

JANUARY 26, 2010

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## SECOND MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on January 26, 2010, 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
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

Also present Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Tina Taylor, Deputy Clerk.

Pastor Bill Carson of the First Christian Church of Cañon City gave the Morning Prayer.

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

### APPROVAL OF AGENDA

**Commissioner Lasha** moved to approve the Agenda. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

### CONSENT AGENDA

**Commissioner Stiehl** moved to approve the Consent Agenda as presented. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

1. Approval of Minutes January 12, 2010, December 29 and December 8, 2009
2. Approval of Bills, January 26, 2010
3. LIQUOR LICENSES  
Alan DS LLC  
Kwik Stop #8  
1410 Elm Ave.  
Canon City, CO 81212-4434  
3.2 percent beer retail license renewal  
  
Buckskin Joes Rest & Stage Line Inc.  
PO Box 8  
Canon City, CO 81212-0008  
Hotel and Restaurant Liquor License Renewal - Malt, vinous and spirituous

### ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

### SPECIAL PRESENTATION TO BILL JACKSON

**Commissioner Norden** stated that Bill Jackson was the former Cañon City Mayor. After he left city service he continued to represent the City on the Fremont County Planning Commission for the City's Municipal Seat for thirteen (13) years.

**Commissioner Stiehl** stated that Bill is also an active representative on the Upper Arkansas Water Conservancy District and on the Hydraulic Ditch Board.

**Commissioner Lasha** stated very informative the time spent on the COG trips along the Arkansas representing the municipalities in Fremont County.

**Planning and Zoning Director Giordano** thanked Bill for all his expertise that he has provided the department. He did a great job balancing between the City and the County. Commissioner Norden presented Bill Jackson with plaque that read in appreciation.

**SPECIAL PRESENTATION FOR BRUCE BRISCO**

**Sheriff Jim Beicker** gave the background of the Special Olympics Law Enforcement Torch Run. Sheriff's Det. Bruce Briscoe was honored for his work in the organization since 1990's. Also giving recognition was Ralph Maher, coordinator for the southeastern Colorado Torch Run and Special Olympics athlete. Detective Briscoe stated he was honored and gave thanks to the people who have help with the fund raising success in Fremont County. Commissioner Lasha stated he appreciated the passion and compassion that he puts into what he believes in. Vince Egan a Special Olympics athlete from Colorado Springs who recently completed training to be a global messenger to give public presentations on behalf of the athletes that participate and are effected by the program gave a few brief words to congratulate Bruce.

**DETERMINATION OF THE BOARD OF FREMONT COUNTY COMMISSIONERS REGARDING A MAIL-IN BALLOT FOR THE AUGUST 2010 PRIMARY ELECTION**

**Clerk and Recorder Hatfield** stated this concerns the statute that was passed in the legislature last year to allow counties to have a mail-in ballot election during a general election year. We have not been able to do this before. There are some requirements that went with the passage and one of them was that we had to have the Board of County Commissioners approval. We also had to advertise that we plan to have a mail ballot this year for the primary election and we requested to have people let us know if they approved or disapproved. Ms. Hatfield stated that they received four (4) responses that were all in favor. The mail-in ballot is a lot less expense than having to the staff precincts. Commissioner Norden inquired if the last time a full county wide mail-in ballot was done last year. Clerk and Recorder Hatfield stated they can do mail-in ballots in off year elections. It is just in the general election they must have the Board's approval.

**Commissioner Stiehl** moved to address Item #6 under New Business and prepare **Resolution #8, Series 2010** approving a mail-in ballot for the August, 2010 Primary Election. Commissioner Lasha seconded the motion.

Commissioner Stiehl stated the participation is much higher when they have mail-in ballots. For that reason alone if it were equal price or a little more he is in favor of mail-in ballots. Commissioner Lasha stated the cost certainly has something to do with it. It is more efficient way for staff during the Primary and also it is a convenience for the voter. Commissioner Norden stated based upon the past activities this Board agrees with the public input and that we recognize ourselves that this is a cost effective way to conduct elections.

