

MARCH 23, 2010

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## SIXTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 23, 2010, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward H. Norden called the meeting to order at 9:30 A.M.

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

Also present Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Katie Barr, Deputy Clerk.

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

### APPROVAL OF AGENDA

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

### CONSENT AGENDA

**Commissioner Lasha** moved to approve the Consent Agenda with a spelling correction on the March 9, 2010 BOCC Minutes on Page 2 under New Business, the word "ORGINIZATION". Commission Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

1. Approval of Minutes March 9, 2010
2. Approval of Bills, March 23, 2010
3. LIQUOR LICENSES  
Iovinella Gary M  
Penrose Plaza Liquor  
930 St. Hwy 115  
Penrose, CO 81240  
Retail Liquor Store License Renewal - Malt, vinous and spirituous  
  
Merlinos Inc.  
Merlinos Belvedere  
1330 Elm Ave.  
Canon City, CO 81212-4477  
Hotel and Restaurant Liquor License Renewal - Malt, vinous and spirituous

### ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

**Commissioner Lasha** stated that he has been getting a lot of calls regarding the conditions of the county roads. It is an awkward time now with a thaw and then snow and freezing condition. The road crews are doing the best time they can.

**Commissioner Stiehl** commented on the 2010 Census. It is important to fill them out. It is important to us as a county and city that we get a good count because it drives our grant ability in the future. A lot of the grants are tied to our population. There will also be census workers going door to door after March 25<sup>th</sup> for the people who have not returned their census forms.

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**Commissioner Norden** stated that there is a situation in western Fremont County on the county road west of Howard where the entire hillside has come loose and in some places has blocked the entire passage on the road.

2. Citizens Not Scheduled – NONE

### **OLD BUSINESS**

#### **2010 CERTIFICATES OF PARTICIPATION – RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND AND IMPROVEMENT LEASE AGREEMENT, A LEASE PURCHASE AGREEMENT, AND ESCROW AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT, AN OFFICIAL STATEMENT, AND RELATED DOCUMENTS BY THE COUNTY; APPROVING THE FORMS OF RELATED DOCUMENTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.**

**County Manager George Sugars** gave a summary of the resolution stating there are some equipment pieces that we would like to be able to purchase. Definitely need to get some updates on motor graders and some other heavy equipment for in the Road and Bridge. Update phone system in this building. Ennovate will do a retrofit of energy conservation measures that we could see. One of the most important in this building is trying to replace the existing boiling and chiller system. We currently have the original equipment dating back to the 1960's. This will provide the funding for that as well as being able to take care of some energy efficiencies at the Sheriff's jail and at DHS by replacing some of the roof top units for air conditioning plus heating and a few of Road and Bridges shop.

**County Finance Director Dana Angel** stated the main purpose of today's meeting is to approve a resolution that will in essence allow all the proper signatures and documents to proceed with this issue. Finance Director Angel handed out an eight (8) page summary of the sheets that Alan Matlosz provided from George K. Baum and reviewed each page. Page one (1) is the recap. There are three items. We are buying the equipment and phone system. Retrofit is basically all the equipment that will be required in the energy improvements as recommended from the energy audit. "Refunding" is the amount of refunds that we are doing on the 2003 original certificates of participation. We are having problems making our existing payments due to the drop in sales tax revenue. The principal amount for the bond issue for the refunding is \$3,245,000.00. Equipment is \$1,665,000.00. Retrofitting is \$2,355,000.00. These numbers include all the costs of the issuance which are listed below.

**Commissioner Norden** asked to have the history of the Certificates of Participation of 2003. The certificates financed the construction and payment schedule for construction the Judicial Building, Human Services, addition to the Sheriff's Dept. as well as upgrades to the rest of the Sheriff's Dept. Director Angel said yes. There may have been some cost from the construction of the 1985 jail packaged in also. It is structured in a manner that is considered a lease payment. We are to the point now where our repayment schedule is consistent but our revenues have fallen because of the economy. The payments are being done with 25% of the sales tax revenue that is dedicated for Capital Expenditures. It was decided to repackage, include the heaving equipment and energy audit and calling it the 2010 Issue. Commissioner Norden stated that they contemplated whether it made sense to do a difference issue on the energy conservation measures with the energy company but it made sense given what George P. Baum was able to package for us as far as interest rates to put it all under one issuance. Going back to what you said about the 25%, the voters in 1981 approved the sales tax at 25% to go to Capital Improvements. As you said we were anticipating sales tax revenues to keep up with the payments schedule on those certificates and it has not in the last 2-1/2 years. Director Angel stated that is right and this will give us a four (4) year cushion.

