

## **SIXTEENTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on July 26, 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; Bill Giordano, Planning and Zoning Director and Sharon Kendall, Deputy Clerk.

The Morning Prayer was given by Pastor Jack Crosby, who serves with United Presbyterian Church and Vineyard Christian Fellowship.

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

### **APPROVAL OF AGENDA**

**Commissioner Stiehl** stated that the Administrative/Informational section needed to be added right after the Consent Agenda, as V) 1. Staff/Elected Officials Comments and 2. Citizens Not Scheduled to Speak. There was a second from Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

### **CONSENT AGENDA**

**Commissioner Norden** moved to approve the Consent Agenda:

1. Approval of Minutes June 28 and July 12, 2005
2. Approval of Bills, July 26, 2005/\$460,603.35
3. Adoption of Resolution #32, Series of 2005, file SRU 05-002 Children of the Son.
4. Penrose Post No 2788  
Preston Management  
PO Box 645  
402 Broadway  
Penrose, CO 81240-0645  
Club Liquor License Renewal – Malt, Vinous and Spirituous

The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

### **ADMINISTRATIVE/INFORMATIONAL**

1. Staff/Elected Officials

**Commissioner Norden** stated that there was some activity at the Pathfinder Park. He wanted to take particular note of two days of work there by Ben and Jason Gowdy, Lee Daffron, Richard and Roland Lain and Zack Stanley. They went down there with heavy equipment and removed huge amounts of timber and took down some large cottonwoods preparing for the outdoor arena that will be constructed this fall. They have started advertising for bids and proposals, and the deadline is August 17<sup>th</sup>. If there are any questions about the bidding process for the arena, they can contact Tommy Covington at the County Extension Office. Those individuals named donated their time to clear the space. There will be more activity with the County and the Recreation District in the next

couple of months. They expect to break ground officially for the park and hopefully see construction this fall on the entryway into the park and the Highway 115 access.

Commissioner Norden reported that the County Fair gets under way this weekend with ribbon cutting ceremony this Saturday morning at 8:30 at the Rodeo Grounds. Saturday and Sunday will primarily be comprised with the 4-H horse shows. The Big Ranch Rodeo will be Saturday night at 6:00. August 5<sup>th</sup> is Senior Citizens and Kids Day, and there will be special activities.

**Commissioner Lasha** stated that he and Dana Angel went to Steamboat Springs last Thursday to make a presentation for a Mineral Impact Grant for \$50,000 for the Phantom Canyon bridge. He stated they were approved for that grant, and will be moving forward with that this year and hopefully have it replaced by fall. The mine in Victor contributed \$10,000 as a match to that which is a big step of faith from the mine to Fremont County and they appreciate that gesture.

**Commissioner Stiehl** stated that regarding the inclusion of eastern Fremont County in the Upper Arkansas Water Conservancy District, the collected signatures were heard by a judge in the past week. The judge ruled Friday that the petitions were insufficient. The final ruling has not been written so they do not know how to interpret the next step. He stated he would be going to a meeting in Gunnison regarding House Bill 1177 which has to do with water roundtables. The State has been divided into seven basins and each basin has a roundtable group of representatives to be in discussions about what to do with water over the coming years.

## 2. Citizens Not Scheduled

**Jerry Mallet, Chaffee County Commissioner**, stated that in regard to the expansion of eastern Fremont, the Commissioners do support this concept with some criteria. He stated they were involved in the situation last week. They filed in breach of contract against the Upper Arkansas. With the resources that they have generated for the last 27 years, they have three reservoirs and a fund of about \$2.5 million that the members of Chaffee County have participated in. They would like to see a full and transparent study of the analysis and see where they could move forward. They hope to bring in expert witnesses and other people to look at this analysis. It appears that this proposal was advanced primarily by the District and certain real estate interests, and this gives them great concern. They went through the petition in depth. They were concerned that no one represented the petitioners at this hearing. They want to move forward with this with the commissioners from Fremont County and Custer County.