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

**PLANNING & ZONING CODE ENFORCEMENT ANNUAL REVIEW**

Presentation of annual review by Code Enforcement Officers Robert Sapp and Ronald Zenisky.

**Code Enforcement Officer Robert Sapp** stated comparing the statistical data over the last four (4) year they are holding steady with voluntary compliance in the county. The overall compliance rate is about 62%. They have had only two (2) cases go to court and one trailer clean up at our cost. They do inspections for everything Planning and Zoning Director Giordano requests.

They are now also doing SMM (Special Mobile Machinery). Since the program started at the first of the year they have made thirteen (13) contacts and have brought several people in compliance by either a Declaration of Fact where they no longer have the property or they come in to pay the taxes on the property.

Commissioner Lasha stated that they have been helpful to citizens in getting code enforcements resolved. Commissioner Norden stated from the statistical report the citizen can see the efforts that are being made in getting code enforcement in getting junk removed and the need for cleanup done.

**Commissioner Lasha** moved to accept the report. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

2. Citizens Not Scheduled - None

**OLD BUSINESS**

**ADOPTION OF RESOLUTION #52. SERIES OF 2009, ZONE CHANGE FILE NUMBER ZC 09-001 THOMPSON ZONE CHANGE**

A contingency of approval of File Number ZC 09-001 Thompson Zone Change was to provide documentation verifying the current property owner which has not been completed to date. Without the owner of record, which is noted in the Resolution, Resolution #52 cannot be prepared for signature until that documentation has been provided. This item was tabled from the November 24, 2009 meeting so that adequate documentation could be provided.

REPRESENTATIVE: Matt Koch, Cornerstone Land Surveying, LLC

**Planning and Zoning Director Giordano** stated that this originally got approved on November 10<sup>th</sup>. We brought it before the Board November 24<sup>th</sup> for signing of the resolution. The problem we encountered was we still did not have proof of ownership of the property. At that time the Board elected to give them a month based on what was presented. Mr. Koch said they would be able to resolve this. Instead of having this coming back each time, since it is a contingency of approval, we should just let it ride until the approval date which they have six months to meet all contingencies. They just need to actually do the correct deeds and get it transferred to whoever is going to be the owner. Commissioner Norden inquired if once the documentation for the contingency has been satisfied is there still a need to bring it back to the Board. Planning and Zoning Director Giordano said yes. What is holding up the resolution is that we put who the owner is in the resolution. The six months actually started from November 10<sup>th</sup> when you originally approved it.

**Commissioner Norden** stated with this report the appropriate action would be to hold any action until such time that we get a report that the contingencies are satisfied. Commissioner Lasha so moved and added that would be six (6) months from November 10<sup>th</sup>. Commissioner Stiehl seconded the motion. Commissioner Stiehl inquired if they do not come into compliance with the contingencies at that time then they would have to reapply. Planning and Zoning Director Giordano said yes. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. Motion carried.

**NEW BUSINESS**

**APPOINTMENT OF DAN GRECARD TO 2 YEARS REMAINING ON THE "MUSEUMS" SEAT ON THE FREMONT COUNTY HERITAGE COMMISSION, FILLING A VACANCY CREATED BY RESIGNATION**

**Commissioner Norden** stated the seat was held by Flo Orona. She had a 3 year term when the commission was created a year ago. She resigned last fall. She held the Museum seat.

**Commissioner Norden** moved to appoint Dan Grenard to that vacancy. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**AWARD 2010 STATIONARY BID**

**County Manager George Sugars** stated three bids were picked up and they received one bid back. The bid was for \$767.00 to Rocky Mountain Print and Copy for a stationery bid, envelopes and a few other items that are listed for the County Nurse, Sheriff and the Airport.

