

October 12th, 2010

MEETING

The board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 12th, 2010, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon 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	County Clerk	Absent

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, Katie Barr Deputy Clerk, and Jody Blausner of the County Clerks Office.

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

APPROVAL OF AGENDA

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

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

CONSENT AGENDA

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

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

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

George Sugars gave his report on taxes. Sugars said retail sales tax are down 2% from one year ago, but said construction use tax is up, so that the total sales and use tax through September 30th, 2010 is up 2%.

Commissioner Lasha said the Apple Day Event in Penrose was a great success. There was an apple pie contest, and many other events. The only complaint was that the Grand Marshall float went too fast on the parade route, as Ed was the driver.

Sheriff Beicker said he was here to appear on a new Liquor License application that will be rescheduled for another time. Beicker also said there are some citizens here today who want to voice concerns on roads in the Glen Vista area. The Sheriff said there are some traffic complaints and some unregistered ATVs. Beicker said he knows the County abandoned maintenance of those roads, but they are still public access. Beicker stated that there has been some miscommunication with his deputies and the residents, and nothing could be done about the traffic issues. The residents have been in contact with him, and he hopes some extra enforcement will help the problem.

2. Citizens Not Scheduled:

Chyriese Marentette a resident on Blazing Saddle Trail in Glen Vista said she is on the Board for the Glen Vista Homeowners Association. Chyriese said they do pay for all of the roads to be maintained and requested to have a detour for south drivers to detour towards the west, which is right at that corner. Chyriese said they could go to Boyd Road which is a County maintained road, and it is a lot better road. The people coming from the south go extremely fast in cars and on ATVs and there are a lot of children on those ATVs not wearing helmets. Chyriese believes the liability for the HOA to be sued is very high. She stated the residents are no longer able to walk down this road, or ride horses, as it is so dangerous because of the speeding traffic. Chyriese stated that the drivers go out of their way to run over animals in the road. Commissioner Norden said he knows she has spoken to Commissioner Lasha on this issue, and he has spoken to the road Chairman of the HOA at length. Norden said they are not able to do anything as the roads on the subdivision plat line up exactly and to correct the Sheriff, the County did not abandon maintenance, the County has never taken on maintenance because those road were never brought up to standard when the subdivision was put in. Norden said as long as there is a public right of way; those roads have to be open.

Norden gave the map to the County Attorney and they were going to draft a letter to the HOA addressing the legalities of what the County's limitations are. The only way he could see a solution to close the roads would be for the HOA to create a gated community, which would need Board approval. Sheriff Beicker asked if the right of way meets the legal definition of a public road way. Brenda Jackson said it is a public road way per the plat. Chyriese said the extra enforcement doesn't help, as the drivers just slow down when they see the deputies. She said at one time the road was blocked. Commissioner Norden said if it was blocked, it was done illegally. Chyriese asked if someone got killed on that road, who would get sued, would the HOA be responsible? Commissioner Norden said we don't have the ability to restrict use a public road. She asked how they would go about getting a gated community. Brenda Jackson said they would need to talk to their legal advisor for the HOA. Commissioner Lasha said the idea of the HOA is to have control over the area in which they live. This works very well until an issue comes up, and then they come to the County for help. Lasha said it's a difficult situation.

David Reynolds said he wants to get an update of where the Board is with the rewrite of the site development plan as they had not heard anything formally for awhile. Commissioner Norden said he had sent an email to Mike Butts in the past few weeks that the Board had not been able to advance any time commitment. Norden said staff has not had any time to devote due to extensive public hearings, and budget meetings. David asked at this point if they are still months out. Commissioner Norden said he doesn't want to speculate as to how soon they can have it done, but assured David that the Board heard their concerns and it's the Boards intent to see what kind of language they can generate. Norden said if there were any applications coming in they would address those concerns. David said because the regulation is so tight and expensive to go through that some businesses would never even apply and the Board would not know about those people. Commissioner Stiehl said we would never know about other people who were attracted here from other counties because our regulations are no stricter than theirs. Stiehl said these people may like our lax enforcement and that there are two sides to look at. David said he knows this particular county doesn't have any construction going on. Commissioner Stiehl said yes we do, we are ahead of where we were in 2008 and 2009. David said we are still down from the past. Commissioner Lasha said if David knows of anyone that is planning to submit an application; the Board will look at those specifically while they are in the process of the site development plan.

