

## MONDAY, JANUARY 3, 2005

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Commissioners Hall, Watne and Brenneman, and Clerk Robinson were present.

### 8:00 a.m. Weed & Parks Board Meeting at Weed & Parks Office

Commissioner Hall requested a moment of silence in honor of Chuck Mercord.

### Commissioner Hall opened the public comment period on matters within the Commissions' Jurisdiction –

Tom Sands, David Filler, Reto Barrington, Darlene Jump-Rauthe, Debbie Street, Bob Lovejoy, Greg Carter, Mary Flowers, Lloyd Tracht, Reuben Braaten, Sharon Chapman, Jane Burleson, Amy Grisak, Erica Wirtala,

Tom Sands – I'd like to welcome Joe to the Commission, I've in my career I've lived through about sixteen different Commissioners and I look forward to working with you. As you know the Two Rivers Project's on your agenda today and I'd just like to make a couple comments on that. I guess I'd like you to understand and realize that this is basically a landowner generated plan, the people in the area that came to use with the large landowners of the area around the street that the Tronstads, the Huttons and Trachts and Olsens and Thompson and they're majority owners of the land in the area. Basically they've been trying to farm on the property for the last eons of years and things change over the years and they've come to realize that the best use of the land may or may not be for farming anymore of which we've all come to realize over the past few years. But, with that in mind, we've tried to generate a workable plan for them that they've all agreed to and they had a big part in bringing it all about. We've worked hours and hours and hours with Erica Wirtala from my staff and Debbie Street has worked with them over and over and over. I have had meetings in the community of course a public hearing with the planning board and what have you and it's going to be a touchy subject for everybody because change is always hard but I think that what you have to look at is the fact that this is a real plan. It's a plan for an area that is suitable for growth, we've already been contacted and hired to do some preliminary surveys on bringing sewer up that way, so I think it's a reasonable plan and I would urge you to support it.

Eric Bergman – I live on Whitefish Stage and I attended the planning board meeting back in October. I am new at this entire process, I'll admit to that upfront. I was a little bit disturbed with the recommendation by the Planning Staff in the meeting that I attended. They made two comments that disturbed me then and continue to bother me.

The first one was that this proposal would have virtually no impact on any local government. The second one was that this plan coincides nicely with the County Master Plan. The first statement would be true only if we consider this to be a decision made in a vacuum. The whole purpose behind this is to change the zoning so that eventually development can take place and there will then be tremendous impacts on local governments. The second statement bothers me because it obviously does not at present coincide with the County Master Plan, so it would not be addressing a zoning change at this point. We would instead be looking at development proposals. I am not opposed to development. I don't think that there's too much question that development is going to take place, but I am concerned that a development program of this scope is being addressed through the amendment program rather than through the Master Plan itself. We're talking about 1800 acres, we're talking about an area and a population potential greater than the size of Kalispell. Rather than addressing it through the Master Plan itself, we're instead just going to put an amendment on there. Now this master plan as I understand it is to anticipate the future needs for public facilities and services such as schools, parks, police, fire protection, health and human services, transportation, water, sewer and waste management. The master plan is supposed to be the framework on which all the rest of this is hung, but we are right now involved in such a tremendous change and such a rapid number of changes that are taking place through out the county, I think that the board and the County Commissioners are having a difficult time maintaining oversight of all of this that's going on. It's true that this is a program or a plan that is promoted by the landowners or a majority of land owners but there's some of the rest of us that also own property in the area as well. Our concerns are not really being addressed in this either. A master plan change or overall amendment should take a look at my five acres. What happens to that, am I also entitled to the highest valued use of my property? Do I get to put a deli on my property at some future point? Is that the best use? The reality is that the highest value use of your property is not a right that exists. Current use possibly, but we've got government regulations that have always restricted what we can and can not do with our property. I think that a lot of the proposal is definitely worth pursuing. I think that these property owners have the right to promote certain developments but I think that this large of a change in such a sweeping manner is improper at this time. I think that it should be addressed through the Master plan rather than through a simple amendment to that plan.

Lloyd Tracht – I wrote a letter last night with some of my thoughts. Dear Sirs, if I understand correctly, a master plan amendment gives landowners the ability to change the county master plan when it is necessary for them to do so. I know that it needs to be approved by the Planning Board and County Commissioners. However, it is a legal way of getting things done that the Planning Board has not had the time to do. I know that our Planning Board is way over worked for a volunteer organization and should be commended for what they have done this past year. The Two Rivers Master Plan Amendment has been in the making for over a year now and there have been many hours of labor and thought put into it, over 400 letters were sent out to adjacent property owners before the meeting with the Planning Board. Less than 4% of them responded with some of those in favor of the plan. They were concerned about roads and other infrastructure. Two Rivers is bordered on the west side by US Highway 93, on the east by US Highway 2, on the south by Reserve Drive and Whitefish Stage Road splits it down the middle. Where in the Flathead can there be property with better access? The sewer issue has yet to be resolved but we all know that the city of Kalispell has interest of making it available. Water is available in deep highly productive aquifers, plans are underway for parks, bike paths and trails for walking, horseback riding is planned along with picnic areas along the river. I've been bought to believe that small developments and strip growth is a major problem for the local planning board. Therefore shouldn't a large plan be given a lot of consideration? This is a centrally located development plan with neighborhood cooperation to be never surprised by what your neighbors do to you. I do know that infrastructure is a big issue in a situation like this. However, with the increased tax base from the higher tax zoning, it seems that it maybe possible.

Erica Wirtala – I work for Sands Surveying and I'm the representative for the Two Rivers Growth Policy Amendment application that was submitted. I guess I'd just like to fill you in on sort of the nuts and bolts and how this came to be and I understand that the rest of the meeting will be at 10:30 this morning and I'll be prepared with presentation materials, a map and things like that. I guess just for your information, this was a group of landowners that organized themselves, they formed an incorporated land association and met several times over at the Fire Hall and discussed the different options that they might have available for their land and their land use. They were all very concerned about what their neighbors were doing and working in conjunction with that and working as a group, working together as a cohesive unit to formulate this plan. Individually, the land owners would then stop by at my office and we'd discuss what may or may not work for their property, what types of land use

designations would be appropriate for their properties. Plus at that time they would also discuss their envisioned use of their property twenty, thirty, fifty years down the road as well and I think when I show you the map on the grand scale you'll see everything from low density rural development to some high density urban and suburban and commercial industrial land uses. It goes the whole spectrum there. We had several discussions with Forrest and then who also we understand took that to the County Attorney as to whether or not this was the best way to approach this sort of land use planning designation and it was decided upon that instead of going through the process that the Planning Board had been going through and just holding open community meetings and sort of everybody just designating in, the Planning Board sort of digesting what the land owners wanted or the individual communities wanted that if it were brought forward in a formal application with a ten thousand dollar application fee that that would be taken seriously and that the application would proceed through the channels at a pretty expedient rate versus the sort of nebulous time zone that the Planning Board is working on their overall growth policy for the entire county and it looks as though now even that Forrest's prediction that they might have to even bring aboard a private consultant and that that document may not see approval until maybe even next year sometime, we were glad to have brought forward this document as an official application. It did go to the Planning Board in October, it was a lot of information, it was a very long presentation and quite a few people spoke in that. The Planning Board felt that they wanted to have some more information to look at some things. They gave the planning staff a long list of additional information that they wanted. They provided that and then at the December 15<sup>th</sup> meeting they brought it back on the table and discussed it some more and brought it forward to you.

Greg Carter – I have about thirty years in the Planning and development business and so I followed this with a great deal of interest and I have a copy of yesterday's Interlake article where it is talking about ready or not, incoming County Commissioner Joe Brenneman will have to confront the issue of growth and the Flathead almost immediately on Monday and I'd like to change the nomenclature this isn't about growth, this is about planning. Growth happens because the market brings growth, a lot of the people here in the room weren't born and raised here, but they moved here for a reason, that's what's going to control growth and what's going to cause growth. This area is a natural for where growth would happen in all of our valley. I think the gentleman you replaced was quoted as saying that in the next twenty years he sees solid development from Somers to Whitefish. I don't know if that's the case but I do know that our area is going to continue to grow. And so I'm here to encourage you to look at this plan and consider approving it. Don't study it to death. You're County Commissioners, you're not land planners. You shouldn't be expected to be land planners. A land planner has been working on this, you have a professional staff of land planners, I went to the Planning Board meeting and I could see their frustration, bless their hearts, they're volunteers, thinking about being land planners and many people might come up and want to say this and that but professional planners have put it together. It's been almost a year and in my experience of over thirty years of doing it, this is a much better plan than you currently have. The only thing reason for a delay is that you do it in such a manner as to deter law suits which you've already run into. I've heard that there's also going to be consideration, let's do a road plan for all of this. This is far too premature. This is merely a land use plan, it is not zoning and it is not platting, so realize that's got to come back before you. Right now you have north and south arterials of Highway 93, Whitefish Stage and Highway 2. You have east west arterials of Reserve and Rose Crossing which is going to be extended in the future all the way over to 93, that's about all you need at the land use stage. This is not zoning and platting so I encourage you not to feel like you have to take on the responsibility of becoming land planners and studying this thing to death while growth continues to happen. You've got a plan in place now but it's not as good as this. So I want to heartily encourage you to consider adopting this as soon as possible and the major concern being trying to deter lawsuits from those that believe it's a growth issue, it's a planning issue. How many times has our county tried to do a master plan and how many times has it been defeated? I have developed in six different states and planned in seventeen different counties, I can't tell you a county who would not want to have happen what is happening here where numerous land owners get together on their lands and come in and put together a good plan, raise money, planned so that you don't have to do all of that. We have never been able to adopt a good solid new master plan in this valley for Flathead County. This is a great start. I encourage you to let these land owners know that this morning.

Jane Burleson – This definitely affects me, it affects our area. We gathered a group of homeowners in the area and we just loosely called ourselves, North Valley Neighbors and everyone that we talked to on Rose Crossing, Trumble Creek, Whitefish Stage and up into Ponderosa Estates was not in favor of this amendment. We're concerned about the densities in the area. That's our main focus. We're concerned about how densities will affect our roads, our infrastructure. With those sort of densities we would not be able to, we don't have the schools. One thing that was mentioned is we do have a high school coming in that already our elementary schools are full. We would have to put an elementary school in and services in the area already because of the signal light that went on Highway 2, our traffic has increased, and that's with no growth. That's just already on our road. Rose Crossing is very small, we have two, one 90 degree turn and one I think 45 degree turn and it's just, I don't believe that our densities, because of the densities of the proposal that it would, that we can even support that. The other thing is, I just wrote out, I was thinking when I was sitting back there. The amendment proposal is unprecedented in the history of the county and if this is passed, it is going to set a precedent for any other development that wants to come in and without the growth policy amendment, anybody that comes in after this, people are waiting to see what happens with the Two Rivers Amendment proposal. If this passes, this is basically their go ahead to say well, they got it passed so why shouldn't we be able to have it passed and I believe that you will have law suits because of that, because of setting a precedent by adopting this Two Rivers proposal. And then I also believe it's the county's responsibility to ensure that our growth is driven by vision and values and not by development. We will always have a supply and demand but it's not about supply and demand, it's about what do we want this valley to look like.

Amy Grisak – I wanted Jane to go first because I knew she would cover a lot of the same points. I just wanted to express my hope that you'll deny this resolution of Intent and just take your time on this whole process with the Two Rivers. It's true they have put a lot of planning into this and I greatly admire that because I've worked in similar levels up in Whitefish but it's such a big project that it really needs to take more time to look at all of these issues and true you're not necessarily the planning body but you help give the direction of the county and so I think it really is worthwhile to maybe hold off, let us see about what the master plan will entail. It's not that far off until it's all put together and just ask that you do take your time on this so you're not setting a precedent that will have extreme consequences through the entire county.

Mary Flowers – Citizens for a Better Flathead – I'm here this morning both to welcome Joe as a new member to your board as well as to address all of you. Sunday's Interlake had an editorial by Frank Miele and he asked the question planning, shouldn't we be the state leaders, and I think as we begin this new year it's really appropriate to look at the opportunities ahead of us and I'm excited and I think many people in the valley are excited about the opportunities we have to really bridge some divisiveness that has been in our community for far too long and I just want to encourage you to work to bring together diverse voices in the valley, to discuss this. Also yesterday as I was doing some research on the internet I came across a study that has been put out by the Center for the Rocky Mountain West and it's a study of regionalism and cooperative efforts countywide, statewide, across international borders and they identified seventy different projects going on in the Rocky Mountain West and looked at what had helped those efforts be successful and committed people were one of the items that were identified, but also the fact that diverse groups were brought together and even in the most difficult situations, the kind of feedback they got from this survey was that when you bring diverse people together you begin to open the dialogue and expand understanding and I really do

believe there's more that unites us than divides us here in this valley. So, I just wanted to begin the new year with welcoming everyone aboard and encouraging us all to work together.

