

SUBDIVISION MEETING
August 25, 2005

Chairman Ed Tinsley called the meeting to order at 9:00 a.m. Commissioner Murray and Commissioner Varone are present. Others attending all or portion of the meeting included Ron Alles, Audra Zacherl, Lindsay Morgan, Jerry Grebenc, Michael McHugh, Dean Retz, Lee Wolfe, Doug Peterson, Joe Scanlon, Mike Dowling and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Chairman Tinsley: Good Morning and welcome to the regularly scheduled Thursday morning meeting. I'm Commissioner Tinsley. To my left is Commissioner Varone. To her left is Maria Penna, our Administrative Assistant. To my right is Commissioner Murray. To his right is Ron Alles our Chief Administrative Officer, and to his right is Jerry Grebenc our Director of Community Development and Planning. The first items we have on the agenda this morning are the Consent Action Items. Mr. Alles.

Consent Action Items.

Ron Alles: Thank you Mr. Chairman. You have two consent action items. The first is the vendor claims report. Miss Zacherl is here to explain any of the claims if you have questions. And then secondly, we have the final plat approval for the amended plat of Lots 127 and 128 of the Lincoln Villa Estates, Block 12. Staff recommends approval.

Chairman Tinsley: Would the Commissioners like to pull anything off the Consent Action Items agenda?

Commissioner Varone: Mr. Chair, I make a motion to approve the Consent Action Items and authorize chair to sign.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second, and a big sigh of relief from the front row. (laughter.) All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Motion passes 3-0.

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: You may want to make an announcement that claims are available for public review in Miss Zacherl's office anytime the public wants to come look at them.

Chairman Tinsley: You just did. Thank you very much Commissioner. (laughter) Next item on the agenda is a memorandum of understanding as amended between the Department of Military Affairs, the Department of Emergency Services and the Tri-County Interoperability Consortium. I don't see Sheriff Liedle or Jack Spillman here this morning. Mr. Alles?

Memorandum of Understanding, As Amended, between Dept of Military Affairs, DES and TriCounty Interoperability Consortium.

Ron Alles: Mr. Chairman, I can speak to it perhaps not as well as they can, but, this memorandum of understanding, it's actually an understanding between Polk County, Jefferson County, Broadwater, and it's amended to include Lewis and Clark County. The purpose of this agreement is to, it's between the Department of Military Affairs in those respective counties, for the management of any DES type activities. Staff does recommend approval.

Chairman Tinsley: Commissioners, do you have any questions? Is there a motion?

Commissioner Murray: Mr. Chair, with that eloquent explanation I would move that the County enter into an agreement and authorize the Chair to sign.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any further discussion? All in favor of the motion signify by saying Aye. Aye. Motion Passes 3-0

Next item on the agenda is a final plat approval and subdivision improvements agreement for Timber Ridge Minor Subdivision. The Applicants are James Senterfitt and Michael Dowling, the Planner is Lindsay Morgan. Ms. Morgan.

Final Plat Approval and Subdivision Improvements Agreement for Timber Ridge Minor Subdivision

Lindsay Morgan: Good Morning Commissioners. I have attached the report outlining the Conditions of Approval and a description of compliance for each requirement. The Applicants have either bonded for the improvement or they have met the requirement per my site inspection. So therefore, Staff is recommending approval for the final plat for Timber Ridge Minor Subdivision with the subdivision improvements agreement.

Chairman Tinsley: Questions for Miss Morgan or the Applicant? Is there a motion?

Commissioner Murray: Mr. Chair, I would move approval of the final plat for Timber Ridge Minor Subdivision and authorize the Chair to sign any appropriate papers.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any further discussion? All in favor of the motion signify by saying Aye. Aye. Motion passes 3-0.

Next item on the agenda is the proposed subdivision to be known as the Foothills Major Subdivision. The Applicants are Ken and Dayna Ogle, the Planner is Michael McHugh. This is continued from 8/16/05. And this is decision day. Mr. McHugh is present. Do the Commissioners have any questions? Does Staff have any comments or questions?

