

July 12, 2017

The Lincoln County Board of Commissioners met for a regular session on July 12, 2017, in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Cole, Commissioner Bennett, Commissioner Peck, County Administrator Darren Coldwell, and Clerk and Recorder Robin Benson.

Commissioner Cole opened the meeting with the **Pledge of Allegiance**.

9:30 AM **Line Adjustment on County Park Land/Marc McCully:** Present were Road Supervisor Marc McCully, Carolyn Peterson, John Blodgett and Alan Gerstenecker.

Marc explained that Carolyn plans to sell her property in the NW4, Section 25, T30NR31W which is next to the property on Trainer Street where the county traded property with the school. When Carolyn listed her house, it was found that some of her sheds are on county property. Marc said the discrepancies are in older surveys vs. the modern surveys and feels it is not the property owners fault and the county has always tried to help out in these situations. Marc informed the commission that they are here to rectify this and a boundary line adjustment would not affect the county in any way. Commissioner Peck stated he has walked the area, and agrees with Marc and a boundary line adjustment would help the property owner. March said a survey is necessary for a new boundary line adjustment and will cost approximately \$1200. Commissioner Cole commented that technically the county is giving up some property. Commissioner Bennett said the MCA's state the property owner is responsible for the cost of survey if it is in their interest. **Motion** by Commissioner Peck to approve the boundary line adjustment on Parcel A and Parcel B, off of Granny's Garden Road; property owner Carolyn Peterson is responsible for the cost of the survey. The county will not charge the property owner to record the survey at the Clerk and Records Office. Second by Commissioner Bennett, motion carried unanimously.

9:45 AM **Administrative Issues:** Present were Alan Gerstenecker and John Blodgett.

Darren submitted mapping for the Clarence and Verna Johnson Properties on Farm To Market Road. Clarence and Verna Johnson are requesting to donate the property to Lincoln County. Darren submitted MCA 7-8-2201 Authorization for county to obtain property for commission review. Darren said the property is free of liens and will place this issue on next week's agenda.

Darren said the fairgrounds water pump needs work and is requesting permission to take cost out of PILT for repairs or a new pump. **Motion** by Commissioner Peck to fund the new water pump and pressure tank at the fairgrounds out of PILT. Total cost is a little under \$6,000. Second by Commissioner Bennett, motion carried unanimously.

**Motion** by Commissioner Peck to sign the Airport Grant Agreement for the Eureka Airport. Second by Commissioner Bennett, motion carried unanimously. The project is described as Install Taxiway Lighting, Install Perimeter Fence (automated gate) and Install Airport Beacon.

Robin informed the Commission that no applications were received at the time of advertisement for the Fisher River Fire Service Area Board. Two applications have since been submitted from Agnes Kemp and Daniel Whetstone. Robin said she has talked with George Neils and the Fisher River FSA Board is requesting commissioner approval for Agnes and Daniel to serve as new board members. Terms are for 3 years and will expire on June 31, 2020. Robin said that currently, there are only three people serving on the Fisher River FSA Board. **Motion** by Commissioner Bennett to approve Agnes Kemp and Daniel Whetstone to serve on the Fisher River FSA Board to fill open positions. Second by Commissioner Peck, motion carried unanimously.

The Commissioners reviewed the minutes for July 6, 2017. **Motion** by Commissioner Peck to approve minutes as presented. Second by Commissioner Bennett, motion carried unanimously.

10:00 AM **North Star Landing Subdivision Discussion and Vote:** Present were Kristin Smith, Jake Mertes, William Stewart, Donovan D. Truman, Greg K. Hanson, Andrew Belski, Tonya Chilton, also present from Eureka via VisionNet were Debbie Tribble, Paul Tribble, Robert Haidle, Lety S. Frey, Glen Karta, Cindy Ruth, John Ruth, Randy Wilson, and Nikki Meyer.

Commissioner Cole announced that this meeting is for commissioner discussion on the North Star Landing Subdivision by reviewing the Planning Report and walking through the Findings of Fact, and Recommended Conditions. The Commissioners did agree there is no new information from the developers or members of the public that have been brought forth.

