

RESOLUTION NO. 10-R-2004

**A RESOLUTION REPEALING RESOLUTION NO. 7-R-2004
REGARDING THE FREDERIKSEN FARMS ANNEXATION NO. 1 AND
NO. 2 ANNEXATION HEARING AND ADOPTING CERTAIN FINDINGS
OF FACT AND CONCLUSIONS FAVORABLE TO THE ANNEXATION.**

WHEREAS, the Board of Trustees of the Town of Mead, Colorado, held a public hearing on Monday, October 27, 2003, pursuant to the published notice, on the petition of Centex Homes, 9250 E. Costilla Ave., Suite 200, Greenwood Village, Colorado 80112 and the property owners, the Bruce and Marsha Frederiksen Loving Trust, by Bruce and Marsha Frederiksen, Trustees of the Bruce and Marsha Frederiksen Loving Trust, for the annexation of the following real property; to wit:

A tract of land located in portions of the SW 1/4 of Section 22, the SE 1/4 of Section 21, the NW 1/4 of Section 27 and the NE 1/4 of Section 28, T3N, R68W of the 6th PM, Weld County, Colorado as more precisely described in Exhibit A; and

WHEREAS, the annexation of the above described property was not approved by the registered electors of the Town at the January 6, Special Election; and

WHEREAS, it has been determined by the Board of Trustees that it is appropriate to reconsider the conditions placed on the proposed annexation and to permit the registered electors an opportunity to vote again on the question of the annexation at the Municipal General Election to be held April 6, 2004; and

WHEREAS, by Resolution No. 7-R-2004, the Board of Trustees restated its findings and conditions placed on the proposed annexation; and

WHEREAS, it has been determined by the Board of Trustees that is appropriate to restate the conditions placed on the proposed annexation;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MEAD, COLORADO, as follows:

Section 1. Repeal of Resolution 7-R-2004. Resolution No. 7-R-2004 is hereby repealed in its entirety and reenacted as a new Resolution No. 10-R-2004 .

Section 2. Findings of Fact. The applicant's petition is in substantial compliance with subsection (1) of C.R.S § 31-12-107. It contains the required allegations, the dated signatures of more than 50 % of the landowners of the property requested to be annexed exclusive of streets and alleys, the required affidavit of circulation, the required legal description of the area to be annexed, and the required annexation boundary map. As a petition of the owners of more than 50 % of the property to be annexed and a petition pursuant to C.R.S § 31-12-107 (2) was not filed at least 10 days prior to the hearing date set for the annexation petition filed pursuant to subsection (1) of C.R.S § 31-12-107, it is eligible for

annexation by ordinance as provided by C.R.S. § 31-12-107 (1) (g). This finding was made and duly adopted by the Mead Board of Trustees in Resolution No. 15-R-2003, adopted August 25, 2003.

- a. With respect to compliance with C.R.S. § 31-12-104, the Board of Trustees makes the following findings of fact:
 - i. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality.
 - ii. A community of interest exists between the area proposed to be annexed and the annexing municipality; that said area is urban or will be urbanized in the near future; and that said area is integrated with or is capable of being integrated with the annexing municipality. The fact that the area proposed to be annexed has the required 1/6 th contiguity with the annexing municipality shall be a basis for a finding of compliance with these requirements.
 - iii. Because the petition was signed by 100% of the owners of the property to be annexed, the standard contained in C.R.S. § 31-12-104 (1) (b) (I) does not invoke the exception contained in C.R.S. § 31-12-104 (1) (b).
 - iv. Because the petition was signed by 100% of the owners of the property to be annexed, the standard contained in C.R.S. § 31-12-104 (1) (b) (II) does not invoke the exception contained in C.R.S. § 31-12-104 (1) (b).
 - v. Because municipal utilities are not requested and the Town has the ability to provide all other municipal services to the area to be annexed on the same terms and conditions as such services are made available to all of its citizens, the standard contained in C.R.S. § 31-12-104 (1) (b) (III) does not invoke the exception contained in C.R.S. § 31-12-104 (1) (b).
- b. With respect to compliance with C.R.S. § 31-12-105, the Board of Trustees makes the following findings of fact:
 - i. No land held in identical ownership has been divided into separate parts or parcels without the written consent of the landowners thereof.
 - ii. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year next preceding the annexation) is included in the proposed annexation without the written consent of the landowners.
 - iii. No land is proposed to be annexed for which annexation proceedings have been commenced for the annexation of part or all of such territory to another municipality.
 - iv. The proposed annexation will not result in the detachment of the area from any

school district and the attachment of the same to another school district.

