

**Fremont County Planning  
& Zoning Regular Meeting Minutes  
December 16, 2009  
6:00 pm  
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular meeting on December 16, 2009. They met in the County Annex Building. **Members in attendance were:** Glen Pond (Chairman), John Nedrow (Vice-Chairman), Sam Davis, Jim Gerber, Larry Singleton, Steve Trafton, Cindy Miller, and Stephen Loosli.

**Staff and others present:** Kurt Hibbert (Administrator), Joshua Chase (Planner), Molly Knox (Administrative Assistant)

1. Welcome

The Chairman called the meeting to order at 6:00 pm.

Mr. Pond Welcomed all that were in attendance and stated that he appreciates the input of the public at these meetings.

2. Minutes

Mrs. Miller stated that I found quite a few typos but I am not sure if you want those or if you just want things that there are issues with. October meeting - Page 9 Mr. Nedrow stated he personally would like – page 10 second paragraph chapter 4 has been completely been stricken – Mr. Loosli stated this might be one of the actions that merit wait for the rest of it to go with it. Mr. Loosli stated Commissioners can make an action??? Page 11 Mr. Nedrow it is a lot farther from the city services then Chester is. Do we need to put what it is?

Mr. Nedrow stated that he was okay with it the way it was

Mrs. Miller continues that next Mr. Nedrow questioned if another public hearing would be needed page 15 Mr. Nedrow said if someone would like to send should say second motion. Page 16 Mr. Hibbert this new code gives more options then have been has not been allowed in the past. Page 17 Mr. Gerber asked if Mr. Hathaway take out IF page 18 Mr. Hibbert at top middle what we are trying to is provide for the caregiver TO DO. Mr. Loosli it IF you would never buy an expensive home. Page 19 Mr. Hibbert stated this IS personal and needs to be. Page 22 asked if the Commissioners were comfort if we needed to change THEM, we could. Page 23 bottom of large paragraph ON THIS page 24 Mr. Nedrow and he wanted the property owner TO HAVE MORE AREA he could build in. Mr. Hibbert the state and federal government will allow them to build there states now that can't - Mr. Hibbert stated that if we know were that riparian area is it would be easy. Hibbert this is the variable scratch the last sentence

Fremont County Planning & Zoning Minutes

12-16-2009

Page 1 of 25

Page 26 Mr. Hibbert – talking about the bitch creek area visualize THIS area not his.  
Page 28 Mr. Hibbert talking about 92 or do we stay with the UNFAIR funfair.  
Page 29 Mr. Loosli stated we in a homestead area?? Fremont County is a homestead area.

Mr. Pond asked if there was anyone else who had corrections on these meetings minutes.

Mr. Nedrow stated that on page 5 where Mrs. Howell was speaking he had a question on overriding facture?? Someone stated that there was also a run-on sentence that needed to be changed starting with Does that mean, ending in a question mark. And on page 8 Mr. Hibbert track lot section DELETE that sentence.

**MRS. MILLER MADE A MOTOION TO ACCEPT  
THE OCTOBER 21ST MINUTES WITH THE  
CORRECTIONS LISTED. MR DAVIS SECONDED.  
ALL IN FAVOR, MOTION CARRIES.**

Mrs. Miller stated that in the November 18th minutes on page 1 Mr. Kendall Adams stated “that this is a project proposed right on the... I believe he said the Cross Cut Canal. Also correct Damn to Dam. On page 3 where Mr. Loosli stated that you could talk the County into make, needs to be making it a County road. And on page 9 where Mr. Austin stated he feels that is it needed to be done.

Mr. Pond asked if there was anyone else that had any issues with the minutes.

Mr. Nedrow stated that on page 3 third paragraph Damn needed to be changed to Dam.

Mr. Pond replied thank you. Is there anyone else?

**MR. SINGLETON MADE A MOTOION TO ACCEPT  
THE NOVEMBER 18<sup>TH</sup> MINUTES WITH THE  
CORRECTIONS LISTED. MR DAVIS SECONDED.  
ALL IN FAVOR, MOTION CARRIES.**

### 3. Sketch Plan – Griffel Fall River Ranch – Kendall Adams

Mr. Pond stated that the next item on the agenda is the Sketch Plan for Griffel Fall River Ranch, Kevin Thompson is the Surveyor. Kevin you may present your Sketch Plan.

Mr. Kevin Thompson – 215 Farnsworth Way Rigby ID. – What I am presenting tonight is a Sketch Plan, I have a copy of it enlarged in front of me and you all should have a copy as well in your packet which folds out. Location is near 1100 N and 3800 E; this is about 4 miles on east side of Ashton. It is along the Fall River, we are proposing 6 lots. As you I am sure have noticed there are two lot 1’s, one on east and one on west due to access they are combining the two into Fremont County Planning & Zoning Minutes

one. We have shot topography on property, there is contouring on the map. The green on the map is representation of the actual farmed property on the site. That was located by GPS and literally driving around the farmed portion of the property, which totals 40.5 acres that has been farmed and is in production. We have converted the contour lines to a colored map that defines the three types of slopes that are found in the Fremont County Ordinances, Productive Cropland, Wetlands, Critical Wildlife Habitat or slopes over 30%, are in blue, Stream corridors or slopes 15-30% as yellow & other areas as green. The Fall River is a navigable river and is excluded from subdivision entirely. People do not own property under the river and so it is excluded and why it is not blue. It is not a corridor and is completely outside the acreage that we are dealing with here. (Pointed out on map) The best perspective is the aerial map. In the east side we have the farm (brown area), Fall River, a dense group of trees. They are pine, black spruce and sage brush upward westerly end. We have included a plant guide in the packet of information. I tried to go thru the checklist and give detailed information on each item and mirror it in my table of contents. I went onsite with some of Planning & Zoning staff and they made up the staff report and can go into detail. I can answer any questions that you may have right now. I would like to work together with the council give me suggestions or ideas to incorporate into the Preliminary Plat.

Mr. Pond stated that he would like to have staff make their report and have Mr. Thompson come back up once they were finished to be asked any questions.

Mr. Thompson agreed that would be great, thanks.

Mr. Chase reiterated that as stated we met with the surveyor on site and discussed some things that were concerns. Also the Public Works Director was with us. A primary concern that we discussed with the applicant was access. This is an issue because 1100 North has some slopes in areas and the road needed some improvements because some is paved and some is not. The Fremont County Development Code requires subdivisions with 6 lots or more to have two (2) points of access or a loop road. Also the Development Code limits access onto County roads. So with what's proposed here there are some concerns with each lot accessing directly onto the County road. We also talked to applicant about some other designs such as clustering and maintaining open space as encouraged in the Development Code. Are there any questions for me?

