

	Arapahoe County Board of County Commissioners Minutes	
	January 16, 2001	

State of Colorado, County of Arapahoe. At a public hearing of the Board of County Commissioners for Arapahoe County, Colorado held at 5334 S Prince St. Littleton CO 80166 there were:

- Marie Mackenzie, Commissioner, Chairman Present**
- Lynn Myers, Commissioner, Chairman Pro Tem Present**
- Susan Beckman, Commissioner Present**
- John Brackney, Commissioner Present**
- Debra A. Vickrey, Commissioner Present**
- Kathryn Schroeder, County Attorney Present**
- Jack Bush, Deputy County Attorney Present**
- Ron Carl, Assistant County Attorney Absent & Excused**
- Tim Knapp, Assistant County Attorney Present**
- Tom McNish, Assistant County Attorney Present**
- Cary Unkelbach, Assistant County Attorney Absent & Excused**
- Tracy K. Baker, Clerk to the Board Absent & Excused**
- Jennifer West, Deputy Clerk to the Board Present**

When the following proceedings, among others, were had and done, to wit:

CALL TO ORDER

Commissioner Myers called the Hearing to order and explained that Commissioner Mackenzie was on her way and would be joining the proceedings shortly.

PLEDGE OF ALLEGIANCE

ADOPTION OF THE AGENDA

Deputy County Attorney Jack Bush explained there would be three Items added to the Consent Agenda to amend it as follows:

1. Item 7: Authorization to sign an Agreement for Services with Cole-LayefFrumble Company for market valuation consulting services associated with residential valuation for the Assessor's Office, to be completed by May 1, 2001, an amount not to exceed \$7500.00
2. Item 8: Authorization for Chairman of the Board of County Commissioners to sign a Merchant Services Application with Wells Fargo for credit card processing services with the on-line building permits.
3. Item 9: Approval of GIS Data sharing Agreement with Town of Foxfield and Approval of GIS Data Sharing Agreement with City of Denver.

Commissioner Vickrey asked why these IGA add-ons must be addressed today.

County Attorney Kathryn Schroeder said she believed the request for a "hurry-up" came from the other entities.

Commissioner Vickrey expressed her concern with add-ons every week that are not published.

The motion was made by Commissioner Brackney and second by Commissioner Vickrey to adopt the Agenda as amended by adding Consent Agenda Items 7, 8, and 9.

The Motion passed 4-0, Commissioner Mackenzie Absent.

CEREMONIES

Retirement Ceremony for Linda Erickson who retired from the Clerk & Recorder's Department, December 20, 2000 after 16 years of employment.

Commissioner Myers stated that Linda Erickson was not present but recognized her retirement from the County.

Retirement Ceremony for Velma Troxel who will be retiring from the Clerk & Recorder's Department, January 19, 2001 after almost 18 years of employment.

Commissioner Myers stated that Velma Troxel was not present, but recognized her retirement from the County.

Retirement Resolution for Peggy Locricchio who is retiring from the Treasurer's Office after 25 years of employment.

Commissioner Myers read the Retirement Resolution for Peggy Locricchio into the record, a copy of which has been retained for the file.

The motion was made by Commissioner Brackney and second by Commissioner Vickrey to approve the Retirement Resolutions for Linda Erickson, Velma Troxel and Peggy Locricchio.

Commissioner Mackenzie joined the hearing.

The motion passed 5-0

Peggy Locricchio thanked the County.

Jan Neilsen explained the County is trying to talk Peggy into staying longer. She said Peggy is planning to go to Beijing China after her retirement. MsNeilsen stated she the Treasurer's would like Peggy to return to help with additional training.

APPROVAL OF THE MINUTES

There was discussion that there is not a quorum to approve the minutes for December 19, 2000.

County Attorney Kathryn stated the Board could make a motion to accept the minutes.

CommissionerBrackney clarified the statement under the Commissioner Ward presentation during the meeting of December 19, 2000 regarding the county tradition being established to proudly sing the Marine Corps Hymn would apply to Marines who are County Commissioners on their last day.

The motion was made by Commissioner Myers and second by CommissionerBrackney to accept the minutes for December 19, 2000 with minor modifications provided to the Clerk.

The motion passed unanimously.

CITIZEN COMMENTS

There were no citizen comments.

ADOPTION OF THE CONSENT AGENDA

The motion to adopt the Consent Agenda as amended with the additions of Items 7, 8 and 9 was made by Commissioner Myers and second by Commissioner Vickrey.

