

FOURTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 13, 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	Present

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

The Morning Prayer was given by Chaplain Hal Simmons from Hospital Chaplains Ministry of America.

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

APPROVAL OF AGENDA

Commissioner Norden moved to approve the Agenda. 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 May 23, 2006
2. Approval of Bills, June 13, 2006/\$1,474,010.05
3. LIQUOR LICENSES
4. Adoption of Resolution #40, Series of 2006, file #SRU 06-006 Aquila's Portland Electric Substation Replacement Tower.
5. Ratification and approval of assignment of resolution numbers:
 - Resolution #41: Mountain Vale Cemetery Correction Resolution (SRU 05-005)
 - Resolution #42: Fawn Hollow Transfer Station Correction Resolution (SRU 05-007)
 - Resolution #43: Cooper Pit Correction Resolution (CUP 06-002)
6. **SCHEDULE PUBLIC HEARING FOR JULY 11, 2006 AT 10:00 A.M.**

REQUEST: ZC 06-001 CROSSON ZONE CHANGE

Request approval of a **Zone Change from the Agricultural Estates Zone District to the Business Zone District, Department file #ZC 06-001 Crosson Zone Change**, by Michele Crosson for property which is *located approximately 1,400 feet south of The intersection of Fremont County Road #27A, aka Copper Gulch Road Color Sweet Drive, on the west side of County Road #27A, in the Colorado Acres Area.*

REQUEST: ZC 06-002 BAXTER ZONE CHANGE

Request approval of **Zone Change from Agricultural Farming & Ranching to Agricultural Suburban, Department file #ZC 06-002 Baxter Zone Change**, by Michael & Dorothy Baxter, for property which is *located on the southeast side of County Road #47, six hundred and seventy-five (675) feet from the intersection of US Highway 50 and County Road #47, in the Howard Area.*

REQUEST: SRU 06-007 NORTHWEST FREMONT EMERGENCY MEDICAL SERVICES CENTER

Request for approval of a **Special Review Use Permit for the operation of an emergency medical services center (Fire and/or Police Station)** by Northwest Fremont EMS, Inc., for their property which is *located at the southeast corner of Fremont County Road #2 (aka Tallahassee Road) and Chris Crossover.*

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

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report for the month of May and stated that the revenues earned were \$711,496.96, which was down by \$42,635.51 from a year ago. The sales tax collected was \$72,583.72, which was down over a year ago by \$26,656.12. Money collected for distribution among the entities was \$410,722.15, and that was down \$4,506.51 from a year ago. **Commissioner Lasha** moved to approve the Clerk's Report for May. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Lasha reported that they had attended the CCI Conference in Keystone for three days. There were a lot of interesting issues regarding jails with construction and under-staffing. The Attorney General commented that they were going to increase drug issues and identity theft, and there was government money to fund those. He stated that was more pressure coming to the counties and the jails.

Commissioner Norden stated that the annual Orchard of Hope Walk took in about \$120,000. He stated he also took part in the Red Canyon Century Ride, which was a benefit for Sangre deCristo Hospice. They had 168 participants. There will be 2000 cyclists coming to Cañon City on the final day of the Annual Denver Post Ride the Rockies on Friday June 23rd. Volunteers are still needed to work on that Friday.

2. Citizens Not Scheduled: There were none.

NEW BUSINESS:

RECOGNITION OF JEANINE ORMANDY FOR RETIREMENT AFTER 25 YEARS.

Clarice Little, Fremont County Nursing Service, stated that Jeanine had been there since 1981, and became the Office Manager in 1985, and she was the glue that kept everything together.

Jeanine Ormandy stated she had enjoyed working for the County, and appreciated all the help she has received. **Commissioner Stiehl** read several evaluation comments for Jeanine. She was presented with a Fremont County globe by the Commissioners.

