

**NOTICE OF MEETING TO BE HELD IN PUBLIC AND EXECUTIVE SESSION
OF THE MORGAN COUNTY COUNCIL
TUESDAY, FEBRUARY 6, 2007 4:00 P.M.
MORGAN COUNTY COURTHOUSE
48 WEST YOUNG STREET
MORGAN, UTAH**

COUNCIL MEMBERS PRESENT

Chad Hawkes
Lynette Stephens
Bruce Sanders
Sid Creager
Dave Gardiner
Karen Sunday
Tina Kelley

STAFF PRESENT

Jann Farris, County Attorney
Sherrie Christensen, County Planner
Austin Rowser, County Engineer
Teresa Rhodes, Transcriptionist

**** MINUTES ****

1. Call to Order.

Chairman Sanders called the meeting to order.

2. Prayer.

Member Creager offered the prayer.

3. Approval of Agenda.

MOTION BY MEMBER STEPHENS TO APPROVE THE AGENDA OF FEBRUARY 6, 2007.
SECOND BY MEMBER HAWKES.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

4. Approval of Minutes.

MOTION BY MEMBER STEPHENS TO APPROVE THE MINUTES OF
JANUARY 16, 2007 WITH THE NOTED MINOR CORRECTIONS.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

MOTION BY MEMBER GARDINER TO APPROVE THE
EXECUTIVE SESSION MINUTES OF JANUARY 16, 2007.
SECOND BY MEMBER HAWKES.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

5. Approval of Checks.

- ♦ Correction on page 3, the account is incorrect and should be taken out of the dispatch account. It needs to be changed to 10-4211-610-000.
- ♦ Member Hawkes asked about the Sheriff's item that was not approved at the last meeting. Chairman Sanders noted to his knowledge it has been voided and is not for approval right now. That item will need to be brought forward at another time.

- ◆ Member Kelley asked about the finger printing machine and if that was in the Sheriff's equipment budget. She noted the Sheriff was \$24,000 over budget last year.
 - Chairman Sanders explained that he had read through some legal papers that Attorney Farris had sent to all of the Council members in regard to how Sheriff Departments are to use their money. The County needs to allot so much into the Sheriff's budget a year for his department to function and it is the Council's jurisdiction to see he stays within that budget, but not what and how he spends it.
 - The Sheriff noted the finger print machine was being funded by a grant. The video machines were coming out of the alcohol fund. He noted the Auditor had told him he had too much in that account and if they didn't use it the State would quit paying it. The video equipment was for all the patrol vehicles.
 - Chairman Sanders requested the Sheriff put that on the next council agenda and explain what he is planning to do and why.
 - The Sheriff explained the \$24,000 overage. They paid for some of the grant items. The state will not allow them to get the money up front like he has been doing. The state now requires purchase of the items and then asks for reimbursement. Unfortunately they were not reimbursed in 2006, but did spend the funds for computers. Had they been reimbursed, they were owed \$34,000. So the \$24,000 under would have been \$10,000 over had they received the grant funds in a timely manner.

**MOTION BY MEMBER HAWKES TO APPROVE THE CHECK EDIT LIST OF
FEBRUARY 6, 2007.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

6. Approval of Personnel Action Forms.

**MOTION BY MEMBER GARDINER TO APPROVE THE PERSONNEL ACTION FORM FOR
SID CREAGER TO THE COUNTY COUNCIL.
SECOND BY MEMBER HAWKES.
THE VOTE WAS UNANIMOUS.
MEMBER CREAGER ABSTAINED FROM VOTING.
THE MOTION CARRIED.**

**MOTION BY MEMBER STEPHENS TO APPROVE THE PERSONNEL ACTION FORM FOR
TINA KELLEY TO THE COUNTY COUNCIL.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
MEMBER KELLEY ABSTAINED FROM VOTING.
THE MOTION CARRIED.**

Chairman Sanders turned the Chairmanship over to Vice-Chairman Hawkes.

**MOTION BY MEMBER GARDINER TO APPROVE THE PERSONNEL ACTION FORM FOR BRUCE
SANDERS AS THE CHAIRMAN OF THE MORGAN COUNTY COUNCIL.
SECOND BY MEMBER STEPHENS.
THE VOTE WAS UNANIMOUS.
MEMBER SANDERS ABSTAINED FROM VOTING.
THE MOTION CARRIED.**

The Chairmanship was relinquished back to Member Sanders.

FOR REFERENCE ONLY
THE OFFICIAL COPY IS FILED WITH THE MORGAN COUNTY CLERK
**MOTION BY MEMBER STEPHENS TO APPROVE THE PERSONNEL ACTION FORM
FOR KAREN SUNDAY TO THE COUNTY COUNCIL.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
MEMBER SUNDAY ABSTAINED FROM VOTING.
THE MOTION CARRIED.**

Member Gardiner noted on all the personnel action forms for the County Council members the classification should be council member, it is noted as council chair on all of the forms.

**MOTION BY MEMBER STEPHENS TO APPROVE THE PERSONNEL ACTION FORM FOR
JOSHUA PORTER TO THE SHERIFF DEPARTMENT AS A DEPUTY SHERIFF.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

7. Public Comment Period.

Michelle Butler – Patterson proposal

- ◆ Mrs. Butler noted she was addressing Austin's staff report and had the following concerns:
 - Drainage – where is the water going to go off-site?
 - Austin noted it follows Big Hollow drainage and goes across the road.
 - 100 year floodplain – is it a floodplain or a floodway? And could those two be clarified. States there is no stream channel at the lower portion of Big Hollow, but there is a very large gulley just above the Patterson property where the water has come down. Her property is just above the Kippen property and the gulley is even bigger up there. At some point there is a lot of water that has come down there and whether it is a 100 year flood or whatever, she just wants to make sure that is addressed correctly.
 - Access onto Old Highway and the volume of traffic on the road – She would hope the number of vehicles and road bikes currently using the road have been addressed.
 - Documentation required with preliminary plan. – There is supposed to be a letter from health department and utility companies that are impacted and she did not see those in the packet.

