



ELBERT COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS MEETING MINUTES

Regular Meeting Held in the BOCC Meeting Room

November 15, 2023 at 9:00 AM

631222 B: 840 P: 749 MM

12/14/2023 08:46:01 AM Page: 1 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



A. INVOCATION/PLEDGE OF ALLEGIANCE:

County Manager Shawn Fletcher provided the Invocation and led the Pledge of Allegiance.

B. CALL TO ORDER AND ROLL CALL

The regular meeting of the Board of County Commissioners was called to order at 9:02A.M. Deputy Clerk Emily Backhus-Irwin called the roll and all commissioners were present.

C. APPROVAL OF AGENDA

Motion: Approval of Agenda as presented.

Commissioner Grant Thayer made a motion to Approve the Agenda as presented. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

D. CONSENT AGENDA

Motion: Approval of Consent Agenda as presented

Commissioner Dallas Schroeder made a motion to Approve the Consent Agenda as presented. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

1. Approval of CDS Mylars as needed
2. Approval of Vouchers as needed
3. Acknowledgement of CDS Pipeline Report
4. Acknowledgement of Receipt of Variance Reports
5. Approval of Department of Human Services 2024 County Merit System Certification

E. ELECTED OFFICIALS/DEPARTMENT HEADS/STAFF REPORTS

County Treasurer Sheryl Hewlitt spoke about the success of the Tax Lien Sale. Ms. Hewlitt stated that they had a full house for the auction. There were 24 investors that showed up to bid on 162 properties. All tax

liens sold but 1.

Ms. Hewlett also said they brought in \$261,196.89 which was \$6,400.00 more than last year. Over 99.9% of the taxes were collected.

Ms. Hewlett also thanked her team Beth Barnes and Michelle Ingersoll for all their hard work and effort going into the tax sale.

Ms. Hewlett thanked Todd Natale with Double Diamond Auctions for his expertise and efforts for the auction.

Commissioner Chris Richardson asked about the process regarding the tax lien sale. Ms. Hewlett stated the process can be found on their website under tax lien or to call the Public Trustee for information.

County Clerk and Recorder Rhonda Braun stated the most recent DMV inventory audit went very well. Ms. Braun said the increase in scoring led them to the highest in the state. Ms. Braun received comments from residents and the state that the staff was very friendly and cooperative. Ms. Braun also complimented DMV Manager Ashlie Borzillo and her staff for how well the motor vehicle department is running.

Ms. Braun also touched on the elections turnout. She stated that over 53% of the voters submitted their ballots and that it was a fantastic amount received. Ms. Braun thanked her staff, the Election judges and facilities for everyone's hard work.

F. CITIZEN PUBLIC COMMENT (See Note 1)

Brad Ray - 17112 Hwy 86, Calhan. Mr. Ray commented on an article posted on Xcel's website on October 18, 2023 about Xcel receiving a \$100 million grant for wildfire mitigation and burial of power lines. He expressed concerns about the financial damage it could cause to property and/or wildlife. Mr. Ray is also concerned about the powerlines as he moved here in 2008 and has already experienced a fire going across Highway 86 that was started by a hot wire.

Don Gray - 16000 Hwy 86, Kiowa. Mr. Gray thanked Brad for his comments regarding Xcel. He also asked the county for any sort of legal standing they have against Xcel. Mr. Gray feels like the residents voices aren't being heard. He asked the commissioners if there was a legal way for Xcel to come back and talk with the county.

Kerry Jiblits - 19656 Wedemeyer RD, Kiowa. Ms. Jiblits expressed concerns about the open house for Xcel, and that they say everything is a done deal. There was no comment from Xcel when presented with questions.

Suni Mills - 27310 Forest Ridge Dr, Kiowa. Thanked the commissioners for the development of the water master plan. Ms. Mills stated that burying the Xcel power lines is more reliable and greatly reduces the risk of wildfires along with not lowering property value.

Commissioner Thayer made a statement that no application had been submitted yet from Xcel.

