

October 26th, 2010

MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 26th, 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	Absent
Norma Hatfield	Clerk and Recorder	Present

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Jody Blauser, Clerk and Records 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

The County Clerk gave her report for the month of September, 2010. Fees collected in September of 2009 were \$859,533.38. Collected fees in September 2010 were \$836,363.47 which is \$23,169.90 below fees collected one year ago. Commissioner Lasha moved to accept the Clerk's report for the month of September. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

George Sugars stated the 2011 budget is now available on the County website under the finance link. George said the heating system in the building will not be up and running until the end of next week.

Commissioner Lasha said the Kick Butt BBQ at Pioneer Park in Florence was a big success this past weekend. He said Cindy Cox, Mike Cox, Ron Hinkle and many volunteers put a lot of effort into the event. Lasha also thanked the individuals who put on the "Paint the Town" event in Florence as they had a great turnout.

Commissioner Norden commented that the bleachers at Pathfinder Park are now in place, he thanked the many volunteers that helped with the bleacher raising during numerous weekends since February. Ed thanked Lee Dafron of Fremont Enterprises for donating the

lumber and hauling it to the park. The restrooms are complete, except for water, and they hope to have a bid announcement out in the next few weeks to extend the water line from Cyanide Avenue to Pathfinder Park. Ed thanked George Sugars and Don Moore for the work he had done on the Washington Square Subdivision in North Canon as the money had been in escrow for many years to complete the sidewalks. Ed noted the Fremont County Tourism Council posted an announcement on the County website as they are accepting applications from community groups for 2011 tourism funding allocations for events in the County. He said under the bylaws the Tourism Council is required to distribute at least 5% of lodging tax proceeds to community groups in support of their events. To be considered for the Grant, the applications must be received by Monday November 15, 2010 at the Commissioners Office.

2. Citizens Not Scheduled:

David Reynolds appeared as a director of Canon National Bank. He distributed copies of the Economic Vitality Report for Fremont County to the Board. David said the Board may reproduce the document, or distribute as they wish, as long as they reference it was provided and funded by Canon National Bank. He pointed out some interesting facts about the report, such as one fourth of the households in the County are a single parent household. Also he said 44% of the employment within the County is in the government sector. The FEDC assisted in preparing the report. David said he believes the data collected was through August 2010. The Board thanked him for sharing the report.

Lois Kaplan appeared before the Board on behalf of the Ad-Hoc Committee. Lois suggested that the Committee be able to work directly with the Planning and Zoning Department on the site development plan. She said the Committee is working directly with the City in November as well. Commissioner Norden said this is a good idea, and suggested she get in contact with George Sugars to get the process going. Commissioner Stiehl suggested the Ad-Hoc committee provide more factual information to Planning and Zoning to base their decisions upon. Lois said they will be able to provide this information.

OLD BUSINESS

None.

NEW BUSINESS

Commissioner Norden spoke about adopting resolution #52. This would make a policy regarding installation, maintenance, replacement, and removal of cattle guards for Fremont County roads under the authority of the Fremont County Department of Transportation. Norden noted that many people were involved in the process of this document, the Cattlemen's Association, County Department of Transportation, County Attorney, County Commissioners, numerous staff and citizens. He said this collaborative effort is a good example of working together on a solution. Ed asked Tony Adamic, Director of the County Department of Transportation for comments on the Resolution. Tony said there are 150 cattle guards in Fremont County that have to be maintained which is a high dollar issue. Adamic said six drafts of this policy were written. He said they worked with the Cattlemen's association to develop the maintenance plan. Norden asked Virginia Patton of the Cattlemen's association to speak to the Board. Virginia expressed her gratitude and appreciation to the County for working with the Cattlemen's Association on the issue. Commissioner Lasha moved to approve resolution #52, the maintenance plan for cattle guards under the authority of Fremont County Department of Transportation. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Commissioner Norden stated Resolution #53, a Resolution placing a temporary moratorium on the construction, alteration, or use of any building, structure, or properties for the commercial dispensing and or sale of medical marijuana for any new businesses

until the effective date of the rules adopted by the Colorado Department of Revenue for licensing such facilities. Ed said the Board previously adopted a resolution for temporary regulations limiting locations of medical marijuana dispensaries. Norden said temporary regulations are limited to a certain amount of time which is set to expire. The resolution is needed until the State adopts final rules. Commissioner Lasha read Resolution #53. Commissioner Norden asked for public comment even though it was not a public hearing. No citizens spoke on the issue. Commissioner Stiehl moved to approve resolution #53, as read by Commissioner Lasha. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden aye. The motion carried.