TOM ANDERSON/APPROVAL OF AMBULANCE SERVICE LICENSES

Tom Anderson stated that all ambulances in Fremont County have been inspected, and they have all met the minimum requirements. **Commissioner Stiehl** stated that those licenses are for American Medical Response, Florence Volunteer Fire Department, Penrose Volunteer Fire Department, North Western Fremont EMS and Arkansas Valley Ambulance. **Commissioner Norden** moved to accept the report of Tom Anderson on the annual ambulance inspections. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

AWARD BID BRIDGE REPLACEMENT, NO. FRCO 95-205A

Dana Angel, Fremont County Finance Director, stated that this bridge was south of Florence. They advertised for bids and received three bids on June 1st and were opened and read aloud on that date. TLM Construction's bid was \$446,103.25, Tezak Heavy Equipment's bid was \$507,424.52 and Reynold's Construction was \$339,161.19. He stated they had received an 80% federal grant from CDOT to help fund this project. He recommended that the bid be award to the low bidder, Reynolds Construction for \$339,161.19 in conjunction with CDOT's recommendation. **Commissioner Lasha** moved to award the bid to Reynolds Construction for FRCO 95-205A for \$339,161.19. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

REQUEST: TUP 06-014 ROCKY MOUNTAIN ELK FOUNDATION BANQUET

Larry Slate, Chairman, Rocky Mountain Elk Foundation, stated they were going to have an auction to raise money for the elk habitat. They had 417 people in attendance last year.

Bill Giordano, Planning & Zoning Director, stated that the applicant was asking for a waiver of the application fee and waiver of the cleanup fee. Acceptance of the liability insurance will be needed. Their insurance policy expires on July 1st, so approval will be contingent upon receiving a new policy. The Fire Department has assured that they will do the inspections prior to the event. **Commissioner Lasha** moved to approve TUP 06-014 Rocky Mountain Elk Foundation Banquet for August 12th with waiving the application fee and the cleanup fee. There is also a stipulation that they need to provide an executed insurance policy. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

PUBLIC HEARING

REQUEST: CUP 06-002 ROCKBOTTOM GRAVEL PIT

JUNE 13, 2006 10:00 A.M.

RESOLUTION #44

Joe Gagliano, LJ Development, Inc., stated they were requesting Conditional Use Permit for the Rockbottom Pit on County Road 143, Oak Grade Sand & Gravel Pit which was formerly a County pit. It is now being changed over to a private pit. The permit that the County had with the State Division of Minerals & Geology is the same. They are asking for the Conditional Use to operate the pit. The operation will be very similar to the way the County ran it, with one exception. They are asking for two and a half more trucks a day hauling out of the pit. The County's permit had ten trucks. This pit will not be a high volume pit and will be used for road gravel in the area. The crushing and screening will not be on an on-going basis, it will be custom crushed or contracted out. He stated he had requested permission to blast four times per year, and that is the maximum. He stated he had received a letter from Road Foreman, Oscar Lee, asking for a cattle guard consideration. Mr. Gagliano stated he had received a price from Big R for \$6824 delivered. If this is approved, they would like to share that cost and Oscar Lee will install it.

Bill Giordano stated that the property has been posted, the publication has been completed and property owners notified. At the Planning Commission meeting on May 2nd, they recommended approval with Conditions A through Q. There are two things that have come up since the Planning Commission meeting. One is that they are asking for blasting, and that was not brought up or discussed at the Planning Commission meeting. The second one is that Oscar Lee had requested the cattle guard, and the Planning Commission was not aware of this one either. Under Q, since blasting is being considered and if it is incorporated, Mr. Giordano stated he thought it should be added to that list on Q that they do get a blasting permit or appropriate permits that are necessary. There were three contingencies, numbers 2 and 3 have been completed. They have requested a waiver

of the surfacing, lighting and landscaping. If this is approved, this will require a Resolution to be prepared for the next meeting.

Commissioner Stiehl asked for anyone wishing to speak for or against to come forward.

Gloria Stultz, County Road 143 Resident, stated she and her husband wished to voice their strongest opposition to this proposal. She stated her concerns were safety issues. Motorists go 40+ miles per hour and do not stay in their lane. She stated she also thought the maintenance of the road would skyrocket. If this is approved, they believe it would destroy their quality of life.

