

November 10, 2015

TWENTY-FIRST MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on November 10, 2015, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward Norden called the meeting to order at 9:30 a.m.

Edward H. Norden	Commissioner	Present
Debbie Bell	Commissioner	Present
Tim Payne	Commissioner	Absent
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager and Matt Koch, Planning and Zoning Director.

The Invocation was given by Alex Ackermann of Vineyard Church.

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

APPROVAL OF AGENDA

Commissioner Bell moved to approve the Agenda. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / October 27, 2015
2. Approval of Bills for November 10, 2015 / \$ 644,120.88
3. Adoption of Resolution #34, Series of 2015, SRU 15-003 Deer Mountain Fire Protection District (Fire Station).
4. Schedule Public Hearing for November 24, 2015 for 10:00 A.M.:
Request approval of a proposed amendment to the Fremont County Zoning Resolution regarding adding an Accessory Dwelling Unit (ADU) Overlay as a zone district.

Commissioner Bell moved to approve the Consent Agenda. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff / Elected Officials:
 - a. County Clerk's Monthly Report, Katie Barr, County Clerk and Recorder

Clerk Barr reported the October Motor Vehicle and Sales Tax collected was \$1,003,827.75. Of that \$562,958.15 is Fremont County's portion for disbursement which is \$52,825.60 more than October of 2014.

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Commissioner Bell moved to accept the County Clerk's Monthly Report. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

Commissioner Bell congratulated Penrose Elementary School for receiving the National Blue Ribbon School Award for overall academic excellence.

Commissioner Bell reiterated the need for the Federal Administration to have transparency in their intentions with Guantanamo Bay detainees. The national media has been the main source of information for Fremont County. Commissioner Bell reiterated that the concerns are not for the detainees inside the prison walls, but the concerns are regarding the supporters and families of the detainees and the soft targets of Fremont County, such as schools and businesses. Action 22, a group comprised of 22 counties in Southern Colorado will be writing a letter to the President in regards to this matter. Commissioner Bell encouraged citizens who find this matter important to contact their Representatives and the President.

Manager Sugars reminded everyone that in observance of Veteran's Day, the County buildings will be closed on Wednesday, November 11th.

2. Citizens who wish to address the Commissioners on a matter not scheduled on the agenda

None.

OLD BUSINESS

None.

NEW BUSINESS

1. In consideration of Proclamation Recognizing Veterans Day
Representative: George Sugars, County Manager and Retired Navy Captain

Manager Sugars expressed the County's desire to honor veterans that have served, are currently serving, and the sacrifices they have made for our freedom. Manager Sugars read the proclamation.

Commissioner Bell moved to approve the Proclamation Recognizing Veterans Day. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

2. In consideration of Fremont County's Continuity Plan
Representative: Steve Morrisey, Emergency Management

Steve Morrisey reported the continuity plan is a safe-measure to have a plan in place just in case buildings or staff are unavailable to run the County. The plan states where operations will take place and who will run them. The document is only an internal document because of the sensitivity of information.

Commissioner Norden moved to approve Fremont County's Continuity Plan. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

3. Request: Refund for SRU 15-003 Deer Mountain Fire Protection District (Fire Station) Request approval of a refund of the \$1800 application fee. DMFPD is a non-profit organization.
Representative: Karen McKee

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Karen McKee requested a refund for the \$1800 application fee for SRU 15-003 since the fire district is a non-profit run by volunteers and funded by tax dollars.

Commissioner Norden noted past practice has been to refund 50% of the application fee since the Planning & Zoning Department puts time and effort into the application.

Commissioner Norden moved to refund half of the application fee. Commissioner Bell seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

4. Request: Amendment to Condition of Approval for SRU 15-002 Acord Truck Terminal. Request approval to amend Contingency #5, "Property owner shall execute a Quit-Claim deed with a deed restriction addressing the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Such deed shall be recorded at the time of recording of the use permit. Fremont County will not accept maintenance of these facilities"; to become Condition Q., "property owner or designees shall be responsible for the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Fremont County will not accept maintenance of these facilities". The property is located in the Airport Industrial Park on Skyland Drive. The SRU permit property contains 3.85 acres and is zoned Industrial Park.
Representative: Matt Koch, Planning Director

Director Koch explained after considerable discussion with the applicant, the requirement for the deed restriction is not necessary. The item can be made a condition that is reviewed yearly.

Commissioner Bell moved to approve the amendment to SRU 15-002. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

5. In consideration to re-appoint Larry Brown to the Fremont County Planning Commission for another three-year term ending December 31, 2018.

Commissioner Norden mentioned that Larry Brown was finishing his first term on the commission. Commissioner Bell noted that a letter stating his desire to remain on the planning commission had been submitted.

Commissioner Norden moved to re-appoint Larry Brown to the Fremont County Planning Commission. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

6. In consideration to re-appoint James Javernick to the Fremont County Board of Zoning Adjustment for another three-year term ending November 27, 2018.

Commissioner Norden remarked this would be James Javernick's third term on the board. Commissioner Bell noted that Mr. Javernick had also submitted a letter expressing his desire to remain on the board.

Commissioner Bell moved to re-appoint James Javernick to the Fremont County Board of Zoning Adjustment. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

7. In consideration to appoint Michael Pullen to the Fremont County Board of Zoning Adjustment for a three-year term ending November 27, 2018.

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Commissioner Norden explained the seat held by Mike Welch is being vacated, and Michael Pullen has been an alternate for the board. Mr. Pullen had been contacted and agreed to take the seat.

