

## TWELFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 26, 2007, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Edward H. Norden.

Edward H. Norden	Commissioner	Present
Larry Lasha	Commissioner	Present
Michael J. Stiehl	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 Kris Lang, Deputy Clerk.

**Commissioner Norden** read Psalm 121.

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

### APPROVAL OF AGENDA

**Commissioner Lasha** made the motion to approve the Agenda. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

### CONSENT AGENDA

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

1. Approval of Minutes June 12, 2007
2. Approval of Bills, June 26, 2007/\$1,359,511.49
3. Adoption of **Resolution #31**, Series of 2007, 25<sup>th</sup> Amendment to the Fremont County Zoning Resolution.
4. LIQUOR LICENSE / None

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

### ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

**Sid Darden, Environmental Health Officer** reported the Legislation House Bill No. 07-1329 was signed by Governor Ritter on May 30, 2007. The bill will become effective July 1, 2007. House Bill No. 1329 was unanimously supported by all local and regional health departments. The bill will impose a \$23.00 surcharge on new septic system permits. The surcharge will fund a full time position at the State Health Department. He said at this time the State Health Department has a 0.1 FTE (full time equivalent) dealing with issues related to septic systems and this will increase to 1.2 FTE. This increase will allow the evaluation, certification and development of policies for the application of new technology as well as review and update local and state regulations. He advised \$20.00 of the fee will be returned to Colorado Department of Public Health and Environment and the remaining \$3.00 will be retained by the local jurisdictions. **Commissioner Stiehl** remarked as the population grows in the rural areas of Fremont County requiring individual sewer systems there is a greater impact on ground water quality. He recognized the importance of local and state regulations. **Commissioner Norden** advised the surcharge would be formally considered in resolution form at the July 10, 2007 Board of County Commissioner Meeting.

**Commissioner Lasha** announced the CCI Conference in Summit County that he attended addressed transportation concerns of the localities, counties and municipalities.

**Commissioner Stiehl** stated Fremont County will offer plastic recycling on a limited basis. He advised presently the County invests between \$25,000 to \$30,000 yearly to provide recycling options to the citizens.

**Commissioner Norden** presented the poster advertising June as the Colorado Bike Month. He reported that Wednesday, June 27<sup>th</sup> is designated as bike-to-work day.

**Commissioner Norden** announced the grant assistance application submitted to the Great Outdoors Colorado Board for Pathfinder Park was not successful this grant cycle. He said they will seek re-application assistance for the next grant cycle. The intent of the grant funds is to develop a vault privy, bleachers and lighting at the new outdoor arena at Pathfinder Park.

2. Citizens Not Schedule / None

**OLD BUSINESS:**

**APPROVAL OF RESOLUTION #33 ADOPTING CONDITIONS AND CONTINGENCIES FOR A SPECIAL REVIEW USE PERMIT, FILE 07-001 CAPTAIN ZIPLINE ADVENTURE TOURS**

**Planning and Zoning Director, Bill Giordano** reviewed the proposed 22 Conditions and 4 Contingencies.

**Gene (Monte) Holmes, Owner of Captain Zipline Adventure Tours** stated he was in agreement with the majority of the Conditions and Contingencies. He addressed Condition L requiring liability insurance in the amount of two million dollars. Mr. Holmes advised extensive research revealed the maximum amount of liability insurance offered is one million dollars and submitted several insurance quotes of confirmation. He requested the amount required be revised to one million dollars. Mr. Holmes addressed Condition S prohibiting customer vehicle traffic on-site. He requested the Air Force Academy and Fort Carson be allowed to transport the cadets and soldiers in their military vehicles to the site escorted by Captain Zipline Adventure Tour vehicles and staff. He stated the required contingencies have been completed and thanked the Planning and Zoning Department for their assistance and guidance.

**Commissioner Norden** commented that Tom Doxey of the Fremont County Planning Commission observed activity at the site on Sunday, June 24<sup>th</sup> and asked if the operation was accommodating customers. Mr. Holmes responded that the activity involved was not customer based but a courtesy experience for long time friends and their families.

**Commissioner Norden** commented that his inquiry at Sunflower Insurance confirmed the one million dollar maximum amount offered for liability insurance. He remarked the Cañon City Recreation and Park District carries a one million dollar insurance policy on their ropes course which includes a zipline.

**Commissioner Lasha** asked Mr. Holmes if he knew what liability insurance amounts were required by the Air Force Academy and Fort Carson. Mr. Holmes replied he did not know at this time but would follow-up.

**Commissioner Stiehl** stated the number of clientele on-site at one time, the maximum per day along with the number of trips per day required specific language as part of the Conditions. Following a brief discussion **Commissioner Norden** advised Condition W would be added to the Conditions limiting the maximum number of people and trips allowed per day.

**Commissioner Stiehl** expressed concern regarding the additional traffic and the potential adverse affect on the roads as a result of the increased traffic. He read Condition U advising the applicant that the County retains the right to modify any condition of the permit if the actual use demonstrates that a condition of the permit is inadequate. This Condition would apply in the event of road deterioration.

**Commissioner Norden** stated Condition S would be revised to reflect the access of military vehicles. Mr. Holmes requested that access also be granted to church group vans. Following discussion it was agreed the access would be limited to military vehicles.

**Commissioner Stiehl** stated the emergency operation plan of Contingency No. 4 required specific coordinated dispatch procedures from the various responding agencies and proposed adding that language to the Contingency. Mr. Holmes responded that letters from the Chaffee and Fremont County EMS were submitted with the original application confirming their review and agreement of the proposed site operation response.