Mr. Pond asked if those were the main concerns that you had.

Mr. Chase commented that I did note that we have not completed a LESA review for the project. I commend him for a good application but we still need to do a LESA review.

Mr. Gerber questioned if you spoke to the developer about the possibility of the new code in a few months of the 70-30%.

Mr. Chase responded that it is unknown how much discussion we have had with him concerning the new Code, or becoming vested or locked into with a certain set of rules concerning development. There has been some discussion.

Mr. Gerber stated that I am not telling him how to do his project but it could change down the line.

Mr. Chase asked if there were any other questions for him.

Mrs. Miller stated that in the packet you mentioned the need for the applicant to show stream corridors & floodplain information, has he given that to you?

Mr. Chase responded that there is work submitted, especially calculations establishing some flood elevation heights. But I do not think that he has given us any information on where that area is located on the property.

Mr. Hibbert commented that the surveyor has given us good information and it is just a detailed Sketch Plan. Those requirements are for the preliminary plat. So please don't lose sight that it is just a Sketch Plan

Mr. Chase responded that is information that we will need before Preliminary Plat for sure.

Mr. Pond asked if there were any other questions.

Mr. Thompson stated that what I like to do on these Sketch Plans is to present something and get feedback and then change so that everyone is as happy as they can be. What you see here is what the developer asked for me to draw. As Joshua stated we went on site we thought we could cluster, there are 40 acres of farm and who is going to be maintaining it when it is in six different lots? Nobody's going to have a ten thousand dollar mini tractor to be taking care of their property. I would like to incorporate a lot of the discussion I had with the staff on site. I need to talk to the developer and the family representatives. One of the issues we have is if it's not farmed it will go to weeds. The draw to the property is the scenic views of the river. We don't necessarily want to group a bunch of homes right there but yet the cluster concept has some validity to it as well. We probably in fact will do some clustering. Possibly on lots 2,3 & 4 we will do some clustering because the slope is such that they will be in the lower area called a saddle. So if you are floating or fishing the river you will not be able to see the roof peaks. I feel comfortable in saying that we could at least fit four homes down in that type of an area. As far as feedback, I will take whatever feedback and come back with a response to it. I like to have a good start on projects.

Mr. Pond asked if the Commission had any other questions.

Mrs. Miller stated that this is a very impressive Sketch Plan with a lot of information and I applaud you for that. We would like to see some clustering and I feel that it would alleviate some of your issues of access if it was clustered, and in nice group of trees, and it would be great if some of it could still be farmed.

Mr. Thompson responded that what he really wants to maintain the selling points of the property which would be the river and for it to not go to weeds, because that can ruin a subdivision.

Mrs. Miller responded that they may not know it but for it to continue to be cultivated can really increase the value due to the aesthetics.

Mr. Thompson responded that he would talk to the developer and owner about that and I think we could make that work for everyone. There is a power pole and it would be a great place to locate a road.

Mrs. Miller stated that she would encourage him to do that.

Mr. Pond asked if there were any other comments or questions from the Commission.

Mr. Trafton stated that in the spirit of providing some additional information, I broke out my Natural Resource Inventory Maps for the County and I feel that the area that is designated as Critical Wildlife Map is underestimated in this area, it should be larger. We can talk about that later. I feel that it would help in clustering homes. Also on page 4 of your submittal in the soils section it says that the soils within the Griffel River Ranch are not susceptible to erosion and to see pages 18-26. But on page 22 it looks to me and it is backed up by the map, as if actually 21.4% of the property is listed as severe potential erosion.

Mr. Thompson identified that he included this because he liked to do all of the research for the Sketch Plan and the Preliminary Plat. But when I actually do the building envelopes they will be out of the blue areas which are the steep areas. They would like to maintain all of the blue areas and the only reason they would get into the yellow area only for access. You picked that up but my purpose is to keep the building envelope completely outside of those both the blue and yellow areas. I hope that that makes sense.

Mr. Trafton responded that he was glad they were thinking about that, also the wildlife areas and that the entire property is designated a scenic area.

Mr. Gerber questioned if Mr. Thompson was aware of the fact that they were in the process of updating Development Code and that there will be some different options within the next 4 to 6 months probably. Don't hold me to that. That maybe something you should talk to the owners about.

Mr. Thompson responded that he appreciated that and that he would talk to the developer about that and see how that would affect what he wants to do and how it might affect his project. I will talk to Kurt and tell you what the possibilities are on that.

Mr. Gerber responded that he would hate for them to do this now when it might be to their advantage to wait.

Mr. Thompson thanked Mr. Gerber.

Mr. Pond asked if there was anyone else, then stated that his only comment is that the access issues need to be addressed because it is one of the critical items with the development. I will open this up for a motion to allow this Sketch Plan to go forward.

**MRS. MILLER MADE A MOTOION TO ALLOW THE SKETCH PLAN FOR GRIFFEL FALL RIVER RANCH TO GO FORWARD. MR. NEDROW SECONDED. ALL IN FAVOR, MOTION CARRIES.**

Mr. Thompson thanked the Commission and said that he would be in contact with the office.

#### 4. Public Hearing – Home Occupation Ordinance

Mr. Pond stated that the Board of Commissioners and legal staff have brought forth a new Home Occupation Ordinance what was once called the Cabin Rental Ordinance for us to look at. Blake Hall is here representing tonight to tell how it came about and what it entails.

Mr. Blake Hall, Civil deputy with the Prosecuting Attorneys Office, stated you are more familiar with this than I am. It has been worked on for over the last 5 years with at least three different ordinances that have come forward and were not acceptable and so have not been adopted. Recently our office was tasked with the responsibility of come up with a four step process of starting the cabin rentals, to ensure that the health and safety of the citizens of this County would be adequately addressed and protected. We have attempted to do that with the ordinance before you. It is done through a Class One Permit process. The primary concern that the Commissioners wanted us to address was having the cabin rentals registered. We understand the scope of the issue that we have in the County. Address the most critical issues which would include ensuring public safety and health, sewer, fire protection, water and garbage are taken care of and are safe. While we have listed in this ordinance a \$50.00 fee, now looking at that I wonder why we did that and I recommend that it be amended there should be a fee that is established by resolution by the County Commissioners so that we don't have to go through and amend the ordinance to amend the fees. I feel that this way would be better than listing a specific amount.

Fremont County Planning & Zoning Minutes

12-16-2009

Page 6 of 25

The Board of County Commissioners, our office, and planning staff met for several hours this last week to discuss and resolve the staff concerns about the intent or the purpose of this ordinance. It is a beginning step in regulation and being able to ensure public health and safety. It is not the same process that has been rejected on previous occasions, which would have required a Class II process. I will answer any questions that there are for me.

