

COMMISSIONERS APPROVAL

FOSS *SF*

CHILCOTT *G*

IMAN *JR*

STOLTZ *R*

BURROWS *JB*

Members Present.....Commissioner Suzy Foss, Commissioner Greg Chilcott, Commissioner J.R. Iman, Commissioner Ron Stoltz and Commissioner Jeff Burrows

Date.....September 20, 2012

► Minutes: Glenda Wiles

► The Board met at 9:00 a.m. with Clerk and Recorder Regina Plettenberg to review the document indexing research for Governmental Accounting Software. Also present was I.T. Director Joe Frohlich. Regina prepared the comparisons between Tyler and Black Mountain Software (see attached). Discussion included the loss of an employee in her office and the need to streamline the software which Regina believes will help compensate for that position. She also projects extra revenue from the use of this software. Her budget allows her to purchase this software. Joe indicated IT will host the server so he will make sure security issues are addressed. This software will also convert the records back to 1988. **Commissioner Burrows made a motion to purchase the software from Tyler Software in the amount of \$66,110 which includes the conversion and maintenance for one year. Also to utilize \$36,843 from the Records Preservation Fund leaving a balance of \$35,843.00. Commissioner Stoltz seconded the motion and all voted "aye". (5-0)**

► The Board met at 9:30 a.m. with Planning Administrator Terry Nelson for a request by Canyon Breeze Subdivision to change the material modification to non-material modification for mitigation fees. (See attached handout). Also present were Developers Mr. and Mrs. Kwapy. Terry noted this is a request by the Developer over a year ago. At that time based upon the amount of money being asked for the change was considered a material modification which would create the need to go back through the subdivision process. Terry stated the Commissioners have three options for decision: The changes are material and the developer is required to pay the \$1,850 and it would go back through the regular subdivision process; It is Non material and it would go back through the process; or the Commissioners determine it is Non material and allow the request. Terry stated nothing in this subdivision changes, i.e., lot configuration, roads etc.

Commissioner Stoltz stated the fees should be an offer by the Developer, not a requirement since the County does not have any impact fees. Commissioner Iman indicated the financial piece is separate from the subdivision itself.

Commissioner Stoltz made a motion for the Commissioners to determine this request is Non material with mitigation fees offered by the Developer, and those fees to be paid on the same schedule as presented at the time of subdivision. Commissioner Burrows seconded the motion. Discussion: Commissioner Iman would like a discussion of the fees because this is an application for a reduction of fees. Commissioner Stoltz opposed this discussion as the fees are separate issue of Non material. **Commissioners Burrows, Stoltz and Foss voted "aye". Commissioner Iman voted "nay". (3-1)** Commissioner Greg Chilcott was not present for this meeting.

► The Board met with Fire Personnel for a Sawtooth fire update. The Fire Fighting Team, Forest Service Personnel and Law Enforcement were present. Irv Taylor Operations Manager presented a Progression Map of the fire noting the long term plan which identified the action points. He stated lines from the Grubstake Restaurant to Sawtooth Creek are well secured, but they are still seeing interior flames within those fire lines. The western side is rough terrain in the wilderness area. They do not want the fire to move north because of the fuels and houses. They do expect some creeping of the fire in the Sawtooth drainage. Discussion included the Roaring Lion drainage. On the North Fork of Owens Creek the fire burned very hot in that area so there is some ground sterilization. They are transitioning into a Type 2 team soon but they will still have ground crews, 2 helicopters and water tenders. They feel they will be sitting in good shape when they transition.

Greg Poncin, Incident Commander of the Fire agrees they are placing the Type 2 team in a good position. They are leaving an uncontained fire edge on the west side (into the wilderness) which will require monitoring with aircraft and ground crews. They are hoping for rain and snow in the next couple of weeks.

Hamilton Fire Chief Brad Mohn complemented the fire crews and agreed with Ravalli County Sheriff's Lieutenant Steve Holton that Stage 1 evacuation should remain in place for a few days.

Martha Smith, N. Rockies Liaison and Fire Commander Greg Poncin gave token of thanks to Commissioners due to their engagement in this fire.

► The Board met at 11:00 a.m. to continue their discussion on the development of a Natural Resource Policy with public input.