Request: FP 10-001 Sweetwater River Ranch Subdivision

Mark Rowland, the property owner, requested approval of a variance from strict performance under the Fremont county Subdivision Regulations pursuant to XVII of the Regulations, to allow for the platting of twenty-one trailer spaces (units), seven cabin sites (units), for the purpose of individual sale, and fifteen common areas into units without the submission of a Preliminary Plan application and strict compliance with all the requirements of said regulations. The property is located on the west side of U.S. Highway 50, 0.5 miles southwest of the intersection of Shannon Drive and U.S. Highway 50, just west of the Texas Creek junction. Phase 1, of the condominium travel trailer park and campground subdivision also contains a four room motel and office (to be platted as one unit) and a manufactured home serving as a watchman's quarters/caretaker quarters (to be platted as one unit). Phase 1 contains 6.79 acres and the entire parcel which is zoned Travel Trailer Park & Campground contains 31.4 acres. The application is being made under the Colorado Common Interest Ownership Act, 38-33.3-209 CRS, which allows the owner to sell individual travel trailer spaces and cabin sites when platted. Mark said this has been a surprisingly pleasant experience over the past year in working with the Planning and Zoning department, led by Mr. Giordano. He remarked that Bill had to uphold present regulations and make concessions where appropriate, and he did a great job. Mark stated this is truly not a subdivision, but it is a technically a condominium and this is merely a change in ownership. He said the Colorado Common Interest Ownership Act excludes the project from County Regulations. However he spent eight months, just under \$100,000, and lost two buyers as he voluntarily complied with County regulations even though he was not required to do so by law. The big change is from renters to owners, there is no change in use or zoning and will result in a decrease in usage. Mark said this is seasonal, vacation use, and not primary residences per the declaration. He received the list of owners located within 500 feet of the property from the Assessors office, and sent them all notification. Mark was then informed by Planning and Zoning there was a different list, so he mailed to them as well. Bill informed him just before the meeting this morning there was a problem with one of the address's he mailed to. Mark stated the notice had been put in the Daily Record and he emailed the neighbors. Bill stated the new Colorado Common Interest Ownership Act is what Mr. Rowland will operate under. He said this will be treated as a final plat with some waivers. Bill noted that Mark will have to plat each one of the trailer spaces, some will be common interest some will be limited interests. It will be totally maintained by Mr. Rowland, there are no dedications to the County. There will be easements on the exterior but none in the interior. Bill noted this is an existing travel trailer park and campground prior to regulations so if the Board approves this today they will also be granting Mr. Rowland a number of non-conformances. Giordano stated their policy is to check the notification list the applicant is given by the Assessors office, when they did, they found the list Mr. Rowland was given was not correct. He informed Mr. Rowland of the mistake. Bill noted the legal obligation had been met as Mr. Rowland had notified people on both lists as this is not a public hearing. He said the Board does have the right to make a waiver on the notification as this is not a public hearing. Bill reviewed the contingencies of the approval which include, (1) Title Insurance, and a (2) copy of covenants, conditions and restrictions that have been reviewed by the County Attorney. (3) The County Engineer noted some of the septic systems overlap, but Sid has approved the septic systems. (4) If they issue addresses this information must be provided to the County. (5) Closure sheets for the subdivision have been provided already, and #5 can be dropped. (6) Bill shows Peak

Performance Training Systems Inc. as the owner, but title work shows Mr. and Mrs. Rowland as owners, and it needs clarification. (7) Tax Certificate showing taxes for final plat are paid in full. (8) Subdivision name in dedication statement to be the same as plat title. (9) Upon approval by the Board a mylar and two polyester copies shall be provided for recording. Bill said the \$500 initial fee has already been paid, and Mr. Rowland is requesting to waive the \$350 application fee. Commissioner Lasha moved to approve the request for FP 10-001 Sweetwater River Ranch Subdivision with contingencies 1-9, removing contingency 5 and waiving the \$350 fee. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

Proposed 3rd amendment to the Fremont County Zoning Resolution

Commissioner Norden opened the Public Hearing that had previously been continued from the July 13, 2010 and October 12, 2010 Board meetings. If approved the amendment would add the following regulations to the Zoning Resolution:

