

**FREMONT COUNTY PLANNING COMMISSION
MEETING MINUTES
MARCH 26, 2015
7:00 PM**

Open of Meeting: Chairman Kristin Paulsen called the meeting to order at 7:03 p.m. The following were present: Vice Chairman Harold Albright, Planning Commissioners: Tom Jones, JR Oakley and Richard Emond; County Commissioner Travis Becker; Planning Department Staff: Director Steve Baumann, Small Wastewater Specialist Marcel Lopez and Department Secretary Cheryl Crowson.

Pledge of Allegiance: Chairman Paulsen led those present in the Pledge of Allegiance.

Approval of Agenda: Vice Chairman Albright moved to correct the Agenda to approval of February 26, 2015 Meeting Minutes and include the Special Meeting Minutes from the work session.

Vice Chairman Albright moved, Commissioner Jones seconded to approve the agenda as corrected with the change of the approval of the February 26, 2015 Minutes and Work Session Minutes of February 26, 2015. No further discussion, the motion carried unanimously.

Approval of Minutes:

Staff Progress Report:

1. The Planning Commission received a copy of the Monthly Report provided to the County Commissioners.

2. The Master Street Address Guide coverage from the Sheriff's department has been transferred to our GIS department; it was the logical solution since our GIS department works with it routinely. Our GIS Technician will also be the Master Street Address Guide Coordinator for the county. Evan Reimondo resigned from the department and we have a new GIS Technician, Seth Halman. Seth was previously employed with the forest service for a number of years and has recently completed his online study in the use of GIS from Penn State.

3. Letters were sent to every property owner that has property either in the 100 year flood zone or within the floodway in the county; mostly to alert them to the fact their property has specific zoning requirements. It is the only zoning within the county and within the FEMA (FIRM) indicated areas. We have received a few comments, some were not pleased they could not build in certain places or additional permits were required to build.

4. Director Baumann traveled to all banks in Riverton and Lander to speak with the real estate loan personnel to discuss floodplains, floodplain issues and how to access information on MapServer. Additionally, reminding them to contacting Marcel Lopez or Steve Warner for information on the property being purchased or sold if it has a valid septic permit or if not are aware of the ramifications of not having a permit.

5. Several letters were sent to various property owners in the last couple of months regarding merging to qualify under one of the provisions for exemption from the subdivision law to comply with the legally merged definition. Almost everyone has complied so far and a few were sent out specifically addressing agricultural, which has been waived to change our version of agriculture to be in compliance with the state statute, which does not require them to be merged.

6. Steve and Marcel have finished working on the Small Wastewater Regulations. They were sent to Jodi Darrough and have been reviewed. Also, James Brough, from the DEQ, came into the office and reviewed a majority of the regulations. He will be back to finish up the review, a copy was included in the packets.

7. The land affidavits were not reviewed last month, as we were occupied with other projects. At the beginning of this month, we have reviewed about thirty, and there has been nothing unusual.

Vice Chairman Albright stated, in regard to the discussion at the last board meeting, what is the state statute as it relates to merging parcels and what is the statute number. Director Baumann answered the State Statute number is 18-5-302 and specifically on that issue, there was a question on the meaning of "merged". A letter was sent to Jodi Darrough asking for some insight; and asking her to (1) review her records to see if she had information from the previous Secretary of State, and (2) any contact with other County Attorneys regarding what they are doing. Director Baumann did call several County Planners and most of them obtain a new metes and bounds description, but not all. As long as the affidavit states it legally merges the property, it has been allowed. That will work for the Assessor's office, but where does the description of the boundary of the property come from? Two documents that have another document attached which states they are now one, but there is nothing tangible and no one could give an answer. Having a legal answer is better than relying on what others are doing. Commissioner Emond asked if there was a directive from the state, Director Baumann answered he does not have a copy of one.

Unfinished Business: None.

New Business:

Taylor Subdivision Lot 9 Replat

Tom Johnson of Apex Surveying came forward to represent Clint D. and Tanya L. Santee. Taylor Subdivision is an existing subdivision, which Mr. & Mrs. Santee want to split Lot 9, sell the larger parcel with the house on it, and retain the smaller parcel with the shop building. Mr. Johnson was advised the Santee's are going to build a house on the smaller parcel and keep it. Chairman Paulsen commented they are selling Lot 9A because they recently purchased a new home, and they are keeping Lot 9B for their commercial business. Commissioner Oakley asked if Lot 9B is large enough to build a home on the property along with the shop building. Director Baumann commented on a concern expressed while in the field as to whether or not there was a shared easement and a shared well agreement. The planning department is in receipt of a letter from the

