

EIGHTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 14, 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.

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| 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 Don Farr from Church Alive.

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

AGENDA

Commissioner Schauer stated that he would like to add approval of the minutes of the Special Board Meeting held on September 8th to the Consent 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 with the addition of the minutes of September 8th meeting:

1. Approval of Minutes, August 24, 2004 and Special Meeting, September 8, 2004
2. Approval of Bills, September 14, 2004/\$959,607.89
3. LIQUOR LICENSES
BDA ENTERPRISES INC.
Ideal Lanes
2970 E. Main St.
Canon City, CO 81212-2730
Hotel and Restaurant Liquor License Renewal – Malt, Vinous and Spirituous.
4. Adoption of Resolution #111, Series of 2004, and signing of Memorandum of Agreement, VPR 04-001 FREMONT COUNTY/BLM (F24, F25, F34 AND F35)

The motion was seconded by Commissioner Schauer and he stated that the meeting on September 8th was strictly to correct some language for the ballot issue for the John C. Fremont Library District. **Commissioner Lasha** stated that the correction had to do with the addition of one word “Fremont”. 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, submitted the Clerk’s report for the month of August, and she stated that revenues earned were \$679,106 and that was \$7,454.38 above a year ago in August. She stated that the portion going to the entities was \$393,667.40 which was up \$15,689.87. There was a \$3,622.38 gain in sales tax and the

collection on the sales tax was \$74,413.27. **Commissioner McNew** made the motion to approve the Clerk's Report for the month of August. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha stated that there would be a Public Meeting for the Canon City Fire District at Canon City Council Chambers on September 16th having to do with impact fees. He stated that on September 15th in the Commissioner Board Room there would be a meeting with Park and Recreation and DHM, the design firm doing the park. It is an opportunity for the public to have input in the design of the park.

2. Citizens Not Scheduled

David LaDeau, CR 95 Resident, stated that it was not his intention to get anyone in trouble. He stated that the day before, the Animal Control Officer was across the street from his property. His dog was lying in his driveway and his neighbor told him that the Officer tried to get the dog to cross the street. He stated he had gone to the Sheriff's Office and established that there had been no complaints filed against his dog. He stated that they needed to be very careful that they were not leaning on the Sheriff's Department so much that they feel the need to create a problem or meet quotas. He stated that it was a system problem and hoped it could be addressed.

John Harmon, Penrose Resident, stated that in July he had talked to Larry about his complaint on a young officer with the Sheriff's Department who had lied to him and he could not get any action from the Sheriff's Department. He stated that the officer was a hazard in his way of driving and he filed a complaint with the Sheriff's Department and told the Sergeant in charge of this officer that he wanted to file charges. He stated that nothing ever happened. He stated there needed to be a system that when they have a problem with an elected official, it goes to the extreme to solve it. He stated he would like to have a meeting with the officer, Sheriff Beicker, Larry and the Sergeant.

Jim Kennedy, Cotopaxi Resident, stated they were there to finalize the purchase of the Glen Vista property.

Brenda Jackson, Fremont County Attorney, stated that the Commissioners approved the sale of the land and she had prepared the deeds and they were signed. As soon as the Finance Department confirms that the money has been received, she would record the deeds and would return the recorded deeds to them.

NEW BUSINESS:

PETITIONS FOR ABATEMENT OR REFUND OF TAXES/ASSESSOR'S OFFICE

Commissioner Schauer made the motion to approve Petitions for Abatements or Refund of Taxes, **Resolutions #112 through #118**. 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 **Resolutions #112 through #118**:

RESOLUTION #112 – VANSYOC, RICHARD & JANET - #995-04-698

RESOLUTION #113 – MCBROOM - #120-02-690

RESOLUTION #114 – BOECKER, ROBERT & BARBARA - #999-21-031

RESOLUTION #115 – MERLINO, MICHAEL & CATHERINE - #999-04-185

RESOLUTION #116 – CAMERLO, ALTAANN & OBERHELMAN, ROGER L. - #110-79-007

RESOLUTION #117 – SAFEWAY STORES - #110-80-115

RESOLUTION #118 – WRIGHT, DWAYNE & JILL - #986-04-125

PUBLIC HEARING
REQUEST: ZC 04-004 SHEPARD ZONE CHANGE
SEPTEMBER 14, 2004 10:00 A.M.
RESOLUTION #119

Matt Koch, Cornerstone Land Surveying, stated they were requesting a zone change for the property located on East Main Street. It is now zoned Low Density Residence and they are asking for Business Zone. There is an existing building that has been renovated and will be used for office space. They are proposing a gravel parking lot with a concrete apron for parking and access would be off of East Main Street.

Bill Giordano, Planning & Zoning Director, stated that the publication, posting and notifications had been done. At the Planning Commission meeting on July 6th, they recommended approval with 3 recommended contingencies. If approved, this would require a resolution to be prepared for the next meeting. The Board will also need Findings and Justifications.