Mr. Pond asked the Commission if they had any questions for Mr. Hall.

Mr. Trafton asked how to address questions being that we have two and a half pages from the staff concerning this.

Mr. Hall stated I think that the staff would be better at going through that than I. Generally speaking we looked at it with a different philosophical approach at regulation. The staff looked at this as the previous ordinances, which would have required a Class II permitting process. Because the Class II permitting process had been rejected at several prior occasions, the Commissioners wanted us to go at it with a different approach. This is a different approach and I will allow Kurt to comment on the staffs concerns.

Mr. Hibbert stated that our concern when we make up our facts and findings for our staff reports is to be sure that the ordinances line up with our existing documents. In conversation with the County Commissioners and Legal Council we have decided this is a first step. It does not do everything that I would like for it to do and I think that it does not do all that they want for it to do either. It hits some of those key items that were mentioned, life safety, and registration. It is a work in progress and has been represented to us by the Commissioners that it is a work in progress and we wanted to get something on the table. The issues that we have in our staff report are resolvable and could be at a future time. They were brought to the attention of the Commissioners and to legal council that those are things that we recognize as issues. The consensus was that this is better to start something now and work on it over time to make something that is workable for everyone. It was decided that something is better than nothing and we were directed by the Commissioners as such. We as staff understand there are political ramifications on top of the technical ramifications that need to be balanced.

Mr. Hall stated that I don't know if that answered your question but I would be happy to go through each item if you want me I think the general answer would be is that it deals with the type of regulation that you want to have, whether it be a Class I or a Class II and the extent or the regulation. I guess after five years of not being able to get anything done, the instruction that our office received was to put together an ordinance that could be adopted that would start the process that would provide for regulation. Most important items would be for registration and the basic needs for public health and safety to be provided.

Mr. Davis stated that you mentioned \$50.00, and it says that the \$50.00 is a renewal fee. I assume that there is an original fee for the rental cabin.

Mr. Hibbert stated that as Mr. Hall had mentioned he would not have placed any fee in the ordinance. He recommended that we have a fee schedule that is separate from and not included in this document. The initial fee would be whatever that would be and the renewal fee would be what ever that fee would be. The Commissioners would adopt that fee schedule independently.

Mr. Pond stated that the question is if we review this tonight with that minor change, would we have to have another Public Hearing?

Mr. Hall responded no. All you would be doing is state that you would have a fee that is consistent with whatever fee schedule was adopted.

Mr. Pond asked if there were any other questions.

Mr. Gerber stated that the ordinance looks as if there are two different areas, the Transient Rental which to me is a rental cabin and the Residential Care Facility and you are saying that you can represent both in this one document.

Mr. Hall commented that in a perfect world you could make it work for everyone. You might do it differently than what is being done here. We were tasked with making this work within the ordinances that we already have with in Fremont County. We were asked to take this first step and that is what we are doing. Am I correct in saying that Kurt?

Mr. Hibbert responded that's correct. I am not saying that there are not issues. There are still issues that we have identified but they don't have to be resolved right now.

Mr. Gerber asked if they were happy with it.

Mr. Hibbert responded that he did not think anyone was completely happy with it but it is a workable document that could be adopted. Once we have something in place we can work with it.

Mr. Hall stated that once we have the regulation in place we can better recognize the scope of our problem, if there is on, and how to further regulate if it becomes necessary. Now everyone has a story or a claim but we don't have any data to allow us to see what the scope of the problem is and this will give us that first step or that baseline to go from.

Mr. Pond asked if there were any other questions from the Board. I am under the assumption that since this came from the legal office that we are on solid ground with statues and so forth in the state.

Mr. Hall responded we have provided legal clearance for the ordinance. That is not saying that you won't be sued but we believe that it is a very defensible ordinance if sued.

Mr. Pond asked if anyone on the Board would have a conflict of interest. Okay then, please keep comments within three minutes and if someone has already stated what you would like to say, you can say I agree with them. I will now open the Public Hearing. First on the list is Paul Gunderson.

Paul Gunderson – 1555 E. 1500 N. Hamer – I guess I am the new kid on the block. I did it as family thing, instead of having 10 or 15 or us having ownership of it, only 3 of us have ownership of our cabin and if the others want to stay they would pay a small fee for the use of it. I feel that this is missing the grandfather clause. I don't think you can do this without a grandfather clause. Our cabin was done to specs. Sewer inspections are going to cost much more than \$50.00, and you want parking lots, there is not even a road to it, and the County won't put a real road into it. When you think cabin you think primitive, this document constitutes a taking of property.

Mr. Pond thanked Mr. Gunderson, next is Craig Farmer

Craig Farmer – 3491 Range Peak Ct. Island Park – I agree with him, I don't think it can be regulated or needs to be. There have not been any accidents, deaths, so why do it. Most incidents I know of are due to the homeowners not renters. You need to realize that most of the people that I know of who are renting theirs out is because they did not realize the mortgage, maintenance, taxes a lot of added expense. It is usually the children or grandchildren of the homeowner who have no clue and take advantage of the property. The homeowners are the ones who take advantage of the property not the renters; they are usually the ones who are careful of things. My parents bought property in Island Park when I was 5, on Bills Island, and we have had issues only with homeowners.

Mr. Pond thanked Mr. Farmer. Next is Laurie Augustine

Laurie Augustine 4146 Huckleberry Lane Island Park – I believe you called this the blanket ordinance also probably know as the shotgun scatter effect. Possibly the ordinance that needs to be in effect here are that there are no ordinances in Fremont County. This is a blanket ordinance for covering someone's property. I think if you are going to do something you need to do it or leave it alone. For five years and how many hearings, how many? Can anyone count? This is getting a little out of control. Who keeps putting this Ordinance on the agenda? Can anyone tell me a name? No. Does it just appear?

Mr. Pond stated that you heard Mr. Hall's presentation so you know who it came from, the County.

Mrs. Augustine responded who's the County, the three Commissioners or the people?

Mr. Pond responded that the Commissioners represent the people.

\*\*Laughter and comments from the audience.\*\*

Mrs. Augustine responded that the three Commissioners are the ones who keep putting this back on the agenda.

Mr. Pond stated I am not going to argue with you.