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

He said 99 letters were sent out to contractors in the County advising them of the proposed resolution and public hearing. Bill Giordano said since the code enforcement officers have taken over the SMM, they have found a number of violations. Presently the only place contractor's yards are allowed are in Industrial Zone Districts. Bill said they tried to address what would be considered a commercial contractor's yard, and a residential contractor's yard. They have tried to determine size, storage, and fencing that would be appropriate. Bill said they had placed the proposed amendment on the website. Out of the 99 mailings sent out, eight of them had come back for wrong address. Bill read the only written comment received, from David Reynolds; it was not clear to him if the 1000 square foot restriction included a structure or not, and is too restrictive. Dave wrote 2000 square feet might be more appropriate, depending on the type of business. Commissioner Stiehl commented on the differences for Home Occupations being able to get a permit instead of applying for a special review use with a fee of \$1750. He was glad to see so many people today that would be able to comment on size and equipment restrictions, as well as the affect of neighboring properties. Commissioner Norden said there may be changes to the language as they are trying to permit contractors yards on a small scale to be permitted as a home occupations. The board is trying to define what would be acceptable to different neighborhoods in Penrose, Lincoln Park, or Howard. Norden said anything that may be adopted is subject to change, as one size does not fit all.

Public Comments:

David Higgenbotham of 1160 Field Avenue is the owner of Mountain Plumbing and Heating and has a Home Occupation II. David said he has had numerous complaints, some merited, many are not. He said he is not big enough to own a building and has worked out of his home since he has owned the business. David said he has one and a half acre lot on which he needs to be able to temporarily store scrap water heaters, etc. from homes he has worked on. David said he has worked hard and spent thousands of dollars trying to comply with current regulations. Commissioner Stiehl asked what size of yard and how many pieces of equipment would be necessary for him to operate. David said he needs to be able to store a skidster, backhoe, company vehicle and scrap material. He said he has plans to build a 30 x 60 garage that would be able to store some of these items.

Bob and Laura Hartzman of 1162 Field Avenue addressed the Board saying they believe sections 5.2.2.7 and 5.2.2.12 will further impact their property. He stated a Home Occupation II that has been allowed to operate has impacted their way of life for the past five years. Bob said this property is used as an office, storage for the business, employees show up there for work and company vans are parked there overnight. It is a place where

used equipment is stock piled, junk and trash get strewn across the property. He said freight companies drop shipments for the business commercial use. Bob has been told by Fremont County Planning and Zoning department this property complies with the zoning resolution. He doesn't understand why a commercial use that is not an allowed use or conditional use or is a special review use is allowed to operate in this zoning district. Hartzman said the County verification form states the property is zoned AS or Agricultural Suburban. Bob said this verification also states "No" in answering the question; does the property contain a permit, a use permit, a non-conforming use permit or home occupation. He quoted from the zoning resolution number 4.6.1 this district is established for limited agricultural purposes with appropriate single family residence and accessory uses which provide separation from business and industrial uses. Bob asked if the commercial use is not allowed by zoning resolution then does that mean that all one has to do is get a home occupation for that commercial use in question to become compliant with the zoning resolution? He feels this keeps the Board out of the loop as these businesses do not have to come before the board for special review. Bob said better enforcement is needed. He said the more conditions allowed in the resolution the more you will have to enforce. Bob suggested a thorough review of all home occupations issued to make sure they were properly issued, and are still applicable. He also suggested a review of the current zoning violations to see if there are patterns or trends that can be addressed to help decrease violations. His final suggestion is to have better oversight of the issuing of the home occupations to make sure there will not be a negative impact on neighboring properties. Bob encouraged the Board to take time to evaluate these amendments and to receive feedback from contractors and property owners. Commissioner Stiehl asked for his comments in writing, which Bob gave to him. Stiehl said due to the economy there are many home occupations growing in our County and enforcement is difficult. He asked Bob if a setback from a property line would be appropriate? Bob replied it depends on the size of the property. Stiehl said used equipment would probably fall under the County's junk ordinance. He stated a set back would really not make a difference on smaller properties under three acres. Bob agreed. Laura said the area they live in was not designed to accommodate business use. However they had neighbors on both sides that are contractors, one of them was a responsible property owner who did not cause a problem. She suggested that if they can not operate within these parameters they should not be allowed to continue to operate. Commissioner Norden asked if the eight foot fence per the resolution would help the situation. Laura said no, the property is too small once you take 1000 square feet out of the lot, it becomes an eyesore. Commissioner Stiehl asked if it affects your view. Bob replied their view of the mountains and wildlife has been destroyed. Laura said even though the fence is there, the problem is still visible. Commissioner Norden said the problem we haven't really focused on is how much traffic is generated from a home occupation. Commissioner Lasha said it is a fine line on the property owner's rights that we deal with in the regulations.

