

OCTOBER 14, 2008

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NINETEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 14, 2008, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Larry Lasha called the meeting to order at 9:30 A.M.

Larry Lasha	Commissioner	Present
Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

Also present Bill Giordano, Planning and Zoning Director and Tina Taylor, Deputy Clerk.

Pastor Benny Salvo from the Mountainview Baptist Church gave the Morning Prayer.

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

APPROVAL OF AGENDA

Commissioner Norden moved to approve the Agenda as presented. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl moved to approve the Consent Agenda as presented. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

1. Approval of Minutes September 23, 2008
2. Approval of Bills October 14, 2008 / \$1,285,505.39
3. **SCHEDULING OF PUBLIC HEARINGS / NONE**

ADMINISTRATIVE / INFORMATIONAL

1. Staff / Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report and stated that the revenues earned in the Clerk's Office of September was \$690,513.25 and that was an increase of \$14,327.00 from a year ago. County Sales Tax collected was \$70,220.86 which was \$2,223.00 less than a year ago. Overall what goes to the County for distribution to the entities was \$388,829.20 which was \$10,991.32 less than a year ago. County Clerk Hatfield stated that since we have been on-line in the Recording Department for e-recording we receive a \$1,000 plus every month which is not reflected in this report.

Commissioner Stiehl moved to approve the Fremont County Clerks Report for the month of September, 2008. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha inquired about how the election process is going for the upcoming General Election. **Clerk and Record Hatfield** stated that 7,000 requests for mail in ballots have been received, and we receive more daily. We have mailed out to all the people who have requested mail in ballots. Ms. Hatfield stated that it looks like about 85% of the residents will be voting.

Commissioner Stiehl acknowledged the Glen Vista HOA donated 13 boxes of legal hanging file folders that were made quick use of.

Commissioner Stiehl stated there is a report monthly for veteran's new claims from Betty Hanawalt, Veteran's Service Office for the County. The claims are for either increase pensions or disability payments to veterans. For the month of September \$13,705.00 payments were issued for new pension and benefits claims to veterans in Fremont County.

This is all new money into our economy and money for veterans who deserve these payments.

Commissioner Stiehl announced September 16th; the Sangre de Cristo RC&D Council (Research, Conservation and Development Council) which is a branch of the NRCS will be meeting here at the Administration Building for their annual meeting. The Sangre de Cristo GIS initiative will have a report from Bob Bush and Weed Manager J.R. Phillips. RC&D also does the Upper Arkansas Regional Weed Management Coop. We have also been hosting energy seminars for the seven county areas. There will be representatives from Governor's Energy Office and Industry about renewable energy. The meeting is at 10:00 A.M.

Commissioner Norden stated that last year during the holiday season a campaign was run to make available to people in the community sign up for names of veteran on the Memorial Wall at the Veteran's Memorial Park at the Fremont County Airport. We are doing the campaign again this year. At least 50 names are needed to submit an order for the engraving. Anyone who would like to have a veteran's name, living or deceased engraved on the Memorial Wall, should contact the Veteran's Service Office. Betty Hanawalt will arrange to get the necessary information for the engraving once a minimum order is reached. The cost is \$50.00.

Commissioner Stiehl stated that Betty Hanawalt has changed the office hours to Monday through Wednesday 12:00 P.M. to 5:00 P.M. and Thursday and Friday 8:00 A.M. to 12:00 P.M.

2. Citizens not scheduled / None

OLD BUSINESS

REQUEST: 26TH AMENDMENT TO THE ZONING RESOLUTION

Request for approval of various amendments to the Fremont County Zoning Resolution including the creation of an Airport Zone District and a number of clerical, and reorganization items. The Public Hearing held on September 9, 2008 was closed and this request was tabled until the October 14, 2008 meeting.

REPRESENTATIVE: Department of Planning & Zoning

Planning and Zoning Director, Bill Giordano stated that in the last meeting he went through each individual change that the Planning Commission had made recommendations on. Today he will just highlight the changes or comments and concerns that the Commissioners had in the work session, and what was agreed upon. As least in his mind what the Commissioners agreed upon or disagreed upon.

