
MONDAY, FEBRUARY 4, 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.

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

Whitey Boughton, Flathead Citizens for Paved Roads expressed his concern in regards to comments made by County Attorney Jonathan Smith about maintenance on county roads after they are paved through an RSID. He then stated that his group has received their tax exempt status and will be trying to work with the legislature to carry a bill on behalf of paving roads. Boughton then added that if they can't get anything done through the legislature they will have to take it to court. He then spoke about Eagle's Crest in regards to fire suppression.

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

BI-MONTHLY MEETING W/ VICKI SAXBY, I.T.

[9:45:54 PM](#)

Members present:

Chairman Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Assistant Michael Pence, I.T. Director Vicki Saxby, Clerk Kile

Saxby reported the web enhancement project is moving along well and by the middle of the month there will be a "soft release" of the web page. Also reported was Finance has been reviewing RFP's for new software, problems with the 911 system have been resolved with Century-Tel, Johnson Controls has installed a new air conditioner in the server room, a new spam filter is being installed and training sessions are still being held for Excel and Word classes. Saxby also spoke about salaries within the I.T. Department.

PUBLIC HEARING: TAYLOR & SPITLER ZONE CHANGE/ BIGFORK ZONING DISTRICT

[10:01:45 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planning & Zoning Director Jeff Harris, Planner Andrew Hagemeyer, Jerry Bygren, Sarah Taylor, Eric Mulcahy, Clerk Kile

Hagemeyer reviewed the application submitted by Sarah Taylor and Jack and Barbara Spitler with technical assistance from Sands Surveying. The request is for a zone change from SAG-10 to SAG-5 within the Bigfork Zoning District. On November 29, 2007, BLUAC recommended denial of the request on a 5-2 vote. The properties are located on the Southwest corner of Mud Lake Road and Echo Lake Road and are within the Bigfork Neighborhood Plan.

Commissioner Brenneman PT opened the public hearing to anyone wishing to speak in favor or opposition of the Taylor & Spitler Zone Change Request.

Eric Mulcahy the representative for Taylor and Bygren noted that the applicant initially went to the Planning Office to look at zoning just their piece of property, and were advised by the Planning Office to talk to neighboring property owners to essentially enlarge the proposed zoning. He then added that the character of the property would be maintained with the proposed 5 acre zoning.

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

Commissioner Lauman made a **motion** to approve Resolution #956CI for the Taylor Spitler Zone Change. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

Commissioner Brenneman PT noted that there are residents in the area who are not in favor of this zone change.

RESOLUTION NO. 956 CI

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 4th day of February, 2008, concerning a proposal by Michael Sara Taylor and Jack and Barbara Spitler, to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on January 21 and January 28, 2008;

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

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Bigfork Area Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board, and, in accordance with Section 76-2-205(4), M.C.A., adopts this resolution of intention to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-10 to SAG-5, the boundaries of said area being the boundaries of Tracts 5A and 5AB in Section 17, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana located on the southwest corner of Mud Lake Road and Echo Lake Road at 1314 McCaffery Road containing 25.54 (Taylor – 12.8 and Spittler – 13.46) acres.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Bigfork Area Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Bigfork Area Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Bigfork Area Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty per cent (40%) of the freeholders within the Bigfork Area Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By _____
Gary D. Hall, Chairman

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

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Commissioner Lauman made a **motion** to approve the publication of the Notice of Passage of Resolution of Intent and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION BIGFORK AREA ZONING DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 956CI) on February 4, 2008, to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from SAG-10 to SAG-5 are the boundaries of Tracts 5A and 5AB in Section 17, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana located on the southwest corner of Mud Lake Road and Echo Lake Road at 1314 McCaffery Road containing 25.54 (Taylor – 12.8 and Spittler – 13.46) acres.

The proposed change would not change the character of the zoning regulations applicable to the property which, in both SAG-10 and SAG-5 districts, are intended to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized, and providing for estate type residential development, but the minimum lot size would be reduced from 10 acres to five acres.

The Flathead County Zoning Regulations defining the SAG-10 and SAG-5 Zones are on file 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. Documents related to the proposed amendment in the Bigfork Area Zoning District are also on file for public inspection at the Office of the County Clerk and Recorder and the Flathead County Planning and Zoning Office.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Bigfork Area Zoning District from persons owning real property within the Bigfork Area Zoning District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on February 7 and February 14, 2008.

[10:20:25 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, County Attorney Jonathan Smith, OES Director Mark Peck, Clerk Kile

Commissioner Lauman made a **motion** to approve Resolution #2121 for the transfer of explosive equipment to Missoula County and to authorize the publication of the Notice of Passage of Resolution of Intent and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

RESOLUTION NO. 2121

WHEREAS, Flathead County has acquired explosive ordinance disposal equipment that was used by the Office of Emergency Services in responding to reports of explosives being abandoned or otherwise in need of disposal;

WHEREAS, said equipment is no longer necessary for the conduct of the County business because the explosive disposal unit in Missoula County has agreed to respond to such situations in Flathead County and is better-equipped and better-trained than current Flathead County employees to respond to those situations;

WHEREAS, the Flathead County Office of Emergency Services has agreed that the explosive ordinance disposal equipment could be used by Missoula County; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, agrees that the explosive ordinance disposal equipment should be transferred to Missoula County.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, pursuant to Section 7-8-101, M.C.A., hereby passes this resolution of intention to transfer the explosive ordinance disposal equipment, listed on the inventory attached hereto as Exhibit A, to Missoula County.

