

June 14th, 2011

ELEVENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 14th, 2011, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Pro-Tem Michael J. Stiehl called the meeting to order at 9:30 A.M.

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

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

The Morning Prayer was given by Chaplain Kenneth Odom, the Chaplain at the Fremont County Jail.

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

Commissioner Stiehl noted that Commissioner Norden is on the site of the wildfire at the south edge of Fremont County with the Fire Marshall. However there will be a quorum with both of the other Commissioners in attendance.

APPROVAL OF AGENDA

Commissioner Bell moved to approve the agenda. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye. The motion carried.

CONSENT AGENDA

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

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

George Sugars gave his report of Sales and Use Tax for Fremont County through the month of May. Retail Sales Tax is up about 2% from last year. Auto Use Tax is up a little more than 1% over last year. The Construction Use Tax is down 60% from last year. Sugars explained this is due to some extra projects that were going on last year in the County. He noted the Construction Use Tax so far this year is similar to the same time frame for 2009. Overall the total Sales and Use Tax is down 4 1/2 % from last year. Sugars said it is about 1/3% down from the projected budget and he will keep a close watch on the figures. Commissioner Stiehl said even though we are down from last years revenue they had anticipated the drop when considering the 2011 budget.

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Commissioner Bell said the fire ban restrictions were removed at the May 26th Board of County Commissioners Meeting. She said the Sheriff had requested the fire ban be reinstated due to the lack of moisture and windy conditions. The Commissioners met in an emergency meeting at 4:00 P.M. on Thursday June 9th to reinstate the fire ban and allow the Sheriff to issue the stage level of the ban. It began as a stage one and has now been moved to a stage three fire ban, the most restrictive stage in Fremont County. This is due to the fire that began in Custer County and has now spread to Fremont County. Bell explained the restrictions which prohibit all outdoor flames and fires; no outdoor smoking; no use of outdoor machinery with an internal combustion engine; no outdoor welding or grinding; no below ground cooking; no agricultural burning; no burning of trash; no use of fireworks or explosives. She said you can find all of this information on line at the Fremont County website. Bell asked citizens to please obey the fire ban restrictions as it is for public safety.

Steve Morrissey, Emergency Management Director, updated the Board on the fire status. Morrissey said the Duckett Creek Fire started in Custer County and has spread to Fremont County. It has not been determined yet as to what started the fire. It has burned over 1700 acres and has zero containment. So far no structures have been burned and no injuries have been incurred. The fire is in heavy timber with very rough terrain. There are 40 structures in immediate threat and 200 more structures within range of the fire. The Eagle Peak Subdivision was evacuated at 5:00 P.M. on Monday. The Red Cross has set up a Shelter at the Cotopaxi High School. Another Shelter was set up in Westcliffe for the 200 people who were evacuated from the Lutheran Church Campground. As of yesterday there were 120 people at that shelter. A Type Two Regional Rocky Mountain team has now taken over the fire management. Morrissey has contacted the team but has not heard back from them as of this morning. He did talk to the PIO which is where he received this information. Commissioner Stiehl said this was a good update. He said the BLM has raised their fire ban stage to a level two. Stiehl has two concerns; one is the dry and windy conditions in our area; and the other is that all of our assets are committed elsewhere at other fires. If our local resources were not limited right now we would be able to hit fires more quickly. Stiehl stressed we need to be very careful right now.

Commissioner Stiehl mentioned that school is out and watch out for children. There are kids walking and bicycling everywhere.

2. Citizens Not Scheduled: None.

OLD BUSINESS

1. Adoption of resolution #24, Series of 2011, Special Review Use Permit Number SRU 09-004 Fremont Off Road Recreation Area.

Commissioner Stiehl said at the last meeting the Board had approved the request for the Fremont Off Road Recreation Area. Normally this would be an item under the consent agenda for today's meeting. In reviewing the resolution as it was drafted by the planning department it was not completely the same as what was presented. So it will be presented again today under old business.

Bill Giordano, Planning and Zoning Director, explained the only change made to the resolution was for the hours of operation. It was originally from 8:00 A.M. to 8:00 P.M. It is now from 8:00 A.M. to 8:00 P.M. or sunset, which ever is earliest. Bill had contacted Matt Koch yesterday and informed him of the change. Matt said he would contact the Harris's and inform them of the change. Matt believes it will not be a problem as the applicant had said he would not operate after dark. As of today Bill has not heard back from the applicant but does not expect any problems. County Attorney Jackson said if the applicant has a problem with the change, they can put it on another Commissioner meeting agenda.