Tim Ford said he is also a member of the Glen Vista Board, and he wanted to verify with the Board that all 16 of the roads in the Glen Vista subdivision are public roads. Commissioner Norden said yes, that is our interpretation. Tim said he is aware that the County does not maintain the roads that the HOA maintains them and that outside of a Board meeting they would like to work with the County on the Standard of the maintenance.

OLD BUSINESS

Commissioner Norden said the public comment period was set to close at 9:30 A.M. today for the extended written comment on the Black Range application amendment for the Tallahassee area. They did get a number of submittals and those did get forwarded to the planning and zoning department to be part of the public record.

NEW BUSINESS

Karin Milisavljevich / Community Energy Coordinator gave an update of the strategic sustainability plan for Fremont County. Karin has been doing a lot of community outreach, and has met with several local business owners. She also sends out newsletters continuously. Karin hopes to have a rough draft of the strategic sustainability plan to present to the Board some time in December. She did submit a grant application to the Department of Agriculture for a feasibility study for a micro-hydro project on Lake DeWeese. Karin has been working with Black Hills Energy to bring in some bio-fuels to the Canon City plant; otherwise the plant will be shut down. In order to be in compliance with the PUC they have to become a bio-fuel processing plant. Karin gave a handout to the Board of a list of items she has been working on, and it is available for the public as well.

Kathryn Wadsworth the Community Energy Coordinator for Chaffee County gave a power point presentation on the “Energy Now” program that Chaffee County has implemented. Through ARA grant funding, the Governor has established 20 different Community Energy Coordinators within the State. Kathryn said they meet once a month at the Governors office to share information. Chaffee County has already gone through the planning stages, and is now implementing the program. Commissioner Stiehl asked her how the survey was done. Kathryn said they had a summit, public hearings, and a section on their website for people to answer the survey. Commissioner Norden asked how much public participation they had. Kathryn said they have had anywhere from 25-85 people at their meetings. Commissioner Stiehl said they will be having the annual meeting for the Resource and Conservation Development Council (RCD) on Thursday at 9:30 at the County Administration Building Upstairs if anyone would like to attend.

Commissioner Lasha said they had a couple of positions available on the Airport Industrial Advisory Board, and one of the members did put in for reappointment. Lasha said they interviewed six people for the positions on the Airport Industrial Park Advisory Board; Tom Ledbetter, Robert Pierotti, Skip Moreau, Walt Giffin, Leonard Mino, and Michael Drake. Walt Giffin was reappointed to his position. They selected Tom Ledbetter and Leonard Mino to fill the two other positions. Commissioner Lasha moved to approve the Appointment of the Airport Industrial Park Advisory Board.

Commissioner Stiehl seconded the motion.

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

REQUEST: SRU 05-002 CHILDREN OF THE SON

Requested approval of another two year cessation for SRU 05-002 for Children of the Son. The first two year cessation, which has expired, was granted on September 16, 2008. The existing SRU is for the purpose of allowing a Child Care Center and Rural Recreational Facility (summer camp) a Convention and Retreat Facility. The property is located approximately ½ mile south of the intersection of Colorado State Highway #69 and County Road #28, aka Road Gulch, on the east side of Colorado State Highway #69, in the Texas Creek Area. Commissioner Norden said the representative for Children of the Son, Katrina Madonna was not here today. Bill Giordano said he had no major concerns with this request. He said they are still trying to sell the property and they want to be able to retain these same uses. Commissioner Norden said if the property is sold the new owner would need to get approval from the Board on the transfer of the SRU.

Commissioner Lasha moved to approve the request of SRU 05-002 for a two year cessation. Commissioner Stiehl seconded the motion.

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

REQUEST: EXTENSION OF PP 05-003 MESAS ON SUNRISE RIDGE

Request approval of a two year extension, of an 89 lot preliminary plan, department file #PP 05-003 Mesas on Sunrise Ridge, to allow for completion of final plat submittal requirements, by Pension Plan of Bonnyville Construction Company, formerly owned by La Mesita de Sol, LLC. There have been three previous one year extensions. The property is located at the northeast corner of the intersection of Dozier Avenue and Van Loo Road and on the north side of Van Loo Road, in the North Canon area. The original approval date for the Preliminary Plan application was May 9, 2006. If this extension is granted as requested, it will run through November 9, 2012.

