

COMMISSIONERS APPROVAL

IMAN *JR*

CHILCOTT *[Signature]*

FOSS *SF*

KANENWISHER *mk*

STOLTZ *[Signature]*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, Commissioner Matt Kanenwisher and Commissioner Ron Stoltz

Date.....July 6, 2011

- ▶ Minutes: Beth Perkins
- ▶ Commissioner Stoltz participated in the Road Department inventory with Accounting and Road Staff at 9:00 a.m.
- ▶ Commissioner Foss attended a Museum Board meeting at 10:00 a.m.
- ▶ Commissioner Chilcott attended a citizen meeting in Victor regarding businesses affected by Highway 93 road construction at 12:00 p.m.
- ▶ Commissioner Iman attended a Montana Department of Transportation meeting between 2:00 p.m. and 5:00 p.m. in the town of Victor. Also present at this meeting was the Victor Main Street Association as they were working on the highway design including bulb-outs.
- ▶ Minutes: Beth Perkins
- ▶ The Board met for the continuation of a public hearing for FlatIron Major Subdivision at 5:30 p.m. Present were Senior Planner Tristan Riddell, Planning Administrator Terry Nelson, Territorial Landworks Representatives Jason Rice, Paul Forsting and Andrea Day, Traffic Engineering Consultant Michael Sanderson via WebEx, Road & Bridge Supervisor David Ohnstad, Civil Counsel Dan Browder, Civil Counsel Geoff Mahar and several citizens.

Commissioner Chilcott opened the public hearing and requested any changes to the agenda. Hearing none, he then requested Tristan disclose any additional comment received. He submitted Exhibits B32-B36 to the Board for additional comment. Commissioner Chilcott requested any conflicts of interest to be disclosed, hearing none. Tristan then gave a review of the previous meeting on June 30th.

Commissioner Chilcott yielded the Chair to Commissioner Iman upon arrival.

Commissioner Iman reopened Board deliberation on the Effects on Local Services.

Criterion 3: Effects on Local Services:

Roads: Commissioner Iman reviewed the previous discussion between two different methodologies for assessing the impacts on the road and the five intersections. He does not agree with the methodology utilized by the County's consulting engineer that 58% new traffic will be seen at every intersection. He requested actual traffic counts at each of the five intersections. Commissioner Chilcott asked how the impacts to each of the intersections are distinguished from the average daily trips added to the road system. He suggested utilizing the Sanderson-Stewart Impact Analysis model for basis. **The Board concurred.** Commissioner Kanenwisher requested adding finding of fact number 52 for Exhibit A-20, the Sanderson-Stewart model be the basis for off-site road improvement mitigation as it is a more accurate calculation for the proportional roadway mitigation. Civil Counsel Dan Browder recommended striking the second sentence in finding of fact number 50 and to amend number 44 to reference Exhibit A-20. **The Board concurred.** Commissioner Chilcott requested amending finding of fact number 54 to state that Golf Course Road is County owned and operated not State owned and operated. He also questioned the determination that a left turn lane would not be required in finding of fact number 57. Michael Sanderson gave explanation of how it is determined and how the same method was used to make the determination as is used by the Montana Department of Transportation. Tristan requested that the Board review Condition of Approval number 28 for the proportional share which would be \$461,680 based on the Sanderson-Stewart report. Jason Rice suggested that the total amount of \$4,560 identified as the proportional share for improvements triggered at Phase 1 be paid and to take the remaining amount and pay one fourteenth of the amount at Phases 2 through 15.. Discussion followed regarding the trigger point of the impact. David Ohnstad discussed having these funds in a reserve account for this corridor and to be used at the Board's discretion and not tied to a specific intersection. Commissioner Iman discussed other intersections on Marcus Street and asked if those would be considered the same corridor. David replied it would be limited to the Golf Course Road corridor. Dan Browder stated the regulations require each phase to stand on its own. If mitigation is not collected during the first phase, it needs to be specified why the first phase would not be required to provide mitigation for the road system. **The Board concurred that each phase needs to proportionally provide mitigation for roadway impacts and accepted the proposed payment strategy offered by Jason Rice (5-0).** Tristan requested removing Condition 28 and adding new Conditions for the proportional share collection.

