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## MONDAY, FEBRUARY 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.

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

Present for public comment included: Janet Thon, John Cloninger and Whitey Boughton

Janet Thon, 40 West View Drive stated that she and John were part of the group that sued the County Commissioners in regards to their decision on Haskell's Pass Subdivision, which is on the agenda today to be rescinded. She then noted that she is still apprehensive about Plum Creek's decision and what they are going to do.

Whitey Boughton, Flathead Citizens for Paved Roads stated that he has talked to Joe Russell in regards to a tarp ordinance for gravel trucks. He then noted the group is working on an impact fee that they will be bringing before the Commission that would add a dollar a yard to gravel sold in the county; with the money collected to be used strictly for paving roads in the County.

Commissioner Brenneman PT asked that when the impact fee proposal is brought to them that they have an implementation plan worked out with gravel pit owners.

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

### **MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS**

[9:00:18 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Fair Director Jay Scott, Clerk Kile

Scott reported things are going well at the Fairgrounds with the floor project and re-modeling of the office completed. He then noted that he would be going to a Chamber of Commerce meeting in Coeur d'Alene, Idaho along with three other board members. Scott then added some barns will be torn down to make additional space for handicapped parking.

### **CONTINUATION OF COS REVIEW: BUDIN**

[9:15:36 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planner Andrew Hagemeyer, Patrick A Budin, Dawn Marquardt, Debbie Shoemaker, Clerk Kile

Hagemeyer noted the parcel is located on Over Look Ridge off of Foy's Canyon Road and is accessed from Foy's Canyon Road. The proposal is to transfer 4.19 acres to Todd Budin, 3.10 acres to Andrew Budin and 3.46 acres will be retained by the owner.

Commissioner Brenneman PT questioned the applicant in regards to his intentions with the property.

Patrick Budin explained that his intentions are to give the property to his children who would build on it.

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

### **OPEN BIDS: PATROL CARS/ SHERIFF'S OFFICE**

[9:31:12 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

Bids received with bid bonds enclosed from:

Scarff Auto Center

2008 GMC Yukon 1500 Commercial

\$32,404.52

Eisinger Motors

	2008 Chevrolet Impala Police Pkg.	\$18,111.00
	2008 Chevrolet Tahoe Special	\$28,378.00
DePratu	2008 Ford Crown Victoria Police Interceptor	\$21,204.95
	2008 Ford Expedition XLT 4X4	\$28,876.92
Don 'K'	2008 Tahoe 4WD 1500 Commercial	\$31,020.00
	2008 Chevrolet Impala Police 4 Dr. Sedan	\$20,029.00
Bison Ford	2008 Ford Explorer	\$23,136.95
	2008 Ford Expedition	\$27,876.92
	2008 Ford Crown Victoria Police Interceptor	\$21,769.97

Commissioner Lauman made a **motion** to refer the bids to the Sheriff's Office to take under advisement. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

#### **CONSIDERATION OF RESCISSION: HASKELL'S PASS SUBDIVISION PRELIMINARY PLAT APPROVAL**

[9:45:07 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

County Attorney Jonathan Smith, Planning & Zoning Director Jeff Harris, Peter Strellinger, Scott Hagel, Janet Thon, John Cloninger, Clerk Kile

County Attorney Jonathan Smith noted that a lawsuit was filed after preliminary plat approval was granted for Haskell's Pass Subdivision, with the plaintiff's arguing that there are several deficiencies in the EA and the application. The lawsuit is now pending before the Judge on a summary judgment, and it looks as if they stay with the lawsuit and it runs its course and even if they win in District Court they would be looking at an appeal for another 1 to 1 ½ years. The applicant is thinking their best bet is to rescind preliminary plat approval and start over and gather more information in the mean time. He then added they do have DEQ approval and therefore, they feel it would be a benefit to them time wise to start over and run through the process again. The request is for the Commission to rescind preliminary plat approval.

Peter Strellinger with Plum Creek Land Company stated that from their perspective that it has been a painful, costly and frustrating process, and that the best bet would be to take the course of action in having preliminary plat approval rescinded. He then added that it would clear up any doubt whatsoever in regards to the adequacy of their application and approval. He further added that it has been difficult through the legal process to have that dialogue with them.

