

September 14th, 2010

MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 14th, 2010, 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	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Katie Barr Deputy Clerk.

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

APPROVAL OF AGENDA

Commissioner Lasha moved to approve the agenda, Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl moved to approve the consent agenda. Commissioner Lasha seconded the motion.

Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

The County Clerk gave her report for the month of August, 2010. Sales taxes collected in August of 2010 were \$65,522.91 which is \$17,810.82 more than August 2009. Collected fees in August 2010 were \$404,845.22 which is \$4,688.94 more than August 2009. Total collected fees were \$1,001,018.62 which is \$853,882.71 more than last year. Commissioner Lasha moved to accept the Clerk's report for the month of August. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Commissioner Lasha announced Pioneer Days are to be held in Florence this weekend. On September 25th there is an event at the Fremont County Airport with a car show and breakfast.

Commissioner Norden said the Second Amendment to the zoning resolution that was tabled at the July 13th meeting regarding wind farms and contractors yards have had changes made and the documents should be posted to the web in the next few days.

George Sugars stated that the air conditioning system in the building will not be fixed until the end of September. Sugars gave his report on Retail Sales tax which is down 2% from last year, and 3% under budget thru August. The good news is construction use tax and auto use tax is both up from last year so that total sales use tax is up 2% from last year.

Sheriff Beicker requested that a Level 1 Fire Ban be put back in place. He is concerned with dry conditions, and the Eco Park fire on BLM land that broke out on Friday. Per Brenda Jackson a new resolution would have to be put in place, and a special Board Meeting would need to be held. Commissioner Stiehl moved to schedule a special meeting for 11:00 a.m. on September 15th, 2010. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

NEW BUSINESS

Paul Holscher gave an overview of the 2009 Audit, and copies of the report were given to the Board. Commissioner Norden moved to accept the Auditors Report for the 2009 Fiscal year. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Jen McClanahan of Congresswoman DeGette's Staff requested a Letter of Support from the Board for the Colorado Wilderness act of 2009. She explained that a public meeting was held at the Abbey in Canon City for citizens to ask questions on the matter. She also said the study had been on going for 20 years of the areas to be deemed Wilderness Area. She personally has spoken to property owners with in land holdings and they support the act. She stated private land is not affected by the Wilderness Act, and private land owners will have access to their properties. Commissioner Lasha moved to write the letter of support for the Colorado Wilderness act of 2009. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Steve Clifton of Department of Human Services gave a brief summary of the Core Services Program Plan to help with placement of Children. Commissioner Lasha moved to approve the Core Services Program Plan. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Commissioner Norden spoke on the consideration of resolution #48 stating opposition to three state-wide ballot issues entitled Amendment 60, Amendment 61 and Proposition 101. Commissioner Lasha read the Resolution #48. Commissioner Lasha moved to approve resolution #48. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Angela Bellantoni of Environmental Alternatives, Inc. made a request for a thirty-six month extension of the deadline for submittal of contingency items in conjunction with CUP 10-001 Northfield Coal Load out. Said CUP was approved on May 25, 2010, contingent upon specified items being provided to the Department of Planning and Zoning within six months after approval of the application by the Board. She asked for the extension for economic reasons as well as some of the items not being able to be obtained until the permit is approved. Commissioner Lasha moved to approve the thirty-six month extension for the contingency items. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Bill Giordano, Director of Planning and Zoning made a request to adopt a resolution to amend the fees associated with the Fremont County Zoning Resolution, specifically to add fees charged for Temporary Use Permit for a Temporary Tower. He requested the fee to be \$800. Due to the amount of employee hours spent on such permit. Commissioner Stiehl moved to approve resolution #49 to implement an \$800.00 fee for Temporary Use Permits for Temporary Towers. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

Request Change of Condition for CUP 94-14 Fremont Paving & Redi-Mix (Florence Pit). This Public Hearing is to be rescheduled because the applicant did not post the notice of Public Hearing at the property site by the specified date.

REQUEST CUP 10-003 TAYLOR RANCH EXPLORATION/BLACK RANGE MINERALS COLORADO, LLC 1ST AMENDMENT.

