

NOTICE OF SUBDIVISION MEETING

April 22, 2004

Others attending all or part of the meeting: (No sign in sheet)

Pledge of Allegiance.

Everyone recited the pledge.

Chair Murray: Good Morning and Welcome. ____ I want to welcome HCTV that's now presenting our needs to the public. On my left is Commissioner Varone, to my right is Commissioner Tinsley, to his right is Ron Alles our Chief Administrative Officer, to his right is Sharon Haugen our Director of Planning and to her right is Carole Byrnes our executive secretary.

Final Plat Approval for the Chaet Estate Minor Subdivision. (Applicant, Mike & Mary Chaet) (Planner, Lindsay Morgan)

The Commissioners will consider the final plat.

Chair Murray: First item on the agenda is a Final Plat Approval for the Chaet Estate Minor Subdivision. Mrs. Morgan. Sorry your podium is gone.

Lindsay Morgan: Good Morning Commissioners. Mike and Mary Chaet have submitted an application for the Final Plat Approval for the Chaet Estate Minor Subdivision. The proposed subdivision that will create two lots. The preliminary plat approval of this subdivision was granted on May 14th, 2002 subject to nine conditions of approval. It appears that all conditions have been met and or otherwise addressed and therefore the planning office recommends that the Board of County Commissioners grant final plat approval for the Chaet Estate Minor Subdivision.

Chair Murray: Thank you Ms. Morgan and thank you for the memo from the planning department it's a welcome document and it's going to help us with our decisions. Are there questions of Mrs. Morgan? Commissioner Varone?

Commissioner Varone: Mr. Chair, Commissioner Tinsley. Lindsay, I also wanted to thank you for this document, I know that in the 3 ½ years that I've been here there's been a few occasions where ten or fifteen years ago the conditions of approval were assigned to subdivisions and ____ when we signed the final plat the folks were only verbally informed that the conditions have been met and having a hard copy to read the conditions and read how they've been met I think is outstanding and I'd really like to see all of our planning staff have that implemented. You did a great job and I know there are some instances where especially Commissioner Murray since he's been here so long he knows what questions to ask and remembers from the subdivisions and I don't and so to be able to have this in front of me I really appreciate it. Thank you.

Lindsay Morgan: Thank you.

Commissioner Tinsley: Chairman Murray, Commissioner Varone. I gave my Thanks prior to the meeting, I thought it was a very well put together document and walked us right through each condition and how they arrived at meeting those conditions, so I appreciate it, Thanks.

Chair Murray: For the record, Mrs. Chaet is present, welcome. Is there a motion?

Commissioner Varone: Mr. Chair, I move to approve the Final Plat for the Chaet Estate Minor Subdivision and authorize the chair to sign.

Commissioner Tinsley: Second.

Chair Murray: We have a motion and a second. Discussion. All in favor of the motion signify by saying 'Aye'
Commissioners: Aye

Chair Murray: Motion carries.

Commissioner Tinsley: Question. Do we normally do this by consensus?

Commissioner Varone: Yeah, we do.

Commissioner Tinsley: Okay

Chair Murray:: But since we're formal and _____ I thought we'd just _____ because you were a smart _____ we're a formal commission.

Request to Schedule Public Hearing to Modify Conditions of Approval for the East Bench Phase V Subdivision. (Applicant, Floyd Hoff) (Planner, Lindsay Morgan) (cont. from 4/20/04)

The Commissioners will consider scheduling a public hearing to modify condition of approval changing lot size to one acre for duplex or condominium.

Chair Murray: Item number 3 is a request to schedule a public hearing to modify conditions of approval for the East Bench Phase V Subdivision. The applicant is Floyd Hoff. Ms. Morgan.

Lindsay Morgan: I spoke with Mr. Hoff on Tuesday and told him that he would not be eligible for the modification request. He understood and yesterday submitted formally and in writing that he would like to withdraw his modification request.

Chair Murray: And since he's notified us in writing Ms. Morgan his desire to withdraw his modification request, no action is necessary is that correct?

Sharon Haugen: That is correct.