Commissioner Cole mentioned that the commissioners did walk through the subdivision yesterday and that he personally took in a lot more information and that it was beneficial to receive a visual of the site.

Commissioner Cole stated the commissioners will start discussion on the Findings of Fact on the final report dated June 20, 2017.

**Impacts on Agriculture:** Conclusion on the planning report states no significant impact to agriculture; commission agreed

**Impact on Agricultural Water User Facilities:** Conclusion on the planning report states no significant impact on agricultural water user facilities; commission agreed.

**Impacts on Local Services:**

**Roads:** Commissioner Peck commented the increase in traffic on Douglas Hill Road near the Hwy 37 intersection is a public concern and he personally talked with the Department of Transportation (DOT) and the information received from the DOT is that nothing needs to change. Commissioner Peck said the blind corners on Douglas Hill Road can be adjusted and should be adjusted, but feels those things can be mitigated. Commissioner Bennett said the subdivision regulations states that if there is over 400 daily trips on a road, then a road traffic analysis must be conducted. Mr. Stewart said he was in meetings with the county and the highway department and feels that Kootenai Escapes Development Company (KEDC) has taken at least a good look at the situation, but there was never an actual analysis

conducted. Commissioner Bennett stated that per county subdivision regulations, a road traffic analysis must be conducted before final plat approval. Lety stated that she has a permanent easement and asked if it would be affected. Commissioner Peck reminded everyone that today's meeting is for commissioner discussion. Commissioner Cole said he has talked with the Eureka Road Foreman and any improvement work would be delayed until after construction work is completed. Commissioner Peck clarified that the road traffic analysis shall be part of the condition for final plat. Mr. Stewart said the Wilderness Club is aware the road traffic analysis will be a condition of final plat. Commissioner Peck expressed frustration that there has been a process problem with staff and there are no minutes to the second public hearing, further stating that it is unfair to the developer and public when staff should have known these regulations; people were not served well. Commissioner Peck went on to say he is upset we are at this point and here we are as decision makers, looking at the regulations, trying to make decisions and he personally does not know how to fix it. Commissioner Cole said that alluding to Commissioner Peck's comment, we are trying to find a way to make it work without going to court. Mr. Stewart said Douglas Hill road is posted at 35 mile/hr., which should decrease some of the traffic concerns. Commissioner Peck said this is a legal process that has been in place for a long time and whatever way we (the commissioners) decide, it opens us up either way; there is liability to the citizens of Lincoln County because proper procedure was not followed.

Commissioner Cole commented that connector roads will be brought to regulation. Commissioner Bennett mentioned all roads need to be chemically treated or chip sealed and feels this is an important issue; people need to be ensured of dust prevention. Mr. Stewart said he understands those concerns and is willing to do that but does not know how to put that into the conditions. Kristin informed the commission that condition #8 requires a road surfacing proposal to be approved by the commissioners prior to final plat approval. Commissioner Bennett said as there is new technology, changes can be made in the road maintenance agreement. Jake commented that there is a road maintenance agreement but it cannot be enforced without a majority of homeowners. Commissioner Bennett commented that the road maintenance agreement could be as an addendum to the final plat, not the covenants.

Commissioner Cole commented there are no schools, shopping, those types of things in this development. Commissioner Peck questioned the 10' pedestrian access that is mentioned in the conditions. Kristin said the condition does not state where the access is to be located, but that it is up to the developer. Mr. Stewart commented that the subdivision has a 5-mile speed limit, everyone uses the roads and feels there are no issues. Commissioner Peck said the intent of the condition is access to schools, transportation, shopping and community facilities. Commissioner Bennett said there could be 10' added in the road to create a wider shoulder. Kristin said that typically, pedestrian access is on primary roads. Commissioner Cole said that he has not seen this in other subdivision approvals during his tenure and it would be a big question to him. Mr. Stewart said the development includes a storm system and KEDC is always making improvements and feels the walkway is already in place. Commissioner Cole suggested to come back to this as we move forward.

Mr. Tribble said the requirements are in place for a specific reason; the public feels those issues are not being addressed and the Commissioners need to ensure all regulations are being completed.

