

**April 12th, 2011**

**SEVENTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on April 12th, 2011, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward H. Norden called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Debbie Bell	Commissioner	Present
Brenda Jackson	County Attorney	Present
Katie Barr	Clerk and Recorder	Present

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Jody Blauser Deputy Clerk.

Reverend Tom Killgore of the First Southern Baptist 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 Bell** moved to approve the agenda, Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**CONSENT AGENDA**

**Commissioner Stiehl** moved to approve the consent agenda. Commissioner Bell seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials

**Katie Barr, the County Clerk** stated on page #3 of her report she has highlighted some numbers. The \$398,658.42 remitted to the Treasurer plus the \$63,591.26 collected in motor vehicle county use and sales tax comes to \$462,249.68 that the county keeps. The total collected was \$893,734.31, out of this amount the county kept 52% of what was collected. So far this year out of what the County keeps is up \$29,736.77 more than last year. Commissioner Norden asked if this was year to date. Barr answered yes it is. Commissioner Stiehl moved to accept the County Clerk's report for March 2011. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

**George Sugars, County Manager** reported on the sales and use tax of what has been collected so far this year. The retail sales tax shows we are up about ¾% from last year. Auto use tax is down about 7.5% from last year. Constructions use tax is down a little more than 12%. Total sales and use tax is down a little more than 1% from last year.

**Commissioner Bell** invited the public to attend a public input session for the Governors "Bottom Up" economic development plan. Bell said her core group of 4 people have been working very hard to put together a strategic plan and are now seeking public input.

April 12, 2011

The meeting will be held Wednesday night from 6:00 – 8:00 P.M. at the Fremont Sanitation District Office located at 107 Berry Parkway in Canon City. Bell said there is a survey available on line as well at [www.advance.colorado.com/bottomup](http://www.advance.colorado.com/bottomup).

**Commissioner Norden** noted he had sent out a news release to the media this morning announcing the free tire recycling will be held this Saturday at the Holcim Plant. This is a cooperative effort with Fremont County, Holcim, and Geocycle as part of the Annual Spring Cleanup. They will only accept clean passenger motor vehicle tires, 20 per household. It will be from 8:00 A.M. until noon at the Holcim Cement Plant, and you must have a valid photo I.D. to prove residency.

**Tony Adamic, County Transportation Director** gave an update to the Board of activities in his department. He said they had budgeted \$110,000 for gravel. The first project is 25.6 miles of road they will be re-graveling, so far 16.6 miles have been completed. This has taken 20,855 tons of gravel so far at a cost of \$61,902 out of the budgeted amount. Commissioner Stiehl asked if this is a 4 inch gravel base. Adamic replied yes it is a 4 inch base and not just applied to trouble spots. Adamic said the dust suppressant they use is mag-chloride to stabilize the roads so less grating is needed. They have \$118,000 budgeted for suppressant this year for over 69 miles of road through out the county. He provided a list of roads that it will be applied to which are the same as last year. They also added Siloam Road, and County Road 106 to this list. They extended Oak Creek Grade to the South, and it should be finished by Thursday. Commissioner Norden said the 69.3 miles compares to 47 miles last year. Adamic answered yes. Commissioner Stiehl mentioned how efficiently the county operates their Road budget. Stiehl said individual homeowners contributions to road maintenance is only \$5 to \$10. This is a minimum amount of tax dollars going toward the Department of Transportation. Stiehl thanked Adamic for his efficiency.

2. Citizens Not Scheduled: None

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

1.) Consideration of a Fire Ban

**Sheriff Beicker** asked the Board to impose a fire ban. Beicker said it will be a stage one fire ban for now and he will monitor the situation closely. He has had a lot of discussions with fire districts and fellow sheriffs, many say it is past time. Beicker thinks it is appropriate to impose a fire ban due to the dry conditions. Our state forest service is out of the area right now so if a fire were to start there is a different district forester he would have to go to. Many of the states resources are being used for the Larimer County fire and others through out the state. Commissioner Norden said this would be Resolution #13 and would institute the fire ban in the unincorporated areas of Fremont County. Norden said the Canon City fire protection district does not always follow what the County does. Beicker said he is not sure of how the new fire chief will handle the County ban. County Attorney Jackson stated without approval from the City Administrator there can not be a fire ban within the City Limits. Beicker asked if County staff could post the notice of fire ban on the County web site, and he will take care of the press releases. Norden explained once the fire ban is in effect the Sheriff can declare whatever stage is needed. Beicker said he is going for stage one for now and asked citizens to be very careful of their activities. Commissioner Stiehl moved to approve resolution #13 imposing a fire ban in unincorporated areas of Fremont County in accordance with County Ordinances.

April 12, 2011

Commissioner Bell seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

- 2.) Consideration of appointment of Larry Brown to the Fremont County Board of Building Code Appeals.

**Commissioner Norden** said last fall when they were considering appointments to the Planning Commission they had an application from Larry Brown in Penrose. Brown has spent his career in the construction business and has extensive knowledge of the field. Norden noted even though he had not been appointed to the Planning Commission his background would fit well with the Fremont County Board of Building Code Appeals. There is currently a vacancy for an alternate on the Board of Appeals. Norden asked Mike Cox of the Building Department if the Board meets 3 times per year. Cox replied there are mandatory meetings 3 times per year; the second Thursday in January, May, and September. Cox said members have to be prepared to hear appeals when they arise. Cox said it's important that people know the Building Department does not have an active role in the process. Commissioner Bell moved to appoint Larry Brown to the Fremont County Board of Building Code Appeals as an alternate to fill a vacancy that will expire on August 1, 2013. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

- 3.) Consideration to reappoint County Assessor Stacey Seifert to a three year term representing Fremont County on the Fremont County Regional GIS Authority from May 2011 through May 2014.

**Commissioner Norden** stated Seifert has served this role in the past and because of the mapping in the Assessors office, she is a good fit to continue serving. Commissioner Stiehl moved to reappoint County Assessor Stacey Seifert to a three year term representing Fremont County on the Fremont County Regional GIS Authority from May 2011 through May 2014. Commissioner Bell seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

- 4.) Consideration of name change for County Road #11 and County Road #5X

**Tony Adamic and Robert Sapp** addressed the Board regarding the needed changes. Adamic said County Road 5X will be changed to Bird Point Drive. It is off of County Road 12 in the Cotopaxi area. There will not be any addresses to change on this road. County Road 11 is in the Tallahassee area between County Road 2 and County Road 12. Letters have been sent to all of the residents on the Road explaining the changes and advising them of the meeting date. He did get one response from a citizen in the area who was concerned with emergency services. When the rock slide closed Highway 50 traffic was directed to go over County Road 12. Adamic stated the County Road 12 in this section is actually just a path and people were getting stuck. Signs have now been posted and route people to County Road 11 which will now be Fire Box Road. Commissioner Norden asked if that inquiry was from Rusty Ross. Adamic replied yes. Norden said Ross had wanted to rename an entire section as Fire Box Road, but that is not necessary. Norden noted part of that road is closed in the winter time that goes over Waugh Mountain. Adamic explained if the name change is allowed they will post signage for a year so residents will be aware. Commissioner Stiehl asked how many residents are on County Road 11. Adamic answered 23. Norden asked if they are full time or seasonal residents. Adamic said they are seasonal. Norden asked Sapp if he had contacted all of those residents. Sapp explained he and his partner, Ron, had drafted letters to the residents.

April 12, 2011

He said the Road and Bridge Department had contacted the residents. Sapp said they are ready to go on any address changes that may be needed. Commissioner Stiehl asked if this is being done to better accommodate emergency services. Sapp said that is correct. They only had to change 5 addresses. Norden asked if there are any other duplicate numbered roads in the County. Sapp answered yes there are more and some roads have names that change as you follow them. Sapp explained the problems they are able to fix, they do so. The problems they have to bring to the Board for approval, they do so. Norden noted it is not very often that a formal name of a road is changed. Commissioner Bell moved to change the name of Fremont County Road 5X to Bird Point Drive, and to change the name of Fremont County Road 11 to Fire Box Road as proposed. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

- 5.) Kwik Stop Liquor  
Retail Liquor Store  
930 Hwy 115  
Penrose, CO 81240  
Transfer of Ownership

**Ryan McCallister** of Kwik Stop asked the Board to approve the transfer of ownership from Penrose Plaza Liquor to Kwik Stop Liquor. Gary Iovinella is retiring from his liquor store located in the Kwik Stop Plaza and they will be assuming the operations of that location. Commissioner Norden asked if all of the paper work was in order at the Clerks office. Deputy Clerk Blauser responded yes. Blauser explained the applicant is not required to post nor publish as it is a transfer. She provided a signed copy of the Affidavit for Transfer to the Commissioners, letters of recommendation for both of the applicants and a diagram of the premises. Commissioner Norden noted that the employees of Kwik Stop should already be familiar with the liquor laws of Colorado. Ryan said they have been diligent in the training of their management and employees for their 3.2% liquor license. The 6.0% license will be new to them but training will be provided to all employees who will work in the liquor store. Norden asked who the manager will be. McCallister answered they have not named a manager as of yet. Norden asked if the manager will be taking part in the required training. McCallister said that is correct. Commissioner Stiehl asked if this is their first liquor store. McCallister said yes it is. Commissioner Norden asked if the liquor store is right next door to the Kwik Stop. McCallister explained they will be adjacent to each other but have a door separating them, and separate cash registers. Commissioner Bell moved to approve the transfer of ownership from Penrose Plaza Liquor; Gary Iovinella to Kwik Stop Liquor; Gary McCallister. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Norden** skipped item #6 on the agenda and said they would come back to it after the public hearings. He went on to New Business item #7.

- 7.) A resolution authorizing the Chairman of the Board of County Commissioners to execute the covenant and agreement as to use of water rights and dry up of historically irrigated property at Pathfinder Park.

**Commissioner Stiehl** said as part of the water service agreement with the City of Florence for the water tap we are required to exchange two shares of Union Ditch. This requires us to dry up the appropriate amount of land at the Park since the shares are attached to the Park. Commissioner Norden said this is for the new water tap at the restrooms. Norden said once they approve the resolution they will be able to turn on the tap and have water by Wednesday afternoon.

April 12, 2011

Commissioner Stiehl moved to approve resolution #14 authorizing the Chairman of the Board of County Commissioners to execute the Covenant and Agreement regarding water rights and dry up of historically irrigated property at Pathfinder Park. Commissioner Bell seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

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

**1. ECHO CANYON RIVER EXPEDITIONS**

**Eight (8) Mile Bar & Grill**

**45000 US Hwy. 50 West**

**Canon City, CO 81212**

**Hotel & Restaurant New Liquor License**

**Chairman Norden** opened the public hearing at 10:00 A.M.

**Commissioner Norden** asked the Clerk if all of the paper work is in order. Blausler replied yes it is. She said there are copies in the Commissioners packets of the petition, date stamped posting, and notarized publication. County Attorney Jackson asked if we would make sure the lease gets signed. Blausler explained the lease is signed and she has a copy of it for the Board to view. Commissioner Norden asked if the lease is needed because of the corporate names. Jackson said it is proof of possession for the applicant. Jackson said the operator will be licensed under Echo Canyon Expeditions LLC. Commissioner Norden asked the applicant, Mr. Neinas to give an overview of his plans.

**Andy Neinas** said they have been in that location since 1978 and are very well established. As they are in the tourism industry they are just providing another service to their customers. It is much more than a bar and restaurant. The cost to bring tourists into Fremont County is very high, and they are trying to procure more of their dollars. He also hopes to have local customers as well. They will offer a full bar service. As they are in the safety business they will have ways to screen people who will be drinking. Commissioner Bell asked Neinas to address the training of his staff as far as the liquor code is concerned. Neinas said he has a restaurant manager that he has recently hired named Jason Smith. Both he and Smith will be attending the City Training class tomorrow. Sheriff Beicker asked if he could address the Board as he had done an on site inspection. Beicker does not have any concerns for safety and security. He has spoke with Neinas about training and all of the aspects of serving alcohol. Beicker did his inspection in the early stages but will do a follow up inspection when the building is completed. Commissioner Norden asked where the service area will be on the diagram that was provided to him. Neinas showed the Board where the serving area will be. He said he will provide a larger map if needed. Commissioner Norden asked if the serving area is all interior area. Neinas explained it is about 50/50 and there is a fence that surrounds the front patio to help with containment. Norden asked what efforts will be taken to keep alcohol from leaving the site. Neinas answered it is done in a variety of ways. The staff on site will be aware of people walking around with alcohol, and there are physical barriers as well as signage. Norden asked when the customer enters the property will they enter the serving area from the interior before they reach the exterior. Neinas said they it will depend on the weather. If it is a cooler day, people will enter through the man door. If it is a nice sunny day, people may choose to enter from the exterior patio area. Norden asked what controls they will have in place for alcohol leaving the patio area as well as someone underage securing a drink from someone else. He asked if the staff will be checking I.D.S at every table. Neinas replied absolutely they will check all IDs. He explained this is a major investment and he will embrace best practices to ask for IDs. Neinas noted that even though the area is enclosed it is still possible for someone to go around the barriers but they are doing everything possible to contain alcohol in the prescribed area. Norden asked what type of fence is it. Neinas said it is post and beam that is identical to the fence on the highway side of his property.

