

TWENTY-SEVENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on December 14, 2004, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

Larry Lasha	Commissioner	Present
James R. Schauer	Commissioner	Present
Keith McNew	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

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

The Morning Prayer was given by Chaplain Hal Simmons, Hospital Chaplains Ministry of America.

The Pledge of Allegiance to the Flag of the United States of America was recited by those present.

AGENDA

Commissioner Lasha stated that an item would need to be added to New Business. This would be a resolution to establish the John C. Fremont Library District. **Commissioner Lasha** made the motion to approve the Agenda with the addition. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Lasha, aye; Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried.

CONSENT AGENDA

Commissioner McNew made the motion to approve the Consent Agenda:

1. Approval of Minutes November 23, 2004
2. Approval of Bills, December 14, 2004/**\$1,830,348.34**
3. **SCHEDULE PUBLIC HEARING FOR January 11, 2005 AT 10:00 A.M.**

REQUEST: ZC 04-008 MILAM ZONE CHANGE

Request approval of a **Zone Change from Agricultural Rural to Agricultural Suburban, file #ZC 04-008 Milam Zone Change, James M. Milam**, for his property *which is located southeast of the intersection of Grandview and Justice Center Road, on the south side of Grandview Avenue, in the Fourmile Area.*

The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report for November. She reported that the revenues earned in the Clerk's Office for the month of November were \$557,584.05, and that was an increase of \$87,270.40 over a year ago. Sales tax was \$67,636.94, and was an increase of \$11,767.69 over a year ago. The money staying in the County to be divided among the entities was \$325,420.15, and this was an increase of \$52,766.96 over a year ago. **Commissioner Schauer** made the motion to approve the Clerk's Report for November 2004. The motion was seconded by

Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried.

2. Citizens Not Scheduled: None

OLD BUSINESS:

RESOLUTION #139 REQUEST: CUP 04-002 RANCH LAND ROCK PIT #2 (AMENDMENT)

Bill Giordano, Planning & Zoning Director, stated that a couple of corrections were made to the existing resolution. They clarified the number of trucks. They added 200 trucks based on an average of days of operation calculated monthly. The item discussed at the last meeting was the maintenance of the one-mile stretch from Highway 120 to the entrance of Rocky Mountain's pit or the intersection of Rocky Mountain's pit and County Road 112.

Commissioner Schauer made the motion to approve **Resolution #139** CUP 04-002 Ranch Land Rock Pit #2 (Amendment). The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha. The motion carried and carried with it the adoption of **Resolution #139**.

NEW BUSINESS:

REAPPOINTMENT OF FREMONT COUNTY FAIRBOARD MEMBERS – RICHARD (BUDDY) NICHOLS, BARBARA CAROCHI, RALPH KUNSELMAN, VIRGINIA HAYNES AND DIANE BEGRIN. DOUG KOEHN WILL BE ADDED AS AN AT LARGE COMMUNITY MEMBER

Commissioner McNew made the motion to re-appoint the Fremont County Fairboard members as mentioned. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

REAPPOINTMENT OF PENROSE COMMUNITY LIBRARY DISTRICT BOARD MEMBER JUDY LAZOR

Commissioner McNew made the motion to reappoint Judy Lazor to the Penrose Community Library District Board. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

REAPPOINTMENT OF DAVE NASH TO THE AIRPORT/INDUSTRIAL PARK ADVISORY BOARD

Commissioner Schauer made the motion to reappoint Dave Nash to the Airport/Industrial Park Advisory Board. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried.

RESOLUTION #140/CONFIRMING THE ESTABLISHMENT OF JOHN C. FREMONT LIBRARY DISTRICT INCLUDING ESTABLISHMENT OF THE NEW TAX IN THE APPROXIMATE AMOUNT OF \$150,000.00 ANNUALLY FOR THE OPERATION OF THE PROPOSED LIBRARY DISTRICT WHICH IS EQUIVALENT TO AN ASSESSMENT OF 2 MILLS FOR THE MILL LEVY OF THE JOHN C. FREMONT LIBRARY DISTRICT OF FREMONT COUNTY AND SETTING FORTH THE BOUNDARIES THEREOF

Brenda Jackson, County Attorney, stated that this was essentially for the benefit of the Assessor. The Resolution that referred the question to the ballot provided that with voter

approval, the District would be deemed established. The Assessor has requested that the Board adopt a Resolution establishing the boundaries and record it.

