

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

MONDAY, APRIL 21, 2014

Audiofile

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

Chairperson Holmquist led the Pledge of Allegiance.

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

Greg Fortin met with the commission and reported he has taken on the project of seeing where the Red Bridge project lies and what the feasibility is of it coming back around. He stated a group of residence wish to relook at potential opportunities to preserve the bridge and turn it into a pedestrian bike path. He noted a meeting will be held in Columbia Falls on April 30 to gauge local interest in preserving the bridge. Fortin explained three years ago there was support for the project that since has faded, and he is looking for straight answers as to where they would start with the project again.

Commissioner Krueger said you are starting with a real difficult situation in that it will take a lot of commitment and funds from the community that probably is not going to come from the county; you are headed down a pretty tough road with the amount of dollars you will have to put in up front for something that is very expensive to rebuild and maintain that might be better used for trails somewhere else.

Fortin explained right now he knows many that are interested in investing in the project, and asked just what the dollar amount is; one, two or three million. He noted there is interest in tying in the bike trail from Coram to West Glacier and eventually trying to find a place to cross the river. He stated at the end of the day he doesn't want to hear that this is too big of a project; yet wants to hear what it might actually cost and what the options are.

General discussion continued regarding the project.

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

MONTHLY MEETING W/ MARK CAMPBELL, FAIRGROUNDS

9:15:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Fairgrounds Director Mark Campbell, Clerk Kile

Campbell met with the commission and summarized the following monthly report.

FLATHEAD COUNTY FAIRGROUNDS DIRECTOR

Current Projects

- Grandstand Renovation Project – set a pre-construction meeting with Outback Construction for safety, logistics, etc. Work is expected to begin the first of May.
- Fairgrounds Infrastructure – final plans, specs, and grading detail completed by 4/ 11. Submitting to DEQ and the city for review. Bid documents are being prepared for release by 4/30. Phase 2 design is being finalized.
- North horse barn electrical and water has been completed. Old stall expansion and general clean-up has finalized. Ten horses by 3 trainers are on-site at this time.
- Upgrade to RV/camping area electrical services is completed. Increased power to outlets, balanced load, and improved overall amperage/stability of services.

NW Montana Fair & Rodeo

- Service agreements are being sent to a wide variety of providers. Commercial booths are beginning to fill and concession contracts are out.
- Grandstand tickets, camping spaces, and advance sale items begin May 1.
- Livestock programs are underway with both 4-H and FFA. Early numbers show a slight increase in participants.
- Have selected a point of sale system for better controls in ticketing sales. It will be used throughout the year for all receipting and management reporting of sales.

Upcoming Events and Activities

- Kalispell Police Association Concert – April 19
- Conservation District Flood Awareness Day – April 24
- Alert Foundation Banquet – April 26
- Rabbit Show – April 26
- Shooting Sports Award Banquet – April 27
- Artist & Craftsman of the Flathead – May 3-4
- Northwest Gold Prospectors Show – May 3-4
- Three Rivers Bank – May 8
- 4-H Horse Camp – May 9-10
- Sherwin Williams Product Show – May 12
- FVCC Graduation – May 16
- SMEG Motorcycle Show – May 17
- Sheep weigh-in – May 19

MEETING W/ RICHARD HADER RE: FOOTHILLS ROAD

10:00:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Deputy County Attorney Caitlin Overland, Deputy County Attorney David Randall, Public Works Director Dave Prunty, Richard Hader, JF Hewitt, Clerk Kile

Richard Hader, 2388 Foothills Road met with the commission and explained his concerns pertaining to a letter he received, whereby he was ordered to remove a fence on a 60 foot right-of-way off Foothills Road and Frank Lane. He stated he was never notified of the legal decision made or of the hearing.

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Fugina noted the commissioners do not have any discretion upon placement of Frank Lane as it has been defined by the 11th District Judicial Court. She said it has been confirmed by notes in the file that when the case was brought by Mr. Jerry Frank that originally Flathead County was unable to find documentation concerning the petition for Frank Lane; however, it was subsequently discovered and the county entered into an agreement so the court could define the perimeters of Frank Lane and the court has done so. She added former Deputy County Attorney Peter Steele was in contact with Mr. Hader and he was informed of the lawsuit and potential consequences.

Richard Hader further summarized concerns and stated what has happened is just not right the way it has been done.

Chairperson Holmquist said the matter has already been decided by a court decision and the commission doesn't have any jurisdiction over the matter now.