Jason Rice read a memo he submitted regarding the intersections for the pro rata share and how they need to be at different percentages and how they are assessed. He questioned the nexus and not the proportionality associated with impacts to the structural capacity of off-site roadways and the requirement to assess this at Phases 5 and 10. (Condition number 54 and 81).. Jason Rice requested the facts of the true impact be on record for any future mitigation that may be required for structural capacity and surface conditions of off-site roads and is in agreement with the conditions. David Ohnstad stated Golf Course Road in its current form meets County design and structural standards. The intersections do not. There isn't any argument that Golf Course Road doesn't need improvements at this time other than the impacts to these intersections. The traffic impact analysis, which was accepted by the Board as being the best available and most accurate data suggests that 35% of the 5,200 vehicles generated from FlatIron Ranch will utilize Big Coral Road. Tristan stated that updated TIA's will be able to verify the accuracy of the original TIA and any additional proportional impacts that are resulting to the structural capacity and

surface conditions of the off-site roadways. Commissioner Iman is not in favor of eliminating Grantsdale Road from the impact due to turning traffic. There needs to be a base line. There will be new numbers at Phase 5 showing where the cars are going and can be assessed at that time. Discussion followed regarding structural capacity impacted from this development.

Commissioner Iman requested a ten minutes recess. The meeting reconvened at 6:55 p.m.

Commissioner Chilcott doesn't know if the math is accurate for the calculations to be consistent for the phases. Jason Rice discussed the inflation rate for the phases and how he cannot project those rates at this moment. Commissioner Chilcott requested those calculations be accurate for Phases 5 & 10. Jason Rice stated that they calculated the overall improvement costs using the inflation rate at full build-out (30 years). This amount will be paid beginning in Phase 2. Discussion followed regarding the 14th of the total and the accuracy level with the inflation rate. The mitigation needs to be roughly proportional and you are not going get perfect numbers. Jason Rice stated Condition 54 captures the need for TIA at Phase 5 which will allow numbers to be reassessed for more accuracy. Terry Nelson stated David Ohnstad recommended base line testing and requested at the time of the testing the County gets those results at that time. **The Board concurred with the discussed and proposed mitigation for roads. (5-0)**

Fire District: Hamilton Rural Fire District provided comments stating that the proposal to install fire hydrants throughout the subdivision that will carry 1,500 gpm water flow are acceptable. **The Board concurred to accept the findings of fact and offered mitigation for the Fire District. (5-0)**

School District: Hamilton School District Superintendent Duby Santee submitted written comments recommending an \$800 per lot mitigation fee be assessed to offset the impacts the subdivision will have on the school district. (Exhibit A-17) **The applicant offered \$250 per dwelling unit for the total amount of dwelling units in each phase upon first conveyance of the first unit within each phase. (5-0)** Discussion followed regarding how to quantify the impacts to the school and the budget report completed by the Superintendent of Schools. Commissioner Iman stated there are two different types of units, condominiums and single-family dwellings, within this subdivision and requested an explanation of the difference per dwelling unit. Tristan replied that the subdivision proposed a total of 551 units and the developer has offered mitigation at a per unit amount. Commissioner Iman requested clarification of the payments upon first conveyance entirely or per phase. Jason replied the mitigation fee would be for the entire phase and would be paid for upon conveyance of the first lot within each phase. Commissioner Iman is willing to accept the offered mitigation from the applicant upon first conveyance for each phase. **The Board concurred to accept the findings of fact and offered mitigation for the School District. (5-0)**

Public Safety Services: Sheriff Chris Hoffman stated no comment letter was provided by the Sheriff's Office as the Sheriff's Office is currently unable to provide adequate service to residents within the County due to budget constraints. There is no mitigation that can fix this issue. **The applicant offered \$100 per dwelling unit for the total amount of dwelling units in each phase upon first conveyance of the first unit within each phase.** Commissioner Chilcott stated that if you look at the Sheriff's Office annual budget and do some simple math based on the total amount of citizens within the County, the amount of tax dollars attributed to the Sheriff's Office is approximately \$117 per resident. **The Board concurred to accept the findings of fact and offered mitigation for Public Safety Services. (5-0)**

Emergency Services: **The Board concurred to accept the findings of fact. (5-0)**