Reto Barrington – I'm here to speak to the Harbor Springs/Mill Creek master plan amendment which is coming before you after the statutory notice period for public comment. I believe it was referred in November, circulation for public comment was completed in mid-December and it now appears before you this morning for your action on the notice of intent. I believe that with the exception of Mr. Brenneman who may have followed this matter in the press, the Commissioners are well aware of this application. I can point out that the zone change which follows the master plan amendment has also been processed and will be heard here by this board for consideration of a notice of intent on Thursday of this week. The public comment associated with the zone change was considerably different than that associated with the master plan amendment in fact at both the Bigfork Land Use Advisory Board and the planning board, there was essentially no negative comment on the rezoning, so my hope is that through the active process of deliberation and public consultation and the numerous public meetings that have taken place on this that we have now gone most of the distance toward reaching a consensus in the community about the viability and appropriateness of this project and I just hope that your consideration this morning will result in the approval of the Notice of Intent and ratification.

Brett Thuma – I'm not speaking really for or against this, I'm just kind of wanted to make a couple points about the, here's a picture of part of the area in question and this area of trees here and I'll show you some other pictures too, has some old growth ponderosa pine in it and it also has some of the original native grassland that is very rapidly vanishing around here. So I was just wondering if there's, I don't know if this is the right time to put this in the process but just there was interest with our local fire department and myself and other concerned people that this area get protected and made as a park or whatever and there's interest in the long term management and maybe do a little, right now it's in a very high fire danger area. I don't have the map to show you that but I could get that for some other meeting but so there's interest in maybe doing a little bit of thinning and do some prescribed burning in there and also there's interest from the native plant society, there's a little bit of weeds in there, even though most of it's still natural. So, any way, I just wanted to get that on the record as a possibility. It's about like 7-8 acres out of the 62 acres, so it's a pretty small strip on a little hillside and it would be a lot easier to be managed as one block rather than have twenty different land owners all trying to coordinate long term management of it, so anyway that's kind of what I wanted to comment on.

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

#### **REORGANIZATION OF BOARD OF COMMISSIONERS**

Present at the January 3, 2005 9:00 A.M. Meeting were Commissioners Hall, Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to appoint Gary Hall as Chairman of the Board of Commissioners. Commissioner Brenneman **seconded** the motion. **Aye** - Watne and Brenneman. **Abstained** – Hall. Motion carried.

#### **APPOINT COMMISSIONERS TO VARIOUS BOARDS**

Present at the January 3, 2005 9:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to take appointment of Commissioners to committees under advisement. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman.

#### **OPEN BIDS: LEGAL ADVERTISING 2005**

Present at the January 3, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Daily Inter Lake – 80% of cost of prices.

Commissioner Watne made a **motion** to award the bid and approve the contract for legal advertising with the Daily Interlake. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **PUBLIC HEARING: TAX INCENTIVE REQUEST/220 SOUTH COMPLEX DRIVE, LLC**

Present at the January 3, 2005 9:30 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Jordonna Does, Joani Coffman, Jon Ludvikson, Assistant Webb, and Clerk Eisenzimer.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the tax incentive request.

Jordonna Does – I am an owner of Merlin Data Publishing Corporation also of the 220 South Complex Drive LLC which is a company LLC that is owned by myself and my husband and our business partner who also is our partner with Merlin Data Publishing Corporation so those are the people that are involved in the 220 South Complex Drive LLC and we just respectfully request a positive outcome for our request here and we've been in the valley for this is our eleventh year, going into our eleventh year and we currently employ 65 employees and 99% of our revenue comes from out of state. We do have a few local state customers but it's actually more than 99% of our revenue comes from out of state. If there are any other questions that I can answer, I am here for the duration and would be pleased to answer any questions.

No one else rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the tax incentive request.

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

Commissioner Watne made a **motion** to adopt Resolution No. 1772. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**RESOLUTION NO. 1772**

WHEREAS, the Board of Commissioners of Flathead County, Montana, passed Resolution No. 476A on April 22, 1991, allowing tax benefits to new or expanding manufacturing industry in Flathead County;

WHEREAS, 220 South Complex Drive, LLC, of Kalispell, Montana, has applied for the tax benefits with regard to the construction of a new building to house increased Merlin Information Services staff at 220 South Complex Drive, Kalispell, Montana;

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing under the provisions of section 15-24-1402(2)(a), M.C.A., on the 3rd day of January, 2005, concerning the request for tax benefits filed by 220 South Complex Drive, LLC; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, having reviewed the application of 220 South Complex Drive, LLC, and the testimony presented at the public hearing, has concluded that the application for tax reduction benefits meets the requirements of the applicable statutes and resolution.

NOW, THEREFORE, BE IT RESOLVED that the construction of a new building to house increased Merlin Information Services staff by 220 South Complex Drive, LLC, of Kalispell, Montana, in Flathead County, Montana, shall be granted the tax benefits set forth in Resolution No. 476A and Section 15-24-1402, M.C.A.

DATED this 3<sup>rd</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

By: /s/ Robert W. Watne  
Robert W. Watne, Member

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

#### **AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: NATURAL RESOURCE POLICY**

Present at the January 3, 2005 9:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Chairman Hall reviewed the Resolution of Intent to consider adoption of the Natural Resource Plan.

Commissioner Watne made a **motion** to adopt Resolution 1777. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intent and authorize the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: HARBOR SPRINGS/FLATHEAD COUNTY MASTER PLAN AMENDMENT**

Present at the January 3, 2005 9:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Johna Morrison, Peggy Sue Amelon, Reto Barrington, Assistant Planning Director Johna Morrison, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to adopt Resolution 789M. Chairman Hall **seconded** the motion. **Aye** - Watne and Hall. **Abstained** - Brenneman. Motion carried.

#### **RESOLUTION NO. 789M**

**WHEREAS**, Harbor Springs, LLC have requested a revision to the Flathead County Master Plan in the Bigfork Area Lane Use Plan by amending the designation of land from agricultural to suburban residential, to allow for new residential housing opportunities to meet the market demand;

**WHEREAS**, the Flathead County Planning Board recommended that the Board of Commissioners adopt that amendment to the Flathead County Master Plan;

**WHEREAS**, the Board of Commissioners passed a resolution of intent (Resolution No. 789L) to consider the requested plan change on November 4, 2004, and gave notice that it would consider public comment received prior to December 14, 2004; and

**WHEREAS**, the Board of Commissioners has considered the information presented to it since the adoption of that resolution of intent.

**NOW, THEREFORE, BE IT RESOLVED**, pursuant to Section 76-1-604, M.C.A., by the Board of Commissioners of Flathead County, Montana, that it hereby adopts an amendment to the Flathead County Master Plan in the Bigfork Area Lane Use Plan to change the designation from agricultural to suburban residential. The property proposed for amendment is located on Holt Drive north and mostly west of the Bigfork Post Office and on both sides of Chapman Hill Road, and can be described as Assessor Tract 6, in Section 25, and Tracts 10A, 10AB, and 10AA in Section 26, all in Township 27 North, Range 20 West, P.M.M., Flathead County, Montana, containing 62.6 acres P.M.M., Flathead County, Montana, to allow for new residential housing opportunities to meet the market demand.

DATED this 3<sup>rd</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: NEUMANN ZONE CHANGE/HIGHWAY 93 NORTH ZONING DISTRICT**

Present at the January 3, 2005 9:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to adopt Resolution 837BB Chairman Hall **seconded** the motion. **Aye** – Watne and Hall. **Abstained** - Brenneman. Motion carried.

**RESOLUTION NO. 837 BB**

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 8th day of November, 2004, concerning a proposal to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural);

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

**WHEREAS**, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District;

**WHEREAS**, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 837 BA, dated November 8th, 2004) to change the zoning designation of the property described on Exhibit A, in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural); and

**WHEREAS**, notice of passage of that Resolution was published once a week for two weeks, on November 11 and November 18, 2004, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders in the Highway 93 North Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Highway 93 North Zoning District to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural), that property being described on Exhibit A.

DATED this 3<sup>rd</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By : /s/ Monica R. Eisenzimer  
Deputy

**PUBLIC HEARING: SPOTTED HORSE TRAIL, OLD STONE ROAD, KIENAS ROAD NORTH & MCCAFFERY LOOKOUT ROAD NAMING**

Present at the January 3, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Bob Spoklie, Valerie McKay, Assistant Webb, and Clerk Eisenzimer.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the naming of Spotted Horse Trail, Old Stone Road, Kienas Road North and McCaffery Lookout Road.

Robert Spoklie – I'm here just on the Kienas Road North, and we named that, it's going to be kind of a major artery to the north off Kienas Road and we left the Kienas name on there for identification so that it would be easy for public services and stuff to find the road and just added north on the end of it to indicate that it is a road that goes north off Kienas.

No one else rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the naming of said roads.

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

Commissioner Watne made a **motion** to adopt Resolution 1773 naming Spotted Horse Trail. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously

**RESOLUTION NO. 1773**

WHEREAS, Flathead County has proposed to name a private road generally running southeasterly off a branch road running easterly off Julian Lane and located in the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 36, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 3, 2005, concerning the proposal, after publication and mailing of notice thereof on December 24, 2004, and December 31, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named Spotted Horse Trail.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running southeasterly off a branch road running easterly off Julian Lane and located in the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 36, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named Spotted Horse Trail.

BE IT FURTHER RESOLVED that the naming of Spotted Horse Trail shall be effective on January 3, 2005.

Dated this 3<sup>d</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

Commissioner Watne made a **motion** to adopt Resolution 1774 naming Old Stone Trail. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously

**RESOLUTION NO. 1774**

WHEREAS, Flathead County has proposed to name a private road generally running southeasterly off Evers Creek Connection and located in the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$ , Section 11, Township 31 North, Range 24 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 3, 2005, concerning the proposal, after publication and mailing of notice thereof on December 24, 2004, and December 31, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named Old Stone Road.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running southeasterly off Evers Creek Connection and located in the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$ , Section 11, Township 31 North, Range 24 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named Old Stone Road.

BE IT FURTHER RESOLVED that the naming of Old Stone Road shall be effective on January 3, 2005.

Dated this 3<sup>d</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

By /s/Joseph D. Brenneman

ATTEST:  
Paula Robinson, Clerk

Joseph D. Brenneman, Member

By /s/ Monica R. Eisenzimer  
Deputy

Commissioner Watne made a **motion** to adopt Resolution 1775 naming Kienas Road North. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously

**RESOLUTION NO. 1775**

WHEREAS, Flathead County has proposed to name a private road generally running northerly off Kienas Road and located in the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  Section 18, the East  $\frac{1}{2}$  of the East  $\frac{1}{2}$  Section 7, and in the West  $\frac{1}{2}$  of the West  $\frac{1}{2}$  Section 8, all in Township 28 North, Range 22 West, P.M.M., Flathead County, Montana

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 3, 2005, concerning the proposal, after publication and mailing of notice thereof on December 24, 2004, and December 31, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named Kienas Road North.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running northerly off Kienas Road and located in the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  Section 18, the East  $\frac{1}{2}$  of the East  $\frac{1}{2}$  Section 7, and in the West  $\frac{1}{2}$  of the West  $\frac{1}{2}$  Section 8, all in Township 28 North, Range 22 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named Kienas Road North.

BE IT FURTHER RESOLVED that the naming of Kienas Road North shall be effective on January 3, 2005.

Dated this 3<sup>rd</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

Commissioner Brenneman made a **motion** to adopt Resolution 1776 naming McCaffery Lookout Road. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously

**RESOLUTION NO. 1776**

WHEREAS, Flathead County has proposed to name a private road generally running southerly off Mc Caffery Road and located in the SW  $\frac{1}{4}$  of Section 7, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 3, 2005, concerning the proposal, after publication and mailing of notice thereof on December 24, 2004, and December 31, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named Mc Caffery Lookout Road.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running southerly off Mc Caffery Road and located in the SW  $\frac{1}{4}$  of Section 7, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named Mc Caffery Lookout Road.

BE IT FURTHER RESOLVED that the naming of Mc Caffery Lookout Road shall be effective on January 3, 2005.

Dated this 3<sup>rd</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne

Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

**FINAL PLAT: PENNEY LANE ESTATES**

Present at the January 3, 2005 10:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Kirsten Holland, Herb and Janice Gray, Assistant Webb, and Clerk Eisenzimer.

Holland reviewed the final plat application submitted by Jackola Engineering & Architecture for final plat approval of Penney Lane Estates, which will create five residential lots in Assessor's Tracts 3C in Section 21, Township 30 North, Range 21 West, P.M.M., Flathead County, Montana. The site is located off of Penney Lane, north of Hodgson Road and is situated approximately four miles southeast of Whitefish. It is in an unzoned area of Flathead County. Preliminary plat approval was granted on January 26, 2004 subject to 19 conditions. Holland indicated all conditions have been met or otherwise addressed.

Commissioner Watne made a **motion** to approve the Final Plat of Penney Lane Estates. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT & NOTICE OF PASSAGE: TWO RIVERS/FLATHEAD COUNTY MASTER PLAN AMENDMENT**

Present at the January 3, 2005 10:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Johna Morrison, Debbie Street, Mary Flowers, Lloyd Tracht, Bob Lovejoy, Reuben Braaten, Sharon Chapman, Jane Bureson, Amy Grisak, Bob Spoklie, Wade Fredenberg, Don Hines, Greg Carter, Bob Herron, Darlene Jump-Rauthe, Bob Herron, Assistant Webb, and Clerk Eisenzimer.

