

March 11, 2008

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**FIFTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 11, 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	Present

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

Richard Gott from In His Name Ministries 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** noted deletions from New Business. **Roy Masinton, Royal Gorge Field Office Manager**, of the BLM typically meets with the Board in an informal informational session because it is a non-action item. Mr. Masinton apologized that there was confusion and that the meeting was placed on the March 11, 2008 agenda. Commissioner Norden stated that Mr. Masinton would be meeting with the Board informally for the informational session of the business taking place with BLM at 10:30 a.m. today.

**Commissioner Norden** stated the **Jane Mannon** from the Cripple Creek and Victor Gold Mining Co. called and would not be present due to illness.

**Commissioner Norden** moved for approval of the Agenda removing Items #1 and #2 of the New Business. 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 as presented on the handout Agenda. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Lasha** stated the tax certificate had not been received regarding Item #7. Assignment of Lease for Hangar 24 at Fremont County Airport to Saline Javernick. **Brenda Jackson, County Attorney**, stated that it should be removed from the Consent Agenda and placed under New Business. **Commissioner Stiehl** amended his vote.

**Commissioner Lasha** made a motion to approve the assignment contingent upon the tax certificate being received showing all taxes on the improvements have been paid. Commissioner Norden seconded the motion. **Commissioner Lasha** stated there is a motion and a second to removed Item #7 from the Consent Agenda and address it separately to approve the lease of Hanger 24 at Fremont County Airport to Saline Javernick contingent upon the documentation for the taxes. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

**ADMINISTRATIVE/INFORMATIONAL**

1. Staff/Elected Officials

**Fremont County Clerk and Recorder, Norma Hatfield**, submitted the Clerk’s Report for revenues earned in the Clerk and Recorder’s Office for the month of February, 2008. She stated the overall collection was \$633,075.05 which is an increase of \$14,456.65 over revenues earned in February, 2007. Sales Tax for Fremont County collected was

\$45,570.87 which was down \$11,338.20. The fees which go to the County for distribution to the various entities were \$417,811.04 which is an increase of \$27,828.53. Ms. Hatfield stated last year a bill was passed increasing the Clerk Hire Fees in the Clerk's office. Last year for the month of February \$7,682.00 was collected and this year fees collected for February were \$15,918.00. The Clerk Hire Fee is what the State pays the Fremont County Clerk's Department to do motor vehicle registrations. The monies come directly from the State. **Commissioner Stiehl** moved to approve the Fremont County Clerk's Report for February 2008. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Norden** stated the Fremont County, City of Cañon City and the City of Florence are participating in the annual Spring Cleanup Campaign. Vouchers are being distributed. Residents of the City of Cañon City who would like to get vouchers should go to the City Hall. Rural residence of the County can pick up vouchers at the County Commissioners Office, Room 105. The voucher will allow a resident to dump a standard pickup load of trash. There will be special recycling on Saturday, April 19<sup>th</sup> for aluminum and battery recycling at the RE 2 recycling up on High street. There will be tire recycling at the Holcim Cement Plant at Portland, Saturday, April 19<sup>th</sup> from 9:00 a.m. to 12:00 p.m. for passenger vehicle tires only (no rims). **Commissioner Lasha** stated over 1800 tires were collected last year. The vouchers from the County will be issued March 24<sup>th</sup>. The City of Florence will have their cleanup week April 14<sup>th</sup> through 18<sup>th</sup>, but they will be issuing the vouchers on March 24<sup>th</sup>. **Commissioner Norden** stated Saturday, March 15<sup>th</sup> is the quarterly plastic recycling on south 9<sup>th</sup> Street, Cañon City, from 9:00 a.m. to 1:00 p.m.

**Commissioner Stiehl** stated there will be series of meetings sponsored by the county to acquaint land owners and ranchers with conservations easements. This is an effort to have landowners consider conservation easements for the future of their land and water resources and to protect them against development. The first meeting is an all day meeting at the Pueblo State Park, Friday, March 28<sup>th</sup> sponsored by the Division of Wildlife at the Lake Pueblo State Park.

**Commissioner Stiehl** stated the Northfield Mine which is between the town of Brookside and Williamsburg was approved at the County level has made its way through the Division of Reclamation Mining and Safety. The Division's draft decision for the Northfield Mine is available at the Fremont County Clerk's office, 615 Macon Ave., for review. There is a thirty (30) day review period for comments.

