuels provided shall meet or exceed Federal Specifications, VV-F-800B with reference to grades DF-#1 and DF-#2.

NOTE - If quality of fuels is questioned, the County reserves the right to have fuels tested and if found unsatisfactory to refuse delivery.

Each bidder must deposit with his bid, a bid security in the amount of two-thousand dollars (\$2,000.00), to secure the bidder's express covenant that if the bidder is awarded the contract, the bidder will, within ten (10) days, enter into a formal contract for the supply, purchase, and sale of said gasoline and diesel fuels. Bid security shall be payable to Flathead County and shall be in the form of lawful money of the United States; a cashier's check, certified check, bank money order, or bank draft issued by a Montana bank; or a bid bond executed by a surety corporation authorized to do business in Montana.

The form of contract and the bid form to be signed are on file and may be obtained at the Clerk and Recorder's Office in the Courthouse at Kalispell, Montana.

All sealed bids, **plainly** marked as such, must be in the hands of the Clerk and Recorder on or before 5:00 p.m. on January 23, 2008. Bids will be opened and read at 10:00 a.m. on January 24, 2008, in the Commissioners' Office at the West Annex of the Courthouse.

The Board of County Commissioners reserves the right to reject any and all bids and to accept the bid deemed to be in the best interests of Flathead County.

The award of a bid will be made solely by the issuance of a letter of award to the successful bidder by the Office of the Flathead County Clerk and Recorder.

Dated this 8th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 12 and January 19, 2008.

BOARD APPOINTMENTS: EGAN SLOUGH PLANNING & ZONING COMMITTEE

12:31:33 PM

Members present:

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

Others present:

Clerk Kile

Commissioner Brenneman made a **motion** to appoint Myron Mast to the Egan Slough Planning & Zoning Committee. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

AWARD BIDS: LEGAL ADVERTISING

12:32:22 PM

Members present:

Chairman Gary D. Hall

Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman
Others present:
Clerk Kile

Commissioner Lauman made a **motion** to award the legal advertising bid for 2008 to The Daily Inter Lake. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

1:15 911 meeting @ Justice Center

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 9, 2008.

WEDNESDAY, JANUARY 9, 2008

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

11:00 a.m. County Attorney meeting @ Co. Atty's Office
3:45 p.m. Commissioner Lauman to GPAC meeting @ 1st Interstate Bank

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 10, 2008.

THURSDAY, JANUARY 10, 2008

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

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

Whitey Boughton, Flathead Citizens for Paved Roads spoke about a letter he sent in regards to the Googan land swap. He then said that he would be requesting three conditions if the land swap is approved. The conditions include a parking area off of Lupfer Road, to widen and pave the road for 2.4 – 2.5 miles and that the DNRC makes a commitment that they will not sell the 568 acres they get from the land swap on Lupfer Road. Boughton then suggested that the deputy hired to enforce speed on gravel roads should also enforce tarping of gravel trucks. He then questioned what implications would come from the ruling made by the Supreme Court in regards to gravel pits.

Gary Krueger, 805 Church Drive, said that a few things have changed in that he became aware that a decision has been made in regards to Flathead Counties Growth Policy and Neighborhood Plan that are in fact a regulatory document under Flathead Counties own regulations. He then stated that they have been told numerous times that these documents are not regulatory; that they are just a guiding document. Krueger said that he made an attempt to make some changes to the Riverdale Plan, however, if he looks at it as a regulatory document which it would in fact be if it is approved he doesn't believe that he can live under that type of a plan, and doesn't believe that it can stand up to legal defense. He then asked that when the time comes to delay consideration of the Riverdale Plan until some of the other documentation within the county is changed that makes it a non-regulatory plan. He further added that the road they are heading down where the Planning Office and Boards make a decision and it comes to the County Commissioners and the Commissioners approve it and then it end up in court is a bad road they are heading down. It was then stated that he doesn't want to see the courts make all the decisions for Flathead County when in essence he feels that the County Commissioners, Planning Office and Boards have a much better handle on issues within the county. Krueger said that the decisions coming down from the courts are attacking the Flathead County Planning and Zoning documents, Board decisions and Commissioner decisions; we need to get a good legal handle on our documentation that we have within the county regulatory documents. He then stated that he feels that legal staff should look at all the planning documents immediately to get procedures straight, so when decisions are made on boards they know they can be defended.

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

MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE

[9:05:48 AM](#)

Members present:
Chairman Gary D. Hall
Commissioner Joseph D. Brenneman
Commissioner Dale W. Lauman
Others present:
Planning & Zoning Director Jeff Harris, Gary Krueger, Clerk Kile

Harris presented a Quarterly Activity Report from the Planning & Zoning Office to the Commission in which he noted they are approximately 20% down in applications from the same period last year. He then asked for guidance from the Commission in regards to a re-new able resource grant that he felt it would be worth a try to apply for. Harris also noted that the Planning Board would like to meet only once a week on Thursdays. Also discussed was the North Shore Ranch application.