Proposed Subdivision to be known as the Foothills Major Subdivision.

Michael McHugh: I believe you received a memo from Mr. Dean Retz, dated August 22nd of this year. At the Public Meeting we did have discussion about the keeping of large animals on the lots. The Board directed Staff and the Applicants to look at potential compromise language in the Condition of Approval. I believe it's 19-o. Staff recommended the prohibition of keeping large animals on the lot except for those approve for 4-H projects. In the Applicants proposed language he's indicated that lots 3 through 22 and lots 29 through 36 shall a limit of 2 large

animal per each lot. And then there's additional language that lots numbers 1, 2, 23 through 28 shall have a prohibition in raising or in confinement of keeping livestock except for 4-H projects. Staff does stand by their original recommendation about prohibition of large animals on the lots except for approved 4-H projects. The property does not have any irrigation rights. It's very arid with limited vegetation on it. A portion of the property is currently irrigated with a line, but that will no longer continue and these lots because of the natural condition of the property without the large scale irrigation does not have, in the Staff's opinion, does not have the capacity in keeping the large animals on the lot.

Chairman Tinsley: Questions for Mr. McHugh? Hearing none, is there a motion?

Commissioner Murray: Mr. Chair, I would move approval of the proposed Foothills Major Subdivision subject to 23 conditions as proposed by the Planning Board.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Are there any amendments?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: If we will look on the planning staff with the approval of the Planning Board recommendations, they're not numbered, but number 11-c, the Planning Board added a condition of approval that says the "Applicant shall extend the right-of-way easement of the cul-de-sac, to western or southern property boundary to permit the possible extension of the road to Lucky Strike Road". And there was some discussion during the meeting the other day, that indicated it just might not be possible, and the Applicant recommended that we added the two words "if feasible" to the beginning of that, and I would like to make a motion to add those two words at the beginning of Item number C.

Chairman Tinsley: We have a motion.

Commissioner Murray: And a second.

Chairman Tinsley: And a second. Any discussion?

Michael McHugh: Commissioners, can you define what "if feasible" means?

Chairman Tinsley: Thank you Mr. McHugh. I was going to ask the question when it went into discussion but.

Commissioner Varone: That's a very good point. Perhaps language should be a little more concrete than that. And maybe we can add some language that Michael you might be able to draft that says, something to the effect, that if it looks like a road is going to be the right thing to do that the land be set aside. I don't know exactly how that language could read. Can you make any recommendations?

Michael McHugh: Staff would recommend that language include, I don't have the specific language, but include if there is further subdivision of those lots off Lucky Strike Drive.

Chairman Tinsley: I guess the problem I have with the, first of all, and it sounds like we are getting away from "if feasible", which is good, because "if feasible", any good businessman or woman would find it would never be feasible, because it would cost more money to do. And how can they, I mean they're going to have to know up front whether or not they're going to do

this or not. We probably could ascertain that subdivision is going to occur south of this property, so it's going to happen. I think we need to do it or don't do it, but I don't know if doing the "what if" is going to really make a whole lot of difference. And if you put the words "if feasible", it's never going to happen because it would never be feasible. If they're the person making that determination.

Commissioner Varone: Mr. Chair, I would like to amend my language to include "if further subdivision off Lucky Strike Drive takes place", and then allow Staff to craft the language. Because we do have additional language in here that prohibits further subdivision of the lots and I think that's one reason why I thought that this would be appropriate. If you're going to further prohibit any subdivision then there should be some language that gives some sort of assurance to the Applicant that if anything else takes place then you can take a look at it. Otherwise, they shouldn't have to do it.

Chairman Tinsley: Commissioner Murray, does your second?

Commissioner Murray: No. The second disagrees. Once the final plat is signed the developer loses all responsibility for future extensions or developments in Lucky Strike. I'm not going to second Commissioner Varone's motion.

