

September 11, 2007

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## **EIGHTEENTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 11, 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
Larry Lasha	Commissioner	Present
Michael J. Stiehl	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.

Kenneth Williams of Share Life Church gave the Morning Prayer.

Commissioner Norden asked that everyone remember the Sixth Anniversary of 9/11 and the valiant firefighters and police officers.

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

### **APPROVAL OF AGENDA**

**Commissioner Stiehl** stated a request to appoint a new member to the Board of Penrose Community Library would be added under New Business as 1A. **Commissioner Lasha** made a motion to accept the Agenda as amended. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

### **CONSENT AGENDA**

**Commissioner Stiehl** moved to approve the Consent Agenda.

1. Approval of Minutes August 28, 2007 and Special Meeting September 5, 2007
2. Approval of Bills, September 11, 2007 / \$758,008.14
3. SCHEDULING OF PUBLIC HEARINGS/ None

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, 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 August 2007. She stated that total revenues earned in the Clerk's Office was \$804,849.55 and that figure was up \$44,271.32 from a year ago. The sales tax collected was \$96,920.53 which was a slight decrease of \$69.84 from a year ago. Money collected for distribution among the entities was \$435,660.74 and that was an increase of \$1,381.57 from a year ago. Commissioner Stiehl commented that although the County acts as an agent for the total monies collected and distribution among the entities; approximately 19%-20% is disbursed to the County. The remainder is distributed to school districts, cities and so forth.

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

**Commissioner Lasha** announced Pioneer Days in Florence will be held this weekend and the Board of Commissioners will participate in the parade.

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**Finance Director, Dana Angel** reported the 2008 Budget request forms were distributed to the Elected Officials and Department Heads in mid July. He stated the BOCC and the Finance Director were in the process of meeting with Elected Officials and Department Heads to review and discuss the needs of the department. He advised the proposed Budget will become a public document in mid-October for public review and comment. Mr. Angel stated the Adoption of the 2008 Budget is scheduled for December of 2007.

**Jeri Fry, Director and TAG Program Manager** stated the E.P.A., awarded CCAT a \$50,000 Technical Assistance Grant in 2003 for the hiring of independent scientists to assist Fremont County better understand the Cotter/Lincoln Park Superfund site. Arjun Makhijani Ph.D., President of the Institute for Energy and Environmental Research of Takoma Park, Maryland and Charles Patterson Ph.D., of Eldorado Springs, Colorado were hired as technical advisors in 2004. For the past three years they have worked in their respective areas of health, environment, geohydrology and geochemistry to review documents, interpret technical reports, site conditions and EPA's cleanup proposals and decisions. Ms. Fry presented two (2) volumes of completed research as reference for Fremont County to the Board. **Carol Dunn, CCAT Co-Chair** said the publications are intended for use by citizens and elected officials to assist in any future decision making about the site. She remarked that Doctor Makhijani addresses radon air monitoring and Doctor Patterson addresses ground water issues. Ms. Fry announced Donna Murphy, CCAT Vice-Chair and Lynn Dillon, Founding Director were in attendance.

**Commissioner Stiehl** expressed appreciation to the CCAT Board for their efforts. He commented there is an action community advisory group sponsored by the E.P.A., and the Colorado Health Department. The meetings are scheduled the fourth Thursday of every month in the RE-1 School Administration Building from 6 PM to 9PM.

2. Citizens Not Scheduled on Agenda

**Melvin Cole, Training Coordinator at the Department of Corrections, Cañon Minimum Center** reported they completed the American Correctional Association Audit with a score of 100% on mandatory compliance and 99.9% on non-mandatory. The National Audit is scheduled for the first week of October and will allow the promotion of the Correctional System as well as Cañon City and Fremont County. He thanked Commissioner Norden for his attendance at the CSP 2 ground breaking ceremony. Mr. Cole announced CMC will host a haunted house and a trunk or treat for the children in the downtown area. He stated they will provide thanksgiving dinners to several community families in need. He reported CMC plans to provide an entry in the parade of lights and a Christmas toy drive for needy children.

**Commissioner Stiehl** commented his parents are the recipients of a prison trained dog. He expressed appreciation for the great service provided by Cañon Minimum Center.