BE IT FURTHER RESOLVED, that notice of the passage of this resolution of intention shall be published as required by Section 7-1- 2121, M.C.A., and the public shall be invited to comment on the proposal to transfer the explosive ordinance disposal equipment to Missoula County.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By _____
Gary D. Hall, Chairman

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

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 7-8-101, M.C.A., that it passed a resolution of intent (Resolution No. 2121) on February 4th 2008, to transfer explosive ordinance disposal equipment because it is not necessary for the conduct of County business and because Missoula County has agreed to respond to calls from Flathead County regarding explosive ordinance disposal.

Further information concerning the proposed transfer may be received from, and written comments may be sent to, the Board of Commissioners, Flathead County, Montana, 800 South Main, Kalispell, Montana 59901, telephone 758-5503. Oral comments will be received until February 22, 2008. After that date the Board of Commissioners will consider the passage of a final resolution authorizing the transfer of the equipment.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on February 7 and February 14, 2008.

AUTHORIZATION TO PUBLISH: NOTICE OF SALE & DISPOSITION OF SURPLUS PROPERTY FOR COUNTY MUSEUM BUILDING & MISC

[10:28:10 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Sale and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

NOTICE OF SALE

The Board of Commissioners of Flathead County hereby gives notice that it will sell at public auction (pursuant to Section 7-8-2212, M.C.A.) the following surplus property:

The museum building located on Parcel A, Certificate of Survey No. 8369, on file at the Office of the Clerk and Recorder, Flathead County, Montana, and which has a street address of 3178 Highway 93 South, Kalispell, Montana.

The successful bidder at auction must execute a contract requiring the buyer to remove the purchased building from County property by April 1, 2008. If the building is not removed by that date, the buyer will forfeit the building to the County, without return of the purchase price, and it will be razed and removed from County property.

The auction of the described property will be held at the front door of the Flathead County Justice Center, 920 South Main, Kalispell, Montana, on the 21st day of February, 2008, at 9:00 o'clock, a.m. Bidding will start at 90% of the appraised value of the building. The appraised value is \$1,500.00 and, therefore, the bidding will start at \$1,350.00.

Interested parties may arrange to inspect the building to be sold prior to sale, by contacting the Flathead County Board of Commissioners, 800 South Main, Kalispell, MT 59901; Telephone: (406) 758-5503. The contract form to be signed at the sale is available at the same address and phone number. Terms of the sale will be cash at time of sale. The County is selling the property "as is", without any warranty or guarantee of any kind whatsoever.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:

Paula Robinson, Clerk

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

By/s/Diana Kile
Diana Kile, Deputy

Publish on February 7 and February 14, 2008.

PUBLIC HEARING: BOARD ZONE CHANGE/ LOWER VALLEY ZONING DISTRICT

[10:31:38 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planning & Zoning Director Jeff Harris, Planner Alex Hogle, Narda Wilson, Clerk Kile

Hogle entered into record Staff Report FZC 07-10. He then reviewed the application submitted by David and Alaina Board for a zoning map amendment from AG-80 to AG-20 within the Lower Valley Zoning District. On December 19, 2007, the Flathead County Planning Board voted 5-3 to approve the request and recommends approval to the Commission. Hogle then noted that this property is located in the Lower Side Zoning District and was noticed as Lower Valley Zoning District. He then said that no public comment on the proposal has been received.

Commissioner Lauman noted that a letter was received from Heine Farms in opposition prior to the public hearing.

Harris said that because it was noticed as Lower Valley instead of Lower Side that there could be risk to the applicant.

Narda Wilson stated that they are fully advised of the risks that would be involved in moving forward, but wish to move ahead with the zone change.

Hogle then reviewed the Evaluation Based on Statutory Criteria Report and reported the Planning Board voted 5-3 in approval of the zone change request.

Commissioner Brenneman PT opened the public hearing to anyone wishing to speak in favor or opposition to the Board Zone Change Request.

Narda Wilson, 184 Midway Drive spoke as a representative for David and Alaina Board in regards to the zone change. She then clarified that there are currently two dwellings on the property and that the net effect of this change in zoning would be insignificant, in the event the property is divided into two parcels. She then presented a map that indicates the parcel sizes in the area and reviewed each of them.

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

Commissioner Lauman made a **motion** to approve Resolution #957BC for the Lower Side Zoning District. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

RESOLUTION NO. 957BC

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 4th day of February, 2008, concerning a proposal by David and Alaina Board, to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to AG-20 (Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on January 21 and January 28, 2008;

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

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Lower Side Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria for zoning changes as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., adopts this resolution of intention to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to AG-20 (Agricultural), that area being described as the boundaries of Parcel B of COS 14268 and Parcel A and B of COS 13766 in Section 35, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana and located on Lower Valley Road.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Lower Side Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Lower Side Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Lower Side Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty per cent (40%) of the freeholders within the Lower Side Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: _____
Gary D. Hall, Chairman

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

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intent and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
LOWER SIDE ZONING DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 957BC) on February 4, 2008, to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to AG-20 (Agricultural).

The boundaries of the area proposed to be amended from AG-80 to AG-20 is described as Parcel B of COS 14268 and Parcel A and B of COS 13766 in Section 35, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana and located on Lower Valley Road.

The proposed change would not change the general character of the zoning regulations applicable to the property, which are designed to protect and preserve agricultural land for the performance of a wide range of agricultural functions and intended to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development. However, the minimum lot size would be reduced from 80 acres to 20 acres.

The Flathead County Zoning Regulations defining the AG-80 and AG-20 Zones are on file 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. Documents related to the proposed amendment in the Lower Side Zoning District are also on file for public inspection at the Office of the County Clerk and Recorder and the Flathead County Planning and Zoning Office.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Lower Side Zoning District from persons owning real property within the Lower Side Zoning District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 4th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

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

By/s/Diana Kile
Diana Kile, Deputy

Publish on February 7 and February 14, 2008.

