

### THIRTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 14, 2005, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

Larry Lasha	Commissioner	Present
Edward H. Norden	Commissioner	Present
Michael J. Stiehl	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 Stiehl** made the motion to approve the Agenda. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

#### **CONSENT AGENDA**

**Commissioner Stiehl** made the motion to approve the Consent Agenda:

1. Approval of Minutes May 24, 2005
2. Approval of Bills, June 14, 2005/\$1,219,207.52
3. Financial Statement – April 30, 2005
4. **SCHEDULE PUBLIC HEARING FOR JUNE 28<sup>TH</sup> 10:00 A.M.**  
RTA – Regional Transportation Authority – Representative Steve Berman

#### **SCHEDULE PUBLIC HEARING FOR JULY 12, 2005 AT 10:00 A.M.**

##### **REQUEST: SRU 05-002 CHILDREN OF THE SON (AMENDMENT)**

Request approval of an amendment to Special Review Use Permit, file #SRU 04-002, Children of the Son, which was granted to allow a Child Care Facility (children range in age from 5 to 12 years old), a summer camp, (recreational facility, rural) for 35 people (20 children & 15 staff), primarily from May 1 to September 1, by Children of the Son, a non profit Corporation. **The proposed request file #SRU 05-002 is a request for approval to allow the facility to be used on a year around basis. The facility will be used as a retreat and convention facility from September 2 to April 30 and as a summer camp from May 1 to September 1.** The property is located approximately 1/2 mile south of the intersection of Colorado State Highway #69 and County Road #28, aka Road Gulch, on the east and west side of Colorado State Highway #69, in the Texas Creek Area.

5. Liquor License  
Accounts Unlimited LLC  
Mr. C's Restaurant  
895 State Highway 115 N.  
Penrose, CO 81240  
Hotel and Restaurant Liquor License Renewal – Malt, Vinous and Spirituous

The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, 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. She stated that revenues earned was \$754,132.47, and that was up \$137,781.36 over a year ago. The sales tax received was \$99,239.84, and that was up \$35,930.22 over a year ago. The total amount submitted to the Treasurer to be distributed among the entities was \$415,228.66, and that was up \$63,100.06. **Commissioner Norden** moved to accept the Clerk's Report for May. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**Commissioner Norden** stated that the Board of Commissioners wanted to extend their word of quick recovery to Building Inspector, M. J. Hasenauer, who was involved in a traffic accident last Thursday on County Road 3. Mr. Hasenauer was taken to the Emergency Room, treated and released.

**Commissioner Lasha** stated that they walked in the Orchard of Hope Walk Saturday and wanted to compliment the organizers and what they do for the community.

#### 2. Citizens Not Scheduled: There were none.

### NEW BUSINESS

#### RESOLUTION #26 – PETITION FOR ABATEMENT OF 2004 TAXES IN THE AMOUNT OF \$1,209.79 SCH #190-03-290 FLOYD E. & FRANCES M. KERN

**Commissioner Lasha** stated that it appears they had an incorrect use, no commercial from a 29% to 7.9% on the assessment ratio. **Commissioner Norden** moved to approve the petition for abatement of 2004 taxes for Floyd and Frances Kern for their property at 1301 N. 15<sup>th</sup> Street, Cañon City, **Resolution #26**. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried and carried with it the adoption of **Resolution #26**.

#### SPECIAL EVENTS PERMIT – ORCHARD OF HOPE FOUNDATION

**Mr. Bud Allen, Orchard of Hope Foundation**, stated that this was a fund raiser for the 501-3c's, such as Adult Literacy and Manna House. This is for a concert at the rodeo grounds on July 9<sup>th</sup>. They will have three bands, with the music starting at 5:30, gates will open at 4:00 P.M., and end by 11:30 P.M. They submitted the poster as proof of posting. There will be no alcohol served outside the arena area, and there will be approximately 18 security guards around the area. **Commissioner Norden** moved to approve a Special Events Permit for the Orchard of Hope Foundation for their July 9<sup>th</sup> concert at the Jack Merris Arena. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

#### PLANNING AND ZONING CODE ENFORCEMENT QUARTERLY REPORT

**Robert Sapp, Planning & Zoning Code Enforcement**, stated he was presenting the quarterly report for January through May. He stated they had 79 cases that they actually investigated and 39 of those had come to some closure. They have 13% of their cases with the County Attorney. He noted that without the assistance of the County Attorney and the community, they would not have achieved what they have. From last year to this year, they are up 18% in the total number of cases, up 4% in compliances and up 2% with the number of cases that the County Attorney has brought to some kind of closure. Mr.