Mrs. Augustine stated that her next comment is where is the supporting data for this ordinance? You haven't collected anything. Where is the accurate number for the rentals? As stated do you even know if you have a problem? You assume you have a problem; the problem is more along the lines of a social problem. How do you regulate respect between people? You can't regulate that with this ordinance. Where is the documentation of all of the complaints? You don't have any. What do you expect this ordinance to accomplish? You said fire, health safety, if you go to your preconstruction checklist; all of those things have already been done before this building has been built. Which include sewer, water, all of those types of things? I understand that zoning was probably not according to the memo from the staff to this Commission. However why have there not been any meetings between the owners and complainants. Why can't there be a meeting to discuss problems if there are any, how can we regulate it? A lot of the comments in the staff comments I fail to see how they were all addressed in a few hours short meeting. Why fees which before amounted to thousands of dollars now amount to \$50.00, but now that is going to be a small fee and not require another hearing. Why does the Code change every time a person changes seats in Kurt's office and the Prosecutor's Office? Why blanket Ordinances and then we never know what to expect. Example: Hungry Bear Market, so it was a market, RV and now a towing business, across the way from it. Why can't the County use its junk car ordinance to clean up that "scenic view" area along Highway 20? The County does not maintain the ordinances it already has, they don't enforce things now, what is going on why add another? Junk car ordinance, no parking on unplowed roads, cover loads to the landfill, no snowmobiles or ATV's on the road, open burning ordinance. The lack of waste water system ordinance promised back in 2006. But now you want to regulate rentals, to be sure more have a sewer system, or if they are hooked up to the system, or is it a 50 gallon drum. Noise and traffic usually comes more from the cabin owners than the renters. Huckelberry is currently in a lawsuit with the County because the County uses our road more than we do. There are areas with problems such as Mack's Inn, but the County continues to approve large scale subdivisions without wastewater treatment plants, such as Stephens Ranch. Personal property taxes, they cannot charge me because they cannot charge everyone because there is no way of distinguishing who is and who is not a rental cabin. They are wasting your time trying to do this with a blanket ordinance instead of allowing you to take time to update this correctly. They are wasting our time and yours.

Mr. Pond thanked Mrs. Augustine. Next is Chan Atchley.

Chan Atchely 477 E. 1300 N. Ashton – Gave me his speech, included as public record in file. Stated that a few days ago he had made a hard copy of Mrs. Lookabaugh's webpage and it has since been scrubbed but for the record he would like to submit a copy of it.

Mr. Pond thanked Mr. Atchley. Next is Janice Swenson

Jancie Swenson 2443 N. 575 E. North Ogden UT. – Cabin owner who does rent my cabin out and this is the first I have heard of anything of the sort. We bought it in 2000 and we have been told that that is okay to rent it out. Currently we are having Outback Realty take care fr the cabin and they are doing a great job at it. We have soldiers that are fighting for our rights over in Iraq, why take them away from us here. Stated that the roads are not maintained. Stated that she is a widow and I rent to be able to take care of the place. We never have had issues and we see that the rules are maintained. Thank you.

Mr. Pond Thanked Ms. Swenson. Next is Collett Wilks.

Collett Wilks 3875 Rainbow Dr. IP – I am the property manager for Rainbow Realty and have been for 6 years. I have had 2 complaints in six years. Count them, 2. We went out to the property and it seemed the neighbor just had an issue with parking. It was the approved parking for the home. This summer we just had a new cabin built in our subdivision for large family and they had lots of family reunions. There was a call from the neighbor, so I went out and I asked what the issue was and after 2 hours I finally got an answer that of they feel intruded upon by someone else because to they had been there since the 60's. I have more issues with my neighbors then I do with my renters. We have already been approved to build, why make us go through anything more. Thank you.

Mr. Pond thanked Ms. Wilks. Next is Kirk Mund.

Kirk Mund 3506 Timber Heights – My wife and I run Island Park Reservations – We have operated the property management for quite a few years and I can count the complaints on one hand. Our owners constantly reiterate that there are no more than X amount allowed in my cabin and we comply. Limited use, were these not all part of the agreement when I applied for this permit. You want us to pay for this building permit, but you don't want us to use it.

Mr. Pond thanked Mr. Mund. Next is Becky Berger.

Becky Berger 4194 Grandview - These houses are here to be lived in. What if everyone decided to move to Island Park? For those who are concerned with traffic and noise. It's there regardless. In number 3, the name and the phone number of the contact person must be posted on the house. I do not agree because that is an invitation for theft. Big concern! I think we could tell our neighbors the contact information of our people. I like the fees. You do the numbers and realize that there is no way that the County can force the regulations on this and that is probably why it is taken out. I feel that the septic needs to be for all homeowners not just renters. Under fire protection there is an Open Burning Ordinance and we could not find that anywhere. I am sure you would provide that for us. Trash service – there is no trash service in Island Park. We have to take our own to the landfill. Traffic # 9 what is reasonable for traffic. Now that we are a commercial business we are allowed to have a sign. None of us now have them but alright the locals

will love that. Property taxes, Inspection, very costly to the County #14 inspect at least once a year, 120 or so inspections it will be very costly. Along with other statements that were made you should really think about this.

Mr. Pond thanked Mrs. Berger. Next is Sheri Mund.

Sheri Mund 3506 Timber Heights – I pretty much agree with those that have spoken tonight. Read a letter from a homeowner who wanted to voice his opinion. This letter is in the file.

Mr. Pond thanked Mrs. Mund. Next is Douglas Jackson.

Douglas Jackson 261 Oak Leaf Lane North Salt Lake UT. – I have come to every meeting that you have had concerning this. Most of us are the same, some of you have changed. I have been renting my cabin for the last 10 years. There is a list of rules on my fridge and if there are any issues against them they will not be allowed to return. In conclusion I am sitting right over here under a picture of an eagle and the quote states “Where Freedom Reigns.” I do not feel that this Ordinance is acceptable as it reads.

Mr. Pond Thanked Mr. Jackson. Next is Lawrey Wilde.

Lawrey Wilde 1605 Teakwood Idaho Falls – I have a little different view of this. We have a cabin that we have rented for 7 or 8 years now and there has never been a complaint. I am concerned with the statement of the “First step.” To increase the fees and add a line here or there. Why is a select group being pinpointed? There are no records of complaint. The County only enforces ordinances when they can benefit monetarily. It does not make much sense to me. Does the County need more money? I think this is a smoke screen? Is there a sewer problem in Island Park? It is just for more revenue to fix things and not really for what it is. You need to take a hard look at it. We pay personal property taxes because the County said we had to. This year they decided to take it off and say that we do not have to pay those. I think that government becomes too big and it takes away our freedoms. I propose a motion right now; all in favor of us dropping this ordinance raise your hand.

Audience who agreed raised their hands.

Mr. Pond stated that this was out of order.

Mr. Wilde stated that there needs to be some soul searching done.

Brian Swenson – Roy Utah 3524 Savage Road – you made the comment that we are for the people that is incorrect. We found out about this on Dec. 11<sup>th</sup> and never knew about this before this. It is against our rights as property owners to do what we want to do. Where are the issues? We have never had an issue. Please do not trample on our rights.