BI-MONTHLY MEETING W/ GUY FOY, ROAD DEPT.

[11:01:48 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Public Works Director Dave Prunty, Operations Manager / Road & Bridge Department Guy Foy, Clerk Kile

Prunty reported the Road Department is working on pushing back snow to make room for additional snowfall this winter. Discussion then ensued relative to right of way issues with the Road Department in regards to their placement of snow. Prunty then reported on the budget, salt/ sand pile that is low, a truck accident on Patrick Creek Road, tarping of loads, 20 MPH dust signs and GPS locators that have been installed in every truck. Also discussed were weight limits and work being done by the Road Advisory Committee. It was also noted that Raeann Campbell has received letters from the Union to open up negotiations for the Operators and Teamsters.

MONTHLY MEETING W/ RAEANN CAMPBELL/ HUMAN RESOURCE OFFICE

[11:34:25 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Campbell reported on the HR transactions for the month of January.

Commissioner Lauman made a **motion** to approve the HR transactions for the month of January and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

Campbell then spoke about the second level of appeal in regards to the Health Plan, in which a draft copy has been prepared by Jonathan Smith and will be coming to the Commission for approval. She then reported on the Health Insurance Plan, Work Comp expenses and OSHA recordable accidents that are down from last year. Campbell then said the collective bargaining sessions will be starting soon.

DOCUMENT FOR SIGNATURE: LEAVE OF ABSENCE/ COURTNEY

[11:41:17 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Commissioner Lauman made a **motion** to approve the leave of absence request for Courtney and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

COS REVIEW: BUDIN

[11:47:50 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Dawn Marquardt, Debbie Shoemaker, Patrick A Budin, Clerk Kile

This meeting was postponed until February 11 @ 9:15.

8:00 a.m. Weed & Parks Board meeting @ Weed & Parks Office
3:00 p.m. Commissioner Brenneman to travel to Helena

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

TUESDAY, FEBRUARY 5, 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.

4:00 p.m. Commissioner Brenneman to Interoperability Montana Project Directors meeting in Helena
Long Range Planning Task Force Land Use Committee meeting @ Solid Waste District Conference Room

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 6, 2008.

WEDNESDAY, FEBRUARY 6, 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.

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

MEETING W/ JOHNA MORRISON/ APEC RE: COOK SUBDIVISION, CONDITION #13

[9:15:57 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planning & Zoning Director Jeff Harris, Johna Morrison, Marc Leichti, Bob Cook, Clerk Kile

Morrison stated that she just realized last week that she was missing the last page of the preliminary plat report for Cook Subdivision, with condition #13 requiring that the property be annexed into the West Valley Fire District. She then noted that half of the property is out of the district and the other half is in. Morrison then said that they have no problem complying with the condition, but the timeline to comply is a problem for them, because they are ready to file for final plat. She then stated that the Fire District Board doesn't meet again until the end of March, and from there the annexation process is another 8-12 weeks after that. She then asked if they could post a bond amount when final plat is approved to prove they will finish the process. She then added that the person it affects the most is her client Mr. Cook that lives on the remainder that is not in the district.

Commissioner Brenneman PT asked if she could acquire a letter from the West Valley Fire District stating that they see no reason this annexation wouldn't be approved.

Morrison stated that she has spoken to the Fire Chief and has been told they have no problem with annexing the property; although they are not the ones that have the say that the letter has to come from the District Board that doesn't meet again until the middle or end of March.

Discussion was held relative to getting a letter from the Fire Chief.

Morrison then added that once the letter is received that it is still another 8 – 12 week process for the annexation.

Commissioner Brenneman PT asked Mr. Harris if he would be comfortable with a letter from the Fire Chief stating the property would be annexed into the Fire District.

Harris then noted that they are not running up against the wall in this situation, that their preliminary plat is good through 2010. He then said they would be comfortable with a letter, but would be most comfortable with them complying with conditions. Also noted was there is no mechanism in place for them to accept a bond.

Morrison said that all the application material is ready now and that there are certain things that are dated that would expire before the process is done, and they would then have to go back and re-do everything. She then added that getting a letter from the Fire Chief would not be a problem.

Commissioner Brenneman PT said that with part of this property already within the Fire District that he doesn't feel it will be a problem and that it will be addressed at final plat.

PRELIMINARY PLAT: H' N H 1

[9:45:07 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planning & Zoning Director Jeff Harris, Planner Andrew Hagemeyer, John Hammet, Bob Erickson, Clerk Kile

Hagemeyer entered into record Staff Report FSR 07-22. He then reviewed the application submitted by H' N H 1, LLC, with technical assistance from Jackola Engineering for preliminary plat approval of H' N H 1 Subdivision; a one lot subdivision with a remainder of 0.59 acres located just west of the corner of Hwy 2 and West Reserve. Also noted was a 20' easement on the east side of the property that was labeled a road easement as well as a utility easement was a typo. He then added there is no road there and the applicant would like to abandon the easement if there are no utilities present. Hagemeyer then further reviewed the Summary of Findings 1-10 and a variance for direct access from West Reserve.

Commissioner Lauman made a **motion** to approve Staff Report FSR 07-22 as Findings of Fact. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

Discussion was held relative to a 40' driveway that is already in place and requirements of MDOT.

Harris stated that if they get a letter from MDOT stating that the existing approach is sufficient then that would satisfy the condition.

Discussion was also held relative to the easement in which Hagemeyer said they want to make sure there are no utility easements in place before the easement is abandoned.

Commissioner Brenneman PT said that his preference would be to leave the condition the way it is written.

Commissioner Lauman made a **motion** to approve preliminary plat of H' N H 1 Subdivision. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

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]

UNIQUE CONDITIONS

15. The 20 easement on the eastern portion of Lot 1 shall be a utility easement only.
16. The applicant shall obtain a variance to Flathead County Subdivision Regulations Section 4.7.7 (c.) prior to final plat approval.