Chairman Tinsley: Commissioner Varone, your motion dies for lack of a second. Further amendments.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: I would like to add a condition of approval number 24. I asked for Staff to draft some language that talked about roads based on discussion we had earlier. And the language that Staff came up with is: "If a developer with a prior preliminary plat approval constructs or improves a road or other improvement that the Applicant is obligated to improve, further preliminary plat approval for this subdivision, the Applicant shall pay a pro-rata share to the previous developers for the cost of improving the roads or other infrastructure. This pro-rata share shall only be required if the improvements still meet the applicable standard at the time of the Applicants filing of his or her final plat." This is language that has apparently been used in the past and approved in the past, and what I asked to do is run this language by Attorney Paul Stahl to see if this is appropriate, and the language is OK with him, and he replies that it is. I think it's important to include this in this instance and that's my motion.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Discussion? I guess I would just point out, or point out in the form of a question and see if Mr. McHugh wants to answer: this only holds the current developer responsible for reimbursing, in this case Fieldstone, and if Fieldstone does something first. This does not hold Fieldstone responsible if Fieldstone is developed? Or collect anything?

Michael McHugh: There is potential for additional subdivision out there and Staff has had discussion with other property owners. I mean this is going to be applicable to any development whether it is major or minor subdivisions that you would have to have a rebate or a pro-rata compensation to the persons that would make the improvements.

Chairman Tinsley: Thank you. Further discussion? All in favor of the motion signify by saying Aye. Aye. Motion passes 3-0.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, I don't have a motion but I do have a comment on the request for the compromise. I drove out there yesterday and saw the growth of, well what is it that's been grown out there?

Michael McHugh: Grass alfalfa hay.

Commissioner Varone: Grass alfalfa. And it looked great, but after I understood that the watering rights aren't going to be allowed any further on that property, I think it's going to be difficult to have even one large animal on that property. So, I'm not going to be supporting the recommendation. Sorry.

Chairman Tinsley: Further amendments? Any further discussion?

Commissioner Murray: Call a question?

Chairman Tinsley: Question's been called. All in favor of the Foothills Major Subdivision with 24 conditions of approval, as amended, signify by saying Aye. Aye. Motion passes 3-0.

Next item on the agenda is the proposed North Star PUD Phase 2 through 6 Major Subdivision. The Applicant is North Star Development. The Planner is Michael McHugh. This was continued from 8/16/05. Mr. McHugh.

Proposed North Star PUD Phase 2-6 Major Subdivision

Michael McHugh: We did have the public hearing. There were 21 conditions. The Planning Board made recommendations to amend Staff's recommendation in 19-I and 19-J. 19-I dealt with the waiver of protest to form a improvements district for the installation and maintenance of sidewalks and bicycle paths, and then 19-j was a restrictive covenant that indemnified the County for use of the school park site, water quality, roads, response time for emergency service providers, wastewater treatment, disposals, school attendance districts and associated transportation costs in the location of the subject property within the DNRC's temporary ground water control area.

Chairman Tinsley: Questions for Staff?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Michael, under condition of approval, 19-j, as I recall you, Staff, indicated that 19-j wasn't necessary. That it's already taken care of throughout.

Michael McHugh: That was not part of Staff's original recommendations. The Planning Board seemed to indicate that there needed to be an indemnification for the County for these various issues. These are issues that the Board of County Commissioners and Staff generally address or have to meet for every subdivision. I mean, there are schools out there that have capacity problems. There are also some roads that are not at the ideal level of service. We deal with this for every subdivision so it either needs to be included in every approval statement or needs to be addressed on an individual Public Health and Safety standard issue, specifically for each subdivision.

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. McHugh on Condition 14, don't we normally ask that the cluster boxes be inside the subdivision? This leaves it wide open for the location of the mailboxes.

Michael McHugh: We could further clarify it. 14, proposed condition number 14 indicates that the Applicant shall provide neighborhood mailboxes for the entire subdivision. Plans for the location and installation of the individual mailboxes shall be reviewed by the US Postal Service prior to installation. That review would look at the location and probably require them to be located within the subdivision. In Phase 1, this subdivision, the mailboxes are located just kind of north of Valley View Road, on the internal access road, as you enter the subdivision. And we assume that there be a similar mailbox installation for the remaining phases.