Mr. Matlosz stated that the good news is that if you are going to refinance and restructure payments, this is a great time to do it. We expect that interest rates will be at or below four percent (4%) if approved by the County Commissioners. The process is that if the resolution is approved today, we will then receive a rating on the certificates from Standard and Poor's. That rating will determine the interest rates on the certificates. We

would move to sell the certificates to investors and close and lock in the interest rate to the county.

**Commissioner Stiehl** stated the Ennovate Retrofit is the program through the Governor's Energy Office. We will enter into a contract with Ennovate. We have had energy audits done and those improvements are estimated to cost about \$2.3 million dollars or a little under are guaranteed to pay for themselves. The savings that we achieve in energy use will make the payments on the energy bills and that is guaranteed as part of this structure. One thing that I see as an advantage of having a County Manager because we have entered into doing a better job of managing our fleet. Fleet Management to me involves doing a better job of modifying what type of repairs the equipment right now is requiring and replacing those pieces of equipment that are no longer cost efficient to repair. **Commission Lasha** moved to approved **Resolution #20, 2010**, Authorizing the Execution and Delivery Ground Improvement Lease Agreement, A Lease Purchase Agreement, an Escrow Agreement, a Continuing Disclosure Agreement, an Official Statement, and Related Documents by the County; Approving the Forms of Related Documents; and Providing for other Matters Relating Thereto. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

#### **NEW BUSINESS**

#### **UPDATED FROM CRIPPLE CREEK & VICTOR GOLD MINING CO. ON 2009 OPERATIONS**

**Jane Mannon**, Gold Mine Community Affairs Manager stated that they received recertification of ISO 14001 for Environmental Management. They have 88 employees that live in Fremont County making over \$6 million in hourly wages with benefits this past year. For 2010 they are planning for permitting and installation of a small High Grade Hill. They will be working on relining CR 82/83 at the north end of the property. Commissioner Norden stated that they 383 employees currently and that they expect to go to 430. Are these employees seasonal? Ms. Mannon stated that they have new systems going in such as dispatch system, new truck operators, new mechanics and oilers and also twenty to thirty (20-30) employees for the mill. Commissioner Lasha stated our Road Foreman Gary Weirton received a call regarding a rock that had fallen at Tunnel 1 and cleared it in order to have safe traffic going to your mines. Ms. Mannon stated that they did appreciate that and everybody has commented on how great the roads have been.

#### **APPOINTMENT OF PLANNING COMMISSION MEMBER TO REPLACE KEITH MCNEW**

**Commissioner Norden** stated that they received letters from seven (7) individuals who expressed interest in the vacancy in the Planning Commission. Keith McNew has been the west end representative for about five (5) years plus. Mr. McNew decided to retire early and his term is to expire this August. Commissioner Stiehl moved to appoint Byron Alsup from the west end to fill the remainder of the McNew term expiring in August 2010 and at the same time for a new three (3) year term. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

#### **DICK BAKER/AIRPORT MANAGER – FAA GRANT 2010**

**Dick Baker** stated that they have a grant offer from Airport District FAA Office. Our current projects this summer are pavement maintenance, seal coat and the runway remark of the anticipated new runway approaches. The grant offer from the FAA is in the amount of \$316,962. The State is matching with \$8,341.00 and our local match is \$8341.00 also. This makes the grant ninety-five percent (95%) with five percent (5%) splits between the local and Division of Aeronautics. The total funds available will be \$333,644. The bids will be put out in the next thirty (30) days. We are anticipating doing the job sometime in May when the temperature is up sufficiently to do the job.

Commissioner Lasha inquired when the last time we have had pavement maintenance program at the airport. Mr. Baker stated the main runway has not had any significant work since 1995. We anticipate the project will take four (4) to five (5) days. We will

have to schedule it when we have the least amount of traffic. We will have some detours on the airport.

Commissioner Lasha commented that Mr. Baker and the Airport Board have worked hard during difficult financial times competing with other airports on the dollars that are out there in grants. This is a significant amount of money to take care of the infra structure that we have. He complimented Mr. Baker and his involvement with the FAA in Denver on continuing to get small grants that add up.

**Commissioner Stiehl** moved to authorize the Chairman to sign the necessary documents related to the 2010 FAA Grant in State grant dollars. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Lasha** asked Mr. Baker to introduce the representatives from Armstrong Consulting Co. for the airport. Mr. Baker presented Ryan Prichart, Dennis Corsi with Armstrong Consulting out of Grand Junction.