Commissioner Scott said you are seeking a remedy in a venue that cannot help now. The court has made a decision in regards to the easement which is a matter of legal record; there may be other remedies for you to pursue this, but the commission cannot help now.

DOCUMENT FOR SIGNATURE: MORRISON & MAIERLE CONTRACT FOR ENGINEERING REPORT ON WHALEBONE DRIVE BRIDGE

10:11:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Public Works Director Dave Prunty, Clerk Kile

Prunty reported Morrison & Maierle is preparing the engineering report for work to be done in replacing the Ashley Creek Bridge off Whalebone Drive. He noted the contract is for \$11,750.

Commissioner Krueger made a **motion** to approve the document for signature/ engineering report for Whalebone Drive Bridge. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AWARD BID & DOCUMENT FOR SIGNATURE: GRAVEL CRUSHING BUSCH PIT/ MARION

10:13:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Public Works Director Dave Prunty, Clerk Kile

Prunty reported the recommendation is to award the gravel crushing bid to the lowest bidder Nelcon at \$3.90 per ton.

Commissioner Scott made a **motion** to award the gravel crushing bid to Nelcon/ Busch Pit, Marion. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

CONSIDERATION OF H.R. TRANSMITTAL: ICMA RETIREMENT ACCOUNT; EQUIPMENT MECHANIC JOB DESCRIPTION CHANGE/ SOLID WASTE

10:15:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, H. R. Director Tammy Skramovsky, Public Works Director Dave Prunty, Clerk Kile

Skramovsky reported the H.R. Transmittal pertains to the ICMA Retirement Account 457 Plan.

Commissioner Krueger made a **motion** to approve the H.R. Transmittal/ ICMA Retirement Account. Commissioner Scott **seconded** the motion. Motion carried unanimously.

Skramovsky noted the H.R. Transmittal for a Solid Waste Equipment Mechanic is due to a retirement.

Commissioner Scott made a **motion** to approve the Solid Waste job description H.R. Transmittal as stated. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

CONSIDERATION OF LAKESHORE PERMIT: CASSIDY, FLP 14-18

10:18:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Planning & Zoning Director B. J. Grieve, Planner Erik Mack, Clerk Kile

Mack reviewed the Lakeshore Permit application submitted by Nadia and Trevor Cassidy to place a floating dock, buoy, water line and stairway in the Lakeshore Protection Zone for property located at 1750 Bitterroot Lane on Little Bitterroot Lake.

Commissioner Scott made a **motion** to approve FLP 14-18. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

CONSIDERATION OF RESCINDING PRINT BID & AWARDING OF PRINT BID: HEALTH DEPARTMENT & TREASURERS' OFFICE

10:19:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Clerk Kile

Chairperson Holmquist noted for the record the recommendation is to award the Health Department print bid to Insty Prints for 500 business cards for \$29.95.

Commissioner Scott made a **motion** to award the print bid to Insty Prints. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

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Chairperson Holmquist stated the request from the Treasurers' Office is to rescind a previous print bid awarded to Masters Touch due to discrepancies.

Commissioner Krueger made a **motion** to rescind a previous print bid made to Masters Touch. Commissioner Scott **seconded** the motion. Motion carried unanimously.

Chairperson Holmquist noted for the record the recommendation now is to award the print bid for the Treasurers' Office to Trippet's Printing for a variety of envelopes in the amount of \$4,290.15.

Commissioner Krueger made a **motion** to approve the print bid with Trippet's Printing. Commissioner Scott **seconded** the motion. Motion carried unanimously.

PUBLIC HEARING: VARIOUS TEXT AMENDMENTS/ FLATHEAD COUNTY ZONING REGULATIONS

10:30:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Planning & Zoning Director B. J. Grieve, Deputy County Attorney Tara Fugina, Deputy County Attorney Caitlin Overland, Deputy County Attorney David Randall, Planner Erik Mack, Mayre Flowers, J.F. Hewitt, Richard Hoffmaster, Jerry O'Neil, James Connor, Dan King, Ardis Larsen, Roxanne Brothers, Bill Baum, Clerk Kile

Grieve reviewed the timeline of events leading up to proposed amendments to Flathead County Zoning Regulations and summarized the following 10 amendments for the purpose of improving administration.