April 12, 2011

Norden asked Sheriff Beicker to inspect the premises once serving is ready to begin to be sure everything is appropriate. Beicker said he will do a final inspection once the property is complete. He has spoke to the applicant at great lengths about security. In his opinion this site is much easier to control than the neighboring Whitewater Bar and Grill. Beicker is less concerned about wait-staff controlling the patio area as it will be easy to monitor. Beicker noted he is less concerned about security including the hours of operation. Commissioner Stiehl is concerned with a wraparound patio being out of the vision of the wait-staff but will trust the judgment of the Sheriff on the control of the patio. Neinas encouraged the Commissioners to come up and see the facility. Norden asked Jackson what statue requires regarding the petition of support. Jackson replied they just need a showing of support. Norden asked if the applicant has to show a need for service in the area. Jackson said not necessarily, no. Commissioner Norden encouraged as part of the motion to get some verification of the completed alcohol training and the Sheriffs final walk through with signage in place before becoming operational. Neinas invites any constructive observations from the Sheriff to help in securing the premises.

**Chairman Norden** stated this is a public hearing and asked if there were any citizens present wishing to address the Board regarding this Hotel/Restaurant Liquor License. Hearing none, Chairman Norden closed the public hearing at 10:16 A.M.

**Commissioner Bell** moved to approve the new Hotel/Restaurant Liquor License for Echo Canyon River Expeditions/8 Mile Bar & Grill at 45000 Hwy. 50 West, Canon City, CO with the stipulations that proof of alcohol training has been completed, and the Sheriff is to do a final inspection before they become operational. Commissioner Stiehl seconded the motion. Neinas asked if someone can get him the stipulations in writing. Norden asked the Clerks office to do this. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**Chairman Norden** opened the second public hearing at 10:20 A.M.

2. **REQUEST: SRU 11-001 8 MILE RANCH KENNEL**

Request approval of a Special Review Use Permit, Department file #SRU 11-001 8 Mile Ranch Kennel, by Jeffrey Charles and Karen Buckner, to allow for a dog kennel which will house up to a total of twenty dogs (no specific breeds) and ten cats for the purposes of day time and overnight boarding and grooming, on property they own. The property contains a single-family dwelling, a metal barn and a 10 foot by 20 foot stall. The owner will add a 944 square foot kennel addition, which will provide 10 dog kennels with a portion being enclosed, a cat area with cages and a grooming area. A portion of the kennel will be used for an outside dog run which will be concrete floor and which will be enclosed by an 8 foot chain link fence. In addition, a garage is proposed at a later date. The property is located approximately one mile east of Fremont County Road #3A, on the south side of U.S. Highway 50, approximately 1290 feet south of U.S. Highway 50, in the Eight Mile Area. The property is zoned Agricultural Forestry and contains approximately 41.08 acres. Representative: Matt Koch, Cornerstone Land Surveying, LLC

**Matt Koch of Cornerstone Land Surveying** said they are requesting approval of the SRU for a dog kennel. It sits on the applicant's property which is approximately 41 acres. It will be an addition to the existing residence. It will offer 10 kennels with dog runs, an indoor cat house, and a shampoo area. The outside dog runs can be closed off. As it is attached to the residence if the dogs are barking, the applicants can easily bring the dogs inside. There is some distance between the neighbors, but it could become an issue which is why the applicants have chosen this layout. Matt said his clients are ok with all of the conditions.

April 12, 2011

**Bill Giordano, Director of Planning and Zoning** stated the applicants did complete the posting and publication requirements. The Planning Commission did approve this application unanimously at the March 1<sup>st</sup> meeting. There were a number of conditions, contingencies and waivers in the approval. Bill went over some of the conditions of the approval. Condition C states the applicant shall pay a renewal fee each year on the anniversary date of the approval. This fee shall include an inspection of the facilities. Condition J requires documentation from the Colorado Department of transportation for an approved access permit from Hwy. 50. Condition K is documentation from the Colorado Division of Water Resources stating existing well permit is adequate. Condition L is documentation from the Environmental Health Office regarding the septic system. A separate septic system will be required or if they use one individual system they will have to provide calculations for the additional flows from the operation. This may increase the size of the tank and/or the absorption area. If the septic system exceeds 2000 gallons state approval will be required, not local approval. A restroom facility in the kennel area may be required by the Fremont County Building Department and/or the Colorado Department of Agriculture therefore this must also be calculated as part of the waste water flow. Bill noted the Colorado Department of Agriculture will require a permit and they are asking that to be addressed by the applicant. The Planning Commission did recommend notification be given to property owners within 1000 feet which has been done. The Planning Commission did recommend the waiver requests for buffering and landscaping. The applicant asked for a waiver of the surfacing requirement. They will have an exterior light on the exterior of the residence in the parking area. They also requested the utility plan be waived. The Planning Commission suggested the applicants be aware of the fire dangers and make sure the area around the structure is clear. The well will be the only source of water for fire fighting, so if there is anything that can be done to help the Fire Department with hookups it is recommended that the applicants look at those modifications. This is not a condition nor contingency, they just want the applicant to be aware of the fire danger. Bill said if this SRU is approved he will prepare a resolution for the Boards signatures at the next meeting. Commissioner Stiehl wanted to clarify the fire modifications were not required, just a notation. Giordano said that is correct, it is only a recommendation.

**Chairman Norden** asked if there were any citizens who wish to address the Board regarding this SRU request as this is a public hearing.

**Public Comments:**

**Carter Luther** said he recently purchased the RV Park adjacent to the Buckner's property. He has spoken to the Buckners about the kennel and did not think there would be any issues with it. Last weekend there were dogs barking at the neighbors, and a few properties down from theirs. This made him realize that if 20 more dogs joined in the barking how loud it would be. Carter requested that the kenneling in the evening would be inside as wildlife passing by could generate a lot of barking. Commissioner Norden asked if by evening he means by 8:00 P.M. or 9:00 P.M. Carter said the quiet time at the RV Park is at 10:00 P.M. He feels that the Buckners will pay close attention to the barking dogs. Norden asked how close Carters property is to the kennel. Carter said it is about a quarter of a mile. Commissioner Stiehl asked which property Carter bought. Carter replied it was the former Mountain Vista Park and Café at 45606 Hwy. 50.

**Bill Giordano** noted his office did receive a letter on April 11<sup>th</sup> from Eleanor and Roby Greer stating they do approve of the Buckners having a dog and cat kennel at 45780 Hwy. 50 in Canon City. He wanted to make their letter part of the record.

**Matt Koch** said currently the applicants have a good portion of their property around the house fenced off. The kennels will be fully enclosed with an additional fence surrounding the kennels. The applicants did not want to have to lock up the animals at night. Matt said this will be monitored and up for review in a year so if there are any concerns or problems they can be addressed after a year.

April 12, 2011

Giordano said at the Planning Commission meeting he did ask the Buckners if they would commit to take the dogs inside if it becomes a problem. This was part of the testimony given at the meeting, and not a condition. Giordano said they will address it if any complaints are received.

**Chairman Norden** closed the public hearing at 10:30 A.M.

**Commissioner Stiehl** moved to approve the Request for SRU 11-001 8 Mile Ranch Kennel as Resolution #15 with the conditions, waivers, and the procedural requirements as follows (per SRU 11-001 8 Mile Ranch Kennel BOCC Comment Letter):

**REQUIRED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of use.
- 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 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. Each year, at the anniversary date (approval date), the Applicant shall pay a Kennel License Renewal Fee, which includes an inspection of the kennel facilities.
- D. 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.
- E. 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.
- F. 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.
- G. If a Special Review 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 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.

April 12, 2011

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.

- H. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Documentation from the Colorado Department of Transportation as to an approved access permit from U.S. Highway 50 for the 20 foot access easement, prior to operation.
- J. Documentation from the Colorado Division of Water Resources stating that the existing well permit is adequate for a dog kennel and residence or a copy of the approved well permit which has been issued for the specified uses or a commercial use, prior to operation.
- K. Documentation from the Environmental Health Office as to compliance with the requirements as noted in the memo, dated January 10, 2011, from the Fremont County Environmental Health Officer, prior to operation.
- L. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, if required, (prior to operation), further the applicant shall implement and maintain the plan, yearly.
- M. Copy of a license from the Colorado Department of Agriculture, Pet Animal Care Facilities, to include at a minimum boarding and grooming or documentation from the Colorado Department of Agriculture, Pet Animal Care Facilities that the license is not required, prior to operation.
- N. 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.
- O. Only the named party (applicant / owners) on the permit shall be allowed to operate this Special Review 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 Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- P. A Special Review 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).

**WAIVERS:**

1. **5.2.6 Buffering & Landscaping Requirements:**

The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board.

April 12, 2011

Where in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

Deciduous shrubs	4' height
Spreading evergreens	30" spread
Tall evergreens	3' height
Screen planting ( <i>evergreen</i> )	4' height
Trees	2 and ½" caliper
Ground cover	2 and ½" pot

The entire buffer strip shall be immediately adjacent to the lot line or portion thereof, with consideration given to utility or drainage easements. The remainder of the strip shall be used for no other purpose than the planting of shrubs, flower beds, grass, or a combination thereof. The buffer strip shall be at least eight (8) feet in width and shall be graded and planted with grass seed or sod and such other shrubbery or trees. The entire area shall be attractively maintained and kept clean of all debris and rubbish.

In required buffer strips where a natural buffer strip is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Board.

2. **5.3.2 Surfacing:** Surfacing for all business, commercial, or industrial off-street parking areas shall be graded and surfaced so as to control dust and provide proper drainage. The driveway and parking spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed so as to prevent parking vehicles from extending over any lot lines.
3. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.
4. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.
5. **Utility Plan:** Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.

#### **Approval Criteria for Special Review & Conditional Use Permits**

- (A) The Board may approve the application for a special review or conditional use permit provided that it is established by evidence presented to the Board that the proposed use meets the goals and objectives of the Fremont County Master Plan, is in accordance with the provisions of the Fremont County Zoning Resolution and that all of the following qualifications have been met:
- (A1)  The procedural requirements of Section 8.2 of the Fremont County Zoning Resolution have been met.
  - (A2)  The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
  - (A3)  The proposed use will not have detrimental effect on property values.
  - (A4)  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.

April 12, 2011

- (A5)  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.
- (A6)  The site is 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.
- (A7)  The proposed use, if it complies with all conditions on which 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.

**Commissioner Bell** seconded the motion. Commissioner Norden commented in regards to Mr. Luther's concerns, the Board is choosing to not add any conditions. Norden wants the record to reflect if a problem develops during the year the Planning Department should be notified, and a modification would be reconsidered. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

**Chairman Norden** opened the third public hearing at 10:35 A.M.

### **3. REQUEST: SRU 10-008 AT&T CELL TOWER COTOPAXI**

Request approval of a Special Review Use Permit, Department file #SRU 10-008 AT&T Cell tower – Cotopaxi, by AT&T Wireless, for property which is owned by Cotopaxi Consolidated Schools, to allow for the installation of a 100 foot monopole, which will contain 6 antennas, an equipment shelter, an ice bridge, a meter rack, and a telco cabinet. Access to the site will be via a 20 foot easement from County Road #12. The property is generally located approximately ¼ mile north of the intersection of U.S. Highway 50 and County Road #12, on the west side of Fremont County Road #12, in the Cotopaxi Area. The tower and associated items will be located within a 50 foot by 50 foot, 2500 square foot lease area inside a 45.03 acre parcel. The property which will house the tower contains the Cotopaxi school and other accessory buildings and is located in the Agricultural Suburban Zone District. Representative: Jeremy D. Mironas E.I., Tower Engineering Professionals, Inc.

**Jeremy Mironas of Tower Engineering Professionals** said he is representing AT&T Wireless as well as Cotopaxi Consolidated Schools. He said AT&T is proposing to erect a 100 foot monopole tower with a 50x50 foot lease area that encompasses the tele-communications facility. It includes an 11.5x16 foot shelter, a meter rack, a telephone equipment cabinet and an emergency generator hookup.

**Bill Giordano** said the applicant did post the property, it was published and notification of property owners within 500 feet was completed. Bill noted Condition A that states the SRU permit shall be issued for a 30 year term. The lease is for initial 5 year term with renewal options for 5 additional 5 year terms. Bill said the Planning Commission recommended deleting Condition I that the Cotopaxi Fire Chief was asking for a cistern with hookups. The Planning Commission felt this was not necessary as the tower itself does not present a fire hazard, but the school and other buildings around there should have their own adequate fire protection. Bill noted Condition J is asking for storm water to be diverted into adjacent natural areas into a ditch so that it does not run down the road onto the school property. Condition L requires they allow co-locating if it is so desired. Bill noted some of the recommended Contingencies. The first Contingency is documentation from the County Engineer for a copy of an approved County Driveway Access Permit. Also a report by a Colorado registered engineer demonstrating compliance with applicable structural standards and the general capacity of the proposed facility.