Page 1. The Accessories Uses In Buildings. One of the recommendations was that the home occupation, public utilities towers and antennas be listed as individual items under Permitted Uses. We propose that they be listed under Accessory because it almost has to be that way. It will create problems for us if they are not listed under Accessory. You have to have a primary use to have an accessory use. If listed "permitted" then it becomes a "primary use" and they are not intended for that. I understood in discussions with the Board, you were in agreement with that. If any of the statements that I am making are not correct is that I didn't misunderstand what we discussed then I would think it would be appropriate at this time to make sure that you correct me because my intent is to go through this today to kind of finalized what was approved or not approved and I will prepare a Resolution for the next meeting with the final language for approval.

Page 2. There was another concern about Pipelines, Transportation and Transmission Lines. The Planning Commission did not want to define or regulate them at this time. I understood that the Board was also in agreement with this. This is found on the lower part of Page 2; on the very last part of Page 3 The Transmission Lines and Page 4; Transportation Pipelines. These will all be deferred to a future amendment.

Commissioner Stiehl stated what is important as we go over the Amendment and underline what you are saying and are about to say is the analysis and reporting on how we considered the Planning Commission recommendation and whether the Commissioners followed them or did not. It is important that our minutes reflect your report here today.

Director Giordano stated that on Accessory the Planning Commission recommended they be listed as permitted. The Board is in agreement with the department that they be listed as Accessory. As far as the Pipeline Lines, Transmission Lines and the Transportation Pipelines the Planning Commission did recommend not regulating, not addressing them at this time and the Commissioners were in agreement that should probably be a future amendment.

Page 6. 3.9.11. The Planning Commission recommended allowing storage containers in two (2) additional districts; The Ag Living and The Ag Rural. The Commissioners were in agreement with this.

One of the changes we caught is 3.9.12 Airport Industrial Park. We are eliminating Airport Industrial Park so the words "Industrial Park" needs to be removed.

Page 7. The County Commissioners have requested instead of calling the uses as "permitted uses", I understand you would rather call them "allowed uses".

Director Giordano stated that a lot of the changes that he is talking about are going to be the same in every zone district, so it is not going to repeat it each time but keep it in mind that when we are talking about like the "Accessory Uses" that will take place in every zone district.

Page 7. 4.1.2 Director Giordano stated that this was an example of what he just stated that this will change in every zone district. He will touch on the ones that actually are different that will happen in every zone district.

Page 8. 4.14: The Planning Commission recommended that the Convenience Store to be considered an SRU in the Ag Forestry Zone District. The Board is in agreement.

Page 9. 4.2.4 Under Special Reviews: The Planning Commission suggested that Convenience Stores be considered an SRU in the Ag Forestry Zone and actually it should be the Ag Farming Ranching. This is a correction. The Board is in agreement.

Commissioner Lasha stated that he would like to suggest is on the word "permitted" versus "allowed". The discussion was had that it did become confusing that "permitted" means or could be interrupted that you need a permit for that it and you don't.

Director Giordano said he agreed.

Page 15. 4.10.2.9 Watchman's Quarters. We are eliminating the word "only" in the line. It talks about the single wide in conjunction with the Manufactured Home Park and only one such per unit. In the next line the Planning Commission did recommend that they to add language that the Watchman's Quarters can be a separate building. If you read 4.10.2.9 the manufactured home is a separate building. I think what they were doing was looking at the other sections of our regulations that we are changing that allows a Watchman's Quarters but it has to be within the primary building. I think there was a mistake and was put in the wrong spot because it didn't fit.

Commissioner Stiehl stated on the previous Watchman's Quarters I don't think we are eliminating the word "only", just moving the comma.

Director Giordano stated it would be "single-wide, only in conjunction with" not "single-wide only, in conjunction with".

Page 16. The Manufactured Home Park District. Development Requirements. The Planning Commission recommended leaving the lot width at forty feet (40'), we had proposed sixty feet (60'). Sixty feet (60') for a regular manufactured home. Fifty feet (50') for a single-wide manufactured home. The Commissioners were in agreement that it should be left at forty feet (40').

