

July 10, 2012

THIRTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on July 10th, 2012, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:30 A.M.

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

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

The Invocation was given by Pastor Tom Kilgore of the First Southern Baptist Church.

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

APPROVAL OF AGENDA

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

CONSENT AGENDA

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

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

- a. Pat McFarland, Fremont County Treasurer and Public Trustee:
Public Trustee's Quarterly Report
Treasurer's Semi-Annual Report

Pat McFarland presented the Board with the Public Trustee's Report for the first and second quarters of 2012. For the first quarter there were 453 Releases of Deeds of Trust. There were 65 foreclosures in the first quarter. Total fees collected during the first quarter were \$41,895.13 less expenses of \$12,914.20 for an income of \$28,980.93. During the second quarter there were 440 Releases of Deeds of Trust. Foreclosures in the second quarter were up to 86. Total fees collected for the second quarter were \$35,837.84 less expenses of \$12,809.66 for an income of \$23,028.18. The ending balance as of June 30, 2012 is \$67,360.45.

Pat McFarland presented the Board with the Treasurer's Semi-Annual Report for Fremont County. All of the accounts are in the positive so far this year with the exception of the Weed Department. Pat said the Treasurer's office has collected \$340,287.58 in total fees and commissions through June 30, 2012.

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Commissioner Norden moved to accept the Public Trustee's Quarterly Reports and the Treasurer's Semi-Annual Report. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

County Clerk Barr gave her report for June 2012. The total amount collected was \$824,837.58. The county kept \$389,173.78 which is 48% of the total collected. This is down \$64,940.04 from last year.

Commissioner Norden moved to accept the County Clerk's Report for June 2012. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

County Manager Sugars gave his report on Sales and Use Tax through June 2012. Total Sales and Use Tax is up 6.31% from June of last year. Retail Sales Tax is up 5.62% from last year. The Auto Use Tax is up 4.61% from a year ago. Construction Tax is up 26.84% from June of 2011.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

NEW BUSINESS

1. Consideration of a Single Family Owner Occupied Housing Rehabilitation Grant through the Upper Arkansas Area Council of Governments (UAACOG). Representative: Autumn Dever, UAACOG

Autumn Dever explained that UAACOG has been doing this grant since 1987. It serves five counties; Fremont, Custer, Chaffee, Teller and Lake. Dever is requesting that Fremont County sponsor the grant application and sign Inter Governmental Agreements with the other four Counties. In the past year 19 homes were rehabilitated. In order to qualify for the rehabilitation loan, homes must be owner occupied. The interest rate is between 1% and 3%.

Commissioner Stiehl moved to sponsor the Single family Owner Occupied Housing Rehabilitation Grant through UAACOG as resolution #26. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried. Resolution #26 is attached.

2. Health Care Policy and Financing, Single Entry Point Contract Amendment No. 3. Representative: Steve Clifton, Director, Department of Human Services.

Steve Clifton said Fremont County is the case management organization for Chaffee, Teller, Park, and Custer Counties. This program provides home services such as home health care, transportation, housekeeping and more to individuals who are disabled or need medical care. This is funded by a contract with the Colorado Medicaid program. This addendum will change the way the budget is done. It will allow an increase of \$8,100 to this year's budget as well. This extra money does not have to be matched by the county.

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Commissioner Norden moved to approve Amendment No. 3 to the Health Care Policy and Financing, Single Entry Point Contract between Fremont County and the State of Colorado Department of Health Care Policy and Financing.

Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

3. Susie's Out West Café & Steakhouse

Michael Scrivner
7528 US Hwy. 50
Howard, CO 81233
Beer and Wine License

Michael Scrivner said he operates a family restaurant but has had many requests from guests for beer or wine with their dinner. He does not want to run a bar. There is an outdoor dining area for guests during the summer. Michael did complete alcohol server training in Texas but has not completed Colorado liquor training yet. Any of his staff who handles alcohol sales will be required to attend the liquor class. The closest restaurant to his location that serves alcohol is in Salida.

Janice Yalch lives in Howard and said she was not aware a petition was available. She is concerned with the dangers of drinking and driving through the Bighorn Sheep Canyon. Janice asked the Commissioners to vote against this liquor license application. She suggested customers would have to purchase a meal in order to have one glass of wine or one beer with the meal.

