

January 11th, 2011

FIRST MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on January 11th, 2011, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward H. Norden called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Debbie Bell	Commissioner	Present
Brenda Jackson	County Attorney	Present
Katie Barr	Clerk and Recorder	Present

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Jody Blausen Deputy Clerk.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Norden moved the Liquor License Renewal for Hilltop Market to item #10 under New Business of the Agenda as it was a late submittal. Norden also added an item to the New Business section of the agenda, he changed item number 3 to The Resolution for the Suspension of the Fire Ban for Fremont County and moved all of the other new business items down one number. Commissioner Stiehl moved to approve the amended agenda. Commissioner Bell seconded the motion.

Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl said the Minutes from the December 28th, 2010 meeting had one change before being approved. The modification was changing the word from “approve” to “accept” under the Clerks Report. Commissioner Stiehl moved to approve the amended consent agenda. Commissioner Bell seconded the motion.

Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

Commissioner Norden recognized Larry Lasha for his 8 years of service as the District 2 County Commissioner and said it had been an honor to serve on the Board with him. He asked Larry to come to the podium. Pat McFarland, the County Treasurer and Norden presented Larry with a John Deere bucket filled with gifts, and a photo. Gary Weirton of the Department of Transportation presented Lasha with a large box to be opened later. Lasha thanked everyone for the gifts and said he enjoyed serving the County. He wished Commissioner Bell luck in her new position.

County Manager, George Sugars gave his report of sales and use tax collected for December 31st 2010. The total was above 2% from last year. The Retail sales tax was down about 1/3% and the auto tax was down 1 ½% from last year. The Construction Use tax was up 65% from last year due to a few special projects going on in the County. Sugars said the final results for the year will not be in until February.

January 11th, 2011

Commissioner Norden welcomed newly elected County Clerk, Katie Barr. Katie gave the final Clerks Report for the December 2010. Total fees collected for December 2010 were \$601,657.24 which was \$16,572.46 higher than last year. Of that money \$251,667.99 went to the State for Faster Fees, etc. Of the money collected Fremont County only got to keep \$54,085.87. Commissioner Norden said he hopes the citizens understand that all of the money we get from the Motor Vehicle Department is not all kept by the County, as it gets distributed to different entities. Commissioner Stiehl moved to accept the Clerks Report. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

Tony Adamic of the Department of Transportation commented the nice weather had saved the County some money on snow removal in 2010. However the last 2 weeks we have had over 12" of snow. He said the number for the Public to call for any concerns or comments on the road conditions is 275-2047. Tony said the main arterial roads are the first to be cleared, then the secondary roads, and the dirt roads are last. Commissioner Norden asked if the list of roads is posted on the County website. Tony said not as of yet but he will look into this, but the list is also posted in the office of the Department of Transportation.

2. Citizens Not Scheduled:

Kurt Lukasen wanted to thank Tony and Paul Garrett for the great job they do on the County Roads. He drives a school bus and the roads are always clear. He also thanked the Sheriffs Department for the fine job they did handling the recent death of one of his neighbors. Kurt said he lives in the Road Gulch area and the resurfacing of that road was very helpful.

OLD BUSINESS

None.

NEW BUSINESS

1. Organization of the Board of County Commissioners

Commissioner Bell nominated Commissioner Norden to serve as the Chairman of the Fremont County Board of Commissioners for the calendar year of 2011. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

2. Appointment of Chairman Protem

Commissioner Bell nominated Commissioner Stiehl to serve as the Chairman Protem of the Fremont County Board of Commissioners for the calendar year of 2011. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

3. Appointment of Fremont County Attorney

Commissioner Norden motioned to re-appoint Brenda Jackson as the Fremont County Attorney for the calendar year 2011. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

