

SIXTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 27, 2007, 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
Larry Lasha	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Absent

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

The Morning Prayer was given by Paul Flores of the Christian Family Fellowship

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

APPROVAL OF AGENDA:

Commissioner Stiehl stated he had several revisions to the Agenda. He recommended that the Fremont County Tourism Council 2006 Annual Report presented by Mike Bandara be moved from New Business to Old Business. Under New Business he recommended the addition of the Recognition of Oscar Lee and the updated Ambulance Licensing presented by Tom Anderson. **Commissioner Lasha** made a motion to approve the Agenda as revised. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA:

Commissioner Stiehl moved to approve the Consent Agenda.

1. Approval of Minutes March 13, 2007
2. Approval of the Bills, March 27, 2007 / \$457,618.68
3. LIQUOR LICENSES / None
4. Adoption of Resolution #19, Series of 2007, Flora Romano Nursery Revoke Special Review Use Permit.
5. Schedule of Public Hearings / None

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Commissioner Stiehl stated they had received a letter from the Colorado Water Conservation Board reminding the public of the hundred-year floods encouraging citizens to exercise precautions on flooded streets and roads. He explained a hundred-year flood is not necessarily an incident that occurs every hundred years but is something that has a 1% chance of being equal to exceeding in any given year. He further suggested residents in high risk areas consider obtaining flood insurance.

Commissioner Norden reported the Spring Clean-Up Campaign is in progress and trash vouchers are still available. He stated that April 14, 2007 is the scheduled date for the passenger tire recycling at Holcim, Inc. along with hazardous waste recycling from the City of Canon.

2. Citizens Not Scheduled

Melvin C. Cole, Training Coordinator at the Department of Corrections, Canon Minimum Centers submitted a letter stating as part of the commitment to the taxpayers, the placement of inmate work crews back into the community will begin on April 1, 2007. He stated the labor crew will be available for one week pre-scheduled blocks and each entity is requested to schedule only one week per month. Mr. Cole reported the security fences have been realigned within the survey boundary markers. The boundary fence that was along Highway 67 has been removed as requested by the Colorado Department of Transportation.

OLD BUSINESS:

FREMONT COUNTY TOURISM COUNCIL 2006 ANNUAL REPORT

Mike Bandara, Chairman presented the FCTC 2006 Annual Report defining the Royal Gorge Region, Goal and Objectives and Royal Gorge Region Marketing Philosophies. Mr. Bandara reported the 2006 Budget was \$121,804. He stated a large percentage of the budget is directed for the continuous improvement of the website. Currently the website is producing revenue for the 2007 Budget through the sale of advertisements. He reported the FCTC Budget and Revenue Projection for 2007 presently is \$157,622. **Commissioner Stiehl** made a motion to accept the Fremont County Tourism Council 2006 Annual Report as presented. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**RESOLUTION #20, FILE #CUP-06-003 NORTHFIELD COAL MINE
(Continued from February 27, 2007 and March 13, 2007 BOCC Meetings.)**

Following a brief discussion with the Northfield Representatives, **Commissioner Norden** asked if there were any citizens who had specific questions or required clarification on the proposed Conditions. **Charles Overton** commented that the notice posted on the property did not include the date and time of the public hearing and suggested omitting the statement from the fourth paragraph of the proposed Resolution. The Board of Commissioners and County Attorney agreed.

Commissioner Lasha made a motion to approve **Resolution #20, CUP 06-003 Northfield Coal Mine** with the five (5) Findings and thirty (30) Conditions.

Findings:

- a) The procedural requirements of 8.2 of the Fremont County Zoning Resolution have been met.
- b) The location of the proposed use is compatible with other land uses in the area and does not place an undue burden on existing transportation, utilities, and service facilities in the vicinity, except as otherwise noted in these findings.
- c) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, wall and fences, parking and loading facilities, landscaping and such other provisions required in this resolution.
- d) 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.
- e) 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.

Conditions:

- A. The term of the Conditional Use Permit shall be for life of the mine.
- 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.

