

July 11, 2006

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SIXTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on July 11, 2006, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Michael Stiehl called the meeting to order at 9:30 A.M.

Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

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

The Morning Prayer was given by Reverend William Carson of First Christian Church Disciples of Christ.

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

APPROVAL OF AGENDA

Commissioner Norden requested Item 9 under New Business be moved to Item 10 and insert a change order on the arena construction for Pathfinder Park. as a new Item 9. **Commissioner Lasha** moved to approve the Agenda as amended. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

CONSENT AGENDA

Commissioner Norden moved to approve the Consent Agenda:

1. Approval of Minutes June 27, 2006
2. Approval of Bills, July 11, 2006
3. LIQUOR LICENSES
4. **SCHEDULING OF PUBLIC HEARING FOR AUGUST 8, 2006**
 1. **REQUEST: ZC06-003 AIRPORT INDUSTRIAL PARK-
WEST ZONE CHANGE**

Request approval of a **zone change from Airport Industrial Park Zone District to Industrial Park Zone District**, by the Fremont County Board of County Commissioners, for property owned by Fremont County described as Lot 35 through 39, Airport Industrial Park. The property is located *approximately 1/2 mile south of the intersection of US Highway 50 and Colorado State Highway 67, on the west side of Colorado State Highway 67, north of the City of Florence.*

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

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Commissioner Lasha stated the heavy rains and flash flooding received Wednesday night into Thursday morning had a direct impact in the District 2 area and Fremont County. Commissioner Lasha complimented the citizens of Penrose, Fremont County and the Road and Bridge Department for their efforts in dealing with the unplanned and unprepared situation. Commissioner Lasha reported in addition to County Road 132 several bridges had been damaged. Presently three Road and Bridge Districts are working in the District 2 area and have been since the onset late Wednesday night attempting to get the roads passable and back to routine usage. He advised despite the appreciated rain there was still a fire potential concern.

Commissioner Norden reported within the last 45 minutes he had been in contact with the State Delegation at the Capital. At the request of that delegation representative Keith King, Tom Massey and Buffie McFadyen will be present at the Fremont County Administration Building at 2pm to learn first hand about the flood damage of Fremont County. Steve Morrissey of the Fremont County Emergency Management Office will conduct an initial briefing before leaving the building for a tour of the worse flood-damaged areas of the County. Invitations are extended to the media to participate.

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report for the month of June. She stated that the total revenues earned in the Clerk's Office were \$717,078.72, which was down \$8,570.10 over a year ago. The sales tax collected was \$75,687.84 and that figure was up from a year ago by \$22,803.02 Money collected for distribution among the entities was \$401,536.53 and that was down \$16,7373.61 less than a year ago. Ms. Hatfield stated of the \$401,536.53 collected, Fremont County receives approximately 19%. **Commissioner Lasha** moved to approve the Clerk's Report for June. The motion was seconded by Commission Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried

Virginia Woltemath, Fremont County Treasurer & Public Trustee submitted the Semi Annual Report of the Treasurer for the period January 1, 2006 through June 30, 2006. She stated this report would be published in the Florence Citizen this Thursday. **Virginia Woltemath**, also submitted the Quarterly Report of the Public Trustee for the period of April 1, 2006 thru June 30, 2006. She stated that they did 900 Release Deeds of Trust at \$21.00 each for a total of \$18,900.00; less the Notary and Recording Fees of \$7,200.00 the office retained \$15,300.00. 53 Foreclosures commenced from April 1 thru June 30, 2006 and the foreclosure fees collected were \$6,976.47. Disbursements fees totaled \$4,784.42. The beginning balance as of April 1, 2006 was \$23,056.64 and the ending balance as of June 30, 2006 was \$40,547.69. **Commissioner Lasha** moved to approve the Semi Annual Report of the Treasurer and the Quarterly Report of the Public Trustee. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

2. Citizens Not Scheduled. There were none.

NEW BUSINESS

UAACOG ANNUAL BARBECUE SHOOTOUT – A STATE CHAMPIONSHIP

Beth Lenz Upper Arkansas Area Council of Governments (UAACOG) stated they will host the national annual barbecue cook-off. sanctioned by the Kansas City Barbecue Society scheduled on September 15th and 16th at Buckskin Joe Frontier Town in Fremont County. Commissioner Norden read the notification in its entirety. **Commissioner Norden** moved to adopt the 2nd Annual COG BBQ Shootout Competition. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Lasha stated the City of Florence is sponsoring Pioneer Days the same weekend. He encouraged attendance at both.

