

**Stevensville Special Town Council Meeting Minutes
for THURSDAY, APRIL 01, 2021**

1. Call to Order and Roll Call

Mayor Dewey called the meeting to order, Councilmembers Devlin, Ludington, Shourd and Vick were all present.

2. Pledge of Allegiance

3. Public Comments (Public comment from citizens on items that are not on the agenda)

None.

4. Approval of Minutes

None.

5. Approval of Bi-Weekly Claims

None.

6. Administrative Reports

None.

7. Guests

None.

8. Correspondence

None.

9. Public Hearings

None.

10. Unfinished Business

a. Discussion/Decision: approval, approval with conditions, or denial of preliminary plat for the major subdivision known as Burnt Fork Estates

Mayor Dewey: introduced unfinished business item (a) the last time council considered this was at their last town council meeting there were two descending votes for approval so I would be interested to hear from Mr. Vick and Ms. Devlin if there is any information that has been provided since our last meeting that has clarified your concerns or helped you better address those concerns as we approach the meeting tonight so Mr. Vick if you want to address those first.

They came to a tied vote, there have been some changes to the proposal since the last meeting. Those changes were the road, connection to the other subdivision. The second change is that the C-2 has been withdrawn from the plan and it will not just be R-2. Ms. Devlin has asked

Councilmember Vick: my vote was based on the opinion of the citizens and the public of our town.

Councilmember Devlin:

Mayor Dewey: yes, that is correct in a judiciary role, legal matter. Can it legally proceed or not proceed? You are looking for the fairness of this to the public. It needs to go back to findings and fact, is there a finding with a fact

Councilmember Vick: the only finding and fact that I

Mayor Dewey:

Councilmember Vick: so, somebody make a motion

Councilmember Shourd:

Mayor Dewey: Andy is the guru to this

Andy Mefford: PCI representative and developer. I want to bring up a point that Dempsey brought up, yes, it is about the people. What you don't see is the people that don't come. Andy spoke to the Seeley Lake sewer project, saying that if you don't come and vote. Population of the town of Stevensville 2100, voting age 20 and up 1500. I picked 100 people and out of that 75% of the people would be in favor. Back to the traffic condition,

Councilmember Shourd: I have a condition that I would like to add,

Councilmember Devlin: can we add that a traffic phase is done for each phase.

Councilmember Ludington: there is the assumption that everything

Councilmember Vick: I agree.

Councilmember Shourd: I agree.

Councilmember Devlin: there has been a shift over the last week, I am looking to you Dempsey you and I are the ones that. There has been a lot of education on this. I do commend you over and over and being able to bend, a lot of developers would not do that. I want to personally thank you for that, I think that it has shown our community a lot. Dempsey back to you, I am sure that you have heard from people

Councilmember Vick: I have heard the same as you, what can we shift, a larger shift.

Councilmember Devlin:

Councilmember Vick:

Councilmember Devlin:

Councilmember Vick: I just want to say my vote was based purely on public comment I am not, the way in feel I am not the person that needs to be convinced, it is the people that live here and as far as I am concerned the majority of the people right now do not want this subdivision. The people here that drive the road for our town, and they should be able to have a say on whether or not how something looks in my opinion.

Mayor Dewey: okay, Ms. Devlin?

Councilmember Devlin: I guess for me; I am going to piggy-back off of what you are saying my understanding kind of clouds that and I am having a struggle. This isn't our position just here of council it is basically we are the judge as well. So, we listen to what people say but it is, it falls into our court to make that decision. And sometimes like we were saying in the last meeting sometimes there is the opportunity, well there is always opportunity, for public comment sometimes they really don't have a say in that decision, and I am struggling with that because this is one of those times. At the end of the day, you and I have kind of discussed this before, we don't have a say in if they dot all their "I's" and cross all their t's" whether a subdivision goes in or not. And if we don't have that say people of Stevensville don't really have that say. It is a struggle, am I correct in that analysis?

Mayor Dewey: are you referring to the quasi-judicial role that the council?

Councilmember Devlin: correct.

Mayor Dewey: so yes, in planning and zoning especially in planning and zoning matters the council fills a quasi-judicial role where you are representatives of your community, but you are also decision makers more or less on a legal matter, where in this case can a subdivision legally proceed or not legally proceed. So you are kind of backed into a decision, you are in a position where you have to way findings of fact and a criteria for approval and decide if those have been satisfied in order to proceed. I think purposefully and we discussed a little about this at the last meeting, but purposefully there are catches in the law that balance the public's right to participate in this process and a balance of their input and an interest of the future developments and making sure that those process are fair, that is what you are ultimately after here you are after fairness for the citizens of the community present and future and you are after the fairness for the people bringing forth a proposal for their property. I think you are not just sitting in a council role this evening where you are purely representing interest and the desires of your citizens you are also balancing that with criteria and finding of act. So, if there are additional conditions or changes, we really want to, we have to tie those back to a finding of fact. Finding in the project where you can say this is why we are asking for this. Otherwise, we get into some really muddy water.

Councilmember Vick: I guess the only thing I want to say is it is the only finding of fact that I can think of right here and right now, is we are a government for the people, by the people and their voice out ways the voice of those people that don't live here yet.

Mayor Dewey: I don't disagree with you Mr. Vick but philosophically I don't disagree with you but based on the codes that govern these processes the developers are only required to mitigate the impact s that they have created by their subdivision and if they are unwilling to

mitigate those impacts that is grounds, clear grounds to say we don't want this proposal, but if they are going to be accommodating and mitigate those impacts the statues are pretty clear that allows the process to proceed.

Councilmember Vick: somebody make a motion and do whatever.

Councilmember Shourd: I would like to discuss an impact that was brought to our attention last week in regard to the traffic study in regard to the multifamily lots being listed at 48 that should have been listed at 31. The traffic study in the report that we have states that the traffic would increase 50% west of what was the commercial entrance into Stevensville based on those numbers that would be a 62% increase to the number of lots going into that figure which would then increase the amount of traffic of up to 100%? Is that correct?

Mayor Dewey: Andy is the guru to the traffic so we will let him speak to that. I figured that there would be another addendum to the traffic report after the realization that there were errors in the numbers. And that was clarified in an email, but I don't know if it is an official addendum.

Andy Mefford: I would like to address one other point that Dempsey brought up about the decision of the people and you representing the people hearing from the people is very important no doubt that is a major part of your role hearing what the public has to say bringing concerns to the table a very key step that is why we had the neighborhood meeting that is why there are a lot of process, we are probably on meeting eight or nine that we have heard from the people. One of the things that I think can very convoluted sometimes is the feel of what the majority, I think what usually happens at meetings like these who you don't see at this meeting are the people that are neutral in that or the people that are in favor of it, that is the majority we heard statements last time that 97% of the people were against it, the best we could tell that was a reference to a meeting that we had at the LDS church where one person spoke in favor and twenty five spoke against. I can draw a parallel to that we had that exact concurrence go on in this meeting last week while we were going through the conditions and it was understood that a no vote, no opinion or no comment was consent as we went through our own agenda setting in this room. Seeley lake in the water and sewer project actually put up a lot of controversial, a lot of public comment on that sewer project. Missoula County actually put a vote out on the ballot that said if you don't show up and vote against it we are assuming you are a vote for it that project went very far down the road of basically not showing that a ballot box not marked was a vote. I want to bring back another parallel that I used today I pulled up the population just in the town of Stevensville population of the town of Stevensville is 2100. I pulled out the age population of twenty and up assuming that is the voting population it did not break it out at eighteen and up that equated to 1500 people at best we have probably heard 100, I did not do a count but I think that is a conservative number were 100 unique people show up and voice their concern about the subdivision doing that logic similar to facts that were presented at the last meeting I could deduct that 71% of the community not a room of people but a community, 71% were either neutral or in favor of the project, so I think this concept of a community not understood is kind of an understatement we have had a lot of opportunity for people to show up if they were apposed to this they know about it this community is very aware. We have heard some people very strong opponent and that is definitely their right to come and voice their opinion but in think when you said as a role for the community not a role that are opposed or

not, I think you have to weigh that into the consideration. Back to the traffic question I would be fully fine to have a condition that says an updated traffic study is done to revisit it, he looked at it when we got into the number of units versus the number of lots, he has issued an email opinion where he has said he was than willing to do that. He has run the numbers and said that it did not change anything significantly anything, fundamentally the function class of those intersections didn't degrade a condition such that stated you submit an updated traffic study I think is well deserved and if there is any kind of impacts that are solely related to this subdivision I think that would be an example of where you would mitigate an impact or as we said this causes a need for a left turn lane on Logan Lane because of that I think that it is a full well condition that should be proposed into the conditions of approval hopefully that answers that question.