► The Board met at 3:00 p.m. for a discussion and decision on changes to the Delegation Agreement for 911 Dispatch Management with Sheriff Hoffman. Present for this meeting was Lt. Steve Holton, Deputy Zae Hudson and Sheriff's Administrative Assistant Trish Harrison. **Commissioner Chilcott made a motion to execute the Delegation Agreement between the Board of County Commissioners and the Sheriff with total budget expenditure of \$590,018.00 and the noted 60 day termination. Commissioner Burrows seconded the motion. Commissioner Iman was placed on speaker phone for this discussion and vote. All voted "aye". (5-0)**

	Tyler	BMT
Purchase	34,363	22,000
Web doc	-	867
Conversion	24,187	-
	58,550	22,867
Maintenance	7,560	4,400
	66,110	27,267
Already budgeted	(27,267)	-
	38,843	27,267
Public Access - Joe agreed	(3,000)	
From #2393	35,843	
Records Presv	Fund #2393	
Cash at 7/1/12	111,409.77	
Projected revenue	54,000.00	
Projected sal/ben	(52,897.00)	
	112,512.77	
Tyler purchase	(35,843.00)	
Projected cash at 6/30/13	76,669.77	

September 18, 2012

To; Ravalli County BCC
Hamilton Mt.

From; Canyon Breeze Subdivision
Robert C. Kwapy, mgr

Subject; Mitigation Fees, Canyon Breeze Subdivision

(current plat fee conditions: fire - \$676; emergency services - \$500; school - \$720)

At the time of the original approval (September, 2008) there was a frenzied real estate boom so that developers, builders, buyers and bankers ignored increased costs and fees. We agreed to what was necessary to move the project to completion. At the September 2010 Canyon Breeze revision meeting, we did the same. (even though the demand for the school went from \$500 to \$1000 three days prior to the meeting, then to \$1300 at the meeting). Costs must be contained to provide affordable housing. There is a real ceiling on what buyers will pay and what lenders will finance.

We are asking that fees be reduced and offer; (Fees for each phase paid upon first sale in that phase)

Stevensville Fire District - \$676 (per the current agreement.)

Sheriff/ Emergency Services - \$100 (2011 tax was less than \$80.00) versus \$500 current agreement

Stevensville School District - \$100 versus \$720 current agreement

Please consider:

only the fees to the Fire District are justified by sound arguments;

the sheriff/ emergency services did not respond to communications asking them about a fee request;

the initial response from the Stevensville School district talked about mitigation fees and suggested "\$7500 per single family dwelling to equal other area schools' completed impact study findings." This was an effort to circumvent the "Enabling Act of Impact fees" and is thus illegal. By increasing the cost of a house with high fees the school district cuts out some families, thus negatively impacting enrollment.

From a developer's point of view, Ravalli County has used every opportunity to extract money from developers. Off record discussions have felt like extortion with an attitude of "If you want the approval, you will pay the fees we suggest".

Our initial request to the planning department was returned with the opinion that this was a request for a material revision - based on the fee totals rather than on any change to the subdivision details or final plat.

With all due respect, there are no changes being requested that affect the final plat, only the arbitrary fees being required. Since there are no changes to any configurations, easements, roads, lots, water, covenants, access, or waste water systems, only financial changes, the changes are non material.

Based on this, please revisit the Planning Department decision and reverse the material revision/non material revision decision.

If you are able to see this our way, then also make the decision to grant the fee reductions we are requesting for Canyon Breeze Subdivision.

Thank You for your consideration in this matter,

Robert C. Kwapy, mgr

Canyon Breeze Subdivision

RECEIVED

AUG 15 2011

1C-11-08-400
Ravalli County Planning Dept.

August 12, 2011

To: Ravalli County Planning Department
Ravalli County BCC
Hamilton, Mt

From: Canyon Breeze Subdivision
Robert C. Kwapy, Mgr

Cc: Territorial-Landworks, Inc.

Subject: Canyon Breeze Subdivision mitigation fees

The reasons for this application are rooted in the new financial and political reality resulting from the recession and a new set of commissioners who are taking an approach more in line with regulations. We are asking for a reduction of the fees.

We offer; \$100 to Emergency Services and \$720 to the Stevensville Fire District

In the frenzied real estate boom the developers, the builders and even the elected officials were able to ignore the effect of increasing costs. The costs were passed on and accepted by the buyers. The banks were happy to fund the higher purchase price.

In today's market, with a major percentage of homes having more debt than value, it is necessary to offer houses at prices significantly less than their prices two and three years ago. There is a real ceiling on what price a buyer is able and willing to pay. There is no room for a developer to pay unwarranted fees and survive financially.