**Driveways:** Commissioner Bennett said that Mike Fraser did attend the walk through yesterday and he did comment that before final plat, it would be beneficial to see some of those driveways put in so we have a visual; especially on the steep lots. Commissioner Cole questioned as property sells, what happens when a purchaser wants to buy multiple lots; there would already be too many driveways. Kristin commented that what has been required in past is a plan and profile of design to achieve adequate slope and those lots would have to show design on final plat.

**Utilities:** There were no comments regarding utilities.

**Emergency Services:** Commissioner Peck informed everyone the subdivision is within the boundaries of the Eureka FSA, therefore, the subdivision does have fire protection. Kristin said she will add that it is within the Eureka FSA and will be covered with fire protection. Commissioner Peck commented the subdivision could donate a lot for a future fire hall. Commissioner Peck stated that Mr. Fraser talked about density of homes and the standard is 1000 gallons per 30 minutes. Commissioner Peck said the developer is meeting the county standards. Kristin said the subdivision regulations are set at a minimum and wants to make sure everyone understands that commissioners can have additional conditions tied to impacts.

Commissioner Peck said he did talk with the Sheriff's Department and received no concern for lack of availability for response. Commissioner Peck said this area seemed a huge concern to the public and he did share those concerns with Sheriff Bowe. Commissioner Peck said the public did make statements that there were a lot of calls to 911 with no response. Commissioner Peck said that in his conversation with Sheriff Bowe, he was told there have been no direct complaints and Sheriff Bowe did research dispatch calls and there was no huge increase in calls, and all calls have been responded to. Commissioner Peck said that Sheriff Bowe assured him there is no huge impact due to this subdivision. Mr. Stewart said he has talked with emergency agencies and he received feedback that absolutely all 911 calls are answered and feels the comments regarding 911 calls were exaggerated. Debbie said it is her understanding that 911 is not dispatch which is what the Sheriff is looking at and she did call 911 about fireworks on forest service property and the conversation was recorded and there was no response.

**Water Supply and Wastewater Treatment:** Commissioner Peck said he is not an expert in this area, but Jeff Larson is a highly reputable engineer in the Flathead with tremendous experience. Commissioner Peck pointed out that this is going to be approved by DEQ or it isn't. Commissioner Peck said he is comfortable with the water and wastewater issue, but it is in the hands of DEQ. Commissioner Cole said the point is that at this level of process, the requirements have been met. Commissioner Bennett said he learned from Jeff Larson's comments that when the application is submitted to DEQ, they (DEQ) will conduct its own site visit and review. Commissioner Peck commented that Mr. Fraser is comfortable with this area. Kristin informed everyone that all public comments about water and wastewater will go to DEQ.

**Solid Waste Disposal Facilities:** Commissioner Bennett said he had a discussion with the developer about making a common site for the entire area, not just the subdivision. Mr. Stewart said he has all good intentions and asked for help

with the requirements for green box sites, stating he is more than willing to work with the county. Kristin said that Condition #19, outlines the green box sites and states the developer will work with the Environmental Health Department. Mr. Belski said he could take another look at the condition and maybe provide something better than the actual condition.

**Public School Facilities:** There were no comments received from the school district.

**Parklands:** The planning staff report has a comment that the current proposal is inadequate to serve the needs of the resident of the development. Kristin said this is based on slope of those areas and anticipated number of children; it is to be taken all into context. Commissioner Peck asked if there is already precedence or DEQ requirements. Mr. Truman said the subdivision has constructed areas that are nice for play areas. Mr. Stewart agreed, stating you cannot drive, build or run livestock on them or construct on them. Kristin asked the commission if they are going to find differently, then we need to write a different finding. Commissioner Cole said that after walking the site, he does not feel this is going to be a big issue because there is lots of open space in the area. Commissioner Peck said he is looking for supporting precedence or data to eliminate current verbiage. Lety questioned that if the fields are used as parkland, would you want children playing over drain fields? Jake said he has never seen or heard where children cannot play over drain fields. Kristin suggested to strike from the word "pursuant" to end of paragraph, and replace with language that the area cannot be driven on and limited use posted, however, the property is surrounded by forest service land and there is plenty of access to open space. Mr. Stewart said he likes the language change because it defines use.