- Add 'Cellular Tower' to the list of conditional uses as an administrative conditional use in the 'NF North Fork' zoning district Section 3.40.030 because Section 3.40.040(7) currently states, 'Cellular Tower – Administrative Conditional Use Permit' and 'Cellular Tower' was not previously listed as a conditional use.
- Clarify the use of livestock in Agricultural and Suburban Agricultural zoning districts, amend the regulations by adding 'Livestock' to the list of permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 zoning districts, found in Sections 3.04, 3.05, 3.06, 3.07 and 3.08 because livestock is listed as a permitted use in R-1 and R-2.5 but not listed in AG and SAG zones.
- Clarify the use of stables, public versus private in Agricultural and Suburban Agricultural zoning districts, amend the regulations by removing 'Stable' from 'Stable, riding academy, rodeo arena' and adding 'Stable, public and private' to the list of permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 zoning districts, found in Sections 3.04, 3.05, 3.06, 3.07 and 3.08.
- Changes to restrictions on timing of posting of political signs on all private property in Section 5.11.010(8) based on court decisions regarding political signs. The size of a sign can be regulated but the duration of a sign cannot be regulated.
- Regarding 'Street and Roadway Standards,' amend the regulations by striking the reference to 'Approach Standards for Montana Highways' in Section 6.16.010 and replacing it with 'Montana Department of Transportation or Flathead County Road and Bridge Department' because the regulations currently reference highway standards but access to a lot may not be via a highway. In the same section, replace the word "greater" with "more stringent" to improve the clarity of the intent.
- Regarding 'Increase yard requirements,' amend the regulations by striking the reference to County Master Plan or City-County Master Plan found in Sections 3.04.040(3)(D), 3.05.040(3)(D), 3.06.040(3)(D), 3.07.040(3)(D), 3.08.040(3)(D), 3.09.040(3)(D), 3.10.040(3)(D), 3.11.040(3)(D), 3.12.040(3)(D), 3.13.040(3)(D), 3.14.040(3)(D), 3.15.040(3)(D), 3.16.040(4)(C), 3.17.040(3)(C), 3.18.040(4)(C), 3.19.040(4)(C), 3.20.040(4)(E), 3.21.040(4)(C), 3.22.040(4)(C), 3.27.040(3)(C), 3.29.040(3)(C), and 3.30.040(3)(C), and replacing it with Flathead County Road Classification Map because the map is the most up to date road classification for the County.
- Regarding reference to 'Master Plan' in Sections 1.02.010, 2.02.040, 3.01.010, 3.31.023(3)(A) and 3.39.110, amend the regulations by striking all reference to 'Master Plan' and replacing it with 'Growth Policy' because the Flathead County Growth Policy has replaced the Flathead County Master Plan.
- Regarding conditional use standards and the definition of a 'Caretaker's Facility,' amend the regulations by striking 'principal dwelling' and replacing it with 'principal use' in Section 4.04.010 and 7.04.025 because there are other uses besides dwelling that could require a caretaker.
- Regarding performance standards for a 'Caretaker's Facility,' amend the regulations by striking all references to deed restrictions in Section 4.04.010(4), based on the Planning Board's request to staff to remove the deed restriction at a Planning Board workshop on August 28, 2013.
- Regarding 'Setbacks' in Residential Clustering, amend the regulations by striking 'at least 40 feet from any other boundary of the "parent" tract or adjacent property(ies);' and replacing it with 'otherwise conform to the minimum setbacks of the district;' in Sections 3.04.040(3), 3.05.040(3), 3.06.040(3), 3.07.040(3), 3.08.040(3) and 5.09.030(7) based on the Planning Board's request to staff to reduce the 'setback' requirement at a Planning Board workshop on August 28, 2013.\

Chairperson Holmquist opened the public hearing to anyone wishing to speak in regards to the various text amendments proposed.

Mayre Flowers, Citizens for a Better Flathead presented the following letter to the commission and summarized concerns with the proposed text amendments.

To: Flathead County Commissioners

Re: Proposed Text Amendments to the Flathead County Zoning Regulations

C. AMENDMENT #3

Proposal to add 'Stable, public and private' and 'Riding academy, rodeo arena' to be a permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 and leave R-1 and R-2.5 as they are.

