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TWENTIETH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 28, 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	Absent

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

Larry Chell from Christian Family Fellowship 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 adoption of 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 Norden stated he had a correction on the Minutes of October 14, 2008. On Page 10, Planning and Zoning Director Bill Giordano was discussing in the 26th Amendment, Regulation 4.16.10.7. Director Giordano stated the Board wanted language put in that “any line or electronic signs must have prior approval of the Airport Management”. That should read “any lighted or electronic signs”. In the last sentence of that paragraph “The free standing sign will be gone.” It would probably read better “The reference to free standing signs will be gone”.

Commissioner Norden stated with the two changes to the minutes he made a motion to approve the Consent Agenda. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

1. Approval of Minutes October 14, 2008
2. Approval of Bills, October 28, 2008 / \$419,869.43
3. Adoption of Resolution #56, Series of 2008, Special Review Use File Number SRU 08-002 Badger Creek Wind Monitoring Mast #1 (Tower)
4. Adoption of Resolution #57, Series of 2008, Special Review Use File Number SRU 08-003 Badger Creek Wind Monitoring Mast #2 (Tower)
5. Adoption of Resolution #58, Series of 2008, 26th Amendment to the Zoning Resolution.
6. **SCHEDULING OF PUBLIC HEARING: NOVEMBER 12, 2008 AT 10:00**
 1. North Canon Area Sewer Line Extension Local Improvement District

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SCHEDULING OF PUBLIC HEARING: NOVEMBER 25 AT 10:00

1. 2009 Proposed Budget Hearing

ADMINISTRATIVE / INFORMATIONAL

1. Staff / Elected Officials

Patricia McFarland, Fremont County Treasurer and Public Trustee, presented the Quarterly Public Trustee Report. There were a total of 603 releases of Deed of Trust. There were 61 foreclosures. The foreclosures went down but they are going back up again. Expenses went up because of the number of foreclosures. The attorneys have ascribed to do things electronically. We have to notify every person that has an interest in the property. We have to make all the copies of the statutes etc. and notify by mail. However this is a pass through cost. The cost is charged back to the foreclosed property. **Commissioner Norden** moved to approve the Public Trustees Quarterly Report. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

Commissioner Norden asked for an update on the publishing of the delinquent property taxes. **Fremont County Treasurer McFarland** stated that it has been published and the tax lien sale will be on November 20, 2008 here at 615 Macon. We will pay eleven percent (11%). Our publication this year was smaller. We published 825 and that was down by 253. We were one of the few counties in the state that it was smaller.

Commissioner Norden stated the residences of north Cañon will be receiving in the mail a packet updating them on north Cañon area sewer line extension improvement project. This is on our Consent Agenda for a Public Hearing November 12th at 10:00 A.M. The reason the County Commissioners are involved in possibly forming this sanitation sewer improvement district is because the Fremont Sanitation District, if the sewer lines go in, would take over the service area but until that time the boundaries extend the jurisdiction for the area. It is the responsibility of the County Board of Commissioners to create an improvement district if that is the desire of the residences. The Public Hearing on November 12th is to weigh the interest in support or opposition of the proposal.

Commissioner Norden stated that we received notification from the Colorado State Court Administrators Office that Fremont County is receiving a \$12,356.00 grant for security improvement at the Fremont County Judicial Center. The dollars will be to upgrade the code access system to various internal accesses. Commissioner Norden commended Walter Blair, Sheriff Beicker and the members Security Committee at the Judicial Center for securing grant. **Commissioner Lasha** stated that we have hopes for one more grant and possibly some fencing. Commissioner Norden said yes and that it would be around the rear of the Judicial Center.

2. Citizens not scheduled / None

OLD BUSINESS

REQUEST: ZC 08-002 AIRPORT VICINITY ZONE CHANGE

Request approval of a zone change from Airport Industrial Park and Industrial to Airport and Industrial Park Zone Districts, by Fremont County for property surrounding and including the Fremont County Airport, which is located on the south side of US Highway 50 and east of Colorado State Highway 67. The Public Hearing held on September 9, 2008 was closed and this request was tabled until the October 14, 2008 meeting. At the October 14, 2008 meeting, the request was tabled until the October 28, 2008 meeting.

REPRESENTATIVE: Department of Planning & Zoning

Planning and Zoning Director, Bill Giordano stated the zone change came before the Board at the September 9th meeting as a Public Hearing along with the 26th Amendment. There was a deferred approval of the 26th Amendment which obviously made this request for new Airport Zone and Industrial Park Zone District was also deferred. Director

Giordano showed a map of the area for the new Airport Zone District. The area that was the old Airport Industrial had been changed to Industrial Park Zone. Also along with the new master plan there will be another portion that will also be Industrial Park. The zone change today is two fold: one is creating Airport District and the other is creating the Industrial Park Zone District. We have sent letters out to all the property owners. We received input at the meeting concerning not only the zone change but also the Amendment.