Parke Street, Westcliffe Resident, stated from their property, they could see the gravel pit. He read a letter of opposition from Jack Slater, Oak Creek Grade General Store Owner.

Lee Street, Westcliffe Resident, stated she agreed with the speakers before, and was concerned about safety. She stated she was concerned about the quality of air when blasting is involved.

Ann Harbison, County Road 277 Resident, stated she was concerned about safety issues. She requested that the road be improved, guard rails installed, take out hairpin turns, widen and pave the roads.

Kelly Carroll, County Road 143 Resident, stated he was concerned about the danger of the road as it is now and with increased truck traffic. He stated there were 28 turns that are blind turns.

Patricia Walsh, County Road 255 Resident, stated she lived less than 3 miles from the gravel pit. She stated that the gravel pit has not been in continuous commercial use. She stated she was concerned about the blasting shifting rock formations and affecting their wells.

Don Buck, Shoshone Drive Resident, stated he lived about a mile from the gravel pit. He asked who would monitor the number of trucks or how many times they blast? He stated this was not an industrial area, and did not want it to turn into an industrial area. He requested that this permit not be granted.

Kenneth Buck, Shoshone Drive Resident, stated his sentiments were much in line with everyone else. He stated that the 1500-foot requirement for notification of property owners did not cover when there are 35-acre lots. The maintenance of the road would greatly increase. He asked that the permit not be granted.

Dale Robinson, County Road 143 Resident, stated he had similar opinions with everyone else.

Marilyn Giles Robinson, County Road 143 Resident, stated she had concerns about safety and conditions of the road. She stated truck drivers were inconsiderate, and had concerns regarding blasting, noise and dirt. She asked who would monitor the number of loads?

Walter Elkins, County Road 143 Resident, stated he asked that the Board consider the vehicle weight restriction. The weight restriction signs should reflect an empty truck weight. He asked that there be consideration of the hours and number of days, and Saturday operations should not be allowed.

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

Commissioner Lasha made a motion to approve CUP 06-002 Rockbottom Gravel Pit with a limit of ten trucks, blasting only not a number of four or five, but blasting only by permit and limitations on that, operation hours of the pit would be 7:00 A.M. to 5:00 P.M., five days a week, nothing on Saturday, with the recommended conditions, changing Item I on the hours and Item G on the hours of operation, and one recommended contingency and waiver of surfacing, lighting and landscaping. The motion was seconded by Commissioner Norden. **Commissioner Stiehl** stated he thought they should require a cattle guard to be placed at the purchase expense of the applicant, but with installation by the County. He stated he thought they should scratch the 200 feet that was inserted into Item K. He stated he did not think load limits on the grade would be conducive either. He stated that to expand his comment, all gravel operations within the County, are governed as far as air and water quality by the Health Department. **Commissioner Stiehl** moved to amend the motion to include a cattle guard at applicant's expense to be installed by the County and omit the 200 foot restriction on responsibility of the applicant for potential future structure damage. The motion was seconded by Commissioner Lasha, and he stated he could accept that as a friendly amendment to the motion. **Commissioner Stiehl** stated it had been moved and seconded to approve CUP 06-002 Rockbottom Gravel Pit changing Condition G to hours of operation 7:00 A.M. to 5:00 P.M., Change Condition H to Monday through Friday. Change I to limiting it to 10 loads per day. Adding the requirement for a cattle guard to be installed purchased at the applicant's expense and to be installed by the County Road personnel. Eliminate the bold type in Item K. Blasting will be by permit only. This will be **Resolution #44**. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, nay. The motion carried, and carried the adoption of **Resolution #44**.

RECOMMENDED CONDITIONS

- A. The term of the Conditional Use Permit shall be for the life of the mine.
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations.
- C. Applicants shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. Applicants shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicant shall obtain and keep in effect all other permits required by any other governmental agency, and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Hours of mining and processing will be limited to 7:00 A.M. to 5:00 P.M.
- H. Days of operation will be limited to Monday through Friday.
- I. The number of haul truck trips shall not exceed 10 loads per day.
- J. The County shall retain the right to require mitigation of visual and wildlife impacts if such items are necessary in the future.
- K. The County shall retain the right to require assistance from the permittee in the maintenance of Fremont County Road #143 (*aka Oak Creek Grade Road*), to include road construction materials.
- L. The County shall retain the right to require the permittee to assist or provide application of dust suppressant on Fremont County Road #143 (*aka Oak Creek Grade Road*).
- M. If a conditional use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to, or does temporarily cease the conditional use for six (6) months

or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.