DISCUSSION RE: RENEWABLE RESOURCE GRANT & LOAN PROGRAM

[9:16:32 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Gary Krueger, Clerk Kile

Discussion was held relative to doing a comprehensive study to look at water resources across the county and to approach the Conservation District to ask for support.

Commissioner Lauman made a **motion** to move forward with the study. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

PUBLIC HEARING: TOURIS & SNEED ZONE CHANGE/ BIGFORK ZONING DISTRICT

[9:31:29 AM](#)

Members present:

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

Others present:

County Attorney Jonathan Smith, Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, Erica Wirtala, Michael Touris, Tricia Touris, Becky Sneed, Brooke Johnston, Chuck Sneed, Dennis Kelleher, Timothy Fox, Shelley Gonzales, Clerk Kile

Grieve entered into record Staff Report FZC 07-09. He then reviewed the application submitted by Mike Touris and Chuck Sneed with technical assistance from Sands Surveying for a zone change request. The request is to change SAG-5 Suburban Agricultural Zoning to I-1 Light Industrial within the Bigfork Zoning District. The property is located on the north side of Hwy 83, approximately ½ mile east of the intersection of Hwy 35. The total area for the proposed zone change is 5.4 acres. Grieve then read the Evaluation Based on Statutory Criteria 1- 12. On October 25, 2007, the Bigfork Land Use Advisory Committee unanimously denied the zone change with the reasons for denial based on non-compliance with BLUAC, inconsistency with the surrounding land uses, setting a precedent of spot zoning, further subdivision of the lot and strip development along Hwy 83. On November 29, 2007, the Flathead County Planning Board held a public hearing at which time a recommendation of denial with a vote of 5-2 was forwarded to the Commission. It was then reported that 7 letters in support of the zone change have been received.

Chairman Hall opened the public hearing to anyone wishing to speak in favor or opposition of the Touris & Sneed Zone Change.

Erica Wirtala, representing Mike Touris and Chuck Sneed noted that none of the application materials has changed since the original submittal date in August. She then stated that during the presentation to the Planning Board that she went into great detail, with looking at all the goals and policies that were listed in the Bigfork Plan as it exists. Goals and policies were looked at in the draft Bigfork Plan as it is proposed, which they know they can not use. She then stated that the goals and policies from the growth policy were looked at, as well as the goals and policies of the Implementation Plan. Wirtala then pointed out that a growth policy or neighborhood plan is comprised of text as well as maps and that they show they are in substantial compliance. She then noted that the previous owner of the property tried to work with the BLUAC and the Commissioners to petition the property to be zoned commercial. Also noted was BJ Grieve pointed out that the surrounding land uses to the parcels are agricultural and public use and it doesn't show that on Mr. Touris's property with Martel Construction, which is neither public nor agricultural; that he is surrounded by heavy industrial use. Wirtala then pointed out that the staff report emphasizes that these are smaller parcels and not conducive to industrial use; the minimum lot size in an industrial zone is 7,500 square feet. It was then reported that there is only .3% of the land base in the Bigfork Plan that has been designated for industrial use; 110 acres out of 31,000 acres. She then added that this seems to be exclusionary zoning with only 110 acres allowed for industrial use, yet in their Bigfork Plan they ask that all industrial uses be confined to these designated areas. To ask that they confine their uses to previously designated industrial areas; there isn't a lot of selection. Wirtala then stated that Mr. Touris and Mr. Sneed owned the subject properties prior to the 2005 platting of lots in Swan Center 1 & 2.

Chairman Hall asked when the Bigfork Plan was last updated.

Grieve reported that the Bigfork Land Use Map has been updated numerous times.

Wirtala continued with it has never been stated in their application or presentation that the properties would be for re-sale; that Mr. Sneed's property is operating under a non-conforming use, not a conditional use permit, so if the non-conforming use were to cease for 180 days his business would revert to the SAG-5 zoning designation again. She then stated to sell the property with that sort of cloud on the title would be difficult to do. Also pointed out was that no public opposition has been received from the neighbors, but letters of support have been received. Wirtala pointed out that those that spoke against the zone change are members of the Bigfork Steering Committee and BLUAC. She then stated that Mr. Touris would like to put a contractor's storage yard on the property and if the zone change isn't successful he could use the building for agricultural purposes or storage. The SAG-5 zoning has to be secondary to a residential use and Mr. Touris would then have to live on the property to utilize that building as a contractor's storage yard; he could not have an employee or renter there with it being spelt out specifically within the parameters of the conditional use permit for the SAG-5 zone under contractor's storage yard. The requirement that someone actually live on the property is what has pushed this into the zone change request. She then closed with a significant change has taken place in the neighborhood over the last 15 years with United Tool and Martel Construction.

Mike Touris, 2006 Broken Leg Road, stated that they are not looking to put in a big industrial park there that they are looking to put in a plumbing shop on the parcel. He then added that he doesn't feel the property is suited for a residence anymore with the businesses around them continuing to grow over the last 15 years; with Martel Construction operating a cabinet shop next to them with noise all day long and 3,000 cars a day.