**OLD BUSINESS:**

**Commissioner Norden** stated **Resolution No. 40** and **No. 41** are listed under Old Business due to minor language changes. **County Attorney, Brenda Jackson** reported the Resolutions/Ballot measures were approved by the Board at the Special Meeting of September 11, 2007. She stated it was brought to her attention by **Clerk and Recorder, Norma Hatfield** that the **Resolutions** did not reflect that this would be a mail ballot election. Ms. Jackson announced that Election Day is November 6, 2007 and that Fremont County has opted for a mail ballot election, therefore minor language indicating it was a mail election was added to the **Resolutions**. **Commissioner Norden** said the Clerk and Recorder advised that **Resolution No. 40** will be ballot issue 1A and **Resolution No. 41** will be 1B.

**Commissioner Lasha** made a motion to ratify **Resolution No. 40** and **No. 41** adding the wording Mail Ballot Election. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye.

**NEW BUSINESS:**

**COUNTY PRESENTATIONS TO CAÑON CITY AND PENROSE LIBRARIES**

**Cañon City Public Library Director, Susan Ooton** advised ballot issue 2A before the voters this November requests one half of one percent sales and use tax with the revenues being expended for constructing, equipping and landscaping of a new library and renovating the existing library. The increase would start January 2008 and end December of 2027. She advised currently 45% of the registered patrons are County residents living outside the City of Cañon and presented the Board with "Support Your Library" vehicle decals.

**Penrose Community Library Director, Kristina Lindsey** reported that 77% of the needed funds for the new library have been secured. She stated that half of those funds were secured from a grant and various foundations. She was pleased to announce that the other half has been secured from individual residents and businesses in the area.

The Board of County Commissioners presented the library representatives with funds to be utilized within their existing library locations.

**BID AWARD-RETAINING WALL PROJECT AT COCKLEBUR CREEK ON SILOAM ROAD**

**Finance Director, Dana Angel** advised that Don Moore, County Engineer recommended the acceptance of the sole bid from Patch Construction, LLC in the amount of \$28,243.00.

**Commissioner Lasha** made a motion to award the retaining wall project at Cocklebur Creek on Siloam Road to Patch Construction, LLC in the amount \$28,243.00. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**APPOINTMENT TO THE PENROSE LIBRARY DISTRICT BOARD OF TRUSTEES**

**Commissioner Stiehl** advised the Board received a letter from the Penrose Community Library District Board of Trustees requesting that Bill Fleming be appointed to the Board of Trustee's; filling the vacancy created by the resignation of Esther Brunette, who has moved out of the district. **Commissioner Stiehl** made a motion to appoint Bill Fleming to the Penrose Community Library District Board of Trustees for the remainder of the four year term. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Norden** remarked it was time to start the 10:00 AM Public Hearing.

**Commissioner Lasha** requested that the next agenda item under New Business be expedited prior to the start of the Public Hearing. **Commissioner Norden** agreed and proceeded.

**REQUEST: TUP 07-007 PENROSE CHAMBER OF COMMERCE APPLE DAY**

**William McGuire, Penrose Chamber of Commerce President** stated they were requesting approval of a Temporary Use Permit to allow the 72<sup>nd</sup> Apple Day Festival by the Penrose Chamber of Commerce. The events will be held in downtown Penrose (Broadway from Elm to Illinois and ½ block south on Grant, and Fremont Street from Broadway to one block north) on Saturday, October 6, 2007, from 6:00 a.m. to 5:00 p.m. He thanked the Planning and Zoning Department for assisting him with the application.

**Bill Giordano, Planning and Zoning Director** stated the only action required was approval of the event. He advised they were requesting a waiver of the application fee, clean-up fee and acceptance of the general liability insurance. Mr. Giordano reported that **Environmental Health Officer, Sid Darden** is requesting licenses from all the food vendors prior to September 28, 2007.

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**Commissioner Lasha** made a motion to approve TUP 07-007 Penrose Chamber of Commerce Apple Day with the condition that the vendors provide licenses to the Environmental Health Office; acceptance of the liability insurance and waiver of the application and clean up fee. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**PUBLIC HEARING**  
**REQUEST: ZC 07-001 LIPPIS REZONE**  
**SEPTEMBER 11, 2007 10:00 A.M.**  
**RESOLUTION #42**