**Commissioner Stiehl** stated a concern for the amount of snow pack that we have and the potential for flooding in Cañon City. Steve Morrisey, Emergency Management, is monitoring the flooding potential. National Oceanographic and Atmospheric Administration (NOA) estimates there is an eighty percent (80%) chance of reaching flood stage in Cañon City. Flood stage is 9 feet and NOA is stating there is a good chance of 9.2 feet. There could be some flooding in low lying areas around the State. Commissioner Stiehl said the NRCS is not forecasting a high runoff, but we do have a large amount of snow pack in the mountains. We are at 141% water content in the snow pack in the Arkansas Basin upstream of us and depending on how fast the snow melts and runs down stream will determine what our exposure is for flooding. We are in a record snow pack year. On the other side of this we are still below average capacity in the reservoirs. Pueblo Reservoir is only 60% full. The State Engineer along with cooperation of other water entities is moving water down stream from Turquoise and Twin Lakes Reservoirs to store in Pueblo Reservoir. They are lowering the water of the reservoirs upstream so they can handle additional flood or restrict flow to help us should there be flooding.

**Fremont County Sheriff, Jim Beicker**, stated his department will host the Colorado Sheriff's Association summer conference from June 9<sup>th</sup> through June 13<sup>th</sup>. The Undersheriffs will be here during the first part of the week and the Sheriffs will be here Wednesday through Saturday morning depending on the agenda.

**Tom Young** stated the State Engineer has proposed some rules for efficiency of irrigation. Anyone who objected to the rules which would all be farmers, because they are the ones that irrigate, would be responsible for any expense bills that would occur from studies initiated by the rules. This is only being done in the Arkansas valley. Mr. Young stated the Conservancy District is concerned that the rules could negatively impact the water rights of farmers and ranchers. The State upon hearing of the opposition to the rules, wanted to be kept out of public view regarding the decisions they were making. The Conservancy District expressed that they, along with the County, are a public entity and decisions could not be initiated in that manner. Mr. Young requested Fremont County to support, along with Chafee and Custer counties, positions taken by the Upper Arkansas Water Conservancy district against possible rules promulgated by the State Engineer against irrigators. **Commissioner Stiehl** stated he was opposed to taking a position against the State Engineer at first. After looking into the situation further, he felt the State Engineer is moving too fast and the Upper Arkansas Water Conservancy district is taking a good position on the issue.

**Commissioner Lasha** closed the regular session and opened the Public Hearing.

### PUBLIC HEARING

#### REQUEST: EXTENSION OF CUP 98-3 ENERGY FUELS COAL, INC. (SOUTHFIELD MINE)

Commissioner Lasha state this is a request for approval of an extension of Conditional Use Permit through May 14, 20017 to complete reclamation, Department file #CUP 98-3 Energy Fuels Coal, Inc. (Southfield Mine), by Energy Fuels Coal, Inc., for the property which is *located approximately 5 miles south of the City of Florence along Colorado highway 67 and approximately 2-1/2 miles southwest of the intersection of Colorado Highway 67 and county road #15, thence south approximately 1 mile along County road #92.*

**George Patterson, General Mine Manager**, stated Energy Fuel Coal, Inc. is requesting an extension of the CUP 98-3 permit that expires in May 2008, to be able to complete the reclamation process. He stated they are currently four and one-half (4-1/2) years into the ten (10) year state reclamation liability period. The coal mine closed permanently in December, 2000. Demolition and reclamation was started in 2001. Temporary cover crop was planted in 2002. The permanent seeding was done in 2003. The permanent seeding starts the clock with the State for the ten (10) year liability and this is why an extension is requested. Mr. Patterson stated there has been a fair amount of moisture in the last few years and the reclamation is proceeding well. The area is benefiting the surrounding lands that are approved for range use and wildlife.

**Planning and Zoning Director, Bill Giordano**, stated this is a change of a condition of the existing permit. They are requesting the permit to remain in effect until May, 2017. Mr. Giordano noted even though the company is only taking action on the time frame, we will go through and take out anything in the conditions that is related to mining when the resolution is prepared. In reviewing the application, the only item that probably is not appropriate in the existing condition is the requirement concerning blasting. Since blasting is no longer an issue, this item will be removed. He stated that notice was published in the newspaper, property was posted and notification of property owners within five hundred (500) feet was completed. He noted a complaint was received from **Mrs. Linda Saunder** via an e-mail. A request was made to Mrs. Saunder to put the complaint in writing but nothing was received from her. Mrs. Saunder's complaint was that Energy Fuels Coal, Inc. did not have a right to the property. Mr. Patterson has provided leases that show that Energy Fuels Coal, Inc. does have right to the property.

**Commissioner Lasha** opened the floor up to public comment. There was no comment for or against the issue.

**Commissioner Lasha** closed the Public Hearing and opened up Regular Session. He commented that when he was involved with the City of Florence as City Manager, he had many opportunities to go out to the site of the reclamation project. He complimented Mr. Patterson on the reclamation that has been done.

