

**April 10, 2012**

**SEVENTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on April 10th, 2012, 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
Michael J. Stiehl	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 Morning Prayer was given by Benny Soto of Mountain View Community Church and Chaplain for the Fremont County Sheriff's Department.

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

**APPROVAL OF AGENDA**

**Commissioner Bell** added as Item #8 under New Business onto the agenda, Consideration of a Proclamation for Child Abuse Prevention Month.

**Commissioner Norden** moved to approve the amended agenda with the addition of Item #8 under New Business. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

**CONSENT AGENDA**

**Commissioner Stiehl** moved to approve the consent agenda noting the scheduling of a Public Hearing on May 22, 2012 at 10:00 a.m. for consideration of an Amendment to Fremont County Flood Damage Prevention Regulations. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials

**County Clerk Barr** gave her report for the month of March 2012. The total amount collected was \$793,879.03. The county kept \$406,382.30 which is approximately 52% of the total collected. This is \$55,867.38 less than last year.

**Commissioner Norden** moved to accept the County Clerk's report for March 2012. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

**County Manager Sugars** gave his report for Sales and Use Tax through the March 2012. Retail Sales Tax collected was 5.08% above what was collected last year.

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The Auto Use Tax is up 15.64% from a year ago. The Construction Use Tax is down 11.43% from 2011. Total Sales and Use Tax collected year to date is up 5.68% from last year.

**Commissioner Norden** noted the State Public Health Veterinarian Dr. Lawaczeck spoke at the Board of Health meeting in February regarding the westward spread of rabies. Citizens should be aware of wild animals that could be affected with rabies.

**Commissioner Bell** announced she is so proud to have recently attended her son's graduation from the Marine Corp boot camp and thanked others who serve our Country.

2. Citizens Not Scheduled:

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

1. Special Events Liquor License  
Canon City Rodeo Association  
Bull Riding Series 2012  
1595 S. 9<sup>th</sup> St.  
Canon City, CO 81212  
Malt, vinous, and spirituous liquor  
Event Dates: 6/2/12, 6/9/12, 6/16/12 and 6/23/12

**Boyd Canterbury** said this is the second annual bull riding series the Association has put on. It is a jackpot series that pays out and accumulates points. All of the proceeds will go back to the Rodeo Association. The events will start at 7:00 p.m.

**Commissioner Stiehl** moved to approve the Special Events Liquor License for the Canon City Rodeo Association for June 2, June 9, June 16, and June 23, 2012 from 10:00 a.m. until midnight on each of these dates. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

2. Jane Mannon, Manager, Community Affairs – Cripple Creek & Victor Gold Mining CO. update on 2011 activities and 2012 plans.

**Jane Mannon** gave her presentation and annual update on the Cripple Creek and Victor Gold Mining Company. They continue to be a Gold leader in the Colorado Department of Public Health Environment leadership program. This program involves meeting the industry regulations and going above and beyond what is required. The mine employs 475 employees of which 110 live in Fremont County. Their current permits allow mining to continue through 2016. Ms. Mannon is hopeful to get back their energy mineral fund which the state is currently using in the general fund. The Amendment 9 mine life extension required the relocation and paving of County Road #82. Recently they donated money to the Fremont County Boys and Girls Club. Ms. Mannon attended the grand opening for the Miners Pavilion at Pathfinder Park, a project they donated too as well. Next they will be working on Amendment 10 that will involve relocating a section of Highway 67. This will add a new mill facility, a valley leach facility and the addition of more local jobs.

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**PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.**

**1. Fremont County Airport Proposed Rules and Regulations.**

**Chairman Bell** opened the Public Hearing at 10:01 a.m.

**Richard Baker, Airport Manager**, said they began the process about a year ago for the proposed rules. The FAA requires some type of governmental rules at an airport as far as grant assurances. A template for the rules and regulations was acquired from the county's airport consultant. The Airport Board has gone over the proposed rules and regulations which have been reviewed by the County Attorney. Commissioner Bell asked if these new rules will change the way daily business is conducted. Mr. Baker said if these rules are adopted every tenant at the airport will be informed of these new regulations. The proposed rules have been available on the county website and at the airport office for the public to view.