Morrison presented Staff Report for the amendment to the Flathead County Master Plan Amendment

Commissioner Brenneman stated that in light of not being educated fully on Planning Board discussion he would like some time for review.

Commissioner Brenneman made a **motion** to take consideration of this Resolution under advisement for decision within one month. Commissioner Watne **seconded** the motion. Discussion continued.

Commissioner Brenneman withdrew his motion. Commissioner Watne seconded the withdrawal.

Commissioner Brenneman made a motion to send this application back to the Flathead County Planning Board. Chairman Hall seconded the motion. **Aye** - Hall and Brenneman. **Nay** - Watne Motion carried.

**MEETING W/CHARLIE JOHNSON, ROAD DEPT.**

**THIS MEETING WAS NOT HELD**

**DOCUMENT FOR SIGNATURE: QUIT CLAIM DEED/BURKE LIVING TRUST**

Present at the January 3, 2005 11:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Smith presented the quit claim deed which gives easement back to Burke Living Trust as the gravel pit what

Commissioner Watne made a motion to approve the Quit Claim Deed as presented and authorizing Chairman to sign. Commissioner seconded the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 4, 2005.

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**TUESDAY, JANUARY 4, 2005**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Watne and Brenneman, and Clerk Robinson were present.

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

**MONTHLY MEETING W/DONNA MADDUX, SUPERINTENDENT OF SCHOOLS**

Present at the January 4, 2005 9:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Superintendent of Schools Donna Maddux, and Clerk Eisenzimer.

General discussion was held relative to legislative issues and concerns.

**MONTHLY MEETING W/NORM CALVERT, COMPUTER SERVICES**

Present at the January 4, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Computer Services Director Norm Calvert, and Clerk Eisenzimer.



General discussion was held relative to restructuring of computer services and transfer of budgetary items to accommodate the employee changes and projected necessary upgrades. Legislative concerns regarding county tax bill verbage.

#### **CONSIDERATION OF LAKESHORE PERMIT: LINDEN**

Present at the January 4, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner George Smith, Assistant Webb, and Clerk Eisenzimer.

Smith reviewed the Lake and Lakeshore Permit submitted by Jamie Linden on Lake Blaine to remove by excavation a major deposit of sawdust and mill waste, deposited over years prior to current ownership. Foreign materials previously introduced into the lake and shoreline have migrated well into the lake, and spread along the beach to an undetermined depth. These materials create a constant level of turbidity and tannic acid leaching into the water when disturbed by normal lake user activities. Additionally, surfacing cut boards, slabs and wood product wastes, and fine sawdust sinkholes create an ongoing hazard to lake users. After removal to an as-yet undetermined depth, the lake bottom and shoreline will be stabilized with washed gravel of size and coloration to match the adjacent shoreline to the south of the affected area.

Excavation and deposit of stabilization materials will require the operation of heavy equipment. All work will be done at lowest pool, and equipment will remain clear of the water. Removal of exposed foreign materials, and lake bottom stabilization shall be authorized to the extent that the lake bottom becomes accessible as waters recede. Staff recommends approval.

Commissioner Watne made a **motion** to approve Lake and Lakeshore Permit #FLV -04-19 subject to 11 conditions and authorize Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **CONSIDERATION OF LAKESHORE PERMIT: DUNHAM**

Present at the January 4, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner George Smith, Assistant Webb, and Clerk Eisenzimer.

Smith reviewed the Lake & Lakeshore Construction Permit filed by Peter Dunham on Lake Blaine to remove by excavation of a major deposit of sawdust and mill waste, deposited over years prior to current ownership. Foreign materials previously introduced into the lake and shoreline have migrated well into the lake, and spread along the beach to an undetermined depth. These materials create a constant level of turbidity and tannic acid leaching into the water when disturbed by normal lake user activities. Additionally, surfacing cut boards, slabs and wood product wastes, and fine sawdust sinkholes create an ongoing hazard to lake users. After removal to an as-yet undetermined depth, the lake bottom and shoreline will be stabilized with washed gravel of size and coloration to match the adjacent shoreline to the south of the affected area. Excavation and deposit of stabilization materials will require the operation of heavy equipment. All work will be done at lowest pool, and equipment will remain clear of the water. Removal of exposed foreign materials, and lake bottom stabilization shall be authorized to the extent that the lake bottom becomes accessible as waters recede. Staff recommends approval.

Commissioner Brenneman made a **motion** to approve Lake and Lakeshore Permit #FLV-04-20 subject to 11 conditions and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **CONSIDERATION OF LAKESHORE PERMIT: FLATHEAD PROPERTIES, LLC (2)**

**THIS MEETING WAS CANCELLED**

#### **MONTHLY MEETING w/RAEANN CAMPBELL, HUMAN RESOURCES**

Present at the January 4, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Human Resource Director Raeann Campbell, Assistant Webb, and Clerk Eisenzimer.

General discussion was held relative to update on trust fund balance for insurance, insurance history chart, chart showing the difference in workers comp claims from 2003 and 2004; supervisor and department head training on interviewing question do's and don'ts, further supervisory training will be offered in January and the Board of Commissioners is recommending that it be mandatory; appeal of insurance benefits and Campbell is recommending that they continue to deny the appeal, the Board of Commissioners agrees with Campbell's recommendation; discussion concerning fund continuation; formation of a selection committee for the Planning Director position vacancy.

#### **PUBLIC HEARING: PARKER LAKES ROAD, PARKER RIDGE ROAD, UPPER PIERCE LANE & GRIZZLY BASE LOOP ROAD NAMING**

Present at the January 4, 2005 10:15 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, Karen Yerian, Gerald Parker, Terry Custer, Sally Custer, Gordon Graham, Marilyn Graham, Renee Cordes, Jeremy Nigrón, John Merlette, and Clerk Eisenzimer.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the road namings.

Gerald Parker – on the Parker Lakes Road and the Parker Ridge Road, I have property on both of them and I was the one that got the thing going and the reason we named it Parker Lakes Road is because the Fish and Game named those lakes Parker Lakes way back in the '40's or late '30's so we just felt that was appropriate.

Gordon Graham – My address is 678 LaBrant Road, but we live on no name road and that's the reason I'm here to speak in favor of naming that road Grizzly Base Loop. We've been saying we live on the Boy Scout road because that's the road that has been the entrance into the Boy Scout Camp and so I'm speaking in favor.

John Merlette – I live on what will now be hopefully soon be Parker Lake Road, my current address is 6825 Highway 35. So I thoroughly endorse the naming of it also. I do have two questions, the first, they're very quick ones, the first question is in terms of legal descriptions or mail delivery does it remain the current 6825 Highway 35 or will the naming of the road change affect anything like legal descriptions or mail delivery.

Karen Yerian – It will not change your legal description how you acquired your property in any manner, it will affect your post office mailing if you use it for a mail box and it will affect your house number and you will get a new house number off that road.

John Merlette –and when will that be?

Karen Yerian – within a week or two.

John Merlette – okay, thank you. The second question pertains to where Parker Lake road comes off Highway 35 there's no lights anywhere in the vicinity and we have a number of parties at our home and just several weeks ago we had 35 elderly ladies come over for a church party, there was a bad time with them being able to locate where the street was. They went back and forth, slowed down, almost got hit by cars, it's a dangerous situation. I was wondering if it would be something since that the county might be interested in putting a street light where the turn off is so that it will make it a safer situation and also make it easier for emergency vehicles to locate where the road is located because even right now, we just say a seven mailboxes. They're all black and it's very hard to find the street from Highway 35.

Chairman Hall – Let me address that the best I can. Our roads superintendent is not here, that is of course a state highway there and the road is a private road, so the County would have no involvement in that. You could do it privately I would think and I'm not saying this from a professional level, but privately you could run some wiring down and put your own pole on private property which would identify it but not alongside the highway and if so, you'd have to talk to MDOT.

John Merlette – There is a telephone pole right next to where the road is, it would be a simple matter to put a light right on the pole that's already existing.

Commissioner Watne – It's a power pole that's out there?

John Merlette –Yes sir.

Commissioner Watne – They won't allow that. The power company won't allow it. For their people climbing up and down them poles, they won't allow any obstruction put on a pole at all.

Chairman Hall –But I would check with MDOT on that issue if it was going to be in their right of way.

Gordon Graham – I apologize, I had some questions after this gentleman. As I indicated earlier, our current address is 678 LaBrant Road in Kalispell, and our mailbox. Our mailing address or our house address, we actually live in Bigfork, we're on the south side of LaBrant and the mailbox is on the north side, and another concern we've had since we've lived there three years is our road did not have a name, I happen to know that the Creston Fire Department does know where it is but that's been a concern. The road did not have a name.

Karen Yerian – does your driveway come off of LaBrant or does it come off the proposed road?

Gordon Graham – it comes off LaBrant. Our driveway comes off of the proposed Grizzly Base Loop.

Karen Yerian - Then your address would change, your mailbox stays in the same place but you will have a new address off Grizzly Base Loop.

No one else rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the road namings.

Rene Cordes – address is 668 LaBrant. For the proposed Grizzly Base Loop road, I am not against renaming the road or giving it a name at all, I'm just against the use of the word loop because it implies a thoroughfare. It is a private drive with a locked gate that ends with my driveway. That will only be open when the Boy Scouts are there it's not a drive for everyone to use so I guess I'd prefer something like Lane and I know that the road was dreamed up on the spur of the moment by someone who hadn't given it much thought and I propose McGilvarey Lake Road or McGilvarey Lake Lane which is named after the lakes which are on the Boy Scout property rather than naming it for the Boy Scouts.

Chairman Hall –is there a dead end road sign on that.

Rene Cordes – it says private drive, no trespassing and that's currently what's up but a dead end would be a good idea because there's a private drive.

Discussion continued regarding the loop versus lane designation for the proposed Grizzly Base Loop road with the petitioners deciding to repetition with a new a name.

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

Commissioner Watne made a **motion** to adopt Resolution No.1778 naming Parker Lakes Road. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### RESOLUTION NO. 1778

WHEREAS, Flathead County has proposed to name a private road generally running southeasterly off Montana Highway 35 and located in the Northeast ¼ of the Northeast ¼ of Section 11, and in the West ½ of Section 12, all in Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 4, 2005, concerning the proposal, after publication and mailing of notice thereof on December 22, 2004, and December 29, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **Parker Lakes Road**.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running southeasterly off Montana Highway 35 and located in the Northeast ¼ of the Northeast ¼ of Section 11, and in the West ½ of Section 12, all in Township 27 North, Range 20 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named **Parker Lakes Road**.

BE IT FURTHER RESOLVED that the naming of **Parker Lakes Road** shall be effective on January 4, 2005.

Dated this 4<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

Commissioner Watne made a **motion** to adopt Resolution No. 1779 naming Parker Ridge Road. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### RESOLUTION NO. 1779

WHEREAS, Flathead County has proposed to name a private road generally running southerly off a branch which runs southeasterly off Montana Highway 35 and located in the West ½ of the Northwest ¼ Section 12 and in the Southeast ¼ of the Northeast ¼ of Section 11, all in Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 4, 2005, concerning the proposal, after publication and mailing of notice thereof on December 22, 2004, and December 29, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **Parker Ridge Road**.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running southerly off a branch which runs southeasterly off Montana Highway 35 and located in the West ½ of the Northwest ¼ Section 12 and in the Southeast ¼ of the Northeast ¼ of Section 11, all in Township 27 North, Range 20 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named **Parker Ridge Road**.

BE IT FURTHER RESOLVED that the naming of **Parker Ridge Road** shall be effective on January 4, 2005.

Dated this 4<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

Commissioner Brenneman made a **motion** to adopt Resolution No.1780 naming Upper Pierce Lane. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### RESOLUTION NO. 1780

WHEREAS, Flathead County has proposed to name a private road generally running northerly off a branch road which runs westerly off Pierce Lane and located in Government Lots 3 & 4, Section 1, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana.

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on January 4, 2005, concerning the proposal, after publication and mailing of notice thereof on December 22, 2004, and December 29, 2004; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, has determined that the road should be named **Upper Pierce Lane**.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, that the private road generally running northerly off a branch road which runs westerly off Pierce Lane and located in Government Lots 3 & 4, Section 1, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana, should be, and it hereby is, named **Upper Pierce Lane**.

BE IT FURTHER RESOLVED that the naming of **Upper Pierce Lane** shall be effective on January 4, 2005.

Dated this 4<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

Commissioner Watne made a **motion** to continue the naming of Grizzly Base Loop. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously

**PUBLIC HEARING: ROAD ABANDONMENT #422 (PORTION TIMBERLANE TERRACE)**

Present at the January 4, 2005 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, Paul Sandry, Dave Heine, Ryan Little, Doug Erickson, and Clerk Eisenzimer.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the abandonment of this portion of Timberlane Terrace.

No one rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the abandonment of this portion of Timberlane Terrace.

