

March 11, 2014

FIFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 11th, 2014, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Tim Payne called the meeting to order at 9:30 A.M.

Tim Payne	Commissioner	Present
Edward H. Norden	Commissioner	Present
Debbie Bell	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director and Jody Blauser, Chief Deputy Clerk.

The Invocation was given by Loren Kolman from Young Life Ministries.

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

APPROVAL OF AGENDA

Commissioner Bell moved to approve the agenda. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / February 11, 2014
2. Approval of Minutes / February 25, 2014
3. Approval of Bills March 11, 2014 / \$880,443.99
4. Consideration of Approval of Water Lease Agreements (#951 and #952) with the Upper Arkansas Water Conservancy District
5. Consideration of Approval of 2014 Loan Agreement SDA0044, with the National Museum of the United States Air Force Static Display Program
6. Adoption of Resolution #10, Series of 2014, Vacation of a Portion of Pisgah Lane in Conjunction with MS 13-002 J and G Minor Subdivision
7. Schedule Public Hearings: None

Commissioner Norden moved to approve the consent agenda. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried. Resolution #10 is attached.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

- a. County Clerk's Monthly Report, Katie Barr, County Clerk and Recorder

County Clerk Barr gave her report for February 2014. The total collected was \$835,430.89 of which the County kept \$469,653.98 for disbursement. Barr is pleased to announce that this is \$107,281.65 more than last year.

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Commissioner Norden moved to accept the County Clerk's Report for February 2014. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

b. Department of Transportation Annual Review, Tony Adamic, Director

Tony Adamic presented his annual review of the road maintenance projects completed for 2013. There were 32.3 miles of road that were graveled. Dust suppressant was applied to 66 miles of road, there are 50 miles planned for 2014. There were three miles of road that were chip sealed, and no paving projects were completed. The deck of the bridge on County Road 132 was paved. There were 7.4 million gallons of water used for road maintenance and projects. The costs for road repairs due to the floods will be reimbursed by FEMA. He discussed the proposed 2014 projects as well.

2. Citizens Not Scheduled:

Harry Kitchen said he appreciates how transparent Fremont County is with their information. He addressed the Board regarding the Regional Communication Center. He said the City's reply to the letter the County had sent dissolving the Intergovernmental Agreement was appalling. The revenue generated for the City by the Royal Gorge Bridge should be shared with the County. Mr. Kitchen encouraged the Commissioners to move forward with placing the Regional Communication Center in the Garden Park building the County recently acquired.

OLD BUSINESS

1. Consideration of assigning a resolution number to the prior approval of an amendment to the conditions of approval for Conditional Use Permit CUP 12-003 Dawson Gold Project (Exploration) to extend the term of the permit for one year beyond the current expiration date of February 26, 2014 and assign a number to the resolution. The approval of the extension was granted by the Board at the February 25, 2014 meeting. Representative: Bill Giordano, Planning and Zoning Director.

Planning and Zoning Director Giordano explained this CUP was approved at the last meeting and should have had a resolution number assigned to it. This was a change to one of the conditions that granted a one year extension.

Commissioner Norden moved to assign Resolution #11 to the prior approval of the amendment to the conditions of CUP 12-003 Dawson Gold Project. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried. Resolution #11 is attached.

NEW BUSINESS

1. Consideration of an agreement with Department of Local Affairs (DOLA) for Fremont County Regional Road Project Phase 1 of 5. Representative: Tony Adamic, Fremont County Department of Transportation.

Tony Adamic explained this is the DOLA grant that they are joining in with other municipalities in the County. The grant is for \$550,000. It requires signature by the Chairman of the Board before being sent to the State. The contract end date is April 30, 2015.

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Commissioner Bell moved to approve the agreement with Department of Local Affairs in the amount of \$550,000 for the Fremont County Regional Road Project Phase 1 of 5. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

2. Consideration to award bid to GMCO for Dust Suppressant at \$0.59/gallon. Representative: Tony Adamic, Department of Transportation, Director.

Tony Adamic recommended acceptance of the bid from GMCO in the amount of \$0.59 per gallon for Dust Suppressant. The material will be delivered by rail to the site in Canon City.

Commissioner Norden moved to award the bid to GMCO for Dust Suppressant at \$0.59 per gallon. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

3. Consideration to award bid to Rocky Mountain Materials for Asphalt Material at \$49.00 / ton. Representative: Tony Adamic, Department of Transportation, Director.

Tony Adamic recommends awarding the asphalt bid to Rocky Mountain Materials in the amount of \$49.00 per ton from the County Road #112 Plant. This was the low bid.