#### **Impacts on the Natural Environment:**

**Topography:** Commissioner Cole said he feels the bigger issue is the lands on slopes greater than 30% and clarification of what that means. Commissioner Peck read from subdivision regulations and said there is no room for variances for lands unsuitable for building sites, land located in floodplains, and he sees no ambiguity. Kristin identified 5 recorded plats, precluded further development in the subdivision due to this same issue. Commissioner Peck said that from a legal process standpoint, criteria are what we legally have to use and what the intent is. Mr. Truman asked if there is documentation that a variance was asked and denied. Kristin stated that variances were never requested to her recollection. Mr. Belski said the developer had sculpted those properties prior to subdivision submittal. Mr. Stewart expressed some frustration stating that we presented what we had, never hiding anything, met with the Planning Board and the County Planner at that time; the developer spent a lot of time and came back to the Planning Board. Mr. Stewart said the 8 lots in question will have storm drainage that will fix those lots and will show driveways. Mr. Stewart continued saying now here we are again, more confused determination of the law; we have gone around and around on this and received a Geotech approval with a solid end result. Commissioner Peck said the Planning Board has no authority to authorize sculpting of lots; the process has put everyone in a bad position. Mr. Stewart stated the Geotech opinion favors the subdivision design and that he would offer 8 lots that are Geotech certified at the time of final plat approval which puts liability in the hands of the Geotech.

Cindy commented that Mike Hobbs wanted to go over a few of the lots and see an expanded plat, and the Geotech analysis, but the time was cut off and he has never seen the full-size plat and Mr. Stewart ignored the request for a no build zone saying the public was cut off at that time. Cindy continued saying the SW corner has steep ravines and gulches; these are not small rolling hills. George Kanta stated the commission is elected by the public and all the people do not want this; are you with the public or the subdivision? George Kanta continued stating that what the commission is looking at is all about money and Commissioner Peck waved off questions of law enforcement and is not talking to the public, yet you are elected by the public...why are you not supporting the public? George Kanta continued stating the county commission is not doing its job; it's all about money. Lety asked if anyone has read the Geotech report and that it does show concern on soil grade. Mr. Truman said Mike Hobbs was clear that a variance was not the way he wanted, but wanted a Geotech brought in.

Commissioner Peck said the Planning Board and County Planner at the time should never have given approval outside subdivision regulations, they have no authority to do so. Mr. Belski suggested a condition could be made that these 8 lots cannot be built upon until they meet current regulations; not limit lots in perpetuity. Commissioner Bennett said his concern are the five previous subdivisions that may open the county up to liability in the future. Kristin clarified that the commission makes decisions based on current regulations, not future potential of laws and regulations changing. Commissioner Peck stated these discussions should have been taken care of in the planning process. Mr. Stewart expressed exasperation that the developers have given above all demands and requests. Commissioner Bennett agrees with Kristin that laws change, but they are not retroactive. Mr. Belski asked if there was any avenue where these lots can be re-submitted to the commission with changes down the road; is there a government process these 8 lots can be resubmitted? Cindy said the public concern is who is going to monitor those lots to ensure they are not going to be built on the 30% slope side? Commissioner Cole suggested to table this issue and come back to it. Mr. Belski asked if the developer is willing, can they aggregate the 8 lots to get past the slope issue. Mr. Stewart said we would need language that clearly states the goal of building on every lot. A Eureka citizen asked what are the 8 lots we are all referring to? The public understanding is that there are more than 8 lots that don't meet the 30% rule; this is a real fuzzy area. The public would like to know what the 8 lots are and we are requesting commissioner review because there are probably a lot more than 8 lots. Kristin clarified that 8 lots were submitted to the Planning Board.

**Public Lands:** Commissioner Cole said there are concerns about a lot more use on county and forest service roads and how to mitigate that; we will need to work with the forest service on this. No further comments from public.

**Historical Features:** There were no concerns from the commission. Mr. Ruth commented that this was never researched and there are Indian ruins all over the place; bottom line is this was never looked at or researched by anyone. Commissioner Peck asked Mr. Ruth what his definition of a ruin is. Mr. Ruth said any Indian artifact such as knives or arrows. Cindy said she is shocked no research has been done on this.

