

July 29, 2014

Independent Ethics Commission, Complaints
1300 Broadway Suite 240
Denver, CO 80203

Sent via E-Mail to: maureen.toomey@state.co.us

To whom it may concern,

Please find enclosed what we believe is a properly completed complaint form as well as a document that provides complete information about what we believe to be ethics violations by individual commissioners of the Larimer County Board of County Commissioners. We appreciate the Independent Ethics Commission taking the matters under advisement and request they will conduct a thorough investigation of the issues.

There is not any circumstance that government officials should be allowed or permitted to act in the manner that has been deemed acceptable by individual commissioners or by the Larimer County Board of County Commissioners as a governmental body. We request that each of them be sanctioned to the maximum extent possible.

Respectfully,

Sheryl L. Pope



Randall L. Pope



The contact information for Sheryl and Randy Pope is as follows;

Randy Pope (cell phone: 970-689-2937 randy@preservebh.com)

Sheryl Pope (cell phone: 970-689-5106 sheryl.pope@yahoo.com)

INDEPENDENT ETHICS COMMISSION - Formal Complaint Form

BEFORE THE INDEPENDENT ETHICS COMMISSION CASE NO. _____
OF THE STATE OF COLORADO (IEC use only)

COMPLAINT

The Complainant(s) is (are): RANDALL & SHERYL POPE

Address (Include City and Zip Code)
3924 BINGHAM HILL ROAD
FT. COLLINS, CO 80521

Daytime Phone No.
RANDY: 970-689-2937
SHERYL: 970-689-5106

EMAIL: RANDYPOPE53@gmail.com
Email: sheryl.pope@yahoo.com

The Respondent(s) is (are):

Commissioner Steve Johnson (Larimer County)
Commissioner Tom Donnelly (Larimer County)
Commissioner Lew Garter (Larimer County)

Address (Include City and Zip Code)
200 West Oak Street
P.O. Box 1190
Fort Collins, CO 80522

Daytime Phone No.
970-498-7010

EMAIL: johnsosw@co.larimer.co.us garterl@co.larimer.co.us
donnell@co.larimer.co.us

The specific act or things complained of, with the facts to give a full understanding of the situation, is (are): documented in the attached document beginning on page 2 under Section II.

The remedy to the matter I (we) would like is:

A thorough investigation into the complaints with the proper remedies as determined by the IEC, including a press release to all of the news outlets in Larimer County AND other jurisdictions deemed appropriate.

Additionally we would appreciate a response from the IEC outlining their findings, including as much detail as possible about the reasoning for the determinations.

Respectfully,

RANDALL L. POPE *Randall L. Pope*

Sheryl L. Pope *Sheryl L. Pope*

3924 BINGHAM HILL ROAD
FT. COLLINS, CO 80521
970-689-2937 RANDY'S cell
970-689-5106 SHERYL'S cell.

I (We) hereby acknowledge that I (we) will cooperate in this Complaint and will appear at any hearing if the Complaint is set for hearing.

Signature(s): *Randall L. Pope* *Sheryl L. Pope*

Attorney (if applicable): _____

Dated at FT. COLLINS, Colorado, this 29 day of July, 2014.

SECTION I

BACKGROUND:

In June of 2009 Randy and Pope decided to commit to preserving and sharing their property with the community by requesting approval through the Larimer County Special Review process for a Community Hall and a Seasonal Camp. In January 2009 both of these uses had been added by the Larimer County Board of County Commissioners (BOCC) as allowed uses in the FA-Farming zoning district. Therefore, a change in zoning was not necessary. At that time the BOCC was comprised of Kathay Rennells, Steve Johnson and Tom Donnelly. In January of 2010 Lew Gaiter replaced Kathay Rennells on the board.

The Pope's original application was the first application to go through the Special Review process subsequent to the amendments to the Larimer County Land Use Code (Code). The information that follows documents all of the issues that the Popes have faced over the last 4+ years in an attempt to achieve their simple dream of sharing their property with the Northern Colorado community.

Their property is comprised of 10+ acres and is located in Larimer County at 3924 Bingham Hill Road. The property is the remainder of an original 19 acre parcel that was purchased by Randy's parents (Reid and Beverly) in 1964. Randy and Sheryl purchased 13 acres from Reid and Nelda Pope in 1994. At the time it was purchased it was an undeveloped parcel that was used to grow hay and pasture a small number of cattle. Randy and Sheryl constructed and moved into their home on the property in May of 1995 and commenced their nursery operation in April of 2000.

On May 10, 2010 the Popes received approval for the Seasonal Camp use and the Community Hall use. The seasonal camp is known as Camp Whatchamakeit and is a basketball camp for disadvantaged youth from around the country. The community use is operated as The Preserve at Bingham Hill which is in extreme demand for weddings and corporate gatherings.

In successive years beginning in August 2010, the uses have been subjected to multiple decisions by the BOCC, many of which seem to have been made arbitrarily and capriciously, and generally without much thought to the consequences. As a point of reference there have been 22 public hearings over the past 4+ years. There have been 12 hearings before the BOCC, two of which were a result of the neighbors appealing the processes set forth by the BOCC.

Commissioner Gaiter has been consistently in favor of approval of the uses but has not stood up to Commissioners Johnson and Donnelly when it comes to some ethical issues that will be outlined later in this document. Commissioner Johnson and Donnelly have "flipped and flopped back and forth" in their decision making, the Popes believe as a result of the aforementioned questionable ethics.

Everything started to come apart on December 13, 2010 when Johnson and Donnelly voted (2:1) to revoke the Community Hall use which had just been approved 7 months earlier by a (2:1) vote by Donnelly and Gaiter. As you continue reading, all three commissioners have had questionable legal and ethical involvement in the decision making processes.

The revocation represents the first time in the history of Larimer County that an approved use has ever been revoked, even though there have been far more substantial issues, both in number and severity, with other Special Reviews that have been allowed to continue to operate despite repeated warnings. The Mishawaka Resort, Columbine Lodge, McBlair Ranch, W.O.L.F. and Shaffer's Drake Campground come to mind.

The revocation occurred without warning after the Pope's had already spent \$475,000 to build the facilities. The use was revoked before the business even had a chance to fully implement its business plan and to use the facilities. As a result of the revocation the Popes were forced to refund \$47,000 of deposits and forego all of the revenue from the events that they had already booked for 2011.

After multiple attempts, the Community Hall use was reinstated on a very limited basis in late 2012. The severe restrictions on the use have resulted in the Popes being forced to literally turn away tens of thousands of dollars of business each month, resulting in financial ruin and the bank foreclosing on their property. Not only do the Popes face the loss of the real estate that has been in the Pope family for 50 years but also will lose all of their income which is derived from Bingham Hill Farms LLC (the tree nursery), The Preserve at Bingham Hill LLC, and Camp Whatchamakeit LLC being operated on the property, they also own and operate Bingham Hill Farms LLC

(www.binghamhillfarms.com), a tree nursery that commenced operation in 2000 and operate Camp Whatchamakeit LLC (www.campwhatchamakeit.com), their basketball camp for disadvantaged youth.

The Popes and many others, including numerous county employees that are knowledgeable of the issues, believe that Commissioner Donnelly and Commissioner Johnson are not applying the Land Use Code as it was intended. As a result, the decisions that have been made by the BOCC are random, arbitrary and capricious, and generally lack merit.

At various points in time the ethics and values of all three commissioners have come into question, but none more so than Commissioners Johnson and Donnelly. Johnson has admitted to taking a gift (from neighbors opposing the use) at the outset of the initial approval process and to having a very personal relationship with one of the neighbors that he never publically disclosed. Donnelly and Pope had several conversations that are extremely unethical for any elected official. The Popes and others who have been intimately involved in the entire process believe that decisions by Johnson and Donnelly have generally been made for personal and spiteful reasons as retribution for Randy asking them to be accountable for their questionable ethics.

However, there is very little recourse available to the public in Larimer County. Arguably, the most powerful person in the world, the President of the United States, has a set of checks and balances to moderate his power; The House of Representatives, The Senate, the Judicial Branch and the voting public every 4 years. The Governor of every state has a set of similar checks and balances. In Larimer County, there is no higher authority than the Board of County Commissioners. There is no entity to appeal a decision to except the voting public every 4 years. The courts are not even really an option because in counties in Colorado the “statute of limitations” expires 28 days after the BOCC makes a decision that anyone believes is arbitrary and capricious. The entire Rule 106 appeal process is effective in its design to keep the County out of the court system.

As a result of all of the issues the Popes have encountered regarding the way the BOCC as a body and the individual Commissioners have handled their business, numerous legal, ethical and moral issues have come into question. The fundamental question is this kind of corruption and decision making that residents of Larimer County expect from their Board of County Commissioners?

SECTION II

INDIVIDUAL COMMISSIONER ACTIONS

The following information includes some of the more egregious personal actions by the individual Commissioners during the processes and hearings;

a) In February 2010 Commissioner Donnelly informed Ric Hattman, and Randy and Sheryl Pope (in a meeting in the Commissioner’s conference room) “that Commissioner Johnson took a “bunch of steaks” (***) from John Schmid and Joan Welch”, two of the opposing neighbors while the original application was in the process. [**The Popes later heard that the gift was a ½ of beef] The day after the meeting with Donnelly R. Pope informed Frank Lancaster, who was then the County Manager, of Donnelly’s remarks. The Popes believe that with Johnson taking steaks/beef from the opposing neighbors, his (Johnson’s) decision making and subsequent comments were clearly compromised by the gift.