Paul Sandry - with the Johnson Law Firm, today I'm here on behalf of the Erickson Family Limited Partnership, the gentleman to my left, my immediate left is Doug Erickson, next to him is Ryan Little, he's related to Mr. Erickson and behind him is Dave Heine whom most of you probably know. I'll give you a little layout of the roadway, I've got some maps here, there's an arrow indicating the area proposed for the road abandonment. The second map shows precisely the area of the proposed abandonment which this has to do with the south section of the roadway and to the south of that as indicated on this sheet of paper is real property owned by the Erickson Family Limited Partnership. We believe that the abandonment should be denied for a variety of reasons, a couple of legal more technical reasons and then a couple of equitable reasons. First reason is that the abandonment of county roads is governed by Title 7, Chapter 26 of the Montana Code and that statutory structure contemplates the abandonment of roads, not portions of roadways and I realize that that's rather technical but as it applies to this situation it becomes pretty clear that the landowners of what's depicted as lots 57 and 58 on the second sheet of paper that I handed you are the only ones that benefit from the abandonment, in other words, per Montana law, if that road were to be abandoned, it's clear that those landowners pick up the ground that's abandoned. So they'd equally go to the centerline of the road and they pick up that ground. In this case as Dave Heine will speak a little bit later, we can see that those landowners owning Lots 57 and 58 are not in compliance. They've encroached on the roadway, there's a propane tank on the roadway, there's retaining walls on the roadway and the reason that the petition was filed was to pick up a little bit of additional ground and to make certain that no development would ever occur on the Erickson Limited Partnership piece or more appropriately perhaps, if development did occur, there would be no traffic using a county road.

Chairman Hall – Paul, I need to interrupt exactly where is this?

Paul Sandry – the roadway? North of Somers. No where in the case law or in the statutes of the case law or any attorney general's opinions that I've read, and I've researched it fairly exhaustively, is there any authority to abandon simply a portion of a county road like this and I don't think any authority exists and clearly there's power vested in this board to abandon roads. In any event, I don't think the action proposed here is one contemplated by the code. The owner of the one foot control, or access control strip that's depicted on that second map I gave to you gentlemen is up in the air. A couple things are clear, first is that that one foot is not part of the county road. That's important for reasons I'll explain. The developer, Mr. Cooley when he developed that subdivision apparently did not deed that one foot piece to anyone, the plat room has formed an opinion that that one foot piece is owned by the county, how they came up with that opinion is beyond me. But it's either owned by the county and it's not part of the county road or it's owned by the heirs of Mr. Cooley who has long ago died. If that piece is owned by the county it's real clear from Montana Code Annotated 7-14-2615 subsection 3 the abandonment as prescribed, you can't do it. Because to do it, would be to block off access to public ground. We had that same situation with Warren III and so forth up on the Flathead River. That's an amendment to the code that went into effect in 1999. Alternatively, if that one foot piece is owned by the heirs of Mr. Cooley, those heirs haven't been notified of this action and it's real clear in the attorney general's opinions and Montana Code that all affected land owners have to be notified before you can abandon a road, so two scenarios the county owns it we can't abandon it, Cooley heirs own it we can't abandon because of the technical notice requirement.

The abandonment of the county road would serve to benefit two landowners who have taken it upon themselves to use that county public road as their own. The additional affect of abandoning the road would be to forever foreclose the possibility of using that roadway, the county roadway system for the development of the Erickson piece. We all know how we struggle I

think on a county and maybe a statewide basis with controlled access on highways and controlled access on Highway 93 is particularly important. We have to use another access for homeowners or landowners on the Erickson piece when it gets developed we're going to have yet another problem and the problem becomes more apparent when you consider the access that could be used by the Ericksons on Highway 93, the site distance is not real good there. The access on the public road that is before you is much better, it consolidates traffic onto 93. Dave Heine's got some photographs and some additional information regarding the encroachments and so forth that I'd like you to pay attention to.

Dave Heine – I'm a real estate broker and appraiser here in Kalispell. I'm going to go buy a digital camera after this, I didn't know if these pictures were going to get developed on time. This is a picture from the point that's going to be abandoned looking north on this road. This is a picture of the road that's going to be abandoned from the Erickson property looking north so the road ends basically at this street right in here. *Showing pictures to the Commissioners.* This part of the road and you guys should have a map that shows the encroachment of these driveways. Here's a picture that shows the county right of way marker and on the inside, or the County's side of this is a retaining wall. This and it goes this direction is right back here as you look straight past this Ford pickup you'll see that there's a turn around that's right in the middle of the county right of way as well. This is the dense timber on the Erickson property that just borders this subdivision; I think it's important in the last few years of the forest fires that we keep that in mind as we're thinking about this. There is just a picture of where these rights of ways are and this is looking south, this is looking north and the pictures were here.

At the present time, the Erickson family does not have highway access. I feel it's better for a community standpoint for everybody to use the existing access on Lakeview Drive. The properties that we've been involved in that have not had legal access have suffered from anywhere from a 45 -60% loss in value that we've been able to measure based on the actual sales of those properties. The only other problems that I see with abandoning this road is that we have some individuals who have encroached on the roadway and on the county right of way and basically it would appear that they're being rewarded for doing so. Thank you for your consideration, do you have any questions for me?

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

Commissioner Watne made a **motion** to deny Road Abandonment #422. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **PUBLIC HEARING: ROAD ABANDONMENT #423 (MARY STREET)**

Present at the January 4, 2005 10:45 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, Russ Barnett, and Clerk Eisenzimer.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the abandonment of Mary Street.

Russ Barnett – I own lot 4D which is on the northeast side of Mary Street, I just purchased Lot 38, 39 on the south side there two years ago, there's two buildings on there one 4000 sq. ft. warehouse and another 1300 sq. ft. garage that we use for a warehouse also. My business is Outfitter's Supply, that's on lot 40 there. We are a growing business, I've got 5 to 7 employees depending on the time of the year. We're in the mail order business and we're back and forth across Mary Street on a continual basis with hand trucks and loading trucks and unloading trucks and eventually we'd like to probably do some paving in there. We could use the parking and stuff like that. I've got permission from the two people that live on the other side of Gordon, those other yellow, they have signed off, they have no problem with it. There's been some question as to for access for emergency vehicles of whether they can turn around there or not and I'd be all in favor of putting a cul-de-sac in there. I don't know if the county would want me to do that but I could. I think it would take a little bit of Lot 40 probably to do it but it wouldn't be any problem.

Chairman Hall – Mr. Barnett, we've talked about, you don't think they'll ever knock a street through here into this area here? This is owned by; this is not asking to be abandoned, right, just up to here?

Russ Barnett – Well, initially I talked to those people and they were okay with abandoning that. The way I worded the request somehow didn't get included, they would have been fine with abandoning it, they really don't care. There's a tree growing right in the middle of that road and it's fenced off and that part is part of that Beaverwood products property, you know where they made the tree stakes. They own clear out to the highway. But they would have access there through Gordon Avenue.

Chairman Hall – Now Jane Street, where are we in relationship to the Ol' River Bridge Inn, where is the road that goes alongside of that?

Russ Barnett – there was I believe, excuse me, this road I believe was abandoned and the River Bridge Inn I believe starts here, the actual building starts here and runs down this way.

Commissioner Brenneman – Would you continue to use this as an access onto Highway 2?

Russ Barnett – well, there's a brand new access in that was put in there when they built the road. We would leave that access there. We have no plans at this time to put any structures there. I would eventually like to add onto my building back here and put some rollup doors facing this road for loading and unloading trucks.

Discussion continued regarding access and cul-de-sac requirements.

No one else rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the abandonment of Mary Street.

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

Commissioner Watne made a **motion** to approve the provision that Mr. Barnett install a cul-de-sac to regulation standards. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **PUBLIC HEARING: ROAD ABANDONMENT #424 (GREEN'S ADDITION TO MARTIN CITY)**

Present at the January 4, 2005 11:00 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, and Clerk Eisenzimer.

Chairman Hall opened the public hearing to anyone wishing to speak in favor or against the requested abandonment.

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

Discussion was held regarding some concerns over access issues.

Commissioner Watne made a **motion** to continue decision until further review ed by Jim Burton. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: WHITEFISH FIRE DIST. ANNEXATION/WHITTON**

Present at the January 4, 2005 11:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Smith advised that since Mr. Whitton's property is not contiguous to the Whitefish Fire Service Area, the property is not

Commissioner made a **motion** to continue authorization until further information is gathered. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

**CONSIDERATION OF ADOPTION OF RESOLUTION: APPOINT MEMBERS TO DUI TASK FORCE**

Present at the January 4, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Smith explained the name change from DUI Task Force to Safe Kids and appointments to Safe Kids will carryover to DUI Task Force.

Commissioner Watne made a **motion** to adopt Resolution 687E with the names included. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**RESOLUTION NO. 687E**

WHEREAS, the Board of Commissioners of Flathead County, Montana, passed Resolution No. 687 creating, and appointing members to, the DUI Task Force for Flathead County, on February 25, 1988;

WHEREAS, funds to be administered by the DUI Task Force, which have not been available in recent years, will be available in the current fiscal year; and

WHEREAS, the Board of Commissioners has determined that it is in the public interest to appoint new members of the DUI Task Force and to appoint the members of the current Safe Kids Safe Communities Board to the DUI Task Force.

NOW, THEREFORE IT IS HEREBY RESOLVED by the Board of Commissioners of Flathead County, Montana, that the following shall be the members of the Flathead County DUI Task Force:

members of the Police Department of the City of Kalispell, Doug Overman, Michelle O'Neil and Brett Corbett;

members of the Police Department of the City of Columbia Falls, Dave Perry, Chief of Police, and Brandy Arnoux;

members of the Police Department of the City of Whitefish, Bridger Kelch, George Kimmerly and Blaise Wingert;

members of the Flathead County Sheriff's Department, Mike Meehan and Kipp Tkachyk;

Sgt. Clancy King, Montana Highway Patrol;

Kalispell Public School representative, Alison Harr Schmaltz;

Whitefish Public School representatives Kent Paulson, Tina Gemignani, Barb Mansfield;

Ed Corrigan, Flathead County Attorney;

Chemical Dependency Center Representatives, Barney Stucker and Mike Cummings;

Kalispell Regional Medical Center representatives, Derek Starker and Lori Alsbury;

Flathead City County Health Department representatives Lynette Van Aken, Traci Gullede and Marty Boehme;

The Summit representatives Wendy Olson, Bob Norwood and Wendy Newman;

Media representative Brad Rauch;

Kalispell Fire Department representatives, F. Ray Ruffatto and Jim Stewart;

Christian Center representatives, Scott Walberg and Jamie Compton;

Flathead CARE representative Katharine Thompson;

Peer Court representative Kelly Russell;

Flathead County representatives Paula Robinson, Clerk and Recorder and Joseph D. Brenneman, Commissioner; and

Business Partners

McDonalds representative, Scott Hadwin and Fun Beverage representative, Brian Clark.

Dated this 4<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

**DISCUSSION RE: VEBA**

Present at the January 4, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Clerk and Recorder Paula Robinson, Human Resource Director Raeann Campbell, Finance Director Coleen Baars, Susan Nicosia, Assistant Webb, and Clerk Eisenzimer.

Discussion was held regarding the implementation of the VEBA (Voluntary Employee Benefit Association) process for using payoff of accumulated employee sick leave be transferred to this account, tax free to be used for medical expenses of retiring or terminating qualifying employee, being an employee who is over 50 or eligible for retirement.

Smith advised that 50% payout was more than Flathead County could afford and the Health Benefits Committee proposes that 30% payout be the incentive for voting in this process while making it affordable to Flathead County.

Nicosia suggested that the VEBA payout stay at 25% as the benefit is still saving the employees money yet also saving Flathead County money.

Commissioner Watne made a **motion** to approve Resolution 1781, allowing for a vote among eligible employees. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

**1:15 p.m. 911 Meeting at Justice Center**

**4:00 p.m. Commissioner Hall and Brenneman are to attend FBIA Meeting at 1<sup>st</sup> Interstate Bank**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 5, 2005.

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**WEDNESDAY, JANUARY 5, 2005**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Watne and Brenneman, and Clerk Robinson were present.

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

**CONSIDERATION OF POSITION OPENING: OAI/4-H OFFICE**

Present at the January 5, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to approve the opening of an OAI/4-H office. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Commissioner Brenneman made a **motion** to approve the opening for Environmental Health Registered Sanitarian. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: N.W.MT HUMAN RESOURCES CONTRACT/AOA**

Present at the January 5, 2005 9:15 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to approve Northwest Montana Human Resources Contract for AOA. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT & NOTICE OF PASSAGE: BIG MOUNTAIN ROAD/MDOT**

**THIS MEETING WAS NOT HELD**

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: NORTH STAR PROPERTIES ZONE CHANGE/EVERGREEN & VICINITY ZONING DIST.**

Present at the January 5, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Northstar Properties, LLC to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-2 (One Family Limited Residential) to R-5 (Two Family Residential).

The boundaries of the area proposed to be changed from R-2 to R-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from providing for large tract residential development in suburban areas, beyond sanitary sewer and/or water lines, to providing for a residential district with minimum lot areas, wherein development will require all public utilities and all community facilities, and in which two-family dwellings are permitted. Minimum lot size would decrease from 20,000 square feet in the R-2 zone to 5,400 square feet in the R-5 zone.

The regulations defining the R-2 and R-5 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

The public hearing will be held on the **25th day of January 2005, at 10:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

DATED this 5<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer  
Deputy

Publish on January 10 and January 17, 2005.