- C. Applicants 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. Applicants 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. 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.
- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Days and hours of operation will be twenty-four (24) hours per day; seven (7) days a week, excepting trucks hauling material off site will be limited to the hours of 7am to 7pm, Monday through Saturday.
- H. The number of haul truck trips shall not exceed 80 trips (40 round trips) per day. (A trip is considered a single or one direction vehicle movement either exiting or entering the property.)
- I. 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 Department prior to the expiration of the six-month period stating the reasons thereof and the plan for 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. The Board of County Commissioners granted approval of the initial two (2) year cessation.
- J. If a conditional use permit is to be transferred, it shall comply with all the applicable Federal, State and Local regulations regarding such transfer.
- K. Provide a copy of the following permits or licenses, prior to mining: (If not required provide documentation from the listed entity that the following is not required, prior to mining).
 - 1. Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety.
 - 2. Colorado Department of Public Health and Environment, Air Pollution Control Division.
 - 3. Colorado Department of Public Health and Environment, Water Quality Control Division.
 - 4. Colorado Division of Water Resources.
 - 5. United States Department of Labor, Mine Safety and Health Administration.
 - 6. United States Corps of Engineers.
 - 7. Colorado Department of Transportation access permit or documentation as to requirements or improvements at the intersection of State Highway 115 and County Road 11A or any other location.
 - 8. Documentation as to issuance for an acceptable sewage disposal source for employees from the Fremont County Environmental Health Department, prior to mining.
 - 9. Documentation as to the issuance of a building permit for any buildings, requiring a building permit.

10. A copy of a Flood Damage Prevention Permit will be required for all buildings, structures or construction work or disturbance that takes place within the FEMA designated floor hazard area.
- L. The drainage plan (including the sedimentation pond) shall be in accordance with the design requirements of Fremont County Subdivision Regulations. (Drainage plan and reports shall be reviewed and accepted by County reviewing engineer.)
 - M. To the extent that final market delivery requires coal hauling trucks to utilize County Road 79, 11A and State Highway 115, and congruent with recommendations identified by traffic engineers via a traffic study, with review and approval by the County Engineer, the County Road and Bridge Department, and the Colorado Department of Transportation, the following improvements may be required and shall be completed by the Applicant, in accordance with existing County specifications, and all improvements shall be accepted in writing, by the appropriate representative of Fremont County, during site development and prior to off-site hauling of coal.
 1. The Applicant shall provide a design for the intersection of County Road 79 and County Road 11A, which provides adequate site distance in both directions, etc. (Design plans for off site road improvements shall be reviewed and accepted by County reviewing engineer.)
 2. The Applicant shall replace and widen the existing cattle guard, in accordance with County Specifications on County Road 79 (easterly of the site). (Design plans for off site road improvements shall be reviewed and accepted by County reviewing engineer.)
 3. With review and approval by the County Engineer, the County Road & Bridge Department, and the Colorado Department of Transportation, the permit holder will improve the surface of County Road 11A to provide safe passage for all employees, trucks and community traffic, which may include, but will not necessarily require, as much as a 3-inch overlay over that portion of the road that is routinely utilized by coal hauling trucks.
 - N. The following shall be completed by Applicant, prior to mining:
 1. The Applicant shall pave Chandler Road (County Road 79), as a two-lane road, from the site entrance to the intersection with Churchill Avenue (County Road 11A). Pavement shall be asphalt, and shall meet CDOT specifications for the weight of the type of truck anticipated for the coal hauling (full).
 2. The Applicant shall construct bar ditches on Chandler Road (County Road 79), from the site entrance to the intersection with Churchill Avenue (County Road 11A).
 3. The Applicant shall grade County Road 79 from the site entrance to the entrance road of Chandler Heights, a.k.a. Auckland Avenue and they will provide maintenance on a yearly basis. In addition, the Applicant shall apply an initial, one-time 2" gravel surface, the full width of the roadway as it exists on the date of approval.
 - O. A copy of the traffic distribution and design plan shall be provided, for review, to the Colorado Department of Transportation, the Department of Planning & Zoning, the Fremont County Road Department, and the Board of County Commissioners, to determine what specific road improvements will be required at the intersection of County Road 11A and Colorado State Highway 115. If the operation uses the intersection of County Road 11A and State Highway 115 for coal hauling, any improvements to the intersection as recommended by traffic engineers via a traffic study, with review and approval by the County Engineer, the County Road and Bridge Department, and the Colorado Department of Transportation, must be in place prior to any off-site hauling of coal. The applicant will incur the cost related to the requirement improvements in proportion to the dedicated operational traffic volume.

