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SIXTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Michael J. Stiehl called the meeting to order at 9:33 A.M.

Michael J. Stiehl	Commissioner	Present
Edward H. Norden	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 Carol Papen, Deputy Clerk.

Pastor Jeff Burnett from Riverwalk Nazarene Church gave the Morning Prayer.

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

APPROVAL OF AGENDA

Commissioner Lasha moved to approve the agenda. Commissioner Norden seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commission Stiehl, aye. The motion carried.

CONSENT AGENDA

Commissioner Lasha requested that the approval of the minutes for Feb 10 and 24, 2009 be tabled until later this week during a special short meeting. He believes the corrections are lengthy enough and wants to make sure that they are done correctly. Commissioner Norden stated that he also had some corrections on the Feb. 10th minutes and has not had the opportunity to go through the Feb 24th minutes yet.

Commissioner Norden would like to remove the approval of minutes for Feb 24th and March 10th 2009 from the consent agenda and approve the consent agenda with the other items 2 – 6. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commission Stiehl, aye. The motion carried.

Commissioner Norden also made a motion to set a special meeting on Friday, March 27th 2009 at 9:30 AM for consideration of the approval of the minutes for Feb 10th, Feb 24th and March 10th of 2009. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commission Stiehl, aye. The motion carried.

1. Approval of Minutes February 24th and March 10th 2009
2. Approval of Bills, March 24, 2009 / \$667,568.29
3. **LIQUOR LICENSES**
BUSCH LIQUORS INC.
BUSCH LIQUORT
3565 E. HIGHWAY 50
SALIDA, CO 81201-9605
Retail Liquor Store License Renewal – Malt, vinous and spirituous
4. KWIK STAR INC.
KWIK STOP #6
916 Hwy 115

Penrose, CO 81240
3.2 Percent Beer Retail License Renewal

5. Adoption of Resolution #14, Series of 2009, Special Review Use Permit File Number SRU 08-004 Southern Delivery System.
6. Adoption of Resolution #17, Series of 2009, Zone Change File Number ZC 08-007 Kaiser Zone Change.

ADMINISTRATIVE / INFORMATIONAL

1. Staff and Elected Officials

County Clerk Hatfield announced an increase in fees for the Motor Vehicle Department. There will be a “Late Registration” fee that will be charged beginning July 1, 2009. There is still a one month grace period in effect for renewing licenses. However, after that one month grace period, there will be an additional fee of \$25 that will be charged each month the vehicle is not renewed up to \$100. There will be another increase in license plates regarding the weight of the vehicle. The most common vehicle weight (5,000 to 10,000) will have an additional \$28 assessed on their registration fee as well as “Bridge Safety Surcharge” which carries a fee of \$23.

Commissioner Norden stated that the trash vouchers for the Spring Clean Up Campaign for Fremont County unincorporated areas that Fremont County was distributing have been gone since yesterday morning. Commissioner Lasha stated that he has 25 additional vouchers in his possession that he is taking to Penrose Chamber of Commerce which is something the County has done the last couple of years and he will be delivering them to the Penrose Chamber.

Commissioner Norden said that they received notification from the Census starting in late March that Census Bureau is sending out address canvassers as early operations and that these people will be walking or driving through neighborhoods to check addresses that are in their database when the Census questionnaires start in March a year from now. Even though the Census isn't performed until 2010 they actually start this address canvassing as part of the first large field operation for the Census to identify all housing and other living quarters.

Commissioner Lasha had a couple issues to discuss. He stated that they were doing a “crack – seal” on McCumber Hill in the Williamsburg area. Crack seal works better when the weather is a little colder because it sets quicker. He said they had a few problems with some of the vehicles. He stated that the Road Foreman took care of all of the issues regarding this matter that came forward and they learned a lot from that experience. Commissioner Lasha said they also did the bridge decking on County Road 132. He wanted to thank everyone for whatever inconvenience that may have caused them on their travel on the day that they were re-decking.