**Public Comments:**

**James McCallister** said there is no separation between hangar owners and businesses in the proposed rules. He believes there had been a separation between the airport and the industrial park in regulations that were adopted by a previous Board of Commissioners. Commissioner Norden said six years ago the industrial park area was separated from the airport. The airport was strictly defined as airport aviation zoned uses. Mr. Giordano said an airport zone district was created to be separate from the industrial park zone district. The property was posted, a public hearing was held and notice was published in the newspaper for the re-zoning process. Mr. McCallister said airport rules and regulations have already been adopted as resolution #20 of 1999 by previous Commissioners. If the new rules are adopted Commissioner Norden explained they will be enforced, not the previously adopted rules. Mr. McCallister said the new rules do not address hangar owners that have a business established. County Attorney Jackson stated the new rules would apply to every user at the property. She said these new regulations do not change the terms of any existing leases already in effect. Ms. Jackson explained the FAA already regulates the airport be used for aeronautical uses. Should the county be notified by the FAA of an issue with a hangar the county would have to act on it. Ms. Jackson told Mr. McCallister he is free to relinquish his lease if desired. Commissioner Bell pointed out that #8A of the proposed rules addresses his current lease that already is in effect with the county.

**Chairman Bell** closed the Public Hearing at 10:16 A.M.

**Commissioner Norden** believes an opportunity has been provided for people to be heard on this issue. The Airport Advisory Board has presented this document for approval which reflects the intended expectations for airport users. If the Fremont County Airport is to continue to qualify for FAA grants, formal rules need to be in place.

**Commissioner Stiehl** said these regulations will allow for orderly operation of the airport and give guidance to airport users and management. He commended the Airport Advisory Board for all of their work on these regulations.

**Commissioner Stiehl** moved to approve and adopt the Fremont County Airport Proposed Rules and Regulations to supersede all previous rules and regulations effective May 1, 2012 as resolution #19. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye, Commissioner Bell, aye. The motion carried.

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**NEW BUSINESS CONTINUED**

3. Consideration of a ground lease at the Fremont County Airport for Skydive Colorado, LLC.

**Richard Baker, Airport Manager**, said this is a proposal for an operational plan for an additional skydiving operation at the airport. This proposal has gone before the Airport Board and was submitted to the County Manager for consideration. The proposal has also been reviewed by the County Attorney.

**Neil Porter of Skydive Colorado** said the main purpose is to combine their facility and drop zone into one area. This will cut down on vehicle traffic in the airport and eliminate vehicles using the runway. Commissioner Bell said the county has concerns with the requested drop zone being so close to Highway 50 and that is why they only want a one year lease on the drop zone area. Bell said the county has sent this proposal for the drop zone location to the FAA and have not heard back from the FAA yet. The county is considering a 25 year lease agreement for the land and buildings but is not willing to give more than a one year lease on the drop zone site. Commissioner Norden said our leases typically define leased space for buildings, not parking areas. The leased space is defined as the space the modulars will sit on. There would be a separate consideration for a one year lease for the drop zone in the interest of public safety. Once the modulars are put in place and the parking has been established the drop zone area will be easier to define. County Attorney Jackson said this Board is concerned with tying up vacant land at the airport for speculative business. Mr. Porter asked if safety can be proved to a reasonable degree if the drop zone lease could be expanded to the 25 year term. Commissioner Stiehl does not see any reason to have a 25 year commitment for a drop zone when the investment in developing a drop zone is minimal. The current drop zone at the airport can be used free of charge. County Attorney Jackson said Mr. Porter can always relinquish his lease with no financial obligations. Commissioner Norden said the applicant needs to provide a defined description of the parcel with the placement of the modulars and the parking area.

**Commissioner Norden** moved to approve Resolution #20 to authorize a new lease for Airport Property for Skydive Colorado LLC. Commissioner Bell seconded the motion. Commissioner Stiehl objected to the \$0.12 per square foot as we do not know what the square footage will be. Stiehl said naming a 20 year old lease rate is inappropriate. Commissioner Bell responded this is the current rate and if the Board wants to increase the amount it should be done outside of consideration for a new lease agreement. Commissioner Stiehl proposed to strike paragraph #8 regarding the \$0.12 per square foot annual rate. Commissioner Norden noted the consultants for the Airport Master Plan stated they would not address leases or lease rates. Norden suggested the Airport Advisory Board consider what an appropriate market rate would be for future lease agreements. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Stiehl, nay. The motion carried. Resolution #20 is attached.

4. Consideration of re-appointment of Fremont County Planning & Zoning Director Bill Giordano to represent Fremont County on the governing Board of the Fremont County Regional GIS Authority for a two year term concluding on April 30, 2014.