- P. Trucks hauling coal from the facility site shall be limited to the use of County Road 79 from the site to County Road 11A then north to State Highway 115, except for delivery to local retailers.
- Q. If the railroad load out or any other offsite load out is proposed to be used in transporting the material, a separate Conditional Use Permit will be required.
- R. To the extent not otherwise covered by the CDPHE and DRMS permit, the Applicant agrees that adequate soil moisture must be maintained in topsoil and overburden to control emissions during removal. Watering shall be implemented if necessary.
- S. To the extent not otherwise covered by the CDPHE and DRMS permit, the Applicant agrees that topsoil and overburden stockpiles shall be compacted and re-vegetated within one year.
- T. To the extent not otherwise covered by the CDPHE and DRMS permit, the Applicant agrees that emissions from material handling (i.e. removal, loading and hauling, etc.), dust from unpaved haul roads, and disturbed surfaces shall be controlled by watering or chemical stabilizers, when necessary. The stabilizers shall be per the recommendations of the manufacturer.
- U. To the extent not otherwise covered by the CDPHE and DRMS permit, the Applicant agrees that vehicle speed on all on-site unpaved roads and disturbed areas shall not exceed a maximum of 10 m.p.h. Speed limit signs shall be posted
- V. To the extent final permits issued by relevant state agencies, including the CDPHE, DRMS and other agencies with jurisdiction to issue permits on this operation, do not otherwise address water well protection, monitoring and mitigation of damage to water wells and events of subsidence, the County shall have the right to review the permit relative solely to these issues, and after adequate notice to the Applicant and a right to be heard, may consider modifying these conditions to impose conditions that are adequate to address such issues, and that are not otherwise in conflict with other permits held relative to the operation or within the jurisdiction of the relevant state agencies.
- W. To the extent final permits issued by relevant state agencies, including the CDPHE, DRMS and other agencies with jurisdiction to issue permits on this operation, do not otherwise address water and air pollution controls, the County shall have the right to review the permit relative solely to these issues, and the adequate notice to the Applicant and a right to be heard, may consider modifying these conditions to impose conditions that are adequate to address such issues and that are not otherwise in conflict with other permits held relative to the operation or within the jurisdiction of the relevant state agencies.
- X. To the extent final permits issued by relevant state agencies, including the CDPHE, DRMS and other agencies with jurisdiction to issue permit on this operation, do not otherwise address noise and light control, the County shall have the right to review the permit relative solely to these issues, and after adequate notice to the Applicant and a right to be heard, may consider modifying these conditions to impose conditions that are adequate to address such issues and that are not otherwise in conflict with other permits held relative to the operation or within the jurisdiction of the relevant state agencies.
- Y. The County reserves the right to impose conditions concerning surfacing, lighting and landscaping of the site, after adequate notice to the Applicant and a right to be heard, if any of these items become inconsistent with the resolutions or otherwise are in conflict with the Fremont County Master Plan.
- Z. All blasting shall be done in accordance with applicable laws.
- AA. No underground mining shall occur under residential buildings in existence at the time of approval of this permit.
- BB. The Applicants shall use reasonable efforts to include local retailers within those to whom they sell coal.
- CC. If on-site fences are constructed they shall be constructed in accordance with the Division of Wildlife guidelines.

- DD. Assignment of this permit shall only occur after notification to the Department, accompanied by a written statement from the assignee that the assignee assumes responsibility for the performance of all obligations, conditions and guarantees originally imposed upon the original permit. The statement shall be considered for approval by the Board without the necessity of a public hearing. Such approval of the statement will not be unreasonably withheld.

