

TWENTY-FIRST MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 27, 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	Present

Also present Finance Director, Dana Angel; Bill Giordano, Planning and Zoning Director and Sharon Kendall, Deputy Clerk.

The Morning Prayer was given by Pastor Jerome Perkins from Christ Life Ministries.

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

APPROVAL OF AGENDA

Commissioner Norden moved to approve the Agenda. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl moved to approve the Consent Agenda:

1. Approval of Minutes September 13, 2005
2. Approval of Bills September 27, 2005/\$404,718.24
3. LIQUOR LICENSES

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report for the month of August, and stated it had been a very good month for the County. The total revenues collected were \$785,222.05, which was up \$106,116.05 over a year ago. Sales tax collected for Fremont County was \$82,403.14, and that was up \$7,989.87 over a year ago. Total revenues which went to the County was \$461,723.10, which was up \$68,055.70 over a year ago. **Commissioner Norden** moved to approve the Clerk's Report for the month of August. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Norma Hatfield stated this was a mail-ballot election, which means that everyone who is an active registered voter will receive a booklet with the questions that will be on the ballot. It has comments pro and con on those questions. Only active voters will receive the booklet. If you are registered, you are considered an inactive voter if you do not receive one. There are close to 13,000 that are being labeled, and will be sent out in two to three days. She stated they have 4,000 to 5,000 people who have moved, and will not receive a ballot. The statute says they only have to mail ballots to active voters (people who have voted in the last two years). Inactive voters may call the office to request a

ballot. If there is a signature on file, a ballot will be mailed. If there is no signature, those people will be requested to come into the office so a signature can be obtained and then a ballot will be issued. Ballots will be mailed between October 6th and October 16th. There will be no polling places at all. If a ballot has not been received by October 24th, they should call the office. She stated with the previous mail ballot election, they had a greater turnout than almost any general election.

Commissioner Lasha stated they had a meeting with Christopher Juniper with Fort Carson. They have been dealing with a program on sustainability, and what Fremont County, El Paso County and Fort Carson will be looking like in thirty years. They are looking at things as far as planning to sustain what we have now, but make things better in the future. They will be continuing this program with Fort Carson.

Commissioner Norden stated that Penrose would be celebrating their 70th Apple Day this Saturday, October 1st.

2. Citizens Not Scheduled: There were none.

NEW BUSINESS

REQUEST: MS 05-006 H-D PRAIRIE

Tim Rocchio, R.C. & T.R. LLC, stated they were asking for an extension. There is a slight conflict between Gerard Verkaik and John Effinger on the drainage and the flood plain issue.

Bill Giordano, Planning & Zoning Director, stated that they needed to set a timeframe to give them time to resolve the problem.

Commissioner Norden moved to table MS 05-006 H-D Prairie to the October 25th meeting per the applicant's request. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

REQUEST: MS 05-007 HEART 4 SUBDIVISION

Matt Koch, Cornerstone Land Surveying, stated they were requesting a two-lot subdivision in Penrose. They had originally asked for a waiver of the septic design. After the Planning Commission meeting, they agreed that it should be done so they are no longer asking for that waiver. There is some concern about the animal units after this is subdivided. He stated he understood there could still be 14 permitted animals on the lot, and did not believe that was an issue.

Bill Giordano stated that the Planning Commission did recommend approval at the September 6th meeting, and there was a list of 10 contingency items.

Commissioner Lasha made the motion to approve two-lot Minor Subdivision MS 05-007 Heart 4 Subdivision, with 10 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.
 - b. A ratification consent and release will be required for deeds of trust found under Reception #783182 and under Reception #784952.