Jonathan Smith added that there is no guarantee that the subdivision would be approved again.

Peter Strellinger noted that he realized that.

Commissioner Brenneman PT added that it would die a natural death if no one did anything with it by June 15, 2009. He then said that from what he understood him to say, was that part of their plan would be to meet with those that live in the area and have concerns, and possibly adjust the application to address their concerns.

Peter Strellinger stated that they have an open mind and will consider any discussion along those lines.

Commissioner Brenneman PT stated that they wouldn't be particularly receptive to seeing the same application exactly the same as it came through the first time.

Harris said that what they ask from the landowner or developer who already has preliminary plat approval is to submit a new plat that would terminate their existing plat; so there are not two preliminary plat approvals on the same piece of property.

Commissioner Lauman stated that he totally supported them going back to the community and ironing out the differences and moving forward again.

Commissioner Lauman made a **motion** to rescind Haskell's Pass Subdivision Preliminary Plat approval. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

#### **BI-MONTHLY MEETING W/ KAROLE SOMMERFIELD/ 4-H OFFICE & WES GWALTNEY/ EXTENSION OFFICE**

[10:04:18 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Assistant Mike Pence, Karole Sommerfield, Wes Gwaltney, Clerk Kile

Sommerfield reported this year they have tagged 45 steers, between 140 to 150 hogs and the lambs are up also. She then noted that overall there are more kids involved in 4-H this year and that showmanship is now a requirement. Sommerfield then said a market contract is being done too, that lays out all the expectations for the year. Also noted was their yearly food fair

was held at the Whitefish Mountain Mall. She then reported that a 4-H member from the Flathead Valley has been chosen to go to Mississippi for the National 4-H Council and that she will be attending a "Real Colors" personality IQ training in Bozeman.

Wes Gwaltney reported they received grants for radon test kits and that educational meetings were held in the county in regards to radon awareness. He then noted that AOA will be distributing some of the kits. Gwaltney then stated the master gardener Classes filled up quickly, small acreage workshops were attended by approximately 20 families, pesticide applicator training was held with 18 individuals being certified and a hay meeting will be held at Fish Wildlife & Parks in regards to hay productivity.

**DOCUMENT FOR SIGNATURE: GRANT AGREEMENT AMENDMENT NO. 1/ BIGFORK STORM WATER SYSTEM PROJECT**

[10:22:57 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 Brenneman PT noted that the agreement is to extend the deadline for the money acquired from DNRC for the storm water project.

Commissioner Lauman made a **motion** to approve the agreement to extend the Bigfork Storm Water System Project. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**CONSIDERATION OF PRINT BIDS: AOA AND PLANNING & ZONING OFFICE**

[10:23:57 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 print bid from Great Northern Printing for 4 sets of 500 business cards for Planning & Zoning for \$99.80 and 10,000 envelopes for \$320.00 from North Star Printing for AOA. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**PRELIMINARY PLAT: DEER RIDGE**

[10:31:35 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

Planner Alex Hogle, Narda Wilson, Scott Santa, Helge Ringisal, Clerk Kile

Hogle entered into record Staff Report FPP 07-40. He then reviewed the application submitted by Scott Santa with technical assistance from Narda Wilson for preliminary plat approval of Deer Ridge Subdivision; a major subdivision that will create one 20.02 acre residential lot from an existing 36.35 acre tract located at 10955 Hwy 2 West. Lot 1 is proposed to use an individual well and septic system and the currently developed remainder lot would continue to use an existing well and individual septic system. Access to Lot 1 is proposed to be from an existing approach from Hwy 2 West that would be shared with the remainder lot.

Commissioner Lauman made a **motion** to adopt Staff Report FPP 07-40 as Findings of Fact. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Narda Wilson, 184 Midway Drive, representative for the property owners pointed out that Finding of Fact #13 isn't accurate. She then asked that condition #15 be deleted and leave the subdivision as proposed. Also asked was that condition #18 be deleted in regards to no further subdividing of Lot 1.

Discussion was held relative to condition #18 in which it was stated the rationale for the condition is for public health and safety reasons.