- N. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- O. Fremont County shall retain the right to modify any condition of the permit if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant, at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- P. Only the named party on the permit shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Conditional Use Permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.
- Q. Provide a copy of the permit or license or documentation from the listed entity that the following are not required prior to operation:
 - a. Colorado Division of Minerals & Geology Reclamation Permit in the name of Rockbottom LLC (The successor or operator is to Griffin Ranch LLC).
 - b. Colorado Department of Public Health and Environment Fugitive Dust Permit.
 - c. Colorado Department of Public Health and Environment APEN Permit.
 - d. Colorado Department of Public Health and Environment Storm Water Discharge Permit.
 - e. United States Department of Labor Mine Safety and Health Administration number.
 - f. Corps of Engineers 404 Permit.
- R. Cattle guard to be installed, purchased at applicant's expense and installed by County personnel.
- S. Blasting will be by permit only.

RECOMMENDED CONTINGENCIES:

It is recommended that this item be approved and referred to the Board of County Commissioners for scheduling of a public hearing provided the following contingencies are provided within six (6) months (*no extensions*) after final approval by the Board of County Commissioners:

1. An executed copy of the Operating Agreement, for forming Rockbottom, LLC, A Colorado Limited Liability Company.

WAIVED

Surfacing	5.3.2
Lighting	5.3.4
Landscaping	5.3.4

**PUBLIC HEARING
REQUEST: SRU 06-005 HONOR PAINTBALL SHOOTING FACILITY
JUNE 13, 2006 10:00 A.M.**

Matt Koch, Cornerstone Surveying, stated they were requesting a Special Review Use Permit for Honor Paintball Shooting Facility located north of Penrose in the Piñon Valley Subdivision. He stated that since they had submitted their application, they received a letter from Division of Wildlife stating that impacts to wildlife resource to be negligible. They are going to be supplying water through an installed five-gallon cooler on the site as well as portable toilets. He stated that verbally Sid Darden, Environmental Health Officer, did not have a problem with that. Mr. Koch introduced his client, Lee Fortson.

Lee Fortson stated that this would be a shooting park for the kids. They will access the park from Highway 1115 onto Olsen down to Tepley Trail. From the parking lot, they will go through an orientation. He stated a paintball would travel 180 feet before it falls to the ground. There will be a staging area with safety netting, there will be referees supervising all games. All paintballs are biodegradable, water soluble, and non-toxic.

Bill Giordano stated that the property has been posted, property owners within 1500 feet have been notified and publication has been completed. At the Planning Commission meeting on May 2nd, the Planning Commission approved this with 13 conditions. The Planning Commission amended Condition H to: Days of operation shall be limited to Saturday through Sunday, and weekends by appointment only. There were 11 contingencies. They are asking for waiver of surfacing, lighting and landscaping. The additional notification requirements have been completed. There is also a waiver request for a traffic impact analysis, and the Planning Commission did approve that waiver request.

Commissioner Stiehl asked for anyone wishing to speak for or against to come forward.

Barbara Beals, Bowie Road Resident, stated they were directly across the street from the paintball facility. She submitted a poster of pictures taken from her residence. She stated they moved to this area for the peace and quiet. They did not move there for the increased traffic, the depreciation value, to listen to war-like games on Saturday and Sunday. She stated they did not want this in their back yard.

Kile Hammel, Williamsburg Resident, stated he was a paintballer, and it was fun. He stated there wasn't much noise.

Shirley Kassebaum, Barnes Lane Resident, stated that this facility is about one half mile from her house. She stated she was definitely opposed to this facility.

Toyna Tingey, Florence Resident, stated she was representing her five boys and a daughter. She stated they were trying to promote a good activity for the kids. She agreed that Sunday would need to be a quiet day.