Chuck Sneed, 2983 Hwy 83, spoke of his concern in protecting his investment.

Brooke Johnston reviewed the history of the property and stated that she doesn't feel it is suitable or desirable for residential use, with it being sandwiched between two industrial properties. She then noted that the tax base for the county would be much higher if it is put into industrial use. Johnston then said that Bigfork is dominated by a lot of contractors and that there is a huge need for industrial.

Timothy Fox, 50 Sunset Drive, stated that he agreed with the zone change for the property.

Dennis Kelleher, 255 Moose Ridge Lane, said if the bureaucracy is taken away that this request would just be common sense. He then stated that he is totally in support of the zone change.

Shelley Gonzales, 4747 Foothill Road, represented BLUAC said that when the application was reviewed in October they took to heart very seriously the staff report and the 12 criteria for making a zone change. She then addressed comments made by the applicant and noted that the 110 acres zoned light industrial is only two miles from the subject location; granted there are only 10 lots, they are very nice large lots available that do not totally encompass the 110 acres, with sufficient light industrial area designated in the Bigfork Land Area. Gonzales also noted they have a tremendous amount of already designated commercial land at the intersection of Hwy 83, Hwy 35 and Hwy 82 that could have been purchased by the applicant for his business. She then said that during the BLUAC meeting Mr. Touris indicated that there would be a small residential component to the building he was already erecting, so that it could qualify for a conditional use permit under existing zoning. It was her understanding that the United Tool building and Martel Construction buildings were built in a rush to get them up prior to the 1993 adoption of the Bigfork Plan; in her estimation that is what has created this problem. She then pointed out that when BLUAC and the Planning Board looked at the zone change request there was no one in support of it then.

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

Commissioner Brenneman made a **motion** to adopt findings of fact. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Brenneman said the findings of fact very clearly do not support the passage that they have no option before them, except to deny the zone change. He then added that he certainly understands the argument to change the zone; even if they look at the letters in support, they say what they are doing is okay and they can continue to do that with the present zoning.

Chairman Hall said that the zoning request does make complete sense and he is in full support of it. He then added that there is information under statutes that state that a governing body may not withhold, deny or impose conditions on any land use approval or other authority to act solely on compliance with the growth policy.

Grieve replied that the staff report does review for compliance with the growth policy and neighborhood plan and with the 11 remaining criteria for review come from zoning regulations and many of those 11 criteria come from zoning regulations; staff's opinion and the opinion of BLUAC is that it does not comply with some of the 11 regulatory criteria, so this is not based solely on compliance with the growth policy and neighborhood plan. It is also based on non-compliance of the criteria outlined in the zoning regulations.

Harris then added that when the analysis is done for a zone change they look at all the local plans; zoning is a regulatory function in that it implements a plan, is supported by the plan and has a foundation for the plan. If you adopt the zone change or something that is outside of the plan, then it becomes legally challengeable. He then added if you are going to support this request then you will have to come up with a finding that essentially provides the foundation and rationale for the zone change that is consistent with the plan. Harris then said in this case it would be the growth policy and existing neighborhood plan; it may require a change in the neighborhood plan to allow this to move forward if you find it is not consistent. When you want to change the use on a piece of property, you first have to make sure the use is consistent with the plan and then you implement that through zoning.

Wirtala said that the 12 criteria that state law and zoning law looks at is criteria to evaluate a zone change; not that every zone change request has to meet every one of the criteria. She then said that Mr. Grieve is stating that they might be failing in some other areas besides meeting the master plan compliance, and one of those that they are not meeting is to lessen congestion in the streets and provide safe access. The staff report maintains the position that the proposal is going to generate 31 lots and future subdivision of the lots could create a significant number of private properties with direct access onto Hwy 83, which would create an unsafe condition. Wirtala added that both the subdivision regulations do not allow anybody to have direct access onto Hwy 83; so the statement flies directly in the face of the subdivision regulations as well as that MDOT will never let 31 lots have direct access onto Hwy 83. It was then added that she wrote a lengthy response to the staff report saying that it was inflammatory and that it took statements from policies that were not applicable. She then added if you were going to use the 12 criteria to evaluate the zone change request, then they need to go through each one and look and see how the staff person wrote the answer to the criteria; to make sure they accurately represent what is there. Wirtala added that the staff report was written with the possibility of 31 potential industrial lots that would cause an undue concentration of people.

Commissioner Brenneman said that presumably you made a similar presentation to the Planning Board with seven members there that adopted the staff report without any changes.

Wirtala then added that the staff report had just gotten to her and she did not go into the findings of fact with them. She then said that she concentrated her presentation on the goals and policies of all the different documents that were compatible.

Discussion was then held relative to procedures.

Commissioner Brenneman then said that legally they don't have a lot of options at this point; they have a staff report that has been adopted.