BI-MONTHLY MEETING W/ KIM CROWLEY, LIBRARY

[10:01:38 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Library Director Kim Crowley, Clerk Kile

Crowley reported she is working on a dollar for dollar grant for the "Big Read" program and the Citizens Advisory Library Board members have met once. She then noted Bigfork High School is doing a mail ballot election, and if it passes they will move forward with a joint use Library at the High School. Crowley also reported on Library usage which is up 11 percent over last year at the Main Library and Whitefish Library. It was then noted they will be interviewing for a Librarian position soon. She further added that there are grants coming up for state libraries to hire a Librarian; the grant will pay half of the salary for two years, which will be a way for them to get a little relief from the workload. Crowley also reported Stewart Harvey their New Foundation Director has started.

BUDGET AMENDMENT: SHERIFF'S OFFICE

[10:18:53 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Sheriff Mike Meehan, Karen Moore, Clerk Kile

Meehan reviewed the funds received for the Sheriff's Department.

Commissioner Lauman made a **motion** to approve Budget Amendment Resolution #2122 for the Sheriff's Office. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

BUDGET AMENDMENT RESOLUTION NO. 2122

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

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

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

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

DATED this 6th day of February 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By _____
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

**COUNTY OF FLATHEAD
GENERAL JOURNAL VOUCHER
BUDGET AMENDMENT - FY2008**

DATE ISSUED:		1/29/08		Resolution # 2122		VOUCHER NO.:	
DATE OF RECORD:						Entered by:	
FUND	DEPT.	ACTIVITY	OBJECT	ACCOUNT DESCRIPTION	DEBIT	CREDIT	
2300		172000		Revenue		\$7,133,731.00	
2300		242000		Expenditures	\$7,093,474.00		
2300	0209	365000		Donations	\$4,000.00		
2300	0209	365031		Donation/Round-up for Safety	\$7,925.00		
2300	0209	420110	381	Swat		\$7,925.00	
2300	0209	420110	212	Small Item Equipment		\$2,000.00	
2300	0209	420110	302	Evidence		\$1,500.00	

The Sheriff's Office has received 3 separate donations.
\$7,925.00 From Roundup for Safety to be used for Swat Helmets
\$2,000.00 From Wal-Mart to be used for AET Equipment and uniforms
\$1,500.00 From Target to be used for Crime Scene Investigations.

Explanation: These are unexpected donations that were not budgeted for.

\$7,105,399.00	\$7,145,156.00
-----------------------	-----------------------

Requesting an increase in revenue and expenses so we can receive and expend these donations.

DOCUMENT FOR SIGNATURE: N. W. MONTANA HUMAN RESOURCES EMERGENCY SHELTER GRANT

[10:26:45 AM](#)

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

Pence reported the N.W. Montana Human Resource Grant is an on-going grant for \$56,580.00.

Commissioner Lauman made a **motion** to approve the N.W. Montana Human Resources Emergency Shelter Grant. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #08-07-3-01-047-0

[10:27:26 AM](#)

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

Pence report the contract is a \$35,000.00 cancer control grant.

Commissioner Lauman made a **motion** to approve DPHHS Contract #08-07-3-01-047-0. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: ASSURANCE & CERTIFICATIONS FOR 5311 APPLICATION/ EAGLE TRANSIT

[10:28:11 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to approve the document for signature for Eagle Transit and authorized the Chairman to sign. Commissioner Brenneman PT **seconded** the motion. **Aye** – Brenneman and Lauman. Motion carried by quorum.

MEETING W/ NORTH 93 NEIGHBORS RE: MOU

[10:32:37 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planning & Zoning Director Jeff Harris, County Attorney Jonathan Smith, Mayre Flowers, B J Carlson, Diane Yarus, Sharon DeMeester, Clerk Kile

B J Carlson stated that the North 93 Neighbors wish to get the agreement that was reached last February resolved. She then said Allen McCormick has prepared a resolution that now needs to be signed by the Commission. Carlson then asked what the procedures would be now in regards to noticing the public participation guidelines resolution.

County Attorney Jonathan Smith noted that a notice has to be published and a public hearing held for input.

Diane Yarus and Sharon DeMeester added that they too are ready to resolve this.

1:30 p.m. Commissioner Brenneman to FVCC Board meeting re: 911 Dispatch Location

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 7, 2008.

THURSDAY, FEBRUARY 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.

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

MEETING W/ FLATHEAD BASIN COMMISSION RE: SETBACKS

[9:09:46 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Paul L. Hansen, Ardis Larsen, Russ Swindall, Charles Lapp, Mayre Flowers, Stephanie Kruer, Mark Holston, Megan McCrae, Carolyn Miske, Garth Haugland, Fred Hodgeboom, Clerk Kile

Paul L. Hansen spoke in regards to streamside setbacks and explained why they are important to use as a tool from the public and the individual land owners perspective. Hansen then noted that 2/3 of the earth's surface is covered by water, 97% of that is salt water, one percent is in the air and two percent is in ice caps; what humans use is one percent. He then added that of the one percent, 50% is unusable due to human activities and we are spending a lot of money to try to figure out how to keep what we have as usable and improve the other. Hansen then stated we need to be pro-active and not re-active by being ahead of the curve and not behind it. He then reviewed consequences and costs involved in not taking care of the problems and stated that in terms of setbacks it is important to understand is that what we want to try to have is a dynamic functioning river and its floodplains.

