

**MINUTES OF THE ARAPAHOE COUNTY
BOARD OF COUNTY COMMISSIONERS
February 22, 2005**

State of Colorado, County of Arapahoe. At a public hearing of the Board of County Commissioners for Arapahoe County, Colorado held at 5334 S Prince St. Littleton CO 80166 there were:

Lynn Myers, Chair	Present
Bernard L. Zimmer, Chair Pro Tem	Present
Susan Beckman, Commissioner	Present
Rodney Bockenfeld, Commissioner	Present
Frank Weddig, Commissioner	Present
Kathryn Schroeder, County Attorney	Present
Nancy A. Doty, Clerk to the Board	Absent & Excused
Joleen Sanchez, Recording Secretary	Present

When the following proceedings, among others, were had and done, to wit:

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF THE AGENDA

Assistant County Attorney Ron Carl said Consent Agenda Item 8, which relates to the sale of a piece of land at the Fairgrounds property and authorizing the Chair of the Board of County Commissioners to sign a quit claim deed. He explained there is additional surveying that has to be done and the buyer has requested extending the closing from January 28, 2005 to March 15, 2005. He asked if the Item could be changed to include authorizing Ron Carl to sign the agreement to extend the closing to March 15, 2005.

Commissioner Weddig asked to have Consent Agenda Items 4 and 5 removed from the Consent Agenda for a separate discussion.

The motion was made by Commissioner Beckman and duly seconded by Commissioner Bockenfeld to adopt the Agenda as amended as follows:

1. Modify Consent Agenda Item 8 to include authorizing Ron Carl to sign an agreement to extend the closing date to March 15, 2005 for the purchase of the 70-acre parcel that is part of the "Fairgrounds."
2. Remove Consent Agenda Item 4 and Consent Agenda Item 5 for a separate discussion and a vote.

The motion passed unanimously.

ADOPTION OF THE MINUTES

There were no minutes to approve.

CEREMONIES

There were no ceremonies.

CITIZEN COMMENTS

There were no citizen comments.

CONSENT AGENDA

The motion was made by Commissioner Zimmer and duly seconded by Commissioner Weddig to approve the Consent Agenda as amended as follows:

1. Modify Consent Agenda Item 8 to include authorizing Ron Carl to sign an agreement to extend the closing date to March 15, 2005 for the purchase of the 70-acre parcel that is part of the "Fairgrounds."
2. Remove Consent Agenda Item 4 and Consent Agenda Item 5 for a separate discussion and a vote.

The motion passed unanimously.

GENERAL BUSINESS AGENDA

Item 4 - Authorization to sign the Agreement for Services by and between Arapahoe County and the Town of Foxfield, related to providing law enforcement services within the boundaries of Foxfield during calendar year 2005, in the amount of \$59,178.54.

Commissioner Weddig said regarding these type of agreements, he wondered about the fiscal impact of this agreement. He understood the agreement for services would generate about \$60,000 in additional revenue. He wondered if there would also be another impact to the expenditure side of the County that would also be about \$60,000.

County Attorney Kathryn Schroeder said the Board of County Commissioner has approved a format for calculation of the amount of cost of services for small communities like Foxfield, Deer Trail, etc. She said these numbers were derived based upon those formulas, which is based on population formula and the cost of services.

Commissioner Myers said it is also important to notice that the level of service is chosen by the Town, which does not compare to the level of service that the City of Centennial has chosen.

Ms. Schroeder agreed. She said the type of services, the patrol services and more are different for the smaller communities than for the larger communities.

Commissioner Weddig wondered if it would be appropriate to list the level of service.

Ms. Schroeder said that is defined in the actual agreement.

Commissioner Weddig confirmed it is clear what Foxfield is getting for its dollars.

Ms. Schroeder said yes. She said the County has been doing this for years.

Item 5 – Authorization to sign the Agreement for Services by and between Arapahoe County and the Town of Bennett, related to providing law enforcement service to the Town of Bennett within the boundaries of Arapahoe County during the calendar year 2005 in an amount not to exceed \$28,293.18.

Commissioner Weddig questioned if the ALEA mil levy is being used to calculate the cost of services for the Town of Bennett. He said it is different than what is being done with Foxfield.

Ms. Schroeder said it is calculated based on what the ALEA mil levy would be for the Town of Bennett. She explained the Town of Bennett is paying the County what the mil levy would have raised.