Page 17. The Planning Commission recommended that we do not delete the paragraph headings. The Board was in agreement with this. We leave all the headings and may add some.

Page 18. The Planning Commission recommended that we put some language in the requirement to allow an exemption for Traffic Impact Analysis if application is for just a dwelling. The application itself allows that if it does not exceed thirty (30) (vehicles?), it is exempted anyway.

Commissioner Norden said that on Page 16 you mentioned that sixty feet (60') would be left as forty feet (40'). Also on minimum setbacks the ten foot (10') interior would be left for side yard would be left at five feet (5').

Director Giordano stated yes and noted that the Commissioners were in agreement.

Page 20. Is clerical. We had language that we were asking that we clarify that you have square footage and you dimension it. Then we ask again for dimensions. We are going to

change that language to “square foot and dimensions of all manufactured homes, buildings and structures to verify square footage of each”. We will eliminate all the other language.

Page 29. 4.11.7.10.2 The language will be the same as just stated above. This is under the Travel Trailer Park and Campgrounds only.

Page 33. This is in the Neighborhood Zone District. The Planning Commission recommended moving the Convenience Store and Professional Office from SRU to Permitted Use in the Neighborhood Business Zone District. The Commissioners want to move the Convenience Store to Special Review but would leave the professional office as an Allowable Use. **County Attorney Jackson** stated that the verbiage “Permitted Use” changed to “Allowable Use” needs to be changed throughout the entire Zoning Resolution. **Director Giordano** stated that it would be.

Director Giordano said in Special Review it is the same as above. The Planning Commission recommended moving the Convenience Store and Professional Office to SRU and in the Neighborhood Business again I stated we will leave Professional Office as Allowable Use and the Convenience Store to Special Review.

Page 36. 4.15.2.7. Family child care home. The Commissioners recommend it be changed to “Child Care Center”.

Page 38. There was a recommendation that we add “recycling facility” to the Special Review Uses in the Industrial Park Zone District and it will be added.

Director Giordano stated that under Performance Standards there was a lot of discussion as what we do with smoke, dust, dirt and vibrations. Gases, dust, dirt, vibrations, material hazard characteristics will comply with applicable State Health Regulations or State Statute Regulations. I understand that it is difficult to enforce them the way they are but state regulations give guidelines we can use. If there is a problem we at least can make them comply with State Regulations. That will also happen in the next zone district where you have the same kind of language.

Commissioner Norden inquired if the language was adjusted in the “no dust, dirt, fly ash shall be admitted”? **Director Giordano** stated that they were going to be combined all together and tie it in as stated in to the State Statutes. We don’t know if the State actually has regulations governing it. Some of them they just allow us to adopt regulations and that is why we are covering it both ways with either their regulations or statues if there isn’t. Commissioner Norden inquired if it was the same specifically with vibration. Director Giordano stated yes. It will be a combination 4.15.10.1, 4.15.10.4, 4.15.10.5 and 4.15.10.6 will be in one sentence. I will take the same language and make it applicable to the regulations of the State. I will give you the final language to review prior to the Resolution being prepared or it will be part of the Resolution.

Page 39. The Outdoor Storage Areas. There is a little bit of a conflict here. The Planning Commission recommended leaving the minimum six foot (6’) fencing requirement. If we are going to tie in 5.7.15 which has been in our regulations and that is how we do all our fencing for code enforcement if there is fencing allowed. It is actually an eight foot (8’) fence. The six foot (6’) fence was not in conformance with that section. If you want to go to six foot (6’) fencing then we will be setting a separate regulation just for this zone. I think we agreed that we should leave it as Section 5.7.15 since that is what it always was.

Director Giordano said the Airport Industrial Park as noted will be going away. We will delete all of it and create a new Airport Zone District and that is where we are now.

Page 43. Under Notes. We requested that all proposed development be subject to FAA Requirements. We all agreed that this needs to be put in there as a general statement. You will notice that it is reflected throughout the regulations on other items.