Mayor Dewey: are you through Patrick or do you have more. You turned your mic back on.

Councilmember Shourd: I turned my mic back on to indicate that I would like to make a condition in regard to having an updated traffic study before final plat approval.

Mayor Dewey: are there any objections to that from the council?

Councilmember Devlin: can we add to that that any traffic study would be done per phase?

Mayor Dewey: that is whatever councils' pleasure is.

Councilmember Ludington: I think it would be considered automatic that all of the conditions were met for every single phase as we go through phase 1 and phase 2 we look at all of the conditions that are an issues and that everyone of those conditions are met every time it comes to the town council for approval of the final plat.

Councilmember Devlin: while I agree that there is that assumption of that I think we need to spell that out. If everyone agrees to.

Councilmember Vick: I agree with that.

Councilmember Shourd: I agree.

Councilmember Devlin: one thing that has been interesting for me over the last week going back to public viewpoints and such there has been quiet a shift and a lot of education that has been given over the past few weeks, month, I guess I am speaking to you Dempsey because you and I are the ones that are here, instead of hearing so much of we don't want this development there is a shift in, okay this development is probably going to happen so what can we do to make this feel better, what conditions can we come up with meaning that, not we but from the community, how can we lessen the impact that it is going to have on the community. I am seeing that shift happen instead of that we don't want this, get rid of it. There is movement in that which is quiet interesting to me, and I do tract that up to education again I really appreciate you taking the time to do that. With that said another really hard part is, that really makes me nervous about this subdivision, has nothing to do at all, I wish I would have been smart enough to buy that property I am sure there are people sitting in this room that wish they would have been in the fore front of buying that property I do commend you over and over with the willingness to bend and be flexible with that. I don't think, actually a lot of developers wouldn't

do that. Because you can get in that strong hold of we already are dotting our "i's" and crossing our "t's" we don't have to bend so I want to personally thank you for that I think that has shown our community a lot I don't know if we are 100% there yet but I just want to say that. Going back to Dempsey there are fewer and fewer people that are saying no, down right no. so, I am sure that you have heard from people my phone has been ringing off the hook my emails have been blowing up, I haven't gotten very much sleep a lot of late-night conversations I want to hear from you what you have heard from people on this.

Councilmember Vick: I have heard similar to what you have said that it is more of a shift to more of how it looks than a straight up no or how can mitigate the impact for especially the people that live in Creekside Meadows. It is really just a larger shift; more people have come out and are more educated on it and that is really the kind of the new feel that I have as well.

Councilmember Devlin: what kind of conditions have they shared with you?

Councilmember Vick: they like the conditions that we have added, they do want to see more widening of Logan and Missile Burnt Fork done. I would like to add that as a condition.

Councilmember Devlin: when you speak of widening what I have heard is turn lanes.

Councilmember Vick: like turn lanes and broader shoulders.

Councilmember Devlin: one specifically that I have heard of is turn lanes on both of those streets I think that is a realistic condition. I would agree with that, I have a whole page I want to hear from you Dempsey.

Councilmember Vick: I guess one thing to add to the green space in the parks in native tree life. We are starting to see more and more of that disappear, more native tree and plant life.

Councilmember Devlin: I have heard more of a hard scape landscaping in the covenants to help with water that doesn't quite match up with what you are saying. Is that a condition that you have heard from the public or one of your own?

Councilmember Vick: I have heard it from other people, that is one that I am going to champion for myself, a have heard that from a couple of people, we do need to mitigate the water run offs and impacts.

Councilmember Devlin: anything else? Nothing else from anybody?

Councilmember Vick: no.

Councilmember Devlin: I will kind of go through some of them that have brought to my attention, ones that I feel that I could get behind through some, I am not an expert none of us sitting here are experts and I am not going to pretend that I am, the water has been pretty muddied with us hearing from, when you are passionate about something not everybody but a lot of people think that they know how to read the laws they know engineering aspects of things for me that gets really confusing that it puts me in a place of like neutral because we rely on experts, Paul you mentioned that last week we pay a lot of money for experts to tells us what does this really mean and then we start getting that back and forth going on, no this is what it means this is what it means to me this is how I interpret it what about this and the water gets

muddy one that I feel I have pretty good grasp on are ones that I am going to discuss there are other ones that I am not putting aside I can't have an intelligent conversation about them it is not my level of expertise. There is a pretty big push I guess I would speak to you John or Andy that you stated you had a conversation with the police and fire department regarding this it is a pretty big push about not exactly no access to Creekside but the knock down gate there is a concern after those roads have been not used on Syringa and Aspen that now if we have traffic going through there, there is concern that it is going to create an issue for the safety of those people that are using those roads currently so what is the opposition of the knock down gate? We talked briefly on that last week, you had mentioned that fire and police department were not in favor of that, am I remembering that correctly?

Mayor Dewey: I don't know if that is a question that they can answer, because the opposition isn't coming from the developers as much as it is from the administration.

Councilmember Devlin: I understand that I brought that up last week as that being a condition that the fire and the police are mentioned in the very beginning.

Mayor Dewey: it was discussed when the staff did their review of the subdivision it wasn't discussed as a proposal, like looking at a piece of paper and saying do you want to take these gates out or leave them? It was what do you guys think about putting gates here, here and here. It was with Andy and John in a room all around a table, they said we have heard, they had heard in their meetings with Creekside residents that there was a desire to have gates there so they asked that question of us, do you how do you as the staff feel about having gates in these locations and it was unanimous that it was not something we would support from the police department to the fire department in terms of public safety and in that vein public works apposed it from a snow removal stand point.

Councilmember Devlin: so that was dismissed from the beginning?

Mayor Dewey: correct. And those sentiments remain true today regarding that proposal.

Councilmember Devlin: another would be lot 50-63 in speaking of fears again we are speaking in how this looks and how this is going to have effects upon a town. So, we know that money is a factor, selling lots all of that. So, the request is to reduce this a little bit we talked last week about how this potentially 70 more, so the request would be lots 50-63 if we eliminated those completely make that more of the common area, some of these common areas its understood, and correct me if I am wrong, they are not really going to be usable it is just greenery?

John Kellogg: disagree.

Councilmember Devlin: okay.

Andy Mefford: can you show me for everyone's knowledge I even need to see.

Councilmember Devlin: sure, this area right here. If we were to eliminate this and create a common area the thought process would be these lots right along here would sell for a whole lot more money, therefore potentially could recoup those costs for eliminating this and creating a common ground that would actually be right in the middle of your subdivision for everyone to access this is where your retention pond is, people are probably not going to want to hang out

in a retention pond, call me crazy, but I am not going to want to do that. Yes, it is green, yes, it is common area what about if we did something like that and kill two birds with one stone. We have an opportunity for developers to still make money we have an opportunity to reduce some of those single-family homes, we aren't worried about that area having two story homes. I think that could be an absolute win win. I think that could be a big piece in speaking volumes to our community in giving them some of what they are asking for in a reduction of this.

Councilmember Vick: I could get alongside that. Another thing that I would like to see, and this is just my understanding try to prevent returning wildlife for coming into the area, I can guess that is going to be fenced in for the most part especially on the Burnt Fork and Logan side probably some sort of cattle guard set up entering Burnt Fork Estate.

Mayor Dewey: you are proposing over 3.5 acres of common space, that is a huge common space? I guess I will ask the question and will ask this of every condition and so far, we have hit those criteria, what finding of fact are you tying this back to? under what authority do you have to ask them to remove lots from a subdivision?

Councilmember Devlin: if we are going back to a finding of fact, I am not sure what fact to be honest. But that is something that is maintained in the movement of everybody what has been maintained, and I am going to use the word density, and this is not high density I know that you could have put in quiet a few more homes. When we look at policies that have led us to this point, we have a master plan that is from 2006 we have a growth policy from 2016 that contradicts itself throughout it we are having to use those to make a decision on this plan those are outdated they don't work for this situation we as a council are in a situation to make a decision without adequate tools so to speak so how do we mitigate that? How do we? We are left here how do we look out for our town? How do we follow the policies that are in place? How do we create to get up to speed with those so that nobody that sits up here in the future is left with this kind of situation? Part of that speaks to that, so is it a finding of fact? No. no it is not but does it speak to the town of Stevensville as they spoke last week, I think it does.