Sheila Bergamo appeared on behalf of John Zajkowski a contractor who lives at 1002 L Street in Penrose who was not able to be at the meeting today. Sheila said his property is 5 acres and he stores scaffolding on about 9000 square feet of the property. She said no work is done at the home, and 1000 square feet would not be sufficient to store the scaffolding. Sheila asked what a formidable solution would be for this situation. Sheila said a heavy machine is rented to load and unload the property. Sheila said the scaffolding is stored in small piles per OSHA regulations behind a fence. Commissioner Norden asked if there had been any complaints against them. Sheila said there have not been any complaints to her knowledge. Sheila asked at what point does the Board differentiate between a contractor versus another home business that does not maintain their yard. She commented their yard is very well maintained compared to several homes down the block that have broken down vehicles, junk and weeds on them. Sheila wants to know how the amendment will affect this property. Commissioner Norden asked if the property has been put under violation. Sheila answered not to her knowledge. Commissioner Stiehl said this sounds more like a storage yard and we need to consider this type of operation. Norden asked if there is any heavy equipment being stored on the premises. She said besides the rental machine, only a John Deere Tractor.

Ken Houston lives in the Copper Gulch area and he is probably in violation as he did not know there were regulations against this. Ken stated he has never had a complaint from his neighbors but he wants to stay in compliance with his government. He asked who he needs to talk to about compliance, and was told to speak with Bill Giordano. Commissioner Norden asked Ken how big his property is and if he had to fence a storage area, how big would it be. Ken replied the land is 5.39 acres and he tries to keep every thing hidden by the trees but to fence it in would need to be 100 x 100 feet. Commissioner Stiehl asked if he had a building now. Ken answered he has a small metal carport, and some small storage sheds. Stiehl asked if he is intending to grow his business bigger and if he has employees. Ken said no he is trying to downsize and the only employee he has is his son. Norden asked how many people Ken knows in the Copper Gulch area are independently employed by home occupations. Ken answered about everybody. Norden said it is hard to enforce this when we don't even know about all of the home occupations currently running. Ken said there should be some sort of leeway depending on the property and the situation, and he doesn't know how you would write that. He said contractors from the cities don't have a lot of scruples and don't care about their neighbors. Commissioner Lasha said trying to put regulations together for the county is a struggle considering the diversity of the communities. Ken said he has a problem with the 1000 square foot limit is a problem as its not large enough for him and he would have to move. Norden said natural screening may be helpful. Ken said he would be making an appointment with Bill in the Planning and Zoning department. Stiehl said there aren't very many places in the county for people to move with this type of zoning.

John Province has a concrete business, he told the Board he feels 1000 square feet would be tight, and that 2000 square feet would be more reasonable. John said he knows there needs to be a limit on the amount of equipment stored. He feels a fence would create more of an eyesore than the equipment. John has been in business for 17 years, and never had a complaint. He stated he keeps his property orderly and is respectful of his neighbors.

Commissioner Norden closed the Public Hearing at 11:04 A.M. Commissioner Lasha said screening, fencing, and the number of vehicles are a concern for him. He said they have looked at one acre lots up to nine and half acre lots and set backs create issues as well. Lasha said he is not prepared to approve the resolution today as he thinks they still need to work on it. He feels the responsibility of the contractors needs to be implemented in the resolution some how. Commissioner Norden would like to take up more discussion on these items with staff. Norden said they need to look at what abilities they have under existing code regulations regarding junk whether it's associated with contractors yards or not. He stated if people operate in a neat and orderly fashion, it probably does not bother the neighbors. Norden agrees with Lasha that they need more time before approving the amendment. Commissioner Lasha asked Bill if the Small Wind Energy Systems could be approved by itself. Bill said yes, but rather than have another resolution, just wait until all items are approved. Norden asked the Board if they felt the time period for public written comment should be extended, or extend the public hearing. Lasha feels with the 99 letters being mailed out along with the web posting that sufficient notice has been given to the public. Commissioner Stiehl said they have gotten some very good input that is representative of the public. Commissioner Stiehl moved to table the amendment to the November 23, 2010 Board meeting, noting the revised draft should be posted on the website. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Norden adjourned the meeting at 12:05 P.M.