**Vincent Garrison, Florence Resident**, expressed a concern regarding weed cutting.

## OLD BUSINESS:

### **REQUEST: SP 05-002 (PUD) THE MESAS ON SUNRISE RIDGE**

**Allen Miller, Manager, La Mesita Del Sol, LLC**, stated this property was at the intersection of Van Loo and Dozier Avenue. He stated he wanted to correct a few things on the Agenda. It says that the open space would be a little over 12 acres, and it is actually about an acre more than that. Instead of being 43.2%, it is 46.8%. It mentions that they would not put the sidewalks in the rear yard as he had discussed before. He stated they still want to do that because they feel it is important to provide that walking area away from the street. By providing parking on one side of the street, they have added about 100 additional parking spaces over what was discussed before. They increased the street width to 38 feet, which allows two 12-foot driving lanes and still get parking, curb and gutter and sidewalk. They were asked to make sure the drainage would work with the plan. They did have a drainage plan from years ago that was for more lots, but the figures were used from that. The area and size of those drainage detention facilities will fit in with the plan as they have resubmitted. The traffic study was gone over by Mr. Effinger

and asked them to do some additional work to show how they would fit the turn lanes in there. They did additional surveying, and received another letter from Mr. Effinger stating that he had gone over the turn-lane drawing, and it shows the feasibility of constructing the required left-turn lane for south bound Dozier to go up Van Loo. He stated they were attempting to build an up-scale, gated community that will satisfy a very specific niche in the market. The PUD plan is the most restrictive plan that the County has. The zoning regulations are quite clear about what can be done within a zone. The PUD plan requirements in the subdivision regulations are also quite clear about what you can or cannot do.

**Bill Giordano, Planning & Zoning Director**, stated that at the meeting on April 26<sup>th</sup>, the Board did ask Mr. Miller to come back and address the traffic concerns, density and drainage issues. This is a sketch plan and a PUD. Under the sketch plan, what they are asking Board action to be taken today is that the regulations require comments, suggestions and recommendations. This is intended to be more like a workshop where Mr. Miller is given guidance as to what the Commissioners are going to look for if he proceeds. The PUD part is the part that ties him and gives the Commissioners negotiating power with him. He is asking for some things that are less than the regulations and giving up other things. His basic lot size is 48 X 100, but his overall density is 11,000 so he is giving it back in open space.

**Commissioner Stiehl** stated that the dye was cast in 1995 when this was zoned. It used to be a gravel quarry. He asked Brenda to comment on the legalities under their responsibility under subdivision requests. They are looking at a PUD wherein the density cannot exceed the underlying zoning. It gives them a little more control over what goes on in the subdivision as far as buildings. It gives him a little more flexibility as to what kind of lot sizes he may propose should this go forward. He stated they could not change the density.

**Brenda Jackson, Fremont County Attorney**, stated that there were two major things that the Board considers under their regulations. One is zoning and one is subdivision. The courts have made it quite clear that you have a great deal of discretion when it comes to how a property is zoned when it comes before the Board for zoning. They look at things like traffic, the compatibility with the neighborhood when looking at a zoning request. The Board did this in 1995 when they rezoned this to low density residential. The second factor is subdivision under subdivision regulations. The statutes require counties to adopt subdivision regulations. They go on further to provide along with confirmation from the courts that if an applicant for a subdivision meets the regulations and meets the requirements of the regulations, there is no discretion to deny. Once they have zoned it, the presumption is they can subdivide within the density that the zoning provides. In 1995 it was zoned a low density residential which with public sewer and water, gives them the right to subdivide down to 8500 square feet per lot. Configuration is a matter for discussion and the amenities that will be provided – access, interior roads and things like that are all things that can be subject to negotiation. The bottom line is if they meet the regulation requirements in our subdivision regulations, the subdivision must be approved. The PUD is a combination of a zoning request and a subdivision request. There are elements of zoning within a PUD, so as far as approval or denial of a basic plan for a PUD, you have discretion. When it is a straight subdivision and looking just as the subdivision requirements, if they meet the regulations, the Colorado Supreme Court has said you must approve. There is very little discretion once you get to subdivision except to make sure they are compliant with the regulations.