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Santee's stating they plan to drill a separate well on the 1-1/2 acre parcel, so a shared well agreement is not necessary. Mr. Johnson stated when he met with the Santee's, he asked if they were going to share the well, with the idea an easement may be necessary if the need to get to the well from the other lot should arise. Mr. Johnson was told the Santee's do not intend to use the well on the Lot 9A. Commissioner Oakley asked if an agreement needs to be in place until the well on Lot 9B is completed, just in case the well is years out or is never completed. Chairman Paulson responded as long as the Santee's own both lots, an agreement is not necessary but, if they sell Lot 9A they would need to do an agreement at that time. Vice Chairman Albright asked if there is an existing water line to Lot 9B from the existing well. Mr. Johnson answered that nothing was brought up. Mr. Lopez commented that the shop is currently hooked to the well on 9A with a standard shop bathroom with a hydrant outside. Vice Chairman Albright voiced a concern when Lot 9A is sold and Lot 9B is separated from use of the well, the line would need to be abandoned, disconnected and plugged in such a way so there could not be any cross-contamination from one lot to the other. Chairman Paulsen asked if Mr. Lopez specifically spoke to Mr. Santee regarding this issue; Mr. Lopez answered no. Vice Chairman Albright stated regarding the issue of the currently shared water well and the potential contamination going back to the well on Lot 9A or possible flooding issues on Lot 9B, if there was damage to the line. Director Baumann asked if the Planning Commission wanted him to draft a letter to the Santee's. The department does have a letter on file from the Santee's stating they are planning to abandon the well and drill their own well. From a liability standpoint for the person purchasing Lot 9A, there is documentation in place to provide support for any kind of civil action that could culminate. If it is the desire of the Planning Commission, Director Baumann would draft a letter, on Planning Commission letterhead, and signed by Chairman Paulsen, stating the Planning Commission is interested in making sure the well is abandoned prior to the sale of Lot 9A. A problem may possibly occur, if the Santee's are planning to wait until the sale of Lot 9A before drilling a new well; it could be in place for a while. Vice Chairman Albright commented there may not be a problem immediately, but if it falls through the cracks, then years down the line there could be an issue. The Planning Commission needs to make sure the developer is aware of these possible issues and will deal with it appropriately. Chairman Paulsen stated the Santee's letter is acknowledging these facts, they are separating the two and do not want to do a shared water well agreement. Although, it is beneficial to send the Santee's a letter stating this is an issue they need to address prior to the sale of Lot 9A closing or they will need to write an agreement between them and the new owner to continue the use of the well. Director Baumann asked if the Commissioners wanted him to draft a letter addressing this issue, they responded yes. Chairman Paulsen asked if any correspondence was received. Director Baumann answered no. Chairman Paulsen called for a motion. Vice Chairman Albright moved and seconded by Commissioner Oakley to recommend the County Commissioners approve the Taylor Subdivision Lot 9 Replat together with sending the owner of record, Clint D. and Tonya L. Santee, a letter reiterating the concerns of the water well which is currently shared between Lot 9A and Lot 9B. County Commissioner Becker asked the question, if the City of Riverton has approved. Chairman Paulsen answered yes. The City of Riverton's planning department went along with the Planning Commission to view the property. Commissioner Oakley

commented the letter should address the issue of proper evacuation of the well, together with the shared well issue. No further discussion. Motion carried unanimously.