Commissioner Lasha made the motion to approve **Resolution #140** confirming and establishing the John C. Fremont Library District. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Lasha, aye; Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried and carried with it the adoption of **Resolution #140**.

**APPOINTMENT OF JOHN C. FREMONT LIBRARY DISTRICT MEMBERS –
CICILY HARMAN, NANCY LINDSEY, RUTH FARMER, LORRAINE VELTRI,
JENNIFER MILEY, LINDA WITTE**

Commissioner Lasha stated for Ms. Harman, it would be one year, Nancy Lindsey for two years, Ruth Farmer for three years, Lorraine Veltri for four years, Jennifer Miley, five years and Linda Witte for five years. **Commissioner Schauer** made the motion to approve the appointments for the members of John C. Fremont Library District as mentioned. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried.

**RESOLUTION #141/CERTIFICATION OF TAX MILL LEVY JOHN C.
FREEMONT LIBRARY DISTRICT**

Brenda Jackson stated that the statute requires that upon approval by the voters of a library district, the Board is required to establish it and provide for the funding effective January 1 of the following year. This is the way the Board provides for the funding, by certifying the mill levy of 2.000 mills as approved by the voters to be effective in 2005. **Commissioner McNew** made the motion to approve **Resolution #141** establishing the mill levy for John C. Fremont Library District. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner McNew, aye; Commissioner Lasha, aye; Commissioner Schauer, aye. The motion carried and carried with it the adoption of **Resolution #141**.

**RESOLUTION #142/REQUEST: CORRECTION TO RESOLUTION #127 ZC 04-
007 FREMONT PAVING & REDI-MIX INC. ZONE CHANGE**

Bill Giordano stated that this was an amendment to the original resolution. The legal description did not include the entire property. The new resolution will be for the entire property. **Commissioner McNew** made the motion to approve **Resolution #142** to correct Resolution #127 ZC 04-007 Fremont Paving & Redi-Mix Inc. Zone Change. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #142**.

**REQUEST: WAIVER OF PAVING REQUIREMENT ZC 04-005 FLETCHER
ZONE CHANGE**

Bill Giordano stated that this was a zone change that they approved on 16th and N Street. At that meeting, Mr. Fletcher offered to pave a stretch of N Street from Highway 50 to the driveway access of the property. He stated he thought that since that time, Mr. Fletcher has decided that it is probably not feasible because of the cost.

Terry Acton, Road Foreman, Fremont County Road & Bridge, stated that he wanted him to gravel in front of his house (just N Street) instead of just paving a small piece and install a culvert for drainage. The highway improvements off the highway, he is still responsible for that.

Commissioner Lasha made the motion to approve the waiver of paving for ZC 04-005 Fletcher Zone Change with the conditions identified by Terry Acton. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner Lasha, aye; Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried.

REQUEST: BLA 04-001 GILLESPIE BOUNDARY LINE ADJUSTMENT

Bill Giordano stated that the Gillespie's were requesting to grant an exemption from the subdivision regulations. This piece of property was actually created by contract prior to June 1, 1972. The contract never became officially recorded so it was not of record. They are asking for the exemption so they do not have to go through the subdivision regulations which would require a minor subdivision application.

Commissioner McNew made the motion to approve BLA 04-001 Gillespie Boundary Line Adjustment. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner McNew, aye; Commissioner Lasha, aye; Commissioner Schauer, aye. The motion carried.

**GRANT CONTRACT LOCAL GOVERNMENT GAMING IMPACT #04-363
FREMONT COUNTY ROAD #11 IMPROVEMENTS \$415,000.**

Dana Angel, Fremont County Finance Director, submitted a Scope of Services for the Grant Contract LGGF #04-363 for \$415,000 and the third phase of the improvements on County Road #11 (High Park Road). The action today would authorize signature on the Grant Contract. **Commissioner Schauer** made the motion to approve the Scope of Services Contract for the High Park Road improvements for a total of \$415,000. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried.