History of this project:

- A. Canyon Breeze Subdivision was subjected to the 1 per 2 emergency zoning, which set the project back two years.
- B. Canyon Breeze received conditional approval for 14 each 2 acre lots in January 2008.
- C. A revised application was submitted and brought to the commissioners in September, 2010 for 25 lots, phased over ten years.
- D. Prior to the September 2010 hearing the developers were told to expect a \$1,000 fee request (up from \$500). At the hearing \$1,300 was requested.

From a developer's point of view, Ravalli County has used every opportunity to extract money from developers. Off-record discussions have felt like extortion, with an attitude of "If you want the approval you will agree to the fees we suggest".

Does it not make better sense for the schools to support development (thus increased funding in the long term) rather than stifling it with higher costs from one-time fees?

MITIGATION FEE FACTS AND OBSERVATIONS

Mitigation fees are not part of state law.

Mitigation fees are not addressed in subdivision regulations.

Mitigation fees as applied/required in Ravalli County are impact fees by another name. It seems that the purpose of this renaming is to sidestep the mandated procedure required for impact fees.

The three commissioners making up the majority of the previous BCC ignored any arguments not supporting the mitigation fees.

What has been ignored are;

1. The fact that the recipients of these fees are supported by real estate taxes.
2. The taxes paid by the parent parcel since the inception of real estate taxes.
3. The tax contribution of vacant lots.
4. The positive impact of job creation and its effect on local business.
5. The negative impact of higher lot costs. (Less affordable housing)
6. The ongoing positive impact of increased housing availability and population growth.
7. Without growth our area schools face declining enrollment which means reduced funding, resulting in cutbacks.
8. Emergency services did not request mitigation fees. (And there is no evidence in the record to support such fees)

State law and subdivision regulations identify seven criteria that must be evaluated and mitigation applied to meet the requirements. This was done.

For this project the proper requested mitigation is;

For the school district:

- A school bus stop sign at the cul-de-sac bordering Stevi River Road,
- A 5' walkway on all subdivision interior roads,
- A gate or opening in the fence to connect the walkway to Stevi River Road,
- The option to require either or both a school bus turnout and shelter

For the Fire district:

- A paved road, cul-de-sac and emergency access to Stevi River Rd
- A contribution in lieu of a water supply for fire protection

For this project improper mitigation required is;

A contribution of \$720 to the School District:

A contribution of \$500 to emergency services:

RECEIVED

AUG 30 2011

10-11-08-419
Ravalli County Planning Dept.

August 29, 2011

To: Ravalli County Planning Department
Ravalli County BCC
Hamilton, Mt

From: Canyon Breeze Subdivision
Robert C. Kwapy, Mgr

Cc: Territorial-Landworks, Inc.

Subject: Canyon Breeze Subdivision mitigation fees

The reasons for this application are rooted in the new financial and political reality resulting from the recession and a new set of commissioners who are taking an approach more in line with regulations. We are asking for a reduction of the fees. We offer; \$100 to Emergency Services, \$676 to the Stevensville Fire District and \$100 to the School District. These fees paid upon first sale in each phase.

In the frenzied real estate boom the developers, the builders and even the elected officials were able to ignore the effect of increasing costs. The costs were passed on and accepted by the buyers. The banks were happy to fund the higher purchase price.

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For the Fire district:

- A paved road, cul-de-sac and emergency access to Stevi River Rd
- A contribution in lieu of a water supply for fire protection

For this project improper mitigation required is;

A contribution of \$720 to the School District:

A contribution of \$500 to emergency services:

Superintendent
Dr. Kent Kultgen
Ext. 136



Stevensville Public Schools

300 Park Avenue
Stevensville, MT 59870
Phone: 406-777-5481
Fax: 406-777-1381



Business Manager
Bill Schiele
Ext. 139

September 15, 2010

Ravalli County Commissioners
Chairman Mr. Greg Chilcott
215 S. 4th Street Suite A
Hamilton, MT 59840

Dear Chairman Chilcott:

At the September 14, 2010 Stevensville School Board meeting the Trustees negotiated mitigation fees for the Canyon Breeze sub-division with Robert Kwapy. The mutually agreed settlement called for \$1,000 per lot for the additional 11 lots to be averaged with the original \$500 per lot for the first 14 lots. The outcome is \$720 per lot. Furthermore the Board specifically stated that this amount is for present and future phases of the Canyon Breeze development.