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

Commissioner Schauer made the motion to approve ZC 04-004 Shepard Zone Change, **Resolution #119** with Findings of C (There has been a material change in the neighborhood) and B in Section 2 (The granting of the zone change will tend to preserve and promote property values in the neighborhood and D (There will be no effect to the adjacent use) and 3 contingencies, paving the 3 parking spaces, the Additional Considerations and not waiving the surfacing, lighting and landscaping, leaving that in. 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 #119**.

RECOMMENDED CONTINGENCIES

It is recommended that this zone change be approved and forwarded to the County Commissioners for scheduling of a public hearing with the following:

1. Documentation as to adequacy, or an access permit for the existing access from the City of Canon City or the Colorado Department of Transportation.
2. Documentation (articles of incorporation) that Ty Shepard is authorized to sign for Shepard Commercial Properties, LLC a Colorado Limited Liability Company.
3. The parking lot and driveway shall be paved to County standards. A curb, barrier or fence shall be installed to prevent parking vehicles from extending over or backing onto any lot lines.

ADDITIONAL CONSIDERATIONS

1. Conversion of the building from a residential use to a business use will require a building permit.
2. Since the property lies within a FEMA flood hazard area any construction will require compliance with the Fremont County Prevention Regulations.
3. The existing setbacks do not comply with zoning district requirements, therefore if the existing building is removed or replaced it shall comply with required setbacks of the Business Zone District.

ADDITIONAL ITEMS FOR CONSIDERATION:

1. **5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

2. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.
3. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

FINDINGS:

There has been a material change in the neighborhood which justifies the requested zone change.

The granting of the zone change request will tend to preserve and promote property values in the neighborhood.

There will be no effect on adjacent uses.

**PUBLIC HEARING
REQUEST: 04-005 FLETCHER ZONE CHANGE
SEPTEMBER 14, 2004 10:00 A.M.
RESOLUTION #120**

Chuck Rupp, Ponderosa Engineering, stated that this was a request for zone change for the Fletchers who own two tracts along Highway 50 in the Penrose Beaver Park Area on the south side of the Highway. They are requesting a Business Zone, and there are some improvements on the larger tract. Both tracts are bisected by N Street that has an access to the Highway. Mr. Fletcher is currently operating a home occupation and small tool repair business and seeks to expand to a full-time business.

Wes Fletcher stated that they had purchased the lot in January and made significant improvements. He stated they wanted to expand their business and move their existing business to a lot that is there so he could run both businesses at one location. Since January, they have established 285 new customers.

Bill Giordano stated that the property had been posted, notifications sent to all property owners within 500 feet and publication had been done. At the August 3rd Planning Commission meeting, they recommended approval of this. There were 3 recommended contingencies and they took no action on surfacing, lighting and landscaping. He stated that justification and findings would be needed and would require a resolution that would be prepared for the next meeting.

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

Jonathan Stricklett, 15th Street Resident, Penrose, stated that he was against the zone change and that he lived directly across from the property. He stated he felt it would have a negative impact on the neighborhood. If it is approved, there should be some sort of barrier to protect the property values. He stated that he felt the dirt road would not support the amount of traffic. There are a lot of kids that live in the neighborhood and increased traffic, you increase the likelihood of a kid getting hurt. There is no access for pedestrian traffic. There is insufficient drainage and the road needs to be paved. There is no turning lane for the eastbound traffic off of Highway 50 and no turning lane for the Handi-Mart. Mr. Stricklett submitted a petition signed by people against the zone change.

Jack Robeda, 16 Street Resident, Penrose, stated he had questions rather than for or against. Is the access to this business going to be from Highway 50 and N Street? If N Street is the answer, is the County going to bring N Street from the Highway up to 15th Street up to County specifications? Has Mr. Fletcher submitted a business plan for any possible hazardous waste materials that would be generated in his shop? In the future, what is the County going to do to ensure that if Mr. Fletcher sells tomorrow, that someone

else in that Business Zone doesn't do what's done down the Highway next to the Mini-Storage?

Bill Anderson, 15th Street Resident, Penrose, stated that he had been there for seven years and he purchased his place because it was an agricultural area and he would like it to stay that way. He stated he was concerned about the tax structure, and the dust pollution. The road needs to be paved, there needs to be a change in the drainage system and a change as far as the parking.

Kelly Todd, 15th Street Resident, Penrose, stated she had been a property owner there for 17 years and she was against the business going in.

Wes Fletcher stated that the proposed building for the canvas shop would be on Tract 60 and access would be off N Street and did not have any problem paving up to the entrance to the canvas shop. He stated they would like to build a building on Lot 61 where the canvas shop would be and had no problem paving up to the access to the canvas shop on Tract 61. He stated that 85% of his customers do not come to the shop. Mr. Fletcher stated he would have no problem putting a designated spot for the school bus. He stated that it would be impossible to create a barrier, and that he does not use any hazardous materials.