April 12, 2011

Additional Considerations the Planning Commission recommended to include the monopole design, painted multiple colors as applicable, meaning indigenous colors to match the backgrounds from various perspectives. He said when you come from the East looking to the West you have a rock background and from the other direction the background is trees. There were a number of different options placed in the packet from the applicant. Bill said the paint color would need to a part of their motion. For sure the Planning Commission did not want to see a metallic color on the pole. Mironas said AT&T is very agreeable to painting the tower, but said his client has never painted a tower 2 colors on 2 different sides. Giordano said the applicant is asking for a waiver of the buffering and landscaping requirements as it is already screened by trees in the area. They are requesting a waiver of the surfacing as they are proposing a 6 inch crushed gravel over geo-tech style fabric. The applicant states the tech will only visit the site 3 or 4 times per year so the gravel should be sufficient. The applicant is requesting a waiver of the lighting requirements, but is proposing an exterior light on the building. The parking space is a turn around space at the site and they are asking the landscaping requirement be waived. The applicant is requesting a waiver of the dimensions of all buildings on the property as that would involve all of the school buildings as well. Bill said the Planning Commission did unanimously approve this SRU request. If it is approved by the Board today he will prepare a resolution for their signatures at the next meeting. Commissioner Norden asked Mironas what two colors they are proposing. He replied they did not have a particular color in mind. Norden asked Geoff Gerk of the School District if the installation at the base of the pole would be seen from the highway or the river. Geoff replied he does not believe so, only the top of the pole would be visible as it is surrounded by trees. Geoff said the rocks are a rust color and most of the trees are pinons so he was not aware of a color requirement. Giordano said they just received a letter a few minutes after the meeting started from the AHRA Headwaters of Colorado State Parks. The letter states they will support the Commissioners decision on this issue. They requested the tower be least obtrusive when viewed from Highway 50 and the Arkansas River corridor. They suggest a mono pine design or a monopole design with antennas painted to blend in with the surrounding environment. Commissioner Norden asked Mironas to address painting the antennas as well as the pole. Mironas explained they had discussed with the Planning Commission painting the pole and all of the attachments the same color. He said mono pines are very difficult to maintain and they limit the amount of co-location abilities you can put on a structure and does not typically blend in well with the surroundings. Commissioner Stiehl mentioned they have some pictures that are photo-shopped of the different types of poles from different views. Stiehl said the one that stands out the most is the view from Highway 50 looking at the mono pine pole, it stands out the most against the rocks. He said these photos are helpful in determining what will have the least visual impact.

**Chairman Norden** asked if there were any citizens wanting to address the Board regarding this SRU Request.

#### **Public Comments:**

**Vera Matthews** said there are 2 communication sites already in the Cotopaxi area and she is wondering why either of those 2 locations are not being considered. She said they are actually better locations than in the valley at the School. Commissioner Norden asked if she means the tower sites on BLM land. Matthews replied yes, that is what she is referring to. Mironas said there are different site candidates that will work for a tower. He is familiar with one of the sites Matthews is referring to. It is a small TV antenna located on top of a mountain south of Highway 50. He stated they did look at that site but there is no vehicular access. Cellular equipment is usually serviced by a technician with a truck. There also is not adequate power at that site. There is not transport at the site either, which is like fiber optic cables. Mironas explained the reason the school site was selected is because it is close to Century Link fiber hub.

April 12, 2011

It also covers the entire canyon area which is what AT&T needs for coverage. Matthews said she can demonstrate with maps that the coverage is better from the top of the mountain. Matthews said she is not arguing that the communications tower is needed she is just giving the Board some additional information. Commissioner Norden said he has talked with Mr. Gerk about both of the BLM sites and said they both may be de-activated soon.

**Chairman Norden** closed the public hearing at 10:50 A.M.

**Commissioner Stiehl** said the minutes he has of the Planning Commission meeting are very thorough and Mr. Mironas' presentation was very thorough. Stiehl asked Mironas why not place the tower on the hilltop northwest behind the school. He asked how coverage is not better from a hilltop. Mironas said the location was chosen because of its proximity to the existing access road and placing it further up the hill would increase the length of the access road. They were going with the suggestion from Geoff Gerk to try and preserve as much of the vegetation as possible which is why they chose this spot. Stiehl asked with current technology will this achieve their goals of coverage. Mironas said yes it will otherwise they would not have selected the site. Once the site is chosen AT&T sends out their system performance team and engineering, the construction project manager and real estate specialist to select the primary site candidate. Stiehl asked how continuous the cell coverage would be if driving from Canon City to Salida. Mironas said the coverage will not be continuous from Canon City to Salida. It is difficult to achieve because of the existing terrain. Commissioner Bell asked if the residents of Cotopaxi will have continuous coverage in that area. Mironas answered yes, if they have an AT&T phone. Commissioner Norden asked what the Board's preference would be for a color choice. Commissioner Bell proposed a non reflective color compatible to the surrounding landscape for the tower and entire structure. Mironas said the BLM has standard colors they use and they prefer the County to choose the color. Commissioner Norden asked Ms. Matthews if she had a name of a color to use. Matthews recommended juniper green. Mironas said he is familiar with juniper green, and the BLM prefers beetle green which is a shade darker. Commissioner Bell moved to approve SRU 10-008 for an AT&T Cell Tower in Cotopaxi for a 100 foot monopole with the recommended conditions, contingencies, and waivers, as presented, waiving condition I and additional consideration to paint the tower and antennas beetle green, and find the approval criteria of A-1 thru A-7 having been met.

**REQUIRED CONDITIONS:**

- A. Special Review Use Permit shall be issued for a thirty (30) year term. *(The lease is for an initial 5 year term with renewal options for five additional 5 year terms.)*
- 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 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.

April 12, 2011

- 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 Special Review 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 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.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. The monopole tower and antenna shall be painted beetle green in color.
- J. Documentation shall be provided to the Department, prior to operation, as to compliance with the County Reviewing Engineer's recommendation, in his letter dated January 4, 2011, which states: "Upon completion, the lower end of the new roadway must be constructed to divert flow away from the school site, and to prevent ditch flows from eroding the existing dirt roadway."
- K. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, if required, (prior to operation), further the applicant shall implement and maintain the plan, if required.
- L. The applicant / owner of the tower shall allow the tower to be used for co-locating purposes, if appropriate. If antenna collocation is proposed, appropriate process through the Department will be required.
- M. 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.

April 12, 2011

- N. Only the named party (applicant / owners) on the permit shall be allowed to operate this Special Review 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 Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- O. A Special Review 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).

**REQUIRED CONTINGENCIES:**

The approval is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval:

1. Documentation from the County Engineer that the applicant has complied with the requirements of the County Engineer stated in his letter dated January 4, 2011.
  - a. A copy of an approved County Driveway Access Permit.
2. A report by a Colorado registered engineer demonstrating compliance with applicable structural standards and the general capacity of the proposed facility.

**WAIVERS:**

1. **5.2.6 Buffering & Landscaping Requirements:**

The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board. Where in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

Deciduous shrubs	4' height
Spreading evergreens	30" spread
Tall evergreens	3' height
Screen planting ( <i>evergreen</i> )	4' height
Trees	2 and ½" caliper
Ground cover	2 and ½" pot

The entire buffer strip shall be immediately adjacent to the lot line or portion thereof, with consideration given to utility or drainage easements. The remainder of the strip shall be used for no other purpose than the planting of shrubs, flower beds, grass, or a combination thereof. The buffer strip shall be at least eight (8) feet in width and shall be graded and planted with grass seed or sod and such other shrubbery or trees. The entire area shall be attractively maintained and kept clean of all debris and rubbish.

In required buffer strips where a natural buffer strip is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Board.

April 12, 2011

6. **5.3.2 Surfacing:** Surfacing for all business, commercial, or industrial off-street parking areas shall be graded and surfaced so as to control dust and provide proper drainage. The driveway and parking spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed so as to prevent parking vehicles from extending over any lot lines.
7. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.
8. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.
9. **Dimensions of all buildings on the property:** Dimensions to determine lot coverage, etc.

**Commissioner Stiehl** seconded the motion. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried. Commissioner Norden asked Mr. Mironas a time frame for completion of the project. Mironas responded it can take 6 to 8 weeks until it is completed.

**Chairman Norden** recessed the meeting for a 5 minute break at 11:00 A.M. before the next public hearing.

**Chairman Norden** called the meeting back to order at 11:05 A.M.

**Chairman Norden** opened the fourth public hearing at 11:05 A.M.

#### 4. **REQUEST: PROPOSED AMENDMENTS TO THE FREMONT COUNTY ZONING RESOLUTION**

Request approval of a proposed amendment which would add the following regulations to the Zoning Resolution:

- a. Small Wind Energy Systems
- b. Contractor's Yard or Building

**Commissioner Norden** reviewed the history of the proposed zoning resolution. He said they first considered this amendment back in October and they mailed out letters to 99 contractors in the county. They had received a lot of good public input at the first public hearing and tabled the amendment to make needed changes. Normally there would not be a second public hearing but due to the amount of changes to the amendment they are having the second public hearing today.

**Bill Giordano** said there have been a number of meetings and changes on the issue. Bill stated the definition had some additions. They added the words; landscaping contractor, oil or well drilling contractor, and vehicles to the definition. He noted this is the definition taken from State Statute. They are allowing this to happen in a number of districts, as a special review, and as a home occupation. Under the present regulations it is allowed in industrial zones only. It is a special review in rural highway business. The proposed allows for the same districts it is currently allowed in and the Agricultural Forestry, Agricultural Farming and Ranching, Agricultural Living, Agricultural Rural, Agricultural Estates and Neighborhood Business Zone Districts.

April 12, 2011

By allowed he means it needs to meet the following criteria; the outdoor storage area for vehicles and equipment shall be set back a minimum of 75 feet from all property lines; and the outdoor storage area for vehicles and equipment is contained by an opaque screen in accordance with Section 5.7.15. There should be a correction to Section 5.7.15.1. The criteria continues to read; along all portions of the property being used for the outdoor storage area which do not meet the required 75 foot setback from the property line; and the outdoor storage area is no more than 5000 square feet. Bill said if you can not meet the criteria you have the option to have a special review use. It will be allowed in all districts except the Residential zones which are the Low Density Residential, Medium Density Residential and High Density Residential Zone Districts. It is not allowed in Travel Trailer Park and Campgrounds or in Manufactured Home Parks. Bill said it will be allowed as a Home Occupation III only on parcels of land that are 9 acres or larger. They changed the criteria under Home Occupation III as follows; the fencing was changed from an 8 foot to 6 foot fence, except for contractor's yard or building; and outdoor storage of vehicles and material used as part of the contractor's yard will be allowed if the following requirements are met. These are the same requirements of the 75 foot setback from the property line or have a 6 foot fence. The outdoor storage area is to be a minimum of 5000 square feet, and a maximum of 5 vehicles associated with the home occupation will be allowed. They will allow all contractors yards that are in existence at the date of the approval to continue to exist as they are. If they expand they will have to comply with current regulations under non-conforming uses. If an existing contractor's yard is sold the new owner does not have the right to continue that use. County Attorney Jackson added, unless it is otherwise allowed. Commissioner Norden said they were trying to deal with the setbacks and sizes of lots rather than the special mobile machinery (SMM). Commissioner Stiehl wanted to talk about the definition of vehicle. Our code enforcement had found several contractors yards that did not comply. Stiehl said our definition of vehicle now moves away from SMM and just defines vehicles. The proposed regulations will allow up to 5 vehicles on that property. Stiehl asked Giordano to confirm if it is a trailer and not self propelled it does not count towards the total. Giordano said that is correct and there is a lot of SMM machinery that is not considered vehicles. Stiehl asked how many things can be allowed on the property. Giordano said there can be a lot, such as a cement mixer, welding equipment, and a trailer can all be considered SMM equipment not vehicles. He explained these things are more accessories to the contractor's yards and they were trying to limit the heavy equipment such as dump trucks and back hoes. If a personal vehicle has a sign on it, it will be counted as part of the 5 vehicle limit. Commissioner Stiehl asked if it is their personal vehicle, and does not have a sign on it, will it be counted as part of the 5. Giordano said no, it will not. Commissioner Norden wanted to make sure there is language to this affect. Jackson explained it has to be used in the business to be counted.

**Chairman Norden** asked for any public comments regarding the Contractors yard or buildings and there were none. Norden said the hearing will remain open for the Small Wind Energy Systems.

**Commissioner Stiehl** said they are grandfathering the contractor's yard as of the date of approval of the resolution unless the owner changes use, expands, or has a change in ownership. He said if someone changes their property into a trust they would not be allowed to continue with the same use.