Mayor Dewey: the challenge to that argument that could come is we have these different plans and policies in place and when someone comes to Stevensville and says I am going to do something with this bare chunk of property, those policies are what they are using to create whatever plan. I think that the folks that represent BFE did exactly that, they made sure that there was compliance to the growth policy and the master plans and governing regulations were considered when they put the proposal together. I don't know if it is reasonable for a subdivider to mitigate the towns lack of foresight and planning. It is not fair; you say how do we mitigate inadequate policies. How do you mitigate that? Paul is right, you can't but the reality is it is not their job to mitigate it. And it is not fair to their proposal that they mitigate this body or this organizations lack of policy building unfortunately I don't know any other way around it but to say that is the situation given. I think the solution is that you have done an incredible job to take public input in a fair way into this project, this project looks very different from the proposal that came from the staff in a positive way and you have done a lot of important work on behalf of the citizens in making accommodations to this proposal and the developers have done a great job in working alongside you. I talked myself off of my train, remember the fog I told you about it is back.

Councilmember Devlin: and going back to that I stated in the beginning that my issues are not the developer's issues, I understand that clearly, we are in a situation.

Mayor Dewey: the concern that I have is that you are making your issues their issues (laughing in the audience) Mayor Dewey asked to please stop. That is my concern if there are issues with the density or with the amount of common space or whatever that looks like that, we can't tie back to, we are just moving the monkey to their back to deal with it, once again it is not their problem. Our lack of policy is, they built their subdivision as required by law to the specifications that the town had in place at the time. Where I was going, I am back on the train here, is that you have done all of this work to incorporate the public's comment into the proposal, the next step is to for lack of a better term is to move on and fix the policies you guys and shift your attention, if we put the amount of time and money that we have spent on this proposal alone, if we put that into policy reform for this community we would be light years ahead. It is a hard process it is not a fun process I would much better build playgrounds, but the reality is it has to be done somebody, it has been kicked down the road since 2002 Mr. Ludington can probably attest to this; these conversations were probably similar in terms of we don't have a policy for that, but we wish we really did right now, and they still didn't do it. I think this is the council that could change that this is the council that can say we shot ourselves in the foot once, but we aren't going to shoot the other one off we are going to change this so that next group of people that sit in our chairs and consider a subdivision it will be easier for them. This is a process that is supposed to take 80 working days and if it doesn't happen in those 80 working days you are refunding fees to the developer \$50.00 a lot per month until the fee is back and the harsh reality for our organization guys is that we have already spent the fee and a lot more than that on this proposal accommodating a plethora of public comment that has come through, and it is all worthwhile don't get me wrong I am not trying to put a dollar amount or a worth to what public comment is. It is all worthwhile it has helped build the proposal we are looking at today, but our fees do not accommodate that at all. Jenelle has over 22 hours alone is just minutes from the planning board just that plus these meetings. You can do that math at \$20.00 per hour these meetings alone are \$125.00 per hour and in 20 days we will hit 365 days of having this subdivision on our desk. April 20th was when this was submitted. I don't mean to bring dark clouds and doom and gloom but I am afraid we are stuck on the hamster wheel of we don't like the problem and we don't know how to deal with the problem so we are going to overstep what the town can actually do with a subdivision in order to fix it. I think that there is merit to that, but my concern is that we are going to find ourselves in the uncomfortable, right now there is a very positive relationship between at least a working relationship between the developers and the town of Stevensville. I hate to see that relationship deteriorate due to a lack of patience and a drawn-out process that is my concern. If we could keep quiet in the galley, please so that we can continue our work up here. (Leanna Rudabaugh asked if we get to talk) no you don't not until the council goes towards a decision and they call for public comment, it is the same rule as any other meeting Ms. Rodabaugh. So, I guess in closing I am concerned that we are going to go down a bumpy path, not only an impasse from the council but there is going to be a hostile situation for relationship with the developers and the council it is just, this is going to deteriorate into a snowball effect of some kind that is largely a concern of mine.

Councilmember Ludington: I spent a couple of hours today looking at MCA., especially tile 76 that as to do with subdivision regulations and subdivision review and you will see a law in there of recent rules for lack of a better term that are meant to and one of those that the mayor mentioned was a time line, basically this is not new for developers to go on and on and on and commission or town councils have basically tried to drag them out wait them out they will go away. You will see some that in MCA and you will also see some protection for towns that say, "you know what if something happens and you didn't intend in your mitigation efforts there is a responsibility for the person that is developing that property there is a responsibility there, but we have to understand as a community and as a town that we cannot unreasonably restrict a land owners ability to develop land. Will reducing the density unreasonably restrict, I don't know but I can tell you this form when Creekside Meadows was done I was on council then it started off as a pretty good relationship it ended horribly, absolutely horribly for anybody to talk they had to go through the lawyer to be able to have any type of conversation because there was no communication left there was no compromise there was no understanding it was I am not paying of this you have to pay for that. That is what it deteriorated to and that is why it took a while for some of the issues that Creekside Meadows had, we couldn't get them fixed because we were waiting on lawyers, so I don't want to see us get to that point where we have to try to resolve this in court. Not that I want to threaten any of the council members that it is going to go to court but I also think that we have to be reasonable on both sides of the coin, these people have the ability to develop their property they spent time money effort to try and make sure that what they were doing was allowed. The town then spent time and money trying to make sure what they proposed was okay. Then they went and met with the police department, fire department and the public works department and all sat down around the table and said what do you guys think? What are your concerns? How can we fix it? And then they came up with a report, so all of this stuff has proceeded where we are at today it makes a lot of people uncomfortable like I said last time, and I apologize to the current administration of the town, the town has a credibility issue you don't think we can do this. I am not sure that you are wrong, we might run into some kind of issue along the way that we tried to amend through a condition that won't get taken care of but we have to try and do the best that we can and as long as we try to maintain a decent and reasonable relationship with the property developer so that we can say, "hey wait a minute we didn't see this coming down the road what are we going to do" and if they say " we will see you in court" then nothing will happen and those people for instance Creekside Meadows had 18 pounds of water pressure we couldn't get it fixed because we couldn't come to an accommodation with the developer of how it was going to get fixed and the town couldn't afford it but it took a while for those things to happen I don't want to be in that boat again I don't want to see us try and dismiss something or be in that adversary relationship with somebody that owns the property and I understand that this is an emotional issue for a lot of people and I understand that and it is an emotional issue for me to trust people and we don't like to do that, we just don't, because they have let us down so here is our opportunity to say "aright trust me once, trust me twice shame on me" this is your opportunity to say we are not prepared to do this we don't have the regulations that we should have let's get this done. In the meantime, we have this proposal on the table, is it unpalatable for those people that live in Creekside Meadows, I am sorry, and I really am sorry I wish it was something else I wish it didn't look like this I am sorry you have not been happy with this. This is not excellent either, but it is

allowable, and it is less dense than it could be it mirrors in a way what is already there and could be a nice-looking subdivision, it really could but at this point it has a 50/50 chance of happening and probably less than that just because of the history of what has happened in this particular area. I am not planning for failure, but it happens. We have seen it I have seen it in the plus 20 years that I have been here there hasn't been a reasonable developer on anything over 20 lots it has always gone to the second or third guy and that is where we are here. Planning and Zoning heard one last night from developer number three and developer number four and particular parcels here in town trying something else to see if we can get that to work, it didn't work before maybe we can get that to work so, am I am in favor of a redone traffic study? Yes, I am in favor of that. Am I in favor of an upgrade on Logan Lane and Burnt Fork? You know I think that there would have to be a collaboration of entities that are responsible for those roadways, and we haven't heard from them yet. To be perfectly honest and the developer can tell you this they don't have access permits yet and if they can't get that the whole thing is dead, we didn't do that we don't want to be the ones that say "we are killing it" we want what they are doing and the process that are going to happen you want that to they may not be able to get a permit or proper mitigation for the storm water, if they are not able to get that it kills the subdivision right there at some point we may have to say wait a minute take a time out while the town has to fix some issue or continue to fix the issues with our water system. We didn't do that; it is a fact that we are leaking a lot of water, so all that stuff is in place it is already there it is not going to make it more palatable for anybody I am sorry it is just not.

