

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

MONDAY, SEPTEMBER 1, 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.

COUNTY OFFICES CLOSED – LABOR DAY

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 2, 2014.

TUESDAY, SEPTEMBER 2, 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 present to speak, Chairperson Holmquist closed the public comment period.

PUBLIC HEARING: RURAL WHITEFISH INTERIM ZONING DISTRICT

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, Colin Sellwood, Teri Sellwood, Erica Wirtala, Mayre Flowers, Bonnie Healey, Dave Bailey, Linda Bailey, Kelly Kracker, Bruce Lutz, Marvilla Davis, Ben Cavin, Duncan Scott, Bill Voermans, Mike Murphy, Richard Hildner, Stacey Schnebel, Rick Blake, Dale Lauman, Frank Sweeney, Turner Askew, Sean Busby, Lyle Phillips, Diane Smith, Bill Baum, Claire Stricklet, Bailey Minnich, M. Schmidt, Jim Commidy, Tim Babiak, Linda Babiak, Clerk Kile

Grieve reported under Montana law interim zoning regulations are allowable for up to one year with one extension of one year; a maximum life span of two years. The circumstance compelling the establishment of the proposed interim zoning district is that the City of Whitefish's position is that they no longer have jurisdiction over an extraterritorial area after a July 15, 2014 Montana Supreme Court decision. The City of Whitefish is now declining to exercise any authority in the extraterritorial area, therefore the county has no option but to begin administering immediate control over the ETA and to do so the establishment of the proposed interim zoning is needed. The boundaries of the proposed interim zoning district are within approximately one mile from the Whitefish city limits, excluding areas already zoned with county zoning. Grieve summarized maps regarding prior history of zoning in Whitefish and pointed out that the one mile area of control by the City of Whitefish was in place prior to the interlocal agreement signed by the city and county in 2005 which created the two mile doughnut of city jurisdiction. He noted if the zoning is preceded by a 'W' it has never been adopted by the county; only by the council.

The general character of the proposed interim zoning district is that it will replace the current City of Whitefish zoning classifications with similar classifications that are found in the FCZR and create two new zoning classifications in the FCZR. The Flathead County zoning classification would be SAG-10, R-1, R-2, R-3, R-4 and I-2. During the effective period of the interim zoning district RR-1 and BSD zoning classifications are being adopted as part of the interim zoning district to replace the City of Whitefish's WRR-1 and WBSD zoning classifications and will be subject to FCZR. There is no more critical areas ordinance, and all the other things that come along with the 'W' zoning; lighting standards, staking of the lakeshore protection zone, water quality protection ordinance, erosion plans and those type of things don't exist.

Grieve pointed out the county is not adopting Whitefish's zones; instead we are adopting the closest equivalent county zone and others things such as the lighting standards and water quality protection ordinances are going away and will simply be subject to FCZR. The WBMRR (Whitefish Big Mtn. Rural Resort) was zoned in accordance with Big Mountains Neighborhood Plan from around 2003 and we are putting forth as an interim zone the BR-4 zone that allows for an ODP (overall development plan) to be adopted. He noted another piece of the puzzle pertains to the Planning & Zoning Office telling citizens that they will not be amending the interim zoning district once it is in place and that there will be a public process that will be undertaken during the interim zoning to figure out what will happen after the interim goes away.

Chairperson Holmquist opened the public hearing to anyone wishing to speak regarding Rural Whitefish Interim Zoning District.

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(Continued)

9:18:00 AM

Frank Sweeney, 350 Lost Coon Trail, Whitefish stated he has been both a doughnut resident and is now a city resident. He said he was speaking as a member of the City Council of Whitefish and as a member of the now Planning Board for the City of Whitefish. I feel the need to correct any misperception the commission has regarding the emergency it describes in its notice for the public hearing. This is not a position or choice of the City of Whitefish. It is a fact once the Supreme Court ruled, your termination of the interlocal agreement became effective immediately and the city lost any basis under law to administer this area, whether we wanted to or not. We did approach you in writing sincerely asking for the opportunity to work with you on an orderly transition and it was met quite frankly with silence, which is what has created what you are now calling an emergency. Contrary to your notice you did have options for managing this transition as the city and county have done for over 40 years. You could well have requested that we maintain a City County Planning Board with decisions regarding non city property be forwarded to you by adopting the current city based zoning. Again, this has been in place for many years. But to the extent I may not like it, nor do I think it serves the people and properties of the doughnut it is your prerogative given the decision of the Supreme Court. It is your position, not that of the City of Whitefish that has brought us here under these circumstances. If the purpose of this is to provide predictability and consistency for the residents and property owners of the doughnut during this interim period the easiest and most consistent thing would have been to simply adopt the current zoning for the areas as county special districts as it were, as you have done so similarly in West Valley in years past. Your obligation under law is to adopt zoning that is as nearly as possible and made compatible with the current municipal zoning, and that quite frankly is not what is being done here. It is fair if this commission decides it is appropriate and necessary to undertake a thorough review of the areas to change zoning for these areas that have been in place for many years, and were put in place through a review including hearings for those most affected. The zoning you are currently proposing is quite a change; by simply reducing minimum lot sizes from 15 acres to 10 acres you effectively give a 50 percent bump in density for these areas that are covered. That is a significant change and inconsistent with the current zoning that again has been in place for many years. In the business districts in particular you're B-2 which is proposed to allow for very different uses than narrowly defined uses that are under current zoning, including such things as retail sales; this applies most particularly to the Highway 93 South corridor. One of very great importance to the City of Whitefish, as I am sure you understand. This is a dramatic change wholly inconsistent with the zoning that was put in place after extensive public hearings, and again has been in place for many years. You're proposed rezoning areas covered by long standing PUD's such as Big Mountain is again quite dramatic given their history and the public benefit that was negotiated through the public process. We ask that you adopt the existing PUD's and neighborhood plans for these areas and include them in the interim zoning. The industrial property covered by Whitefish's W-1 is limited to light industrial uses. The counties proposed zoning provides for heavy industrial uses hardly consistent with the current zoning. I hope you will take the cities concerns to heart; we are your constituents. We have very important interests as well with what happens in these areas and have spent considerable time in soliciting public input for the current zoning that is good to be in place for the long term, not just short term. I hope you will at least give us that opportunity and adopt the current zoning as part of your plan.

Commissioner Krueger said the comments seem to appear to represent the City of Whitefish and asked if that was correct. He also asked for a paper copy of the statement made.

Frank Sweeney stated it is and said that he would get a paper copy to the commission.

