

SIXTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 8, 2005, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

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

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

The Morning Prayer was given by Pastor Larry Packard from First Southern Baptist Church of Penrose.

The Pledge of Allegiance to the Flag of the United States of America was recited by those present.

APPROVAL OF AGENDA

Commissioner Norden stated that under New Business, he suggested moving Item 12 to Item 1. **Commissioner Stiehl** made the motion to approve the Agenda with the change. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA:

Commissioner Stiehl stated that he had two changes. The correct address for Buckskin Joes Restaurant and Stage Line should be 1289 County Road 3A. He also had an addition to the minutes of February 22nd. On Page 7 on the testimony of Sharyn Cunningham, Commissioner Stiehl stated he wanted to add that “she stated background radiation is 1-2 picocuries per gram” refuting the applicant’s statement that background radiation was 100-1000 picocuries per gram. **Commissioner Norden** made the motion to approve the Consent Agenda with corrections as noted:

1. Approval of Minutes February 22 and Special Meeting February 15, 2005
2. Approval of Bills, March 8, 2005/\$742,353.39
3. January 31, 2005 Financial Statement
4. LIQUOR LICENSES
 - Lincoln Thomas H Lincoln Sandra J
 - Marv’s Place
 - 103 Broadway
 - Penrose, CO 81240-9010
 - Tavern Liquor License Renewal – Malt, vinous and spirituous

 - Buckskin Joes Rest & Stage Line Inc.
 - PO Box 8
 - 1289 Fremont County Rd. 3A
 - Cañon City, CO 81212-0008
 - Hotel and Restaurant Liquor License Renewal with Optional Premises –
 - Malt, Vinous and Spirituous

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk’s report for February 2005. She stated that total revenues collected for February were \$646,340.17, which was a \$19,934.37 increase from last year. Sales tax collected was \$58,557.35, which was an increase of \$2,418.12. The portion of the \$646,340 that goes to the County distribution was \$418,220.85, which was an increase of \$11,690.97. She stated that this was the first time in two or three months they have seen an increase. **Commissioner Lasha** made the motion to approve the Clerk’s report for February 2005. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Norden stated he wanted to give an update on the Special meeting on February 15th when they adopted the Intergovernmental Agreement with the Cañon City Recreation District and the Fremont RE-2 School District on the Regional Park. There is an action item on the agenda for official naming of the park. He stated they got final approval from the Colorado Department of Transportation for the access on Highway 115. The Chairman signed the Agreement last week, and the School District and Recreation District officials also have signed. The Board of Commissioners met with the Events Center steering committee last week, and they will meet on March 15th with DHM Design to go over some of the specifics of the next part of the project. He stated they would be going to Denver to make the appeal for the \$300,000 grant on the 21st of March with the Recreation District for the Mineral Impact Grant to finance that Highway 115 access.

2. Citizens Not Scheduled: There were none

OLD BUSINESS:

RESOLUTION #7/REQUEST: SRU 04-009 TWIN LANDFILL CORPORATION OF FREMONT COUNTY AMENDMENT TO EXISTING CERTIFICATE OF DESIGNATION AND SRU 97-12 TWIN LANDFILL CORPORATION

Brenda Jackson, County Attorney, stated that the Board has had two and a half workshops to go through these findings, which were all posted and all were public meetings. The Resolution represents consensus of the three commissioners. Changes can be made to the findings, but the resolution is basically what came out of the workshop meetings.

Commissioner Stiehl stated that there were ten findings and instead of reading all of them, they will be available, if and when they approve them, on the website. Copies will also be available upon request. **Commissioner Stiehl** made the motion to approve **Resolution #7** Denying Special Review Use Permit Twin Landfill including the findings. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried, and carried with it the adoption of **Resolution #7**.

FINDINGS:

1. The Board’s findings concerning the Application apply both to the request for acceptance of alum sludge and asbestos, unless the specific finding states otherwise.
2. The Board is persuaded that Twin Landfill Corporation has demonstrated either an inability or unwillingness to anticipate potential health risks surrounding the acceptance of asbestos and/or alum sludge and address the same in its Application. A risk assessment study was not conducted and Les Liman, representing the Applicant, indicated that such a study was not performed because it was cost-prohibitive. The Applicant noted in its Application that once the asbestos is in the landfill, there is no further risk, however this conclusory statement is unsupported by any scientific or other evidence.

