



BROADWATER COUNTY COMMISSIONERS
515 Broadway, Townsend
Meetings are held at the Flynn Building on 416 Broadway St.

Current and previously recorded meetings, official agenda, and minutes may be viewed on the website at <https://www.broadwatercountymt.com>.

Per Montana Code Annotated (MCA) 2-3-202, agenda must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. Public comments will be taken either in writing before the meeting or in person at the beginning of the meeting. Mail and items for discussion and/or signature may occur as time allows during the meeting. Issues and times are subject to change. Working meetings will be posted on the agenda and will not be recorded.

OFFICIAL agendas are posted in the Courthouse (1st floor bulletin board), on our website at www.broadwatercountymt.com, in the window of the Flynn Building at least 48 hours in advance of the meeting, and in the local MT43 Newspaper

REVISED AGENDA (as of 2/9/2024)

COMMISSIONERS WILL BE ATTENDING THE MACo (Montana Association of Counties) FROM FEBRUARY 26 -29. THERE WILL NOT BE A COMMISSION MEETING THIS WEEK

Monday, February 12, 2024

11:00 AM Working Meeting with Bill Jarocki, County Administrative Officer, regarding projects and deadlines. This will be in the Commission Office

Wednesday, February 14, 2024

10:00 AM Public Comment on any subject not on the agenda, and that the Commission has jurisdiction over

10:00 AM Discussion/Decision, Airport Hanger Lease Rate Increase

10:05 AM Discussion/Decision, By-Laws Approval for Various County Boards (Museum Board, **Solid Waste)**

10:15 AM Discussion/Decision, Nichole Brown, Community Development and Planning Director, Albe Minor Subdivision (Section 3, Township 7 North, Range 1 East) Consideration of New Information Only

10:30 AM Discussion/Decision, Nichole Brown, Community Development and Planning Director, Albe Minor Subdivision (Section 3, Township 7 North, Range 1 East) requests Preliminary Plat Approval

10:45 AM Discussion/Decision, Nichole Brown, Community Development and Planning Director, Greenway Subsequent Minor Subdivision (Section 29&30, Township 3 North, Range1 East) requests Final Plat Approval

3:00 PM Working Meeting with Deputy County Attorney, Kay Minor, regarding projects and deadlines. This will be in the Commission Office

February 15, 2024

10:00 AM Working Meeting with Bill Malone, Ken Burg, and Bill Jarocki to review and discuss website vendor proposals. This will be in the Commission Office

11:00 AM Working Meeting; Webinar with TextMyGov to review services and costs

Items for Discussion / Action / Review / Signature – Consent Agenda

- ✓ Certificate of Survey review
- ✓ Management – on-going advisory board appointments
- ✓ Claims/Payroll/minutes
- ✓ County Audit / Budget
- ✓ Mail – ongoing grants
- ✓ Correspondence – support letters

Debi Randolph, Vice Chairman (406) 266-9270 or (406) 980-2050

Darrel Folkvord, Chairman (406) 266-9272 or (406) 980-1213

Lindsey Richtmyer (406) 266-9271 or (406) 521-0834

E-mail: commissioners@co.broadwater.mt.us

Future Meetings will be held at the Flynn Building (416 Broadway)

(Please note: These meeting times/dates may change, please check the county website)

- *Bill Jarocki, Weekly Meeting with Press/Public Every Monday at 2 PM in his office*
- *Trust Board Meeting on February 13th at 11:30 AM*
- *Parks and Rec Board Meeting on February 12th at 6 PM*
- *Solid Waste Board Meeting on February 13th at 6 PM*
- *Mental Health LAC Meeting on February 14th at 2 PM*
- **COUNTY OFFICES ARE CLOSED ON FEBRUARY 19TH**
- *Noxious Weed Board Meeting on February 20th at 6 PM*
- *Airport Board Meeting on February 21st at 6 PM*
- *Broadband Advisory Meeting on February 22nd at 4 PM*

The Commissioners may be attending these board meetings (except the Planning Board)



Townsend City-County Airport Board Meeting January 17th at 6:00 pm in the Flynn Building

Board Members Present: Bob Hollister, Rob Bargatze (phone) Adam MacDonald

Board Members Absent: Seth Wolfgram, Jessica Lancello

Commissioner: Darrel Folkvord

Airport Manager: Dwight Thompson

Administrative Assistant: Aubra J. Lewis

Guests: Steve Visocan

Adam called the meeting to order at 6:00 pm

Public Comment: None

Discussion of the Minutes: Bob made a motion to approve the December 20th minutes with the correction to the spelling of tarmac. Rob seconded. No discussion. Minutes were approved unanimously.

Election of Officers/Approval of Letters of Interest: Adam gave a clarification of how officers are elected, and their terms.

- Bob made a motion to appoint Bob Bargatze to the Airport Board in order to have a quorum. Adam seconded. No discussion. Motion passed unanimously.
- Bob made a motion to approve Rob Bargatze to a 3-year term. Rob's letter was read to the board. Adam seconded. Discussion: Rob is a valuable member, and we are lucky to have him. Motion carried unanimously.
- Nominations were open for the office of chairman. Rob nominated Adam MacDonald for chairman for a 1-year term to the Airport Board. Bob seconded. No further nominations. Nominations were closed. No discussion. Motion carried unanimously.
- Nominations were open for the office of Vice Chairman. Rob nominated Bob Hollister to serve as Vice Chairman to the Airport Board for a 1-year term. No further nominations. Adam seconded. No discussion. Motion carried unanimously.

Annual Consumer Price Index Review for Hangar Leases: Discussion on current Consumer Price Index from the US Bureau Department of Labor and Industry West Region from the lease agreement. The 2023 average is 4.3%. Our current lease price is 0.115/square foot (\$11.5 cents/square foot). This would raise the lease agreement to \$0.119945/square foot. After discussion, it was decided to round up to \$0.12/square foot.

- Rob made a motion to change the current \$0.115/square foot rate to \$0.12/square foot rate for this coming year. Bob seconded. Discussion and clarification about this being the same rate for both airports. Clarification was made that this motion was for the Townsend 8U8 Airport. We will need additional information for the Canyon Ferry Airport and will discuss at

the next meeting. Commissioner Folkvord clarified that this motion won't take affect until July 1st as the rental agreement year goes from July 1 to June 30th.

- The motion was amended by Rob to raise the rate to \$0.12/square foot for the coming year only for the Townsend County Airport. Bob seconded. No discussion. Motion carries for Townsend. Canyon Ferry will be moved to next month's discussion.

Airport By-Laws Changes: The City has given us the intent to terminate our Airport Agreement. This discussion also includes the City Quit Claim Deed, Realty Transfer Certificate, and County Resolution for Land Transfer. We are waiting for them to execute those, before we make the changes to the by-laws. These will be discussed at the next meeting.

Airport Vault Bathroom: The amount for the vault bathroom for Canyon Ferry bid is \$3,850.00 from Mike Delger. The other bid was \$7,094. He would like help stripping off the roof and the siding. Discussion about cleaning up the vault. Kerplunk was able to clean this up. Discussion on how much is in the account. Currently there is \$26,109.37 in the cash account and \$471,080.60 in the CIP account.

- Bob made a motion to allocate \$4,000 to reconstruction/rebuild of the vault toilet at the 8U9 Canyon Ferry Airport. Rob seconded. Discussion of how bad of shape it is in. New seats have been put in, and it has been cleaned. Motion carried unanimously.

Hangar Lease Requests/Discussion: Jeremy Metz is wanting to build. He will be sent the lease agreement and hangar check sheet.