**Commissioner Stiehl** stated that they still have as part of the record several petitions and letters prior to April 26<sup>th</sup> and have more now. The people who testified is part of the minutes and can be seen on the website. He stated they realize there is a problem on Dozier, but they have no discretion to deny because of underlying zoning which occurred in 1995. They are trying to come up with the best solution that will protect the property rights of the applicant and make it as little an impact as possible.

**Brenda Jackson** stated they had requested traffic studies on subdivisions before to determine whether or not there would be a problem in accessing onto a county road. One of the subdivision requirements is that all lots have access to a public road. You can look at traffic conditions in connection with that. It is a reasonable subdivision request in connection with this one, however, they are looking at off-site streets. They are looking at Van Loo and Dozier, not interior streets. It is more of a request under the PUD and the zoning aspect of a PUD than a subdivision request in this context.

**Commissioner Norden** stated that the three of them had reviewed the latest changes or reviewed what was put to them on April 26<sup>th</sup>. They are at the quandary as to whether they can negotiate with Mr. Miller over something that is some kind of benefit to everybody or under the PUD status they can negotiate or simply have him return with a subdivision proposal. He stated the Planning Commission was concerned about density, he was concerned about density and the neighbors are concerned about density. One of the concerns expressed previously by the neighbors was that some of this drainage would be pouring down Van Loo. On the traffic study he reviewed, it states almost 10 cars per day per unit is the estimate, and he stated that seems exceptionally high.

**Mr. Miller** stated that if anything, it was more important to them as a developer to take care of problems that they can take care of. He stated they would only be providing about 7.3% of the traffic on Dozier and Central according to the figures in the traffic study.

**Jack Effinger, Fremont County Surveyor**, stated that he felt that with the number of left-turn south bound Dozier vehicles required, that there be a left-hand turn lane. He stated his letter dated June 22<sup>nd</sup> did have an error, which stated ten years rather than 20 years. The grade on Van Loo is 10% and subdivision regulations state that it should not exceed an 8% grade. He stated his concern was people exiting the subdivision heading west on Van Loo coming down to Dozier with that steep grade. The City and the County has asked that the City Engineer and he get together and look at some of the traffic issues.

**Commissioner Stiehl** stated that he liked the idea of offering a retirement-type community. They are interested in proceeding and examining this proposal and trying to fine tune it to everyone's best advantage. On April 26<sup>th</sup>, they stated they were interested in listening to more of this concept. They wanted the developer to come back and not to change the standard subdivision roadway widths. When this second sketch plan came forward, the developer had widened his roadways marginally. If these standard subdivision roadway widths were honored, that would further reduce the density of the development. He stated they had not seen that yet at this point.

**Commissioner Lasha** stated that they went through a lot of information at the last meeting on April 26<sup>th</sup>. He asked for a couple of people to be the spokespersons for the group.

**Bob Crider, Cañon City Resident**, stated that this was a very difficult process for the citizens to come to the sketch meetings, and they were geared for the developer. He stated that this was the first time they had seen or heard about the Van Loo sketch and the first they heard about a new traffic letter. He stated they got the opinion that this was a done deal. He stated they would like for the developer to give two weeks notice that he is going to be on the agenda, so the public has an opportunity to look at the same things and have an opportunity to act rather than react. He asked what was going to happen to the people who live on Dozier, how much more are they going to have to give of their property and their lifestyle and their way of life to satisfy this development? There is enough in the traffic study that you could say let's start over and do something different. He stated he would rather live with the 86 units than the 115 or 130. The economics of putting fewer units would change the whole design of this project. The Planning Department has said no twice to this proposal, the engineer on traffic has given you a lot of reasons for this.

They look for the Board to not to tell them why they have to do something, tell them how you cannot do it. He asked who was going to pay for all the widening and lanes?

**Keith Hovland, Cañon City Resident**, stated he lived just south of the proposed development. He stated their primary concern is the density and the traffic congestion created by that density. During a two-hour period in the morning and the evening, there would be about one and a half minutes separating each car coming down Van Loo and trying to enter onto Dozier. Probably most of those would be trying to turn left to go south on Dozier. He stated he was not sure this development will be in harmony and compatible with the character of the surrounding areas and neighborhood. It is currently surrounded by current single-family residences with large lots and this does not fit within the developments that surrounds this proposal.