Commissioner Lauman said that he supports the zoning with the area totally going towards commercial. He then added how we get there he doesn't know with them being in a dilemma right now.

Commissioner Brenneman said that the only real viable option would be to send it back to the Planning Board for them to consider findings.

Harris then said that sending it back to the Planning Board would be the same thing as saying that you made the wrong decision. He then strongly urged them to look at the plan and said if the plan doesn't support the zone change, then they

should not be doing it; if an argument can be made that there is enough room in the plan to support it that would be part of the findings and then the zone change would be much more defensible in terms of legal challenge.

Commissioner Brenneman made a **motion** to continue until such time that they have had adequate time to review and consider findings. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF RESOLUTION: PLANNING BOARD RECOMMENDATION TO ADOPT APPENDIX C/ IMPLEMENTATION PLAN WITHOUT OTHER CHANGES

[10:40:33 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, Clerk Kile

Grieve reported that the Planning Board put together the Implementation Plan based on public hearings and that no additional amendments are being made; only the Implementation Plan is being adopted.

Commissioner Brenneman made a **motion** to adopt Resolution #2015E, Flathead County Growth Policy Initial Appendix "C". Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 2015 E

WHEREAS, the Board of Commissioners requested that the Flathead County Planning Board prepare and recommend a Growth Policy, that complies with the provisions of Section 76-1-601, M.C.A., for the jurisdictional area of the Flathead County Planning Board;

WHEREAS, the Flathead County Planning Board, by adoption of a Resolution on December 11, 2006, recommended a Growth Policy for the jurisdictional area of the Flathead County Planning Board and the Board of Commissioners, after adopting amendments thereto, adopted the Flathead County Growth Policy on March 19, 2007;

WHEREAS, the Flathead County Growth Policy contains provisions for initial amendments and for creating an implementation plan;

WHEREAS, the Flathead County Planning Board adopted a resolution on December 12, 2007, by which it determined that it would not recommend the amendment of the maps, text, goals and/or polices of the Flathead County Growth Policy to the Board of Commissioners and would recommend the adoption of Appendix C: Implementation Plan as part of the Flathead County Growth Policy; and

WHEREAS, the Flathead County Board of Commissioners has reviewed the proposal and determined that the proposed Appendix C to the Flathead County Growth Policy should be formally considered.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, pursuant to Section 76-1-604, M.C.A., that it intends to consider the adoption of Appendix C: Implementation Plan, as recommended by the Flathead County Planning Board, as an appendix to the Flathead County Growth Policy.

BE IT FURTHER RESOLVED that the Board of Commissioners will give the public an opportunity to comment in writing on the proposed Appendix C to the Flathead County Growth Policy and will consider any written comments which are received in the Board's Office prior to February 15, 2008. The Board will consider whether to make any revisions and whether to pass a final resolution adopting the proposed Appendix C to the Flathead County Growth Policy after that date.

Dated this 10th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Commissioner Brenneman made a **motion** to authorize the Publication of the Notice of Passage of Resolution of Intent and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
APPENDIX C TO
FLATHEAD COUNTY GROWTH POLICY

The Board of Commissioners of Flathead County, Montana, hereby gives notice that, pursuant to Section 76-1-604, M.C.A., it passed a Resolution of Intention (Resolution No. 2015E) on January 10, 2008, to adopt Appendix C: Implementation Plan, to the Flathead County Growth Policy, as recommended by the Flathead County Planning Board.

Appendix C to the Flathead County Growth Policy is an Implementation Plan for the Flathead County Growth Policy that suggests priorities and methods of implementation of the goals and policies of the Growth Policy, both regulatory and non-regulatory, and a timetable in which to attempt to implement the goals and policies of the Growth Policy.

The proposed Appendix C to the Flathead County Growth Policy is available for public inspection at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana. It is also available on-line at the Flathead County Planning and Zoning Department's page on the Flathead County website.

The Board will give the public an opportunity to comment in writing on the proposed Appendix C to the Flathead County Growth Policy and will consider any written comments which are received in the Board's Office, Courthouse, West Annex, 800 South Main, Kalispell, MT 59901, prior to February 15, 2008. The Board will consider whether to pass a final resolution adopting the proposed Appendix C to the Flathead County Growth Policy after that date.

DATED this 10th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 15 and January 22, 2008.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: OLD HWY 93 SHORELINE ZONING DISTRICT- PERMANENT

[10:44:37 AM](#) & [10:54:44 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, Virginia Gazewood, Erica Wirtala, Peggy Hedin, Shelley Gonzales, Clerk Kile

Commissioner Lauman made a **motion** to adopt Final Resolution #1985C for Old Hwy 93 Shoreline Zoning. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 1985C

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 26th day of November, 2007, concerning a proposal to create a zoning district to be known as the Old Highway 93 Shoreline Zoning District, as a permanent zoning district to replace the interim zoning district created on January 11, 2007;

WHEREAS, the Board of Commissioners did hear public comment on the proposed creation of the Old Highway 93 Shoreline Zoning District at that hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed creation of the 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. 1985B) on November 26, 2007, to permanently create the Old Highway 93 Shoreline Zoning District; and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 29 and December 6, 2007, and the Board of Commissioners did not receive written protests from forty percent (40%) of the freeholders within the proposed District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby creates the Old Highway 93 Shoreline Zoning District as an R-2 (One Family Limited Residential) District.