Commissioner Bell moved to award the bid to Rocky Mountain Materials for asphalt materials at \$49.00 per ton. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

4. Consideration to award bid to SunCor Energy for Tack Oil at \$2.17/gallon. Representative: Tony Adamic, Department of Transportation, Director.

Tony Adamic recommends the Tack Oil bid be awarded to SunCor Energy in the amount of \$2.17 per gallon. The County will have to deliver the material from the SunCor plant in Pueblo to the job sites.

Commissioner Norden moved to award the bid to SunCor Energy for Tack Oil at \$2.17 per gallon. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

5. Consideration to award bid to SunCor Energy for Emulsion Material. Representative: Tony Adamic, Department of Transportation, Director.

Tony Adamic recommended the bid be awarded to SunCor Energy for Emulsion at \$2.405 per gallon for Canon City location and \$2.42 per gallon at the Parkdale location. The difference in price is due to transportation costs. He also recommends the Fog Seal bid be awarded to SunCor Energy for \$1.30 per gallon to the Canon City site and \$1.32 per gallon to the Parkdale site.

Commissioner Bell moved to award the bid to SunCor Energy for Emulsion Material and Fog Seal as presented by Tony Adamic. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

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6. Consideration to award bid to Tezak Heavy Equipment for Aggregate Material at \$8.15 per ton. Representative: Tony Adamic, Department of Transportation, Director.

Tony Adamic said they will be using the ¾” aggregate for the chip seal projects this year. It makes sense to use Tezak as the vendor as most of the aggregate will be used on the west end of the County. He recommends the bid for Aggregate Chip be awarded to Tezak Heavy Equipment in the amount of \$8.15 per ton.

Commissioner Norden moved to approve the bid award to Tezak Heavy Equipment for Aggregate Material in the amount of \$8.15 per ton. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

7. Consideration to approve the Southwest Canon Community Wildfire Protection Plan. Representative: Steve Morrissey, Emergency Management Director.

Steve Morrissey said this plan encompasses Dawson Ranch, Wolf Park, Eagle Heights, and other areas in Southwest Canon. This plan includes Federal, State, County and Private Lands. Half of the \$30,000 cost for this plan was covered by a DOLA grant. There are 800 structures included in this area of which 700 are homes.

Commissioner Bell moved to approve the Southwest Canon Community Wildfire Protection Plan. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

8. Consideration to approve the Garden Park Community Wildfire Protection Plan. Representative: Steve Morrissey, Emergency Management Director.

Steve Morrissey explained this plan covers a smaller area but is heavily treed. There were a few different Homeowner Associations involved for this process. There are about 60 structures located within this area covered by the mitigation plan.

Commissioner Norden moved to approve the Garden Park Community Wildfire Protection Plan. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

Request: SRU 13-005 Wellsville Recreational Facility (Recreational Facility-Rural) Request approval of a Special Review Use (SRU) Permit, Department file #SRU 13-005 Wellsville Recreational Facility, by Daniel T. Cook, Lynda E. and Alfred Ira Grayzel, to allow a recreational facility, which will include an outdoor-based retreat for the purpose of providing recreational rehabilitation programs to disabled and severely injured Iraq and Afghanistan combat veterans and in order to augment funding it will also be used to host church retreats/excursions, youth groups, boy and girl scouts educational camps and private groups. Clients will be transported by a 12 passenger van. All lodging will be done in 4 – 12 ft. by 16 ft. canvas tents. There will be two staff members (program manager and an EMS – trained curriculum coordinator) and a cook. Initially the operation will be seasonal (March to October) but is anticipated to be year around as demand increases. The property is located on the south side of intersection of Fremont County Road #7 and Fremont County Road #45 (between the Arkansas River and the Denver Rio Grande Western Railroad) east of Wellsville (1544 Fremont County Road #45). The SRU permit property contains 13.26 acres and is zoned Agricultural Rural.

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Mr. Cook was given a "Compliance Advisory" through US Postal Service, Certified Mail, September 9, 2013 by Department of Planning and Zoning Code Enforcement Officers. Representative: Daniel T. Cook.

Chairman Payne opened the Public Hearing at 10:10 A.M.