Commissioner Brenneman PT stated that he agrees that if the remainder is going to be subdivided that we need to consider the easement that accesses the property at that time; that the lot needs to be adjusted to the western side of the eastern lot.

Commissioner Lauman said he felt we need to look at Lot 1 and the remainder is not part of it.

Hogle also noted they are asking for a variance.

Narda Wilson stated that she is unclear about why they are focusing on the easement as being non-compliant; if a cul-de-sac was created it would simply be a driveway. She then added if they had known this was such an issue they would have put a cul-de-sac in. Wilson noted that physical and legal access to county standards is being achieved and the only thing they are

asking for a variance for is to be able to access directly onto Hwy. 2. It was stated to have access to county standards it could be achieved by putting in a cul-de-sac at the bottom of the lots.

Commissioner Brenneman PT stated that the point is the 20' easement isn't really an issue for the subdivision they are considering.

Narda Wilson then asked why they are re-locating the boundary.

Hogle then stated that an alternative would be to simply remove the 20' easement.

Commissioner Brenneman PT said that he doesn't want an easement to be a part of the consideration; that it is obviously there to access a remainder that is not being considered a part of the subdivision.

Narda Wilson then said that it is not shown on the plat and they can simply go back and record an easement. That it did not even need to be shown and they would prefer that it is left as it is.

Scott Santa stated that they would be perfectly happy in building a cul-de-sac right off the highway, if that would solve the problem. He also noted that he has met with MDOT and part of their proposal is that he will be removing some dirt from their right-of-way for approximately 150' so the sight distances would be alright.

Hogle said that he felt a hammerhead would be more appropriate for them to build instead of a cul-de-sac; that it would be a way for them to develop a subdivision of this type and still maintain compliance with subdivision regulations, thereby not requiring a variance. However, what has been proposed is a request for a variance.

Harris stated that to allow a lot line down the middle of a driveway is a concern. He further added that a cul-de-sac or hammerhead would provide legal access, but it doesn't resolve the issue of the driveway being down the middle of the lot line.

Hogle said if this is approved today as proposed the access for the remainder would be via a non-compliant pre-existing and possibly dysfunctional access. He then added that the easiest fix would be to approve the subdivision without the easement and as condition #13 states: Have their property line against the western edge of the existing driveway.

Narda Wilson then added that they would agree to condition #15 and would like condition #18 returned back to the original language proposed by staff.

Commissioner Brenneman PT then noted that condition # 18 would require them to re-survey the lot.

Commissioner Lauman made a **motion** to approve preliminary plat for Deer Ridge as amended. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

#### 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.
  - f.

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]
15. The eastern boundary of Lot 1 shall be reconfigured to extend only to the western edge of the existing 10-12 foot wide dirt and gravel driveway, or be situated elsewhere on the property.
16. The following statement shall appear on the face of the final plat:
  - a. The owners of Lot 1 shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities."
17. 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 structures
  - c. The owners of Lot 1 shall abide by the guidelines set forth in the Fire Prevention and Control Plan
18. The following statement shall appear on the face of the final plat:
  - a. There shall be no further subdivision of Lot 1 unless the approach and lot access are improved to current Flathead County road design and construction standards.
19. 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]

**PRELIMINARY PLAT: WHITEFISH HILLS PHASE 1, LOT 3**

[11:14:42 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, Erica Wirtala, Pat Hierl, Eric Mulcahy, Clerk Kile

Hogle entered into record Staff Report FPP 07-38. He then reviewed the application submitted by David and Patricia Hierl with technical assistance from Sands Surveying for preliminary plat approval of Whitefish Hills Phase 1, Lot 3; a subsequent minor subdivision that would create two residential lots in a previously platted subdivision. Both lots would be 20 acres in size and would access from an existing paved internal subdivision road within Whitefish Hills Phase 1 Subdivision. The Planning Board did recommend changes to Findings of Fact.

Commissioner Lauman made a **motion** to adopt Staff Report FPP 07-38 as Findings of Fact. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to approve preliminary plat of Whitefish Hills Phase 1, Lot 3 as amended by the Planning Board. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

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. 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]

3. 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]
4. 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]
5. 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]
6. 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.
  - f.