BE IT FURTHER RESOLVED the Flathead County Zoning Regulations shall apply in the Old Highway 93 Zoning District and the zoning designation on the property within the Old Highway 93 Zoning District shall be R-2 (One Family Limited Residential), as defined in the Flathead County Zoning Regulations, on file in the Flathead County Clerk and Recorder's Office and in the Flathead County Planning and Zoning Office.

DATED this 10th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

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

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

ATTEST:
Paula Robinson, Clerk

By:/s/Diana Kile
Diana Kile, Deputy Clerk

CONSIDERATION OF PRINTING BIDS: SHERIFF'S OFFICE, HEALTH DEPT., WEED & PARKS, COUNTY ATTORNEY'S OFFICE

[10:45:15 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Brenneman made a **motion** to award the print bid to North Star Printing for 10,000 Arrest/ Detention Forms for \$145.00, 5,000 Attorney Lists for \$135.00 and 10,000 Inmate Request Form tablets for \$140.000 for the Sheriff's Office. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Commissioner Lauman made a **motion** to award the print bid to Kalispell Copy Center for 10,000 Module Slips for \$45.00, 5,000 Visitor Information Slips for \$45.00 and 10,000 Court Slips for \$95.00 for the Sheriff's Office. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously

Commissioner Brenneman made a **motion** to award the print bid to Kalispell Copy Center for 2,000 Business Cards for \$49.98 for the County Attorney's Office. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Lauman made a **motion** to award the print bid to Eagle Flight Business Forms for 5,000 envelopes for the County Attorney's Office. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Lauman made a **motion** to award the print bid to Kalispell Copy Center for 4 Prescriptions Books for \$53.24 for the Health Department. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Lauman made a **motion** to award the print bid to Insty Prints on for 500 Business Cards for \$59.90 for Holland, 500 Business Cards for Jordt for \$70.92 and 2,000 Appointment Cards for Reproductive Health for \$130.82 for the Health Department. Commissioner Brenneman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ESTABLISHMENT & DEFINITION OF DISTRICTS/ FLATHEAD COUNTY ZONING REGULATIONS

[10:50:57 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Clerk Kile

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the Chairman to sign Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

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 changes to the text of the Flathead County Zoning Regulations proposed by Flathead County and the Flathead County Planning and Zoning Office.

The proposed amendments would (i) amend Section 3.03.020 of the Flathead County Zoning Regulations to redefine what districts are "residential" for purposes of applying the zoning regulations to gravel operations, and clarify that AG-40 (Agricultural) and AG-80 (Agricultural) districts are not residential zones for those purposes and (ii) amend Section 4.10.010 of the Flathead County Zoning Regulations to remove the requirement that a Montana Department of Environmental Quality reclamation contract be executed prior to the issuance of a conditional use permit for gravel operations.

The Flathead County Zoning Regulations are on file for public inspection at the Office of the Clerk and Recorder and at the Flathead County Planning and Zoning Office. Documents related to the proposed amendments are on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana and the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana.

The public hearing will be held on the **28th day of January, 2008 at 10:00 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 to the text of the Flathead County Zoning Regulations.

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 10th day of January, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By: /s/Diana Kile
Diana Kile, Deputy

Publish on January 15 and January 22, 2008.

PRELIMINARY PLAT: EAGLE'S CREST VISTAS, AMENDED LOT 3

[10:55:19 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Erica Wirtala, Clerk Kile

Hogle entered into record Staff Report FPP 07-31. He then reviewed the application submitted by Lane Clark with technical assistance from Sands Surveying for preliminary plat approval of Eagle's Crest Vistas, Amd Lot 3; a major subdivision that would create two residential lots southwest of Lakeside. The subdivision is proposed on 9.434 acres with lots 3A and 3B each being 4.619 acres. This property is located at 150 Eagle's Crest Road within the Scenic Corridor Zoning. On November 27, 2007 the Lakeside Land Use Advisory Committee voted 4-2 to recommend denial. The denial was based on concern with the overall cumulative impacts of re-subdivisions with Eagle Crest lots, associated impacts to roads and public health and safety. Hogle then reviewed the criteria the subdivision was reviewed with. On December 12, 2007 the Flathead County Planning Board also recommended denial and amended Finding of Fact #11 and voted to add 3 additional Findings of Fact.

Finding of Fact #4 was revised to say: Testimony from the applicant at the public meeting indicated that it is likely that the lots will be annexed into the Lakeside Sewer District prior to commencement of construction.