**EXHIBIT A  
NORTHSTAR PROPERTIES LLC  
ZONE CHANGE R-2 TO R-5**

**Location and Legal Description of Property:**

The property is located in the Evergreen and Vicinity Zoning District near the intersection of Harmony Road and Solberg Drive. The subject property may be described as portions of Lots 22 and 23 of Hoiland-Day Acres, a subdivision in Section 34, Township 29 North, Range 21 West, P.M.M., all in Flathead County, Montana. The subject property is also known as 312 Solberg Drive.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: GRANITE HOLDINGS & ZINKE ZONE CHANGE/HIGHWAY 93 NORTH ZONING DIST.**

Present at the January 5, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioner Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Pat Zinke and Granite Holdings to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG -5 and SAG-10 (Suburban Agricultural) and AG-40 (Agricultural) to R-2 (One Family Limited Residential) and B-2 (General Business).



The boundaries of the area proposed to be amended from SAG-5, SAG-10, and AG-40 to R-2 and B-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those i) intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions, intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development, and those ii) intended to protect and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development, to regulations providing for i) retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities and by serving the general needs of the tourist and traveler and ii) providing for large tract residential development in suburban areas, beyond sanitary sewer and/or water lines.

The regulations defining the SAG-5, SAG-10, AG-40, R-2 and B2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the **24th day of January, 2005, at 9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change to the Highway 93 North Zoning District.

DATED this 5<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:

Paula Robinson, Clerk

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

By /s/ Monica R. Eisenzimer  
Deputy

Publish on January 10 and January 17, 2005.

**EXHIBIT A**  
**GRANITE HOLDINGS & PAT ZINKE**  
**ZONE CHANGE FROM SAG-5, SAG-10 AND AG-40 TO R-2 & B-2**

**Location and Legal Description of Property:**

The property proposed for the map amendment is located directly across Highway 93 to the east of The Majestic Valley Arena and contains approximately 215 acres. The property's legal description is Tracts 5, 4H, 4K, 2F, and Lot 2, Subdivision #128 of Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: MATTER & BELL ZONE CHANGE/BIGFORK ZONING DISTRICT**

Present at the January 5, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioner Brennehan, Assistant Webb, and Clerk Eisenzimer.

Commissioner made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** - Hall and Brennehan. Motion carried by quorum.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Margrit Matter and Michelle and Jim Bell to change the zoning designation in a portion of the Bigfork Area Zoning District from B-3 (Community Business) to B-2 (General Business).

The boundaries of the area proposed to be amended from B-3 to B-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from providing for areas for the development of congregated community shopping areas, to serve the range of a number of neighborhoods of a major segment of the Planning Area, as a business center and not a strip development, to providing a business district for those retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities and by businesses serving the general needs of the tourist and traveler.

The regulations defining the B-3 and B2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the **24<sup>th</sup> of January, 2005, at 10:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Bigfork Area Zoning District.

DATED this 5<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

Paula Robinson, Clerk

By /s/Monica R. Eisenzimer  
Deputy

Publish on January 10 and January 17, 2005.

**EXHIBIT A  
MARGRIT MATTER, MICHELLE AND JIM BELL  
ZONE CHANGE FROM B-3 TO B-2**

**Location and Legal Description of Property:**

The properties are in the Bigfork Zoning District and have frontage on Montana Highway 35, just south of Ice Box Canyon. The properties contain a total of 4.36 acres and may be described as Assessor's Tracts 3AAAA, 3AAAE, and 3AAAF, all in Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: MIDDLE PIERCE LANE & DOVE LANE NAMING**

Present at the January 5, 2005 9:30 A.M. Meeting were Chairman Hall, Commissioner Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **MIDDLE PIERCE LANE**.

**Road generally running westerly off Pierce Lane and located in the Southeast 1/4 of the Southeast 1/4 and in Government Lots 3 & 4, Section 1, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **25<sup>th</sup> day of January, 2005, at 10:00 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **MIDDLE PIERCE LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **Middle Pierce Lane**, who has an address assignment on the proposed **Middle Pierce Lane** or who owns property along the proposed **Middle Pierce Lane**.

Dated this 5<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By: /s/Monica R. Eisenzimer  
Deputy

Publish on January 10<sup>th</sup> & 17<sup>th</sup>, 2005.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Chairman Hall **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**NOTICE OF PUBLIC HEARING**

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **DOVE LANE**.

**Road generally running westerly off U.S. Highway 2 (LaSalle Road) and located in the East 1/2 of the Southwest 1/4, Section 28, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.**

The public hearing will be held on the **25<sup>th</sup> day of January, 2005, at 10:00 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **DOVE LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **Dove Lane**, who has an address assignment on the proposed **Dove Lane** or who owns property along the proposed **Dove Lane**.

Dated this 5<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:

Paula Robinson, Clerk

By: /s/ Monica R. Eisenzimer  
Deputy

Publish on January 10<sup>th</sup> & 17<sup>th</sup>, 2005.

**Commissioner Watne was seated.**

**CONSIDERATION OF TUITION REIMBURSEMENT: J.GOODNOUGH & D. MICHEL**

Present at the January 5, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Coleen Baars, Denise Michel, Mary Sevier, Assistant Webb, and Clerk Eisenzimer.

Webb reviewed a request for tuition reimbursement for Denise Michel and Jill Goodnough and recommended approval.

Commissioner Watne made a **motion** to approve tuition reimbursement for D. Michel and J. Goodnough. Commissioner Brenneman **seconded** the motion. **Aye** – Watne and Hall. **Abstained** - Brenneman. Motion carried by quorum.

**CONSIDERATION OF TAX ABATEMENT: ASSESSOR #0006604, 0006605, 0006606, 0006607, 0006608, 0006609**

Present at the January 5, 2005 9:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Webb advised that these properties were mistakenly added to the Martin City Water and Sewer District and recommends approval.

Commissioner Watne made a **motion** to approve tax abatement for the Assessor numbers presented. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**CONSIDERATION OF EXTENSION REQUEST: BIG SKY VIEW ESTATES AND MARION PINES, LOT 17**

Present at the January 5, 2005 9:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Dawn Marquardt of Marquardt and Marquardt Surveying, Assistant Webb, and Clerk Eisenzimer.

Webb advised that these extensions are for completion of improvements.

Commissioner Watne made a **motion** to approve an extension of one year for Big Sky View Estates. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to approve an extension of two weeks for Marion Pines, Lot 17. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**MEETING W/DAVE DEGRANDPRE RE: GROWTH POLICY QUALIFICATIONS**

Present at the January 5, 2005 10:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Dave Degrande, Planner BJ Grieve, Assistant Webb, and Clerk Eisenzimer.

Discussion was held relative to seeking input to put together a team in preparation of submitting a proposal for the growth policy. Mr. Degrandpre was advised to follow criteria in the Request for Qualifications and scope of work would be discussed with all consultant firms selected that meet the qualifications outlined.

**FINAL PLAT: SKY RIDGE**

Present at the January 5, 2005 10:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Holland, Joe Kauffman, Assistant Webb, and Clerk Eisenzimer.

Holland reviewed the application submitted by Big Sky Surveying for final plat approval of Sky Ridge subdivision, which will create five residential lots in Assessor's Tract 7 in Section 10, Township 29 North, Range 20 West, P.M.M., Flathead County, Montana. The site is located off of Mooring Road, east of Montana Highway 206. It is in an unzoned area of Flathead County. Preliminary plat approval was granted on November 9, 2004 subject to 13 conditions. Holland indicated that all conditions have been met or otherwise addressed. Staff recommends approval.

Commissioner Watne made a **motion** to approve the Final Plat of Sky Ridge. Chairman Hall **seconded** the motion. **Aye** – Watne and Hall. **Abstained** – Brenneman. Motion carried by quorum.

**FINAL PLAT: LANOBEE SUBDIVISION**

Present at the January 5, 2005 10:45 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Holland, Assistant Webb, and Clerk Eisenzimer.

Holland reviewed the application submitted by Goacher and Associates for final plat approval of Lanobee Subdivision, which will create two residential lots in Assessor's Tract 3FA in Section 4, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana. The site is located on Sherman Lane off of Foothill Road. Preliminary plat approval was waived on July 1, 2004 subject to seven conditions. Holland indicated all conditions have been met or otherwise addressed. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report #FWP-04-45 as Findings of Fact. Chairman Hall **seconded** the motion. **Aye** – Watne and Hall. **Abstained** - Brenneman. Motion carried by quorum.

Commissioner Watne made a **motion** to approve the Final Plat of Lanobee Subdivision. Chairman Hall **seconded** the motion. **Aye** – Watne and Hall. **Abstained** - Brenneman. Motion carried by quorum.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on , 2005.

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## THURSDAY, JANUARY 6, 2005

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Watne and Brenneman, and Clerk Robinson were present.

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

### **DOCUMENT FOR SIGNATURE: COUNTY SURVEYOR CONTRACT/J.BURTON**

Present at the January 6, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to table the Contract between Flathead County and Jim Burton as presented. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

### **DOCUMENT FOR SIGNATURE: ASST. COUNTY SURVEYOR CONTRACT/B.BLOCK**

Present at the January 6, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to approve the Contract between Flathead County and Bryan Block. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

### **DOCUMENT FOR SIGNATURE: INTERLOCAL AGREEMENT/COLUMBIA FALLS JURISDICTIONAL AREA**

Present at the January 6, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Deputy County Attorney Jonathan Smith, Assistant Webb, and Clerk Eisenzimer.

Webb advised that changes were made to the attorney's fees but the change about the management of the interface and annually, the city and county will meet to discuss extending the city boundaries by one mile.

Commissioner Brenneman made a **motion** to approve the agreement as presented and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

### **CONSIDERATION OF LAKESHORE PERMIT: LARSON**

Present at the January 6, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner George Smith, Assistant Webb, and Clerk Eisenzimer.

Smith reviewed the Lake & Lakeshore Permit request filed by Kurt Larson on Flathead Lake to demolish an eight foot by ten foot section of an existing wood crib 'F' dock, and replace that portion with an open-flow section. The impervious cover square footage will not be changed by the modification. An existing boat shelter will be relocated to encourage lateral current flow. Deck replacement and maintenance repairs will be accomplished simultaneously. Silted-in internal dock slips will be dredged and washed gravel placed on the lake bottom. Additionally an existing wood seawall will be removed in entirety, and replaced with gravel and rock rip-rap. Approximately ninety feet of shoreline is affected. The seawall is composed of wood and fill of unknown origin. Fill, soil and grass will be removed behind the wall at a 2:1 slope and replaced with a landscape cloth barrier and washed fill gravel and rip rap stone. Grass will be eliminated to a line five feet landward of the new rip rap seawall. An existing concrete boat ramp will be repaired, including the removal of a section fifteen feet by forty-seven feet which will be replaced by a new grooved traction surface. No concrete will be poured in the water. An existing on-surface water line and submersible pump will be replaced with equipment meeting current electrical and installation codes, and buried per Lake and Lakeshore Protection Regulations. Staff recommend approval.

Commissioner Watne made a motion to approve Lake & Lakeshore Permit #FLP-04-152 subject to 24 conditions of approval and authorize Chairman to sign. Commissioner Brenneman seconded the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

### **CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: FRAME ZONE CHANGE/LOWER SIDE ZONING DISTRICT**

Present at the January 6, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Assistant Webb, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to adopt Resolution 957AS. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### **RESOLUTION NO. 957 AS**

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, after publication of legal notice, on the 22nd day of November, 2004, to consider a request to change the zoning designation in a portion of the Lower Side Zoning District from SAG -5 (Suburban Agricultural) to R-2 (One Family Limited Residential);

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

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

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 957 AR,

dated November 22, 2004) to change the zoning designation in a portion of the Lower Side Zoning District from SAG-5 (Suburban Agricultural) to R-2 (One Family Limited Residential); and;

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 25 and December 2, 2004, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the feeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Lower Side Zoning District to change the zoning designation for the area described on Exhibit "A" hereto, from SAG-5 to R-2, as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 6<sup>th</sup> day January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

By /s/Robert W. Watne  
Robert W. Watne, Member

ATTEST:  
Paula Robinson, Clerk

By /s/Monica R. Eisenzimer  
Deputy

#### EXHIBIT A

#### LOWER SIDE ZONING DISTRICT FRAME REQUEST

##### LOCATION AND LEGAL DESCRIPTION OF PROPERTY:

The property is located in the Lower side zoning district adjacent to the intersection of the Flathead River and Montana Highway 35. The subject properties may be described as Tracts 2BC and 2B in Section 2, Township 28 North, Range 21 West, P.M.M., all in Flathead County, Montana. The subject properties are also known as 2085 MT Hwy 35 and 30 Panoramic Drive.

#### **PUBLIC HEARING: HARBOR SPRINGS ZONE CHANGE/HOLT ZONING DISTRICT**

Present at the January 6, 2005 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, Planner BJ Grieve, Michael Fraser, Florence Wight, Lee Wight, Peggy Sue Amelon, and Clerk Eisenzimer.

Grieve reviewed Staff Report #FZC-04-30 which is a request to change the zoning designation from SAG-10 to R-2 residential. A map indicating pattern of development in the Bigfork area pointed out the leap frog development and encouraged this development as services are in place.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the requested zone change.