**Surface Water:** No comments, no actual streams.

**Ground Water:** Cindy said Randy Wilson's well has 7' of clay and the rest is sand and gravel. Cindy continued saying a sand channel runs through a common area and the applied water is inaccurate. Commissioner Peck asked Cindy if she was challenging the Core of Engineers and DEQ? Cindy said if Lake Kooconusa is really drawn down, there is runoff to the Tobacco River affecting endangered species and water rights. Cindy commented that a credible geologist led her to believe an aquifer may not be defined. Commissioner Peck stated the letter from DEQ is all we have to go by at this time and he is comfortable with their analysis.

**Impacts on Wildlife and Wildlife Habitat:** Commissioner Peck stated that you cannot build a subdivision without affecting wildlife; everything impacts wildlife. Lety commented that there are huge elk herds in the area. Cindy asked if Mike Keller's information was taken into account about the bull trout.

**Impacts on Public Health and Safety:** Commissioner Bennett said that thinning and firewise is in the conditions; public health and safety issues are addressed in the conditions. Commissioner Peck mentioned a concern was only one access point was reviewed initially, now it shows three and there is one access that will need a special use permit. Commissioner Bennett said the Eureka Fire Department feels a hydrant system needs to be in place. Mr. Stewart said he is working with the Eureka fire Department for a determination and they will lay out what they want.

**Growth Policy:** Commissioner Bennett read from 76-1-605 MCA subsection 2(a) regarding growth policy.

Commissioner Bennett said the Growth Policy is to be given weight, but it is not a regulatory document, meaning the county cannot deny on density based on the growth policy. Commissioner Cole said that density is a concern for everyone. Commissioner Peck commented that in applying the growth policy, subdivision regulations must comply with the growth policy. Commissioner Peck said he is trying to determine how to apply this; there is already 2 high density subdivisions approved within close proximity. Commissioner Cole stated that as we look at that area, that is where the growth is and will continue to occur. Kristin commented that to add a sentence that the commissioners think of density as a concern would not be out of character.

Greg commented that when you look at properties you also need to look at what is marketable; the key is the lake, which is what is drawing the people. Commissioner Cole said that is not a criterion we are looking at. Cindy commented that the Wilderness Club and Indian Springs are beautiful developments. Cindy reminded the commissioners of a court case in Missoula that was denied due to density level and inappropriate communication and public acknowledgement. Kristin clarified that Missoula has neighborhood plans and that is why the court ruled the way it did; in this area, we do not have that. Kristin said a statement that density is a public concern can be added as a finding. Paul asked when is enough enough when there is already 2 high density subdivisions in a 3 mile radius. Commissioner Bennett agreed to add that density is a concern to the public and the commissioners.

Commissioner Peck said it was brought to our attention about the nearby shooting range. Commissioner Cole asked Mr. Tribble to comment in terms of the shooting range. Mr. Tribble said that lots are backed up against a tactical shooting range and the range has been expanded. Mr. Tribble asked what has been done to protect development regarding a loose round; that does happen. It was determined that the range is located on the east side of the subdivision. Kristin said this issue should be addressed under the impacts to public health and safety and suggested that typically this can be addressed in the covenants so potential property owners are aware of this concern prior to purchase of lots affected. Mr. Stewart said he wants to know what it is specifically that requires this language to be added. Commissioner Peck said he would like to know what the county's liability is, knowing it's there, and just loosely walking through it; it is not simply about covenants. Commissioner Cole stated that it's a private shooting range, not a public shooting range. Kristin asked if the commission wants to address this in the public health and safety portion. Mr. Belski read MCA 76-9-105 regarding responsibility to land owners. Commissioner Cole agreed with Kristin that public health and safety will acknowledge a private shooting range. Debbie Tribble said she talked with an attorney and was told it was on private land and there are no restrictions.