**Commissioner Lasha** moved to approve the Stationionery Bid for 2010 to Rocky Mountain Print and Copy for \$767.00. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**STEVE FOUTE – PRESENTATION 2010 CENSUS**

Steve Foute from the U.S. Census Bureau out of Pueblo, CO said they service 20 counties of which Fremont is one. This is a count of all the residents, not just the citizens of the United States. The official census date is April 1<sup>st</sup>. The deadline for the report to be to the President is December 31<sup>st</sup>. The report is mandated by the constitution. The census is important for 3 reasons. (1) A lot of grants that local governments apply for money are based on population counts; District reapportionment in terms of elections; House of Representatives. (2) There are only 10 questions on the questionnaire. (3) It is confidential and safe. They will be hiring personnel to assist people in filing out the survey.

**A RESOLUTION DECLARING 2010 AS CENSUS AWARENESS YEAR**

**Commissioner Lasha** read **Resolution #9, Series 2010** and moved for adoption.

Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**VFW PENROSE POST #2788, 402 BROADWAY, PENROSE, CO 81240  
TAVERN LIQUOR LICENSE RENEWAL**

**Deputy Clerk Taylor** stated it was not on the Consent Agenda because they filed late.

**Commissioner Stiehl** moved to approved renewal for the VFW Penrose Post #2788 waiving the late filing requirement. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried

**REQUEST: ADOPTION OF A RESOLUTION AMENDING THE FREMONT  
COUNTY ZONING FEES**

Request adoption of a Resolution to amend the fees associated with the Fremont County Zoning Resolution, specifically to add fees charged for minor or major modifications to Special Review Use Permit (SRU), Conditional Use Permit (CUP) and Site Development Plan (SDP), Amendment to the Master Plan, and to delete the fee charged for Zone Change with Site Development Plan.

REPRESENTATIVE: Department of Planning & Zoning

**Planning and Zoning Director Giordano** stated that since the last amendment, the 26<sup>th</sup> Amendment, to the regulations we have added some new sections and others are items that have come up recently that had not been addressed in our fees. The items we are adding are minor and major modification to the SRU, CUP and SDP. Our regulations prior to this the only options you had when you did an amendment to an SRU, SDP or CUP was that it went through the whole process again. The major modifications will come to the Board of County Commissioners for their input which could lead back to the Planning Commission and public hearing if the Commissioners so desire depending on what the application is reflecting. The Zoning Compliance Letter #4 we thought that kind of application covered under our rebuild letter. The difference between the Rebuild Letter and the Zoning Compliance Letter is the Rebuild usually has something to do with non-conformance. Lenders are concerned that if the building burns down, can it be replaced under our regulations? Now the lending agencies have come up with the Zoning Compliance Letter. They request compliance with all zoning requirements not necessarily non-conformances but it is just a general statement that this building and property is in compliance with all zoning regulations.

The last change is just a Zoning Resolution amendment. We do allow in the regulations for citizens to make requests of the Board to do amendments. What usually happens is they petition the department and we feel it is a valid amendment and is something that they are not in immediate hurry for, we will carry it ourselves as a county amendment. We no longer have any Zone Change that requires a Site Development Plan. It is now incorporated into the Zone Change itself. We have prepared a resolution for this if there are no changes.

**Commissioner Norden** inquired what kind philosophy did you try to apply in researching what would be an appropriate fee for the Master Plan Amendment and the Zoning Resolution Amendment, both citizen initiated. Planning and Zoning Directed Giordano stated you have a provision in the Resolution, this is just an amendment. We did not redo all the old fees. Commissioner Norden stated that in some of our conversations this

presents a certain dilemma because we have a situation where we don't want the public to perceive that we are discouraging their participation by submitting proposed amendments but we also have the opposite that we get concerned about and that is to the extent that someone could totally immobilize the process by repeatedly submitting language for Zoning Resolution amendments or for the Master Plan. This could bring the process to a stand still because you have so much to review by staff and the Planning Commission. **Commissioner Stiehl** stated the reason we have fees in the Planning and Zoning or any of our departments is so that the entities that actually use the services are the ones that are paying for the service.