Mr. Pond thanked Mr. Swenson. Next is Tom Howell.

Tom Howell 726 N. 3200 E. Chester also own property in Elk Creek Estates in Island Park – I agree with the ordinance, you have to put something in place as a first step. I do have a couple of general comments – directed towards vacation and rental cabins only. Residential Care could be Continuous Care. There is some overlapping language. Also it seems to be an attempt to address home based businesses. The issues are different from rentals to home based business. We need to look at the land use tables and consider them. Transient Rental vs. Long Term Rental wheather 30 days or 60 days the same should apply to each. There are the issues to Public safety and health that needs to be addressed. Buffalo River, what are the problems that are associated in water and sewer. I personally would like to have the opportunity to have the checks done. Well water, capacity of water systems as well. On the issue on noise this is a difficult one to address. How do you address noticeable noise beyond property lines? Are the nuisance based complaints going to be enforced by the law enforcement? Vehicular traffic, there will be more traffic. I agree with the inspections. If we do not have anything to hide then let them in. I agree with this ordinance. Thank you.

Kevin Stevens 1438 Potpourri – A year and a half ago I sat in on Board of County Commissioners meeting where one Commissioner leaned over to the other and said why are we doing this no body wants it. It's like the health care bill in congress? As property owners, who would want this ordinance? We are the only county in the state that even has this. The people are going to go other places like Driggs, Star Valley, etc. Do we want that? Do we want it for the business owners? The last meeting that I was at there were special interest groups that did not want this. Please do not do this.

Mr. Pond thanked Mr. Stevens. Next is Marla Payne.

Marla Payne 3860 Bills Loop Island Park – Five years, five years and we are back where we started. I have the most rambunctious group of family members that have been complained about. In the five years this ordinance has been called so many different things, we thought it was done in August or September. This is a ugly piece of government that is illegal. Commercial business already been taken up in 2005 by Brooks vs. Pinehaven in the Supreme Court. It is illegal to limit a person's property rights. I do believe that you will have to recognize it at some point. We need to get over the draft point at some point, pass or deny and get it over with. Put the tax dollars somewhere else. This is so much the same, as what has always been intended by this ordinance. This is like gun regulation, they want to know where you are and they want to come after you.

Mr. Pond thanked Ms. Payne. Next is Dede Draper.

Dede Draper 3618 Highway 32 Ashton – its been 5 years and I have lived next door to a rental that was applied for as a single family dwelling and is advertised for rent as a 60+ person rental. I question the fact that this is regulated. It's like flying; everyone has to go through an airport inspection because of the one guy who tried to put a bomb in his shoe. Ours is a high ranking individual from an adjoining County. Renters are paying \$800

dollars a night. My property rights are being taken away from me. There is a need for it. Yet I am not convinced that this version is it. Good luck!

Mr. Pond thanked Ms. Draper. Next is Gary Campbell.

Gary Campbell 6000 E Wild-horse Lane Boise – I own a resort in the Island Park area. I have been in favor of all of the ordinances that have come across. I urge you to pass this ordinance. To be against this ordinance is to be against clean drinking water that is inspected from time to time, it is to be against sewage containment, against parking on your own property. Caring weather or not your neighbor got a bargain on the property he bought. We pay commercial taxes, personal property taxes, and higher rate on our sewer, commercial insurance rates because we are zoned commercial. Look at things as a commercial enterprise in a residential area. There is no even playing field between the lodges, motels and the private enterprises. For good reasons we put the lodging next to shopping, and restaurants. This is an ordinance that should be passed as written.

Mr. Pond thanked Mr. Campbell. Next is Brett Mackelbee

Brett Mackelbee 3525 Merlin Drive Idaho Falls – I am representing the Idaho Association of Realtors. It is kind of hard to not re-state some of the things that have been heard. I just want to make some of my points known. I am concerned of the comments that the fee will be taken out and that it will be set separate. Not having it as part of this ordinance is deceiving. Calling it a beginning step or something is better than nothing, I guess I live in an area and I believe that the more regulations you place on me, the less freedom I have as a member of this nation. I would appreciate it and I know that my organization has asked before if we can be part of some feedback. I have offered all of my contact information in the past. I have never been told where the actual safety concern is. I am here on behalf of the Realtor Organization to speak against this proposal. Based on the serious impact on property values as well as restricting the public's private property rights that they have. We believe to have this ordinance tagged as the Home Occupation Ordinance is deceptive in its title. We would like to know why the two unrelated things are being combined. Why are they trying to be pushed through together? Is this simply an attempt to hide the once tagged Party House Ordinance inside another named ordinance? That the public will not notice and that it will pass quietly. Taking out the name Rental House Ordinance makes no sense. Did you hear anyone here testify concerning anything else in the ordinance? No, all comments were concerning the rental cabins. We were told that we as realtors could have a seat at the table drafting what would be brought forth to public hearing. To date none have been asked to assist in this endeavor. We are disappointed that this courtesy has never been extended to us. We never received a draft copy of this one either. We had to read about it in the Island Park News, where we are quoted to have said that we would sue the county if it regulates the rentals. To my knowledge this has never been said. We prefer to work together on this. We would like for the realtors voice to be heard. Like it or not realtors have a good knowledge of what impact an ordinance such as this would do to property values in the area. Fremont County depends on tourism and this will impact tourism in the area. We believe that this proposed ordinance does not treat all occupants equally. It appears that

this ordinance is trying to regulate the number of occupants of a home through the size of the septic system. Requiring higher standards for rental cabins than owner occupied cabins is a very slippery slope that we would caution against. You are requiring a higher standard for part time occupied rental cabins to have larger septic system then the state or the local health district require is not understandable to say the least. We choose to not get more detailed at this time as to our objection for this proposed ordinance. This is much better then the prior drafts but still has a long way to go. The potential impact on property values combined with the severely restricted private property rights render this current draft unacceptable in its current form. Once again we offer our assistance for future drafts. Thank you.

Mr. Pond stated that, that concludes our... Oh, it looks like there is one more.

Linda Howell 726 N. 3200 E. Chester – I am a property owner in Elk Creek Estates in Island Park I am in support of this ordinance because it will regulate septic systems. The association has been in contact with Mr. Hibbert's office. Elk Creek has a contamination problem and if it is not corrected it is potential solution would be that our association would have to put in a septic system at the cost of \$1.8 million dollars. We have 90 home owners which would be a huge burden in them. If you could at all regulate individual home owner's septic system that would be great as well. I am in full support of this ordinance and anything else you can do to stop this contamination.

Mr. Pond questioned Mr. Hall if he had any comments.