**Conditions:**

Mr. Belski said he would like to see a merging of conditions 1, 3, 7 & 9, stating they basically all say the same thing and by combining we lose 3 conditions and have only one that covers everything about access, roads, and driveways. Kristin commented to the commissioners that Mr. Belski's suggestion would be appropriate. Commissioner Bennett said that as we go through this, we may bring changes due to comments from Mr. Fraser. Commissioners agreed they were ok with conditions #2 and #4. Commissioner Bennett commented that regarding condition #8, that we talked about chip sealing or whatever technology is available; we need to ensure some sort of dust control in the area. Commissioner Bennett said he understands a maintenance agreement will be enforced once an HOA is established but in the meantime, we need a condition in place for dust control. Mr. Stewart asked if he can water to acknowledge dust mitigation. Commissioner Peck said that having a requirement up front to chip seal is a heavy burden. Commissioner Bennett said the road maintenance agreement would address public concerns. Kristin reminded the commission that within a 3 year period before final plat, the developers have to propose road requirements per commissioner approval. Commissioner Bennett suggested adding the word "perpetual" to condition #8, referencing the road maintenance plan. Commissioner Peck suggested to add dust control to #8. The commissioners were ok to leave condition #10 as is. The commission agreed that condition #11 regarding pedestrian walkway to be stricken because there are no schools, shopping areas that would require this.

**Motion** by Commissioner Bennett to strike Condition #11 and adding a substitute condition of mitigation by speed limit signage at 15 miles per hour or less. Second by Commissioner Peck, motion carried unanimously. Lety reminded everyone that a school bus stop does go to Ingram Road.

There were no issues with Condition #12. Mr. Belski said Conditions #13 and #14 are accepted as written and as to Condition #15, the developer will further discuss adequate fire protection to be approved by the Eureka FSA. **Motion** by Commissioner Bennett to eliminate the word "hydrant". Commissioner Peck said he would also like to see the language to develop a plan for approval by the Eureka FSA instead of "satisfactory solution". Kristin will work on the language. Second by Commissioner Peck, motion carried unanimously.

**Covenants:** The commission agreed to strike all of subsection "D" under #16. Debbie Tribble said she is in favor to keep subsection "d" in place because there is talk of a marina in the future. **Motion** by Commissioner Peck to strike 16(f) under covenants because there is no reference as to why it exists. Second by Commissioner Bennett, motion carried unanimously. There were no opposing comments.

Mr. Belski said regarding condition #17 the 8 lots in question will be aggregated or absorbed into neighboring lots. Jake suggested to add as approved by Environmental Health to condition #19 and eliminating the language about dimensions. Mr. Truman said they are willing to work with Environmental Health but Kristin said the county cannot write in a requirement for a green box site to serve the larger area. Kristin said the plan for a solid waste site will be approved by the Environmental Health Department and County Sanitarian, replacing the first sentence to Condition #19. **Motion** by Commissioner Peck to amend #19 as stated by Kristin Smith. Second by Commissioner Bennett, motion carried unanimously.

Commissioner Peck wants all changes to happen prior to final plat, not just the traffic impact analysis and to include implementation for Condition #20. Kristin said she would add a last sentence to provide an implementation plan as approved by the governing body prior to final plat approval. **Motion** by Commissioner Peck to approve amendment for Condition #20 as stated by Kristin Smith. Second by Commissioner Bennett, motion carried unanimously.

**Face of Plat:**

Mr. Belski commented regarding Condition #25 that not all common areas are Water and Wastewater Utility Sites.

**Motion** by Commissioner Peck to approve amendment #25 to state that Water and Wastewater Sites will be labeled on final plat.

**Motion** by Commissioner Bennett to strike Condition #26. Second by Commissioner Peck, motion carried unanimously. Regarding Condition #30, Mr. Belski clarified that specific lots will be identified on the plat that are allowed to have RV's for 2 years during construction. Mr. Tribble said there is a concern that this subdivision does not turn into another RV park; overall that would allow a 4-year window for RV's. Mr. Stewart informed everyone that 107 lots will be identified. Commissioner Cole agreed with Mr. Tribble that 3 to 4 years is a lot of time. Commissioner Peck also agreed, although he understands, but felt 4 years is excessive. Lety said the density is based on homes, not RV's and that all conditions were discussed and approved with the mindset of homes, not RV's. Commissioner Bennett said he understands the financial piece of it, but questions the 4-year period. Mr. Stewart said occupancy or the 2 years' criteria begins the day of purchase and that 4 years is beneficial for people to grow economically and to build. Mr. Stewart said he is asking for 4 years on 107 lots. Cindy said there is not one subdivision that tracks how long an RV is located on a lot. Commissioner Bennett suggested moving on and coming back to this.