Sapp presented before and after pictures of property that had been two-thirds completed. He stated they hoped to complete this project within the next ten to fifteen days. They are getting more and more calls from citizens asking what they can do to assist.

**Commissioner Lasha** stated they were in Deer Mountain and was very pleased with the comments they received in reference to code enforcement. There were a lot of people who stepped up and offered some assistance.

**Mr. Sapp** stated they were currently looking at a program in which citizens would be involved with code enforcement as the eyes and ears. They would teach them what to do and how to notify them.

**Commissioner Stiehl** moved to accept the Quarterly Report from Planning & Zoning Code Enforcement. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

#### **REQUEST: FP 05-003 BONDURANT SUBDIVISION**

**Matt Koch, Cornerstone Land Surveying**, stated they were requesting approval for the final plat of Bondurant Subdivision. He stated they had finalized the majority of the contingencies. They have revised the plat, and have made corrections to meet the County requirements.

**Bill Giordano, Planning & Zoning Director**, stated that he had proof of publication. He stated there were six contingency items. Item No. 3 states: all lots shall have a net acreage of at least 4.5 acres, excluding the street. Mr. Giordano stated that when they originally submitted this, the acreage of the street was included in the lots. Their regulations require a net acreage. He thanked Matt and his client because they graciously went ahead and changed it. He did move the line and it got corrected.

**Commissioner Stiehl** moved to approve the final plat of the 4-lot major subdivision, 05-003 Bondurant Subdivision with the remaining five contingencies, Item #3 has been achieved.

#### **RECOMMENDED CONTINGENCIES**

The following contingencies shall be submitted to the Planning Department prior to recording of the final plat and within twelve (12) months (*no extensions*) after final approval by the Board of County Commissioners:

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations (FCSR).
2. Title Commitment dated within thirty (30) days of recording of the final plat (*NOTE: This item may necessitate further requirements of the applicant, by the Department, prior to recording of the final plat*).
3. Documentation that requirements outlined in the letter dated November 3, 204, by the Office of the State Engineer; Division of Water Resources have been resolved.
4. A letter from design engineer that all drainage facilities have been completed as per approved design.
5. An executed quit claim deed restriction addressing maintenance of all drainage facilities, and private road easement.

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

#### **REQUEST: TRUE VALUE HARDWARE/PARKING AREA AND DRIVEWAY PARKING REQUIREMENTS**

**James J. Fontana, Jr., Owner**, stated that he understood it was a requirement that they have to pave a part in front of the store. The ground is moving, they have put about 5,000

tons of gravel, and it's still sinking. He stated it did not make sense to put the asphalt in now because it is just going to move. He stated he was requesting that they be allowed to wait 18-24 months to put more gravel in there and stabilize the ground. He submitted a report from the structural engineer that said this might occur. He stated that his goal was to eventually pave the whole thing.

**Commissioner Norden** made the motion to grant the request to extend until October 1, 2006, the paving requirement for the True Value property at 635 Shoop Drive at the Fremont County Airport. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

**PUBLIC HEARING**  
**REQUEST: 22<sup>ND</sup> AMENDMENT TO THE FREMONT COUNTY ZONING**  
**RESOLUTION**  
**JUNE 14, 2005 10:00 A.M.**  
**RESOLUTION #27**

