



Elbert County Board of County Commissioners

Minutes from September 5, 6 and 7<sup>th</sup> of 2017

Topic: Hearing on the proposed Independence development

Location: Elbert County Fairgrounds

September 5, 2017

Roll Call: Commissioner Thayer – Here, Commissioner Richardson – Here, Commissioner Willcox – Here

Call to Order: 6:01 PM

Prayer by Dallas Schroeder, Elbert County Clerk and Recorder

Commissioner Willcox opened the meeting by reading from a prepared statement. He discussed the validity of the zoning, that the water below the proposed development is governed by the State, the role of the BOCC and to set the ground rules for the meeting.

Commissioner Richardson addressed the question that had previously been brought up in a public forum suggesting he might have to recuse himself since he is also sits on the Elizabeth School Board. He read from a prepared statement and ended by stating there was no need for a recusal on his part.

Commissioner Thayer shared that he was on the Planning Commission when the original proposal named Bandera was before the Planning Commission and addressed the concern of a conflict. He stated there was no conflict as this was a new applicant, so he would not be recusing himself either.

#### STAFF PRESENTATION

The Staff presentation was delivered by Baseline. Vince Harris of Baseline began the Staff Report and introduced the following people:

Kyle Fenner, CDS Director  
Todd Rand, Engineer  
Ethan Watel, Sr. Planner  
Vince Hooper, Sr. Planner  
Zach White – Special Legal Counsel  
Mike Anderson – Anderson Analytics

The Staff Report was given by Baseline.

Ethan Watel, Sr. Planner for Baseline, gave a summary of the Subdivision Applications and presented preliminary plats. He concluded his presentation by informing the Commissioners that the Staff and Planning Commissioner recommend approval with eight conditions of approval, which he outlined. There are 13 final plat conditions.

Vince Hooper, Sr. Planner for Baseline, outlined the plans for the six special districts proposed.



## APPLICANT PRESENTATION

Tim Craft, 1707 S Broadway, spoke on behalf of the applicant. Mr. Craft gave a detailed presentation on the plans for the development. He stated there would be no water exporting and no high density. He complimented the staff of Elbert County. He explained that the proposed development would be only 1/5 the density in Aurora with 4-5 times the open space.

He stated that this would be Colorado's first category 3 wastewater recycling plant. This will save ¼ of the water used in the average lot.

The design includes a park within 1000 feet of every home.

The development has also waived any right to export water out of the County.

Commissioner Willcox asked for comments from referral agencies.

Douglas Bissonette, Superintendent of Elizabeth C-1 School District, was the first to speak. He spoke to the impact on the Elizabeth School system. The School District currently has more than 2500 students and 340 employees. Growth is better for a School System and the 2007 downturn caused a decline in enrollment and led to higher teacher turnover. He thought there would be challenges to overcome but overall the project would be a positive to the district and would allow them to enhance programs and services. The administration's view on the Independence development is positive.

TJ Steck, Elizabeth Fire Chief, stated that his agency would be the one serving the development. He said he would make himself available throughout the hearing. The Fire departments like more clustered developments as it allows for more efficiency, speed in response time, and makes it easier to plan future building locations. He relayed the firefighters are excited to have more affordable houses locally as many have to live elsewhere. He finished by stating they have met their code requirements.

Mike Barney, Elizabeth Park and Recreation Director, stated he was present to reflect the EPR Boards thoughts on the impact to the district. He stated that rural areas cause a challenge for them to get amenities to the people who would like to have them. Developments like this help the district. He stated that Independence will allow use of the pool by all residents and a trail system that can be used by everyone. His Board has pledged their support of this development.

7:27 PM – Recess Called

7:41 PM – Back in Session

## PUBLIC COMMENT

Wesley Hardin

Mr. Hardin stated he was a 3<sup>rd</sup> generation Coloradan and lives in Parker, where there is a lack of housing. He understands the anti-growth sentiment but stated that growth was inevitable and needed to be planned.



Trista Ellis, 2420 Remington Rd. Elizabeth

Mr. Ellis, who is the Executive Director of Elizabeth Area Chamber of Commerce, presented a letter from the chamber stating their full support of the Independence Development

Josh Peters, 7525 Bergstone, Castle Rock

Mr. Peters works for Community Banks of Colorado and they support Elbert County. They are always looking at areas that are growing and believes this will bring business development into the County.