Kristin asked if the commissioners are going to review Mr. Frasers comments. Kristin said many of Mr. Frasers comments have been met in other conditions and covenants. Comments from Mr. Fraser have not been reviewed by her or the developers. Kristin recommended that Conditions #1, 3, 5 and 6 be placed on the final plat. **Motion** by Commissioner Bennett that Conditions #1, 3, 5, and 6 be placed on the face of final plat. Second by Commissioner Peck, motion carried unanimously.

Jake commented that a condition should state that once 3 RV's are on a lot, the law makes that an RV Park, the language should read "a temporary, single RV as a primary residence". Lety informed everyone that 107 lots is 78% of all lots. Referring to Condition #16 (a)(ii) under Covenants, Kristin suggested language stating "limited to one visiting RV may stay for a maximum period of two weeks to be enforced by HOA". Jake clarified that would mean 2 RV's total and the 2<sup>nd</sup> RV cannot be hooked to a sewer/septic. Lety asked the commission to please consider that where her lot is, this would allow for at least 10 RV's surrounding her for a period of 4 years. Alan Gerstenecker commented if language should be tied into when construction must commence. **Motion** by commissioner Peck to add language as described by Kristin Smith added under covenants as 2(b). Second by Commissioner Bennett, motion carried unanimously.

Commissioner Cole said we need to continue discussion on Condition #30 and he feels 4 years is too long (2 years living in an RV and 2 years' construction as 4 years' total). Mr. Stewart said we need to look at the needs of the community and developers and that he needs 107 lots with a 4-year RV allowable time to build. Commissioner Peck said he supports development but also understands the concerns shared by the public. Commissioner Peck expressed frustration at the lack or inability to look at minutes to meetings and now as a decision maker, (not laying fault) the process in this particular instance has failed everyone; several changes discussed just in the last day. Commissioner Peck continued saying this is a major decision and we are pressed by legitimate restraints. Commissioner Peck said he is not comfortable making a decision on this because there has been so much done in just the last couple days that have a great impact to development and the public.

Commissioner Bennett asked if anyone recorded the 2<sup>nd</sup> public hearing. Commissioner Bennett read from MCA 7-6-305 regarding if the governing body fails to meet its timeline, that as a commissioner he would be willing to pay \$50 per lot for a couple of days to review the minutes. Commissioner Bennett said that he simply wants to be able to analyze minutes so we have a complete view of everything that was said during that meeting. Cindy said she does have recorded minutes and is happy to provide them. Cindy also said that every notice that went out to the public never had the correct legal descriptions and feels the plat should have been denied right off the bat.

Commissioner Peck said he is still not comfortable with the shooting range issue saying that this is new information combined with not having minutes to the 2<sup>nd</sup> meeting. Kristin said she feels the planning board has done its job.

Mr. Stewart stated that we are down to one issue and that is the amount of RV allowable time. Kristin said we are trying to squeeze land use into subdivision through subdivision regulations; in the State of Montana we try to address RV use but we do not have zoning. Kristin continued saying that nothing about this suggests an RV Park and it is not viewed as an RV Park. Kristin said that as the commission advisor, her professional opinion is that it does not entirely conform to growth policy, but that is not required.

Commissioner Cole said we are at the final discussion for approval of Condition #30 for amount of RV time. Mr. Stewart said he started requesting all lots with 6 years RV time, now he is being asked to compromise yet again and he has asked for nothing up to this point, now he is asking for 107 lots at 4 years. Kristin asked Mr. Stewart why the subdivision was not phased out. Mr. Stewart said he views the subdivision as 3 different neighborhoods and cannot economically phase this out. Mr. Stewart said his goal is economically placed and if that is not everyone's concern, then we are all in trouble. Mr. **Motion** by Commissioner Peck to leave Condition #30 as is. Second by Commissioner Bennett, motion carried unanimously.