Mayor Dewey: I think that Mr. Ludington brings up a good point, same that Mr. Shourd brought up at last meeting we are embarking on a, assuming that this entire development comes to fruition we are embarking on a ten-year relationship it is very possible that these developers could see more councils then we see developers just given our tract record, when we talk about adversarial relationships and those types of things even after your decision tonight even if we saw an approval or not frankly the organization will have to gage our relationship with these folks and they could come back with a new proposal for their property or we will have to work through seven phases of the subdivision over the next ten years. Paul hit it right on, it is really important that we have a good faith relationship with the developers because independent of this body having to engage with them our department heads have to work with them, public works has to work with them on the infrastructure installation and all those other pieces that they have to sign off on, if that relationship is less than uncomfortable than it just bogs things down and causes issues. One thing that I will offer, I did go ahead and put in language that an updated traffic study should be provided to the town upon filing for final plat approval for each phase, so that condition is in there. In terms of the Logan Lane improvements, I think that Paul is right in that those will certainly be addressed when they file for permits with the jurisdiction of that roadway. You have to a degree addressed improvements to Logan Lane in your condition number 9 property owners are required to waive their right to a special improvement district in regard to improvements to Middle Burnt Fork Road and Logan Lane along the frontage road or areas of benefit that are required to bring those roads into the standard limits. What you have done there is that you foresee, and it could be tied back to one of the findings in traffic studies that you will see, you may trigger that okay it is time that something happens to these roadways and improvements are made and those improvements will be made to whatever standard that those roads at that time, that means if Ravalli County has those roadways at that time they will

be built to a county standard and that may or may not include a turn lane. But I think that the county commission has to address that with their road department and then you are not forcing the existing taxpayers of this community to pay that bill, because they wave their right to protest you are taxing the people who use it in that subdivision, who created the problem so to speak, not to say that there isn't already a problem today. Those people in Burnt Fork Estates see if that is the case, they will see an increase in their taxes to pay for that road use. You have made that assurance already; it may happen in phase one it may happen in phase four or phase seven it is completely up to the governing body when they file for the final plat. That is a big distinguisher we are still in preliminary plat phase, and we have a long road ahead to just to get, and Paul indicated that, just to get the final plat.

Councilmember Ludington: I would also consider; I would like to have the council consider adding a sentence to condition number 1 the last sentence of condition number 1 says that a public hearing is required to the approval of the final plat of each phase. I would like to add to that, and approval conditions should be met for each final plat file that would mean that they would have to go through the council's position at that point to look at every applicable condition in the conditions of approval and at the time of the filling of each plat. Now some of this is not going to be necessarily applicable and we can decide that as we go through is this applicable or not because of final that they are trying to file. I understand when it is time for final plat approval that means that basically the lots are prepared for sale all the infrastructure is there; the road is there to the satisfaction of the public works, the sidewalks, infrastructure for wastewater and water and power utilities such as gas or telephone and cable if that is what they want are available e to each lot. That must be complete and signed off by town council, and public works, and the police department and the fire department before they can approve the final plat. Public works department comes and says "we were there today you poured sidewalk next to lot such and such and it has big heave in it" we would have to say that final approval for this phase is on the condition of you fixing that or fixing this issue that we still have that means that nobody buys anything until that final plat is filed with the county and that final plat cannot be filed with the county until a public hearing has been held by us were we have the people up here that say I walked out there and there are huge piles of dirt on such and such street, that sidewalk is covered up, where we can say you have to fix that before we can approve this or there is standing water in my backyard and they haven't built a house yet, the street is in the sidewalks are there and it rained last night and now there is a big puddle in front of my house last time that it rained, so you have to address that. I for one will be standing here saying "yep we have to address that because there was a change because of something that happened because of this subdivision that caused rainwater some place that wasn't before. We don't have a choice it wasn't caused by the you the current property owner it was caused by something new.

Mayor Dewey: so, a sentence that says that the conditions here in must be satisfied by the town before final plat approval are there any objects from council on that sentence? At the end of condition number one. What else?

Councilmember Vick: did you hear my cattle guard from keeping wildlife from getting in there?

Mayor Dewey: and what finding are you going to relate that back to?

Councilmember Vick: wildlife already live there they are going to be forced out they are going to want to return, wildlife will cause damage to the properties that are in there, eating the grass, trees whatever, being hit by cars, cause property damage. And it will also help out with the speed mitigation.

Mayor Dewey: your current criteria is effects on wildlife and the findings of fact is that there are no known endangered species on or near the subject property that said that proposed subdivision is not anticipated to have any effect on wildlife. In conclusion of law under those criteria is that the board concludes that the proposed subdivision is not anticipated to have any significant adverse impact on wildlife.

Councilmember Vick: so, the mule deer and the white tail just don't exist?

Councilmember Devlin: they poop in my yard they certainly exist.

Mayor Dewey: folks please, they are all over, there are animals all over town, I guess what I am trying to get to Dempsey what are you pointing to verify that? Because that is what we use, we use the proposal and all of those things, and if you want to dare go down the road of an environmental assessment, I suppose that might address your concerns.

Councilmember Vick: I would go for a deeper review of that.

Councilmember Devlin: we did have a lady I believe that she was a wildlife biologist or studying to be that spoke at our meeting, she spoke about lights and the impacts that it would have to the bats and the birds I think that is, I mean we are right by a wildlife refuge.

Mayor Dewey: can we please in the audience, please, it is extremely distracting.

Councilmember Devlin: I don't know if I can disagree with that, it is a valid point I do think it is a valid point.

Mayor Dewey: Andy or John do you want to address the impacts noted?

John Kellogg: cattle guards, is that what we are talking about? Off the top of my head, I think that a cattle guard would be more of a safety concern for pedestrians than it would be a benefit for keeping wildlife down. I live nearby that, and I agree that there is deer wandering through my yard all the time we get elk actually I see them wandering down through the school property occasionally. I guess I understand that it is important to try to not encourage them to not enter the subdivision, but I guess I fear that putting in a cattle guard, and I have tiptoed across those many a times going hunting it is kind of a scary experience, so my concern would be if someone happens to be walking along that it could create a safety hazard.

Mayor Dewey: one question that I have is what you envision in terms of wildlife protection are you suggesting that a wildlife fence, I guess what comes to mind is the airport comes to mind and sometimes we run into a situation where wildlife get in and can't get out and it creates even more so problems. Are you envisioning a wildlife fence around the subdivision in its entirety to prevent other points of intrusion besides just the roadways?

Councilmember Vick: I have made mention of that earlier when I first mentioned the cattle guard, and what I speak of cattle guards I don't mean that type that are similar to what is at the

airport, I know I have walked on that before that was a very scary experience myself, I am talking about and I know that there are cattle guards out there that are pedestrian safe and are also discourage animals from stepping on.

Mayor Dewey: who would be responsible for the maintenance of the wildlife fence?

Councilmember Vick: Burnt Fork HOA.

Mayor Dewey: and the cattle guards, those are going to fall within the towns right away?

Councilmember Vick: if they fall in the towns right away then the town can be responsible.

Councilmember Ludington: you are talking about an 8-foot-high chain link fence with razor wire on the top around the subdivision to keep wildlife out?

Councilmember Vick: yes.

Councilmember Devlin: they have other ones, if you go through Arlee, they have wildlife fencing along the highway that is taller I think than eight feet with no razor wire. It is pleasing to look at. I would actually be 100% opposed to having razor wire.

Councilmember Vick: I don't want razor wire; I would restate my fencing to be aesthetically pleasing wildlife protection barrier.

Councilmember Shourd: would that include Creekside as well?

Councilmember Vick: I can't propose anything on Creekside.

Councilmember Shourd: that is correct, but deer are going to come in from Creekside, I am just looking at access points, if deer want to get in they are going to, they are constantly going through at my house and there is fencing there, I don't see a deer fence completely stopping the deer from getting tin to the neighborhood, unless you were going to cattle guard Creekside entrance and then fence Creekside entirely and tie it in.

Councilmember Vick: it would not completely deter them, but it would discourage them from reentering the property.

Mayor Dewey: why don't you want them in the neighborhood?

Councilmember Vick: can get hit by a car, craping in your yard. Things that deer do, and elk do.

Mayor Dewey: I can be bitten by a dog, I guess I am just trying to wrap my head around why we are having a discussion about fencing off an entire subdivision when we have never asked another subdivision and they have equal impacts on wildlife.

Councilmember Vick: when another council sits here to decide on another subdivision, they can decide whether or not to put a fence there.

Mayor Dewey: the reason that I am asking some of these questions is it sounds like Jamie is clearly on board, but I am watching Paul and Patrick and I am not tracking that there is consensus that this is the move.

Councilmember Devlin: I am wondering if there is intent to help mitigate some potential problems. Right now, in Creekside we have deer we have racoons we have skunks we have voles I mean they are there and there is no getting around that. If I am understanding you correctly it would be an attempt to mitigate some of the wildlife behavior. We are not talking about a subdivision the size of Creekside we are talking about fifty-seven acres of farmland that have a lot of species on it that come through, is that my understanding?

Councilmember Vick: you are 100% correct, it is not my intent to make it look like Creekside Meadows is next to Deer Lodge either. The deer are still going to get in there but if we can deter them from getting in there, we can reduce the impacts of them destroying people's property

Councilmember Devlin: Dempsey could we go at that with convenience I mean in Creekside right now along Logan it is 6-foot privacy fence could we go that with a conveniences with those along Logan and Burnt Fork?