3. The Board notes that Twin Landfill Corporation has historically demonstrated a lack of responsibility in its handling of the coal fly ash at the Phantom Landfill. Particularly, the Colorado Department of Public Health and Environment (CDPHE) has noted on several occasions, following inspections of the landfill, that blowing dust from fly ash has posed a problem because of the way the ash was being handled on site. Liman's remarks at the public hearing noted that fly ash is a difficult material to handle. The Board notes that asbestos and alum sludge both require special handling and are also difficult materials to handle. The Board notes that asbestos and alum sludge both require special handling and are also difficult materials to handle. The Board notes that both asbestos and alum sludge pose significant health risks when airborne. Given the historical problems with the fly ash, the Board is not confident that the Landfill is capable of handling difficult materials.
4. Windy conditions occur regularly at the Twin Landfill site, posing a problem for handling materials that are a public health risk when airborne. There are residential properties that lie downwind of the site that would be adversely affected in the event that asbestos or radioactive dust was carried in the wind. It is undisputed that wind and dust have caused significant problems for the landfill since its inception.
5. The Board is concerned about the incomplete Application submitted for its consideration. This demonstrates lack of attention to detail, which is the quality that is essential to effective handling of asbestos and alum sludge. Examples of the incompleteness of the Application include, but are not limited to:
 - a. Lack of a thorough plan and procedures for emergency spills and other situations;
 - b. Inconsistencies between the Application reviewed by the State and the Application submitted for consideration by the County;
 - c. Lack of a risk assessment study;
 - d. Failure to clearly differentiate the issues surrounding the handling of asbestos versus the handling of alum sludge;
 - e. The intent of the Applicant in handling the alum sludge as stated in the September 16, 2004 letter to the CDPHE is inconsistent with the requirements set forth in the approval letter dated October 6, 2004. No resolution of these inconsistencies was offered by Applicant.
6. Transportation of asbestos material to the landfill poses a risk to the residents of Fremont County. Applicant states that the generator of the material retains responsibility for the material, even after disposal in the landfill. The Board is not convinced that the transportation of asbestos material, both from originations within and without the county is monitored or regulated in any reliable manner, to prevent material from escaping while in transit or in the event of an emergency spill or other similar accident. Approval of this request will undoubtedly result in an increase in the amount of asbestos material hauled through the county.
7. The Board is concerned with the lack of clear direction from CDPHE concerning the health and safety protocols for the residual placement of alum sludge. Additionally, the Board is concerned that the CDPHE will issue only limited approval (one year) without having a site-specific risk assessment study performed.
8. Based on the limited information available, the Board finds that the Application fails to comply with certain recommendations from the CDPHE for the handling of alum sludge, for a period of time, will not be covered during stockpiling. Additionally, there is no evidence before the Board to support a finding that the time period for stockpiling of the alum sludge will be no longer necessary.
9. The Board is mindful of and concerned with the recommendation for denial from the Department of Planning and Zoning, based on staff review of the application. The Board adopts as its findings the problems identified by the Department of Planning and Zoning concerning the unloading and covering of the asbestos in an area located at least 300 feet away from persons or traffic, the stated intent of the Applicant to train only one person in the handling of the material which results in a procedural and protocol breach if asbestos is brought to the landfill when the trained individual is absent, and the reliance of the Applicant upon the statements and representations of

the hauler concerning the load, rather than relying on inspections of the load brought to the Landfill (Applicant anticipates random checks only). To the extent the Department's recommendations and comments supporting denial are consistent with the findings set forth herein, the Board adopts such recommendations and comments.

10. The Board is mindful of the lack of support for this Application. Aside from comments from the City of Cañon City and others with direct interest in asbestos or sludge disposal, no citizens or entities have expressed support for the landfill's acceptance of alum sludge or asbestos. The Board requests and receives public comment to address the needs and concerns of the community and approval of the Application would be inconsistent with such needs and concerns.