Commissioner Weddig wondered why it the cost for services for the Town of Foxfield a fixed price and the Town of Bennett is “not to exceed.”

Commissioner Myers speculated that has to do with the Town of Bennett growing. She said there are a number of new homes being built. She said each year since the County has started providing services, it has grown as the assessments and populations have grown. She said that is addressed annually between the Sheriff and the Town of Bennett. She said the supporting documentation could be made available.

Commissioner Weddig said if the assessed value were beyond \$28,293.18, would the County be in an awkward position? He wondered if the County would be refunding monies. He asked why the figure is not defined based on the current assessed valuation and the mil levy. He said it seems confusing.

Commissioner Myers explained that in the unincorporated parts of the County, there is mil levy for the Arapahoe Law Enforcement Authority (ALEA), which is the equivalent of the 4.982 mils.

Deputy County Attorney Jack Bush said regarding the ALEA, by statute the ALEA was created in the late 1960’s and involves all of the unincorporated territory of Arapahoe County. He said the still remains the boundaries of the ALEA. He said pursuant to the ALEA Statute, upon the annexation or incorporation of a municipality, all of that property leaves the ALEA and is no longer within the boundaries of the ALEA. He said the municipalities then have the duty to provide the law enforcement services for their residents. He explained those entities either provide the services by establishing a police force or contract for services with a law enforcement service provider. He said in this case the Town of Foxfield and the Town of Bennett have chosen to utilize the Sheriff’s services. He explained that because the range of services that the Sheriff is willing to deliver is an essence equal to the ALEA mil levy times the assessed value, the entities would receive basic Sheriff’s patrol and not much more, which is really the same service provided in the ALEA. He said the only town that the Sheriff provides greater service to is the City of Centennial and that is pursuant to a whole separate agreement with a whole different range of services.

Commissioner Weddig said his confusion is because Item 4 and Item 5 were put together differently. He questioned whether it is appropriate to put the agreement for services would not exceed the \$28, 293.18.

County Attorney Kathryn Schroeder said that was put into the agreement for this year. She explained it is a known fact for this year. She said next year it would change. She said the County only assesses property once per year. She also explained it is not the mil levy, but an amount equivalent to what the mil levy would be because the County could not impose the mil levy in the City.

Commissioner Weddig understood.

Mr. Bush said the other element to keep in mind is a town receiving services from the Sheriff has the ability at the end of the contract term to just terminate. He explained that is why it is an annual contract, an annual option for each of these communities that want this type of service.

Commissioner Weddig said for further clarification, he understood Bennett has agreed to allow the County Treasurer's office to send out notices.

Mr. Bush said no.

Ms. Schroeder said there would not be any ALEA mil levy. She said it is only an amount equivalent to the mil levy that the Town would pay as the contract price.

Mr. Bush said this would be a cash payment from the Town of Bennett to Arapahoe County. He said the source of the revenue is up to the Town. He said the Town of Bennett is no longer subject to the ALEA mil levy.

Commissioner Weddig said he believes this is stated incorrectly because it says, "agreement for services would be paid by the Town of Bennett through the ALEA mil levy of 4.982 mills.

Ms. Schroeder said it does sound that way, although the understanding is that it is the equivalent of that.

Commissioner Myers said it could be worded better.

Commissioner Weddig accepted that explanation.

The motion was made by Commissioner Weddig to approve Consent Agenda Item 4 and Consent Agenda Item 5.

Seconded by Commissioner Beckman.

The motion passed unanimously.

General Business

Item A – Resolution No. 050112 – Public Hearing, Discuss the proposed 2005- 2006 Community Services Block Grant (CSBG) Application and Plan. Authorization to sign the "Certifications" section of said Application and Plan and approve the submission of the Application and Plan to the CSBG office of the Colorado Department of Local Affairs for approval

Assistant County Attorney Ron Carl established jurisdiction for the Board to consider this Item.