Councilmember Vick: yes.

Councilmember Devlin: would you feel comfortable with that?

Councilmember Vick: I would.

Councilmember Devlin: so, maybe we tie that into the covenant of not a wildlife fence.

Mayor Dewey: would a condition asking the developers to address mitigation of wildlife impacts, I understand that is very broad, but you have an opportunity in the final plat that this is done in each phase. That is a concern of mine is how do you phase that in, the phases are stretched over ten years, right? So how do you phase in this wildlife impact that we have noted? We don't get into real specifics, in some of our conditions on how you are going to do something we just say do it, you need to mitigate this impact and make sure that it is done before you file for final plat. Is this one of those areas where we could condition that, the developers address and mitigate the identified impacts of wildlife prior to the final plat of each phase. Andy?

Andy Mefford: I would like to try and offer some guidance maybe put some bounds in this. One of the things that I am hearing Dempsey saying is actually justification of the condition that is actually exactly the opposite of what we are supposed to be gaging subdivisions for. I hear Dempsey say we are trying to fence the deer out or mitigate impacts to the cars, to the people, to the petunias and that is exactly opposite of what the subdivision criteria is set to engage, it is supposed to be saying is our subdivision creating negative impact to the wildlife. One of the things that I can suggest and it is very common in residential and suburban subdivisions is an adoption and we would be happy to poke into the covenant is a wildlife convenience, they are very specific convenience developed by Fish Wildlife and Parks that get into these exact issues; bird feeders, BBQ grills, fencing is a very sensitive one actually FWP hates fence I believe, it promotes entanglement so they have very specific criteria when you put up fencing to try and not to damage wildlife because they are protecting wildlife not the petunias. And so, I think that maybe incorporating a living with wildlife covenant that is very common language that we see in a lot of covenants would be a way to address that and help mitigate the impacts to wildlife. Just something to consider.

Councilmember Vick: I could get along with that try to defer impacts of wildlife by reducing the human element of putting out bird feeders, BBQ grills leaving them out, in the wildlife section of the covenant.

Mayor Dewey: so, a condition stating that the covenant shall include living with wildlife guidelines is adequate and serves the needs of the council.

Councilmember Shourd: yes.

Councilmember Ludington: the problem is that they get stuck inside, happens all of the time at the airport. That is what the Fish and Game do not want to see.

Mayor Dewey: what else?

Councilmember Devlin: now that the Middle Burnt Fork Road access has been addressed can we talk about connecting to the bike and walking trail. It is my understanding that it was requested by the road administrator back in September.

Mayor Dewey: John and Andy do you want to speak to your intent to that road and connect to pedestrian wise?

Andy Mefford: I had a conversation when we initially submitted the permits to Ravalli County that was one of the comments I had a discussion with John Horat the Ravalli County Public Works Road Supervisor, and we talked about ways to provide that connectivity and he thought that internal sidewalks would be an adequate way to achieve that goal. He mentioned a walking path on Logan but due to the numerous challenges with grade and speed separation of the pedestrians from that he thought it would be reasonable that internal subdivision walkways and boulevard sidewalks would be an adequate way to provide that north to south connection.

Mayor Dewey: does that address or are you digesting? One thought, I don't know if you are specifically concerned about the non-motorized traffic and if you are looking specifically at pedestrians, bicyclists or a combination I don't see why you couldn't have a bike lane painted on road one for a connector for north to south. You might impact parking a little bit depending on lanes, but that might be something that you consider working with the developer on.

Councilmember Devlin: I think that it would be nice to have some designation.

Mayor Dewey: sidewalks certainly address pedestrian traffic, but I think in some cases bicycle traffic we try to discourage using sidewalks it is specifically prohibited in the town not that we enforce it or follow it, we discourage bicycles on certain sidewalks in Stevensville, downtown is one of those areas where we ask people to not ride on the sidewalk.

Councilmember Devlin: I would like to see that.

Councilmember Ludington: do you want to propose something?

Mayor Dewey: is that palatable to the...

Andy Mefford: I guess I missed what is being proposed maybe I need to hear that again.

Councilmember Devlin: so, like a bike lane.

Mayor Dewey: can you paint a bike lane on the road?

Andy Mefford: if you are going to encourage parking you really don't have the physical space for it, but one of the things that you could do is common and are met with varied levels of interest from the community, you could certainly paint the share road, it is the share the road, with what we have proposed in breaking up the box in the intersections, creative striping may be a way to achieve that same thing.

Mayor Dewey: I like the term varied levels of interest, that was interesting it is an interesting use of words for something share road.

Councilmember Devlin: I think the goal is to have a space to go safely for a person to get from point A to point B and I guess going back in the covenants that it didn't allow parking on the streets. Am I correct in that?

Andy Mefford: in the covenants we are not limiting parking on the street it is a city street and provides parking to the town's road standards with that 40 foot back to curb from back to curb.

Councilmember Devlin: what did you say?

Andy Mefford: the set back is 40 foot back to curb from back to curb.

Mayor Dewey: so, would a condition stating that non-motorized transportation needs to be addressed in the final plat submittal. I am seeing nods.

Councilmember Devlin: Dempsey, I want to hear more from you.

Councilmember Vick: that is about all that I got.

Councilmember Devlin: can we talk about bonds?

Mayor Dewey: what kind?

Councilmember Devlin: security bonds, we spoke last week, and I guess that there is varying understanding about his I did make a phone call and I am even more confused than when I started. That was almost a poor choice, when we speak about a bond, 125% putting in all the streets and sidewalks up front there are pros and cons to that, did Twin Creeks have a bond?

Mayor Dewey: no, at least in recent history none of the subdivisions in Stevensville have that requirement because it is a requirement to build everything before you get final plat, the bond is required to build or sell before final plat otherwise you are...

Councilmember Devlin: so, my understanding in a subdivision of this size we are looking at a ten-year project it would not be wise to get a bond to secure and it probably wouldn't even apply necessarily. Nor is it a requirement of the town.

Mayor Dewey: it is not a requirement because they can't sell a lot before infrastructure is in, protects the person that buys a lot before there is a road to it.

Councilmember Devlin: so, if they were to presell before.

Mayor Dewey: it would not be advantages to do so if they were doing what we require.

Councilmember Devlin: let's talk about traffic and school mitigation amounts, this is kind of a hot one meaning that we really do not have that number and we don't know how to get that number correct? And let me follow this up I am familiar with another subdivision that is in the works, granted it is in the county, they are requiring a thousand dollars per lot to go towards the school they also are requiring two hundred for fire and there was one more and those seem to be pretty set amounts and then we get to this and we don't know how to come up with a mitigation amount I would just like some clarification to that.

Mayor Dewey: you spoke to this last time,

Councilmember Ludington: I am not aware of the school requiring one thousand dollars

Councilmember Devlin: the school did not, and this is in Florence it was a requirement by the county.

Councilmember Ludington: I haven't heard of the county requiring that either most of the subdivisions by the county to the school have some sort of mitigation looking at since they don't want to put in a road way that meets county specifications the schools policy is not to travel on that roadway unless it is maintained by the county and the county wont maintain a roadway if it is not built to their specifications and most subdividers are not going to do that in the case of this particular subdivision they will build the roads to the towns specifications and the school will travel on those roads, so I think part of the mitigation, the mitigation that I am aware of is they ask for 200 dollars and ask that there be some sort of showing of what the rural fire department has asked for and some place for the kids to assemble at the edge of the subdivision so they can be picked up for transportation. That is all that I have been aware of.

Councilmember Devlin: so, we can't come up with that amount?

Councilmember Ludington: I think as Andy pointed out last time, as soon as you create the lots there is money going to the school already when there is building put on it then there is a value put on it that is added no days can take up to two years used to take six years for the school district to see any money and that is not the case anymore now that the department of revenue is assessing these properties every two years the schools lag time is a lot less and that was the reasoning behind asking for money upfront from a developer for a school is because they were not able to address the impact of students showing up and not being able to receive any taxes from the property for five years that is not the case anymore.

Councilmember Devlin: so, we should expect not to see any mitigation costs go to the school it is replaced with the taxes?

Councilmember Ludington: there will be taxes that will be property taxes that those people will pay whether they have kids or not my point was, and I am not sure if this was a finding of fact, there was a report, or a statement made in this application that they are expecting .7 children per lot less than one kid per lot which is probably higher than Creekside Meadows. I think right now there are 5 in those two phases.