Michael Fraser – Thomas, Dean and Hoskins, I think BJ has really done an excellent job of framing a number of the issues. I think it is important that this entire area was recently changed to suburban residential from agricultural. This area is zoned R-2 and further supports his understanding of the growth within the planning area that Eagle Bend complex is in fact leap frogged and that we need to encourage some infill development to meet the development needs in the Bigfork area. The growth in the Bigfork area has been about 4% in the last two years. There's just a real strong need and we see that need being played out in the changes that have occurred and are occurring. This piece, the SAG-10, is sandwiched between R-4 and RA -1 and RC-1 and a lot of the RC-1 even though it's one unit per gross acre has net densities, pretty high net densities. You have Pinehurst and you've got the Villa's Heights here which are really tight development patterns. The PUD, the R-1 PUD allows 2 units per acre so the change to R-2 is a really consistent growth pattern development, less than the R-4, a little bit more than the R-2, it's consistent with the PUD. What I think is consistent in that regard, the R-2 is a half acre density and typically is supported by on-site. In this case this property is in the Water and Sewer District, the pipes and hoses, the water and sewer lines front the property, they're there and all of the features that would be environmental considerations have been addressed in the current situation so we encourage the Commissioners to pass the resolution and start the protest notice period.

Reto Barrington – I am the proponent of this project and I know at least two of you have seen me here many many times, Mr. Brenneman hasn't had that dubious distinction yet. As I might remind the Board, this matter was approved for the master plan amendment earlier this week on Monday. This application for the rezoning is a followup application to that now ratified growth policy amendment so when BJ mentions this zoning request, is compliant with the master plan, it is compliant with the recently approved master plan amendment of Monday of this week which I believe you abstained on the vote Mr. Brenneman. The history of this thing is well known to at least two members of the Board and probably the third member has read about it in the newspaper over the past nine months. There's been a large number of public hearings on this, I would suggest to you that at the present time this matter has been debated at least a dozen times in public hearings. It became very contentious at first in the first series of public hearings largely due to the density question. This was brought back with a reduced density which gained a considerable amount of support at that time compared to the rather strenuous opposition which was evident in the first application. The intention here is to seek the zone change to R-2 consistent with the growth policy amendment and to therefore put us in a position where the land is zoned with an R-2 designation and both Mr. Fraser and BJ have indicated what that zoning allows. I think the only other thing I would like to say is that in the course of the debate on the zoning, we again have gone through a series of public hearings which started with the Bigfork Land Use Advisory Board and subsequently with the planning board and at both of those meetings there was unanimous approval for the rezoning application before you today and I think I can say hopefully with out being corrected on this if there were any speakers against it, I don't remember. There might have been one or two possibly as a combination of both of those two meetings but by far the sentiment as expressed through the voting record of the two tribunals which precede this one and through the public comment was neutral.

We have made a great effort to try and listen to the local community to attempt to identify what those issues are and my hope is that the relatively quiet reaction to this is a considerable amount of public discussion which I think now reflects a general consensus of opinion that this is a suitable zoning for this piece of property and that the next level of this will afford yet another opportunity for public input when an actual plan of subdivision is brought forward.

No one else rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the requested zone change.

Lee Wight – I live in Bigfork and I've been here before with most of you gentlemen. Part of the reason that I think Mr. Barrington feels that this is quiet is because many of the people in Bigfork are gone for the winter but I would just remind the board that originally we had well over 200 people and we submitted well over 200 signatures against the original proposal. I do agree that the proposal that came back to R-2 was certainly more agreeable. I am confused though, I remember a month or two ago we met with this board and I thought there was an approval of an R-2 part of this property. I guess I'm wondering, you mentioned that there were 29 acres, originally this development was some 60 acres. I'm confused as to what's going on here. If what I read in the paper was correct, then we're proposing 150 units on 29 acres. How many units are we proposing.

BJ Grieve – the original application to which you are referring was when both Mill Creek and Harbor Springs were submitted as one. Right now we're considering Harbor Springs zone change, we will subsequently consider at 10:00 the Mill Creek Zone change, the combination of those two might be roughly 60 acres that you're remembering. As far as the number of units per acre, right now it is an R-2 zoning which carries a 20,000 sq. ft. minimum lot size.

Lee Wight – so that's roughly 2 units per acre.

BJ Grieve – now there are exceptions as to what you can do as far as what you can do with a PUD, there's exceptions as far as what you can do with cluster development and those are all outlined in zoning regulations which I don't have in front of me so I can't quote direct numbers.

Lee Wight – That's my very concern is when we were at the planning board and we talked about this going to R-2. and the discussion was, okay, I know but I don't know. I know that Mr. Barrington is going to put as many units in that property as he can legally get there, which means that it's going to be clustered. My question was at that meeting, if you cluster you have to set aside open property. I asked is this going to be in perpetuity and Ms. Morrison said yes. Two days later in the paper there was an article and I don't know who it was written by but it supposedly came from someone of the planning board that said, well set aside land is in perpetuity unless they change the zoning regulations. Now, my personal feeling is and I know that this is the feeling of the original Bigfork Committee which has been reconstituted and I know what you gentlemen know that's there and has been approved. They're meeting today also at noon but I would hope that there could be a stipulation put in here that if Mr. Barrington decides to cluster in this area, that there be an absolute guarantee that there will never be a change in the set aside land that has to be set aside to meet that requirement because if there isn't, then we're going to be back to almost the original proposal that there are going to be 300 and some odd units in this piece of property. I'm not opposed to the R-2, but I really am concerned and I know there are a lot of other people in Bigfork that are concerned. Now they're not here today, I don't know, I just happened to see this in the paper, I don't know whether it was published two weeks ago, maybe it doesn't have to be, I don't know that there was a public hearing on this property, does it have to be published, was it published, it was in the Interlake. Well anyway, that's my feeling, those are my concerns and I think the concern of the majority of the people of Bigfork have not changed. Yes, we appreciate the fact that it's been reduced. I mean the first proposal was an absolute insane proposal for the people of Bigfork so I hope you will consider and I don't know at what point you consider this cluster development kind of thing, but gentlemen, it's coming. I almost can guarantee you it's coming.

Florence Wight – Just so I get on the record, and I agree with all of this and I never quite understand when we brought it up before about all of these homes there were supposed to be in the 2 properties. The other property too, they said we have had school bond issues on our schools for being over crowded, all three of them now for years. Then all of a sudden when this was proposed, all of a sudden there would be room for kids that would be in these projects at the schools. Now I don't understand this after we've had these bond issues and they've passed that because of the lack of room then all of a sudden we can have room. Some of these things don't make sense and I too would like to make sure that perpetuity meant forever and not just till something changes. Because we've had more meetings after we thought everything was closed but we didn't even know about and yes we're glad that you have this down to 2 units per acre and I hope you mean that you'll keep it that way and won't change it. If you have common ground later if they can approve it if there's some way of locking it in because here we have all of this land up here that is going to be homes too and we drive back and forth a lot. Sometimes in the morning, sometimes at noon or in the evening or early evening and when they say that we need more homes in Bigfork because of the business in Bigfork, I totally disagree because everytime if we go, if it's in the morning, everyone's going out to Kalispell. If it's in the late afternoon or evening, everybody's coming back and when we first built our home here, twenty some years ago, you would hardly even run into a car going into Kalispell on what is that, 83 or 35. Now it's a steady stream, now these people aren't coming and working in Bigfork, they're going into Kalispell. So with all of the home building that's supposed to be going on around there why do we need all of these homes over here in Bigfork. A long time ago when we lived in California, I would have liked to have lived in Santa Monica or Beverly Hills but who could afford to? You lived out where there were orange fields, you lived where you could afford and I know Bigfork is expensive and if we lose it's uniqueness, as being sort of an art colony, and craft stores, people aren't going to be coming there to visit these places anymore because it'll be just like where they've left when they came on vacation. Up above Kalispell, going to Whitefish, there won't be any common ground hardly left that's farming but to me I think we're destroying our valley, the beautiful valley that everyone has come here to visit. They'll come year after year because they get tired of all of the things.

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

Discussion continued regarding infrastructure that is currently in place and encouragement of Mr. Barrington to encourage the

Commissioner Watne made a **motion** to adopt Resolution No. 533AD Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

#### RESOLUTION NO. 533 AD

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 6<sup>th</sup> day of January, 2005, concerning a proposal by Harbor Springs, LLC to change the zoning designation in a portion of the Holt Zoning District from SAG-10 (Suburban Agricultural) to R-2 (Residential);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on December 26, 2004 and January 2, 2005;

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

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

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Holt Zoning District from SAG-10 (Suburban Agricultural) to R-2 (Residential), that area being described on Exhibit "A" hereto.

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

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

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

DATED this 6<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/Monica R. Eisenzimer  
Deputy

**EXHIBIT A  
HARBOR SPRINGS**

**Location and Legal Description of Property:**

The property is located in the Holt Zoning District, just west of Bigfork, and is situated northeast of the intersection of Chapman Hill Road and Holt Drive. The subject properties may be described as Tract 6 in Section 25 and Tract 18 in Section 36, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intent and authorize the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION  
HOLT ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 533 AD) on January 6, 2005, to change the zoning designation in a portion of the Holt Zoning District from SAG-10 (Suburban Agricultural) to R-2 (Residential).

The boundaries of the area proposed to be amended from SAG-10 and R-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a district intended to protect and preserve smaller agricultural functions, to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, to a residential district intended to provide for large tract development in suburban areas, beyond sanitary sewer and/or water lines. The SAG-10 classification has a minimum lot size of 10 acres; a change to R-2 would result in a minimum lot size of 20,000 square feet.

The regulations defining the SAG-10 and R-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

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

DATED this 6<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By /s/Monica R. Eisenzimer

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

Deputy

Publish on January 11, and January 18, 2005.

**EXHIBIT A  
HARBOR SPRINGS**

**Location and Legal Description of Property:**

The property is located in the Holt Zoning District, just west of Bigfork, and is situated northeast of the intersection of Chapman Hill Road and Holt Drive. The subject properties may be described as Tract 6 in Section 25 and Tract 18 in Section 36, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

**PUBLIC HEARING: MILL CREEK ZONE CHANGE/HOLT ZONING DISTRICT**

Present at the January 6, 2005 A.M. duly advertised public hearing were Chairman Hall, Commissioners Watne and Brenneman, Planner BJ Grieve, Reto Barrington, Peggy Sue Amelon, Lee and Florence Wight, and Clerk Eisenzimer.

Grieve reviewed the zone change request for Mill Creek LLC on property in the Holt Zoning District which contains 37.6 acres.

Chairman Hall opened the public hearing to anyone wishing to speak in favor of the requested zone change.

Reto Barrington – I would just like to reiterate the comments made in the previous application of Harbor Springs in order to shorten the time for presentation here. All of the issues are exactly the same, the public process and debate is exactly the same on this project as it was for the other indeed. The only reason there's two applications at this point is for administrative purposes in order to track the two zoning changes separately. The master plan amendment that was passed on Monday was for both properties as one application and so that's a clarification that I'll make so that the Wights who spoke at the last public hearing are aware of what the reason is, why there's two applications today. The Harbor Springs application which was previously voted upon by this board, together with this Mill Creek application which is under consideration in this public hearing comprise approximately 62 acres which were part of the master plan amendment which was approved on Monday. It is again an R-2 request and so again by way of clarification, rather than rebuttal in the previous public hearing I will point out that the maximum density on these combined parcels of 62 acres which again is comprised of the Harbor Springs project at 27.9 and the Mill Creek project which is the subject of this application is approximately 62 acres and with an R-2 density would have a right to a density of 2 units per acre which would be approximately 124 – 125 units but that could be bonused if the process of subdivision is approached by way of a Planned Unit Development up to a maximum of three units per acre provided that matters such as open space, park trail systems, transportation are appropriately addressed within the PUD hearing process which will unfold after this. So with those comments, I would end my remarks.

No one else rising to speak, Chairman Hall asked for anyone wishing to speak in opposition to the zone change request.

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

Discussion continued regarding infrastructure that is currently in place. Commissioner Brenneman questioned Grieve to explain the stress on roadways. Grieve explained that road improvements are addressed at Subdivision Review.

Commissioner Brenneman made a **motion** to adopt Resolution No.533AB Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**RESOLUTION NO. 533 AB**

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 6<sup>th</sup> day of January, 2005, concerning a proposal by Mill Creek Land, LLC to change the zoning designation in a portion of the Holt Zoning District from SAG-5 (Suburban Agricultural) to R-2 (Residential);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on December 26, 2004 and January 2, 2005;

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

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

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Holt Zoning District from SAG-5 (Suburban Agricultural) to R-2 (Residential), that area being described on Exhibit "A" hereto.

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

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

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

DATED this 6<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana



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

By /s/Robert W. Watne  
Robert W. Watne, Member

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

ATTEST:  
Paula Robinson, Clerk

By /s/Monica R. Eisenzimer  
Deputy

**EXHIBIT A  
MILL CREEK**

**Location and Legal Description of Property:**

The property is located in the Holt Zoning District, just west of Bigfork, and is situated northwest of the intersection of Chapman Hill Road and Holt Drive. The subject properties may be described as Tracts 10A, 10AA, and 10AB in Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intent and authorize the Chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION  
HOLT ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 533 AB) on January 6, 2005, to change the zoning designation in a portion of the Holt Zoning District from SAG-5 (Suburban Agricultural) to R-2 (Residential).