Mike Haynes of Black Range Minerals (BRM) gave a presentation of items they are seeking to change with the amendment. He said they are working on taking over 51% ownership of the mineral rights that are for sale. He said studies were done in the 1980s but now updated information is needed, thus the request for two year extended time to obtain new data. BRM wishes to extend the permit to increase acres from 8,169 to 10,369. They wish to have new water sampling wells in place in the expanded area. BRM wants to include additional sampling stations, both domestic and surface in the expanded area. They request to be able to sample domestic wells within one mile of the expanded area. They also are requesting to change the sampling of domestic wells from bi-annually to annually. BRM requests discontinuing monitoring of six domestic wells which are outside of the project area in a different drainage basin. Mr. Haynes also requested for a traffic access route on County Road 21. BRM would like to change the hours of operation currently from sunrise to sunset to be from 7:00 A.M. – 7:00 P.M., as well as from 60 nights per year to 90 nights per year of night time drilling. Mr. Haynes explained the Hansen Deposit is of the most interest to BRM.

Bill Giordano director of Planning and Zoning noted that the minutes from the September 8th meeting of the Planning and Zoning commission are not yet available. However, he has provided the minutes from the August meeting that contains most of the comments. He stated at the meeting held by the Planning Commission on September 8th, 2010 a motion was made to approve the application but was denied by a vote of 4-2. He said they gave an ok for a 90 day extension, the hours of operation, and CR 21 access. The recommendation from the Planning and Zoning Commission is for denial.

Commissioner Norden wishes to hear from Bruce Smith the County Hydrologist before making his decision. Bruce Smith was unavailable in person or by phone for this hearing. Mr. Smith may be available for the next meeting on September 28th, 2010.

Commissioner Stiehl said that Bruce Smith wants to be able to review records of today's hearing. Mr. Smith has been hired by the county for consultation on this matter, and is not available for public access.

Public Comments:

Michael Meyrick spoke against the issue. He stated that he objects to this hearing all together because the proposed CUP amendment violates Planning and Zoning resolutions 8.2.5.2. This Zoning Resolution states that following the recommendation of the planning commission, the CUP shall be put on the next scheduled board meeting where a hearing date shall be made. The recommendation was made on September the 8th, today's meeting is the next Board Meeting following the Planning Commissions, therefore all that can be done at today's meeting is to set a date for a public hearing.

Meyrick also stated that as part of the application process in 2008, BRM promised the Board and the citizens concerned about water contamination, that those fears could be adequately addressed through base line monitoring project that they intended to supply as a condition of the CUP. They stated they would drill 30 wells in very specific locations, 12 of which would be drilled immediately in 5 specific locations. Meyrick noted that Chairman Norden received an email from BRM stating they had already drilled one monitoring well, and that they hoped to have three more drilled before the snow flies. Meyrick then stated that in fact BRM has not drilled one monitoring well to this day, but they have gone ahead with their explorations. BRM admitted that they have not drilled any monitoring wells, at the planning meeting just last week, using the excuse that there was a law suit pending and they were unsure of the outcome of the law suit. No plan of drilling the monitoring wells was even submitted until October, 2008. By the time this monitoring well plan had been submitted, BRM had already conducted two exploration drillings. BRM had drilled seven wells before DRMS had time to review the monitoring well plans and respond in November. The question here is why didn't they conduct the tests for water contamination? Meyrick believes it's because BRM didn't want to know what the results would show. The question to the Board from Mr. Meyrick is can you believe BRM? Did they comply with what they said they would do to begin with? Meyrick asked the Board to consider if BRM complied with what they said they would do before making a decision on whether or not to grant this CUP.

Catherine Meyrick spoke against the issue. She presented endorsements from over 60 local people and businesses who are asking for the Board to deny the amendment. She provided a written list of these endorsements to the Board.

Patrick Caulfield spoke against the issue. He is on the Board of Autumn Creek Homeowners whom area are opposed to the CUP.

Gary Hawley spoke for the issue. He stated that he is in support of the drilling in order to get rid of the uranium so it won't cause contamination.

Lynn Minasi spoke against the issue. She stated the only reason the CUP would be approved is for monetary benefits for the County. What price is the County going to pay for the health of Fremont County Citizens and our natural resources?

Ed Franz spoke against the issue. He asked for denial due to the water contamination. Franz believes that are residences should be compensated for damages to property values and clean drinking water should be provided as was done for residences near Cotter Mill. All contaminated land should be made safe. He provided a handout to the Board of the report from Bruce Smith. He spoke of homeowners in the area who have increased uranium levels in their wells who have had to install filtration systems. He wants to know where Fremont County citizens should dispose of contaminated water filters and is there a fee for their disposal?