**Planning and Zoning Director Giordano** said the Board is set up to handle the budget and regulate the services of the GIS Authority. He feels it has been beneficial for him to serve on this Board and it assures the county is well represented.

**Commissioner Norden** moved to re-appoint Bill Giordano to the Fremont County Regional GIS Authority for a two year term concluding on April 30, 2014. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

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5. Request SRU 10-005 Skye Borough Ranch Kennel Extension of Contingency Deadline.

Request approval of an additional 12 month extension of the deadline for submittal of contingency items in conjunction with SRU 10-005 Sky Borough Ranch Kennel. Said Special Review Use Permit was approved on November 9, 2010.

**Planning and Zoning Director Giordano** explained the applicant is requesting a 12 month extension of the contingency deadline. One of the issues is with the State Highway Department (CDOT) requirements the applicant needs to change the permit from agricultural to residential classification. The other issue is the stop sign that must be handled through CDOT.

**Dale Walters** said he has tried numerous times to get the information on the sign from CDOT but cannot get any answers from them. The kennels are built and the only thing left for him to become operational is the purchase of three more dog houses. He has requested a one year extension per the Planning and Zoning Department's suggestion but does not believe he will need that long. Mr. Giordano said his office will try to help the applicant with a good contact person at the state level. Commissioner Norden suggested Mr. Walters contact Tony Adamic at the Fremont County Department of Transportation for assistance.

**Commissioner Norden** moved to approve the 12 month extension of the contingency deadline for SRU 10-005 Skye Borough Ranch Kennel to March 1, 2013. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

6. Request CUP 96-1 Valco Inc. Temporary Cessation

Request approval of a temporary cessation for 18 months in order to determine which of the following options to pursue:

- a. Resume operations and process the remaining reserves
- b. Transfer the property to another party
- c. Reclaim the property as is

Representative: Tom Brubaker, President, Valco, Inc.

**Planning and Zoning Director Giordano** said this is for the site on the west side of the lake area on MacKenzie Avenue. The processing plant on the other side of the road is a non-conforming use and was in use prior to county regulations. It is not part of this application. The applicant is considering reclamation of the property or possibly selling it. As a CUP is still required during the reclamation process Mr. Giordano recommended granting the extension.

**Commissioner Norden** moved to approve the temporary cessation request until May 31, 2014 for the CUP 96-1 Valco Inc. for the pit on the west side of MacKenzie Avenue. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

7. Request FP 12-001 Cranberry Park Subdivision Planned Unit Development Plan

Request approval of Planned Unit Development Plan for a portion of Cranberry Park Subdivision which was recorded July 3, 2008. The modifications consist of changes to the front setbacks from 25 feet to 13 feet, for lots 1 through 7 and 10 through 17 Cranberry Park Subdivision and Lot A Cranberry Park Subdivision Lot Line Adjustment. The request for the 13 foot front setback along Lots 1 through 7 is that it will benefit for the 13 foot front setback along Lots 1 through 7 is that it will benefit the existing utility companies, i.e. Bresnan, Century Link, and Black Hills energy.

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The request for the 13 foot front setback along lots 7 through 10 is due to Atmos's request that no fences or vertical structures, even temporary, be placed within the easement. The Modification to Lot 17 is to adjust the unit line placing a Unit Type B on unit 17B and a modified version on 17A. The request will provide enough room for a fenced backyard and still leave enough room for a vehicle to be parked in the driveway without impeding the sidewalk. The property is zoned Medium Density Residence. Representative: Matt Koch, Cornerstone Land Surveying

**Planning and Zoning Director Giordano** said this application is requesting a variance be granted on the front setbacks of lots 1-7, 10-16. Lot 17 is for the adjustment of a line. This is for the benefit of the utility companies to allow better access on the easement. This will be approval of a final plat which is a result of having to move the front setback. This was previously approved as a medium density residence subdivision. At that time there was no reason to do a PUD as the applicant was not requesting any variances of the regulations. Because this was approved already through a subdivision process, a zoning process, and a townhome process they have elected not to make the applicant go through this process again.

**Matt Koch** explained the main problem is with the utility companies. They want to be able to drive their trucks along the north and south easements. By moving the buildings toward the front of the lots it will still allow fencing across the back of each lot and easement access for the utility companies. Commissioner Bell asked how this will affect homes that are already built. Matt said one home on lot 9 is not included in the re-plat. That homeowner is trying to work with the utility companies.