Mr. Hall stated that he needed to make one correction. There is some indication that somehow the Prosecutor's Office has taken a position with regard for the ordinance. We do not take a position for or against, we are scriveners. Our job is to draft an ordinance that will meet any legal challenge. We are not the policy makers you (the Commission) are and the Board is. We are not concerned with policy we are simply referring our legal obligation.

Mr. Pond asked if there were any comments from the Commission before I close. No, now I will close the public hearing. We will now take a 15 minute break.

Mr. Pond I would like to welcome everyone back from the break. I have one quick item of business before we deliberate on the Home Occupation Ordinance. Mr. Adams has asked if we will hear his project after this or if we are going to hold off until the next meeting.

It was decide to listen to him at the end of the meeting after the Administrator's report.

Mr. Pond stated that it has been closed to public hearing and is now open to the Commission for discussion and to decide any if there are changes you would like to make. Then we recommend it to the County Commissioners on our approval or denial or with our changes and then they decide on approval and enforcement of the Ordinance.

Mr. Davis stated that he felt we should go down the list of each item that we have talked about in each one of the proposals. The first one, with a pretty good point made of the posting of the name and number outside. Maybe change it to that number needs to be readily available or given to the County or those that are in charge. It does not even say outside. But for the neighbors to see it would need to be outside. I would propose that we change posting to just get the number to Kurt or his office.

Mr. Pond stated that how that is written is so that the neighbors can have it so that they can report the problems.

Mr. Davis stated that he really had an issue with it being outside and feels that it needs to be changed. Asked how everyone felt on that.

Mr. Pond stated that it says that it is posted inconspicuously on the transient rental. So that implies that it is on the outside.

Mr. Nedrow stated that he felt that before we spent a lot of time going over each and every item. This has been sent to us at the direction of the County Commissioners, I feel that we have hashed this enough over other meetings. I say we make a motion to approve or deny it and send it on to them and let them have their hearing and not waste any more time on it.

Mr. Davis stated that he only had two items. If everyone is okay with just posting the owners information outside, then okay. The other is in nuisances because they do not have weekly solid waste collection services down to garbage receptacles, just to be omitted. Since they do not have a weekly garbage collector can we enforce this sort of thing? Leave where it says that applicable animal test proof receptacles are to be used.

Mr. Trafton stated that he felt that it is implying that as the rental agency would be the one who should be responsible for the solid waste removal.

Mr. Davis stated that it should say weekly solid waste removal should be provided. Service is probably the word that is throwing this off. I feel that if we remove this word and replace it with removal it would work better.

Mrs. Miller asked if we should remove except on collection day.

Mr. Davis recommended that it should say weekly solid waste removal shall be provided.

Mr. Gerber stated that his was on inspections; I feel that the inspections should be every two years to correlate with the fees/ renewal. I don't think that much will change in a year. It is too much of an intrusion on the property owners.

Mr. Pond stated that he had one comment, dependant on the property owner and how well they take care of things such as fire alarms, which can disappear, etc.

Mr. Gerber replied I don't think that it warrants an inspection every year.

Mr. Pond stated that it does not say that it has to, it says that they have to allow us to.

Mr. Gerber responded it does say once a year, I think it should say once every two years.

Mr. Loosli stated a quick question. There was quite a bit of discussion about the fee in paragraph five. As I have glanced at that it appears to me that this is being proposed as a Class I permit, which already has a declared fee. As I read this last sentence a permit may be renewed for an additional two years with the payment of a renewal fee as published and amended initially set at \$50.00 along with the application. I read the \$50.00 to be the renewal fee not the initial permit fee.

Mrs. Miller asked if we could, get a definition for Home Occupation. There were several comments made concerning that title.

Mr. Hibbert responded that we do currently define it in our Code and we are going to change that in our new code we are going to separate Home Occupation from Home based business. A Home Occupation would be a classification of uses done in the home that just don't need a permit, all of the things that have no impact on the neighborhood. Where a Home based business would have a different classification. Right now it's all lumped together as one title Home Occupation.

Mrs. Miller I struggle with the title of it, and I agree with the comments that were made, because it is not what we are really talking about.

Mr. Chase responded that the code has a definition and it states that a Home Occupation is: A commercial or industrial activity or industrial activity conducted in a dwelling or a building accessory to a dwelling. Home occupations, by definition, comply with the performance standards of Appendix I. So that definition needs to be reconsidered in the new Ordinance.

Mr. Singleton stated I have an issue with the residential care facilities, I feel that it is out of place or something completely different than what we are discussing. It deals with helping the elderly, I think it needs addressed but under a different Appendix.

Mr. Gerber stated concern along same line when it talks about transient rental and residential care facilities, everything else that follows has to also follow this. A caregiver and a home for the elderly have to follow the same rules. Is that what we want?

Mr. Loosli stated that we have skipped over section one, part of this proposal includes a single paragraph here that amends the definition of commercial in the Code. It includes all land uses in the standard land use "Group Quarters;" 13 "Residential Hotels;" 15 "Transient Lodging;" 4923 "Travel Agency;" 4924 "Transportation Ticket Services;" 52-59 "Trade;" 61-69 "Services;" 71-79 "Cultural, Entertainment, and Recreational;" 8221 "Veterinary Clinic and Hospital;". This Appendix as I read it, Acceptable Uses,

paragraph three, is subject to the restrictions of this appendix in this ordinance, *any* permitted commercial uses, may qualify as a home occupation. Industrial uses do not qualify. Then I see the Transient Uses to be further regulated than the general purposes this allows. I read it to mean that this applies to a cabinet shop or automotive shop from their home that they would be subject to these too.

Mrs. Miller asked Mr. Loosli if that is what he felt Home Occupation meant to him.

Mr. Loosli responded that that is what he got from it. If he wanted to start up a cabinet shop in a building in my back yard then I would be subject to these rules.

Mr. Gerber asked Mr. Loosli what his point was.

Mr. Loosli responded that his point was the implication by some of this testimony being that this was just for transient use of a house in a residential area. What the County views it as is for business use. A guy running a shop will have to do the same water and sewer tests as a guy running a transient rental.

Mr. Gerber asked Mr. Hall if he felt that that is what it meant.

Mr. Hall responded that it is correct. And stated that what Mr. Loosli had correctly done was cited what we had done was added to our definition of commercial, Transient Lodging. The current Appendix I has residential care facilities. We added some new language to it but it is not a new category.

Mr. Gerber asked Mr. Hall if he would agree that Appendix I applied to all commercial uses.

Mr. Hall responded that yes, he would.

Mrs. Miller asked if that they should change nuisances, being that it's County wide.

Mr. Loosli responded that one of the suggestions that the staff brought up is that we have another section for nuisances. This section is somewhat different from that section. So one thing that I would bring up is that we amend this to match the overriding nuisances we have elsewhere. I would have to say that I am in agreement with Mr. Nedrow, the Commissioners sent it and I am more than happy to send it back. It's a "hot potato."