The boundaries of the area proposed to be amended from SAG-5 and RC-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a district intended to protect and preserve smaller agricultural functions, to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development, to a residential district intended to provide for large tract development in suburban areas, beyond sanitary sewer and/or water lines. The SAG-5 classification has a minimum lot size of 5 acres; a change to R-2 would result in a minimum lot size of 20,000 square feet.

The regulations defining the SAG-5 and R-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

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

DATED this 6<sup>th</sup> day of January, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: \_\_\_\_\_  
Deputy

By: \_\_\_\_\_  
Gary D. Hall, Chairman

Publish on January 11, and January 18, 2005.

**EXHIBIT A  
MILL CREEK**

**Location and Legal Description of Property:**

The property is located in the Holt Zoning District, just west of Bigfork, and is situated northwest of the intersection of Chapman Hill Road and Holt Drive. The subject properties may be described as Tracts 10A, 10AA, and 10AB in Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

**MEETING W/PAULA ROBINSON/CLERK & RECORDER AND RAEANN CAMPBELL/HUMAN RESOURCE OFFICE RE:  
2003 FIRE HOURS**

Present at the January 6, 2005 10:30 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Clerk & Recorder Paula Robinson, Human Resource Director Raeann Campbell, Coleen Baars, Assistant Webb, and Clerk Eisenzimer.

Paula Robinson – We have some individuals, Alan Marble, Jed Fisher, Gordie Jewett, Charlie Johnson, Don Mills and Richard Stockdale, we didn't pay them for their comp hours that they lost because based on County policy, if you earn it and don't use it, you lose it and so we didn't pay them for those hours that were lost, however we did submit them to FEMA for reimbursement and we were reimbursed. When Coleen and I went to the Clerk & Records Association meeting in September and they happened to have the State and Federal two gentlemen there that represent the hour and wage laws. We started talking to them about this and they felt that it would be in our best interest if we paid them for those lost hours. FEMA reimbursed us, we just didn't pay them because those hours were lost. That was a decision that we made at that time to not do that because of county policy, it's based on county policy. So, we went ahead and Karen Maar created the spread sheet. The total amount for the county cost is \$9,084.14. We do have the funds available in 2260, our balance is \$161 thousand and some odd dollars.

So we would just like authorization to go ahead and pay these people so that everything evens out and we will expend it out of 2260.

Commissioner Watne – but this was paid by the state, already.

Paula Robinson – it was paid.

Commissioner Watne – I don't see much choice but to pay it.

Raeann Campbell – Isn't there a \$9,000+ difference in what we were reimbursed and what we worked because these people were considered exempt which means they were not eligible for overtime and in fact even the federal wage and hour guy, their jobs did change for that week and they should have probably been converted to non-exempt and be eligible for the time and a half so that's why there's the \$9000 above and beyond. That's a law that just recently changed so I just wanted to clarify this a little bit more.

Commissioner Brenneman – They won't reimburse us for that law that's been changed?

Paula Robinson – Oh no, we're past that point. Everything has been finalized. We've went through the Governor's fund, we went through FEMA. First we go through there are a series of steps that we follow. The last step is the Governor's fund, the Governor's Fund has reimbursed us. The fire has been closed officially and we can not go back and resubmit.

Commissioner Hall – This \$161 thousand balance that you have, is that Title III or where is that money?

Paula Robinson – That's in 2260, \$161 thousand left.

Coleen Baars – That's the emergency disaster fund. The two levied mills into our emergency fund, there's no Title III funds connected to that.

Commissioner Hall – That's basically what we used to get through the fire season and reimburse that account.

Paula Robinson – plus we use that fund as far as taking and paying out throughout the fires, that's what we use is 2260.

Commissioner Hall – Anything else?

Assistant Webb – This is less that I thought it would be.

Raeann Campbell – just that we visited with Jonathan about it also and he agreed with us that we should pay on our recommendation to you.

Discussion continued regarding the individual amount of hours and Clerk Robinson advised that the hours are taken from submitted time sheets and the individuals should be contacted separately for explanation.

Commissioner Watne made a **motion** to authorize the Finance Department to pay those salaried individuals who worked these fire hours. Commissioner Brenneman **seconded** the motion. **Aye** - Watne, Hall and Brenneman. Motion carried unanimously.

Campbell questioned the Commission as to the freeze on new hires for all departments. It was reiterated by the Board of Commissioners that the freeze on new positions is still in place and all replacement positions for all County departments including the sheriff and health departments are to go before the Board of Commissioners for approval.

#### **PRELIMINARY PLAT: SAVE ME TEN ACRES**

Present at the January 6, 2005 11:00 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planner Peggy Goodrich, Richard Davies, Assistant Webb, and Clerk Eisenzimer.

Goodrich reviewed the application submitted by Richard A. & Carol J. Davies for Preliminary Plat approval of Save-Me-Ten-Acres, a two lot major subdivision on approximately 20.5 acres. The subdivision is proposed on 20.5 acres and will be served by individual on-site wells and septic systems. The lots will be accessed from Hellman Lane, a county road located at the bend of Columbia Falls Stage Road. The property is unzoned.

Commissioner Watne made a **motion** to adopt Staff Report #FPP-04-37 as Findings of Fact. Commissioner Brenneman **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

Discussion continued regarding condition 10 involving the bike path easement and a request to change the easement language.

Commissioner Watne made a motion to withdraw his motion on adoption of Findings of Fact. Commissioner Brenneman withdrew his second.

Commissioner Brenneman made a **motion** to continue the Preliminary Plat for Save-Me-Ten-Acres. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Brenneman. Motion carried unanimously.

#### **MEETING W/KARL CHRISTIAN/DNRC, PEGGY GOODRICH/PLANNING & ZONING OFFICE AND PETER STEELE/CO. ATTORNEY'S OFFICE RE: SPRUCE PARK**

Present at the January 6, 2005 A.M. Meeting were Chairman Hall, Commissioners Watne and Brenneman, Planners Peggy Goodrich and Traci Tull, Deputy County Attorney Peter Steele, Road Superintendent Charlie Johnson, Karl Christians, Laura Pfister, Larry Schock, OES Director Alan Marble, City-County Joe Russell, Assistant Webb, and Clerk Eisenzimer.

Peggy Goodrich – Basically the issue is the permits surrounding Spruce Park that I believe were approved and granted back at the end of 2003 and it looked as though and hopefully Alan might have some comments on what happened. I read through the file historically, and it looked like everything has been placed to try to get to this issue resolved as of last spring, the spring of 2004. Then I'm not sure what happened to where the berm didn't get removed, the rip rap didn't get reduced and the rip rap didn't get keyed into the bank which seems to be the three things that all of these permitting agencies are asking be done. And

so that's the piece of the puzzle that I'm missing but regardless, I think Karl's here today to try and help move the process along and get it restarted and make sure we comply with all of these permits that were issued.

Commissioner Hall – from my limited, I mean there's been a lot of conversation, a lot of work done on this and I think, I almost wish the land owner was here because I think that's been part of it.

Alan Marble – that's like throwing me into the middle of the fire.

Commissioner Hall – you've been in the middle from the beginning.

Peggy Goodrich – well, do you know what happened last spring? That's the thing, I mean, I started on March 1<sup>st</sup> Alan and I really can't help out here.

Alan Marble – I don't want to speak for either of the Clothiers but I can give you a chronological order of events. The Corps (Army Corps of Engineers). I'm sorry, I don't have my file, Peter's got them all so I can't even quote that but the Corps actually brought a contractor over and I don't want to speak to the date, but if you look at the south end of that levee maybe about that sandbag wall about 4 ½ there's about 60' of it missing. Well, the Corps, I got permission from one of the land owners to start it which was Stan his son, who did not inform his dad, the legal owner, which I now know. Apparently Stan is not on any of the papers, what happened from that point forward is, what it was is the Chief Engineer and you might remember his name, Eric Williams, had contacted me and I got permission from Stan. They brought a contractor over and I believe it was an Army Corps contractor from Libby area with heavy equipment and that's why that end part started getting moved. Well, anyhow Mr. Clothier came home and was surprised and that was the end of that little stay and I don't know where that sits with the Corps now. Other than I know the contractor went back to Libby, we basically meaning the County and people from my office went down and finished picking up, we got permission from Mr. Clothier to go down and finish picking up, because they had shoved it and you have to understand there's sandbag and there's plastic and there's all kinds of stuff in there. That's what they use is a little sandbag levee, we have to physically go down and pick that stuff up on the rocks because they kind of got run off in a hurry so they didn't get a chance to finish that little part and it's kind of been in limbo since then. I can't speak for the Corps, if any of the Corps has taken any action since then.

Karl Christians – there's a big gap and what Peggy mentioned, it looked like everything was inline for things to get brought into order a year ago and in fact, I was under the assumption that it was a done deal.

Alan Marble – part of our problem, just so you understand is, I had to go back and talk to Darryl like on a Saturday, the Corps did this on Friday and there as some extensive conversation about nothing was going to be done to his sandbag wall until we move some rocks. What compounds the problem is that they won't let you do it from the water side so we kind of left it at that and Darryl's been contacted before. I have not had any contact with the Corps since then.

Karl Christians – There's been a lot of, the DEQ has sent numerous letters to I believe the County identifying their concerns, the Corps 404, we've met with Mr. Clothier but let me back up to just the very beginning. I want to make sure you three commissioners understand that before the Corps comes in to do an emergency flood control project like that, they have to get an agreement signed by as I found out by at least one commissioner to initiate this process, this emergency work. I have not seen an agreement, a copy of that agreement, the other state agencies have not seen a copy of it but my past experience with this kind of issue is the agreement in a nutshell, says we'll come in and build this flood control structure and when we are done, and we walk away, the County assumes ownership and responsibility of that structure and responsibility of going through the permit agencies, etcetra, etcetera, etc.

Commissioner Hall – So you said, that no commissioner signed onto that original.

Peggy Goodrich – He hasn't seen it is what he's saying.

Karl Christians – I haven't seen it but I understand there was one commissioner who signed it.

Commissioner Hall – Yeah, I believe there was, Bob you were there for that can you remember who it was.

Alan Marble – I can, I was holding the piece of paper, and Commissioner Williams signed it.

Commissioner Hall – Dale signed it?

Alan Marble – Once the emergency was determined to be declared, it was Commissioner Williams on a Friday in Jonathan's office about 3 o'clock in the afternoon that we were dealing with the weather service. At that point in time, the emergency was declared, obviously not the two node, it takes all three, but just the state of emergency was declared so the Corps could start taking action based on what was anticipated to hit us which was a storm similar to what happened in '64, the storm was carrying 6-9 inches of water, it was coming out of the southeast, it was the same history patterns and so the weather service was pretty adamant about taking different action because that's what precipitated the '64 flood. The good part of that story is, is by the time that the system tried to move through, it stalled out over the divide area and gave Browning 5-6 feet of snow and shut down things on the east side and never really came across the divide so the emergency was lifted approximately, it was done by the weather service which then negates any Corps action and they have to stop which was I believe late Saturday afternoon. Again, I'm going from memory but this is all documented on the incident sheets, the documentation in fact went back and forth to the County Attorney and it's all in the packet, which Peter does have. So the initial emergency part of that was done. What happened and the reason that it got strengthened there first was because of the routing out and the high loss of land which amounted to 15' and what the Army Corps wanted to do was clear the grade first and then work backwards toward Lybeck but they got permission from the Lybecks, I'm sorry I don't recall his first name, but they had permission to work backwards toward that and when the emergency was lifted, they stopped and that's why there was no tying in, no anything it was just over. They follow their regulations and stop. So, that's the premise of what happened with the emergency and that was over a course of those two days and I may stand corrected, it might have been Sunday but I'm going on the short end. But during that time also the Corps was also taking care of Lybeck dyke and one of the levees further north because they were leaking so there was action taking place at two other levees besides taking place there at the Highway 35 bridge. That's kind of a history anyway.