Steve Geary – Attorney from Kirton and McConkie representing the Thompson estate– Patterson Pointe Development

- ◆ Reiterates everything that has been said by Mrs. Butler.
- ◆ His client's principle concern is the drainage issue. His understanding is that the drainage would drain onto his client's property.
- ◆ They have seen no study of what the historical drainage has been.
- ◆ Essentially a given that the drainage will not decrease, but increase.
- ◆ Quality of drainage water will be degraded with the runoff from lawns and fertilizer, oil, etc.
- ◆ His client opposes the development.

Blair Larsen – Chris Morgan agenda item

- ◆ Believes there is a need for some public input on this if possible.
- ◆ Thanked the council for serving.

8. Concur with Planning Commission Administrative Decisions.

Sherrie presented her staff report (Please see attached exhibit A). This was not in their packets because the packets were made up the day of the Planning Commission meeting..

Jared Anderson – CUP for a two family dwelling in the RR-1 zone which is a conditional use.

- ◆ Mr. Anderson would like to convert his basement into an apartment.
- ◆ There is a rear entrance for the apartment.
- ◆ Parking is out of sight in the back of the house.
- ◆ The Planning Commission made a favorable recommendation

**MOTION BY MEMBER GUFFEY TO APPROVE A CONDITIONAL
USE PERMIT FOR JARED ANDERSON TO CONVERT A HOME INTO
A DUPLEX WITH A BASEMENT APARTMENT LOCATED AT
173 S. MORGAN VALLEY DRIVE
WITH THE FOLLOWING FINDINGS:**

- ◆ The proposed use is compatible to the surrounding properties.
- ◆ The proposed use will not give the appearance of a second dwelling unit.

AND TWO CONDITIONS:

- ◆ Tenant parking be approved by the county engineer.
- ◆ Main portion of the home be owner occupied.

SECOND BY MEMBER HICKS.

THE VOTE WAS UNANIMOUS.

THE MOTION CARRIED.

**MOTION BY MEMBER HAWKES TO CONCUR WITH THE PLANNING COMMISSION
ADMINISTRATIVE DECISION IN ACCORDANCE WITH THE FINDINGS AND CONDITIONS
AS LISTED IN THE STAFF REPORT.
SECOND BY MEMBER GREAGER.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

9. Dave Manning – Discussion/Decision on Use of AGRC Grant money for purchase/upgrade of GIS equipment under State Contract.

Dave would like permission to use some grant funds that we have received through the AGRC. Requests permission to use \$5,808.12 as well as \$1110 from his GIS equipment fund to upgrade GPS software for use with the GIS, as well as purchasing a laptop computer to go with that.

Chairman Sanders noted that Dave has been very instrumental with his mapping for the Porterville/Richville area plan committee meetings. It would be much easier with a laptop.

**MOTION BY MEMBER GARDINER TO APPROVE USE OF AGRC GRANT MONEY FOR THE
PURCHASE AND UPGRADE OF GIS EQUIPMENT UNDER THE STATE CONTRACT.
SECOND BY MEMBER KELLEY.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

10. Sheriff Gene Ercanbrack – Discussion/Decision on Lease of new vehicles.

Sheriff Ercanbrack – Sheriff Ercanbrack noted this agenda item is for discussion of the purchase of new vehicles. Originally the Council had approved a program to trade four a year. It was then suggested by several Council members that he look at leasing. He acquired bids from Barber Brothers, Carrigans, and

Young Chevrolet. Barber Brothers and the Bank submitted a financial package and both suggested it would be better right now to go with 12 news ones instead of 4 new ones. The bank stated there would be only \$300 difference in the monthly payments if you went four versus the 8, because the loan would only be 48 maximum where he was carrying 8 old ones and 4 new ones where he would go out 60 months if they were all new.

The purchase includes:

- ◆ New bar lights.
- ◆ Exchange of all equipment – radars, radios, grill guards, video cameras.
- ◆ All bids were the same with the new equipment installed.

Member Stephens asked if new bar lights needed to be purchased every four years.

- ◆ Sheriff noted they have not purchased new bar lights since 1999. The new ones everyone is going with are LED lights. They are stronger and last longer. They are low profile.

Member Hawkes noted the suggestion originally was for the next three years that the bar lights be included in the vehicle purchase and then after that the county could address whether it needed to be done. It was easier to do that than come up with big payments for the bar lights.

- ◆ Sheriff – the bar lights would not be every four years. Possibly the only thing that would be every four years is the laptop computers, but up until now the department has received those through grants. They were planning on buying new video equipment too, but that will need to be addressed. The bar lights would probably last 10-12 years.

Chairman Sanders asked the Sheriff what his recommendation was.

- ◆ Sheriff noted that he would recommend going with 12 new ones and then every three or four years trading. He noted he put \$43, 000 down last year on an account that was from resources other than County funds to make it solvent so they could buy those first four last year and that is what has made it solvent to go with the 12 this year. But the payment needs to be increased because it has not been increased for that many years to stay even with the cost of living and everything else that has progressed.

Chairman Sanders – Clarified that even though there are four new vehicles, the Sheriff was still proposing to trade those in also.

- ◆ The Sheriff noted that is what the bank is suggesting is to go with 12 new vehicles because they would finance it out to 60 months.

Chairman Sanders asked if the Sheriff was asking for his budget to be increased to cover this expense.

- ◆ The Sheriff stated “yes, because it was not put in to buy the four new ones to start with for the budget that was cut out of it”.

Chairman Sanders stated the main issue to discuss then is does the County want to increase the Sheriff's budget to cover this or just direct the Sheriff to work it out within the budget that he has.