Chairman Tinsley: Further questions for Staff? Do I hear a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the proposed North Star PUD Phase 2-6 Major Subdivision and authorize Chair to sign.

Chairman Tinsley: With 21 conditions of approval.

Commissioner Varone: Yes Sir

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Are there any amendments or questions?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, on condition of approval 19-j, I agree with Staff, I think it's superfluous and I trust their judgment on whether or not this language should be include and their job is to determine whether or not the language should be so I make a motion to remove condition of approval 19-j.

Chairman Tinsley: Is there a second? Is there a second? Motion dies for a lack of second.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, I would like to add a condition of approval and I believe it might be 19-k. In their standard language, I don't know exactly how it's written, but it's "lighting shall be directed downward to minimize visibility from beyond the property lines." I think that's important especially in this area.

Chairman Tinsley: It's usually in here.

Commissioner Varone: Yes it is.

Michael McHugh: Well, it's an oversight by Staff. Staff apologizes.

Commissioner Murray: Second.

Chairman Tinsley: No problem, that's OK. We have a motion and a second. Any discussion? All in favor of the motion signify by saying Aye. Aye. Motion Passes 3-0.

Commissioner Varone: Mr. Chair, just one more.

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: On 19-I, Mr. Chair, Commissioner Murray, I would like to add a language that prohibits livestock on the property. I understand these are small lots, but when I drove out there yesterday, I was down around Cactus Drive, it's a little bit further down, but on lots that are smaller than this, I viewed 3 horses on a piece of property, and a subdivision that's being considered here, it's a really nice subdivision, and I'd hate to see a neighbor move in and put 2 or 3 horses on the property, so I thought it might be important to include in this instance.

Chairman Tinsley: We have a motion. Is there a second?

Commissioner Murray: Second, for discussion Mr. Chair.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. McHugh, I would like you to respond to this and, and, with 4-H in mind also.

Michael McHugh: I mean these are very small lots. They range from a quarter to a half acre in size. I would assume most people would be cognizant of the fact that it's not suitable for livestock, but to drive the point home, we could always put that condition in there.

Commissioner Varone: Mr. Chair, Commissioner Murray, if I may respond.

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: It never crossed my mind until I drove in the area and I saw 3 horses. 3 horses in one area and 2 horses in another, and I would just hate to have a neighbor move in and do that.

Michael McHugh: Ok.

Chairman Tinsley: Further discussion or questions, or amendments? Oh, I'm sorry, we have an amendment before us, the livestock condition. Any further discussion on that amendment? All in favor of the motion signify by saying Aye. Aye. Motion passes 3-0. Now we're back in control here. Any further amendments or conditions? Hearing none, is there any further discussion? I guess I would like to point out on the proposed condition, 19-j that we have seen now a couple of times from the Planning Board, I understand Staff's position that it's something they have to deal with anyway, however, I don't have a problem with shining a light on some of these issues that their bringing up in this condition. Quite frankly, I think County Commissions across the State have been hamstrung by the legislature. Some of the good subdivision laws that we've had in the past have been taken back, they've been changed to the point where County Commissions don't have the opportunity to stand up and do the kind of planning that we should be doing. And I think that this just points out some of those issues. Granted they do need to be taken care of in the conditions already, I don't see by restating them how changes any of that. It just shines a light on it and lets the public know we are doing the best we can with the laws that we've got. And until some of the laws are changed up at the legislature, you know, this is how planning is going to occur or not occur. So, is there any further discussion or

questions or comments? We have before us the proposed North Star PUD Phase 2 through 6 Major Subdivision with 21 conditions of approval as recommended by the Planning Board. All in favor of the motion signify by saying Aye. Aye. Motion passes 3-0.

We're at the point of the agenda now where we allow public comment on any matters not mentioned above. Is there any public comment? Hearing none we stand adjourned.

Public comments on matters not mentioned above. None

Adjourn. 9:20 a.m.