Finding of Fact #9 that was added by the Planning Board states: The Lakeside Land Use Advisory Committee has recommended denial of re-subdividing this lot or any further lots(s) in Eagles Crest.

Finding of Fact #10 that was added by the Planning Board states: There will be substantial effects on public health and safety, wildlife and wildlife habitat, the natural environment, and local services because of the cumulative effects of possible future re-subdivisions.

Finding of Fact #11 that was added by the Planning Board states: The Eagles Crest developments have not been annexed into the Lakeside Sewer or Fire Districts at this time.

Commissioner Brenneman said that he certainly understands the concern of the Lakeside Land Use Advisory Committee and the Planning Board, yet he fails to see where we have findings that would indicate other than what was presented.

Findings of Fact #11 will be changed to state: The Eagle Crest development has not been annexed into the Lakeside Sewer District at this time.

Commissioner Brenneman made a **motion** to adopt Findings of Fact FPP 07-31 to include Finding of Fact #9, #11 and #4 as amended. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve preliminary plat of Amended Lot 3 of Eagle's Crest Vistas. Commissioner Lauman **seconded** the motion. **Aye** – Brenneman and Lauman. **Opposed** - Hall. Motion carried by quorum.

Chairman Hall stated that he is voting against this as he is opposed to further expansion of Eagle's Crest for the reasons stated in the Planning Boards Report.

CONDITIONS

1. The applicant shall receive physical addresses 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 4.7.17(iv), FCSR]
2. The applicant shall provide an updated approach permit from the Montana Department of Transportation that specifically includes the number of lots introduced by this subdivision. [Section 4.7.17, FCSR]
3. Except for sewer and water lines, underground utilities (if placed in the road right-of-way or easement) shall be located between the roadway and the right of way or easement line to simplify location and repair of lines. These underground facilities shall be installed after the road has been brought to grade and before it is surfaced. Utility lines shall be designed by utility firms in cooperation with the subdivider, subject to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities. At the time of final plat, letters shall be provided from the appropriate utilities stating that the lines constructed meet

these requirements and any of their additional requirements. [Section 4.7.24, FCSR]

4. Utility easements shall be 10 feet wide unless otherwise specified by the utility company. These easements shall be shown on the face of the final plat. [Section 4.7.24(c), FCSR]
5. The proposed water and sewage treatment systems and storm drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Sections 4.7.21 and 4.7.22, FCSR]
6. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
7. The applicant shall provide an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved and implemented. The Weed Control Plan shall be implemented prior to final plat application. The County Weed Supervisor may charge a fee to inspect the subdivision and approve the implementation. [Section 4.7.26, FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
9. The developer shall contact the Superintendent of Schools and, if required, provide and improve a location for the safe loading and unloading of students. [Section 4.7.30, FCSR]
10. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.24, FCSR]
 - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler.
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed.

Waiver of Protest

Participation in Special Improvement District

[per County Resolution 503-M]

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

11. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), MCA]
12. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27, FCSR]
13. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 4.4.23, FCSR]
14. Preliminary plat approval is valid for three years. [Section 4.4.20, FCSR]

UNIQUE CONDITIONS

15. A 10 foot wide utility easement extending across Lot 3A for the benefit of Lot 3B for the
 - a. purpose of future connection to the public sewer system shall be established and shown
 - b. on the face of the final plat.
16. The following statements shall appear on the face of the final plat:
 - a. Only Class A and Class B fire-rated roofing materials are allowed.
 - b. Defensible Space Standards shall be incorporated around all primary structures
17. The following statement shall appear on the face of the final plat:
 - a. There shall be no further subdivision of lots.
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]

Members present:

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

Others present:

Public Works Director Dave Prunty, Operations Manager Road/Bridge Dept. Guy Foy, Bill Myers, Tom Lewis, Rick Gelbhardt, Denise Hanson, Bill Buxton, Julie Spencer, Max Lowder, Lamont Kinkade, Joe Matulevich, Clerk Kile

Commissioner Hall said that the discussion today would be the final discussion in reference to the lift station and storm culverts.

Tom Lewis, 546 Grand Drive, stated that Bigfork is facing a crisis to a potentially catastrophic event. He then outlined the issues he has concerns with.

- Continued reliance on sewer lines that are subject to chronic failures, lines that have been repaired and repaired again, they are woefully dated, crushed and damaged interiors, leaking manholes and lines with several successive ninety degree turns that often plug up. He then added that these same lines also collect storm water and the incoming pollutants are capable of also discharging sewage into storm water lines.
- The "A" sewer line that pan caked is now deemed okay, and is within 10 feet of the rapidly eroding northern bank of Bigfork Bay from Swan River; it proceeds west to Marina Cay and beyond to the sewer facility on Flathead Lake. This line presents a potentially frightening scenario for Bigfork Village should it rupture.
- A contract has been let for the band-aid lift station on Lake Avenue with little view of Bigfork's long term need for safe and adequate sewer lines and lift stations.
- Ancient and corroding water lines present an immediate crisis in that the ¾" lines are inadequate and may fail at any time. Lewis stated that the November minutes from the Bigfork Water Sewer District note that 1/3 of the water usage is unaccounted for.
- The questionable storm water system continues to dump polluted material directly into the bay and when it is discovered during home construction is quietly covered over.