**Bill Giordano** said they are going to allow small wind energy systems as an accessory use. Such uses may be subject to building code requirements. It has to be less than 100 feet and can not produce more than 100 kilowatts. They are proposing to allow the use of one private free standing or roof mounted unit per building. It has to be located on the same lot or parcel as the building it serves and excess energy may be sold back to the utility company. The height can not exceed 100 feet. They must notify the Federal Aviation Administration. The minimum setback from all property lines must be equal to the system height. Minimum height of the blades shall be not less than 10 feet above the ground.

April 12, 2011

If battery storage is used they must contact the Building Department for any requirements. The system may not emit noise onto adjoining properties and be made of non-reflective material. There may not be any lights installed on the system. Commissioner Norden said this has been refined from a 5 page document that was presented last fall. Giordano noted some counties are very restrictive. Commissioner Stiehl said this is for small wind systems and we are still working on the large wind systems. Stiehl noted if they are feeding back into the utility company they would not need batteries. If batteries are needed they would have to comply with building department requirements. Giordano said they did publish 14 days ahead of time and post it on the County website and have not received any public response at all.

**Chairman Norden** asked if there were any public comments on small wind energy systems. There were none.

**Chairman Norden** closed the Public Hearing at 11:29 A.M.

**Commissioner Stiehl** said it is a code enforcement issue as to whether operations are in compliance or not and whether they should be allowed to continue as a contractor's yard. He asked Giordano if this is a separate issue from what they are working on today. Giordano explained any new operation that would come in has to comply with the regulations. He said to take inventory of what properties are currently not in compliance is too large of a job for the county to do. He said citizens may come in and file a non-conforming use to establish them selves as they currently exist. If there is a complaint against them the County could make them come into compliance. Stiehl asked if we find someone who is out of compliance now, how they are handled. Giordano said we could make them come into compliance unless they can prove they were in existence at the time the resolution was enacted. Bill explained a lot of other counties give a time frame for people to come into compliance and we are not doing this. Taking inventory is important to both sides. Commissioner Bell asked if there is a charge for this documentation. Giordano said there is fee for filing a non-conformance application of \$350. Commissioner Stiehl asked if the non-conforming property would survive a change of ownership to a trust. Giordano said it would not. Commissioner Bell moved to approve the proposed amendments to the Fremont County Zoning Resolution including the small wind energy systems and Contractor's yard or building as presented.

(**Bold** is added, ~~Strike through~~ is deleted)

**Numbering throughout the final document will change from the numbers shown so as to provide consistency and order.**

1 GENERAL PROVISIONS:

1.5 DEFINITIONS:

1.5.2 ACCESSORY BUILDING OR USE: A building or use which:

1.5.2.5 Single-family dwelling accessory use examples, not limited to the following personal uses such as garages, storage sheds, greenhouses (*non-commercial*), gardens, trees, swimming pools, pets, home occupation (*refer to 5.2.1 through 5.2.5 of this Resolution for requirements*), towers and antennas (*non-commercial*) that ~~are less than~~ **do not exceed** one-hundred (100) feet in height, **Small Wind Energy System that does not exceed one-hundred (100) feet in height** (*refer to 5.2.7 of this Resolution for requirements*).

1.5.2.6 Such uses may be subject to zone district development requirements and the requirements of the Building Code of Fremont County.

April 12, 2011

1.5.194 **WIND ENERGY SYSTEM, SMALL:** A wind energy system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than one-hundred (100) kilowatt (kW) and which is intended to primarily reduce on-site consumption of utility power from off-site sources in association with a dwelling or business or other uses (*i.e. cell towers, water wells, temporary lighted signs*).

## 5 GENERAL REQUIREMENTS

### 5.2.7 WIND ENERGY SYSTEM, SMALL - REQUIREMENTS:

5.2.7.1 One (1) private freestanding or roof mounted, Small Wind Energy System will be allowed as an accessory use in all zone districts, for each building located on the property; however, it will be subject to standards of Section 1.5.2 and provided it complies with the following requirements:

5.2.7.1.1 Only one free standing or roof mounted System will be allowed per building. All additional Systems will only be allowed through the issuance of a Special Review Use Permit

5.2.7.1.2 The System shall be located on the same lot, tract or parcel as the structure that it serves; however, excess energy may be sold as allowed by law.

5.2.7.1.3 The height of the System generator, including blades, shall not exceed one-hundred (100) feet. Any System that will exceed one-hundred (100) feet in height shall only be allowed through the issuance of a Special Review Use Permit.

5.2.7.1.4 All Systems shall be in compliance with any applicable Federal Aviation Administration and other federal, state and local regulations and if a System is to be located within twenty-thousand (20,000) feet of an established airport runway or heli-port, proof of notice of the proposed System (*certified mail, return receipt requested*) to the Federal Aviation Administration and Airport Operator shall be provided at the time of building permit application.

5.2.7.1.5 The minimum setback distance from all property lines shall be equal to the total System height. A lesser setback distance may be authorized if a Colorado Registered Professional Engineer specifies in writing that the collapse of the system will occur within a lesser distance under all foreseeable circumstances; however, no System shall be located within any minimum zone district setback. A roof mounted system may not extend further into any setback than the building it is to be mounted on.

5.2.7.1.6 Minimum height of the blades of a System shall be not less than ten (10) feet above the ground or a structure.

5.2.7.1.7 If battery storage is proposed for the System, the batteries shall be isolated from living areas and shall comply with all applicable regulations as per the Fremont County Building Department or other agencies having authority.

April 12, 2011

**5.2.7.1.8 The system shall not emit noise onto adjoining properties in excess of the limits established by Colorado Law.**

**5.2.7.1.9 The entire System shall be a non-reflective material.**

**5.2.7.1.10 No lights shall be installed on the System unless required by a governmental agency or entity.**

**5.2.7.1.11 If the premise is connected to an electric utility service area no System shall be installed until documentation (*certified mail, return receipt*) has been provided that the electric utility company has been notified.**

**5.2.7.1.12 All System facilities shall be maintained in a condition that poses no potential safety hazard.**

### **Contractor's Yard or Building**

#### 1 GENERAL PROVISIONS:

##### 1.5 DEFINITIONS:

1.5.50 **CONTRACTOR'S YARD OR BUILDING:** A yard and / or building used by a general contractor, excavation contractor, **landscaping contractor**, ~~or~~ building contractor, **oil or well drilling contractor**, or **similar** where **vehicles**, equipment and materials are stored, or where a contractor performs maintenance, shop, or assembly work. If a building is housed on the property, the use may also contain the operational offices of the contractor. ~~All such yards shall be in compliance with fencing and screening requirements.~~ For the purpose of this definition, this definition does not include any other yard or establishment otherwise defined or classified herein. For the purposes of this definition, this definition does not include wholesale or retail sales **or temporary job construction site.**

1.5.165 **STRUCTURE:** Anything constructed, erected or placed, the use of which requires a more or less permanent location on the ground or which is attached to something located on the ground; including, but not limited to building as defined hereunder and Manufactured Home, as defined hereunder; but not including earthworks, corrals, ditches, canals, dams, reservoirs, pipelines, telephone ~~or telegraph~~ or electric power lines, walks, driveways, curbs, signs, antennas, ~~towers~~, or other similar uses.

1.5.182 **VEHICLE:** Any mechanical device on wheels designed mainly for use, or used, on public highways, or that equipment designed to be transported from one place to another upon wheels or continuous tracks except motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, low power scooters, motorized wheelchairs operated by handicapped persons, farm tractors and implements, implements of husbandry designed exclusively for use and used in agricultural operations, or any device designed to move primarily through the air.

April 12, 2011

- 4.1.1 **DESCRIPTION:** Non-urban areas established primarily for the purpose of efficiently using land to conserve forest resources, protect the natural environment, and preserve uninhabited areas and to allow for farming and ranching activities.
- 4.1.2 **ALLOWED USES:** Note: This zone district is subject to Section 3 “General Regulations” of this Resolution.
- 4.1.2.1 Accessory buildings and uses;
- 4.1.2.1.1 Farm & Ranch Hand Quarters: A manufactured home or a manufactured home single-wide, will be allowed as an accessory use on a farm or ranch if it will be occupied by persons employed in farming or ranching activities on the property and their immediate families. The following are required in order to qualify for the accessory building and use:
- 4.1.2.1.1.1 Agricultural Declaration and documents from the Fremont County Assessor’s Office;
- 4.1.2.1.1.2. Letter stating the circumstances requiring the accessory use and building, and the terms of employment for the person(s) who will inhabit the accessory building;
- 4.1.2.1.1.3 Compliance with the zone district setback, building height, and lot coverage requirements;
- 4.1.2.1.1.4 Proof of water, which may be a letter from a public water district indicating that the proposed use can be provided water service, or a letter or a copy of a well permit from the Colorado Division of Water Resources, which notes that the proposed use can be serviced by a well;
- 4.1.2.1.1.5 Proof of sewage disposal, which may be a letter from a public sewer district or a copy of an individual percolation test for the specific use;
- 4.1.2.1.1.6 Only one (1) manufactured home or manufactured home single-wide will be allowed as an accessory use per lot, parcel, or tract;
- 4.1.2.1.1.7 A minimum of forty (40) acres is required; (*minimum of seventy (70) acres for future subdivision*),
- 4.1.2.1.1.8 Upon discontinuance or abandonment of the farming and/or ranching activities, the Farm and Ranch Hand Quarters shall be removed or the property shall be subdivided if all subdivision and zoning development regulations can be met.
- 4.1.2.2 Agriculture, including livestock, poultry and rabbits. In addition, the sale of agricultural and forestry products provided that no on-street parking is allowed and a minimum one-hundred (100) foot setback from all property lines is provided;
- 4.1.2.3 Cemetery;

April 12, 2011

4.1.2.4 Commercial firewood cutting, splitting, storage, and sales, provided there is no firewood cutting within two hundred (200) feet of any property line;

4.1.2.5 **Contractor's yard or building; provided that the following is met:**

**4.1.2.5.1 The outdoor storage area for vehicles and equipment shall be set back a minimum of seventy-five (75) feet from all property lines;**

**4.1.2.5.2 The outdoor storage area for vehicles and equipment is contained by an opaque screen (fence or vegetation), in accordance with Section 5.7.15 of this resolution, along all portions of the property being used for the outdoor storage area, which do not meet the required seventy-five (75) foot setback from the property line;**

**4.1.2.5.3 The outdoor storage area is no more than five thousand (5,000) square feet;**

**4.1.2.5.4 There are no more than five (5) vehicles used in association with the contractor's yard.**

4.1.2.6 Dwelling, cabin;

4.1.2.7 Dwelling, single-family;

4.1.2.8 Farm;

4.1.2.9 Forestry;

4.1.2.10 Fur bearing animal farms;

4.1.2.11 Golf course;

4.1.2.12 Government road maintenance facility;

4.1.2.13 Greenhouse, commercial;

4.1.2.14 Group Home;

4.1.2.15 Manufactured home;

4.1.2.16 Manufactured home single-wide;

4.1.2.17 Nursery;

4.1.2.18 Orchard and vineyard;

4.1.2.19 Ranch;

4.1.2.20 Riding academy, provided all housing and accessory buildings are located at least three-hundred (300) feet from all property lines;

4.1.2.21 Stable, provided all housing and accessory buildings are located at least three-hundred (300) feet from all property lines;

4.1.2.22 Veterinary premises.

April 12, 2011

- 4.1.4 SPECIAL REVIEW USES: Subject to the issuance of a Special Review Use Permit.
- 4.1.4.1 Airport, private;
  - 4.1.4.2 Bed and breakfast;
  - 4.1.4.3 Child care center;
  - 4.1.4.4 Community building;
  - 4.1.4.5 **Contractor's yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);
  - 4.1.4.6 Convenience store;
  - 4.1.4.7 Correctional facility, public and private;
  - 4.1.4.8 Dairy farm, provided all animal feeding areas, housing and accessory buildings are located at least three-hundred (300) feet from all property lines;
  - 4.1.4.9 Elementary school;
  - 4.1.4.10 Farm and ranch supplies sales and service;
  - 4.1.4.11 Feedlot, provided all animal feeding areas, housing and accessory buildings are located at least three-hundred (300) feet from all property lines;
  - 4.1.4.12 Fire and/or Police Station (*minimum of four and one-half (4½) acres if platted as outlot which is specifically limited to these uses*);
  - 4.1.4.13 High school;
  - 4.1.4.14 Junior high school;
  - 4.1.4.15 Kennel;
  - 4.1.4.16 Landfill;
  - 4.1.4.17 Mini-storage facility;
  - 4.1.4.18 Museum;
  - 4.1.4.19 Park, regional;
  - 4.1.4.20 Public utility building, regulators, and substations;
  - 4.1.4.21 Recreational facility, Rural;
  - 4.1.4.22 Religious institution;
  - 4.1.4.23 Restaurant;
  - 4.1.4.24 Rodeo ground;
  - 4.1.4.25 Slaughterhouse;

April 12, 2011

4.1.4.26 Tower and antenna used for commercial purposes. Towers and antennas used for non-commercial purposes that exceed one-hundred (100) feet;

4.1.4.27 Wildlife, Commercial Park;

4.1.4.28 Winery.

#### 4.2 AF & R – AGRICULTURAL FARMING & RANCHING ZONE DISTRICT

4.2.1 **DESCRIPTION:** Areas where conservation of agriculture resources and common open space is of prime importance.