NEW BUSINESS:

CUSTER COUNTY/FREMONT COUNTY, COUNTY LINE ADJUSTMENT

Jack Effinger Fremont County Surveyor, stated he was pleased to be here to present the results of approximately a decade old project to establish the common boundary line between Fremont County and Custer County in the Hillside area. He stated he had worked in conjunction with Kit Shy who was the Custer County Surveyor, and he had prepared a plat to be presented for acceptance and recording in both counties. The three-page plat includes information showing that monumentation has been established and the chronology of events. He stated he believed that the problem started in 1861 when Colorado Territory was established, and there were 17 counties. In 1873 Custer County was created out of a portion of Fremont County. In 1877 the General Land Office did perform boundary surveys establishing the fourth standard parallel south up to its intersection with the New Mexico Principle Meridian. Fremont County is governed by two separate points of origin, one is the Sixth Principal Meridian and the New Mexico Principle Meridian. They come together at a very irregular conjunction in this Hillside area. In October of 1996 the Board of County Commissioners of both Custer and Fremont Counties met with both county surveyors and determined that it was desirable to establish this boundary line. He stated that not long after that October 1996 date, he, Kit Shy, and several other surveyors including BLM and other agencies met out in the field. They did a search for monuments and found there were no existing monuments west of the Sixth Principal Meridian in this area that established that line. Their next best step was to go back to the original description, take the fourth standard parallel south and project it due west. They placed five monuments. Mr. Effinger presented the Board a copy of the monuments that were set in the ground, establishing that county line. He also presented two copies of the plats to be recorded in each county and a CD that shows all of the work that was done. He stated he would appreciate the Board's review, approval and signature of the plat. He stated that Fremont County's line is probably a little bit further south than where people had assumed it was.

Commissioner Lasha complimented Mr. Effinger and Kit Shy for their work to accomplish this project.

Commissioner Norden added his compliments and stated that he thought the History Center would find some engineering history in the plat worth recording at the Center. **Commissioner Norden** made the motion to accept the legal documentation and the plats provided by the Fremont and Custer County Surveyors as defining the now known common boundary of Fremont and Custer County. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

PROCLAMATION – FREMONT COUNTY NON PROFIT DAY

David Russell introduced Charles Shimanski, President & CEO of Colorado Association of Non-Profit Organizations. Mr. Shimanski stated that Governor Owens had proclaimed this week as Colorado Non Profit Week. He stated they had 17,000 non-profit associations in the State and more than 200 are in Fremont County. **Commissioner Lasha** read the proclamation. **Commissioner Stiehl** made the motion to accept the

proclamation as read. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

JOHN C. FREMONT LIBRARY DISTRICT – REORGANIZATION OF THE BOARD TO FIVE MEMBERS

Commissioner Lasha stated that they had appointed six members and they had one resignation.

Jennifer Miley, President, John C. Fremont Library District Board of Trustees, stated they started out with seven members and only filled six positions. They lost one person through a resignation and they are down to five members. She stated this was within the Colorado Revised Statutes and they have made a resolution to become a five-member board. She stated they had their own financial abilities, banking is done, insurances are completed, they are working on a new budget, have job descriptions and have hired staff. They are working on the IGA and revamped the floor plans for the library. **Commissioner Stiehl** made the motion to accept the reorganization of the John C. Fremont Library District Board to five members. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

COLORADO STATE FOREST SERVICE AGREEMENT FOR DUTCH ELM DISEASE SURVEY IN FREMONT COUNTY

Commissioner Lasha stated that they had participated in this for a number of years, the cost is \$1500.00. **Commissioner Norden** made the motion to approve the Service Agreement for the Dutch Elm Disease survey in Fremont County. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