Dan Cook explained the SRU request for the Rivers of Recovery Recreational Program. Mr. Cook asked the application be amended to restrict the use to Rivers of Recovery only and not allow any other groups to use the facility. The program has been around since 2008 and is in seven other states. The focus is on healing, counseling, nutrition and enjoying the outdoors. The majority of the Veterans will be from Ft. Carson. He sent out 38 letters to property owners within 500 feet of the property. Of the 38 owners, 25 have signed a petition in support of project. Two of the other property owners have given verbal support. There will not be more than eight individuals in the program at one time. The program runs from Monday thru Thursday. The participants are transported in a 12 person van to and from Ft. Carson. He feels confident they will be able to fulfill all of the contingencies within the six month time frame. Mr. Cook presented a video regarding the participants in the program. The concerns from some of the residents are that these are dangerous Veterans who may commit crime while at the camp. According to the Veterans Administration these individuals are less likely to commit a crime than other citizens. Staff is present and available during the camp. Rivers of Recovery will be able to help Combat Veterans who are physically and emotionally wounded. This is the only organization in the United States that measures the success of the participants who have completed the program. Mr. Cook purchased this property in 2006. He said many people are in support of the project including Swissvale residents, Ft. Carson, Congress, and other Government Officials.

Planning and Zoning Director Giordano said the property was posted and notice was published in the newspaper. Notifications were sent out to property owners within 500 feet of the site. Additional notifications were sent to eight other agencies of which the only replies came from Colorado Parks and Wildlife and The Arkansas Headwaters Recreation Area. The petition submitted by the applicant had 427 signatures in support. In addition the Department received 23 letters from individuals in support of the project. The Planning Commission did grant approval of the request at the February 4th meeting with a 6 to 1 vote. Mr. Giordano discussed the recommended conditions, contingencies and waiver requests. The Department of Planning and Zoning Code Enforcement Officers did issue a "Compliance Advisory" letter on September 9, 2013. He noted there is concern from Mr. Canterbury regarding the gates being closed or have a cattle guard installed. The applicant had been operating without the proper permit. When the Department became aware of this, a compliance advisory letter was issued at that time. As he was operating in violation a double fee could be charged to the applicant. As the applicant has submitted the SRU request he is currently trying to comply with the regulations.

Mr. Cook said he had received the Compliance Advisory Letter and then started the SRU permit process. They did finish out the four scheduled trips after receiving the letter, but he had met with Marshall Butler during this time.

Commissioner Norden asked the applicant to clarify the need to have other groups use the facility. Mr. Cook explained they are self funded and do not charge the Vets to come through the program. He had hoped to let other groups use the facility in order to generate funds for the program. Now they will rely on donations as other groups will not be using the facility. Norden asked if there are flood lights on the property. Cook said there are three 60 watt bulbs near the deck for safety and a motion sensor light on the garage. Norden asked the applicant how he would know if a fire ban is in effect. Mr. Cook said he is in Salida daily and can check the website. There is only one fire pit on the property and it can be seen from Highway 50.

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He is aware of the fire danger and will comply with all fire bans. Commissioner Norden asked the applicant about the potential for year round schedule. Mr. Cook said in the future there may be the possibility to run year round but the participants would still be housed in the tents. Norden said he had received complaints of loud noise and large amounts of people last summer. Mr. Cook said they did have an open house on January 30th of this year; otherwise it may have been some of the construction crew prior to July 22nd. Commissioner Norden quoted a comment from a letter from Erin Bohl of Swissvale regarding loud music and gun shots that come from the Nelson property. Ms. Bohl said she has never heard any noise come from the Veterans. Mr. Cook noted that loud music would not be therapeutic to the Veterans.

Commissioner Payne asked the applicant if the facility would ever be used on the weekends. Mr. Cook said it could be possible if a holiday would affect the normal schedule.

Commissioner Bell asked the applicant to address the situation with Mr. Canterbury's cattle. Mr. Cook explained cattle are run for a one month period. A portion of the fence was cut by accident during construction, and Mr. Cook repaired the fence. He said Mr. Canterbury has offered to donate a cattle guard for the property.

Public Comments:

Harry Kitchen said he is not either for or against the request. It would be helpful to have on site Licensed Medical Staff that are used to dealing with Veterans. Colorado has an open range law, and it should be up to Mr. Canterbury to provide a locked gate or cattle guard.

Joyce Padilla provided two pictures taken from her deck that show lights shining through her glass doors. She said the applicant should be required to have an environmental impact study as to the effect a campground would have on the river. She requested the permit be denied. Commissioner Norden pointed out that Mr. Cook still has a legal residence and there will be lights from the residence regardless if the permit is approved.

Rex Ashlock said all of the people against the application need to thank all of the Vets for making it possible for citizens to have the freedom to speak in public. There is more noise from the traffic on the highway than from the property site. He is not a Veteran but is in favor of the permit.

Yvonne Nelson asked if there could be a delay until they can study the water issue. She said when cars drive down the driveway their lights shine into her home. Commissioner Norden stated it is well within the rights of a property owner to drive on their own property. Nelson said there should be a nuisance law and he should have to move his driveway. She said this program exploits Veterans and she is against the request.