The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried with the Adoption of **Resolution #20**.

REQUEST: CUP 06-004 BEEDLE QUARRY

Jack Beedle stated they were requesting approval of a Conditional Use Permit, Department file #CUP-06-004 Beedle Quarry to allow surface mining and processing of limestone, granite, sandstone and decorative rock, by Charles T. Gutierrez and Jack. H. Beedle. Their property is located approximately 4 miles southeast of the intersection of State Highway 67 and County Road 19, aka Siloam Road, then approximately 1600 feet southwest of the intersection of County Road 19 and County Road 835C, aka Green Valley Ranch Road, then approximately one-hundred (100) feet to the southeast corner of the property. The property is located southeast of the City of Florence. The proposed number of trucks hauling from the site is ten (10) per day maximum during daylight hours. The proposed hours of mining, crushing, stockpiling, etc. is from 6am to 6pm. The property contains 40 acres and is zoned Agricultural Forestry. (Continued from March 13, 2007 BOCC meeting).

Commissioner Norden asked the applicant to respond to the Fremont County Engineer, Jack Effinger's letter of March 26, 2007. Mr. Beedle responded the ground water issue has been addressed and test holes have been dug to seventeen (17) feet without reaching ground water. He remarked that County Engineer, Mr. Effinger had requested additional information regarding the drainage and storm water management. Mr. Beedle requested CUP 06-003 be tabled until the April 10, 2007 Board of Commissioner Meeting to allow him the proper time to respond.

Commissioner Stiehl made a motion to table CUP 06-004 Beedle Quarry until the April 10, 2007 Board of County Commissioner Meeting. The motion was seconded by Commissioner Lasha with emphasis on the letter of the County Engineer. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

RECOGNITION OF OSCAR LEE FOR OVER 17 YEARS OF SERVICE

Commissioner Stiehl stated it was a pleasure to have **Oscar Lee** as the District #1 Road Supervisor and commended him on his accomplishments. He announced Oscar will be honored on Thursday, March 29th at 3pm on the LL Atrium of the Administration Building and the public is invited to attend. **Commissioner Lasha** commented that Oscar has worked diligently with the other District Supervisors and extended his appreciation. **Commissioner Norden** extended his thanks and appreciation. The Commissioners presented him with a Certificate Recognition. **Oscar Lee** thanked his crew and the other foreman and crews, the county commissioners and their staff.

CRIPPLE CREEK & VICTOR GOLD MINING CO. OPERATION UPDATE

Jane Mannon, Manager of Community Affairs, Cripple Creek Victor Gold Mine, presented an update on operations for 2006. In 2006 they reached three years without a lost-time incident and have received the AngloGold Ashanti Global Safety Award and the Colorado Department of Public Health Environment Achievement Award. Ms. Mannon identified the ISO 1400-Certification for Environmental Management System for Cresson Mine. The total number of people working at the site is 322 and the direct earnings from their payroll is about \$19,700,000. Their production in 2006 was approximately 286,637

ounces of gold and about 129,934 ounces of silver. They have permit approvals to mine through 2012. She stated summer mine tours are conducted from May to September for the site.

Bruce Redus, Fremont Economic Development Corporation stated the Cripple Creek & Victor Gold Mine Company will give Fremont County \$25,000 in matching funds towards a \$361,000 project for four (4) sand and salt sheds to be used by the County Road and Bridge Department. He advised the County is seeking a Department of Local Affairs grant and the mine finances would provide the much needed matching funds.

ASSESSORS OFFICE / PETITIONS FOR ABATEMENT OR REFUND

Stacy Seifert, Assessor submitted a Petition of Abatement **Resolution #21** for Riverside Properties in the amount of \$6,529.05 as the result of an erroneous increase in value for 2006. **Resolution #22** in the amount of \$75,214.76 for Q-West; **Resolution #23** in the amount of \$8,860.50 for Union Pacific Railroad and **Resolution #24** in the amount of \$4,145.26 for Aquila are the result of misreported value. These properties are state assessed and are taxed individually by each entity. These abatements only affect the four (4) Four Mile Metropolitan Districts on the east edge of Canon City and do not affect the County or any other taxing entity.