Ardis Smith of the Homemaker Division of Community Services Department presented the Application and Plan. She said this Public Hearing was advertised in the February 3, 2005 issue of The Villager newspaper. She said the Board has received a Board Summary Report and a 24-page document, which is the 2005-2006 CSBG Application and Plan. She said Community Services Block Grant Funding that is addressed in the document being considered by the Board this morning funds the vast majority of the operation of the Homemaker Division of the Community Services Department. She said the CSBG money originates in the US Department of Health and Human Services out of the Office of Community Services. The application anticipates funding of \$348,588, which will be used to fund eight homemaker employees' salaries and fringe benefits and support costs. She said during the course of the next 12 months, March 1, 2005 through February 28, 2006 the Division proposes to serve 312 clients, which is 39 clients per homemaker. She said the clients receive bi-monthly light housekeeping services. She said the majority of the clients are over the age of 70; the oldest client is 97; and the youngest is 36. She said the average age is 79. She said the object of the Homemaker Program is to help disabled and /or elderly people stay in their residences and out of more expensive care giving facilities, which are usually paid for with Medicaid funding of tax dollars. She said the County requires a physician's signature to declare disability to the point where that person could not take

care of his or her own residence. She said there is income requirement to qualify for the services, which is less than \$970 per month for a one person household and \$1,301 per month for a two person household. She said there is a CSBG Advisory Board that is appointed on an annual basis by the Board of County Commissioners. She said that commitment met last Wednesday, February 16, 2005 and reviewed the program's last twelve months and also reviewed the proposed 2005-2006 Application and Plan. She said the committee voted unanimously to recommend to the Board of County Commissioners that the Plan be approved and be forwarded to the State.

There was no public comment.

Commissioner Myers commended the work being done. She said this program is one of the unsung heroes of Arapahoe Government that we keep people in their homes as long as possible.

The motion was made by Commissioner Bockenfeld to approve the 2005- 2006 Community Services Block Grant Application and Plan as submitted.

Seconded by Commissioner Zimmer.

The motion passed unanimously.

Item B – Resolution No. 050113 - 050114 – Public Hearing, Case No. W-04-007, Land Development Code Revision, Grading Erosion Sediment Control Standards

Assistant County Attorney Tom McNish established jurisdiction for the Board to consider this Item. He explained this item was continued from the January 25, 2005 Public Hearing when jurisdiction was established at that time.

Melissa Kendrick explained staff is bringing forward a two-part request. She said the two parts are the Subdivision and Zoning Regulation Revision and the GESC Manual (grading, erosion, sediment control). She said these changes are being made as a result of Federal requirements that address Storm Water and Water quality throughout the urbanized portion of the County. She said there have been several study sessions with the Board involving these issues. She said the application was continued on January 25, 2005 to address Planning Commissioner concerns. She said the Planning Commission is now making a favorable recommendation to the Board. She said there was substantial agreement between the staff and Planning Commissioner. She acknowledged there are a couple of minor technical issues that they do not agree upon. She said the substantial changes that were made as a result of the Planning Commission discussion involved excluding the County's rural area for properties zoned A-1 and AE from the GESC requirements with a couple of exceptions. She explained the urbanized portion of the County, which will be defined as the urban service area and the sub areas plans are included in the regulations. She said the properties outside of that, which are zoned A-1 and AE are excluded from these requirements, with the exception of applications for a Use by Special Review, a Location and Extent or the 1041 Regulations. She explained that the County might see things like shooting ranges, or motor cross facility that would be characterized as impacting the County in terms of grading and erosion. She said it might even include schools or churches – a little more urban in intensity. She said the 1041 Regulations were included because the County might see something like a wind farm of a power plant, which would have a substantial impact and not be characteristic of the A-1 and AE zoning. She said those are the changes that were made as a result of the Planning Commission input. She said Staff is in agreement and is included in the regulations being considered this morning. She said the two outstanding items remain. She explained the Planning Commission would prefer that the 2nd bullet point in Section 136.02A regarding the Public Works Director be removed. She said Staff is recommending that bullet point remain. She said there might be activities that the Staff have not contemplated and would like to have the Public Works Director to be able to make the determination that there is a substantial impact that should be addressed through the regulations. She said the other outstanding item is whether the regulations should use "reasonable" or "potential." She said staff's recommendation through the attorney staff is to maintain the language that involves "potential." She said there are four sections throughout the zoning regulations that this would impact. She said the Planning Commission would prefer "reasonably expected to occur," regarding impacts to property. She said staff feels it would be more enforceable with "has the potential to adversely impact." She said Planning Commission made a

favorable recommendation to the Board with six conditions. She said in the staff report she identified where the Staff agreed. She said staff's recommendation involves four conditions of approval.

Commissioner Myers said the NPDES is used all of the time, but is not spelled out – National Pollutant Discharge Elimination System.

Commissioner Weddig wondered about the recommendation regarding the Public Works Director.