1. Under direct questioning from Mr. Pope in Johnson’s office in July 2012 Johnson admitted to taking the steaks/beef “but didn’t see a problem with it”. ***The Popes and others believe this to be a bribe, resulting in an ethics violation by Commissioner Johnson that needs to be investigated by the Independent Ethics Committee as a violation of the Colorado Constitution in Article XXIX Section 3 which specifically defines the “Gift Ban”. Additionally, the Popes believe that Commissioners Donnelly and Gaiter acted unethically as described in Section of Article XXIX and need to be held responsible for not reporting Commissioner Johnson. For details see #10 page 9 and #18 page 10 and #59 pages 19-20***

b) ***Commissioner Johnson did not ever publically recognize a conflict of interest regarding his relationship with Liz Whitney and David Twedt, a married couple who are neighbors of the Popes and oppose the use. Under questioning from Randy [in July 2012] Johnson admitted to having a long-standing professional relationship, but also informed him that he had a long standing personal and family friendship with Whitney and Twedt. The Popes believe this is an ethics violation under Section 1 of Article XXIX. For details see #59 pages 19-20.***

c) Commissioner Donnelly stating to Randy (with Steve Miller, the County Assessor in attendance) that he (Donnelly) is a “vindictive person” and the “type that holds a grudge” and that “once you have had your nose bloodied enough you will also become vindictive.” His actions later proved that he is very vindictive. ***The Popes believe this is an ethics violation under Section 1 of Article XXIX. For details see #42 page 14.***

d) In a meeting attended by Frank Lancaster, the former County Manager, Commissioner Gaiter encouraged the Pope’s to hold an “unauthorized event” telling Randy “that the ‘official unofficial word’ was to just have the event and move on.” The “unauthorized event” turned out to be one of the two “major” issues that were cited for the revocation. He has somewhat admitted publically and strongly admitted privately that this was a serious error on his part. ***For details see #20-23 pages 11-12 and #44 (g)2 page 16***

e) Linda Hoffman, who at the time was the Director of Planning and Building Services (now is the County Manager), gave incomplete and incorrect information to the BOCC during the revocation hearing. Within two days of the hearing she admitted that the information was incorrect, yet the BOCC refused to re-open the hearing. ***The Popes believe that by refusing to re-open the hearing, the Commissioners violated Section I (a) (b) (c) and (e) of Section of Article XXIX of the state of Colorado Constitution.***

f) Commissioner Gaiter “begging [actually using the term] Randy and I not to sue the County “because you have enough information to completely blow up the Board of County Commissioners”.

g) Improper participation in the hearings by Commissioner Donnelly. Donnelly recused himself in the December 3, 2012 hearing and then participated and voted in the [very next] October 14, 2013 hearing on the very same subject (without any change in the circumstances for which he originally recused himself). ***The Popes believe this is an ethics violation under Section 1 of Article XXIX. For details see #75 page 22-23.***

h) Commissioner ***Donnelly engaged in several other conversations that bring to light several ethical, moral and legal questions. The ethics and moral issues need to be investigated as a violation of Section 1 of Article XXIX. For details see #17 (c) page 10 and #47 page 17***

Specific details of the all of the above issues can be found in SECTION VI

SECTION III

BOCC ACTIONS

The following actions by the Board of County Commissioners during the processes and hearings have, included;

- a) Discriminatory, arbitrary and capricious decision making;
- b) Violations of the Sunshine Law by all of the commissioners;
- c) Ex parte communication;
- d) A lack of due process when Commissioner Johnson (as Chairman) denied the request [during the revocation hearing] to allow me to see a very important document that was presented in the hearing by the opposition;
- e) Ignoring the results of the Larimer County Health Department Sound Study that was required by the BOCC. Additionally, ignoring the results of the Sound Study the Planning Department required to be performed by an independent sound consultant;
- f) Requiring the Popes to be held to a completely different standard than the rest of the County residents regarding the Larimer County Noise Ordinance;
- g) During the revocation hearing, ignoring the advice of Jeannine Haag, Larimer County Assistant Attorney “to handle the issues in some way besides a legal action because our legal budget is already stretched to the limit;”
- h) Rendering a decision [resulting in the revocation] outside of their statutory authority regarding the lack of a Poudre Fire Authority (PFA) Certificate of Occupancy. The summons issued by PFA for the lack of the Certificate of Occupancy had already been heard and been dismissed by the Larimer County Court system when the BOCC decided to revoke the Special Use.

i) On August 19, 2013 the BOCC unanimously approved The Boutique Events Center, a completely similar venue located within .8 miles of the Pope's property. The approval was for 48 events with virtually no Conditions that restrict the use. On October 14, 2013 the Popes requested the BOCC to treat them fairly and equitably by allowing them to have 48 events with Conditions similar to the Boutique Events Center. Not only did the BOCC deny the Pope's request but Commissioner Johnson is on record as stating that "the hearings do not have to be fair and equitable."

j) Amended the language in the Land Use Code (several times) to fit the decisions that had been made by the County Attorney and BOCC during the hearings;

Specific details of the all of the above issues can be found in SECTION VI

SECTION IV

SUMMARY OF BOCC HEARINGS

In successive years beginning in October 2009, the uses have been subjected to multiple decisions by the BOCC, many of which seem to have been made arbitrarily and capriciously, and generally without much thought to the consequences. As a point of reference there have been 22 public hearings over the past 4+ years. There have been 12 hearings before the BOCC, of which two were neighbors appealing the process. As illustrated below, Commissioner Gaiter has been consistently in favor of approval of the uses, while Commissioner Johnson and Donnelly have "flipped and flopped back and forth". The dates and results of the BOCC hearings (and the corresponding recommendations by the Planning and Zoning Commission) have resulted in a complete lack of consistency.

- **BOCC Hearing October 12, 2009** In July of 2009 the Popes submitted an application to appeal the restriction to allow only single family residential use for their property. The BOCC **approved (3:0)** the Pope's appeal to remove the restriction that allowed only single family use on Tract 2 of the Pope MRD.
- **October 19, 2009**, with guidance from the Larimer County Planning Department, an application was submitted requesting approval of two separate uses, an Event Center and a Seasonal Camp.
- **BOCC Hearing February 1, 2010**. The **Planning Department recommended approval** of the Event Center and Seasonal Camp. The **Planning and Zoning Commission recommended denial (6:2)** of the uses. The **BOCC voted to deny (2:1)** the uses.
- **BOCC Hearing May 10, 2010**. The **Planning Department recommended approval** of the Event Center and Seasonal Camp. The **Planning and Zoning Commission recommended denial (6:2)** of the uses. The **BOCC voted to approve (2:1)** the uses for 60 events, approving it in spite of the objections of 5 couples, some of which are located 3/8 of a mile from the Pope property.
- **BOCC "Show Cause Hearing I" August 9, 2010**. The **BOCC voted to approve (3:0)** the motion that there were not any issues to resolve.
- **BOCC "Show Cause Hearing II" December 13, 2010. [REVOCAION HEARING]** At the conclusion of the hearing, without warning and against the advice of the then current Director of Planning (Linda Hoffman) and of the Assistant County Attorney (Jeannine Haag), the **BOCC voted (2:1) to revoke the use** without giving reasons during the hearing.

During the "revocation hearing";

(a) Director Hoffman stated incorrect facts regarding the dates of the Certificates of Occupancy;

(b) Ken Ecton, a member of the opposition was allowed to present "written material" directly to the BOCC during the hearing. Sheryl Pope requested during the hearing to have the documents made public, Commissioner Johnson refused, stating "Commissioners have the right to keep documents presented to them from becoming public information."

(c) It turns out the “Ecton written material” contained several errors, one of which Commissioner Donnelly addressed in the only comment he made during the entire hearing. It is a fact that the Findings and Resolutions for this hearing specifically address these documents in “**Exhibit D #8**” If, as is stated in the Findings and Resolutions, “these documents were not found to be persuasive to the Board in reaching its decision” why was the point even brought up?

The revocation, which is a first in the history of the county, occurred on December 13, 2010 without warning after the Pope’s had already spent \$475,000 to build the facilities that had been approved just 7 months earlier in May of 2010. The use was revoked before the business even had a chance to fully implement its business plan and to use the facilities. As a result of the revocation the Popes were forced to refund all of the deposits and forego all of the revenue from the events that they had already booked for 2011. Since that time they have experienced extreme financial hardship, including bankruptcy, the property going into foreclosure in early 2011 (and now again in April of 2014).

- **BOCC Hearing November 11, 2011.** Subsequent to the revocation, at the urging of the then Director of Planning (Linda Hoffman), an application for re-approval was submitted in July 2011. Planning Director Hoffman decided to personally represent the application throughout the process. She determined it was a good idea to incorporate into the Staff’s report, a Condition of Approval for every one of the neighbor’s concerns, whether they had merit or not. Her reasoning was “that it would show that the County was being responsive to the neighbor’s concerns” even though she agreed that virtually all of them were contrived. This was in spite of the fact that R. Pope suggested it would be more effective to incorporate her ideas for specific conditions into the business plan, demonstrating that they were attempting to be responsive to the issues. The **Planning Department recommended approval** of the application. The **Planning and Zoning Commission recommended denial (4:4)** of the application. The **BOCC voted to deny (2:1)** with several of the members suggesting “there were too many Conditions of Approval”.
- **BOCC Hearing December 3, 2012.** As suggested by Commissioner Johnson an application was submitted. The **Planning Department recommended approval** of the application. The **Planning and Zoning Commission recommended approval (6:3)** of the application allowing 48 events with very minimal Conditions. It took the BOCC 3 hearings to determine the Conditions of Approval that they would apply to the use. The **BOCC finally voted (2:0) [Donnelly recused himself] to approve** the use on a very restrictive basis. Examples of the Conditions of Approval are as follows;
- **NOTE:** *In a meeting on June 11, 2012 Randy Pope told Commissioner Johnson that he and others were aware of his aforementioned interactions and transgressions with the Pope’s neighbors. Towards the end of the meeting, he (Johnson) “encouraged Pope to make another application because he was quite certain that he could find something compatible.” [It is not just “irony” that all of a sudden caused Johnson to decide that he could probably find something that would be “compatible” with the area]*
 - a) Only 22 events of which only 6 could be outdoors. An example of an “outdoor event” would be a wedding where the outdoor ceremony may last 30 minutes while the reception lasts another 4 hours but must be held indoors, no matter the circumstances. Additionally, all doors and windows had to remain closed during an event
 - b) Any outdoor event could not last more that 2 hours.
 - c) The Findings and Resolutions for this application contained other very restrictive Conditions and contradictory language that when brought to their (BOCC) attention, by their own admission, was not practical or even attainable.