Airport Manager Update:

- Dwight attended the Aeronautics discussion today. Lance did a wonderful job. He shared a loan request list for the other airports.
- January 4th, we received 6,507 gallons of aviation fuel
- Electric motor does not run. They are not charging us to download the fuel off their PTO.
 - When it warms up, an electrician should take a look at it
 - Fuel master – rate change discussion on getting it changed. We are no longer in a contract with them. Our system is very old and the software is not communicating. We need a quote get a new one. Maybe look at the Aviation Conference for vendors that we could get quotes from or ask City Service. We could also talk to Lance for some direction.
 - The fuel driver informed us we can get a 4,000-gallon load. It is whatever they have available for splitting. Current fuel as of January 4th 10,129 gallons, added 6,507, charged us \$4.547. We are lowering the price to \$5.34. From the last reading, we used 29.4 gal/day. Fuel needs to be changed to \$5.34/gallon on websites.
 - Airport Directory says we offer minor and major repair. Did add the turf runway.

Financials: The current claims were presented as follows:

- Bill for the fuel was already paid automatically - \$29, 311.98
 - Bob made a motion to approve the bill for the fuel to City Services for 6,500 gallons. Rob seconded. No discussion. Motion carried unanimously.
- Money in the accounts was previously stated.

Discussion of fuel price change: From previous discussion, the fuel price will be changed on the websites for pilots to \$5.34

Lance Bowser RPA Update: Dwight called Lance, and said he will update us later, as he was currently in meetings.

New Business: None

Rob made a motion to adjourn. Bob seconded. No discussion. Motion carried.

After adjournment, Steve Visocan shared his background in accounting and finances. Dwight mentioned Century Construction is out on bids until next year. Finding a construction company, will be a challenge.

Adjourn: 6:50 PM

Voting Members of the Airport Board: Adam MacDonald (Chair) Bob Hollister, Robert Bargatze, Seth Wolfgram, Jessica Lancello; Non-Voting: Commissioner Darrel Folkvord

Approved By:

Chair: _____ Date _____
Adam MacDonald

Administrative Assistant _____ Date _____
Aubra J. Lewis



Broadwater County Historical Society and Museum Board of Directors Bylaws

Adopted by Broadwater County Historical Society and Museum Board of Directors on the 6th day
of February 2024



Section 2. President. The Board shall elect a President who shall conduct all meetings and business of the Board according to Open Meeting Laws and encourage Public Participation of all citizens. The President shall take public comment at all meetings and prior to all votes. The President shall maintain civility.

Section 3. Vice President. The Board shall elect a Vice President who shall conduct all meetings and business of the Board in the President's absence.

Section 4. Secretary. The Board shall elect a Secretary or a county employee who shall take minutes at meetings and is responsible for correspondence.

Section 5. Treasurer. The Board shall elect a Treasurer who shall be responsible for the safe keeping of Society funds and maintaining adequate financial records. The treasurer shall present a report at the monthly meetings.

In the event of no meeting, the Treasurer has the authority to pay routine bills.

Article III Administration

The Board may select and hire a curator. The Board may select and hire an attendant/attendants. These people will be representatives in the management of the museum. The Curator shall be given the necessary authority and responsibility to operate the museum in all its activities and departments, subject to such policies as may be issued by the Board. The Curator shall act as a duly authorized representative of the Board in all matters in which the Board has not formally designated some other person to act and shall serve at the pleasure of the Board. The Curator shall have the authority to spent up to three-hundred dollars (\$300.00) on miscellaneous expenses without Board approval.

1. The Curator cannot be member of the Board.
2. The evaluation of paid employees and recommendations for hiring employees for the next spring shall be made at the October Board meeting.
3. The duties of the attendants and volunteers will be assigned by the Curator and they will report to the Curator. Orientation of paid employees and volunteers will be conducted at the beginning of the Museum season.

Article IV Meetings

Section 1. Annual Organizational Meetings. An annual organizational meeting is held at the first regular meeting in each calendar year. The calendar year begins on January 1 and ends on December 31. At this meeting, the agenda will include but is not limited to:

- Elect officers;
- Review the objectives which guide the Board;
- Review the Bylaws of the Board; and
- Provide overview and training as needed for new members.

Section 2. Regular Meetings. The Board will meet on the first Tuesday of each month and will meet at the discretion of the Board. During the months of October through May, meetings will be at 1:00 p.m. During the months of June through September, meetings will be at 5:00 p.m. All meetings are held at the Museum. The public is invited to attend. The meetings are not live streamed or recorded.



Section 3. Special Meetings. Special meetings shall be called as necessary by the Chair or Vice Chair, or at the request of a quorum of the members. Meetings may be held at any predestined place or time to encourage Public Participation.

Section 4. Quorum. At any meeting of the Board, at least ½ of the members +1 member shall constitute a quorum. If any meeting is convened where there is not a quorum, the members present may discuss routine matters, but may not hear testimony or take formal action on any matter requiring motion and a vote.

No meeting shall be held unless all members of the Board have been given notice.

Section 5. Manner of Action. An act of a majority of the members present at a meeting at which a quorum exists shall be the act of the Board, except where otherwise provided by law.

There is no proxy voting. There is no email voting. Voting can be done by telephone calls or two-way, audio-visual communication provided the member has full access to all of the documents, materials, and discussion related to the vote.

Section 6. Parliamentary Procedure. For all procedural matters not specifically covered in the Bylaws, the controlling parliamentary authority shall be Robert's Rules of Order.

- The President, being a co-equal director of the Board, shall in addition to presiding, have a right to participate in debate, and shall vote on all motions, and not only where the vote of the President would create or break a tie.
- A motion, once stated and seconded, limits the debate to points relevant to the motion. Prior to a formal motion being stated, general discussion of and the presentation of information relevant to an agenda item being considered is in order.
- Before taking any action, the President shall allow members of the audience to be heard. All public comment shall be civil. All members shall conduct themselves in a civil manner as they serve the citizens of Broadwater County. No member of the audience may be heard during Board discussion. The Chair may reasonably limit audience participation but must do so in an equitable manner.
- Reconsideration of any action of the Board may be allowed at any time, upon motion of a board member who voted affirmatively.
- Routine matters, such as setting meeting times and adjournment, setting future agenda items, or appointment of committees, may be by consensus rather than by motion and vote.

Section 7. Notice of Meetings. Meetings shall be posted no less than forty-eight (48) hours prior to the meeting on the Broadwater County Courthouse main floor, on the Flynn Building window, and on the Broadwater County Web Page. All members shall be notified of all meetings orally, in writing or by email. No special meeting shall be held unless diligent efforts have been made to **notify all** directors and **all** advisory board members.

Section 8. Open Meetings Requirements. All meetings are open to the public. Section 2-3-203(1), MCA. Meetings may be closed to the public when the discussion relates to a matter of individual privacy and then only where the Chair determines on the record that the demands of individual privacy clearly exceed the merits of public disclosure. Section 2-3-203(3), MCA. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open to the public. Section 2-3-203(3), MCA. To comply with the spirit and intent of the open meeting and public participation laws, public notice of not less than two (2) business days shall be given of all Board



meetings, regular and special. Two (2) business days' notice need not be given where the Board must deal with an emergency situation affecting public health, welfare, or safety. Section 2-3-112(1), MCA.

Section 9. Agenda. Agenda items should be submitted to the President, or their designee, at least forty-eight (48) hours prior to the meeting.

Section 10. Minutes. Minutes of all Board meetings shall be kept by the Secretary and shall be signed by the President, the presiding officer, and/or Secretary, after approval by the Board at the next meeting. Minutes of all open meetings, and portions of meetings that are open to the public, shall be kept available for inspection by the public in the Clerk & Recorder's office. The Secretary shall keep separate minutes of all discussions and votes held during executive sessions, those shall be sealed and kept in the Human Resource/Finance Office. The minutes need not have detailed reports of discussions but shall have all motions and a roll call vote. The minutes should include the names of members present and absent, and staff and/or public present.