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.

7. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), MCA]
8. 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]
9. 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]
10. Preliminary plat approval is valid for three years. [Section 4.4.20, FCSR]
11. A Dust Control Plan that meets the standards outlined in Section 4.7.14 of the Flathead County Subdivision Regulations shall be submitted prior to final plat approval
12. 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
13. 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]

**FINAL PLAT: SPRUCE MEADOWS**

[11:25:51 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 Eric Giles, Erica Wirtala, Eric Mulcahy, Clerk Kile

Giles reviewed the application submitted by Spruce Meadows Development with technical assistance from Sands Surveying for final plat approval of Spruce Meadows; a subdivision creating 30 residential lots located off Lake Blaine Road. Preliminary plat approval was granted in July 2005, subject to 18 conditions.

Commissioner Lauman made a **motion** to approve final plat for Spruce Meadows with an SIA. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**FINAL PLAT: DENISE ESTATES, PHASE 3**

[11:30:11 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 Dianna Broadie, Erica Wirtala, Clerk Kile

Broadie reviewed the application submitted by Emily Wagar with technical assistance from Sands Surveying for final plat approval of Denise Estates, Phase 3; a subdivision creating 2 residential lots, located on Pleasant Valley Road in Marion. Preliminary plat approval was granted on July 13, 2006, subject to 12 conditions.

Commissioner Lauman made a **motion** to approve final plat of Denise Estates; Phase 3. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**MEETING W/ PEG ALLISON/ CLERK OF COURT RE: NEW HIRE POSITION**

[11:35:05 AM](#)

Members present:

Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman

Members absent:

Chairman Gary D. Hall

Others present:

HR Director Raeann Campbell, Clerk of Court Peg Allison, Clerk Kile

Peg Allison reviewed the Flathead County District Court Statistics. She then noted that employees are leaving because of stress and for better paying jobs. She then asked that she be allowed to fill a new hire position that was budgeted for.

Commissioner Lauman made a **motion** to approve the request for a new hire for the Clerk of Court. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**CONSIDERATION OF HR TRANSMITTAL: PUBLIC SAFETY COMMUNICATIONS SYSTEMS MANAGER/ OES**

[12:00:51 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, OES Director Mark Peck, Clerk Kile

Peck reported the new position is for a Communications System Manager for OES that will be focusing on consolidating the Dispatch Center.

Commissioner Lauman made a **motion** to approve the HR Transmittal for a Public Safety Communications System Manager for OES. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**Commissioner Hall to MACo Midwinter Conference in Billings**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 12, 2008.

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**TUESDAY, FEBRUARY 12, 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 PT closed the public comment period.**

**QUARTERLY JUVENILE DETENTION FACILITY TOUR**

[9:57:19 AM](#)

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

**OPEN BIDS: GRAVEL PUP TRAILER & DIESEL PLOW TRUCK/ ROAD DEPT.**

[10:02:15 AM](#) & [10:58:45 AM](#)

Members present:  
Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman  
Members absent:  
Chairman Gary D. Hall  
Others present:  
Shop Superintendent Ted Gilbertson, Operations Manager / Road & Bridge Department Guy Foy, Bill Cooper,  
Clerk Kile

**Gravel Pup Trailer**

Bids received with bid bonds enclosed from:

Rocky Mountain Truck Center	\$ 29,880.00
3V Distributing	\$ 31,500.00

**Diesel Plow Truck**

Bids received with bid bonds enclosed from:

I - State Truck Center for	2009 STERLING MODEL PL	\$85,221.00	\$90,032.00
Missoula Truck Sales for	2009 7600 INTERNATIONAL	\$84,980.80	

Commissioner Lauman made a **motion** to refer the bids to the Road Department to take under advisement. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to refer the additional bid to the Road Department to take under advisement. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: MDOT 5311 CONTRACT/ EAGLE TRANSIT**

[10:07:26 AM](#)

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

Commissioner Lauman made a **motion** to approve the MDOT Contract for Eagle Transit. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**FINAL PLAT: COTTAGE LANE ESTATES**

[10:15:54 AM](#)

Members present:  
Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman  
Members absent:  
Chairman Gary D. Hall  
Others present:  
Planner Dianna Broadie, Clerk Kile

Dianna Broadie reviewed the application submitted by Tungsten Holding, Inc., with technical assistance from Flathead Geomatics for final plat approval of Cottage Lane Estates; a subdivision creating 5 residential lots on the east side of Hwy 2 West of Cottage Lane. Preliminary plat approval was granted on March 6, 2006, subject to 26 conditions.