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Commissioner Bell believes the original application asked for the hours of operation to be from sunrise till sunset. Commissioner Bell said the paperwork they received from the Planning Department did reflect what had been said at the last Board meeting however it did not reflect the intent of the Board of Commissioners. Commissioner Bell moved to adopt resolution #24, Series of 2011, Special Review Use Permit Number SRU 09-004 for Fremont Off Road Recreation Area with condition "I" to be changed to read: hours of operation be limited from the hours of 8:00 A.M. to 8:00 P.M. or sunset, which ever is earliest. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye. The motion carried. Resolution #24 is attached.

NEW BUSINESS

1. Catherin Irvine
Cat's Corner
411 Broadway
Penrose, CO 81240
Modification of Premise

Deputy Clerk Blauser said there was a slight remodel with moving a storage area and it had taken place years ago. It was done to add more storage space. When liquor enforcement was at the location they noticed the map they had on file with the state was slightly different then the premises. The applicant is just coming into compliance per the States request with this modification request. Commissioner Stiehl asked if this was a renewal as well. Blauser said it is only a modification request as they do not come up for renewal until August. Commissioner Stiehl said it is an interim modification request. Blauser confirmed it is. Commissioner Bell noted there was a letter in the file from Sheriff Beicker stating the new map does accurately reflect the changes that were made. Upon his inspection of the premise he found all licenses were posted properly and there are adequate security measures in place for the store. Commissioner Bell moved to approve the Modification of Premise Liquor Application for Cat's Corner. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye. The motion carried.

Chairman Pro-Tem Stiehl adjourned the meeting at 9:47 A.M.

Clerk and Recorder

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Commissioner Stiehl moved the adoption of the following Resolution:

RESOLUTION NO. 24
Series of 2011

RESOLUTION FOR SPECIAL REVIEW USE PERMIT
DEPARTMENT OF PLANNING AND ZONING FILE #SRU 09-004
FREMONT OFF ROAD RECREATION AREA

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, Stephen M. Harris and Lynette Harris, (hereafter "applicants") have made application for issuance of a Special Review Use Permit pursuant to 8.2 of the Zoning Resolution of Fremont County to allow for the operation of a Rural Recreation Facility to consist of an off road motorized recreation area that includes a free style training area, a peewee track, an intermediate track, and an ATV track, for the use of family members and friends only, on their property, which application has been designated as file #SRU 09-004 Fremont Off Road Recreation Area;

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its December 7, 2010 and April 5, 2011 regular meetings and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter "Department"), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within fifteen-hundred (1500) feet of the boundaries of the subject parcel and to appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on May 24, 2011, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

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WHEREAS, it appears that issuance of a Special Review Use Permit is appropriate;

NOW, THEREFORE, BE IT RESOLVED by the Board that:

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The procedural requirements of Section 8.2 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. 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.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
 - A. Special Review Use Permit shall be issued for a period of fifty years.
 - 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

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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. 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 of operation shall not be limited.
- I. Hours of operation shall be limited to the hours from 8:00 a.m. to 8:00 p.m., or sunset, whichever is earliest.

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- J. The permit holder will cease operation during high wind events that cause visible dust plumes to leave the property.
- K. One of the property owners (applicants), or their designated representative, shall be on premise at all times during the time the recreational use is taking place.
- L. The recreational use on the property shall be limited to no more than fifteen (15) off road vehicles, at any given time period.
- M. Any recreational uses or events which are to be open to the public (not just “family members and friends”) or that are in any way operated commercially shall be required to obtain a Temporary Use Permit, prior to the event.
- N. No recreational use track or off-road vehicle use shall be permitted within fifty (50) feet of the property’s boundary.
- O. All access to the property in association with the Rural Recreational Facility use shall be limited to one driveway on Fremont County Road #123.
- P. A dust suppressant shall be applied to the track areas, when necessary.
- Q. The applicant shall comply with the requirements of the Fremont County Environmental Health Office as per memo dated November 3, 2010 (prior to operation):
 - 1. Provide a contract and maintenance agreement for portable chemical toilets from a company that provides these services.
 - 2. Provide the Board of Health with a twelve-month review after the facility is in operation; the review will include information on the number of participants using the recreation facility for the first twelve month period.
 - 3. The Board of Health has the option of requiring a more permanent toilet facility in the future (such as a vault privy) if the continued use of portable chemical toilets is no longer adequate.
- R. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan (prior to operation).
- S. 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.

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T. Only the named party 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.

U. 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).

Commissioner Bell seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

Commissioner Stiehl: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Abstain / Absent

Commissioner Bell: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: June 14, 2011

W. Stiehl *Pro Tem*
CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: *Katie E. Barr*
FREMONT COUNTY CLERK AND RECORDER