**Commissioner Lasha** stated they were here today to make comments, suggestions and recommendations. He stated this was his first PUD, and he personally believed strongly in PUD's. He stated he was sorry to hear Mr. Crider assumed that the decision has been made before they got here. They have present zoning right now on this property and present subdivision regulations that they have in place. This does not appear to be a place that is wanted for a PUD. He stated he went through all the documentation, all the comments from the Planning Commission and from residents. He stated his recommendation was that they do not proceed with the PUD, but in fact go with the present zoning and the subdivision regulations as they move forward. Commissioner Lasha complimented Mr. Miller on what he has done, and he has done everything the right way.

**Commissioner Lasha** made the motion to not proceed with the PUD as they move forward in this process on The Mesas on Sunrise Ridge. **Bill Giordano** stated that if they were voting against the PUD itself, they still have the issue of the sketch plan. The sketch plan still requires comments, suggestions and recommendations. As part of the motion, he asked that they also include all the comments, statements and recommendations as the Department. When they submit, these are things that they had problems with that he will have to address whether it is a PUD or not. **Commissioner Lasha** stated that going back to the regulations of the subdivision, he believed that is what his recommendation would be that they go by subdivision regulations that they have in place right now. **Brenda Jackson** stated they would have to do a whole new plan because they don't have the right lot size or the right street width. **Commissioner Lasha** made the motion that they do not proceed with the PUD, they stick with present zoning and subdivision regulations on Mesa on Sunrise Ridge. **Commissioner Norden** seconded the motion but asked Mr. Miller to come back up because Keith Hovland raised some questions. He asked Mr. Miller how far he was willing to go on anything on correcting traffic issues at Dozier and Van Loo? He stated they talked about it when he raised the question about Mr. Effinger's suggestion that the intersection be moved south, but he was not sure he heard a clear answer as to where he was willing to go along with any of those ideas, whether he was willing to make those changes or whether he was steadfast against moving the intersection or the guardrail? Where is your flexibility here? **Mr. Miller** stated that as far as the improvements, it was his understanding that they would be paying for those as shown and recommended in this plan, and they are prepared to do that and willing to do that. As far as the guardrail, that is a new item that has not been discussed before, therefore, he was not comfortable in making any commitment regarding that today. He stated he would like to mention again, the traffic study shows that the traffic generated in their subdivision by the year 2025 would be 7.3% of the total traffic on the street out there. Mr. Miller stated that Mr. Crider made a comment at the Planning Commission meeting that we had done a fine job of saying what you want to do for your buyers, what are you going to do for us, the neighbors? He stated he believed a couple of things that they would do is improve their sanitary sewer system because of conversations that they had had with the Sanitation District. They would certainly improve the traffic conditions at this intersection. He stated that probably doesn't fit with what they would like to see us do. He stated he also wanted to point out that all of the traffic from Sunrise Mesa, the full development built out