9:26:00 AM

Duncan Scott, 1001 South Main, Kalispell stated he has for the past six years represented doughnut citizens interested in being liberated from Whitefish's iron fist of control in order that you can regulate them. My client here today is Turner Askew. I want to thank you for what you accomplished last month when you accepted Whitefish's offer to take over jurisdiction. There was a seismic change in the legal effect of that which might not be obvious. For the past six years we have been pushing for the county to adopt interim zoning, because we (all lawyers in the litigation) thought that interim zoning was necessary to achieve the doughnut take over. Under MCA 72-2-311. That meant immense hearings of course to adopt the interim zoning and in the end they we concerned that Whitefish or other groups that opposed you regulating the doughnut would file a lawsuit and then get an injunction to preserve the status quo. The status quo under that process was Whitefish having jurisdiction so they were concerned about another six years of litigation keeping you from regulating the doughnut. In late July and early August Whitefish surprised us with its offer that in fact you have jurisdictions immediately following the July 15, 2014 Supreme Court decision and you wisely accepted that transfer of jurisdiction. This means the legal paradigm has changed upside down now; now you have control and if someone wants to sue you they can't get an injunction to prohibit you from taking control because you have control. That is a seismic change and I think by you taking jurisdiction has made it much less likely that you will be sued in that regard. The sudden change of jurisdiction also means that we should recalibrate how you proceed. Prior to this takeover of course we were urging you to take immediate action to adopt interim zoning. Now that the takeover has occurred the reason for swift action has disappeared and now you can focus on what type of land use regulation is appropriate for the doughnut. This quick take over suggests the need for a deliberate approach now. We are still analyzing what growth policies, what lakeshore regulations and what zoning applies to various doughnut areas. I met with three experienced land use planners recently and amongst the three of them they had probably 50 years of planning experience. At the end of the meeting they had more questions than answers. As B. J. Grieve said earlier they are indeed in "unchartered water". One of the experts asked the planning department for a relevant map and was told the map is still with Whitefish. He then called B. J. Grieve to ask about the current status of the doughnut regulation and to my great surprise he told him that he had been instructed by County Attorney Fugina to not speak to him. He put his questions in writing to Ms. Fugina and have yet to hear from her. My point is if a bunch of experts have trouble understanding the current status of the doughnut land, what about the poor average land owner whose wealth is locked up in a piece of land and they can't figure out what the rules are. The doughnut has been fighting for six years to be able to be ruled by you and I would suggest that you welcome them to your jurisdiction by moving this to the planning board. The planning board can open up its arms and listen to what the doughnut properties want. The hearings or workshop could be in the evening when people that are working could attend rather than on a morning such as today at 9:00 a.m. after a three day weekend. The planning board could take the time to listen to public comment and not be limited as you are here with your time demands to five minutes per speaker. You should task the planning board with listening to the doughnut citizens and getting this right so they could pursue their vision. Our concern is that the interim zoning that you are looking at adopting has been mirrored to reflect as closely as possible what Whitefish has done. We don't feel the doughnut citizens were listened to when those were imposed on them and we think the time for listening is now.

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(Continued)

9:31:00 AM

Lyle Phillips, 2840 Resthaven Drive, Whitefish read the following letter to the commission.

September 2, 2014

Flathead County Commissioners
800 S. Main Street Room # 302
Kalispell, MT 59901

RE: COUNTY INTERIM ZONING

Dear Commissioners,

I would like to thank each of you for your support of the doughnut residents through this long and time consuming effort and posthumously thank Jim Dupont who worked so diligently to secure representation for the doughnut residents.

We county residents (formally doughnut residents) have worked hard alongside you to bring county residents elected representation and disengage us from the unrepresented Whitefish dictate.

By adopting Whitefish's zoning (Interim Zoning) we have gained little in the ability to determine our own destiny and worse yet for at least a couple more years we will still be governed by those dictates that Whitefish had previously imposed on us. And this is after having no say for the last six (6) years or so. I was sure that once the Supreme Court ruled in favor of returning the planning and zoning of the doughnut back to county jurisdiction we would have the opportunity to determine the zoning that would best fit each of our own neighborhoods.

The most favorable and fair way to be participants in zoning decisions that affect our properties is to have public hearings by the County Planning Board to listen to the people, finally. There is no downside to taking the time and effort to go this route.

Again I thank you for your support of the doughnut residents and would appreciate your consideration of the proposed recommendation above.

Best regards,

Lyle W. Phillips
2840 Rest Haven Drive
Whitefish, MT 59937
406-862-3366

9:33:00 AM

Dave Bailey, 846 Bitterroot Drive, Marion said he has been a doughnut property owner for the past 15 years and the last eight years he has been without representation. He said we have been in limbo for years now with many of them wanting to make changes in their neighborhood, yet felt like they couldn't fight the powers of Whitefish. They couldn't go to their elected representatives, because they had no say in it. The proposal to go into interim zoning now potentially puts them in one year and probably two years of interim zoning where they still don't have a say. To go ahead today and say these areas are zoned is still unfair to the citizens in the doughnut area. I would like to get particular and hear what zoning changes will be enacted for potentially two years. People have been sitting on the side line waiting to do something with their retirement investment and properties. I would encourage you to allow a more thorough pre-interim zoning process. Input from the planning board and public would be terrific.

9:35:00 AM

Dale Lauman, 45 Mission View Drive, Lakeside said he and his wife Lois celebrated the day in July when the Supreme Court made their ruling on the doughnut. It was a long six year road when I voted along with a fellow commissioner to proceed down this road. I never lost my confidence or faith and felt all along the county would ultimately win the jurisdiction back, because that was only fair. I fully support the interim zoning and ask that if at all possible that it be completed in one-year. I sympathize with the doughnut citizens of whom I spoke to many during the process.

9:37:00 AM

Clare Strickler 192 Larch Lane, Columbia Falls said she was not in favor of the county assuming control over the doughnut as she has not been listened to by commissioners in the past; yet has been listened to by city council members. Possibly it was because I sat on the City County Planning Board as the at large member for 10 years. I am concerned about the BSD zoning as it isn't particularly compatible with the residential neighborhood to the south and north of Highway 40. This was discussed at length with the Whitefish City Council who were careful to draw parameters of what would be permitted and you are now making a brand new zone. I would certainly hope that something like a 24 hour convenience store/ gas station would not be allowed.

9:41:00 AM

Marvilla Davis, 205 Barnes Lane, Columbia Falls said she was originally from Whitefish and just recently relocated back here after living in Alaska for the past 40 years. She and her husband came back here because of family necessities. Her concern with the whole situation is they definitely did not approve of being in the doughnut without having representation. However, they much prefer a lot of what Whitefish had for regulations compared to what she sees happening with the county. It seems like with the county things just go. A good example is the corridor along Highway 2 which is quite frankly quite ugly. One of the things I was always proud of as a Montanan is the beauty and around 15-20 years ago she became concerned about the beauty being lost because of inconsistent zoning. The main concern is the junction between Dillon and Conn Road and Highway 40 which is not suitable with the types of homes there to have any kind of industry or light pollution. When you have spent a lot of money on a home and acreage and everyone around you does too, being able to sit out and look at the big Montana sky is important. What I am asking is that the county takes into account what the Whitefish ordinances were trying to do, and make this an appealing place for people to live.