Nancy Seger spoke against the issue. She stated the Board is holding this meeting against the zoning regulations 8.2. She said there is a process to follow, and it appears the Board is helping BRM. She wants to know who is enforcing the regulations that BRM is supposed to be following.

Richard Seger was against the issue and gave his time to Nancy Seger.

Rick Van Leevwen spoke against the issue. He stated the use of heavy trucks and equipment is prohibited on County Road 21 and the road could not handle the increased traffic. He gave the Board copies of the regulations prohibiting such use. He asked the Board to deny the application.

John Suleiman said that he is in favor of fences being built around the mud pits to protect wildlife and livestock in the event the amendment is passed. He said that if wildlife drink out of the contaminated mud pits they will become contaminated as well. He gave information to the board of pit and fence guidelines.

Virgil Burke spoke against the issue. He said the contaminants in his well have increased three times the EPA's allowable limit since BRM started drilling for uranium. He had to spend \$5,000 on a filtration system for his well. He was not able to sell his property, nor refinance it as the Lender denied the refinance due to the Environmental Situation in Fremont County.

Lee Alter spoke against the issue. He stated the application should be rejected, and a new application submitted according to Zoning Regulations. Furthermore he said the original CUP was to explore and identify deposits. In 2009 no exploration drilling was done.

Roberta Herring spoke against the CUP amendment and urged the Board to vote against the amendment.

Orlan Lighty spoke against the issue. He said the amendment should be rejected and BRM should have to submit a new application as the issues are totally different.

Jim Barton spoke against the issue. He said it would be premature and irresponsible to pass a vote today. He suggested waiting for the State to pass regulations. He said the risk of radioactive contamination is too great to rush this process. He said 91 out of 94 people he spoke with have real concerns about the safety of their water.

Karen Barton spoke against the issue. She said the uranium contamination in the water and soil will cause cancer, and is concerned for the health of citizens of Fremont County.

Commissioner Norden called a recess for a ten minute break at 11:57 A.M.

Commissioner Norden called the meeting back to order at 12:08 P.M.

Public Comments Continued:

Anita Minton spoke against the issue. She said she was here today representing 6 other contractors that could not be at the hearing on such short notice. She said it was unlawful to hold the meeting.

Commissioner Stiehl explained the reason for having the meeting on the agenda today is that Mr. Haynes of BRM would be out of the Country on the next BOCC meeting date and the Board felt it was important for the public to be able to question Mr. Haynes. He said it was unlikely a decision would be reached today.

Clinton and Heidi Nichols were not able to stay in speak. However their written comments were: I am against the mining, it will pollute our land.

Joe Marchiani spoke against the issue. He stated there has been contamination county-wide since the 1950's and it should not be allowed to continue.

Kay Hawkle spoke against the issue. She has objections to lessen any of the restrictions of ground water testing. She said that annual testing of wells is not enough; it needs to be

done bi-annually. She gave copies of her presentation to the Board and will provide them with her written comments per Commissioner Nordens request.

Diane Taylor spoke for the issue. During the break she spoke with a homeowner of South T Bar ranch who told her that 95% of their homeowners in that area are for the drilling exploration. She stated the mining is no different of a process than well drilling and it should be allowed to continue. She asked the Board to approve the amendment.

Mr. Haynes of BRM gave a brief rebuttal and asked for their hydrologist, Susan Wyman to address the Board.

Susan Wyman, independent hydrologist, and civil engineer addressed several issues raised by the citizens as well as the Board. She stated the data does not support elevated levels of uranium in the ground water. She said the rocks in the mud pits had the higher level of contamination not the water. She explained when drilling, the process seals the sides. The openings are open for a minimum amount of time then filled with cement to stop cross contamination.

Ben Vallerine of BRM answered questions from the Board. He said he believes the reason the artesian well leaked into the creek is because the mud sank. It was less than six months that it leaked, and has been fixed now.

Commissioner Stiehl moved to table the hearing until 10:00 A.M. at the September 28th, 2010 BOCC meeting. He will ask Bruce Smith to be available for the meeting and to address the issue. The Board will receive written comments from the Public until 4:30 P.M. September 22nd, 2010. The Board will hear further public comments at the September 28th meeting. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden aye. The motion carried.

Commissioner Norden thanked all of those in attendance for their conduct during this meeting.

Commissioner Norden adjourned the meeting at 1:55 P.M.