Ms. Kendrick explained that Staff is recommending the Board adopt that language.

Commissioner Weddig understood that language would allow the Public Works Director or staff to exclude additional cases as they arise. He wondered if it worked both ways.

Ms. Kendrick speculated it would go both ways. She said it was written to include. She said the concern is that an activity might be missed that would have an impact on the public right of way or an adjacent property.

Commissioner Weddig called attention to page four of the general provisions. He asked about the bullets – land disturbances and agricultural activities. He wondered about regulating when there is a 35-acre property with 35 horses and a neighbor is getting a lot of run off just because of the lay of the land. He wondered if the County would have the ability to intercede upon the neighbor's behalf.

Ms. Kendrick deferred to Cindy Edwards.

Cindy Edwards of the Engineering Division said agricultural activities are exempt from regulations, which comes from NPDES regulations. She said the thought is there are other processes in place with agricultural operations to control erosion. She said it is a specific exclusion that is not covered.

Commissioner Weddig asked exclusion by whom.

Ms. Edwards said the State regulations for the NPDES program.

Mr. Weddig wondered if she was aware of any complaints or problems that the County has had.

Ms. Edwards said no, not directly. She said she is aware there are concerns with some of the Use by Special Reviews activities, which are not considered agricultural use on the property. She said there are issues with getting some types of improvements on the property. She said with strictly agricultural activities, no. She said her own personal opinion is that would be a huge one to take on because the agricultural community would be filling these benches. She said it is excluded right now.

Mr. Weddig wondered if there is a problem out there that needs to be addressed and would this be a mechanism to address it. He wonders if there have been historical issues. He said if there is a use of land that is affecting neighboring property, it should be addressed. He qualified depending upon the severity. He realized it is a judgment call.

Ms. Edwards said it could be addressed. She the County would first try to handle a problem through the Soil Conservation Service, which is a national resource service now that has programs for agricultural activities that take the place of these requirements. She said it would be a huge undertaking based upon the experience with the Planning Commission regarding the eastern area and the type of requirements that would be necessary on the agricultural operations.

Commissioner Myers said the County is following Federal and State Guidelines to get this approved.

Ms. Edwards said there are other programs in place to deal with agricultural activities, which are different then silt fence type things being addressed in the GESC Program.

Commissioner Weddig wondered about enforcement tools after a certificate of occupancy is issued.

Ms. Edwards said the County has several layers of enforcement. She said through the building process and land development process, the County has simple notifications, re-inspection fees, stop work orders, building permit inspections.....

Commissioner Weddig said he is asking about enforcement after the Certificate of Occupancy.

Ms. Edwards said after CO the recourse is zoning violation.

Commissioner Weddig wondered if this could be enforced through a zoning violation.

Commissioner Weddig said on page 7 that talks about Federal and State Law being stricter or less stringent. He wondered if the State of Federal Law is more stringent why is it not automatically incorporated into this plan.

Ms. Edwards said this requirement would come through a public process for consideration. She said she did not believe the staff would implement something directly. She speculated there would be consideration of it and the end result would be there would be no choice.

Ms. Edwards also asked to bring up another point. She said she would like to give credit to Douglas County who was very instrumental in putting the bulk of GESC Manual together. She said they spent a significant amount of money on consultant fees and their own resources. She said the bulk of the technical information came from a result of that work effort.

The motion was made by Commissioner Bockenfeld to adopt the GESC (Grading Erosion Sediment Control) Manual and to approve Case No. W04-007, Land Development Code Revision, Grading Erosion Sediment Control Standards with the following conditions:

1. All minor modifications to the text are required prior to incorporation into the Zoning and Sub Division Regulations.
2. The GESC Manual shall be revised to match changes approved in the Zoning and Sub Division Regulations and eliminate inconsistencies between the documents.
3. Replace bullet # 2, Section 1-3602A with the following language: These Regulations shall apply to all property within the unincorporated areas of Arapahoe County, except as excluded below.
 - a. Properties zoned A-1, A-2 and A-E outside of the urban Service Area and outside the Sub Area Plans are excluded from these regulations with the exception of:
 - i. Any new development or redevelopment, excluding building permits, that require a Use By Special Review, Location and Extent or 1041 Permit unless exempted by the County staff or PWD Director.
 - ii. Activision which are determined by the PWD Director to have the potential to adversely impact the public right of way, public infrastructure, or adjacent property with respect to grading, erosion and sediment control.
4. Retain the language that states, "has the potential to impact" instead of "may be reasonably expected" to have an impact.