ROYAL GORGE BRIDGE PIKE PROCLAMATION

Commissioner Norden read in entirety the Honorary Proclamation of the Royal Gorge Bridge and Park Zebulon Pike Bicentennial Commemoration scheduled July 22, 2006 honoring the travels of Lt. Zebulon Pike, the first American Explorer in the Royal Gorge Region. The Commissioners of Fremont County, of the State of Colorado, do hereby proclaim July 22, 2006 as the official Royal Gorge Bridge & Park Zebulon Pike Bicentennial Commemoration. **Commissioner Norden** moved to approve the proclamation. The motion was seconded by Commission Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

APPOINTMENT OF CINDY MADIGAN, TERRI MORKOVSKY AND PAUL GARRETT TO THE FREMONT COUNTY WEED ADVISORY BOARD

Commissioner Lasha moved to approve the appointment of Cindy Madigan, Terri, Morkovsky and Paul Garret to the Fremont County Weed Advisory Board. The motion was seconded by Commission Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Stiehl commented that the other members of the board warranted recognition: Paul Telck, Ralph Kunselman, George Fletcher, Elbert Fortner, Gary Martin, John Nichols, Steve Oswald and Bus Taylor (deceased).

APPOINTMENT OF DARLENE LUCKETT TO THE JOHN C. FREMONT DISTRICT BOARD OF TRUSTEES

Commissioner Lasha reported and moved to accept the appointment of Darlene Lockett to the John C. Fremont Library District Board of Trustees. She will replace Jennifer Miley whose term ends January 1, 2007. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, ay. The motion carried.

APPLICATION FOR A SPECIAL EVENT PERMIT ROYAL GORGE VFW 4061

Commissioner Stiehl stated the Royal Gorge VFW-4061 was sponsoring a special event at 380 #A Skyland Drive on August 12, 2006 in conjunction with the Elk Foundation Annual Banquet Dinner. They are requesting malt, vinous and spirituous liquor permit. No representative was present. County Attorney Jackson stated the appropriate paperwork had been completed and reviewed. **Commissioner Lasha** moved to approve the Special Events Permit for the Royal Gorge VFW 4061. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

RESOLUTION #48 FOR ISSUANCE OF DUPLICATE TAX SALE CERTIFICATE

Virginia Woltemath stated that Gene Brinkman, Cotopaxi is requesting duplicate tax lien sales #1332 for the tax sale held on November 5, 2003 for the taxes of 2002 so he can reapply for a treasurer deed. Commissioner Lasha moved to approve **Resolution #48** for the Issuance of Duplication Tax Sales Certificate #1332. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

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DECLARATION OF AN EMERGENCY SITUATION CONCERNING JULY 5, 2006 RAIN EVENT AND FLOODING RESOLUTION #50

Ray Southard, County Emergency Manager requested a Declaration of Disaster for Fremont County. He said it appeared the State will also declare an emergency with reference to FEMA Funds. The Fremont County Office of Emergency Management could then seek Federal and State disaster assistance to help pay the cost of flood related damage to roads, bridges and public facilities. He reported the estimated damage was \$ 900,000 to \$1,800,000.00 with respect to the additional flooding that is occurring. He said damage surveys are in process. CDOT is preparing their damage report. Mr. Southard thanked the Commissioners for their decision to provide hotel accommodations for the nine displaced families. Opening a shelter home would have cost in excess of \$2500 compared to the \$900 hotel accommodations. Mr. Southard said he felt it was a good decision with a substantial savings.

Commissioner Lasha stated that most of the road shoulders, most of the gravel and magnesium chloride were lost in the devastation.

Commissioner Norden moved to approve **Resolution #50** Declaring Local Disaster and Emergency Situation concerning the rainfall event and flooding of July 5 and subsequent dates. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Stiehl expressed thanks to Ray Southard for his professionalism and expertise while functioning as the County Emergency Manager. and extended safe wishes during his upcoming assignment in Iraq.