2. Citizens not scheduled:

Paul Maye – 72 Pleasure Trail, Penrose, CO – Wanted to publicly acknowledge thanks to the Commissioners on behalf of the Eastern Fremont County Alliance. Mr. Maye wanted to respectfully request that a hearing be set for an earlier date. The entire area of east Fremont that owns property feels that they have been subjected to great financial distress as well as pain and suffering over what was an inadvertent consequence of an action on the contested zone change. Mr. Maye said that they feel that this should be relieved as soon as possible. Mr. Maye said that it was stated that it was either regulation or policy which required the length of time to wait before a public hearing. However, in balancing that, they would like to ask the Commissioners directly to please keep in mind of the stated policy of maintaining honesty and integrity in the government system of Fremont County. Mr. Maye goes on to state that he thinks the Commissioners really need to look

hard at allowing an injustice to continue on the books simply because it states somewhere on a normal legitimate business item on the agenda you have to have a thirty day waiting period. Mr. Maye asks that on behalf of the 500 citizens that he represents, they plead with the Commissioners to relieve this pressure which he says he is sure the Commissioners did not intend to create. Mr. Maye stated that it came from directly opening up the door where some inappropriate actions took place and they would like this addressed the quickest way possible so that the people of East Fremont County have an opportunity once again to be able to operate, continue their development, have development stay in business and have a half a chance of making legitimate sales of their property.

Charles Overton – 6584 Audkland Ave., Williamsburg, CO – Mr. Overton would like to request a change in the county zoning resolution. This request is specifically in regards to mineral exploration within Fremont County. Mr. Overton stated that it appears to him that there is a hole in the county zoning resolutions protecting the citizens of the county from where exploration is done by seismic means or explosive means. He would like to request limiting the amount of explosives a company can use and also obtaining the surface owners permission to get an excess road, cut trees or disturb anything or any of the vegetation. Mr. Overton suggests using other means such as a helicopter, burrows and horses, or other means of transportation that do not require “wheeled” vehicles. He believes they want to get that use and the blasting done before May 1st when the final gas and oil resolutions take effect. Mr. Overton suggested that maybe the County could impose a fee per blast. He stated that he is not against the exploration he just wants the citizens of the county protected.

Commissioner Norden stated that these are state oil and gas regulations that the legislature has considered and the County does not regulate oil and gas exploration any longer. Commissioner Norden stated that this would have to be taken one step at a time to see if the County even has any authority to go into oil and gas exploration other than mineral exploration. Commissioner Norden wanted Mr. Overton to understand that this is more than just an existing hole in the zoning resolutions. Mr. Overton stated that he is not specifically addressing oil and gas exploration he is addressing all exploration that uses explosive techniques. Commissioner Norden said that he doesn't have any problem looking at that in the course of the existing zoning resolution but as for oil and gas this would be a whole new issue. Mr. Overton stated that the County already does regulate oil and gas exploration because oil and gas is considered a mineral under the definitions of county and zoning resolutions and there is a whole list of requirements and what is not included are explosive explorations.

Commissioner Stiehl said that they would look into the issue that Mr. Overton has given a great deal of thought to.

Vancellen Ravensberg – 4500 Auckland, Williamsburg, CO – She is speaking on behalf of the residents that live in the Chandler Heights area of which they are asking Fremont County to oversee this issue and try to put some regulations into place. The town of Williamsburg had this presented to them. This meeting was to try and look at putting an ordinance into place to help protect the homeowners that live in residentially zoned areas. They would like to stop heavy industrial commercial activity from going through any one citizen's front yard. When they noticed that there was a hole in the regulations of Fremont County, several homes in Ms. Ravensberg's subdivision are not covered by the town of Williamsburg. They want to make sure that as a County resident, Fremont County looks at this and protects the residents in some way. She goes on to state that there are plenty of open spaces in Fremont County. She doesn't understand why a company would need to go through a citizen's yard or next to their well. There are some homes that are not covered right now by an ordinance of the town of Williamsburg that are asking for the County's help to take a look at this and put something in place.

Joseph W. Marchiana – Mr. Marchiana is representing the homeowners association of Wolf Park. Mr. Marchiana states that he is here to bring forth to the community as a whole the knowledge of a problem that exists throughout the community that not everyone

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is aware of. Mr. Marchiana states that Rock N Rail is operating a railroad to deliver aggregate from a quarry west of Canon City to areas elsewhere in the state. In Mr. Marchiana's neighborhood he is particularly concerned with the rail cars that are parked on a rail spur which is known as a branch line that belongs to Rock N Rail. Mr. Marchiana said that according to Rock N Rail, under Federal Railroad Administration Law that they are able to use this in any way they see fit, one of which is to store rail cars indefinitely.

