

SIXTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on August 24, 2004, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

Larry Lasha	Commissioner	Present
James R. Schauer	Commissioner	Present
Keith McNew	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 Sharon Kendall, Deputy Clerk.

The Morning Prayer was given by Pastor Kirk Yamaguchi from Vineyard Christian Fellowship.

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

AGENDA

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

CONSENT AGENDA

Commissioner McNew made the motion to approve the Consent Agenda:

1. Approval of Minutes, August 10, 2004
2. Approval of Bills, August 24, 2004
3. LIQUOR LICENSES
 - Martin Timothy L Martin Barbara F
Gooseberry Patch Restaurant
660 Hwy. 115
Penrose, CO 81240
Hotel and Restaurant Liquor License Renewal – Malt, vinous and spirituous

 - Mr. C’s Restaurant
C/O Acnts Unltd
601 N Main
Pueblo, CO 81001-4513
Hotel and Restaurant Liquor License Renewal – Malt, vinous and spirituous

 - Penrose Post No. 2788
Preston Mangus, Jr.
PO Box 645
Penrose, CO 81240-0645
Club Liquor License Renewal – Malt, vinous and spirituous

 - Beaver Park Investments Inc.
Kwik Stop NO 1
916 Hwy 115
Penrose, CO 81240
3.2 Percent Beer Retail License Renewal

4. Adoption of Resolution #101, Series of 2004, CUP 04-002 Ranch Land Rock Pit #2

The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, stated they had a very good turnout for the Primary Election and expects this to be one of the largest general elections.

Commissioner McNew stated that being blessed with lots of moisture means weeds along the roadways are growing extra fast. There are only two mowers in the entire county, and they are trying to get around all the roads and getting the weeds cut. Some of the gravel roads are starting to get some ruts, and the crews are trying to get to repairs. Until the rains do stop, they probably would not make an effort to smooth the roads out.

Commissioner Lasha stated that they do manage 720 miles of roads in the County.

2. Citizens Not Scheduled: None

NEW BUSINESS:

**FREMONT COUNTY BOARD OF HEALTH – MARGARET E. HUMPHREY
REQUEST FOR INSTALLATION OF SEPTIC VAULT BY WAIVER**

Commissioner Lasha stated that they would now go out of regular session and into the **Fremont County Board of Health**.

Dan Brixey, Fremont County Environmental Health Technician, stated that they had a request from Mrs. Margaret Humphrey for the installation of a vault. She currently has a mountain cabin and is an occasional use occupancy. The size of the lot precludes the installation of a regular septic system. It is strictly for sewage disposal and would be for the allowance of a vault. Mr. Brixey stated he recommended approval of this request.

Commissioner McNew made the motion to approve the request for a septic vault for Margaret E. Humphrey. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha stated they would now go out of Board of Health and return to Regular Session.

**CITY OF CRIPPLE CREEK PRESENTATION – NATIONAL HERITAGE AREA
DESIGNATION**

Since there was not a representative present for this item, **Commissioner McNew** made the motion to table it until the next meeting. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

APPLICATION FOR SPECIAL EVENTS PERMIT/V.F.W. POST 2788

Gary McCallister, Quarter Master, submitted the poster as proof of posting and stated that this was a request to open the club to the public for Apple Day in Penrose on October 2nd. **Commissioner McNew** made the motion to approve the Application for Special Events Permit for V.F.W. Post 2788 for October 2nd. The motion was seconded by

Commissioner Lasha. Upon vote: Commissioner McNew, aye; Commissioner Lasha, aye; Commissioner Schauer, aye. The motion carried.

PROCLAMATION FTD GOOD NEIGHBOR DAY

Commissioner Lasha read the Proclamation which stated in part that on September 1, 2004 FTD Good Neighbor Day would be observed. Participating FTD florists would be giving away thousands of flowers in bunches of a dozen to customers, asking in return that they keep one and give the rest away in gesture of friendship and goodwill. **Commissioner McNew** made the motion to pass the Proclamation for Good Neighbor Day. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

APPROVAL OF CONVEYANCE OF REAL PROPERTY TO JAMES R. AND DINAH S. KENNEDY FOR \$4400.