Concerns with this text amendment include:

1. Flathead County Zoning Regulations do not define the terms Riding Academy or Rodeo Arena. A definition should be provided. Are these considered recreational facilities within the scope of the definition for Recreational Facilities found at 7.17.040?
2. The definition of Recreational Facility is:

Recreational Facility – A structure or use of property **not otherwise listed in these regulations** to accommodate the enjoyment, healthful activities, and leisure of the facility's users. Such a use may be enclosed by walls and roof (indoor) or an open-air(outdoor) arrangement. Recreational facilities are also defined as being either "high impact" or "low impact", based on the following criteria:

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1. Land Intensity – the amount of land necessary to operate the facility.
Examples: High impact – golf course, ski area
Low impact – archery range, video game arcade
Threshold: Facility requires more than twice the “minimum lot size” determined by district classification.
2. Traffic Generation – the amount of motor vehicle traffic created by use.
Examples: High impact – water slide, fairgrounds
Low impact – golf driving range, dude ranch
Threshold: Traffic greater than or equal to 20 trips per hour at peak hours or 75 trips per day.
3. Visibility – the visual impact of the facility; how obvious its presence is.
Flathead County Zoning Regulations – Page 206
Examples: High impact – water slide, ski area
Low impact – dude ranch, day camp
Threshold: Structures unusual compared to surrounding uses are visible from adjacent roadways.
4. Risk – the possibility of danger to adjacent landowners or property.
Examples: High impact – zoos, rifle ranges
Low impact – bike rental, fishing
Threshold: Reasonable chance of danger or damage to nearby property or people.

If a facility is determined to have a “high” rating in any of these categories, it shall be considered a “high-impact” recreational facility.

SECTION 4.15 RECREATIONAL FACILITY

4.15.010 Due to the diverse nature of the potential recreational facilities that may be proposed or developed in the planning jurisdiction, no specific standards are established. However, proposed uses that must obtain a Conditional Use Permit may be reviewed subject to a number of criteria. These criteria may include, but are not limited to, traffic generation, parking availability, impact on surrounding uses, landscaping, noise generation, and accessibility. Mitigation strategies for the possible impacts of recreational facilities that must obtain a Conditional Use Permit may be submitted with the permit application materials.

3. Given the limited definition for Public Stables and the lack of any definition for ‘Riding academy or Rodeo arena’ definitions should be provided. Additionally given the generally accepted understanding that these uses are “Recreational Facilities” the definitions should recognize this fact.

4. The FCZR provide for a definition for Recreational Facilities that states “A structure or use of property **not otherwise listed in these regulations** to accommodate the enjoyment, healthful activities, and leisure of the facility’s users. Such a use may be enclosed by walls and roof (indoor) or an open-air (outdoor) arrangement. Recreational facilities are also defined as being either “high impact” or “low impact”, based on the following criteria...” The phrase “not otherwise listed in these regulation” should be amended to add “or when a use is identified as a Recreational Facility” to insure that potentially high-impact facilities for Public Stables, Riding academies or Rodeo arenas can be evaluated for impacts to adjoining neighbors, noise, traffic and other such impacts.

It should be noted that Recreational Facilities either high impact or low impact are specified as permitted, conditional, or not allowed in almost all Flathead County Zoning Districts including AG 80, AG 40, AG 20, SAG 10 and SAG 5 as well as in many residential, business, industrial, neighborhood plans and special use districts.

The staff report for this zone change failed to consider the issues raised in points 1-4 above and should be revisited to address these concerns and possible inconsistencies within the county zoning regulations. Clear definitions as noted above should be adopted. The findings for these proposed use regulations adopted should identify the potential negative impacts that might occur as a result of the failure of these regulations---current and proposed---to address the impacts of a recreation facility on property owners, residents, and other natural resources, as well as the health and safety impacts that could also result from lack of clarity in these proposed regulations based on the scale of the recreational facility and its proposed uses.

D. AMENDMENT #4

i. General Character of and Reason for Amendment

Proposed Amendment #4 would amend the regulations by clarifying there is no limitation on timeframe for when a political sign can be erected prior to an election or removed after an election on private property (Section 5.11.010(8) FCZR).

Two court cases, one decided by the state supreme court and the other by the U.S. Supreme Court, help to clarify the constitutional limits on a city's authority over certain types of signs are cited as a basis for the proposed zone text change.

- [Collier v. Tacoma](#), 121 Wn.2d 737 (1993) - The state supreme court found unconstitutional a provision of Tacoma's sign code that prohibited the placement of political signs earlier than 60 days before the date of the election for which the signs were intended. Tacoma's requirement that political signs be removed within seven days after the election was not challenged.
- [City of Ladue v. Gilleo](#), 512 U.S. 43, 129 L. Ed. 2d 36 (1994) - The U.S. Supreme Court struck down a Ladue, Missouri ordinance that prohibited all residential signs, except those falling within certain specific exemptions such as small "residential identification" signs and signs advertising the sale, lease, or exchange of property. The Court concluded that the ordinance violated the First Amendment's free speech protection by suppressing too much speech. Although the Court invalidated Ladue's restrictions, it did not provide any meaningful guidance as to what would be a permissible content-neutral regulation of signs on residential property.