The Conditions were added without any thought to the consequences, thereby making the business ineffective and unsustainable.

BOCC Hearing October 13, 2013. The Popes were advised by the Planning Department to submit an Amended Special Review application in order to get the contradicting language changed from the Findings and Resolutions that resulted from the 2012 re-approval. The application requested 48 events with very minimal Conditions, thereby allowing The Preserve at Bingham Hill to operate on a somewhat level playing field similar to how all of the other Event Centers in Larimer County are allowed to operate. The **Planning Department recommended approval** of the application. The **Planning and Zoning Commission recommended approval (5:2)** of the application. The

BOCC voted (3:0) to approve in part (22 severely restricted events, (with only 9 outdoors) and **voted to deny in part** (the 48 requested events) the application. **Donnelly participated and voted in the hearing even though he had recused in the previous hearing dealing with the exact same issues. There was absolutely no change in the circumstances that led to his decision to recues himself in the previous hearing.**

During the hearing Sheryl Pope asked for her family to be treated fairly and equitably by the BOCC. At the conclusion of the hearing Commissioner Johnson stated on the record that the BOCC does not have to treat applicants fairly or equitably, we only have to determine whether the use is in harmony and compatible with the area.

SECTION V

HARMONY AND COMPATIBILITY

There are 547 printed pages incorporated into Part II of the Larimer County Land Use Code. It is very disturbing that every one of the Pope's applications that have been submitted and for every public hearing, the Larimer County Planning Department is on record as stating that "all of the County's Standards in the Land Use Code ("Code") have been met pertaining to an Event Center as defined in the Code." However, all of the decisions that have been made are based solely based upon two very ambiguous words in the Code; "compatibility" and "harmony". Widespread belief is that it was not the intention of the Code, nor should it be legal to allow 3 individuals to make totally subjective decisions on "harmony" and "compatibility" when all of the requirements of the Code have been met.

The reason given time and again by the BOCC for the lack of "compatibility and harmony" is because of the "noise" issues. However, there is no documentation by any authority that supports the "noise concern"! During the processes the Popes were required to pay for an independent sound study. The study stated that any noise would be mitigated by taking certain steps, all of which the Popes installed and performed. Subsequently, the P and Z Board and the BOCC took a field trip to the property to hear for themselves. The sound generated by the music was, once again, well within the limits of the Larimer County Noise Ordinance. Later, the BOCC requested the County Health Department to monitor an event. They did and documented that the "noise" was well within the Larimer County Noise Ordinance limits and that noise was not an issue. The Sheriff's Department has document in numerous reports that "noise" is not an issue.

There is not one documented report by any authority that substantiates "noise" is an issue! In fact, all of them state that noise is not an issue. Yet, The Preserve at Bingham Hill is being held to a higher standard than any other business in Larimer County.

It is very apparent to everyone that has attended any of the meetings that 5 neighbors in the immediate area have affected the decisions of the BOCC. The decisions have been made in spite of the fact that the Popes have had up to 75 people at any one meeting that are in support of The Preserve at Bingham Hill. It is a mystery to everyone as to how the Boutique Events Center was unanimously approved in August of 2013 by the BOCC for 48 events despite objections from the surrounding neighbors. It is located only .8 miles from The Preserve at Bingham Hill. Somehow it was deemed to be "compatible and in harmony" in an area that is much more residential and there are many more homes affected by this approval. The Boutique Event Center was approved two months prior to the time the Pope's requested and were denied the opportunity to have their restrictive conditions relaxed and to increase their number of events to 48.

There is no other venue in Colorado that has similar restrictions regarding how, when, and if they can operate. This includes the Tapestry House, an events center located just .8 miles northeast of the Pope property, the Flower's House which is located 1 mile northwest of the Popes, the Tamasag Conference Center located .8 miles northwest of the Pope property, The Primrose Studio events center located .5 miles south of the Pope property, or the aforementioned Boutique Events Center, which will be located .8 miles north of the Pope property. **NOTE: See Page 7 for a comparison between the areas event centers.**

Comparison of Allowed Operating Conditions for Area Event Centers

<i>The following Event Centers are all located within .8 miles of each other (year of inception)</i>	<u>Preserve at Bingham Hill</u> (2013)	<u>Boutique Event Center</u> (2013)	<u>Tapestry House</u> (2000)	<u>Flowers House</u> (non-conforming legal use)	**Tamasag and ***Primrose Studio
Number of Homes affected by noise in 500' radius	2	21	9	Unknown	
Number of Homes affected by noise in 1,000' radius	5	48	85	Unknown	
Number of Homes affected by noise in 1/4 mile radius	7	71	144	Unknown	
Allowed number of events in a year	22 (Only 9 outdoors)	48 (No outdoor limit)	Unlimited (No outdoor limit)	Unlimited (No outdoor limit)	Unlimited
Required to hire off-duty Sherrif's deputy for all events	YES	NO	NO	NO	NO
Notify neighbors of date of each event	YES	NO	NO	NO	NO
Required placement of outdoor speakers	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
Required decibel reading from speakers (Every Hour)	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
Limited of number of guests and personnel on site limited by the number of parking spaces +++	170 total +++ *** <i>(Required of Deputy)</i>	109 total +++	Advertises for 225 guests Has been in violation of Conditions of Approval since approval in 2000 since approval in 2000	NO IMPOSED LIMIT	Unknown/35
Required use of specific areas for an event	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
Required finish time of outdoor events (7:00 PM)	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
Count cars in parking lLot	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
Required Sheriff's report to County Planning Dept.	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
All dance music required indoors	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
All food and beverage service must occur indoors	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
All outdoor sound limited to 2 hours	YES *** <i>(Required of Deputy)</i>	NO	NO	NO	NO
Hours of operation from 9AM to 10PM	YES *** <i>(Required of Deputy)</i>	YES	NO	NO	NO
Required installation of a 6' tall privacy fence	YES	NO	NO	NO	NO
Number of allowed parking spaces	65 spaces	49 spaces	52 spaces	NONE (Guests must park along CR 52E)	Unknown/Unknown
Number of guests per parking space	2.62	2.22	4.33	NO PARKING AVAILABLE	Unknown/Unknown

*** BOCC requires off duty Sheriff's Deputy be hired by The Preserve to monitor the tasks indicated

** Tamasag is owned by Colorado State University

*** Primrose Studio is owned by City of Fort Collins

SECTION VI

SPECIFIC DETAILS SINCE COMMENCEMENT OF THE PROJECT

All of the statements that follow are supported with either printed documentation, actual video footage from public hearings or with audio recordings) The text that is highlighted in gray represent public hearings as a result of the various applications.

#1) November 3, 1994...The Pope MRD was approved creating two lots.

#2) January 16, 1996...An application appealing a restriction to allow further subdivision of the Pope MRD was approved.

#3) July 11, 1996...Tract 2 of the Pope MRD was amended creating 1 additional lot.

2009

#4) January 2009...The BOCC amended the Larimer County Land Use Code to allow Event Centers and Seasonal Camps in the FA-Farming zoning district.

#5) July 28, 2009...An application appealing the restriction to allow only single family residential use on Tract 2 of the Pope MRD was submitted to the Planning Department. This application was approved by the Board of County Commissioners, resulting in the removal of the Plat Note, on October 12, 2009.

#6) October 19, 2009...An application was submitted to the Planning Department requesting approval for an Event Center and Seasonal Camp at 3924 Bingham Hill Road

- a) The Larimer County Planning Department stated that the Land Use Code would allow 335 events.
- b) The application that was submitted requested 130 events with a maximum of 200 guests per event.
- c) The Planning Services team and the Planning Department fully supported this application based on their determination that the application meets all of the standards of the Land Use Code.

#7) November 17, 2009...The application was heard by the LaPorte Area Planning Advisory Committee (LAPAC) which recommended denial (5:3) based upon opinions that the application did not meet certain sections of the Land Use Code. (LAPAC stands for LaPorte Area Planning Advisory Committee and is made up of LaPorte area citizens appointed by the Board of County Commissioners. They meet once each month to advise the Planning and Zoning Board on matters pertaining to the LaPorte area.