Chair Murray: Thank you.

Resolutions Ordering a Refund of Taxes/Fees/Assessments Paid. (Cheryl Green)

- a. James and Lea Little, \$451.57
- b. Applegate RID Property Owners for tax years 1995-2001

Chair Murray: Next item on the agenda is a resolution ordering a refund of taxes/fees/assessments paid. Ms. Green, the first is James and Lea Little.

Cheryl Green: The Department of Revenue will do that one.

Female: For someone who talks with their hands this is going to be really tough. The Department's position that no refund should be issued particularly _____ the previous cycle values. These folks have had a certain responsibility as we all do to make sure that our values are within _____ as to a fair market value. The analysis completed in 1999, these folks had an assessment notice that told them what we felt their market value was. When the new appraisal cycle was implemented, these folks again had an assessment notice that informed them of what we felt was the true market value. We feel that their responsibility is if they feel if that value was out of line, they are too come to us and file a _____ or an _____ form however they want to do it but we would respond to that. We feel that they felt the value was fair on both instances when they received assessment notices and should not be refunded. Secondly, should you decide to do this refund you're going back into a prehistory appraisal cycle and we have no way to market model or find the true market model because that model is closed, that's the old cycle, we're done with it. The only thing we could possibly do should you decide you're going to refund after 5 years is to calculate a percentage of what the reduced value is this cycle and apply it to last cycle which isn't really _____, anyway we don't feel that they really deserve it. Apparently the value was like \$11,000 or something this cycle, it isn't a tremendous amount, I realize, we don't consider it an error when we can't get into a house, we make our best judgment looking at that house, if we had

the apportion of what is now being truly the garage in as living area, than that value should have been out of line because it was _____ perhaps _____ another area.

Chair Murray: Questions, Commissioner Tinsley?

Commissioner Tinsley: Chairman Murray, Commissioner Varone. So their argument is the square footage was figured incorrectly, but what part is the ___ garage,

Female: Can I show you a drawing?

Commissioner Tinsley: Absolutely. I just want to get a handle on what their actual argument is here.

Female: It's quite a large house and here's the original drawing

Commissioner Varone: Could you put it _____

Female: Anyway, when one of us was up there and I'm not sure who did this originally, they estimated, I don't know perhaps there was a window covering back here, something was going on and the actual garage was in fact _____, this being some type of living space. A lot of times we do see that like a utility room _____ they estimated what they felt was between those walls and we couldn't see in you have to estimate. Folks came in and say no, this is garage all the way back to the back wall. We changed it for the current year and made the corrections. The value went from \$212,100.00 to \$201,000.00.

Chair Murray: The resolution we have before us indicates that the refund is being requested due to an erroneous assessment for square footage of the garage.

Female: Please know Commissioners that ___ Cheryl Green the tax collector, the head of our office, Mr. Kory Kaufman, disagreed with the refund being done but refused to write the letter.

Chair Murray: Thank you. Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Tinsley. Could you, or do you have any idea why the applicants are coming forward now and how they discovered there was no _____

Female: No, I can't answer that

Chair Murray: Other questions?

Commissioner Tinsley: Chairman Murray, Commissioner Varone. Ms. Green, do you still recommend the refund as indicated in your memo to us?

Cheryl Green: Well, Commissioners usually the Department of Revenue writes a letter because the law reads that the Commissioners are the only ones that can grant a refund. Even if Department of Revenue doesn't agree with the refund, I feel they still need to prepare the refund for the Commissioners. Well, Kory Kaufman disagreed with the refund so he went and gave me a percentage that I could use to come up with the money. So I took that percentage and came up with the refund that they would get for the last five years. I prepared it because it has to come in front of the board either to disapprove or to grant or either. I know in the past we've looked at this as an erroneous assessment an error by the Department of Revenue and we have granted it in the past based on the situations. So I guess it's surely your guys decision what you want to do with this _____. I just figured out what it would be if you grant the _____.