While these cases provide some need for caution it does not need to nor should it result in the extend of changes proposed in the text amendment to (Section 5.11.010(8) FCZR) regulation covering the time period or conditions of signs left up for extended periods of time. For example the [Collier v. Tacoma](#), 121 Wn.2d 737 (1993) case did not limit the city's ability to still require that signs be removed seven days after the election. And as noted above in the [City of Ladue v. Gilleo](#), 512 U.S. 43, 129 L. Ed. 2d 36 (1994) the Court did not rule out all limitations on signage.

Given the importance of the scenic values of the Flathead to the Flathead economy, the Tourist Industry, and local residents we would suggest that Flathead County retain and affirm it's right and ability to regulate political signs in ways that reasonably and fairly encourage free speech protection in keeping with these Court Rulings. Here are some suggestions as to how this regulation might be amended.

5.11.010 Signs permitted in all districts (exempt signs)

5.11.010(8) Political signs *on private property*,

- a) Each not exceeding thirty-two (32) square feet, and
- b) Removed not more than one (1) week after, the election or event to which the sign pertains, and
- c) Maintained so as to be standing and readable, and
- d) Located in conformance with Montana State Administrative Rules [18.6.246](#) POLITICAL SIGNS, and
- e) Conveying an accurate and current state of candidacy being promoted.

Points “c” and “e” could also be addressed under Section 5.11.050 of the FCZR, which requires that all signs be “kept in neat, clean, and attractive condition”. Section 5.11.050 states:

“5.11.050 Maintenance

All signs shall be kept in a neat, clean, and attractive condition. This includes the periodic cleaning, painting, repairing, and/or general maintenance of the sign. Maintenance shall also include the updating of the information provided by signs such as:

- Current goods and prices
- Change of ownership/occupant
- Name change

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This maintenance shall be the responsibility of the sign owner. Any sign that is not properly maintained shall be deemed to be an illegal non-conforming use.”

It could be amended to add the following wording:

Removal of candidate signs, which are no longer current for the election advertised

Additionally the county could request a Montana Attorney General Ruling on the county’s ability to limit or condition political signs.

I. AMENDMENT #9

i. General Character of and Reason for Amendment

Proposed Amendment #9 is regarding deed restrictions of a ‘Caretaker’s Facility.’ The regulations would be amended by striking 4.04.010(4) because the planning board does not like the idea of requiring deed restrictions to be placed on private properties.

The current text for 4.04.010 states:

SECTION 4.04 CARETAKER’S FACILITY IN AG, SAG, AND R-1 DISTRICTS

4.04.010 A caretaker’s facility is a dwelling, which is constructed and designed to provide living quarters for caretakers or servants, and is clearly subordinate to the principal dwelling with regard to size and location. Caretaker’s facilities are allowed as a conditional use in the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5, and R-1 districts subject to the following conditions:

1. The caretaker’s facility shall be designed in such a manner that its use is clearly subordinate to the principal dwelling with regard to size and location.
2. In SAG-5, R-2.5, and R-1 districts the parcel on which the caretaker’s facility is located shall be double the size of the underlying district minimum lot size.
3. The dwelling shall not be rented or leased to someone other than a caretaker.
4. A restriction shall be placed on the deed and shall be recorded with the property which:
 - A. Prohibits the use of the caretaker’s facility as a rental unit;
 - B. Prohibits the separation of the caretaker’s facility and the principal dwelling without first receiving review and approval by the Board of County Commissioners; and Flathead County Zoning Regulations – Page 155
 - C. Prohibits reducing the lot size below twice the density of the district.

Removing 4.04.010(4) opens the gate to subdivision evasion abuse, which the current regulation is intended to prevent.

As reported in a 2008 Flathead Beacon article subdivision evasion is a major problem in Flathead County. “The family transfer exemption allows landowners to split part of their property into lots for members of their immediate family without going through a subdivision review. Used properly, it’s a way for parents to give or sell part of their property to their children, but when abused, it can also serve as a way to evade subdivision regulations and create lots without any attention to public health and safety issues.