Member Creager – Noted he has done some research and the 2006 to the 2007 budget has had a \$315,000 increase in the county in the general fund. Of that \$315,000 the Sheriff's department has received 41.6% of that increase or \$130,000 of the increase. It is his preference that he is not interested in micro managing how the Sheriff spends his funds, but he believes the Sheriff has been adequately funded in his budget. If he wants three vehicles or twelve he certainly thinks that should be his choice as the Sheriff, but he certainly believes it should be within the budget that has been allocated.

Member Kelley noted she has researched the Sheriff's budget back to 1999 and it seems like every time we talk about doing four vehicles he comes back with a recommendation that the bank or the person doing the lease recommends 12. The County had an agreement with him last year to purchase four; and there was an agreement at the end of the year to purchase four new ones and stick to that three year renewal of vehicles, four at a time so that it would not impact the county budget as much. She believes we should stick to the four vehicles and what he has been budgeted for.

Member Hawkes noted not understanding where the County could come up with the additional funds. He does not know how the County could increase the budget at this point in time.

Member Gardiner – One of the problems that drove us to the four vehicles per year was the fact that at one time there were 11 vehicles purchased at the same time and that led to a situation where they all

wore out together. The whole intent was to cycle those through which he believes is in the best interest of the county. He would recommend staying within the budget.

Member Stephens – Recommends staying with what has been budgeted.

MOTION BY MEMBER CREAGER THAT THE SHERIFF BE GRANTED TO DO WITH HIS BUDGET AS HE SEES FIT SUFFICE THAT HE STAYS WITHIN HIS CURRENT BUDGET.
SECOND BY MEMBER STEPHENS.

Member Sunday asked the Sheriff if he had any additional information to be put before the Council before they vote on this.

The Sheriff stated that the council has his recommendation. He noted he would be glad to go with the four; the twelve is just what the bank recommended.

Member Creager stated that his motion allows for the Sheriff to make the choice as he sees fit.

Member Hawkes noted that the Sheriff should keep in mind that this 12 vehicle is five years and we need to be looking past this year for that budget and if we buy all 12 vehicles it is going to change what happens four or five years from now.

The sheriff noted that his budget may have increased the most last year, but his personnel have also increased the most during the past year. There was nothing put in for the purchase of four additional vehicles. You can't make the same payment for ten years and expect to buy a new car every three or four years. Sooner or later you are going to be upside down. No extra money was put in to buy the four extra vehicles or the equipment such as the bar lights that he was trying to get with his money that was available at that time.

Member Hawkes stated he disagrees with part of that. He believed the money was in there to buy the vehicles; it was not for the light bars. Member Gardiner agreed. Member Kelley noted there was discussion about a \$10,000 down payment that was required.

The Sheriff noted that was cut out and so the only budget for vehicles was the payment itself that the County has been making for years. There was no additional money put in to compensate for the four new ones or the equipment needed on those. Bar lights just don't come under a grant; they do not fall under any type of grant.

Chairman Sanders asked if everyone understood the motion and called for a vote.

THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

11. Bonnie B Thomson – Discussion/Decision to Change County Garbage Billing to save taxpayer dollars.

Bonnie would like to propose 6 bills a year instead of 12. This would save money for the county and time.

MOTION BY MEMBER HAWKES TO APPROVE
SECOND BY MEMBER CREAGER.
THE VOTE WAS NOT UNANIMOUS WITH MEMBERS HAWKES, CREAGER, SUNDAY, SANDERS,
KELLEY, AND GARDINER FOR AND MEMBER STEPHENS OPPOSED
THE MOTION CARRIED WITH A VOTE OF SIX TO ONE.

Member Kelley asked about notification to the public.

Bonnie noted that they could advertise in the paper and make notation on the bill.

12. Ron Hobson (Wildlife Resources Northern Region) – Present the annual Wildlife Resources P.I.L.T. check and introduce himself.

This agenda item will take place in March.

13. Joan Patterson/Wentworth Development – Discussion/Decision on Preliminary approval of “Hidden Hollow Ranch”, a 47 lot subdivision located as part of the East ½ of Section 22, T4N, R2E (approximately 1270 W Old Highway).

Sherrie presented her staff report.

- ◆ Standard subdivision.
- ◆ All lots meet the requirements for the RR-1 zone.
- ◆ One of the first applications that have been moved on by the Planning Commission that is as complete as this one. There is one condition that is outstanding – lot addresses need to be put on the plat. Sherrie noted this is her responsibility and this has been moved to a final plat requirement.

Sherrie addressed questions raised in the public comment.

- ◆ Will serve letters are all in place.
- ◆ Water systems – when there is a water system for over 8 homes they are approved by the State Water Engineer and not the health department.
- ◆ Application was actually held up until the well was drilled and the system was approved by the state. That has now been done.
- ◆ From a planning perspective, she has met all of the requirements of the code that Sherrie could see and the Planning Commission has made a favorable recommendation.

Austin presented his engineering report.

Austin addressed questions brought up in the public comment period.