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(Continued)

9:46:00 AM

Bruce Lutz, 385 Golf Course Drive, Columbia Falls stated he is representing a single landowner who has land both north and south of the Big Mountain Road intersection. The property is multiple parcels and multiple zoning designations. He read the following e-mail.

Dear Commissioners,

My name is Joe Gregory and I own property on Big Mountain Road near Whitefish, Montana under the company name Glacier Ranch Holdings which is in Flathead County. I have been made aware of a county meeting being planned for tomorrow to discuss changes to the existing zoning that existed prior to the county assuming zoning control of this property under the recent Montana Supreme Court ruling. I am writing to voice my strong opposition to any actions that the county contemplates doing to change the existing zoning on my property without the opportunity to consult on these moves with the county commissioners or its representative's prior to these actions. I ask that you delay any decisions to change the current zoning on my properties under Glacier Ranch Holdings on Big Mountain Road without the opportunity to consult with you or your representatives as to its ultimate impact on my properties and its appropriateness. I ask for a meeting to discuss my properties with you first.

Joe Gregory, President-Glacier Ranch Holdings

Bruce Lutz stated bottom line is we respectfully request that you slow down here as this might not be the emergency that it is made out to be. Slow down and run this through the Planning Board and the commission and get it right.

9:48:00 AM

Diane Smith, 2060 Houston Drive, Whitefish said as you all know we have fought for this for a long time, and I think what you are hearing from a lot of the doughnut residence is that this is about being heard. For a long time we felt like we were not heard. We felt like we didn't have any place to go. I sat on the City-County Planning Board for Whitefish as a county representative for almost three years, and frequently our decisions regarding the doughnut residence were overturned by the City Council of Whitefish; it wasn't unusual. So having not had an opportunity to be heard for so many years now we look at interim zoning and think wow, is something in place and we are not going to have an opportunity to be heard again. So I think part of what you are hearing is yes this is messy. I come from a career where we turn industries upside down and it is always messy in the aftermath. People don't know where to go and they don't know what their answers look like and it looks really cloudy. Sooner or later it works out and the next thing you know we have an internet or a wireless industry or all kinds of things that I have worked on where the rules get really messy for a little while. The important thing during all of that is that people get heard. I think B. J. and his department do remarkable work and we would like to have the opportunity to work with them and hear everybody's perspectives and to get the zoning in place right from the get go.

9:51:00 AM

Ben Cavin, 2130 Houston Drive, Whitefish said he formerly was a doughnut resident as well and is now zoned WSR and is proposed to be zoned R-1. He reiterated the point others made in that they should have time to get acquainted with what the new zoning means. The lawsuit has been going on for years and now we have a resolution that seems that should talk a bit. A couple specific things is the master document indicates that people living across from him shows their zoning as R-3, but the detail drawing in the package shows them as R-2. He reviewed R-2 vs. R-3 zoning pertaining to utilities and water and pointed out the description doesn't appear to be appropriate. The City of Whitefish on March 3 of this year has targeted around 50 residents in the neighborhood for annexation and most all of them are opposed with a couple of exceptions. They have retained counsel and are actively opposing annexation. My summary point is that we should have a little more deliberation on what we are doing and I don't know if your inclined to make a decision today or not, but if your proceeding I think you ought to make all of us folks in the Houston Drive neighborhood the same zone.

9:54:00 AM

Colin Sellwood, 3930 Highway 40, Columbia Falls explained he lived west of Conn Road and when Whitefish took over zoning there they became part of their zoning. He said he has been a resident of Whitefish for 40 years and he and his wife bought their property on Highway 40 ten years ago, at which time it was a used car sales lot. The traffic noise on Highway 40 is remarkably continuous and getting more noisy as the years go by. Anyone who thinks it would be lovely to keep Highway 40 as a 2 to 2.5 acre residential home site either needs to be deaf or wear ear plugs all day long. Dillon Road being a back road to bring traffic from Whitefish out to Highway 40 is very busy and there will be a time in the not too distant future I am sure where there will be a traffic light required at the intersection simply because of traffic danger already there. Please keep in mind that Highway 40 and the owners of property on Highway 40 both deserve to be treated in the future as to what Highway 40 is destined to be, which is busy. Let's have rules and make it look attractive, but if anyone thinks it's going to be home sites in the future please come out there and stand for five minutes and you will know differently.

9:58:00 AM

Mayre Flowers, Executive Director with Citizens for a Better Flathead read the following letter.

P. O. Box 771 • 35- 4th Street West

T: 406.756.8993 • F: 406.756.8991

Kalispell, Montana 59903

citizens@flatheadcitizens.org

9/2/2014

To: Flathead County Commissioners

Re: Interim Zoning for the area surrounding the City of Whitefish

Citizens for a Better Flathead (CBF) appreciates the opportunity to comment before you on the county's proposed Interim Zoning for the area surrounding the City of Whitefish. We also appreciate the materials, and particularly the maps, that the planning staff prepared for this hearing, as well as their always courteous and helpful response to our inquiries.

The decision you reach on this proposed Interim Zoning impacts all county residents including those county residents who are also city residents, and county residents, who live around the city, use the city's public and private services to shop, recreate, travel, and meet a host of needs. As you are aware, Citizens for a Better Flathead represents many residents throughout the county and the three cities. Our long-time position has been, and continues to be, to advocate for collaborative planning and decision-making between the county and the cities, and in this case between the City of Whitefish and Flathead County. We feel that collaboration is important especially as you move forward with interim, and eventually permanent zoning, for the Whitefish extra-territorial area (ETA), or the so-called "donut."

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We have reviewed the interim zoning the county is proposing for adoption and we would like to ask you to reconsider the proposed interim zoning that is the subject of your hearing for the following reasons:

1. As you are aware, once in place, interim zoning allows the property owner to rely on that zone and its standards for development without coming forward for additional review before proceeding with development under the designated zone. Because Interim Zoning can be extended for up to two years, it allows for the potential for significant development to occur under this Interim Zone. For this reason and others **it is essential that the Interim Zoning that you adopt "...must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities" as is required by statute, 76-2-203 MCA, from the start.**
2. **We find in reviewing the proposed interim zoning that some of the proposed sections are not consistent with the city's zoning or the city's development standards,** which are set forth in the City of Whitefish zoning and long range planning documents.

Under 76-2-203 MCA, it requires that:

"76-2-203. Criteria and guidelines for zoning regulations.