RESOLUTION TO LIFT/SUSPEND THE FREMONT COUNTY FIRE BAN

Sheriff Beicker stated his original intention was to request the lifting of the Fire Ban, however after review and consideration based on extended forecast he preferred to keep the Level 1 Fire Ban in place and remain on the side of caution. He noted that a Level 1 Fire Ban allows recreational campfires and thus would not affect the livelihood of the campgrounds. The ban mainly prohibits agricultural burning, Sheriff Beicker reported to date approximately 600 man hours have been logged with the majority on mutual aid assistance with Custer County and our neighbors on the larger fire however there were several small local fires.

Ray Southard stated he supported the Sheriff on the Fire Ban I Issue. He reported that this coming week was going to be filled with lightening strikes, which is a fire potential. He said the condensed areas of flooding are considered flash flooding has not done a lot for the forest areas and conditions.

No further action was required by the Board of Commissioners

PUBLIC HEARING

REQUEST: ZC 06-001 CROSSON ZONE CHANGE

July 11, 2006 10:00 A.M.

RESOLUTION #51, 52, 53, 54

REQUEST: ZC06-001 CROSSON ZONE CHANGE

Don Moore of Dan Odgen Consulting stated they were requested approval of a Zone Change from the Agricultural Estates Zone District to the Business Zone District for property which is *located approximately 1,400 feet south of the intersection of Fremont County Road #27A, aka Copper Gulch Road and Color Sweet Drive, on the west side of County Road #27A, in the Colorado Acres Area.* The property presently contains a single-family dwelling, which will serve as a watchman's quarters and an office, a shop building and a shed/carport. The property to be rezoned contains 5.5 acres. The intent is to vacate the interior property line, vacate the public right of way, and obtain a hardship variance

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and zone change. The developed property would include caretaker quarters/income tax office, motorcycle/atv sales and repair center and a retail lumber and building materials business. He stated all supplies and storage would be in closed sheds or buildings. He submitted a petition of 38 signatures in favor of the Crosson Zone Change. All the contingencies have been met except Contingency #1 the commercial well permit is awaiting final approval from the State Engineer. Contingency #9 was met with the submitted documentation of an acceptable Fire Protection Plan by Deer Mountain Fire Protection District. Mr. Moore requested for a waiver variance on surfacing, lighting and landscaping.

Bill Giordano stated the application would need to be handled as a site development plan requiring four separate resolutions. He reported that properties owners within 500 feet have been notified, the property was posted as required and proof of publication was completed. The Planning Commission did recommend the waiver of the surfacing, lighting and landscaping of the parking area. Their findings did confirm there has been a material change in the neighborhood that justifies the request for Zone Change and that there is public need with a County and neighborhood benefit.

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

Cynthia Johnson stated she was a real estate broker with Peak-to-Peak Real Estate with an office directly across the street from the proposed site. She expressed concerned over the storage of building supplies and the possibility of trash build up.

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

Commissioner Norden asked if the applicant would like to comment on the concern of the storage of building materials. The applicant Michele Crosson stated she had been involved in the trash business for over twelve years and understands the concern. She advised that storage materials would be stored in enclosed buildings and maintained by herself and designated employees.

RECOMMENDED CONTINGENCY

The following item shall be provided to the Department of Planning and Zoning, within six (6) months (with no extensions) after final approval by the Board of County Commissioners:

1. Documentation that existing well permit is adequate for the proposed business uses.

WAIVED:

Surfacing 5.3.1
Lighting 5.3.3

JUSTIFICATION:

There has been a material change in the neighborhood, which justifies the requested Zone Change.

FINDINGS:

There is a public need and there will be a County or neighborhood benefit.

Commissioner Lasha moved to approve Zone Change 06-001 Crosson Zone Change with one Contingency requiring documentation that the existing well permit would be adequate for commercial usage. He moved to adopt **Resolution #51**, lot line adjustment vacating the interior property line. **Resolution #52** vacating the public right of way. **Resolution #53** hardship variance, for the subdivision for the three uses. **Resolution #54** for a zone change with the findings that there has been material change in the neighborhood that

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justifies the request for Zone Change and that there is public need with a County and neighborhood benefit. The proposed development will be in harmony and compatible with the surrounding land uses and development in the area. The requirement for surfacing, lighting and landscaping will be waived. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried with the Adoption of **Resolutions #51, 52, 53, and 54.**

PUBLIC HEARING
REQUEST: ZC 06-002 BAXTER ZONE CHANGE
July 11, 2006 10:00 A.M.
RESOLUTION #55

John Chrisman, C&M Consulting stated he was representing Michael & Dorothy Baxter and they are requesting a Zone Change from Agricultural Farming & Ranching to Agricultural Suburban for property *located on the southeast side of county Road #47, six hundred and seventy-five (675) feet from the intersection of US Highway 50 and County Road #47 in the Howard Area.* The property contains a garage, which will be removed when the proposed single-family dwelling and attached garage are constructed. The property to be rezoned contains 9.52 acres. Mr. Chrisman reported the four Contingencies should be completed by next week requiring a copy of a recorded deed enjoining both parcels into one parcel, site plan identifying the property being rezoned, site plan noting all zoning classifications for adjacent properties containing the legal description combining both parcels, along with total acreage.