Stephanie Kruer a land use attorney stated that from a legal perspective that setbacks are legally defensible. She then added that an important account for those governing is the dollar figures that are associated with the issue; with them being rationally and reasonably related to a legitimate public purpose. Kruer then stated that the key components are to identify what the public purpose is, and to have a clear statement in the ordinance; what are the impacts of these regulations going to be on the people we govern, and are we going to be sued for taking the action of directing personal or private property that may result in a taking. She then noted that in order for it to be a taking there has to be a total deprivation of economically viable use of the property. She further reviewed procedures that should be built into the process.

Chairman Hall then commented that it seems we are making it a very difficult process for land owners that live along the river. He then added he is concerned about imposing a 500' setback on property owners and added that there are no attorney's to represent those living on the river.

Garth Haugland, Commissioner in Beaverhead County spoke about the heavy run off they experience when ice jams are present. He then added they have 50' setbacks from any type of waterway provision in their Subdivision Regulations along with a variance process.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: NATURAL RESOURCE USE POLICY AMENDMENTS

10:00:45 AM

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, County Attorney Jonathan Smith, Dave Skinner, Charles Lapp, Ardis Larsen, Mayre Flowers, Fred Hodgeboom, Clerk Kile

Chairman Hall stated that he has tried to lobby the legislation to fund the "Secure Rural Schools Act", which funds the Road Department and Schools. He then added that it still could happen, but they have lost out on opportunities and may have received their last check. Hall then said if we go back to a 25 percent formula which they were at, at one time for receipts off Forest Service sales, they will be looking at approximately an 80 percent cut in road funding. He then read Resolution #1777E.

Commissioner Lauman questioned where the county would make up the funding of close to one million dollars when we already have a tight budget.

Commissioner Lauman made a **motion** to approve Natural Resource Policy Amendment Resolution #1777E. Chairman Hall **seconded** the motion.

County Attorney Jonathan Smith noted that there were comments received and the Planning Office forwarded an analysis of them to the Commission for consideration.

Commissioner Brenneman said if the amendments had been prepared by a collaborative group of representatives he would certainly be in favor of it, if he thought it would result in a single tree being harvested in a more timely fashion on federal lands.

Chairman Hall then added that the purpose for the changes to the Natural Resource Policy Amendments is to try to have a seat at the table when decisions are made on Forest Service lands, which consist of 80% of Flathead County.

Aye – Hall and Lauman. **Opposed** – Brenneman. Motion carried by quorum.

RESOLUTION NO. 1777 E

WHEREAS, the Flathead Natural Resource Use Committee prepared and recommended the adoption of the Flathead Natural Resource Use Plan by the Board of Commissioners of Flathead County, Montana;

WHEREAS, the Flathead County Planning Board also recommended that the Board of Commissioners adopt the Flathead Natural Resource Use Plan;

WHEREAS, the Board of Commissioners passed a resolution of intent (Resolution No. 1777B), held a public hearing on the proposed adoption of the Plan, and adopted the Flathead Natural Resource Use Plan by the adoption of Resolution No. 1777C on August 23, 2005;

WHEREAS, the Flathead Natural Resource Use Committee has prepared and recommended amendments to the Flathead Natural Resource Use Plan for the Board of Commissioners' consideration;

WHEREAS, the Board of Commissioners forwarded the proposed amendments to the Flathead County Planning Board for review and recommendation;

WHEREAS, the Planning Board completed its review and returned the proposed changes to the Board of Commissioners for action, without a recommendation; and

WHEREAS, the Board of Commissioners determined that the amendments recommended by the Flathead Natural Resource Use Committee should be considered after public comment and passed a Resolution of Intent (Resolution No. 1777D, on November 27, 2007), to adopt the amendments, and gave notice that it would consider public comment received by December 31, 2007; and

WHEREAS, the Board of Commissioners has considered the information and comments received since the adoption of that resolution of intent.

NOW THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Flathead County, Montana, that it hereby adopts the recommended amendments to the Flathead Natural Resource Use Plan prepared by the Flathead Natural Resource Use Committee, attached hereto as Exhibit A.

DATED this 7th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

By _____
Joseph D. Brenneman, Member

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

ATTEST:

Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

EXHIBIT A

Amendments to Flathead County Natural Resource Use Plan.

1. Flathead County Natural Resource Policy, Page 27, Forest Management.

Amend Goal 3 to add these specific objectives:

Objective 3B: At least 80% of Federal non-wilderness timberlands that is available and potentially suitable for timber management should be classed as suitable for sustained timber production to promote forest health, protection, and maintain sustained economic returns.

Objective 3C: On Federal lands suitable for timber harvest, a minimum average annual long-term harvest to capture the equivalent of 80% of the annual mortality shown by the most recent forest inventory is necessary to maintain and improve forest health, control hazardous fuel buildup, and support the local economy and local government (For Flathead NF, 28.6 MM cubic feet per year, or 286 MM cubic ft. for the plan period). The maximum allowable harvest level should be equal to the average annual gross growth per acre shown by the inventory applied to suitable timberland acres

Objective 3D: There must be a reasonable level of Federal revenue sharing with local governments. No more than 20% of the sawtimber sale volume on a 5 year running average will be "Stewardship Contracts" where all the revenues are retained by the Forest Service and no revenue is shared with local government.

2. Flathead County Natural Resource Policy, Page 28, Fire-Fuels Management.

Amend Goal 1 by Adding Objective 1D:

Objective 1D: Federal timber harvests will be planned in coordination with local governments using the best available science (such as BEHAVE II fire models) to evaluate effectiveness of planned treatments. First priority is for Federal Lands that are classed moderate to high existing fire hazard fuels adjacent to all private and/or State lands must be treated to create effective strategic fuel breaks to protect public health and safety. Treatments must not be limited to precommercial thinning and underburning but must include opening commercial timber stand crowns to provide a crown fire resistant stand structure as recommended by Fiedler, Carl, et. al., 2001. A Strategic Assessment of Fire Hazard in Montana. University of Montana, School of Forestry, September 29, 2001. Highest priority will be given to treat all area adjacent to wildland urban interface areas by 2015. Drainages with continuous high/medium hazard fuels will have interior strategic fuel breaks planned and implemented by 2020 that will provide opportunities to control fires before they reach urban interface areas.