Cindy said she contacted the owner of Airpark and RV's are allowed for 2 years only. Mr. Belski stated that the covenants should be tied into condition #30. **Motion** by Commissioner Peck to amend his motion to clarify that it refers to condition #16, not #30. Second by Commissioner Bennett. Motion passed with Commissioner Peck and Commissioner Cole voting yay and Commissioner Bennett nay.

Kristin read condition #30 as amended; The area which indicates specific lots will be allowed to have a single RV as a primary residence for a limited time period as declared in Condition #16(A)(ii) bullet 3.

**Motion** by Commissioner Bennett to approve Condition #30 as amended. Second by Commissioner Peck. Motion passed with Commissioner Bennett voted nay, Commissioner Cole and Commissioner Peck voted yay.

Commissioner Cole said this issue was one of the most challenging issues he has had on this job, but we still have to move forward one way or the other.

**Motion** by Commissioner Peck to approve preliminary plat for North Star Landing Subdivision subject to conditions. Second by Commissioner Bennett.

Commissioner Bennet said it has been an extreme learning process. Commissioner Bennett continued saying for this commission to review in a couple of weeks what the planning board has worked on for many months, is a flawed process and it is not proper for the decisions we must make; we should be involved from the beginning. Commissioner Peck said he is disappointed and on behalf of the county, we need to do better for everyone in this area. Commissioner Cole said the process has been rified with problems but we have worked through those. Commissioner Cole reflected that he wishes there was an easier way moving forward.

Commissioner Peck said there is a lot of emotion in this no matter which way we go here and both sides put in a tremendous effort, but it boils down to the criteria. The criterion is what we have to make a decision on, not the emotional end of it.

Motion carried unanimously; Commissioner Cole yay, Commissioner Bennett yay with the idea of final plat that if there is any hiccup, it's done. Commissioner Peck yay, same caveat expressed from Commissioner Bennett. Commissioner Peck said the process will works the way it is supposed to when we go into final plat.

1:00 PM **MT Fish, Wildlife and Parks/Mike Hensler:** Cancelled for continuation of North Star Public Hearing.

4:00 PM **County Audit Firm Approval:**

Darren informed the commission that Denning, Downing and Associates is the only firm that applied for the county auditing proposal. **Motion** by Commissioner Bennett to approve Denning, Downing and Associates for a 3-year contract as the county auditing firm. Second by Commissioner Peck, motion carried unanimously.

4:15 PM **Flood Plain Discussion/Mark Pitman, DNRC Regional Engineer/Jake Mertes:** Present were John Blodgett and Alan Gerstenecker.

Mr. Pitman wanted to visit with commission to lend support to Jake. The purpose of this meeting is to discuss in general, the National Flood Insurance Program (NFIP), more specifically the need for an up-to-date Floodplain Development regulation for Lincoln County.

Mr. Pitman said the challenge is that Lincoln County Floodplain Regulations is the most outdated in the State. Total of 96 policy holders in Lincoln County with \$23,139,700 in coverage. Mr. Pitman said the current model explains things better, and he will send it to Jake for review.

Jake will need training for Certified Floodplain Management; training opportunities are held in March and in July.

**Misc. Discussion:** Present were Finance Deputy, Wendy Drake.

Jennifer McCully is requesting approval for the CDPHP Program Grant Agreement. Agreement is between Flathead City-County Health Department and Lincoln County Health Department to assist in providing the Montana Tobacco Use Prevention Program service to the residents of Lincoln County. CDPHP has been an annual grant since 2005 and is for \$7200. Motion by Commissioner Bennett to approve the application of the Tobacco Prevention Grant as requested. Second by Commissioner Peck, motion carried unanimously.

Wendy said the county is receiving \$130,000 from a RAC grant for a road rebuild project in the Yaak. Wendy is requesting permission to set up a new account for tracking purposes. **Motion** by Commissioner Peck to authorize Wendy to create an account for the District 2 Road RAC project. Second by Commissioner Bennett, motion carried unanimously.

**Meeting adjourned** at 5:00 PM

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Mike Cole, Chairman

**ATTEST:** \_\_\_\_\_  
Robin A. Benson, Clerk of the Board