- ◆ Floodplain – stream channel and when a 100 year event comes the water will rise to a level. That area is known as a floodplain.
- ◆ Floodway – take base elevation and raise a foot assuming that areas within the floodplain will be filled for development. FEMA recognizes that development will and always has occurred in floodplains. That is not something that FEMA tries to prevent or our County ordinance tries to prevent.
 - The floodway has absolutely no impact on the Patterson development. There is no designated floodway on the Patterson property.
 - When FEMA develops the flood maps they find areas they want to do a detailed study on and sometimes it is up to the community to say we want to have a floodway designation and a floodplain elevation and go through all the detail that FEMA has to go through for the study.
- ◆ The area in question up Big Hollow has never had any detailed study on it. It has a zone A designation. Zone A is an approximate. It was mapped without any detailed or accurate topographical information. Zone A floodplains are in areas never considered to be developed; obviously that is not always the case. He believed the map to be an error personally. He does not have any data to support that. There is one part he knows to be in error and that is the discharge area.
- ◆ FEMA shows the discharge from Big Hollow to come down Big Hollow and then crossing Old Highway Road and then turning to the north. There is no such drainage channel that goes to the North.
- ◆ Big Hollow drainage drains down Big Hollow, across Mrs. Patterson's property, across Old Highway Road, down into the bottom, and through a culvert that is under Interstate 84. From there it goes into a ditch system that eventually ends up in the Stoddard Slough. That is the existing drainage pattern and that is the drainage pattern that will be kept. He believed that was one of the questions asked in the public comment period.

- ◆ This project was applied for before our current subdivision ordinance was passed and so it falls under the old ordinance. He referred to Chapter 46, title 16, four pages in, there is a section titled the Drainage and Floodplain system and this gives the requirements for how a development within a floodplain drainage system is to be designed.
 - The first three items in that section apply to floodways and are not applicable to this property. There are no floodways on this property.
 - Before the developer can go to work on this project they will need to have a floodplain development permit issued by the building inspector and himself.
 - The permit will be based on what fill and what grading is proposed and what effect it will have on the floodplain. That is not required at this time, but is something that will be done before any construction is done.
- ◆ The developer will continue to meet all federal regulations that the County is held to. He believes the design that has been submitted is in conformance with those.
- ◆ Drainage –
 - This project will not have any effect on any property upstream from the development.
 - Downstream it would be ignorant to say that it will not have any effect on downstream residences. That is why we have codes and why we have detention requirements.
 - The County requires that the developer detain for a 10 year storm event. To date the developer has designed a drainage system for the development to allow for a 10 year event.
 - They are working through some issues and he is confident those issues can be worked through. They have to be submitted prior to preliminary but they don't have to be approved until final.
- ◆ Traffic -
 - Yes, there are some bikers out on Old Highway Road in the summer. He noted there are bikers in front of his house; as far as that being a traffic problem, typically when you see Harley bikers; they are a weekend activity when less people are using the road.
 - There is also no commercial in the area except Kelly's Roadhouse which is not high volume commercial. He sees no reason to believe this development is going to cause a traffic problem on Old Highway Road. Old Highway Road has capacity of upwards of 10,000 vehicle trips per day and even with summer traffic he cannot see it approaching 3,000. It is well within its capacity.
- ◆ Another question was raised about off-site water quality –
 - Cannot stand here and say nothing is going to be effected down stream. Again, whenever you have development something is going to be effected. The question you have to ask is does this development meet our code and is that mitigated for. He believed it is mitigated for under two scenarios.
 - Detention system is in place. Any time you would have solids that would come down through a drainage system, those are settled out in a detention type system. Detention systems are even used for the sole purpose of settling out sediments. When you have detention ponds there is going to be some sediment that occurs in that detention pond that will help to protect the quality of water down stream.
 - The fact that there is 120 acres in this project and that acreage is split between 47 lots; the density is not a density that would be a high impact for environmental concerns for off-site drainage. This is not something that is high impact and it is not a high risk environmental scenario they are looking at.
 - There possibly could be some small problems off-site, but does it meet our code? He believes it does.

Member Karen Sunday –

- ◆ Is the developer working with a geo-tech or hydrological engineer?
 - Austin – yes. They did a debris flow analysis with the old development that Sherrie mentioned. It is still valid because it is an upstream event and there is nothing that is developed upstream of the property. What you look for in an alluvial fan type area is when you get those flash flood high intensity events, how will the debris and rocks be collected and carried through the site. The developer has a large debris basin on the north end of the site to collect much of what comes down in flash flood events.

- ◆ No water is or will be draining down on the Thompson property.
 - Austin noted he is not familiar with the Thompson property. Where is that in relation to the site?
 - Attorney for Mr. Thomas noted it is on the west side of the freeway, across Old Highway Road.
 - ◆ Austin noted the site drainage will be detained well in advance of that property and routed to that site under I-84 through the existing culvert. The downstream property owners are protected for up to a 10-year event and that is what our code allows for.
 - ◆ Page 156 of the subdivision ordinance, Item #6 states that all lots more than one acre shall contain no less than 20,000 square feet of land which is at least one foot above the elevation of the 100 year floodplain. Have the calculations been done to indicate there is at least 20,000 square feet? He has concerns with lot 19, 18, and 17.
 - Austin noted that first of all he would expect a letter of map revision to be filed for the property and would expect the floodplain to be removed. However, what we can deal with now is have the entire base flood elevations listed on the plat; that list has been given to him. The base flood elevations have been determined for all of the lots that are affected. The county code, which is national code, requires that if a lot is within an area that has a floodplain the homeowner cannot have a living surface that is less than one foot above the base flood elevations. Once that is determined, those elevations go on the plat, the homeowner comes in and they build their home above that base flood elevation.

The developer had talked about actually constructing some fill in the area if need be, to lift the fronts of those lots up above the base flood elevation. The foundation of those homes would still need to go to natural grade but that in his mind is not a condition that can't be met.

Member Kelley –

- ◆ Dynamite – are we sure that over excavation will take care of that? Austin noted absolutely. That was a condition that he recommended that the Planning Commission pass on to the Council.

Member Gardiner –

- ◆ Do we know for sure that the dynamite has been removed? Is it a wise decision to take the note off the plat? He would hope it would be left on the plat to protect the County.
 - Austin noted that if you did that you would have to put that on every development because you never know where there is buried dynamite. The only reason we know about this one is because the applicant told us about it and was honest enough to bring that up for us.
 - Attorney Farris stated if there is any chance there could be he did not believe it would hurt to leave it on the plat. It would be the wisest thing for the County to do.
 - Austin noted the only concern he has is that if it is removed, which it will be by over excavating, and then you have something encumbering someone's lot that is not a hazard anymore. There is not a problem in the over excavating process once the dynamite has leached out which is the case in this situation.