Seconded by Commissioner Zimmer.

The motion passed unanimously.

Commissioner Beckman said the County has had so many meetings surrounding this manual and compiling it. She acknowledged that she laughs about it being an unfounded mandate, but said in realizing the abuses in some of the developments concerning erosion and sediment control, she is glad the County is able to put in black and white what is expected of the developer. She said staff has done an excellent job putting it together.

**Item C – Resolution No. 050115 and 050116 – Public Hearing, Case No. P04-022.
Copperleaf Fining No. 1, Final Development Plan and Case No. P04-021, Copperleaf Filing
No. 1, Final Plat**

Assistant County Attorney Tom McNish established jurisdiction for the Board to consider this Item.

Ron Hovland of the Planning Division presented the staff report, a copy of which has been retained for the file. He said this hearing this morning goes back to an underlying preliminary development plan from 1982 known as Quincy Highlands. He said this is one small segment and it is 42.5 acres located on the southwest corner of East Chenango Avenue and South Picadilly Street. He said the property was originally zoned in 1982. He said the applicant is proceeding ahead under that 1982 Preliminary Development Plan and zoning for this specific Final Development Plan and Final Plat. He said the applicant plans to build 164 detached single-family dwellings on the lots that would be created. He said there are 14 tracks as a part of this area. He displayed a graphic and identified the property, as well as the surrounding property, which is not a part of this application, but might be discussed this morning as well. He said this plan was considered by the Planning Commission on January 18, 2005 and unanimously recommended approval, subject to the five conditions on the staff report. He said there are a couple of items that should be discussed. He said the resident disclosure statement that was originally a part of this has been addressed. He is a there is a recorded avigation air rights covenant on the property at this time that would address the issue of noise and the impact from Buckley Air Force Base. He said under State Statute, Arapahoe County is required to notify holders of severed mineral estates on all properties subject to re-zoning and a subdivision plat. He said that has been satisfied that state requirement. He said there is a representative of the severed mineral estate here this morning that might address the Board. He said the alignment of the Conoco Phillips Pipeline Trail has been altered slightly based upon the potential use of the trail by school age students. He explained this trail connects Eagle Crest and Thunder Ridge High Schools and Middle School No. 9, which is under construction northwest of the subject property. He said he wanted to ensure the trail functioned in a way that middle school students walk, slowly and generally in the path least resistant. He said the applicant would be adding that trail section to this plan. He said the applicant is proposing to use ornamental grasses, in addition to the trees and shrubs that are required by the County's landscape code. He said the public land dedication was satisfied in this issue and the applicant has addressed all of the formal responses.

Commissioner Weddig asked about the recommendations and whether this plan would be seen again by the Board or the Planning Commission.

Mr. Hovland said mylars for the Final Plat and the Final Development Plan would be executed by the Planning Commission and by the Chair of the Board of County Commissioners. He said those would be filed and anything that does not conform to those plans would be a zoning violation of the FDP. He said the Final Plat would be recorded.

Commissioner Weddig called attention to page 11 of the architectural standards with a number of recommendations being made by staff like the two car garages and the HOA requirements. He wondered about the varying architectural styles being "encouraged." He asked if that could read "required."

Mr. Hovland said it is important to understand the background. He explained the Arapahoe County adopted architectural guidelines and not standards. He said that was done to keep some flexibility for the various homebuilders and developers and not mandate specific requirements that address percentages of this and minimum requirements for that and the various other items. He said the County's issue is it did not want repetition, but rather variety, which is one of the goals of the County's design guidelines. He again emphasized that they are guidelines. He speculated the applicant could address this in his presentation. He said the guidelines would be applied here just as they would be applied in the other developments in the area like Tall Grass, subdivided as Saddle Rock Highlands and in the adjacent Copperleaf Development. He said the guidelines apply to approximately 1200 acres in the area that will be developed into 3,000+ dwelling units.

Commissioner Weddig said staff should have flexibility and the developer should have flexibility addressing these situations, but a minimum of two car garages being “recommended” is not realistic in today’s world. He said three car garages are better and a one-car garage, anywhere in Arapahoe County should require explanation as to why it is being allowed. He said it would not sell. He wondered if the County should deal with more positives.

Mr. Hovland said the answer would be allowing the applicant to address the concern.