January 11th, 2011

4. Consideration of a Resolution for Suspension of Fire Ban for Fremont County

Sheriff Jim Beicker welcomed Commissioner Bell and County Clerk Katie Barr as newly elected County Officials and said he looks forward to working with them during this term. Beicker noted his concerns regarding fire bans for the County. He urged the citizens that need to burn for agricultural purposes, to do so as soon as possible. Jim said on a case by case basis he has allowed for some citizens to do some burning. This has caused some confusion within the different districts of the County. Jim sends out Kent Degarmo, his wild land expert to deal with these cases. Beicker noted that even though he may exempt someone from the County fire ban, they still have to comply with whatever other district they may be located in. The Sheriff asked the Board to suspend the current fire ban that is in effect, and he will continue to monitor the conditions. Commissioner Norden noted that the Sheriff's imposition of a fire ban deals only with the unincorporated areas of Fremont County outside of any Fire District Boundaries, such as Deer Mountain Fire District. The Sheriff said he will sit down with BLM before the fire season begins. Jim said the signage issue needs to be addressed. Commissioner Norden said this will be Resolution #1 of 2011. Commissioner Stiehl moved to approve Resolution #1 of 2011 suspending the fire ban for Fremont County as of 10:00 a.m. January 11th, 2011. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

5. Resolution Designating Schedule for regular Meetings of The Board of Fremont County Commissioners

Commissioner Norden said the Board of County Commissioners typically meets at 9:30 A.M. on the second and fourth Tuesdays of the month. Commissioner Bell moved to continue the Board of Commissioners Meetings on the second and fourth Tuesdays of the month at 9:30 A.M. and adopt this as Resolution #3. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

6. Resolution Designating Official Posting Place of Meetings for The Board of Fremont County Commissioners

Commissioner Norden said the Resolution will designate the bulletin board in the reception area of the County Commissioners Office, and the bulletin board in the hallway by the door of the Commissioners office as the official posting places for notice of Fremont County Commissioner public meetings. Commissioner Norden moved to adopt Resolution #4 Designating the Official Posting Place of notice of Public Meetings. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

7. Resolution Designating official Newspaper for Fremont County

Commissioner Norden said this Resolution recognizes two legal publications, the Canon City Daily Record, and the Florence Citizen for publication purposes as Resolution #5. Commissioner Stiehl moved to adopt Resolution #5 for designation of the official Newspapers. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

8. Resolution Designating Official Depositories for 2011

Commissioner Norden said the next Resolution is designating and approving official depositories for Fremont County Funds for 2011 as Resolution #6. The depositories are as follows:

January 11th, 2011

- 1.) Sunflower Bank of Canon City
- 2.) Colorado Surplus Asset Fund Trust (CSAFT)
- 3.) COLOTRUST
- 4.) Canon National Bank

Commissioner Bell moved to adopt Resolution #6 designating and approving the above mentioned as Official depositories. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

9. Award of 2011 Stationery Bid

George Sugars said we had received two Stationary Bids. The low bid was from Peak Printing for \$595. He recommended we award the bid to Peak Printing. Commissioner Stiehl moved to award the Stationary Bid to Peak Printing in the amount of \$595. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

**10. Request: SRU 04-006 ROCKY MOUNTAIN EXCAVATING
CHANGE OF CONTINGENCY OF APPROVAL**

Request approval of a **waiver of the required, adequately maintained 8 foot solid screening (fence) along the east side of the property, by Bennie & Shawnee Koch, owners of Rocky Mountain Excavating.** The adequately maintained solid screening (fence) along all property lines was a contingency item of approval, for Special Use Permit, Department file #**SRU 04-006 Rocky Mountain Excavating.** The Special Review Use Permit was issued for the operation of a contractor's yard, including professional offices. The property is located at the southeast corner of D Path and County Road #27A aka Copper Gulch Road, in the Colorado Acres Area. The property is zoned Business, and contains 1.78 acres. Representative: Shawnee Koch, Rocky Mountain Excavating LLC.

