

**July 22, 2014**

**FOURTEENTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on July 22nd, 2014, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Tim Payne called the meeting to order at 9:30 A.M.

Tim Payne	Commissioner	Present
Edward H. Norden	Commissioner	Absent
Debbie Bell	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; Marshall Butler, Planning and Zoning Representative and Jody Blauser, Chief Deputy Clerk.

The Invocation was given by Pat McFarland, County Treasurer.

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

**APPROVAL OF AGENDA**

**Commissioner Bell** moved to approve the Agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

**CONSENT AGENDA**

1. Approval of Minutes / Special BOCC Meeting / June 26, 2014.
2. Approval of Minutes / July 8, 2014.
3. Approval of Bills July 22, 2014 / \$919,542.69.
4. Adoption of Resolution #23, Series of 2014, SRU 14-002 Arkansas – Penrose Raw Waterline.
5. Schedule Public Hearing for August 12, 2014 at 10:00 a.m.  
The purpose of the hearing is to allow citizens to review and comment on the performance of the Upper Arkansas Area Council of Governments in carrying out their Single Family Owner Occupied Housing Rehabilitation Program, financed through Community Development Block Grant funds.

**Commissioner Payne** moved to approve the Consent Agenda. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #23 is attached.

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials
  - a. Sales & Use Tax Report, Sunny Bryant, County Finance Officer

**Sunny Bryant** said the Retail Sales Tax collected in May was \$334,696 and year to date is \$1,513,874. This is up \$37,016 from last year. The Auto Use Tax collected in June was \$79,291 and year to date is \$414,434. This is up \$64,569 from last year. The Construction Use Tax collected in June was \$3,264 and year to date is \$96,757.

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This is up \$20,416 from last year. The Lodging Tax collected in May was \$8,974 and is down \$8,663 from this time last year. The Sheriff Retail Sales Tax collected in May was \$223,130 and year to date is \$1,009,249. The Sheriff Auto Use Tax collected in June was \$52,861 and year to date is \$251,826. The Sheriff Construction Use Tax collected in June was \$2,001 and year to date is \$62,606.

b. Treasurer's Semi-Annual Report, Pat McFarland

**County Treasurer McFarland** presented her report from January through the end of June.

c. Public Trustee Quarterly Report, Pat McFarland

**County Treasurer McFarland** said there were 387 Release Deeds of Trust from April through June compared to 550 from this time last year. There were 38 foreclosures for the 2<sup>nd</sup> quarter compared to 39 foreclosures for the second quarter last year.

**Commissioner Bell** moved to accept both the Treasurers Semi-Annual Report and the Public Trustee Quarterly Report. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

2. Citizens Not Scheduled: None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

1. Consideration of reappointments of Dan Brixey and Larry Brown to the Building Code Board of Appeals for an additional three-year term ending August 1, 2017.

**Commissioner Payne** moved to reappoint Dan Brixey and Larry Brown to the Building Code Board of Appeals each for a three year term ending August 1, 2017. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

2. Liquor License:  
WHP Crossroads LLC  
13760 State Hwy 115  
Penrose, CO 81240  
Hotel and Restaurant License with Optional Premise  
Representative: William H. Peetz, Owner and Angela Bellantoni

**Angela Bellantoni** explained Mr. Peetz is requesting a Hotel & Restaurant Liquor License with an Optional Premise for the outdoor arena. The primary service area will be inside at the restaurant. There currently is not a tenant for the restaurant. Mr. Peetz will serve as the Operating Manager. They understand the liquor license cannot be issued until the kitchen is brought up to code and the food license can be issued.

**Chief Deputy Blausner** said the applicant has posted the property and published in the newspaper as required. The applicant submitted a concurrent review to the State. The State has already reviewed the application and is awaiting local approval.

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**Commissioner Bell** moved to approve the Hotel & Restaurant Liquor License with an Optional Premise for WHP Crossroads LLC DBA/Crossroads Bar and Grill. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

3. Consideration of an Energy and Mineral Impact Assistance Program Application for the design of improvements at Pathfinder Park. Representative: Tommy Covington, County Director – CSU Extension.

**Tommy Covington** explained this is a tier one grant for improvements at Pathfinder Park. This grant would allow for half of the cost needed for the design project. The total cost is \$86,497. The grant would be for \$43,248.50 and will be submitted to DOLA.

