

February 27, 2007

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FOURTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on February 27, 2007, 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
Larry Lasha	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 Kris Lang, Deputy Clerk.

Chaplain Hal Simmons of the Hospital Chaplains Ministry of America 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 stated he had an addition to the Agenda. Prior to Old Business he inserted Administrative/Informational for Staff/Elected Officials and Citizens Not Scheduled. **Commissioner Norden** made a motion to accept the Agenda as revised. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl moved to approve the Consent Agenda.

1. Approval of Minutes, February 13, 2007
2. Approval of Bills February 27, 2007 / \$597,799.28
3. LIQUOR LICENSES
Buckskin Joes Restaurant & Stage Line Inc.
PO Box 8, 1289 Fremont County Road 3A
Cañon City, CO. 81212-0008
Hotel and Restaurant Liquor License Renewal with Optional Premise –
Malt, Vinous and Spirituous
4. Adoption of Resolution #12, Series of 2007, File #CUP 06-005 Red Creek Land Company Gravel Pit
5. Schedule of Public Hearings / None

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Commissioner Lasha remarked the road base under the County highways, streets and roads is diminishing as a result of the snow and mud conditions. He expressed thanks to the Citizens for their patience and appreciation to the Road and Bridge Department for their efforts under the present financial restraints.

Commissioner Stiehl advised that the 2007 Budget for Fremont County is now posted on line at fremontco.com for public viewing.

Commissioner Norden announced the Annual Spring Cleanup Campaign is scheduled March 5th – April 14th. He explained four hundred trash vouchers would be distributed throughout the County. He also announced the Fremont Sanitation District and the Board of Commissioners will hold the third informational public meeting for the proposed North Cañon Sanitation Sewer Project at Skyline School on March 2nd at 7:00pm. Commissioner Norden remarked that specific proposed boundary areas would be outlined along with an explanation of the grants - loans available and the status of the project. He encouraged North Cañon residents to attend.

2. Citizens Not Scheduled

Melvin C. Cole, Training Coordinator at the Department of Corrections, Cañon Minimum Centers reported that the security fences are being realigned in accordance with the revised boundary survey markers on Highway 67 between the Airport and Florence High School. He remarked the planning process for placing inmate work crews back in the community has been initiated. Commissioner Norden expressed appreciation on behalf of the Board of Commissioners, County Entities and Recreational Districts who have been anxiously awaiting the reinstatement of the program.

OLD BUSINESS:

REQUEST: CUP 06-003 NORTHFIELD COAL MINE

Request approval of a Conditional Use Permit, Department file #CUP 06-003 Northfield Coal Mine, to operate an underground coal mine and processing facility, by Northfield Partners, LLC, for property which *is located 0.5 miles west of the intersection of County Road #11A and County Road #79, on the north side of County Road #79 in the Williamsburg Area.* The right to mine is through a three (3) year lease, (which will expire on December 23, 2007), with option to review from Gus & Daniel Slanovich Partnership, Daniel, Betty and Marie Adamic and John and John Paul Ary. The entire mine acreage is 1429 acres. The conditional use permit boundary will contain 968 acres, with the surface facility occupying approximately twenty-five (25) acres. Portions of the underground mining will take place within the Towns of Brookside and Williamsburg. The property is zoned Agricultural Forestry. **This item was continued from the January 9, 2007 public hearing and the February 13, 2007 regular meeting of the Board of County Commissioners.**

Susan Aldridge, Attorney advised she was representing Northfield Partners, LLC. and stated they do not feel the public hearing should be reopened since substantial discussion at a properly noticed public hearing was held on January 9, 2007. She continued that Commissioner Norden closed the public hearing on January 9, 2007. The item was again addressed at the January 23, 2007 meeting and it was clarified that the public hearing was in fact closed. She advised Resolution 8.2.54 states a decision on the application should be made within twenty days after the closing of the public hearing or on the continuance date. Ms. Aldridge said that although they would prefer an immediate decision the applicant does not wish to rush the Board of Commissioners if they are not prepared to make a decision on this date.