Article V

Employees Subject to County Personnel Manual.

Employees are subject to the Broadwater County Personnel Policies and Procedures Handbook.

Article VI

Legal Assistance

The County Attorney represents Broadwater County Boards on matters relating to their functions, powers, and duties.

Article VII

Indemnification of Directors

Except as otherwise limited by Montana Code Annotated, Broadwater County may indemnify any board member against claims, liabilities, expenses, and costs necessary incurred in the connection with the defense, compromise or settlement of any action, suit, or proceeding, civil or criminal, in which such board member is made a party by reason of being or having served on a Broadwater County board.

Article VIII

Board Responsibility

Non-withstanding any other provision of these bylaws, no member shall take any action or carry on any activity by or on behalf of the Board not permitted to be taken or carried on by a vote of the board.

A majority vote by the Board constitutes a Board decision. No member may move forward contrary to a Board decision. A dissenting member should continue to work with the Board in that direction, or on that project.

Proposed Society expenditures must be approved by majority vote of the Board. Expenditures from county funds must be approved by the Board of County Commissioners.

Article IX

Amendments to Bylaws

The Bylaws may be altered, amended, repealed, and/or new bylaws may be adopted by two thirds (2/3) majority vote of the Board members present at any meeting if, at least two (2) weeks written notice is given to each member of the Board of the intention, at such meeting, to alter, amend or repeal or to adopt new Bylaws. All proposed amendments shall be submitted in writing. The Broadwater County

.....:

Board of County
Commissioners:



Board Members' Names and Signatures

Jojo H. Mennus, acting chair
.....(Board Chair's name)

Darrell Folkvord, Chair

Charles E. McFune
.....(board members name)

Lindsey Richtmyer, Vice Chair

Mike Mulligan
.....(board members name)

Debi Randolph, Commissioner

Victor Sanyal
.....(board members name)

Kevin L. Flynn
.....(board members name)

Shirley J. Rogers
.....(board members name)

.....(board members name)

Attest:

Angie Paulsen
Broadwater County Clerk and Recorder

**BROADWATER COUNTY REFUSE DISPOSAL DISTRICT
SOLID WASTE ADVISORY BOARD BYLAWS**

ARTICLE I. NAME

The name of this organization is the **BROADWATER COUNTY SOLID WASTE BOARD**, hereinafter referred to as the “Board”. The Broadwater County Commission’s intent to create the Broadwater County Solid Waste District, hereinafter referred to as the “District”, was established on Dec. 6, 1972, through Resolution 120672. This Board was created by the Broadwater County Commission on March 19, 1973, through Resolution 031973.

ARTICLE II. PURPOSE

The purpose of the Board is to:

- 1) Provide for the balanced consideration and representation of the diverse views and issues regarding solid waste management;
- 2) Advocate for the health, safety, and welfare of Broadwater County residents;
- 3) Identify goals, policies, and procedures that will aid the local district in meeting solid waste reduction and recycling goals; and
- 4) Serve in an advisory capacity to the Commission by furnishing advice, gathering information, and making recommendations regarding solid waste management in the District.

ARTICLE III. MEMBERSHIP

- 1) The Board consists of five (5) Broadwater County, at large, voluntary members; a County Commissioner “ex-officio” member, and an “ex-officio” Public Works Director. Members are appointed by a majority of the Commission. Pursuant to §§ 7-13-201-203, MCA, all citizen appointees on the Board shall serve at the discretion of the Commission and may be removed by the majority vote of the Commission.

- 2) Except for the Commission member and the Public Works Director, the members shall serve staggered one to three year terms on the Board. The Commission member's term is one year and shall be reviewed on a yearly basis by the Commission. At the end of a member's term that member may be re-appointed. A new member must complete the unexpired term, if any, of his or her predecessor.
- 3) Members may vote to recommend to the Commission to remove a member from the Board for cause. Failure of any member to attend three consecutive, regularly scheduled meetings without good cause may be grounds for removal from the Board.

ARTICLE IV. CONFLICT OF INTEREST

It is in the best interests of the Board to be aware of and properly manage all conflicts of interest and appearances of a conflict of interest. Conflict of interest arises whenever the personal or professional interest of an individual member of the Board is potentially at odds with the best interests of the District. Board members will avoid where possible even the appearance of a conflict of interest or impropriety. This provision is intended to supplement, but not replace, any applicable laws governing conflict of interest. Personal or professional interests include, an interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a member of the Board's judgment with respect to transactions to which that person is a party. Because many situations involve potential conflict of interest, the following procedures apply.

If an issue is to be decided by the Board that involves potential conflict of interest for a member of the Board:

- 1) It is the responsibility of that member of the Board to:
 - a. Identify the potential conflict of interest;
 - b. Not participate in discussion of the matter or motion being considered, nor shall he or she attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting. Such non-participation may necessarily include physically leaving the meeting; and
 - c. That member shall not vote nor be counted in determining the presence of a quorum for purposes of the vote.

- 2) It is the responsibility of the Board or members thereof to:
 - a. Identify any potential conflict of interest, if known, and
 - b. Record in the minutes of the Board Meeting the conflict or potential conflict of interest and the actions taken and use the procedures and criteria of this provision.

The Board shall review this provision of the bylaws annually. Any changes shall be communicated to all interested persons.

ARTICLE V. ELECTION AND DUTIES OF OFFICERS

The Board shall elect officers by a majority vote of those members present at the January regularly scheduled meeting.

- 1) Officers shall consist of a Chair; a Vice-Chair, who shall act in the absence of the Chair; and Secretary. Officers may serve any number of consecutive terms. A County Commissioner may not serve as Chair or Vice-Chair. An Officer may resign if a written resignation is made to the Board. When an office becomes vacant, the Board shall hold a special election at a regular or special meeting, and the Officer elected at that meeting then shall serve until the next regularly held election of Officers.
- 2) The Chair shall act as spokesperson for the Board. All District communications must be signed by the Chair unless otherwise delegated by the Chair to another member or by motion of the Board.
- 3) If approved by the Board, the duties of Secretary may be carried out by persons other than Board members.
- 4) The Chair shall preside over all hearings; protests or other contested matters unless such duties are otherwise delegated by the Chair or by motion of the Board.
- 5) The Chair has the same voting privileges as other Board members.
- 6) No proxy voting shall be permitted on behalf of any Board members; however, Board members may vote by phone or two-way, audio-visual communication.

ARTICLE VI. SUBCOMMITTEES

The Chair may appoint Subcommittees as the Chair deems necessary to carry out the work of the Board. The Chair shall be an ex-officio member of all subcommittees.

Subcommittees may be composed of representatives of public agencies, private volunteer groups and public members, but members of the Board must make up a majority of any subcommittee.

ARTICLE VII. MEETINGS

1) The Solid Waste Board will hold a regular monthly meeting not less than ten (10) times per year. The Board's regular monthly meeting date, time, and location shall be the second Tuesday of every month, 6:00 p.m., in the Commissioners' meeting room of the Flynn Building, unless determined, by a majority of members that, because of a conflict or other need arises, a change may be made by electronic communication before the next meeting or, if possible, no later than the adjournment of any regular monthly meeting.

2) Special meetings may be called by the Chair, or may be called if requested by three Board members.

3) The Board, through its Secretary, shall ensure that written minutes are kept of each meeting, regular and special. Such minutes shall include the members present, any motion made and seconded and the vote of each member on such motion, and such other business as the Secretary deems appropriate to record. The minutes are available, upon reasonable request, for public inspection and copying.

