

FOURTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Special Session on February 15, 2005, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

Larry Lasha	Commissioner	Present
Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Absent

Also present Finance Director, Dana Angel and Sharon Kendall, Deputy Clerk.

The Pledge of Allegiance to the Flag of the United States of America was recited by those present.

NEW BUSINESS:

Commissioner Lasha stated that this was authorization of the Board to sign Regional Park IGA between RE-2 School District, Cañon City Park & Recreation District and Fremont County.

Commissioner Norden stated that they anticipated they would be ready to possibly approve this agreement today, and thought they were very close. He and the County Attorney had a discussion yesterday and reviewed the history of where the Board of Commissioners in 2004 approached this project initially for the work with the consultant in developing the Master Plan for the Regional Park west of Florence. He stated he did not realize the detail of what the initial work was limited to in relation to the Master Plan. In the minutes of the Board meeting of April 13, 2004, the Board of Commissioners authorized an expenditure up to \$25,000 for the initial commitment to Tasks 1, 2 and 3 of the Master Plan. Those three tasks are very close to completion, but apparently work by the consultant has moved already somewhat into Task 4 without the appropriation by either the previous Board of Commissioners or this Board for authorizing further work on Tasks 4 and 5. That further relates to one of the paragraphs in the Intergovernmental Agreement that speaks to the cost of the design firm being paid one half by the Recreation District and one half by the County. He stated that this Board needs further detailed clarification with DHM Design as to the scope of work that we want them to continue to do on behalf of the County. The paragraph that talks about the splits of the cost of the design firm he thought causes concern before they complete the final appropriation from the Conservation Trust Funds in the 2005 budget as to the specific details they want the design consultant to work on, as well as a desire by this Board to meet with the Recreation District administration, their board of directors and their legal council to make sure they are all on the same page as to the specific direction that they want to be taking in Tasks 4 and 5. He stated that Ernie Martinez in the Planning Department had difficulty in plotting the boundaries from the legal description.

Jack Effinger, County Surveyor, stated he had been involved somewhat in the creation of the legal description. Mr. Hoar had asked Matt Koch to write the legal based on the drawing that DHM had prepared including setbacks from the proposed buildings. He stated his concern on the legal description is that there are several references in the legal dealing with non-tangential curves. The correction of those would amount to an insignificant amount of area. It could be both in one favor or the other of each party, but it would make it a less cumbersome, more readable legal description. This is going to become the common boundary between the two parties. In the future for surveyors, title work, to get grants, the legal description as it reads now is extremely difficult to interpret and to establish its location. It was their recommendation that prior to utilizing this as the

final legal description, that minor adjustments be made to try to correct those inconsistencies.

Brenda Jackson, County Attorney, stated that she did not have a problem with the IGA as drafted, and she thought it would be appropriate to make the legal description simpler. With the issue of moving into Tasks 4 and 5 under the DHM contract, as the Board knows and the minutes from April 13, 2004 meeting when the contract was originally approved, they have always known that the Recreation District was on a different time schedule than the County. At the time the contract was approved, the County was not willing to expand huge amounts of money to drive this project forward because the money simply was not available. The County approved Tasks 1, 2 and 3 of the contract although the entire contract was signed, however, the minutes reflect that it was signed with limited authority and certainly limited funding. The funding was capped at \$25,000 and was limited to Tasks 1, 2 and 3. There has been no Board appropriation for Task 4 or further. That would require additional action by the Board to move forward with Task 4. The County was willing to participate and cost share up through the Master Plan. When it moved into construction design and construction costs, the County did not know what their timing was going to be as far as moving forward with construction. She stated she recognized that a lot of these costs are going to be shared costs because it is going to be a shared benefit. Not all of the costs are going to be that way. The contract is written to accommodate the Recreation District's needs and not the County's needs and that is why the Board limited it to Tasks 1, 2 and 3 because that was clearly shared needs at that point in time and shared funding. Mrs. Jackson stated that from the figures she had seen, they were almost to the \$25,000 that was authorized for Tasks 1, 2 and 3. The IGA does not commit the County to Tasks 4 and 5, however, there is some language that seems to suggest that shared funding will continue. In the last draft she received, she stated she made the recommendation to Mr. McDermott that they take out the reference to future funding and say it will be done by separate agreement, and apparently that is what raised the red flags. Apparently this is an issue and the Recreation District was counting on the County continuing to contribute in Task 4 when no authorization had been made for that. She stated she would note that this is no surprise to anyone. Jim Hoar was present at that April 13th meeting and heard the Board's authority and the Board's appropriation. She stated her only concern with the IGA is that it leaves open the interpretation of additional funding for Tasks 4 and 5 that have not been authorized by the Board.

Commissioner Norden stated that he believed that the Board was committed to sharing what some obvious benefits to both parties are, and that includes the access off of Highway 115, the entry way into both properties, the utility development and some of the roads. Those are obvious design issues that will benefit both and are somewhat more urgent in nature to the Recreation District than to the County because they are pressing forward with their half of the project in a much speedier pace than us. We want to spend more time with the steering committee and the design consultants to make it clear as to where we want to go on the County portion.