Angela Bellantoni, Environmental Alternatives shared concerns regarding the response received earlier this morning from the Board of Commissioners. Commissioner Stiehl clarified the responses were basically on going notations in an effort to keep the line of communication open. Commissioner Norden confirmed the responses reflect work in progress notes for communication purposes and should not be interpreted as final recommendations or conditions. Ms. Bellantoni shared concern regarding two letters sent by the Attorney for the Town of Williamsburg. She stated the letters sent to the Planning and Zoning Department included a courtesy copy to Angela Bellantoni notation, however the actual letters she received were different.

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Commissioner Norden remarked the Board of Commissioners discussed opening a written public comment period for 10 days to allow both citizens and the applicant to review and respond. Ms. Aldridge stated there is no legal basis to permit the opening of a public hearing or public testimony in written form. She summarized that the applicant is required to submit to the State agency to get a permit at which time citizens would have an opportunity to address the issues as mandated by the State. She remarked that further continuance creates a hardship on the applicants and requested the review be limited to the information at hand with a decision at the March 13, 2007 Board of Commissioners Meeting.

Robert Scott, Northfield Coal Mine Manager remarked that the County has heard from consultants, engineers, attorneys and supporters who have explained the Northfield Coalmine project in detail. He advised they have addressed the concerns of the Planning Commission, Board of Commissioners, Towns of Williamsburg, Brookside and Fremont County and have agreed to mitigate every potential adverse impact. He remarked that the intentions of Northfield Partners is to have the best possible relationship with the local government, county citizens and provide a positive expansion impact to the economy of Fremont County, therefore, Northfield Partners respectfully requests the approval of the permit application.

**PUBLIC HEARING
FEBRUARY 27, 2007 10:00 A. M.
NOXIOUS WEED MANAGEMENT PLAN FOR 2007**

J.R. Philips, Weed Management Coordinator presented the Fremont County Management and Control of Noxious Weed Priorities and Procedures. State Law CRS 35-5.5-101 requires that all landowners manage noxious weeds on their property. Mr. Philips reviewed the requirements, implementation, and priorities for implementing action, standard operating procedures and the cost share program of the Fremont County Noxious Weed Management Plan for 2007.

Commissioner Norden asked for anyone wishing to speak for or against to come forward. Seeing none, he closed the Public Hearing and returned to the Regular Meeting.

Commissioner Stiehl made a motion to approve the Noxious Weed Management Plan for 2007 as presented. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

OLD BUSINESS (CONTINUED)

Scott Clark, Attorney stated he was representing *Gus and Daniel Slanovich Partnership aka Chandler Creek Companies*. He advised that Gus and Daniel Slanovich own the property; surface estate of the proposed operations, the mineral interests being mined and the surface estate overlying the mineral interests. Chandler Creek Companies combined and outlined the mineral interest parcels together and the surface estates with mineral interest that had been previously severed. This was done to protect the ability to extract those minerals and to exercise their mineral rights. Mr. Clark said County approval is a small part of the lengthy process Northfield Coal Mine must complete to obtain the necessary permits. He remarked that County and State entities each must authorize the mine before work could begin at the site. Mr. Clark stated they do not believe there is any good cause or basis to reopen the public hearing or accept additional public comment and urged the Board of Commissioners to take action as soon as possible.

Commissioner Lasha said the Board of Commissioners must weigh the land use issues while continuing to consider person and property rights, and all the public input generated.

Commissioner Norden remarked the Board has reviewed an extensive amount of information and have raised additional concerns. He stated the project has been given a great deal of review and consideration.

Commissioner Stiehl stated that although a state of the art coal mine could be an asset to the County he feels due to inconsistencies with the application it is not ready for approval. He further commented on the State review and is concerned the issues felt to be important to the County may not be addressed at the State level.