(2) *In the adoption of zoning regulations, the board of county commissioners shall consider:*

(c) *compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;*

(3) *Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities."*

3. **As you are aware, Judge Ortley in his ruling last year overturning a Flathead County zone, known as B-2HG, which allowed for commercial development along highways throughout the county, relied on 76-2-203 MCA** when he ruled and held based on existing Montana laws that:

"The proposed map amendment and zone must statutorily comply with existing municipal zoning and long range planning, which the B-2HG does not, 76-2-203, MCA." (p. 8 of 18)

4. In preparation for the hearing on this interim zoning, the County planning staff prepared a table titled, "Comparison Table of Previous Whitefish Zoning and Proposed Interim Zoning." This table relies on minimum lot sizes to suggest that the proposed interim zones are consistent with the existing city zoning. **This table, however, fails to consider the most critical characteristics and differences between these zones, which are the permitted and conditional uses as well as the development standards that are also an essential part of any zoning regulations.** A comparison of these permitted and conditional uses and standards demonstrates that in some zones the uses allowed in the county proposed Interim Zoning are not in compliance with the City of Whitefish existing municipal zoning and long range planning.

RECOMMENDATION: A more detailed review and comparison of the over-all long range planning policies found in the Whitefish Growth Policy (WFGP) and its related zoning regulations, permitted and conditional uses, zoning development standards, and the permitted and conditional uses, and zoning development standards, allowed in the proposed county interim zoning is needed to establish compatible Interim Zoning.

► **For Example, the City of Whitefish's Growth Policy (WFGP) has long had in place an infill policy, which established criteria for potential zone changes:**

"9. Land designated Rural or Rural Residential on the Future Land Use Map shall not be redesignated by the City of Whitefish through a Growth Policy amendment, neighborhood plan, or subarea plan, except as set forth in the Implementation/Intergovernmental Element, until at least 50% of the previously entitled dwelling units, as depicted on the Approved Entitlements Map dated September 20, 2007, is actually constructed. ..." (page 70 WFGP)

"Therefore, this Growth Policy will promote infill development as a first alternative for future growth, and will not designate significant amounts of additional undeveloped land for land urban and suburban development at this time." (page 62 WFGP)

"5. Protect and preserve the special character, scale, and qualities of existing neighborhoods while supporting and encouraging attractive, well-designed, neighborhood compatible infill development." (page 69 WFGP)

"6. The City of Whitefish shall give priority to infill development over Growth Policy amendments that would redesignate land to Urban or Suburban." (page 69 WFGP)

Taken together with other polices within the WFGP and zoning regulations it is clear that encouraging or allowing for increased development on rural or agricultural lands outside the city limits and around the city is not called for or would not be in compliance with the zoning criteria found at 76-2-203 MCA. Yet the interim zoning before you for consideration calls for changing the current zoning on approximately 7,683 acres of lands around the City of Whitefish from WA Agricultural with minimum lots sizes of 15 acres to a County zone of SAG 10 with a minimum lot size of 10 acres. Under this proposed change, lots for development around the city would be significantly increased and this is not consistent with the Whitefish Growth Policy and it's zoning policies, which are based on the growth policy.

RECOMMENDATION: The county should in this case put in place an Interim Zone that matches the existing Whitefish WA Agricultural 15 acre minimum lot.

► **Under the county proposed interim zoning, approximately 42 acres would be converted from the existing WB-2 zoning to county B-2 zoning in the Hwy 93/Hwy 40 entrance corridor to the City of Whitefish. WB-2 zoning provides for a narrowly defined and limited set of commercial uses. WB-2 zoning excludes general retail along the south entrance corridor to the City of Whitefish and directs this type of use to the downtown core area consistent with the policies set forth in the Whitefish Growth Policy.**

The proposed county Interim Zone, however, calls for county B-2 zoning, which would allow for the immediate development of all "retail sales and services" uses. This is clearly not consistent with the Whitefish growth policy, which establishes the Whitefish downtown core area as the retail core area for the city as in the following:

"Early in 2006, the Whitefish City Council adopted the Downtown Business District Master Plan (Downtown Master Plan, or Master Plan). ... From a physical standpoint, the plan recognizes a market-supported build-out scenario that includes 140,000 SF of new retail, existing and/or renovated retail totaling 175,000 SF, over 330 new residential units, and 740 structured parking spaces. How that space could be distributed throughout the downtown area is shown in a Capacity Diagram on page 5 of the plan. Growth potential of this magnitude would present the community with the opportunity to keep the business focus on downtown as opposed to continued development of the Hwy. 93 South corridor, or allowing additional commercial stripping farther south along Hwy. 93 or along Montana Hwy. 40." (Page 40 WFGP)

"... There was very little interest in extending commercial development down Hwy 93 south of Hwy 40, or extending it along Hwy 40 toward Columbia Falls. Some commercial establishments now exist in both of those corridors as legal non-conforming uses. There was, however, great interest on the part of visioning session participants to work with Flathead County on cooperative planning beyond the Whitefish jurisdictional boundaries, and on preserving the visual qualities of community gateways, especially along the Hwy 93 and 40 corridors. There has been virtually no support in the Whitefish community for "big box" and "category killer" retail. Those types of retail establishments are readily available 15 miles away in Kalispell, and are generally viewed as being out of scale with Whitefish and detrimental to its small town feel and character. Code revisions to limit big box stores both in the downtown area and in the Hwy 93 commercial corridor are already being enacted. ... Other than the recommendations set forth in the Downtown Master Plan, this growth policy will recommend no additional land for commercial development." (Page 55-56, WFGP)

"1. Support the role of Downtown Whitefish as the commercial center of the community through implementation of the Downtown Business District Master Plan." (Page 45, WFGP)

"3. Strengthen the role of Downtown Whitefish as the commercial, financial, and administrative center of the community." (Page 68, WFGP)

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"Very little is accomplished if Whitefish carefully plans land use, establishes setbacks, landscaping, access, and signage in the highway corridors approaching the city, and Flathead County does not." (Page 65, WFGP)

RECOMMENDATION: To be compliant with 76-2-203 MCA, the county must put in place Interim Zoning that matches the existing uses and standards found in the WB-2 zone of the City of Whitefish.

► **Under the county proposed Interim Zoning, a total of approximately 1,113 acres would be stripped of their PUD (Planned Unit Development) standards that are currently in place for areas like Big Mountain and other smaller developments, and replaced with county Interim Zones that do not retain these PUD standards.** PUDs, as you are aware, grant a developer flexibility in design in exchange for meeting additional standards and providing clear community benefits.

RECOMMENDATION: Here again to be compliant with 76-2-203 MCA, the county must put in place Interim Zoning that retains the PUD zoning agreements that established these districts.