Shawnee Koch of Rocky Mountain Excavating said there is a steep hillside and there is nothing to anchor the fence to. Bill said he has no objection to the proposed waiver. It would be a waiver of the original approval of the buffering of the landscaping and the screening for the contractors yard. Commissioner Stiehl said this would be only along the East side of the property. Commissioner Stiehl moved to approve the waiver of the required 8 foot solid screening fence along the east boundary of their yard for Rocky Mountain Excavating, SRU 04-006. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

11. Liquor License for Hilltop Market

Commissioner Norden said the Liquor License for Hilltop Market is a 3.2% Retail License that was a late submittal and was moved from the Consent Agenda to the Regular Agenda. Commissioner Stiehl moved to waive the submittal time requirement and approve the Liquor License for Hilltop Market. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

January 11th, 2011

REQUEST: SRU 10-007 ROYAL GORGE ZIP LINE TOURS

Request approval of a **Special Review Use Permit for a Rural Recreational facility, Department file #SRU 10-007 Royal Gorge Zip Line Tours, by Anna Seufer as the applicant on property owned by AJET Ventures, LLC, to allow up to seven zip line runs, with four line departures a day, seven days a week, on a year around (March through November) basis.** The zip line tours will be guided by a minimum of two trained “zipping” guides. The zip line tour will be structured as a small group experience for eight to ten participants. All participants will be shuttled to the course via a 15 passenger van from 45045 US Highway 50, which is approximately 1.5 miles from site. The property contains a framed dwelling which is being used as a vacation rental and will not be used in conjunction with the zip line operation. The property is located on the south side of U.S. Highway 50, 0.56 miles east of Fremont County Road 3A (aka Royal Gorge Road), in the Royal Gorge Area. The property is zoned Agricultural Rural and Agricultural Estates (There will need to be a similar use designation for the use in AEZD possibly an athletic field allowed by SRU in the zone district under an Urban Recreation Facility or a zone change to the ARZD and contains approximately 126.918 acres. Representative: Matt Koch, Cornerstone Land Surveying, LLC.

Commissioner Norden opened the Public Hearing at 10:02 a.m. and introduced Matt Koch of Cornerstone Land Surveying and congratulated Matt on his newly elected position as Fremont County Surveyor. Matt said there are 9 zip lines planned at the back of the property near the hills. The planning commission approved up to 16 zip lines, however only 9 zip lines are currently planned. This will allow for the applicant not to have to come back with another SRU in the future. There will be up to 30 line departures per day. Matt noted there had been one letter from a concerned neighbor regarding excess noise and trespass. The planning commission minutes stated the property is completely fenced. However, it is not entirely fenced along the East side of the property. These tours will be led by 2 guides on each tour, and noise should be minimal. The Department of Health did give approval for the chemical toilet, so there will not be a need for a septic system. Matt noted that contingency will need to be updated. Matt asked Ty to explain how the zip line tours would operate.

Ty Seufer explained Bonsai Design is a top notch designer, and he plans on having a world class tour. Customers will check in at the building already in place, and will be taken by van to the zip line course. The zip lines are coated in plastic, and the riders wear gloves, so the noise is minimal. He said there are 2 guides that go out with each group, and the ideal group size is 8 people. The tours last about 2 ½ hours and depart every half hour. There is another cable that is a breaking cable, so it is safer for the rider. Commissioner Norden asked Ty to point out the course on the map. Ty said the entrance is about 150 yards up Highway 50 from the ticket office. The rider first goes on a 100 foot training line. There is about a half mile hike from the end of a zip line, to the beginning of the next line. Ty said there are not any people transports on the course. Commissioner Norden said the Planning Commission minutes state there is an ATV used for transport. Ty explained the last hike of the day is very steep, and if someone was not capable of hiking the last 900 feet they could then haul them on an ATV. Ty said the ideal group is 8 to 10 people, otherwise, the people in the tour will get tired of waiting on the other riders. Commissioner Stiehl asked if this is the final plan. Ty answered the Blue tour is the tour they want to build. They may have some slight changes if they run into a situation with not being able to drill a hole in a certain location. Commissioner Norden asked if they are going to develop another entire course. Ty said that is not the plan. Norden asked Bill if the Planning Commission’s intent is to maximize the number of zip lines and allow them to develop 2 or 3 courses. Bill said he is unsure of the Planning Commission’s intent but they approved the request for 16 zip lines rather than the 7 that were requested. Commissioner Norden asked if they approve a request for one course, but up to 16 lines, then what keeps them from developing an additional course once approved. Bill stated he has a problem with allowing 16 zip lines when everything else had been approved based off of 10 zip lines.