Mrs. Miller agreed another item is sewer system capacity, under "d, II".

Mr. Pond stated that the floor was open to a motion.

Mr. Gerber stated that he was torn because he liked the wording and that it does a good job trying to balance, personal property rights and regulations. Versus protecting citizens outside the community coming in and destroying property. It is trying to get a good balance and I feel that this does it. I would like to state that I feel it does a much better

job at doing that than the previous two that I have seen. So I would like to see this one go thru.

Mr. Singleton stated that before a motion is made he would still like to see those two items removed. One is collection services, 90% of our rentals don't have a collection services. If we remove collection service and just put removal in front of that so it reads weekly solid waste removal shall be provided. And then strike except on collection day.

**MR. GERBER MADE A MOTOION THAT WE RECOMMEND APPROVAL TO THE BOARD OF COUNTY COMMISSIONERS OF THE HOME OCCUPATION ORDINANCE WITH THE CHANGES THAT MR. DAVIS STATED ON THE GARBAGE SERVICES AND THE CHANGE OF THE INSPECTION BEING EVERY ONE YEAR TO EVERY TWO YEARS. MR DAVIS SECONDED. ALL IN FAVOR, WITH THE ACCEPTION OF MRS. MILLER. MOTION CARRIES.**

Mr. Pond stated that he would defer to Mr. Hall; will that be a substantial change for a new hearing for on this topic?

Mr. Hall stated that he felt that it was okay, and that the County Commissioners may change it back to one year. It is not a major change.

Mr. Pond stated that we have a motion and a second and asked if there was any other discussion?

Mr. Trafton stated that as an observation as I may, there has been some very convincing testimony on both sides on this issue tonight. I do want to say that I think we need to attempt to get at the very significant issue of water quality, this needs to happen. I do think that with this there are some which will protest against this group of Fremont County residents who are being singled out for water quality. The fact is the burden of water quality is being placed on their shoulders and I do not think that is fair. I do think that there should be water quality standards that should be applicable to renters. But also everyone in the County needs to uphold the water quality standards and that is something that we need to keep in mind as we do the Development Code.

#### 5. Administrators Report – Ordinance Amendments

Mr. Hibbert stated that due to the time I would like to ask the Commission of if there is anything they would like to discuss over other items from the information that has been passed out from previous meetings. If there is a particular one you would like to bring up over any others to discuss this evening. One would be the Wind Generation Ordinance another would be River Setbacks. Another would be a question on the last Public Hearing on the Chester issue on what intent was on the motion. Was the motion of the Commission on the last Public Hearing on the Chester map change was that basically a Fremont County Planning & Zoning Minutes

12-16-2009

Page 19 of 25

motion for a recommendation to the Board of County Commissioners or was it a motion to take it off and have further discussion?

Mr. Loosli stated that as per the minutes we earlier accepted from November 21<sup>st</sup> meeting on page thirteen, Mr. Trafton motioned to change the Chester area back to Rural Conservation with the amended changes, Mr. Nedrow seconded, Mr. Davis was opposed, motion passed.

Mr. Pond responded that it was clear to him.

Mr. Trafton stated that he thought he understood it but now wondered.

Mr. Hibbert asked the question of was that a recommendation to go to the Board of County Commissioners? Now back to the question of is there something that you would like to discuss specifically due to the hour? If not then I would differ down to the meeting agenda dates and some of the ordinance amendment items, scheduling. Appreciate the fact that we have been able to have our meetings on Wednesdays, but I have been asked to be Scout Master, that is on that night, and, due to conflicts with other staff and arranging for someone to do the minutes, if there was a way we could choose another day.

Mr. Pond stated that he wanted to open it up to the Board for discussion, say what you want to do and we'll take a vote on it.

Mrs. Miller responded that we should be considerate to staff and change to the third Monday of the month starting in January.

Mr. Trafton stated that there was one Monday a month that he would not be able to do, due to prior obligations, but he was unsure of which Monday that was. He would notify us of that when he found out.

Mr. Pond stated that it sounds like we are all in agreement to the third Monday in January, are there any opposed? All are in favor.

Mr. Hibbert stated that we can wait until a further date to deal with the things such as the Wind Ordinance but we do need to decide how we want to go forward with the Ordinance Amendments in the Development Code. The process, how fast we want to do them. The Board wants us to have more meetings in order to speed up the process, so we need to discuss how you think we can do that.

Mr. Pond stated that he believed that the last meeting we agreed that if you could put something together for us because they all lacked time to do it. If Kurt would put together a piece of the code that needs to be addressed and that would give them a starting point.

Mr. Hibbert responded so for a “neck up check up” where we are at is we basically have the framework for zoning and that is 50% of Development Code the other side is the Subdivision Ordinance and that is where we are at. We have done a lot of that already but we need to get it in writing and bring it to the next meeting so that we can initiate discussion on it on density and lot sizes.

Mr. Pond stated yes if you will bring us something so that we have a starting point. I don't expect you to have the final piece because we will have our ideas, but it will give us a starting point.

Mr. Hibbert stated the there is one thing that we need to talk about because it is in our Comp Plan. It needs to be running parallel with our Subdivision Ordinance; we need to create the rural village zone, which is basically a PUD and is an independent document. I will bring that forward at the same time that we do the Subdivision Ordinance; it should really run parallel to it and can be seen at the same time.

Mr. Pond asked if there were any comments from the Board on doing it that way.

Mrs. Miller stated that it sounded good to her but that they had talked about the river or the stream corridors setbacks. We had talked about having some more information on that.

Mr. Hibbert responded that that information was handed out two meetings ago and we have copies of it if you need it.

Mrs. Miller stated that she would look through her stuff to see if she had it and would let Kurt know.

Mr. Hibbert asked Mr. Pond if there was anything else.

Mr. Pond stated that he would just turn time over to the Board to let Kurt know what direction to go.

#### 6. Final Plat – Parker Reef – Kendal Adams, Surveyor

Mr. Pond stated okay then we will continue on with the last item on the agenda that was the first item excluding the minutes. The Final Plat for Parkers Reef, Mr. Kendall Adams is the Surveyor on that.

Mr. Adams stated his apologies for being late. I was up staking Subdivision, or uh Fall River Ridge and I got stuck. There is actually a foot and a half of snow up there and it's wet. I believe that we have met the three conditions that were presented from the Commission to the developer.

Mr. Pond asked if he wanted to review those with us or if he preferred staff to do it.

Mr. Adams responded the he could or...

Mr. Pond replied okay how about you do that and then we can have the staff review it afterwards with us.