4.2.2 **ALLOWED USES:** Note: This zone district is subject to Section 3 “General Regulations” of this Resolution.

4.2.2.1 Accessory buildings and uses;

4.2.2.1.1 **Farm & Ranch Hand Quarters:** A manufactured home or a manufactured home single-wide will be allowed as an accessory use on a farm or ranch if it will be occupied by persons employed in farming or ranching activities on the property and their immediate families. The following are required in order to qualify for the accessory building and use:

4.2.2.1.1.1 Agricultural Declaration and documents from the Fremont County Assessor’s Office;

4.2.2.1.1.2 Letter stating the circumstances requiring the accessory use and building and the terms of employment for the person(s) who will inhabit the accessory building;

4.2.2.1.1.3 Compliance with the zone district setback, building height, and lot coverage requirements;

4.2.2.1.1.4 Proof of water, which may be a letter from a public water district indicating that the proposed use can be provided water service, or a letter or a copy of a well permit from the Colorado Division of Water Resources that notes that the proposed use can be serviced by a well;

4.2.2.1.1.5 Proof of sewage disposal, which may be a letter from a public sewer district or a copy of an individual percolation test for the specified use;

4.2.2.1.1.6 Only one (1) manufactured home or manufactured home single-wide will be allowed as an accessory use per ranch or farm;

4.2.2.1.1.7 A minimum of forty (40) acres is required;

4.2.2.1.1.8 Upon discontinuance or abandonment of the farming and/or ranching activities, the Farm and Ranch Hand Quarters shall be removed or the property shall be subdivided if all subdivision and zoning development regulations can be met

April 12, 2011

4.2.2.2 Agriculture, including livestock, poultry, and rabbits. This use shall not include feedlots, dairy farms, and fur bearing animal farms. In addition, the sale of agricultural products are permitted provided that no on-street parking is allowed and a minimum one-hundred (100) foot setback from all property lines is provided;

4.2.2.3 Cemetery;

4.2.2.4 Christmas tree cutting, storage, and sales;

4.2.2.5 **Contractor's yard or building; provided that the following is met:**

**4.2.2.5.1 The outdoor storage area for vehicles and equipment shall be set back a minimum of seventy-five (75) feet from all property lines;**

**4.2.2.5.2 The outdoor storage area for vehicles and equipment is contained by an opaque screen (fence or vegetation), in accordance with Section 5.7.15 of this resolution, along all portions of the property being used for the outdoor storage area, which do not meet the required seventy-five (75) foot setback from the property line;**

**4.2.2.5.3 The outdoor storage area is no more than five thousand (5,000) square feet;**

**4.2.2.5.4 There are no more than five (5) vehicles used in association with the contractor's yard.**

4.2.2.6 Dwelling, single-family;

4.2.2.7 Farm;

4.2.2.8 Firewood (*commercial*) cutting, splitting, storage, and sales, provided there is no firewood cutting within two hundred (200) feet of any property line;

4.2.2.9 Golf course;

4.2.2.10 Government road maintenance facility;

4.2.2.11 Greenhouse, commercial;

4.2.2.12 Group home;

4.2.2.13 Manufactured home;

4.2.2.14 Manufactured home single-wide;

4.2.2.15 Nursery;

4.2.2.16 Orchard and vineyard;

4.2.2.17 Ranch;

4.2.2.18 Riding academy, provided that all housing and accessory uses are located at least three-hundred (300) feet from property lines;

April 12, 2011

- 4.2.2.19 Stable, provided all housing and accessory buildings are located at least three-hundred (300) feet from all property lines;
- 4.2.2.20 Veterinary premises.
- 4.2.4 SPECIAL REVIEW USES: Subject to issuance of a Special Review Use Permit.
  - 4.2.4.1 Airport, private;
  - 4.2.4.2 Bed and breakfast;
  - 4.2.4.3 Child care center;
  - 4.2.4.4 Community building;
  - 4.2.4.5 **Contractor's yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);
  - 4.2.4.6 Convenience store;
  - 4.2.4.7 Correctional facility, public and private;
  - 4.2.4.8 Dairy farm;
  - 4.2.4.9 Elementary school;
  - 4.2.4.10 Farm and ranch supplies sales and service;
  - 4.2.4.11 Feedlot;
  - 4.2.4.12 Fire and/or Police Station (*minimum of four and one-half (4½) acres if platted as outlot which is specifically limited to these uses*);
  - 4.2.4.13 Fur bearing animal farm;
  - 4.2.4.14 High school;
  - 4.2.4.15 Junior high school;
  - 4.2.4.16 Kennel;
  - 4.2.4.17 Landfill;
  - 4.2.4.18 Mini-storage facility;
  - 4.2.4.19 Museum;
  - 4.2.4.20 Park, regional;
  - 4.2.4.21 Public utility building, regulators, and substations;
  - 4.2.4.22 Recreational facility, Rural;
  - 4.2.4.23 Religious institution;
  - 4.2.4.24 Restaurant;

April 12, 2011

- 4.2.4.25 Rodeo ground;
- 4.2.4.26 Slaughterhouse;
- 4.2.4.27 Tower and antenna used for commercial purposes. Towers and antennas used for non-commercial purposes that exceed one-hundred (100) feet;
- 4.2.4.28 Winery.

#### 4.3 AL – AGRICULTURAL LIVING ZONE DISTRICT

- 4.3.1 **DESCRIPTION:** This district is established to provide and retain certain lands for agriculture and to provide for orderly low density residential development.
- 4.3.2 **ALLOWED USES:** Note: This zone district is subject to Section 3 “General Regulations” of this Resolution.
  - 4.3.2.1 Accessory buildings and uses;
  - 4.3.2.2 Agriculture, including livestock, poultry, and rabbits. This use shall not include feed lots, dairy farms, and fur bearing animal farms;
  - 4.3.2.3 Cemetery;
  - 4.3.2.4 Christmas tree cutting, storage, and sales;
  - 4.3.2.5 **Contractor's yard or building; provided that the following is met:**
    - 4.3.2.5.1 **The outdoor storage area for vehicles and equipment shall be set back a minimum of seventy-five (75) feet from all property lines;**
    - 4.3.2.5.2 **The outdoor storage area for vehicles and equipment is contained by an opaque screen (fence or vegetation), in accordance with Section 5.7.15 of this resolution, along all portions of the property being used for the outdoor storage area, which do not meet the required seventy-five (75) foot setback from the property line;**
    - 4.3.2.5.3 **The outdoor storage area is no more than five thousand (5,000) square feet;**
    - 4.3.2.5.4 **There are no more than five (5) vehicles used in association with the contractor's yard.**
  - 4.3.2.6 Dwelling, single-family;
  - 4.3.2.7 Farm;
  - 4.3.2.8 Golf course;
  - 4.3.2.9 Government road maintenance facility;
  - 4.3.2.10 Greenhouse, commercial;

April 12, 2011

- 4.3.2.11 Group home;
  - 4.3.2.12 Manufactured home;
  - 4.3.2.13 Manufactured home single-wide;
  - 4.3.2.14 Nursery;
  - 4.3.2.15 Orchard and vineyard;
  - 4.3.2.16 Ranch;
  - 4.3.2.17 Riding academy, provided that all housing and accessory uses are located at least three-hundred (300) feet from all property lines;
  - 4.3.2.18 Roadside stand (*agricultural products only*);
  - 4.3.2.19 Stable, provided that all housing and accessory uses are located at least three-hundred (300) feet from all property lines;
  - 4.3.2.20 Veterinary premises.
- 4.3.4 SPECIAL REVIEW USES: Subject to issuance of a Special Review Use Permit.
- 4.3.4.1 Agricultural sales;
  - 4.3.4.2 Bed and breakfast;
  - 4.3.4.3 Child care center;
  - 4.3.4.4 Commercial firewood cutting, splitting, storage, and sales;
  - 4.3.4.5 Community building;
  - 4.3.4.6 **Contractor's yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);
  - 4.3.4.7 Correctional facility, public and private;
  - 4.3.4.8 Elementary school;
  - 4.3.4.9 Family child care home;
  - 4.3.4.10 Fire and/or Police Station (*minimum of four and one-half (4½) acres if platted as outlot which is specifically limited to these uses*);
  - 4.3.4.11 High school;
  - 4.3.4.12 Junior high school;
  - 4.3.4.13 Kennel;
  - 4.3.4.14 Mini-storage facility;
  - 4.3.4.15 Park, Regional;
  - 4.3.4.16 Public utility buildings, regulators, or substations;

April 12, 2011

4.3.4.17 Recreational facility, Rural;

4.3.4.18 Religious institution;

4.3.4.19 Restaurant;

4.3.4.20 Rodeo ground;

4.3.4.21 Towers and antennas used for commercial purposes. Towers and antennas used for non-commercial purposes that exceed one-hundred (100) feet;

4.3.4.22 Winery.

#### 4.4 AR – AGRICULTURAL RURAL ZONE DISTRICT

4.4.4 SPECIAL REVIEW USES: Subject to the issuance of a Special Review Use Permit.

4.4.4.1 Assisted living residence or residence;

4.4.4.2 Bed and breakfast;

4.4.4.3 Cemetery;

4.4.4.4 Child care center;

4.4.4.5 Commercial firewood cutting, splitting, storage, and sales;

4.4.4.6 Community building;

4.4.4.7 **Contactors' yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);

4.4.4.8 Correctional facility, public and private;

4.4.4.9 Family child care home;

4.4.4.10 Feed store;

4.4.4.11 Fire and/or police station;

4.4.4.12 Golf course;

4.4.4.13 High school;

4.4.4.14 Junior high school;

4.4.4.15 Kennel;

4.4.4.16 Mini-storage facility;

4.4.4.17 Park, neighborhood;

4.4.4.18 Public utility building, regulators, and substations;

4.4.4.19 Recreational facility, rural;

April 12, 2011

4.4.4.20 Religious institution;

4.4.4.21 Riding academy;

4.4.4.22 Stable;

4.4.4.23 Towers and antennas used for commercial purposes. Towers and antennas used for non-commercial purposes that exceed one-hundred (100) feet.

#### 4.5 AE – AGRICULTURAL ESTATES ZONE DISTRICT

4.5.4 SPECIAL REVIEW USES: Subject to the issuance of a Special Review Use Permit.

4.5.4.1 Assisted living residence or residence;

4.5.4.2 Bed and breakfast;

4.5.4.3 Cemetery;

4.5.4.4 Child care center;

4.5.4.5 **Contactors' yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);

4.5.4.6 Family child care home;

4.5.4.7 Fire and/or police station;

4.5.4.8 High school;

4.5.4.9 Hospital;

4.5.4.10 Junior high school;

4.5.4.11 Nursing home;

4.5.4.12 Park, neighborhood;

4.5.4.13 Public utilities buildings, regulators, and substations;

4.5.4.14 Recreational facility, urban;

4.5.4.15 Religious institution;

4.5.4.16 Towers and antennas used for commercial purposes. Towers and antennas used for non-commercial purposes that exceed one-hundred (100) feet.

#### 4.6 – AGRICULTURAL SUBURBAN ZONE DISTRICT

4.6.4 SPECIAL REVIEW USES: Subject to the issuance of a Special Review Use Permit.

4.6.4.1 Assisted living residence or residence;

4.6.4.2 Bed and breakfast;

April 12, 2011

- 4.6.4.3 Cemetery;
- 4.6.4.4 Child care center;
- 4.6.4.5 Community building;
- 4.6.4.6 **Contactoꝛ's yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);
- 4.6.4.7 Family child care home;
- 4.6.4.8 Fire and/or Police Station;
- 4.6.4.9 Golf course;
- 4.6.4.10 High school;
- 4.6.4.11 Hospital;
- 4.6.4.12 Junior high school;
- 4.6.4.13 Nursing home;
- 4.6.4.14 Park, neighborhood;
- 4.6.4.15 Public utility buildings, regulators and substations;
- 4.6.4.16 Recreational facility, Urban;
- 4.6.4.17 Religious institution;
- 4.6.4.18 Towers and antennas used for commercial purposes. Towers and antennas used for non-commercial purposes, which exceed one-hundred (100) feet.