**Bill Giordano** stated that the Amendment is basically two things-- how to handle shipping containers and two-family dwellings. He stated they had a request for a condominium project in the Cañon Creek Ranch, which was zoned low-density residence. They realized that two-family dwellings were allowed in the single-family, low-density residence zone district. The Board did place a moratorium that there be no two-family dwellings until they could look at the regulations. With the issue of shipping containers, they did a lot of research with a number of counties and most of the counties had not addressed this. Shipping containers have been used as cabins or offices, but the main use is storage. He stated they would allow the containers the same place as they do a railroad car or caboos and that is in the Ag-Farming & Ranching and the Ag-Forestry Zone Districts. This is as long as they are used for agricultural storage purposes. They do allow them in Industrial. They will not allow one that is used for storage to be used as the office. They do have to be set in conformance with setbacks. As far as the two-family dwelling, they prepared a pretty long list of what they thought were pros and cons. One of the issues that always comes up is having the mother-in-law house or the second house. If you had a two-family dwelling, you wouldn't need the guest house. There is nothing in the regulations that would prevent adding bedrooms or another kitchen to your building as long as it is all within the one building. The regulations stipulate that it is a guest house when they had it defined is that it didn't have kitchen facilities. They ended up having two dwellings on every lot which turned it into violation of their one primary use per parcel. It has been so difficult to enforce, that they decided that it probably shouldn't be allowed. They eliminated guest houses many years ago. When they dealt with this, they not only dealt with the issue of two-family dwellings, but with the issue of the guest houses. The Planning Commission did not recommend that they add guest houses to any other zone districts. They felt strongly that they eliminate the two-family dwellings in all the other zone districts where they did allow it. They felt that it increases the density in every zone. The only place that two-family dwellings would be allowed in this proposal, would be in the Medium-Density and High-Density.

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

**Pamela Thiessen, Dewey St. Resident**, asked how long has Low-Density allowed two-family dwellings? What kind of media publications did they use to let everyone know that these changes would be coming about? If you owned a property for a long time and there are changes, how can you change that and take that right away from the property owner?

**Bill Giordano** answered that the Amendment took place in 1999. **Commissioner Stiehl** stated that this was not specific to any particular subdivision, it was a zoning change. It was properly noticed in the Daily Record. **Brenda Jackson** stated that zoning was not a vested right. The Courts in Colorado have said that as Boards of Commissioners change,

and as communities change, the zoning necessarily is going to change. There is no assurance that if someone comes to look for a property today, that the zoning on that property, the zone district or the regulations within that district, are going to be the same five years from now. It will probably change as the needs of the community and the neighborhood changes. Zoning is a flexible thing based on how the community is changing.

**Commissioner Norden** stated he thought there was extensive publicity about the moratorium when they initially put that in place, when the Cañon Creek condominiums came to their attention. He stated he felt strongly that the previous Board was in error in 1999 when they allowed duplexes, particularly in the Low-Density Residential Zone.

**Commissioner Lasha** stated they did have a couple of building permits in process on duplexes during the time that the moratorium went on, and they were honored. He closed the Public Hearing and returned to the Regular Meeting.

**Commissioner Norden** stated he would like to further note Bill's comments to the Planning Commission on May 3<sup>rd</sup> in which he said the Department and the Planning Commission did not feel that two-family dwellings should be allowed in all residential zone districts back when the amendment was done. He stated he believed that those duplexes should not be permitted in Low-Density Residential Zones. We should have a specific zone class that provides for single-family residential. Commissioner Norden stated he thought the action is appropriate, and he appreciated the Planning Commission's and the Planning Department's work in looking at all of the zoning districts since they put the moratorium in effect.

**Commissioner Stiehl** stated he appreciated the work, and it was thoroughly researched and presented to the Planning Commission. He stated he was proud of their system that has been able to put together a consensus that he thought would be good going forward.

**Commissioner Stiehl** moved to approve the request for the 22<sup>nd</sup> Amendment to the Fremont County Zoning Resolution, which is **Resolution #27**. Commissioner Norden seconded the motion and stated that along with the formal resolution at the next meeting, will be appropriate action to end the moratorium. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried, and carried with it the adoption of **Resolution #27**.

**Commissioner Lasha** adjourned the meeting at 10:31 A.M.

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County Clerk