

JULY 24, 2007

FOURTEENTH MEETING

1.

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on July 24, 2007, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman, Edward H. Norden, called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Larry Lasha	Commissioner	Absent
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.

Chaplain Hal Simmons of the Hospital Chaplains Ministry of America gave the Morning Prayer.

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

APPROVAL OF AGENDA

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

CONSENT AGENDA

Commissioner Stiehl moved to approve the Consent Agenda.

1. Approval of Minutes July 10, 2007
2. Approval of Bills, July 24, 2007 / \$ 408,112.22

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

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report for the month of June 2007. She stated that total revenue earned in the Clerk's Office was \$699,048.67 and that figure was down \$17,972.05 from a year ago. The sales tax collected was \$74,006.02 which was down \$1,681.82 from a year ago. Money collected for distribution among the entities was \$397,659.78 and that was a decrease of \$3,876.75 from a year ago.

Commissioner Stiehl moved to approve the Clerk's Report for June 2007. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Commissioner Norden referenced informational items posted on the Fremont County website. The Board of County Commissioners is accepting letters of interest from citizens of Fremont County wishing to serve on the Planning Commissioner. The appointment is for a three-year term for the seat currently held by Keith McNew of Coaldale. All persons are welcome to apply but letters of interest are particularly encouraged from western Fremont County residents. Interested persons should submit a letter stating their qualifications and reasons for wanting to serve by mail or in person to the County Commissioner Office by 4:30 PM, Friday, August 3, 2007.

2.

The Fremont County Tourism Council has issued “request for proposals” to secure the services of a qualified marketing group or individual to provide professional marketing services. All proposals must be received at the Commissioners Office no later than 11:00 AM on Wednesday, August 15, 2007.

2. Citizens Not Scheduled.

Melvin Cole, Training Coordinator at the Department of Corrections, Cañon Minimum Centers announced the community emergency response training begins July 25th at the Cañon City Fire Station #1. Multiple agencies will participate and DOC will send four (4) representatives to be trained in all aspects of emergency management. The training is free of charge and vacancies are still available. Mr. Cole extended appreciation on behalf of Mr. Leyba for allowing representatives from the Cañon Minimum Centers to become a part of the community and attend the BOCC Meetings.

OLD BUSINESS:

ADOPTION OF THE RESOLUTION SPECIFYING THE FINDINGS OF THE BOARD OF COUNTY COMMISSIONERS’ DENYING THE SITE DEVELOPMENT PLAN 07-001 LINCOLN CENTER SALOON ON JULY 10, 2007.

The request was to allow a change of use of a property in the Business Zone District to operate a saloon, bar and lounge, by Thomas and Sandra Lincoln.

County Attorney, Jackson stated a verbal motion and final Board action for denial of SDP 07-001 transpired at the July 10, 2007 Board of Commissioner Meeting. Each Commissioner had recited separate findings and the Resolution formalizes the denial of the application and includes the incorporated findings of the Board.

Commissioner Stiehl made a motion to approve **Resolution #34** denying SDP 07-001 for the Lincoln Center Saloon. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried with the Adoption of **Resolution #34**.

NEW BUSINESS:

RETAIL LIQUOR STORE LICENSE RENEWAL FOR MARY L. THUENTE, WATERHOLE #1, 1503 ELM AVENUE, CAÑON CITY, COLORADO 81212

Deputy Clerk, Kris Lang stated the renewal application was in order pending the completion of the sheriff’s investigation report. **Commissioner Norden** advised a favorable sheriff’s report was received in the commissioners office late yesterday.

Commissioner Stiehl made a motion to approve the retail store liquor license renewal for Waterhole #1. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

AUTHORIZING THE CHAIRMAN OF THE BOCC TO APPOINT REFEREE’S FOR THE BOARD OF EQUILIZATION HEARINGS

Commissioner Norden advised **Commissioner Lasha** is presently out of town and **Commissioner Stiehl** will be leaving town tomorrow. He stated the Board was requesting the authorization to schedule and compensate referees to conduct Board of Equalization Hearings next week if necessary. **Commissioner Stiehl** stated it is the Boards intend to ensure that every property owner requesting a Board of Equalization Hearing within the protest period be scheduled. **County Attorney Jackson** noted that appointed referees are limited to review and recommendations to the Board and do not have final decision making authority.