there is included in those traffic figures. All the traffic from Sunrise Mesa, the existing homes up there, as well as what they want to do are included in that. It has been said, the people in Sunrise Mesa would like to see them do the same type of development they have done, the same size of lots. He stated he would respond to that with the fact that the subdivision plats for Sunrise Mesa was recorded in 1993, so in 12 years they have built 16 homes. He stated he believed that Sunrise Mesa is an exceptionally fine subdivision. It looks great now, they need to do some work on the streets. When you drive through there, it is a wonderful subdivision. The point being, they don't need anymore of that right now in that area. That is why they elected to go a different route. To be compatible with does not mean it has to be the same as. He stated they would expect to pay for the improvements. **Commissioner Norden** asked Mr. Miller what his attitude would be toward these improvements if he returned with just a subdivision plan? **Mr. Miller** stated he would address it at that time. **Commissioner Stiehl** stated that he was not really ready to make a decision here, and that he was trying to be as objective as he could. He still had a couple of pieces of information that he didn't feel he had to make a decision. Mr. Crider mentioned the density, and he did not know what the density would be under a real honest-to-God plan for just regular development as if this were a subdivision and they had no control whatsoever and he just went in and did it. He stated he felt he needed a better estimate of the density under the underlying zoning to make a decision for or against a PUD. Mr. Hovland mentioned the criteria that needed to be met for PUD. He stated the dilemma for him was that they are not met either way, either with a conventional subdivision up there or a PUD. He stated he did not know which is lesser of the evils and he didn't want to say Mr. Miller is an evil person, he didn't mean that at all. He stated it seemed to him that whichever situation would mitigate the traffic, which is the biggest concern, the best would be that one which would be the most beneficial to the community. He stated he did not have that information. He didn't have the information about the density, what it would be if Mr. Miller got out his earth movers and flattened the top of that mountain and put as many houses on there as he possibly could with the streets that are required. He stated he also had not seen what he had hoped to see when they left the last hearing, was how this PUD would look as far as density if they had standard width streets throughout that development. Those are the two pieces of information he did not have and he did not know how to judge which would be less density. He stated he didn't have those and he was reluctant to vote to stop. He stated they had already done an extra sketch plan. Normally you get one sketch plan in a PUD and then go to preliminary hearing. They have gone one sketch plan extra already, and he would assume if they continue with the PUD, he did not know what the next step would be, but he would still like to get that information and he wished they had it today. **Mr. Miller** stated that the difference in the number of dwelling units that could be put on there as a regular subdivision and what they have proposed to do is not enough difference to make any difference to the neighbors. The traffic study was done based on 120 homes, and they are proposing 115. That is not enough difference to worry about or to ask for new traffic study. Even if they went down to something he believed they could do with a regular subdivision, it wouldn't be worthy of doing a new traffic study. It is not an exact science, a subdivision plat isn't an exact science. You compute to one hundredth of a foot, write it down and sign your name. Traffic studies are not that way. He stated it was his opinion whether there were 100 or 115 homes in there, he could not see how that would make any difference to the neighbors other than getting angry because they have 115 units. He stated he would be as clear as he could and as straight as he could about what they are willing to do, and he believed he had done that in regard to this traffic plan. **Commissioner Norden** stated that when they were there in April, the minutes reflect that he would be more comfortable if he came back with a plan that had 60 or 75 units to lower the density and to widen the streets as Mr. Stiehl has mentioned. He stated he was not sure either as the Chairman had indicated whether the PUD is going to work in this case. **Mr. Miller** stated he received one comment from the traffic engineers after they had completed their study. They had made some recommendations, and they took that into account and how they revised the street widths, etc. They said it is a growing trend in that type of development to kind of encourage congestion. He stated there were private streets where he lived and he measured the streets and it is 29 feet from back of curb to back of

curb. Parking is permitted anywhere you want to park. Occasionally they get people parked on both sides and only one lane of traffic and move through. It has never been a problem, and he did not think it would be a problem here. It is actually the kind of thing that is encouraged in this type of development to make it safer and quieter. **Commissioner Lasha** stated there was a motion and a second to not proceed with the PUD but to proceed with present zoning and subdivision regulations on The Mesas on Sunrise Ridge. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, no. The motion carried.

**NEW BUSINESS:**

**PRESENTATION OF PIKES PEAK NATIONAL CEMETERY – RETIRED GENERAL PAUL MAYE AND VIC FERNANDEZ**

**Paul Maye** stated that one of the smartest things he had done in life after a career in the military and with industry, was to decide to build and settle in Fremont County. He stated it was a great place for military families and veterans, they have gained strong support, and feel at home here. He was asking about a national cemetery opportunity and availability, and he found they were very limited. He stated what they were seeking from the Board this day was approval and support in joining the City Councils of Colorado Springs and others in the area in an effort to gain the respect and recognition of what the veterans have done. He submitted briefing papers and introduced General Fernandez.

**Retired General Vic Fernandez**, stated there were two briefing papers. One is a history of what has occurred concerning their efforts to get a veteran's cemetery established in the Pikes Peak region. The other one concerns the requirements. They have done quite a bit of research, done some site investigation and done acreage requirements. He stated they call this one the Pikes Peak Veteran's Cemetery, because they don't want to serve just El Paso County or Colorado Springs. They are talking about four primary counties, El Paso, Pueblo, Fremont and Teller. There are 103,491 veterans that live in all four counties, and that does not include the military that is stationed in the four counties, which is 30,000+ and is about to be 40,000. He stated they were looking for some sort of a resolution that they could pass, sign and provide to them so they could have it available to show to other entities. He presented a resolution to be used as a sample.

