

ELEVENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on April 25, 2006, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Michael Stiehl called the meeting to order at 9:30 A.M.

Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Absent

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

The Morning Prayer was given by Reverend William Carson from First Christian Church.

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

APPROVAL OF AGENDA

Commissioner Norden stated he had changes to make to the Agenda. The item under Old Business (The 23rd Amendment to Zoning Resolution) was announced as a continuation of the Public Hearing from March 28th. They announced last week that Public Hearing would be resumed at 10:00 A.M. That item should be reflected as a Public Hearing at 10:00 A.M. Commissioner Norden stated that they had been advised by the Assessor’s Office to pull Item 3 under New Business, the Petition for Abatement. They need to change Item 2. (National Volunteer Week) to Item 3 and make Item 2 Imposition of a Fire Ban Resolution. Item 4 to change the spelling of Kelly Ann McHugh to Kerry Ann McHugh. **Commissioner Norden** moved to approve the Agenda with those changes. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

CONSENT AGENDA

Commissioner Lasha moved to approve the Consent Agenda:

1. Approval of Minutes April 11, 2006
2. Approval of Bills, April 25, 2006/\$603,416.20
3. LIQUOR LICENSES
 - MERLINOS INC
 - MERLINOS BELVEDERE
 - 1330 ELM
 - CAÑON CITY, CO 81212-4477
 - HOTEL & RESTAURANT LIQUOR LICENSE RENEWAL – MALT, VINOUS AND SPIRITUOUS

 - WHITEWATER BAR & GRILL INC
 - WHITEWATER BAR & GRILL
 - 45045 HWY 50 WEST
 - CAÑON CITY, CO 81212
 - HOTEL & RESTAURANT LIQUOR LICENSE RENEWAL – MALT, VINOUS AND SPIRITUOUS

 - BUSCH LIQUORS
 - TRANSFER OF OWNERSHIP
 - 3565 E. US HWY 50

SWISSVALE, CO 81201
RETAIL LIQUOR STORE LICENSE

4. Adoption of Resolution #30, Series of 2006, file #SRU 06-001 Upper Beaver Creek Rural Fire Protection Association.

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Commissioner Norden reported that Phantom Canyon Road (County Road 67) was closed to through traffic at 8:00 A.M. Monday so that Reynolds Construction could begin the work on the bridge just south of the Fremont, Teller County line. They hope to have that road reopened as soon as possible. They have been told that construction will begin on May 8th at the C-4 Dam just below Shadow Hills Golf Course, with an expectation that it would be done in early July. They have received a public notice from the EPA for proposed administrative penalty assessment and a public opportunity to comment on the Clean Water Act complaint. This deals with the incident in 2005 with an oil spill in the irrigation ditch in the matter of Fremont Paving & Ready-Mix. They are proposing a penalty of \$37,890 and proposed supplemental environmental project of \$75,000. He stated he assumed the media would be publishing the address of the Regional Hearing Clerk in Denver if anyone wants to comment about the proposed penalty assessment.

Commissioner Lasha stated that he had attended the Soil Conservation Banquet Friday night. J.R. Phillips, Fremont County Weed Coordinator, was not there but he received quite a few kudos for the job he is doing.

2. Citizens Not Scheduled:

Richard Kelly, Cotopaxi Resident, stated that on November 8, 2005 he was granted a change from Agriculture-Estates to Business, Kelly Zone Change ZC 05-003. Now that a lot of the regulations are going to change, he asked for clarification.

Commissioner Norden stated that they had discussed this in the workshop review, and it is the feeling of the Board that the application was approved prior to any possible changes in the 23rd Zoning Amendment as well as the Subdivision Regulations. What was approved in November 2005 would not be impacted.

NEW BUSINESS:

VARIANCE REQUEST FOR THE DAVID STROM RESIDENCE, 725 MACKENZIE AVENUE, CAÑON CITY, CO.

David Strom stated that he had an old septic system that works fine. He stated he intended to put in a more compliant septic system. The main trunk line runs down the front of his property on MacKenzie. When he applied for a septic permit, it was denied due to the regulation that the sewer line was within 400 feet. One of the problems with hooking onto this main trunk line, is that he has to hook onto the manhole. This is ten feet deep, and would require boring into the manhole and requires a special company to do that. This would probably cost about \$10,000 to hook onto the sewer system. He stated he was requesting a variance to install an updated septic system.

