

February 26, 2008

1

## FOURTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on February 25, 2008, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Larry Lasha called the meeting to order at 9:30 A.M.

Larry Lasha	Commissioner	Present
Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Absent

Also present Finance Director, Dana Angel; Bill Giordano, Planning and Zoning Director and Tina Taylor, Deputy Clerk.

Larry Chell from Christian Family Fellowship gave the Morning Prayer.

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

### APPROVAL OF AGENDA

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

### CONSENT AGENDA

**Commissioner Stiehl** moved to approve the Consent Agenda.

1. Approval of Minute February 12, 2008 - Not Presented.
2. Approval of Bills, February 26, 2008 / \$582,444.18
3. SCHEDULING OF PUBLIC HEARINGS / NONE
4. LIQUOR LICENSES: NONE

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

### ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

**Commissioner Norden** attended the Deer Mountain Town Meeting with **Fremont County Sheriff Jim Beicker**. The citizens expressed their concern of burglaries that have occurred in the area. Commissioner Norden stated that due to the harsh winter that there will be a lot of muddy conditions on the roadways all across the county. The commissioners will be at the Fremont Cattleman's Association annual meeting this Saturday, March 1<sup>st</sup>.

**Commissioner Lasha** stated the Airport Board met with the City of Florence for preliminary discussions on water taps for the airport. Don Moore put the plan together along with the Planning and Zoning Department.

2. Citizens not already scheduled.

**Lois Perniciaro**, who resides at 1122 N. 15<sup>th</sup> St., Cañon City, CO, addressed the Board regarding bus service out of Cañon City. Ms Perniciaro stated that there is no parking available for your car for the bus service by Greyhound. Ms. Perniciaro stated the bus service from Howard for citizens to come to Cañon City to shop has also been discontinued. The only means of transportation out of Cañon City is by personal car. She would like to see some kind of service, even if it is limited. Ms Perniciaro submitted the letter that she received from Governor Ritter and an article from the Denver Post

February 26, 2008

2

regarding a grant that the State of Colorado received for public transportation. **Commissioner Lasha** encouraged Ms. Perniciaro to attend the Transit Committee that has been meeting for the past five years. He stated there are three (3) other counties that we work with and it has been very difficult to accomplish putting a transit plan together.

Melvin Cole, Dept. of Corrections, East Canon Complex thanked the commissioners for all of the support that has been received in the last year and gave an update of upcoming events for the department. A memorial ceremony for Lost Officers will be held at the Territorial Correctional Facility, Memorial Park on May 21<sup>st</sup> at 11:00 AM. with a barbeque to follow. The funds from the barbeque and the Annual DOC Fight Night for charity, held May 23<sup>rd</sup>, will go to Children of Officers Who Are Lost Scholarship Fund.

**OLD BUSINESS** - None

**NEW BUSINESS**

**PROCLAMATION – BUILDING BRIDGES IN FREMONT COUNTY NON-PROFIT DAY**

**Commissioner Lasha** read in entirety the “Building Bridges in Fremont County Non Profit” day proclamation. Commissioner Lasha urged county residents to attend the Building Bridges workshop on March 4, 2008 at the Abbey Event Center from 1 pm to 4:30 pm celebrating the non profit organizations in Fremont County.

**RE-APPOINTMENT OF AIRPORT INDUSTRIAL PARK BOARD MEMBERS**

**Commissioner Lasha** made the motion to re-elect Glen Smith and John Marietta for a two-year term on the Airport Industrial Park Board. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**RE-APPOINTMENT TO THE FREMONT COUNTY TOURISM COUNCIL**

**Commissioner Norden** moved to amend February 26, 2008 Agenda to add Item 2a for the re-appointment of Danny DeGeorge to the Fremont County Tourism Council. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Norden** moved to reappoint Danny DeGeorge to the Fremont County Economical Tourism Council for the remainder of his term. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commission Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**COUNTY ASSESSOR OFFICE / PETITION FOR ABATEMENTS OR REFUND**