- v. The proposed annexation will not have the effect of extending a municipality boundary more than three miles in any direction from any point of such municipal boundary in any one year.
 - vi. The proposed annexation is in conformance with the "Three Mile Annexation Plan" duly adopted by the Planning Commission of the Town of Mead on March 19, 1997.
 - vii. The proposed annexation will not result in the annexation of a portion of a platted street without the annexation of the entire width of the street.
 - viii. The municipality will not deny reasonable access to landowners, owner of an easement, or the owner of a franchise adjoining a platted street or alley which has been annexed by the municipality but is not bounded on both sides by the municipality.
- c. With respect to compliance with C.R.S. § 31-12-107 (2), the Board of Trustees makes the following findings of fact:
- i. A petition pursuant to C.R.S § 31-12-107 (2) was not filed at least 10 days prior to the hearing date set for the annexation petition filed pursuant to subsection (1) of C.R.S § 31-12-107, therefore the area is eligible for annexation by ordinance as provided by C.R.S. § 31-12-107 (1) (g).

Section 3. Conclusions and Order Annexing Portions of the SW 1/4 of Section 22, the SE 1/4 of Section 21, the NW 1/4 of Section 27 and the NE 1/4 of Section 28, T3N, R68W of the 6th PM, Weld County, Colorado, as More Precisely Described in Exhibit A.

- a. The proposed Frederiksen Farms Annexation No. 1 and No. 2 to the Town of Mead, Weld County, Colorado complies with the applicable sections of the Municipal Annexation Act of 1965.
- b. The most appropriate zoning (land use) for the property shall be mixed use residential, commercial and public uses compatible with the Mead Land Use Code as described on the conceptual land use plan map included with the application.
- c. A detailed Annexation Agreement incorporating the conclusions and order of the Board of Trustees shall be prepared and signed before the annexation process is completed. The Annexation Agreement shall contain the following items:
 - i. The petitioner shall apply to have the Mead Area Comprehensive Plan amended at its own expense to reflect these particular land uses.
 - ii. The developer will provide the municipality with a deed for the non-tributary water rights.
 - iii. If the flex zone for the proposed school site does not turn into a school, the developer will be permitted to make it residential.
 - iv. The existing gas well equipment will be fenced in accordance with COGCC

regulations.

- v. Trails will be of concrete construction and 8 feet wide.
- vi. Developer will bear the responsibility to obtain the services to the site of the St. Vrain Sewer District and the Longs Peak Water District.
- vii. Lots and streets will meet municipal standards.
- viii. The developer shall escrow sufficient funds for the construction of one-half of the proposed regional arterial on the west side of the property as an interim arterial street, constructed to collector street standards (50-foot flow-line to flow-line, curb and gutter, and two detached sidewalks 8-feet in width). The amount to be escrowed shall be determined by the Town Engineer. The developer shall dedicate sufficient dedicated right-of-way to accommodate the full width of the proposed regional arterial, when its alignment is determined.

The regional arterial's alignment will not occur on the existing WCR 7 north of WCR 28 ½, it specifically being the Town's intent that WCR 7 will not be widened to four lanes or become a route of the regional arterial in the Town of Mead adjacent to existing residential developments north of WCR 28 ½.

The developer shall pay one-half of the cost of construction of WCR 7 from WCR 28 ½ to Highway 66, as a collector street, constructed to collector street standards, (50-foot flow-line to flow-line, curb and gutter, and one detached sidewalk 8-feet in width on the west side) and including left and right turning lanes at intersections if required by a traffic study approved by the Town or by CDOT, and shall do so at the beginning of construction on the residential portion of the property. If St. Vrain Valley School District south of WCR 28 has not begun development at the time that the Frederiksen annexation development begins, then developer shall build/improve the two lanes of WCR 7 as described above and the Town will cooperate in obtaining recapture of one-half of the costs from abutting property and/or from the School District as benefitted properties.

The developer shall dedicate an additional 20-feet of right-of-way, plus a 25-foot drainage, utility, and public access easement, totaling 45-feet from the Frederiksen property for WCR 7 (in addition to the existing 30-foot right-of-way for one-half of the section line road). In no event shall the developer be responsible to construct or pave the existing WCR 7 more than two lanes in width plus any required left or right turn lanes at an intersection.

The developer shall pay one-half of the cost of construction of WCR 28 ½ adjacent to the southern border of the property as a collector street, constructed to collector street standards (50-foot flow-line to flow-line, curb and gutter, and two detached sidewalks 8-feet in width), and shall do so at the beginning of construction on the residential portion of the property. If property on the south side of WCR 28 ½ has not begun development at the time that the Frederiksen annexation development begins, then developer shall build/improve the two lanes of WCR 28 ½ as described above and the Town will cooperate in obtaining recapture of one-half of the costs from abutting properties as benefitted properties.

- ix. All existing perimeter distribution utilities and all internal utilities shall be buried.