#8) December 16, 2009...The Planning Staff presented the application to the Planning Commission which recommended denial (6:2) based on "compatibility issues". See "**Exhibit A-1**" (page 23)

2010

#9) February 1, 2010...BOCC voted (2:1) to deny approval of the application (Johnson and Donnelly opposed, Gaiter in favor) based on the "determination that it is not compatible and in harmony with the area because of the concerns of the neighbors." Findings and Resolutions for this hearing are attached to this document as "**Exhibit A**" (page 28)

FACTS:

- a) The nearest house is 200 yards from Popes property and some of the dissenting neighbors live 3/8 of a mile from the property.
- b) Donnelly states in the hearing "that he is in favor of agricultural land being able to be used for non-agricultural purposes so the land does not become a subdivision."
- c) Immediately following the public hearing Commissioner Donnelly and Commissioner Gaiter [without any request] stop on their way out of the building to tell R. Pope and Ric Hattman (Pope's architect) what

changes need to be made in order for him (Donnelly) to “get on board” and vote for approval of the application.

d) The changes Donnelly suggests are “to move the parking lot further east (to where it is currently located) and to come in with a less aggressive plan with regards to the number of events.”

e) Pope states “that since the Planning Department has determined that all of the criteria was met, it seems like coming in later and asking for more events is just ‘nickel and diming the system’.”

f) Donnelly stated “that Commissioners don’t want to be in the business of putting businesses out of business so you need to operate the business for a year or so, then you can then come to us and we will give you anything you need and we don’t have to listen to all of the neighbor’s crap.” It made sense to us so we came forward with our second proposal.

Pope’s are later told by a county employee “that the Gaiter and Donnelly conversation immediately following the hearing was a violation of the “sunshine laws regarding open meetings and could be construed as ex-parte communication”.

#10) February 4, 2010...R. Pope, S. Pope and Ric Hattman, the Pope’s architect, meet with Donnelly in his office to officially and correctly hear his concerns about the project.

a) Donnelly explains his concerns about the location of the parking lot and the size of the venue and that “with those two changes he can get on board and vote in favor of the project.”

b) During the meeting Donnelly [from out of nowhere] tells the Popes and Hattman that Johnson received “a bunch of steaks” from John Schmid and Joan Welch (the Pope’s neighbors) during the course of the application process. [R. Popes “inner voice” is asking him what Donnelly is looking for, a ½ of beef or why would he be stating this?] R. Popes comment in the meeting is “we do not know anything about that...we are just hear how to understand how to make our project address your concerns.” The Popes and Hattman can’t believe what they just heard and discuss the comment on the way out of the building.

c) The next day R. Pope meets with Matt Lafferty in the Planning Department to tell him of the “steaks statement” made by Donnelly. Immediately upon recognizing the issue, Lafferty tells Pope that he does not want to hear anymore or be involved in any aspect of this conversation.” When asked who he (Pope) should talk with about the statement, he (Lafferty) suggests County Manager Frank Lancaster.

d) R. Pope leaves Lafferty’s office and proceeds to meet with Lancaster in his office to make him aware of Donnelly’s statements regarding Johnson taking the “steaks”. Lancaster “thanks Pope for letting him know”....and states “that he will look into it.”

[The Pope’s assert “the steaks” constitute both a bribe and ex parte communication.]

#11) February 5, 2010...The Planning Department received a request for re-submittal of a Special Review application for a Community Hall as one use and a Seasonal Camp for a second use, both uses proposing revisions in response to issues defined in the denial of the previous application. The Planning Director, via a telephone conversation, stated that she would accept the application.

#12) February 9, 2010...A new application (File #10-Z1777) is submitted requesting 60 events.

#13) February 16, 2010...An appeal (Welch/Schmid Appeal) to the Director’s decision that the application differed significantly from the previous application was filed with the Planning Department.

#14) February 16, 2010...Staff presented the Pope Special Review application to the LaPorte Area Planning Advisory Committee. LAPAC **recommended denial (4:3)** of the Community Hall use based upon general neighborhood compatibility issues. The Seasonal Camp use motion to approve or reject **failed (3:3:1)** due to a lack of a consensus/majority.

#15) March 22, 2010...Staff presented the Welch/Schmid appeal to the Board of County Commissioners. The Board of County Commissioners upheld **(3:0)** the Director’s decision that the changes were significant enough to allow re-submittal of a Special Review application for the same uses.

#16) April 21, 2010...Staff presented the application to Planning and Zoning Commission who voted to deny (6:2) the use for reasons of “compatibility” with the area. See **“Exhibit B-1” (page 37)**

#17) May 10, 2010...BOCC voted (2:1) to approve 60 events. (Donnelly and Gaiter approve, Johnson opposed) resulting in the application being “compatible and in harmony with the area.” The Findings and Resolutions for this hearing are attached to this document as **“Exhibit B” (page 46)**

- a) On the record, Johnson states that “his reason for denial is because he would not want it in his neighborhood.”
- b) Gaiter states “that he is in favor of property owner’ rights and small business.”
- c) After the meeting R. Pope sees Commissioner Gaiter and Commissioner Donnelly in the parking lot as they are leaving.
 1. Pope tells both “that he appreciates their vote.”
 2. Gaiter states “that he has been in favor of the project since the start; you need to thank
 3. Commissioner Donnelly because his daughter just got out of the hospital and he wasn’t going to come to the meeting but they were not sure they could get this approved without his vote.”
 4. Pope inquires of Donnelly “if his daughter is going to be okay.”
 5. Donnelly responds “she is going to be fine.”
 6. Pope tells Donnelly “thank you for coming to the meeting and for his vote.”
 7. Donnelly’s respond “it was a difficult decision whether to cost myself the votes of your neighbors or whether he should do what is right for a family. I chose to do what was right for the family”
 8. Pope says thank you and leaves.
 9. S. Pope recognizes that R. Pope is upset when he gets into their car. R. Pope explains what Donnelly had said and is upset that “costing him votes” had even entered the picture.

#18) May 13, 2010...R. Pope meets with Donnelly in his office to thank him for his vote and to speak to him regarding his statement about Johnson getting “steaks” from John Schmid and Joan Welch who are the Pope’s neighbors and opposed the approval. Pope wanted to also let him know that it did not seem correct to be concerned about “costing himself votes” when he was determining whether or not a project met the Special Review requirements of the Land Use Code.

- a) When Pope brings up the steaks comments that he made, Donnelly states “I don’t know what you are talking about.” He tries to deny that he stated Johnson had been offered and took the “steaks” from Welsh and Schmid during the course of the application process.
- b) When told that he made the statement in front of 3 people (R. Pope, S. Pope and Ric Hattman), he stated “I was probably trying to put some levity in the conversation”. Pope then stated that didn’t make any sense since he was doing all of the talking while the Pope’s and Hattman were listening....that the conversation was not in any way contentious...that there was not any disagreement with any portion of the conversation.
- c) (Donnelly) then continues by asking “why are you wanting to be ‘poor winners’; you got what you want so why should it matter?” Pope explains that “his concerns are not about being ‘poor winners’ but is concerned about him (Donnelly) telling him (Pope) about the fact that Johnson had taken “beef” from Schmid and Welsh.” Donnelly then tells Pope “he is not willing to discuss it any further.”
- d) When asked about considering votes when making decisions, Donnelly stated “that is what politics are all about; you got the approval you wanted so let’s just move on.” Donnelly then states “there is nothing more to discuss” and ends the meeting.

#19) May 2010...With the approval the Popes invest \$475,000 to build the facilities, make improvement and to purchase equipment.

- a) The national credit markets are in complete disarray so the Popes use the last of the money from their savings and retirement accounts to build the facilities, and make the improvements.
- b) This seemed safe because the Popes were confident that once the credit markets are back in order they will be able to get an SBA loan to borrow back some of the capital to replenish their savings accounts.

#20) August 5, 2010 (morning)...The bride for the wedding that is scheduled for August 14, 2010 notified Kelli Stadlman, the manager of The Preserve, that she (J. Whitman) is concerned that the number of guests attending her wedding will be larger than the approval allows because her “mother in law just invited a bunch more guests.”

a) **(afternoon)** R. Pope notifies the Planning Department (Matt Lafferty) and is told that the issue will be put onto the agenda for the August 9th show cause hearing” so it can be addressed by the BOCC.

#21) August 9, 2010...The BOCC holds a “show cause hearing” to determine if any of the Conditions of Approval have been violated. BOCC **voted (3:0) in Pope’s favor** that none of the Conditions of Approval have been violated. Findings and Resolutions for this hearing are attached to this document as **“Exhibit C” (page 58)**

a) The “oversized wedding” issue is not on the agenda for whatever reason.

i) Immediately after the meeting R. Pope speaks with Commissioner Gaiter (in the hearing room) regarding not addressing the “oversized wedding”. He states “that he does not think that it will be any big deal; just bring it to the Administrative Matters hearing tomorrow (Tuesday) morning.”

#22) August 10, 2010 morning...[From the minutes of the Administrative Hearings meeting] Randy Pope requested the Board’s approval to increase the number of guests for a scheduled wedding at his venue this upcoming weekend. He stated that the mother-in-law of the bride invited approximately 20 more guests than are allowed per his Special Review.

Discussion ensued. Commissioner Gaiter felt that he could allow a one-time exception; however, cautioned Mr. Pope about being able to control his business and work within the established guidelines. Both Chair Johnson and Commissioner Donnelly were not in favor of approving an increased number of guests for this event; both agreed that Mr. Pope needs to comply with, and operate his business according to the clearly defined expectations for his wedding venue.

MOTION

Commissioner Gaiter moved that the Board of County Commissioners approve of allowing up to 150 people at Pope’s wedding venue, scheduled for Saturday, August 14, 2010.

Motion failed 2-1; Chair Johnson and Commissioner Donnelly dissenting.