Commissioner Bockenfeld said in reference to a letter from the West Arapahoe Conservation District dated December 7, 2004, Mr. Gordon Tucker makes reference to concerns about geo-technical report that was prepared by AG Wasonar Inc. He said in boar no. 41, seven days after the boar was made there was water. He said the concern is that at the time the board was drilled was during a 6-8 year drought. He wondered what has been done to address this particular concern.

Mr. Hovland said the applicant would address that with each individual building plan and could speak to that this morning as well.

Commissioner Bockenfeld said West Arapahoe Conservation District recommended there be a gravity drain system and not just a sump pump drain system utilized. He said he would like the applicant to address that as well.

Steven Prokopiak, representing the applicant, said that Mr. Hovland has already covered the background. He said the site is approximately a 42-acre site that is adjacent to the Copperleaf PDP, which the Board has seen previously. He said the applicant is including these 42 acres into the “family” of the Copperleaf project. He explained the documents that have been presented today almost come word for word out of the approved County PDP for Copperleaf. He qualified the difference is items that that do not apply have been taken out kike commercial and retail. He said over the past couple of years he has been meeting with the various neighborhood groups in the area, and have kept the homeowners aware of what has been going on. He said it is hard to believe the original PDP of 1982 was just 2 pages. He said now there are many many pages of standards and guidelines. He said the project is 42 acres and 164 lots. He said the lots are a minimum of 6000 square feet, which meets the requirement of the 1982 PDP. He said the actual minimum lot size is really a 7200 square feet. He displayed a graphic and explained the theme for Copperleaf in the residential areas is generally going to be off a major road and two blocks into a neighborhood there would be residential designed neighborhood park. He said this project has approximately a 41,000 square foot neighborhood park that will be owned and maintained by the HOA. The landscaping on either side of the entrances on Chenango Avenue would be landscaped and Picadilly Street on the east side would also be landscaped. He said the landscaping, in all cases, exceeds the County requirements. He said the ornamental grasses exceed the County requirements. He said there are quite a few of the residential lots that face into the park. He said along the northeast area of the site, there is the Phillips Petroleum pipeline, unfortunately. He said the plan is a concrete trail to meander through the site. The trail will be owned by the HOA, with an underlying easement for the gas line. He said the trail itself would be maintained by either the Arapahoe Park and Recreation District or the HOA.

Commissioner Bockenfeld asked that the trail be identified on the graphic.

Mr. Prokopiak identified the trail.

Commissioner Weddig wondered if the residents in this development would be part of that Park and Recreation District, and pay a property tax to support that District.

Mr. Prokopiak said the property is already in the Arapahoe Park and Recreation District and each homeowner, as a part of their property tax would be assessed approximately 8 mils.

Commissioner Weddig asked what is the developer’s or Board’s options with a special district like that. He said the trail should be included in Park and recreation district responsibility, and ownership as well. He understood it is an easement.

Mr. Prokopiak said the trail that would ultimately, both in filing 1 and future filings, owned by the HOA. He said underlying that there would be a 45-foot easement where the gas line would be located. He said the developer, normally would approach Arapahoe Park and Recreation District and say it would set aside the easement for a future trail to be constructed by the District. He explained the Park and Recreation District would construct the trail some day in the future after the residential area is significantly built out and have income to pay for that trail. He said in this particular case, the applicant does not want to wait, but instead is going to build the trail for the park and recreation district and ask the district to maintain the trail. He said philosophically, the applicant believes the trail is really a regional facility and not a neighborhood facility. He said regardless, the applicant would construct the trail. He said the question is who is going to maintain the trail.

Commissioner Weddig wondered if ownership is a problem.

Mr. Prokopiak said ownership is not an issue. He said the ground would be owned by the HOA.

Commissioner Weddig said the pipeline company has the easement and the ground is owned by the HOA.

Mr. Prokopiak said it is similar to having it underlying mineral rights, where there has to be cooperation to reach the same end.

Commissioner Weddig said he does not understand. He said the developer pays for the initial development and irrigation system and turns it over to the park district, which is very common. He said the park district should be happy to have that upfront cost done. He said it should be the responsibility of the District form thereon for the both the park and the trail.

Mr. Prokopiak said in this situation the park in the neighborhood would be owned and maintained by the HOA.

Commissioner Weddig said he heard that but does not agree with that. He questioned why 160 homeowners would want to own and try to take care of and manage a good size park.