Commissioner Lasha made a motion to approve **Resolutions #21, 22, 23 and 24**. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried with the Adoption of **Resolutions #21, 22, 23 and 24**.

Commissioner Lasha complimented **Deputy Assessor, Stacy Seifert** for the outstanding job she has been doing since taking office.

APPLY FOR PORTIONS OF \$65,000 EQIP GRANT FOR WEED CONTROL ACTIVITIES

J.R. Philips, Fremont County Weed Control Manager stated a Federal Grant has been developed that will be available to citizens who engaged in the sale of agriculture and received \$1000 annually in funds. The Environment Quality Incentive Program is a three year program weed control in the major drainages that start in Custer County and continue into Fremont County. He referenced Hardscrabble, Grape Creek, Texas Creek and Copper Gulch drainages. Mr. Philips confirmed the phone number in his office as 276-7317 and NRCS 275-4465 for contact information. He reported the deadline for signing up is March 31, 2007.

REQUEST: EXTENSION OF LLA 06-003 KRAUTH-EGGLESTON LOT LINE ADJUSTMENT

Bill Giordano, Planning and Zoning Director stated this was a request for approval of a six (6) month extension to allow the completion of the required contingencies, by Michael D. & Nicole M. Krauth and Aaron & Shantel Eggleston, for a lot line adjustment for their property which is located *approximately 2 miles west of the intersection of US Highway 50 and County Road 6, aka Hayden Creek Road, on the south side of County Road 6, in the Hayden Creek Area.*

Commissioner Stiehl made a motion to approve the Request for Extension of LLA 06-003 Krauth-Eggleston Lot Line Adjustment for six (6) months. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

REQUEST: TUP 07-003 PENROSE CHAMBER OF COMMERCE FLEA MARKET

Bill McGuire, Penrose Chamber of Commerce Executive Director stated they were requesting approval of a Temporary Use Permit to allow a Flea Market by the Penrose

Chamber of Commerce. The event will take place in the *Gooseberry Patch Restaurant parking lot*, in Penrose, Colorado for *six (6) consecutive months, on the first and third Saturdays of each month, starting April 7, 2007*. The subject property is located in the Business Zone District. Mr. McGuire expressed thanks and appreciation to the Planning and Zoning Department for their assistance and guidance. He requested a waiver of the application and clean-up fees.

Bill Giordano, Planning and Zoning Director advised the application is in order. He explained the Board of Commissioners are required to accept the amounts of the liability insurance. He reported the applicant was requesting a wavier of the application fee and the bond/surety clean up fee. He commented this has not been a problem in the past and advised the applicant has agreed to provide parking monitoring and restrictions.

Mr. Giordano asked that any future applications be submitted with adequate turn-around time and the applicant agreed.

Commissioner Lasha made a motion to approve the Temporary Use Permit 07-003 Penrose Chamber of Commerce Flea Market for *six (6) months on the first the third Saturday or each month, starting April 7, 2007* accepting the insurance and waiving the application, bond and security clean up fee. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

APPROVAL OF AMBULANCE SERVICE LICENSES

Tom Anderson reported the ambulances in Fremont County have been inspected and they have all met the minimum requirements; American Medical Response, Florence Volunteer Fire Department, Penrose Volunteer Fire Department, North Western Fremont EMS and Arkansas Valley Ambulance.

Commissioner Norden acknowledged **Don Grubb, Chairman of Arkansas Valley Ambulance** in the audience. Mr. Grubb reported according to the 2000 census bureau there were an estimated 3147 people in western Fremont County. He feels due to the logistics of the area the amount was under-reported and with the addition of daily tourists the number is closer to 4000 people in the responding area. He said previous concerns of Arkansas Valley Ambulance not being paged out for calls in the area have been resolved with notification to the neighboring dispatchers. Mr. Grubb reported 24 x 7 ambulance service in the area could not be provided without additional grants, fund-raising or district taxing.

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

County Clerk