

December 27th, 2011

TWENTY FOURTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on December 27th, 2011, 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
Debbie Bell	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

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

The Morning Prayer was given by Fremont County Treasurer Pat McFarland.

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

APPROVAL OF AGENDA

Commissioner Bell stated item #1 on the Consent Agenda Approval of Minutes from the Special Meeting should be November 21, 2011 not December 21, 2011. Commissioner Bell moved to approve the amended agenda changing item #1 on the Consent Agenda Approval of Minutes from the Special Meeting to November 21, 2011 instead of December 21, 2011. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

Commissioner Bell moved to approve the amended Consent Agenda changing the date on item #1 Consent Agenda Approval of Minutes from the Special Meeting to November 21, 2011 instead of December 21, 2011. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

Commissioner Bell thanked Commissioner Norden for the Fremont County Sesquicentennial lapel pins that he had given out. Bell asked citizens to please be safe during this holiday season.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

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NEW BUSINESS

1. Appointment of Airport Advisory Board Member to fill vacancy created by the resignation of Tom Ledbetter.

Commissioner Norden explained on November 22nd they had re-structured the Airport Advisory Board to seven members and filled the vacancies on the Board. The resignation letter from Tom Ledbetter indicates he is still interested in growth at the Airport but his vision has deteriorated making it difficult for him to serve on the Board. Norden said they had decided to use the current letters from applicants for any vacancies that occurred in the next six months. Commissioner Norden noted the term for the vacant position will expire on October 1, 2013. Commissioner Bell thanked Mr. Ledbetter for his service. Commissioner Bell moved to appoint Thomas Schilf of Canon City to fill the vacant seat on the Airport Advisory Board with a term ending October 1, 2013. Commissioner Stiehl seconded the motion. Commissioner Norden said Mr. Schilf is a partial owner of a hangar at the airport and has had his pilot's license since 1980. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

2. Appointments / Re-appointments of Fremont County Fair Board members.

Commissioner Norden said they have a letter from Delores Comstock, the current Fremont County Fair Board President. The Fair Board is recommending the retention of the current Fair Board Members: Marie Adams, Kathy Kunselman, Michelle Marriott, Bob Masse, Patsy Michaud, and Robyn Miller. The Fair Board also is recommending that Tami Ratkovich and Linda Valdez be appointed to the Fair Board. Commissioner Bell moved to retain current Fair Board members: Marie Adams, Kathy Kunselman, Michelle Marriott, Bob Masse, Patsy Michaud, and Robyn Miller; and appoint new members Tami Ratkovich and Linda Valdez to the Fair Board. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

3. Appointments / Re-appointments of Fremont County Fairs and Shows Committee

Commissioner Norden said the Fremont County Fairs and Shows used to be a sub-committee under the umbrella of the Fair Board. Due to concerns with insurance and liability this Committee was placed under direct appointment of the Board of County Commissioners. Norden said they have received letters of interest from Betsey Denney, Bobby Masse, Linda Valdez, and Ralph Kunselman. Commissioner Stiehl moved to Re-appoint Betsey Denney, Bobby Masse, Linda Valdez and Ralph Kunselman to the Fremont County Fairs and Shows Committee. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

4. ACS Agreement – County Manager George Sugars

County Manager Sugars explained this company provides the computer hardware and software for the Assessor's Office, Treasurer's Office, and the Finance Department. This is addendum #1 to the current contract we have with ACS. It is an extension for one year that will expire December 31, 2012. It does include a 4% rate increase and all of the forms we have had in the past. Commissioner Norden said this is typically a three year contract and we are only doing a one year extension so that we may look at other vendors. County Attorney Jackson said the extension of the contract has to be on the same terms as the original contract and that is why the forms are included.

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Commissioner Stiehl moved to approve amendment #1 to the Service and Rental Agreement to ACS State and Local Solutions ending December 31, 2012. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

5. Liquor License
VFW Penrose Post #2788
402 Broadway
Penrose, CO 91240-9025
Tavern Liquor License Renewal – malt, vinous and spirituous

County Clerk Barr explained the applicant was late in filing the renewal with her office but all of the paper work is in order. Commissioner Bell moved to waive the timely filing requirement for the Liquor License for VFW Penrose Post #2788 and approve the renewal of their Liquor License. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

6. Consideration of Bid Award for the Pathfinder Park Bleacher Covers – County Manager George Sugars

Commissioner Norden said this bid is for an awning to cover the bleachers to help deflect the sunlight. County Manager Sugars explained the bids opened on December 7, 2011. A bid for cloth coverings was received from Patch Construction, a local company. Another bid was received from Cover Solutions Company for a cantilever metal roof support system. The Bid Award for \$147,860 will go to Cover Solutions Company of Grand Junction. Conditions from the County Engineer, Don Moore are attached to Notice of Bid Award. These were the only two bids received. The source of funds to pay for this project comes from Conservation Trust Lottery Dollars and not from the General Fund of Fremont County. Commissioner Stiehl moved to award the bid for Pathfinder Park Bleacher Awning Covers to Cover Solutions Company of Grand Junction in the amount of \$147,860 noting the conditions of the County Engineers letter dated December 21, 2011. Commissioner Bell seconded the motion. Commissioner Bell noted that even though Cover Solutions Company is located in Grand Junction, they do have a local representative in Canon City. Bell stated they always try to keep business local but sometimes it is just not possible. The bid from Patch Construction only included cloth covers that would have to be put up and down twice per year and did not guarantee a heavy snow load. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

7. VPR 11-001 Fremont County Road #50
Request approval of a Vacation of Public Right of Way, Department file #VPR 11-001 Fremont County Road #50 (approximately twenty feet in width) will be from the intersection of County Roads #12 and #50, east approximately 996 feet to the end of the roadway, which is approximately to the east property line of the Colorado Department of Transportation parcel. A right of way access easement has been provided to Fremont County and the Colorado Department of Transportation. The entire roadway, which consists of approximately 0.225 acres, is located within the Agricultural Suburban Zone District.
Representative: Matt Koch, Cornerstone Land Surveying, LLC

Matt Koch of Cornerstone Land Surveying said the Planning Commission recommended approval and to keep the roadway as an easement for the neighbors to the south. The easement does not adjoin the properties to the south.