► **Under the county proposed Interim Zoning, approximately 211 acres which are currently almost entirely surrounded by city lands and are currently zoned as WI Industrial and Warehousing District with the following intent:**

*"The WI district is intended for **light industrial** purposes and to provide for light industrial and service uses in which a reasonable degree of control is desirable for the general well-being of the community area. (Ord. 03-15, 6-16-2003)"* (Emphasis Added)

are proposed to be replaced with county Interim Zoning I-2 with the following intent:

*"**I-2 HEAVY INDUSTRIAL:** A district to provide for industrial uses to accommodate heavy manufacturing, processing, fabrication, and assembly of parts or materials. It is also intended that the encroachment of non-industrial or unspecified commercial uses within the district be prevented."*

A comparison of permitted uses and conditional uses and development standards of the city's WI zone and the county's three industrial zones, I-1, I1H, and I-2, demonstrates that to establish an Interim Zone of any of the county's three industrial zones would not be consistent or compatible with the existing zoning of the City of Whitefish.

RECOMMENDATION: CBF recommends that as the county has done for two zones in the proposed Interim Zoning (the Business Service District and the Resort Residential District,) that the county create an Interim Zone that mirrors the WI Industrial and Warehousing District.

► **In the materials provided for this hearing on Interim Zoning, there is no reference to the development standards in the Whitefish Growth Policy and the neighborhood plans that currently provide the legal basis and framework for the existing zoning in place. To adopt zoning that can "as nearly as possible, be made compatible with the zoning" of the City of Whitefish as is required by 76-2-203 for the area surrounding the city, the county Interim Zoning should acknowledge and incorporate standards found in the Whitefish Zoning Regulations, existing Neighborhood Plans for the area, and within the long range plans of the City of Whitefish.**

For example, the City of Whitefish Growth Policy states:

"2. It shall be the policy of the City of Whitefish to require concurrency of all urban services, including but not limited to:

- *Water and sewer*
- *Drainage*
- *Streets*
- *Public safety and emergency services*
- *Pedestrian, bikeway, and trail facilities*
- *Parks*
- *Schools"*

"Concurrency simply means that any upgrades to facilities or services necessitated by development, such as streets, parks, schools, emergency services, pedestrian/bikeways, etc., should be in place before the impact of the new development."

In another example, current zoning Whitefish Big Mountain Village District (WBMVD) states:

"The Whitefish Big Mountain village district is subject to compliance with the Big Mountain neighborhood plan for general locations of density, land use, and transportation linkages. (Ord. 06-30, 10-16-2006)"

And in the Whitefish Big Mountain Neighborhood Plan (WBMNP) it states:

"A Neighborhood Plan embodies the public policy for the area it addresses. Any land use ordinances or regulations, such as zoning or subdivision review shall be based on the Neighborhood Plan. When a Neighborhood Plan is more restrictive in its policy guidance than zoning, the precepts of the Neighborhood Plan shall prevail. It must be understood, however, that a Neighborhood Plan is not an engineering, construction, or subdivision document." (BMNP Page 6)

RECOMMENDATION: As these examples demonstrate, the county Interim Zoning should acknowledge and incorporate standards found in the Whitefish Zoning Regulations, existing Neighborhood Plans for the area, and standards within the long-range plans of the City of Whitefish.

5. **There is no staff report or proposed findings of fact to provide the rationale, in compliance with zoning criteria found at 76-2-203 MCA, to support the proposed interim zoning and the significant changes it represents to the existing zoning covering almost 10,000 acres.** This lack of findings and a staff report explaining this interim zoning process, or the existing legal framework which should guide this zoning process, or the basis for the recommendations which the county is proposing for these proposed Interim Zoning Regulations, makes it difficult if not impossible for the public at large—including county residents in the City of Whitefish and the county at large residents—to be informed and to have an opportunity for meaningful public comment at this hearing. This is particularly true given the scope and complexity of the proposed Interim Zoning. The lack of findings and staff report further calls into question the validity of this proposed Interim Zoning as the Flathead County zoning regulations at 2.08.040 require the adoption of findings based on the criteria found in 76-2-203 and case law further establishes the need for findings and a record to support proposed zone changes.¹

RECOMMENDATION: While the notice for this hearing may have met the standards for interim zoning, we feel that it is inadequate given the scope and complexity of the zone changes being proposed and the lack of draft findings or a staff report to allow for the public to be meaningfully informed do not meet the state's standards for public participation. We would, therefore, ask the county to consider the comment received today and to table this decision, provide the public additional information including draft findings and a staff report, and allow for an additional public participation in this decision.

6. **The notice for this hearing implies that an emergency exists and that it is necessary to put this Interim Zoning in place as soon as possible.** The notice states:

*"The exigent circumstance compelling the establishment of the proposed interim zoning district is the City of Whitefish's position that it no longer has the jurisdiction over an extraterritorial area (ETA) after a July 15, 2014, Montana Supreme Court decision. The City is now declining to exercise any authority in the ETA, including processing land use permits and applications. **In order to serve the needs of the citizenry in the ETA, the County has no option but to begin administering immediate control over the ETA and to do so the establishment of the proposed interim zoning is needed.** It is imperative for an orderly progression of events for interim zoning to be established until the County holds public meetings and conducts studies to establish permanent zoning in the area." (Emphasis added.)*

TUESDAY, SEPTEMBER 2, 2014
(Continued)

Lowe v. City of Missoula, 165 Mont. 38, 525 P.2d 551, 1974 Mont. LEXIS 388 (1974). The Lowe decision pertained to a Supreme Court evidentiary analysis that there was a lack of evidence to support rezoning down zoning Waterworks Hill lands from a "B" residential to "RR-" residential zoning district classification to prevent development of the apartment complex. After concluding there was a lack of evidence to support rezoning down zoning the Court concluded by emphasizing that rezoning down zoning decisions must be supported by actual evidence.

However, in an earlier letter to Flathead County dated 7/28/13, the City of Whitefish offered to work with the county for a smooth transition from the current zoning to county zoning. Given the city's offer, the county does have alternatives for ensuring a smooth transition for this major zone change process that covers close to 10,000 acres. Furthermore, much of the zoning for which interim zoning is being considered has been in place for decades.

CONCLUSION-RECOMMENDATIONS: There is no emergency or risk to public health, safety, or welfare, based on the zoning that is currently in place, there is simply a legally mandated court decision that transfers who reviews development requests moving forward. Most importantly the zoning that is currently in place is consistent with Whitefish zoning and long range planning and could easily be adopted as is, in much the same way that the county adopted unique zoning for the West Valley Neighborhood Plan or the West Glacier or C.A.L.U.R.S (Canyon Area Land Use Regulatory System) zoning.

We would encourage the County, to simply adopt the existing zoning for the ETA and to administer this as the Interim Zoning for this area while you move forward with required public hearings for permanent zoning for this area. To provide the greatest predictability and stability for all county residents, however, we would also encourage the county to ultimately adopt the existing zoning in place as it is the best way to comply with the criteria set forth in 76-2-203 MCA.

Based on the comments we have provided today we do not feel that the proposed Interim Zoning meets the legal standards required for the adoption of Interim Zoning regulations and would urge the County to revise the proposed zoning before moving forward.