**Bill Giordano** said there are a few contingency items that need to be addressed. The final plat shall state that "no structures permanent or otherwise be built within the forty foot easement". The utility notifications have been sent out and the only response was received from Atmos. Mr. Koch said they are awaiting the approval from Atmos of their statement that would take out the word "otherwise". Mr. Giordano said the Board can approve this contingent upon Atmos approving the statement.

**Commissioner Stiehl** moved to approve the final plat FP 12-001 Cranberry Subdivision Filing Number 2 as a Planned Unit Development with all recommended contingencies unless Atmos consents to the removal of the words "or otherwise" in contingency number 2. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

#### 8. Consideration of a Proclamation for Child Abuse Prevention Month

**Steve Clifton, Director of Fremont County Department of Human Services** said April is Child Abuse Prevention Month. Child abuse is a lifelong tragedy and our community needs to work together to prevent it. There is a collaborative effort in our community with other agencies such as Rocky Mountain Behavioral Health, West Central Mental Health, the School District, CASA volunteers, and Project ECHO. Commissioner Norden read the proclamation.

**Commissioner Norden** moved to approve the Proclamation for Child Abuse Prevention Month for April 2012. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

**Chairman Bell** adjourned the meeting at 11:20 A.M.

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**RESOLUTION NO. 20, SERIES OF 2012**

**A RESOLUTION AUTHORIZING A NEW LEASE FOR AIRPORT PROPERTY FOR SKYDIVE COLORADO, LLC AND AUTHORIZING THE CHAIRMAN TO SIGN THE FINAL LEASE AGREEMENT**

**WHEREAS**, Fremont County is authorized to provide, establish, and maintain the Fremont County Airport; and

**WHEREAS**, the Board of Commissioners has authority to lease portions of the Fremont County Airport property to those desiring to conduct aeronautical operations and activities; and

**WHEREAS**, Skydive Colorado, LLC, through its manager Neil Porter has submitted a request to lease 33,000 square feet of airport property for a skydiving business operation, including placement of modular office units and a private landing area, or drop zone; and

**WHEREAS**, the County has submitted Form 7480-1 to the FAA, which is presently considering the safety issues related to the private landing area/drop zone; and

**WHEREAS**, the Fremont County Airport Advisory Board considered the request at a special meeting held on February 1, 2012, and has recommended approval of the proposal; and

**WHEREAS**, the Fremont County Board of Commissioners has considered the request and finds that the use is appropriate for the Airport and the desired location is available for lease; and

**WHEREAS**, the Board of Commissioners believes that although the lease request is acceptable, the terms proposed by Skydive Colorado, LLC, are not entirely acceptable to the Board; and

**WHEREAS**, the Board desires to continue negotiations and arrive at mutually agreeable terms for an Airport Land Lease with Skydive Colorado, LLC, without the necessity of presentation on the formal agenda for a future meeting of the Board of County Commissioners.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS**, that Commissioner Debbie Bell, Chairman of the Board of Commissioners for Fremont County is hereby given authority to execute a Land Lease Agreement with Skydive Colorado, LLC, provided that the Lease substantially complies with the following requirements:

1. The standard 25-year Fremont County Airport Land Lease form shall be used;
2. The property shall be generally described in a manner consistent with other Airport Lease Agreements;
3. The size of the leased parcel shall not exceed the amount of ground reasonably necessary to accommodate the three modular buildings anticipated to be placed on the property within the next three months;
4. The location of the leased parcel within the requested 33,000 square foot area in the northeast corner of the airport shall be designated by the Airport manager;
5. The private landing area/drop zone shall not be included in the 25-year Lease Agreement;

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6. The lease of land for a private landing area/drop zone relative to nearby buildings and parking area shall be negotiated separately from the 25-year Lease Agreement for the business operations site;
7. Any lease for the drop zone shall be for a 1-year term, to enable all parties to consider public safety aspects for the operation of the drop zone in the selected location and to determine if a long-term lease for a drop zone is acceptable;
8. All leased land, for any purpose, shall be at the current annual rate of \$0.12 per square foot;
9. No lease for a drop zone shall be executed until either the FAA responds to the Form 7480-1 request, or indicates that it will not be responding to the request.

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

Debbie L Bell:	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Edward H. Norden:	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Michael J. Stiehl:	AYE	<u>NAY</u>	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: April 10, 2012

Attest: Katie E. Bau  
Clerk

Debbie Bell  
Chairman