

Special Commissioners Meeting
April 12, 2010
At the Fremont County Annex Building

RE: Meeting with Planning and Zoning Committee

Present were Commissioners Paul Romrell, Commissioner Skip Hurt, and Commissioner Lee Miller

Also present were Clerk Abbie Mace, Prosecuting Attorney Joette Lookabaugh, and Deputy Prosecuting Attorney Blake Hall.

P&Z Members Present were Chairman Glen Pond, Steven Loosli, Sam Davis, Larry Singleton, John Nedrow, Stephen Trafton, Jim Gerber, and Cathy Stegelmeier and Planning & Building Administrator Kurt Hibbert.

Mr. Pond welcomed those in attendance.

Commissioner Romrell expressed their appreciation to meet with the P&Z tonight to discuss the proposed changes to the Development Code.

Commissioner Hurt expressed his appreciation of the P&Z. The one issue he has is with lots on steep slopes with 100 foot set back on the river. His concerns are where the sewer is located on the lots. They have talked about ridgeline setbacks. Planning & Zoning Committee has not addressed that yet. They are here to discuss some of the narrowing of the codes. He is opposed to having outside agencies have authority over subdivisions. He also addressed open spaces. He is concerned with the 80/20 with only 20 percent being developable. He feels that is too restrictive. He would like to have that reviewed.

Mr. Hall addressed general terms of the proposed code. He explained the difference between a takings and how the county administers land use in the county. It must address health and human safety issues. He reviewed the 7 questions that must be answered on what a taking constitutes:

1. Does the Regulation or Action Result in Permanent or Temporary Physical Occupation of Private Property?
2. Does the Regulation or Action Require a Property Owner to Dedicate a Portion of Property or to Grant an Easement?
3. Does the Regulation Deprive the Owner of All Economically Viable Uses of the Property?
4. Does the Regulation Have a Significant Impact on the Landowner's Economic Interest?
5. Does the Regulation Deny a Fundamental Attribute of Ownership?
6. (a) Does the Regulation Serve the Same Purpose that Would be Served by Directly Prohibiting the Use or Action; and (b) Does the Condition Imposed Substantially Advance that Purpose?

They discussed several examples of this issue. They had general discussion of the home occupancy challenge on a takings analysis.

Commissioner Romrell thanked Mr. Hall for his work on the takings analysis.

Commissioner Miller thanked the Planning & Zoning for their hard work on the development code. He has a couple of areas that he has concerns with. He also does not want any agency to regulate subdivision requirements. His other concern is the preferred land use map. He doesn't understand the difference between rural living and rural conservation. He would like to see more consistency with this. We as a county are surrounded with wildlife in the county. The wildlife migrations adapt to weather and other conditions. They are hard to map.

Commissioner Romrell will review the draft and submit his concerns in writing.

Commissioner Hurt is also concerned with critical areas of wildlife. He is concerned with requiring a mitigation plan to work with wildlife. He expressed his appreciation of the Planning & Zoning Committee.

Mr. Gerber explained the Planning & Zoning Committee's thoughts on the 80/20 rule. They want the people to see open area in 20 to 30 years; to do that they have to place some kind of restriction to accomplish that.

Commissioner Romrell is concerned is a set 80/20 a taking.

Mr. Hall stated he did not know. He said there are many different factors that come into play with that. He suggested that the denser development be closer to our cities in impact areas.

Mr. Hibbert passed around a potential density table.

Mr. Trafton addressed the Parker Reef Subdivision problems. He stated there is nowhere in the draft that gives any agency regulatory authority. He feels that is not given under the proposed code. He would like to take that into account that they can be used as a consultant.

Mr. Singleton asked that the Planning & Zoning Committee be allowed adequate time to complete the code properly. The commissioners agreed.

Mr. Pond asked for a guideline of time to complete this. They are working extra meetings to try to get this done timely. He feels they have gone back about 2 months in progress. They will work as hard as they can to get things done timely.

Mr. Pond asked Mr. Hall about the takings and health and safety issues. We allow so many septic systems and wells into the county. How does this relate to takings laws.

Mr. Hall stated that to require sewer systems is in the health and safety of the county. That is something that needs to be able to be done.

Ms. Stegelmeier asked about the 80/20 system and can we force that on a private landowner.

Mr. Hall stated he does not know it depends on the situation.

Mr. Loosli questioned if a draft will be sent to the attorney before it is sent up to the commissioners.

Mr. Hall feels that it is not appropriate to have that review before it gets to the commissioners. He will review it once it is at the commissioners level. The Planning & Zoning Committee need to do their best to put this together.

Mr. Davis thanked the commissioners. He also addressed the 80/20 concerns. He is concerned with what those numbers can be. We have a very diverse county and maybe this needs to address that.

Commissioner Hurt stated that the commissioners all for clustering with open space. They don't want to see sprawl like what has happened in other counties.

Commissioner Romrell is in favor of private property rites.

They thanked everyone for coming.

There being no further business to come before the board, the meeting was adjourned.

Paul Romrell, Chairman
Fremont County Commission

Attest: _____
Abbie Mace, Clerk