Gibbons Draw Subdivision

Mr. Dan Hart came forward to represent Andy Snelling, stating this is a five lot simple subdivision located on Young Road, consisting of four, 1.7 acre lots without improvements. The larger lot contains a home and shop with existing improvements. Mr. Hart discussed with the Transportation Department the approaches, which are rated as a 35 MPH road, but posted at 40 MPH. The road is actually rated at 35 MPH and the Transportation Department does not have a problem with each lot having its own driveway. There is one deviation, the larger lot is showing a ten foot wide easement in the back because there is an existing barn ten feet from the property line which is located next to a hayfield. Vice Chairman Albright asked why the county engineer is agreeable with each lot having its own driveway when the road is designated at 35 MPH and the county has it posted at 40 MPH, it doesn't make sense. Vice Chairman Albright asked if the Transportation Department was acceptable with driveways on each lot at 40 MPH as well. Mr. Hart answered the transportation department has a log of each posted sign and apparently when they did the log there was a mix-up. Vice Chairman Albright asked if the transportation department is satisfied to leave as is or do they intend to remedy the situation. Mr. Hart responded they did not specifically say if they were going to re-sign the road. Vice Chairman Albright stated we need to send a letter to the engineer stating the approval of each lot having their own approach at 40 MPH or reduce the speed limit sign. Mr. Hart stated the critical factor was if it was 45 MPH it would have different criteria, but at 40 MPH it doesn't put it into a higher standard. Director Baumann commented that he spoke with the road department and received the same comment. They were satisfied, the road is mis-signed, and their inventory on the road is for a 35 MPH. Vice Chairman Albright commented the transportation department should state they are accepting this at 40 MPH because that is what the sign is posted. Vice Chairman Albright asked if a variance would be necessary to decrease easement to ten feet. Vice Chairman Albright moved and seconded by Commissioner Oakley to grant a variance on the north side of Lot 1 to a ten foot utility, irrigation and drainage easement versus the standard twenty foot. No further discussion, Motion passed unanimously. Chairman Paulsen commented on the irrigation issue on the property and a concern with the cement ditch on Lot 1 filled in with dirt. Mr. Hart answered that Mr. Snelling does not intend to use the ditch. Chairman Paulsen commented according to the irrigation plan there are adjudicated water rights without access and are negotiations going on with adjoining owners to get water they do not have right to. Mr. Hart answered they have adjudicated rights to the canal and when construction took place, the canal was changed to run down the highway. On the highway there is a head gate that comes off the ditch and Mr. Snelling uses pipe to the corner of the property for irrigation. Ms. Becky Walters, neighboring property owner, came forward and stated the reason the property has never received water is the carrier fee has never been paid to the county. Ms. Walters commented she contacted Wayne at the Irrigation District and was told that Mr. Snelling would need to apply to the state for a permit to get water out of the drain, which goes behind the house; or pay Ms. Walters to build a new box, with only two

starters, which will only feed her place. Director Baumann stated he contacted Wayne at the Irrigation Company; dues have not been paid for a significant period of time and currently no means of getting water from the head gate to the property. The only option is to contact the Irrigation Company and neighbors to compose a new arrangement for redesigning the head structure and write an agreement to put in a new ditch or new pipe and an easement to convey water. Currently none of that exists, and nothing has been paid. The water rights are still there, but have not been used for a significant amount of time or given away. The only way to get them back is to go through that process or to apply for a separate water right of the water from the ditch behind the property. Chairman Paulsen commented the soil was wet and after reviewing the soils report, an engineered septic system note should be on the plat. Director Baumann stated no correspondence has been received, except from High Plains Power. The concern of High Plains Power is making sure: (1) the ability to put their backbone within the road right of way. After a conversation with Dave Pendleton, they are satisfied; and (2) requiring the total cost of the backbone be paid upfront prior to installation. Each individual lot owner will be responsible for the cost of their proposed service from the backbone to their meter, which at this time is \$1,400.00. Vice Chairman Albright stated for the record, with wording on the plat "All lot owners are advised; although lands within this subdivision have adjudicated water rights, the Planning Commission is not validating those rights exist." They may or may not. If you do not have a point of diversion and means of conveyance, often do not keep the rights. Chairman Paulsen called for a motion. Commissioner Oakley moved and seconded by Commissioner Jones to send the Gibbons Draw Subdivision to the County Commissioners for approval with the notification of the variance on the north boundary of Lot 1 and the addition in the general notes an engineered septic system may be required. No further discussion, motion passed unanimously.

Sand Draw Simple Subdivision

Mr. Charles Speer, Senior Land Advisor for Devon Energy Production Company, L.P., came forward representing the Sand Draw Simple Subdivision. Commissioner Oakley thanked Mr. Speer for traveling from Oklahoma to attend the meeting and represent the subdivision. Mr. Speer stated that Devon is initiating a CO₂, carbon dioxide flood, of the Big Sand Draw Oil Unit. Sinclair Transportation is going to take oil from both Big Sand Draw Oil Unit and Beaver Creek Unit and put into a pipe line just off the lot. The reason this facility is being constructed is for storage prior to putting oil in the pipe line. Devon felt it was better practice to convey the lot to themselves instead of leasing and dealing with potential reclamation issues down the road when the facility is abandoned. Commissioner Oakley asked when they expect this facility to be in operation. Mr. Speer answered Sinclair's facility will be open the end of April or first of May, 2015. It will be operational, the unit, gas reinjection and production about the same time frame. It is basically a temporary storage so they can deal with any change, just in case it became necessary to stop using the pipe, there will be storage available. Director Baumann stated correspondence has been received from power companies. No further discussion or comments. Chairman Paulsen called for a motion. Commissioner Jones moved and seconded by Commissioner Emond to approve the Sand Draw Simple Subdivision and

send to the County Commissioners for approval. No further discussion. Motion passed unanimously.