Commissioner Lauman made a **motion** to approve final plat of Cottage Lane Estates. Commissioner Brenneman PT **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

**MONTHLY MEETING W/ MARK PECK, OES**

[10:30:25 AM](#)



Members present:  
Commissioner Joseph D. Brenneman PT  
Commissioner Dale W. Lauman  
Members absent:  
Chairman Gary D. Hall  
Others present:  
OES Director Mark Peck, Clerk Kile

Peck spoke about fuel mitigation in regards to property rights and reported a letter was sent from the Clerk and Recorder and Treasurer to each individual Fire Department in regards to their banking practices. He then stated that more involvement is needed from the Fire Chief's in regards to wildland urban interface; with them being proactive in setting county wide standards. It was then noted that a demonstration was given on an Emergency Management Software Package (Web EOC), which is a data base for resource tracking where individual Fire Departments can look at what's going on in any given area by logging onto the web-site. Peck also spoke about the AFG grant for portable hand held radios and the OES budget.

**11:00 a.m. Commissioner Hall to MACo Midwinter Conference in Billings**  
**11:00 a.m. Commissioner Brenneman to meeting w/ Dave Prunty & Guy Foy re: Spring Weight Limits**  
**1:15 p.m. 911 meeting @ Justice Center**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 13, 2008.

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### WEDNESDAY, FEBRUARY 13, 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.

**10:00 a.m. Commissioner Hall to MACo Midwinter Conference in Billings**  
**10:00 a.m. Commissioner Lauman to North Fork Interlocal Midwinter meeting @ Glacier National Park Community Building**  
**11:00 a.m. County Attorney meeting @ Co. Atty's Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 14, 2008.

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### THURSDAY, FEBRUARY 14, 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.**

Present for public comment included: Shelley Gonzales, Mike Touris, Tricia Touris, Tammi Fisher and Erica Wirtala

Shelly Gonzales, 4747 Foothills Road asked if the commission had read the letter prepared by BLUAC.

Chairman Hall then asked if she received a copy of the letter from Sands Surveying in which Gonzales stated that they did not.

Shelly Gonzales stated that on behalf of BLUAC that predictability is based upon the Bigfork Neighborhood Plan of 1993 and the new volume which is ready to go to the Planning Board. She then added that in predictability they have set aside areas designated for light industrial development and commercial development. Gonzales then said that she hopes they will find that spot zoning is not something that is appropriate based on the Bigfork Neighborhood Plan and urged them to respect that. She then stated that BLUAC and the Planning Office are more than anxious to work with Mr. Touris and Mr. Sneed to try to resolve this in another matter other than spot zoning.

Erica Wirtala, spoke as the representative for Mike Touris and Chuck Sneed and commented that letters were sent to the Commissioners in December, which was a response to the Staff Report that was written with a denial in mind, and all the Findings of Fact had been skewed to support the recommendation of denial. She then said that in her opinion a professional planner should assemble all of the Findings of Fact for a particular application, and then makes a recommendation, not in the reverse order; by doing it in the reverse order several of the goals and policies that were utilized were either omitted or cherry picked to support the argument. The first general goal of the 1993 Bigfork Master Plan that is in use today, says that it supports economic development and they would work together to create economic development, and this was left out of the Staff Report. Wirtala then cited other inaccuracies that were left out of the Staff Report, such as this proposal will create 31 lots, which is a logistical error in mapping, that 31 lots could not possibly be put on 5 acres, no wetland was ever identified, missing adjoining land use of Martel Construction, which is a significant impact on the property and character of the district, the traffic light that was newly installed within ½ mile in relation to traffic concerns had not been addressed, so the entire letter written in December picked through the Staff Report. The second letter submitted in February was also addressed to the Commissioners in which it is not new information, but an alternative Findings of Fact that she wrote as she sees them. She then added that the Planning Office was hesitant to adopt the alternative Findings of Fact, since the Commission had already adopting Findings of Fact earlier. She further spoke about the criteria MDOT uses to review approaches, evaluation criteria used by the planner and spot zoning. Wirtala further commented that the Commission spoke in favor of the zone change and stated that it only made common sense, but the Findings of Fact did not support their opinion.

