

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS
APRIL 25, 2007
10:30 A.M.**

MINUTES

OFFICIALS PRESENT:

DR. GEORGE HOOD, CHAIRMAN
GLADYS JONES, VICE CHAIRMAN
LEROY BLACKSHEAR, COUNCILMAN
FRED TUTEN, COUNCILMAN
HUBERT TYLER, COUNCILMAN

STAFF PRESENT:

ANDREW FULGHUM, ADMINISTRATOR
STEVE SAGER, DEP. ADM. DEV. SER.
JUDITH FRANK, CLERK TO COUNCIL

IN ACCORDANCE WITH THE FREEDOM OF INFORMATION ACT THE ELECTRONIC AND PRINT MEDIA WERE NOTIFIED

DURING PERIODS OF DISCUSSION AND PRESENTATIONS MINUTES ARE TYPICALLY CONDENSED AND PARAPHRASED.

CALL TO ORDER:

CHAIRMAN HOOD CALLED THE MEETING TO ORDER AT 10:30 A.M.

PLEDGE OF ALLEGIANCE:

CHAIRMAN HOOD LED THE PLEDGE OF ALLEGIANCE.

INVOCATION:

COUNCILMAN TUTEN GAVE THE INVOCATION.

PALM KEY:

MR. FULGHUM STATED THAT THIS DEVELOPMENT STARTED PRIOR TO THE PLANNING COMMISSION BEING ESTABLISHED AND THAT THE PRESENT ZONING PERMITS THIS TYPE OF DEVELOPMENT. MR. FULGHUM SAID HE WORKED WITH MR. SAGER AND ATTORNEY JONES TO HELP THE DEVELOPERS GET OVER SOME OF THE HURDLES THEY FACED. MR. FULGHUM SAID THAT THIS DEVELOPMENT WAS EXEMPT FROM THE MORATORIUM AND MR. SAGER DETERMINED THAT THE PROJECT CONFORMED TO THE ZONING. MR. SAGER SAID THAT IN ORDER FOR THE VESTED RIGHTS TO BE IN ORDER, THE COUNCIL WOULD HAVE TO ADOPT THE RESOLUTION THAT WAS PREPARED BY ATTORNEY JONES. MR. FULGHUM SAID THAT THE DEVELOPER WOULD HAVE TO DELIVER A SITE PLAN AND FOLLOW THE CURRENT SUB-DIVISION REQUIREMENTS AND THE CURRENT ZONING ORDINANCE CALLS FOR THE PLANNING COMMISSION TO APPROVE THE SITE PLAN. MR. FULGHUM SAID THAT HE FELT THE AUTHORITY TO APPROVE SUB-DIVISIONS SHOULD BE DONE AT STAFF LEVEL AND NOT THE PLANNING COMMISSION. THE LAND DEVELOPMENT REGULATIONS ALLOW THE STAFF TO APPROVE SITE PLANS. MR. FULGHUM SAID THAT FOR THE PROJECT TO PRECEDE IT STILL HAS TO COMPLY AND THE SITE PLAN AND SUB-DIVISION WOULD HAVE TO BE APPROVED BY THE PLANNING COMMISSION. IN ORDER FOR

THE DEVELOPMENT NOT TO HAVE TO GO BEFORE THE PLANNING COMMISSION, THEY WOULD HAVE TO WAIT UNTIL JUNE 18, 2007 WHEN THE NEW ZONING ORDINANCE AND LAND USE REGULATIONS GO INTO EFFECT AND IF THE COUNCIL CHANGES THE ORDINANCE SO THAT THE STAFF CAN APPROVE THE SITE PLANS AND THE SUBDIVISIONS WITHOUT INVOLVING THE PLANNING COMMISSION.