**County Assessor, Stacey Seifert** stated the abatements were over \$1,000.00 and need to also go the State for approval. Eagle Mountain Investment Group, Sky Valley Motel, 205 Greydene Dr., Cañon City, CO. County Assessor, Seifert stated that Eagle Mountain Investment Group believed that their 2006 value was \$401,007.00. The correct value is \$385,224.00. They also argued that the property should be assessed as residential property because they lease the rooms out to individual for a thirty (30) day period at a time. She contacted to owner as of the property January 1, 2006. She was informed that there were two (2) to (3) units in the motel that were rented on a month to month basis but the bulk of the building was still used as a commercial motel. Ms. Seifert recommended denial of the petition in regard to the value and use of the property. **Commissioner Stiehl** moved to deny the **Resolution #11**, Petition for Abatement for the property at 205 Greydene by Eagle Mountain Investment Group. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commission Lasha, aye. The motion carried to deny **Resolution #11**, Abatement for Eagle Mountain Investment Group, 205 Greydene Ave, Cañon City, CO.

**County Assessor, Stacey Seifert** submitted petitions for:

Eagle Mountain Investment Group, 129 N. 4<sup>th</sup> St., Cañon City, CO 81212 asked for a reduction in property value for 2006. The property was value was over assessed at \$243,328 and reduced to \$155,597.00. Abating \$87,731.00 in actual value. The abated tax amount is \$1,794.00. **Commissioner Stiehl** moved to approve **Resolution #12** for Eagle Mountain Investment Group in the amount of \$1,794.93. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

James Williams, 8981 Hwy 115, Penrose, CO 81240. The property had three (3) houses on large acreage. The property was split up into three (3) thirty five (35) acre tracts. Two of the houses were split off to the other lots. The house taxes were left on the original lot and were double assessed. The abated tax amount is \$1,202.23. The **Commissioner Norden** moved to approve **Resolution #13** for James Williams in the amount of \$1,202.23. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Herbert Zimmerman and Maureen Meisner home and barn on Lot 47 Autumn Creek Ranch are double assessed. The tax abatement is \$1,575.11. **Commissioner Stiehl** moved to approve **Resolution #14** for Herbert Zimmerman and Maureen Meisner in the amount of \$1,575.11. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

Douglas and Madeline Chambers own the property listed on Schedule #110-04-510. The property has contamination issues from the EPA. The property was not revalued for the contamination issues in 2007. The tax abatement is \$1,745.36. Commissioner Stiehl asked for clarification of the contamination issue. Stacey Seifert stated at the front of the bluff there is a five (5) acre tract in the City and behind that there is a nine (9) acre tract in the County. Behind the nine (9) acre tract there was some dumping by US Smelter. Commissioner Stiehl stated this was the residual contamination issue as identified by the EPA. The tax abatement amount is \$1,745.36. **Commissioner Norden** moved to approve **Resolution #15** in the amount of \$1,745.36. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Douglas and Madeline Chambers have the property listed on Schedule #190-01-270. The property was revalued for contamination. The tax abatement is \$1,290.26. **Commissioner Stiehl** moved to approve **Resolution #16** in the amount of \$1,290.26. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

**County Assessor Stacey Seifert** stated the next five (5) properties are state assessed properties from the year 2006. The properties were submitted to the state in the original blanket petition that was sent through the Treasurers Office; however properties needed to be submitted per account and not by District. All of the properties are in the Four Mile Ranch Metro District. Bresnan Broadband's, Schedule #992190 requested an abatement in the tax amount of \$1,391.25. **Commissioner Stiehl** moved to approved **Resolution #17** in the amount of \$1,391.25. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Norden** moved to approve Resolutions for Abatement #18, #19, #20 and #21. **Resolution #18**, AT&T Mobility, LLC, Schedule #999407, an abatement in the amount of \$1,150.00; **Resolution #19**, Cañon City and Royal Gorge Railroad, Schedule #990280, in the amount of \$1,278.832; **Resolution #20**, Rock N Rail Railroad, Schedule #990290, in the amount of \$1,348.60; **Resolution #21** Mitsui Rail Capital, Schedule #997585, in the amount of \$1,008.70. **Commissioner Stiehl** asked for clarification regarding "state assets". **Assessor Seifert** stated she takes the State assessed value from

the Division of Property Tax and apportion that out to each individual taxing entity based on the entities boundaries. It is the assessor's job to identify how much is in each district. 2007 valuations were rechecked after finding errors in 2006 valuations. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried to approve **Resolution #18, Resolution #19, Resolution #20 and Resolution #21.**

**FREMONT COUNTY TREASURER/ REQUEST FOR REDEMPTION**

**County Treasurer, Pat McFarland** stated Maddry Floyd and Patricia Ann Basil property was double assessed. The property went to tax lien sale. She requested funds to redeem the properties out so the tax investors who bought the properties in good faith at the tax lien sale can be paid. **Commission Norden** moved to authorized payment for Redemption Funds for the 1998 Certificate #9064, 2001 Certificate #1592 and 2005 Certificate #2939 in the amount of \$2,045.07. Commissioner Stiehl seconded the motion. Upon vote: Commission Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Lasha** closed the regular session and opened the public hearing.