Alan Miller, consultant for Pension Plan of Bonnyville Construction Company said he has been working on this project for the past 15 years. Alan said La Mesita de Sol LLC lost the property to foreclosure in January of this year. Alan is doing some work with the Pension Plan, and he has a lot of knowledge of the property. Alan said they have agreed to the additional items the County has asked for in the past. Alan asked the Board for approval of his request for the extension of PP 05-003 Mesas on Sunrise Ridge. Bill Giordano said if the Board grants the extension he would ask that it be contingent upon renewal of items 3, 4, 9, and 10. Bill said these include Fremont Sanitation, a recorded water service contract, the road way impact analysis which includes the drainage map, and re-notifying the Fire Department. Alan said he agrees with these conditions, and he has no objections to these items. Commissioner Norden asked if item 4 would change? Alan said they currently do not have a contract with the City for water. Commissioner Lasha made a motion to approve the extension of PP 05-003 with contingency items numbers 3, 4, 9 and 10 to run through November 9th, 2012. Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The Motion carried. Alan introduced Doug Walt who is a beneficiary of the pension plan who wanted to meet the Board.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

REQUEST: CHANGE OF CONDITION FOR CUP 94-14 FREMONT PAVING & REDI-MIX (FLORENCE PIT)

Angela Bellatoni of Environmental Alternatives spoke instead of Denise Gonzales on behalf of Fremont Paving. Angela gave an overhead presentation that provided pictures of progress that has been made in the past two years that shows vegetation is establishing. If they could go from October to October for the extension it would give them two seasons to grow, in case we have another dry summer. Angela requested approval for a second two-year extension of the Conditional Use Permit (CUP), Department file, CUP 94-14 Fremont Paving & Redi-Mix be approved. The request, if approved, will change the term of the CUP in Condition A of Resolution No. 22, Series of 2008 to June 30, 2012. The requested extension will allow for reclamation of the site. The original CUP was issued for the operation of a sand and gravel extraction operation which included crushing/screening and the occasional production of asphalt paving material. The property is located east of Highway 67 and North of the Arkansas River in the Florence area. Commissioner Stiehl asked if they had investigated using a different seed mix. Angela said they have to use the seed mix that has been approved by the Division of Reclamation of Mining and Safety (DRMS) and they would be in violation if they used a different mix. Bill Giordano said he has no problem with changing the extension to November, to give them time to complete the reclamation. Bill said there was a change of condition to change the term on the CUP and that is why there is a Public Hearing.

The applicant did post the property, and did send notice to the newspaper. As there were no other public comments Commissioner Norden closed the public hearing.

Commissioner Lasha said there has been a lot of work done at the site and it looks great. Commissioner Stiehl said DRMS has made a welcome change several years ago that they no longer accept attempts at re-vegetation, they now require successful re-vegetation.

Commissioner Stiehl moved to extend CUP 94-14 until November 30, 2012.

Commissioner Lasha seconded the motion.

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

REQUEST: ZC 10-001 KAHNKE ZONE CHANGE

Mick Kahnke of North Star Engineering and Surveying, Inc. spoke on behalf of Joe and LaVonne Kahnke. The request is for approval of a zone change from the agricultural rural zone district to the business zone district, Department file #ZC 10-001 Kahnke Zone Change. The property is located at the northwest corner of Colorado State Highway 115 and 7th Street, in the Penrose area. The proposal is to allow a sales office for the sale of tractors and equipment. The property presently houses a residence which is intended to be used as the primary sales office, a metal building which is intended to be used as assembly and fabrication of agricultural supplies, a maintenance shed which will remain the same use, a 16ft. by 20ft. modular field office which may expand to 32ft. by 20ft. if additional space is needed for expansion. The property to be rezoned contains 4.6 acres. Bill Giordano said the public posting has been completed. Bill said at the Planning Commission meeting on September 8th they did recommend unanimous approval on this application by all 6 members present. Bill said he made note of some items that are not contingencies or conditions of the permit. Use of a metal building for the use proposed would be dependant upon issuance of a building permit. Bill said they have a concern with the fabrication of agricultural supplies that depending on what supplies are manufactured, that could be a light industry use and may require a special review. Bill said there are four recommended contingencies. One is from the weed coordinator. One is from our engineer that is requiring a driveway access from 7th Street. Bill said the Fire department did ask that the driveway width be adequate for fire trucks, and that the address be posted at the street driveway entrance in 6 inch letters. The fourth contingency is the detailed utility plan with signatures from the agencies. The planning commission did recommend waiver of the landscaping buffer. Bill said the only landscaping buffering that would be required would be to protect any residential lands lying to the west. The planning commission did grant the waiver for gravel surface instead of hard surfacing into their office driveway. Bill said the Planning Commission didn't make findings for the approval of the zone change which will be necessary by the Board in order to approve this, so you will need your justification and any of the other criteria to be considered in the application. Commissioner Norden asked if there is a recommendation under buffering and landscaping for a vegetative barrier along the rear of the property. Bill said yes there is, and it doesn't necessarily comply with the requirements of their regulations, but they are proposing that. Commissioner Norden asked if this property is bordered on either side of the highway by like business zoned properties. Bill said yes that is correct, both to the south and to the north. Commissioner Stiehl asked if contingency number four, the utility plan, is complete. Bill said no, it is not complete; they have the plan, but not the signatures. Mick said Qwest is the only one he is missing a signature from. Commissioner Norden asked if there is anyone present to speak for or against the zone change, seeing none he closed the public hearing.