3. A 60 foot easement as requested by the Beaver Park Water, Inc., (Irrigation company).
4. Compliance with the Fremont County Subdivision Regulations Section XII., F., 5., requirements for proof of sewage disposal.
5. **Proof of Water Service:**
 - a. Documentation of purchase of water tap for proposed 2nd 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 tap, as per the letter from the Penrose Water District, dated 10-15-04.
6. A signed, sealed, stamped copy of the final drainage plan shall be provided to the Department as per the reviewing County Engineer in his letter to the Department, dated August 16, 2005.
7. **Florence Fire Protection District recommendations as per form letter dated July 31, 2005.**
 - a. The final plat shall note that all driveways have an address posted at the street.
 - b. All driveways shall be constructed to a standard that is adequate to handle fire equipment.
8. The plat subtitle shall read A VACATION & REPLAT OF TRACT 45, SECTION 33, TOWNSHIP 18 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, THE BEAVER LAND & IRRIGATION CO., PLAT NO. 1, BEAVER PARK, FREMONT COUNTY, COLORADO.
9. The plat TO WIT section shall read Tract 45, Section 33, Township 18 South, Range 68 West of the 6th Principal Meridian, The Beaver Land & Irrigation Co., Plat No. 1, Beaver Park, Fremont County, Colorado.
10. Closure sheets for each lot and the subdivision boundary.

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

REQUEST: SU 05-001 LOWE – MINIATURE DONKEYS

Bill Lowe stated they had 40 acres five miles west of town. They have 28 donkeys, and are raising them to sell the babies. The donkeys were not having as many offspring the last couple of years. It was determined that they have juniper trees all over, and discovered the juniper berries causes abortions in certain animals. They want to move the donkeys. They live in Lincoln Park, and would like to purchase about five acres in that neighborhood, and have 30 donkeys on it. The donkeys average about 33 inches at the withers, and average around 250 pounds. The 28 donkeys they have now consume about one and a half bales of hay a day and 50 pounds of grain.

Bill Giordano stated that the Planning Commission ended up in a 2 to 2 vote, which brings no recommendation to the Board. He submitted a copy of the present animal unit list. If there is not an animal listed on that, the Board and the Planning Commission can add that animal to it. The issue the Board is looking at today is whether they want one miniature donkey as related to the uses that are there. The issue is how many do we want, because they have already adopted in the regulations, they do list animal units. They have already made a commitment to allow some type of animals. It becomes more of an issue as to how many than not at all. The issues they are dealing with is land use issues – how much smell, dust, noise and those type of things.

Commissioner Lasha stated they were looking at a determination here that they would be looking at them on a case-to-case basis. He stated he could see this opening up into a management problem. **Commissioner Lasha** moved to deny the request SU 05-001 Lowe Miniature Donkeys. The motion was seconded by Commissioner Stiehl. **Commissioner Lasha** stated he believed they need to look at their animal unit category. He stated he was denying this individual one now with the commitment that they will be looking into that regulation in the future. The animal unit is still what is allowed with the horses (1 to 1). **Commissioner Lasha** stated there was a motion and a second for denial

of SU 05-001 Lowe Miniature Donkeys and the issue is 2 miniature donkeys as one unit. They are approving 1 to 1, they are denying the request for 2 to 1. He stated his motion was to deny the request for 2 to 1, but to have one miniature donkey as a unit. The list part is going to be discussed as a change later. **Bill Giordano** stated that it would actually be part of the list. You are adding it to the list. Whether they want to re-examine it later and leave it as 1 to 1 or 2 to 1, he stated he would do some research on it again and come back with some recommendations. **Commissioner Lasha** stated that his motion would be to deny the request for miniature donkeys as 2 to 1 for a unit. He stated he would be approving a miniature donkey being one unit at this time, with a commitment at looking at it in the future for the entire list. **Commissioner Stiehl** stated he withdrew his second. **Commissioner Lasha** stated that the motion failed for lack of a second.

Brenda Jackson, Fremont County Attorney, stated they could amend the regulations, and they will apply prospectively. Since this application would be pre any amendment, they still have to decide on this issue.

Bill Giordano stated that the animal units serve a purpose. Instead of allowing unlimited agricultural in the zone districts that are converting from agricultural to residential, which is the transitional zone, they have limited the number of units to try to lessen the impact of allowing them unlimited number of animals in these areas. They have already made the decision that they are allowing these animals and these animal units in those districts on the list, only in those districts. In any zone district that has unlimited agricultural, they can come in and put any number of animals and anything that is considered livestock and animals, are unlimited in the other zone districts. The Planning Commission question whether they even want animals in these zone districts that are converting to residential. That is an issue that he thought was an issue of an amendment to the zoning regulations.

Commissioner Norden stated his motion was based on the existing structure right now. He moved to recognize miniature donkeys as an allowable unit of livestock within those zone districts at a ratio of 2 to 1, asking that they also review the entire list for other potential additions and how they apply to those three zone districts. **Commissioner Lasha** stated the motion failed for lack of a second. He stated he still had a problem with the 2 to 1.