Last year, 239 lots – roughly one-sixth of all new lots in the county – were created through family transfers, according to a report issued by the county planning department last week. Of those, 86 were sold to non-family members within the year.

“We see those sales as indicators of abuse,” Jeff Harris, director of the county planning department, said. “Some of those are certainly for legitimate reasons, but with 36 percent of them being flipped and sold right away that’s a definite sign of evasion.”

County records indicate almost half of the 1,715 family transfer lots created over the past eight years [between 2000 and 2008] have been sold to non-family members within a year.

The results are often chaotic: By side-stepping the planning process, important issues like water quality, access, traffic and neighborhood impact aren’t addressed, Harris said. Neighbors are left unhappy because there’s sudden development nearby without public comment. Buyers purchase property only to find they can’t get a well permit or don’t have legal access rights to their new land. Roads aren’t wide enough for emergency vehicles. Homes are built on steep slopes or in the floodplain and traffic increases on already dusty roads.”

According to hearings and documents provide on the abuse of the family transfer provision, from 1996-2000 almost 30% of the tracts or lots created in Flathead County avoided subdivision review and public notice by using a family transfer exemption, a court order (i.e. in cases of divorce), or an agricultural exemption, with family transfers being the most common. Of the total lots created during this same period, those avoiding review covered 9,175 acres while those created with full review of the subdivision covered only 5,548 acres. A review of records for 1995 showed that 51% of the tracts created by family transfers were sold within two years.

We would ask that you not make this proposed zoning text change as the proposed findings fail to demonstrate that this change will not encourage further abuse of the subdivision review criteria, or that this zone change will not become a loop-hole of choice for some individuals to avoid compliance with the underlying zoning. The staff findings for this zone change fail to review and consider the potential impacts to the property rights of area residents and communities resulting from the potentially negative cumulative impacts of the removal of 4.04.010(4). The finding instead focus narrowly on the property rights benefits to those who want to see few to no limits to what they can do on their property. Cumulative impacts need to be considered for impacts to the integrity of the underlying zoning district and potential impacts to the public’ welfare and health and safety of area residents and property owners and cities. The county’s track record with the abuse occurring under the current family transfer regulations provide reason for concern that removal of 4.04.010(4) will result in additional abuse of the intent of the zoning regulations and the intent of the Growth Policy. These impacts have not been adequately considered. The findings do not address the benefits of deed restrictions or how these benefits can be protected or still achieved if this zone is changed. Additionally, the staff findings indicate this zone change would not be consistent with the zoning of Whitefish and Columbia Falls.

James Connor, 78 Konley Drive spoke about the deletion of duration limits on political signage being proposed. He noted he runs a website called flatheadmemo.com and has published pictures of the commission on the website which he stated hasn’t hurt their careers yet. Connor stated he supports the proposed change which he said are narrowly tailored to produce a very specific objective; that is to bring the regulations into constitutional compliance. He stated duration limits on signs are a restraint off free speech and are therefore unconstitutional. He pointed out the issue isn’t about scenery of beautification in which he favors, yet free speech. He cited examples happening all over the country.

Richard Hoffmaster stated he has been a resident of Montana since 1983 and has been politically active since 1972 at which point he was campaign chairman for the attorney general in the state of Wisconsin. He noted he hosted a fund raiser for the vice president of the United States at his restaurant in Missoula. He said the esthetics in the state of Montana is one of the greatest resources. What is being talked about he stated regarding the signage is called the commercialization of politics and we are eroding what the previous gentlemen called free speech. Hoffmaster said we shouldn’t be dominated by politics and big money 365 days a year.

Jerry O’Neil, 985 Walsh Road noted he is a candidate for HD3 and explained his general opponent puts up his signs in the primary and leaves them up through the general election, which he said he feels he has the right to do. He stated it’s a right of free speech and the yards he puts them in is a private property right.

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

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Chairperson Holmquist stated information has been brought before them today and she would take additional time to review those comments.

General discussion was held relative to applicable sign restrictions on zoned properties and confusion pertaining to where signs can be placed.

Chairperson Holmquist thanked staff and the Planning Board for their efforts.

Commissioner Krueger made a **motion** to table their decision until Friday, May 2. Commissioner Scott **seconded** the motion. Motion carried unanimously.

7:00 p.m. Commissioner Holmquist: River Commission meeting @ EBB

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on April 22, 2014.