AWARD BID AIRPORT RAMP IMPROVEMENTS

Dick Baker, Airport Manager, stated that on February 22nd, they opened bids at 3:00 P.M. for AIP Project No. 3-08-0009-06 Fremont County Airport. Upon review of Armstrong Consultants and the Airport District Office, the recommendation, upon contingency of the federal funds being released, was to award the bid to Kiewit Western Company of Colorado Springs for \$328,041.00. The other bid was from A & S Construction for \$434,470.00. This will give the airport additional ramp space of 200 x 275 concrete that can be used for heavier aircraft and helicopter operations. The total grant is \$552,632.00, the State apportionment was \$13,816, the local apportionment was \$13,816. This is in a two-phase project, and the first phase is the ramp expansion. The second phase is the revised airport layout plan, which is part of the Master Plan. **Commissioner Norden** made the motion to award the bid for the ramp expansion at the Fremont County Airport to Kiewit Western Company for \$328,041.00. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

FREMONT COUNTY LODGING TAX COUNCIL BY-LAWS

Brenda Jackson stated that several years ago the voters in Fremont County passed a lodging tax, and the State statutes require that the lodging tax be spent for the promotion of tourism in the County. The Lodging Tax Council was formed and by-laws approved by the Board of Commissioners and sent to the Lodging Tax Council for approval. The Council did not approve the by-laws as prepared by the Commissioners, and instead prepared their own set which never came back to the Commissioners for approval. It was recently discovered that there is not a set of by-laws that was adopted by both Boards. They have a set of by-laws today that incorporates some of the provisions that the Lodging Tax Council had in their by-laws together with the wishes of this Board concerning the expenditure of citizen tax dollars and how the Council will go about doing that. It clarifies that the Board of County Commissioners has full authority for appointment or removal of any member of the Lodging Tax Council. The Lodging Tax Council had proposed having

an alternate member in addition to the regular seven regular board members. The Commissioners did not approve that, so that language has been stricken. There are seven members appointed or removed by the Board. The Commissioners has clarified who the ex-officio members will be, the non-voting members on the Board, and that includes a member from each Chamber of Commerce in Fremont County, a member from City of Florence, the City of Cañon and several other entities who will be represented on the Board in an ex-officio capacity. The by-laws now provide provisions concerning notice to the public of meetings and compliance with the Colorado Sunshine Act. The Lodging Tax Council in conjunction with the Commissioners has proposed and included in the by-laws that up to 5 percent of the tax dollars collected may be spent on local entities and local projects, assuming they meet the criteria. If approved by the Board today, it will be sent to the Council explaining the changes and indicating that they need to approve the by-laws unchanged. **Commissioner Norden** made the motion to adopt the Fremont County Lodging Tax By-Laws. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

APPOINTMENT OF MEMBERS TO THE FREMONT COUNTY LODGING TAX COUNCIL

Commissioner Lasha stated that there were two openings, one for Mike Bandera and one for Kathy Keenan. They have three letters of request: Mike Merlino, Mike Bandera and Kathy Keenan. **Commissioner Norden** made the motion to appoint to the Lodging Tax Council the reappointment of Mike Bandera and to newly appoint Mike Merlino. He stated that this would give them the opportunity to appoint a restaurant representative and expand the representation to another industry segment in local tourism. This goes with a compliment to Kathy Keenan for her service on the Council. These will be three-year terms. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

ASSESSOR'S OFFICE – PETITIONS FOR ABATEMENT OF TAXES 2004

Pam Gaunt, Deputy Assessor, stated that there were four petitions. CC-Com has two separate accounts, one land only and one improvements only. Land and improvements were put on one and the land had to be taken off that account. The McMillen's should have been Ag. Phyllis Ary had too much commercial property on her schedule. SoCo Properties had incorrect portions of residential and commercial. **Commissioner Stiehl** made the motion to approve **Resolutions #8 thru #11**:

RESOLUTION #8/CC-COM LTD./SCHEDULE #110-30-000/\$6,284.49

RESOLUTION #9/MCMILLEN, LARRY S. & RENEE L./SCHEDULE #999-20-451/\$6,284.49

RESOLUTION #10/ARY, PHYLLIS/SCHEDULE #120-00-150/2004-\$2,604.79 AND 2003-\$2,328.63

RESOLUTION #11/SOCO PROPERTIES/SCHEDULE #110-00-640/\$3,203.78

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried and carried with it the adoption of **Resolutions #8 through #11**.