4) The Board, through its Secretary, shall ensure that an agenda and location of all meetings, including special meetings, is published and available for public inspection at least 48 hours (consisting of time in business days only) in advance of the meeting. A majority of Board members constitutes a quorum for the purposes of conducting business and exercising Board powers. Action may be taken by a majority vote of the members present and voting.

5) All meetings, regular and special, including all Board deliberations during such meetings, are open to the public.

6) Public comment is acceptable only during that portion of the meeting designated for

such comment, or upon deliberation of any agenda item for which an individual or group has specific business as identified by the agenda for that meeting.

7) The Chair may ask members of the public present at any meeting to state their business with the Board so that the Board may consider rescheduling that business item for the convenience of the individual or group.

ARTICLE VIII. BOARD POWERS

The powers of the Board are set forth in County Commission Resolution 022309.

ARTICLE IX. AMENDMENTS

These bylaws may be amended by a majority vote of the Board members.

ARTICLE X. FILING WITH COMMISSION

The Secretary shall file an up-to-date copy of these by-laws with the County Commission.

ARTICLE XI. ASSOCIATED RESOLUTIONS AND HISTORY

Resolution of Intention 120672: Board of Commissioners intend to create a refuse disposal district. Proposed name shall be Broadwater County Refuse Disposal District. Services shall be located at Indian Creek, main one, with satellite dumps at Winston, Radersburg, Toston and Ray Creek. Estimated cost of service shall be \$1.50 per household per month and an adjusted rate for businesses. Dec. 6, 1972

City Counsel of the City of Townsend, Broadwater County, Montana concurs in the proposed Garbage Refuse Disposal District established by Broadwater Commissioners. Feb. 6, 1973

Resolution 031973: Broadwater County Commissioners resolve to implement and carry out resolution of intention to establish a refuse disposal district with disposal areas at Townsend, Toston, Radersburg, Winston and Canyon Ferry. March 19, 1973

Resolution 092393: Board of the Broadwater County Refuse District resolves to set user's fees for the Solid Waste Management System: Residential - \$110, Commercial – Prorata

multiples of the residential based on volume. Sept. 23, 1993.

Resolution 051695: Tipping fees at Logan landfill were increased without notice and will exceed budget resulting in funds transferred to the Solid Waste fund to cover said insufficiency. May 16, 1995

Resolution 111698: Commissioners, not finding a minimum number of qualified board members, assumed the duties of the board with all powers and duties of said board. November 16, 1998

Resolution 072301: Board of County Commissioners increase Solid Waste assessment fee from \$110 to \$128. July 23, 2001

Resolution 022309: Commissioners have now found three qualified persons to fill the vacancies of the Solid Waste board, having been filled by the county commissioners, heretofore. Filling the positions are: Barry Hagbom (1 year term); Kathy Wilcox (2 year term), and Tom Austin (3 year term). The board shall have the powers and duties provided in Section 75-10-112, MCA. Feb.23, 2009

Resolution 2024-2: Resolution for Broadwater County Commissioner(s) To Assume The Duties Of The Broadwater County Solid Waste Board/Board Member. Four Broadwater County residents were appointed to the Board and Commissioners passed the resolution and appointed Commissioner Richtmyer as the fifth board member at the January 3, 2024 meeting.

ARTICLE XII. ADOPTION OF BYLAWS

These Bylaws were approved and adopted by Broadwater County Solid Waste Board on the ____ day of _____, 2024, effective upon adoption.

_____, Solid Waste Board Chair

_____, Solid Waste Board Vice-Chair

_____, Solid Waste Board Secretary

_____, Solid Waste Board Member

_____, Solid Waste Board Member

_____,
Broadwater County Commissioner, Chair, Darrel Folkvord

_____,
Broadwater County Commissioner, V. Chairman, Debi Randolph

_____,
Broadwater County Commissioner, at Large, Lindsey Richtmyer

Attest:

Angie Paulsen
Broadwater County Clerk and Recorder

FINDINGS OF
FACT AND
ORDER
REPORT

Preliminary Plat
Dated 11/20/2022

ALBE MINOR SUBDIVISION Preliminary Plat

To: Broadwater County Commissioners
From: Nichole Brown, Broadwater County Community Development Director
Subject: A proposed subdivision to be known as **Albe Minor Subdivision**

GENERAL INFORMATION

Date of Application: November 10, 2022
Element Complete: November 21, 2022
Date of Sufficiency: November 21, 2023
Review Period Ends: January 12, 2024

SUBDIVIDER: Steve Upton
Townsend, MT 59644

SUBDIVIDER'S REPRESENTATIVE: Bernadette Swenson
64 Jack Farm Road
Townsend, MT 59644

LEGAL DESCRIPTION: Situated in Section 3, Township 7 North, Range 1 East,
Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off Foster Drive,
approximately six (6) miles northwest of Townsend, Montana.

I. EXECUTIVE SUMMARY

The Subdivider intends to create four (4) lots from an existing 15.54-acre parcel. Lots range in size from 2.73 to 5.51 acres. All lots are being submitted for review as residential lots. Wastewater will be provided via individual on-site wastewater treatment systems for each lot. Water will be provided to each lot via individual on-site wells. Access will be provided from Foster Drive. The required preliminary review fee of \$1,900.00 has been paid.

II. REQUEST

Approval of the 4-lot Minor Subdivision for 4 single-family homes.

III. STAFF RECOMMENDATION

Staff recommends APPROVAL of the proposed Albe Minor Subdivision Preliminary Plat subject to the conditions of approval based on the recommended findings of fact included in the Staff Report.

IV. LOCATION

The proposed subdivision is located off of Foster Drive approximately 6 miles northwest of the City of Townsend.

V. EXISTING DEVELOPMENT AND USES

The property is currently vacant land.

VI. ADJACENT LAND USES

North: Vacant residential

South: Residential

East: Residential

West: Residential

VII. PUBLIC COMMENT

Public Comment will be taken at the December 27, 2023 Planning Board Regular Business Meeting and subsequent Commissioner Meeting(s).

VIII. PROJECT BACKGROUND

Water is proposed to be provided via individual wells. The well sites will be reviewed and approved by the Department of Environmental Quality (DEQ).

Wastewater is proposed to be managed utilizing individual wastewater treatment systems. DEQ will review the newly created parcels for the location of wastewater treatment systems.

Access will be off of Foster Drive with an individual driveway approach proposed for Lot 1 and Lot 4. Lot 2 and Lot 3 will have a shared driveway with an approach off of Foster Drive.

IX. STAFF ANALYSIS

Review is performed pursuant to the Montana Subdivision and Platting Act, Title 76, Chapter 3, Montana Codes Annotated, the 2021 Broadwater County Subdivision Regulations and the 2020 Broadwater County Growth Policy. The proposed preliminary plat, Albe Minor Subdivision, as submitted by the Subdivider, together with the required supplementary plans and information, appear to satisfy the requirements of these regulations and comply with the Broadwater County Growth Policy, with the suggested mitigating conditions.

X. CRITERIA FOR REVIEW:

In accordance with 76-3-608(3), MCA, a subdivision proposal must undergo review for impacts on the following primary criteria: 1. Agriculture; 2. Agricultural Water User Facilities; 3. Local services; 4. Natural Environment; 5. Wildlife and Wildlife Habitat; 6.

Public Health and Safety; 7. Compliance with the County's Subdivision Regulations; 8. Compliance with Survey Requirements; 9. The provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and 10. A provision for providing legal and physical access to each parcel within the proposed subdivision.