Commissioner Lasha closed the Public Hearing and returned to the Regular Meeting.

Commissioner McNew stated a rounded economy in the County needs business, needs a way to make money and this young man has established a business, making a profit, raising a family and that is the American dream. The property is right next to Highway 50 and would be compatible with the Master Plan. **Commissioner McNew** made the motion to approve ZC 04-005 Fletcher Zone Change with the justification: The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area. There is a public need and there will be a County or neighborhood benefit. D on justification and Other Criteria are A and C; not recommend paving to the County Road because we have set a policy where businesses do not come off of a paved road, they do not require paving; leaving out surfacing, lighting and landscaping and 3 contingencies. **Commissioner Lasha** asked if the surfacing would take care of what they were talking about on the paving. **Bill Giordano** stated that he wrote it down as adding a 4th contingency that there would be paving from Highway 50 to the driveway access. He stated he assumed that Keith's motion on the last part, that he is waiving the surfacing, lighting and landscaping which will mean the parking area will not be paved. **Commissioner Lasha** stated that was correct. 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 #120**.

RECOMMENDED CONTINGENCIES

It is recommended that this zone change be approved and forwarded to the Board of County Commissioners for scheduling of a public hearing with the following items being 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 from the Penrose Water District that the existing water tap is adequate for the proposed business use on Tract 60.
2. Documentation from Environmental Health Officer that the existing individual sewage disposal system is adequate for the proposed use on Tract 60.
3. The existing horse and all agricultural buildings shall be removed or converted to a permitted use, from Tract 60, or a lot shall be created to house the agricultural uses. (**Agricultural uses are not permitted in the Business Zone District**).
4. Paving will be from Highway 50 to the driveway access.

FINDINGS:

The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

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

There will not be any effect on existing traffic.

WAIVED:

Surfacing 5.3.2

Lighting 5.3.3

Landscaping 5.3.4

PUBLIC HEARING

**REQUEST: ZC 04-006 PARK CENTER WATER DISTRICT ZONE CHANGE
SEPTEMBER 14, 2004 10:00 A.M.**

Chuck Rupp, Ponderosa Engineering, stated this was a request to change the zone designation on a 40+ acre parcel of Park Center Water District known as Parcel A and 8 acre parcel separate owner of Larry Leathers. They are requesting the designation from Agricultural Rural to Agricultural Suburban. Adjacent to the south is already Ag-Suburban so it is an add-on to a zone designation and very well compatible with the Master Plan. It is a part of the old Park Center Subdivision and was platted as 5-acre tracts each 40-acre parcel was divided into 8, 5-acre parcels. Park Center wants to ultimately go through a boundary line adjustment after the zone is acquired. There are 14 parcels there now, but they are not very desirable for building sites. It would be more advantageous if the lot lines were adjusted to fit more desirable building sites with no net gain in the parcels that are there.

Bill Giordano stated that at the Planning Commission meeting on August 3rd, they recommended approval. The posting, notification and the publication was completed. This would require a resolution, findings and justification. The resolution would be prepared for the next meeting. They did receive a Notice of Petition.

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

Beverly Gann, Mountain View Drive Resident, submitted a second petition. She stated the biggest issue was water and that they had been flooded out. She stated there were ditches that were not maintained by the County and the roads are not maintained. They were going to put in a new school and they said they didn't have the water supply for it. She stated they were paying the high water fees and Park Center took it upon themselves to go out and buy this property without any of the people that live in that area showing any concerns they might have. They have a concern on the north side of Hereford Drive which used to be an old dump. If they start building houses on that side of the road, you have environmental and health hazards. She stated they did not mind progress, but they want to know their issues are going to be taken care of. They do not want a retention pond.

Randy Foshee, Mountain View Drive Resident, stated that there were esthetic issues that they were concerned about. He stated he was concerned about lighting, taxes and property values.

Diann Tomar, Red Canyon Road Resident, stated she was a realtor and she was not anti-growth, but she was opposing the zoning change. She stated they have a nice community and have some real drainage issues. She stated the road has blind spots and some real traffic hazards. If one-acre parcels are allowed, and there is nothing to say that

once it is allowed, that they can't go to 55 lots because they have 55 acres. What constraints would be put on to make sure that they didn't have 110 extra vehicles using those roads? She stated she had concerns that it was not cost effective to grade the roads. Will Industrial Zoning creep into their Agricultural Zoning? She stated they felt the Master Plan was good and benefited the County, and she was not sure it benefited the County anymore.