The motion passed unanimously.

GENERAL BUSINESS

The motion was made by Commissioner Brackney and second by Commissioner Myers to recess for a brief executive session.

The motion passed unanimously.

The Commissioner left the hearing room for a brief period of time.

The motion was made by Commissioner Vickrey and second by Commissioner Myers to come out of executive session.

The motion passed unanimously.

The motion was made by Commissioner Brackney and second by Commissioner Vickrey made a motion to amend the agenda to discuss Item B prior to Item A of the agenda.

The motion passed unanimously.

Assistant County Attorney Tom McNish explained that Item B was not properly noticed and would need to be removed from the Agenda because the County does not have jurisdiction to hear this case.

Commissioner Marie Mackenzie apologized to the applicants and asked the applicant to see the County Attorney.

The motion was made by Commissioner Vickrey and second by Commissioner Myers to pull Item B because of lack of public notification.

The motion passed unanimously.

Item A – Resolution # 010055 - 010056, Public Hearing for Case # P00-033, Stonetree on Smoky Hill, Final Development Plan and Case # P00-032, Stone Tree on Smoky Hill Subdivision Filing No. 1, Preliminary Plat

Assistant County Attorney Tom McNish established jurisdiction for the BOCC to hear this case.

Ron Hovland of the Planning Division presented the staff report, a copy of which has been retained for the file.

David Adorr of Engineering Service Co., representing the applicant, said this long narrow piece of ground has been difficult to make this plan work. He said the applicant has worked diligently with the adjacent HOA, the Park Grove HOA. He said the Planning Commission expressed a concern that on the north side of the property the same style of home appears next to the adjacent homes. He said that was done to maintain the lowest possible elevation and minimize the impact on the adjacent homes. He said the Park Grove HOA appreciated that. He said there was also modification to the drainage to ensure the impact of the drainage on the homes was minimal. He explained the major drainage is collected in the street system and carried in the storm sewer system. He said there is also an area drain system along the back property line to collect landscaping and rear yard drainage.

Mr. Adorr said the architecture has been extended to four home styles: two two-story homes, a tri-level and a ranch. He said there are three different elevations for each style of homes. He said there would be quite a variation. He said there was also concern of the landscaping particularly with the cul-de-sacs. He said the applicant has agreed to landscaping and fencing that would minimize the headlight impact on the Park Grove homes. He said there is a small tot lot on the property and open space for recreation. He said that the tot lot, open space and landscaped areas would be maintained by the homeowners association.

Commissioner Vickrey asked about the response from the Cunningham Fire District requesting that several notes are added to the plan. She asked if that has been done.

Mr. Adorr responded those concerns have been addressed and those concerns have been satisfied.

Commissioner Vickrey also asked about the letter from the State of Colorado regarding the earthwork and backfill. She said she was concerned with potential foundation problems.

Mr. Adorr said there is a preliminary soil study that would be followed up with an extensive soil study. He said there has not been a lot of dumping on the site. He said the importing of soil would be at a minimum.

Commissioner Vickrey asked if there were notes on the plan regarding the soil?

Mr. Adorr said there is no add material on site currently. He said the site grading requirements for this project would be done before there is any construction material onsite. He said the fill material would come from a controlled source.

Commissioner Mackenzie said this is a difficult site because it enjoins a major roadway and is disconnected from its adjoining neighbors. She said it should have been integrated with the site to the north.

Mr. Hovland said the Planning Commission recommended this case favorably. He said staff does recommend this case favorably. He said there is a requirement for a soil report on every single family home and is reviewed prior to a building permit being issued. He said the County pays close attention to those soil reports. He said there is one issue with regard to Smoky Hill Road access to the property. HE explained there is a right-of-way issue. He said there is a requirement that the Board not consider the final plat until the County secures the right-of-way from the previous owner.

Mr. Hovland said there is also an issue regarding access to the undeveloped property to the east that is owned by a church. He said that would be addressed with notes on the plan. He said it would be a joint access.

Mr. Hovland said based on the six findings in the staff report and the four conditions of approval, staff is recommending approval.

Commissioner Beckman asked if there is on street parking?

Mr. Hovland said there would be on street parking on the private road and not on Smoky Hill Road.

Commissioner Beckman asked if the County would control the height of the grade on each site?

Mr. Hovland said the grade is controlled on the overall grading of the project.

Commissioner Beckman said her concern is that the ranch homes would be built up.

Mr. Hovland referred that to the Engineer.