**GRANT CONTRACT ENERGY IMPACT ASSISTANCE FUND #4872 ST.
THOMAS MORE HOSPITAL \$374,000.**

Dana Angel stated that this was a pass-through Grant of Mineral Impact funds that would assist St. Thomas More Hospital to purchase furniture, fixtures and equipment for the new surgical suite in the Intensive Care Unit. The Scope of Services outlines the total project. The \$374,000 Mineral Impact funds will pass through the County. The action today is to approve the Grant Contract with the State. **Commissioner McNew** made the motion to approve the pass-through Grant on Energy Impact Assistance. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye.

PUBLIC HEARING**REQUEST: ZC 04-009 BRYAN ZONE CHANGE****NOVEMBER 14, 2004 10:00 A.M.****RESOLUTION #143**

Nancy Holland, Realtor, First Colorado Land Office in Salida, stated that Mrs. Bryan was on her way, and that she would start on her behalf. She stated she had been helping the Bryans find a property suitable for their very small office. The property is on Highway 50 a little over a quarter of an acre, and is west of the Big Horn Campground, and east of the Coaldale Post Office. The Bryans have a small business where clients do not come to the office. There are eight local women who work just during the day. The well permit has been changed over to a commercial well permit, and does not allow for outside watering. Because of the low impact of very little traffic, they were asking if the landscaping could be minimized or alleviated. As far as the lighting, they are suggesting a dusk to dawn light for the parking area. Because of the small volume of cars going in and out, they would be putting down a good gravel base.

Kathleen Bryan, Owner, stated that their company was environmentally focused, and wanted things to remain esthetically attractive and correct.

Bill Giordano stated that the publication, notifications and posting had been done. At the Planning Commission meeting in November, they approved this with 3 contingency items. He stated he would need findings from the Board and a Resolution number.

Commissioner Lasha asked for anyone wishing to speak for or against to come forward.

Michael Becker stated that he owned the property and it was originally commercial and is surrounded by commercial. He stated he thought this was a good idea.

Commissioner Lasha closed the Public Hearing and returned to the Regular Meeting.

Commissioner McNew stated that this piece of property was in his back yard, and it has been a business. He stated he thought if they required paving or hard surfacing, it would only contribute to the drainage. He stated he did not see a need for lighting and on a small lot like this, there is pretty good natural landscaping. **Commissioner McNew** made the motion to approve ZC 04-009 Bryan Zone Change with justification: Additional land is needed in the proposed zone district. The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area. The Criteria: There is a public need and there will be a County or neighborhood benefit. There will not be any effect on existing traffic. Surfacing, lighting and landscaping is waived and two contingencies. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #143**.

RECOMMENDED CONTINGENCIES:

It is recommended that this zone change be approved and forwarded to the County Commissioners for scheduling of a public hearing provided the following are provided within six (6) months after approval by the Board of County Commissioners:

1. Approval of a Boundary Line Adjustment which corrects the situation of the deeded property description being different than the actual fenced property.
2. Documentation from the Department of Transportation that existing access is adequate or copy of a driveway access permit for a business use.

FINDINGS:

Additional land is needed in the proposed zone district.

The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

There is a public need and there will be a County or neighborhood benefit.

There will not be any effect on existing traffic.

WAIVED:

Surfacing	5.3.2
Lighting	5.3.3
Landscaping	5.3.4

PUBLIC HEARING

**REQUEST: CUP 04-003 JP MATERIALS (ARY) AIRPORT PIT
NOVEMBER 14, 2004 10:00 A.M.
RESOLUTION #144**

John Palider stated that this was a continuation of a mining operation where they have been doing some reclamation. He stated they would like to continue and keep the employees working.