Dan Brixey, Fremont County Environmental Health Technician, stated that when this was written, it was established so they would extend the sewer district boundary lines piecemeal if they were within 400 feet. Mr. Strom is outside the Sanitation District

boundaries. He has to come before the Board of Health to request a variance. The current system is not in failure, so they cannot force him to replace his septic system.

Commissioner Norden stated that with the Commissioners sitting as the Fremont County Board of Health, moved to grant the appeal and direct the Environmental Health Technician to consider the application for a new septic system for Dave and Sally Strom at 725 MacKenzie Avenue. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

RESOLUTION #31/IMPOSITION OF FIRE BAN

Jim Beicker, Fremont County Sheriff, stated he was requesting the Board to impose the County fire ban. He stated that in communicating with the Cañon City Fire Chief, other Fire Districts, fellow Sheriffs and landowners regarding dry conditions, they are erring on the side of safety and request the ban.

Bill Guindon, Cañon City Fire Chief, stated that the ground is so dry and the wind conditions have been unusual. He stated there was an Ordinance before the Board today that would allow them to go to a progressive stage based on the conditions. They consider it a user-friendly concept that allows people to do some recreational burning rather than go into an immediate restriction.

Commissioner Lasha moved to approve **Resolution #31** Imposing a Fire Ban for Fremont County. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried, and carried the adoption of **Resolution #31**.

NATIONAL VOLUNTEER WEEK PRESENTATION

Verla Noakes, CSU Extension Office, stated that the 4-H Program relies heavily on volunteers. They have compiled the National average of their volunteers as ten hours a month. In the last year the Fremont County 4-H Program has had more than 100 volunteers. At the National rating of what they consider a volunteer hour being worth of \$18.04 an hour times 120,000 hours, she stated she would like to present a check in the amount \$216,480.00 from the Fremont County 4-H Program and their volunteers. The check was a representation of what their program is worth.

PUBLIC HEARING

**REQUEST: 23RD AMENDMENT TO ZONING RESOLUTION – CONTINUED
FROM THE APRIL 11, 2006 WITH BOCC AMENDMENTS
APRIL 25, 2006 10:00 A.M.**

Commissioner Stiehl stated they had received very good and well-presented comments at the previous Board meeting. They have had extensive workshop time redrafting, and they are at Draft #2 of the Proposed Zoning Resolution. He asked Bill Giordano to summarize the changes.

Bill Giordano, Planning & Zoning Director, stated that on Page 5, Agricultural-Forestry Zone District on Temporary Uses, they added athletic events, concerts, flea markets, and public recreation events. In the Agriculture-Estates, under the orchard and vineyard, they had a minimum requirement of 4.5 acres. The Board has asked that there be no limitation. Orchard and vineyard will both be permitted uses in the Ag-Estates Zone District and Ag-Suburban Zone District. In the neighborhood business under roadside stands, they had it limited to 90 days. The Board has asked to change that for the duration of the growing season. Page 17 is the zone change portion of the regulations. Under the traffic study, one of the things they added “the analysis shall address how the increased traffic will change the level of required maintenance and make recommendations addressing potential impacts to the maintenance requirements for the County”. That was added into the Subdivision Regulations, the Conditional Use Permit, Zone Change and the Site

Development Plan. They have added additional notifications into the regulations. In regard to posting, they have added language. In the Site Development Plan, that has been changed from Project Development Plan and Site Plan is changed to Site Drawing. Under the Temporary Use Permits for spectator events, they have added “emergency service operation plan addressing what emergency services are proposed for the event and shall include any agreements with appropriate agencies or companies”. They have added “The Board shall have the right to obtain professional review at the applicant’s expense for any aspect of the proposed event as deemed necessary by the Board.” Under Additional Considerations related to the Temporary Use Permits, there is an addition on studies, comments, and referrals to agencies.

Commissioner Stiehl stated that this was their second draft, and the comments they have received have been very helpful. They will again today note questions and comments and will take them under consideration. He asked for anyone wishing to speak for or against this issue to come forward.