**A RESOLUTION ADOPTING A STATEMENT OF POLICY PROHIBITING THE USE OF EXCESSIVE FORCE BY LAW ENFORCEMENT AGENCIES AGAINST ANY INDIVIDUALS ENGAGED IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS**

**Commissioner Norden** stated this was a formality that we need to do in relation to some grant dollars that were used in the old Harrison Elementary school for the Early Childhood Development office. County Attorney Jackson said that we have always had a policy of not using excessive force in non-violent demonstrations but the grant requirement is for a written resolution expressing that policy. Sheriff Jim Beicker stated that he knows that there is some levity about this issue. One of the mandates of the Sheriff in every county is maintain civil obedience in the county. He worries because there have been some demonstrations out at the Federal Bureau of Prisons complex. I have always considered it to be a State Patrol issue because of State Hwy 67 as the Bureau will not let them onto the property but actually the State Patrol has had hands off policy about that. It can become difficult and get out of control very quickly. There some future events planned in the county that could potentially happen and he has already had threats of destructive behavior and demonstrations. We all know by statute that law enforcement can not use excess force but the potential of having to use force is there.

**Commissioner Lasha** moved to approve **Resolution #21, Series 2010** Adopting a Statement of Policy Prohibiting the Use of Excessive Force by Law Enforcement Agencies against Any Individuals Engaged in Non-Violent Civil Rights Demonstrations. Commissioner Stiehl seconded the motion. Commissioner Norden stated this dealt with the funds that passed through Project Echo for renovations to the former Harrison School building. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**CONSIDERATION OF RENEWAL OF THE LIQUOR LICENSE FOR WHITEWATER BAR & GRILL INC, 45045 HWY 50 WEST, CANON CITY, CO FOR MALT,VINOUS AND SPIRITUOUS LIQUOR**

**Commissioner Norden** stated upon his request that this was taken off the regular Consent Agenda and placed on the regular Agenda for discussion because of concern expressed in the past summer season about the operation in particular as it relates to noise generated by the bar particularly on the weekends. Commissioner Norden inquired if Deputy Clerk Katie Barr sent a letter requesting the applicant to attend the meeting was mailed. Deputy Clerk stated she did and did not receive a reply. The letter was sent by regular mail. Commissioner inquired of the County Attorney what problems this posses with the applicant being absent. County Attorney Jackson stated the vote could be postponed until the next meeting and asked them to come again. It is not the usual procedure for the Board to require the applicant to be here on a renewal so if you want a formal hearing we can notice it and have a formal hearing with respect to any complaints that might be out there. Commissioner Norden inquired if everything was in order about the application. Deputy Clerk Barr stated yes. The liquor license expires May 4<sup>th</sup>.

Commissioner Norden stated that the noise issue was discussed two years ago and the applicant Ty Suefer was here at that time and indicated he was going to work with the

neighbors and try to resolve some of the issues. He has personally heard complaints from the neighbors on Eight Mile Hill in the vicinity of the bar. The sheriff with his limited personnel and budget cuts said he is not in a position to respond to noise complaints.

Sheriff Beicker stated that it is not that he doesn't want to respond or can't but we have no enforcement mechanism once we do respond. There is no noise ordinance in the county to enforce except for under personal conduct which would be disorderly conduct.

John Zimmerman stated since the meeting of April 2007 he thinks that some head way has been made. He is satisfied with what they have done. He does not know if he has redirected the sound else where but for him it has improved. He is about a mile east of the bar. If he was here today he was going to ask if he could plant some shrubbery because there is nothing between the bar and his house.

Sonny Zimmerman stated that they live further east of bar. They did not have problems last year but in the past they would have to close their window at night. It is doable now.

Frank Mauro stated they own the Fort Gorge RV Park and Campground which is directly across the street from the bar. Our problem with this situation is we get the blast from the music that is outside on Friday and Saturday nights. Because of this problem we have lost a lot of business. Two years ago it was decided to shut the music down at midnight and that has gone by the wayside. Is there any way that we can persuade the bar to go back to those guidelines? It goes until 1:00 A.M. plus. Commissioner Norden stated that two (2) years ago Mr. Suefer said he was going to try to work more closely with the neighbors. Has there been any? Mr. Mauro stated no.

Commissioner Norden stated for the record that one of the other concerns that the Board has heard was during Echo Canyon Site Development Plan in which there is another neighbor from the Fort Royal Stables complaining about the loud noise and the operation would create the same problem.