Scott Langstaff, 1270 Gamble Oaks Place, Elizabeth

Mr. Langstaff lives in Gamble Oaks and stated that he opposes Independence and many of those in favor used a standard form letter and do not live within the vicinity.

Belinda Seville, 3992 Bonnie Ridge Cir, Elizabeth

Ms. Seville commented that the reports have not addressed the 5000 pages in the application and asked for all districts to keep the water in the County. She spoke negatively of Mr. Craft.

Todd Thalimer, 1227 Coronado Rd, Elizabeth

Mr. Thalimer stated he was concerned about the traffic increase in the area. He wanted to see additional traffic studies done. He asked if Elbert County maintain the condition of the roads with all the traffic.

Rob Spooner

Mr. Spooner said at the first hearing that development and growth is inevitable. There will always be growing pains but this development is well thought out and sets the precedent for future development.

Sandy Shane, 38747 County Rd 13, Elizabeth

Ms. Shane thought a point that was slipped by was the talk of Service Debt Reserve. This development will only hold 5% while she believes industry standard is 10%, which makes this a risky development.

William Frangis, 1377 Stage Run Trail, Elizabeth

Mr. Frangis shared he does not live close to the proposed site but has been in Elbert County for 25 years. This is the best-planned development of any that he has seen come to Elbert County. He questioned why there was no outrage with the Town of Elizabeth and the 300+ houses on a tenth of the land. He thought the naysayers were hypocrites.

Shawn Strain, 166 Main Street

Mr. Strain thanked the Commissioners for all they are doing. He stated water is a State issue and not an Elbert County issue. He said 98% of the wells will not be impacted by the aquifers used by this development. He referred to the comments of Chief Steck and Superintendent Bissonette. He supports the project and thinks it is a good compromise.

Jackie Tugwell, 603 Coyote Trail

Ms. Tugwell referred to the Anderson Analytics and the numbers they reported. She stated that there would be 42 million in bonded debt and the development could only support 25 million and that there were too many unanswered questions.



Shawn Tugwell, 603 Coyote Trail

Mr. Tugwell stated he did not vote for the Commissioners because they showed they were pro-clustered homes. He thought the Elizabeth development made sense. He is in favor of a Development control board and ended his comments on property rights.

Madison Tugwell, 603 Coyote Trail

Ms. Tugwell stated she is a graduating senior from Ponderosa High School and lives in Coyote Hills. She is against Independence. She doesn't think all the laws are being followed and informed the Commissioners she will be eligible to vote in five days.

Mary Lou Froberg, 37178 Pheasant Run, Elizabeth

Ms. Froberg asked about the unintended consequences. She quoted Ms. Fenner from the Elbert County News and is concerned about more traffic, light pollution, higher home prices, more law enforcement activity, loss of agricultural purposes and blizzards.

Archie Aquino, 998 Gamble Oaks Dr, Elizabeth

Mr. Aquino is a 23 year county resident. His concern is with the income needed to buy in the development and the need for affordable housing. He was sarcastic about the use of the pool and trails in the development. He is concerned about the water and sanitation and that it is a new technology. He is concerned about the Elbert County lifestyle.

Tim Frick, Bonnie Ridge Dr., 4105 Bonnie Ridge

Mr. Frick addressed the Special Districts. He stated this was the highest mill levy on the entire front range. He was shocked that the Planning Commission approved. He was adamant about his concerns.

Patty McKernan, 97 Meadow Station Cir

Ms. McKernan stated her number one concern was traffic and water was number 2. She warned that the last time the commissioners did not listen to the people, they ended up in court.

Ken Turnbull, 7651 Carolyn Dr, Castle Rock

Mr. Turnbull said he was a realtor and cannot find enough homes for people. This development looks well planned and likes what he sees.

Scott Wills, 11953 Lasso Pl, Kiowa

Mr. Wills thanked the Commissioners for holding the hearing in the evening. He is a 20 year resident and this development is about property rights and the rule of law. This development has followed the rules, it will help small business and is a state of the art rural subdivision

Lisa Zimmerman, 37486 Timber Dr

Ms. Zimmerman thanked the Commissioners for an evening meeting. Her concerns were as follows: 1)She believes 920 homes on this land is high density, the development is not in agreement with what Elbert County is, this is not a development for a rural setting. She took issue that firefighters and teachers could afford to live there and questioned the need for 6 special districts.