In closing, we hope that the needs of all county residents will be fairly considered in this process. As was noted in a recent memo to the Whitefish City Council by the City Manager, too often, when counties approve urban density developments around Montana cities, they typically are not designed to city standards including water and sewer lines, sidewalks, curbs and gutter or drainage, etc. (and we would include roads in this list). Then, when cities grow and annex properties to allow for growth, the people who are annexed often expect the City to provide them such services. However, those costs should be borne by the homeowner, as a developer when initially developing the property to city standards would have typically provided them. Those costs would be reflected in the purchase price of the lot or home.

It is costly for cities afterwards to go in and provide water and sewer lines, sidewalks, and other infrastructure after property has already developed. It is for reasons like this that the Montana Legislature in its wisdom put in place 76-2-203 requiring that: "[County] Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities."

Sincerely,

Mayre Flowers, Executive Director, Citizens for a Better Flathead

Commissioner Krueger inquired as to if the above document read was provided to the commission prior to the public hearing.

Flowers stated it was not.

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

Commissioner Krueger inquired as to if MCA 76-2-203 governs interim zoning.

Fugina noted as far as interim zoning is applied that it doesn't apply that MCA 76-2-206 does.

Commissioner Krueger said PUD's were mentioned here that were approved under Whitefish jurisdiction. He asked what happens to them under interim zoning.

Grieve pointed out that given the time frame they were given to prepare and bring forth the interim zoning the individual PUD's adopted by Whitefish were not incorporated into the interim zoning. As part of the process whatever process that winds up being to replace the interim zoning; whatever process is undertaken that process could certainly consider the PUD's, but at this time the interim zoning district does not have those specific PUD overlays. You have a replacement of the base zoning without the PUD overlay with the exception of the Big Mountain ones shown that will be replaced by BR-4 and there was a WCR-PUD that is being replaced by R-2.5. The other PUD's they identified both have been annexed.

General discussion was held relative to PUD's; permitted uses; conditional uses; development standards and lighting ordinances.

Grieve summarized possible scenarios regarding implementing interim zoning/ permanent zoning and involving the planning board.

Chairperson Holmquist said this commission has always been very open to the public process and we appreciate everyone coming out today and giving us their comment. She noted they received several e-mails and stated it is important that those are looked at when they make their decision. Holmquist recommended they look at all the information they received and get their questions answered before making a decision.

Commissioner Scott said it is obvious that public comment is critical to any process like this. We are engaged in a renewal going back quite a few years and we have many different considerations, and I believe we need to view all of that before we can make any decisions that affect so many divergent lifestyles and people in our county.

Commissioner Krueger made a **motion** to continue to Tuesday, September 9, 2014 at 11:00 a.m. Commissioner Scott **seconded** the motion. Motion carried unanimously.

DOCUMENTS FOR SIGNATURE: MARCIA SHEFFELS, SUPERINTENDENT OF SCHOOLS / FY14-15 SCHOOL BUDGETS

10:36:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Supt. of Schools Marcia Sheffels, Finance Technician Cheryl Morgan, Clerk Kile

Sheffels presented FY14-15 Flathead County school budgets to the commission for approval, and read the following memo submitted with the 23 school budgets and FVCC levies.

TUESDAY, SEPTEMBER 2, 2014
(Continued)

Your signature on school budgets should not be an annual "token" action, as we are elected to represent taxpayers. For your information and comfort with what you are asked to sign, our office uses a budget checklist. Our accounting technician Cheryl Morgan does an impeccable and time-intensive job in reviewing each budget to assure you that all school finance laws and budgeting procedures have been followed and unintended mistakes and/or omissions have been remedied. Thus, our office provides levy requirements and supports you in continuing efforts to provide good stewardship of taxpayers' money while supporting education in Flathead County.

Commissioner Krueger made a **motion** to adopt the documents for signature. Commissioner Scott **seconded** the motion. Motion carried unanimously.

FLATHEAD COUNTY SUPERINTENDENT OF SCHOOLS REPORT										PAGE 11
FLATHEAD COUNTY SCHOOL DISTRICT LEVIES										
2014-2015										
SCHOOL DISTRICT NUMBER & NAME	GENERAL	TRANS- PORTATION	BUS DEPRE- CIATION	TUITION	ADULT EDUC.	TECH- NOLOGY	DEBT SERVICE	BLDG RESERVE	<u>TOTAL</u>	
1 WEST VALLEY	91.49	25.79	0.18	8.49			63.34		189.29	
2 DEER PARK	73.99			15.67					89.66	
3 FAIR-MONT-EGAN	101.40			2.74		2.22		7.39	113.75	
4 SWAN RIVER	52.36			4.75			16.41		73.52	
5 KALISPELL	91.13	17.11	2.44	5.08	0.36	11.31	15.17	10.68	153.28	
6 COLUMBIA FALLS	102.40	10.18	11.75	4.28			22.96		151.57	
8 WEST GLACIER	26.89	5.93				1.81			34.63	
9 CRESTON	67.63	5.73	6.61	1.69				3.69	85.35	
10 CAYUSE PRAIRIE	72.29	18.73		3.80		1.63	22.95		119.40	
15 HELENA FLATS	102.24			9.69		3.05	46.41		161.39	
20 KILA	85.23	6.18		13.46					104.87	
27 PLEASANT VALLEY	80.43								80.43	
29 SOMERS	52.25	10.17		4.07		0.39			66.88	
38 BIGFORK	46.96	6.89	1.98	2.57			14.80		73.20	
44 WHITEFISH	62.46	9.41		1.78	1.00	1.59	11.04		87.28	
48 ROUSSELLE	52.25	10.17		4.07		0.39			66.88	
50 EVERGREEN	120.72	2.69		7.24	0.55		12.22		143.42	
54 MARION	48.26	6.93		2.20			4.27	1.88	63.54	
58 OLNEY/BISSELL	68.07	26.01		7.57		2.99			104.64	
68 KUHNS	68.07	26.01		7.57		2.99			104.64	
89 SMITH VALLEY	88.43	5.48		4.49			22.06		120.46	
5 FLATHEAD HS	42.64	10.54	1.06	1.55	0.94		18.98		75.71	
6 COLUMBIA FALLS HS	51.81	5.71	6.18	0.02					63.72	
38 BIGFORK HS	25.50	5.35	2.06	0.85					33.76	
44 WHITEFISH HS	37.84	2.82		0.37		1.30	15.80		58.13	
	<u>PERMISSIVE MEDICAL</u>	<u>GENERAL</u>	<u>DEBT SERV.</u>	<u>ADULT EDUC.</u>	<u>TOTAL</u>	**GENERAL SCHOOLS**				
7 FVCC	2.30	9.50	4.10	1.00	16.90	ELEMENTARY GENERAL				33.00
						ELEMENTARY RETIREMENT				28.10
						HIGH SCHOOL GENERAL				22.00
						HIGH SCHOOL RETIREMENT				13.09
						TRANSPORTATION				2.70
						COMMUNITY COLLEGE RETIREMENT				4.70
						TOTAL GENERAL SCHOOL MILLS:				103.59