January 11th, 2011

Norden said he would rather approve a course with a certain number of zip lines. Commissioner Stiehl said the Department of Health had approved the portable toilets based off of the 10 zip lines, not 16 as did the Colorado Department of Transportation base their plans off of the 10 zip lines. Ty assured the Board he does not intend to build another course, the Planning Commission had offered the 16 zip lines. Commissioner Bell asked how much of the 127 acres does the one course actually take up. Ty answered under 50% of the acreage will be used for the course. Norden said the land is not completely fenced, and he has at least 2 letters from neighbors who are concerned about trespassers and asked Ty how he plans to keep this from happening. Ty explained the riders will be with guides at all times so it is unlikely trespassing will occur. Norden asked if his employees are aware of the property lines so they will not trespass either. Ty said he is aware of the property lines and will make sure his employees know the boundaries as well. Matt noted the area that is not fenced was for grazing, and is well away from the course. Commissioner Stiehl asked Ty how many employees he is intending to hire for the course. Ty answered approximately 14-18 guides plus some additional office staff. Bill noted the applicant did post the property, had proof of publication, and did send out additional notices to owners within 500 feet of the course. Bill stated the Planning Commission did recommend approval of this application. He said items A-H are standard conditions. The planning Commission did approve the hours of operation to be from 7:00 a.m. to 10:00 p.m. rather than the applicants request of 7:00 a.m. to 7:00 p.m. The Planning Commission also recommended adding conditions J & K which changes the zip lines to 16 and will be limited to 30 line departures a day. Bill said condition L has to do with the weeds. Condition M and N have to do with the Building and sewage disposal permits, which is standard. Condition O requires a \$1,000,000 premises liability insurance policy. Condition P asks for an independent yearly inspection of the cables, anchors, and towers to be provided to the County. To Bills knowledge there is not a government agency that performs these inspections. Condition Q asks for a log to be kept of all zip line riders and all zip line employees to be trained in safe operations. Condition R says no customer or vehicle traffic is permitted. Condition S states all customers are to be transported to the site only by Royal Gorge zip line tours drivers and vehicles. The County engineer asked for Condition T, for some natural ground swells to be put in place along the road to help with the drainage. Condition U is a standard condition. Condition V stipulates that Royal Gorge Zip Line Tours Inc. is the entity that will operate under this permit. As far as recommended contingencies, 1 is for an executed lease between Ajet and Royal Gorge Zip Line Tours. Item 2 asks for documentation of access from the Colorado Department of Transportation which they will need to provide a permit for this. Contingency 3 is for the weed coordinator. Contingency 4 requires proof of water, the applicant has stated only bottled water will be provided for drinking, and there are no buildings being constructed on the course with water either. Item 5 asks for proof of the approval of the portable toilets, which they have, so this contingency can be eliminated. Item 6 is the utility plan. Item 7 is for the fire department, they have asked for a detailed plan to evacuate riders from the course in the event of an accident. The Planning Commission did grant a waiver of the buffering of the landscaping requirements as the applicant had requested to have the land remain in a natural state. The surfacing, lighting and landscaping of the parking area is not needed as it is only for one parking space. The County Engineer did recommend that there should not be any surfacing for the parking area. Bill said the Planning Commission did not approve this request on the first vote, but then amended their vote to pass with a 5 to 1 vote. Bill noted another item would need to be added to the contingencies as the plan had been changed; another drawing would be needed for recording purposes. Bill stated a letter had been received concerning the site where tickets will be sold and needs to be addressed. The applicant currently has a rafting business where they sell tickets, and the process would be similar for the zip line tours. Bill asked Ty if the State Highway Department did take into consideration additional traffic that would be coming to the site, and is there adequate parking on site currently for the additional customers. Bill recommended a parking plan should be provided to the Board showing where the additional customers can park. He also said a letter from the State Highway Department is needed showing they are aware of not only the new access, but the extended use of the existing access.