Page 43. 4.16.2.2 The Planning Commission recommended striking that section which is “Agriculture, low impact”. The Commissioners agreed that it probably needs to be eliminated. Obviously if you have agriculture it could draw birds and birds you don’t want at airports, so it is a good recommendation to get rid of it.

Page 44. 4.16.2.7 Aircraft Sales. The Planning Commission recommended that it should read “Aircraft manufacturing and sales”. We decided that it would be added but eliminate “and accessory uses”. Obviously anything that is accessory uses is an accessory to anything that is permitted so we can take the words “and accessory uses” off.

Page 44. 4.16.2.11. Bake Shop. The Planning Commission recommended striking. They felt it was covered in restaurants. The Commissioners agree.

4.16.2.14. Fire station. The Planning Commission recommended that “aerial fire fighting” be included with the use Fire station associated with an airport. After review and

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discussion the Air Fire Fighting will be included 4.16.2.18 with Government Staging Facilities. The Commissioners felt that it was already included so they are in disagreement that it be added to the Fire Station.

4.16.2.17. Government road maintenance facility. The Planning Commission recommended for this to be eliminated. The Commissioners were in agreement with this.

Commissioner Stiehl stated to eliminate that from the Airport Zone District but it will be moved to the Industrial Park. We will still have the ability, particularly the airport; to have a road maintenance facility but it won't be inside the fence area of the airport. **Director Giordano** stated that it is in the Industrial Park Zone and has been taken care of.

4.16.2.18 and 4.16.2.19. The Planning Commission recommended to read "Government facilities that are aviation related". The Board feels it is covered the way they wanted it.

4.16.2.21. Heliport. The Planning Commission recommended that the words "FAA approved" be added to this Section. The Board said that it should be moved to the notes and actually it has been added. The reason I am bringing it up again is that we changed it. I don't think we want "FAA approval". I think we want "FAA Requirements". We do not want to put it in their hands to approve or disapprove. They just give us recommendations. I am noting that just for the language.

4.16.2.22. Lounge. The Planning Commission recommended that 4.16.2.22 and 4.16.2.29 be combined to read "Lounge and/or Restaurant located within the airport terminal, catering to aviation passengers and employees". That was agreed upon by the Board.

4.15.2.29 "Lounge and/or Restaurant located within the airport terminal, catering to aviation passengers and employees". The Planning Commission recommended that these two sections be combined to read which I just said above. This was agreed upon by the Board.

Commissioner Lasha stopped the meeting as there is a Public Hearing scheduled at 10:00 A.M. The regular meeting will resume on the Special review Uses on Page 46.

Commissioner Lasha closed the regular session and opened the Public Hearing.

PUBLIC HEARING

REQUEST: SRU 08-002 BADGER CREEK WIND MONITORING MAST #1 (TOWER)

Request approval of a Special Review Use Permit, Department file # SRU 08-002 Badger Creek Wind Monitoring Mast #1 (Tower) for the installation of a two-hundred and sixty-two (262') foot high galvanized steel meteorological monitoring mast with a ground contact of approximately nine (9') square feet, with thirty-two (32) galvanized steel braided wire rope guy wires that create a total footprint of approximately one-hundred and eight-seven feet square (187'x187'), and a cattle fence to encompass the improvements, by EC & R Colorado, LLC, for property owned by the Colorado State Board of Land Commissioners. The property is located northwesterly of the intersection of County Road #2 and County Road 2A (more particularly 1.1 mile north of County Road #2 and 0.75 miles west of County Road #2A) in the Tallahassee Area (northerly of Stirrup Ranch).

REPRESENTATIVE: Cyrus Tashakkori, Development Manager

Commissioner Lasha stated this is for Tower Mast #1. There is also a request for a Public Hear for Tower Mast #2. Some of the comments we receive will include both.