G. DISCUSSION ITEMS (See Note 2)

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 2 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co


1. Annual Update from the Veterans Service Officer Ric Morgan

An Annual Update was presented by the Veterans Service Officer Ric Morgan. Mr. Morgan stated there was an increase in expenditures and Elbert County is stable in the decline of veterans. Mr. Morgan cited that 1

in 10 residents are veterans. Contributions from the VA continue to climb. Mr. Morgan stated that the funds are now more than two times larger than in the last 20 years. Mr. Morgan also stated that the program is providing cost-effective benefits and things are going smoothly.

Commissioner Richardson commented that the numbers are great. He thanked Ric for his expertise.

2. Discussion Regarding Flock Camera License Plate Readers

Commissioner Dallas Schroeder provided an update to the discussion regarding the flock cameras. He and Commissioner Richardson are awaiting further communication from the Flock representatives to provide more detailed information.

Commissioner Thayer and Commissioner Richardson thanked Commissioner Schroeder for taking on this task of investigating how this would benefit Elbert County. Commissioner Richardson stated that we have no concern about our own local law enforcement.

Sheriff Tim Norton confirmed that the cameras are strictly for plates, and no people are being photographed. Sheriff Norton also said the Sheriff's office would never sell any information obtained from the cameras.

H. ACTION ITEMS (See Note 3)

1. Consideration of Approval of the Elbert County Emergency Operations Plan Update

Office of Emergency Management Director Shane Pynes provided an update to the EOP released in early October. Mr. Pynes stated there were minimal edits to the document. Mr. Pynes also stated they made the document more simplified by the language used. Mr. Pynes has not received any public comment about any of the changes. Mr. Pynes referenced the difference between state and local responses to disasters and how Elbert County responds to them.

No other discussion or public comment.

Commissioner Richardson requested to wait on approval of the Resolution.

2. Consideration of October 25, 2023 Meeting Minutes

Motion: Approval of October 25, 2023 Minutes

Commissioner Grant Thayer made a motion to Approve the Minutes as presented and adjusted and dispense with the reading. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

I. BOARD PLANNING

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 3 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



1. Agenda Items for Next Meeting

A. Consideration of Approval of the Elbert County Emergency Operations Plan on consent

B. Budget Approval

Commissioner Richardson called a recess at 10:07 AM to return at 1:00 PM for the Land Use Hearing.

J. LAND USE HEARINGS 1:00 P.M. (See Note 4)

The Land Use Hearings were called to order at 1:02 PM. Deputy Clerk Emily Backhus-Irwin called the roll and all commissioners were present.

1. Spring Valley Ranch Filing 8 Final Plat

Motion: To Open a Public Hearing for Spring Valley Ranch Filing 8 Final Plat FP-22-0225.

Commissioner Dallas Schroeder made a motion to Open a Public Hearing for Spring Valley Ranch Filing 8 Final Plat FP-22-0225. Commissioner Grant Thayer seconded the motion.

Yes -Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Opened at 1:02 PM

Community and Economic Development Director Marc Dettenrieder presented the application for the Final Plat for Spring Valley Ranch Filing 8. Mr. Dettenrieder explained that the property is for 44 lots. He stated the Planning Commission voted 5 to 1 in favor of the new filing. Mr. Dettenrieder presented a letter to the commissioners from an attorney representing one of the residents about concerns with drainage and improvements. The commissioners reviewed the letter.

Staff recommends approval of the final plat.

The applicant, Jim Marshall spoke in reference to the central water and sewage at the property will be finished to complete the water loop. He also stated that he has been working with the President of the HOA, Byron McDaniel. Mr. Marshall explained there will be larger homes with larger lots, more expensive and in the million dollar mark.

Commissioner Thayer asked about any connection to County Road 174. Mr. Marshall stated that a road hasn't been built yet and there are no plans as of now.

Public Comment:

Dan Wahl - Vice President to the Masters Homeowners Association - Mr. Wahl explained he needed a quorum to speak for the HOA. Not as an individual. Mr. Wahl stated that there are concerns with the easements. Mr. Wahl also stated that the Declarations state they are responsible for the maintenance, not the applicant. Mr. Wahl said he isn't totally against Filing 8, just the extra construction. Mr. Wahl asked that they postpone the vote, delay the progress.