January 11th, 2011

Commissioner Norden said if all of the traffic flow was on the new property, then all of these issues would be addressed. Bill said it becomes an issue of site development, whether or not it is substantial change in existing use. Norden asked what State agency is responsible for the zip line regulation. Bill explained there is not a State agency that permits zip lines. Commissioner Stiehl asked Bill what the purpose of condition “Q” is, (a customer log for riders of the zip line). Bill answered it has to do with safety and making sure everyone is trained to ride the zip line. Ty said all riders will sign a waiver as well as the log. Commissioner Bell asked if there should be a time limit on how long the log should be kept. Brenda noted it would be more an issue of record retention. Commissioner Norden said there was mention in the Planning Commission meeting of the applicant being able to take alcohol from their Bar and Grill to the zip line course. Brenda noted they would have to be licensed by the state in order to have liquor on the premises.

Public Comments:

Stephanie Boston Danielson is an adjacent property owner who owns a 40 acre parcel and an additional property. She is concerned about zoning as the area is zoned grazing for agricultural use. Stephanie read the Planning Resolution last posted 8-30-10 that this district is established to provide and maintain certain lands for agricultural use and low density residential development. The land on the permit request is zoned agricultural farming, ranch, residential which is to be used as conservation for agricultural resources. This business is encroaching into ranch areas that are to be protected from those types of activities. She said zip lines are not going to create a habitat for wildlife. Stephanie said there has already been a problem with noise. As there is not a fence around the entire property, she has already had trespassing occur. There is a house being used as a vacation rental, and alcohol being served which she did not receive notice of a special use permit request for that property. Stephanie has already been harmed by this permit request, as her current caretaker of the property decided not to purchase the property because of the proposed zip line. She is concerned with the impact on wildlife. Stephanie stated the proposed use is not consistent with agricultural properties in the area. She referenced zoning resolution #40 dated April of 1978 that establishes the right to farm and ranch policy, the Board of County Commissioners recognizes the importance of ranching, farming, and other agricultural activity in rural Fremont County. She feels this permit will violate this resolution. Commissioner Norden asked her what the nature of the trespass on her property was. She said there have been numerous times she has called the Bar and Grill to complain about noise. Norden referenced her letter dated January 8th, the comment about how this affects her plans to build a house and have horses on her 40 acre piece of land.

Commissioner Norden closed the Public Hearing at 10:55 a.m. Norden made note of 2 written letters that had been received, one from Jane Bachman, and one from Stephanie Boston Danielson. Norden asked Bill to address this type of land use for this kind of zoning. Bill explained this is why it is a “Special Use Permit”. Bill noted all along the 8 mile area is becoming more commercial. Even though the commercial uses are primarily along the front land adjoining the highway, it does not prohibit commercial use further back from the highway. Bill said this is why there is a Special Use Review, to help the use be as compatible to the area as possible. Commissioner Stiehl asked Bill to be more specific as to the types of uses that are allowed. Bill said this falls under the Recreational Facility and Camps portion of the allowed use for Agricultural Estates, and Agricultural Rural Zoning districts. He said both of these zoning types are for limited agricultural use, not specifically for agricultural use. The business use allowed for these two zoning types is only through conditional use permits, and special review permits. Commissioner Stiehl stated that under both zoning types the regulations do allow a recreational facility through special review. Brenda noted the master plan provides the primary land use in this area is tourism oriented commercial development. Commissioner Norden requested better definition of line departure, is it a group of 8 to 10 people, or an individual person. Bill said they can clarify it within the condition. Norden asked if the applicant is ready to address the parking issue at this time.

January 11th, 2011

Ty said he has a large parking lot, and space should not be an issue. Bill said he needs a determination of what is existing parking is, and the amount of new proposed parking will be needed. Commissioner Stiehl asked Bill how many spaces are needed per acre under general requirements. Bill replied it is 30 spaces per developed acre, which is far too much for this development. Ty said it would be an extra 2 cars every half hour that would need parking spaces. Commissioner Norden would prefer to table the request until the next meeting until the parking issue is resolved. He also mentioned the A.T.V. use needs addressed as does the fencing issue. Trespassing, noise, safety training, private use by employees, and signage all need to be addressed. Commissioner Stiehl asked Matt what number he had used for daily departures in the application he prepared for C.D.O.T. Matt said he had used 28 departures per day for the application. Commissioner Bell asked Ty if they had decided to allow smoking on the tour. Ty replied no smoking or drinking would be allowed on the course and fire extinguishers will be kept at all zip lines. Commissioner Stiehl moved to table the application request until the next Board meeting on January 25th, 2011. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

