

April 9, 2013

SEVENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on April 9th, 2013, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:30 A.M.

Debbie Bell	Commissioner	Present
Tim Payne	Commissioner	Present
Edward H. Norden	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, Deputy Clerk.

The Invocation was given by Pastor Tom Kilgore, First Southern Baptist Church.

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

APPROVAL OF AGENDA

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

CONSENT AGENDA

Commissioner Bell announced the scheduling of a Public Hearing on May 14, 2013 at 10:00 A.M. for SRU 13-001 Tallahassee Volunteer Fire Protection Main Fire Station.

Commissioner Payne moved to approve the consent agenda. Commissioner Norden seconded the motion. Upon vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried. Resolution #18 is attached.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

County Clerk Barr gave her report for March 2013. Total funds collected were \$777,845.73. The portion kept by the County for disbursements was \$382,036.24 which is about 50% of the total collected. This is down from last year by \$24,346.06.

Commissioner Norden moved to accept the County Clerk's Report for March 2013. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

Commissioner Norden said there are still trash vouchers available for the "Fremont County Spring Clean Up Campaign". These are for residents who live in the unincorporated areas of Fremont County. The vouchers expire on April 30, 2013 and may be picked up in Room 106 of the Administration Office.

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Commissioner Bell said the last Legislative Hour is scheduled for Saturday April 13th at 11:00 a.m. at City Hall. Those expected to attend the event are Senator Kevin Grantham, State Representative Jim Wilson, and State Representative Clarice Novarro-Ratzlaff. The event will be telecast on local television channel 19.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

NEW BUSINESS

1. Fremont County Proclamation – Child Abuse Prevention Month April, 2013.
Representative: Steve Clifton, Department of Human Services Director.

Steve Clifton explained one of the core services of the Department of Human Services is to investigate cases of child abuse and neglect. In 2012 there were 1212 reports of child abuse and neglect from concerned citizens in Fremont County. Of those calls, 490 cases were investigated. The community has to work together with Human Services to help prevent child abuse and foster healthy family relationships.

Stacy Kwitek said there is new campaign in Colorado called “Be The One Colorado”. The premise of the campaign is that it only takes one person to make the difference in the life of a child. It takes more than just healthy parents to raise a child, it takes an entire community. She invited all citizens to donate one hour per week to volunteer at any child organization.

Commissioner Norden read the proclamation for the record.

Commissioner Norden moved to approve the Proclamation For Child Abuse Prevention Month for April 2013. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

2. Consideration of a Resolution Determining that the Odd-Year Election to be held in the fall of 2013 shall be a Mail Ballot Election and instructing the Election Official for Fremont County to conduct the election by Mail Ballot.
Representative: Katie Barr.

County Clerk Barr said she is asking the Board if they wish to have her conduct the November Election as a Mail Ballot Election. She explained that 63% of the registered voters in Fremont County are registered as Permanent Mail In Voters. It saves the County a lot of money by not having polling places.

Commissioner Norden asked if the ballot will have Municipal, School District and Statewide Issues. Barr said that is correct and so far she has received notice of two items that will be placed on the ballot.

Commissioner Payne moved to approve Resolution #19 Determining that the Odd-year Election to be held November 5th, 2013 shall be a Mail Ballot Election. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried. Resolution #19 is attached.

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PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

None.

Chairman Bell adjourned the meeting at 9:45 A.M.

Clerk and Recorder

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Commissioner Payne moved the adoption of the following Resolution:

RESOLUTION NO. 18
Series of 2013

RESOLUTION FOR CONDITIONAL USE PERMIT
FILE NUMBER CUP 12-001 T.H.E. AGGREGATE SOURCE (MAJOR MODIFICATION)

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

THAT WHEREAS, Tezak Heavy Equipment Company Inc., (hereafter "Applicant") has made application for issuance of a Conditional Use Permit pursuant to Section 8.14 of the Zoning Resolution of Fremont County **for mining and operation of a granite products mine, including dozing, blasting, crushing, screening, loading and hauling, the operation of a concrete recycling program and operation of an asphalt batch plant.** Said application has been designated as file **#CUP 12-001 T.H.E. Aggregate Source (Major Modification)**; and

WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **February 5, 2013** regular meeting and the Planning Commission recommended **APPROVAL**; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location of the public hearing, telephone number of the Department of Planning and Zoning (hereafter "Department") and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel; and to appropriate agencies, in accordance with regulations; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location of the public hearing, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on **March 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, it appears that the issuance of a Conditional Use Permit is appropriate;

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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.
 - 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. Conditional Use Permit shall be issued for life of the mine (*estimated as 55 years*).
 - 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

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- 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.
- 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 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 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. **The applicant has not requested a temporary cessation at the time of application.**
- 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. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.