Tom Lewis then said that he hired a Hydrologist to conduct tests of the water quality along the northern edge of the bay, which showed heightened levels of nitrates and effluent all along the northern edge of the bay. He also spoke about the erosion from Grand Avenue to the bay, in which he suspects is evidence from leakage from the manhole on the eastern most line of the property. It was also noted that there is a rapid and on going eating away of the land along the northern bank of the bay with trees being dangerously undercut.

Bill Myers, 450 Grand Drive, stated that professionals were present today and he hoped that the Commission would consult with them. He then spoke about information that was recently given to Dave Prunty and Guy Foy regarding some of the control technology that could be used in Lake Avenue for an interceptor on the storm water issue. Myers stated that there are three issues. The first was pointed out on a map which he said storm water runs off and collects into the culvert then goes down into the bay next to the public dock, which at times causes wash outs from inadequate culverts. The second issue is that they are planning on tearing up the entire area to replace an old water line. The third issue is the septic sewer with all the water from downtown collecting to a lift station on Lake Avenue that pumps up hill to a three way and then flows 10 – 15 feet away from the bay; from his property to Marina Cay is within 5 – 10 feet of the water. He then added that a past engineering study done on his property shows that the level of the sewer line is right at the water table of Bigfork Bay in the summer. Myers then said that his view is if the line were to be re-located it would be very simple to take it from the lift station up to the top of the hill to the "B" line that goes towards Marina Cay, and then all the sewage instead of flowing next to the bay would lift up the "B" line. Myers then read the Bigfork Water & Sewer District meeting minutes from June 15, 2006, that state:

- Lake Avenue is to remain a platted street.
- The Sewer District to have access to pump lift station and sewer line on Lake Avenue
- Charlie Johnson with the Flathead County Road Dept. is to re-post "No Parking" and "Handicapped" signs.
- Sewer District to consider passing a Resolution of Intent to proceed on re-location of lines and lift stations.
- Commissioner Brenneman and Road Dept Supervisor Charlie Johnson to seek funds from Flathead Basin Commission, Flathead Lakers & CS&K Tribes to do work for a BNP style catch basin to trap sediment and gravel and to have a filter membrane on outflow to catch gas, oil, anti-freeze and brake line fluids.
- Mark Langley from Bigfork Development Corp will look into funding for some type of rough aggregate or stamped concrete for an access road down Lake Avenue to the lift station.
- Flathead County Road Department will pave Lake Avenue north of Grand Drive after re-location of the line.
- Bigfork Water & Sewer will work with Flathead County Parks and Rec to landscape Lake Avenue after sewer line, lift station and catch basin work is completed.
- Sign to be placed for "The Bigfork Community Lake Avenue Access".

Myers then closed with saying that they know that Grand Drive is going to be torn up all the way from downtown up to Marina Cay to the water line, they know that work needs to be done on the lift station, they also know they have a pan caked line for about 25 – 50 feet through his property that may be leaking by the sewer manhole, and that it would be possible to combine the projects and coordinate the work together. He then suggested that the Road Department do some of the digging work to cut the cost of the project.

Lamont Kinkade a homeowner in Bigfork stated that he works and lives in Bigfork and that doing the project in pieces and broken up over a period of time isn't going to be in anyone's interest. He then added that he supports anything that protects the bay and gets the project done in a sensible manner. Kinkade then said that he was the Director of Environmental Health in Aspen, Colorado and has worked specifically with these kinds of lines. He then suggested that as difficult as this may be in merging the projects together that it needs to be done.

Max Lowder, DEQ Public Water noted that several factors that always come into play with a project like this is that sometimes there is a feeling from people involved, that his office may present an obstacle in regards to review and approval of projects. He then offered that as any of these projects come in that they will move to the top of his priority list, if that would help in getting it all done at one time.

Chairman Hall asked how much more it would cost to merge the projects together in order to deal with the issues that are present. He also asked if it would affect the outcome of the current approval process in regards to grant money.

Dave Prunty commented that the Road Department would have to see what is being proposed.

Bill Buxton noted that the county has taken action to address the storm water issues in Bigfork. He then stated that the Bigfork Water and Sewer District has absolutely no jurisdiction over storm water; it is a county problem. Buxton then said that Flathead County hired Morrison and Maierle to do a storm water study and the project is moving forward with their intent being to have the PER done by May of this year, and to be submitting grant applications to fix the storm water problems. He then noted that in May 2006 the Bigfork Water and Sewer District began experiencing frequent failures of the pump located in the bay lift station off Lake Avenue, with the pumps being over 40 years old. Buxton then said that the real environmental threat is if the lift station fails wastewater will back up and could potentially overflow the manhole into the lake. He then added that their project is to simply replace the pumps and get access to the lift stations for regular maintenance, that Bigfork Water & Sewer hired them to design an improvement to the lift station for simply replacing the pumps in the vault down on Lake Avenue. He then spoke about the proposed access driveway that was approved by the Commission that construction will be starting soon on.