Commissioner Norden asked Mr. Scrivner how important the serving of wine or beer would be to the continued success of his restaurant. Mr. Scrivner said it would have some impact as customers would go to Salida should they want a beer with their dinner. Norden explained the law states meals must be made available but it is not required a meal be purchased in order for alcohol to be served. Scrivner said the restaurant closes at 9:00 p.m. and meals are served until that time. Commissioner Norden said the Board is concerned with the fact the applicant has not completed liquor training in Colorado or held a liquor license in Colorado. Commissioner Stiehl said the applicant may need to attend liquor training offered by the state if it would be sooner than the local training in October. Deputy Clerk Blausen explained the Board can require Mr. Scrivner to attend the alcohol training in October. She said some of the alcohol vendors offer liquor training but it is normally in Pueblo or Colorado Springs. Blausen said the state is running about 30 to 60 days behind on new licenses and it is very likely the applicant will not even receive his license until September.

Commissioner Norden moved to approve the Beer and Wine Liquor License for Susie's Out West Café & Steakhouse stipulating Mr. Scrivner attend the next liquor training class offered by the City of Canon City or another liquor training class as soon as possible and provide proof of attendance to the County Clerk. Commissioner Stiehl seconded the motion. Commissioner Stiehl said he is not in favor of the liquor license and would rather see the applicant complete liquor training before the license is issued. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, nay; Commissioner Bell, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

1. Request: SRU 12-002 West Station to Portland Transmission Line Upgrade – Black Hills Energy. Request approval of a Special Review Use Permit, Department file #SRU 12-002 by Black Hills Energy to allow for four miles of a transmission line upgrade. Representative: Dave Atwood, Director of Operations for Black Hills Energy.

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Chairman Bell opened the Public Hearing at 10:03 a.m.

Dave Atwood said they are asking for a Special Review Use Permit for an 115,000 volt transmission line that will run from the west station switch yard in Pueblo to a switch station in Fremont County. The line will run through approximately six miles of Eastern Fremont County near Portland south of Highway 50. The first four miles run along an older existing power line. This section will have a second 115,000 volt line that runs parallel to the existing line. In the event one line breaks there would still be power available. The final two miles of line run through the Portland switch yard and will also be an 115,000 volt line. The project also runs 16 miles through Pueblo County for a total of 22 miles. They plan to complete the project by the end of October 2012. Commissioner Norden asked if an SRU would still be needed if the applicant was only replacing the existing lines. Planning and Zoning Director Giordano said the reason for the SRU request is because they are building new line not just replacing existing line. The applicant had to obtain 100 foot easements all the way through the project. Commissioner Stiehl asked if this additional line would still be needed if the Canon City Power Plant was not being closed down. Mr. Atwood said the additional lines would still be needed even if the Clark Power Plant was not shutting down. This provides reliability of service to the area in the event a transmission line is lost. The total project cost is \$12,000,000.

Planning and Zoning Director Giordano said the applicant did notify all property owners adjacent to the line. The property was posted and proof of publication was received. The Planning Commission did recommend unanimous approval of this application with the following Conditions A through L:

RECOMMENDED CONDITIONS:

- A. Special Review Use Permit shall be issued for the life of use.
- 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 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.

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- 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 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 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 and hours of operation shall not be limited.
- I. The 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, if required.
- J. 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.
- K. 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 Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- L. 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 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

The Planning Commission did recommend a waiver of the buffering and landscaping requirements and the surfacing, lighting and landscaping requirements of the parking area as there are no parking spaces.

Public Comments: None.

Chairman Bell closed the Public Hearing at 10:15 a.m.

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Commissioner Norden moved to approve SRU 12-002 for Black Hills Energy with Conditions A-L waiving the buffering and landscaping requirements, waiving the surfacing, lighting and landscaping requirements for the parking area as resolution #27. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

2. Request: SRU 12-003 Mutschelknaus (Chainsaw Carving – Carpenter Shop). Request approval of a Special Review Use Permit to allow Chainsaw Carving (Carpenter Shop), Department file #SRU 12-003 by Audrey Mutschelknaus. Representative: Matt Koch, Cornerstone Land Surveying, LLC.

Chairman Bell opened the Public Hearing at 10:17 a.m.

Matt Koch said the property is located north of Highway 50 west of County Road 3A near the entrance of the Royal Gorge Bridge. The property is 2.73 acres with an existing house, garage, barns and sheds. The applicant wants to be able to do the carvings at the front of the property to draw in customers. The Canon City Fire Protection District did recommend a fire protection cistern be installed. The cistern would cost anywhere from \$12,000 to \$22,000. This would be an extensive cost to the applicant. There are cisterns located near this property that could be utilized in the event of a fire. Planning and Zoning Director Giordano explained the Fire Protection District can only make the recommendation, the Board of County Commissioners have the authority to waive the cistern requirement. County Attorney Jackson said the requirement falls under the fire code.