Please do not hesitate to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink that reads "Kent Kultgen".

Kent Kultgen
Superintendent
Stevensville Schools

Cc: Robert C. Kwapy



Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Phone 406-375-6530
Fax 406-375-6531
tnelson@rc.mt.gov

OG-11-09-286

September 1, 2011

Canyon Breeze, LLC
PO Box 370
Stevensville, MT 59870

Dear Mr. Kwapy,

On August 15th, you submitted to us a request for a change to your Preliminary Plat Approval of September 20, 2010. You submitted an updated request on August 30th, 2011. The request is to look at the effects of the subdivision on the Schools, Fire Department and Public Safety Services and the conditioned mitigation fees from the previous Preliminary Plat Decision (PPD).

The process for a change to the PPD is outlined in Section 3-4-1 of the Ravalli County Subdivision Regulations (RCSR) as follows:

3-4-1. Amending Approved Preliminary Plats Before Final Plat Approval

- a. If the subdivider proposes to change the preliminary plat after the preliminary plat approval but before the final plat approval, the subdivider shall submit the proposed changes to the Planning Department for review.
 - i. Within five (5) working-days of receiving the proposed changes, the Planning Department shall determine whether the changes to the preliminary plat are material pursuant to subsection (b) below.
 - ii. **If the Planning Department determines the changes are material, the Planning Department may require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee.**
 - iii. If the Planning Department determines the changes are not material, the Planning Department shall accept the changes and notify the subdivider and the BCC of its decision and the BCC shall approve of these changes in a public meeting for which notice have been given of non material changes to the final plat.
- b. The following changes, although not an exhaustive list, may be considered material:
 - i. Configuration or number of lots;
 - ii. Road layout;
 - iii. Water and/or wastewater treatment system proposals;
 - iv. Configuration of park land or open spaces;
 - v. Easement provisions;

- vi. Covenants;
- vii. Designated access; or
- viii. Change to conditions of approval.

- c. A subdivider whose proposed changes to the preliminary plat have been deemed material by the Planning Department may appeal the Planning Department's decision to the BCC by written notice received within ten (10) working-days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.
- d. If the subdivider and Planning Department determine that a condition of approval is illegal or impossible to comply with due to circumstances outside the subdivider's control, economic hardship notwithstanding, the condition may be reviewed by the BCC through a properly noticed public hearing in order to determine if the condition may be waived or amended.

Planning Staff looked at your proposed changes to determine whether they were *material* or *non material*. Our determination was that since the mitigation was agreed upon by the Board of County Commissioners (BCC) and the Applicant after looking at the individual criteria and weighing the applicable evidence, including comment letters from some of the affected agencies, any changes to the agreed upon mitigation would be considered material. In order to amend the PPD the BCC will have to hold a subsequent public hearing and once again look at the individual criteria and weigh the evidence presented before determining whether any identified potentially significant adverse impacts require mitigation.

Staff then looked at the RCSR concerning fees for an amended application. Our subdivision regulations are such that **"the Planning Department may require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee."**

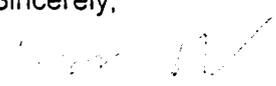
We have determined that since no physical changes have been proposed that the application, as reviewed, is still sufficient and no further information is required to proceed with your proposed changes, however, you are able to submit additional supporting information if you would like.

I have also included a copy of the adopted fee schedule for the county (adopted May 15, 2010) and highlighted the portion that deals with Section 3-4-1. There is no provision in the fee schedule for changing the fee based on individual circumstances. Further, the Planning Department will be required to prepare a new staff report, notify affected agencies for comments, notify adjoining land owners, hold a commissioner hearing, and prepare final documents generated following a BCC decision. The fee schedule was arrived at by averaging the time and costs associated with amended applications. As shown on the fee schedule, for the proposed material modification, the total review fee for a new 25 lot subdivision would be \$3,700. The fee for a material modification is half of the review fee, or \$1,850. If you do not agree with our determination, under Section 3-4-1(d), you may appeal the Planning Department's decision to the Board of County Commissioners within 10 working days.

Once we receive the application fee, the Planning Department will schedule a public meeting at which the BCC will review your proposed modification to the PPD.

If you have any questions, please do not hesitate to call me at 375-6530.

Sincerely,


Terry Nelson

Cc: TLI
Subdivision File