Mayor Dewey: I understand your hesitation Jaime in terms of the traffic impacts the original conditions suggested by the administration a payment between two and three hundred per lot

that was going to come to the town and was designated for offset improvements it was not a huge sum of money, that was removed and instead we went with the condition when they pull encroachment permits knowing that those encroachment permits would be coming from the county, the county has a process to collect for that obviously the town does not see any of that revenue unless we are the jurisdiction granting those encroachment permits at that time, but the towns needs were addressed through the SID.

Councilmember Ludington: you will also see right now on condition number 25, (Mr. Ludington read condition number 25) If you see what the school letter said

Mayor Dewey: in our last meeting Paul we took that out and the condition read the council decided to put a pet fence on the boarder of the school prior to filing for final plat for phase five.

Councilmember Ludington: the letters from the 16th are showing \$200 per single family structure and \$200.00 for a multifamily unit.

Mayor Dewey: council discussed both the pet fence and the payment per lot or per door and declined the condition that the payment would be made.

Councilmember Ludington: now you want it back?

Mayor Dewey: I think that is what Ms. Devlin is asking is whether or not if you want to instate that condition or not. I am not sure is she is advocating for it or not.

Councilmember Ludington: I don't want to speak out of turn but this is what I will tell you at this point as far as the transportation department with the Stevensville School goes we will travel through this subdivision as we do with Creekside pick up kids to try and mitigate some of the traffic, personal vehicle traffic at the school which is why we do it, where we do it now try to mitigate some of that. That is all that we can do plus the fact that right now the improvements that the school is making right now is to help mitigate the traffic issue that they have. So, yes, the look that you saw on my face this morning at the bus loop hopefully is going to go away because we will provide various other ways for people to drop off and pick up their kids.

Councilmember Devlin: so, you are saying that is not needed?

Councilmember Ludington: I don't think that it is.

Councilmember Vick: I think that the pet proof fence would be sufficient.

Mayor Dewey: okay, cross that off your list Jaime.

Councilmember Devlin: I am not ready to cross anything off my list. So, Dempsey last week you spoke about the multifamily housing you were proposing duplexes on everything how do, where are you today knowing that there is not as much commercial that will be multi family?

Councilmember Vick: I am still going to stick to my guns to the area outside of the C-2 area. As far as the other area, I would like to see a limit of a 4 plex on these lots.

Councilmember Devlin: I like that you are saying that. Last week it was two duplexes, my understanding was with the parking there is not going to be an opportunity for anything bigger than that already. Am I understanding that correctly?

Mayor Dewey: taking into consideration the dimensional requirements of a lot and what our city code already states and how far you have to be from the lot lines. In an R-2 you can limited to covering 40% of the lot with structures there are parking requirements the municipal code really self restricts development on your lot size. So, just because there is a box on a map doesn't mean you can fill it with a building in an R-2 zone you have to meet the same setbacks that R-1 has to meet and then when you get into multifamily residential wise there are parking requirements, off street parking requirements so they cannot rely on the street for parking they have to be able to, as an example just off the cuff one of the residential parking requirements is a space for every one and a half bedroom, so you are talking a 2 bedroom apartment is going to need three spaces and those are ruffly 10x10 square footage wise and parking that is required for a unit of 4 we are talking about a lot of parking spaces. Maps are somewhat deceptive and that is all reviewed when they pull a permit and if they can't fit than they can't get the permit. I understand, there is not necessarily any harm in conditioning it but know that your own development code does instill a lot of that it there, if it doesn't meet the dimensional requirements, they don't get to build it, simply don't get to pull a permit for that property.

Councilmember Vick: I am staying an upper limit of 4. I wasn't saying that they all had to be that.

Mayor Dewey: sure, sure I think that what my point was and what I think what Jaime was asking me to speak to was that upper limit is already there because of our existing development code.

Councilmember Ludington: I think that I spoke to that last time, there are potentially two lots that might be only one that would do anything more than four and that would be an issue, one thing for me would be trash removal where are you going to put all those trash cans and how are you going to allow for that and parking and that allows for disagreements among neighbors, my daughter lived in a place like that you had two parking places and a single car garage and one of those parking places was right in front of your door, and that is probably what they will do here whether or not you want to live in that condition or not, I don't know about you but a single car garage can't fit a car in.

Mayor Dewey: just looking at the two large lots in the originally proposed R-2 zone going east and west those are between 20 and 30 thousand square feet the lots in the new R-2 zone that used to be C-2 are going between 15 and 26 thousand square feet the biggest lot in there is a 31 thousand square foot lot and that happens to be the one designated for the fire station so those lots are not bigger than then two lots there were originally suggested, it was a projection that you might conservable get up to a 10 plex on that 30 thousand square foot lot, up to. but they did not put a footprint on the ground and actually calculate parking spaces I think that your 4 plex restrictions are already instilled on those properties.

Councilmember Vick: if it is already instilled in our zoning code, I am satisfied with that.

Mayor Dewey: as someone who reviews the plans for zoning and has ap pretty good idea of square footage wise if a 4 plex comes up and they rarely do but when a building comes up that is about the biggest footprint or the smallest footprint you are going to get

Councilmember Devlin: can we talk about two story homes. So last week I was having a little bit of heart burn around this and when I went home, I reviewed our meeting and chewed on it

these lots are going to have to build up, right? So, when we talk about 30 feet, we are not actually talking about 30 feet from where we are standing, we are talking about 30 feet from the built-up lot.

Councilmember Ludington: I see what you mean by higher up, they are going to be higher than street level.

Councilmember Devlin: exactly, so those really, so if we are going to have two story homes, they really are going to block views there is no getting around that. Part of the pleasure of this whole area is you really have views all the way around. I would like to see it conform with what we have in Creekside and to be quite honest I would argue to having them on Logan Lane because it does block a view. I would argue all these options for two story homes because of that. We are going to be blocking a lot of people's views that is part of the charm of living in that area so when we speak to that I do like that concession was made and there are some lots, but I would like to say, do I dare say, no two-story homes.

Mayor Dewey: sorry I am just going to bring this point up this sounds a lot like the reverse condition where your interest is protecting or mitigating impacts from people who don't quite live there yet.

Councilmember Devlin: no it is people that are currently there as well, I spoke last week from my house I can step out on my porch and I have 360 views when we were talking last week Paul, and I was staring at the plan thinking something is not right with what is being said here we talked about looking at it two dimensional and when the 30 feet was brought up it made sense to me at that moment but it didn't sit well with me. When I go back and think about that they are built up we are not talking 30 feet we are talking about obstructing views from homes that are already there.

Mayor Dewey: how does the council want to address it?

Councilmember Vick: I will side with Jaime on that.

Mayor Dewey: I am looking for a, are we abolishing single story, excuse me two story homes or restricting a height limit or what is it exactly you are after.

Councilmember Devlin: I don't think we can do a height limit we don't know how much buildup is going to occur on some of these lots so why the height limit I think we can do a maximum of 30 but I don't know if that is as big of an issue of where we are going to allow two story homes, that is my concern.

Mayor Dewey: so, the clarification that I need is are you looking at two story homes, disallowing two story homes throughout the subdivision or are you only looking at pockets?

Councilmember Devlin: I am looking at leaving this open for discussion.

Councilmember Shourd: are you just referring to R-1? Obviously, the single-family homes.

Mayor Dewey: so, single story homes in the R-1 zone, two stories would be allowed in R-2.

Councilmember Ludington: are there any two stories homes out there now?

Mayor Dewey: in Creekside? She lives in one now.

Councilmember Devlin: there are only three and they are on Logan.

Mayor Dewey: they are all on the far east side.

Councilmember Ludington: covenants say two story homes on Logan?

John Kellogg: but also, on the southwest corner of Creekside two story homes were anticipated also. When Creekside was proposed. The pod in the southwest corner there.

Councilmember Devlin: well, if we want to compare, we can go there.

John Kellogg: and all the rest in Creekside were going to allow lofts.

Councilmember Shourd: my opinion is that a second story house restricts your view to a certain distance and once you get out beyond that certain distance it is no longer obstructing your view of the Bitterroots, they have identified those lots next to Creekside owners where those lots would be obstructive.

Councilmember Devlin: except for and that is true if we are talking about the street level where we are at right now these lots have been addressed that they are going to have to be built up because of the water they are going up. So, we don't know how much that is we don't know how much fill is going to be brought in to bring it up to a level that can be built on we don't know.

Councilmember Shourd: I see your point, is there an answer to that? Do we know how much fill has to be brought in?