Jim Hoar stated that the IGA had been a process that has been on-going for over a year, and they have tried to address all the issues that the County has brought forth. They have made at least three revisions at the request of RE-2 School District. As they design, it is essential that each side know what the other side is doing. He stated he understood that the County was committed to the project, and he anticipated that the County would budget money this year for the project. He stated they had \$45,000 more to put toward the design of this project. He stated that the IGA had to get done because they have a meeting planned for the 24th with their Citizens Committee to review the final design of their plan and to start working toward future fund raising. He stated that before you apply for a grant, State agencies have to have the ownership issues settled. He stated that if they needed to clean up the legal, he was not against it. He called DHM and asked them to stop with the design until they could meet with the County and go through line by line what services had been completed, what has been provided in the form of a Master Plan and what will be coming to finish up the Master Plan and that Tasks 4 and 5 will be reviewed.

Commissioner Norden stated they wanted the IGA completed as soon as possible as well, but the obstacles that would prevent an immediate action or signature would be the legals and could be taken care of without too much delay. The other question is then if paragraph B under Item 4 on the cost split be extracted from the IGA at this point and that they move towards a separate agreement on future costs share after this Board has an opportunity to meet with the events center steering committee, after this Board has an opportunity to meet with DHM Design to detail what projects they want to proceed with and consideration of this Board meeting with the Recreation District board and staff to then clarify what cost share arrangement should be made from there on out?

Brenda Jackson stated that all she could do was go on what the Board's intent was back in April. She stated she thought the Board was reluctant to fund items that were solely going to benefit the Recreation District and not the County's portion of the project. Once you start at the construction phases, you really do start separating out tasks by who is going to use what portion of the project. She stated she had some reservations about some areas that the Recreation District is calling common areas. The ball field on the left hand side as you go into the project is referenced as a common area, but that is going to be what they are going to use for their soccer field. It will be the first area to be developed and it is on property solely owned by the Recreation District. She stated we would be giving them water shares to water that area. She stated she questions how common that area is and whether that is a portion of the County's project or if they would truly be isolated to the acreage that they are retaining? She stated that was something the Board needed to examine before going further, and before they pay to put in the ball field, they make sure that there is going to be a County benefit.

Commissioner Lasha stated that he did not think anyone disagrees that the IGA needs to get resolved. In reference to the legal and the elimination of future problems, it just absolutely makes sense to get it taken care of. He stated that the County did commit \$50,000 to the events center, and he felt that they have an important issue of getting the boards together and talk about future items.

John McDermott, Attorney, stated the IGA needed to get signed because it is time. The draft has been circulating for close to a year and a half. It is important to get the details and specifics pinned down.

Commissioner Lasha stated if they had signed this a year and a half ago, they would probably be paying a lot of attorneys in the process to getting where they are now. He stated he wanted to get a document together where all were in agreement, and he believed in spending the extra time in doing it now.

Brenda Jackson stated they were being invoiced for Task 4 that was never authorized.

John McDermott stated he advised his client to not sign the DHM agreement even if the County signed it until the Recreation District had something in writing from a duly authorized representative of the County. That is outside this agreement they are trying to get signed now. He stated both parties signed the DHM contract and in writing agreed to each pay half, and to him, it was separate and apart from this.

Commissioner Norden stated that if an apology is needed for two new Board members out of the loop on the details, then they would apologize. He stated he had a sincere desire to sit down and decide what they want DHM Design to do for the County. There are services that are just as important to the County that they get started on to get that access designed and built and access into that acreage for their 47 acres as much as the 131 acres for the Recreation District. If they can get this IGA signed and allow another month to meet with their steering committee and their Board and the Recreation District board to decide future cost share for DHM Design, then he thought they could get there.

Commissioner Stiehl addressed Mr. McDermott and stated: “At the risk of paraphrasing or misquoting you, you said that the issue of future funding or division of funding responsibilities isn’t in the IGA. Commissioner Stiehl stated he thought it was and that he would agree with him if he had said it shouldn’t be in the IGA and then he thought they would be on the same page as far as striking paragraph 4B and/or replacing it with a phrase to the effect that future funding shall be by separate agreement.

John McDermott stated that clearly 4B does address that. He stated he did not think Commissioner Stiehl misquoted him. He stated he agreed it does say that up to the last sentence which reiterates the separate agreement or commitment that he thought exists. The first two sentences in 4B is one of the specifics that addresses funding, but it reiterates what is already separately. He stated that the Recreation District would agree to the language just proposed.

Brenda Jackson stated that there had been some statements about who can and cannot be present during meetings between these two entities and that needs to stop. They need to have a cooperative spirit. The County will invite whoever they feel will assist the County to the meetings and the Recreation District should feel free to do the same. She stated she thought the language could be accomplished by adding the word “separate”, before “agreement of the parties”.

Commissioner Norden stated that he would continue to educate himself on the details of this, and pledged to work hard to get it accomplished. **Commissioner Norden** made the motion to authorize the Chairman to sign the Intergovernmental Agreement with Cañon City Park & Recreation District, the Fremont RE-2 School District, and Fremont County, changing the language on Page 4, paragraph B under Item 4 “Payment of costs for the design firm for services rendered after preparation of the master plan will be divided by separate agreement of the parties” and that the authorization for signature will come after both parties, the Recreation District and the County, have received a redesigned legal description that will be provided in joint consultation by Jack Effinger and Matt Koch. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 10:21 A.M.

County Clerk