

Notice: These minutes are paraphrased and reflect the proceedings of the Board of Commissioners. MCA 7-4-2611(2) (b).

MONDAY, NOVEMBER 4, 2013

Audiofile

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Holmquist, Commissioner Scott and Krueger, and Clerk Robinson were present.

Chairman Holmquist led the Pledge of Allegiance.

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

Ron Thiebert, 3795 Highway 2 West asked the commission to participate in supporting horse racing this next year by matching what the state horse racing commission is willing to put forth which is \$30,000. They would need \$100,000 to run for three days he stated. He noted a couple years ago when horse racing was held that Flathead County did not help out any and at that time there were 7,500 in attendance for the three days of racing; at five dollars apiece that is \$35,000 just in gate revenue, and does not include parking and concessions. Thiebert further spoke about upcoming fair board and airport board appointments. He also asked the commission to consider making a portion of the original fairgrounds site as an historical site.

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

DOCUMENT FOR SIGNATURE: CDBG PLANNING GRANT MODIFICATION/ GATEWAY COMMUNITY CENTER PROJECT

10:15:00 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Grant Writer Debbie Pierson, Sherry Stevens, Clerk Kile

Absent: Commissioner Calvin L. Scott

Pierson reported the modification to the CDBG planning grant is an extension to the contract date to June, 2014 in order to complete the PAR.

Commissioner Krueger made a **motion** to approve the document for signature. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

AWARD RFP: GATEWAY COMMUNITY CENTER PRELIMINARY REPORT

10:16:50 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Grant Writer Debbie Pierson, Sherry Stevens, Clerk Kile

Absent: Commissioner Calvin L. Scott

Pierson reported the RFP's submitted were scored by a committee, and stated their recommendation is to move forward with contract negotiations with Architects Design Group.

Commissioner Krueger made a **motion** to award the RFP as presented (Architects Design Group). Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: REQUEST FOR DECLARATION OF SURPLUS PROPERTY, I.T.

10:17:42 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Clerk Kile

Absent: Commissioner Calvin L. Scott

Commissioner Krueger made a **motion** to approve the document for signature/ surplus property for I.T. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

CONSIDERATION OF CIP AMENDMENT: VEHICLE, HEALTH DEPARTMENT

10:19:42 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Health Dept. Director Joe Russell, Finance Director Sandy Carlson, Clerk Kile

Absent: Commissioner Calvin L. Scott

Russell noted the request is to replace a vehicle totaled in the EBB parking lot, and another vehicle they would like to purchase using grant funding from MEDICAID health improvement.

Commissioner Krueger made a **motion** to approve the amendment to the Health Departments CIP. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

MONDAY, NOVEMBER 4, 2013
(Continued)

PUBLIC HEARING: NW DEV GROUP, LLC ZONE CHANGE/ EVERGREEN AND VICINITY ZONING DISTRICT

10:30:22 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Planner Eric Mack, Erica Wirtala, Clerk Kile

Absent: Commissioner Calvin L. Scott

Mack entered into record FZC 13-03; a zone change application submitted by NW Dev Group, LLC to change zoning from SAG-10 to R-4 on three tracts totaling 110 acres in size near Rose Crossing in the Evergreen & Vicinity Zoning District. The applicant is requesting the zone map amendment in anticipation of future development on the subject property. Mack summarized the Planning Boards review and stated a recommendation of approval was forwarded to the commission with 15 findings of fact.

Chairman Holmquist opened the public hearing to anyone wishing to speak in regards to the zone change.

Erica Wirtala, representing NW Dev Group, LLC summarized ownership of the property, and explained the inter-local agreement between Evergreen Water & Sewer District and the City of Kalispell allows properties to utilize the Evergreen Water & Sewer District lines with the caveat that they had to develop to the City of Kalispell's urban standards. She pointed out a preliminary plat will come before them in a few weeks that only encompasses 36 acres out of the total 110 acres being zoned. Wirtala spoke about traffic volume; pointed out the location is a good place for high density residential; it is close to the school and has great access to parkland and bike trails; the location is close to the airport, services and retail.