Commissioner Bell moved to appoint Michael Pullen to the Fremont County Board of Zoning Adjustment. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

8. In consideration to approve the “Adopt a Park” program

Commissioner Bell explained the “Adopt a Park” program is very similar to the “Adopt a Highway” and “Adopt a County Road” programs in Fremont County. The program is designed to have organizations provide the clean-up and maintenance of parks since the County does not have a parks department. Fremont County will provide necessary equipment while the organization provides trash pick-up.

Commissioner Bell moved to approve the “Adopt a Park” program. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10 A.M.

1. VPR 15-001 Parkman Street & Alley
Request approval of a Vacation of Public Right of Way, Department file #VPR 15-001 Parkman Street & Alley, by Gary McWilliams. All of Parkman Street lying south of the southerly right-of-way line of Frazier Avenue (formerly platted as Alabaster Avenue) and lying north of the northerly right-of-way line of Johnson Street, and the alley in Block 4 according to the recorded plat of The United Oil Co’s Pike View Subdivision, recorded September 22, 1900 at Reception No. 55083.
Representative: Gary McWilliams

Commissioner Norden opened the Public Hearing at 10:00 a.m.

Gary McWilliams explained he owns the property to the east and west of the right-of-way that is not developed. He would like to build a house on the property and make it all one parcel.

Randy Reeves said the property totals a little over 3 acres.

Director Koch said the applicant had done all of the proper posting, the right of way is vacant, and vacating it will not impede access to neighboring landowners’ property.

Commissioner Norden closed the Public Hearing at 10:05 a.m.

Commissioner Bell moved to approve VPR 15-001 Parkman Street & Alley, Resolution #36. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

2. 2016 Fremont County Budget
Representative: Sunny Bryant, Assistant County Manager / Budget and Finance Officer

Commissioner Norden opened the Public Hearing at 10:06 a.m.

Sunny Bryant gave an overview of the proposed budget. Due to the uncertainty of the economy, the budget is conservative in projecting increases in tax income. The proposed budget is available on the County’s website and in the Finance Department. Budget Adoption is scheduled for December 22, 2015 at 9:30 a.m.

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Commissioner Norden explained the County is comfortable with \$1.2 million in reserves which is an increase from \$272,000 from 2007. PILT funds have been used in the past in the General Fund, but with revenue increases the goal of the Board is to shift these funds to other needs such as bridges. During the recession, \$500,000 was shifted from Road & Bridge, and the County will be able to return part of that money in the upcoming year from PILT money. Commissioner Norden also noted that the pledged \$3.9 million from the General Fund for the Sheriff's Department continues to be in the budget, and the Sheriff's Department continues to pay back debts owed from previous years to the self-funded group insurance that benefits all county employees.

Commissioner Bell added that forecasting the future is incredibly difficult. The Finance Officer and the Board need to be on the same page when creating the budget, and they are responsible for interpreting the trends in the economy. Even though the trend continues to show improvement, the County still has people on the lower end of the spectrum.

Commissioner Norden closed the Public Hearing at 10:30 a.m.

Chairman Norden adjourned the meeting at 10:32 a.m.

Clerk and Recorder

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Commissioner Bell moved the adoption of the following Resolution:

**RESOLUTION NO. 31
Series of 2015**

RERECORDED to change Contingency #5 to Condition Q of
Resolution No. 31, Series 2015 at Reception #933529

RESOLUTION FOR SPECIAL REVIEW USE PERMIT
DEPARTMENT OF PLANNING AND ZONING
FILE #SRU 15-002 ACORD TRUCK TERMINAL

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, Acord land company, LLC, (hereafter "applicant") has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont County for a Permit to allow a truck terminal, repair, and maintenance facility, which is an allowed use in the Industrial Park (IP) and Airport-Overlay (AP-O) Zone Districts, which application has been designated as file #SRU 15-002 Acord Truck Terminal, to be located on certain real property that the applicant owned; and

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its September 1, 2015, regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter "Department"), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel and to appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

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WHEREAS, the Board held a public hearing concerning said application on **October 13, 2015**, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

WHEREAS, it appears that issuance of a Special Review Use Permit is appropriate;

NOW, THEREFORE, BE IT RESOLVED by the Board that:

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - f. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
 - A. Special Review Use Permit shall be issued for life of the use.
 - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits,

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licenses, or other documentation showing compliance with the requirements of any other governmental agency (to include items such as changes to the documents, updates, renewals, revisions, annual reports). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a **penalty fee shall be charged** to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- 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 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.

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- H. Days of operation will be 7 days a week.
- I. Hours of operation will be: Office hours Monday thru Friday 8 a.m. to 5 p.m., Haul trucks will run 7 days a week, leaving as early as 4 a.m., and returning after delivery.
- J. The County will retain the right to require mitigation measures for noise, if in the future it becomes an issue.
- K. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, and further the applicant shall implement and maintain the plan, if required.
- L. 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.
- M. 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.
- N. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (complete reapplication).
- O. The SRU is issued binding both lots to the approval of the SRU. If for any reason one of the lots is transferred to another owner the SRU will be revoked.
- P. If dust resulting from the parking lot becomes an issue, as determined by the Planning and Zoning office, then dust suppressant will be required.
- Q. Property owner or designee shall be responsible for the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Fremont County will not accept maintenance of these facilities.

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Commissioner Payne seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

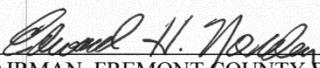
Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Nay / Abstain / Absent

Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: October 13, 2015



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: 

FREMONT COUNTY CLERK AND RECORDER