Commissioner Stiehl made a motion to authorize the Chairman of the Board of Commissioners to appoint referees and authorize payment if necessary for Board of Equalization Hearings. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

REQUEST TUP 70-006 BELVEDERE BLUES FESTIVAL VIII

Mike Merlino, Fremont County Non-Profit Center Foundation stated they were requesting approval of a Temporary Use Permit File #TUP 07-006 Belvedere Blues Festival VIII to allow a 3-day music festival with motorcycle ride and car show by Fremont Community Non-Profit Center Foundation. *The event will take place at 1130 Elm Avenue behind (south) and West of Merlino’s Belvedere Restaurant.*

3.

The event will take place Friday, September 7, 2007 from 4:00 PM to 2:00 AM; Saturday, September 8, 2007, from 8:00 AM to 2:00 PM and Sunday September 9, 2007 from 9:00 AM to 7:00 PM. . Mr. Merlino inquired if the Special Events Permit could be reviewed at the same time. **County Attorney, Brenda Jackson** responded that it would be up to the Board of Commissioners. **Commissioner Norden** inquired whether the premise was posted for the special events permit and Mr. Merlino responded it was and submitted the proof of posting.

Commissioner Stiehl made a motion to add the Special Events liquor permit hearing for the Belvedere Blues Festival VIII along with TUP 070-006 in this agenda item. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Mr. Merlino presented an advertising-marketing poster for the event. He advised the premise was fenced for containment and security staff would be monitoring patrons.

Bill Giordano, Planning and Zoning Director stated the applicant was requesting the waiver of the application fee and the clean-up fee with acceptance of the liability insurance in the amounts provided.

Commissioner Norden made a motion to approve TUP 70-006 Belvedere Blues Festival VIII. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Norden made a motion to approve the Special Events Permit for the Belvedere Blues Festival VIII. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

REQUEST: FP 07-003 CRANBERRY PARK SUBDIVISION

Ron Southard, Alpine Design Concepts, Inc. stated they were requesting approval of a Final Plat, Department file #FP 07-003 Cranberry Park Subdivision, in conjunction with a Site Development Plan for property owned by D.C.S. Development & Construction, LLC. The property *is located at the northwest corner of the intersection of Steinmeier Avenue and the D & RGW Railroad right-of-way, in the Fourmile Area.* The vacant property is proposed to be developed into twenty-four (24) lots which will house forty-nine (49) residences, with seven (7) single-family townhouse units and twenty-one (21) two-family townhouse units. The property is presently zoned Low Density Residence, however preliminary approval for a Zone Change to Medium Density Residence has been authorized contingent upon approval of Final Plat. **Mr. Southard** stated they were in agreement with the majority of the recommended contingencies. He addressed #11 requiring a quitclaim deed to the county for thirty-five (35) feet of roadway right-of-way from the center line of Steinmeier Avenue and clarified that is the right-of-way and not the street itself. Contingency #15 annexation into Cañon City is required as part of the city water service agreement and will be noted on the plat. Mr. Southard felt Contingency #22 requiring 40% coverage of any given lot should be revised to 40% of the subdivision as a whole. Based on individual lots they are out of the requirement by a total of fifty-eight square feet and are requesting a waiver. He responded to the concerns of Jack Effinger, County Engineer and clarified the revised pond is 600,000 gallons with the lower pond at 50,000 gallons. The emergency storm water spill and filtration structure are in place. He advised an eighteen inch pipe would provide the outfall from the lower overflow pond. The irrigation system will be a twenty one inch line in the open ditch area all along Steinmeier Avenue. Mr. Southard stated there are eight inches of base underneath the four inches of asphalt. He addressed the C Factor (surface absorption) and advised the rainfall intensity which is part of the multiple in the computation was calculated at twice the anticipated range.

Commissioner Stiehl commented that he was not comfortable responding to specific engineering proposals and advised the information should be forwarded to Mr. Effinger for his review. **Mr. Southard** stated he had not been able to contact Mr. Effinger and understood he could not be reached directly.

Mr. Southard requested approval to proceed with the infrastructure construction and that the developer is allowed to obtain building permits to be started at the same time the infrastructure is in progress.