Commissioner Lasha stated that the other item that was table was to obtain additional information from the Building Department on the space separation for lease space. Director Giordano stated that it can not be a set amount; it will have to be handled on an individual basis.

Commissioner Stiehl inquired if the adoption of the resolution for the 26th Amendment was going to be effective December 1, 2008. Director Giordano said yes.

County Attorney Jackson stated that the Amendment creates the zone so we can not change to a zone that does not exist until December 1st.

Director Giordano stated there will be a resolution prepared to the next meeting approving the zone change.

Commissioner Stiehl moved to approve the request for **Resolution 59, Series 2008 ZC 08-002** Airport Vicinity Zone Change to become effective December 1, 2008. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

County Attorney Jackson commented that we have been through 26 amendments since 1995. Attorney Jackson commended Bill Giordano, Marshall Butler and Planning Department for the work they did because it took an enormous amount of time. Numerous meetings with the Planning Commission and the Board were held in order to achieve this. **Commissioner Lasha** also commended Attorney Jackson for her help. **Commissioner Norden** commended Vicki Alley and Donna Monroe of the Planning Department who went through all of the editing changes and sorting it all out.

Commissioner Stiehl stated that now we are in the position to move forward easier.

NEW BUSINESS

KIM HUFFINGTON / ADMINISTRATOR FOR SANGRE DE CRISTO HOSPICE & PALLIATIVE CARE WEST – NATIONAL HOSPICE/PALLIATIVE CARE MONTH – NOVEMBER 2008

Kim Huffington stated that November is National Hospice Month and it has never been formally declared in Fremont County. We would like to recognize Hospice as comfort care and compassion that is extended to those in the last stages of their life.

Commissioner Lasha said he appreciated the work that they do. He has had experience with Hospice and it is a blessing for the families that are involved in a tragedy that does happen. Ms. Huffington stated speaking for their entire staff they feel that they receive way more than they give. Commission Stiehl read the proclamation.

Commissioner Lasha moved to declare National Hospice/Palliative Care Month – November 2008. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

J.R. PHILLIPS – WEST NILE VIRUS AWARD

Fremont County's West Nile Virus Program Director, J.R. Phillips stated that he is honored to come before the Board today regarding 2008 West Nile Virus Campaign. Director Phillips stated the West Nile Virus mosquito came to the United States in 1999. The mosquito has migrated to every state except Alaska. In 2003 the State of Colorado had 2,947 cases of West Nile Virus. In 2008 the cases have gone down to 87 reported to date. Monitoring and control by the city of Cañon City, Florence and many concerned citizens and education that was provided by Fremont County has been integral in that war to decrease the increase in mosquitoes and the viruses they may carry. Information that was passed out to the county included limiting activities from dusk to dawn, wear

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protective clothing, insect repellent and to make sure that doors and windows have tight fitting screens. Commissioner Larry Lasha suggested last year to provide recognition to the people in the county that have done an extraordinary job contributing to the protection of the people. J.R. Phillips introduced Debbie Sims, the Manager of the Royal Gorge Manor and Gene Echart with the Colorado Odd Fellows. **Commissioner Lasha** commended them for the efforts and the Board acknowledged their efforts in protecting the residents of Royal Gorge Manor against West Nile Virus.

Commissioner Norden commented J.R. Phillips in his efforts in the West Nile Virus and Control the noxious weeds in the county.

KEVIN KERRIGAN – MANAGER PUBLIC AFFAIRS ATMOS ENERGY/GAS COST ADJUSTMENTS PRESENTATION

Kevin Kerigan stated that Atmos Energy is the natural gas utility for Fremont County and various parts of Colorado. The gas costs adjustment is a dollar charge that they do not earn any money on and is passed on to the customer. Atmos has filed with the PUC for a one percent (1%) increase for this district. We have to pass on this increase due to the all time high gas prices this summer. We did have a price increase in June of seventeen percent (17%). We had to secure contracts for natural gas for supplies for the winter. The increase will be in effect November 1, 2008. Mr. Kerigan stated they want to encourage conservation. Also any customers who may have a difficult time paying can get in contact with the "Energy Outreach Colorado" program or "LEAP" for assistance.

County Attorney Jackson stated the Department of Human Services administers the LEAP program. **Commissioner Norden** stated they offer budget billing also.

REQUEST: MS 08-002 STRATTON SUBDIVISION

Request approval of a three (3) lot minor subdivision, Department file #MS 08-002 Stratton Subdivision, by Patrick Stratton as Personal Representative for the Estate of Abram B. Stratton, deceased, for property which is located at the southeast corner of the intersection of Chestnut Street and Elm Avenue, in the Lincoln Park Area. Proposed lot 1 will consist of 0.781 acres and contains a frame single-family dwelling, a frame garage and a shed with stalls. All of the structures currently contained on proposed lot 1 are non-compliant with the setback requirements of the Agricultural Suburban Zone District in which the property is located. Proposed lots 2 and 3 will consist of 0.840 acres each and are both vacant; however, both are located within a FEMA designated Special Flood Hazard Area - Zone A. The property is currently being used for residential and agricultural uses. The property consists of approximately 3.11 acres.