Marcia M. Sheffels
MARCIA M. SHEFFELS, FLATHEAD COUNTY
SUPERINTENDENT OF SCHOOLS

Pamela J. Holmquist
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

PRELIMINARY PLAT MATERIAL CHANGE: SUBDIVISION NO. 287

10:46:00 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, John Schwarz, Clerk Kile

Mack summarized the request submitted by John and Molly Schwarz for a material change to a first minor subdivision located at the southwest corner of Church Drive and Farm to Market Road, which was previously approved for five residential single family lots on 25.839 acres with an average lot size of 5.168 acres and 25.839 acres of open space required. He noted the applicant submitted soil tests performed on the soil conditions on the property and believes the soil is incorrectly classified and therefore the open space should not be required. Mack stated staff prepared a staff report that addresses just the material change and two previous conditions were removed that required the open space deed restriction.

Commissioner Krueger made a **motion** to approve the preliminary plat material change to Subdivision No. 287. Commissioner Scott **seconded** the motion. Motion carried unanimously.

TUESDAY, SEPTEMBER 2, 2014
(Continued)

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626B. All road names shall appear on the final plat. Street addressing shall be approved by Flathead County. [Section 4.7.16(g)(iv), 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall comply with all reasonable fire suppression and access requirements of the West Valley Fire District. A letter from the fire chief stating the plat meets the applicable requirements of the district shall be submitted with the application for final plat. [Section 4.7.26(b), FCSR]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved and implemented shall be submitted with the final plat. [Section 4.7.13(g) and 4.7.25, FCSR]
4. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23, FCSR]
5. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed as applicable by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.13, 4.7.20, 4.7.22 FCSR]
6. The mail delivery site(s) 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 4.7.28, FCSR]
7. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to Subdivision No. 287. [Section 4.7.22, FCSR]
8. The owners 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. [Section 4.7.14, FCSR]
9. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23, FCSR]
 - c. The owners 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. [Section 4.7.14, FCSR]
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
10. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
11. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivide prior to final approval by the County Commissioners. [Section 4.0.16 FCSR]
12. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13 FCSR]
13. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]
14. An approach permit for the three driveways (Lot 1 & 2, Lot 3, and Lots 4 & 5) shall be obtained from the Flathead County Road and Bridge Department prior to final plat and the driveway approaches shall be constructed and paved to applicable county standards. [Sections 4.7.16 FCSR]
15. A bike/pedestrian path easement adjacent to Farm to Market Road, of compliant width (15-feet) shall be shown on the face of the final plat. [Sections 4.7.19 FCSR]

MONTHLY MEETING W/ DAVE PRUNTY, ROAD DEPT.

11:00:00 AM

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

Prunty summarized the following monthly report with the commission.

Operations

- ✓ The asphalt overlay program has been the majority of the work completed this month.
- ✓ The Welding Bay Addition has been completed. Final acceptance documents were signed on July 7. Hammerquist Casalegno did an excellent job with the project and we are very pleased with the addition to the shop complex.
- ✓ We did find an electrical issue with the building and Jackola hired American Electric to come in and install the needed electrical service to the building. That work has begun and should be completed in early September.
- ✓ Repairs to Haywire Gulch occurred from this spring's runoff. The project improved the drainage at the end of the road where the slope is very steep. The area will be a continual maintenance issue but these improvements should improve the drainage issue.
- ✓ Miscellaneous work tasks such as ROW clearing, culvert work and hand patching also occurred throughout the month.

Asphalt Overlay Program

- ✓ To date we have completed 7.7 miles of overlay in the county, 4.1 miles of that in August.
- ✓ A list of the roads completed is below
- ✓ We have a total of \$710,000 budgeted for asphalt oil this year and have utilized \$268,000 to date.
- ✓ We will continue into September on this work assuming the weather cooperates.
- ✓ We also have been working with Jim Lynch who is a sales rep for MWV. They have a product called EvoTherm that is utilized to make warm mix asphalt as compared to hot mix. The difference is about 50 to 75 degrees F lower for warm mix. It is deployed on the road at 290 F.
- ✓ We are going to do a week long pilot project with this product in mid-September. The product trades thermal energy for chemical energy.
- ✓ The benefits are reported to be easier deployment, longer lasting asphalt and reduced expense in the production of the mix.
- ✓ We will be the first county Road Department in the state to give warm mix a try on our road system.

Columbia Falls Stage Road Landslide

- ✓ Jackola is proceeding forward with their work on the road.
- ✓ RPA has surveyed the work area to provide the topo map.
- ✓ Jackola has created a couple different alignment plans and then discussions will occur with the landowner on gaining the needed ROW to move the road.
- ✓ Our approach will be to ask for a 60 foot ROW, just as what is currently there, but have it move to the east so the centerline of road and ROW are positioned on top of each other. There won't be any net loss of land but we would be reducing the amount of tillable ground for the landowner.
- ✓ There are two options we have looked at for the alignment. The first removes a couple of trees the landowner said he would prefer to leave in place. This option removes 1.72 acres of tillable ground. The second option swings to the east of the trees and remove 2.60 acres of tillable ground.

**TUESDAY, SEPTEMBER 2, 2014
(Continued)**

Whalebone Drive Bridge – Ashley Creek

- ✓ Morrison-Maierle has completed the Hydraulic Analysis Report. This was needed to determine the needed span and height of the arch culvert we plan to install.
- ✓ This will be our first installation of this type of bridge in Flathead County.
- ✓ We have learned these types of bridges are less costly to install and maintain at our MACRS meetings.
- ✓ We are currently working with FWP on the needed permit(s) to perform this work.
- ✓ At the creek's current flow we are unable to proceed forward. The old irrigation ditch and bridge that are immediately upstream from our bridge are not big enough to handle the current flow. This may cause us to delay the installation to next season.

2014 ASPHALT REPORT					
ROAD NAME	START DATE	END DATE	TONNAGE	Footages	
Farm to Market	7/24/2014	7/29/2014	2047.26	6,760	
Kuhns Road	7/24/2014	7/24/2014	689.94	2,702	
Handpatching	7/23/2014	7/23/2014	6.25		
Rhodes Draw	7/29/2014	7/31/2014	2358.22	9,327	
					18,789
Church Drive	8/5/2014	8/13/2014	4510.61	19,950	
Prairie View	8/5/2014	8/5/2014	166.71	1,126	
Handpatching	8/5/2014	8/5/2014	5.53		
West Valley Drive	8/13/2014	8/18/2014	2049.42	8,300	
Star Meadows	8/18/2014	8/26/2014	3416.05	11,233	
Holt Stage	8/27/2014	8/27/2014	22.30	Bridge approach	
Shop	8/27/2014	8/27/2014	190.51	Entrance	
North Fork Rd	8/28/2014	8/28/2014	535.07		
					40,609

DOCUMENT FOR SIGNATURE: REQUEST FOR DECLARATION OF SURPLUS PROPERTY/ ROAD DEPT.