Andy Mefford: there has been a lot of discussion here recently and diving into this and a lot of this is taking an attempt to mitigate or take control of R-1 or R-2 zoning for that matter. One of the objections that we hear and we had was to create a diversity of product for a diversity of people we looked to try to get opportunities for town homes for other people who maybe can't afford a six hundred thousand dollar home in R-1 so that is one of the reasons that we wanted to try to provide some four plex options and duplex options that could be town home possibly if that was so desired, a growing family they can't have basements we restricted basements for obvious reasons we didn't want crawl spaces we wanted slab on grade. So, there will be some elevation from the actual ground I will give you that based on sheer economics we are not talking about massive amounts of fill to be brought in to elevate this sight we are probably talking one to two feet at best. I was okay at 30 and now 32 breaks some sort of glass ceiling with no concrete evidence into where that view shed may lie. Like Patrick said a two-story home blocks your vision for certain distances the farther you get from there that view shed is less. I am sure that you could set up a few examples' architects do this all the time, view sheds I don't think that any of these homes are providing any detrimental impacts of views to the west, most of the views are to the east and the west this subdivision lies south of this. There are 360 degree views to the south but you get a distance from this subdivision and you over view that, it is not significant we are not going to be bringing in copious amounts of fill because that comes at cost and we are trying to keep those costs controllable and put affordable housing into the community so this discussion about removing fourteen lots, restricting lot sizes, changing

diversity of product those are all concerns that I have affecting the ability to deliver those types of models to people that need them so hopefully that provides some information may not be satisfactory but I wanted to address that. We heard the two story and we went back and we looked and like I said we provided 25% of concession and we feel like we have done a lot of concession with Creekside and neighbors and the down town business and dropping the C-2 but we are kind of to that point where I don't think we have a lot more concession in us and this concept of view shed you come back to the finding of fact issue I am not sure what finding of fact you can hang on that to say that they have caused this detrimental impact in the finding of fact to justify view shed. Some communities value that so highly they adopt view shed zoning and things that say these are things we don't have those, so we are getting into an arbitrary mythical estimation of what is too much and that gets to dirty and hard to defend and that is my concern.

Mayor Dewey: I am not going to change your mind don't look at me.

Councilmember Devlin: so, hypothetically I understand one to two feet of fill I also understand the construction aspect of things very well. I know that is the intent when you are dealing with water and have to build up an area best case scenario never happens so, the intent is one to two but what if it is not. We are not talking about one-to-two-foot difference to thirty-two there is some areas in here where we could be talking significantly more. And then now we have a situation that I have spoken about, yeah absolutely you could argue after a certain point the view is different but at whose point does the view become a non-issue?

Councilmember Ludington: the issue is already there because something will be built, anything is going to cause an obstruction, in this scenario that you are speaking of anything even if it is a mound of dirt would seem obstructive to those people that currently live there, trying to mitigate anything is overly harsh to the developer so, there is an impact there I won't deny that so I guess my only option there is to say one of the conditions would be that we would review the height of the lots at final plat and if you want to set a number of 30 inches above sidewalk as the bench mark and say that no lot should be any higher than 30 inches about sidewalk height I don't have a problem with that.

Councilmember Devlin: I don't know how we can do that.

Councilmember Ludington: sure, you can they will have to try and figure out how to do it.

Councilmember Devlin: than we have lots that are undevelopable.

Councilmember Ludington: I don't think that you necessarily do I think what you are going to have to do is try to do some sort of water mitigation on the lot so that there is some sort of drainage system some storm water to be dealt with before it gets to the street that would be the only intent of three or four feet above street grade is because you want all of that water to run away and you don't have to do that, if you are putting a 1500 square foot house on a 4000 square foot lot you don't need that much grade to get the water to run down.

Councilmember Devlin: sure, but what is more cost effective? Building up your lot or putting in all that, putting in French drains or these drains of pipe this.

Councilmember Ludington: I think that it is more cost effective than limiting to one story when you are saying 30 feet is what you are allowing but you are not allowing that because the reason you can't allow them 30 feet is that will obstruct the view and what you really want to say is that you don't want anything above 30 inches of grade from the sidewalk. And the reason that you don't want that is because it is not necessary.

Councilmember Devlin: I am not necessarily saying that I am throwing that out there.

Councilmember Ludington: then you have to be able to tie that back.

Andy Mefford: maybe one more thing that may provide some clarification, it seemed like what you said you were understanding but it did not seem quite right after that last meeting. One thing to keep in mind is that this property falls to the west, so it is higher elevation than Logan Lane when you migrate to the east the lot that is along the school or that buffer on the west several hundred feet is significantly lower elevation than it does at Logan there is a natural slope to the river there is relief on the ground not just a flat plain out there.

Mayor Dewey: further thoughts from council? You have attempted to mitigate the view shed issues for Creekside residents through a reduction in lots that can build two story that was already done at the last meeting. I believe through the covenants, what further mitigation needs to be done and what is the criteria that you are tying it to and what is the solution to the issue?

Councilmember Devlin: this is unbelievably frustrating at best, and it really makes me upset and there is a no-win situation here. If we vote no against the subdivision we go into a lawsuit and we are costing our tax payers money if we vote yes on this subdivision we have a whole lot of issues that the town hasn't addressed and we are not ready for and it is going to cost the tax payers a lot of money and I am not ready to accept this is there are people that did this to us and this is not okay.

Councilmember Ludington: we did this to ourselves.

Mayor Dewey: I think that the point that Jaime might be speaking to is, and I share in your frustration code reform and policy preparation that I wanted to do over the past three years Creekside 3-5 which is not Burnt Fork Estates and we acknowledge three years ago and even longer we knew people were looking at these properties on and on again, every time you see a bulldozer parked on the lot in front of Super One we are going to get a McDonalds I mean you get those rumors bubble up my frustration comes from there was a lot of this code reform pieces that we wanted to have in place for this development and other developments that we didn't get done because we wasted our time on paragraphs and infighting we pissed away three years literally on absolute baloney. And here we are I share in your frustration we should have been ready, absolutely should have been ready and that takes me back to the point that I made earlier you know I guess we have to just deal with that and stomach it we screwed that one up and we are going to cram what could have been three or more years of reform and fix it rapidly tomorrow and in fact you may be interested to hear Jaime the planning board is actually on the ball and is preparing to bring a work plan to council for your approval so you can sign off on here are some priorities that we want to address, subdivision regulations, growth policy revisions and I think that there are some development codes they want to address also. So, those documents

that are governing how this works for us are failing us today, but we are the elected leadership, and we have to deal with uncomfortable situations and make the best of a crappy situation and ensure that it doesn't happen to the next guy, improve the camp site before we leave it.

Councilmember Ludington: I will say that I think that you will probably get an honest answer from the engineers that we are pretty prepared we are not prepared for some of the infrastructure issues over our heads I think as far as development code goes and what is allowed were and how all that application process works I think we are fairly well were we should be I think there are some additional stuff that we should try to do to make this stuff a little bit easier for people but you are right it is a no win situation and it was from the day the application was delivered to the town we knew it was going to be a no win situation we know that we were going to run up against this once we got to it because we knew people weren't going to like it and I think we put rules in place that have teeth and they are not able to do whatever they want know if you travel a couple miles north on eastside highway you will see what you get when there aren't any teeth and you can do whatever you want. Not to say that some of those aren't nice houses but some of the stuff they are putting up there is going to be unlivable in five to ten years really shotty construction that there is no building inspection there is no standard as to what it should look like or where it should be situated on the lot or how far it has to be away from another house and all that other stuff that we have put into our development code. Can we try to make this more palpable for people? Yeah, I really wish we could, but we will still have people that will say that is not what I expected when I moved here. And yeah, there is stuff that I didn't expect when I moved here too that I am having trouble dealing with so, this is unfortunate.

Councilmember Devlin: I am ready to hear from the people if everyone else is.

Councilmember Ludington: I think that we need to make a motion before we can take public comment.

Councilmember Shourd: just one remark. I whole heartedly agree with you Jaime this is an extremely challenging decision not one that we can base conscience on when we have to base on finding of facts and at the end of the day it is finding of facts and that is my responsibility in this position in this particular judgment.

Mayor Dewey: do I hear a motion from council?

Councilmember Ludington: I will make a motion to approve BFE subdivision with conditions as proposed previously and this evening.

Councilmember Shourd: 2nd

Mayor Dewey: it has been moved by Mr. Ludington and 2nd by Mr. Shourd. Council discussion before I call for public comment.