Commissioner Norden stated that since Mr. Marchiana's communication the Commissioners have inquired with the County Attorney and she is doing some research as to what authority the County would have if any on this matter.

Commissioner Stiehl said that they have actually been researching this issue since December on and off and from time to time often hitting dead ends because it didn't look like they had authority in many areas. However, Commissioner Stiehl went another step further to say that the Assessor has been working on this issue as well as the State Division of Taxation and it is an issue throughout the State. Commissioner Stiehl said in regards to those comments, they will do their best to respond in some way as they are able.

PUBLIC HEARING – 10:00 AM

ITEM #1 –Adoption of Driveway Access Regulations

County Manager – George Sugars

Mr. Sugars stated the Commissioners have a driveway access requirement in front of them that has been updated in four different areas. One of the areas was maintenance of the culvert including 10 feet of ditch on both sides and that is in "General Information" listed as #4. The permit required part C and A that he wanted to clarify as "county maintained" or "un-maintained"; before revision it just said "county". On the second page each of the driveway access requirements, letter G "Design Criteria" they wanted to make sure that driveways are not located closer than 100 feet from the intersection. The last one was in "Design Criteria" #7, part C; before they had 24 foot length culverts and they want to specify for commercial industrial multiple uses the minimum length of culvert should be 30 feet and that's in addition to those other than some language changes in the requirements are the basic changes to the requirements.

Commissioner Stiehl stated that this issue actually goes beyond the safety issue and said that any road or driveway access is a county road. It also applies to how the addresses are assigned for emergency services so this is important for a couple of reasons to insure driving safety as well as to make sure that emergency services can be notified and have some idea what the address means and have a sequence to it.

Commissioner Norden stated that these particular driveway access requirements are important and more specific if effort to make sure that all of the road and bridge foreman and all of the districts in the county are operating under the same guidelines and not interpreting different things in different parts of the county. County Manager Sugars said that would be correct and it is important for the county roads to be uniform throughout the county.

The four road foremen came up with a very good compromise in working with Mr. Sugars and bringing this document forward. Commissioner Lasha then made a motion to approve resolution number 18 adopting Fremont County Driveway Access Regulations. Commissioner Norden seconded. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commission Stiehl, aye. The motion carried.

ITEM #2 –The County of Fremont plans to submit a Community Development Block Grant (CDBG) application to the state of Colorado, Department of Local Affairs. The application being considered would request \$1,300,000.00 for the North canon Area Sewer Line Extension Project (Local Improvement District NO. 2008-1)

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George Medaris – Fremont County Sanitation District - Mr. Medaris states the reason he is in this meeting is that that are required to have a public hearing on the CDBG application. They have in the name of the county and the LOD applied for 1.3 million dollars from CDBG in the Development Block Grant. CDBG has indicated they might very well give them the grant. However, Fremont Sanitation has to do a number of things that they have been working on. One of which is to secure a loan for the remaining two million dollars of the 3.3 million dollars for the North Canon Project. They have been working on that and thought they were all ready except now they have the stimulus package coming into play which Fremont Sanitation cannot apply for until April 27th and then basically they will know the response.

Commissioner Stiehl stated that there was no action for the Board to take so the meeting progressed to the next item.

ITEM #3 – The County of Fremont and The Fremont Sanitation District Flood Plain plans on installing a Sanitary Sewer System, as identified in the North Canon Area Sewer Line Extension Project (Local Improvement District NO. 2008-1)

George Medaris – Fremont County Sanitation District – Mr. Medaris states that as part of the North Canon Project, Fremont Sanitation has to do an Environmental Review and Flood Plain Management Review of the area. Portions of the area are in fact within the 100 year flood plain. There is a creek which flows through these properties that at various times during a 100 year flood stage and would be inundated to one degree or another. As a result of that there are building requirements that are applied to those properties and they have to meet the various federal requirements for building within a flood plain. In the current case with North Canon Mr. Medaris does not believe that it puts an undue burden in this area because the Park Center Water District who serves that area as well has previously applied for and received funding from the rural utility services who also have the same requirements in place so these are not going to be adding any new requirements to the properties in that area. Mr. Medaris goes on to say that as far as the environmental review they have determined that there is no significant impact in the area regarding that area because they will be constructing in roads. They will not be cutting across any area that doesn't already have a road. They also have service lines that are going out to the various homes which are already pre-existing homes so there are no negative environmental impacts to that area. The only impacts that Mr. Medaris can think of are positive from the stand point of getting rid of septage, sewage and miscellaneous things that occasionally occur to the ditches in the area.