Lori Berry, 421 Bunny Lane, Elizabeth

Ms. Berry is a 25 year resident of Ponderosa Park. She is glad for progress. This represents growth as good as it can get and sets a high standard for the future.



Leslie Anderson, 34426 Pine Ridge Cir

Ms. Anderson stated she was impressed with the wildlife corridors and solar considerations that were presented earlier. She questioned the diversity of the housing in the development and questioned what would happen to the prairie dogs, as they were an important part of the community.

Frank Reeves, Elizabeth

Mr. Reeves stated he was a 20 year resident of the County and complimented the Commissioners that they were the best group of commissioners he has seen. He said he trusts the Commissioners. He stated it is unfortunate the water issue is miss-used. He appreciates the recycling of the water and thought this was well planned. He pointed out the actual anticipated building rate is 100 homes per year and the County can handle this growth.

Beth Hamm, Ponderosa Park

Ms. Hamm stated her concerns were people, traffic and light pollution. She talked about the special districts. She believes this is handing the County's future to developers.

Shelley Rodie, 601 Coyote Trail

Ms. Rodie stated she is neither for nor against the project. She is looking for smart growth. She did question the wastewater plant and being the first in the State and what the true cost will be. She asked if Elbert County should be the guinea pig?

Victoria Thalimer, 1227 Coronado Rd, Elizabeth

Ms. Thalimer stated she believes the staff report is lacking in that there is no oversight for future development. She thinks this allows for "faxed in" applications in the future.

Wayne Ordakowski, 910 Newman Dr.

Mr. Ordakowski stated he is for smart growth. He does not believe this is smart growth. The lots do not fit the landscape of the area. He asked how this can be smart growth. He asked the Commissioners if they wanted this as their legacy?

Ray Dyer, 3981 Bonnie Ridge Cir

Mr. Dyer stated that the proposed development listed what it has but not what it does not have. He thinks the number of people would be too many in a small area. He doesn't think it will lead to more spending in the County and opposes the development.

John Seville, 3992 Bonnie Ridge Cir

Mr. Seville thanked the Commissioners for holding the hearing at night. He said the Commissioners should protect Elbert County. He asserted they were in violation of County rules and asked if this was a water grab. He did not believe there had been enough time to review.

Kurt Schlegel, 2370 Antelope Ridge Trail

Mr. Schlegel said it is easy for folks to throw out scary phrases. He believes Independence is what Elbert County needs. They exceed the rules. We need residents to support businesses. He supports the development and believes this will set the bar.



Troy Zulkoski, 38989 Kittridge Place

Mr. Zulkowski said he is not shy in stating his mind. He said that saying something is going to happen does not make it happen. He believes the "facts" from the citizens are as relevant as "facts" from the developer. He stated that there would be a lawsuit over this matter.

John Dorman, 1968 Carlson Rd

Mr. Dorman commended the Commissioners for reading the 5000 pages of documents and that he was glad to see them taking notes. He noted that there is one special district for all other developments so why does this one have 6? He thinks there is too much power with little oversight.

15 Minute Recess Declared

Back in Session 9:14 PM

Lindsey Zulkoski, 38989 Kittridge Place

Ms. Zulkoski stated she is concerned about the traffic on CR 158. She does not want accidents. She foresees four lanes on 158 and wonders if the land will be taken by eminent domain. She questioned the impact on the neighbors and stated the applicant can not improve on the natural sights.

Mark Putch, 37376 Forest Trail

Mr. Putch expressed his non-support for the project. He believes that the average home price will be \$540000. He believes all roads close to the development need to be four lanes and that the infrastructure need to be in place first.

Brooke Decker, 28517 La Donna Vista Ln, Elizabeth

Ms. Decker said the Elbert County residents will hold the Commissioners accountable. He said the project was not realistic or affordable. He thinks the property tax will be a net loss. He believes there needs to be a review of the physical impact study.

Bill Johnston, 722 Starling Ln, Elizabeth

Mr. Johnston is concerned that there is only one outlet for the subdivision. He believes there needs to be more egress from the development.

.Meg Johnston, 722 Starling Ln, Elizabeth

Ms. Johnston thanked the Commissioners for holding an evening meeting. She questioned what is affordable housing. She does not think this will help teacher retention and the district needs to learn to live with it. She does not think the taxes will stay here and that the roads need help.