Pedestrian Facilities: Jason Rice stated finding of fact number 64 needs to be changed from gravel to paved paths. The Board discussed finding of fact number 67 specifically Exhibits A-1, B-8, and B-16 comments for the City of Hamilton requesting a non-motorized trail along Golf Course Road as part of this subdivision. Commissioner Chilcott did not know how the Board could consider making it a requirement for a public access. **The Board concurred.** Staff recommended a condition for the pathway to lie in a public easement for future inter-connectivity. The Board concurred. Commissioner Iman stated the applicant will provide a public easement along Golf Course Road to include an ADA compliant pathway. **The Board concurred to accept the findings of fact and deemed sufficiently mitigated. (5-0)**

Water and Wastewater Districts: Commissioner Iman stated Gird Creek is a wastewater district. Jason Rice replied an extensive title search was completed without that information. Dan Leonardi submitted USDA photos of Gird Creek, showing its location prior to being channelized along the eastern property boundary. Commissioner Iman stated the entire structure of the canal was physically changed and asked if the wastewater district boundaries are within the property. Tristan stated that the subsection being discussed is specific to water and wastewater treatment districts, irrigation districts should be discussed under criterion 2. After discussion, it was determined to have this discussion under Effects on Agricultural Water User Facilities. Commissioner Foss expressed her concern with the water system should the subdivision fail. Jason Rice replied Condition 26 addresses that concern. He discussed the creation of a private utility company or a water and sewer district prior to filing the plat for Phase 1. Commissioner Kanenwisher read a portion of comments submitted by Roger DeHaan regarding the financial capacity for a private utility company to provide services to people at a reasonable rate. **Commissioner Kanenwisher requested an addition to findings of fact number 72 that the DEQ does perform a financial analysis to guarantee the continuation of those services. The Board concurred. (5-0)**

Solid Waste Services: **The Board concurred to accept the findings of fact. (5-0)**

Postal Service: **The Board concurred to accept the findings of fact. (5-0)**

Utilities: Commissioner Chilcott questioned the term "blanket utility easement". Tristan replied that all common areas will be covered by an easement. Discussion followed regarding having an easement on your own property. Civil Counsel Dan Browder clarified the easements are needed for the utility companies such as NorthWestern. **The Board concurred to accept the findings of fact. (5-0)**

Commissioner Iman opened public comment for effects on local services.

Lucille Molinari asked who pays for the care and upkeep of Golf Course Road with the heavy equipment that would need to be used for the construction. Would it be the existing homes or the developer? Was there any consideration for the existing people trying to get onto Golf Course to get to work or school from the increased traffic from this development?

Ren Cleveland asked about the bus traffic making both corners and avoiding traffic when hauling kids into Hamilton. The roads do not line up and this development will change the traffic pattern. The County has a park that will be developed in a few years on Kurtz Lane increasing traffic with stopping traffic.

Laurie Burnham asked about the pathway for pedestrians on Golf Course Road. She asked if Golf Course Road will have to be widened and if it does, do the houses between Big Coral Road and Golf Course Road lose their homes. She requested answers to her questions.

Maggie Wright thanked Commissioner Foss for being up the wastewater question and requested additional information about the chain of responsibility. She would like to see the line of liability and what protections exist. She requested an assurity bond.

Pam Erickson stated this development was addressed in the city council and is three miles out from services in town. When adding the 551 units, it will add 1,000 people traveling Golf Course Road. There needs to be pedestrian lanes. She expressed other concerns of public safety.

Bill LaCroix stated there isn't any safe way for children to get to the school. 551 units three miles from town will have a huge impact that has still not been mitigated.

Gabe Leonardi questioned irrigation coming out of a well and how it would create a bigger problem. He discussed the pro rata share calculations being incorrect. Phase 2 includes a driveway at \$4,500 and it cannot be done at the amount. The roads were argued down 10% and the schools were reduced from \$800 down to \$250. Everything does cost more in the end.

Mary Barton stated when the Sheriff discussed the need for increased funds to handle the impacts, he needs an advocate to help get those needs met. It is not fair to have these impacts without proper mitigation. The school also needs an advocate for the impact this development ill have on them as well.

John Meakin addressed the mitigation fee to the school and the letter from the school requesting an \$800 mitigation fee and how the commission chose to ignore the request which was reduced from the study by the Superintendent of Schools. Credit needs to be given to the Superintendent of Schools who is educated and the study being fact based. He requested the \$800 mitigation fee be accepted.

Dan Leonardi asked what insurance is there that the development won't use Tammany Lane in the future.

Nancy Miller requested the Board to please listen to the people and do what is right for the long term of the County.