**Matt Koch, Cornerstone Land Surveying** stated they were requesting approval of a Zone Change from Low Density Residence Zone District to the Business Zone District, Department file #ZC 07-001 Lippis Zone Change, in conjunction with a site development plan, by Vicky Dixon Lippis, for her property which is located at the northwest corner of the intersection of Colorado State Highway 115 and Walnut Street in the Lincoln Park Area. He reported they are proposing a new greenhouse structure and during the process it was revealed that the property was not properly zoned. He said they were in agreement with the six (6) Contingencies and asked that the statement in the County Engineer's letter advising the impacts for drainage should be taken care of at the time of the building permit be on record. Mr. Koch referenced a letter received from DeWeese-Dye Ditch and Reservoir Company regarding their request that the irrigation ditch along side Highway 115 (in the right of way) be piped and buried. He stated the property does not impact the drainage of that ditch. The runoff is to the north east corner of the property and the referred ditch is to the south.

**Planning and Zoning Director, Bill Giordano** stated the posting, publication and property owner notification along with the additional notification requirements have been met. He advised the Planning Commission approved the Zone Change at the August 7, 2007 meeting with six (6) Contingency items and Waiver requests. He addressed Contingency #1 Compliance with all requirements as noted by the County reviewing engineer in his letter dated July 8, 2007. He explained this was the initial letter and subsequent to receiving new drainage information, Mr. Moore submitted another letter stating the report may include an option of sufficient landscaping and site grading to increase the travel path of the storm water flow from the new structure to the point it leaves the site. Contingency #2 the Roadway Impact Analysis Form has not been signed by the applicant. Contingency #3 the Fire Protection Plan has not been signed by the Cañon City Area Fire Protection District. Contingency #6 CDOT is requesting they be notified of any significant changes in the future. Mr. Giordano explained that under department regulations buffering and landscaping are required on all properties that are zoned residential and that the applicant has requested a waiver. The west and south side presently has buffering trees; the north side is bordered by a mobile home park and although the east side is open it is separated by a road. Due to the fact this is only a greenhouse addition and additional customer parking would not be required, the planning commissioner waived the surfacing, lightening and landscaping of the parking lot. The planning commission did justify the rezoning since the property was not properly zoned when existing zoning was imposed and there will be no effect on adjacent uses. Mr. Giordano addressed the request from DeWeese Ditch Company and said he did not feel the request was warranted since the run off from this site does not reach the ditch at this time.

**Commissioner Norden** commented that the Board appreciates the concern of DeWeese Ditch to keep run off and storm water out of irrigation ditches. He said in this particular case it is not certain there is water drainage from the site and the solutions suggested by the County engineer are reasonable. **Commissioner Stiehl** agreed, and commented that the County is concerned about drainage entering irrigation facilities such as ditches.

**Commissioner Norden** asked for anyone speaking for or against to come forward.

**Ray Lippis, Owner** advised that 50% of the square footage being added for the greenhouse structure will replace previous buildings that will be demolished.

**Commissioner Norden** closed the Public Hearing and returned to Regular Session.

**Commissioner Stiehl** made a motion to approve **Resolution #42** ZC 07-001 Lippis Rezone with the recommended Contingencies, adding a reference to the County engineer's letter dated July 8 and July 24 of 2007 and clarifying that the drainage construction will be delayed until the building permit stage; waiving the buffering, landscaping requirements and surfacing, lighting and landscaping of the parking areas. Commissioner Stiehl advised rezoning Justification was due to the fact the property was not properly zoned when existing zoning was imposed and additional land is needed in the proposed zone district. Findings are there is a public need and there will be a County or neighborhood benefit and the granting of the zone change will tend to preserve and promote property values in the neighborhood.

**RECOMMENDED CONTINGENCIES**

The following items shall be provided to the Department within six (6) months (no extensions).

1. Compliance with all requirements as noted by the County reviewing engineer in his letter dated July 8 and July 24, 2007.
2. Copy of the Roadway Impact Analysis Form executed by the Applicant/Owner.
3. Copy of a Fire Protection Plan signed by the Cañon City Area Fire Protection District.
4. Compliance with any requirements of the Cañon City Area Fire Protection District.
5. Compliance with any requirements of the Colorado Department of Transportation.
6. Copy of utility plan, signed and approved by all applicable utility companies.

**WAIVER:**

1. Compliance with Section 5.2.6 of the Fremont County Zoning Resolution (FCZR) regarding buffering and landscaping requirements.
2. Compliance with Section 5.3.2, 5.3.3, and 5.3.4 of the FCZR regarding
3. surfacing, lighting and landscaping with regard to parking areas.