Mr. Adams stated okay, one was the seven criteria from the Fish & Game, and it has been added to the plat, as you can see. Most of it was things like don't feed the elk; fencing criteria, exterior boundaries, I think songbirds were allowed to be fed. They are all on the plat here and I can dig it out if I need to.

Mr. Pond responded no we all have that in our packets and have read and looked over them, thank you.

Mr. Adams continued that those were all conditions. Actually those were all recommendations that you as a Commission decided to adopt as conditions, which is fine. The second one was that it was an old dump and that needed further clearance. They went out and hired Rocky Mountain Environmental. They went out and did an extensive survey. They removed 16 tons of debris, some of it was old cans but none of them were full cans, some had a little residue in them and they were shipped to a waste site near Twin Falls. DEQ did write a letter basically saying that they were okay with what they did.

Mr. Pond asked Kurt if he had seen the letter.

Mr. Hibbert replied that it was in the packet. A point of clarification, the documents that are attached are the items that you are planning on recording? Because I don't see pages one thru eight.

Mr. Adams responded I have two more pages and I think I sent them to Molly, pages three and four of the plat.

Mr. Hibbert stated that that would be inclusive of pages one thru five and we have six, seven, and eight here. So what he is doing is taking the meat from the environmental report and the debris distribution map, for disclosure purposes and filing it with the plat to be recorded. The Board of County Commissioners has stated that they were going to mandate that disclosure and so we have worked really closely with them to do that.

Discussion of the missing pages from the packets but that is included in the file. It is part of the record.

Mr. Adams stated that all of that information is going to be filed with the plat. As well as the 97 page report. The third point was a reserve with Bill Enget and the BLM an exchange that the Developer chose that it did not fit with what he wanted to do with the subdivision. So the Developers met with the BLM to do a right of way and move the road to the North and the BLM has agreed.

Mrs. Miller stated that this is a stock road.

Mr. Adams responded that the stock road is not a problem.

Mr. Pond stated that looking at figure two of your documents here it appears to me that there is a trail made up of little x's. Now Cindy you are saying that that is a stock road?

Mrs. Miller responded yes.

Mr. Pond asked Mr. Adams what he was saying it was.

Mr. Adams responded that the BLM reserved that as in it's patent as a road it has never been protected as a stock trail. But the developer has no problem with them running cattle thru there. He has already dedicated the road to the North.

Mr. Pond asked if the BLM has accepted that.

Mr. Adams responded that they have but the paperwork has not been done but they will do it. I spoke to them this morning and they said they are working on it as we speak.

Mr. Pond stated that based on not having that third condition completed yet...

Mr. Adams interrupted by asking how that condition was worded.

Mr. Davis responded by reading, existing trails will be abandoned after Bureau of Land Management vacates the trails.

Mr. Adams asked the Commission to look at the plat.

Mr. Davis stated that on the plat it was already abandoned then read from the plat public access reserved for the USA, managed by the BLM.

Mr. Adams stated that the BLM does not own the ground; the United States owns all of that ground out there. Isn't that right Mr. Gerber?

Mr. Gerber responded that's right.

Mr. Davis responded that that still was not protecting the trail way thru there.

Mr. Hibbert stated that it basically took the easement and slid it to the road on the North side. That was what they stated at Preliminary Plat. The letter from BLM says yes we are fine with that and they have been in communication with the Commissioners. They have called my office asking what was going on and if this is right, they seemed satisfied and hung up. There is the document that you have referred to, the actual easement and the acceptance of the easement is not in place. The Developer, by the plat has granted the easement to the BLM but whether or not if they accept it we don't really know, if they do

not then the easement thru the middle of the plat would still be there, which would then be a problem and an encumbrance on the lots that have been platted.

Mr. Davis stated that this line says 60 foot public access easement to reserve the use. USA should be use.

General Discussion - Inaudible

Mr. Loosli stated that there was a typo of a missing word. It should have to the USA. Page two on top of the plat.

Mr. Adams asked if it needed to be spelled out.

Mr. Loosli stated that he might as well for clarity.

Mr. Adams responded that he would spell out United States of America and Bureau of Land Management.

Mr. Pond asked Kurt if we approve this as the Final Plat without the BLM document in place, I am required to come and sign this before it is recorded.

Mr. Hibbert responded that is correct.

Mr. Pond stated that he is not comfortable signing something that is not complete.

Mr. Adams Asked what the condition was with the BLM.

Mr. Chase stated that the wording of the motion was, "to solve the issue with the BLM", and that was the wording of the motion. Planning & Zoning Minutes 5-19-08. There was not any specific documentation referred to.

Mr. Pond stated that the issue is not resolved; it's not resolved until we have the acceptance of the easement from the BLM.

Mr. Gerber asked why we needed that, it's been offered whether they accept it or not is up to the BLM.

Mr. Hibbert stated that it's not the new easement it's the old easement. Their willingness to vacate that was dependent on the new one being approved.

Mr. Loosli stated that Kurt couldn't be clearer on this, but as a matter of reference in the State of Idaho and counties and cities have legislative authority to deny a granting of an easement given to them for whatever reason they choose to exercise it. So just because he gave it to the BLM, the alignment the other property owners on either side may or may not agree with it. So it is not unreasonable to wait for the BLM to say that yes they accept the shift.

Mr. Hibbert asked to see the letter concerning that.

Mrs. Miller stated that because there is this trail that goes thru here and because this is an open grazing area, do the 12 owners realize that they have to fence out their property. Because cattle are not going to understand that the road has been vacated and they need to move in a different direction. Just like wild game they get used to a certain trail and that is the trail they are going to take.

Mr. Adams stated that as far as he understood they are not going to fence it all. And if you read it says from the Fish and Game of how they will be able to fence it.

Mrs. Miller commented that she thinks there needs to be another plat note that says the owners need to fence out.

Discussion concerning the State law for fencing.

Mr. Pond stated that he was not comfortable allowing this to move forward without the acceptance from BLM. So as chair and since I have to sign the Final Plat, until I have that I don't think I am going to allow the body to move forward with that.

Mr. Adams asked if he received that and brought it to them would Mr. Pond then sign it.

Mr. Pond responded not until the Commission approves it, I am not going to take on that responsibility.

Mr. Adams asked if he would ask the Commission to approve it upon his approval.

Mr. Pond responded yes at the next meeting, unless I hear any objections.

All in agreement

Mr. Pond stated that we will place you on the agenda for the next meeting and hope that you have all of the information.

7. Adjourn

**MR. NEDROW MADE A MOTOION TO ADJOURN  
MR. LOOSLI SECONDED. ALL IN FAVOR, MOTION CARRIES.**

Mr. Pond stated that we have a motion that has been seconded and all were in favor so we adjourned the meeting at 9:52 pm