**RESOLUTION #33/REQUEST APPROVAL OF A RESOLUTION AUTHORIZING A CHANGE OF NAME FOR FP 05-003; RENAMING "BONDURANT SUBDIVISION" TO "HOPE SUBDIVISION".**

**Bill Giordano, Planning & Zoning Director**, stated that the Board and the Planning Commission approved both preliminary and final plat for Bondurant Subdivision. When they got ready to record this, they were informed that there already was a Bondurant Subdivision. They are requesting approval of the resolution which has been prepared by the County Attorney. They will record this before the plat hoping that people will understand how Bondurant became Hope Subdivision. **Commissioner Norden** moved to approve **Resolution #33** to change the name of Bondurant Subdivision to Hope Subdivision. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #33**.

**REQUEST: TUP 05-012 ROCKY MOUNTAIN ELK FOUNDATION BANQUET**

**G. Harold Moore, Rocky Mountain Elk Foundation**, stated he was representing the committee to get this permit application approved.

**Bill Giordano** stated that the action necessary is approval of the event. The applicants are requesting a waiver of the application fee plus the clean up fee. The Fire Department made three conditions of approval, and stated they would do an inspection prior to. Mr. Giordano stated that when they issue the permit itself, they will put it contingent upon that. The Board would also need to accept the liability insurance provided.

**Mr. Moore** stated that the Fire Department requests had been done. The Department wants to come and do another inspection.

**Commissioner Stiehl** requested that when they do the walk through, to certify that they have done it and sign on a piece of paper so they have it as part of the record.

**Commissioner Lasha** made the motion to approve TUP 05-012 Rocky Mountain Elk Foundation Banquet on August 13<sup>th</sup> from 4:00 to 11:00 with waiving the application fee. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

**REQUEST: MS 05-005 EFFINGER ESTATES**

**Commissioner Stiehl** stated he had an interest in this subdivision and requested to refrain from participation in the issue and abstain.

**John Effinger III, Great Divide Engineering & Surveying**, stated he was present as owner, engineer of Great Divide Engineering & Surveying and owner of the piece of property involved in this subdivision request. The property is slightly more than three acres on the east side of Logan Street in the Lincoln Park area, located between Sherman Avenue and Grand Avenue. Proposed Lot 1 is one acre and contains his existing residential house and a barn. Lot 2 is basically open, undeveloped pasture land.

**Bill Giordano** stated that at the July 5<sup>th</sup> meeting, the Planning Commission did recommend approval with 8 contingency items. Jack has completed items 4, 5, 6, 7 and 8.

**Jack Effinger** stated the other item was the ratification and consent form. He stated he was asking for a waiver of this is because he went ahead and paid off the existing mortgage on the property. There no longer is a mortgage, but unfortunately the release of the deed of trust can take anywhere from 18 months to two years to occur. The release of deed of trust probably would not happen before the plat would get recorded. Because he had provided proof of payment in full of the mortgage, he was asking that the ratification and consent form be waived. Logan Street though the City's thoroughfare plan is called a collector street. They have asked that it be a 70-foot right-of-way. When he did the Erp Subdivision in 2000, he argued against that. Logan Street is two blocks long, it goes from Park to Grand. The City was insistent, and they found that from 1897 on all of the right-of-way for Logan has happened westerly of the aliquot line. He stated he believed it was the west line of the northeast quarter, northeast quarter of Section 4. When they did Erps, the County requested that he give 45 feet of right-of-way. He stated he thought 25 feet was adequate that would give the 70 feet of right-of-way required. He asked that that contingency be changed to 25 feet, and they have provided the deed for that.

**Bill Giordano** stated if they eliminate it, it takes care of it. It is acceptable because Jack has provided the quit claim deed. They could eliminate it period if they so desire. Contingencies 4, 5, 6, 7 and 8 have all been addressed. If they waive No. 2. b., the ratification, all you are leaving is three.