Bill Giordano stated the property owners within 500 feet have been notified. The required posting and publication have been completed. The Planning Commission did unanimously approve the Zone Change with the four Contingencies. He stated in addition to the required notification, the Planning Commission requested additional notification to the Arkansas Headwaters Recreation Area, which was completed. Justification was made that the property was not properly zoned when existing zoning was imposed along with additional criteria.

Commissioner Stiehl asked for anyone wishing to speak for or against to come forward. Seeing none, he closed the Public Hearing and return to the Regular Session.

RECOMMENDED CONTINGENCIES

The following items shall be provided to the Department of Planning and Zoning, within six (6) months (with no extensions) after final approval by the Board of County Commissioners:

1. Copy of a recorded deed enjoining both parcels into one parcel.
2. Site plan shall identify by note or by thicker line, the property being rezoned.
3. Site plan shall note all zoning classification for adjacent properties.
4. Site plan shall contain the legal description combining both parcels, along with total acreage.

JUSTIFICATION:

The property was not properly zoned when existing zoning was imposed.

FINDINGS:

- a. There is a public need and there will be a County or neighborhood benefit.
- b. The granting of the Zone Change will tend to preserve and promote property values in the neighborhood.
- c. There will not be an effect on existing traffic.
- d. There will be no effect on adjacent uses.
- e. The proposed development will be in harmony and compatible with the surrounding land uses and development in the area.

Commission Norden made a motion to approve **Resolution #55** for the Request ZC 06-002 Baxter Zone Change with the findings that the property was not properly zoned when the existing zoning was imposed and the other criteria. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried

PUBLIC HEARING

REQUEST: SRU 06-007 FREMONT EMERGENCY MEDICAL SERVICES CENTER

July 11, 2006 10:00 A.M.

RESOLUTION #56

Joe Scranton, Northwest Fremont EMS, Inc. stated they are requesting a Special Use Permit for the construction of an Emergency Medical Services and Fire Station for the property, which is, *located at the southeast corner of Fremont County Road #2 (aka Tallahassee Road) and Chris Crossover*. He reported the Commissioners had earlier permitted the creation of the 4.02 acre outlot which was carved out of a 39 acres parcel donated by Fred Lowry and Jerry Seifert. The parcel of property was donated on the condition that Northwest E.M.S. reach a memorandum of understanding to share the property for a Tallahassee Volunteer Fire Station and this has been completed. Mr. Scranton stated Northwest E.M.S. is entirely a volunteer organization supported by donations and private grants. He reported an average respond time of fourteen minutes. He advised the outlot will contain a building which will house two fully equipped ambulances; one being advanced life support and the other basic lift support. The organization also provides First Aid and CPR training for residents.

Bill Giordano stated due to the 35-acre lots in the area, property owners within 1500 feet were notified. The required posting and publication has been completed. The Planning Commission recommended approval of the application with eleven Conditions; one being different than the standard statements added prior to operation two signs indicating the potential for emergency service vehicles entering on the roadways with a flashing light during emergency situations, shall be erected. The Planning Commission recommended three contingencies. The Planning Commission deferred consideration of the following waivers to the Board of Commissioners:

WAIVER REQUESTS:

1. A traffic impact analysis will not be required due to the fact that all the roads are privately maintained.
2. A waiver of the application fee.
3. 5.3.2 Surfacing
4. 5.3.3. Lighting
5. 5.3.4 Landscaping

POSTING & ADDITIONAL NOTIFICATION:

1. Fremont County Sheriff
2. Fremont County Road Foreman

3. Colorado Department of Transportation
4. Colorado Division of Wildlife
5. Fremont/Custer Historical Society
6. Fremont County Office of Emergency Management
7. All property owners within one-thousand and five-hundred (1,500) feet of the subject property.