Commissioner Norden stated the Board of Commissioners would draft a letter stating their concerns to the Department of Reclamation and Mining Safety.

Commissioner Lasha made a motion to approve the CUP 06-003 Northfield Coal Mine with the approval of Conditions delayed until the March 13, 2007 meeting. He further stated written comments from the public would be accepted until 2pm on March 6, 2007 and these comments would be reviewed and could be reflected in the conditions. After further discussion and clarification it was determined that the letters received from the public after the January 9, 2007 public hearing that were not a part of the public record would also be included in the motion. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, nay. The motion carried.

NEW BUSINESS:

APPLICATION – SPECIAL EVENTS PERMIT – CAÑON CITY RODEO ASSOCIATION

Kim Beicker, Treasurer-Secretary of the Cañon City Rodeo Association stated they were requesting a Special Events Permit for malt, vinous and spirituous beverages and food service being served as part of the Cañon City Rodeo Days. The event is scheduled on Friday, May 4th and Saturday May 5th at 1436 South 4th Street in Cañon City. She submitted a poster as proof of posting. Kris Lang, Deputy Clerk confirmed the application received was complete. Commissioner Stiehl made a motion to approve the Special Events Permit for the Cañon City Rodeo Association. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

PLANNING AND ZONING CODE ENFORCEMENT ANNUAL REVIEW

Walter Elkins, Planning and Zoning Code Enforcement Officer presented the annual review. He stated the violations ranged from illegal businesses; abandon homes, mobiles as second homes, mobile storage, illegal built structures and storage of junk and scrap. The properties are located within Penrose, Florence, Cañon City and the Cotopaxi area. All violation notices are posted on the Fremont County website as well as the Geographical Informational System. Mr. Elkins thanked the Board of Commissioners on his behalf and Robert Sapp for their continued commitment and support of the code enforcements. Commissioner Lasha informed Mr. Elkins that trash vouchers would be available for distribution as part of the spring cleanup campaign for Fremont County. Commissioner Norden complimented the department for their efforts and accomplishments. Commissioner Stiehl remarked even in the midst of a restricted budget the Board of Commissioners were committed to the code enforcement activities and have included a minimal amount in the 2007 budget to accomplish further cleanup.

Commissioner Lasha made a motion to accept the annual review by Code Enforcement Officers Robert Sapp and Walter Elkins. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

REQUEST: ESTES TEMPORARY WAIVER OF HARD SURFACING

Joe Seiberlich, V.P. Operations and John Grimm, General Contractor stated they are requesting approval of a temporary, three (3) year deferral of the hard surfacing of the new parking area, in conjunction with the construction of the assembly building expansion at the Estes Corporation, by Estes-Cox Corporation. In addition they are requesting a one (1) year waiver on the hard surfacing of the driveway access to the new concrete apron (to be completed prior to occupancy) until warmer weather allows for proper surfacing of these areas. The property is *located west of H Street and North of Highway 50, in the Penrose area.*

Commissioner Stiehl made a motion to approve the Temporary Waiver of Hard Surfacing for Estes Corporation as requested. The motion was seconded by Commission Lasha. Upon vote: Commissioners Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

GRAVEL BID AWARD

Dana Angel, Finance Director remarked that four bids were sent out, however only two bids were received as follows: T.H.E. Aggregate Source, Cañon City: \$2.25 per ton picked up at the pit; \$4.50 per ton delivered to a specific site. Fremont Paving & Redi-Mix, Inc., Cañon City: \$4.83 per ton picked up at the pit, \$6.83 per ton delivered to a specific site. The gravel will be purchased with Emergency Mineral Impact Funds and Gaming Impact Funds for use on CR #132, #67 and #9. He recommended the bid be awarded to T.H.E. Aggregate Source. **Commissioner Lasha** made a motion to award the gravel bid to T.H.E. Aggregate source. Commissioner Stiehl seconded the motion. Upon vote; Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden. The motion carried.

Commissioner Norden adjourned the Meeting at 11:05A.M.

County Clerk