REPRESENTATIVE: Matt Koch, Cornerstone Land Surveying, LLC

Matt Koch of Cornerstone Land Surveying stated this is a three (3) lot minor subdivision located at the corner of Chestnut and Elm. There is an existing house, some out buildings and a barn located on Lot 1. Lots 2 and 3 are vacant. They have gone through all the procedures. After speaking with County Engineer Don Moore last Friday and it was determined that there is some need for storm water detention for the subdivision. We will note on the plat that Lots 2 and 3 will provide a seven hundred (700) cubic feet depth detention pond on each lot when a building is built. That way they can situate the pond as they see fit.

Planning and Zoning Director Bill Giordano stated the Planning Commission meeting on October 7th did recommend approval of the plat. There was a list of seven (7) items that were approved. Item 1 and 2 are general. Item 3 is a deed restriction addressing the maintenance of any drainage facilities. The County Transportation Plan calls for a thirty five (35') foot right of way required along Elm Street and a thirty (30') foot right of way from the center line of Chestnut Street. Item 5 applies to the engineer. There was another drainage study that has been done and Don Moore reviewed. Don Moore gave him an option to either construct one detention pond for all of the lots or put individual pond on each lot. The normal procedure is if detention is required we ask that they either installed it prior to the recording of the plat. This creates a problem in this instance because actually when you put in a detention pond on the lot it could affect each individual lot instead of one detention pond. It is not practical to put them in if you do not know where

the house is going to be located. If it is done as a change order it is ignored and will never get done. Director Giordano said he did not have a problem by doing it as a plat restriction but the Building Permit will not be issued unless you want to put a letter of credit or an agreement. This way if the builder does not put in the pond we will.

Director Giordano stated that they have not received any notification from the Recreation District for any compliance with requirements and that could be removed.

Commissioner Norden inquired if there was to be drainage on two or three lot. Mr. Koch stated Lots 2 and 3. **Director Giordano** stated that Lot 1 was pre-existing. Commissioner Norden inquired that if it was their preference that each lot obtains their own pond. Mr. Koch said yes; leave it up to the builder.

Director Giordano stated in regard to the Waiver Request the setbacks are not appropriate. The Planning Commissioner did not ask that the buildings be removed or relocated, they just asked that the statement be placed on the plat and they did treat them as non conforming setbacks. **Commissioner Lasha** inquired if they were replaced in the future date then they would have to meet all the setback requirements. Director Giordano said whatever the zone district requires at that time. **Commissioner Stiehl** inquired about drainage ponds. Director Giordano stated it would be a statement on the plat that the ponds will be constructed and approved by their engineer prior to issuance of a Building Permit or the applicant is to provide a improvement agreement (escrow agreement) for the cost of the construction the individual detention ponds or swales.

Commissioner Stiehl moved to approve MS 08-002 Stratton Subdivision with the Seven (7) Contingencies; however changing Contingency 5 b. The storm water detention structures to read “there will be a deed restriction, plat notation for the storm water detention structures and the structures must either be installed prior to issuance of the building permit or improvement agreement as engineered or improvement agreement and escrow with monies being put into escrow prior to the issuance of the building permit”. The waiver requests are granted for the non-conforming set backs of the existing structures. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried.

Recommended Contingencies:

The approval recommendation is 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:

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations (FCSR).
2. An updated title commitment issued within 60 days of recording of the final plat. An updated title commitment may result in additional requirements. (*Note – the Department Review had a typographical error of “30 days”. “60 days” is correct per Fremont County Subdivision Regulations, Section XII, G. 2.*)
3. An executed quitclaim deed with a deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc., if required.
4. A quit-claim deed to the County for a 35 foot right-of-way from the centerline of Elm Avenue and a 30 foot right-of-way from the centerline of Chestnut Street will be required.
5. Documentation as to compliance with the following requirements as per the County Engineer’s review letter dated May 20, 2008:
 - a. The plat should include an appropriate note indicating that no land surface disturbance, grading, filling, structures, storage of equipment or materials, or other development is allowed within the FEMA designated flood hazard area without a valid Fremont County Floodplain Development Permit issued by the County.
 - b. Applicant’s Engineer shall provide a revised drainage report which meets County requirements. (*The revision will assume reasonable sizes for future*

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roof and paving areas on each of the two new lots, and size on-site detention basins for each. Numerical values will be provided for historical and developed flow amounts.)

CHANGED TO READ:

“There will be a deed restriction, plat notation for the storm water detention structures and the structures must either be installed prior to issuance of the building permit or improvement agreement as engineered or improvement agreement and escrow with monies being put into escrow prior to the issuance of the Building Permit”.

6. A copy of the executed water contract from the City of Cañon City.
7. Compliance with the requirements of the Cañon City Metropolitan Recreation District, if any.

WAIVER REQUEST- WAIVED

Setbacks

Commissioner Lasha adjourned the meeting at 10:20 A.M.

County Clerk