Monty Holmes said he supports this SRU 110% as the applicant is his neighbor. He has met Mr. Cook and found him to be very helpful. This will increase the tax base for the county and will help our returning Vets. Mr. Holmes requested the applicant help with the cost of the dust suppressant. He appreciated the fairness of the Commissioners.

Janet Johnson said her property is adjacent to the proposed site and she will be greatly affected by the operation. A doctor should be on site monitoring these Vets as they are heavily medicated. She wants to know what police protection there is for the community in case of a problem with the Veterans. She presented a diagram of the proposed site and neighboring properties. Johnson requested the Commissioners deny the request.

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Jim Partin said he is a Vietnam Vet Medic and is the neighbor of Mr. Cook. He was originally concerned with the property being used as a campground. Now that the request is for Veterans only, he is in favor of the applicant. Mr. Partin said the cows wander onto his land all of the time, but it is not the fault of Mr. Cook.

Chairman Payne closed the Public Hearing at 11:58 A.M.

Commissioner Norden moved to approve SRU 13-005 Wellsville Recreational Facility with the recommended Conditions, Contingencies, and Waivers; adding Condition P, that all gates must remain closed when cattle are present unless the applicant accepts the installation of a cattle guard; Condition Q, that all participants must be limited to Veterans only; and in addition to the application fee, add half of the violation fee of \$1800 in the amount of \$900 to be designated for use at the Veterans War Memorial as Resolution #12. Commissioner Bell seconded the motion. Commissioner Bell read several of the letters from Veterans that have been through the program. Commissioner Norden said there are officers in the County that will enforce the regulations. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

9. Consideration to amend airport regulations regarding advertising signage on Fremont County Airport property.

Commissioner Norden said this has been discussed with the airport advisory board several times and the procedures will be discussed at their next meeting. These regulations for signage will be added under the advertising section of the airport regulations.

Commissioner Norden moved to adopt the amendment as presented to the airport regulations regarding advertising signage on Fremont County Airport property. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

10. Consideration of a proposal from Colorado Hazard Control for asbestos removal in County Administration Building. Representative: Gary Doughty, Facilities Department Director.

Gary Doughty said more asbestos removal in this building is recommended per the State. The audit shows hotspots that will be prioritized. He will work with each department to make sure that business operations are not interrupted. This will ensure the safety of employees and citizens using the building.

Commissioner Bell moved to approve the proposal in the amount of \$79,140 with Colorado Hazard Control for asbestos mitigation and removal in the County Administration Building. Commissioner Norden seconded the motion. Commissioner Norden noted the money for this project is coming from the refinance of COP's last fall. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

Chairman Payne adjourned the meeting at 12:15 P.M.

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Commissioner Bell moved the adoption of the following Resolution:

**RESOLUTION NO. 10
Series of 2014**

**VACATION OF A PORTION OF PISGAH LANE IN CONJUNCTION WITH
MS 13-002 J AND G MINOR SUBDIVISION**

THAT WHEREAS, *John A. and Gail Ann McDermott* (hereafter “Applicants”) have made application to vacate the Fremont County Public Right-Of-Way, which application is in conjunction with Department of Planning and Zoning (hereafter “Department”) file **#MS 13-002 J AND G MINOR SUBDIVISION**, and is described as:

That portion of Pisgah Lane (40 foot right-of-way, an approximate distance of 99 feet), lying north of the north line of the right-of-way of Cliff Drive, in the Lincoln Park Area

WHEREAS, a notice containing the specific request, proposed vacation, date, time, and location of the meeting and the telephone number of the Department, and a site plan and vicinity map were mailed fourteen (14) days prior to the Fremont County Board of County Commissioners (hereafter “Board”) meeting, by certified mail, return receipt to the Department, to all property owners who’s property adjoins the boundaries of the public right-of-way, all applicable utility companies, all individuals and entities having any right of record easements, the Fremont County Department of Transportation and the Fremont County Sheriff’s Office; and

WHEREAS, a notice containing the specific request, proposed vacation, date, time, and location of the meeting, and the telephone number of the Department where additional information could be obtained, was posted on the public right-of-way fourteen (14) days prior to the Board Meeting of February 25, 2014; and

WHEREAS, the Board reviewed said application at a public meeting held on **February 25, 2014**, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department’s file concerning the application; and

WHEREAS, there were no objections to such vacation at the Board Meeting; and the Board finds that no land adjoining said roadway to be vacated will be left without an established public road connecting such land with another public road, and that the application should be approved.