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- I. The applicant shall provide the Department with a copy of the updated lease when renewed.
- J. Days and hours of operation will be limited to Monday through Saturday, from 5 am to 9 pm except for emergency operation. Emergency operation will be allowed twenty-four (24) hours per day, seven (7) days a week; however emergency operation shall not cumulatively exceed thirty (30) days in any one (1) calendar year. Emergency situations are considered to be a request for product for the purposes of repairing storm event washouts or other immediate public health and safety issues, not production that is merely the result of demand for material beyond which can be produced during the normal stipulated hours and days of operation. The applicant shall notify the Department prior to commencing an emergency operation, if possible, or no later than three (3) days after the emergency operation has taken place.
- K. "Jacob Brakes" shall not be used during the hours of 6:30 pm to 7:00 am either during normal operation or during an emergency operation.
- L. Tunnel Drive shall not be used for purposes of hauling of gravel material from the site except if it is determined by the Board that an emergency exists warranting the use of this roadway excepting that portion from the site access road to State Highway 50.
- M. Prior to operation the applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan.
- N. Provide a copy of the following approved permits, licenses or the like, prior to mining of the additional CUP property. *(If not required provide documentation from the listed entity that the following is not required, prior to mining.)*
 - 1. Approved copy of the Colorado Department of Public Health and Environment, Air Quality Control Division, Fugitive Dust Permit and APEN permit(s).
 - 2. Approved copy of the Colorado Department of Public Health and Environment, Water Quality Control Division, Storm Water Management Plan and Discharge Permit.
 - 3. Approved copy of the Colorado Department of Transportation Access permit for the proposed use.
 - 4. A copy of the approved Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety Reclamation Permit.
 - 5. United States Department of Labor, Mine Safety and Health Administration MSHA number.
 - 6. Valid license to store and use explosives from the Colorado Department of Labor &

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Employment, Division of Oil and Public Safety.

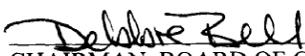
- O. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- P. 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.
- Q. 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*).

Commissioner Norden 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: April 9, 2013


 CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST: 
 FREMONT COUNTY CLERK AND RECORDER

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RESOLUTION NO. 19, SERIES OF 2013

A RESOLUTION DETERMINING THAT THE ODD-YEAR ELECTION TO BE HELD IN THE FALL OF 2013 SHALL BE A MAIL BALLOT ELECTION AND INSTRUCTING THE ELECTION OFFICIAL FOR FREMONT COUNTY TO CONDUCT THE ELECTION BY MAIL BALLOT

WHEREAS, C.R.S § 1-7.5-104, et seq. authorizes local governments of any political subdivision of the State of Colorado to conduct elections by mail ballots; and

WHEREAS, the Fremont County Clerk & Recorder, who is the designated election official for Fremont County has requested approval by the Board of County Commissioners to conduct the odd-year election for 2013 by mail ballot; and

WHEREAS, the Board of County Commissioners of the County believes that a mail ballot election for the odd-year election in 2013 is an appropriate and efficient means of conducting the election; and

WHEREAS, the provisions of § 1-7.5-104, C.R.S. require a determination by the governing board of Fremont County that the odd-year election shall be conducted by mail ballot.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, COLORADO, that the odd-year election to be held on November 5th, 2013 shall be conducted by mail ballot. The Fremont County Clerk and Recorder, as the designated election official for Fremont County, is hereby directed to conduct the 2013 odd-year election by mail ballot, to submit a plan for the same to the Colorado Secretary of State and conduct the odd-year election in accordance with applicable Colorado statutes, rules and regulations.

ADOPTED AND APPROVED this 9th day of April, 2013.

Commissioner Payne moved the adoption of the foregoing Resolution with a second Commissioner Norden.

Commissioner Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Commissioner Norden	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Commissioner Payne	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: 4-9-13

Delbert Bell
Chairman

Attest: Katie E. Bauer
Clerk