[From Popes notes:]

a) Commissioner Johnson states “this kind of thing should have been brought up in last night’s meeting and he is not certain if they can even make this kind of decision in an Administrative Matters meeting.

b) Commissioner Donnelly agrees with Johnson and states that “he does not want to have to face the neighbors again because they no doubt will be in here complaining again.”

#23) August 10, 2010 afternoon...Subsequent to the BOCC morning meeting R. Pope meets with Commissioner Gaiter and County Manager Frank Lancaster to try to figure out how to handle the “oversized event” on such short notice.

a) Commissioner Gaiter tells Pope that the three Commissioners discussed the “oversized event” after the Administrative Matters meeting and that the “official unofficial word” was to just go have the event and not worry about it. **[This is a violation of the Sunshine Laws]**

b) R. Pope states that “by the way Johnson and Donnelly stated their position in the meeting he (Pope) not only heard no, but hell no!” Commissioner Gaiter assures him “that there is a lot of posturing that takes place in the meetings because of the ‘neighbor situation’ and that it will be fine to hold the event; that the neighbors will not be able to count the number of guests; and again states that the “official, unofficial word” is it won’t matter to anyone.”

c) Pope asks Gaiter to explain what he means by the term “official, unofficial word”. Gaiter explains that “the “officials met unofficially after the meeting and talked about it and that they (Johnson and Donnelly) understand the circumstances and don’t have any real problems with it.

d) The Popes go ahead and hold the event and 147 guests attend. The Condition of Approval allows for a maximum of 130 guests. R. Pope states on the required quarterly report (as a Condition of Approval) that 147 guests attended the event. **[He could have inserted any number that he wanted to make sure he**

was compliant but elected to tell the truth. FACT: R. Pope is guilty of being honest.] In the Findings and Resolutions that were generated from the hearing, this point was one of two major issues cited for the revocation.

e) The neighbors obtain the report filed by R. Pope and make an issue of it at the December 13th 2010 “show cause (revocation) hearing”. This issue is stated in the Findings and Resolutions as one of the two primary reasons for the revocation.

#24) August 13, 2010...(morning) R. Pope meets with Tom Garton, Larimer County Building Official, to discuss occupant load to meet the Fire Code. **(afternoon)** Following T. Garton’s instructions, R. Pope composes and takes letter to Garton requesting a variance from an occupant load of 99 (to 130 occupants) in the gym structure.

#25) September 1, 2010...R. Pope sends e-mail to Kevin Wilson, Poudre Fire Authority Fire Marshall, requesting a face to face meeting so he can see facility and to talk about Fire Code and occupancy.

#26) September 8, 2010...Follow up e-mail sent to K. Wilson again requesting a meeting discuss Fire Code issues.

#27) September 14, 2010...After no response...another follow up e-mail (preceded by two voice-mails) to request meeting to discuss Fire Code issues

#28) September 21, 2010...Finally receive e-mail from K. Wilson requesting R. Pope’s availability for a meeting.

#29) September 24, 2010...R. Pope responds to K. Wilson’s request for meeting, letting him know to make a time and Pope will make it work in his schedule.

#30) September 28, 2010...Another reminder e-mail (preceded by two voice-mails) to schedule a time to meet.

#31) September 30, 2010...Via e-mails back and forth, a meeting is set for October 1 at 10:30 AM.

#32) October 1, 2010...Meeting with K. Wilson and Joe Jaramillo takes place.

a) R. Pope, Jaramillo and Wilson meet at property to discuss Fire Code requirements.

b) R. Pope informs Wilson and Jaramillo that he has an event on October 9th that will be approximately 80 people that will have to be held indoors if weather is inclement.

c) In discussion R. Pope requests an occupancy variance from the Code allowance of 99 persons to be increased to 130 persons to correspond with the BOCC imposed maximum property occupancy of 130 persons.

(i) Wilson states that since he has now seen the property he will consider the options and respond “within the next few days.”

d) At conclusion of the meeting Pope reminds Wilson and Jaramillo that he needs answers and an occupancy permit prior to October 9 event.

(i) Wilson assures Pope that he will get it resolved by no later than Wednesday October 6, 2010

#33) October 5, 2010...R. Pope sends Wilson an e-mail and leaves him a voice mail to remind him he needs to know his decision and needs a Certificate of Occupancy permit so he is compliant for the October 9th event.

#34) October 6, 2010...R. Pope sends Wilson another e-mail and leaves him an urgent voice mail to inform him that weather forecast is for inclement weather and he needs a waiver from him or a certificate of occupancy approval.

#35) October 7, 2010...R. Pope goes to Poudre Fire Authority office in an attempt to find K. Wilson or J. Jaramillo to get something that will make him compliant. R. Pope is informed that neither is in but that they will both be left a message to call R. Pope.

#36) October 8, 2010...sends e-mails twice and leaves voice-mails three times to K. Wilson twice throughout the day letting him know that he is going to have to have the wedding indoors because of tomorrow's (Saturday) weather and, without a response from him he is going to "have to make an executive decision to have the event indoors....to please contact him!!

#37) October 9, 2010...Poudre Fire Authority receives a complaint from Ken Ecton, one of the Pope's neighbors, that an event is being held without a Certificate of Occupancy.

a) Shawn McGaffin, of the PFA contacts R. Pope during the event to inquire if the facility has received a Certificate of Occupancy. He is both courteous and understanding.

b) Pope responds that he not have a CO but that there are only 74 occupants in the building.

(i) This is 25 below the maximum occupancy, even if Wilson determines the maximum occupancy can only be 99 (unless a sprinkling system was installed)

(ii) R. Pope tells S. McGaffin the story of how K. Wilson, despite many attempts to reach him, has not responded to his requests.

(iii) Fireman tells R. Pope that he will take it up with the department on Monday and get back to him.

#38) October 13, 2010...Popes receive a letter from K. Wilson stating that he is going to enforce the fire code (without allowing a variance) and that the maximum occupancy will be 99 persons without a sprinkling system.

#39) October 15, 2010...After inspection PFA issues a temporary Certificate of Occupancy for a maximum of 99 occupants.

a) R. Pope tells Garnet England, the PFA inspector, the story of how the whole process has gone

(i) G. England apologizes

(ii) R. Pope tells her that other members of the department do not think that K. Wilson is very effective in his job and should be replaced.

(iii) G. England confirms that "dealing with Kevin is challenging at times and that he is probably not as effective as he could be in his position." Popes learn later that he was fired when the new chief took over. They are told in confidence by another source that "how Wilson handled the Pope's permit issue is one of the reasons he was fired.

#40) October 19, 2010...R. Pope attends a meeting to discuss the events leading up to the lack of CO on October 9th. Attending are Chad Meyers and Shawn McGaffin both of PFA, T. Garton and Matt Lafferty of Larimer County...K. Wilson is supposed to attend but does not show up.

a) After much discussion, which is mostly comprised of C. Meyers asking R. Pope (in 5 different ways) if Pope knew the rules?

(i) Pope answers honestly each of the 5 times that he does know the rules but, given the lack of response from K. Wilson he had no other choice than to have the wedding reception indoors, given the fact that 74 people were there in bad weather to have a wedding that had been planned for 4+ months.

(ii) After 5 times of covering the same facts over and over, Pope finally states that he has been as honest as he can and doesn't know what else to say....that if it warrants a summons, he is willing accept one so everyone can go back to work.

(iii) Myers writes a summons which is ultimately dismissed in Larimer County Court

#41) October 21, 2010...R. Pope meets with Chad Meyers to inquire why K. Wilson did not show up to the meeting and why we had to go over and over the same material at the previous meeting?

a) Myers tells Pope “that Wilson knows that he screwed up but that he is not man enough to come to the meeting to admit his mistakes.”

b) C. Meyers tells R. Pope that he was “doing everything possible to keep from writing a summons but when you just kept telling me that you knew the rules and then finally said, just write me a summons so we can all go back to work, I had no choice but to write you a summons.” Meyers continued, “The summons is not a big deal; as soon as you get your permanent CO it will be dismissed”, which it was.

[Once again R. Pope could have chosen to be dishonest, but by being honest he is penalized] The occupancy issue is identified in the Findings and Resolutions as one of the two major reasons for the revocation.

#42) November 1, 2010...Purely by coincidence, at about 3:25 PM R. Pope unexpectedly sees and speaks with Donnelly and Larimer County Assessor, Steve Miller, in the hallway outside of the BOCC offices.

a) Upon seeing Donnelly, Pope stated “he is surprised to see him because he understood that there was a BOCC meeting that started at 3:00.”

b) Donnelly stated “it was a short meeting today because your neighbors were not in there complaining about you today.” As Pope and Donnelly discuss the issue Steve Miller asks “what are you talking about?” Donnelly starts to tell him (Miller) about the issues but almost immediately states “Randy can give you his side of the story”.

c) In the course of the conversation Donnelly interjects “that he is an eye for an eye, tooth for a tooth vindictive person and holds grudges and that once you have had your nose bloodied enough you will also become vindictive.”

d) R. Pope immediately feels that Donnelly is speaking of his being vindictive because of R. Pope questioning him about his statements regarding “Johnson and the steaks”.

e) Pope replies “Tom, I am probably 15 years older than you and I have had my nose bloodied a few times and have been around the block once or twice. Life is too short to become vindictive; Sheryl and I rely on our faith to try to keep moving forward with our lives, no matter what kind of setbacks happen.”

f) Donnelly replies “we’ll see if that is always the case.”

g) Commissioner Gaiter is later told of this conversation. He states “that kind of comment really concerns him and he needs to talk with Tom about it”.