Sean Wyka, Tepley Trail Owner, stated there would be conflict. He stated this was a commercial venture in the middle of a residential zone.

Thomas Tingey, Florence Resident, stated he had been playing paintball for four years. He stated a paintball gun does not shoot like a rifle and does not follow a straight path. He stated this was a family sport and teaches teamwork.

Erik Tingey, Florence Resident, stated he agreed with Thomas.

Catherine Fox, Clover Avenue Resident, stated she agreed with Thomas.

Gary Shook, Tepley Trail Resident, stated that the staging area is right next to a horse pasture that he has. The horses have been in the area while they were practicing paintball, and the horses were not disturbed.

Larry Schneider, Tepley Trail Resident, stated he was concerned with the possibility of fires, the roads and the access. He stated he agreed with everyone who is against the paintball.

Craig Holmes, Bowie Road Resident, read a letter from a potential property buyer (Ray Springhower) that stated that the success of the paintball venture would sway their decision in buying the property. Mr. Holmes stated he was concerned about the blind curves.

Thomas Burke, Tepley Trail Resident, stated he was against the paintball commercial project on this property. He stated they were concerned about fire.

Kathleen Burke stated that Bradley Paterson and Sharon Yowell could not attend, but wanted their letter submitted. Commissioner Stiehl stated that their letters had been received and were a matter of record. Mrs. Burke also read a letter from **Norbie Larsen, Bowie Road Resident**, stating concerns regarding increased traffic and maintenance of the road. **Kathleen Burke** stated she did not want this facility in the middle of their residence. She stated that **Ron and Marie Halderson, Bowie Road Residents**, could not attend, but they are saying everything everyone else has said about the wildlife, the solitude and quality of life.

Ernest Valdez, Barnes Lane Resident, stated he agreed with everyone else who was opposed.

Roland DeVor, Tepley Trail Resident, stated he thought there would be an impact on the game in the area. The main opposition is their lifestyle, and not in the best interest of the property owners to have a facility there.

Bruce Bradley, Barnes Lane Resident, stated that his concerns were the same as everyone else, and to save their quality of life.

Michael Bradley, Barnes Lane Resident, stated that the paintballers would take a shot at anything they see.

Randall Jenkins, Tepley Trail Owner, stated he was concerned about the easements and the lowering of property values.

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

Commissioner Norden moved to deny the Honor Paintball Shooting Facility on two points. He stated it is not a private road, privately maintained and he would have a difficult time justifying the County placing commercial related traffic on a private road, as well as a commercial venture in the residential areas. He stated it was not anything about paintball, and he would probably have the same concern with any type of commercial recreation facility in this area given the circumstances that were presented today. The motion was seconded by Commissioner Lasha and stated his decision was based on information and not threats. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

NEW BUSINESS (CONTINUED)

REQUEST: SRU 98-02 C.A. ROBERTS MINI STORAGE FACILITY

Charles Roberts, Owner, stated he was present to answer any questions regarding his letter. The CDOT inspector had been there, and he requested and received a letter to enter into the record.

Bill Giordano stated that according to the letter, they are accepting the access as it is. Mr. Roberts is asking for a waiver of the requirement that was placed by the Board of County

Commissioners. Normally something coming off of a highway within a highway right-of-way is left up to the State Highway Department. The Commissioners elected at that time that something should be done. He stated he also wanted to note the waiver of requirement for vinyl privacy strips along the north and south lot lines. This was requested in the application originally. **Commissioner Lasha** made the motion to approve SRU 98-02 Roberts Mini Storage Facility with the waiver of asphalt and the fencing.

WAIVED:

- a. Surfacing of the entrance shall be paved a distance of twenty (20) feet, at a width of twenty-four (24) feet, prior to the commencement of the operation.
- b. Fencing, as per application, prior to final inspection of building permits.

Application noted: A six foot chain link fence will surround the property with vinyl slats installed to ensure better buffering of noise and dust.

The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, no. The motion carried.

Commissioner Stiehl adjourned the meeting at 1:00 P.M.

County Clerk