

TWENTY-SECOND MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 12, 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 Pro-Tem, James Schauer.

Larry Lasha	Commissioner	Absent
James R. Schauer	Commissioner	Present
Keith McNew	Commissioner	Present
Brenda Jackson	County Attorney	Absent
Norma Hatfield	Clerk and Recorder	Present

Also present Finance Director, Dana Angel; Bill Giordano, Planning and Zoning Director and Sharon Kendall, Deputy Clerk.

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

APPROVAL OF 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. The motion carried.

CONSENT AGENDA

Commissioner Schauer stated that Item 4 under New Business, SRU 04-008 Pleasant Valley Bed & Breakfast would not be heard today and would not be heard until they come forward to complete their application. **Commissioner McNew** made the motion to approve the Consent Agenda:

1. Approval of Minutes, September 28, 2004, September 30, 2004 and October 7, 2004
2. Approval of Bills, October 12, 2004/**\$1,056,793.85**
3. **SCHEDULE PUBLIC HEARING OCTOBER 26, 2004**
Canon City Fire District/Impact Fees
4. **LIQUOR LICENSES**
Rivera Bernie L
Bernies Place
1419 S 9th St.
Canon City, CO 81212-4801
Tavern Liquor License Renewal – Malt, vinous, and spirituous

Bradford Jim Bradford Jan M
Bradford's Handi-Mart
1400 E. Hwy. 50
Penrose, CO 91240
3.2 Percent Beer Retail License Renewal

The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, 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 September and stated that the total revenues earned were \$683,125.84, which

was up \$12,146.87 over a year ago. Funds going to the various entities was \$387,918.55, which was up \$6,784.08. The sales tax collected was \$77,720.24, which was up \$786.53 over a year ago.

Commissioner McNew made the motion to approve the Clerk's Report for the month of September 2004. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried.

Norma Hatfield reported that early voting would start October 18th and run through October 29th, 8:30 A.M. to 4:30 P.M. in the Fremont County Administration Building. She stated there had been an increase in registrations, and the total to date was 27,140. They have had 3,765 requests for absentee ballots and over 3,000 have been mailed. A breakdown in those absentee ballots was 2,492 Republicans; 674 Democrats; 583 Unaffiliated and 16 Other. She stated that they had a recount a couple of years ago and the Democratic and Republican Chairmen and she selected one Sequoia voting machine and removed 50 ballots and hand counted those ballots and ran them through the machine and they came out exactly correct. They have 11 styles of ballots this year, ballots from each one of those styles will be run through the machine. She stated she felt very safe that their machines are working correctly.

Mrs. Hatfield requested a motion to allow the Recording Department to be closed on Election Day. The Motor Vehicle Department will stay open. **Commissioner Schauer** made the motion to allow the County Clerk to close the Recording Department on November 2, 2004 for Election Day. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried.

Commissioner Schauer stated that there were two candidate forums scheduled, one on October 14th at City Hall at 7:00 P.M. and one October 21st. They will be filmed live on Channel 19.

2. Citizens Not Scheduled: There were none

NEW BUSINESS

1. **JUDY LOHNES/UAACOG UPDATE**

Judy Lohnes was not present.

2. **RE-APPOINTMENT OF MARVIN GARRETT TO THE FREMONT COUNTY BOARD OF APPEALS.**

Commissioner McNew made the motion to approve the reappointment of Marvin Garrett to the Fremont County Board of Appeals. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried.

3. **RE-APPOINTMENT OF JOHN W. MARIETTA AND GLEN T. SMITH TO THE FREMONT COUNTY AIRPORT/AIRPORT INDUSTRIAL PARK ADVISORY BOARD.**

Commissioner McNew made the motion to approve the reappointment of John W. Marietta and Glen T. Smith to the Fremont County Airport/Airport Industrial Park Advisory Board. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried.

4. **REQUEST: SRU 04-008 PLEASANT VALLEY BED & BREAKFAST**

Commissioner Schauer stated that this would not be heard today because the applicant has failed to complete all work necessary.

Commissioner Schauer stated that they had a presentation to make to Mary Ellen Stratton for 25 years of service. He read a letter of appreciation from Commissioner Lasha. She was presented with a Certificate and a Fremont County Globe.

PUBLIC HEARING
ZC 04-007 FREMONT PAVING & REDI-MIX INC. ZONE CHANGE
OCTOBER 12, 2004 10:00 A.M.