#### 4.12. – NEIGHBORHOOD BUSINESS ZONE DISTRICT

4.12.4 SPECIAL REVIEW USES: Subject to the issuance of a Special Review Use Permit.

- 4.12.4.1 Automobile service station;
- 4.12.4.2 Bake shop;
- 4.12.4.3 Bank, drive-in;
- 4.12.4.4 Bed and breakfast;
- 4.12.4.5 Car wash;
- 4.12.4.6 **Contactoꝛ's yard or building** (*refer to 5.7.15 of this Resolution for additional development requirements*);
- 4.12.4.7 Convenience store;
- 4.12.4.8 Dry cleaning service;
- 4.12.4.9 Grocery store;

April 12, 2011

- 4.12.4.10 Home occupation (*refer to 5.2.4 of this Resolution for requirements*);
- 4.12.4.11 Museum;
- 4.12.4.12 Parking lot or garage (*when this is the primary use of the property as opposed to an accessory use to another primary use housed on the property*);
- 4.12.4.13 Public utility building, regulators, and substations;
- 4.12.4.14 Recreational and outdoor amusement or amusement facility;
- 4.12.4.15 Retail store;
- 4.12.4.16 Towers and antennas used for commercial purposes. Towers and antennas used for non-commercial purposes that exceed one-hundred (100) feet;
- 4.12.4.17 Upholstery service;
- 4.12.4.18 Veterinary premises.

## 5 GENERAL REQUIREMENTS

### 5.2 SPECIAL DEVELOPMENT REQUIREMENTS

- 5.2.3 HOME OCCUPATION III: This use is intended to be allowed in zone districts where residential uses are permitted in combination with large acreage parcels (*nine 9 acres or larger*). This use is an accessory use provided all of the following conditions are met:
  - 5.2.3.1 Such use shall be clearly incidental and secondary to the use of the residence for dwelling purposes and shall not change the character so as to give an outward appearance nor manifest any characteristic of a business.
  - 5.2.3.2 There shall be no exterior advertising other than identification of the home occupation; such sign shall not be larger than ten (10) square feet and shall not be illuminated; such sign shall be subject to other portions of this Resolution pertaining to signs.
  - 5.2.3.3 Such use shall be conducted by the inhabitants living in the principal dwelling and no more than two (2) employees.
  - 5.2.3.4 The use may be conducted within a residence and / or a detached structure provided it complies with the size requirements and any other applicable regulations. Such use may be conducted outdoors provided all other provisions of the home occupation are met.
  - 5.2.3.5 The maximum area devoted to the home occupation by the use of a detached structure is one-thousand-five-hundred (1500) square feet. If the home occupation is to be used within a residence, the home occupation may be wholly contained within the residence.
  - 5.2.3.6 There shall be only incidental sale of stocks, supplies, or products conducted on the premises.

April 12, 2011

5.2.3.7 **Outdoor** ~~Exterior~~ storage on the premises of material or equipment used as a part of the home occupation will be allowed, but shall be limited to ~~five hundred (500)~~ **one thousand (1,000)** square feet and will be required to be screened by an opaque security fence ~~eight (8)~~ **six (6)** feet in height constructed of metal, wood, or masonry, **except for contractor's yard or building. Outdoor storage of vehicles, and material used as part of the contractor's yard will be allowed if the following requirements are met as per the following:**

5.2.3.7.1 **The outdoor storage area for vehicles and equipment shall be set back a minimum of seventy-five (75) feet from all property lines;**

5.2.3.7.2 **If the outdoor storage area shall be contained by an opaque screen (fence or vegetation), in accordance with Section 5.7.15 of this resolution, along all portions of the property being used for the outdoor storage area, which do not meet the required seventy-five (75) foot setback from the property line, then the following will be allowed:**

5.2.3.7.2.1 **A maximum of five thousand (5,000) square feet for the outdoor storage area.**

5.2.3.7.2.2 **A maximum of five (5) vehicles which are used or associated with the home occupation.**

**NOTE: ALL CONTRACTOR'S YARDS AND BUILDINGS IN EXISTENCE AS OF (DATE) WILL BE ALLOWED TO CONTINUE AS THEY EXISTED ON THE SPECIFIED DATE AND WILL BE SUBJECT TO SECTION 5.7 OF THE FREMONT COUNTY ZONING RESOLUTION.**

5.2.3.8 A Home Occupation III shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation, including one (1) space for each employee.

5.2.3.9 Not more than two (2) commercially licensed vehicles or vehicles containing equipment or advertising is parked on the premises related to the home occupation.

5.2.3.10 No mechanical equipment is operated except such as normally used for purely domestic or household purposes; and provided further that in the pursuit of such home occupation, no equipment shall be used that creates noise, dust, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises.

5.2.3.11 More than one (1) home occupation may be conducted in or on the same premises provided that the cumulative affect does not exceed any of the requirements of Home Occupation III.

April 12, 2011

5.2.3.12 A Home Occupation III may include the following uses or any similar use or use which has similar neighborhood and infrastructure impacts: art studio, beauty parlor, barber shop, dressmaking, photography services, telephone marketing, machine shop, carpentry shop, upholstery shop, minor vehicle or boat repair shop (*not to include paint and body work also not to allow the storage of inoperable vehicles and boats*) gun repair shop, taxidermy, personal semi-tractor/trailer parking (*two (2) units maximum*), dog grooming, paint striping, nail salon, family child care home (*not more than eight (8) children, not including the resident's children*) and professional offices (*i.e., legal, medical, dental, surveying, engineering, architectural, planning, accounting, insurance*).

5.2.3.13 A Home Occupation III shall not be interpreted to include the following or any similar use or use which has similar neighborhood and infrastructure impacts: retail store, nursing home, hospital, medical clinic, kennel, restaurant, lounge, financial institution, paint shop, rafting office, museum, and boarding and rooming houses.

5.2.3.14 All applications for Home Occupation shall include the identity of all agencies of local, state, or federal government that will be required to issue any permit, license or the like for all or any part of the activity that comprises the Home Occupation use.

5.2.3.14.1 This item shall include the full name of the agency, contact information for the agency (*mailing address, telephone number, email address*) and the name of the contact person at the agency whom the applicant has been in contact with.

5.2.3.14.2 This item shall include a summary of any permits, licenses or the like required, status of pending applications for the same, copies of pending applications and or copies of issued permits.

5.2.3.15 The applicant shall provide any other information as may be required by the Department so as to determine the impacts of the proposed Home Occupation and whether or not approval of the same is appropriate.

5.2.4 All Home Occupations shall be required to process an application with the Department prior to operation. Said application shall be reviewed and approved or disapproved administratively by the Department except as stated above. Prior to approval of any home occupation the applicant will be required to comply with any requirements of the Building Code in effect for Fremont County and the Environmental Health Regulations in effect for Fremont County. Said application review will be completed by the Department within twenty (20) working days of the date submitted.

5.2.5 A non-refundable application fee shall be established from time to time by resolution of the Board for all Home Occupation applications.

## 5.7 NONCONFORMING USES, BUILDINGS, LOTS, PARCELS OR TRACTS:

### 5.7.4 ~~ABANDONMENT OR DISCONTINUANCE OF USE OR BUILDING~~ LOSS OF RIGHT TO USE:

#### 5.7.4.1 ABANDONMENT OR DISCONTINUANCE:

5.7.4.1.1 If a nonconforming use or building is abandoned, the right to continue that nonconforming use or building shall terminate upon expiration of a six (6) month period of abandonment.

April 12, 2011

5.7.4.1.2 Except as set forth hereafter, if any nonconforming use or the use of any nonconforming building is discontinued for a period of one (1) year, whether such period of time begins prior to or after the enactment of this resolution or any amendment hereto, the right to continue that nonconforming use or building shall terminate upon expiration of the one (1) year period, and such nonconforming use shall not be re-established, and such nonconforming building shall either be altered so as to become a conforming use or it shall be removed.

5.7.4.1.3 In the case of a mobile home, if the nonconforming mobile home, including a mobile home used as a rental unit, is discontinued for a period of six (6) months, whether such period of time begins prior to or after the enactment of this resolution or any amendment hereto, the right to continue that nonconforming mobile home use shall terminate upon expiration of the six (6) month period. If a nonconforming mobile home is removed from a site or is destroyed, such nonconforming mobile home shall not be reestablished.

5.7.4.1.3.1 In the case of a mobile home being removed from a space in a nonconforming mobile home park or nonconforming manufactured home park, the mobile home cannot be replaced by a manufactured home or manufactured home single-wide which exceeds the size or footprint of the mobile home or increases the degree of nonconformity in any way.

5.7.4.1.3.2 In the case of a nonconforming mobile home park or manufactured home park, if a space has been vacant for more than six (6) months, the use of the space will be discontinued.

5.7.4.1.4 "Abandonment" shall mean discontinuance of use coupled with the intent not to reestablish the use.

5.7.4.1.5 "Discontinuance" shall mean cessation of use whether or not there is intent to abandon the use.

**5.7.4.2 CHANGE OF OWNERSHIP:** A contractor's yard or building in existence as of April 26, 2011 will be allowed to continue as it existed on the specified date. If the ownership of the property changes or the use is altered, enlarged or expanded after the above specified date the property and / or use shall conform to the provisions of Section 5.7 of this Resolution.

5.7.15 SCREENING REQUIREMENTS: All junkyards, automobile graveyards, ~~contractor's yards~~ and vehicle impoundment yards shall have an adequately maintained eight (8) foot ~~solid~~ **opaque** screening of the junkyard and/or automobile grave yard and/or vehicle impoundment yard. This screening shall consist of wooden fencing, slat fencing, stone or brick wall, closely planted natural vegetation, or other appropriate visual barriers, as approved by the Board. If natural vegetation is utilized, it shall consist of plants at least thirty (30) inches in height when planted, and maintained in a healthy condition to provide minimum capacity to a height of eight (8) feet within two (2) years from the date of planting. If natural vegetation is to be used, a fence as required above shall be constructed and shall remain in place until vegetation reaches required height of eight (8) feet.

5.7.15.1 Contractor's yard shall have a minimum six (6) foot opaque screening as per above requirements.

April 12, 2011

**Commissioner Stiehl** seconded the motion. Stiehl then commented that 5 vehicles are excessive and feels it should be changed to 3 vehicles as it is not protective of the residential character of the neighborhood. Commissioner Bell said her motion stands. Commissioner Norden asked Commissioner Stiehl if he wanted to make an amendment. Stiehl said no. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, nay, Commissioner Norden, aye. The motion carried. Giordano said this will be amendment #3 to the zoning resolution. Commissioner Norden said if needed, they can always come back to this amendment to see how it is functioning in the field. Giordano said 2 vehicles are already allowed in the Home Occupation III. In most contractor's yards they already have 3 vehicles which is where they came up with the 5 vehicle limit. Commissioner Stiehl said if they don't come into compliance with what is allowed here then they have the ability to apply for an SRU. He said he prefers the 3 vehicles but 5 is not a deal killer. Stiehl said what is a deal killer for him is that it is important to allow people to work out of their homes; he said it is excessive to allow people a free pass who are out of compliance. He also had difficulty with people converting title to a trust, not a change in ownership losing their income from a home business. Stiehl said these are the reasons for his no vote.

**Chairman Norden** opened the fifth public hearing at 11:40 A.M.

5. 2<sup>nd</sup> Amendment to the Fremont County Building Code regarding Manufactured Housing.

**Mike Cox of the Fremont County Building Department** said this is a simple resolution that does not change anything they have enforced for the past 15 years. It is simply some provisions that got overlooked in the adoption of the 2006 codes. There is an appendix in the residential code that addresses manufactured housing. Mike said he deleted most of it as it was elsewhere in the code and repetitive. This code applies to manufactured housing on site not in the factories where they are built. It does refer to the State manufactured installation program which we became a participating jurisdiction in 3 years ago. It also cleans up requirements for installation and additions. This will make the 2006 code complete. Commissioner Norden noted one of those guidelines prohibits attaching two units together. Mike said that is correct and that has been policy for the past 15 years.

**Chairman Norden** asked for public comments regarding the proposed amendment for manufactured housing. There were none.

**Chairman Norden** closed the public hearing at 11:45 A.M.

**Commissioner Stiehl** moved to approve the 2<sup>nd</sup> Amendment to the Fremont County Building Code regarding manufactured housing as resolution #18. Commissioner Bell seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

**County Attorney Jackson** excused her self as she was due at the Department of Human Services.

#### **NEW BUSINESS CONTINUED**

6) Consideration of Pathfinder Regional Park Facility Usage Policies and Agreement/Adjustment in Fee Schedule.

**Commissioner Norden** noted this item was on the agenda 3 weeks ago, but was postponed to give citizens a chance to be heard on fees and policies. The key issues changed were on the fees. Instead of a \$50 per use of the facility for 5 hours it was changed to a \$10 per hour flat rate. Since lighting is now in place if the arena is used with lights, it is \$60 for the first hour and \$30 for each additional hour.