Commissioner Lasha complimented Mick as he went above and beyond the right way to complete the process. Commissioner Stiehl complimented Mick on the presentation he gave to the Board as it was very thorough and helpful. Commissioner Norden said it will be a reinforcement of business development along that part of Highway 115 as well. Commissioner Lasha moved to approve Zone Change 10-001 with the recommended contingencies and items of consideration as a note. Commissioner Stiehl seconded the motion.

Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried. This will be Resolution #51 Kahnke ZC 10-001.

PROPOSED 3RD AMENDMENT TO THE FREMONT COUNTY ZONING RESOLUTION

Commissioner Norden opened the public hearing for the request of approval for the amendment to add the following regulations to the Zoning Resolution:

1. Commercial Wind Energy System
2. Small Wind Energy System
3. Add Contractor's Yard or Building as a Special Review Use in the Agricultural Forestry, Agricultural Farming & Ranching and Agricultural Living Zone Districts.
4. Add Contractor's Yard or Building as an accessory use in Home Occupation II or III.

Norden said he does not believe the Board is ready to take action on the Amendment today. The Board will take any public comment today, but may want to continue the public hearing as the language has not been posted to the County website and the mailing has not been done. Bill Giordano said what was on the web page is the Amendment they had started with, a number of things have changed from the original proposal. Bill said the public has not seen the changes as they exist now. Bill said the Board had requested they prepare a letter to send to the contractors outlining the changes. Bill said there are more changes they are suggesting to be made to the document the Board has now. Commissioner Norden said he would like to get the mailing out and also continue the public hearing for two weeks. Commissioner Norden recommended the website have a special link on the homepage with an excerpt from the zoning resolution with those pages that are specifically addressing the contractor's yards and small wind energy systems. Bill said many items were deleted rather than changed. Bill said they will get the proposed amendment on the web page today if possible and the letters in the mail today. Commissioner Norden said for the record today, the incentive behind changing the resolution is if they enforce the existing resolution there would be numerous violations of contractors yards in residential areas. He said they are trying to bring these contractors yards operating as home occupations into compliance. Bill said right now contractors yards are only allowed in an industrial zoned district.

Any large contractor's yard would need to be a Special Review so that the public does have a say. Bill said the home occupation is going to be an in house administrative approval. Commissioner Norden added a comment on the small wind energy systems, that this is the first attempt to see if we can somehow allow this energy independence to take place and still have due regard to neighborhoods that might be impacted by these systems. Bill said the intent was to try to be as lenient as possible, and re-address them at another time if needed. Commissioner Stiehl said we welcome the technology as we try to develop our regulations for wind energy while protecting our neighbors, but not restricting the industry. Commissioner Norden asked for any public comments and there were none. Commissioner Stiehl made a motion to continue the public hearing on commercial wind energy systems until the January 25th, 2011 Board meeting, and continue the small wind energy systems, contractors yard, and contractor's yards as an accessory to home occupations until October 26th 2010. Commissioner Lasha seconded the motion.

Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion Carried. Commissioner Stiehl commented that nobody showed up for the public hearing today from the Ad-hoc Committee, and it would be helpful to hear comments from those committee members on these issues.

LIQUOR LICENSE – PROSPECTORS RV RESORT AT ROYAL GORGE

Commissioner Norden said they are not quite ready for the hearing today. They will forego the Public Hearing for today, and the applicant will have to repost and republish for a date to be determined.

Commissioner Norden adjourned the meeting at 11:15 A.M.

Clerk and Recorder