TUESDAY, APRIL 22, 2014

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

**12:00 p.m. Commissioner Scott: FVDC Board meeting @ Three Rivers Bank
3:00 p.m. Commissioner Krueger: Refuse Board meeting @ Solid Waste District**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on April 23, 2014.

WEDNESDAY, APRIL 23, 2014

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

**9:15 a.m. Quarterly Juvenile Detention tour & meeting
10:15 a.m. Quarterly Jail tour & meeting
11:00 a.m. County Attorney meeting @ Co. Atty's Office
12:00 p.m. Commissioner Holmquist: MWED meeting**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on April 24, 2014.

THURSDAY, APRIL 24, 2014

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

4:00 p.m. BLUAC meeting @ Bethany Lutheran

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on April 25, 2014.

FRIDAY, APRIL 25, 2014

[Audiofile](#)

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

Chairperson Holmquist led the Pledge of Allegiance.

Chairperson Holmquist opened public comment on matters within the Commissions' Jurisdiction. No one rising to speak, Chairperson Holmquist closed the public comment period.

CONTINUATION OF FLATHEAD COUNTY ZONING REGULATIONS TEXT AMENDMENTS/ CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT

9:00:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Tara Fugina, Deputy County Attorney David Randall, Planning & Zoning Director B. J. Grieve, Planner Erik Mack, Ardis Larsen, Bill Myers, Clerk Kile

Grieve reviewed the following proposed text amendments individually.

**FRIDAY, APRIL 25, 2014
(Continued)**

AMENDMENT NO. 1 Add 'Cellular Tower' to the list of conditional uses as an administrative conditional use in the 'NF North Fork' zoning district Section 3.40.030 because Section 3.40.040(7) currently states, 'Cellular Tower – Administrative Conditional Use Permit' and 'Cellular Tower' was not previously listed as a conditional use.

Commissioner Krueger made a **motion** to approve Findings of Fact 1-4 as forwarded by the Planning Board. Commissioner Scott **seconded** the motion. Motion carried unanimously.

Commissioner Krueger made a **motion** to adopt Amendment No. 1. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 2 Clarify the use of livestock in Agricultural and Suburban Agricultural zoning districts, amend the regulations by adding 'Livestock' to the list of permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 zoning districts, found in Sections 3.04, 3.05, 3.06, 3.07 and 3.08 because livestock is listed as a permitted use in R-1 and R-2.5 but not listed in AG and SAG zones.

Commissioner Scott made a **motion** to approve Findings of Fact 5-8 for Amendment No. 2. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

Commissioner Krueger made a **motion** to approve Amendment No. 2. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 3 Clarify the use of stables, public versus private in Agricultural and Suburban Agricultural zoning districts, amend the regulations by removing 'Stable' from 'Stable, riding academy, rodeo arena' and adding 'Stable, public and private' to the list of permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 zoning districts, found in Sections 3.04, 3.05, 3.06, 3.07 and 3.08.

General discussion was held relative to conditional use permits along with the definitions of private and public stables.

Fugina pointed out a comment was submitted by Citizens for a Better Flathead regarding analysis of a recreational facility in regard to a rodeo arena and riding academy.

Commissioner Krueger said the comment would be addressed if a change is made separating out SAG5 and they are looking at private and public uses.

Grieve clarified what is being proposed is that in SAG5 zoning stable, private would become a permitted use, and riding academy, rodeo arena, and stable, public would be a conditional use.

Commissioner Krueger made a **motion** to table Findings of Fact 9-16 and Amendment No. 3 until May 2, 2014. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 4 Changes to restrictions on timing of posting of political signs on all private property in Section 5.11.010(8) based on court decisions regarding political signs. The size of a sign can be regulated but the duration of a sign cannot be regulated.

Grieve summarized current guidelines pertaining to signage and spoke about enforcement issues.

Fugina said there are cases throughout the country at various levels of the legal system. She explained that for a couple decades now the trend has been to gradually erase duration limits on signage. Fugina noted that courts have found that while there is a government interest in esthetics that interest is well below the fundamental right of the first amendment of free speech.

Grieve summarized public comments received from the Cherry & Grape Growers Association, Nick Palmer, Judy Hebing, Joan Ehrenberg, Andy Hudak, Susan Keller, Patti Scruggs, Michelle Saurey, James Connor, Edd Blackler, Barbara Lewis, Robert Horne, Dave Skinner, Mike Fellows, Rebecca Norton and Citizens for a Better Flathead both in support and opposition to political signage.