Commissioner McNew stated that this was two small pieces of property that is too small to build on and have made an offer of \$4400 for the property. The Kennedy's lot is within Glen Vista Subdivision and one small lot is in Colorado Acres Subdivision and is adjoining. They wish to acquire this property to go with their lot. **Commissioner McNew** made the motion to approve the conveyance of real property to James R. and Dinah H. Kennedy for \$4400. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

RESOLUTION #110/REFERRING QUESTION OF ESTABLISHMENT OF JOHN C. FREMONT LIBRARY DISTRICT & CREATION OF NEW TAX TO THE BALLOT FOR ELIGIBLE VOTERS IN THE ELECTION ON NOVEMBER 2, 2004.

Brenda Jackson Fremont County Attorney, stated that this was a request by petition to place on the ballot, within the boundaries of the proposed library district, the formation of this district with the 2.00 mill property tax imposed to fund the district. The resolution refers this to the ballot for certain portions within the boundaries of RE-2. Those excluded are the Town of Brookside, anything within the Penrose Library District and a significant piece of property in the Southeast portion of the County. With those exceptions, the RE-2 School District boundaries will be the boundaries of the Library District should it be formed. It has to go to the vote of the people because of the tax and it has been submitted by petition. Rather than forming the District by resolution, the voters get to choose whether the District will be formed.

Commissioner Lasha stated that Jennifer Miley was present and she had put a lot of work into this. He asked Mrs. Miley if she was aware that they would be required to have two public hearings.

Brenda Jackson stated that the Board would set the date, time and location for the hearings. She stated she was sure they would want to hear from Mrs. Miley's group to make presentations. She stated that the statute requires 100 signatures and they had well in excess. **Mrs. Miley** reported that they submitted 700 signatures received in two weeks.

Commissioner Schauer made the motion to approve **Resolution #110** sending to the November ballot the question as to forming the John C. Fremont Library District in the Florence, Penrose area. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #110**.

RESOLUTION #111/REQUEST: VPR 04-001 FREMONT COUNTY/BLM (F24,F25,F34 & F35)

Commissioner Lasha stated that this was a request for vacation of portions of County Road #F24, the North and South portions of County Road #F25, all of County Road #F34 and all of County Road #F35, all north or northwest of the City of Canon City.

Roy Massinton, BLM Field Manager, stated that the Bureau of Land Management had recently completed the Gold Belt Travel Management Plan for the area that would include Garden Park where these roads lie. These roads are slated to be kept open for public use and the only time they would be considered for closure is for inclement weather. The reason they are asking for the roads to be vacated by the County is because the maintenance that has been done has been done by the Bureau. They have recently discovered that the maintenance the Bureau has done, should not have been done at least legally. As a result, they are in a position to ask the County to vacate these roads or take back and assume the maintenance of them. They are not intending to bring these roads up to a paved county road standard and many of the roads will be left accessible via 4-wheel drive vehicle. As long as the Dilley family has need of the access, they have no intention of minimizing their access. He stated that he would not be at odds with Carol Dilley on this issue. If she opposes this, they would withdraw their request.

Bill Giordano, Planning & Zoning Director, stated that each road had been posted and publication had been done. On the August 3rd Planning Commission meeting, they did make a motion to approve exempting CR F35, but the motion was defeated. If this is approved, it would require a resolution to be prepared for the next meeting.

Commissioner Lasha stated that this was not a Public Hearing, but they would allow speakers.

Ms. Carol Dilley stated that in the Memorandum of Understanding, it states that if the private landowners need this land developed, it can be reverted back to the County as a County road, and she asked what the process was in achieving that. She stated that if it didn't require a public hearing or the Board's permission and it would revert back and it was that simple, she no longer remained opposed to the BLM and the vacating of that land.