REQUEST: EXTENSION OF ZC 04-005 FLETCHER ZONE CHANGE

Weston Fletcher stated that they started this project in September last year. They have met all contingencies excluding the road. They applied for an access permit through CDOT which took a long time to get approval. Their terms and conditions required them to pave 780 feet deceleration lane, 800 feet deceleration lane in the opposite direction and 25 foot storage lane each direction on Highway 50. That would be approximately \$300,000 plus to accomplish, which was not in their budget. He stated he was asking for an extension so the Commissioners, Road & Bridge Department and he could get on the same page and make the improvements. **Commissioner Lasha** made the offer to meet with the Department of Transportation, Terry Action, Mr. Fletcher and himself.

Commissioner Stiehl made the motion to approve the request for a six-month extension for ZC 04-005 Fletcher Zone Change. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

REQUEST: FP 05-001 FREMONT TRAILS CONDOMINIUMS

Matt Koch, Cornerstone Land Surveying, stated they were requesting a condominium subdivision of two existing duplex units located on Grandview Avenue and Antero Drive. The intent is to sell each unit separately creating a recorded declaration that each owner of each unit has 50 percent interest in the property. There are limited and common elements that will be declared in that declaration of who maintains and how it is kept.

Bill Giordano, Planning & Zoning Director, stated they had a number of letters from adjacent property owners. They had quite a bit of comment that they were already built, and that was correct. The reason for the subdivision is to actually be able to sell individually which requires a subdivision process because it is a duplex. The people were told at the time that condominiums and townhomes could not take place. That is still the case under the regulations. Because of State statutes, they have to allow them to sell them as condominiums. One of the items on the Agenda is to close this loophole through an amendment process. This was published in the newspaper in accordance with regulations, all property owners within 500 feet were notified. This item does not go before the Planning Commission, the final plat comes to the Commissioners.

Commissioner Lasha stated that they had some input from the community, and even though this was not a public meeting, he would allow some input from residents.

Kim Nelson, Tate Trace Resident, stated he did receive a letter and was confused on what was getting approved, because the condominiums were already built. He stated that this subdivision has 8 more slots, and asked if they were going to ahead and build the rest of the condos on the Phase 3 site and come back and request the same thing at every meeting?

Commissioner Stiehl stated that one of the things they need to do whenever a zoning change is presented, they need to be aware of the maximum density that they are approving.

Martin Welch, Humboldt Dr. Resident, stated he was a certified residential appraiser and that he was all for these projects being condominiums as opposed to duplexes. The low density residential zone district does allow for duplexes. The question is whether or not they are going to have duplexes or essentially single-family homes in the form of condominiums? He stated that as a property owner in the area, he would like to see not just these two units. He stated that it was in the County's best interest for these units to be designated as condominiums because they are going to be worth more, resulting in a higher tax assessment and higher revenue.

Bill Giordano stated that once you approve that zone change, all the uses that are permitted in that zone district are allowed. When you start putting additional restrictions on the zone district, you get into contract zoning and that is illegal.

Commissioner Norden stated that there was conflict between what the developer may have told people in the area, conflict with what their zoning resolution says and allows, and conflict with what is now being proposed today. He stated he was at the hearing when Cañon Creek was proposed as single-family dwellings. It was represented as 127 single-family dwellings. He stated he had read the Homeowner's Association guidelines for how they would tend to maintain this property. The County has no authority to make a Homeowner's Association maintain their property. He stated he thought if the neighbors had an interest, they may be interested in a copy of the Homeowner's Association agreement to see what kind of language is there that holds those individual owners of the

condominiums responsible for the general common elements of keeping property in good, clean, attractive, sanitary condition, order and repair, keeping the project safe, attractive and desirable.

Commissioner Stiehl stated that if their notice system had not worked, this issue may have just gone by and not realized it was a concern. They may not have found the loophole in their inconsistency with their zoning with the State statutes.