Mr. Adorr said the applicant has attended two HOA meetings. He said the grading on the property

line would come up to the house and the house would be set up. He said the finished floor elevation of these homes would be six feet above the existing grade of the back lot line. He said that is the best he could do given the site constraints. He said the homeowners have appreciated the efforts of the applicants to minimize the impact to their homes. He also explained that the windows that face the existing homes are bedroom windows as opposed to primary living space.

Commissioner Mackenzie confirmed there is drainage system along the back to prevent washout.

Mr. Adorr answered yes.

Mr. Hovland said the proposal does conform to the adopted Huntington Smoky Hill PDP. He said the FDP is consistent with that PDP. He recommended approval of this application.

Mike Rocha of the Engineering Division said the applicant has worked very hard with staff to address the drainage issues.

Neil McCumber said he is here today with Pastor Tom Renquist representing property to the east. He said their concern regarding access to the property has already been addressed. He said he has spoken to the County staff regarding his concerns and does not anticipate any problems. He said the plan is showing their landscaping. He assumed that some of that landscaping part of the curb would be left out, so that it would not be ripped out when the property to the east establishes its access.

Mr. Adorr representing the applicant said that there is very little landscaping planned in that area. He said trees or shrubs would probably not be planted. He said the curb issue would be discussed. He said the entrance is upgraded to provide a landscaped island and there are two full lanes exiting and entering. He said the applicant would work with the property to the east to resolve those concerns.

The motion was made by Commissioner Vickrey to approve Case # P00-033, Stonetree on Smoky Hill Final Development Plan and Case # P00-032, Stonetree on Smoky Hill Subdivision Filing No. 1, Preliminary Plat subject to the following conditions:

1. Applicant making all minor changes and modifications requested by the Planning Division and the Engineering Division prior to execution of the plat by the Board of County Commissioners.
2. Applicant shall add new general note to the FDP related to on-site parking and parking control in the private drive prior to execution of the plat by the Board of County commissioners.
3. Applicant shall not start construction or have approved a Final Plat on the property until the ownership issues of Smoky Hill Road rights-of-way are resolved and the County has ownership of the 2.021-acre right-of-way strip on Smoky Hill Road.
4. Applicant shall pay all required traffic, transportation a, and drainage fees required to execution of the Final Development Plan and the Preliminary Plat.

Second by Commissioner Myers.

The motion passed unanimously.

Item B – Continued Public Hearing for Case # P00-068, Coyote Ranch at River Run II, Final Development Plan

THIS ITEM WAS PULLED

Item C – Resolution # 010057 Continued Public Hearing for Case # S00-007, Piney Creek Village Metropolitan District Service Plan

Assistant County Attorney Tim Knapp explained that this is a continued Public Hearing and the BOCC has jurisdiction to hear this case.

Wiley Smith of the Planning Division presented the staff report, a copy of which has been retained for the file.

Rita Connerly of McGeady Sisneros, representing Piney Creek Village Metropolitan District introduced members of the audience:

1. Tom Bishop, Kirkpatrick Pettis
2. Sam Sharp, Kirkpatrick Pettis
3. Richard Frank, Developer
4. Steve Prokopiak, Engineer

Ms. Connerly said the Planning Commission approved this Plan with the condition that sufficient evidence is presented to substantiate or justify the cost estimates in the Service Plan. She said those cost estimates have been provided to the engineering division as represented by a letter from Karl Packer of the Engineering Division included in the packet. She respectfully requested approval of the Service Plan.

Commissioner Mackenzie said she is concerned with the close proximity of the Arapahoe Park and Rec. District. She wondered if this separate district is necessary. She also stated she is concerned that the District would add \$60,000 to the expenses of each home.

Rita Connerly said it equates to approximately \$46,300.00 to the 190 homes located within the sub-division.

Commissioner Mackenzie confirmed that is for each home and that each home would pay that off over 30 years.

Ms. Connerly confirmed that each home would pay that off over thirty years because the State Legislature has found it in the Public interest to allow for the attainment of affordable housing. She said when the government provides the public infrastructure; the government can secure tax-exempt financing. She explained that tax-exempt financing is paid over a period of 20, 30 or 40 years. She said this allows the homebuyer to pay the \$46,000 over a longer period of time at a lesser cost because it is tax-exempt financing. She explained the developer would pass the cost on to the homebuilder if the developer had to pay for this infrastructure. She said the legislation allows non-exempt financing to pay for this regional public improvement.

Commissioner Mackenzie asked if homebuyers would be notified up front that their taxes would be much higher than expected.