**REQUEST: EXTENSION OF CUP 94-14 FREMONT PAVING & REDI-MIX (FLORENCE PIT)**

**Denise Gonzales** stated Fremont Paving is requesting an extension from October 10, 2005 to June 30, 2010 to complete reclamation for the property *located east of Highway 67 and North of the Arkansas River in the Florence Area.* The extension request is to finish the slopes, grades and reseeding on the property. No more mining will be done at the site. The time frame request is to make sure that the seed grows in accordance with the State Division of Reclamation Mining and Safety requirement. **Planning and Zoning Director, Bill Giordano** stated the mining regulations now require successful seed growth, through reclamation. There was some confusion as to whether the permit needs to be active. He explained by granting the extension that it will actually be an extension back to the original expiration date of the existing CUP. He noted since this was a change to the permit, to extend the time frame, that posting and notification to the public was required and has been completed.

**Commissioner Lasha** closed the public hearing and opened the regular session.

**Commissioner Stiehl** stated the commissioners have been aware of the confusion with the permit reclamation procedure and moved to approve **Resolution #22** for the extension of CUP 94-14 Fremont Paving & Redi-Mix to June 30, 2010 and to allow reclamation to be completed. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Lasha** closed the regular session and opened the public hearing.

**REQUEST: CUP 07-003 PARKDALE AGGREGATE MINE – FIRST AMENDMENT**

**Michael Sheahan, President/CEO of Front Range Aggregates,** stated there are two (2) objectives for the property *located on the north side of U.S. Highway 50, approximately 1.5 miles west of Parkdale:*

1. To reclaim the property as a long term benefit, as opposed to previously permitted as a dry hole. The object is to promote the area for water storage for a long term benefit to the County and the river basin.
2. To change the depth of the mine.

**Kallie Bauer, P.E., CFM, Water Resource Engineer, Applegate Group, Inc.** stated the current mine plan is to mine five feet (5') above ground water. The proposed mining plan is to mine down sixty feet (60') below the ground, so the actual elevation will be about thirty feet (30') deeper than it is currently. Some additional drilling has been done and discovered some additional material that can be removed. The major change is for the reclamation to bring the area into a sealed water storage reservoir. The water storage area

February 26, 2008

5

will not be connected to the ground water. The purchaser of the property would bring in their own water to fill the reservoir. If for some reason the property can not be sold, the area will be seeded and returned to an e-grass area, for wildlife, by the applicant. There is no change in the sandstone quarry area.

**Planning and Zoning Director, Bill Giordano**, stated posting and notification has been completed for this request. The Planning Commission Meeting of January 2, 2008 approved the Amendment with 25 conditions and 4 Contingencies. Additional notifications were recommended and have been completed along with the notification of all property owners within five hundred feet (500'). He noted the Planning Commission waived the request for surfacing, lighting and landscaping of the parking area which was done previously in the original permit. Conditions changed from the original permit and were replaced by the new permit are Recommended Conditions G, H, and I: Condition G: Days and hours of operation are for mining and processing which will be limited from 5 A.M. to 10 P.M. Previously hours were unlimited; Condition H: Days and hours for rail loading and maintenance will not be limited; Condition I: Days and hours for truck hauling will be limited to Monday through Friday 6:00 A.M. to 6:00 P.M., and from 6:00 A.M. to 12:00 noon on Saturday.

Bill Giordano stated the applicant has agreed to maintain all maintenance and repair necessary to handle the volume of truck traffic and load limits to the bridge on County Road 157 as long as the CUP is active. The original permit was not ongoing maintenance for the road and bridge.

Bill Giordano stated **Don Moore, County Reviewing Engineer**, wanted road access verification from the Highway Department for truck hauling.