Bill Giordano stated that this was a renewal of Conditional Use Permit 94-10. He stated that Mr. Palider was requesting that this be a life of the use permit. This is to allow the open pit mining, screening, crushing and hauling of stone. At the Planning Commission meeting, they did recommend approval. The property has been posted, notification and publication has been done. There was a list of 16 conditions, and the Planning

Commission did not take any action on the parking area. A Resolution number would be needed, and the resolution will be prepared for the next meeting.

Commissioner Lasha asked for anyone wishing to speak for or against to come forward. Seeing none, he closed the Public Hearing and returned to the Regular Meeting.

Commissioner Lasha made the motion to approve **Resolution #144** CUP 04-003 JP Materials (Ary) Airport Pit for renewal with 16 conditions and waiving surfacing, lighting and landscaping.

RECOMMENDED CONDITIONS

1. The Conditional Use Permit shall be issued for life of the use.
2. 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.
3. Applicants 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.
4. Applicants 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.
5. Applicant shall obtain and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
6. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
7. There was not a "7" listed on the Planning and Zoning Document.
8. Hours of operation will be limited to 6am to 6 pm.
9. Days of operation will not be limited to Monday through Saturday.
10. Number of trucks will be limited to an average of 10 per day, however no more than one-hundred (100) per day will be permitted.
11. If dust becomes a problem from trucks hauling material from the site a dust suppressant will be required.
12. If a conditional 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 Planning Department 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.

13. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
14. If it is found by judicial action or it is determined by any other proper authority that the easement for access into the subject property is not valid, then termination of the Conditional Use Permit will result.
15. Fremont 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.
16. Only the named party on the permit shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of the permit. All persons, entities or others requesting Board approval to operate under this Conditional Use permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.

WAIVED:

Surfacing	5.3.2
Lighting	5.3.3
Landscaping	5.3.4

The motion was seconded by Commissioner Schauer. Upon vote: Commissioner Lasha, aye; Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried and carried with it the adoption of **Resolution #144**.

NEW BUSINESS (CONTINUED)

RESOLUTION #145/RESOLUTION SUMMARIZING EXPENDITURES FOR EACH FUND AND ADOPTING A BUDGET FOR THE COUNTY OF FREMONT, COLORADO FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2005 AND ENDING ON THE LAST DAY OF DECEMBER 2005.

Dana Angel stated that since the Public Hearing on November 23rd, there has not been any material changes, just small changes in spending and revenues of the General Fund. The new deadline from the Assessor to certify assessed value was December 10th. The summary of the mill levy now includes the new assessed value of \$329,802,688. The mill levy rate to recoup the refunds and abatements went from .316 to .359 and makes the total County mill levy this year 12.653. The total County budget for 2005 is \$25,433,981. **Commissioner Schauer** made the motion to approve **Resolution #145** a Resolution Summarizing Expenditures for Each Fund and Adopting a Budget for the County of Fremont, Colorado for the Calendar Year Beginning on the First Day of January 2005 and Ending on the Last Day of December 2005. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #145**.

RESOLUTION #146/RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR OF 2004, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE COUNTY OF FREMONT, COLORADO FOR THE 2005 BUDGET YEAR.

Dana Angel stated that this Resolution does exactly what the title says. The Resolution breaks the mill levy down by fund and comes to a total of 12.653 mills. **Commissioner Lasha** made the motion to approve **Resolution #146** a Resolution Levying General

Property Taxes for the Year of 2004 to Help Defray the Costs of Government for the County of Fremont, Colorado for the 2005 Budget Year. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner Lasha, aye; Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried and carried with it the adoption of **Resolution #146**.

RESOLUTION #147/RESOLUTION APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES, IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW, OF THE COUNTY OF FREMONT, COLORADO, FOR THE 2005 BUDGET YEAR.

Dana Angel stated this Resolution appropriates the money as just reviewed. **Commissioner Schauer** made the motion to approve **Resolution #147** a Resolution Appropriating Sums of Money to the Various Funds and Spending Agencies, in the Amounts and for the Purposes Set Forth Below, of the County of Fremont, Colorado, for the 2005 Budget Year. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #147**.

Commissioner Lasha adjourned the meeting at 10:31 A.M.

County Clerk