FINDINGS OF FACT AND CONCLUSIONS:

A. IMPACTS ON AGRICULTURE:

1. DEFINITION OF AGRICULTURE: Farming or ranching include the cultivation or tilling of the soil, the production, cultivation growing, harvesting of agricultural or horticultural commodities that are on site, such as food, feed, and fiber, the raising of livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops, and including timberlands and forest lands. *Broadwater County Subdivision Regulations, Definition 3.*
2. NARRATIVE: According to the preliminary plat application, none of this property is considered prime farmland if irrigated.
3. FINDING: This proposed subdivision should not have an effect on agricultural productivity since no land is being removed from agriculture.

Per Chapter V-A of the Broadwater County Subdivision Regulations, all subdivisions must be designed and developed to provide satisfactory building sites that properly relate to topography, and must, to the extent possible, preserve the natural environment.

Conditions of approval for the proposed subdivision will require a Noxious Weed Management Plan be on file and recorded with the final plat; Restrictive covenants providing notice of agricultural operations in the vicinity; That the property shall be maintained in a weed-free manner; and restraining domestic pets on the property. Other conditions of approval will provide the opportunity to financially guarantee any improvements required by the Weed Management Plan.

Conditions of Approval Numbers 8, 10-c, 10-g, 10-h and 11 are required to mitigate impacts on agriculture. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The impacts to agriculture, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

B. IMPACTS ON AGRICULTURAL WATER USER FACILITIES:

1. DEFINITION OF AGRICULTURAL WATER USER FACILITIES: Those facilities which provide water for irrigation or stock watering to agricultural lands to

produce agricultural products. Any part of an irrigation system historically used to produce an agricultural product on property used for agricultural purposes. These facilities include, but are not limited to, ditches, head gates, pipes and other water conveying facilities. *Broadwater County Subdivision Regulations, Definition 5.*

2. NARRATIVE: The proposed subdivision will create four residential lots between 2.73 and 5.51 acres.
3. FINDINGS: The proposed subdivision property should not have an impact any agricultural water user facilities since none are located on the property.

Conditions of Approval Numbers 10-c, 10-g, 10-h and 11 are required to mitigate impacts on agricultural water user facilities. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The impacts to agricultural water user facilities, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

C. IMPACTS ON LOCAL SERVICES:

1. DEFINITION OF LOCAL SERVICES: All services or facilities local government is authorized to provide that benefit their citizens, such as water supply, sewage disposal, law enforcement, fire protection, emergency services, transportation system, educational system, noxious weed control, as well as services that local government does not provide such as power, telephone, state highways, etc. *Broadwater County Subdivision Regulations, Definition 34.*
2. NARRATIVE: The proposed subdivision will be accessed from individual driveway approaches on to Foster Drive. It is within the jurisdiction of the Broadwater County Sheriff's Office as well as the Townsend School System. Fire protection will be offered by the Broadwater County Rural Fire District.
3. FINDINGS:
 - a. SOLID WASTE:
Individual lot owners will haul their solid waste to Broadwater Solid Waste Canister site in Townsend. Subdivision residents will have the option of hiring an independent contractor to pick up their solid waste or transport it themselves.
 - b. MAIL DELIVERY:
It is anticipated that mail will be delivered by the United States Postal Service and plans for any mail receptacles on-site are subject to review and approval by the Townsend Post Office.
 - c. UTILITIES:

It is anticipated that Northwestern Energy provide electrical service to the proposed subdivision. Future dry utilities are anticipated to be installed underground.

d. ROADS AND TRAFFIC:

No transportation plan has been officially adopted for this area. The proposed development could cause an impact to 'Foster Drive' Therefore, a Preliminary Engineering Report (PER) should be performed prior to final plat approval to determine whether or not the applicant would be responsible for any improvements to the subdivision road, 'Foster Drive'.

The estimated Average Daily Trips (ADT) for four (4) residential lots is thirty-two (32) ADT.

e. SCHOOLS:

The proposed subdivision is served by the Townsend Schools and the subdivision could potentially produce 6 students. The potential for new students from this development should not have an impact on existing bus routes.

f. EMERGENCY SERVICES:

The proposed subdivision is within the Broadwater Sheriff Department's jurisdiction. Due the rural nature of this subdivision, response times for emergency services could be longer than expected.

g. FIRE SERVICES

The proposed subdivision is located within the Broadwater Rural Fire District. The nearest firehouse is Townsend Fire Hall, an unmanned, volunteer fire house. The Subdivider will need to propose a fire protection plan for review and approval by the Broadwater Rural Fire District.

Conditions of Approval Numbers 2, 4, 5, 6, 7, 9 and 10-b are required to mitigate impacts on local services. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The impacts to local services, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

D. IMPACTS ON THE NATURAL ENVIRONMENT

1. DEFINITION OF NATURAL ENVIRONMENT: The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light, and objects of historic and aesthetic significance. *Broadwater County Subdivision Regulations, Definition 47.*
2. NARRATIVE: According to the preliminary plat application the property is relatively flat with no waterways or wetlands. The proposed subdivision is

outside of the FEMA mapped 100-year floodplain.

3. FINDINGS: The property is located within the Intermountain Seismic Belt that extends through western Montana and frequently produces small earthquakes and has previously developed some major earthquakes. Property damage and risk can be minimized with construction techniques and earthquake planning.

Per Chapter V-B of the Broadwater County Subdivision Regulations, the design and development of subdivisions must provide satisfactory building sites which are properly related to topography, and must, to the extent possible, preserve the natural environment.

All grading, drainage and erosion control shall be in compliance with Chapter V-J of the Broadwater County Subdivision Regulations.

All post development generated stormwater will be detained within the subdivision boundaries. A stormwater pollution prevention plan will be implemented and will remain in effect during the construction phase of this project and until disturbed soils are properly stabilized. The grading and drainage plan will be provided for review to the Environmental Health Officer.

Per Chapter V-R of the Broadwater County Subdivision Regulations, a Weed Management Plan shall be approved by the Broadwater County Weed Board prior to the subdivision application being considered complete.

A Noxious Weed Management Plan has been completed by the developer, submitted, and approved by the Broadwater County Weed Coordinator and the Broadwater County Weed Board. No critical plant species have been identified. Existing vegetation will only be disturbed for necessary construction of roads, driveways, utilities and structures. Any construction disturbance will be reseeded with an approved grass seed mix. A Weed Management Plan has been approved by the Broadwater County Noxious Weed District to control and prevent the growth of noxious weeds. The Subdivider will be responsible for adhering to the Weed Management Plan until all lots are sold or the responsibility is turned over to a homeowners' association. (*Source: Application for Preliminary Plat: Item 28—Weed Management Plan*).

A letter was received from the Montana Historical Society (MHS) on October 4, 2022 for the Albe Minor Subdivision, to determine if there are any known historical, cultural or archaeological sites which may be affected by the proposed development. According to Damon Murdo, MHS Cultural Records Manager, there had been one previously recorded sites within the designated area; the historic Northern Pacific Railroad, which is outside of the proposed project area. (*Source: Application for Preliminary Plat: Item - 31, Letter from Damon Murdo dated October 4, 2022*)

Conditions of Approval Numbers 8, 10-c and 12 are required to mitigate impacts on the natural environment. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The impacts on the natural environment, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed

E. IMPACT ON WILDLIFE AND WILDLIFE HABITAT

1. DEFINITION OF WILDLIFE AND WILDLIFE HABITAT: Those animals that are not domesticated or tamed, or as may be defined in a Growth Policy; and The place or area where wildlife naturally lives or travels through. *Broadwater County Subdivision Regulations, Definitions 84 and 85.*
2. NARRATIVE: Wildlife such as antelope, mule deer, white-tailed deer, upland game birds, other small birds, rabbits and other rodents likely utilize the proposed subdivision. However, there should be no displacement of wildlife since the surrounding area is residential and expansive agricultural property.
3. FINDINGS: The impacts on wildlife habitat will be negligible based upon the surrounding uses. Landowners are encouraged to install wildlife friendly fencing, contain domestic animals, and secure solid waste to reduce wildlife incidents whenever possible.