Russell Purcell, N. Cottonwood Avenue Resident, stated he had a concern with the recreational side. He stated that BLM had already closed 2/3 of the climbing area and 2/3 of the Garden Park area. He stated he was against BLM getting these roads.

Jane Chess, Florence Resident, stated she was not against being vacated if it does not lead to closure at a later date.

Mr. Massinton stated that all of the roads that they are requesting vacation by the County are to be kept open for public access. They have a signed plan that they are going to keep those areas open and they are only trying to gain control of ATV use or motorized use to minimize the damage occurring to natural resources.

Commissioner McNew stated that BLM is working to still leave areas open for recreation and are doing a pretty good job. With the exception of F35, these roads are all within BLM land. When the County improves or widens a road that goes through BLM, they go through the permitting process. He stated he appreciated Ms. Dilley working with both BLM and the County. **Commissioner McNew** made the motion to approve with the terms of the Mutual Agreement and approve VPR 04-001 Fremont County/BLM for F24, F25, F34 and F35 vacation. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #111**.

REQUEST: CUP 97-5 AGILE STONE SYSTEMS, INC./FRONT RANGE AGGREGATES, LLC

Thomas Maul, General Manager, Front Range Aggregates, LLC, stated they would like to operate the Park Dale Quarry under the terms and conditions of the existing CUP 97-5 formerly assigned to Agile Stone Systems. They are asking that it be assigned to Front Range Aggregates.

Bill Giordano stated that all necessary documents had been provided.

Commissioner McNew stated that the Board and the Planning Department had met with the representatives of Front Range Aggregates. He stated that in his opinion all the meetings had been very positive, and this company desires to be a good neighbor. In the future, there will be more effort put into seeing that the conditions are met and the violations are handled in a timely manner.

Commissioner Lasha stated that Front Range had met with land owners and he appreciated the follow up. Commissioner Lasha made the motion to approve the transfer of CUP 97-5 Agile Stone Systems. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Lasha, aye; Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried.

APPROVAL AND RATIFICATION OF GRANT AGREEMENT WITH THE FAA FOR AIRPORT IMPROVEMENT PROJECT NO. 3-08-009-05, RUNWAY EXPANSION PROJECT.

Brenda Jackson stated that several months ago the Board approved the negotiation and purchase of property east of the airport for runway extension project. The FAA has a grant agreement that they require to be signed. Although the Board took formal action to approve this project and to approve the land acquisition, the FAA was in a hurry to get their grant agreement signed. It was signed last week, but it needs to be approved and ratified today.

Commissioner McNew made the motion to approve and ratify the grant agreement with the FAA for airport improvement. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

APPROVAL OF FREMONT COUNTY POLLING PLACES FOR GENERAL ELECTION -- NOVEMBER 2, 2004

Norma Hatfield submitted the list of polling places for the General Election. She stated they no longer have curb-side voting at a precinct. Part of the HAVA bill is to have precincts across the nation handicap accessible. She stated there would be two weeks of early voting.

Commissioner Schauer made the motion to accept the polling places for the November 2nd General Election as presented by the County Clerk. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Schauer, aye; Commissioner Lasha, aye; Commissioner McNew, aye. The motion carried.

CHANGE ORDER #6 – NUNN CONSTRUCTION

Dana Angel, Finance Director, submitted the Change Order and stated that this Change Order recaps a lot of change order proposals going back to mid-June. This basically formalizes all those changes into a Change Order and adds it to the contract amount. The total amount of the Change Order is \$63,865 and brings the total contract amount to \$3,744,629. There are 31 changes incorporated into this Change Order. It is still on line to complete the project on September 9th.

Commissioner McNew stated that with this Change Order in the amount of \$63,865, it is coming out of the contingency money and they are still within the budget and their guaranteed maximum price. The project has been going on schedule and within the budget. **Commissioner McNew** made the motion to approve Change Order #6 for Nunn Construction. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 10:19 A.M.

County Clerk