**Commissioner Payne** moved to approve the Energy and Mineral Impact Assistance Grant Application. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

4. Presentation of 2013 Audit Report  
Representative: Sunny Bryant, County Finance Officer

**Sunny Bryant** explained the State requires this Audit Report be submitted to them by July 31, 2014. This is the first time Fremont County has completed the financial statements and notes and submitted them to the Auditor. The County did receive an unqualified opinion and there were no major deficiencies. The numbers in the report today are the same as she presented to the Board a few months earlier. John Cutler will do a formal presentation of the Audit to the Board at the August 12<sup>th</sup> Commissioners Meeting. The Auditors actually observed four different departments this year, and will observe four different departments within the county next year.

**Commissioner Bell** moved to accept the 2013 Audit Report as presented. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

5. Request: FP 14-001 Canon Creek Ranch Filing V  
Request approval of a final plat for a three lot subdivision, by BHEP, LLC, for the property which is located between Grandview and the Arkansas River, south of Longs Peak Lane and Sunlight Way, in the Fourmile Area. Proposed lots 1, 2, and 3, will contain 36.174, 54.251 and 13.455 acres, respectively. All proposed lots are vacant. The property contains 103.88 acres in total and is located in the Agricultural Rural and Low Density Residence (proposed lot 3) Zone Districts. The existing preliminary plan expired on December 22, 2007. The last final plat was recorded on June 22, 2007. The preliminary plan is effective for up to 18 months from the date of the last final plat recording. Representatives: Bill Balhiser, Manager – BHEP, LLC / Matt Koch, Cornerstone Land Surveying.

**Bill Balhiser** explained he and his partners are the owners of 103 acres of vacant land located south of Grandview Avenue between Ash and Steinmeier Streets. Currently the property has a 13 acre lot and a 90 acre lot. They are requesting to leave lot A as it is. They want to divide lot B into a 36 acre parcel and a 54 acre parcel. All three lots have access to water, sewer, and roads. The applicant is requesting the contingency for curb, gutter, and sidewalk at the end of Sunlight Way be waived. The applicant is also requesting the requirement for the cul-de-sac at the end of Longs Peak be waived as it would not provide access to any homes. They are requesting a waiver of a resubmission for a preliminary plan as well.

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**Marshall Butler of the Planning and Zoning Department** said there are three proposed lots. Lots 1 and 2 are zoned Agricultural Rural. Lot 3 is zoned Low Density Residence by prior zoning. He discussed the recommended contingencies and conditions. The current preliminary plan is expired which is why a new one is required. Of the written comments received, three were against the request, one was in favor, and one was neutral.

**Michael Short** said his family owns three properties on Grandview Avenue. They have some concerns regarding the infrastructure and traffic. With all of the new homes being built in this area there is more traffic, and more accidents. He is against any more subdivisions in this location.

**Allan Tormohlen** supports the waiver of the requirement for the cul-de-sac on Longs Peak as it will not be used for access to any homes.

**Lois Kaplan** is curious why the drainage of the subdivision becomes the neighbor's problem. Marshall Butler explained the drainage plan was created for the entire property before it was subdivided. The current existing tracks were proposed to be 4.5 acre tracts. The original drainage plan required curb and gutter. The County Engineer suggested more studies be done regarding the drainage.

**Bill Balhiser** explained the original plat had 60 houses in the first phase, 53 houses in the second phase, and 21 houses on the 4.5 acre lots. If all of these homes were built, there would be drainage issues. There will only be a total of three more homes built.

**Matt Koch** explained the existing drainage ditch is a tail ditch that goes into the river.

**Commissioner Bell** moved to approve Canon Creek Ranch Filing V waiving the permanent turnaround on Sunlight Way, waiving the permanent turnaround easement on Longs Peak Lane, waiving the requirement for a re-submission of a preliminary plan, with all of the other conditions and contingencies as presented. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

6. Request: MS 14-002 Meadowlark Ridge Subdivision. Request approval of a two lot minor subdivision, Department file #MS 14-002 Meadowlark Ridge Subdivision, by Leslie and Carol Wilson, for their property which is located on the west side of D Street (645 D Street), approximately 330 feet north of 7<sup>th</sup> Street in the Penrose/Beaver Park Area. Proposed Lot 1 houses a shed with a proposed lot size of 4.50 acres. Proposed Lot 2 houses a single family dwelling and will consist of 4.589 acres. Both properties will be accessed from D Street. The property is zoned Agricultural Rural and contains a total of 9.09 acres. Representative: Matt Koch, Cornerstone Land Surveying.