**Commissioner Norden** moved to approve the two-lot minor subdivision for MS 05-005 Effinger Estates, with three contingencies:

**RECOMMENDED CONTINGENCIES:**

It is recommended that the following contingencies be provided within six (6) months (no extensions) after final approval by the Board of County Commissioners:

1. Final plat and copies (copies to be provided after recordation of the plat) as required by the Fremont County Subdivision Regulations.
2. **Title Commitment:**

- a. An updated title commitment issued within 30 days of recording of the final plat. An updated title commitment may result in additional requirements.

3. **Drainage Plan and Report:**

- a. Compliance with any drainage requirements as per reviewing engineer.

The motion was seconded by Commissioner Lasha and he stated there was a motion and a second to approve MS 05-005 Effinger Estates with the elimination of 2.b., 4, 5, 6, 7, 8, which leaves Contingencies 1., 2. and 3. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried. Commissioner Stiehl abstained earlier.

**REQUEST: MS 05-004 LEGACY SUBDIVISION**

**George Hall, GR Hall & Associates**, stated that this was a typical subdivision in the Penrose area, and is a ten-acre site. The existing residence is on Lot 2, and Lot 1 has apple trees. The access for Lot 1 is off of 4<sup>th</sup> Street. He stated they had no problems with the contingencies.

**Bill Giordano** stated that at the July 5<sup>th</sup> meeting, the Planning Commission approved this request with 14 contingencies.

**Commissioner Norden** moved to approve MS 05-004 Legacy Subdivision with 14 contingencies:

**RECOMMENDED CONTINGENCIES:**

The following items shall be provided to the Department of Planning and Zoning, within six (6) months (*with no extensions*) after final approval by the Board of County Commissioners:

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations.
2. **Title Commitment:**
  - a. An updated title commitment issued within 30 days of recording of the final plat. An updated title commitment may result in additional requirements.
3. A quit claim deed to the County for a twenty-five (25) foot right-of-way, from the centerline of K Street and 4<sup>th</sup> Street, along the entire property frontage.
4. **Proof of Water Service:**
  - a. Documentation of purchase of water tap for proposed 2<sup>nd</sup> lot, prior to recording of
    - a. Documentation of purchase of water tap for proposed 2<sup>nd</sup> lot, prior to recording of the final plat.
    - b. If water tap is not purchased prior to recording of the final plat, an improvement and escrow agreement may be provided for the duration of the 12-month deadline to purchase the water as per the letter from the Penrose Water District, dated 4-11-05.
5. Final plat shall reflect all numbered streets as a numerical designation, not the alphabetical spelling of the number, including the plat drawing and vicinity map.
6. Documentation clarifying the type of construction of the existing residence on the subject property shall be provided. *The submittal would indicate it to be modular construction, rather than a mobile home or manufactured home).*
7. The labels and leader lines referencing the “underground irrigation ditch” on the plat drawing shall be removed.
8. The labels and leader lines referencing the “15” CMP” on the plat drawing shall be removed.
9. The label referencing the “NE 1/16 Sec 33” on the plat drawing shall be tied to a set or found monument, further referenced in a meaningful manner or removed.
10. The notation in the “Legend” portion of the plat referencing “Existing Fence Lines” shall be removed.

11. The notation in the “Legend” portion of the plat referencing “Original The Beaver Land and Irrigation Company Plan No. 1 Lot and R.O.W. lines” shall be revised to read: Original Tract and R-O-W lines of the Beaver Land & Irrigation Co., Plat No. 1, Beaver Park.
12. The notation in the “Legend” portion of the plat referencing “Boundary Lines” should be further clarified to state Subdivision Boundary Lines or Subject Property Boundary Lines.
13. The notations located underneath the original tract number labels “not a portion of this survey” shall be changed to read “not included in this subdivision” or “not included in this plat”. (FCSR XII, E., 23.)
14. Please provide additional space (height) to fill in the recording information in the County Clerk and Recorder’s Statement on the plat.

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 11:32 A.M.

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County Clerk