Bill Giordano expressed the concern of the Weed Control Officer, J. R. Phillips, with the present reclamation plan. He would like to see a new plan developed.

One condition that is added was compliance with all of the conditions that the party named on the permit. The County must be notified of any operator change.

A verbal plan was given at the Planning Commission Meeting by the applicant to provide a mitigation plan which will address potential problems related to hydraulic and water supply wells located within one and one-half miles (1-1/2) of the permit boundary. The one and one half mile (1-1/2) boundary was set in the original permit.

A condition of the original permit is the documentation of the right to cross the right and use for the access of the South Pacific Railroad. Because the permit is so old it would be a good idea to reaffirm the access right.

The Planning Board specified, as a requirement, a copy of amended Division of Reclamation and Mining Safety Permit.

Added by the Planning Commission is documentation from the **County Reviewing Engineer, Don Moore**, that the recommendations, concerns, etc. contained in his letter dated December 18, 2007, have been satisfactorily addressed. Don Moore made it contingent upon FEMA approval of the amendment of the location of the flood plain. There will not be a Flood Prevention Permit. Bill Giordano questioned if six (6) months was enough time to obtain the approval. He suggested they might want to make this a Condition instead of a Contingency.

**Commissioner Lasha** closed the public hearing and opened the regular session.

**Commissioner Stiehl** asked for an explanation of the well mitigation plan. Kallie Bauer stated that a ground water study has been performed and a computer model was created with the data simulating where the draw down would occur in the area. The study showed that the water level in the area should not be affected. The hard boundary would be the Arkansas River which is understood as a hydrologic boundary. The area property owners requested a local well driller assess what the damage would be, if any. He agreed that the

Arkansas River was the controlling factor for any property owners south of the river. Ms. Bauer stated the plan is to monitor during the mining. The monitoring will start now to establish a base line to determine if they are drawing down the ground water around the area. If the water level is altered they would address what needs to be done. They have an agreement with Mr. Brown, a property owner north of the Arkansas, to monitor his well for any changes in the well water level.

**Commissioner Stiehl** asked for clarification on the ground water if the end elevation would still be above the level of river but below the dam at Tallahassee Creek. Kallie Bauer stated that even though they are going an additional thirty feet (30'), the ground water will still be above the bottom of the channel of the Arkansas River. There are portions of Tallahassee Creek which has a steep gradient so there are sections where the creek will be above the sand and gravel. Commissioner Stiehl affirmed that the level of ground water that will be encountered, is probably not affected by the Arkansas River but Tallahassee Creek. Ms. Bauer stated there would be a dewatering trench that would capture the influx of water from Tallahassee Creek. The water would be temporarily diverted into a settling pond and then return it to the creek. Commissioner Stiehl questioned if the clay on site would be used to line the pit. Ms Bauer stated that extensive geographical testing had been done and about two thirds (2/3) of the clay on the bottom will be sufficient to seal the reservoir.

**Commissioner Norden** questioned who determines if the mitigation plan is acceptable. Kallie Bauer stated the operation must have a substitute supply plan for the City Engineers Office that reflects their water rights and any water that they are encountering. Upon approval of the Amendment a detailed plan will be submitted to the State Engineer. The State Engineer will take into account the water that is being intercepted and released to make sure there is no water being held that should be released. Bill Giordano explained the water rights to fill the reservoir will be for the buyer of the reservoir. The applicant's intent is for reclamation and to seed the area to develop the reservoir.

**Commissioner Norden** asked what the overall extension of timing for the mining. Kallie Bauer stated the quarry has a fifty (50) year life span and the mining ten to twelve (10-12). Commissioner Norden stated they are projecting ten to twelve (10 – 12) years for the reservoir area so the sale of the reservoir area would be twelve (12) or more years out. Commissioner Norden questioned if the new quarry area moving higher would create a more visual impact. Kallie Bauer, stated the additional quarry area is going down rather than up.

**Commissioner Stiehl** asked if the water mitigation plan includes existing wells. Kallie Bauer stated under the Substitute Water Supply Plan, the State Engineer requires proof that no wells have been harmed. Commissioner Stiehl stated the water requirement was for quantity and not quality.

Commissioner Stiehl stated he didn't have a problem with the current Amendment but with the plan as it was approved in 1997. He was not comfortable with a scar area being visible from the road.