Larry Ross, 38590 Ridge Rd

Mr. Ross addressed the special district issue and talked about how special districts should be formed. He said the six plans do not follow Elbert County zoning regulations, stated there could be negative consequences if passed, and even personal consequences.



Paula Collis, 38695 County Rd 13, Elizabeth

Ms. Collis stated she is a 20 year resident of the County. She believes the County should follow the Master Plan and read from that document. She said there are no major arterial roads and does not think that CR 158 can handle this much traffic.

Stacey Collis, 38695 County Rd 13, Elizabeth

Mr. Collis stated she is a 20+ year county resident. She has experience in law enforcement and is against independence because he knows what clustered housing problems bring. He believes the value is being overstated this makes the application incomplete.

Jean Haberkorn, 2174 Elizabeth, Parker

Ms. Haberkorn stated that market analysis has a short shelf life and this one is already 2 years old. She believes there are too many discrepancies and the Commissioners should reject the application. She thought there should be standards set across the County and requirements have not been met.

Gayle Lucas, 34245 Columbine Trail, Elizabeth

Ms. Lucas referenced a Douglas County document requiring an extension of Delbert Rd. She thinks they need to work on the roads right away. There are eight landowners effected and Special Districts can use eminent domain.

Jennifer Aquino, 998 Gamble Oaks Dr., Elizabeth

Ms. Aquino stated she lives one mile from the entrance. She said she is not opposed to change but is worried about traffic levels. She referenced why Douglas County rejected a development. She asked how the Commissioners could vote for it. She has many concerns.

Sally Suk, 34816 Morgan Trail, Elizabeth

Ms. Suk said she was concerned about the discrepancy of the Staff Summary and Anderson Analytics report. She said the Staff Summary does not reference the report. She has no points of concern with the Staff Summary.

Joe Kinlaw, 18 S Wilcox, Suite 200, Castle Rock

Mr. Kinlaw revealed he was an attorney. He passed out some documents and referenced Bandera and a minimum lot size. He doesn't know how they came up with the flex number.

Susan Schick, 4122 Downwest Ride, Elizabeth

Ms. Schick thanked the commissioners for an evening meeting. She thinks the intent is to silence the voice of Elbert County citizens in that only new changes are heard by the commissioners, not material changes. She stated this is opposition to state law. She said the Independence service plan allows no guarantees or safeguards that they will not change their plan.

Robert Rowland, 1891 Pawnee Parkway, Elizabeth

Mr. Rowland stated there were many of different opinions. He believes this is a well thought out and well planned. He shared if not now, when? If not here, where? If not this developer, who? He believes the County needs people to bring in business.



Eric Carlson, 6451 Arrowhead Trail, Elizabeth

Mr. Carlson thinks there is not enough information to move forward. He does not believe this fits the character of Elbert County and talked about sprawl.

Dianne Varner, 36159 Winchester, Elizabeth

Ms. Varner believes the property tax revenue is over stated by 9.5% by Anderson Analytics. She has tried to make the numbers work but cannot and wonders what else is inflated. She was concerned that CDS did want more updates and concerned that only one well needed to be checked.

Andrea McMillen, 21671 Omaha Ave, Parker

Ms. McMillen is a Douglas County Realtor. She stated there were no more homes available in the market in this price range. She thought this would be a great benefit. She said that Commercial development would follow because they ask how many households are in an area that they want to grow in.

Jeffrey from Agate

Jeffrey said he looks for responsible development. He believes most payments on these houses will be 3K or more and will not be affordable housing. He is concerned it will be a strain on current services.

Michael Buck, 26822 Richards Cir, Elizabeth

Mr. Buck said if this is as good as it gets, we are in trouble. He said he is tired of people from outside the County saying why it is a good idea. He referred to Commissioner Willcox to approve with larger lot sizes.

Commissioner Richardson moved to continue hearing until 6 pm on September 6, 2017 and to close public comment.

Commissioner Thayer 2<sup>nd</sup>.

ALL IN FAVOR

September 6, 2017

Continuation of Hearing from September 5, 2017

All three Commissioners Present.

Call to order 6:02 PM

Prayer & Pledge: Dallas Schroeder, Elbert County Clerk and Recorder

Commissioner Richardson gave a review of what happened the previous day. There was the Staff report, Applicant Report and Public comment. He then talked about the plan for the night.

Commissioner Willcox questioned Vince Harris from Baseline about density and how it applied to this project.