John Paul Ary stated they had 52 acres which was mostly consumed by asphalt plant, concrete plant and aggregate equipment and storage and processing equipment. They have a wash booth, paint booth, large mechanical shops and the majority of the ground is encompassed with equipment or buildings. They have put in sound berms and planted trees around all of the north side of the property. They have paved the road through the entire property. The bonding and the insurance worlds have changed and the bonding of this property has become substantial in money, paperwork and grief. The zone change would eliminate the need for the constant bonding of the property.

Bill Giordano, Planning & Zoning Director, stated he wanted to clarify that MacKenzie was not a State Highway, it is a County-maintained right-of-way. If this does get zoned to Industrial, meat packing is one of the items that would be a permitted use. Their regulations allow only one primary use on the property. The present operation contains an office, parts room, wash booth, paint booth, two concrete batch plants, a mobile asphalt plant, two detention ponds, a scrubber pond, two sheds, a metal building and an aggregate mine. This is allowed under Conditional Use Permit #86-7. If this item is approved, that Conditional Use Permit will have to remain in place because of the aggregate mine. The property has been posted, publication has taken place and notification to all property owners had taken place. Although the Planning Commission did recommend denial of the application, they were required to notify the Fremont Ditch Company, Florence Fire Protection, Town of Brookside, Town of Williamsburg, City of Florence, Canon City Planning Department, Canon City Metro Park District, District 1 Road Foreman and the Arkansas Headwaters Recreation. They have not received comments from any of them. If this is approved, there was one contingency. No action was taken by the Planning Commission on surfacing, lighting and landscaping but action by the Board would be needed, probably a waiver. If there is approval, it will need findings and a resolution to be prepared for the next meeting.

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

Jan Swarm, Sherman Street Resident, stated her concern was that if it was approved and they should sell, could there be more development in the sand and gravel business and more digging?

Bill Giordano stated that under the proposal that is in front of them, they already have an existing Conditional Use Permit to continue the mining and they are permitted on that 52 acres. They are allowed to bring in materials to continue their asphalt business. Once it becomes industrial, any use that is permitted in that zone can take place but only one primary use on the property. Any business that would not be associated or accessory to the existing business, they probably would not be able to place it without doing a subdivision. They would have to meet the subdivision regulations to create the lot.

Dean Sandoval, Planning Commission Member, stated he was one of the Members who voted to deny this zone request. He stated the applicant had done an excellent job and the berms seem to be working and there doesn't seem to be a problem under the current usage. The main points for denying this request is that it is not compatible with the Fremont

County Master Plan, an industrial zone change might establish a precedent for similar requests and such a zone change approval might be considered spot zoning. He stated that he did not think this request justified this extreme change. There are 22 permitted uses in Agricultural Living and Industrial has 43 permitted uses. He stated it was certainly not compatible with the Master Plan.

Lowell Soester, Santa Fe Road Resident, stated that he was concerned with the broader stroke that the Industrial Zone permits. He stated he did not have a problem with the existing use and the berm affords them some protection. He stated he was concerned with the density allowed in this industrial zone.

Linda Carlson, Park Avenue Resident, stated she had photographed all kinds of wildlife on her property during the day and she thought the zone change would impact the wildlife corridor.

Commissioner McNew stated he had received a phone call from Mrs. Burns, a Brookside Resident. She was unable to attend the Public Hearing, but wanted her concern known. She wanted it to stay Agricultural Living so that if the business quits, it would be reclaimed as Agricultural.

John Paul Ary stated they had invested over \$3 million in the site. They are bonding it to turn it back to Ag simply because that is what everybody thought should have been done 20 years ago. He stated that they felt that the Master Plan was done wrong in that area to begin with. There is a minimal amount of mining left. He stated this request was not just to eliminate a little bit of red tape. It is a lot of red tape and a lot of money that is being wasted.

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

Commissioner McNew made the motion to approve the zone change with one contingency, waive the surfacing, lighting and landscaping and defer the rest of the Findings until October 26th. The Findings to start with that would be added to on October 26th is: There has been a material change in the neighborhood which justifies the requested zone change. The property was not properly zoned when existing zoning was imposed. Under additional criteria: There is a public need and there will be a County or neighborhood benefit. There will not be any effect on existing traffic. A Resolution number was deferred until October 26th. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner, aye. The motion carried.

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 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 (articles of incorporation) that John L. Ary is authorized to sign for Fremont Paving & Redi-Mix Inc.

WAIVED

- Surfacing 5.3.2
- Lighting 5.3.3
- Landscaping 5.3.4

FINDINGS

The property was not properly zoned when existing zoning was imposed.

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

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

There will not be any effect on existing traffic.

Commissioner Schauer adjourned the meeting at 10:40 A.M.

County Clerk