Mr. Prokopiak said he is not on the Board of Directors of the Park District and could not make those policies.

Commissioner Myers said this does not need to be decided today.

Commissioner Beckman said the difference is with the 1-acre park and the trail. She asked if the trail connects into other neighborhoods.

Mr. Prokopiak said yes. It is part of a regional facility.

Commissioner Beckman said that is an absolutely regional facility while the one-acre park is probably more for that development.

Mr. Prokopiak said exactly. He explained this is a neighborhood park to be owned and maintained at the homeowners would like and not as a regional park where Arapahoe Park and Recreation District would be public, allowing anyone to come in. He qualified the reality is it is an open park and anyone would be able to use.

Commissioner Weddig said if there is a mil levy for Park and Recreation purposes that everyone shares, and then everyone should be allowed to use.

Mr. Prokopiak said the Park and Recreation District is as opposed to the County. He said the Park and Recreation District typically looks at bigger park facilities and not one-acre parks.

Commissioner Beckman said this is not unusual for developments all over Arapahoe County that are served by Park and Recreation District, that within their developments have HOA parks. She said this side of the county is served

by South Suburban Park and Recreation and still many of the developments have their own parks. She asked staff if this is unusual.

Commissioner Myers said it is pretty standard.

Commissioner Weddig hoped there could be agreement that a regional trail should be consistently treated. He said it would not make any sense to have a regional trail maintained by two different groups.

Commissioner Myers said that Commissioner Weddig brought forth some valid points. She said it does not need to be declared today. She said the Board should have some input from the County's legal staff and planning staff before coming forward with a final decision on that. She again stated good questions to have discussion.

Mr. Prokopiak said for the record that the applicant has reached an agreement with Anadarko regarding the severed mineral rights. He said he would address the West Arapahoe Soil Conservation report. He explained when the applicant has the sanitary sewer system designed, as other projects in the County, there is an under drain that is designed to handle that flow. He said it is constructed underneath, approximately two feet under the sanitary sewer, and it provides a lateral pipe to the house that the homebuilder could connect a home drain onto. He said it serves two purposes including having a physical pipe below ground that if there was a ground water situation, it would enter the under drain. He said it also provides a means for the homebuilder to have two options to use the mechanical system (sump pump) or use the non-mechanical system, which is just a drain around the foundation of the house that goes into the under drain system. He said that is standard with his project design and is in conformance with his geo-technical engineer. He said regarding the standards, these are architectural standards. He conceded that the particular paragraph does address recommendations and "encouragement." He suggested the way to look at that page is it makes broad suggestions and then goes into more detail. He specifically called attention to letter a, which is then spelled out in second column under 115 where the specific standard is defined, "shall have significantly different front elevations." He said the applicant is trying to establish standards, but some are flexible and others are very rigid. He agreed that no astute builder is going to build a house with less than a two-car garage. He said he would not object to making that change. He said he hopes to have the support of the Board and would answer any questions.

Commissioner Weddig confirmed that Mr. Prokopiak would "require" a two-car garage for this development.

Mr. Prokopiak agreed to make that change for filing number 1.

Commissioner Weddig said, from his perspective, staff, under certain circumstances, should have the ability to wave that standard. He used an example of having an "odd-ball lot."

Mr. Prokopiak qualified for filing one. He explained in Copperleaf, the full 850 acres, there might be a situation where the applicant would come to the Board in a future hearing with a "lifestyle" product, where it would be appropriate for less than a two car garage. He said that is not an issue today. He said for today's application he would require a minimum two-car garage.

Commissioner Bockenfeld wondered if there is a light on Picadilly where the Trail crosses and there would be pedestrian traffic.

Mr. Prokopiak said there is a traffic signal at the entry to the high school.

Mr. Hovland said all of the issues have been addressed this morning. He said staff is recommending approval subject to the conditions in the staff report. He explained that the Planning Commission does not consider the final plat. He said the final plat is either correct and the Board approves it or it is not correct and it could not be approved. He said the Final Plat is technically correct and the Staff is recommending approval of the Final Plat, congruent with the Final Development Plan.