Lynn Holtz – 61 Savage Loop, Canon City, CO – Ms. Holtz was concerned about who would be liable regarding the stored rail cars if someone were to get hurt on them while they are being stored. Commissioner Stiehl said that was a good point.

Susan Jones – 1136 Penn, Canon City, CO – Ms. Jones stated that she is thankful for everything regarding the North Canon Sewer Project and she is giving her full support to this issue.

CLOSE PUBLIC HEARING

OLD BUSINESS

Item #1 – Request: CUP 08-003 Salt Canyon Project

The Public Hearing held on March 10, 2009 was closed, the request was approved and tabled to allow the Board to consider and develop conditions and contingencies of the permit. The Applicant has requested a continuance until the April 14, 2009 meeting.

Request approval of a Conditional Use Permit, Department file #CUP 08-003 Salt Canyon Project, to allow open pit mining of gypsum, by GCC Rio Grande Inc./Ron Hedrick, for property leased from the Colorado State board of Land Commissioners, which is located on the northwesterly side of Colorado State Highway 115, approximately 4.85 miles northerly of the Fremont/El Paso County line. There have been at least two

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Conditional Use Permits on the site in recent years, both by Western Nutrients. CUP 01-01 for gravel was never worked, and there are no gravel mining scars on the property. CUP 97-8 for gypsum was worked, and is the currently permitted and bonded Division of Reclamation, and is located in the Agricultural Forestry Zone District.

REPRESENTATIVE: Angela Bellantoni, Environmental Alternatives

Planning and Zoning Director Bill Giordano stated that basically that Ms. Bellantoni who is representing the applicant asked that the Board table this until the April 14th meeting. Ms. Bellantoni is on vacation and had some additional information to provide on the screening and the buffering of that site.

Commissioner Norden moved to take this tabled item and table it further until the April 14th board meeting for the conditions and contingencies for the Salt Canyon Project permit. Commissioner Lasha seconded. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commission Stiehl, aye. The motion carried.

NEW BUSINESS

ITEM #1 –Consider the setting of a public hearing on April 28, 2009 at 10:00 a.m. for the reconsideration of the December 9, 2008, zone change approval for the Walker Ranch.

Commissioner Stiehl read from a prepared statement which said on December 9th of 2008 the Board approved the RE and AM zone change # 08 of 06 from Ag-rural to Ag-forestry. The new zone district maintains a lower residential density but it also allows for the future possibility that the owner could apply to the state and this board for a permit to mine. Following that decision information has come to the attention to the board and its members that suggests that the applicant may have misrepresented material facts in the application and testimony associated with that zone change. At this time the board wishes to formally set a public hearing with respect to the application and the Board's decision. It is important that proper notice be given to all parties to enable them to participate in the hearing. The purpose of the hearing will be for the Board to determine, based on the evidence, in the record of the April 28th of the proceedings (that could be changing), whether it should rescind its prior decision granting the zone change requested by the application. The real property involved in this zone change is described in the file as zone change 08-06 and it's commonly known as a portion of the Ron Walker Ranch. The Boards inquiry during the public hearing the Board will set today will be limited to matters pertaining to the zone change and to those portions of the Ron Walker Ranch property that were subject of the zone change application at approval. Because of the quasi and judicial nature of the proceedings that the Board is about to schedule and because the rights of all interested parties must be respected please do not contact or attempt to contact individual commissioners in advance of the hearing. The Commissioners have been advised to refrain from discussing this matter with any interested party outside of the hearing the Board is now scheduling. The Board will not receive comments in this matter today but urges all interested persons to attend the hearing at which time relevant testimony and evidence will be received and considered by the Board. Written comments may be submitted to the County Department of Planning and Zoning as a central repository. Comments and other written materials received by that department no later than 4:30 p.m. on the day before the hearing together with written documents and materials received since January 1st of 2009 will be considered as a part of this matter. You do not need to resubmit anything that you have already submitted.