Mr. Marshall stated that he has spoken with Mr. Wahl. Mr. Marshall explained that he is more than willing to work with the HOA. Mr. Marshall believes they have a final design to discuss more in depth with the citizens.

Commissioner Richardson referred to the attorney letter for concerns. Commissioner Richardson asked the applicant, with the conditions stated in the letter, would they be able to comply?

Public comment closed.

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 4 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



Commissioner Richardson called a recess at 1:38 PM and returned at 1:47 PM.

Mr. Wahl asked if there could be some changes to the Resolution to add some conditions?

Mr. Marshall stated they could add to the Resolution in regards to the construction easement to Right of Way and drainage.

Commissioner Richardson called a recess for 10 minutes at 1:51 PM and returned at 2:01 PM.

After review, the Applicant agrees to the conditions listed.

Motion: To Approve Spring Valley Ranch Filing 8 Final Plat FP-22-0225 with the conditions and amendments.

Commissioner Dallas Schroeder made a motion to Approve Spring Valley Ranch Filing 8 Final Plat FP-22-0225 with the conditions as amended. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Motion: To Close a Public Hearing for Spring Valley Ranch Filing 8 FP-22-0225 Final Plat.

Commissioner Dallas Schroeder made a motion to Close a Public Hearing for Spring Valley Ranch Filing 8 Final Plat FP-22-0225. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Closed at 2:04 PM

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 5 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



2. Independence 3rd PUD Amendment (lot width)

Motion: To Open a Public Hearing for Independence 3rd PUD Amendment (lot width) PU-2023-1001.

Commissioner Grant Thayer made a motion to Open a Public Hearing for Independence 3rd PUD Amendment (lot width) PU-2023-1001. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Opened at 2:05 PM

Community and Economic Development Director Marc Dettenrieder presented an application to request an amendment to Independence 3rd PUD in regard to lot width. A vote was made that was 6 to 1 in favor of the amendment. Mr. Dettenrieder recommended to the Board of County Commissioners that the planning department is in compliance and to approve the amendment.

Staff recommends approval of the PUD amendment.

Jim Yates spoke to clarify the potential conflict of the lot fronts. Mr. Yates stated they are not changing the plat.

Public comment: None

Commissioner Thayer asked if applicant accepted the conditions of approval? The applicant accepted.

Motion: To Approve the Independence 3rd PUD Amendment (lot width) PU-2023-1001.

Commissioner Grant Thayer made a motion to Approve the Independence 3rd PUD Amendment (lot width) PU-2023-1001 with the conditions listed. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Motion: To Close a Public Hearing for Independence 3rd PUD Amendment (lot width) PU-2023-1001.

Commissioner Grant Thayer made a motion to Close a Public Hearing for Independence 3rd PUD Amendment (lot width) PU-2023-1001. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Closed at 2:15 PM.

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 6 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



3. Independence Filing 4 Final Plat

Motion: To Open a Public Hearing for Independence Filing 4 Final Plat - FP-22-0062

Commissioner Dallas Schroeder made a motion to Open a Public Hearing for Independence Filing 4 Final Plat FP-22-0062 Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Opened at 2:16 PM

Community and Economic Development Director Marc Dettenrieder presented the request to approve the Final Plat for Independence Filing 4. Mr. Dettenrieder stated there will be 140 single family residential homes. Staff recommends approve for the final plat.

Applicant Representative Mark Kieffer with Norris Design introduced his team, including Jim Yates. Mr. Keiffer stated they are about half way done with the project for Independence. Mr. Keiffer estimated 300 plus new homeowners and family to occupy the subdivision. Mr. Kieffer said they made a commitment to provide for 50% of the land as open space. 349 acres are dedicated as open space. Mr. Kieffer spoke of the new recreation and community centers that are built and bike paths are open for use.

Commissioner Grant Thayer inquired about the timing for road improvements.