Planning and Zoning Director Giordano said the notifications, posting and publication have been completed per the requirements. The Planning Commission unanimously approved the SRU request with the following recommended Conditions A-M and Contingencies 1-4:

RECOMMENDED CONDITIONS:

- A. Special Review Use Permit shall be issued for the life of use. *The applicant's justification for life of the use is that the property, etc. is owner occupied / owner cuts and sells the product.*
- 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 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.

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- 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 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 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 will be limited to 7 am to 7 pm.
- J. The 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, yearly.
- K. 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.
- L. Only the named party (**Audrey Mutschelknaus**) 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 Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- M. 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 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

RECOMMENDED CONTINGENCIES:

The approval recommendation is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

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1. Determine whether a fire protection cistern should be required as per recommendation from the Cañon City Fire Protection District. If a cistern is required, the applicant shall provide documentation as to acceptance of the installation of the cistern from the Cañon City Fire Protection District. *The Planning Commission recommended that a fire protection cistern NOT be required for this use.*
2. Documentation as to proof of access from the Colorado Department of Transportation.
3. Documentation from the Division of Water Resources that the existing well permit is transferred to the name of the existing owner.
4. Documentation as to compliance with the County Reviewing Engineer's recommendation, in his letter dated April 28, 2012 which is as follows:
 - a. About 400 square feet of gravel must be added to extend the southern four parking spaces.

The Planning Commission recommended waiving the buffering and landscaping requirements and waiving the surfacing, lighting, and landscaping requirements of the parking area.

Public Comments: None.

Chairman Bell closed the Public Hearing at 10:27 a.m.

Commissioner Norden moved to approve SRU 12-003 Mutschelknaus Chainsaw Carving and Carpenter Shop with Conditions A-M, Contingencies 2-4, deleting Contingency #1, waiving the buffering and landscaping requirements, and waiving the surfacing, lighting and landscaping requirements for the parking area as resolution #28. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

3. Request: SRU 12-004 Mercury Towers (Cotopaxi). Request approval of a Special Review Use Permit, Department file #SRU 12-004 by Mercury Towers, LLC for property which is owned by Cotopaxi Consolidated Schools, to allow for the installation of a 130 foot monopole. Representative: Aaron Gunn.

Chairman Bell opened the Public Hearing at 10:28 a.m.

Aaron Gunn said they are proposing a communications tower at the Cotopaxi School. A tower had been previously approved at this location for ALLTEL communications. Due to the merger of ALLTEL and Verizon they had to relinquish this site. Then AT&T tried to develop this site but merged with T-Mobile and had to put many of their site projects on hold. Mercury Towers derives revenue from tenants on the towers they own. The request is for a 130 foot monopole which can hold four other carriers. This would eliminate the need for other towers in this area. This is an effort to provide coverage along the Highway 50 corridor which is severely underserved. The first carrier for this site will be AT&T but Mercury Towers will market the site to various other carriers. There is approximately 2500 square feet available now for the construction of the transmitters. If more space is needed they will have to negotiate more leased space from the School. Planning and Zoning Director Giordano said this would be treated as a minor modification and a copy of the lease would be needed. Mr. Gunn said the Commissioners could choose the color of the monopole.

Planning and Zoning Director Giordano clarified the permit that was previously issued for this site expired as the conditions were not met within the required time frame.

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The property has been posted and the affidavit of publication has been received. All of the notifications were sent out according to regulation. The Planning Commission did recommend unanimous approval with Conditions A-N and Contingencies 1-4 as follows:

RECOMMENDED CONDITIONS:

- A. Special Review Use Permit shall be issued for a thirty (30) year term. *The applicant has requested life of the use; however, the lease is for an initial five year term with five additional five year terms with an option for additional terms.*
- 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 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 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 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 and hours of operation shall not be limited.

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- I. Documentation from the County Reviewing Engineer shall be provided to the Department, noting that the lower end of the new roadway near the cemetery has been constructed to divert flows from eroding the existing dirt roadway, **prior to operation**, as per his letter dated April 28, 2012.
- J. The 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, if required.
- K. The applicant / owner of the tower shall allow the tower to be used for co-locating purposes, if appropriate. If antenna collocation is proposed, appropriate process through the Department will be required.
- L. 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.
- M. 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 Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- N. 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 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

RECOMMENDED CONTINGENCIES:

The approval recommendation is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. The applicant shall provide the Department with a copy of the recorded lease between Mercury Towers, LLC and Cotopaxi Consolidated Schools for the 50' X 50' lease area, 10' X 25' turnaround and parking area and the proposed 20' access and utility easement.
2. The applicant shall provide the Department with a copy of an approved Fremont County Department of Transportation Driveway Access Permit prior to construction.
3. A report by a Colorado registered engineer demonstrating compliance with applicable structural standards and the general capacity of the proposed facility.