#43) November 15, 2010...Poudre Fire Authority issues the Permanent Certificate of Occupancy

#44) December 13, 2010...At the request of the neighbors, and for the first time ever, the BOCC convenes a second “show cause hearing” to determine if any of the Conditions of Approval have been violated. After much discussion between Gaiter and Johnson, Johnson (as chairman) suggests to Gaiter that “they are going to have to agree to disagree”. Johnson then asks Donnelly for his comments. Donnelly’s states “I move to revoke the Pope Special Review”. Commissioner Johnson asks him if he does not have any comments, Donnelly responds “I have said all I am going to say.” Johnson asks for a vote on the motion and BOCC voted (2:1) to revoke the Event Center Use. (Donnelly and Johnson in favor of revocation; Gaiter opposed) Findings and Resolutions for this hearing are attached to this document as “**Exhibit D**” (page 60)

During this hearing:

a) Linda Hoffman (Director of Planning) gives completely inaccurate information to BOCC regarding dates of certificates of occupancy. (She later admits she made a mistake because of the information that she had on file as a result of a “glitch in the permit system program”.

b) In condition # 8 of the Findings and Resolutions the text states “Neighbor Ken Ecton provided written materials to the Board during the hearing. These materials were not found to be persuasive to the Board in reaching its decision”. (See #44 (b) (ii) below)

(i) S. Pope requests to see what has been presented; Johnson denies request, incorrectly and illegally stating that Commissioners have the “right to privacy” for certain documents. **[Pope’s believe that**

this is a violation of the Pope's "due process" rights because it is not legal for documents to be kept private if the documents are presented during a public hearing...and especially since S. Pope requested to see the documents at the hearing]

(ii) Whomever wrote the Findings and Resolutions added #8 to cover up the mistakes that were made in the hearing when Commissioner Johnson did not allow the documents to be presented publically during the hearing. The documents contained the same erroneous information that the Director of Planning stated (see (a) above in addition to other erroneous information. There is no doubt that Donnelly used the documents to arrive at his decision to move for the revocation. These documents were the only thing he referred to in the only statement he made in the entire hearing other than his motion to revoke the Special Review.

(iii) Commissioner Donnelly made his only comment (immediately upon reading the documents) of the entire hearing: "so did Randy lie to us on May 10th"? (No one provided any answer to his comment) There is no doubt that Donnelly was specifically referring to the date of the change of use permit, of which the date was what was incorrectly stated in the "Ecton" documents as having been made at the May 10th approval hearing. The statement was actually made at the August 9, 2010 show cause hearing at which time it was most definitely true.

c) As the "Commissioner only public discussion" is occurring between commissioner Johnson and Commissioner Gaiter, County attorney Jeannine Haag interrupts and advises the BOCC that "there are other ways besides a "legal action" to deal with any issues, that the BOCC does not need any more legal problems and that there are not any additional funds in the budget to fight a legal action". The BOCC pays no attention to this advice.

d) Director Hoffman also advises the BOCC that the Planning Department can take appropriate actions to deal with any issues. The BOCC pays no attention to this advice.

e) Other than the aforementioned statement detailed in (b iii) above, Commissioner Donnelly did not participate in the "Commissioner's public discussion". His only comment when Chairman Johnson asked his thoughts was "I move to revoke the Popes Special Review". With a surprised look Commissioner Johnson then asked "if he did not have any additional comments or thoughts." Donnelly stated "I have said all I am going to say". Commissioner Johnson then asked for a vote and the vote was taken. It took all of 23 seconds to kill the Pope's dreams. There were approximately 75 people in the room and there was not a sound to be heard; everyone was shocked to here that, without any warning, this was the outcome.

f) At the conclusion of the hearing R. Pope, in a state of shock, approached Jeannine Haag (the county attorney) to ask her exactly what this meant. It was evident that she was also surprised and possibly shocked with the decision. Before Pope was even able to say anything, Ms. Haag stated, "I am so sorry, I don't know what to say". Pope asked if the revocation also applied to the Camp Use. She replied, "that it only applied to the event center" and then stated, "I am just so sorry". Pope replied "thanks" and left

g) Four reasons for the revocation are given in the Findings and Resolutions ("**Exhibit D**") but the two "most significant reasons" are #1 and #2;

1) RE; Non-compliance with the PFA Fire Code;

i). Relating to event #24-#41 and #43; The summons that was issued as a result of the non-compliance issue had already been heard by the assistant District Attorney.

ii) The summons was dismissed by the court as soon as they had proof a Certificate of Occupancy.

iii) To no avail, Commissioner Gaiter stated it was his opinion that the BOCC did not have authority to address Poudre Fire Authority compliance issues, that the county courts had the authority. No one bothered to acknowledge his statement.

2) RE; Oversized Event;

i) Although he had an opportunity to do so, Commissioner Gaiter did not address the statements he made to the Popes in August regarding the “official, unofficial statement” (event #23) to have the “oversized event”.

ii) It is a fact that on the recording of the hearing Commissioner Gaiter can be heard whispering to Commissioner Johnson “this is where he is going to say that we told him that it was okay to have the event.”

3) RE: Attaching a roof to an approved deck

i) The roof was attached to a 16 ft. diameter deck that had been approved during the Special Review.

ii) The Popes did not realize that they need approval to attach the roof since the deck was approved.

iii) Unlike what is characterized in the Findings and Resolutions, Mr. Pope asked Director Hoffman to not have to remove the deck until it had gone before the “show cause” hearing and to let the Commissioners decide whether or not it needed to be removed. She agreed that would be the proper time to address the issue “so the Commissioners can make the decision.”

4) RE: Failure to limit music to tents with walls

i) Neighbors brought this up as a technicality. The fact that the music had to be confined to tents with walls was never stated in any of the Conditions of Approval in the Findings and Resolutions for the May 10, 2010 hearing at which time the use was approved.

h) Exhibit D #8 in the Findings and Resolutions is a blatant attempt to cover up the fact that the BOCC violated the Pope’s right for “due process”.

i) The revocation of the Pope Special Review is the first time in the history of Larimer County that a Special Review has ever been revoked. There are many, many examples of Special Review projects that have had many warnings without there ever being a revocation.

#45) December 15, 2010...R. and S. Pope meet with Commissioner Gaiter to try to understand how the revocation decision was made without any warning.

a) Commissioner Gaiter stated that he has asked Commissioner Donnelly why he changed his mind and how he came to make the motion to “revoke the Pope Special Review?”

b) Commissioner Gaiter stated that Commissioner Donnelly told him that “he [Donnelly] does not have to justify his decisions to his wife, and he sure is not going to justify his decisions to him (Commissioner Gaiter).

c) Commissioner Gaiter apologizes for his part in the revocation (the oversized event) and “begs” (actually using the word) the Popes not to sue the County because “we have enough information to blow up the BOCC and he wants to continue being a Commissioner.”

d) Commissioner Gaiter assures the Popes that steps can be taken to get the Special Review reopened.

#46) December 15, 2010...The Popes notify Home State Bank that they cannot proceed with their SBA loan application approval because their business use had been revoked.

a) On December 13th the Popes were notified that they had been approved for an SBA loan that would allow them to recover some of the capital that was used to build the approved facilities, in addition to providing for substantially better terms on their 2009 loan.

(i) The 2009 loan proceeds had been used to restock their nursery after it had been destroyed by hail in June of 2009.

#47) December 16, 2010...R. Pope encountered Commissioner Donnelly and County Assessor Steve Miller on the second floor overlooking the foyer on the first floor. The conversation went as follows;

Pope asked: “did you get my e-mail?”

Donnelly stated: “I did but I am not going to speak to you in person.”

Pope asked: “why not?”

Donnelly stated: “I do not want to be in a meeting with you and then have the conversation used against me in a law suit.”

Pope stated: “I do not have plans for a lawsuit and after the decision you made I could not afford one anyway.”

Donnelly then asked: “what is it that you want to meet about?”

Pope stated: “I wanted to find out what caused your change of mind with regards to supporting our project.”

Donnelly again stated: “I am not going to meet with you,” at which point I started to walk away.

As Pope walked away, Donnelly stated: “I (speaking of himself) am a ‘standup guy’ and went out on a limb for you and listened to all of the neighbor’s crap only to find out that you are not a stand up guy.” (He is referring to finding out from the neighbors that civil suits had been filed in Wyoming [against R. Pope] by former clients. The suits were later dismissed by the Wyoming Court.

Donnelly then continued: “I expected you to come to the Hearing begging us to let you continue to operate your business. Instead, you came in stating that you did not understand the Land Use Code and wanted some guidance. I even told you that you needed to operate your business for a while and then you could come back to enlarge it....Linda Hoffmann even told you not to request a Show Cause Hearing”

Pope stated: “this is the first I have ever heard of this, I need to talk with Linda because she is the one who suggested that we go to a Show Cause Hearing.”

Donnelly then stated: “that is not what Lew told me.”

Pope stated: “WOW...I need to talk with Linda and Lew and then I will come talk with you.”

Donnelly then concluded with: “No matter who you talk to I am not going to talk with you in person”.

Pope walked off to pick up the DVD of the meeting at the Commissioner’s offices.

#48) December 17, 2010...R. Pope contacts former Commissioner Kathay Rennells and asks her how to handle the issue of the revocation. She tells R. Pope that “she has been made aware of the issue and that it (the revocations) is caught up in a ‘political ball of string’ and that you will need to start over since a revocation has never happened before.

a) When informed that Linda Hoffman had given incorrect information and the Pope’s had requested (but were not allowed) to see documents that were presented in the hearing, she (Rennells) suggests having Linda Hoffman request that the hearing be reopened.