Mr. Harris gave a detailed answer detailing two resolutions in 2009 and one P.U.D. This allows for more open space.

Bart Greer, County Attorney, pointed out this approval is not quasi-judicial but is quasi legislative. Mr. Greer gave a summary of the Subdivision Improvement Agreement. This meets Elbert County building standards and the first phase should be done in 1-3 years but could take up to 9 years. All requirements must be met before 371<sup>st</sup> building permit is issued. Initially the road improvements to 158 must be completed before a building permit is issued.

Commissioner Richardson shared some comments on the SIA and suggested some additions to the document.

Mr. Tim Craft, representing Independence, answered questions from Commissioners Richardson and Thayer.

A long discussion about cost recovery vs. the benefits of the improvements ensued.

Mr. Craft then had responses to the Public comment. His comments focused on attainability, zoning, growth, economic impact and the special districts. Dianne Miller, special district attorney, addressed many questions about the special districts from the Commissioners.

There was a discussion between the parties and Commissioners regarding whether requested provisions were made in the Metro District Service Agreements regarding a requirement that in order to provide services to outside of the Independence Development that it would require approval by the BOCC and the parties for Independence answer in the affirmative.

Commissioner Thayer asks whether requested additional language be put into the SIA with regard to mineral extraction requirements. Discussion of the parties indicates changes have been made to coincide with the requested changes by the commissioners related to mineral extraction location provisions in the SIA.

Commissioner Thayer also asked for an amendment to the SIA to exclude the paragraph-requiring applicant recovering capital and road costs from future third parties. The applicant agreed to both requests.

Recess declared at 7:50 PM

Back in Session 8:18 PM

The discussion picked up where it had been left talking about inclusion and service areas.

The applicant agreed to a requirement that there would be no extraterritorial service or exporting of water from the boundaries of the Independence development's by their Metro District(s) unless there was first a public hearing, and approval by the Commissioners for extraterritorial services, to be based on a request from parties other than the applicant.



Mike Anderson, Anderson analytics, discussed the debt service and went into further detail on his report.

Dave Takeda, representing the applicant, spoke about reclaimed water. The Commissioners asked him questions and they were answered.

Commissioner Richardson moved to continue the hearing until 4pm on September 7<sup>th</sup> at 4 PM at the Fairgrounds. Commissioner Thayer 2<sup>nd</sup>.

ALL IN FAVOR.

Recessed at 9:19 PM

September 7, 2017

Continuation of Hearing from September 6, 2017

Call to Order: 4:10 PM

Roll Call: Commissioner Richardson – Here, Commissioner Willcox – Here, Commissioner Thayer - Here

Each of the three Commissioners made statements about their thoughts about the hearing and the Development.

Motion: Approval or Resolution on PP-17-0006, Independence Subdivision Preliminary Plat

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		



Motion: Approval of Resolution on FP-16-0005, Independence Subdivision Filing 1 Final Plat

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		

Motion: Approval of Resolution of the BOCC of Elbert County approving the organization of Independence Metropolitan District No. 1

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		

Motion: Approval of Resolution of the BOCC of Elbert County approving the organization of Independence Metropolitan District No. 2

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		



Motion: Approval of Resolution of the BOCC of Elbert County approving the organization of Independence Metropolitan District No. 3

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		

Motion: Approval of Resolution of the BOCC of Elbert County approving the organization of Independence Metropolitan District No. 4

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		

Motion: Approval of Resolution of the BOCC of Elbert County approving the Organization of Independence Water and Sanitation District

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		



Motion: Approval of Resolution of the BOCC of Elbert County approving the Organization of Independence Overlay Metropolitan District

	Moved	2nd	Comments
Richardson	x		
Thayer		x	
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		

Motion: Approval of Subdivision Improvement Agreement as amended.

	Moved	2nd	Comments
Richardson		x	
Thayer	x		
Willcox			
	AYE	NAY	
Richardson	x		
Thayer	x		
Willcox	x		

Adjourned at 5:24 PM



**BOARD OF COUNTY COMMISSIONERS**

**ELBERT COUNTY, COLORADO**

**CHRIS RICHARDSON, Vice-Chair, COMMISSIONER District 1**

**DANNY WILLCOX, Chair, COMMISSIONER District 2**

**GRANT THAYER, COMMISSIONER District 3**

**ATTEST: Dallas Schroeder**

**County Clerk**



**BY:**

**Clerk to the Board of County Commissioners**