**Commissioner Lasha** stated he wanted to ask a few questions of the applicant and moved to table decision on the liquor license until April 13, 2010 and to notify the applicant by certified mail. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**REQUEST: TUP 10-001 CAÑON CITY MUSIC & BLOSSOM FESTIVAL**

Request approval of a **Temporary Use Permit** to allow a **Carnival in conjunction with the Music & Blossom Festival** by Cañon City Music and Blossom Festival, Inc. The event will take place *on the south side of Elm Avenue between 9<sup>th</sup> Street and Oak Creek Grade Road, in Cañon City.* The Carnival will run *from Tuesday, April 27<sup>th</sup> through Monday, May 3<sup>rd</sup> from 8:00 AM until Midnight.* The subject property is located in the Business Zone District.

**REPRESENTATIVE:** *Gina Grisenti, Secretary, Cañon City Music and Blossom Festival, Inc.*

Gina Grisenti, Secretary, stated they are here to request final permit approval of the carnival which is held on City property. The City has granted use of the property. It will be the same location that has been done in the past.

Planning and Zoning Director Giordano stated that they have done in the past is to ask for a waiver of the application fee and clean up fee. We have no problem with the clean up. The other action that needs to be taken today is approval of the liability insurance that they have provided to us. One of the requirements of the Environmental Health office is that they be sure they provide the retail food licenses for the vendors that will be serving food. Ms. Grisenti said they are making sure they get the appropriate information to Sid Darden before they arrive. Director Giordano stated that Sid has to actually go to the vendor's place.

**Commissioner Stiehl** moved to approve the TUP 10-001 for Cañon City Music & Blossom Festival for carnival April 27<sup>th</sup> through May 3<sup>rd</sup>, waiving the application and cleanup fee, accepting the insurance as shown and with the requirement they provide the vendor food licenses to our staff. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**REQUEST: ESTES-COX EXTENSION OF TEMPORARY WAIVER OF HARD SURFACING**

**Request approval of a surfacing and buffering waiver or continuation for paving the additional parking area related to the construction of the warehouse addition completed in May, 2007, by Estes-Cox Corporation.** A three (3) year deferral of the hard surfacing of the new parking area was approved by the Board on February 27, 2007. *The property is located west of H Street and North of Highway 50, in the Penrose area.*

**REPRESENTATIVE:** *Joe Seiberlich, Director of Operation, Estes-Cox Corporation*

Joe Seiberlich stated the company is under new ownership as of January 15, 2010. The company that now owns us is Hobbico based in Champaign, IL. Over the last three (3) years we have not had the economic success we would have like to have had. The economy has severely retarded growth. In addition of what we have been forced to do in 2008 Congress passed the CPSIA Law. It is extensive testing on consumer goods and especially toys and hobbies. They are compliant with all requirements with regard to the lead content. We have gone from 86 employees at the facility down to thirty-six (36) permanent and fifteen (15) temporary. Currently there are forty-eight (48) parking spaces at the facility. Yesterday he counted seventeen (17) cars. He is requesting a minimum of a three (3) waiver and readdress this at that time.

Director Giordano stated he had no objections. Commissioner Norden inquired if they were parking at the new building with the dirt parking lot. Mr. Seiberlich stated that when they put the new building up additional parking was required of one space for each five hundred (500) square feet of the new addition which translated into eighty (80) new parking spaces. The parking is only on the paved area now. Commissioner Stiehl stated that the people that work in the new warehouse access it through the old building. **Commissioner Lasha** moved to approve the request of a three (3) year extension on the additional parking area for the Estes warehouse facility. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**REQUEST: SRU 08-004 SOUTHERN DELIVERY SYSTEM EXTENSION OF CONTINGENCY DEADLINE**

**Request approval of a two-year extension of the deadline for submittal of contingency items in conjunction with Special Review Use #SRU 08-004 Southern Delivery System.** Said SRU was approved on February 24, 2009, contingent upon specified items being provided to the Department of Planning and Zoning within twelve (12) months after approval of the application by the BOCC.

**REPRESENTATIVE:** *Keith Riley, Southern Delivery System Planning and Permitting Program Manager*

**Commissioner Norden** said they were briefed a couple of weeks ago about the interest in making sure that the Spring Utilities wanted to keep the permit active even though they are pursuing the project in Pueblo County. Mr. Riley stated they still have some permitting left to do on the Pueblo County alternative so that alternative is not totally locked down yet.

**Commissioner Lasha** moved to approve a two (2) year extension for SRU 08-004 South Delivery System until February 24, 2012. Commissioner Norden seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

**Commissioner Norden** adjourned the meeting at 10:50 A.M.