REQUEST: SRU 10-006 SPORTING TIMES RANCH & RED HORSE B & B

Request approval of a **Special Review Use Permit for a Rural Recreational Facility & Bed and Breakfast, Department file #SRU 10-006 Sporting Times Ranch & Red Horse B & B, by Karen Colburn & Courtney Douglas Stevens and Jacob & Marion Patterson, to allow the operation of an “equitour” facility, a bed and breakfast and a stable (Rural Recreational Facility similar to a recreation camp, guest ranch, resort).** The bed and breakfast property contains an existing house which will be used for the bed and breakfast and a barn (Patterson). The property to be used for the Rural Recreational facility (Stevens/Colburn) contains the owners ranch house, a studio (to be converted to a cabin), a barn that will have a maximum of 4 bedrooms and 4 bathrooms in the loft over the great room, office, 8 horse stalls and a kitchen, an animal barn and a loafing shed in one of the 4 large wood fenced pastures. In addition, it is proposed to construct 4 cabins. The property is located on the west side of garden Park Road, 4.5 miles north of the intersection of Field Avenue and Red canyon Road (aka Garden Park Road). The property is zoned Agricultural Forestry and contains 41.94 acres (35.17 and 6.75 acres).

Commissioner Norden opened the Public Hearing at 11:10 a.m. Karen Colburn explained the proposed use for the Sporting Times Ranch, and the Red Horse Bed & Breakfast. She noted the cottages will be on cistern with water that is carried from Canon City. She hopes for people to come and go hiking, ride horses and enjoy what our area has to offer. Karen said they want people to come to our community and spend money in our shops, restaurants, and different tourist attractions that are located in all of Fremont County. Bill said the applicant has proof of posting and publication. They did mail to property owners within 1500 feet of the proposed permit area. He said there were 5 members of the Planning Commission present at the meeting, and the voted to approve the permit unanimously. Bill wanted the applicants to understand that a violation of this permit would affect both properties.

Public Comments:

Bud Chess said he is concerned about the water situation and overgrazing.

Betty Chess is concerned about pistol, shot gun and rifle shooting. She would feel comfortable with Court Stevens and his family shooting, but not strangers. Betty is also worried about the water on Four Mile Creek.

Laura Miller consider themselves good neighbors and does not wish to have a commercial property in their area. It will impact wildlife, increase traffic, noise, and crime. The applicants are currently advertising on line for hiking, shooting, fishing, riding, and A.T.V. rides at the proposed ranch.

January 11th, 2011

She is worried about the additional lighting that may be required. She raises horses and hay and is concerned with this commercial use directly across the street from her property. Laura wants to be sure that water is not being pulled from Four Mile Creek.

Ronald Miller is complaining about having a commercial property right out his front door. He paid a higher price for agriculture land and feels this will devalue his property. Ronald said the shooting will scare the livestock.