General discussion was held relative to placement of political signs in zoned/unzoned areas.

Commissioner Krueger made a **motion** to table Findings of Fact 17-20 and Amendment No. 4. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 5 Regarding 'Street and Roadway Standards,' amend the regulations by striking the reference to 'Approach Standards for Montana Highways' in Section 6.16.010 and replacing it with 'Montana Department of Transportation or Flathead County Road and Bridge Department' because the regulations currently reference highway standards but access to a lot may not be via a highway. In the same section, replace the word "greater" with "more stringent" to improve the clarity of the intent.

Commissioner Scott made a **motion** to approve Findings of Fact 21-24. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

Commissioner Scott made a **motion** to approve Amendment No. 5. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

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(Continued)**

AMENDMENT NO. 6 Regarding 'Increase yard requirements,' amend the regulations by striking the reference to County Master Plan or City-County Master Plan found in Sections 3.04.040(3)(D), 3.05.040(3)(D), 3.06.040(3)(D), 3.07.040(3)(D), 3.08.040(3)(D), 3.09.040(3)(D), 3.10.040(3)(D), 3.11.040(3)(D), 3.12.040(3)(D), 3.13.040(3)(D), 3.14.040(3)(D), 3.15.040(3)(D), 3.16.040(4)(C), 3.17.040(3)(C), 3.18.040(4)(C), 3.19.040(4)(C), 3.20.040(4)(E), 3.21.040(4)(C), 3.22.040(4)(C), 3.27.040(3)(C), 3.29.040(3)(C), and 3.30.040(3)(C), and replacing it with Flathead County Road Classification Map because the map is the most up to date road classification for the County.

Chairperson Holmquist stated she feels additional work needs done to the proposed amendment to look at possible consequences.

Commissioner Kruger concurred.

Commissioner Krueger made a **motion** to send Amendment No. 6 back to planning staff to rework and bring back at a later date. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 7 Regarding reference to 'Master Plan' in Sections 1.02.010, 2.02.040, 3.01.010, 3.31.023(3)(A) and 3.39.110, amend the regulations by striking all reference to 'Master Plan' and replacing it with 'Growth Policy' because the Flathead County Growth Policy has replaced the Flathead County Master Plan.

Commissioner Scott made a **motion** to approve Findings of Fact 30-33 and to approve Amendment No. 7. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 8 Regarding conditional use standards and the definition of a 'Caretaker's Facility,' amend the regulations by striking 'principal dwelling' and replacing it with 'principal use' in Section 4.04.010 and 7.04.025 because there are other uses besides dwelling that could require a caretaker.

Commissioner Scott made a **motion** to approve Findings of Fact 34-40 including Finding of Fact 35 as modified by the planning board for Amendment No. 8. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

AMENDMENT NO. 9 Regarding performance standards for a 'Caretaker's Facility,' amend the regulations by striking all references to deed restrictions in Section 4.04.010(4), based on the Planning Board's request to staff to remove the deed restriction at a Planning Board workshop on August 28, 2013.

Grieve summarized the text amendment and noted public comment was received from Citizens for a Better Flathead in regard to opening up the gate to subdivision evasion abuse with removing deed restrictions.

General discussion was held relative to caretaker facilities and the use of conditional use permits.

Commissioner Scott said he has grave concerns regarding deed restrictions and what that would create for people.

Commissioner Krueger made a **motion** to approve Findings of Fact 41-47 as forwarded by the planning board and approve Amendment No. 9. Chairperson Holmquist **seconded** the motion. **Aye** – Holmquist and Krueger. **Opposed** – Scott. Motion carried by quorum.

AMENDMENT NO. 10 Regarding 'Setbacks' in Residential Clustering, amend the regulations by striking 'at least 40 feet from any other boundary of the "parent" tract or adjacent property(ies);' and replacing it with 'otherwise conform to the minimum setbacks of the district;' in Sections 3.04.040(3), 3.05.040(3), 3.06.040(3), 3.07.040(3), 3.08.040(3) and 5.09.030(7) based on the Planning Board's request to staff to reduce the 'setback' requirement at a Planning Board workshop on August 28, 2013.

Commissioner Scott made a **motion** to approve Findings of Fact 48-51 as forwarded by the planning board and approve Amendment No. 10. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

Noted for the record the Resolution and Notice of Passage of Resolution of Intent for text amendments approved today will be brought forth next week.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on April 28, 2014.