Bill Giordano reported the additional notification requirements were completed.

Commissioner Stiehl asked for anyone wishing to speak for or against to come forward. Seeing none, he closed the Public Hearing and return to the Regular Session.

Commissioner Lasha expressed his appreciation for the Northwest Fremont Emergency Medical Service Center for its service to the County. He stated this project has been two years in the making and he thanked everyone for his or her efforts in finalizing the project. Commissioner Stiehl agreed with Commissioner Lasha's comments and extended appreciation to Commissioner Norden for his effort on this project.

RECOMMENDED CONDITIONS

- A. Special Review Use Permit shall be issued for 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. Applicants shall conform to all plans, drawings and presentations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. Applicants shall comply with all laws and regulations of the State of Colorado, its agencies or departments, the Board of County Commissioners of Fremont County, 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 and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. 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 conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning 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 the Board of County Commissioners continue temporary cessation of use for more than two (2) years without approval.
- G. If a Special Review Use is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation will not be limited.
- I. Prior to operation, two signs indicating the potential for emergency service vehicles entering on the roadways, with a flashing light during emergency situations, shall be erected. One sign shall be *located near the proposed driveway on Chris Crossover and one shall be placed at the Southeast corner of the intersection of Fremont County Road #2 and Chris Crossover (this signs should be readable for traffic traveling both directions on Fremont County Road #2).*
- 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 the permit. All person, 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 condition of this Special Review Use Permit.

RECOMMENDED CONTINGENCIES:

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

1. Recording of the Fremont County Resolution creating the 4.02-acre parcel.
2. A mylar copy and three (3) paper copies of the survey plat map creating the 4.02-acre parcel for recording.
3. A recorded deed in the name of the applicant, for the new created Outlot A after recording of the survey plat mylar.

Commissioner Norden made a motion to approve SRU 06-007 **Resolution #56** for Northwest Fremont Emergency Medical Service Center with recommended Contingencies, Conditions and Waiver requests. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried

NEW BUSINESS (CONTINUED)

CHANGE ORDER FOR PATHFINDER PARK ARENA CONSTRUCTION

Commissioner Norden submitted and made a motion to approve the Change Order Request from CL Construction in the amount of \$6,258.00. He stated any distribution of the funds on the change order would be not issued until the arena is completed. **Brenda Jackson, County Attorney** reported the contractor understands and the deadline is July 16, 2006. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl. The motion carried.

REQUEST: PP 06-001 QUAIL POINTE SUBDIVISION

Shawn Winters, Northstar Engineering requested approval of a seventy-three (73) lot preliminary plan, Quail Pointe Subdivision by J.P. Jean Limited for the property which is *located on the east side of Orchard Avenue bounded by Melvina Street on the north and North Street on the south side and Cone Avenue on the east side, in the North Cañon Area.* The property is proposed to be developed in three (3) phases. The streets will be paved with curb and gutter and sidewalks along all interior streets. The average density is 1.977 lots per acre. The property is zoned Agricultural Suburban and contains 38.434 acres. Mr. Winters stated that they already have forty (40) water taps secured. One of the benefits of bringing these taps into the community is the entire off-site infrastructure that they are going to bring in, and that the community can benefit from. Some of the off-site improvements include the construction and paving of roads to allow better traffic flow distribution; the installation of sanitary sewer outfall, and upgrading water mains from 8-inch PV pipe to 16 inch. Estimated off site improvements are totaling over \$810,000.00. Mr. Winters stated they were requesting modification on Contingency #18 Item D and E with regards street improvements. They are requesting the paving of Melvina Street from Orchard to Red Canyon and

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North Street from Orchard to Field. Due to cost restraints usage of a high-density polyethylene pipe in place of PVC if Canon Heights Irrigation and Reservoir Company agree as a modification on Item #21. Consideration of a split rail fence or curb and gutter alternative to the six-foot opaque fence listed in Item #27 which would be provided, in the final plat.

Bill Giordano stated property owners within 500 feet have been notified; publication and posting have been completed. The Planning Commission resulted in a 3-3 tie with concerns regarding the water and the other two traffic study analysis.

Commissioner Lasha stated a letter was received from Park Center Water District and he requested Mr. Allen address the issued.