Cyrus Tashakkori, Development Manager for E-On Climate & Renewables Colorado (EC&R) Colorado that his associate Paul Bowman will also assist with answering question and make comments. Mr. Tashakkori briefly introduced his company stating that they develop wind farms and own 500 mobiles through out the United States. They are in the preliminary process for looking at the wind source this area and Park County. We propose to put up two meteorological monitoring masts. The masts are temporary. One mast is eight (80) meter and the other is sixty (60) meters tall. At the top of each mast will be metrological measurement devices that measure wind speed and air characteristic. The foot print of the entire proposed site is two (2) acres that include all of the guide wires. The actual hard foot print where the tower touches the ground does not require any infrastructure. It is a nine (9) square foot flat steel plat. The total surface area including

the base plat is roughly thirty (30) square feet. The installation will take only a few hours. The instruments are remotely operated. They have gotten all the relevant FAA permissions and notifications for the eighty (80) foot tower.

Planning and Zoning Director Bill Giordano stated the applicant has notified property owners within the area. They have posted the property along the county road in the general area due to the remoteness of the site. The publication has been completed. The Planning Commission recommended approval at the meeting of September 3rd. The two year land lease had already been signed but has been amended to be two years from the Boards approval. In one of the Conditions it was stated that one of the standards is that the pole location be allowed because it temporary. Recommended Contingencies have all been provided except the documentation from the landlord. They will need to provide us a copy of the extended lease. The list of Additional Notification Requirements went out with all the notifications to property owners. Waiver Request for the Surfacing, Lighting, and Landscaping of a parking area. The only parking in the area will be when the tower is erected and taken down. There will be no maintenance. This is all remote controlled so the Planning Commission did grant approval. They also asked for the waiver of the Road Impact Analysis. Because of the nature of what they are doing, one time in and one time out, there is not going to be an impact so that would be appropriate. The same with the Fire Protection Plan and Storm Water Drainage Plan because of the size of the tower. Director Giordano stated the County Review Engineer was in agreement that it would not be needed. The Planning Commission did recommend waiving those items. Director Giordano stated upon approval of a Resolution today. It will be prepared for the next meeting for the Board's approval.

Commissioner Lasha opened the hearing up for public comment.

Seetta Moss stated she was representing the Arkansas Audubon Society. She was testifying neither for nor against but in an advisory capacity. She stated the Audubon Society supports properly sighted wind towers to minimize the impact on bird and wildlife populations.

Commissioner Lasha closed the Public Hearing and returned to regular session.

Commissioner Norden inquired about the technology for the lights and how are gathering the data. **Mr. Tashakkori** stated the towers are powered by a battery that is located on the tower and a solar panel charges the battery during the day. There is a cell account attached to each tower which broadcasts the data on a regular basis by cell phone.

Paul Bowman stated that they anticipate there will be some extreme weather at this remote location. It is possible that cell technology will not work at some times. There is logger on the unit that continues to collect data on the tower. Occasionally they may have to send a person to the site to remove the chip, download it into a computer and put the chip back into use. On these occasions they will park on the road and walk in.

Commissioner Stiehl asked how many data points are needed in this mountain region to build a regional model. **Mr. Tashakkori** stated ten thousand acres per hundred mega watts would be the kind of power they would like to generate. We are trying to identify an area of about twenty plus or minus a thousand acres. It is a little more difficult to get an understanding for where good wind is in this area because of the varied topography. The two masts that we are installing here and two in Park County will give us a good indication if this general twenty thousand acre area can support a commercial wind farm. We will also be doing studies in concert with the Department of Wildlife.

Commissioner Stiehl inquired as to what wind characterizes are required with today's technology with wind mills to make the project cost effective to erect a farm. **Mr. Bowman** stated that they need wind that is at least 12 or 14 mph. However, the higher the elevation the thinner the air and less energy is transferred to the wind turbine. They would have a commercially viable project if the wind is strong enough to generate power 40 percent of the time.

Commissioner Stiehl inquired how close are the transmission line you would be accessing from this site. **Mr. Bowman** stated there is one line that goes through Colorado State Land and a larger line twelve miles to south of general area, but we do not know if they have the capacity to transmit.

Commissioner Stiehl inquired what they classify medium intensity lighting. **Mr. Bowman** said the eighty meter tower will have FAA required lights.