**JUSTIFICATIONS:**

1. a The property was not properly zoned when existing zoning was imposed.
1. b Additional land is needed in the proposed zone district.

**FINDINGS:**

2. a There is a public need and there will be a County or neighborhood benefit.
2. b The granting of the zone change will tend to preserve and promote property values in the neighborhood.

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried with the Adoption of **Resolution #42**.

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**PUBLIC HEARING  
FLOOD DAMAGE PREVENTION REGULATIONS  
SEPTEMBER 11, 2007 10:00 A.M.  
RESOLUTION #43**

**Don Moore, County Engineer** explained that Fremont County received letters from FEMA regarding the revision of the flood plain maps. He advised that Fremont County must adopt flood plain management measures such as a flood plain management ordinance that meets or exceeds the national flood improvement program requirements by September 19, 2007 to avoid suspension from the national flood insurance program. If suspended the community becomes ineligible for flood insurance through the program and new insurance policies cannot be sold and existing policies cannot be renewed. Mr. Moore stated the Resolution has been revised clarifying the requirement when building in a flood plain area the lowest floor must be elevated to one foot above the base flood elevation. He said the maps have been digitized and the datum used for verification has been updated.

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

**Commissioner Lasha** thanked Don Moore and everyone involved in the preparation of document and made a motion to approve **Resolution #43**, Series 2007 Designating Fremont County Flood Hazard Areas as a Matter of State Interest and Adopting Fremont County Flood Prevention Regulations. The motion was seconded by Commissioner Stiehl.

**County Attorney, Brenda Jackson** advised that due to the specific statutory time frame for processing and publication, the floodplain maps will be ready for adoption a week after the September 19, 2007 deadline. Ms. Jackson explained there were several delays prior to Mr. Moore's receipt of the material and even though he acted quickly and promptly the publication stage delayed the processing.

Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried with the Adoption of **Resolution #43**.

**NEW BUSINESS: (Continued)**

**REQUEST: RESCISSION OF SRU 01-002 RIVER RUNNERS BUNGEE SPECIAL REVIEW USE PERMIT**

**Planning and Zoning Director, Bill Giordano** advised the Planning and Zoning Department is requesting approval to rescind SRU 01-002. The existing Special Review Use permit allows the construction and operation of a 129 foot high arch tower for use as a rocket launching bungee operation. He said the inspection by Code Enforcement indicated that there never was a bungee operation on the premise. There has been an ownership change for the property, and the current owner said he has no intention of operating a bungee operation. The property is zoned Business and contains 6.54 acres and if the permit is rescinded, only permitted uses in the Business Zone District will be allowed.

**Commissioner Stiehl** made a motion to rescind SRU 01-002 River Runners Bungee Special Review Use permit. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**County Attorney, Brenda Jackson** left the Board of Commissioners Meeting at 10:35 A.M.

**BOARD OF HEALTH HEARING TOP RAIL RANCH RECREATION CAMP  
SPECIAL REVIEW USE PERMIT VIOLATIONS**

**Commissioner Norden** adjourned as the *Fremont Bounty Board of Commissioners* and resumed as the *Fremont County Board of Health*.

**Commissioner Norden** reported at the June 12, 2007 BOCC meeting the *Fremont County Board of Health* denied the request for a waiver of the septic system at Top Rail Ranch. He advised the permit-holder, Ron Walker was asked to bring Top Rail Ranch into compliance by September 11, 2007 or attend today's hearing. Mr. Ron Walker is not present.

**Commissioner Stiehl** reported the Environmental Health Office received a complaint on March 1, 2007 from a previous hunting client of Top Rail Ranch regarding code compliance structures and code compliance septic system to accommodate the structures. On April 19, 2007 Fremont County Environmental Health Officer Sid Darden issued a formal violation notice to Mr. and Mrs. Walker of Top Rail Ranch informing them the individual sewage disposal system was not in compliance and had never been issued a permit. Mr. Darden submitted options and suggestions to the Walkers to bring the system into compliance.

**Commissioner Norden** adjourned as the *Fremont County Board of Health* and resumed the meeting as the *Fremont County Board of Commissioners*.

**REQUEST: SRU 99-003 TOP RAIL RANCH RECREATION CAMP**

**Commissioner Norden** advised SRU 99-003 Top Rail Ranch Recreation Camp was issued on July 27, 1999 and amended on July 13, 2004.