VICE CHAIRMAN JONES ASKED IF THE CONCEPTUAL PLAN MR. TILTON PRESENTED TO THE PLANNING COMMISSION WAS DIFFERENT FROM THE ORIGINAL PLANS. MRS. RIGGS SAID IT WAS DIFFERENT IN THAT THE ORIGINAL PLAN CALLED FOR ALL COMMERCIAL IN THAT AREA AND THE NEW PLAN WAS A MIXED USE AND CALLED FOR COMMERCIAL WITH HOUSING ABOVE IT. MS. RIGGS SAID THE ASSIGNS WENT IN AND MADE THE PRESENTATION AND PALM KEY WAS NOT INVOLVED. MS. RIGGS SAID THEY TRIED TO GET ALL THE DETAILS WORKED OUT AND THE ASSIGNED WERE IMPLEMENTING THE ORIGINAL PLAN AND THEY PUT RESIDENTIAL ABOVE WHICH COULD BE RENTED TO THE SCHOOL BOARD. COUNCILMAN TUTEN ASKED ABOUT THE PLANNING COMMISSION NOT LIKING THE MIXED USE. MR FULGHUM SAID HE HEARD THAT A FEW OF THE PLANNING COMMISSION MEMBERS DID NOT LIKE THE MIXED USE. COUNCILMAN TUTEN ASKED IF THE PLANNING COMMISSION DIDN'T LIKE THE COMMERCIAL, BUT DID NOT MIND THE DEVELOPMENT? MR. TILTON SAID THE PLANNING COMMISSION SAID NO COMERCIAL IN THAT AREA. MR TILTON SAID THAT THE SHOPS WERE BELOW AND RENTALS WERE ABOVE THAT WERE GOING TO BE RENTED TO THE TEACHERS LOCATING HERE. MR. TILTON SAID THERE WOULD BE 18 UNITS OF ABOUT 1,000 SQ. FT. MR. RIGGS SAID THE SHOPS WERE TO SERVE THE DEVELOPMENT AND THE COMMUNITY. COUNCILMAN TUTEN ASKED ABOUT THE VESTED RIGHTS AND MR. FULGHUM RESPONDED THAT IT IS WHAT THEY ARE ENTITLED TO BASE ON WHAT THEY ARE ALLOWED TO DO BY STATE LAW.

MR. SAGER SAID THAT ATTORNEY JONES SAID THAT A NEW STATE LAW DEALING WITH VESTED RIGHTS WAS PASSED IN 2005 AND ATTORNEY JONES SAID AND WHAT WAS SPELLED OUT PRIOR TO 2005 WAS COMMON LAW. MR SAGER SAID THE RESOLUTION BEFORE THE COUNCIL WOULD RENEW THE PROJECTS VESTED RIGHTS AND THEY COULD MOVE FORWARD BASED ON THE CURRENT REGULATIONS.

COUNCILMAN TYLER SAID THAT THE DEVELOPER MET WITH THE PLANNING COMMISSION AND THEY DID NOT SAY IF THEY WERE OR WERE NOT GOING TO APPROVE THE DEVELOPMENT. MR. TITLON SAID HE FELT THEY WERE NOT GOING TO APPROVE IT AND THEY HAD A NEGATIVE REACTION TO THE PROJECT. MR. TILTON SAID HE BACKED OFF BECAUSE MS. RIGGS WOULD NOT BE ABLE TO MOVE FORWARD AND HER RIGHTS MAY NOT BE VESTED AND SHE WOULD HAVE TO DO A MASTER PLAN.

MR. FULGHUM SAID THAT THE ZONING ORDINANCE ALLOWS WHAT THEY WANT TO DO AND MR. FULGHUM AND MR. SAGER WERE NOT INVOLVED WITH THE MEETINGS. THE NEW ZONING ORDINANCE DOES NOT ALLOW COMMERCIAL IN THAT AREA.

MS. RIGGS SAID THEY WERE TOLD THEY WERE IN COMPLIANCE AND ONE OF THE REASONS THIS HAS GONE ON SO LONG IS THAT THE DEVELOPMENT WAS DELAYED BY ILLNESS, BUT WHEN THEY STARTED BACK IN 1998 THEY WENT TO HAL JONES AND THEY WOULD COME IN EACH TIME THEY HAD A CONTRACT AND HAL JONES WOULD STAMP THEM EXEMPT AND THEY WOULD GET IT RECORDED. MS. RIGGS SAID THEY DID 56 PROPERTIES THAT WAY. MS. RIGGS SAID THEY NEVER HAD ANY PROBLEMS, BUT NOW THEY WERE TOLD BY STAFF THAT THEY WERE NOT GRANDFATHERED AND THEY WERE AFFECTED BY THE MORATORIUM. MS. RIGGS SAID THAT THEY ARE NOT AFFECTED BY THE MORATORIUM, THEY CONFORM TO THE ZONING, AND THEIR VESTED RIGHTS CAN BE RENEWED. MS. RIGGS SAID THE GOVERNING BODIES HAVE THE RIGHT TO MAKE THESE