Commissioner Norden stated that Commissioner Lasha has looked at the calendar in light of some of the requests that they have had including the requests to schedule the hearing earlier and the obvious concern is in the statement that Commissioner Stiehl just read is to meet what the Commissioners recognize as legal responsibilities to any parties effected in this matter to have an opportunity to go on the record and to meet their own regulations as far as public notice and public post.

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Commissioner Lasha consulted with Planning and Zoning Director Bill Giordano who talked this morning. Commissioner Lasha stated that they have some notifications that they need to get posted on the properties and a time line for staff. Commissioner Lasha stated that they were scheduled for the 28th for a regular meeting and Commissioner Lasha believes that they can get everything done on their part and have a special meeting on April 22nd which is a Wednesday.

Commissioner Lasha made a motion to schedule a public hearing for April 22nd at 1:00 p.m. for reconsideration of the Dec 9th 2008 zone change approval for the Walker Ranch. Commissioner Norden seconded with a question to staff that they can meet their publication and posting. Planning and Zoning Director Bill Giordano said that they can meeting those requirements because the “special meeting” date gives them the time allowed to post within the required amount of time.

Mr. Giordano asked that since the dates have changed on the meetings, does that mean that all written comments and information would then need to be submitted on the 21st. Commissioner Stiehl said that his statement said no later than 4:30 p.m. one day prior to the meeting which would be the 21st. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commission Stiehl, aye. The motion carried.

ITEM #2 –Request: TUP 09-001 Penrose Chamber of Commerce Flea Market

Bill McGuire – Chamber would like to have a flea market which would be the first Saturday of every month in the months of April through September. Mr. McGuire stated Penrose is celebrating their 100th year this year and there will be a lot of activity going on in Penrose. He said that each month several of the businesses and different entities would be putting on different things throughout the town. There will be a fire truck that will have a white sign posted on it telling about the town’s upcoming events for that month. The chamber will also be putting on an appreciation pic nic June 20th at the D & K Feed Store. They will be having hamburgers and hot dogs that day and anyone can come out and join the festivities. Mr. McGuire said that they will also be having a rodeo at the end of the season sometime in August as well as a tractor pull. During apples days they will be having the pie eating contest this year. Mr. McGuire also wanted to say that the flea market would cost \$10 per space if someone wanted to participate and there is no limit as to how many spaces you can occupy. The flea market will be at the Gooseberry Patch parking lot.

Planning and Zoning Director Bill Giordano said that the application was completed as required by regulation. The action requested or required today would be approval of the event along with one contingency item of the environmental health department and that is if there is going to be any food vendors that there will be a food service license prior to any of the events. The other action that is necessary in this is that the Chamber is requesting a waiver of the clean up fee which there have never been any issues with in the past and the Board has always granted that waiver. The Chamber is also requesting a waiver of the application fee which is also the same as last year. Mr. Giordano also said that the other piece of action to this is that they would have to consider accepting the general liability insurance that they have provided to us. He stated that these are the same numbers and dollar values as the previous years.

Commissioner Norden moved for approval of the Penrose Chamber of Commerce Flea Market TUP 09-001 waiving the clean up fee as well as the application fee and the acceptance of the general liability insurance offered. There is also the contingency requiring a food service license if any food will be vended. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commission Stiehl, aye. The motion carried.

ITEM #3 – Grant Award and Administration Agreement for the Water and Electricity Conservation Project

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County Manager George Sugars – Mr. Sugars states that we have received a grant award of \$5,740 for the water and electricity conservation project for restrooms. There are donation of \$1,522 for insulation of these facilities such as urinals and light switches within restrooms in public buildings here.

Commissioner Norden moved for the authorization for the chairman to sign the grant award. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commission Stiehl, aye. The motion carried.

ITEM #4 – Resolution Establishing Fees for Driveway Access Permits

County Manager George Sugars – Mr. Sugars stated that there are three different categories of driveway access permit fees which are residential access fees, commercial access fees and agricultural access fees set forth in the resolution.

Commissioner Lasha moved to approve resolution # 19 to establish fees for driveway access permits. Commissioner Norden seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commission Stiehl, aye. The motion carried.

Commissioner Stiehl adjourned the meeting at 10:42 a.m.

Clerk and Recorder