Bill Giordano, Planning and Zoning Director advised the Preliminary Plan did go before the Planning Commission however, this Final Plat did not, therefore minutes or reflections from the Planning Commission were not available. He did confirm one of the requirements for the Final Plat was that the applicant meet all the requirements of the Preliminary Plan. He said as part of Contingency #3, Mr. Effinger was required to review and authorize the additional information provided and that he would assist Mr. Southard in reaching Mr. Effinger directly. He explained that Mr. Effinger has made himself available on a number of occasions to assist and communicate with applicants. Mr. Giordano stated Contingencies #1 - 13 were standard. Contingency #14 specifically asked for the executed water service contract from the Cañon City engineers. Contingency #15 can be removed. Contingency #16 related to road damage and maintenance from construction vehicles. Contingency #17 is standard. Contingency #18 provided the City of Cañon documentation on the management of storm water. Contingency #19 related to the townhouse legal description and could be clarified on the Final Plat. Contingency #20 required an amendment if there were any deviations on elevation. Contingency #21 is standard. Contingency #22 clarifies that coverage is determined per lot and the entire project/subdivision is not one lot but a number of lots. To ensure continuity the requirement coverage will remain per lot. Contingency #23 requires that a copy of the declaration of covenants for the property owners be recorded prior to the recording of the Final Plat. The covenants shall address the maintenance of the common areas and drainage facilities. Mr. Giordano stated a permit cannot be issued until the Final Plat is recorded, although the applicant has the option to set aside monies to guarantee the improvements and record the plat. **County Attorney, Jackson** stated that technically the lots do not exist until the plat is recorded and therefore a building permit could not be issued for any particular lot

Commissioner Norden stated this was not a Public Hearing but asked if anyone wishing to speak for or against to come forward.

Larry Javernick, Previous Owner and Area Resident expressed concerns regarding the road deterioration during the construction phase; specifically the area of East Main into Sherrelwood Drive. He asked if the entryway would be fixed prior to the start of construction and whether an escrow account would ensure improvements before or after completion of the subdivision. **Fremont County Attorney, Brenda Jackson** replied that to a certain extent it does not make sense to do the improvements first since they would be damaged with construction. **Mr. Southard** responded the work on the East Main intersection cannot be done until the irrigation season is over approximately the last week of February or the first two weeks of March.

Bill Giordano, Planning and Zoning Director clarified the only required improvements were to widen Steinmeier Avenue at the ditch, curb and gutter the front of the property and extend the asphalt to the curb and gutter

Commissioner Stiehl made a motion to approve the request for Final Plat 07-003 Cranberry Park Subdivision with the following changes. Contingency #11 center line of Steinmeier Avenue is changed to Steinmeier right-of-way. Contingency #15 is removed. Contingency #23 adding the phrase that the home owner covenants shall address maintenance of all drainage facilities. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Ron Southard asked if the developer could start improvements. **Bill Giordano** responded he had the right to start site improvements and the Final Plat would be recorded after the contingencies have been met.

**DISCUSSION TO ADD DELINQUENT AND PENALTY FEES FOR
CONDITIONAL USE PERMIT AND SPECIAL REVIEW USE PERMIT
REVIEWS AND ANNUAL KENNEL LICENSE INSPECTION**

Planning and Zoning Director, Bill Giordano explained CUP and SRU's have a one year review time period to ensure all the proper and required documentation has been provided by the applicant. If the applicant has not provided the required documentation the department issues a violation and subsequently the applicant submits the documentation and is no longer in violation. Mr. Giordano stated these procedures utilized the time and expense of the Planning and Zoning Department. He proposed a penalty or delinquent fee be established when the applicant does not submit the regulation documentation required within the time period. He submitted a fee schedule:

Delinquent and Penalty Fee for Conditional Use Permits \$150.00

Delinquent and Penalty Fee for Special Review Use Permits \$150.00

He proposed increasing the Annual Kennel License Inspection Fee from \$100.00 to \$200.00 in an effort to defray the time and cost of the inspection.

Commissioner Norden advised the fee's appeared on the agenda for discussion purposes and media/public notification and no action would be taken today. The consideration for Adoption of the penalty fee's and increased kennel inspection fee will be determined at the next Board of Commissioner Meeting, August 14, 2007.

Commissioner Stiehl advised a penalty fee in the same amount as the application fee will be issued for persons or businesses operating without the required permits or license. The consideration for Adoption of the penalty fee will be determined at the next Board of Commissioner Meeting, August 14, 2007.

Commissioner Norden made a motion to Amend the Resolution Number for the SDP 07-001 Lincoln Center Saloon from **Resolution # 34** to **Resolution #35**. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Norden adjourned the meeting at 11:10 A.M.

County Clerk