Larry Dean Allen, Attorney at Law stated his most recent contact with the Division 2 Water Engineers was early that morning and he spoke to Steve Kastner, Assistant Division Engineer. There is a compatibility program between Park Center Water District for water acquisitioning and water change. The BLM is near the completion of a Colorado State Water Court Case to have the well adjudicated as non-tributary to the Arkansas River. As long as BLM is making progress the Colorado Division of Water Resources will not interfere with water source usages.

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

Vaughn McClain, Mountain View stated he was oppose to the subdivision referring to letters from the Park Center Water District in the years 2002 and 2003 and 2006 calling into question the ability to provide water from either their well or through diverting irrigation ditch shares to domestic use. Mr. McClain referenced a letter dated June 6, 2006 from Drew Marsicano, Manager of Park Center Water District presenting an optimistic characterization of what can be done to increase the water supply, however Mr. McClain stated he was still concerned over the supply, adequacy and availability of the water.

Linda Pint, Melvina Street stated she resides directly across from the proposed subdivision and was opposed due to the water issue. She stated existing homeowners would suffer with decreased water pressure, water availability and increased individual water costs. She opposed the subdivision until some serious issues are resolved and suggested decreased building in the area might be a amicable solution instead of a mini city in the midst of their community.

Norma Hatfield, Melvina Street stated the development would be directly in front of her property. Ms. Hatfield objections are the geography, water and traffic issues. She commented that the geography of this area consists of a very steep slope and expressed concerns regarding the water run off from snow and rains. She reported that for the past three years the district has had to purchase raw water and treat it for usage and expressed concerns over the adequacy and availability of water though Park Center Water District. Ms. Hatfield commented that not only do the streets need to be paved but they also need to be wider. The issue is not only about the construction of homes, but is also about traffic, preparation of more traffic, safety issues and the stability of the ground, and the natural resources that are available in the area. She commented that some of the property lines had been in question and would require confirmation surveys. Ms. Hatfield agreed with Ms. Pint regarding the consideration for a reduction of houses in the subdivision.

Commissioner Norden stated the Board of Commissions need to be on record that they are not a disinterested party when it comes to the present and future situation with Park Center Water District. He reported several meetings took place with the Park Center Water District to help clarify the letters received from the State Engineer Office on how to best interpret and deal with the issue. The Board of Commissioners has an obligation to review the letters however when water providers i.e.: Park Center Water District pledges to provide a developer and subdivision with ample water from a legal standpoint it makes it difficult for the Board of Commissioners to call that into question. Commissioner Norden commented the revised Contingency #4 would provide a full disclosure to the potential buyers regarding the recommendations of the State Water Engineer, Board of Commissioners and Park Center Water District. He acknowledged the concerns of those who spoke at the hearing and urged Park Center water uses to take their concern to the Park Center Board of Directors.

Brenda Jackson, County Attorney stated the Legislative intent is that the Board of Commissioners do not act or stand as a water referee between the State Engineers office and the Water District pledging water. The Legislature Statues states a requirement to provide the potential or actual purchasers with a copy of the State Engineer water letter so they have full disclosure in deciding to buy the lot.

Commissioner Stiehl commented Zoning allows 3 lots per acre, property rights of the landowner need to be respect and we cannot change the density if they conform to our subdivisions regulations.

RECOMMENDED CONTINGENCIES:

The following items shall be provided to the Department of Planning and Zoning within eighteen (18) months of preliminary plan approval by the Board or prior to submittal of the final plat:

1. Proof of payment to the Colorado Geological Survey for their review fee.
2. Documentation as to annexation into Fremont Sanitation District.
3. Plans and profiles approved by the Fremont Sanitation District, for sewer lines extending from the existing sewer main and all mains within the subdivision.
4. Statement on the final plat and deed restriction that the sub divider/owner/seller, etc. will provide the potential purchaser with a copy of the State Engineers most recent letter concerning public water service from Park Center Water District prior to the sale or synopsis of the opinion.
5. Proof of purchase of water taps or documentation for all lots. If the water main is not installed prior to the recording of the final plat an improvement and escrow agreement may be provided. Proof of purchase will be required prior to the recording of the final plat for each phase of the sub division. A letter from the Park Center Water District accepting the installation of the water main will also be required prior to recording of the final plat and/or release of escrow funds.
6. Water line plans and profiles (approved by Park Water District) including fire hydrants, (approved by the Cañon City Fire authority) from the existing main to the site and all water lines and hydrants within the subdivision.
7. Grading plans, specifically addressing the diverted drainage and potential impacts on slope stability by proposed grading as per the Colorado Geological Survey Engineering Geologist in their letter dated March 9, 2006
8. As per the Colorado Geological Survey Engineering Geologist, a site-specific subsurface soils and foundation investigation, including geotechnical testing, should be conducted prior to final plat to identify the location and characteristics of these soils, and make appropriate design recommendations for foundations, utilities, paved areas, etc.