2011

#49) Early January 2011...Popes meet with Linda Hoffman and request that the hearing be reopened to clarify information presented and actions taken in the December hearing.

a) L. Hoffman tells Popes that the request has been denied because “a decision made in a Special Review has never been reopened.”

b) R. Pope again calls Kathay Rennells; she does not agree and gave an example of a hearing that, as chairman of the BOCC, she had reopened because inaccurate facts that were presented.

c) We later learn that the reason they will not reopen it is because “if they reopen the Pope Special Review they would have to reopen the ‘medical marijuana cases’ that have been closed and that no one wants to open that ‘can of worms’.”

#50) Early February 2011...Popes cancel all of the events that are already booked for 2011.

a) Popes refund all of the non-refundable deposits for 2011 events.

b) Popes have to forgo all of the revenue to cancellation of all events.

c) Popes property goes in to foreclosure due to inability to make bank note payments as a result of loss of income from Event Center.

#51) July 12, 2011...The Planning Department received the Bingham Hill Road 3924 Special Review application (File #11-Z1855). The Planning Director then determined that the application is sufficiently different from past applications and accepts the application.

- a) Director Hoffman insists on writing a Condition of Approval for each of the neighbor's complaints, none of which are based on any factual evidence.
- b) Popes offer to make most of the Conditions of Approval a part of their business plan so there are not so many Conditions of Approval and it shows they are being responsive to the neighbors concerns.
- c) Director Hoffman insists on the County making the suggestions so that it "shows the county is being responsive to the neighbors concerns."

#52) August 12, 2011...The Ecton/Majors Appeal (file #11-G0223), contesting the Director's determination that the application represented a significant change from the past applications, is filed with the Planning Department.

#53) September 12, 2011...The Board of County Commissioners uphold (3:0) the Director's determination that the Bingham Hill Road 3924 Special Review application represents a significant change from the previous applications and should be allowed for consideration through the public hearing process.

#54) September 20, 2011...The application is presented to LAPAC who **vote to approve (4:3)** the use because it is consistent with the LaPorte Area Plan.

#55) October 19, 2011...Staff presents the application to the Planning and Zoning Commission who vote **(4:4)** to deny (because a "tie vote" is considered a no vote to whatever the motion was that is being voted on) the application based on the belief that there are too many Conditions of Approval. See **"Exhibit E-1" (page 67)**

#56) November 11, 2011...The BOCC votes **(2:1)** to deny the application because there are too many Conditions of Approval and it is not compatible and in harmony. The Findings and Resolutions for this hearing are attached to this document as **"Exhibit E" (page 78)**

- a) Gaiter tells R. Pope that he believes Johnson was in agreement to approve until Roger Morgan spoke about "having too many Conditions of Approval and that if the Popes were willing to accept the Conditions they should have included them in their business plan."
- b) Pope told Gaiter that they had, in fact, offered to put them into the business plan but Planning Director Linda Hoffman felt that if she made them as Conditions it would show that the county was being responsive to the neighbors concerns.
- c) The BOCC states that because the area is too residential in nature, the compatibility and harmony issues are the reason for denial of the application.
- d) In February 2010, members of the BOCC had stated the area is too rural for this type of activity to be "in harmony and compatible with the area."
- e) In 2013 member so the BOCC later reverses their reasons, stating that "we should expect that this type of use would be more acceptable in a residential area because the residents are more used to noise and traffic" **[There is complete contradiction of the rural vs. residential issue throughout the numerous hearings] This further contributes to the arbitrary and capricious decisions (without merit) made by the BOCC.**

2012

#57) March 22, 2012...R. Pope meets with Commissioner Gaiter, who encourages him to come to the Larimer County Republican Assembly meeting.

- a) Gaiter tells Pope that "based on his interaction with Commissioner Donnelly he does not believe that he (Donnelly) is an effective leader and will not be voting for him to be re-elected".
- b) R. Pope attends Assembly Meeting and observes as Commissioner Donnelly is nominated to run as the Republican's choice for re-election.

#58) June 6, 2012...The Planning Department received the Bingham Hill Road 3924 Special Review application 12-Z1890. The Planning Director determined that the application is sufficiently different from past applications and accepted the application.

#59) June 11, 2012...R. Pope meets with Commissioner Johnson to talk with him about his taking “steaks“ from the neighbor during the original Special Review and to ask him about his relationship with Liz Whitney, one of the opposing neighbors.

a) As the meeting commenced R. Pope stated that he was going to look him (Johnson) in the eyes and was going to ask him “man to man”, a question that had been bothering him (Pope) for two years. Pope requested that with his answer he (Johnson) look directly into Pope’s eyes.

1. Pope asked Johnson “did you receive a gift of some beef from John Schmid and Joan Welch while our application was in process?” The first time Pope asked the question, Johnson became visually uncomfortable and squirmed around in his chair for an estimated 30-45 seconds before he finally answered (while looking at the floor). He stated “yes I did but I don’t see any problem with it.”
2. Pope then asked the same question again, asking him (Johnson) to look him (Pope) in the eyes and give him his answer. Once again Johnson became uncomfortable for several seconds before answering the question again with the same response (while more or less looking at Pope). Pope then told Johnson “that if their (the Pope’s) perception became their reality, then you took a bribe.” Johnson responded “that he did not agree with that statement.” Pope stated “like many other things we will have to agree to disagree.”

b) Pope then stated “I also believe that you have a conflict of interest with Liz Whitney, David Twedt and Raye Sullivan.”[who are dissenting neighbors]

1. Johnson asked ‘why do think I have a conflict of interest?’
2. Pope stated “because you are a veterinarian by trade and so are Liz, Dave, and Raye. I think there is a conflict that yo should disclose because this is a pretty exclusive organization and it could be easy to be partial to other vets wishes.”
3. He immediately volunteered “Whitney and I are veterinary school classmates, and are friends and occasionally have dinner with each other. I don’t see any problem with that.”
4. Pope explained that he believes Commissioner Johnson has a major conflict of interest and that it explains how he interacted with her during the hearings.
 - Pope stated that it often appeared that he and Liz were having a discussion while having a beer at the bar.”
 - Pope explained that he was referring to the fact “you (Johnson) always allowed her to make lengthy statements when others had to keep their statement short and to the point.”
 - Pope further explained “more than once you allowed her to return to the podium after she had finished at which time you seem to be having your own discussion about her concerns while she leaned on the side of the podium.”

c) Pope then asked Johnson why he decided to get into politics.

1. Johnson stated “he had emigrated from Russia to the U.S. with his parents and that he had always wanted to be a part of the process to make sure that the government wasn’t being oppressive to its citizens.”
2. Pope stated “but by you consistently voting to deny us the use of our property, he was being oppressive....you seem like you are contradicting yourself.”
3. He stated “he did not see it that way since he was representing the wishes of some of the neighbors.”

d) Later in the conversation he (Johnson) stated “he believes that during the processes “some mistakes were made and that he thinks we should go through the process again.”

1. He stated “he believes that he can find some number of events that will compatible and harmonious with the area.”
2. When asked how if several events are “compatible” how is it that not all of them are compatible? He stated “that is a good question”, without elaborating further.

It is not just coincidence that “he believes that he can find some number of events that will compatible and harmonious with the area.”

#60) August 21, 2012...The application for the Pope Community Hall Special Review is heard by the LAPAC. The application is recommended for denial “because the neighbors are clearly not in favor of it”.

#61) September 19, 2012...The application for the Pope Community Hall Special Review is presented to the Planning Commission. They **recommend** to the BOCC **approval** of the application **by a (6:3) vote**. See “**Exhibit F-1**” (page 92)

#62) October 15, 2012...Planning Staff presented application to BOCC, which after lengthy discussion decided to close public comment on the application and to have a “commissioners only” hearing in November, then **voted (3:0) to table** the decision until December 3, 2012.

#63) November...2012...BOCC convenes a “Commissioners only” public hearing to discuss the parameters of the Conditions of Approval for application #12-Z1890.

a) At one point in the hearing as they were discussing adding numerous Conditions of Approval to the application, Commissioner Gaiter cautioned the Board that “they have to be careful with how many Conditions they add because the previous application was denied because it had too many Conditions of Approval, and therefore, was deemed not compatible and in Harmony with the area.” Johnson acknowledged Gaiter’s comment that he “agreed.”

b) After discussion by only the commissioners, the BOCC reversed their decision they made at the October 15 hearing and decided they would re-open the public comment for the December 3rd hearing.

#64) December 3, 2012...After 3 public hearings on the application the BOCC finally **votes *** (2:0) to approve 22 events** but discuss and add many unreasonable Conditions of Approval to what is already a very restrictive business model. (Commissioners Johnson and Gaiter approve)

a) Donnelly explained “the reason for his decision to recues himself is because his wife works for his brother’s engineering firm, which had been contracted to do engineering work for the Pope’s daughter and son in law’s house.”

b) He further explained that “while his wife was at work she opened the mail containing a check, signed by Mrs. Pope, made payable to his brother’s engineering firm.”

*****Donnelly decides to recues himself “because his family has received financial remuneration from Mrs. Pope.” [However, Donnelly does not again recues himself at the (next BOCC hearing) on October 13, 2013 even though there were no changes in the circumstances from the previous hearing when he recuesed himself (see issue #75)]** The findings and Resolutions for this hearing are attached to this document as “**Exhibit F**” (page 99)

The Pope’s believe that the real reason he recuesed himself is that he (Donnelly) did not want to be guilty of changing his mind for the 4th time.