Commissioner Lasha made the motion to approve the request for approval of condominium plat for Lots 1 and 2 in Cañon Creek Filing III in Fremont Trails Condominiums. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

APPOINTMENT TO PLANNING COMMISSION

Commissioner Lasha stated that Tim Canterbury had stepped down, and he had done an outstanding job. He stated they had three applications from the west end, and they felt it would be appropriate to interview them. **Commissioner Stiehl** made the motion that the appointment to the Planning Commission be tabled for the March 22nd meeting. **Commissioner Lasha** stated that they had received additional letters from different parts of the County, but felt it was very important to have representation from the west end. They will be interviewing Don Moore, Keith McNew and Derek Cocovinis. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

RESOLUTION #12/DISCUSSION OF IMPOSITION OF A MORATORIUM ON ISSUANCE OF BUILDING PERMITS FOR DUPLEXES IN FREMONT COUNTY PENDING AMENDMENT OF ZONING REGULATIONS

Commissioner Stiehl stated that this relates back to Item 9, Fremont Trails Condominiums. He stated that their regulations were not in keeping with the State statutes. He had met with the Planning & Zoning Director and the County Attorney to draft the verbiage to impose a moratorium on the issuance of two-family dwellings in all zoning districts except medium and high density and to direct that process to reevaluate their zoning for two-family dwellings back to the Planning Commission. This will take a couple of months to work through the system.

Brenda Jackson stated: “The zoning resolution at present allows two-family dwellings in several zone districts, those are also known as duplexes. The moratorium, however, is on two-family dwellings because that is what it is called in their zoning resolution. In November 2004 this came to the attention of the Board of Commissioners because the Fremont Trails Condominiums’ plat was recorded and had not gone through any County process of approval. They discovered that the building permits were probably issued erroneously because by State statute, just construction of a two-family dwelling is a subdivision of the land. It doubles the density on the lot by having two families instead of one. These should be platted under the subdivision regulations prior to issuance of a building permit, so that the plat could be approved and the County can ensure that it is in compliance with all of the regulations. The County cannot tell a landowner how they can own their property. What is a County determination is whether or not the property is being subdivided in less than 35-acre parcels and construction of a two-family or multi-family dwelling including apartment buildings, townhomes and the like are a subdivision of the property. Our zoning resolution and subdivision regulations are not consistent with the statutory provisions. We allow two-family dwellings as a permitted use in the low density residence zone, however, we do not have a subdivision platting process for a two-family dwelling. We drew on other subdivision regulations in the review, and since the building was already constructed, we did an after-the-fact review to make sure the infrastructure was intact and the lot coverage was met. Our zoning which allows these in various zone districts, but doesn’t adequately cover the platting requirements on the subdivision side. The zoning and subdivision need to work harmoniously, and ours do

not. The result is there have been several building permits issued for duplexes or two-family dwellings without having gone through the platting process of the County, and that is one thing they need to correct. Another concern to this Board is the concept of whether or not multi-family dwellings should be allowed in the low density residence zone district or some of the other zone districts where they are presently permitted. The Board recognizes the density problems by allowing these as a permitted use. We can correct the platting problem but we can't correct the density problem without amendment to the zoning regulations. The Resolution is authorized by statutes under the planning statutes and allows the Board to impose temporary regulations upon the issuance of building permits for two-family dwellings. We can't stop our zoning from going forward, however, we can stop construction of two-family dwellings until the Board and the Planning Commission has an opportunity to determine where they want to plan for this type of residential development. The statute prohibits this type of moratorium for a longer period of time than six months. It is anticipated that it would be lifted well before six months, but the moratorium will expire on its own on September 8th if no action has been taken to lift the moratorium prior to that time. There is one outstanding building permit for duplexes which is on the third lot on the Fremont Trails Condominium projects in the Cañon Creek subdivision. That building permit has already been issued, work has already begun on the site and that permit will remain in full force and effect but no further permits will be issued unless they are in an appropriate zone district".