- x. There will be a surface use agreement with the mineral interest owners.
- xi. The developer will participate in the school district mitigation fee of \$2756 to be paid to the Town for each single family dwelling. The developer will not be required to obtain a positive referral letter from the School District.
- xii. Park sites will be high, dry, flat and usable and the developer will provide enough water rights to irrigate the parks. The developer will make the park improvements. Park designs will be approved by the Town Park Planner.
- xiii. The developer will provide a traffic study.
- xiv. All lighting will be cut-off; on site and non-polluting.
- xv. The commercial areas will be retail and not include "light industrial."
- xvi. The developer will perform a wildlife study to determine if there are any endangered species on the property and provide the study to the municipality.
- xvii. There will be no residential units built over gas gathering lines. These lines will be in streets or along property lines.
- xviii. The northwest eleven acre portion of the property shall remain designated as commercial/ medium density as proposed; however, Developer shall agree to not develop the portion as medium density residential until the three hundredth (300th) building permit shall have been issued on the balance of the property. After such time, the applicant/developer may approach the Board and show they have made a good faith effort to market the property for commercial uses and request the use be medium density residential. (A "good faith" effort shall be defined as listing the property with a commercial real estate broker at fair market price from the effective date of the annexation to the time of the request.)
- xix. The developer will meet CDOT requirements in respect to State Highway 66 and Town of Mead requirements with respect to WCR 7.
- xx. The parcel will contain a maximum of 450 residential dwelling units. Any single-family detached dwelling will be constructed on lots that are a minimum of 7,000 square feet in size.
- xxi. If townhouses are constructed, they will be adjacent to or bordering either a commercial area or any arterial roadway.

d. If a majority of all the votes cast at the election to be held pursuant to Section 16-15-90 of the **Mead Municipal Code** shall be for annexation, the measure shall be deemed passed, and the Town of Mead shall be authorized to take all action necessary or appropriate to effectuate the annexation of the subject property.

INTRODUCED, READ, PASSED AND ADOPTED THIS 23rd DAY OF February , 2004.

ATTEST:

TOWN OF MEAD

By Candace Bridgwater
Candace Bridgwater, Town Clerk

By Richard E. Kraemer
Richard E. Kraemer, Mayor

EXHIBIT A

FREDERIKSEN FARMS ANNEXATION NO. 1

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN SECTIONS 21, 22, 27 AND 28, TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, THE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 28 AS BEARING SOUTH 00°22' 47" EAST FROM A FOUND #6 REBAR WITH A 2" ALUMINUM CAP (LS 23500) AT THE NORTHEAST CORNER TO A FOUND #6 REBAR WITH A 2" ALUMINUM CAP (LS 18475) AT THE EAST 1/4 CORNER AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

COMMENCING AT SAID NORTHEAST CORNER; THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 27 SOUTH 89°30'03" EAST 30.00 FEET TO THE SOUTHWEST CORNER OF WEINGART ANNEXATION NO. 3 RECORDED AT RECEPTION NUMBER 02307090, AND THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 7, THENCE ALONG SAID LINE NORTH 00°26' 00" WEST 764.07 FEET TO THE NORTHWEST CORNER OF SAID WEINGART ANNEXATION NO. 3; THENCE SOUTH 89°18'12" WEST 60.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 7; THENCE ALONG SAID WEST LYING SOUTH 00°26'00" EAST 763.59 FEET; THENCE SOUTH 00°22'47" EAST 1491.54 FEET; THENCE NORTH 01°55'27" EAST 1492.59 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBE TRACT CONTAINS 2.08 ACRES MORE OR LESS, TOGETHER WITH AND SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY EXISTING AND/OR OF PUBLIC RECORD.

EXHIBIT B

FREDERIKSEN FARMS ANNEXATION NO. 2

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN SECTIONS 27 AND 28, TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 28 AS BEARING SOUTH 00°22' 47" EAST FROM A FOUND #6 REBAR WITH A 2" ALUMINUM CAP (LS 23500) AT THE NORTHEAST CORNER TO A FOUND #6 REBAR WITH A 2" ALUMINUM CAP (LS 18475) AT THE EAST 1/4 CORNER AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 28; THENCE ALONG THE NORTH LINE OF SAID SECTION, SOUTH 89°01'28" LAST 30.00 FT. TO A FOUND #4 REBAR WITH CAP (LS 23500) IN THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE, SOUTH 89°01' 28" WEST 1323.51 FEET TO A FOUND #4 REBAR WITH CAP (LS 23500) ON THE SOUTH RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY 66; THENCE ALONG SAID LYING SOUTH 84°43'43" WEST 434.42 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 11,505 .00 FEET, A CENTRAL ANGLE OF 04°16'44" AND CHORD WHICH BEARS SOUTH 86°52'05" WEST 859.00 FEET; THENCE ALONG THE ARC OF SAID CURVE 859 .20 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE ALONG SAID WEST LINE, SOUTH 00°05'08" EAST 2587.46 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER AND THE PROLONGATION THEREOF, NORTH 89°01'14" EAST 2687.71 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 7; THENCE ALONG SAID EAST LINE NORTH 00°22'47" WEST 2651.19 FEET; THENCE SOUTH 0°55'27" WEST 1492.59 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 7; THENCE ALONG SAID WEST LINE NORTH 00°22'47" WEST 1491.54 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBED TRACT CONTAINS 160.96 ACRES MORE OR LESS, TOGETHER WITH AND SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY EXISTING AND/OR OF PUBLIC RECORD.