Commissioner Stiehl questioned the reclamation plan regarding wildlife access to the bottom area. The plan is to seal the reservoir for a potential purchaser and/or reclaim the area to open space and wildlife standards with appropriate slopes and vegetation. Kallie Bauer stated the area would be seeded and per the permit with the State, they would have to cut an egress for wildlife to get down to the bottom portion. The reclamation would be done as the mining progresses per their bond with the State, and it is inspected by the State.

Commissioner Stiehl expressed concern with Recommended Condition T regarding noxious weeds. Mike Sheahan introduced a letter and read an e-mail he received from Natural Resources Conservation Service (NRCS) regarding the management of weeds on the property due to high water. Recommended Condition T was amended to: Applicant shall continue to administer the management plan for the control of undesirable or noxious plants or weeds, as per recommendation of the Fremont County Weed Control Officer, Natural Resources Conservation Service (NRCS).

**Bill Giordano** stated that Item 4, of the Recommended Contingencies, be made as a Condition Z of the permit to enable the applicant time for FEMA flood plan approval.

**Commissioner Norden** moved for approval of the First Amendment to the CUP 07-003 Parkdale Aggregate Mine.

**RECOMMENDED CONDITIONS**

- A. The term of the Conditional Use Permit shall be for life of the mine. (*estimated to be 30 years*)
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations.
- C. Applicants shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. Applicants shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicant shall obtain and keep in effect all other permits, licenses or the like required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits, licenses or the like shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Days and hours of operation for mining and processing will be limited to 5 am to 10 pm.
- H. Days and hours for rail loading and maintenance will be limited.
- I. Days and hours for truck hauling will be limited to Monday through Friday 6:00 am to 6:00 pm, and from 6:00 am to 12:00 noon on Saturday.
- J. All blasting conducted shall be done in accordance with appropriate industry standards and as prescribed by the Mine Safety and Health Administration. All blasting shall be conducted between the hours of 8:00 am to 9:00 am, from Memorial Day to Labor Day, and 10:00 am to 4:00 pm all other days. The blasting shall not occur more than five times per week and shall not occur on weekends and federal holidays.
- K. if a conditional use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to, or does temporarily cease the conditional use for six (6) months or without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use

would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.

- L. If it is found by judicial action, or it is determined by any other proper authority that the easement for roadway and/or easement for access into the subject property is not valid, then termination of the Conditional Use Permit will result.
- M. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- N. The applicant shall perform all maintenance to County Road #157 and maintenance, repairs and/or construction that is necessary to handle the volume of truck traffic and load limits, etc, to the bridge, as long as CUP is active.
- O. Documentation as to approval of the revision, changing the reclamation from wildlife habitat and open space to a water storage reservoir, from the Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety.
- P. Applicant shall provide adequate water supply for the mining operation including dust control.
- Q. No mining activity shall take place within the estimated FEMA floodplain boundary unless permitted through the application for a flood damage prevention permit.
- R. The number of trucks hauling material from the mine shall be limited to forty-eight (48) trips per day. *(A trip is considered as a single or one direction vehicle movement with either the origin or the destination [exiting or entering] inside the subject property.)* These amounts of traffic may be exceeded in the event of a non-routine request for materials for emergency or other extraordinary circumstances only, not to exceed six days per year without prior approval of the Board of Commissioners. *(Examples of such non-routine occurrences would be the need to supply material to a railroad company because of a bridge or track washout or to a state or local government, because of a road or bridge washout.)*
- S. No less than 85% of materials mined on the property shall be transported by railroad.
- T. Applicant shall continue to administer the management plan for the control of undesirable or noxious plants or weeds, as per recommendation of the Fremont County Weed Control Officer.

**RECOMMENDED CONDITION T. AMENDED TO:**

**Applicant shall continue to administer the management plan for the control of undesirable or noxious plants or weeds, as per recommendation of the Fremont County Weed Control Officer and the Natural Resources Conservation Service.**

- U. Applicant shall provide preference in hiring, to qualified applicants who are residents of Fremont County.
- V. Applicant shall continue to negotiate a land exchange or other land transfer with the Bureau of Land Management for the purpose of moving the granite mining operation to a site farther away from the Arkansas River. Applicant shall provide notice to the Board of Commissioners of the date, time and location of all meetings where the applicant plans to discuss any land transfers. Further, the Board of Commissioners shall be entitled to participate in a meaningful way, in all discussions and negotiations concerning such land transfers.