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

Commissioner Krueger made a **motion** to adopt Resolution 797FO. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

RESOLUTION NO. 797 FO

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 4th day of November, 2013, to consider a request by Thompson Farms, LLC, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from SAG-10 (Suburban Agricultural) to R-4 (Two-Family Residential).

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on October 21 and October 28, 2013;

WHEREAS, the Board of Commissioners received public comment on the proposed zoning change; and

WHEREAS, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed zoning change

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., hereby adopts this resolution of intention to change the zoning for a portion of the area in the Evergreen and Vicinity Zoning District from SAG-10 to R-4 in Tracts 3A, 3B and 3BA in Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana and further described as:

Tract 2 of Certificate of Survey No. 19112, lying and being in the North Half of the Northeast Quarter (N ½ NE ¼) of Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. (Tract 3A)

Parcels 1 and 2 of Certificate of Survey No. 16242, lying and being in the East Half of the Northeast Quarter (E ½ NE ¼) of Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. (Tract 3BA and 3B)

The property is located at 2735 Highway 2 East, containing 110.24 acres.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Evergreen and Vicinity Zoning District to be changed, the general character of the proposed change in regulations for the area, 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 Evergreen and Vicinity Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED that written protests will be received from owners of real property within the Evergreen and Vicinity 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 Evergreen and Vicinity Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 4th day of November, 2013.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Pamela J. Holmquist
Pamela J. Holmquist, Chairman

By/s/Gary D. Krueger
Gary D. Krueger, Member

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

By/s/Absent
Calvin L. Scott, Member

**MONDAY, NOVEMBER 4, 2013
(Continued)**

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION
EVERGREEN AND VICINITY 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. 797 FO) on November 4, 2013, to change the zoning designation in a portion of the Evergreen and Vicinity Zoning District from SAG-10 (Suburban Agricultural) to R-4 (Two-Family Residential).

The boundaries of the area proposed to be amended from SAG-10 to R-4 are located at, Tracts 3A, 3B and 3BA in Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana and further described as:

Tract 2 of Certificate of Survey No. 19112, lying and being in the North Half of the Northeast Quarter (N ½ NE ¼) of Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. (Tract 3A)

Parcels 1 and 2 of Certificate of Survey No. 16242, lying and being in the East Half of the Northeast Quarter (E ½ NE ¼) of Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. (Tract 3BA and 3B)

The property is located at 2735 Highway 2 East, containing 110.24 acres.

The proposed change would generally change the character of the zoning regulations applicable to the property from a district 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, to an area designed to provide lot areas for urban development, requiring all public utilities and all community facilities, and allowing duplexes.

The regulations defining the SAG-10 and R-4 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the Clerk and Recorder, and the Flathead County Planning and Zoning Office, located at 1035 1st Avenue West, Kalispell, Montana, and on the Flathead County Planning and Zoning Office's website, at: http://flathead.mt.gov/planning_zoning. Documents related to the proposed amendment are also on file for public inspection at the Office of the Clerk and Recorder and at 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 Evergreen and Vicinity Zoning District from persons owning real property within that 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 November, 2013.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By/s/Pamela J. Holmquist
Pamela J. Holmquist, Chairman

By/s/Diana Kile
Diana Kile, Deputy

Publish on November 7 and November 14, 2013.

CONSIDERATION OF LAKESHORE PERMIT VARIANCE: POKORNY, FLV 13-10

10:45:02 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Planner Eric Mack, Clerk Kile

Absent: Commissioner Calvin L. Scott

Mack entered into record FLV 13-10; an application submitted by Ryan and Mandy Pokorny to construct an 'I' shaped dock and catwalk within the Lakeshore Protection Zone located at 4849 Ashley Lake Road. He pointed out the property is adjacent to wetland. The original request was to place fill in the wetland, but a provision in the regulations state: placement of fill in wetlands is prohibited. The request now is for a variance to the dock length and the impervious cover.