DECISIONS AND THIS PROJECT NEEDS TO MOVE FORWARD. MS. RIGGS DISCUSSED THE NUMBER OF HOMES, THE INFRASTRUCTURE AND THE WATER AND SEWER. MS RIGGS ASKED THE COUNCIL TO HAVE THE STAFF APPROVE THE DEVELOPMENT AND THAT THEY NOT HAVE TO GO BACK TO THE PLANNING COMMISSION.

COUNCILMAN TUTEN SAID THE PHASES BEGAN IN 1988 AND THEY HAD BEEN APPROVED. MS. RIGGS SAID THEY HAD APPROVAL FROM MR. LOWTHER AND THE COUNCIL. MS. RIGGS SAID IN 1992 MR HAL JONES SAID THEY WERE IN COMPLIANCE. MS. RIGGS SAID SHE HAS WORKED WITH MR. JONES FOR 14 YEARS AND NEVER HAD A PROBLEM.

MR. FULGHUM SAID HE REVIEWED THE STEPS TAKEN BY THE STAFF AND IT IS A VERY LIBERAL INTERPRETATION OF STATE LAW TO GET TO THIS POINT AND MS. RIGGS HAS REQUESTED THAT IT BE DONE AT STAFF LEVEL AND THAT CANNOT BE DONE LEGALLY BY THE COUNTY. MR. FULGHUM SAID THAT MR. HAL JONES STAMPED EACH LOT INDIVIDUALLY AS EXEMPT AND THAT CANNOT LEGALLY BE DONE. MR. FULGHUM SAID THAT IT MUST GO BEFORE THE PLANNING COMMISSION AND THE PLANNING COMMISSION MUST APPROVE THE PROJECT IF IT MEETS ALL THE REQUIREMENTS. MR. FULGHUM SAID THAT THE ONLY OTHER WAY WOULD BE FOR MS. RIGGS TO WAIT UNTIL AFTER JUNE 18 AND IF THE COUNCIL ACTED ON HIS RECOMMENDATION TO CHANGE THE ORDINANCE TO AUTHORIZE APPROVAL OF SUBDIVISIONS AT STAFF LEVEL THEN THE PROJECT COULD BE APPROVED WITHOUT GOING BACK TO THE PLANNING COMMISSION. MR. SAGER SAID BY PASSING THE RESOLUTION TODAY, THE RIGHTS WOULD BE VESTED FOR ANOTHER FIVE YEARS. MR. FULGHUM SAID THAT HE FELT THAT SUBDIVISIONS SHOULD BE APPROVED AT STAFF LEVEL. VICE CHAIRMAN JONES SAID THAT THE STAFF CAN APPROVE SUBDIVISIONS UP TO 4 LOTS. MR. FULGHUM SAID HE FELT THE STAFF SHOULD APPROVE ALL SUBDIVISIONS.

COUNCILMAN TUTEN SAID HE FELT THAT MS. RIGGS COULD GO TO WORK BASED ON THE LETTER SHE RECEIVED FROM HAL JONES. MR. FULGHUM SAID THAT IT IS NOT ALLOWED UNDER STATE LAW. COUNCILMAN TYLER ASKED IF THERE COULD BE A WAIVER OF THE STATE LAW AND MR. FULGHUM SAID NOT ANYTHING THAT WOULD BE LEGAL.

VICE CHAIRMAN JONES SAID THAT IT IS JUST A FORMALITY TO GO BEFORE THE PLANNING COMMISSION IF THE ENTIRE REQUIREMENT HAS BEEN MET AND IT COMPLIES WITH THE ZONING, THE PLANNING COMMISSION WOULD HAVE TO APPROVE THE PROJECT.

CHAIRMAN HOOD SAID THAT THE PROJECT WENT BEFORE THE PLANNING COMMISSION AND THEY WERE MISTREATED. CHAIRMAN HOOD SAID HE WOULD VOTE TO MOVE THE PROJECT FORWARD.