Chairman Hall asked what the financial picture is at this point with the project.

Bill Buxton noted that the bid for the lift station is approximately \$120 thousand with another \$20 thousand for engineering fees.

Commissioner Lauman asked if the line going around the bay was installed in 1964 also.

Bill Buxton said that it was installed by Flathead County before the district was formed in 1985.

Commissioner Lauman noted that the project had several problems from day one with collapsed lines.

Bill Buxton said that the pan caked line that was referred to earlier is a section of line along the area of Mr. Myers property that the district re-built. He then added that a camera put through it shows no evidence of sewage leaking.

Commissioner Lauman stated that he also agrees that it should all be dug up at once if it is at all possible. He then added that when you talk about a potential overflow going into the lake you have very serious problems.

Bill Buxton stated that the work at the lift station would have no impact on where the storm drain work would be up on Grand Drive, and that the only combination of work that could be done is the Grand Drive water main that is in serious need of repair. He further added that the storm water project is at a minimum of two years away.

Commissioner Lauman asked if capacity and horsepower of the pumps have been considered that could push up to the "B" line.

Bill Buxton said that it has been a topic of discussion and that the head required in the lift station to pump up to the existing manhole is 22 feet and the head to pump up to the manhole on Lake Avenue is approximately 100 feet. The horsepower is directly affected by the head of the pressure that is pumped and using a variable frequency drive that slows or speeds down the pump with the difference in the head being so great, that you can't put a variable speed frequency drive that would slow the pump down enough to operate in a safe condition.

Julie Spencer with Bigfork Water and Sewer said that they have looked at this issue thoroughly for the past two years in trying to come up with the best solution. She also said that they are in the process of trying to update the treatment plant as well, which doesn't leave them any extra funds to put the lift station up above, which would only benefit a couple of properties. Spencer noted they have gone to bid and need to start the project now, and not wait for the storm water drain issues to be resolved.

Commissioner Lauman asked if the board would be receptive if monies from the community were available to push the line farther up.

Julie Spencer said if they were paying for it that it would be fine. She further added that they asked Marina Cay if they wanted to get involved.

Bill Buxton noted that at this point the pumps have been ordered.

Joe Matulevish with APEC Engineering said that he is working with the Architect with the re-design. He then noted that Fred Sterhan would have some interest in working with the Bigfork Water & Sewer District if they wanted to approach a different project. He then added that it certainly would have an impact on them and would definitely be interested if they wanted to set this back.

Commissioner Hall asked how it would affect Marina Cay if they were to shut off the line and contribute towards going up to the "A" line.

Julie Spencer noted that they would have to design for the lines going through their property. If they were only dealing with their waste water they could design differently, than if they are getting the contribution from down town.

Bill Myers said that the Marina Cay benefit is that they don't have anything coming, which frees them up to do different things with their property. He then commented on the storm water project being two years out and stated if this county has a will to get something done down there in terms of addressing the storm water issue, that it would be in the parameters of the Commissions authority to say to the Road Department "get this done".

Commissioner Hall replied with they are not at all interested in delaying any further or doing anything to stop the progress of what has already happened. He then added that if it is only \$50 thousand dollars to put a line up to the "A" line to the station that it would make a whole lot of sense for the county to come up with funding.

General discussion was held relative to the extra cost.

Commissioner Brenneman said that numerous times he has extended invitations to Mr. Myers and Mr. Lewis to talk about this project. He then added that nothing that has been said this morning is something new, that they previously haven't talked about and for the first time ever, Flathead County has stepped up and said let's try and get some grants to solve the storm water problems. He then stated that the Bigfork Water & Sewer District makes a valid case that the number one priority for Bigfork Bay is the lift station and to rectify the storm drain issues is going to add an additional one million to the project. He then closed with saying that they have not proceeded blindly and that it would be nice if they could do it all at once.

General discussion was also held relative to erosion.

Commissioner Brenneman then said this has been talked about and thought about for some and the best way to work with what they have is to haul in gravel and get the repair work done.

Commissioner Brenneman made a **motion** to re-affirm their commitment to allow the Bigfork Water and Sewer District to proceed as planned and approved. Commissioner Lauman **seconded** the motion. **Aye** – Hall, Brenneman and Lauman. Motion carried unanimously.

- 12:00 p.m. Commissioner Brenneman to Bigfork Steering Committee Public Forum
@ Bethany Lutheran Church**
- 5:00 p.m. Road Advisory Committee meeting @ Solid Waste District Conference Room**
- 7:30 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 January 11, 2008.

FRIDAY, JANUARY 11, 2008

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Brenneman 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 January 14, 2008.