Tammi Fisher, spoke as a legal representative for Mike Touris and Chuck Sneed and then briefly summarized the law in terms of spot zoning. She then added that spot zoning is a legal determination that has to be made with a number of criteria that

have to be met for something to be declared spot zoning. Fisher noted that she had a conversation with County Attorney Jonathan Smith in which they debated a couple of issue. She then referred to MCA code that says that you cannot rely solely on growth policy to deny an application for a zone change and cited several examples.

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

**MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE**

[9:07:17 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Clerk Kile

Harris presented to the Commission a Year End Subdivision Report, Violation Activity Synopsis, Family Transfer Report and Preliminary Major Subdivision Application Summary Report and briefly summarized each. He then stated they are still seeing dynamic growth in subdivisions and abuse of family transfers ever increasing. Also reported was the work load in the Planning Office is constant and has not slowed down.

Discussion was held relative to the 509D Resolution and filling the vacant Planner positions.

**TAKE ACTION: GUNSIGHT VIEW**

[9:40:42 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Dale W. Lauman

Others present:

Clerk Kile

Commissioner Brenneman stated that as a matter of record preliminary plat approval for Gunsight View expired on February 17, 2008 and is now a dead file; it will not go to final plat.

**DOCUMENT FOR SIGNATURE: PROFESSIONAL SERVICES CONTRACT FOR DR. DAVID SCHAEFER/ SHERIFF'S OFFICE**

[9:42:06 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Dale W. Lauman

Others present:

Clerk Kile

Commissioner Brenneman made a **motion** to approve the professional services contract for Dr. David Schaeffer. Chairman Hall **seconded** the motion. **Aye** - Brenneman and Hall. Motion carried by quorum.

**CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT: TOURIS & SNEED ZONE CHANGE/ BIGFORK ZONING DISTRICT**

[9:45:50 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman

Members absent:

Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Assistant Planning & Zoning Director B J Grieve, Planner Eric Giles, County Attorney Jonathan Smith, Shelly Gonzales, Mike Touris, Tricia Touris, Tammi Fisher, Erica Wirtala, Gary Krueger, Sally Janover, Clerk Kile

Grieve noted the Staff Report was presented on January 10, 2008, at which time the meeting was continued until such time the Commission had time to review and consider findings. It was added the Planning Board recommended denial with a 5-2 vote.

Chairman Hall asked if the Planning Office had any comments on the letter received from Sands Surveying.

Grieve then added that he did meet with the applicant and their technical representative to discuss what would take place today, with what is being done today being somewhat unprecedented. He further added that the very first time the applicant came to them they were told the Planning Office would not support the application with it being non-conforming to the plan. Grieve stated that for reference he brought State Law, Zoning Regulations as well as the Bigfork Land Use Plan Map. Also noted was a draft copy of the Future Land Use Map with new designations to accommodate growth is available.

Discussion was held relative to the 4 criteria that have to be met.

Grieve noted that under SAG5 zoning that there is a use allowed for construction business's to operate out of their home. He further noted that unless the applicant was to live in the current structure that exists then it would be a zoning violation under SAG5.

Chairman Hall asked if the letter received from Sands Surveying was reviewed in regards to new findings.

Giles said that they can't consider the draft of BLUAC.

Chairman Hall said that we heard this morning that BLUAC would like to be able to work with the applicant to help them to be able to operate.

Grieve noted that when the property was purchased it was vacant and the steel structure was built later. He then said the property to the West (United Tool Rental) is an existing non-conforming use and under zoning regulations it is not a zoning violation, and can continue to operate as an existing non-conforming use in its current form. He further added if the business was to cease operation for over 180 days, that day 181 would be considered a zoning violation.