Molly Summerville, 1660 Wynkoop, Suite 1100, of the law firm of Woodrow and Soebel, representing the Anadarko Land Corp, which is formally known as Union Pacific Land Resources Corporation and also Andarko ENP Company, LP, which was formally known as Union Pacific Resources Company. She said the Anadarko entities own all of the minerals that underlie the portions of the property in Section 11, Township 5S, Range 66W, which are included in the overall Copper Leaf Subdivision and all of the mineral that underlie the property in Cooper Leaf Filing No. 1, that is before the Board today. She said Andarko owns the hard rock minerals under the property and the Andarko entities together own all of the oil and gas that underlies the property. She said they submitted objection letters to the County. She said the first was dated July 1, 2004, with respect to Copper Leaf Filing No.1, the application before the Board today. She said a second objection was filed in October 2004, with respect to the overall Copper Leaf Subdivision and the portions of the property that were included in Section 11. She said since the time that the Andarko entities had filed this objection; they have reached agreements with SQH Investors, Inc. and the owner of the property. She said those documents are in circulation right now. She understood that SQH would be signing those documents today and that the other parties on behalf of the developer and the owner of the property would also execute those agreements. She said in light of that understanding, the Anadarko entities are not asking the Board to hold up the application for the 42 acre parcel that is before the Board today, or to even include a condition for agreements. She said they have worked with this development in the past and are working with them on other projects as well and feel comfortable with them. She said they would like to maintain the objection on the record at the present time until those documents are executed, hopefully before the next hearing when a larger subdivision parcel would be presented, at which time the objections would be withdrawn.

The motion was made by Commissioner Beckman to approve Case No. P04-022, Copperleaf Filing No. 1, Final Development Plan and Case No. P04-021, Copperleaf Filing No. 1, Final Plat subject to the following conditions:

1. Applicant shall make all minor changes and modifications requested by the Planning Division and the Engineering Division prior to execution of the mylars by the Board of County Commissioners.
2. Applicant shall fully address the requirements and standards outlined in the Engineering Staff Report and submit all required documentation to the Engineering Case Manager prior to approval by the Board of County Commissioners.
3. Applicant shall enter into a Subdivision Improvement Agreement (SIA) and all other required agreements such as Traffic Signal Escrow Agreement, prior to execution of the mylars by the Board of County Commissioners.
4. Applicant shall add a cross-section of the Conoco-Phillips Pipeline Trail surfacing materials and specifications to page 4 of the FDP prior to execution of the mylars by the Board of County commissioners.
5. The substitution of ornamental grasses for required shrubs within the FDP shall not exceed a maximum of 35 percent of the total number of shrubs required, and shall be allowed only for Copperleaf Filing No. 1 and not establish a precedent for any future development.
6. The applicant requires that all homes require a minimum of two car garages for Copperleaf Filing No. 1.

Seconded by Commissioner Zimmer.

The motion passed unanimously.

COMMISISONER COMMENTS

Commissioner Myers said regarding the sub area plan for the Four Square mile area, she recognized Melissa Kendrick and Ron Hovland from the County's Planning Division. She

said many people participated in this effort. She said the culmination of eight months of work was last Tuesday night before the Planning Commissioner. She thanked Commissioner Zimmer for being there for most of it. She said the hearing went well past 10:00 pm. She said the Planning Commission for this area approved a good working document. She said it would provide a road map for the in the Four Square Mile Area, which is certainly an area where many good things are happening. She thanked County staff and all those that were involved. She said it was a great process and brought many members of the community together.

Commissioner Weddig met with the Mayor of Greenwood Village to Right of Passage, which is on the old Lowry Bombing Range and a facility that is run by the Youth Corrections of the State of Colorado. He said he was impressed with the facility and stated it is an important operation. He said the Board was invited at any time to visit.

Commissioner Bockenfeld said that yesterday morning State Representative Ted Harvey, from Douglas County proposed a water bill named the Douglas Arapahoe Conservation District. He said there is a perception that bill is good for the citizens of the water districts within Arapahoe County.

Commissioner Myers said that is House Bill 1298 and the County would be following it. She thanked everyone who has participated in following that bill.

There being no other business before the Board, the Chair adjourned the hearing at 10:45 AM.

ARAPAHOE COUNTY BOARD OF COUNTY COMMISSIONERS

LYNN MYERS, CHAIR

BERNARD L. ZIMMER, CHAIR PRO TEM

SUSAN BECKMAN, COMMISSIONER

RODNEY BOCKENFELD, COMMISSIONER

FRANK WEDDIG, COMMISSIONER

**NANCY A. DOTY, CLERK TO THE BOARD
BY JOLEEN SANCHZ, RECORDING SECRETARY**