Lena Dice read a letter prepared by **Edith and Richard Bunch, Elm Avenue Residents**. The letter was speaking against the 4.5 acres requirement for orchards. Their orchard has been in the family since 1938, and they have 125 trees in peaches, apples, plums and pears. This farm was their livelihood and allowed their parents to send three daughters through college.

Commissioner Stiehl stated that this letter was very well written, and would like to see a copy given to the local history center.

Jim Ensley, Illinois Avenue Resident, stated he had missed the first part of the meeting, and asked for a clarification on the Ag-Suburban, in particular whether orchards and vineyards would be allowed. He wanted to add that he thought the helter-skelter development of the agricultural land in this area needed to be stopped or slowed seriously down. Once you plant houses, you don’t get it back.

Commissioner Stiehl closed the Public Hearing and returned to the Regular Meeting.

Commissioner Lasha stated that even with the minor changes in the language and other changes, he would like to see the final draft as proposed.

Commissioner Norden stated they had discussed this in at least two workshop settings as a Board with the staff and had received some additional written comments. On the Site Development Plans, they inserted the word “substantial” in regard to change of use from one business or industrial use to another or expansion or enlargement of an existing business or industrial use.

Commissioner Lasha stated he would like to compliment Bill and his staff with this process. He stated he would like to see the final document and put it on the agenda for the next meeting and table this issue on the 23rd Amendment until they get the document for final action. He stated he would make that in the form of a motion for the May 9th meeting. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

NEW BUSINESS (CONTINUED)

CONSIDERATION OF APPOINTMENT OF KERRY ANN MCHUGH TO FILL A VACANCY ON FREMONT COUNTY TOURISM COUNCIL

Commissioner Norden stated that in early March they appointed Lisa Farris to the Tourism Council. She felt she could not make the time commitment, and submitted her resignation. That original seat that was held by Sandy Roberts is open again. **Commissioner Norden** made the motion to appoint Kerry Ann McHugh to fill the

vacancy on the Tourism Council. He stated she works with the Royal Gorge Railroad, and her appointment would run through January of next year. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

CAÑON INN & INVESTMENT LLC/QUALITY INN & SUITES – LIQUOR LICENSE RENEWAL

Sharon Kendall, Deputy Clerk, reported that the Cañon Inn and the next item for Penrose Plaza Liquor both filed their renewal applications late. If the Board approves their renewals, it would require a waiver of the 45-day requirement. **Commissioner Norden** moved to approve to waive the 45-day requirement for the Cañon Inn/Quality Inn for the renewal of Hotel & Restaurant liquor license. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

PENROSE PLAZA LIQUOR – RETAIL LIQUOR STORE LICENSE RENEWAL

Commissioner Stiehl stated this was the same situation as Cañon Inn in that they filed their application late. He stated he also understood that this licensee had two violations.

Sheriff Beicker stated that his office was made aware of the violations by the State inspectors. He stated they had not been actively doing any undercover work because of manpower issues. When they become aware of any problems, they have requested that the State come in do the inspections. He stated he might come before the Board when they do have problems with an establishment, so they recognize them. In most cases, the State lets his office know when they are coming to town. They want to know that there are officers available for assistance. He stated he felt they needed a stronger presence with the license renewal process and had the State come and do some training to do on-site inspections for the County.

Commissioner Norden read an article from the Daily Record regarding the City liquor violations as well as the one for Penrose Plaza Liquor. “Penrose Plaza Liquor is also involved in it’s second violations, State Investigator, Ken Peterson said, but because of substantial mitigating factors, is only serving a two-day suspension with ten more days held in abeyance should the establishment become a three-time violator”.

Brenda Jackson, Fremont County Attorney, stated they could set a show-cause hearing upon renewal should the Board choose. It has been discussed in the past whether the County wants to have a liquor code like the City does. The City has regular liquor licensing hearings once a month, but the County has never done that although they have the authority.

Commissioner Lasha suggested that perhaps a meeting could be set up with the State, the Sheriff’s Office, the Commissioners and the Clerk’s Office. **Commissioner Lasha** moved to waive the 45-day requirement and approve the renewal for Penrose Plaza Liquor. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

FIRST READING OF AN ORDINANCE RESTRICTING OPEN FIRES AND OPEN BURNING IN UNINCORPORATED AREAS OF FREMONT COUNTY

Brenda Jackson requested that this item be moved to the last since the entire Ordinance will have to be read.