**Planning and Zoning Director, Bill Giordano** clarified the proceedings. The initial complaint was received in the Environmental Health Department regarding the sewage disposal. Under the SRU the Planning and Zoning Department requires that the applicant is in compliance. He reported not having an adequate and permitted septic sewage disposal system is a potential health ordinance violation. A determined septic system violation by the Board of Health is also a violation of the Special Review Use permit.

**Commissioner Norden** stated for the record that the Planning and Zoning Office is in receipt of a letter from Mr. Ron Walker dated September 5, 2007 in which he contends that his building structures at Top Rail Ranch are hooked to a septic system that has no health issues to be in violation and in conclusion would not attend the hearing on September 11, 2007 or any other time; advising the Board to decide what is best for Fremont County.

**Commissioner Stiehl** advised the permit-holders were not only notified of the violations but were given options and suggestions for compliance. He said it was disappointing that Mr. and Mrs. Walker did not respond until the correspondence stating they would not attend the BOCC meeting of September 11, 2007.

**Commissioner Lasha** stated that rules and regulations are written and enforced for all county residents and business owners. He expressed concern regarding the Top Rail Ranch hunt advertisements from August 26<sup>th</sup> to December 31<sup>st</sup> of 2007 and any scheduled clientele. He proposed allowing Top Rail Ranch the opportunity to finish the hunting season so the scheduled hunts will not have to be cancelled and postpone the decision on the SRU until the first meeting in February of 2008.

**Commissioner Norden** referenced a letter dated April 19, 2007 from Environmental Health Technician, Dan Brixey advising that an inspected and permitted septic system is required for the proper discharge of human waste in Fremont County. Mr. Brixey's research did not find any records on file for the septic system or the building structures. Commissioner Norden advised that Dan Brixey has not been allowed on the property to review or inspect the septic system or building structures.

**Commissioner Stiehl** said there are apparently two buildings that are used as cabins. The permit-holder claims they are tuff sheds but the photographs on the website reveal and referenced toilet facilities and showers. He advised if these structures were erected without a building permit after the SRU permit issued in 1999, the structures would be in violation of the SRU.

**Commissioner Lasha** referenced a letter issued to Code Enforcement Officer, Robert Sapp dated April 27, 2007 from Mr. Walker stating Top Rail Ranch will advise all guests to bring their own groceries and that bottled water and canned beverages will be supplied.

**Planning and Zoning Director, Bill Giordano** advised SRU Regulation 8.2.10.3 states if the department or code enforcement officer determines that a violation(s) of a permit has occurred or is occurring, written notice of the violation(s) shall be provided to the holder of the permit along with a reasonable time for compliance corrections.

**Commissioner Lasha** made a motion to table the issue until the February 12, 2008 meeting. He stated the compliance deadline date of February 12, 2008 will address the building structure and the sewage disposal system violations. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden., aye. The motion carried.

#### **LIQUOR LICENSES**

**Commissioner Norden** advised the Liquor License Renewals appear under New Business because they lack completion of the sheriff's investigation reports. He asked Deputy Clerk, Kris Lang if there would be any reason they should not be renewed pending a favorable sheriff's investigation report. Ms. Lang responded no and stated the renewal applications were order.

#### **GOOSEBERRY PATCH RESTAURANT**

660 Highway 115

Penrose, CO. 81240

##### Hotel & Restaurant Liquor License Renewal – Malt, Vinous and Spirituous

**Commissioner Lasha** made a motion to approve the Gooseberry Patch Liquor License Renewal Application provided a favorable report from the sheriff's department is received. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

#### **MR. C'S RESTAURANT**

895 State Highway 115

Penrose, CO. 81240

##### Hotel & Restaurant Liquor License Renewal – Malt, Vinous and Spirituous

**Commissioner Lasha** made a motion to approve Mr. C's Restaurant Liquor License Renewal Application provided a favorable report from the sheriff's department is received. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

#### **SUGARBUSH STORE & CAMPGROUND INC.**

9229 Highway 50

Howard, CO. 81233

##### 3.2% Beer Liquor License Renewal

**Commissioner Lasha** made a motion to approve the Sugarbush Store and Campground License Renewal Application provided a favorable report from the sheriff's department is received. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Norden** adjourned the Meeting at 11:05 A.M.