MR FULGHUM SAID THEY WERE NOT DENIED BECAUSE NO VOTE IS TAKEN ON THE CONCEPTUAL PLAN. MR. FULGHUM CONTINUED THAT THE SUBDIVISION IS THE ISSUE AND IT COULD GO AWAY IF THE STAFF COULD APPROVE SUBDIVISIONS AND THE COUNCIL COULD DIRECT THE STAFF TO DO SUBDIVISION APPROVALS IN THE FUTURE. MR SAGER SAID THE LDR REQUIRES THE PLANNING COMMISSION TO DO THE APPROVALS FOR THE SUBDIVISIONS. MR FULGHUM SAID THE COUNCIL COULD SEND A DIRECTIVE TO THE PLANNING COMMISSION. MR. SAGER SAID IT IS OUTLINED IN THE REQUIREMENTS FOR SUBDIVISIONS.

VICE CHAIRMAN JONES ASKED HOW LONG IT WOULD TAKE TO GET THE SUBDIVISION PLATS DONE. MS. RIGGS SAID THAT THEY WERE READY TWO MONTHS AGO, BUT WERE TOLD THEY WERE UNDER THE MORATORIUM. MR. FULGHUM SAID ONCE THE PLANS WERE DONE, THE COUNCIL COULD DIRECT THE PLANNING COMMISSION TO CALL A SPECIAL MEETING.

COUNCILMAN TUTEN ASKED MS. RIGGS WHO TOLD HER THEY WERE UNDER THE MORATORIUM AND MS. RIGGS SAID THAT STEVE SAGER TOLD HER IT WAS UNDER THE MORATORIUM. MS. RIGGS CONTINUED THAT MR. SAGER ALSO TOLD HER NOT TO TALK TO DR. HOOD OR MS. JONES, THAT SHE WAS ONLY TO TALK TO TEDD MOYD. MS. RIGGS SAID MR. SAGER TOLD HER NOT TO COMMUNICATE WITH THE COUNCIL. MS. RIGGS SAID THAT SHE MET WITH MR. FULGHUM AND MR. SAGER AND MR FULGHUM KEPT ASKING MR. SAGER WHY AND MR. SAGER SAID HE DID NOT KNOW. MS. RIGGS SAID THAT MR. SAGER SENT HER AN ARTICLE AND THAT IF THEY DID EVERYTHING THAT WAS LISTED THAT THE GOVERNMENT BODY COULD NOT HOLD THEM BACK. MR. FULGHUM SAID HE RECEIVED TWO LEGAL OPINIONS AND THEY BOTH SAID THAT THE DEVELOPER SHOULD GET THE SUBDIVISION PLANS AND GO BEFORE THE PLANNING COMMISSION FOR APPROVAL. MS. RIGGS ASKED TO SEE THE OPINIONS AND MR. FULGHUM SAID HE GOT THEM VERBALLY. CHAIRMAN HOOD SAID THAT THERE HAS BEEN A LOT OF MISUNDERSTANDING AND A LOT OF MISINFORMATION HAS GONE OUT. CHAIRMAN HOOD SAID HE THOUGHT THE PROJECT SHOULD BE ALLOWED TO MOVE FORWARD. VICE CHAIRMAN JONES SAID THEY NEED TO HAVE A SUBDIVISION AND A DETAILED ENGINEERED SITE PLAN BEFORE THEY CAN MOVE FORWARD. MS. RIGGS SAID SHE WANTED TO BE ABLE TO MOVE FORWARD AND COMPLETE THE PROJECT AND SHE OFFERED TO PROVIDE THESE THINGS TWO MONTHS AGO AND WAS TOLD BY MR. SAGER THAT THEY WERE UNDER THE MORATORIUM. VICE CHAIRMAN JONES ASKED IF THEY COULD GO TO THE PLANNING COMMISSION WITH THE ORIGINAL DOCUMENTS THAT THEY PRESENTED. MR. SAGER SAID THEY COULD NOT; THEY NEEDED TO HAVE THE PROPER DOCUMENTS. VICE CHAIRMAN JONES ASKED IF THEY GOT THE PROPER DOCUMENTS COULD THEY THEN GO TO THE PLANNING COMMISSION FOR APPROVAL AND MR. SAGER SAID THE PLANNING COMMISSION WOULD HAVE TO APPROVE IT. CHAIRMAN HOOD SAID HE FELT THIS TYPE OF THING WOULD BE GRANDFATHERED IN AND DOESN'T THINK IT NEEDED TO GO BACK TO THE PLANNING COMMISSION. VICE CHAIRMAN JONES SAID THAT SHE HAS BEEN INVOLVED SINCE THE BEGINNING AND SHE KNOWS WHAT THEY ARE DOING AND THAT IT IS A GREAT ASSET TO THE COUNTY AND SHE FELT THEY NEEDED TO FOLLOW THE PROCEDURE RECOMMENDED BY THE LAWYERS TO MOVE FORWARD. MR. SAGER SAID THE RESOLUTION WAS PREPARED BY THE LAWYER AND THEY COULD MOVE FORWARD WITH THE SITE PLAN. THE SITE PLAN IS AN ENGINEERED DETAILED DOCUMENT. MS. RIGGS DISCUSSED THE INFRASTRUCTURE THAT IS ALREADY IN PLACE. MS. RIGGS SAID SHE WAS ASKING TO NOT HAVE TO GO TO THE PLANNING COMMISSION FOR APPROVAL. MR. SAGER SAID THE RESOLUTION IS NECESSARY AND TO LOCK IN THE CURRENT ZONING REGULATIONS AND TO DIRECT THE ADMINISTRATOR TO WORK WITH THE STAFF AND THE ATTORNEY SO THAT THIS PROJECT DOES NOT HAVE TO GO BACK TO THE PLANNING COMMISSION.