**Commissioner Lasha** stated after review of the insurance quotes submitted by Mr. Holmes and Commissioner Norden's inquiry findings that Condition L be revised to require one million dollar liability insurance for the proposed use subject to the recommendation of the County Attorney.

**Commissioner Stiehl** made a motion to approve **Resolution #33**, File SRU 07-001 Captain Zipline Adventure Tours modifying Condition L and S; adding Condition W. The motion was seconded by Commissioner Lasha. Commissioner Stiehl added the modification of Contingency 4. The amended motion was seconded by Commission Lasha.

**RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for the life of use.
- B. The Department of Planning and Zoning shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board of County Commissioners for their review as required by regulations.
- C. Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be consistent with other provisions of the permit.
- D. 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 adopted or 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 Permit 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 special review use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof and the plan for the resumption of the use. The requirement of notice of temporary cessation shall not apply to applicants who have included in their permit application 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 will not be limited.
- I. Hours of operation for tours will be limited to 8am to 6pm.
- J. Copies of any required Fremont County Building and Individual Sewage Disposal Permits shall be provided to the Department.
- K. Compliance with specified weed control plan dated June 8, 2007 and all subsequent updated plans.
- L. The applicant shall provide annually a copy of premises liability insurance in the amount of one million dollars for the proposed use and it shall be kept current as long as the business is in operation. The limits of liability may be adjusted by the Board based on a review of coverage no more frequently than every three (3) years.
- M. The applicant shall provide the Department with a copy of the yearly inspection of the anchors, cables and pole foundations, etc. by an independent inspection agency or government agency. Inspecting document shall have said inspection signed and sealed by a Registered Professional Engineer. Failure to correct deficiencies noted by the inspectors shall be cause operations to cease until remedies are in place and certified by the inspectors.
- N. The applicant shall keep and make available, at all times, a log of all customer attendance and customers instructed and trained to ride the zipline.
- O. All Captain Zipline personnel shall be trained in safe operations.
- P. Vehicle access shall be limited to the use of County Road #7 or County Road #45 to County Road #54 (right-of-way only) and private easement, to the site, as specified on the attached map.
- Q. If the applicant in the future constructs additional structures the installation of an appropriately sized cistern may be required by the fire department upon review of the proposal. If a cistern is required operator must obtain sufficient water to fill the cistern and to keep it full.
- R. No clientele or staff shall trespass on railroad property, ditch rights-of-way or on adjoining private property without written permission of owner(s).
- S. No customer vehicle traffic is permitted except for U.S. Military Vehicles under escort by Captain Zipline Adventure vehicles and staff. All other customers shall be transported to the site only by Captain Zipline drivers and vehicles.
- T. All required signage shall remain in place and shall be maintained through the duration of the operation.
- U. 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.
- V. 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.
- W. The maximum number of customers shall not exceed a total of ninety six (96) persons at any given time. No more than forty eight (48) customers shall be on-site at any given time whether they are paid or complimentary customers. In addition there shall be no more than four (4) vehicle trips per day.

**RECOMMENDED CONTINGENCIES:**

It is recommended that the following shall be required prior to recording and within six (6) months (no extensions) after final approval by the Board of County Commissioners:

1. An approved copy of a Colorado Division of Water Resources well permits for the specified proposed use.
2. Documentation evidencing compliance with the South Arkansas Fire Protection Districts request to install a lock box (Knox brand) or a Knox box on the gate to ensure emergency access during non-business hours.
3. Signs shall be posted within the property, at appropriate locations, that state that pedestrian traffic is not allowed off the property. (unless permission has been granted by owners of the property as noted in condition #18).
4. The applicant shall develop an emergency operation plan to include dispatch coordination which shall be submitted and approved by responsible emergency agencies.

**Commissioner Norden** addressed Mr. Holmes and emphasized the Board's commitment regarding vehicle road access to the site as noted in Condition P and stated the revised and attached map clearly indicates that access is exclusively on CR 54 as designated on the map. He stated trespassing on railroad property, ditch rights-of-way or on adjoining private property without written permission of the owner(s) will not be tolerated as noted in Condition R.

Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried with the Adoption of **Resolution #33**

**NEW BUSINESS:****APPOINTMENT TO THE FREMONT COUNTY TOURISM COUNCIL**

**Commissioner Norden** reported the Board of Commissioners interviewed four (4) applicants for the vacancy on the Fremont County Tourism Council. **Commissioner Lasha** made a motion to appoint Rudl Mergelman to the Tourism Council Board. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried. The Board of Commissioners thanked all the qualified applicants and encouraged them to resubmit their interest at a future date when vacancies became available.

**FINAL ADOPTION OF ORDINANCE NUMBER 2007-1, AMENDING ORDINANCE NUMBER 2006-1, RESTRICTING OPEN FIRES AND OPEN BURNING IN THE UNINCORPORATED AREAS OF FREMONT COUNTY.**

**Commissioner Norden** stated **County Attorney, Brenda Jackson** read Ordinance No. 2007-1 in its entirety at the June 12, 2007 BOCC Meeting. The text has not changed since the first reading, so a second reading is not required other than just the title.

**Commissioner Stiehl** moved to adopt Ordinance No. 2007-1 Amending Fire Ban Ordinance No. 2006-1. The motion was seconded by Commissioner Lasha. **Commissioner Lasha** stated on behalf of the Board of Commissioners and the Sheriff's Department citizens are encouraged to use good judgment in the use of fireworks this Fourth of July holiday. **Commissioner Norden** advised the adopted Ordinance only changes the language and should not be interpreted as a fire ban at this time. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

Commissioner Norden adjourned the meeting at 10:35 A.M.