They also recommended granting the waiver requests for buffering and landscaping requirements as well as the surfacing, lighting, and landscaping requirements of the parking areas. The Planning Commission recommended that a fire protection cistern not be required for this use as the applicant agrees to install a fire suppression system inside the shelter. Commissioner Stiehl suggested the color choice for the monopole be deferred to the Cotopaxi School District.

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Public Comments:

James Burnham is the owner of Arkansas River KOA Campground and Loma Linda Motel in Cotopaxi. He loses money every day as his guests cannot get cell phone or internet service. His property is located about 1.5 miles east of the proposed tower site. James hopes this tower will provide the much needed cell phone service to this area and his customers.

John McCleary, Cotopaxi School District Superintendent sees this as a benefit for students and faculty. It will be safer for students, bus drivers, parents and residents. The School District will benefit financially from the lease agreement. McCleary said this is a win-win situation for everyone.

Chairman Bell closed the Public Hearing at 10:52 a.m.

Commissioner Norden moved to approve resolution #29, SRU 12-004 Mercury Towers with Conditions A-N, Contingencies 1-3, waiving the buffering and landscaping requirements, waiving the surfacing, lighting and landscaping requirements of the parking area, waiving the fire protection cistern and allowing the RE-3 School District designate the color choice. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

4. Contract for Purchase and Sale of Real Estate between the Board of County Commissioners for Fremont County and the Penrose Senior Citizens Club

County Attorney Jackson said the Penrose Senior Citizens Club has used this building for numerous years. They currently lease it from the county for one dollar per year. The Senior Citizens Club will be responsible for insurance and maintenance of the building. There are some deed restrictions: it must be used for a Senior Center for the next 10 years, it must be allowed to be used as an election polling place for 10 years, and it may not be transferred or conveyed for 10 years. The purchase price would be \$10,000 but can be paid by investing \$10,000 into improving and maintaining the building over the next 10 years.

Commissioner Bell moved to approve the contract for Purchase and Sale of Real Estate between the Board of County Commissioners for Fremont County and the Penrose Senior Citizens Club. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

5. Request: SRU 01-001 William Tezak Convenience Store Temporary Cessation. Request approval of a temporary cessation of Special Review Use Permit, Department file #SRU 01-001 for two additional years, which will expire on July 10, 2014. The existing SRU is for the operation of a Convenience Store to include a gasoline service station and a restaurant. The property is addressed as 105 Forge Road, which is located approximately 300 feet west of the intersection of Oak Creek Grade and Forge Road, on the north side of Forge Road, in the South Canon Area. The property contains 1.142 acres and is zoned Neighborhood Business. Representative: William Tezak, property owner.

William Tezak said the store has been closed for a few years. The property has been listed for sale. Mr. Tezak would like to keep the SRU in place so that the building could be reopened as a convenience store.

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Planning & Zoning Director Giordano said the department would recommend granting the two year cessation. The property is zoned neighborhood business and the SRU was originally needed because of the gas station and convenience store.

Commissioner Stiehl moved to approve a two year temporary cessation to end on July 10, 2014 for SRU 01-001 William Tezak Convenience Store. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

Chairman Bell adjourned the meeting at 11:04 A.M.

Clerk and Recorder

July 10, 2012



Board of County Commissioners Fremont County

615 Macon Ave., Room 105 - Cañon City, Colorado 81212
Phone: (719) 276-7300 - Fax: (719) 276-7304

RESOLUTION NO. 26, SERIES OF 2012

ATTACHMENT K

Date: June 25, 2012

WHEREAS, Fremont County has approved an application to the Colorado Department of Local Affairs/ Division of Housing for funds for Single Family Owner Occupied Housing Rehabilitation Program and

WHEREAS, Fremont County certifies by

Board Resolution Bylaws Policy Other: _____
(please attach backup documentation)

that the person named below has full signatory authority in regard to all contracts and corresponding documents associated with agreements entered into by Fremont County.

Debbie Bell
Name of Authorized Signatory

Chairman, Fremont County Board of Commissioners
Title

Debbie Bell
Signature

Furthermore, if applicable, this statement certifies and hereafter delegates Judy Lohnes, UAACOG Executive Director, an agent of Fremont County for the purpose of authorizing and signing:

<input checked="" type="checkbox"/>	Payment Requests
<input checked="" type="checkbox"/>	Quarterly Financial Status Reports
<input checked="" type="checkbox"/>	Quarterly Project Performance Reports
<input checked="" type="checkbox"/>	Monitoring Documents
<input type="checkbox"/>	Other

DOH Asset Manager will complete the following

The above designation will commence on the date of this statement and will apply for the duration of the Contract(s):

Contract Encumbrance Number or Reference
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