Commissioner Krueger made a **motion** to approve Lakeshore Permit Variance FLV 13-10. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

DOCUMENT FOR SIGNATURE: GOING-TO-THE-SUN ROAD TRANSIT PROJECT MODIFICATION/ EAGLE TRANSIT

10:47:18 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, AOA Director Lisa Sheppard, Clerk Kile

Absent: Commissioner Calvin L. Scott

Commissioner Krueger made a **motion** to approve the document for signature/ Going-to-the-Sun Road modification, Eagle Transit. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

MONTHLY MEETING W/ DAVE PRUNTY, ROAD DEPARTMENT

11:00:00 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Public Works Director Dave Prunty, Tom Esch, Clerk Kile

Prunty met with the commission and reviewed the following monthly report.

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Operations

- Small projects along with grading gravel roads have occurred through October. Drainage improvements, along with material importation have been the focus until the weather will stop the work.
- Asphalt operations for the season have been completed, minor repairs performed and the plant is shut down until next season.
- During this transition period, we have been able to send out a couple of brushing crews, spent considerable time cleaning culverts and ditches, and hand patching on paved roads.
- One project of significance is repairs to Lupfer Road. We were able to repair damage to the paved section between the railroad tracks and Highway 93 and improve the sight distance on a blind corner east of the tracks. We received multiple comments from the residents that they very much appreciated the work on the road.
- We have been in discussions with Tim Wise to see if they would be acceptable to letting us set up our pug mill on their property immediately adjacent to our pit and make our salt/sand mixture. MSHA has stated that as long as we delineate the crushing area from our area we can proceed with this work. The County Attorney has asked that a letter be sent to Mr. Wise describing our operations and our hopeful completion date.

Overlay Program

- Asphalt overlay work began on June 17 and ended in late September.
- The roads completed for this season are *attached to this outline*.
- There has been 11.6 miles of roads overlaid for this season.
- We also completed one project for the Parks Department for a basketball court at Meadow Hills Park and a pad for the Sheriff's Office where their new storage building is located on FFA Drive east of the shop.
- The average cost per mile for this year's program is \$95,946.95. The asphalt cost per ton for this year is \$41.67.

Date	Feet on overlay	Feet on chipseal	Yards of Gravel Hauled	Feet/Miles of roads graded for Dust Oil	Hours of brush cutting	Shop Hrs. worked on R & B	Shop hrs. worked on other dept.	# of Complaint	# of Requests	# of Thanks	Hours of Sanding	Hours of Snow plowing	Feet Crack Sealing	Hours of drainage/culverts	Hours of Sweeping	Hours of Handpatching OES/ HOURS	Hours of grading gravel
10/1/13																	
10/31/13			5,766		330.5	1,476.50	153	10	28	7			259.50			215.5	916
Previous Balance	47,519	187,772	15,866	16,490	322	3,906.0	400	43	149	17			233	226	203		730
Total YTD	47,519	187,772	21,632	16,490	653	5,383	553	53	177	24			493	226	419		1,646
Prev. Total YTD	54,114	132,828	18,732	18,540	559	4,336	621	55	244	21	50	62	210	262	625		1,501

Gravel Crushing Program

- LHC, Inc. is nearing completion of the sand material (40,000 tons). Crushing of the one inch minus has also started. The contractor has struggled to meet the specs on the No. 4 sieve and we required them to re-run about 10,000 tons of materials. We are also pulling our own samples and having them tested at a different lab than LHC used to make sure we are having spec'd material produced.
- We have stressed the importance of completion of their work so we can make our salt/sand material for this winter.
- The contract has liquidated damages of \$200 per day if the project is not completed within the allotted time frame. The contract was signed on August 8 and is to be completed by November 7. LHC will not be completed on time. The assessment of liquidated damages has been discussed with them.
- The Martinson gravel pit, owned by Flathead County, could be re-opened for the remaining material. The pit is located on Many Lakes Drive, just east of Highway 35. Our records indicate the last crushing occurred in the 1970's. The pit is officially closed by DEQ and was not required to have reclamation performed since the operations occurred before the law required closure work. The property is two, two-acre parcels and has access to Many Lakes Drive. A rough estimate of the material available shows that about 120,000 tons of gravel could be removed.

General discussion was held relative to re-opening the Martinson gravel pit.