Commissioner Norden inquired if the study proves viable would their company make application for the wind farm. **Mr. Tashakkori** stated their company develop, own, and operate all of their wind farms.

Commissioner Norden moved to approve **Resolution 56, Series 2008**, SRU 08-002 for Badger Creek Wind Monitoring Mast #1 as recommended for the Conditions and Planning Commission recommended approval of the waiver for the Buffering Landscaping, Fire Protection Plan and Storm Water Plan. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Recommended Conditions:

- A. Special Review Use Permit shall be issued for a two (2) year term.
- B. The Department of Planning and Zoning (Department) shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board of County Commissioners (Board) for their review as required by regulations.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Collocation will not be allowed on this tower.
- J. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- K. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or

entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

Recommended Contingencies:

If approval of this application is considered by the Planning Commission the Department would suggest that the approval recommendation be made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

2. Documentation from the Colorado State Board of Land Commissioners for the following:
 - b. Extension of lease to include the term (two (2) years from date of issuance) of the Special Review Use Permit.

Waiver Requests: GRANTED

Surfacing; Lighting; Landscaping; Roadway Impact Analysis; Fire Protection Plan and Storm Water Drainage.

REQUEST: SRU 08-003 BADGER CREEK WIND MONITORING MAST #2 (TOWER)

Request approval of a Special Review Use Permit, Department file #SRU 08-003 Badger Creek Wind Monitoring Mast #2 (tower) for the installation of a one-hundred and ninety-eight (198') foot galvanized steel meteorological monitoring mast with a ground contact of approximately nine (9') square feet, with twenty-four (24) galvanized steel braided wire rope guy wires that create a total footprint of approximately one-hundred and sixty-five feet square (165'X165'), and cattle fence to encompass the improvements, by EC & R Colorado, LLC, for property owned by the Colorado State Board of Land Commissioners. The property is located northeasterly of the intersection of County Road #2 and County Road #11 (more particularly 1.8 miles north of County Road #2 and 1.1 miles east of County Road #11), in the Tallahassee area.

REPRESENTATIVE: Cyrus Tashakkori, Development Manager

Commissioner Norden moved to approve **Resolution 57, Series 2008**, SRU 08-003 for Badger Creek Wind Monitoring Mast #2 with the Recommended Contingencies and granting the waiver requests for Surfacing, Lighting, Landscaping, Roadway Impact Analysis, Fire Protection and Storm Water Drainage. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Recommended Conditions:

- A. Special Review Use Permit shall be issued for a two (2) year term.
- B. The Department of Planning and Zoning (Department) shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board of County Commissioners (Board) for their review as required by regulations.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.

- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Collocation will not be allowed on this tower.
- J. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- K. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

Recommended Contingencies:

If approval of this application is considered by the Planning Commission the Department would suggest that the approval recommendation be made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (no extensions except through regulatory process) after approval of the application by the Board of County Commissioners:

- 2. Documentation from the Colorado State Board of Land Commissioners for the following:
 - b. Extension of lease to include the term (*two (2) years from date of issuance*) of the Special Review Use Permit.

Waiver Requests: GRANTED

Surfacing; Lighting; Landscaping; Roadway Impact Analysis; Fire Protection Plan and Storm Water Drainage.

Commissioner Lasha the Board is returning to the 26th Amendment, Page 46.

Planning and Zoning Director Giordano continued at 4.16.4 SPECIAL REVIEWS in the Airport Zone District. The Planning Commission recommended that the 4.16.4.13

Towers and Antennas should not be moved to the Industrial Park Zone District. They did recommend that all other Special Review Uses in Section 4.16.4 should not be moved to the Industrial Park Zone District, unless they already exist. In discussion in our meeting it was decided to move Hotel and Motel to the Special Review in the Industrial Park Zone District which would leave only in the Towers and Antennas in the Special Review. Director Giordano said it is stated FAA would not allow any of these uses within the airport zone so that was the intent and the reasoning behind the Planning Commission and the Board's recommendation. The uses are already in the Industrial Park Zone District. The only ones that were not are the motels and hotels and we will leave the towers and antennas as is.