Brian Sutton District 12 Water Commissioner works from his home in Howard. He received a call from Budd Chess on Thursday afternoon, and this was the first he had heard of the proposed commercial use. Brian said the wells on the property are for domestic use only, and do not allow for any commercial use. He asked Court Stevens what the water source would be for the property and was told they would use the well and cisterns. If needed they would haul water. Brian is concerned with the applicant not being able to haul enough water for their needs. He stated he could not find the water rights for the pond on the property. He said the well that services the Bed & Breakfast needs to be separated from their home, and he is not sure how the applicant will do that. Brian noted there are ways they could make the wells commercial so they would not have to haul water. His recommendation to the Board is to wait to approve the applicants request until they have a legal water source. Brenda asked if the well was metered. Brian said they do not get meter reports from domestic use wells, so they are usually not metered. He looked at the applicant's current permit and said it did not have a meter. The water use for this well is limited to 15 gallons per minute, inside use, as well as watering of poultry and livestock, and not more than 1 acre of garden. Brian is worried that a garden hose would be run from the well to fill the cistern as he has seen this happen so many times. Commissioner Stiehl asked if there was a way to create a separate plumbing system for the use of water in the main building. Brian did bring commercial well applications with him should the applicants need them. He told them if they did convert the water supply to a commercial well they would lose the use of all outside water for animals, or lawn. Commissioner Norden asked how long it would take for such a permit change to be completed. Brian replied it can take anywhere from 4 to 6 weeks and it is done in the Denver office. Norden asked if Brian would be able to find the water rights to the pond in the next few weeks. Brian explained he wants to talk to the applicants about making the pond legal which would have to be done in water court. They would need to find a substitute water source while going thru the court system which can be obtained with a supply plan for up to 5 years. Bill said these items are actually contingencies of the permit. He said #8 states that documentation of water storage and spring rights shall be provided. Also documentation will be required from the Division of Water Resources for the Bed & Breakfast, and Recreational Facility. Commissioner Norden said his concern is who enforces the water use. Brian replied it is enforced by him for the state.

Curt Sorenson had submitted letters to the Board as well. He said he is a retired Professor and businessman. He is concerned with land management. He mentioned the applicants could consult with Rick Romano, the District Conservationist, regarding erosion control methods. Curt wants to urge Court and Karen to develop the right kind of land management plan for their property.

Steve Rzepka lives on Garden Park Road and has a 100 acre cattle ranch. His main concern is that the applicants are advertising dogs are welcome on the ranch with the horses. He stated dogs and cows do not mix well. As far as he knows it is still a state law that you are allowed to shoot a dog if it kills your cattle. Steve is concerned with the bright lights needed for the operation. He said the buildings will be located too close to the road.

Craig Sperbeck is a neighbor of Court and Karen. He said they are wonderful people who are concerned about the environment and they do things the right way. Craig would like to see this application go forward.

January 11th, 2011

Bob Shoemaker said if the well they have is adequate for the operation then he has no problem with it. He is concerned about them pumping water out of the pond. Bob said the water in the pond belongs to people with water rights. Bob wants to be sure the sewer system for both facilities are adequate.

Commissioner Norden closed the Public Hearing at 11:50 A.M. and asked the applicants if they would like to address any of the issues that were raised. Court said the pond was there when they purchased the property. It is fed by springs on their property, and springs from Rick Sheppard's property. He has stocked the pond and uses it for fishing. Court said guests would be required to get a state fishing license in order to fish on Four Mile Creek. He said kennels would be provided for the guests to keep their dogs in while at the Ranch. He understands the dogs must be maintained and kept away from cattle. Court has spoken with the Natural Resource Conservation Services (NRCS) regarding noxious weeds, plant control, herbicide use and erosion issues. He noted when they built their home they overdesigned the septic on purpose anticipating adding on to their home in the future. The current septic system is capable of handling 3 more bedrooms, and 3 more bathrooms. Court stated he does not want to commercialize the well, but will haul water and provide receipts as needed. Commissioner Stiehl asked if Court understands that just retaining the water in the pond requires augmentation. Karen replied the prior owners had gone to the state to find out if the pond was legal. They found out is a legal pond and had been there for over 20 years. She did not get any documentation of this from the prior owner. She explained the pond feeds into wetlands. Karen said there is a letter from the Division of Wildlife that says the pond supports water fowl and wildlife. Commissioner Stiehl noted the pond still has to be made legal, regardless of how long it has been there. Karen replied she understands this requirement. Court explained the rifle range is the BLM rifle range that is located down the road from their ranch. He said they have permission from Carol Dilley to access the BLM land from her property and can also access it from the rear of their property. Commissioner Bell asked Court where they planned on riding the ATV's. Court replied there are some ATV roads in the area that would be utilized. Commissioner Norden asked if the ATV's would be driven or hauled to the trails from their property. Court said they would be hauled. Karen explained this is primarily a horse property for people to come and ride or go hiking. Commissioner Norden noted they would need to make a reference to no ATV recreational use to be allowed on the property. Bill said it is not in the application and should not be a problem. Norden said regarding the BLM access, the Board is not concerned if there is access, but is concerned with the use of land within the permitted boundaries. Karen spoke to the BLM office and asked if a permit was needed to ride horses on the BLM land and was told a permit was not needed as long as they are not outfitters. Commissioner Stiehl asked how many cabins there will be on the property. Court said they are proposing 3 more cabins to the south of their existing home, and a barn with a loft above it. Commissioner Bell asked what their timeline is for opening the ranch. Court said if approved they would like to get started as soon as possible. Karen said it will go in stages, starting with the barn first. Commissioner Norden recommended to add a condition that commercial shooting or ATV use not be allowed on the permitted area. Commissioner Stiehl stated the applicant will have to deal with the pond whether or not the permit is approved, and should not be a condition of the permit. Stiehl is concerned with water use for the Bed & Breakfast. He noted that condition J deals with weed control. Stiehl would like to require them to implement a land management plan as a condition. He said if the applicant goes over a certain amount of sewage waste, then it has to go to the state for their determination. Stiehl would like to include this language as a condition: All horses brought in or residing at the Boarding Facility must meet Colorado Department of Agricultural regulations concerning health and brand inspection and if there is a successor owner. Commissioner Norden asked if they needed to address the size of the cistern for domestic capacity, or the fire cistern capacity. Court has spoken to the Fire Chief, and will not be able to establish the fire cistern capacity until he has final plans approved with planning and zoning. The cistern size will be addressed by the Building Permit. Bill said this language is not in the permit, and if the wells are used, documentation must be provided from the Division of Water Resources when the Building Permit is applied for.