Commissioner Brenneman said that the decision to delay was for further consideration to allow them to consider the findings of fact, and after reviewing the Staff Report, Findings of Fact and proposed Findings of Fact in depth that they are not findings that he can adopt. He further added that during the previous hearing Findings of Fact were adopted and he continues to be in support of the findings, which clearly do not support the zone change. Brenneman then asked what the whole story is with the zone change being proposed not addressing what is stated as the intent of the purpose.

Commissioner Brenneman made a **motion** to adopt Resolution #956CG in denial of the zone change.

Chairman Hall said that in his review of the letters of support from the neighbors and testimony from Tammi Fisher that he is not in support of denial. He then added that he would prefer to send it back to BLUAC.

Shelly Gonzales stated that BLUAC would prefer that they make a ruling, and if it does die for a lack of second that they would be happy to help the applicant re-apply or meet with the Planning Office and BLUAC to try to see which way to proceed. She then asked that it be resolved today and to then go back and re-work the process.

Jonathan Smith noted that he does not agree with Tammi Fisher's comments in regards to MCA.

Harris stated that if it is sent back through the process and to the Planning Board that has already held a public hearing and made a recommendation, that they would be sending a message that they didn't agree with what they decided, and are asking them to re-affirm or change their minds.

Commissioner Brenneman noted that Findings of Fact were adopted unanimously.

Chairman Hall said that there is now a lot of information that unfortunately was not presented before.

Commissioner Brenneman said if there are no new changes proposed to the findings that they would have to re-open the consideration of findings.

Erica Wirtala stated that if you adopted the Findings of Fact and they are incorrect, that it seems to be logical to open the findings up again. She then added that there are no wetlands and an unsafe traffic condition with 31 lots fronting Hwy 83 is false.

Giles stated that lots directly accessing arterial roads cause a safety hazard.

Erica Wirtala stated that it could never happen according to the Subdivision Regulations and MDOT. She then noted that errors were pointed out in her response.

General discussion was then held relative to Subdivision Regulations, the Bigfork Master Plan and inconsistent Findings of Fact.

Commissioner Brenneman noted that the applicant bought the property fully aware of what his options would be for the property.

Chairman Hall said that common sense and neighbor support should prevail and then commented that there was some hope that they might get this through and that it is unfortunate. He then added that he hopes BLUAC will work with the applicant and start the process over again.

Chairman Hall **seconded** the motion to adopt Resolution #956CG in denial of the zone change request.

Grieve stated that for the sake of making it public record that there is a provision in the zoning regulations that say the Zoning Administrator has the authority to refuse to accept an application if it has been denied on the same property, for a period of one year.

Erica Wirtala then asked how BLUAC intends to be able to help them out with the zone change. She then added that BLUAC made their decision without the benefit of a Staff Report and that they have been against this application from the beginning.

Grieve further noted that the information the applicant has received from the Planning Office has been consistent from the start.

Tammi Fisher then asked that the Commission set forth on paper what the basis for denial is.

**Aye-** Hall and Brenneman. Motion carried by quorum.

RESOLUTION NO. 956 CG

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 10<sup>th</sup> day of January, 2008 that was continued until February 14, 2008, concerning a proposal by Michael D. and Patricia A. Touris and William L. Sneed,

to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) to I-1 (Light Industrial);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on December 24 and December 31, 2007;

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 the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and hereby denies the request to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) to I-1 (Light Industrial).

DATED this 14<sup>th</sup> 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/Diana Kile  
Diana Kile, Deputy

**12:00 p.m. Commissioner Brenneman to Bigfork Steering Committee Pubic Forum @ Bethany Lutheran**  
**2:00 p.m. Commissioner Lauman to AOA Board meeting @ The Summit**  
**5:00 p.m. Road Advisory Committee @ Solid Waste Conference Room**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 15, 2008.

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### **FRIDAY, FEBRUARY 15, 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.

**9:30 a.m. Commissioner Lauman to Mental Health Council meeting in Kalispell**  
**1:00 p.m. Commissioner Lauman to CDC meeting in Kalispell**  
**1:00 p.m. Commissioner Brenneman to Glacier National Park Transportation Plan meeting @ Kalispell MDOT Office.**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on February 18, 2008.

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