4.16.5.3 The lot coverage was proposed at 50%. The Planning Commission recommended 80%. The Board agreed.

Page 47. 4.16.5.6 The Planning Commission recommended that the five hundred (500) foot setback requirement be changed to "as per FAA guidelines". The Board agreed.

The Planning Commission recommended that Sections 4.16.5.6.1 through 4.16.5.6.4 be changed from the specified number of feet to "as allowed by applicable building codes". Building Director Mike Cox is working on this as it relates to the Building Codes and as to date there is not a solution. **Commissioner Lasha** stated that there are two conflicting chapters in the Code Book that Director Mike Cox is sorting out. Director Giordano stated the concern is mainly on the buildings that will be interior buildings that are lease spaces and the separation between them. The Planning Commission had concerns that if every one of them as a lot then you start requiring a front yard setback of forty (40) feet, side fifteen (15) feet and twenty (20) start requiring a front yard setback for forty (40') feet, side fifteen (15') feet and twenty (20') feet on the rear setback. This will create a lot of dead space that is probably not necessary. They could be a lot closer in spacing as per the Building Code. What probably will happen is that we will have deal with them on an individual basis. It will probably be the interior lease space is the language that we will use. We will provide that to you.

Page 48. Performance Standards. The language that I had given you is part of the State regulations and codes or State Revised Statutes and the Health Department. We will use the same language.

4.16.10.7 There is concern by the Planning Commission for sign height be changed to FAA regulation requirements. Actually the Board asked that we change that to read "there will be no advertising signs other than two wall signs or window sign. Free standing signs will not exceed thirty-two (32) square feet in area. **Commission Stiehl** made correction of not allowing any free standing signs. **Director Giordano** stated the Board wanted language put in "that any lighted or electronic signs must have prior approval of the Airport Management". It should then state there are no other advertising signs and only have two flush wall mount signs. The reference to free standing signs will be gone.

4.16.10.8 The Planning Commission recommended that wood chips in this section shall be deleted as should not be allowed as a landscaping material for noted reasons. The Board is agreement.

Page 49. Allowed Uses. 4.17.2 The Planning Commission recommended striking the word "indoor". The Board is in agreement.

Page 55. Drainage Planning Report. Don Moore asked to have further clarification in Section 5.10.2. It will read "Any flows exceeding historic runoff for the 10 year design frequency 6 hour duration storm shall be retained or detained within the site". That will be reflected again in 5.10.7. on Page 56.

Director Giordano said on Page 59 regarding the square footage dimensions of all buildings which is in two other sections, we will make sure that language is correct as per the Board.

The Planning Commission recommended striking the proof of sewage disposal. In our discussion we decided that we would leave proof of disposal which may be a letter from a public sanitation district or a copy of an individual percolation test performed on the subject property. Removed will be "accompanied by a design by the individual sewage disposal system adequate for the specified use". That sentence will be eliminated and will be "property comma" or documented proof that the existing individual sewage disposal is functioning properly and is adequate for the proposed use". The problem with this is that it became a situation that they thought they had to do the total design and that was not the

intent. All they really want to know is that the site is adequate for an individual sewage and a percolation test will give that to us.

Page 64. The Planning Commission recommended that Sections 8.1.3.2.9 through 8.1.3.2.9.3 regarding signage. The Board decided to leave it in. We really don't have a sign ordinance so basically what this is if they are going to have signage, tell us what it is. We really don't have control on it other than we know what it is. We do have control by denying the application. This gives us some ability to work with the applicants on signage.

Page 69. 8.2.4.15 The Board asked that it be left in regarding the signage in the Conditional Use and Special Reviews.

Page 70 and 71. 8.3.1.1 We state in there "Any proposal to develop property which is currently located in" and then we list all the districts when a site development plan has been required. We incorporated this language in each zone district so it is not necessary to have it here again so it is a strike through. The Planning Commission made the same comment and the Board is in agreement with that.

Director Giordano stated that is all of the changes that were discussed in our work sessions and ask if there is anything that has not been addressed. If there a no changes a Resolution will be prepared for the next meeting with all the final language of this Amendment.