EXECUTIVE SESSION:

COUNCILMAN BLACKSHEAR MOTIONED AND COUNCILMAN TUTEN SECONDED THE MOTION TO GO INTO EXECUTIVE SESSION TO DISCUSS LEGAL, CONTRACTUAL AND EMPLOYMENT MATTERS. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

RETURN TO REGULAR SESSION:

COUNCILMAN TYLER MOTIONED AND COUNCILMAN TUTEN SECONDED THE MOTION TO RETURN TO REGULAR SESSION. THE MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

CHAIRMAN HOOD SAID THE COUNCIL DISCUSSED TWO ISSUES AND THEY ALSO DISCUSSED AN EMPLOYMENT MATTER AND THE PLANNING COMMISSION. CHAIRMAN HOOD INSTRUCTED THE ADMINISTRATOR HAVE MEETINGS WITH THE STAFF AND THE PLANNING COMMISSION TO HAVE THEM MOVE FORWARD IN A PROFESSIONAL MANNER.

COUNCILMAN BLACKSHEAR MOTIONED AND COUNCILMAN TUTEN SECONDED THE MOTION TO PASS THE RESOLUTION CONCERNING PALM KEY AND TO ELIMINATE THE SECTION "AND SUBJECT TO THE ZONING ORDINANCE OF JASPER COUNTY AND THE JASPER COUNTY SUBDIVISION REGULATIONS AS THEY CURRENTLY EXIST AND SUBJECT TO ALL THE REQUIREMENTS THEREOF" AND THAT THE ADMINISTRATOR AND STAFF ARE TO APPROVE THEIR SUBDIVISIONS.

VICE CHAIRMAN JONES SAID THAT SHE WOULD LOVE TO TELL THEM THEY CAN MOVE FORWARD AND ON THE ADVICE OF THE ATTORNEY DOING IT THIS WAY IS BREAKING THE LAW AND THEY COULD DO IT THE RIGHT WAY AND GO THROUGH THE PLANNING COMMISSION.

THE MOTION CARRIED WITH COUNCILMEN TUTEN, BLACKSHEAR, TYLER, AND CHAIRMAN HOOD VOTING FOR. VICE CHAIRMAN JONES VOTED AGAINST.

ADJOURN:

VICE CHAIRMAN JONES MOTIONED AND COUNCILMAN TUTEN SECONDED THE MOTION TO ADJOURN THE MEETING. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

THE MEETING ENDED AT 11:55 A.M.

RESPECTFULLY SUBMITTED BY:

APPROVED BY:

JUDITH M. FRANK, CCC
CLERK TO COUNCIL

DR. GEORGE M. HOOD
CHAIRMAN