**Commissioner Norden** stated in regard to Planning and Zoning Director, Bill Giordano's comments about concerns of Mrs. Saunders, that his office did receive an E-mail requesting that the hearing be postponed. The consensus of the Board was to continue the hearing. Her protest in the form of an E-mail is duly noted.

**Commissioner Stiehl** stated that even though the request was made by the department to submit the protest in writing, they have reviewed the lease documents. The Board is satisfied that the lease does allow the applicant to continue to access the site until reclamation is completed.

**Commissioner Norden** stated the other footnote to this is that the property owner obviously would not want to make use of her property that she references until the reclamation plan is completed so it would be in her, and all the other property owners' interests, to see the reclamation plan completed as expeditiously as possible.

**Commissioner Stiehl** moved to approve the extension of CUP 98-3 Energy Fuels Coal, Inc. (Southfield Mine) to May 14, 2017 to allow them to complete the reclamation to the satisfaction of the Department of Reclamation Mining and Safety.

The Conditions Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:

**RECOMMENDED CONDITIONS**

1. Condition Use Permit be issued for a ten year term.

**AMENDED TO:**

1. **The term of the Conditional Use Permit shall be through May 14, 2017 for completion of reclamation of the site only.**
2. The Planning Department will review the permit yearly to determine compliance with the conditions of the permit and forward it to the Board of county Commissioners for their review as required by regulations.
3. Applicant 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.
4. Applicant shall comply with all laws and regulations of the State of Colorado, its agencies or departments, the Board of County Commissioners of Fremont County, and the United State of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
5. Applicant shall obtain and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
6. The applicant shall provide the Fremont county Department of Planning & Zoning with copies or any technical revisions to its Mined Land Reclamation permit, and with any copies of any and all other permits, which may be required by any governmental agency.
7. All loads of material transported from the site, regardless of the owner or driver of the truck leaving the site shall be secured to prevent any material from escaping in accordance with C>R>S> 42-4-1208 as amended.

8. Hours and days of operation will not be limited.
9. 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 more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Planning 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 of County Commissioners.
10. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
11. Termination of any lease prior to termination of the Conditional Use Permit will result in the termination of the Conditional Use Permit.
12. Copies of all renewed leases shall be provided prior to expiration.
13. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification 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.
14. Any Change in mining methods (blasting) will require approval by the Fremont Board of County Commissioners.

**ADMENDED TO:**

14. **DELETED**

In addition, the Fremont Board of County Commissioners recommended waivers of the following items for consideration:

- A. 5.3.2. Surfacing;
- B. 5.3.3 Lighting;
- C. 5.3.4 Landscaping

**ADMENDED TO:**

**In addition, the Fremont Board of County Commissioners granted waivers of the following items:**

- A. 5.3.2. Surfacing;**
- B. 5.3.3 Lighting;**
- C. 5.3.4 Landscaping**

Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried to approve **Resolution #24.**

**NEW BUSINESS**

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

**County Assessor, Stacey Seifert** submitted three (3) Petitions of Abatement.

Richard Lee and Karen Ann Allen for property located at 707 So. 8<sup>th</sup> St., Cañon City, CO. In 2003, the land size was increased by 9,000 square feet and the land value was tripled over all the other properties in the same subdivision. She stated the reassessment could

only go back to the 2006. The abatement for 2006 is \$1,373.31 and for 2007 the taxes abated are \$1,775.88.

**Stacey Seifert** stated the other two abatements are for Villa Canon Associates. The property is a group of duplex buildings on the 2400 block of east Main. Information was faxed in to the Assessors office by a tax agent, dated May 26, 2006 on both forms. She called the agent and requested proof that the forms had been filed in the office in a timely manner which was in 2006. Certified mail receipts were supplied that the forms had been delivered to the Assessors office. The buildings are rent restricted and under the current PTA guidelines we are required to do a market adjustment based on the rent restricted units and their income. The calculations that were stated for 2004 and 2005 are correct. The abatement amount for 2004, Schedule #382-1342-00004, \$2,761.32 and for 2005, Schedule #120-02-800, the amount is \$2,375.99. **County Attorney, Brenda Jackson** inquired if the amounts were refunds. Ms. Seifert responded that they were refunds and they bear interest from the time they were paid to the time they are refunded.