January 11th, 2011

Commissioner Stiehl is concerned with signage and wants to make sure it would be appropriate, and not be lighted. Karen asked who they need to consult with regarding the soil conservation. Commissioner Stiehl replied they may speak with the NRCS or the Soil Conservation District. Commissioner Stiehl moved to approve SRU 10-006 Sporting Times Ranch and Red Horse B&B with the conditions as presented A-P and includes moving some of those contingent items to conditions, with Condition O being accomplished prior to operation, adding as Condition Q; all horses brought in or residing at the Boarding Facility must meet Colorado Department of Agricultural Regulations concerning health and brand inspection, Condition R; that the signage not be illuminated, Condition S; coordination with NRCS to develop a land management plan, Condition T; any advertisement of commercial recreational shooting or ATV opportunities not be on site and not within this permitted area, and eliminating contingencies 2 and 4, with contingencies 1, 3, 5, 6, 7, and 8 remaining; and approve the waiver request for buffering, of surface lighting and landscaping; and add dedicated fire cistern and dry hydrant be required and maintained. Commissioner Bell seconded the motion. Commissioner Norden said this will come back to the Board in Resolution Form at the next meeting. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried. (See Attachment "A" Revised Conditions)

Commissioner Norden recessed the meeting at 12:20 P.M.

Commissioner Norden called the meeting back to order at 12:30 P.M.

Commissioner Norden adjourned the meeting at 12:40 P.M.

Clerk and Recorder

January 11th, 2011

Attachment "A"

SRU 10-006 SPORTING TIMES RANCH & RED HORSE B&B

REQUIRED CONTINGENCIES:

The approval is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six month (no extensions except through regulatory process) after approval:

1. Applicant shall provide to the Department documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan or that one is not required.
2. Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.
3. Documentation as to compliance with the County Reviewing Engineer's recommendations, in his letter dated November 2, 2010 as follows:
 - a. Adjustment to the flood hazard area boundary line is needed on the site plan, and proposed structures should be located out of the hazard area.
 - b. Fremont County Driveway Access permit is needed.
 - c. A drainage report and plan is needed prior to actual construction of new roadways or structures. This requirement is deferred to the final design state.
4. Documentation will be required from the Division of Water Resources as to the use of the well(s) for the Bed & Breakfast and the Recreational facility.
5. Site plan should be revised to relocate cabins/cottages that lie within the flood hazard area. If not relocated, then they are subject to FEMA flood prevention permits.
6. Documentation regarding water storage and water rights shall be provided.