Ms. Connerly said that C.R.S. 38-35.7-101 requires disclosure that a property may be within a special district and that it may be subject to general obligation indebtedness that is paid by revenues produced through the mil levy. She said C.R.S. 10-11-122 requires that every title insurance agent and company also provide that information when any property is transferred to a homebuyer.

Commissioner Mackenzie said would the homebuyer be given a dollar estimate of what the taxes may be?

Ms. Connerly responded that the homebuyer would be provided the number mils. She explained that with the price of the home, \$750,000 in this area, the homebuyer would be able to compute the tax for this Special District. Ms. Connerly also stated that the \$46,000 is only 6% of a \$750,000 home. She posed that 6% of a \$120,000 is reasonable.

Commissioner Myers said that real estate contract requires the paragraph regarding the special district is printed in bold type. She said the breakdown of the taxes is also required with the preliminary title work. She said it is sufficient public notification.

Ms. Connerly said in relation to the proximity to Arapahoe Park and Recreation District. She referred to a letter from Arapahoe Park and Recreation District, which stated the services that the Piney Creek Village Metropolitan District would provide are different than those provided by Arapahoe Park and Rec. District. She said they services are not duplicative. She said there is a need for this service to be provided.

Commissioner Vickrey questioned whether there is a double taxation potential. She asked if anyone would be paying taxes into two districts.

Ms. Connerly said there are homeowners that would pay taxes for services within Arapahoe Park and Recreation District if they overlap. She qualified the homeowner would not be paying taxes for the same services being provided.

Commissioner Vickrey confirmed there are homes that are paying taxes into two different recreation districts, even though there are different services.

Ms. Connerly said that is correct. She said all 190 homes exist within the Arapahoe Park and Recreation District as well as the Metropolitan District. She identified a memo in the packet that demonstrated the existing districts surrounding this district. She particularly pointed out the Saddlerock Metropolitan District #2, which has a mil levy of 42.546. She said the Piney Creek Metropolitan District would have a mil levy of approximately 37. She said the Saddlerock Metropolitan District is also within Arapahoe Park and Rec. District for 2mils because the services are different.

Commissioner Beckman asked about the assessed valuation of the property being zero.

Ms. Connerly said that was for purposes of the financial plan to show that the area is an economically viable district even if the assessed valuation is currently at zero. She said there are no homes, so there is no assessed value. She said when those homes are built; the area would meet sufficient revenue for the District to be a financially viable entity.

Commissioner Mackenzie asked if the property is zoned.

Ms. Connerly said all of the property is zoned planned single family residential.

Steve Prokopiak said the Board has heard Piney Creek Village Filing No. 1. He said it is zoned, the preliminary plat is approved, the final plat is approved, and the FDP is approved.

Commissioner Beckman asked if the 37 mils would fluctuate?

Ms. Connerly said the mil couldn't exceed by statute 50 mils under the special district act. She said there is a cap. She said the financial plan shows that the 37 mils reasonably anticipate paying for the public infrastructure.

Commissioner Beckman asked if there has been any attempt to look for private financing?

Ms. Connerly said if private financing was secured it would be more expensive than tax exempt financing and therefore it would not be in the interest of the public.

Commissioner Beckman asked if Ms. Connerly thinks this is an incentive.

Ms. Connerly said the State Legislature found it was very important to assist in the development of Public Regional Infrastructure by allowing tax exempt financing.

Commissioner Vickrey said one of the recommendations from the Engineering was to secure line item cost allocations.

Ms. Connerly said that has been supplied to staff. She again referred to a letter from Karl Packer to Wiley Smith that indicates the breakdown of the cost analysis was provided to the engineering Division.

Mr. Prokopiak said the engineering is not included as a line item. He explained they are not asking for reimbursement from the district for engineering. He said the District would eat that cost.

Commissioner Brackney said there seems to be discussion about the South Suburban Park and Rec. district moving into this area. He recognized that would require a vote of the citizens in the area and complications with the Arapahoe Park and Rec. District. He asked if it were conceivable that there would be three recreation districts that these homes would pay taxes to?

Ms. Connerly said under C.R.S. 32-1-107 the approval of the residents and the approval of the municipality would have to be secured. She said there would have to be consent for South Suburban to expand onto an existing district.

Commissioner Brackney asked which of the homes are in Centennial? He questioned whether that would affect today's process?

Ms. Connerly said 30 homes are in Centennial's future boundaries. She said that does not affect the process.