Mr. Kieffer and Mr. Yates stated they are in communication with the Elbert County staff with Road and Bridge. The roads won't be completed until Spring of 2024. Mr. Yates said that Hancock would be tied to Delbert Road.

Commissioner Chris Richardson asked about the connectivity of Independence Filing 3 and 4 in regards to road use. Mr. Yates said it will be a maintenance route.

Public comment: None

Motion: To Approve Independence Filing 4 Final Plat - FP-22-0062 with conditions as presented.

Commissioner Dallas Schroeder made a motion to Approve Independence Filing 4 Final Plat - FP-22-0062 with conditions as presented. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Motion: To Close a Public Hearing for Independence Filing 4 Final Plat - FP-22-0062.

Commissioner Dallas Schroeder made a motion to Close a Public Hearing for Independence Filing 4 Final Plat FP-22-0062. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

Public Hearing Closed at 2:38 PM

K. ADJOURNMENT

Motion: To Adjourn

Commissioner Grant Thayer made a motion to Adjourn. Commissioner Dallas Schroeder seconded the motion.

Yes - Chris Richardson, Grant Thayer, Dallas Schroeder

No - None

The meeting Adjourned at 2:38 PM

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 7 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co





BOARD OF COUNTY COMMISSIONERS

ELBERT COUNTY, COLORADO

CHRIS RICHARDSON, Chair, COMMISSIONER District 1

DALLAS SCHROEDER, COMMISSIONER District 2

GRANT THAYER, Vice-Chair, COMMISSIONER District 3

ATTEST: Emily Backhus-Irwin

Deputy County Clerk

BY:

Deputy Clerk to the Board of County Commissioners; Emily Backhus-Irwin



From: jim@mglinvestments.com

Date: November 14, 2023 at 9:53:39 AM MST

To: kmcqueeney@ochhoalaw.com

Cc: Byron McDaniel <chiefbmcDaniel@gmail.com>, Janelle Mauch <Janelle@westwindmanagement.com>

Subject: Re: Spring Valley Ranch Filing 8

Kelly,

I am in receipt of your November 9, 2023 letter addressed to the Elbert County Commissioners and Planning Commission relating to the construction of certain public improvements for the Spring Valley Ranch Filing 8 subdivision.

I have been the master developer for the Spring Valley Ranch project since I began the entitlement process in 1999. I have been developing master planned communities throughout the metro Denver marketplace for over 30 years and have developed over 15,000 residential lots during that time. I am very experienced and I conduct all of my business affairs with utmost level of honesty and integrity. I would also point out that when I agreed to deed the open space tracts to the HOA several years ago, long before most of the existing homeowners even lived in the community, it was with the understanding that we would need ROW and construction easements from time to time in the open space tracts to accommodate certain public improvements required for the health, safety and welfare of all Spring Valley Ranch residents.

Your letter definitely took me by surprise for two reasons:

1. I have been totally available and transparent with the HOA board and any homeowner that has a question or concern on any matter related to the development of Spring Valley Ranch. I believe that I have a very good professional relationship with the HOA board members or at least the ones I have had the chance to meet.
2. My engineering team and I reached out to the HOA board almost 2 years ago to discuss necessary ROW and construction easements that would be necessary to construct the Spring Valley Ranch Filing 8 lot improvements. We even conducted a neighborhood meeting and used engineered layouts to explain the attributes of the subdivision. We discussed everything from ROW to possible easements and even construction traffic routes to avoid the existing developed subdivisions. We had a good meeting.

My primary points of contact with the board over the past several years have been with Byron McDaniel and Jeff Church. I know there has been some turnover on the board over the past year or two and I have not had an opportunity to meet a couple of the new board members.

As it relates to the detention ponds; they are relatively small, they channel drainage flows to avoid damaging homeowner property, they don't just benefit the filing 8 lots they benefit any homeowner located close to or adjacent to them, they will be maintained by the metro district and not the HOA (I think someone may have confused ownership with maintenance), they are generally dry most of the



year and the design conforms with the design criteria for both the Mile High Flood District and Elbert County.