Joan Patterson – property owner

- ◆ Mrs. Patterson noted that there is only one place the dynamite was buried.
- ◆ She had the Davis County bomb squad up and they set off charges all over the area.
- ◆ They did find residue that was a different color. It was sent to a lab and it did indicate that there was nitrate there that had dissipated.
- ◆ Chairman Sanders asked how Mrs. Patterson became aware of this dynamite.
- ◆ Mrs. Patterson noted the person that used to own the property marked the area where it was buried. There were only several sticks.

Member Creager- Clarification to the boundary dispute that was mentioned.

- ◆ Austin noted those are in process and will have to be cleaned up prior to final.

Chairman Sanders – believed this is a very complete application. He noted it would be good to have a document showing how much secondary water there is.

MOTION BY MEMBER HAWKES TO GRANT PRELIMINARY APPROVAL OF HIDDEN HOLLOW RANCH, A 47 LOT STANDARD SUBDIVISION LOCATED AT APPROXIMATELY 1270 WEST OLD HIGHWAY ROAD AND THAT IT BE DONE IN ACCORDANCE WITH THE FINDINGS FROM THE STAFF REPORT AND THE PLANNING COMMISSION AND SUBJECT TO THE CONDITIONS OF BOTH.
SECOND BY MEMBER SUNDAY.
THE VOTE WAS NOT UNANIMOUS WITH MEMBERS SUNDAY, KELLEY, STEPHENS, CREAGER AND HAWKES FOR AND MEMBER GARDINER OPPOSED.
THE MOTION CARRIED WITH A VOTE OF FIVE TO ONE.

14. Public Hearing – Allen Willie/Francis Daly – Petition to amend the zoning districts of 3 existing lots located approximately at the top of Spring Hollow Road from MU-160 to RR-1 (7.43 total acres).

♦ **Staff/Applicant Presentation.**

Sherrie presented her staff report. The only use these lots could have on them is grazing. However, the Enterprise Area Plan was adopted at the second meeting in January and the Spring Hollow area was designated into their village center and this area was designated as RR-1. She noted that because of frontage and the hillside, these lots could never have more than three homes on them. A concept plan is not required because it is less than 15 lots. It is in accord with the adopted area plan.

MOTION BY MEMBER CREAGER TO OPEN A PUBLIC HEARING.
SECOND BY MEMBER STEPHENS.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

♦ **Public Hearing.**

Brent Bohman – Mr. Bohman noted he owns a significant piece of property next to this and does not have any objections.

MOTION BY MEMBER HAWKES TO CLOSE THE PUBLIC HEARING.
SECOND BY MEMBER SUNDAY.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

♦ **Discussion/Decision**

Member Kelley – finding #2 states that changing or changed condition makes the proposed amendment reasonably necessary to carry out the purposes. She does not like leaving it open like that and would like to see it reference what changes have come about.

MOTION BY MEMBER STEPHENS TO ACCEPT A ZONE CHANGE FOR ALLEN WILLIE/FRANCIS DALY, A PETITION TO AMEND THE ZONING DISTRICTS OF THREE EXISTING LOTS LOCATED APPROXIMATELY AT THE TOP OF SPRING HOLLOW ROAD FROM MU-160 TO RR-1 (7.43 total acres) WITH THE FOLLOWING FINDINGS:

- ♦ The proposed amendment is in accord with the comprehensive general plan goals and policies of the County.
- ♦ Changed or changing condition of the area plan make the proposed amendment reasonably necessary to carry out the purposes of the LUMC.
- ♦ The requirement for a specific development proposal may be waived by the County Council as the rezone is for an agricultural district. The proposed zone change is in compliance with the future land use map for the area plan and the permitted base density is for less than 5 units in the agricultural zone.

- ♦ The proposed zone amendment is within the village center and is recommended by the general plan and Enterprise area plan for rural land use consistent with the RR-1 zone.

SECOND BY MEMBER GARDINER.

THE VOTE WAS UNANIMOUS.

THE MOTION CARRIED.

15. Public Hearing – Tyler Zuech – Rezone petition to change zoning from RR-1 and A-20 to R1-20 and to amend the existing P.R.U.D. to a standard minor subdivision, “Mountain Ridge Minor Subdivision” located at 2745 W Old Highway Rd.

Staff/Applicant Presentation.

Sherrie presented her staff report and a brief history of the property.

- ♦ Member Gardiner – is there some of the property that falls outside the ½ acre zoning.
 - ♦ Sherrie noted it is fully in that ½ acre zone.
- ♦ Member Gardiner - asked about the water drainage problem.
 - ♦ Mr. David Potter stated there is a drainage problem, but he has discussed it with Mr. Zuech and it can be worked out.
- ♦ Member Kelley – Sherrie has noted that no new home is proposed at this time. So giving him the R1-20 zone with 2 plus acres, he could come in at some future time and say this is in the R1-20 zone and entitled to four homes and want to subdivide.
 - ♦ Sherrie noted it is very possible to build a road down into that area with a 60’ right-of-way and apply for a future subdivision.
 - ♦ Member Kelley noted her concern is that there was a consideration given for this to be a true PRUD to build the two homes there instead of just the one home. She does not want to see precedence set for other PRUD’s that were allowed in the County.
 - ♦ Sherrie – that is a fair assessment that it was a PRUD and it should have been tied up in perpetuity but it was not. It was not noted on the plat that way.
- ♦ Chairman Sanders – Maybe the best way to look at this is to ask is it within the current land use map where other PRUD’s may not be, so he believed that would make a distinction. If you are not within what the future land use designation is to be then chances of getting a re-zone is probably not going to happen.
- ♦ Member Hawkes – The difference here and where it is not setting a strong precedence is that it was not properly set aside. It was listed as a PRUD, but it did not have the open space easements or whatever else that was needed to do that. Sherrie noted that was correct. The easements/open space should have been dedicated to the County or some other third party entity but they were not. As they were platted they were dedicated in common to the two lot owners and further, even the way the CC&R’s are designated. Mr. Zuech, having 100% of the interest, he can change the CC&R’s at any time. We have no jurisdiction over them what so ever. She noted for an example with the Cottonwoods the developer gave up his right to amend the CC&R’s in the development agreement, without the County’s approval. However, in this particular PRUD they could revoke their CC&R’s because they did not have a development agreement.