Female: May I respond? In this particular instance we do not feel it is error on our part an error on our part is if we have the square footage of the total structure incorrect. Say, 10, 20 feet to long on one side or as more often happens a little short on one side or another. This is an internal item that happened, it was a judgment call on the appraisers part, he used his best judgment to come up with this the overall square footage, the

total of the garage and the living ____ is correct. We do not consider it a terrible error, if we have to make a judgment other than their bedrooms or number of bathrooms, that's an appraiser judgment but we can't get in to look at the actual property that's what we do so we just simply feel that this is an appraiser judgment that was off by a bit.

Chair Murray: Commissioner Tinsley?

Commissioner Tinsley: Mr. Chairman, Commissioner Varone. Was the appraiser allowed access or was it just nobody was at home?

Female: Nobody was home.

Commissioner Tinsley: No one was home, okay.

Chair Murray: If I may, an erroneous assessment is a legal term not a criticism on the Department of Revenue. I just wanted to be sure you knew, in the resolution there's no criticism of the assessment, it's a legal term that we're using.

Female: In response to that, we don't feel that it's a criticism on our part because we used our best judgment that the owners of this property had two major times to look at the value that we applied to this property. Both when it was completed as a brand new house and when we the new appraisal cycle was implemented and they had no problem with it at that time.

Chair Murray: Thank you. Commissioners is there a motion or do you wish to take further time to research this and table it

Commissioner Varone: Mr. Chair, I move approval of the resolution ordering a refund of taxes/fees/assessments paid to James and Lea Little in the amount of \$451.57 and authorize the chair to sign.

Commissioner Tinsley: Second, for discussion purposes

Chair Murray: Discussion, Commissioner Tinsley.

Commissioner Tinsley: Commissioner Varone, if you would indulge me, I would be interested in possibly taking a day or to just to look into this, well today is Thursday so until at least next Tuesday. I would like to make a couple quick phone calls and maybe go out on the property and I'm not even sure how this falls into with regards to ex-parte, I don't believe it does because this is not a findings and fact or conclusions of law type situation, but I would be willing to call the applicants and ask them a couple of questions if that's okay because there are two competing things we're being told and I don't think they necessarily are in disagreement with each other and I agree with Mr. Murray, Chair Murray I hope you don't feel the way our staff prepares this intends it as a criticism because it's not, there following the practice that they've always followed but this is a unique situation, I don't think I've encountered this since I've been a commissioner so I would ask if you wouldn't mind ____ table this until Tuesday.

Chair Murray: Is there a substitute motion to table until our public hearing Tuesday the 27th?

Commissioner Tinsley: Mr. Chairman, I would like to offer a substitute motion to do just that.

Commissioner Varone: Second. Discussion.

Chair Murray: Discussion, Commissioner Varone.

Commissioner Varone: I made the motion just wanting to have this discussion and I want to thank you for bringing photos. I always like to err on the side of the public and I think that is what all of us are trying to do

here and the photos help me do that and the judgment in my estimation is on the photos is that the individual that went out there it was obviously their garage unless the person had an opportunity to really get inside they should have made no assumption that it wasn't a garage but that part of it was in fact the residence and that's where I'm coming from with my decision and what I would like is to ask that Commissioner Tinsley make a phone call and relay the information to us rather than all three of us give them a phone call and I would like to have a little more information too. But I also understand that the public often doesn't really understand their tax bills, they're complicated at best they're confusing and when an individual finally after several years realizes that gee maybe I'm paying too much and I really didn't know that I was, what kind ____ may be fair and that's what we're here to do but I would like to have that information.

Chair Murray: Commissioners we have before us a motion to table until April 27th at our next scheduled public meeting, the request of refund from James & Lea Little 220 Katie Court in Helena, all in favor of the motion, signify by saying 'aye'

Commissioners: Aye

Chair Murray: Motion carries. Mrs. Byrnes if we could schedule this as one of the first items on our agenda on Tuesday please.

Cheryl Green: Commissioner. You will note on my letter I the second half of 2003 ____ if granted, I need to devise ____ and lower that would be something you'd need to consider Tuesday, this refund plus ____ 2003.

Chair Murray: What I'm assuming is the refund is for past taxes paid and you want to correct the bill for taxes due this June, May 31st.