3. Flathead County Natural Resource Policy, Roads: Access and Transportation, pg. 33

Amend by adding Goal 5, and Objectives 5 A and 5 B:

5. Goal: Permanent vehicular access to major non-wilderness forested watersheds is necessary to promote public health, safety, and general welfare through economically and ecologically sustainable management of forest health and fire hazard buildup. No existing public transportation system roads should be decommissioned unless there is demonstrated public support that the road is not needed for public recreation or for economically efficient management and protection purposes.

Objective 5 A: The transportation system will be managed as necessary to provide for wildlife security and prevent damage to soil, water, and the road surface. Wildlife security will be provided primarily through seasonal closures as recommended by Mace and Waller, 1997, Final Report Grizzly Bear Ecology In the Swan Mountains Montana, page 73, and by Jim Williams, Manager Region One Fish Wildlife and Parks (in consultation with Thier, Mace, and Manley), Moose Fire Post Project recommendations, September 12, 2002.

Objective 5 B: Gates will be used to implement closures on all system roads so that the road may be opened quickly with no ground disturbance for emergency access or forest management and recreation activities.

4. Flathead County Natural Resource Policy, Recreation, pg. 42

Amend by adding the following to Objective 1C:

Developed recreation sites offering a high level of amenities and services should be maintained or expanded by offering for bid long-term (25 years or more) leases for private enterprise investors to install, manage and maintain visitor improvements and services and to charge fees necessary to provide such facilities and services. Developed sites support the diverse recreation opportunities on which Flathead County economy depends. The Forest Service should provide free-of-charge low level improvements, especially those needed to accommodate dispersed public recreation such as trail head parking, outhouses, stock ramps and hitching rails, boat launch sites, trash containers, etc. Existing developed recreation site capacities should be increased by 25% by 2015.

Amend by adding the following objectives to Goal 3:

Objective 3 A: Road and trail management will maintain a reasonable balance of roads open for public use and roads closed to protect wildlife and to provide for non-motorized recreation opportunity distributed throughout the Forest. Fifty percent of the Flathead Forest is designated wilderness and classified non-motorized areas. A reasonable balance that provides non-motorized access opportunities in the multiple use half of the forest should result in a minimum of 75% of system roads open for public motorized access and use with non-motorized opportunities distributed across the Forest. Open roads should be distributed across the forest so that public use is not concentrated but dispersed throughout the Forest.

Objective 3 B: The multiple use trail system on non-wilderness lands must provide a reasonable balance of opportunities winter and summer for a broad spectrum of users. Since there are thousands of miles of wilderness and other special classified areas closed to motorized use, no more than 25% of the trails outside wilderness will be closed to motorized use. District Rangers will work with various user groups to identify the most desirable locations for restricted trails to provide quality opportunities for various users, equestrian, hikers, x-country skiers, mountain bikes, motorcycles, ATVs, 4x4's, as well as expanded multiple use trail opportunities.

Objective 3 C: No more than 25% of non-wilderness area should be restricted from snowmobiling, and that distribution of

use will also apply to high quality alpine ridges (as defined by soil inventory maps) outside of wilderness or other classified areas

5. Flathead County Natural Resource Policy, Wildlife, pg. 48

Amend by adding the following Objectives to Goal 1:

Objective 1A: Big game winter ranges should be managed to maintain desired forage-cover ratios over time to ensure sustained productivity. Fifty percent of forested big game winter ranges should be analyzed and treated using commercial timber harvest and other methods to bring the critical winter ranges into the desired forage-cover ratios by 2015, and 90-100 percent by 2020.

Objective 1B: Non-forested big game winter ranges will be renewed through prescribed burning every 15-25 years to maintain and improve forage production.

Flathead County Natural Resource Policy, Fisheries, pg. 49

Amend by adding the following Objectives to Goal 1:

Objective 1D: Barriers to fish migration (steep culverts, dams, etc.) often protect pure-strain native fish species from hybridization or from non-native predators. No barriers to fish migration (man-made or natural) will be removed unless genetic testing shows upstream fish populations to be hybridized or populated with non-native species that is the similar to fish populations below the barrier.

CONTINUATION OF PUBLIC HEARING: ESTABLISHMENT & DEFINITIONS OF DISTRICTS (GRAVEL TEXT AMENDMENT)

[10:06:41 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, County Attorney Jonathan Smith, Dave Skinner, Charles Lapp, Ardis Larsen, Fred Hodgeboom, Alan Butler, Pam Butler, Joe Granna, Kyle Schellinger, Steve Funke, Mark Schwager, Paul McKenzie, Kip Willis, Alrick Hale, Bob Sauer, Irene Vandehey, Julia M. Byrnes, Barb Sauer, Ronald Buentemeier, Gary Krueger, Bruce Tutvedt, Clare LaChappelle, Tom Clark, Mayre Flowers, Clerk Kile

Chairman Hall noted that because of a snowstorm the Establishment & Definitions of Districts public hearing is being continued from January 28, 2008.

County Attorney Jonathan Smith reviewed the changes made last week, which included taking out "interpreting the intent" of the statute, and changing it to "applying the statute", because we are applying the statute and not interpreting the intent.

He then added that he took out "PUD District", because we are trying to get away from calling PUD's Planned Unit Developments; as they are overlays of zoning and we want to get away from that. They are still called districts in other parts of the Subdivision Regulations, but as we amend them the concept is being taken out.