11:16:00 AM

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

Prunty noted the surplus property consists of two pickup trucks and an old 1976 case loader.

Commissioner Krueger made a **motion** to approve the document for signature/ declaration of surplus property. Commissioner Scott **seconded** the motion. Motion carried unanimously.

MEETING W/ RACHEL ABEH FROM CONGRESSMAN DAINE'S OFFICE

11:30:00 AM

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

Rachel Abeh, Northwest Regional Director Agricultural Liaison of Congressman Daine's Office met with the commission and spoke about recent bills before congress and rural issues pertaining to Flathead County.

General discussion was held regarding PILT funding, SRS funding and the North Fork Road.

AUTHORIZATION TO PUBLISH RFP: ASSISTANT EXAMINING LAND SURVEYOR

11:53:00 AM

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

Commissioner Scott made a **motion** to authorize publication of RFQ/ Assistant Examining Land Surveyor. Commissioner Krueger **seconded** the motion. Motion carried unanimously.

REQUEST FOR QUALIFICATIONS

The Flathead County Board of Commissioners is requesting interested surveyors or firms to submit their qualifications for providing assistant examining surveyor services to Flathead County. Assistant examining surveyor services are used in the event the Examining Surveyor is unavailable or unable to provide services. Such qualification statements are to be submitted, in writing, to the Flathead County Board of Commissioners at 800 South Main, Room 302, Kalispell, Montana 59901 and must be received no later than **4:00 p.m. on September 17, 2014**. All sealed responses will be opened by the Board of Commissioners at **9:00 a.m. on September 18, 2014**. The surveyor or firm chosen for further discussions or more detailed submittals will be so notified by written letter from the Office of the Flathead County Board of Commissioners.

SCOPE OF WORK:

The person/firm selected for providing assistant examining surveying services for Flathead County will be required to review requested road abandonments and to write the viewer's reports and recommendations for consideration by the Flathead County Board of Commissioners; to examine and sign Subdivision Plats and Certificates of Survey filed in Flathead County; and to provide other examining services that may be presented for review.

All work will be performed in a timely manner and within statutory or policy imposed deadlines. The person/firm selected will be required to comply with Flathead County policy requirements concerning insurance (including worker's compensation).

CRITERIA OF SELECTION:

Selection of a person/firm for the provision of these services will be based upon the following criteria and each of the seven criteria must be addressed within the qualifications response submitted in order to be eligible for consideration.

TUESDAY, SEPTEMBER 2, 2014
(Continued)

1. Qualifications of the proposed professional personnel who will be assigned to the project.
2. Capability to meet time and project budget requirements.
3. Location of the office of the person/firm.
4. Present and projected workloads of the person/firm.
5. Related experience on similar projects.
6. Recent and current work for this agency (Flathead County).
7. Technical approach.

The person/firm selected to provide these services will be required to enter into a two (2) year contract.

Dated this 2nd day of September, 2014.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

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

ATTEST:
Paula Robinson, Clerk

By/s/Diana Kile
Diana Kile, Deputy

Publish on September 5 and September 12, 2014.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 3, 2014.

WEDNESDAY, SEPTEMBER 3, 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 present to speak, Chairperson Holmquist closed the public comment period.

AWARD RFP: SR. CENTER PAR

10:00:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Deputy County Attorney Caitlin Overland, Grant Support Debbie Pierson, Clerk Kile

Pierson reported two proposals were received in response to the RFP to complete the Senior Center(s) Preliminary Architectural Report (PAR). The Review Committee scored the proposals received and their recommendation is to award the RFP to Solus Architecture to complete the PAR.

Commissioner Krueger made a **motion** to award the RFP to Solus Architecture. Commissioner Scott **seconded** the motion. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: QUIT CLAIM DEED/ CORNELIUSON

10:03:00 AM

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

Overland reported a property owner in Columbia Falls is seeking to sell their property which the county has a minor interest in. She explained the request is that the county signs a QCD that will be an easement for a ROW that extends to the property.

Commissioner Krueger made a **motion** to approve the document for signature. Commissioner Scott **seconded** the motion. Motion carried unanimously.

AWARD BID: VEHICLES/ SHERIFF'S OFFICE

10:04:00 AM

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

Leib noted the recommendation is to award the Sheriff's Office vehicle bid to Valley Ford for 8 Ford Explorers and 1 Ford F-150 XL Pickup for a total bid price of \$238,468.68.

Commissioner Krueger made a **motion** to award the vehicle bid/ Sheriff's Office as presented. Commissioner Scott **seconded** the motion. Motion carried unanimously.

WEDNESDAY, SEPTEMBER 3, 2014
(Continued)

CONSIDERATION OF PRINT BID: SHERIFF'S OFFICE & HEALTH DEPT.

10:05:00 AM

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

Chairperson Holmquist read into the record that Eagle Flight Business Forms was the low bidder for 1,000 business cards for \$123.80 for the Sheriff's Office.

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

Chairperson Holmquist read into the record that Insty Prints was the low bidder for 5 sets of 500 each business cards for \$123.80 for the Health Department.

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

CONSIDERATION OF H.R. TRANSMITTAL: ADJUST FTE/ LIBRARY MATERIAL HANDLERS, LIBRARY

10:07:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, H. R. Director Tammy Skramovsky, Library Material Handler Patti Jones, Clerk Kile

Skramovsky noted the FTE change is re-allocating hours for Library Material Handler positions and explained there is a potential to increase the budget \$3,000 a year.

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

DOCUMENT FOR SIGNATURE: JOHNSON CONTROLS PLANNED SERVICE PROPOSAL/ HVAC & FACILITY MANAGEMENT SYSTEMS MAINTENANCE AGREEMENT

10:12:00 AM

Present: Chairperson Pamela J. Holmquist, Commissioner Calvin L. Scott, Commissioner Gary D. Krueger, Assistant Mike Pence, Weed/Parks/Maintenance Director Jed Fisher, Maintenance Technician Mike Hovila, Clerk Kile

Fisher summarized the proposed Planned Service Agreement prepared by Johnson Controls to maintain various county facilities through August 31, 2017.

Commissioner Krueger made a **motion** to approve the document for signature/ Johnson Controls Planned Service Proposal. Commissioner Scott **seconded** the motion. Motion carried unanimously.

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 September 4, 2014.

THURSDAY, SEPTEMBER 4, 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.

NO MEETINGS SCHEDULED

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

FRIDAY, SEPTEMBER 5, 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.

NO MEETINGS SCHEDULED

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