Chair Murray: Mr. Alles

Ron Alles: Mr. Chairman, Commissioners. I think I know the answer to the question, but I think more importantly to get it on the record is does this applicant have the opportunity to go to the tax appeal board, the County Tax Appeal Board and ultimately the State Tax Appeal Board?

Female: In a matter of actual taxes paid I'm afraid not, that's up to you past taxes ____

Ron Alles: So in other words though, they missed the deadline on appealing the value of the property

Female: No Sir, it's granted. The process of appealing any kind of valuation through our office starts ____ we're just simply arguing that back taxes they had the same opportunity in the past years to do this very same thing, they should not be granted a refund.

Ron Alles: Okay.

Female: and I will furnish Commissioner Tinsley with a copy of our ____ report.

Chair Murray: Thank you. Commissioners the next request for refund is for property on Applegate RID, Ms. Green who is the requesting party for the refund.

Sharon Haugen: Mr. Chairman, Commissioners if you recall about two years ago we didn't audit the Applegate RID and we had several series of refunds based on more than one owner and the way things were assessed. Well, when we sent out the notices the first time, for reasons unknown to us and probably they'll never be known to us, these people on this list never received that mail. We don't really know why, we can only speculate so I don't know if that's important, so we are asking the Commission to consider these refunds at this time we're just re-issuing the notice and making this part of the formal action to do that. It's just a continuation of the process we started two years ago there's just about a year gap and we're just finding out about this and that's about all I know about it. One of the questions was what's the total amount of refunds, ____ attached on the back, the total amount of refunds will be \$3893.24 so that's all that staff knows about this situation but

I'd be happy to answer what questions I can?

Chair Murray: Ms. Haugen, the attachment than is for the refund for each of the individuals named.

Sharon Haugen: Yeah

Chair Murray: Commissioner Tinsley?

Commissioner Tinsley: Commissioner Murray, Commissioner Varone. Just this morning as I was going through the check run that the County does, I saw a check to David Brandon in the amount of \$533.46 for a refund for Applegate erroneous tax assessment, no, just this morning I saw that and I notice that he's on here with that same amount. Now, I understand that he is a developer out there so that could have applied to a different property potentially but that's pretty significant, I believe it was the exact same amount.

Ron Alles: Mr. Chairman, Commissioners. I guess what I'd point out is that actually the Commission has approved this recalculation of Applegates RID's. It has been as Sharon stated a process probably taking three years when we did the audit of these assessments. I don't know if that particular check was the same check, but it's too coincidental. Certainly if the Commission does not approve these refunds, but I think we already previously approved, we can pull those checks.

Chair Murray: Further questions? Is there a motion?

Commissioner Tinsley: Mr. Chairman, I make a motion we approve a resolution ordering a refund of taxes/fees/assessments paid to the property owners listed on exhibit A in the Applegate Rural Improvement District and also ask staff to check to see if the property owners have been refunded already and if so pull their ____ from any further check run and authorize the chair to sign.

Commissioner Varone: second. Discussion.

Chair Murray: Discussion Commissioner Varone?

Commissioner Varone: Thank you Mr. Chair, Commissioner Tinsley. Just for the record, there are eighteen individuals listed here that total the \$3893.24 just for the record.

Commissioner Tinsley: Thank you. I was too busy talking

Chair Murray: Commissioners we have before us a resolution ordering a refund of taxes/fees/assessments paid with the individual property owners listed on exhibit A with a total of property owners being 18, and authorizing the chair to sign. All in favor of the motion signify by saying Aye.

Commissioners: Aye

Chair Murray: Motion carries.

Public Comments.

Chair Murray: This is the point in our agenda when any member of the public present that wishes to bring before the commission any business that we have authority over you're welcome to come forward and speak. Since we have no public present, we are adjourned.

Adjourn.

NOTE: Due to a remodeling project in the Commission Chambers, all regular County Commission meetings will be held in Room 326 of the City-County Building until further notice. All public meetings will be televised by HCTV and aired later in the day. Thank

you for your patience during this time.