Commissioner Stiehl moved to deny both the request to allow miniature donkeys as an animal unit and, therefore, the definition of how many miniature donkeys make an animal unit in those zone districts. **Commissioner Lasha** stated the motion failed due to lack of a second.

Commissioner Norden stated he wanted to go back to the original motion and moved to allow miniature donkeys as an animal unit as the rate of one miniature donkey per animal unit, directing Planning & Zoning to begin researching all other possible animal units that might be added to the list and to re-examine the appropriate designations already established and to examine whether different animal units should apply differently to those three agricultural based zones that they now apply, 1 to 1. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, no. The motion carried.

REQUEST: FP 05-005 CAÑON CREEK RANCH FILING IV

Matt Koch stated they were requesting approval of final plat for Filing IV. It is a two-lot subdivision. These lots are 4.5-acre lots, and they are decreasing the density by one lot. They had originally planned a cul-de-sac with curb and gutter, sidewalk and paving. If they proceed with the other 4.5-acre lots further down, they would have to tear that out. They would like to propose to curb and gutter and sidewalk over the ditch on the north side of the cul-de-sac and provide a temporary turn around.

Bill Giordano stated that there is a decrease in density. One of the requirements of the final plat is that they conform to the layout of the preliminary plat. They received a

couple of letters with concerns about the land not being developed, but would be open space. There was also concerns about enforcement of the covenants. The Department does not require covenants, and those are to be enforced by the property owners. There is a list of contingencies and most has to do with the construction of the road and water and sewer. He stated there are no items that he is concerned with.

Matt Koch stated he wanted to discuss Item 10, the proof of purchase of water taps for both lots. Lot 2 is planned for future development, and would like to waive the requirement for Lot 2.

Bill Giordano stated that purchase of tap and proof of the other would be fine, and he would ask that they amend it.

Matt Koch stated that **Jennifer Harriman, proposed property owner**, was concerned that by plating this as Filing IV, they might lose the option of the preliminary plan to file on the other 4.5 acres down below.

Bill Giordano stated that if the Board would want to recognize that, but he did not look at it as a major problem. The concerns they would have is not necessarily the phasing as much as the number of lots, that they don't deviate from what was previously approved. If it is a concern, they could acknowledge that there is a change in phasing. He stated that Item 4 is adequate.

Sean Meagher, Sunlight Way Resident, asked if the cul-de-sac redesign at the end of the road was designed at this point for those two additional lots? He stated he knew it was not the Commissioner's authority to oversee the covenants, but he questions the history and the integrity of the developer and the follow through.

Commissioner Norden moved to approve final plat for two-lot major subdivision for FP 05-005 Cañon Creek Ranch Filing IV. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. **Bill Giordano** asked if that would include that they ask for one tap and proof on the other, and is it including a temporary turn around or permanent turn around? **Commissioner Lasha** stated he thought the tap issue was addressed when they discussed Item 10. **Bill Giordano** stated that as far as the temporary turn around, the regulations say that you can't have a dead-end street. What will end up happening, Matt will be required to put at least a gravel turn around as a temporary turn around. That is all they need to verify that you are accepting that as a temporary turn around. If there is traffic, they can turn there. When they come in with the next filing, they will be required to actually build the street which will not be a turn around but will actually be the street. **Commissioner Norden** stated he would include that as a temporary turn around in his motion. He stated he moved to amend to include a temporary turn around for FP 05-005. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

RECOMMENDED CONTINGENCIES

The following contingencies shall be submitted to the Planning Department prior to recording and within twelve (12) 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 (FCSR).
2. Title Commitment dated within thirty (30) days of recording of the final plat (*NOTE: This item may necessitate further requirements of the applicant, by the Department, prior to recording of the final plat*).
3. Street plans and profiles for street and cul-de-sac. Includes temporary gravel turn around.