**Commissioner Norden** moved to approve Petitions of Abatements for: **Resolution #25**, Richard and Karen Allen for a tax abatement in 2006 for \$1,373.31 and 2007 for \$1,775.88; **Resolutions #26**, Villa Canon Associates for the tax year 2004 for a refund plus interest in the amount of \$2,761.32; **Resolution #27** Villa Cannon Associates for the tax year 2005 for a refund plus interest in the amount of \$2,375.99. Commissioner Stiehl seconded the motions. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried to adopt **Resolution #25, Resolution #26 and Resolution #27.**

#### **ADOPTION OF NOXIOUS WEED MANAGEMENT PLAN**

**Fremont County Weed Management, J.R. Phillips**, presented The Noxious Weed Management Plan of Fremont County, Colorado, including the city of Cañon City and the City of Florence. The areas of Penrose, Rockvale, Coal Creek, Howard, etc. are included but not listed in the title. Every three years the County is required by the State of Colorado to review the noxious weed management plan and in so doing make any modifications that maybe required by the state or local county government.

Mr. Phillip quoted from the Noxious Weed Management Plan: "In the spring of 2007 the Fremont County Board of County Commissioners approved the Fremont County Management and Control of Noxious Weeds Priorities and Procedures document. This document outlines the priorities and procedures to be taken to insure that noxious weeds are controlled on all property within Fremont County. These specific priorities and procedures are now in effect and attached to this plan as Addendum B in its entirety."

**Commissioner Norden** questioned is there was any significant changes since the Commissioners had reviewed the plan a year ago. Mr. Phillips stated there are not other than addition of Addendum B which was approved by the Commissioners in public process last year.

**Commissioner Stiehl** thanked Mr. Phillips for the acknowledgement of the board members because they are a very intrepid board. We owe a lot to them as far as keeping the weed management going in Fremont County.

**Commissioner Norden** moved to adopt for 2008 the Fremont County Weed Management Plan for Fremont County, Cañon City and the City of Florence. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

#### **CAÑON CITY RODEO ASSOCIATION APPLICATION FOR A SPECIAL EVENTS PERMIT**

**Fremont County Sheriff, Jim Beicker** is representing the Cañon City Rodeo Association in behalf of Dan Trujillo, President, and is also a Board member. He stated the

Association is applying for their annual 3.2% Beer Special Use Permit. The event is the annual PRCA rodeo sanctioned event. Notification has been posted. In previous years there has been little trouble with the Sheriffs' Office Reserves, Rangers and other volunteers working the event. The event will be held May 2<sup>nd</sup> and 3<sup>rd</sup>.

**Commissioner Norden** moved to approve the Cañon City Rodeo Association Special Events liquor permit for Cañon City Rodeo on May 2<sup>nd</sup> and 3<sup>rd</sup>. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**REQUEST: TUP 08-001 PENROSE CHAMBER OF COMMERCE FLEA MARKET**

**Bill McGuire, Executive Director, Penrose Chamber of Commerce** stated the Penrose Chamber of Commerce was requesting a Flea Market permit. The event is the first Saturday of each month April through September. The first Flea Market is April 5<sup>th</sup>. He requested a waiver to the permit for police. The Sheriff's Department has been contacted and the department will set up extra patrol. The Gooseberry Patch Restaurant is allowing the use of their parking lot for the Flea Market.

**Bill Giordano, Planning and Zoning Director**, stated they have made application for issuance of the temporary use permit. They are asking for waiver of the Application Fee and Cleanup Fee. He noted that the Cleanup Fee has been waived every year and there have been no complaints about trash. A copy of the effective liability insurance needs to be provided.

**Commissioner Stiehl** moved to approve the TUP 08-001 Penrose Chamber of Commerce Flea Market with waiver of the Application Fee and Cleanup Fee provided proof of satisfactory liability insurance is provided for the first Saturday of each month April through September, beginning April 5<sup>th</sup>. Commissioner Norden seconded the motion. Upon vote: Commission Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

**REQUEST: TUP 08-002 TEMPLE CANYON AUTO HILL CLIMB**

**Trudy Adamovich, CHCA Race Director**, requested a temporary use permit for the 17<sup>th</sup> Annual Temple Canyon Auto Hill Climb and also requested waiver of the Cleanup Fee. The event will be May 10<sup>th</sup> and 11<sup>th</sup> located on *County Road 3, Temple Canyon Road, off South 1<sup>st</sup> Street in Canon City.*

**Planning and Zoning Director, Bill Giordano**, stated action requested on the TUP is approval of the event. The applicant has requested a waiver of the Cleanup Fee. There has been no problem or complaints regarding clean up. The insurance has been provided.

**Trudy Adamovich** stated last year the club had a volunteer clean up day of Temple Canyon road and the surrounding area. Harvey Olsen from BLM inspected the road before and after the event and sent a thank you letter to the association for their efforts.

**Commissioner Norden** moved to approve the TUP 08-002 for the Temple Canyon Auto Hill Climb on May 10<sup>th</sup> and 11<sup>th</sup> and approve the waiver of Cleanup Fee. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Lasha** adjourned the Meeting at 10:30 A.M.