It was noted that CC&R’s cannot be regulated by the County.

- ♦ **Public Hearing.**

MOTION BY MEMBER SUNDAY TO OPEN A PUBLIC HEARING.

SECOND BY MEMBER GARDINER.

THE VOTE WAS UNANIMOUS.

THE MOTION CARRIED.

There was no public comment.

MOTION BY MEMBER HAWKES TO CLOSE THE PUBLIC HEARING.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.

♦ **Discussion/Decision.**

- ♦ Member Creager –Member Kelley's comments are very valid. He asked how many PRUD's since 2001 this could potentially include.
 - ♦ Sherrie – valid question, but she would have to go through and see which PRUD's were approved and now which PRUD's now fall within a designated village center that now have a future land use map that changes the zoning and that does not have the proper dedication on the plats. There may be quite a few out there that don't have the proper dedication on the plat, but they probably used up their density and so without a proper zone change they would not be eligible for this to happen at all.
 - ♦ Chairman Sanders stated this subdivision is on a water system and septic system so that will limit what can be done there as well.
- ♦ Member Hawkes – the biggest exposure is that if the easements had been recorded properly this would not be able to be done.
- ♦ Chairman Sanders stated any others would also have to be in line with future land use in the area and that is what this one does.
- ♦ Member Stephens noted it is her understanding that if all the other PRUD's in the County were to come in 10 – 20 years down the road and the County has changed the land use map for their area then they can build on the ground, was that correct?
- ♦ Sherrie noted if the open space easement has not been properly recorded. It is important that those open space easements be dedicated to a third party and whether that is the County, Utah Open Lands, or Rocky Mountain Elk Foundation. She noted there are a ton of foundations out there that will hold the land in perpetuity as long as they don't have to maintain it.
- ♦ Member Stephens stated this goes back to her gripe all along; is that 20 years down the road, the County Council or whoever, when they need more ground will open up this open space.
- ♦ Sherrie stated that she needed to have faith in her forbearers.
- ♦ Chairman Sanders stated he would hope that would not be the case if it has been set aside as such.

MOTION BY MEMBER STEPHENS TO ACCEPT THE RE-ZONE PETITION TO CHANGE ZONING FROM RR-1 AND A-20 TO R1-20 AND TO AMEND THE EXISTING P.R.U.D. TO A STANDARD MINOR SUBDIVISION, "MOUNTAIN RIDGE MINOR SUBDIVISION"
LOCATED AT 2745 W Old Highway Rd.
SECOND BY MEMBER SUNDAY
THE VOTE WAS NOT UNANIMOUS WITH MEMBER KELLEY AGAINST AND MEMBERS GARDINER, SUNDAY, STEPHENS, CREAGER, HAWKES, AND SANDERS FOR.
THE MOTION CARRIED WITH A VOTE OF SIX TO ONE.

16. Tyler Zuech – Discussion/Decision – Adoption of Ordinance CO-07-01 Vacating Mountain Ridge P.R.U.D.

MOTION BY MEMBER HAWKES TO ADOPT ORDINANCE CO-07-01 TO VACATE THE MOUNTAIN RIDGE PRUD SUBDIVISION.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.

17. Wheelwright Minor Subdivision” (2 lots – 3.11 acres) located at 1590 W. Old Highway Rd.

This agenda item was cancelled.

18. Chris D. Morgan – Discussion/Decision – Set aside time for the Council and the public to discuss actions to be taken in regards to the end of abatement on Lot 21 of the Highlands West subdivision. The abatement extension period will be ending the week of 13 February 2007.

Mr. Morgan asked if everyone had received copies of the abatement.

Mr. Morgan noted the purpose of this is to continue discussion that took place in the fall regarding the abatement of the Hayes home. He understands there may not be any decision made because it is a huge financial decision.

Chairman Sanders asked what Mr. Morgan and the neighbors’ recommendation is:

Mr. Morgan noted the following:

- ♦ The neighborhood understands that the water leak is not from a broken pipe. The flow has not changed.
- ♦ Mr. Morgan stated the residents’ question to the Council would be what are the plans for the Hayes home?
- ♦ Chairman Sanders noted it does become a legal issue once the abatement expires. He referred to legal council.
 - ♦ Attorney Farris noted that Mrs. Hayes would not be in a position to remove the house.
 - ♦ The house has not reverted back to the bank which owns the mortgage on it.
 - ♦ When the abatement ends in a week or so the County can send a notice to the bank and try to pursue the issue again, that is the most economical alternative the County has.
 - ♦ If the bank does not want to remove the house, which is probably a good assumption, then it is up to the County what they want to do with the house.
 - ♦ Austin would be able to tell us if removing the home would be of any benefit to the County.
 - ♦ It was not budgeted to demolish the home.
- ♦ Chairman Sanders would recommend putting the bank on notice to come and remove the house. There is a concern on when it would be safe to go in and start removing the home. You would probably want to do that after the ground has lost some moisture and become stabilized.
- ♦ Member Creager asked what would be a reasonable response time.
 - ♦ Attorney Farris – 30 days, letter could be mailed to the bank by the 17th and ask them to respond back within 10 days.
- ♦ Mr. Morgan – the County needs to be prepared to make a decision when the bank sends it back and says they are not going to take the property. No one wants it and we can argue back and forth forever if the home is causing the slide.
- ♦ Chairman Sanders asked for Attorney Farris to address the indemnification issue. He further noted that the County will explore all options before spending County funds.
- ♦ Attorney Farris – advised the Council that until a qualified individual tells the County that ripping the house out and filling the area with dirt is going to solve the problem, then he would be cautious about doing that because we may think that this is going to solve the problem, putting it back into natural habitat, and then it holds more water and starts sliding quicker, then we could have some liability.
 - ♦ There are properties that have been boarded up for years in Ogden. He would assume the Council down there did not want to take on those expenses.
 - ♦ There is nothing legally that says the County has to hop in and fix it tomorrow.
- ♦ Chairman Sanders noted it is going to be a tough decision, but it really is a legal issue at this point.
- ♦ Chris Morgan – the real issue is the safety concern of the house and the current slides that are coming off the house. Spring will be a telling time.
- ♦ Member Creager – would there be any harm to obtain some bids for the demolition and removal.

- ◆ Brad Hall – Mr. Hall noted that he had contacted Butters Construction and they gave him a bid of \$100,000 bare minimum for removal.
- ◆ Member Kelley – If the County accepts bids are they accepting responsibility and accountability?
- ◆ Member Gardiner believed the County should follow due process before accepting bids.
- ◆ Brad Hall – Nancy Hayes has been in the home lately. Since the fall when everyone went up there and took a look it is progressing nicely down the hill.
- ◆ Barney Ryan – because of time of year and weather involved the signs that were posted on the property have gone and are in the mud. He would just like the Council to be aware of that and maybe look at re-posting the signs.
 - ◆ Attorney Farris – make sure it is re-posted.
 - ◆ Sherrie – The County did not post it originally. It is private property. Mrs. Hayes and her attorney did the posting originally.
 - ◆ Attorney Farris – Requested that Kent Smith, building inspector, go back and look at it again and re-establish the signs.
- ◆ Council requested that the Attorney do the following:
 1. Send letter to Washington Mutual.
 2. Send letter to Mrs. Hayes about posting the property again and that the abatement period has expired.
- ◆ Chris Morgan – it is a safety concern and believes by ordinance that it is the Council's responsibility to take care of it. We can point fingers all day clear back to the approval of the subdivision, the geo tech, the builder, but those are all past issues. The current situation is the house and the damage that is being caused to the County road.
- ◆ Attorney Farris – requested Austin to comment on causation.
 - ◆ Austin – to state that the Hayes home caused the landslide would be to state the landslide did not exist before the Hayes home existed. The County has evidence now from reviewing files and going back over what was done, what should have been done, and what shouldn't have been done. But the landslide has been in existence for a very long time. It is a very slow moving landslide and even now it is classified as a very slow moving landslide. Last year the County experienced the most rapid movement, which was approximately 4" in one year. It is still a very slow moving landslide. Given the size of the toe and the size of the head scarp and the rate of the movement it has taken a long, long time for those morphological features to be developed, so causation is definitely NOT because of the Hayes home and he would like that on record because we have heard a lot of rhetoric and no actual logic or fact to back that up.
- ◆ Chris Morgan – for the record, he totally disagrees with that position. He does not believe it is backed up with data and would like to see that. Historically, all of Mountain Green is part of a slide and it is easy to say that we are parts of this slide. The point is that slide was not moving until that home was constructed there; and he would like to see the data that backs that up. The point is, it was not sliding until that house was constructed there and they don't have data to prove it did. If so, we are going to have to categorize all of Highlands West that way and it is going to open up a bigger can of worms then. It should not be so easily dismissed.

19. Airport Advisory Board – Discussion/Decision – Advertising for vacant positions on Airport Advisory Board.

Debbie Sessions noted they have one member who is going to law school and is unable to fulfill her duties on the board. This individual represented a non-user on the airport board.

It was noted Scott Rees has also requested to be taken off.

Mrs. Sessions stated her request is that the Council advertises for vacancies to be filled.

Debbie noted it should be non-users that are being replaced.

**MOTION BY MEMBER HAWKES TO DIRECT COUNCIL MEMBER GARDINER TO POST THE
VACANCIES FOR THE AIRPORT ON THE WEB PAGE.
SECOND BY MEMBER STEPHENS.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

20. Operation Graduation Committee – Discussion/Decision – Discuss amount charged by Fair Board during Fair for use of the Food Booth.

Bart Smith – noted the main food booth at the fair is a primary fund raiser for Operation Graduation. Up until two years ago the Fair Board had been charging \$1000 for the use of that facility. He noted if you look at the resolution that was adopted on the fair use fees, the problem lies in the main food booth being a \$65 a day fee. The Council can either waive or reduce those fees for non-profit organizations.

The users have probably been charged more than the resolution states it should be.

It is his opinion that this can be a win/win situation for everyone and he would propose the following:

- ◆ Sheriff's Liquor fund – perfect way for this Council to use those restricted funds to keep high school seniors off the road on graduation night.
- ◆ Bylaws for the Fair Board - Purpose is to support the people of the community.
- ◆ Would like to make the request that the liquor funds be used for a donation into this project. Believed it is well justified. These are not the Sheriff's funds and it is not his account. He is probably the most likely to determine expenditures out of it, but it is not the Sheriff's money. This board is the one that will dictate how that money will be spent. The Sheriff should not have access to any money outside the general funds.

Chairman Sanders stated the County does have a resolution that is out of sync. There are two boards now, the Fair Grounds Board and the Fair Board, and we need to bring those two boards into sync and have a resolution on how those two groups will mesh, what they charge, and who is going to set fees and administer that part of it. He believes this needs to be an agenda item and get it resolved.