**Commissioner Lasha** moved to approve the Adoption of a Resolution Amending the Fremont County Zoning Fee with the addition of #5 and the depletion of #1. **Resolution 10, Series 2010**. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**REQUEST: TRANSFER OF SRU 01-001 FORGE FOOD MART**

Request approval of transfer and name change of Special Review Use Permit, Department file #SRU 01-001 Forge Food Mart, from Sheila Kimmell and Ronnie L. Kimmel to William Tezak. The existing SRU is for the operation of a Convenience Store to include a gasoline service station and a restaurant. The name of the SRU will become William Tezak Convenience Store. The SRU is currently in temporary cessation. The property is addressed as 105 Forge Road, which is located approximately 300 feet west of the intersection of Oak Creek Grade and Forge Road, on the north side of Forge Road, in the South Cañon Area. The property contains 1.142 acres and is zoned Neighborhood Business.

REPRESENTATIVE: William Tezak

**Planning and Zoning Director Giordano** said basically all the paper work that was necessary for the transfer has been provided to us. He noted that Tezak not only is asking for a transfer but also cessation on the application for up to two (2) years. Commissioner Norden stated that the two year cessation from today would allow him to get the business in operation. Director Giordano said he has up to two (2) years or ask for another extension. The cessation is really up to the discretion of the Board whether you want to continue to grant it or not. What this is doing is retaining his right for the approved use that is there which is a convenience store and liquor store.

**Commissioner Lasha** moved to approve the transfer of SRU 01-001 Forge Food Mart and to keep the cessation going for two (2) years. The transfer will be from Ronnie and Sheila Kimmell. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**A PROCLAMATION SEEKING A NATIONAL REVIEW OF U.S. STATUTES AND RULES GOVERNING THE BALANCE OF POWER BETWEEN LOCAL GOVERNMENTS AND RAILROADS**

**Commissioner Norden** said he was originally asked for this Resolution from a request from Colorado County Inc. A city and county councilwoman in Denver was frustrated in getting certain transportation projects approved in the Denver area without cooperation from railroads and requested a resolution in support of their resolution to the National Association of Counties and to cite in our resolution any particular problems. Road and Bridge has had frustration with a railroad overpass that has caused drainage and clearance problems for traffic at the Cherry Creek Bridge. The line is not abandoned but is not in use. The railroad is difficult to deal with when they just leave things idle and do not address a lot of their property issues. Commissioners Stiehl said that Williamsburg is a good example also. The railroad runs right through the town and they have very little control because of the authority that the railroad has to rule over local entities. On the other side of this, he believes that the railroads have value in our future transportation infrastructure throughout the U.S. and he is opposed to abandoning rights-of-way but he is in favor of railroads being more cooperative with local entities.

**Commissioner Norden** moved for adoption of **Resolution #11, Series 2010**. Commissioner Lasha seconded the motion. Commissioner Lasha stated that this resolution is also encouraging other counties to do the same through CCI. Upon vote:

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Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS TO ENTER INTO A SITE LEASE AGREEMENT WITH ALLTEL FOR A COMMUNICATIONS TOWER**

**Commissioner Norden** stated that the county has been in negotiation with Alltel for possible wireless tower site on county property. We do not actually have a lease yet but in order for that to come to a conclusion we would need an authorization for the Chairman to enter into a site lease agreement. If we proceed, the actual lease and the terms of that lease for the site tower would come back to the entire board for consideration.

**Commissioner Stiehl** moved to approve **Resolution #12, Series 2010** authorizing the Chairman to enter into a Site Lease Agreement with Alltel for a communication tower located in Cotopaxi. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**A RESOLUTION ADOPTING AND APPROVING THE JOB DESCRIPTION FOR THE OFFICE OF COUNTY MANAGER**

**Commissioner Stiehl** moved to approve **Resolution #13, Series 2010** adopting and approving the job description for the office of County Manager. Commissioner Lasha seconded the motion. Commissioner Stiehl said the County Manager oversees personnel management for all county employees. Commissioner Norden stated with this well defined job description he thinks projects will move ahead in a timelier manner.

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

**Commissioner Norden** adjourned the meeting at 11:00 A.M.

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Clerk & Recorder