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This would mean those property owners would have to get an easement across Mr. Mullins property to their property.

Planning & Zoning Director Bill Giordano said the adjacent roadway property owners had been notified as well as some additional property owners that may have an interest in the right of way. The property was posted with both the Planning Commission Meeting and Board of County Commissioners Meeting dates. In addition to this Sangre De Cristo Electric and Century Link were also notified. The Planning Commission did recommend approval at their meeting on December 6, 2011 with a condition that is subject to a private easement for all of the property owners along Plum Street. As these properties are not directly adjacent to the right of way they would have to work with Mr. Mullins for access if this remains a private easement. Commissioner Norden asked Matt if any of the lots abut the County Road 50 right of way. Matt said they do not abut the right of way. All of the homes are accessed from Plum Street. Many of these residents have built garages and sheds on the rear of their properties and use the right of way to get to them. Some of the property owners have already reached agreements with Mr. Mullins for access.

Gerald Mullins is the property owner that the road infringes upon. Mullins said he has not been contacted by any of the neighbors since the Planning Commission Meeting. The property has been in his family since 1895 and he acquired the property through a quiet title action. He does not know who designated the Road as County Road 50 or when this happened. Mullins believes this was inadvertently done when County Roads were given number designations. He was not aware of the County Road designation until a few years ago. Mr. Mullins and his brother met with Commissioner Norden on March 19, 2007 and requested the road be deleted from the County Road inventory. To his knowledge no one has ever been denied use of this road to enter their property. Anyone using the road cannot leave it without trespassing on his property. Mullins said the County did not go through a legal process to obtain the road or right of way. Commissioner Bell asked Mr. Mullins if this will affect access to the Department of Transportation or County property. Mullins replied no, they both have recorded deeded access easements. Bell asked if he had plans to stop allowing his neighbors to use this access. Mullins said he has no plans to do such a thing. He has written agreements with the neighbors who want to use it. Some of his neighbors use the road and water from the irrigation ditch that runs through it. Commissioner Stiehl said state water law prohibits use of the irrigation ditch without proper water rights and this issue needs to be fixed. Commissioner Stiehl asked the County Attorney how the private easement would be recorded for those property owners. County Attorney Jackson said Fremont County cannot grant an easement access across Mr. Mullins property from the proposed County Road vacation. Stiehl noted it appears many of the owners along Plum Street have built structures that infringe on Mr. Mullins property. Mullins said the aerial photo map is slightly off and none of those buildings are on his property. Commissioner Norden noted when they had met with Colorado Department of Transportation (C.D.O.T.) officials several years ago Mr. Mullins provided a signed easement to C.D.O.T. giving them access along the road to their lower gate. Mullins agreed and said the easement has also been recorded. Norden said C.D.O.T. has a verbal agreement to use the Counties easement up to the County property to get through to their shop. The special easement provided by Mr. Mullins assures C.D.O.T. continued use of their southwest gate. Stiehl noted if the County sells their property C.D.O.T. would still have an easement. Mr. Mullins said that is correct. Stiehl said it would be unusual for the County to have records of the County Road as most of our County Roads are prescriptive. County Attorney Jackson said prescriptive roads are formed without documentation. It is through public use that the County acquires the prescriptive roads. Commissioner Norden asked if there is anyone in the audience who would want to speak on this matter and no citizens responded. Commissioner Norden stated one of the issues with the proposed vacation of County Road #50 is the proposal for Fremont County to acquire a small piece of land to the west edge of the County property to resolve a boundary issue with Deer Mountain Fire Station buildings that cross the lot line onto Mr. Mullins property.

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If the County vacates County Road #50 they would proceed to close on the purchase of the triangular piece of property. This would resolve the Deer Mountain encroachment issue.

Glenn Baker of the Deer Mountain Fire District said they are not concerned with the vacation of the road. Their concern is for the County to reach an agreement to extend the boundaries of the piece of property which contains buildings belonging to Deer Mountain Fire District. Glen asked the Board of County Commissioners to please vote yes on this issue.

Bill Giordano noted for the record that copies of the petition, notices, comments received, and Planning Commission Minutes are all in the Commissioners packet as no citizens appeared here today. Commissioner Bell asked County Attorney Jackson if there is any legal reason why the County should not vacate this road. Jackson replied no, not that she has been able to determine. Commissioner Bell moved to approve the request for VPR 11-001 Fremont County Road #50. Commissioner Bell asked County Attorney Jackson if we need to assign a resolution number now or when it comes before the Board in January. Jackson said it will be a 2012 resolution number as that is when it will be adopted. Commissioner Stiehl seconded the motion only for matter of discussion. Commissioner Norden explained to Mr. Mullins that the County will have to formally adopt a resolution for the vacation of Fremont County Road #50. County Attorney Jackson said it has to be a written recorded document to make it legal. Upon Vote: Commissioner Bell, aye; Commissioner Stiehl, nay; Commissioner Norden, aye. The motion carried. Commissioner Stiehl said he does not see a compelling reason for the County to vacate this road which is why he voted no. Commissioner Norden said the resolution will be on the agenda for the January 10th, 2012 Board of County Commissioner Meeting.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

None.

Chairman Norden adjourned the meeting at 10:29 A.M.

Clerk and Recorder