**Matt Koch** said they are requesting a subdivision with a two lot split. These will be two 4.5 acre lots. The existing house will remain on lot 2, and the vacant lot will be lot 1. Penrose Water District has agreed to service the additional lot. The applicant has submitted all of the contingencies to Planning and Zoning.

**Marshall Butler of the Planning and Zoning Department** said this went before the Planning Commission on July 1<sup>st</sup> and was unanimously approved. He discussed the proposed contingencies. The only waiver request is to defer the driveway access permits to the time of application for a building permit on lot 1.

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**Commissioner Payne** moved to approve MS 14-002 Meadowlark Ridge Subdivision with the recommended contingencies and waiving contingency #13, for the driveway access permits. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

**PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.**

None.

**Chairman Payne** adjourned the meeting at 10:38 A.M.

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Clerk and Recorder

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Commissioner Norden moved the adoption of the following Resolution:

**RESOLUTION NO. 23**  
**Series of 2014**

RESOLUTION FOR SPECIAL REVIEW USE PERMIT  
DEPARTMENT OF PLANNING AND ZONING  
FILE #SRU 14-002 ARKANSAS – PENROSE RAW WATERLINE  
(PUBLIC UTILITY, BUILDINGS, REGULATORS AND SUBSTATIONS)

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

THAT WHEREAS, the Penrose Water District, (hereafter “applicant”) has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont County for a Permit **to allow a diversion from the Arkansas River using shallow ground water wells generally located within fifty (50) feet of the Arkansas River and pumping the water to Brush Hollow Reservoir for storage**, which application has been designated as file **#SRU 14-002 Arkansas – Penrose Raw Waterline (Public Utility, Buildings, Regulators and Substations)**;

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **June 3, 2014** regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter “Department”), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the pump station parcel, all adjacent property owners where the pipeline crosses private property, and to appropriate reviewing agencies; and

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

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

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WHEREAS, the Board held a public hearing concerning said application on July 8, 2014, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

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

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

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
  - a. The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
  - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
  - c. The proposed use will not have detrimental effects on property values.
  - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
  - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
  - f. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
  - g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
  - A. Special Review Use Permit shall be issued for life of the 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*

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*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 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 temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- 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. The Penrose Water District shall notify the Fremont County Road & Bridge Department, Sheriff's Office and the Penrose Fire Protection District, forty-eight (48) hours prior to any road closure and any planned detours.
- J. Documentation as to compliance with any requirement to document the pre-construction condition of existing roads that could be potentially damaged or altered by construction, as noted in the memo from the Fremont County Director of Transportation dated April 16, 2014 prior to construction.
- K. Construction activities shall not result in the overnight closing of any access to a private property owner, unless approved by property owner.
- L. All reclamation plans for soil, reseeding, re-vegetation, and other appropriate conservation measures shall be reviewed and approved by the Fremont County Natural Resources Conservation Service Office.
- M. Documentation as to compliance with any requirements of the Colorado Division of Water Resources, Dam Safety Division, prior to construction.
- N. The applicant shall obtain Flood Damage Prevention Permits for any location where construction is to take place in or the pipeline crosses any FEMA flood hazard area, prior to construction.
- O. Copy of the Colorado Department of Transportation Utility / Special Use Permit for crossing and easement of State Highway 115 and US Highway 50, prior to construction.
- P. Copy of the US Army Corps of Engineers Nationwide Permit for construction of diversion wells prior to construction.
- Q. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan for the pump station site only, and further the applicant shall implement and maintain the plan, if required.
- R. 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.
- S. 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

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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.

- T. 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).
- U. The applicant shall apply for a State of Colorado CDPHE Stormwater Discharge Permit prior to construction, if required.

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

Commissioner Bell:  Aye / Nay / Abstain / Absent  
 Commissioner Norden:  Aye / Nay / Abstain / Absent  
 Commissioner Payne:  Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: July 22, 2014

  
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 CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:   
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 FREMONT COUNTY CLERK AND RECORDER