Karl Christians – so, to go from the beginning, fast forward through all the discussions with the other agencies and everything. The County signed an agreement that once the flood threat is over, they assume responsibility of it; regardless if it's on private ground or not, the County is still responsible for it. From a floodplain management perspective, Flathead County has a floodplain management program in place; it's been in place for quite a few years. Years ago your predecessors signed an agreement with FEMA, the Federal Emergency Management Agency to administer floodplain regulations in turn for residents to

be able to buy flood insurance. It was a give and take okay. Also our State legislature in 1973 passed the Montana Floodplain and Floodlane Management Act. It's pretty stringent and in a nutshell where this property is, floodway, no fill can be placed within a floodway. No fill material, no obstruction to natural flows, etc. Rip rap is permissible if it meets the requirements of other agencies, other permitting agencies, meaning it's placed in there properly. This rip rap is not placed in there properly as I understand it, so. So back to the levee, right now it's an illegal structure which is a violation of State and Federal floodplain regulations and it needs to be removed because it's in the Floodway and that's the easy part. The hard part is the potential liability they could hold right now with landowners upstream, downstream and across the river because whenever you put an obstruction there it's going to have a reaction. Every action in the floodplain has a reaction somewhere. I've got a letter that I've printed off from the land owner right in that neighborhood, you know he's obviously aware of it and he's concerned with it. You should be concerned with the potential liability if this doesn't get removed in short order. Plus, the big key is that if this action or this violation doesn't get remedied, essentially removed, FEMA will come in and play hard ball and start the process to put the County on probation which could lead to suspension which could lead to the inability of property owners to buy flood insurance. That will hurt because you'll have a lot of people who currently holding flood insurance can't buy it, their mortgages could be called by the lender, it would be a bad situation so in a nutshell, the levee needs to come out. And it's the county's, right now, I'm not going to get into that, that's something for you folks to figure out on who will own that. So the repercussions far out weigh the minimal expense it would take to remove the dyke. And from floodplain expert perspective, the dyke is not going to hold any flood waters. The minute they rise up, it's going to get washed out, so Mr. Clothier is probably still going to flood, it's going to be a nuisance, it's going to be a water quality issue because all of that materials in the flood waters still a potential for liability across stream or something. It could happen, give an example, City of Livingston did the same thing back in 1997, it was a much more extensive levee than what you had. Fortunately for them, or unfortunately, we were doing a detailed flood study through the city during that flood but we had cross section information, we were able to do a detailed analysis of what the impact of that levee was and that actually had a foot and half impact on neighboring properties so it was pretty hard for the city to look at the property owners across the stream and say well, we want to protect our park and our ponds but we'll put another foot and half of flood water through your house, it was pretty hard for them to do that so we weren't thrilled to work with them, they removed the levee, their potential liability is now resolved because of that.

Alan Marble – First of all, it's not our levee, that's the land owner's and that's 99% of the problem.

Karl Christians – No, the county signed the agreement that they are responsible and don't argue because that's the way it is.

Alan Marble – We may be responsible that is physically not our sand bags, not our lining.

Karl Christians – No, whatever was placed there by the Corps is the county's responsibility.

Alan Marble – Part of the problem that you're talking about with this wall and obviously we discussed the problems where we got to go all the way to Lybeck because we've got the river coming into Easy Street. This problem is exacerbated by DNRC's mining permit to the north where that guy is  $\frac{3}{4}$  out into the river with his stuff that's pushing this stuff to the west. That's where we've lost up to 15' of land and that's when the Commissioners signed the letter that asked for a study to be done by the Corps between Lybeck and the bridge because even if this little 2' hump disappears, it's still going to hit the Highway 35 bridge, stay on the north side of the river and end up back down in the I guess, new furniture store or whatever's going in there at Kmart. That's the flow pattern that it takes with the high side of the road so irregardless of this thing, the water's going that direction. Our problem is that the river is changing direction north of this thing, besides getting behind the bridge tail, our major problem is 500 yards or 600 yards to the north the river is on an east-west pattern flowing into the bank. That's the only place on the river where you can go and stand and the water hits and goes this way. That was, we asked them for a study on that, they sent three or four Corps people into look at that and so it's a compounding problem between Lybeck and there and we did address that in the mitigation plan with FEMA that something needed to be done between Lybeck and there because we were looking for some additional funding to do that study. This is all separate from the other deal that's gone on but the bigger picture, that's what's happening there and the Corps agreed to do a study and it's kind of set in limbo and I don't want to speak to it but I don't remember any documents that says to why or why not that study hasn't been done in between. I just know it's been documented and put into the predisaster mitigation plan. So regardless if this structure comes out, its hitting the 35 bridge and it's going west, that's a given. The choke point on this thing is the Highway 35 bridge. The new bridge, it's my understanding engineering wise more flow will go through than the old bridge did. I don't have any history of what the old bridge did, I don't have any history of the old bridge because I never seen it so what happens then is he has one low point there and what Clothiers have told me is they have one low point where it enters there, they know they're going to be flooded. Their attempt is not to stop the flooding it was to stop the input when it reaches its, because we raised the flood level there with the weather service from 13 to 14' I believe because it didn't, by weather service definition didn't impact structures until 14.2'. That didn't sit well with the land owner either but. But by definition we had to move that to 14 and that's what triggered all of our actions was that 14' mark. So, removing that levee is not going to remove our problem and I know we've discussed this at length but the problem is, is we need some engineering and some advice on what do we do between here and here to stop the problem with the whole shift of the river and nowadays you can't use the ugly "D" word which is dredge to straighten things out. So you get that big east-west flow. So I know the Corps was talking in regards to, I don't have the technical name but is it Weirs? Weir is going up there to capture some of this gravel that's coming over to the west and then starts building it back to the east. Mr. Lybeck is concerned mainly because of the course of the change. He's used to gaining land and losing land so that wasn't a problem with him as much as what the river was doing based on his history of living there all of those years. That's where his concerns came up was that direct east to west flow which is approximately, if you go up there and look at 300' yards south of Lybeck so that being a critical area and then where it was eating into the bridgetoe creating the backwater is the Corps' when they did their assessment was what's happening first with that high water, they went and decided to work on the bridge and that was their decision so when they terminated their work, then it wasn't a quote, unquote, typical project which you would do for flood control. It was emergency work that then needed to be finished.

Peggy Goodrich – as I see it, we have two separate issues here though. We have an issue that we have a structure that violates our floodplain rules and also several other agencies' rules that if it's the Clothier's structure then we need to give Mr. Clothier a violation from each of these agencies and proceed with the violation process to get that structure removed. The Corps did work that doesn't meet all of the agency's requirements; they've outlined a couple of different things that need to be done to correct the situation. Those couple of things need to be done. If we've got a broader issue upstream with the river changing course and things like that it does need to be addressed but I don't think that we can tie the two together and decide not to correct the violation because we're jeopardizing our ability to administer the floodplain program here in Flathead County and we're jeopardizing people who go to buy flood insurance in Flathead County so we need to take care of this problem and work on getting a long term solution for what's happening with the river.

Alan Marble – and part of the problem is that rip rap is not an answer. It has created a public danger. If you go and stand there during high water, the water now swirls, I don't know if you've seen what it does in the big eddy and comes around creating

problems on their swimming side. So it is not a pretty picture what it's done because what the problem is is that the structure that its gotten behind, nobody wants to claim ownership of. It came some time in the '30's and the Corps says it's not theirs, the county says its not theirs. The point being, its behind this structure which has car bodies and everything in the world and you can go look at it, it's an old levee that goes maybe ¼ mile south of the bridge and up. Nobody seems to know where that came from but that's what the water is eating behind, swirling back counter clockwise half way across the river.

Peggy Goodrich – Because of the rip rap that the Corps put in?

Alan Marble – No, oh no. No what I'm saying is the problem is you have to stop it from eating behind, now the Corps has said yeah, if you want to lower the rocks to the highwater mark or whatever it was. That wasn't an issue, our issue now is getting back on the land to perform that work after they ran the Corps off. That's the problem.

Commissioner Brenneman – to address this specific violation that we're faced with right now, what does the county need to do?

Karl Christians – In my opinion, take charge and go to Mr. Clothier and say, "hey, this has turned into a bad situation and we need to remedy it. We'll come in and remove the dyke," or you can play hardball and say, "Okay Mr. Clothier, now it's on your property, you're responsible." I don't think that would be a wise choice to go that way because I don't think it's the fair choice. Mr. Clothier I don't believe specifically asked for it, the son might have but the dad didn't. The dad's the land owner from the sounds of it so I don't think that's the fair choice, I think the county should just say we'll take responsibility and go in. You've got the equipment, it would take, I went and looked at it and it would only take a few hours to get it out of there. That's the levee part and have somebody that knows what they're doing with the rip rap go in and tow it in to meet the other agencies requirements. The other agencies have been pretty willing to work with you, DEQ, Jeff Ryan has been pretty good to work with but that's my opinion, just take charge and get this thing remedied.

Chairman Hall – yes.

Alan Marble – what you're saying to remove is something the landowner's had there for seven years that isn't ours.

Karl Christians – That dyke has not been there for seven years, I've got pictures of it going in.

Alan Marble – but that's the owner's statement is that it's been there for seven years and most of the sandbags are deteriorating underneath other than polyester. So that was his concern, so okay I've put in 44,000 sandbags, who's going to replace these next time it floods.

Peggy Goodrich – illegally?

Alan Marble – No he didn't, he put it under flood control. Sandbags are a temporary structure and that needs to be defined too, whether he takes them down or what happens to them. The county was not involved in the process at all. That was done by the owner in 1997.

Commissioner Brenneman – Peter, do you have a legal opinion of what the county's obliged to do?

Peter Steele – I thought that the Corps was willing to take that levee out, won't they still do that?

Alan Marble – They started to and the landowner took them out. The 60' to the south that's missing, there was a dispute between the son and the father and the son basically gave the Corps permission to go ahead and start working on it and the father came home and ran them off the property. That was the end of the work.

Peter Steele – Well, is there, and I don't know, I need to research a little more, I'm just learning about it but it seems to me that if the Corps is still willing to come out that we could do that. We have to first get the land owner first to agree to do that and the way we might be able to do that is to go through these violations.

Karl Christians – I think at one time and my opinion, Alan, you probably have the best relationship with Clothiers because at the one time some of us met with Clothiers and Alan and we talked it through like gentlemen and Mr. Clothier reluctantly signed ok, fine, I'll let you come in and do this and do that, tow in the rip rap and remove that dyke. He had agreed upon it. I may not have that in this file but he had agreed upon it so that's kind of where we left it, it sounds like everything was on hold. Forrest said he was going to have to handle it.

Peter Steele – Correct me if I'm wrong, it seems that the sticking point on all of this is Mr. Clothier not allowing the work to be done. The levee needs to be removed.

Chairman Hall – Right and there was discussions of who was going to pay for what and the culpability all of that, but it really comes back to Mr. Clothier allowing people on the property.

Alan Marble – and where this went awry, I can tell you exactly where it went awry because after that meeting we're going, yes we're done. Well, what happened between that was the Army Corps sent a drawing back, they had to get it approved by the landowner and us and apparently, correct me if I'm wrong but it was like a 50' key trench built 90 degrees in at the end of this property down to the water line and he took exception to that because he felt it was going to let the water in there and make it worse so he wanted some other structure put in the end rather than a straight key trench buried 8 feet in the ground and I think that's the right term. He was talking about wanting to get some kind of rip rap at a 45 degree at that end rather than take it that far onto his property which you have to understand right there where his property line is, on the back side is the old channel that runs around and comes under our culvert under the 35 bridge and that's I know the first hesitation that they have.

Chairman Hall – so where do we go from here? Alan you've been kind of the lead on this and other people have been involved now Peggy's just coming up to speed, Peter. We've been hearing about it for years but we want to get it dealt with.

Alan Marble – I haven't actually dealt with it for almost a year. Forrest took it over and was trying to finish it out. I didn't communicate with Forrest what he did do or if he had any problem, I know I don't.

Karl Christians – I got a couple emails saying things were moving forward then the next email was everything's dead in its tracks.

Chairman Hall – That was from Forrest? Apparently someone in the planning office has said that he wasn't the lead on it so I don't know. I don't know what's going on.

Peggy Goodrich – He expressed to me he wanted absolutely nothing to do with it. He wasn't involved in the beginning, he wasn't involved in any decision making, he said, I wash my hands of what they've done. Basically.

Chairman Hall – Ok, where do we go from here.

Peter Steele – we need to some how or other make Mr. Clothier see the light and let us do this work. How we're going to make him see the light, I need to find out. I'm not sure if there's a violation from these agencies, what kind of penalties are out and how that whole process works for not allowing this work to be done or if we have to sue him or something and again that might just be my simplistic approach to this but it seems the sticking point is Mr. Clothier not allowing the work to be done. Would the Corps still be willing to come out and do the work.

Alan Marble – They've been 100% behind the county in doing whatever we need to resolve this.

Peter Steele – so as far as the county's concerned, getting the work done it seems like the Corps would do that to remove the dyke, that's what DNRC wants.

Karl Christians – I guess I would look at it as everybody get Mr. Clothier in and just talk with him. It's either we work it this way or we have to go to the court system.

Commissioner Hall – we need to have a discussion with Mr. Clothier.

Alan Marble – I'm willing to take some responsibility from the standpoint of going to talk to the landowner.

Myrt Webb – Somebody needs to be the lead on this. You want to keep it on planning or you want to shift it Alan, somebody needs to be the lead.

Commissioner Brenneman – it sounds like Alan kind of got us started in the right direction at one point. I'd say if you're willing to initiate it, lets.

Alan Marble – I'm certainly willing to start the communication.

Chairman Hall – Peter

Peter Steele – Alan, why don't you contact Mr. Clothier and see where it goes from there.

Alan Marble – Well, Let's figure out so I know what the ramifications are and I'll sit and discuss it with him and Stan. I don't mind doing that.

Peter Steele – We'll go out and meet with him.

Discussion continued regarding meeting times and urgency in speedy resolve to this issue.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 7, 2005.

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## FRIDAY, JANUARY 7, 2005

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Watne and Brenneman, and Clerk Robinson were present.

**10:00 a.m. Commissioners Hall and Brenneman are to attend Urban Economic Development Meeting in Polson.**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 10, 2005.