Conditions of Approval Number 10-c and 10-h are required to mitigate impacts on wildlife habitat. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The impacts to wildlife habitat, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

F. IMPACT ON PUBLIC HEALTH AND SAFETY:

1. DEFINITION OF PUBLIC HEALTH AND SAFETY: The prevailing healthful, sanitary condition of well-being for the community at large. Conditions that relate to public health and safety include but are not limited to disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards. *Broadwater County Subdivision Regulations, Definition 59.*
2. NARRATIVE: The proposed subdivision will be served by on-site wells. Each lot will have its own wastewater system as well as stormwater retention basin.
3. FINDINGS:

a. WATER SUPPLY:

The proposed subdivision is not within the service area of a public water system. The proposed lots will be served by individual on-site water wells, drilled into each lot, according to the Preliminary Plat Application. The use of these exempt wells is subject to review and approval by the DNRC.

b. WASTEWATER

Wastewater for the proposed subdivision will be provided by the use of individual on-site wastewater treatment systems (septic drain fields). DEQ will review and issue approval for the lots for adequacy and impact of the wastewater systems on groundwater quality and will issue a determination of non-significant impacts in a Certificate of Subdivision Approval.

c. STORMWATER

A stormwater retention plan will be created with concurrence by DEQ prior to final plat approval.

Conditions of Approval Numbers 7, 10-c, 10-d, 10-e, 10-f and 12 are required to mitigate impacts on public health and safety. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The impacts on public health and safety, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

G. COMPLIANCE WITH SUBDIVISION REGULATIONS

1. FINDINGS: The proposed subdivision meets all Subdivision Regulations, and it will remain in compliance with these regulations if all conditions of approval are satisfied. No variances have been requested.

All conditions of approval are required to address compliance with the Subdivision Regulations. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: Compliance with subdivision regulations, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

H. COMPLIANCE WITH SURVEY REQUIREMENTS

1. FINDINGS: A land survey and plat completed by a registered land surveyor in the state of Montana will need to be prepared. A review of the plat by the Community Development Department and the Examining Land Surveyor at the time of final plat application will ensure that the plat conforms to all conditions of approval, plat rules and regulations.

Condition of Approval number 3 and 9 are required to address compliance with survey requirements. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: Compliance with survey requirements, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

I. PROVISION OF EASEMENTS WITHIN AND TO THE PROPOSED SUBDIVISION FOR THE LOCATION AND INSTALLATION OF ANY PLANNED UTILITIES

1. FINDINGS: Utility easements will have to be shown and described on the plat, in accordance with the Subdivision Regulations and in consultation with the utility providers, where utilities are or will be installed, and where necessary for the future extension of services.

Conditions of Approval number 9 is required to address the provision of easements within and to the proposed subdivision for the location and installation of planned utilities. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The provision of easements within and to the proposed subdivision for the location and installation of any planned utilities, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

J. PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL WITHIN SUBDIVISION

1. FINDINGS: Legal and physical access to the subdivision is provided via Foster Drive, which is a privately maintained public road. Therefore, no approach permits are required. The three new approaches to be installed on 'Foster Drive' will not be reviewed nor approved by any agency or entity.

Conditions of Approval Numbers 4, 5, 9 and 13 are required to address the provision of legal and physical access to each parcel within the proposed subdivision. (A full list of the Conditions of Approval is found starting on page number 10)

CONCLUSION: The provision of legal and physical access to each parcel within the proposed subdivision as set forth in the Findings of Fact, will be addressed by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IX. RECOMMENDED CONDITIONS

The Albe Minor Subdivision is recommended for approval with the following conditions:

1. Any and all adopted State and County requirements and standards which apply to this proposed subdivision must be met unless otherwise waived for cause by the governing body. **(Mitigates Findings of Fact under “Compliance with Subdivision Regulations”)** (*Section 76-3-608, MCA; Chapter I, County Subdivision Regulations.*)
2. Plans for sewage treatment and water supply shall be submitted to the Department of Environmental Quality (DEQ) for review and approval. The Certificate of Subdivision Approval shall be filed with the final plat. All specifications in the approved plans shall be met. **(Mitigates Findings of Fact under “Impacts on Water and Wastewater under Local Services”)** (*Sections 76-4-101, et. Seq., MCA; Sections 17.36.101, et. seq., ARM; Sections 76-3-102(4), 501(1)(f)(iii), and 608(3)(a), MCA; Chapters IV-A. 9 and IV-A. 10., County Subdivision Regulations*)
3. The Subdivider will be required to submit the preliminary and final plat drawings in electronic format to Broadwater County in ARCGIS, AutoCAD or Microstation format. Additional materials may be requested by the County in electronic format to facilitate review of application materials. **(Mitigates Findings of Fact under “Compliance with Survey Requirements”)** (*Chapter II and Appendix Q, County Subdivision Regulations*)
4. A Preliminary Engineering Report (PER) must be prepared and certified by an engineer licensed in the State of Montana to provide an estimated cost of improvements necessary to make ‘Foster Drive’ meet or exceed Broadwater County Road Standards from the southwest corner of the proposed subdivision north to the intersection with ‘Antelope Road’. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each parcel within the proposed subdivision”)**: (*Chapter V-H-c-iv, Broadwater County Subdivision Regulations*)
5. Utilizing the formula in the Broadwater County Subdivision Regulations Section V-H-iv, the applicant shall complete the following for the subdivision access road: **(Mitigates Findings of Fact under “Impacts on Utilities and Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each parcel within the proposed subdivision”)**:
 - a. The applicant shall be responsible for their proportionate share of improvements to ‘Foster Drive’; or (*Sections 76-3-102, 501, 504(1)(g)(i), and 608(3), MCA; Chapters I-C, V-E and V-H, Broadwater County Subdivision Regulations*)
 - b. The proportionate share of funds derived from the estimated cost to improve ‘Foster Drive’ shall be placed in a reserve account held and used by the County

for the upgrade of 'Foster Drive' only.

6. Plans for the location and installation of individual mailboxes shall be reviewed and approved by the United States Postal Service prior to installation. The Subdivider shall submit documentation from the United States Postal Service verifying their review and approval. When required, Subdivider shall provide an off-street area for mail delivery. The Subdivider, its successors and assigns shall be responsible for all costs associated with meeting this condition of approval. **(Mitigates Findings of Fact under "Impacts on Mail Delivery under Local Services")** (Sections 76-3-102(4), 76-3-501(1), and 76-3-608(3)(a)-(b); Chapter IV-A-7 b. 8, County Subdivision Regulations.)