2013

#65) January 24, 2013...Upon receipt of the Findings and Resolutions (F & R) of for the December 3rd hearing, the Conditions of Approval are very lengthy and stated such that they are contradictory. Examples are as follows;

- a) Even though the approval allowed for 22 events, due to contradictive language in the Conditions of Approval in the F & R, the approval really only allows for 6 outdoor events.
- b) Only one event per month in the months of April – September.
- c) No more than one event in 30 days...

- TRY FIGURING OUT HOW TO MAKE “B” and “C” FIT TOGETHER IN ANY FORM, LET ALONE IN A BUSINESS WHOSE CUSTOMERS REQUEST SPECIFIC DATES FOR THEIR EVENTS. [Another example of the BOCC making arbitrary and capricious decisions that, a) have no merit and, b) are not imposed on any other event center (or for that matter), any other business]

#66) January 30, 2013...R. Pope meets with Commissioner Gaiter to bring the contradictive F & R language to his attention.

a) After discussion Commissioner Gaiter agrees with Pope that the Conditions of Approval are not what he thought got passed and agrees with Pope that there are contradictions.

b) Commissioner Gaiter states that “he did not read the F & R prior to agreeing to them but will go along with whatever Commissioner Johnson decides because he has been the one who has opposed it since the beginning.”

#67) January 31, 2013...R. Pope meets with Commissioner Johnson and Matt Lafferty (who Johnson requested come to the meeting) to bring the contradictive F & R language to his attention.

a) ...Pope asks Johnson and Lafferty what Conditions they believe were approved at the December 3, 2012 hearing.

...their beliefs are similar to what Gaiter believed was passed.

...After listening to what they say, Pope interjects that is “not what the Findings and Resolutions state”.

...Johnson and Lafferty are then confused.

...After Pope points out the discrepancies, Pope asks Johnson “if he read the F & R before signing them?”

...Johnson replied, “I did not read them.”

...Pope asks if it “is common practice that he does not read the Findings and Resolutions before signing them?”

...Johnson stated “no, I normally read them before they get approved”

...after discussion Johnson stated “that he agreed that there are some questions and contradictions but will have to think about how the BOCC will remedy the situation.”

...Pope stated that “there is not any way they can be profitable and sustainable with the limitations that have been imposed”

...Commissioner Johnson tells Pope “to try to get through the summer of 2013 without any issues in order to create some history under the new approval so the BOCC can find the Event Center compatible and get it fully reopened.”

#68) February 21, 2013...The Planning Department relays the message that the BOCC determined that the only way to correct anything was to go through another Public Hearing process.

a) In order to correct the contradictive language from the F & R, the Popes are told that Commissioner Johnson arbitrarily determined “he is okay with any way the Popes can utilize the ‘two events in 30 days Condition’ utilizing any consecutive 30 days they can come up with.”

#69) June 2013...In order to get the contradictions changed in the January 2013 F & R, the Planning Department determines that the process needs to be an Amended Special Review which requires the full review process to be implemented.

#70) July 8, 2013...The Planning Department received the (File #13-Z1918) requesting amendments to the application File #12-Z1890.

a) The application requests 22 events with very minimal Conditions, thereby allowing The Preserve at Bingham Hill to operate on a level playing field similar to how all of the other Event Centers in Larimer County are allowed to operate.

b) The application is later amended (after urging from the Planning Department) to request 48 events.

#71) August 19, 2013...The BOCC unanimously approves the Boutique Event Center .8 miles north of the Preserve at Bingham Hill.

a) The property for the “Boutique Events Center” is located on CR 52E (Rist Canyon Road) .8 miles from the Pope property. .

- b) The approval includes 48 events with no restrictions or limits on how they can schedule or hold their events.
- c) Even though there were neighbors opposing the Boutique Events Center, the BOCC via the approval, arbitrarily determined that the Boutique Event Center was compatible and in harmony with the area.
- d) The BOCC has approved 5 other event centers (all within less than 1 mile) that surround The Preserve at Bingham Hill.
- e) The approval of the Boutique Events Center fully contradicts the BOCC's previous reasoning for the limitations on The Preserve at Bingham Hill; "that the area on Bingham Hill is too residential for The Preserve at Bingham Hill to be fully compatible and in harmony with the area."
- f) The immediate area surrounding the Boutique Events Center is fully residential and impacts many more homes than what is being impacted in the area of The Preserve at Bingham Hill. **[See the previous chart for a comparison of the event centers that have been previously approved in residential areas within 1 mile of the Pope's project]**

#72) August 20, 2013...Immediately upon approval of the Boutique Events Center, the Planning Department suggest and the Popes agree that there is not any difference in the implications on the areas and that they (the Planning Department) would support the current Amended Special Review application being amended to request 48 events for The Preserve.

#73) August 20, 2013...LAPAC votes (5:1) to deny any increase in the number of events.

- a) There is discussion as to how LAPAC could unanimously decide that the Boutique Events Center **is** "compatible and in harmony" with the area but yet .8 miles south The Preserve **is not** "compatible and in harmony" with the area.
 - (i) A LAPAC member expresses her concern that only the personalities are being considered not the similarities of the two projects. Some members agree, others disagree.

#74) September 18, 2013...The Planning and Zoning Commission votes (5:2) to approve the Amended Special Review. See "**Exhibit G-1**" (page 113)

- a) The opposition to The Preserve at Bingham Hill is limited to 5 couples who have property on Bingham Hill.
- b) The support for The Preserve at Bingham Hill is in excess of 200 citizens that have voiced support.
- c) R. Pope is asked in the P and Z Commission Hearing by Commissioner Jensen if he believes "he is being picked on and has been treated unfairly?"
- d) Pope responds "yes, that nothing in the process has been fair and that he believes that he and his family are being discriminated against."
- e) Commissioner Jensen stated "that he agrees with Pope; that the process has not been fair or equitable."
- f) Commissioner Jensen states that the actions taken against the Popes have resulted in "tyranny by the minority".
- g) Commissioner Daugherty stated "that he believes the only way the neighbors are going to be happy is if the Popes have to sell their property and go live in an apartment somewhere."

#75) October 14, 2013...BOCC voted (3:0) (***** see below...Donnelly does not again recues himself**) to slightly modify the Amended Special Review, with the same limitation of 22 events but with language that will effectively allow 9 usable events (increased from 6). There are still many debilitating and discriminatory Conditions added to the Findings and Resolutions, all of which do not allow for the business to be profitable and, therefore, not sustainable.

- a) At the start of the hearing Commissioner Johnson stated that he wanted to hear new facts and did not want to hear about the past. There were no new facts of any kind presented by the opposition. However, Chairman Johnson allowed the opposition to present the same information as has been presented in the

past. Only the Popes presented any new information, all of which confirmed they had operated within the Conditions of Approval. Yet there was very little change, especially in recognizing that for businesses to be sustainable they need to be profitable. It is not all the norm for a business to go broke while turning away tens of thousands of business each month.

b) At the start of hearing the Popes asked for fairness and to be treated equally to the other event centers in the area. Page 5 of this document illustrates the Conditions of Approval for each of the Event Centers that have been mentioned in the public hearings. The 5 venues shown are all located within 1 mile of each other. The Conditions imposed upon the Popes are not only completely dissimilar to the 5 local area event centers, but also to any other event center in Colorado. **[Another example of how the Popes have been discriminated against]**

c) The Preserve hosted 8 events during the summer of 2013 and there were not any complaints filed with the Larimer County Sheriff's Department's "off duty officers" who were, as a part of the Conditions of Approval, required to be onsite to field and deal with any complaints.

d) The captain of the patrol division for the Sheriff's office was at the hearing to report on the findings and provide "official reports" of his officers who attended the events. The Commissioners did not call him to speak until the very end of the hearing. When they find out he did not personally attend any of the events they do not ask him to give any comments. **The Sheriff's reports, the Larimer County Health Department noise report and two Sound Studies are attached as "Exhibit H" (page 136)**

e) He later comments to me "that they (the Commissioners) did not want to hear the truth." **[This is another example of the BOCC dismissing facts and then making decisions that discriminate against the Popes.]**

f) No more than 9 usable events were ever considered and the Conditions of Approval are such that the events would have to fit into a very narrow segment of any Event Center's business. The business is not sustainable with only nine outdoor events.

g) Prior to the conclusion of the hearing Commissioner Johnson is on record as stating **"that the hearings do not have to be fair and equal." This statement is the very definition of discrimination]**

h) At the conclusion of the hearing R. Pope speaks to Commissioner Gaiter. During the conversation Pope starts to state that "many people believe that this Board is the most" (and Commissioner Gaiter finishes the statement with) "dysfunctional Board the county has ever had." When Pope asked how he (Gaiter) knew what he (Pope) was going to say, Commissioner Gaiter responded that "he hears it all of the time and he agrees with the statement." He continued with "if you think this was dysfunctional, you should have seen what happened during the floods". Pope did not question what he meant by that statement .

(*)Donnelly does not recues himself this time even though there has not been any change in the circumstances for which he previously recused himself.** The Findings and Resolutions for this hearing are attached as **"Exhibit G" (page 121)**

#76) General...As a result of the 22 public hearings for The Preserve at Bingham Hill, at least five changes were made to the language in various sections of the Larimer County Land Use Code. These changes were made as a result of, and subsequent to, decisions that were made by the BOCC in order to justify their decision. To the Pope's knowledge none of the amendments that were made to the Code were ever publically advertised. **[If documented this would be another example of the lack of "due-process" during these processes.**

END