Member Hawkes noted the following:

- ◆ Believed that Bart's idea of using the liquor fund is brilliant.
- ◆ Recommend amending the resolution for a new fee schedule during the fair.
- ◆ The two boards need to get together and recommend a fee schedule for each exact facility at the fairgrounds.
- ◆ Add to or adopt a new resolution for whatever fee is prescribed there to look at a fee separate for operation graduation subsidizing that out of the liquor fund because it is very applicable to preventing alcohol and drunk driving the night of graduation.

Chairman Sanders – his hope would be that the two boards the County now has in place could take over the reins and adopt the schedule and guidelines for administering those and let them handle it so that individuals do not have to come before the Council and request fee waivers.

Member Stephens noted the fair works all year long to generate funds to put the fair on and it is a brilliant idea to take those fees out of the liquor fund for Operation Graduation. The Fair Board cannot lose those funds or they will go under, but this is an excellent way to subsidize the fee.

Member Creager – would like it to be publicly known that the liquor fund closed the 2006 year with \$63,987.87. This is not an issue of funds available.

Member Gardiner – clarification of what the Fair Board will do.

Chairman Sanders – the Fair Board will make the recommendation to the Council on a fee schedule during the fair and then, when that is approved by the Council, the board would administer it.

**MOTION BY MEMBER HAWKES TO ASSIGN THE COUNCIL MEMBERS WHOSE PORTFOLIO
ASSIGNMENTS ARE OVER THE FAIR AND THE FAIRBOARD TO WORK TOGETHER AND
DEVELOP AND RECOMMEND A FEE SCHEDULE FOR LARGE EVENTS AT THE FAIR
GROUNDS TO AMEND RESOLUTION CR-05-07.
SECOND BY MEMBER STEPHENS.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

Mr. Smith asked if it would be appropriate for Operation Graduation to make a request of a donation out of the liquor fund.

Member Hawkes noted that his thought would be that once the Council has approved what the fee would be then that would be an appropriate time to make the request.

Mr. Smith noted that they just need to know because the committee for Operation Graduation is in place and making plans for that event.

It was noted that they could make the request any time.

Brenda Crossley would like to clarify that it was not raised from \$1000 to \$2000. It was raised from \$1500 to \$2000, and it was raised across the board.

21. Discussion/Decision – US Bureau of Reclamation – 4 Party agreements for recreation management at Lost Creek Reservoir.

Member Creager noted the Bureau of Reclamation has submitted a contract for the Lost Creek Reservoir project. He gave some background on the project. The following was noted:

- This is a four party contract (1) Bureau of Reclamation (2) State Parks (3) Division of Wildlife Resources (4) Morgan County.
- Contract is with regard to the maintaining and use of the Lost Creek Reservoir.
- The contract was put in place back in 2003.
- Morgan County's contractual obligation was for the sum total of \$10,000.
- In 2006 there were no invoices submitted to the County because of the illness of the administrator of this contract.
- The County would be seeing an expense of \$20,000 in 2007 because of that.
- The original contract does not expire until 2007.
- The contract can be re-negotiated at the request of any party.
- The Sheriff's department has the opportunity to invoice the Bureau of Reclamation for their care. They are under contract to go up on a daily basis to brief the area and close the gate. In the end the County pays \$10,000 and last year you will see from the two invoices that we had a return of \$31,000 for those services rendered. So we have an investment that triples itself.
- It is his recommendation that the County sign this contract to continue through 2011. He believes it is proper and important for this County to fund this project in the Lost Creek Area. He believes it is good for the citizens of this community and does not believe in the long run it would be a negative impact to the County.
- It was noted that money from the mineral lease funds this project.

**MOTION BY MEMBER CREAGER TO APPROVE A \$10,000 DISBURSEMENT AT THIS TIME
WITH AN ADDITIONAL \$10,000 DISPERSEMENT TO BE TAKEN LATER
DURING THIS YEAR TO BE TAKEN FROM THE MINERAL LEASE FUNDS.
SECOND BY MEMBER HAWKES.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

22. Sid Creager – Discussion/Decision – Re-address Council Portfolio.

Chairman Sanders noted that Member Creager has raised an issue with his portfolio assignment and the fairgrounds. It was publicly made aware of a conflict of interest due to his cousin Elizabeth Carter who works for the County.

Member Kelley – recommended that Member Sunday be the direct supervisor over the fairground using Member Creager's assistance.

There was discussion, the vote was as follows:

**MOTION BY MEMBER HAWKES THAT THE COUNCIL RE-AFFIRMS THEIR
CURRENT PORTFOLIO ASSIGNMENTS.
SECOND BY MEMBER GARDINER.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

23. Austin Rowser – Discussion/Decision – Conditional Acceptance of “The Ridges” P.R.U.D. Subdivision.

Austin noted The Ridges is complete. There are no public improvements; everything is private. They are ready for conditional acceptance which will start a two-year guarantee period.

**MOTION BY MEMBER STEPHENS TO ACCEPT THE CONDITIONAL ACCEPTANCE OF
THE RIDGES PRUD AND RELEASE THE FUNDS AS PER STAFF REPORT.
SECOND BY MEMBER HAWKES.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

24. Executive Session

**MOTION BY MEMBER HAWKES TO GO INTO EXECUTIVE SESSION TO
DISCUSS A POSSIBLE SALE OF COUNTY PROPERTY.
SECOND BY MEMBER KELLEY.
THE VOTE WAS UNANIMOUS.
THE MOTION CARRIED.**

**MOTION BY MEMBER HAWKES TO ADJOURN.
SECOND BY MEMBER GARDINER.**

Approved: _____ Date: _____
Chairman

ATTEST: _____ Date: _____
Clerk