Also noted was the word "associated" should also be stricken from section 76-2-209. That it raises possible issues that were brought to his attention.

The final change was to change "zoned as" to "considered as", with what statute saying is that zoned is residential according to the Commissioners as defined by the Commission. He then added the main thrust of the change to the regulations is to take AG40 and AG80 out of the residential definition.

Harris summarized the proposed changes from the continuation of the public hearing. He then said they have two changes to the zoning regulations.

- 3.03.020.9 and in addition to the changes County Attorney Jonathan Smith just mentioned he clarified that AG40 and AG80 are primarily not residential zones, that they are for gravel pit operations which could not be prohibited but could be mitigated.
- 4.10.010 which would deal with the classic catch 22 situation where they require a state permit prior to issuing a conditional use permit, whereas, the state requires local land use approval prior to issuing their permit.

Harris then added that they believe their role is to provide guidance to the state and their role is to do the permitting. He then noted that they initiated the text amendments prior to the Supreme Court opinion that came out in January, with them being in between a Planning Board public hearing and recommendation and your public hearing. Harris stated that the Planning Board unanimously supported the text amendments. It was also noted that the Planning Office received 12 written comments, with 7 of them in opposition and 5 that were classified as others from West Valley residents that asked for protection. He further added that the amendments for clarification of AG40 and AG80 are not considered residential and have no bearing on the West Valley Zoning District; the West Valley Zoning District has been determined as residential and what is being proposed today will have no impact for anyone living inside the West Valley Zoning District.

Chairman Hall opened the public hearing to anyone wishing to speak in favor or opposition to the text amendments.

Bruce Tutvedt, 2335 West Valley Drive noted that he is on the Gravel Pit Committee that was appointed by the Commission. He then spoke in favor of the amendments that are now clearer than before. Tutvedt added that the reason AG40 and AG80 was proposed, was so the whole county wouldn't be defined as residential; they need to go somewhere and AG40 and AG80 are the biggest zones they have.

Kip Willis, 445 Lost Creek Lane noted that West Valley has the most restrictive planning and the county is going to change it to fall in line with everyone else. He then said that it is his hope that the residents dig their feet in the ground and not make any changes, because they would then be stuck with putting it before the County to make the changes. Willis then stated that there are only 33 farms left in the valley, and if they allow such a small minority to dictate where they will be outside the envelope when it comes to making the changes to the neighborhood plan that it will be worthless. He further added that this change will affect West Valley, because whether they like it or not their plan will be changed.

Chairman Hall stated that the goal with neighborhood plans is to bring them into compliance with state statute.

Kip Willis then said that if their plan is in violation then it will be changed.

Clare LaChappelle, 3580 Farm to Market Road presented a letter from the DEQ to the Commission in regards to her contaminated water source. She then said this has been going on for six years now and nothing has been done with her well that was contaminated due to farming nitrates. LaChappelle stated that residents in West Valley have never gotten any help from the Commissioners, except to have gravel pits stuffed down their throats. She then questioned Chairman Hall's residency and read a letter dated July 28, 2007, in which Gary Krueger and his wife noted they would like to keep their land designated as agricultural.

Alrick Hale, 3131 Hwy 2 East noted that he was also on the Gravel Pit Committee and supports the changes made.

Ron Buentemeier, representing himself and Montana Forest Products Company said that he too was on the Gravel Pit Committee and participated in the proposal that is before them today. He then added that he doesn't see anything wrong with it, however, he doesn't feel its worth all the effort put into it because it will not solve much of a problem. Buentemeier noted that so many of the neighborhood plans in the county have large blocks of timber land that will be declared as residential, if the resolution is passed. He further pointed out errors on a map (Designated Land Uses 2006) and stated that it is important to have correct zoning on a map before you adopt it. He then said the large land owners are being discriminated against with no one wanting them to do anything with their land. It was then stated AG40 and AG80 is a band-aid approach and is not fixing anything.

Tom Clark, 3070 Farm to Market Road commented that he is a small landowner and has no affiliation with gravel companies at all. He then noted that he was not appointed to the Gravel Pit Committee and feels that the Committee was stacked in favor of gravel operations. Clark then stated the 3 largest landholders in West Valley were present today, which includes: Krueger, Tutvedt and Stoltz. He then said that this is the start of a process where this will get passed and then the West Valley Plan will be changed to incorporate AG40 and AG80. Clark then added the West Valley Neighborhood Land Advisory Committee is stacked also.

Paul McKenzie, representing F. H. Stoltz Land & Lumber Company stated the amendments would not affect them. He then spoke about the map presented last week that he believes was in error; with the map showing a lot of AG20. McKenzie then added that he doesn't feel the amendments will fix the problem, and asked that they continue to look at the problem to see if there is a better long term comprehensive solution out there.

Irene Vandehey commented that we all know the disaster that was caused in West Valley because of gravel pits and by passing the text amendment it will cause the same disaster in other areas. She then asked who would do the studies that need to be done to get a gravel pit permit. Vandehey then stated that she feels they need to stop the process and fix the maps, fix the county roads and stop the giant disaster that is happening.

Mayre Flowers, Citizens for a Better Flathead commented that we all recognize that we need gravel resources within our community and we haven't despite over two years of work come up with a solution. She then asked that a new committee be appointed that will take applications from citizens who are committed to sit down and work together to try to find a more comprehensible solution. Flowers then added that we still haven't addressed the situation as to where the most appropriate places would be to have batch plants and where gravel resources are.

Charles Lapp, 3230 Columbia Falls Stage Road stated that he feels the text amendments that have been drafted are good. He then spoke about the need for accurate maps, the need to know where gravel resources are and the quality of the gravel resources.