REQUEST FOR EXTENSION: FP 05-002 MAPLE LEAF ESTATES FILING NO. 3

Mary Ann LeBlanc stated she was requesting more time to comply with the contingencies. There were nine and five of those related to the fire hydrants. The one with the most time would be the culverts.

Bill Giordano stated that this did expire on April 12th, but Mary Ann had been in contact with his office prior to that. If the Board grants the extension, they would be backdating the approval. Park Center has done some research and discovered that Park Center did dig up one of the fire hydrants, and he was prepared to replace it. Mr. Giordano did request documentation because it will affect the contingencies because instead of two hydrants, it would be one.

Commissioner Norden moved to grant a six-month extension for the final plat deficiencies for Maple Leaf Estates Filing No. 3 from April 12th. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

REQUEST: TUP 06-010 CAÑON CITY MUSIC & BLOSSOM FESTIVAL

Robert DiRito, Cañon City Music & Blossom Festival, Inc., stated that the carnival has always been a part of the Blossom Festival. They are a brand new board and were not aware until very late what they needed to do.

Sheriff Beicker stated that for the past several years, the Sheriff's Office has provided the on-site security for the carnival. This Company is great to work with and very accommodating. There have been very few problems involved with the carnival.

Commissioner Lasha moved to approve TUP 06-010 Cañon City Music & Blossom Festival Carnival, waiving the application fee, waiving the clean up fee and acceptance of the liability insurance. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

RESOLUTION #32/REQUEST: SHV 06-001 NORTHWEST FREMONT EMS

Ida Zanmiller, Northwest Fremont EMS, Inc. stating they were requesting a variance of the subdivision regulations to allow for the creation of a 4.02 acre out lot for a building to house the ambulances. Century Land Company LLC, the developers of Canyon Springs Ranch, donated that parcel which was carved out of a 39.03 parcel (Lot 76). They are subject to approval by the Board of Zoning Adjustment to allow that 4.02 parcel in an area that has a 35-acre requirements, and to enter into a Memorandum of Understanding with the Tallahassee Rural Fire Protection and approval by the Board for a Special Use Permit. They have approval by BOZA and both boards has approved the first Memorandum of Understanding and signed. They are also asking for a waiver of the fee for granting the variance.

Bill Giordano stated this was the second stage of a three-stage project. The Board of Zoning Adjustment allowed the lot size. This is to allow the creation of the lot. If the Board approves this action today, you are waiving the requirement of a minor subdivision. The third phase would be to approve the Special Review for the emergency services. They do have the statement on the plat that it can only be used for emergency services. This will require a resolution to be prepared for the next meeting. SHV is a Subdivision Hardship Variance.

Ray Southard, Fremont County Emergency Services Manager, stated that the work Northwest Fremont EMS is doing is much needed. They are making strides every year, and it is a good thing to have them there.

Commissioner Norden commended both Northwest EMS and Tallahassee Fire for coming up with the Memorandum of Understanding. He thanked Bill and particularly Marshall Butler for his time on this project. **Commissioner Norden** moved to approve SHV 06-001 Northwest Fremont EMS to allow for the creation of 4.202 acre out lot which would then allow them waiving a regular minor and major subdivision application requirements and allow them to proceed them to Special Review Use permit application, and waive the \$350 application fee, **Resolution #32**. The motion was seconded by

Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #32**.

FIRST READING OF AN ORDINANCE RESTRICTING OPEN FIRES AND OPEN BURNING IN THE UNINCORPORATED AREAS OF FREMONT COUNTY (MOVED FROM ITEM 7 TO LAST ITEM)

Sheriff Beicker stated that the fire ban has always been confusing. This is an attempt to get some consistency within the County. They know this affects people's lives and their livelihood and they try to be as responsible about it as they can. **Cañon City Fire Chief, Bill Guindon**, stated that this has been a work in progress for quite a few months. He thanked Brenda for her work on this. They are still going to have some education to do especially with campgrounds. They felt it was important to an approach that was education versus enforcement.

Brenda Jackson read Ordinance No. 2006-1 in its entirety. She stated this would now go to publication which must occur at least 14 days prior to final adoption.

Commissioner Norden moved to adopt Ordinance 2006-1 on First Reading. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Stiehl adjourned the meeting at 11:35 A.M.

County Clerk