Wayne Warner, Mountain View Drive Resident, stated he had been flooded at least once in 2002. The parcel of property from Hereford Drive down towards Mountain View has a 6-7% slope. More houses will increase the drainage problem because there will be more pavement making the water run off faster. There is no ditch to handle the water, and there is nowhere for it to go. He stated he understood that Park Center bought this just to get the water rights. Now it looks like it is a matter of seeing how many houses they can get on there. He stated he was definitely against the zoning change.

Judy Teeter, Red Canyon Road Resident, stated she was recommending that the zoning stay the same. She stated concerns about traffic, dust and water. She stated she was for growth, but they have less and less water pressure and the flavor and smell of the water has sulfa or fish smell. She stated that there would be 40-50 additional septic tanks and that is a concern. She asked if there would be any covenants in place and what they would be?

Virginia Smith, Red Canyon Road Resident, she stated that she was concerned over this zoning change and would prefer that it didn't happen. She stated that when she built up there a year and a half ago, all the phone lines are used up.

Dennis Burcham, Mountain View Drive Resident, stated that if he had known before he purchased the house, the lack of concern for maintenance from the County on the drainage and the road conditions, he would not have purchased in that area.

Norma Hatfield, Melvina Street Resident, stated she wanted to speak to the drainage that comes off the hill. It all comes down through Mountain View Drive. She stated they built their house on Melvina in 1976, and they built a corral with wood posts. In about ten years, because of the drainage, the posts rotted out and they had to be replaced. She stated she had to have a new septic tank several years ago because of too much seepage. More housing and building in the upper area is of great concern and there will be a lot more seepage. It is just not suitable for too many more houses up there. The water is very expensive.

Pat, Longview Street Resident, stated that his main concerns were traffic and proposed access to the property. He stated he was not for or against, he just wanted more information.

Diann Tomar asked why there were no conditions from the Planning Department for this zone change? With the drainage, there had to be some concern.

Bill Giordano stated that drainage was not an issue at this time. It is usually addressed at subdivision. Even though it has an overall effect of increased density which can affect drainage in the future, but until the subdivision is in front of them, drainage is not addressed at this stage. If they come in with more than the 14 lots that are proposed, they would have to address drainage. Any lot that exists right now is not controlled by drainage, it is only when you subdivide.

Drew Marsicano, Manager, Park Center Water District, stated he wanted to speak on behalf of the zone change. He stated their intention was to do a boundary line adjustment, and they would have 13 lots, 13 houses and that was all. They do not intend to have a subdivision. The property was purchased for acquisition of water. If Mountain View Drive is a problem, they could spend some time on the ditches there and see if they could

alleviate any of those problems. They are not going to have a lot of small parcels and 1.something would be the smallest and go up to 3.something, 4.something and 1 parcel is almost 6 acres in size. He further stated that he did not see blocking views as an issue. Cone Avenue would be vacated and would be included in the existing lot. In terms of access load on the roads, it would be minimal and compatible with existing properties. They are trying to acquire more water so they can utilize more service water.

Commissioner Lasha closed the Public Hearing and returned to the Regular Meeting.

Commissioner Schauer stated they were aware of the drainage in north Canon. About a year and a half ago they denied a subdivision west of here for that reason, because of perk tests, and because of drainage. He stated that the 13 lots fits into the 4.5 zone they are in right now.

Drew Marsicano stated that the way the lot lines are adjusted in the old Park Center Subdivision, some of those lots have portions that are smaller than 4.5 acres under the current zone. The zone change would allow utilization of those 13 lots which would be somewhat less than 4.5 acres, but more than 1 acre which is the minimum.

Commissioner McNew stated that the County was very aware of both the traffic and drainage problems, and really aware of the septic problems. Agricultural-Rural allows you to build on 4.5 acre lots and if the terrain does not allow for that, he stated he did not think they needed to make changes that would go down to as many as one-acre lots, which would be 50 lots in there. Due to the makeup of the area, he stated he did not think the area is suited for higher density than 4.5 acre lots considering the drainage and the lack of sewer.

Bill Giordano stated that if they come in and adjust lots lines and it is a non-conforming lot of record, they can't decrease the size. He stated that he guessed that was part of the reason that they are asking for the zone change. That way the lots would fit the zone district, otherwise, they remain non-conforming lot and could not be any smaller. There are probably three or four lots that would be less than the 4.5 acres. Even though they would come in with a plan, that does not prohibit any future property owner to individually come in and re-subdivide if they could meet those requirements of the lot size.

Commissioner Lasha made the motion to deny ZC 04-006 Park Center Water District Zone Change. The reasons that basically with the septic, sewage situation, there is a problem up there at the present time. They have the lots and even though they would like to reduce the size of them, the lots are available. There are other issues such as traffic and drainage that are existing problems. Also with what Bill just mentioned, after it is changed, individual owners can come in with the potential of subdividing and down sizing those lots. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner Lasha, aye; Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 11:38 A.M.

September 14, 2004

9