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NOW, THEREFORE, BE IT RESOLVED by the Board, that:

That portion of Pisgah Lane (40 foot right-of-way, an approximate distance of 99 feet), lying north of the north line of the right-of-way of Cliff Drive, in the Lincoln Park Area is hereby vacated.

Commissioner Norden seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

Commissioner Norden:	<input checked="" type="checkbox"/> Aye / Nay / Abstain / Absent
Commissioner Payne:	<input checked="" type="checkbox"/> Aye / Nay / Abstain / Absent
Commissioner Bell:	<input checked="" type="checkbox"/> Aye / Nay / Abstain / Absent

WHEREUPON the Resolution was declared to be duly adopted.

DATE: **March 11, 2014**



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

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Commissioner Norden moved the adoption of the following Resolution:

**RESOLUTION NO. 11
Series of 2014**

**RESOLUTION FOR CHANGE OF CONDITION FOR CONDITIONAL USE PERMIT
FILE NUMBER CUP 12-003 DAWSON GOLD PROJECT (EXPLORATION)**

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board")

THAT WHEREAS, Zephyr Gold USA, Ltd., (hereafter "Applicant") has made application for a change of condition for a Conditional Use Permit pursuant to Section 8.7 of the Zoning Resolution of Fremont County. The existing permit, designated as Department of Planning and Zoning (hereafter Department) file #CUP 12-003 Dawson Gold Project (Exploration) is for the surface excavation and drilling exploration for precious metals; and

WHEREAS, the Board held a public hearing concerning said application for Conditional Use Permit on **February 12, 2013**, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the County's file concerning the application; and

WHEREAS, Resolution Number 13, Series of 2013 authorizing the issuance of CUP 12-003 Dawson Gold Project (Exploration) was declared to be duly adopted on **February 12, 2013**; and

WHEREAS, the Applicant has made application for change of condition 2A of Resolution 13, Series of 2013 authorizing the issuance of the Conditional Use Permit from "Conditional Use Permit shall be issued for one (1) year" to "The term of the Conditional Use Permit shall be through February 26, 2015"; and

WHEREAS, the Board held a public meeting concerning said application for change of condition on **February 25, 2014**, at which time comments and evidence were considered, including all materials contained as part of the application which were in the County's file concerning the application; and

WHEREAS, it was found that the change of condition of the Conditional Use Permit is appropriate;

NOW THEREFORE, BE IT RESOLVED by the Board that:

1. The Board did make the following findings with respect to the application for a Conditional Use Permit as follows:
 - a) The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.

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- b) The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c) The proposed use will not have detrimental effect on property values.
 - d) The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - e) The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - f) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - g) The proposed use, if it complies with all conditions on which this approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the county, and will not cause significant air, water, noise or other pollution.
2. A Conditional Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
- A. The term of the Conditional Use Permit shall be through February 26, 2015.
 - 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. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

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- C. The 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.
- D. The Applicant 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. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. 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 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 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.
- G. If a Conditional Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Total surface disturbance shall not exceed two (2) acres.
- J. Applicant shall provide the Department with documentation (deed of record), that Zephyr Gold USA Ltd is the owner of record, prior to commencing operation.
- K. Applicant shall provide the Department with documentation of an acceptable means for sewage disposal, for the employees, from the Fremont County Department of Environmental Health prior to commencing operation.
- L. The applicant shall provide the Department with documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, and that it will be implemented and maintained, if required, prior to commencing operation.

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- M. Applicant shall provide the Department with documentation from the Fremont County Reviewing Engineer regarding the following as noted in his letter dated November 28, 2012:
1. If the drilling and testing is successful and any traffic expansion is proposed at a later date, changes to the drive location may be needed.
 2. Any new travel paths, as well as the drill pads and test pits must be graded to minimize runoff to adjacent areas. Best management practices, as shown in CDOT publications, or other recognized authorities, must be implemented at the disturbed sites to mitigate silt transport and stormwater run-off, prior to commencing operation.
- N. Applicant shall provide the department with documentation from the Fremont County Department of Transportation as to compliance with the requirements as noted in a letter dated November 20, 2012 prior to commencing operation.
- O. Applicant shall provide a copy of the following:
1. Notice of Intent to Explore – Division of Reclamation, Mining and Safety.
 2. The 15 day notice – US Department of Interior, Bureau of Land Management.
 3. Stormwater management plan (permit) approved by the Colorado Department of Public Health and Environment (CDPH&E) or documentation from CDPH&E that such a plan is not required.
- P. 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.
- Q. 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 Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Conditional Review Use Permit.
- R. A Conditional Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

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Commissioner Bell seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Nay / Abstain / Absent

Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: March 11, 2014



CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST: Katie E. Baur
FREMONT COUNTY CLERK AND RECORDER