Richard Frank said that South Suburban could not come into this area because Arapahoe Park and Recreation is already the District in this area. He said those districts do the same thing.

Commissioner Brackney stated that would have to be a merging of the governments.

Commissioner Mackenzie said that Arapahoe Park and Recreation District does not provide the scope of services that South Suburban provides but its mil levy is significantly less.

Mr. Frank said Arapahoe Park and Recreation District has the same powers as South Suburban. He said Arapahoe Park and Rec. would probably have a mil levy vote this November to build some facilities similar to South suburban.

Wiley Smith of the Planning Division identified an area on the map which is to be included into the District, a future inclusion area. He asked that the inclusion area is included. He said the Service Plan is in conformance with the Colorado District Act, Title 32, Section 32-1-2-2, 203 and 204. He said the Planning Division recommends approval of the Service Plan.

Commissioner Beckman asked how many metro districts has the County approved in the past few years.

There was a consensus that only a few metro districts have been approved.

Ms. Connerly clarified that the staff required that the District be organized. She said the District is to be organized in the large section identified on the map, 80 acres. She said the additional 20 acres of land may be subsequently included into the district pursuant to state law, but it is not being included at this time because the land use approvals have not been secured. She said the 20 acres would not be included in the District today.

The motion was made by Commissioner Vickrey to approve Case # S00-007, Piney Creek Village Metropolitan District Service Plan subject to the following conditions:

1. The applicant providing any minor plan modifications as required by the Planning and Engineering Department.

Second by Commissioner Myers.

Commissioner Brackney asked about the philosophy of the Board regarding urban development belonging in cities and its disinclination to approve new special districts. He said he struggled with that issue when he read the background.

Commissioner Vickrey clarified that the premise that the existing zoning would need to be serviced by the County increasing service levels, or existing districts would have to do that. She said that focused on expanding districts that would allow more development than was zoned, particularly in the eastern portion of the County.

Commissioner Brackney said that is an important distinction for the Board to continue to make. He said the Board should be aware of distinguishing between already anticipated governing entity or creating overlapping governing bodies.

Commissioner Beckman stated she is just becoming familiar with the Urban /Rural policy concerning special districts. She said there are too many special districts in the urban area. She said she would vote against this. She said she understands why the legislature formed special districts in the eighties when there was a need for some incentive for more growth. She said this year when the legislature would be passing growth limitations and restrictions, it is important to question why the incentives are still being given. She said it is a tremendous cost savings for the developer. She said there is private financing available. She said with the pending growth legislation, the Board should look closely at giving developer incentives.

Commissioner Vickrey asked if Commissioner Beckman would support the density and the development, why would she not support the services and the infrastructure?

Commissioner Beckman said the growth legislation is trying to support in-fill development. She said the small developers are not able to put together the special district and are therefore not eligible for the tax exempt financing. She pointed out the fairness. She said she believed the development could be built with private financing.

Commissioner Mackenzie stated her concern is that there is no way to connect with the existing districts. She wondered about the funding mechanism that would allow an existing district to annex and allocate the cost for the infrastructure for the new portion of the district. She wondered whether it should be a developer cost.

Commissioner Vickrey asked if the back-up material indicated that East Cherry Creek Valley said extending the water and sewer lines would not be practical.

Commissioner Mackenzie clarified her understanding is that East Cherry Creek Valley and Arapahoe Park would absorb this district.

Commissioner Beckman moved to re-open the Public Hearing. Second by Commissioner Brackney.

The motion was unanimous.

Mr. Frank said the District would finance the improvements and put them in place and then go away. He said there is a sunset on this district when the bonds are paid off. He said East Cherry Creek Valley Water and Sand District and Arapahoe Park and Recreation District would operate the facilities. He said the facilities would be built to their specifications. He said this is a financing technique only and there is no overlap.

The motion was made by Commissioner Brackney and second by Commissioner Beckman to close the Public Hearing.

The motion passed unanimously.

The motion to approve the Piney Creek Special District passed 4-1, with Commissioner Beckman opposed.

There being no other business before the Board, the Chairman adjourned the hearing at

11:03 A.M.

ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS

MARIE MACKENZIE, CHAIRMAN

LYNN MYERS, CHAIRMAN PRO TEM

SUSAN BECKMAN, COMMISSIONER

JOHN BRACKNEY, COMMISSIONER

DEBRA A. VICKREY, COMMISSIONER

TRACY K. BAKER, CLERK TO THE BOARD

BY JENNIFER WEST, DEPUTY

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