County Commissioner Becker thanked Mr. Speer's for traveling from Oklahoma to attend this meeting and although he is welcome to attend the County Commissioners meeting, it is not necessary for him to travel back when the plat is presented to the County Commissioners for approval.

Vacations

Director Baumann commented after several conversations with Mrs. Shearer regarding her property located at Longview Lane; researching state statutes; reviewing with other counties on addressing plats, plat vacations and roads; and having conversations with several planners within other counties, what has been discussed with Mrs. Shearer is the only available option, should she decide to do a vacation. The main issue is when the Upper Meadow was platted, all the properties went to the center of the road. The road overlaps onto each property line. What Mrs. Shearer would like to do is vacate only one lot. The purpose for vacating is the lot is only 31 acres, and to receive an agricultural exemption the lot must be at least 35 acres. Currently the property is used for residential and agricultural, but is in a subdivision and state statutes require them to be taxed as a subdivision. Mrs. Shearer wants to vacate their lot, buy additional acres bringing the total acreage over the threshold of 35 acres and then apply for agricultural tax exemption. The problem with the proposed vacation is the document describing vacation erases everything from the plat. When a requesting a vacation on the lot, it erases everything on the lot, so half of the road on that lot gets erased. When that happens, property owners on the other side of the road have become impuned . They no longer have valid access to their lot, which is a violation of subdivision law. Subdivision Law states each lot has to have valid access. The only way to resolve this issue would be to replat the lots on one side to include the road , replat Mrs. Shearer's lot, then vacate her lot after the replat because the road would no longer be associated. The other alternative is to leave as is and contemporaneously at the point of vacating, would be to vacate and have an easement drawn up and a replat showing the new easement with a document associated with it. It cannot be a platted easement, it would have to be a documented easement that would be a part of her property as an easement allowing the other three lots access. The Planning Commission's recommendation is to either vacate and remake the plat so the road is completely on the other landowners, or vacate and replat leaving the road one-half on the lot Mrs. Shearer is going to continue to own, currently 4A, and the other side on the other road and dedicate an easement to the public in that being delineated on a new plat showing what was vacated and how the new road will actually lie. Director Baumann, commented all alternatives required either a replat with a fee of \$150 or vacation with a fee of \$150.00. Discussion continued regarding: (a) the difference in taxation on subdivision versus agricultural; (b) State Statute guidelines for taxation; (c) other options available; (d) State Statutes regarding vacations in other areas; (e) process and costs of vacating roads; (f) initiating conversations with the developer(s) to ensure a clear understanding where the lines are drawn on the plats for roads. Chairman Paulson

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commented that the reason for platting to the center of a road was due to irrigation rights. For instance, a person had a certain amount of acres included in roads and didn't plat them, they could lose irrigation rights or the amount adjudicated could be determined based on what was given up in irrigation rights for that road. Director Baumann commented that the State Engineers Office has a provision and a procedure to apply to take out of the roads and placed onto the land. Also, in the Subdivision Section of the State Water Law there is a section specifically dealing with roads. Vice Chairman Albright asked if demonstrated, would the Shearer's be able to meet the criteria for an agricultural exemption, if obtaining 35 acres or more. Discussion regarding criteria for the agricultural exemption and documentation required.

County Commissioner Becker asked, if within a subdivision, lot lines were not platted to the middle of a road with public access, the landowners wanted to put gravel on the road, but are not the owners of the road, could they do so and where does the liability stand when putting gravel or any other improvements on that road. Chairman Paulsen commented in a previous discussion with Jodi Darrough, the comment was when something is dedicated on the plat, the county considers it to be held in trust for the public and there isn't any real ownership. Basically, anyone could use it and anyone could do anything with it, but there isn't anyone responsible for it. If someone wants to spend the money to improve it, there is no reimbursed for costs or labor. It is similar to land held trust. Commissioner Becker asked if there are improvements and an accident occurs, who is liable. Chairman Paulsen stated that Jodi Darrough's comment in a memo was basically no one is liable. The county waives the taxes. That is why the discussion on road maintenance agreements is important, for all to get together to discuss maintenance. There is no ownership, no one is taxed and no one has liability.

A Special Working Meeting is scheduled for Thursday, April 30, 2015, from 11:00 a.m. to 5:00 p.m.

The Regular scheduled meeting is changed to Thursday April 30, 2015 at 7:00 p.m.

No further discussions, meeting adjourned at 8:29 p.m.

Respectfully submitted:

Cheryl Crowson
Department Secretary

Kristin Paulsen
Chairman