DOCUMENT FOR SIGNATURE: CONTRACT FOR COUNTY BIKE PATH SNOWPLOW SERVICE/ PRO TECH-HOME PRO

11:20:35 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Public Works Director Dave Prunty, Tom Esch, Clerk Kile

Absent: Commissioner Calvin L. Scott

Commissioner Krueger made a **motion** to approve the document for signature/ Pro Tech-Home Pro. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

CONSIDERATION OF LUPFER ROAD EXTENT

11:22:00 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, Public Works Director Dave Prunty, Tom Esch, Clerk Kile

Absent: Commissioner Calvin L. Scott

Prunty reported to the commission that Lupfer Road has been maintained by the county for quite some time; as far back as any of his longtime employees, pushing 40 years can remember. He explained through the years it has grown and gone on further back to the east into the woods. Prunty noted sometime in the 30's the commissioners did not finalize all that needed to be finalized to create the easement through the four parcels of ground. He explained letters were sent to the landowners approximately two years ago notifying them the county found they do not have a proper easement through their property and would like them to grant an easement to the county for the road as is, where is with 30 feet on each side. One landowner he noted agreed to that, and just this spring that was finalized. He explained Norm Kuennen with DNRC met with some of the neighbors on the roadway as the state has a timber sale on the property (Stoltz Lumber) is under contract for the timber sale. He noted Mr. Kuennen and the unit manager are concerned about the lack of a perfected easement. Prunty said he advised them the county has taken care of the road for a very long time and would think it certainly is a county road. He stated their hope is that the commissioners would discuss this and see what their thoughts are. Plum Creek he noted is also interested in this as they have a significant amount of land holdings behind the area; they also want to know that there is a perfected easement to their properties.

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Fugina said the reason the county attorney became involved in this is because north of the state property, Lupfer Road continues through private property and a property owner up there was selling off a parcel of land. The landowner asked the County Attorney's Office for their opinion regarding whether there is a declared ROW. Evidence could not be found that there was a perfected declared ROW; however, as Prunty noted there is a lot of evidence that the county has maintained this as a public road and business interest aside, it's not just about the business, but rather access to the private properties on the other end of Lupfer Road as well. In looking at this and researching it, at the very least if we cannot find paperwork regarding a declaration the county does have a prescriptive right to treat this as a public road.

Chairman Holmquist stated she would agree with the assessment.

Commissioner Krueger asked if a prescriptive easement is good enough for a land sale.

General discussion was held relative to prescriptive easements.

Commissioner Krueger made a **motion** to table to a later date. Chairman Holmquist **seconded** the motion. **Aye** - Holmquist and Krueger. Motion carried by quorum.

CONSIDERATION OF AGREEMENT FOR CONTRACTED CLASSES

11:32:00 AM

Present: Chairman Pamela J. Holmquist, Commissioner Gary D. Krueger, Assistant Mike Pence, H.R. Director Tammy Skramovsky, Clerk Kile

Absent: Commissioner Calvin L. Scott

Commissioner Krueger made a **motion** to approve the agreement for contracted classes. Chairman Holmquist **seconded** the motion. **Aye** – Holmquist and Krueger. Motion carried by quorum.

8:30 a.m. Weed & Parks Board meeting @ Weed & Parks Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 5, 2013.

TUESDAY, NOVEMBER 5, 2013

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Holmquist, Commissioner Scott and Krueger, and Clerk Robinson were present.

11:00 a.m. Commissioner Holmquist: Board of Health Retreat @ Sykes Market

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 6, 2013.

WEDNESDAY, NOVEMBER 6, 2013

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Holmquist, Commissioner Scott and Krueger, and Clerk Robinson were present.

NO MEETINGS SCHEDULED

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November, 7 2013.

THURSDAY, NOVEMBER 7, 2013

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Holmquist, Commissioner Scott and Krueger, and Clerk Robinson were present.

8:30 a.m. Commissioner Krueger: TAB meeting @ Eagle Transit

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 8, 2013.

FRIDAY, NOVEMBER 8, 2013

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Holmquist, Commissioner Scott and Krueger, and Clerk Robinson were present.

NO MEETINGS SCHEDULED

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on November 11, 2013.