4. Water plans and profiles for water line extension. If the district does not require, provide documentation that it is not required.
5. Sewer plans and profiles for sewer line extension. If the district does not require, provide documentation that it is not required.
6. Water, sewer, street and drainage plans and profiles shall be signed by a Colorado Professional Engineer and shall be approved by appropriate agencies.
7. If all improvements are not completed, prior to the recording of the final plat, an executed subdivision improvement agreement and an executed escrow agreement in the amount approved by the Board of County Commissioners will be required prior to the recording of the final plat.
8. An engineer's estimate or a signed contract for all improvements will be required in conjunction with the escrow and subdivision agreement.
9. Prior to recordation of the final plat and/or release of improvement and escrow agreements, documentation shall be provided to indicate that all water service lines, streets and all other improvements have been installed and accepted by appropriate personnel.
10. Purchase of water tap for Lot 1 and proof of purchase of water tap for Lot 2.
11. Approval of the estimate for construction costs by the County Road Foreman and/or County Engineer, if an escrow and improvement agreement is required, as to the adequacy of the amount to complete the improvements.
12. An executed quit claim deed to the County for the street and cul-de-sac right-of-way.
13. Closure sheets for each lot boundary and the exterior subdivision boundary.
14. A detailed utility plan approved by all utility providers. (FCSR Section VII., G., 1., e.).
15. Lettering on final plat shall be a larger font as the letters are too small for reproduction.

REQUEST: FP 05-006 COOL COMMERCIAL FILING NO. 1

Matt Koch stated that not much had changed on this. They have gone through the drainage with Mr. Effinger. They will need to provide some things as part of the contingencies.

Bill Giordano stated that this does not go to the Planning Commission for review. There is a list of 16 contingencies, most have to do with the streets, the construction of the drainage, and the drainage maintenance. He stated that one thing he did add that has not been addressed through any of the drainage, and that is the downstream ditch that will handle the water that comes out of that detention facility. Mr. Effinger said it was a good idea, and he would like a cross section to be assured that it is capable of handling the water that is coming out of that detention pond.

Commissioner Stiehl moved to approve the request FP 05-006 Cool Commercial Filing No. 1 with 16 recommended contingencies:

RECOMMENDED CONTINGENCIES

The following contingencies shall be submitted to the Planning Department prior to recording of the final plat and within twelve (12) 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 (FCSR).
2. Title Commitment dated within thirty-(30) days of recording of the final plat (*NOTE: This item may necessitate further requirements of the applicant, by the Department, prior to recording of the final plat*).
3. Documentation expressing compliance with the requirements of reviewing County Engineer concerning drainage, roadways, etcetera.
4. Proof of water taps or documentation as to existing taps for all lots prior to recording of the final plat or provide an escrow and improvement agreement for purchase of all taps for the lots without a water tap.
5. Plans and profiles for the street shall contain a profile or list as to the depths of base, sub base, surface type, etc.

6. Approval of all street plans and profiles by County Road Foreman or County Engineer.
7. Drainage plan shall contain a profile for the ditch south of US Highway 50, which shall be approved by County Engineer.
8. Final plat shall note drainage easement for all ditches south of US Highway 50 to the south property line.
9. Plans and profiles for water lines and fire hydrants shall be accepted and approved by water district. The hydrant plan shall be accepted by the water district authority or the Fire District Authority.
10. If all improvements are not completed, prior to the recording of the final plat, an executed subdivision improvement agreement and an executed escrow agreement in the amount approved by the Board of County Commissioners will be required prior to the recording of the final plat.
11. A Colorado Professional Registered Engineer's estimate for installation of all improvements, street construction, drainage facilities, fire hydrants, water main extension, street signs and water taps, if all improvements are not installed and completed prior to recording of the final plat and if escrow funds are to be provided.
12. Prior to recording of the final plat or prior to release of the escrow funds, a letter shall be provided documenting that the improvements were installed and accepted from the following:
 - (1) Road foreman for streets and signs,
 - (2) Penrose Water District and/or Fire Authority for water lines and fire hydrants,
 - (3) Design engineer for all drainage facilities
13. An executed quit claim deed with a deed restriction addressing maintenance of all drainage facilities.
14. A utility plan in accordance with Section VII.G.e., of the subdivision regulations.
15. Closure sheets for each lot boundary and the exterior subdivision boundary.
16. Copy of deed of record for the portion of Tract 55, **Beaver Park Land and Irrigation Company, Plat No. 1, Beaver Park.**

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

Commissioner Lasha adjourned the meeting at 10:50 A.M.

County Clerk