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9. The final plat shall contain a statement that shallow groundwater should be expected during the lot-specific foundation investigations, and that surface construction should include perimeter drainage to prevent flooding of basements or crawl spaces and that positive grading should be established around buildings to prevent precipitated water from ponding near structures.
10. The final plat shall provide for a 10-foot wide easement on all road frontages as required by Aquila and Atmos.
11. Documentation that information request by the Cañon City School district RE-1 was provided to them as outlined in the letter provided by L.F. Buddy Lambrecht, dated March 10, 2006. Additional requirements may result upon further response from the School District based on receipt of the additional information.
12. A traffic impact analysis reviewed and accepted by the District 1, County Road Foreman or the County Engineer.
13. All construction plans shall reflect any requirements by the District 1, County Road Foreman or the County Engineer.
14. Documentation as to the compliance with any requirements of the reviewing County engineer concerning drainage, traffic analysis, or other items, which require engineering review.
15. Final plat shall contain a statement as to maintenance of all drainage facilities.
16. All streets within the subdivision shall be constructed to County Specifications for paved, curb and gutter streets along with sidewalks on all interior streets.
17. The final plat application shall reflect compliance with the requirements of the County Road foreman in the memo dated March 21, 2006. Improvement plans shall include the following as required by the District 1, County Road Foreman:
 - a. Construction of Orchard Avenue from North Street to High Street, to County specifications.
 - b. Construction of North Street from Orchard to Cone Street, to County specifications.
 - c. Paving of Orchard from Melvina to High Street to County specifications.
 - d. Paving of Melvina Street from Orchard to Field Avenue, to County specifications.
 - e. Paving of North Street from Red Canyon Road to Field Avenue, to County specifications.
18. If road improvements are not completed prior to recording of the final plat, an improvement and escrow agreement may be provided. A letter from a Colorado Registered Engineer, who designed the improvements, will be required stating the specified improvements were constructed to the above standards and his design, prior to the recording of the final plat and/or release of escrow funds
19. Construction of all required drainage facilities prior to the recording of the final plat. If drainage facilities are not completed prior to recording of the final plat, an improvement and escrow agreement may be provided. A letter from a Colorado Registered engineer will be required stating that drainage facility was constructed to the design standards prior to recording of the final plat and/or release of escrow funds.
20. All irrigation ditches located within existing and proposed County road rights-of-way shall be in compliance with the requirements of the Cañon Heights Irrigation and Reservoir Company and the District 1, County Road Foreman.
21. A quick claim deed or other acceptable option(s) addressing the maintenance of all drainage facilities will be required prior to recording of the final plat.
22. The property that is proposed to house the detention structure shall be included in the first phase plat filing. Said property should be platted as an outlot in the subdivision with maintenance the responsibility of all individual home owners

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- and home owners association with specific restrictions as to what can be housed on the outlot.
23. As recommended by the Natural Resources Conservation Service in a letter from Rick Romano, dated 3-22-66, address seasonal water table, depth to bedrock or shrink swell as related to single-family dwellings and roads.
 24. The final plat shall contain a setback line for all wedge shaped lots. The setback line shall not be a curve.
 25. The final plat shall contain a list of all lots that will have access limited to a street.
 26. A six-foot opaque fence, designed to discourage disallowed access to adjoining County rights-of-way shall be installed or an alternative at the final plat Surrounding the four exterior sides.
 27. A Colorado Professional Registered Engineer's estimate for installation of all improvements, road construction irrigation improvements, drainage facilities, fire hydrants, water and sewer main extensions, street signs fencing requirements and etcetera.
 28. The title of the preliminary should be changed to Quail Pointe Subdivision, as the preliminary is not a filing. The final plat may be Filing No. 1.

Commissioner Norden moved to approve PP 06-001 Quail Pointe Subdivision with the revised and recommended Contingencies. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

Commission Stiehl adjourned the meeting at 12:25 P.M.

County Clerk