Public Comment:

Steve Gibson: 1517 Creekside. Just a couple brief things I want to go back to the access for emergency off of Creekside Drive it just make sense to me, Creekside Drive has been there since 2004 I think there are only two vacant lots I think there are 60 some homes there it has never

been an issue before and then if we go back to these developers are going to get access off Middle Burnt Fork and another access off Logan why would a fire truck come through Creekside Drive to go to your R-2 stuff, it just doesn't make no sense and the fact is gates are done many places, emergency gates will all due respect I don't know where this came from your staff. It doesn't make no sense if you are going to have access off Middle Burnt Fork and another access off Logan, Creekside has been a dead end since 2004 it has never been an issue, it has never been an issue with a fire truck never been an issue with a police officer they come out there now, it has been a dead end since 2004 it is fully developed why would you go through Creekside through Aspen and Syringa to go to Burnt Fork Estates makes no sense what so ever. Mr. Ludington brought up subdivision requirements and I would respectfully request that you review them, Title 76 Chapter 3 encourage you to read. One more thing my understanding from last night's zoning board meeting the minutes are not even done from the second meeting that was on the 13th and haven't been approved I don't know how you could move forward at this time without even seeing it, approved minutes from the Planning and Zoning Board when they made their recommendations I think was on the 13th.

Stacie Barker: 104 Winslett Ave. I live behind the subdivision, Bird Box that was build up there is not four foot of fill there is probably five or six feet of fill in there so what you are talking about a small amount of fill it does black a view we used to be able to see the storage units behind our home we can no longer see the storage units, it does block a view the other thing that I have a problem with is like what Dempsey said, the wildlife that comes through still comes through there but very confused. Tonight, we heard them in there also when they get ready to put in asphalt and stuff, they are having a hard time with it because there is a lot more fill that has to go in there, so what you are looking at is a block to the view, my suggestion to you if you put houses in there put in single level homes not your big ones. Because you don't know how much fill is going to go in there you don't know it is very important where is that water displacement going to go? Right now, that water is going right under my home. We have a dehumidifier in our home right now because we are getting to much moisture in our home, never had that much problem before we are seeing it in our windows, what is it doing to our attics what is it doing to our walls, that water has to go somewhere and we are seeing it and it is only going to get worse if they put those homes in that area right now, that is my comment.

John Kellogg: PCI, there were some important points brought up by all of the councilors tonight. I am going to reinforce what Councilmember Vick said the native tree and plant life may not be a condition that is what is intended for the north park in the subdivision I guess I slightly disagree with Councilmember Devlin that it would be unusable because of the ponds, Andy shows photos of what typical ponds look like for 95-96% of the year there is not going to be water in them there is going to be grass. What I think what the northern common area affords is an opportunity for folks to step out the back door go through the fence or hop the fence and start on the walking trail that we are proposing in that common area we think a very usable common area. By enlarge I think that the comments have been really pertinent we are amazing thrilled that the conditions are something that will improve this, and we certainly encourage you to approve this subdivision. Thank you.

Jim Kalkofen: Mayor could you read the condition on the booster pump for me please?

Mayor Dewey: the existing water booster station located on lot C-12 shall be upgraded before the issuance of final plat meets 120 connections to the booster station.

Jim Kalkofen: and where does it say in that condition that it is the developer is responsible for paying for that and agreed by the council?

Mayor Dewey: all of the conditions are the developer responsibility.

Jim Kalkofen: okay, good I just wanted to make sure that it was a stated thing. There are people in favor of it and see two people here maybe three and there are people that are opposed to it and then the reason why many of those opponents are voicing their opinions for many reasons before you and you heard. I will bring up one more thing today I was talking with Nells Anderson who has lived in Creekside for 13 years and we walked out on the sidewalk in front of his house while a pickup with a trailer stopped right at Syringa and Creekside there was hardly any room for a third car in there if you have all this traffic coming through from Burnt Fork from Logan coming into Creekside eventually there is going to be enough cars stopped there were somebody is going to have to stop on Logan and I see it as a serious safety issue and then what happens in summer time when we have fire season there are two tankers that fill up at the corner of Logan and Creekside and they are there blocking half of the street and they are there continually while they are there taking water out to the airport, there is a valid safety reason why traffic should not come through Creekside from Burnt Fork, but I have a solution Mayor and Council and I will take Andy Mefford's suggestion there was an issue like this that he mentioned up in Seeley Lake and the actually had a vote and referendum and the public had a chance to weigh in on it I would take up Andy's suggestion and actually have a referendum or a vote if it happens in 30 days or 60 days if there is a way to do that and I think then you would find out exactly what the people think and that might give the council a lot more information that would make it sensible to vote a thumbs up or a thumbs down so that is my suggestion and I would like you to seriously consider it.

Mayor Dewey: any other comments? Okay with that, at the last meeting we briefly discussed before we got into the minutia of the subdivision about census building or making sure, or discussing how important at least from my perspective, is that the body to a degree agrees with not just the process but the decision collectively and yes you are individuals that have your own opinions and your own thoughts and conscience and convictions that you bring to the table and I think that it is absolutely critical but on the other side of that coin we collectively represent the community and the things that entails, I guess before I call for the vote I want to ask a question and Mr. Vick as the council president and leadership on the council I would appreciate feedback from you do you think that we have adequately addressed the concerns expressed from the council at the last meeting and this evening and have we done an effective job of maybe building some consensus?

Councilmember Vick: I believe that the questions that have been asked have been answered but as far as reaching a consensus I don't know how each individual person is going to vote tonight.

Mayor Dewey: sure, okay. That is understandable, with that is the council prepared to vote. Okay, Ms. Berthoud. Ms. Devlin?

Councilmember Devlin: so last night a really interesting thing happened I don't know if it is appropriate to be sharing. We can't drag this on any longer, at your meeting there was an opportunity for everyone to say ahead of time how they were going to vote and why and had a discussion. Do you think that was effective?

Councilmember Ludington: I think we were attempting to clarify where the planning board stood on the strict issue that was before us that is part of the problem that you are going to have with planning and zoning all the time is that trying to separate issues out because this isn't the only issue as far those particular subdivisions or potential subdivisions are going to have with the town there will be other decisions that will have to be made as we go down the road so this was strictly a decision saying whether or not this particular request was suitable for the area and that was something that we tried to make sure and the reason that they went around was to make sure that what they were considering because there was a lot of other issues that go along with that with what happens next. How you mitigate the issues that are already there and try to do something about that was why we were doing that was to make sure this is what we wanted to say yeah or nay this particular portion of what was going to happen to that particular piece of property.

Mayor Dewey: okay, with that I think we will call for the vote, Ms. Berthoud you know the drill.

Councilmember Devlin: to be quite honest I think that I need to abstain from voting on this. I don't like the position that we are in and I do not feel that the position we are in were I can make a decision.

Councilmember Ludington: aye.

Councilmember Shourd: aye.

Councilmember Vick: the biggest issue that I have with this whole thing is that what we were told earlier in the night the fact that it seems it doesn't matter what the public thinks the law says that it has to go through anyway pretty much sums up to me that local government is nothing more than professional wrestling except for when you come to this you don't know if it is scripted or not but with that I am going to go with my finding of fact is that public comment is a very important part of that and I am going to have to say no.

Mayor Dewey: the motion passes 2 to 1 with one abstention.

b. Discussion/Decision: Zoning change application for Burnt Fork Estates from R-2 to C-2

Mayor Dewey: there is no need to discuss a zoning change application because that has been withdrawn. Am I correct John? (John Kellogg gave a nod in the audience to Mayor Dewey)

11. New Business

a. Discussion/Decision: Bid opening for E. 3rd Street improvements project

b. Discussion/Decision: Bid opening for E. 5th Street improvements project

Mayor Dewey: introduced new business item (a) and (b) going to open the bids for both E. 3rd Street and the E. 5th Street. The reason for tonight's meeting is that are city code in terms of public works bids and has not been updated since 1973 requires the town clerk open sealed bids in front of the council, there is no action that we are asking the council tonight you are just here to witness Jenelle open the envelopes because 1973 code says so.

Councilmember Ludington: it does not necessarily say how much.

Mayor Dewey: we will reconcile it over the next week and bring forward a contract proposal for you guys.

Councilmember Ludington: you have already looked at?

Mayor Dewey: no, we are not allowed to.

Jenelle Berthoud: I just got these. Town Clerk opened sealed bids, first one is Three Rivers Landworks, LLC out of Frenchtown MT \$175,966.56 for the E. 3rd Street improvements. Second one is for 5th Street improvements, JAG Grading and Paving out of Missoula MT \$59,980.00

Councilmember Ludington: just one bid?

Jenelle Berthoud: just one for each.

Mayor Dewey: that will make is easy.

12. Executive Report

No executive report.

13. Town Council Comments

None.

14. Board Reports

None.

15. Adjournment

APPROVE:


Brandon E. Dewey, Mayor

ATTEST:


Jenelle S. Berthoud, Town Clerk