7. Prior to submitting the final subdivision plat application, the applicant shall complete a Fire Protection Plan for the purpose of furthering fire protection. The Fire Protection Plan shall be created with concurrence by the Broadwater County Rural Fire District. **(Mitigates Findings of Fact under "Impacts on Emergency Services under Local Services and Impacts on Public Health and Safety")** (Sections 76-3-102, 501, 504 and 608(3), MCA; Chapter V-Q, Broadwater County Subdivision Regulations)

8. Prior to any development and/or soil disturbance, the applicant shall submit a Subdivision Noxious Weed Management and Revegetation Plan for the proposed subdivision to the Broadwater County Weed District for review and approval. All specifications and requirements of the approved plan shall be met at the cost of the applicant. The applicant shall submit documentation to the Broadwater County Community Development Department from the Weed District verifying their review and approval. **(Mitigates Findings of Fact under "Impacts on Agriculture and Impacts on Natural Environment")** (Sections 76-3-102(5 and 6), and 608(3)(a), MCA; Chapters I-C-9 and V-R, Broadwater County Subdivision Regulations)

9. The final plat shall be prepared in accordance with the applicable State survey requirements, Montana Subdivision and Platting Act survey requirements and the County Subdivision Regulations. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. The final plat shall provide for the following: **(Mitigates Findings of Fact under "Impacts on mail Delivery, Utilities, Roads and Traffic under Local Services", "Compliance with Survey Requirements, the provision of Easements within and to the Proposed Subdivision for the Location and Installation of any Planned Utilities and Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision")** (Section 76-3-102, 76-3-402, 76-3-501, 76-3-504, and 76-3-608(3), MCA; Rule 24.183.1107, ARM; Chapter II-F, County Subdivision Regulations)

- a. All existing and proposed utility easements on the subject property; and
- b. All existing access and utility easements adjacent to the subject property.

10. The Book and Page reference to the restrictive covenants (filed with the County Clerk and Recorder) shall be indicated on the face of the final plat. In addition, the

forgoing restrictive covenants, shall be placed upon the property and shall provide for the following **(Mitigates Findings of Fact under all Review Criteria listed in the Staff Report)** (Section 76-3-608(3)(a), MCA; Chapters I and IV, County Subdivision Regulations)

- a. Notice is hereby given that all lots shall be used for Residential purposes only per the subdivision application **(Mitigates Findings of Fact under “Compliance with Subdivision Regulations”)** (Chapter I-C and III-A, Broadwater County Subdivision Regulations);
- b. Notice is hereby given that each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, waives the right to protest joining or the amendment of a Rural Improvements District for the installation, maintenance, preservation, and repair of the following: roads that provide access to the subdivision, stormwater improvements for the subdivision; fire protection improvements for the subdivision. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services”)** (Section 76-3-102(4), MCA; Chapter V-H-b, Broadwater County Subdivision Regulations)
- c. Notice is hereby given that each lot shall be maintained in a weed-free manner and a Noxious Weed and Revegetation Plan has been prepared for the subdivision and is on file with the Broadwater County Clerk & Recorder’s Office. **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Agricultural Water Users, Impacts on the Natural Environment, Impacts on Wildlife and Wildlife Habitat and Impacts on the Public Health and Safety”)** (Sections 76-3-102 and 608(3), MCA; Chapters I-C-9 and V-R, Broadwater County Subdivision Regulations)
- d. Notice is hereby given of the potential health risk from radon concentrations and that such risk can be evaluated through soil tests and mitigated through radon abatement techniques incorporated into structures. **(Mitigates Findings of Fact under “Impacts on Public Health and Safety”)** (Section 76-3-608(3)(a), MCA; Chapter I-C-10 and V-C, Broadwater County Subdivision Regulations)
- e. Notice is hereby given that all structures within the subdivision should be constructed to specifications which meet or exceed equivalent provisions in the applicable State building code for this seismic zone (Zone 3). **(Mitigates Findings of Fact under “Impacts on Public Health and Safety”)** (Section 76-3-608(3)(a), MCA; Chapters I-C-10 and V-B, Broadwater County Subdivision Regulations)
- f. Notice is hereby given of a restrictive covenant, binding the landowner, any heirs, successors and assigns, and all future owners of property within the subdivision, agreeing therein to hold Broadwater County harmless and indemnify Broadwater County from all claims, demands, obligations, suits, causes of action, damages, and liability, including the County’s costs and attorney’s fees, arising in any manner whatsoever out of, or relating to, the existence, use, operation, repair and/or maintenance of the following: **(Mitigates Findings of Fact under “Impacts on Public Health and Safety”)**(76-3-608(1) and (4), MCA; Chapter I-C-10, Broadwater County Subdivision Regulations)
 - i. Exposure to radon;
 - ii. Earthquake fault zone and any seismic activity; and

- iii. Water availability
 - g. Notice is hereby given of the presence of agricultural operations in the vicinity and such operations may occur at varying times and seasons and include, but are not limited to, the noises and odors due to the operation of machinery, the pasturing and feeding of livestock, irrigation, and the application of fertilizers, herbicides, and pesticides to fields. **(Mitigates Findings of Fact under “Impacts on Agriculture and Impacts on Agricultural Water User Facilities”)** (section 76-3-608-(3)(a), MCA; Chapter III-A-7-b, Broadwater County Subdivision Regulations)
 - h. Notice is hereby given that domestic pets should be restrained on the property at all times **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Agricultural Water User Facilities, Impacts on Wildlife and Wildlife Habitat”)** (Section 76-3-608(3)(a), MCA; Chapter I-C and III-A-7, Broadwater County Subdivision Regulations)
11. The Subdivider shall include a notarized “Right to Farm” declaration with final plat affirming that “No agricultural or farming operation, place, establishment or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal operations thereof as a result of changed residential or commercial conditions in or around it locality of the agricultural or farming operation, place, establishment or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.” **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Agricultural Water User Facilities)** (Section 27-30-101, MCA and Chapter IV-A 20, County Subdivision Regulations.)
12. Prior to submitting the final plat, the following improvements shall be installed or otherwise guaranteed. **(Mitigates Findings of Fact under “Impacts on Utilities, Roads and Traffic, Mail Delivery, the Natural Environment and Public Health and Safety)** (Sections 76-3-507 and 76-3-608(3)(a), MCA and Chapter IV-A, County Subdivision Regulations)
- a. Any necessary improvements required by the stormwater drainage plan, weed management plan, fire protection plan, or approach permits;
 - b. Installation of mail delivery facilities; and
 - c. Utilities abutting and available to each lot.
13. A ‘No Access Restriction’ shall be shown on the final plat from Lot 4 on to the 30’ foot wide Driveway Access and Utility Easement along the southern boundary of the property. **(Mitigates Findings of Fact under “Provision of Legal and Physical Access to Each Parcel Within the Subdivision”)**
14. Prior to final plat approval the applicant shall:
- a. Provide proof that all real property taxes and special assessments assessed and levied on the property are paid for the current tax year; including any

past delinquencies (**Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”**) (Section 76-3-611(1)(b), MCA; Chapter III, Broadwater County Subdivision Regulations)

- b. Provide documentation showing that the applicant is the lawful owner of the property with the apparent authority to subdivide the same and showing the names of lien holders or claimants of record (**Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”**) (Section 76-3-612, MCA; Chapter III, Broadwater County Subdivision Regulations)

This preliminary approval shall be in force for three (3) calendar years. At the end of this approval period, the Board of County Commissioners may, at the written request of the applicant, extend its approval if that approval period is included as a specific condition of a written agreement between the Board of County Commissioners and the applicant. (**Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”**)

DATED this _____ day of February, 2024

BROADWATER COUNTY COMMISSION

ATTEST:

Angie Paulsen, Clerk & Recorder

ADDENDUM TO ALBE MINOR SUBDIVISION FINDINGS OF FACT AND ORDER REPORT

Preliminary Plat
Dated 11/20/2022

ALBE MINOR SUBDIVISION Preliminary Plat

To: Broadwater County Commissioners
From: Broadwater County Planning Board
Subject: A proposed subdivision to be known as **Albe Minor Subdivision**

GENERAL INFORMATION

Date of Application: November 10, 2022
Element Complete: November 21, 2022
Date of Sufficiency: November 21, 2023
Review Period Ends: February 15, 2024 *extension granted to 2/7/24, but with the addition of new information the time has been extended to 2/15/24*

SUBDIVIDER: Steve Upton
Townsend, MT 59644

SUBDIVIDER'S REPRESENTATIVE: Bernadette Swenson
64 Jack Farm Road
Townsend, MT 59644

LEGAL DESCRIPTION: Situated in Section 3, Township 7 North, Range 1 East,
Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off Foster Drive,
approximately six (6) miles northwest of Townsend, Montana.