- W. Applicant shall continue to coordinate with and accommodate the operation of a tourist or passenger train service on the rail lines that serve the Parkdale mining operation. Applicant shall provide notice to the Board of Commissioners of the date, time and location of all meetings where Applicant plans to discuss and negotiate the use of the rails for tourist or passenger service regardless of the parties with whom Applicant is having such discussion or negotiation. Further, the Board of Commissioners shall be entitled to participate in a meaningful way, in all discussions and negotiations concerning cooperative shared use of the rail lines for various purposes.
- X. The County shall retain the right to modify any condition of the permit, if the actual mining operation demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modifications shall not be imposed without notice and a public hearing being provided to the Applicant at which time Applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- Y. Only the named party on the permit shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Conditional Use permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.

**RECOMMENDED CONDITIONS AMENDED TO ADD CONDITION:**

- Z. Documentation from the County Reviewing Engineer, Don Moore that the recommendations, concerns, etc. contained in his letter dated December 18, 2007 having been satisfactorily addressed.**

**RECOMMENDED CONTINGENCIES:**

It is recommended that this item be approved and referred to the Board of County Commissioners for scheduling of a public hearing provided the following contingencies are provided within six (6) months after final approval by the Board of County Commissioners:

1. The Applicant shall provide a mitigation plan which will address potential problems related to hydrology and water supply wells located within 1 and ½ miles of the permit boundary.
2. Documentation as to right to cross, right to use and access the Southern Pacific Railroad.

**RECOMMENDED CONTINGENCIES #2 AMENDED:**

**Documentation as to right to cross, right to use and access the Union Pacific Railroad.**

3. Copy of amended Division of Reclamation, Mining and Safety permit.
4. Documentation from the County Reviewing Engineer, Don Moore, that the recommendations, concerns, etc. contained in his letter dated December 18, 2007 have been satisfactorily addressed.

**RECOMMENDED CONTINGENCIES #4 AMENDED TO:**

**ITEM #4 CHANGED TO RECOMMENDED CONDITION Z ABOVE.**

**RECOMMENDED ADDITIONAL NOTIFICATIONS:**

In addition to the required notifications, the following shall also be notified, by certified mail, return receipt requested, in accordance with regulations, at least fourteen (14) days prior to the public hearing by the Board of County Commissioners:

1. Fremont County District Three, Road Foreman
2. Fremont County Sheriff Office
3. Colorado Department of Transportation
4. Fremont-Custer Historical Society
5. Fremont County Weed Control Officer
6. Colorado State Division of Wildlife
7. Arkansas Headwaters Recreation Area
8. City of Cañon City, Planning Department

**The Planning Commission recommended waiving the following:**

**WAIVER REQUESTS:**

1. **5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.
2. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individuals using the area. Said lighting shall not cast any glare on the surrounding properties.
3. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provided appropriate vegetation designated to break up the expanse of the parking area.

Commissioner Norden acknowledged the efforts of Mike Sheahan, Tom Maul and his staff at Front Range Aggregate for being very proactive neighbors in the Parkdale area. They have worked well with the Parkdale citizens to mitigate a number of the issues that a mine brings with it. He also commended the Applegate Group for the well prepared application for the Amendment.

Commissioner Stiehl seconded the motion and acknowledged the efforts that the operator are making with the local neighbors and also very impressed with the application. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried to approve CUP 07- Parkdale Aggregate Mine – First Amendment.

**REQUEST: EXTENSION OF PP06-003 AND FP 06-003 LANDS OF LOHNES IV**

**Planning and Zoning Director, Bill Giordano** stated the applicant is requesting a six (6) month extension to submit Preliminary Plan contingencies and Final Plat deficiencies for the *property located on the east side of Illinois Avenue approximately 1750 feet north of Smith Street, in the North Cañon Area*. He stated that the applicant has been unable to meet the 26 contingencies for the Preliminary Plan. There has been a lot of time given to resolve the issues. He stated he was in favor of granting the six month extension but no more. **Commissioner Stiehl** moved to approve the Extension of the Preliminary Plan PP06-003 and Final Plat FP06-003 for six months. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Lasha** adjourned the Meeting at 11:00 A.M.

---

County Clerk