Bottom line is we have always acknowledged that we would need ROW and Construction Easements from the HOA for the Filing 8 subdivision, and based on numerous emails, discussions and meetings, believed that the HOA board was in agreement to provide all ROW and construction easements associated with the Filing 8 plat.

I have attached a copy of the Spring Valley Ranch land plan for your perusal. The Filing 8 (Planning Area F) lots are all approximately 1 acre in size and are surrounded by a significant open space corridor/buffer. Your HOA clients live in Planning Areas, A, B, C, D & E. The Filing 8 lots are considerably larger than the Planning Area E lots that are on the other side of the open space tract and home prices are expected to start close to \$1 million.

I will continue to work directly with the HOA board on this matter.

Jim



Orten Cavanagh
Holmes & Hunt, LLC
ATTORNEYS AT LAW

Kelly K. McQueeney
Direct: 720-221-9655
kmcqueeney@ochhoolaw.com

631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 11 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



November 9, 2023

Via U.S. Mail & E-mail

Board of County Commissioners
P.O. Box 7
Kiowa, CO 80117

Planning Commission
P.O. Box 7
Kiowa, CO 80117

***Re: Public Hearing on Spring Valley Ranch Filing 8/Request for Postponement
Case No.: FP-2023-6433***

Dear Commissioners:

Orten Cavanagh Holmes & Hunt, LLC is legal counsel to the Spring Valley Ranch Master Owners Association ("Association"). The Association's Board of Directors recently became aware of the application submitted to the Elbert County Planning Commission by Tahoe Consulting, LLC for a final plat concerning Spring Valley Ranch Filing 8, Case No. FP-2023-6433 ("Proposed Development"). We understand the application for this Proposed Development was approved by the Planning Commission at the October 17, 2023 public hearing and is set for review by the Board of County Commissioners on November 15, 2023. For the reasons set forth below, the Association is requesting the Board of County Commissioners reject the application for the Proposed Development or postpone any decision on the application pending further review and consultations with the Association.

The Proposed Development is for Filing 8 located in Spring Valley Ranch, which is not currently part of the Association. However, the Proposed Development seeks to construct drainage improvements on the Association's common area property for the benefit of the Filing 8 homes. At the October 17, 2023 public hearing, the Association's vice president, Dan Wall, was in attendance. At the hearing, Mr. Wall raised concerns about the proposed drainage improvements. Of particular concern, the Proposed Development includes two detention ponds and other drainage improvements located on the Association's property. The property at issue includes parcels 6433100309, 6433400001 and 6433100312 ("Association's Property").

We also understand that the Planning Commission's decision may have been based on the understanding that the applicant had consulted with the Association and the Association was in agreement with the proposed drainage improvements. However, this is not the case. The Association's Board has not been consulted and only became aware of the proposed drainage improvements when it received notice of the public hearing. The Board has not had any discussions



with representatives for the Proposed Development and, in particular, regarding the proposed drainage improvements. Also, it appears representations have been made to the Planning Commission that the property surrounding the Proposed Development is owned by the Spring Valley Ranch Metropolitan District. However, the properties surrounding the Proposed Development are owned by the Association, as reflected in the Elbert County Assessor's records.

The Association's Board has concerns as to the authority to construct these drainage improvements on the Association Property, but also as to the liability exposure to the Association for these new improvements. The Association is requesting that the Planning Commission rescind its approval of the Proposed Development and the Board of County Commissioners deny or remand the pending application at the hearing on November 15, 2023. The Association requests that the Board of County Commissioners also require Tahoe Consulting, LLC or other representative of the Proposed Development to consult with the Association for a drainage easement and cost-sharing agreement regarding the proposed improvements and any future maintenance, insurance, repair and replacement of the drainage improvements on the Association's Property, and that such easement and agreement be reflected in a recorded agreement and on the final plat.

Thank you in advance for your consideration.

Sincerely,

Kelly K. McQueeney
ORTEN CAVANAGH HOLMES & HUNT, LLC

KKM/km
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631222 B: 840 P: 749 MM
12/14/2023 08:46:01 AM Page: 12 of 12 R 0.00 D
Rhonda Braun Recorder, Elbert County, Co



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