Commissioner Norden commented that he thought the Planning Commission did a very thorough review of the staff's work and obviously the Board of Commissioners in our couple of work shop sessions following the meeting a month ago did some pretty thorough review also. For the benefit some of the citizens who attended the Public Hearing a month ago, I think some of the comments were heard at that time went to issues that went beyond some of the language changes in the 26th Amendment. Some of their comments we took note of as indicated by some of the philosophical discussion that were raised by the three Commissioners in our conversations with Bill Giordano as to specific points raised by the Planning Commission. Based upon some of the conversations it looks as though one of the things we want to do is to continue some those philosophical discussion with the Planning Commission so that if there are further changes that might want to be considered, we could have that conversation with them. The Planning Commission as individuals and as a group has come up with concepts that merit some further discussion.

Commissioner Stiehl stated that this has been a long and hard effort with the staff working on this since about this time last year. Over time as new rules and regulations are added and eliminating other to the zoning regulation they can get inconsistent. What the initial and primary intent with the 26 Amendment is to eliminate conflicts, make them more consistent throughout so it is easier to read. That has happened with the consistency of the drainage regulations and many other things are greatly improved. This was a lot of work by the Planning Commission to analyze this to and we have taken the bulk of their recommendation. The Public Hearing we had last month, we had some comments that I think have some impact on what we have decided today. We have accommodated to an extent what we can with this amendment the comments made by the people who spoke at the Public Hearing.

Commissioner Lasha stated this is the 26th Amendment which means it is a dynamic document and it will continue as time go on to improve if we need any changes in the future.

Commissioner Stiehl moved to approve **Resolution #58** for the 26th Amendment to the Zoning Resolution to be prepared for us for our next regular meeting of October 28th subject to the Building Department recommendations for set backs in the Airport Zone to take effect on December 1, 2008. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

Commissioner Lasha stated that Item 2 is a request for Zone Change 08-002 Airport Activity. This was also a discussion item on the September 9th meeting. **Planning and Zoning Director Giordano** stated that under the circumstances since we are delaying the final approval of the Resolution this should be deferred to the next meeting. Commissioner Lasha inquired if this Zone Change would come into effect December 1st also? Director Giordano stated yes.

Commissioner Norden moved to table the authorization on ZC 80-002 Airport Activity Zone Change until October 28, 2008 and to be in effect December 1, 2008 if approved.

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Commissioner Stiehl seconded the motion and commented that there has been some confusion about the activities of the Board of Commissioners as far as what is being done in the zone change. We are not applying for a zone change, we are not a developer. We are actually working in a legislative capacity to determine the future of the County by zoning an area for an industrial park. We are just making an area of the County available for the activities that will be then allowed in that zone district. Should at any time a developer decide to develop this area to provide industry and jobs which is our goal in this zone change they will have to go through whatever the site development are required by our regulation at such time they come before us.

NEW BUSINESS

AUTHORIZE CHAIRMAN TO SIGN APPROVAL OF AIRPORT BUILDINGS LAYOUT PLAN

Airport Director Dick Baker stated this has been a project that has been going on for a year with Don Moore, Bob Shelton Consultant and Airport Industrial Board and it has finally come together. **Commissioner Lasha** gave appreciation for Don Moore's work on the project. The City of Florence has been looking forward to having this from the County for several years and now we can do some planning on the south side and work with Florence for some water tapes.

Commissioner Norden moved to authorize the Chairman to sign the Airport Buildings Layout Plan. Commissioner Stiehl seconded the motion. Upon vote: Commission Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

LIQUOR LICENSE – BEAVER PARK INVESTMENTS INC., KWIK STOP #1

Deputy Clerk Taylor stated that the application was submitted late. This is for a 3.2% Liquor License renewal. Deputy Clerk Taylor asked to have the late fee waived.

Commissioner Norden moved to approve the liquor license for Beaver Park Investment, Kwik Stop #1 in Penrose waiving the fee for late filing. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commission Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 10:55 A.M.

County Clerk