Gary Krueger, 805 Church Drive commented that the legislature passed HB 209 that allows Flathead County to determine where you are going to have regulations for gravel pits and where you can deny them. He then said that as a gravel pit owner that he believes Flathead County does have a right to condition pits and to say where they can be allowed; so as a gravel pit owner they will know where they can site the pits with some degree of certainty. Krueger then added that he doesn't feel this is a total fix but it is taking care of a housekeeping issue.

Joe Granna, 322 Rhodes Draw stated that the amendments do not clean up the mess; that it leaves too broad of a spectrum as far as having open ends and questions. He then added that the West Valley residents have everything stacked against them with no representation for the regular citizen. Granna said the text amendments don't take into consideration anything about water quality, road infrastructure or locations to schools.

Clare LaChappelle, 3580 Farm to Market Road said in regards to AG40 and AG80 that consideration needs to be taken into account if a 320 acre gravel pit is put into a residential area. She then spoke about dust and noise.

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

Commissioner Lauman spoke in support of neighborhood plans and said that the Gravel Pit Committee sounds like a good idea and maybe that Committee needs to be expanded to a few more citizens so they can sit down around the table out in West Valley and discuss what is happening. He then added that he feels maps need to be accurate and that AG40 and AG80 is a step in the direction they need to go to move forth.

Commissioner Brenneman said that they are here because of action the legislation took a number of years ago (HB -591). He then stated that he feels it is a logical step and spoke in support of the amendments.

Commissioner Brenneman made a **motion** to adopt Resolution #955GT that includes Exhibit "A" and to authorize the publication of the Notice of Passage of Resolution of Intent and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion.

Chairman Hall stated that he appreciated the comments and also said he would not be opposed to adding members to the Gravel Pit Committee. He then said that no matter where a gravel pit is located there will be issues to deal with.

Aye - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 955 GT

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 28th day of January, 2008 and continued until February 7th, 2008, to consider changes to the text of the Flathead County Zoning Regulations proposed by Flathead County and the Flathead County Planning and Zoning Office;

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205, M.C.A., on January 15 and January 22, 2008;

WHEREAS, the Board of Commissioners heard public comment on the proposed amendments to the Flathead County Zoning Regulations at the hearings; and

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the proposed amendments.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board, and adopts this resolution of intention to (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, with those sections to read as set forth on Exhibit A hereto;

BE IT FURTHER RESOLVED, that notice of the passage of this resolution, stating the general character of the proposed changes to the Flathead County Zoning Regulations, that said proposed changes and those regulations are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication thereof, the Board will receive written protests to the adoption of the proposed changes, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests to the adoption of the proposed changes will be received from persons owning real property within any zoning district heretofore created by Flathead County, for a period of thirty (30) days after the first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED, that if forty percent of the free-holders protest the adoption of the proposed changes, the changes will not be adopted.

DATED this 7th day of February, 2008.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

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

By/s/Diana Kile,
Diana Kile, Deputy

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

Exhibit A

Section 3.03.020.9

For the purpose of applying Section 76-2-209, M.C.A., which addresses the application of zoning regulations for sand and gravel extraction operations and ~~associated~~ asphalt and concrete batch plants, any zoning district or use district, including those overlaid with a Planned Unit Development, which provides for ~~Dwellings, Single Family, Single Family Residential, Single Family Dwelling or Dwellings, Resort, 1 – 4 plex, or similar multi-family or other residential uses~~ categories as a permitted use, is zoned as residential. In those districts the zoning regulations adopted and provided for herein shall specifically apply to sand and gravel extraction and asphalt or concrete batch plant use, except that AG-40 and AG-80 are not considered residential zones.

Clean Version:

For the purpose of applying Section 76-2-209, M.C.A., which addresses the application of zoning regulations for sand and gravel extraction operations and asphalt and concrete batch plants, any zoning district or use district, including those overlaid with a Planned Unit Development, which provides for Single Family Residential Dwellings, Resort, 1 – 4 plex, or similar multi-family or other residential uses as a permitted use, is zoned as residential. In those districts the zoning regulations adopted and provided for herein shall specifically apply to sand and gravel extraction and asphalt or concrete batch plant use, except that AG-40 and AG-80 are not considered residential zones.

Section 4.10.010:

Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, 82-4-401, *et seq.*, M.C.A., as administered by the Montana Department of Environmental Quality, ~~Helena, Montana~~, but shall be in addition to the requirements of said Act. ~~Prior to the approval by the Board of a Conditional Use Permit, a reclamation contract shall be signed and approved by the owner or operator and the Montana Department of Environmental Quality.~~

Clean Version:

Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, 82-4-401, *et seq.*, M.C.A., as administered by the Montana Department of Environmental Quality, but shall be in addition to the requirements of said Act.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intent (Resolution No. 955 GT) on February 7, 2008, to adopt proposed amendments to the text of the Flathead County Zoning Regulations.

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

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the adoption of the proposed changes to the Flathead County Zoning Regulations, from persons owning real property within any zoning district heretofore created by Flathead County whose names appear on the last completed assessment role of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

Dated this 7th day of February, 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 February 12 and February 19, 2008.

7:00 a.m. Commissioner Brenneman to Flathead Basin Commission Breakfast Meeting w/ AG Producers
8:30 a.m. AOA TAB meeting @ Eagle Transit

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

FRIDAY, FEBRUARY 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.

8:00 a.m. Commissioner Brenneman to Mosquito Control Board meeting @ Earl Bennett Building
11:00 a.m. Commissioner Brenneman to meeting w/ Doug Rauthe & Jim Atkinson re: AOA
11:00 a.m. Commissioner Lauman to Friends in Need meeting @ Eagle's Hall

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 11, 2008.