NEW INFORMATION ANALYSIS BY THE BROADWATER COUNTY COMMISSION:

Section 76-3-615, MCA governs the consideration of new information presented during the review of a subdivision application. On January 25, 2024 the Broadwater County Community Development Director was given documentation for the further review of the Albe Minor Subdivision. The Broadwater County Community Development Director determined that this document constitutes new information regarding this subdivision application that had not been considered at a public meeting before the Broadwater County Planning Board. Pursuant to the 2021 Broadwater County Subdivision Regulations, Section II-A-4, the applicable review period is suspended while the subdivision administrator considers the amended application. The Broadwater County Planning Board has scheduled a subsequent public meeting for consideration of **only the new** information that may have an impact on the findings and conclusions that the

governing body will rely upon in making its decision on the proposed subdivision.

The Broadwater County Commission must make a determination on this subdivision application by February 15, 2024.

ATTACHMENTS: A. Grant of Shared Driveway Access Easement

NEW INFORMATION:

The new information/documents submitted as part of this subdivision application process since the last Broadwater County Planning Board public meeting on December 27, 2023, are discussed in this Addendum to the Staff Report. Recommended findings of fact as they related to the primary review criteria and conditions to mitigate the impacts of the findings of fact are set forth in each section for the Broadwater County Planning Board's consideration, as well as an analysis of the 2020 Broadwater County Growth Policy. The Broadwater County Planning Board will also have to **analyze** public comment received during the public meeting to determine if the public comment is relevant, and if so, whether the public comment requires new/additional findings of fact and conditions to mitigate the impacts of those findings of fact. **Only public comment on the new information can be heard by the Broadwater County Planning Board during the public meeting.** *(Section 76-3-615(2)(b), MCA).* **The Broadwater Planning Board is required to submit public comments in its recommendations to the Broadwater County Commission.** *(2021 Broadwater County Subdivision Regulations).*

A. NEW INFORMATION – GRANT OF SHARED DRIVEWAY ACCESS EASEMENT

1. SUMMARY: Access was discussed in the Staff Report originally submitted to the Planning Board under PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL WITHIN THE SUBDIVISION. The Staff Report stated:

Legal and physical access to the subdivision is provided via Foster Drive, which is a privately maintained public road. Therefore, no approach permits are required. The three new approaches to be installed on 'Foster Drive' will not be reviewed nor approved by any agency or entity.

Based on the above and a finding that there were no impacts, no condition of approval was suggested. However, during the Broadwater County Commission meeting of January 3, 2024 the Commission commented that with the creation of Lot 1 of the Albe Minor Subdivision, this would be the third lot utilizing a shared driveway. On January 25, 2024 the subdivider's representative provided the Broadwater County Community Development Director with the attached Grant of Shared Driveway Access Easement to be considered by the Broadwater County Planning Board as new information since the Broadwater County Commissioners have not yet made a determination of approval, approval with conditions or denial on this proposed subdivision.

2. ANALYSIS: According to the 2021 Broadwater County Subdivision Regulations Definition #18 for Driveways, “A driveway is a vehicular access serving no more than two dwelling units. Accesses serving more than two dwellings shall be considered a road, and shall be built to the road standards outlined in these Regulations.” The Shared Driveway Access Easement presented by the subdivider’s representative restricts the use of the access easement by the owner of Tract 19-A; a parcel of land outside of this proposed Albe Minor Subdivision.

3. SUGGESTED FINDING: Upon the County’s acceptance of the Shared Driveway Access Easement this mitigates the developer’s potential requirement to construct the northerly access easement to Broadwater County Subdivision Road Standards.

4. SUGGESTED CONDITIONS: The Shared Driveway Access Easement shall be signed and notarized by all landowners adjacent to the 60’ wide Access Easement along the north boundary of the proposed Albe Minor Subdivision. This document shall be recorded with the final plat. If Lot 19-B or Lot 1 of the Albe Minor are further subdivided the shared driveway improvements cost to Broadwater County Subdivision Road Standards must be the responsibility of the developer at time of subdivision.

5. CONCLUSION: With the addition of the recommended conditions, the impacts on the Provision of Legal and Physical Access to Each Parcel Within the Subdivision shall be mitigated.

ATTACHMENT A

GRANT OF SHARED DRIVEWAY ACCESS EASEMENT

WHEREAS, Steven F. Upton, James A. Foster, and Sharon Foster hereafter referred to as “Grantors” are the owners of the following contiguous tracts located in Broadwater County:

Steven F. Upton: Amended Tract 18-A of Certificate of Survey Book 2; Page 265 and Lot 1 of the Able Minor Subdivision situated in part of the NW ¼ of Section 3, Township 7 North, Range 1 East, P.M.M., Broadwater County, Montana and

James A. Foster: Tract 19-A of Certificate of Survey Book 1; Page 199 situated in part of the NW ¼ of Section 3, Township 7 North, Range 1 East, P.M.M., Broadwater County, Montana.

James A. Foster and Sharon Foster: Tract 19-B of Certificate of Survey Book 1; Page 199 situated in part of the NW ¼ of Section 3, Township 7 North, Range 1 East, P.M.M., Broadwater County, Montana.

WHEREAS, Grantors desire to impress upon the said properties certain covenants, rights-of-way, and restrictions regarding the use, access, and maintenance which shall inure to the benefit of and be binding upon the successors and assigns of Grantors.

THEREFORE, the Grantors do hereby impress upon the above described properties the following covenants, rights-of-way, and restrictions, which shall hereafter be covenants which run with the land and shall inure to the benefit of and be binding upon the grantees, successors and assigns of each of said separate tracts:

1. The shared driveway shown as a 60’ wide Access Easement on Certificate of Survey Book 1; Page 199 shall be a perpetual easement in favor of the successors in title for ingress and egress to and from the said properties with the use being restricted to access said Tract 19-B and Lot 1 of the Able Minor Subdivision. Said Amended Tract 18-A and Tract 19-A will be restricted from using said Access Easement and shall utilize a separate driveway access directly from Foster Drive.
2. The successors in title to each tract shall not obstruct or restrict the use of any portion of the driveway and no buildings or improvements may be erected upon said easement.
3. Each of Grantor’s successors in title to said Tract 19-B and Lot 1 shall be charged equally with the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and

to travel upon and use, the shared driveway and its necessary fixtures and appurtenances through, over, and across a corridor, 60 feet wide and shall cooperate with each other in the performance of routine and necessary repairs.

4. In the event it becomes necessary to enforce the terms of this easement through court proceedings the prevailing party shall be entitled to reasonable attorney fees.

THIS GRANT of right and authority shall run with the said property and be binding on the Grantors, their successors, all subsequent owners and any parties having right, title, or interest in the said property.

IN WITNESS WHEREOF, the Grantors have hereunto set their hand this _____ day of _____, 20_____.

Steven F. Upton

State of _____

County of _____

This instrument was signed or acknowledged before me on _____ by _____

Notary Signature

James A. Foster

State of _____

County of _____

This instrument was signed or acknowledged before me on _____ by _____

Notary Signature

Sharon Foster

State of _____

County of _____

This instrument was signed or acknowledged before me on _____ by

Notary Signature