April 12, 2011

To schedule an event one must come to the County Extension Office no later than the Thursday prior to the event. No tractor pulls, equipment rodeos, etc. will be allowed in the arena. Vehicles must be kept out of the arena. The policy has clarification on the liability insurance. Also manure must be removed from the arena and parking lot and deposited in a concrete holding area at the north east end of the parking lot. Norden said this is not a public hearing but asked if any citizens wished to be heard on the proposed policy and fee changes for the arena at Pathfinder Park. There were no public comments. Commissioner Bell moved to approve the Pathfinder Regional Park Facility Usage Policies and Agreement/Adjustment in Fee Schedule. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

8) **REQUEST: TUP 11-002 CANON CITY MUSIC & BLOSSOM FESTIVAL – CARNIVAL**

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

**Gina Grisenti, Secretary, Canon City Music and Blossom Festival, Inc.** said they do not have a lot of changes from last year. They had changed the parking area last year so that people see the parking area before the carnival. This helps keep as much traffic off of the street as possible. She said the carnival will be setting up on Monday, and tearing down the following Monday. Times of operation are the same as in previous years. Gina said the only thing still pending on her end is getting Sid Darden in the health department paperwork regarding the food trailers. Bill Giordano noted that Sid needs those applications by April 21<sup>st</sup> and the inspection needs done by May 4<sup>th</sup>. Gina said she will be getting Sid a pretty complete list of food vendors this week. Giordano said they are requesting a waiver of the application fee which has been done every year that he knows of. They are also requesting waivers of the cleanup fees and he does not see a problem with that. Giordano said the Board will have to accept the liability insurance which he believes is the same as last year. Gina said both the Blossom Festival Insurance and the insurance from John Ring is the same as last year. Commissioner Stiehl moved to approve TUP 11-002 for Canon City Music & Blossom Festival Carnival waiving the application fee and cleanup fee, and accepting their liability insurance. Commissioner Bell seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried. Gina thanked the Board for waiving the fees.

9) Consideration of CCOERA's deferred compensation plan participating agreement for Fremont County to allow a new Roth 457 provision.

**George Sugars** explained the laws that were changed last September. This allows for the retirement members to have an option put on their 457 deferred compensation plan. Colorado Counties Officials Employees Retirement Association (CCOERA) has offered us an option. We currently have a deferred compensation 457 plan. This would set forth a new Roth 457 provision for after tax compensation to the plan. Commissioner Norden moved to approve Resolution #19 to participate in the CCOERA Roth 457 plan and authorize the chairman to sign the agreement. Commissioner Bell seconded the motion. Commissioner Bell mentioned that Mr. Sugars will be setting up meetings for county employees regarding their new options before this takes affect.

April 12, 2011

Upon vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Stiehl, aye. The motion carried.

**Chairman Norden** adjourned the meeting at 11:55 A.M.

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Clerk and Recorder

April 12, 2011

**RESOLUTION NO. 13, SERIES OF 2011**

**A RESOLUTION IMPOSING THE FIRE BAN  
FOR FREMONT COUNTY IN ACCORDANCE WITH  
ORDINANCE NUMBER 1, SERIES OF 2006 and  
ORDINANCE NUMBER 1, SERIES OF 2007**

**WHEREAS**, on May 23, 2006, Fremont County adopted Ordinance Number 1, Series of 2006, and on June 26, 2007, Fremont County adopted Ordinance Number 1, Series of 2007 which imposed a county-wide fire ban in Fremont County; and

**WHEREAS**, the language of the Fire Ban Ordinances allow for the Board of Commissioners to temporarily suspend the Fire Ban if conditions and circumstances warrant such a suspension; and

**WHEREAS**, On January 11, 2011, at the request of Sheriff James Beicker, in his capacity as fire warden for Fremont County in accordance with §30-10-512, C.R.S., the Board of Commissioners adopted Resolution 1 Series of 2011, which temporarily suspended the fire ban in Fremont County; and

**WHEREAS**, Sheriff James Beicker has consulted with other entities sharing jurisdiction concerning fires within the county, has assessed the fire danger for Fremont County and has concluded that imposition of the Fire Ban is necessary at this time to reduce the threat and risk of wild fires within the County and the Board of Commissioners defers to his determination.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR FREMONT COUNTY**, that the temporary suspension of Ordinance Numbers 2006-1, and 2007-1, restricting open fires and open burning in the unincorporated areas of Fremont County, shall be removed and the provisions of Ordinance Numbers 2006-1 and 2007-1, shall hereby be placed in full force and effect, banning fires and open burning in the unincorporated areas of Fremont County in accordance with the terms of such Ordinance. The Sheriff of Fremont County shall have authority to determine the effective Stage of the Fire Ban and shall provide full and adequate public notice of the effective Stage. The Board of Commissioners and the Sheriff of Fremont County strongly encourage residents of Fremont County, and visitors to Fremont County, to comply with all terms and conditions of the Fire Ban, and to exercise great caution with fires and sources that contribute to the fire danger to keep Fremont County safe from wild fires.

This Resolution shall become effective at 10:00 a.m. on Tuesday, April 12, 2011.

April 12, 2011

Commissioner Stiehl moved for adoption of this Resolution, with a second by Commissioner Bell. The roll call vote of the Board was as follows:

Debbie L. Bell	<input checked="" type="radio"/> AYE	<input type="radio"/> NAY	<input type="radio"/> ABSTAIN	<input type="radio"/> ABSENT
Edward H. Norden	<input checked="" type="radio"/> AYE	<input type="radio"/> NAY	<input type="radio"/> ABSTAIN	<input type="radio"/> ABSENT
Michael J. Stiehl	<input checked="" type="radio"/> AYE	<input type="radio"/> NAY	<input type="radio"/> ABSTAIN	<input type="radio"/> ABSENT

The Resolution was declared to be duly adopted. This Resolution shall be effective immediately upon adoption.

Date: 4-22-11 Time: 1:45 PM

Edward H. Norden  
Chairman

Attest: Katie S. Bane  
Clerk

April 12, 2011

RESOLUTION NO. 14, SERIES OF 2011

**A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD OF  
COUNTY COMMISSIONERS TO EXECUTE THE COVENANT AND  
AGREEMENT AS TO USE OF WATER RIGHTS AND DRY UP OF  
HISTORICALLY IRRIGATED PROPERTY AT PATHFINDER PARK**

**WHEREAS**, Fremont County is granted power to enter into contracts and to do other acts in relation to the property and concerns necessary to the exercise of county powers; and

**WHEREAS**, the County owns and manages property commonly known as Pathfinder Park, which was acquired from CF&I by warranty deed dated October 29, 2003; and

**WHEREAS**, Fremont County has made a request to the City of Florence for a water tap to serve Pathfinder Park with a public water supply; and

**WHEREAS**, Fremont County is required to transfer two water shares in the Union Ditch and Water Company to the City of Florence as a prerequisite to obtain a water tap; and

**WHEREAS**, the Fremont County Board of Commissioners has been presented with a proposed Dryup Covenant and Affidavit, which must be executed by the County in connection with the transfer of the Union Ditch water shares and purchase of a water tap from the City of Florence.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS**, that Commissioner Edward H. Norden, Chairman of the Board of Commissioners for Fremont County is hereby given authority to execute the Dryup Covenant and Affidavit.

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

Debbie Bell	<input checked="" type="radio"/> AYE	<input type="radio"/> NAY	<input type="radio"/> ABSTAIN	<input type="radio"/> ABSENT
Edward H. Norden	<input checked="" type="radio"/> AYE	<input type="radio"/> NAY	<input type="radio"/> ABSTAIN	<input type="radio"/> ABSENT
Michael J. Stiehl	<input checked="" type="radio"/> AYE	<input type="radio"/> NAY	<input type="radio"/> ABSTAIN	<input type="radio"/> ABSENT

The Resolution was declared to be duly adopted.

Date: 4-12-11

Edward H. Norden  
Chairman

Attest: Katie E. Barr  
Clerk

RECEPTION#: 884553,  
04/13/2011 at 10:44:24 AM, 1 OF 6,

KATIE E. BARR, CLERK AND RECORDER  
FREMONT COUNTY, CO

April 12, 2011

DRYUP COVENANT AND AFFIDAVIT

THIS DRYUP COVENANT AND AFFIDAVIT, made this 12<sup>th</sup> day of April, 2011, between the Board of County Commissioners for Fremont County (herein "Seller") whose address is 615 Macon Avenue, Canon City, Colorado, and the City of Florence, whose address is 600 West 3<sup>rd</sup> Street, Florence, Colorado, (herein "Municipality");

WITNESSETH:

THAT the Seller, for good and valuable consideration has sold to Municipality the water rights and other interests represented by 2 shares of stock in the Union Ditch and Water Company, a Colorado non-profit corporation.

WHEREFORE, in consideration of the purchase price or other consideration for the acquisition of said shares by Municipality, receipt and sufficiency of which consideration is specifically acknowledged, Seller covenants and states as follows:

1. Seller acknowledges that the above-described water rights will be used by Municipality for municipal water supply purposes and that Municipality will have to establish that the said water rights will no longer be used to irrigate the historically irrigated area.

2. Seller is the owner of the following described real property upon which the said water rights have been historically used:

See Attached Exhibit "A"

3. Seller agrees and covenants that the property shall not be irrigated in the future by Union Ditch water except through the use of water purchased from and delivered through Municipality's municipal water system or pursuant to further water court proceedings. This restrictive Dryup Covenant shall attach to and run with the Property and shall be binding, not only upon the Seller but also upon the Seller's successors, assigns, and any other persons or entities which require an ownership or leasehold interest in all or a portion of the Property in the future.

4. Seller has owned the property commonly known as Pathfinder Park, in the Florence, Colorado area since October 28, 2003, and has personal knowledge that the water represented by the said shares of stock in the Union Ditch and Water Company has been used historically to irrigate approximately 0.21 acres of hay and that the area so irrigated is the following land located in Fremont County, Colorado, to wit:

See Map on Attached Exhibit "B"  
Legal Description on Attached Exhibit "C"

April 12, 2011

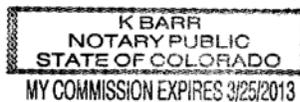
Signed, acknowledged and verified the date above written

*Edward H. Norden*  
Edward H. Norden, Chairman  
Board of Commissioners for Fremont County

STATE OF COLORADO )  
  )ss.  
COUNTY OF FREMONT )

The above instrument was acknowledged and verified under oath by Edward H. Norden, Chairman of the Fremont County Board of County Commissioners before me on this 12<sup>th</sup> day of April, 2011.

WITNESS my hand and official seal:



My commission expires: \_\_\_\_\_

*[Signature]*  
\_\_\_\_\_  
Notary Public

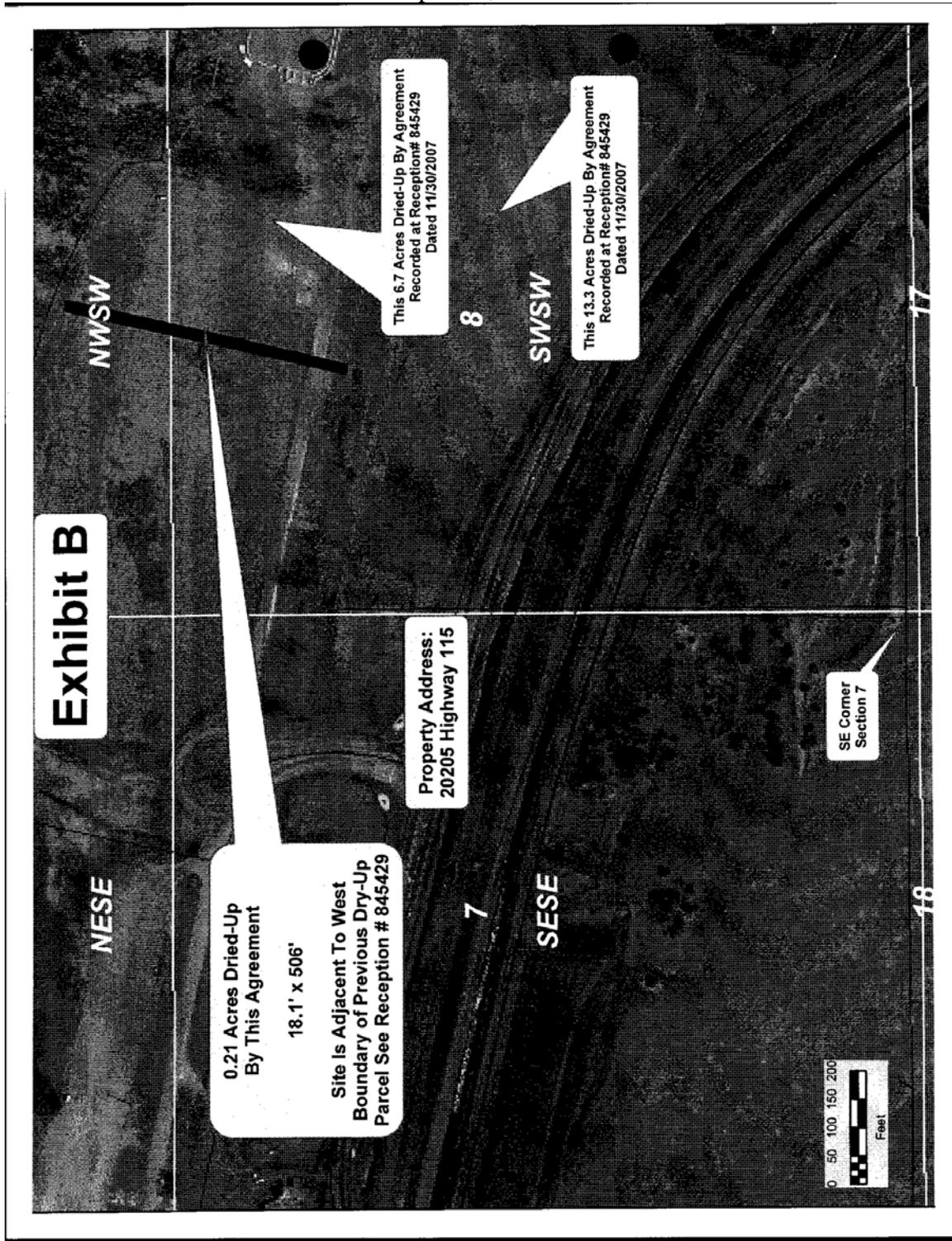
April 12, 2011

Several parcels of land, located in the East 1/2 of Section 7 and the South 1/2 of Section 8, Township 19 South, Range 69 West of the 6th PM, Fremont County, Colorado, bounded and described as follows:

Beginning at the Southwest corner of the NE1/4 of said Section 7, from whence the North quarter corner of said Section 7 bears N 00° 00' 06" E, a distance of 2659.98 feet; thence N 00° 00' 06" E, along the westerly line of said NE1/4, a distance of 747.99 feet to the centerline of the Arkansas River, as it now exists; thence along the centerline of the Arkansas River, the following three courses; N 65° 22' 18" E, for a distance of 861.92 feet; N 86° 37' 59" E, for a distance of 251.34 feet; S 79° 05' 36" E, for a distance of 291.80 feet to its intersection with the westerly line of the SE1/4NE1/4 said Section 7; thence S 00° 28' 57" E, along said westerly line, a distance of 1069.52 feet to the southwest corner of said SE1/4NE1/4; thence S 89° 52' 53" E, along the southerly line of said SE1/4NE1/4, a distance of 1329.97 feet to the southeast corner thereof; thence S 00° 01' 03" E along the easterly line of the NE1/4SE1/4 said Section 7, in the Arkansas River, a distance of 123.31 feet; thence along the centerline of the Arkansas River, the following three courses; S 65° 22' 28" E, for a distance of 326.14 feet; S 42° 48' 27" E, for a distance of 1054.46 feet; S 58° 42' 05" E, for a distance of 363.27 feet to its intersection with the easterly line of the NW1/4SW1/4 said Section 8; thence S 00° 07' 05" W, along said easterly line, a distance of 81.63 feet to the southeast corner of said NW1/4SW1/4; thence S 45° 56' 00" E, a distance of 223.80 feet; thence S 62° 04' 00" E, a distance of 354.10 feet; thence N 68° 57' 00" E, a distance of 343.80 feet; thence S 77° 54' 00" E, a distance of 547.50 feet; thence N 00° 01' 00" E, a distance of 108.00 feet; thence S 64° 36' 00" E, a distance of 644.20 feet; thence S 05° 14' 40" E, a distance of 180.00 feet; thence S 20° 28' 00" W, a distance of 448.34 feet to a point on the northerly right-of-way line of the Pueblo & Arkansas Valley Railroad; thence N 68° 21' 02" W, along said northerly P&AVRR right-of-way line, a distance of 481.46 feet to its intersection with the easterly line of the SE1/4SW1/4 said Section 8; thence S 00° 04' 09" E, along said easterly line, a distance of 53.82 feet to its intersection with the centerline of said P&AVRR right-of-way; thence along the centerline of said right-of-way, the following three courses; N 68° 21' 02" W, for a distance of 612.73 feet; thence along a curve to the left, having a radius of 2864.93 feet and a central angle of 10° 31' 46", for an arc length of 526.50 feet; N 78° 52' 48" W, for a distance of 252.26 feet to its intersection with the easterly line of the SW1/4SW1/4 said Section 8; thence S 00° 07' 05" W, along said easterly line, a distance of 378.83 feet; thence partially along the perimeter of a tract described at Book 535, Page 326, Fremont County Records, the following three courses; N 76° 12' 24" W, for a distance of 119.19 feet; S 57° 32' 45" W, for a distance of 254.56 feet; S 06° 00' 34" W, for a distance of 168.38 feet to a point on the northerly right-of-way line of State Highway 115; thence along said State Highway 115 northerly right-of-way line, the following eight courses; N 33° 39' 38" W, for a distance of 114.46 feet; N 44° 49' 39" W, for a distance of 223.81 feet; thence along a curve to the left, having a radius of 660.00 feet and a central angle of 14° 30' 00", for an arc length of 167.03 feet; N 59° 19' 39" W, for a distance of 162.93 feet; N 61° 38' 53" W, for a distance of 231.68 feet; N 65° 58' 31" W, for a distance of 127.27 feet; thence along a curve to the left, having a radius of 970.00 feet and a central angle of 10° 13' 23", for an arc length of 173.07 feet; N 76° 11' 54" W, for a distance of 712.29 feet; thence leaving said northerly right-of-way line, N 13° 54' 01" E, a distance of 219.72 feet to its intersection with the centerline of said P&AVRR right-of-way; thence N 78° 50' 41" W, along the centerline of said right-of-way, a distance of 1892.47 feet; thence N 00° 16' 19" W, a distance of 639.87 feet; thence along a curve to the left, having a radius of 885.00 feet and a central angle of 30° 36' 50", an arc length of 472.87 feet; thence N 89° 52' 53" W, along the southerly line of the SW1/4NE1/4 said Section 7, a distance of 36.32 feet to the point of beginning and containing 178.93 acres more or less.

**Exhibit A**

April 12, 2011



April 12, 2011

Exhibit "C"

Legal Description for parcel of land to be dried-up by this agreement:

Commencing in Fremont County, Colorado, at the southeast corner of Section 7, Township 19 South, Range 69 West of the Sixth Principal Meridian;

THENCE, northerly, along the east line of said Section 7, a distance of 793.43 feet to a point on the northerly ROW line of Colorado State Highway 115;

THENCE continuing northerly along the east line of said Section 7, a distance of 226.27 feet;

THENCE, S 76° 11' 54" E, a distance of 427.01 feet;

THENCE, N 13° 13' 05" E, a distance of 84.34 feet to the Point of Beginning;

THENCE, N 13° 13' 05" E, a distance of 506.00 feet along the western line of that parcel of land known as Parcel "B" that was dried-up previously by an agreement recorded on 11/30/2007 at Reception Number 845429 in the Fremont County, Colorado, Clerk and Recorder's Office;

THENCE, N 76° 46' 55" W, a distance of 18.10 feet;

THENCE, S 13° 13' 05" W, a distance of 506.00 feet;

THENCE, S 76° 46' 55" E, a distance of 18.10 feet to return to the Point of Beginning.

Total area described contains 0.21-acres, more or less.

April 12, 2011

RESOLUTION NO. 18, SERIES OF 2011

**A RESOLUTION TO AMEND THE BUILDING CODE OF FREMONT COUNTY BY  
ADDING PROVISIONS FOR MANUFACTURED HOUSING INSTALLATION**

WHEREAS, on June 9, 2008, the Board of County Commissioners for Fremont County adopted the Building Code of Fremont County in Resolution No. 40, Series of 2008; and

WHEREAS, the Building Code of Fremont County includes the International Residential Code, 2006 Edition published by the International Code Council, as amended, which applies to all one and two family dwellings and townhomes; and

WHEREAS, the 2006 International Residential Code provides for adequate regulations regarding manufactured housing installation only by adoption of Appendix Chapter E of the International Residential Code; and

WHEREAS, the Board of County Commissioners finds that manufactured housing installation regulation is beneficial to the citizens of Fremont County; and

WHEREAS, a public hearing was held before the Board of County Commissioners of Fremont County on APRIL 12, 2011 after notice of same was published in a newspaper of general circulation in the county at least fourteen days prior to said hearing; and

WHEREAS, the Board of County Commissioners for Fremont County hereby finds that the adopted Building Code should be amended to provide for the safe and appropriate installation of manufactured housing within the county.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners for Fremont County that the 2006 edition of the International Residential Code is hereby amended and approved as set forth in Exhibit A attached hereto to become part of the official building codes for the unincorporated areas of Fremont County.

BE IT FURTHER RESOLVED that the attached amendment shall become effective the FIRST DAY OF MAY, 2011, and shall remain in full force and effect thereafter, except as may be modified from time to time by formal action of the Board of Commissioners for Fremont County.

RECEPTION#: 884554,  
04/13/2011 at 10:44:25 AM, 1 OF 4.

KATIE E. BARR, CLERK AND RECORDER  
FREMONT COUNTY, CO

Commissioner Shield moved the adoption of the foregoing Resolution with a

April 12, 2011

second by Commissioner bell.

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

The Resolution was declared to be duly adopted.

Date: 4-12-11

Edward H. Norden  
Chairman

Attest: Katie E. Bruce  
Clerk

April 12, 2011

**EXHIBIT A**

**2<sup>nd</sup> AMENDMENT TO THE BUILDING CODE OF FREMONT COUNTY**

**2006 INTERNATIONAL RESIDENTIAL CODE**

*International Residential Code*

Appendix Chapter E is hereby adopted to read as follows:

**APPENDIX E**

**MANUFACTURED HOUSING USED AS DWELLINGS**

**SECTION AE101  
SCOPE**

**AE101.1 General.** These provisions shall be applicable only to a manufactured home used as a single family dwelling unit and shall apply to the construction, alteration and repair of any foundation system which is necessary to provide for the installation of a manufactured home unit as well as alterations, additions or repairs to existing manufactured homes.

These provisions shall not be applicable to the design and construction of manufactured homes and shall not be deemed to authorize either modifications or additions to manufactured homes where otherwise prohibited.

**SECTION AE102  
COLORADO STATE MANUFACTURED HOUSING INSTALLATION  
PROGRAM**

**AE102.1 Participating jurisdiction.** Effective July 1, 2009, Fremont County officially adopted the provisions, standards and requirements of the Manufactured Housing Installation program as outlined in this code and the State of Colorado Division of Housing Installation Handbook. The Fremont County Building Department is directed to take all actions necessary to implement said program consistent with the requirements of the law.

**SECTION AE201  
PERMITS**

April 12, 2011

**AE201.1 Initial Installation.** A manufactured home shall not be installed on a foundation system, reinstalled, altered or added on to without first obtaining a permit from the Building Official. The building permit shall serve as the Installation Authorization required by the Colorado Division of Housing Manufactured Housing Installation Program.

**AE201.2 Additions, Alterations and Repairs.** All additions, alterations and repairs to existing manufactured homes shall require plans to be prepared, signed and sealed by a Professional Engineer licensed in the State of Colorado. The engineered design shall include foundation design specifications as well as attachment method to the existing manufactured home and required reinforcement for additional loading on the existing structural frame.

**AE201.3 Attachment of multiple units.** Attachment of two or more manufactured homes by any method shall not be permitted under any circumstances.

April 12, 2011

RESOLUTION NO. 19, SERIES OF 2011

**A RESOLUTION BY THE FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS TO PARTICIPATE IN THE ROTH ELECTION FOR THE FREMONT COUNTY PLAN COLORADO COUNTY OFFICIALS AND EMPLOYEES RETIREMENT ASSOCIATION (CCOERA), BEGINNING MAY 15, 2011**

WHEREAS, pursuant to §30-2-104, the Board of County Commissioners is authorized to adopt a classification and compensation plan for all county employees paid in whole or in part by the County; and

WHEREAS, Fremont County historically has provided a benefit to its employees in the form of a retirement plan through the Colorado County Officials and Employees Retirement Association (CCOERA); and

WHEREAS, the Fremont County Board of Commissioners has been presented with an option to add a "Roth" option and election to the current CCOERA 457 deferred compensation plan as an additional employee benefit; and

WHEREAS, the current CCOERA 457 deferred compensation portion of the retirement plan allows an employee to contribute "pre-tax" compensation to the plan; and

WHEREAS, the Roth option would allow an employee to contribute "after-tax" compensation to the CCOERA 457 deferred compensation plan, in accordance with the rules, regulations and provisions of the CCOERA plan; and

WHEREAS, the Board of Commissioners for Fremont County is of the opinion that additional retirement savings options under the CCOERA plan are beneficial for employees and should be part of the current plan, when the same are offered through CCOERA.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREMONT COUNTY AS FOLLOWS:**

Fremont County shall make the election to add a "Roth" contribution option to the current CCOERA 457 Deferred Compensation Plan and make the additional benefit available as of May 15, 2011, to employees who wish to contribute.

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

Debbie Bell	<input checked="" type="radio"/> AYE	NAY	ABSTAIN	ABSENT
Edward H. Norden	<input checked="" type="radio"/> AYE	NAY	ABSTAIN	ABSENT
Michael J. Stiehl	<input checked="" type="radio"/> AYE	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: 4-12-11

Edward H. Norden  
Chairman

Attest: Valerie Moore  
Clerk