Commissioner Norden stated he was surprised to know that there was no specific zoning district in Fremont County that restricted development to single-family dwellings. He stated that he generally did not like the idea of moratoriums, but in this particular case, it would serve a useful purpose because he stated he believed we should have a zoning district that restricts some development to single-family dwellings. He stated he believed that is what was intended for this particular Cañon Creek despite the fact that their current zoning resolution does not have that much restriction and allows those duplexes in low-density residential zoning. He stated he thought it was important that they not place those restrictions on medium and high density.

Brenda Jackson stated that when Cañon Creek Subdivision came before the Board for approval, the regulations required that they present a lot of information on how the subdivision is going to function when built out. That includes street improvements and lighting. Traffic was a real issue with respect to this subdivision. The density was a major factor in considering approval of this subdivision because of traffic concerns. When you double the density, traffic concerns are enhanced. No traffic information was provided to the Board for development with condominiums or multi-family dwellings because the developer represented that it was going to be single-family dwellings. It is a problem in the zoning resolution that needs to be looked at and, if appropriate, corrected.

Commissioner Stiehl stated that they would be referring this to the Planning Commission. He stated they wanted the Planning Commission to look at the entire picture county-wide and come up with a good recommendation to the Board.

Commissioner Norden invited anyone from the audience who wanted to comment to come forward.

Bill Christensen, Realtor, stated he was not the original developer of the property, that was Ross Jeffrey. He stated before he purchased these lots from the developer, he checked with the County. The zoning resolution at the time, allowed duplexes. He stated that one thing they had as a need is condominiums or townhomes for people that don't want large yards, and there is not a vehicle in Fremont County to provide that kind of housing. When he checked out building duplexes there, his legal council said the zoning was allowed for duplex units. According to his research, condominiums are not considered subdivisions. He stated that right now they could not build condominiums in Fremont County, and they are all being built in Cañon City. The County misses an opportunity to have something available for retired people. He stated they had

accomplished this same task within the City of Cañon City. They followed the same State statute, and thought they were doing the right thing.

Brenda Jackson stated that Bill had been nothing but honest, and shown utmost integrity in this process. He did follow the regulations as they exist and because he did, it brought to their attention the problem with their own regulations. It had nothing to do with how Bill went about this platting process. It brought attention to a conflict internally and a conflict between their regulations and the State statutes that had nothing to do with the process that Bill followed.

Bill Giordano stated that there was nothing that precluded Mr. Christensen to come and apply for the medium-density zone district to allow condominiums on any of the future filings. It would require a Public Hearing and the people would get a chance to speak for or against. Those same traffic issues would probably come up again because they would be increasing the density.

Matt Koch stated that a lot of developers were looking for places to put townhome-type units. The County does have a PUD plan in place, but it does not allow for too much leeway. You still have to hold to the zoning that it falls in. The City allows to actually reduce the size of the lots. If you could present a change in the PUD process that would give a little leeway to what they could do for a multiple-family development, that would be more appealing.

Commissioner Stiehl made the motion to approve **Resolution #12**, Imposing a Temporary Moratorium on Issuance of Building Permits for Two-Family Dwellings in All Zone Districts in Fremont County Except, for Medium and High Density Residence Zone Districts Pending Amendment to the Fremont County Zoning Resolution Concerning the Zone Districts Permitting Two-Family Dwellings. Such Resolution shall expire on September 8, 2005 or before. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried and carried with it the adoption of **Resolution #12**.

SUPPORT FOR RECOMMENDATION FROM NAME SELECTION COMMITTEE FOR REGIONAL PARK

Commissioner Stiehl stated they had solicited from the public input for their recommendations for names for the Regional Park. He stated he and a member from RE-2 School District and a representative of the Park Board met last week. They selected the name “Pathfinder”.

Commissioner Norden stated that Pathfinder was selected because of it’s association with John C. Fremont for whom Fremont County is named. Fremont earned the name “Pathfinder” because of his expeditions to explore and map the west between 1838 and 1854. The Recreation District will consider adoption tonight, and RE-2 will follow. This will be a name for the common area both for the Recreation District owned property and the Fremont County owned property. There will be common signage at the entryway to the Park. **Commissioner Stiehl** made the motion to support the recommendation of “Pathfinder” as the name for the Regional Park. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 11:25 A.M.