Commissioner Iman requested any further comment. Hearing none, he then closed public comment on effects on local services. He requested a five minute recess. The Board reconvened at 8:40 p.m. Commissioner Iman gave opportunity for developer rebuttal.

Jason Rice addressed the mechanism in place for the degradation to the roads. The park on Kurtz Lane was not considered and can be at Phase 5 re-evaluation. He discussed the water districts and the chain of liability should they go out of business would be addressed with the PSC regulations. There were several comments made regarding if this development fails. The Board has assurances in place at the review of each phase throughout development. Tammany Lane has no egress\ingress proposed. Grantsdale and Kurtz Lane intersection was identified as a possible merged into a center focal point and needing improvement.

Commissioner Iman opened board deliberations.

Commissioner Kanenwisher discussed the impact to the road and intersections and how the Board needs to address the additional traffic. The problems have been identified and discussed.

There aren't any pedestrian facilities on Golf Course Road currently. The argument is there is no legal basis to have this development provide pedestrian pathways on Golf Course Road. The assurity bond is captured in a finding of fact that the DEQ regulates the project and financial security. Commissioner Foss explained the legal constraints of a subdivision hearing and even though there are requests for certain aspects, the Board cannot bend the law for those requests. Commissioner Chilcott discussed the offered mitigation to public safety services at \$100 per dwelling unit. There has to be recognition of the empty lots that taxes are being collected prior to any people being there going towards public safety services. Commissioner Kanenwisher further addressed the general funding problem with the Sheriff's Office. Commissioner Iman stated several concerns were raised that are not part of the law. There is an understanding but there are requirements of the law to be followed. A pathway for the entire length of Golf Course Road cannot be forced upon this development. The Board can give guidance but the Board cannot do sewers or water. The Board relies on the DEQ to handle those matters within the law. Commissioner Kanenwisher stated this is a public hearing and the Board is not taking this process lightly. He requested the room not give any background chatter during board deliberation.

Conclusions of Law:

Fire District:

Commissioner Chilcott questioned the requirements of the Hamilton Rural Fire District for a flow of 1,500 gpm for two hours and if that requirement will be requested in the future. Tristan stated it is the current standard adopted by the Hamilton Fire District as part of the Fire Protection Standards. Jason Rice replied it is the requirement for three years and if those standards change, it will have to be re-addressed. Tristan suggested adding language to Condition 5 that would specify "meeting the current standards at the time". Civil Counsel Dan Browder stated the regulations provide for an adequate way of dealing with changes when circumstances change in the future. It is a projection of effects for the fire department and it is adequate to request mitigation for those impacts. Should those impacts become more stringent in the future, the regulations would be the mechanism to address those impacts by adding new conditions at future phases.

School District: The BCC accepted the conclusions presented by Planning Staff.

Roads: Commissioner Chilcott briefly discussed signage. Tristan stated that the regulations require signage consistent with the Uniform Manual on Uniform Traffic Control Devices. The BCC accepted the conclusions presented by Planning Staff.

Pedestrian Facilities: Commissioner Chilcott requested for Number 19 to insert language for ADA compliance and the segment parallel to Golf Course Road will be paved.

Water and Wastewater Districts: The BCC accepted the conclusions presented by Planning Staff.

Solid Waste Services: The BCC accepted the conclusions presented by Planning Staff.

Mail Delivery Services: The BCC accepted the conclusions presented by Planning Staff.

Utilities: The BCC accepted the conclusions presented by Planning Staff.

Commissioner Chilcott made the following motion: Based on the findings of fact, conclusion of law and subject to conditions in the Staff Report as amended here today the potentially significant adverse impacts of the subdivision on local services are sufficiently mitigated. Commissioner Stoltz seconded the motion and all voted "aye". (5-0)

Commissioner Iman continued this hearing until Monday July 11th at 3:00 p.m. The Board concurred.

SIGN IN SHEET – COMMISSIONERS MEETING ROOM

****PLEASE PRINT YOUR NAME LEGIBLY****

THANK YOU!

DATE: 7/6/11

MEETING: Flat Iron

W. H. Myers

John & Mary Ben

Ron Clendinning

Les Rutledge

Mary Guilford

Nancy Ballance

Tony Wood

Ruell Molinari

Bryan Kercher

Eric Kercher

Don Leonardi

Gabe Leonardi

Nancy Miller

Kelsey Milner

Barbara Pitman

Laurie Burnham

Ron Demura

BILL LACROIX

John Meakin

Robert McClintock
