

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
JULY 7, 2009**

CHAIRMAN TOM PILTINGSRUD BROUGHT THE JULY 7, 2009 MEETING OF THE PLANNING COMMISSION TO ORDER AT 7:05 P.M.

MEMBERS PRESENT

Tom Piltingsrud, Chairman
Bill Jackson
Herm Lateer
Dean Sandoval
Mike Schnobrich
Tom Doxey
Keith McNew

STAFF PRESENT

Bill Giordano, Planning Director
Brenda Jackson, County Attorney
Vicki Alley, Planning Assistant

MEMBERS ABSENT

None

1. APPROVAL OF THE JUNE 2, 2009 PLANNING COMMISSION MEETING MINUTES

2. PUBLIC HEARING - 3RD AMENDMENT TO THE FREMONT COUNTY MASTER PLAN

Request for approval of various amendments to the Fremont County Master Plan as proposed by the Tallahassee Area Community, Inc. **This item was tabled from the June 2, 2009 meeting. The Public Hearing remains open for comments from members of the public who did not speak at the June meeting.**

REPRESENTATIVE: Lee J. Alter, Chairman, Government Affairs Committee, Tallahassee Area Community, Inc.

3. CAÑON CITY URBAN GROWTH BOUNDARY AREA (UGBA)

Request approval of the Cañon City Urban Growth Boundary Area map and consider whether the County would require the enforcement of the Cañon City Subdivision and Development Regulations, effective March 1, 2007 as amended, for all subdivision applications within the proposed annexation areas as shown on the Cañon City Urban Growth Boundary Area map.

REPRESENTATIVE: Fremont County Department of Planning and Zoning

4. OTHER ITEMS FOR DISCUSSION

Discuss any items or concerns of the Planning Commission members.

5. ADJOURNMENT

Chairman Tom Piltingsrud called the meeting to order at 7:05 pm and the Pledge of Allegiance was recited.

1. **APPROVAL OF THE JUNE 2, 2009 PLANNING COMMISSION MEETING MINUTES**

The Planning Commission decided to postpone action on the June 2, 2009 Planning Commission meeting minutes until the all the Public Hearings for the 3rd Amendment to the Fremont County Master Plan are completed.

2. **PUBLIC HEARING - 3RD AMENDMENT TO THE FREMONT COUNTY MASTER PLAN**

Ground Rules

Chairman Piltingsrud provided some ground rules for the conduct of the Public Hearing (*reiterated from last meeting*) - As far as I know, this is the first official request, at least in my six years on this board, to amend the Master Plan from citizens of the County. So tonight is an important and perhaps a momentous event. This will be a continuation of the Public Hearing so all may testify, except those of you who testified in June. Please be respectful of the process, and not talk while someone else is talking. This hearing is being recorded, and it is difficult for the staff to prepare minutes from that recording if there is a lot of background noise.

Keep your comments brief when you follow the applicant's testimony. Please do not restate something that has been stated before. You can simply state you support the earlier position, or again reflect it via writing on the slip. If you wish to speak tonight, please fill out a pre-printed form and give it to me.

It is my hopeful intent to conclude the public hearing tonight, but seeing the number of people here, I suspect that may not happen. As we approach 9:30 to 10:00 pm, I will ask the Planning Commission to determine whether to table the public hearing and agenda item to next month if we have not reached a decision. We all came from day jobs and daily responsibilities, and it is important that we have fresh minds when hearing, and deliberating, regarding your testimony. Thus there is the possibility of tabling this decision until next month. We want this process to be done professionally. A marathon meeting is not needed, and would not serve any of us. I also understand that many of you have a fair commute tonight back to your homes.

This agenda item is technically a public request to amend the 2001 Master Plan, currently in effect. However, you may know that the Planning Commission is in the process of revising this Master Plan. We have made some progress in that revision, but a lot still needs to be done. That revision has not yet engaged the issue of mining in the new Master Plan. So your testimony tonight is appreciated and timely. After the Planning Commission completes the revised Master Plan, and I cannot tell you now when that will be accomplished, we will be holding Public Hearings on that revised Master Plan before we forward it to the Board of County Commissioners. I am saying here that you will get another opportunity in the future to comment regarding any issue or provision of the revised Master Plan you wish to bring to our attention. Further, Planning Commission meetings are always open to the public as we continue with our revisions to the Master Plan.

I will shortly re-open the public hearing and take public testimony. I will give the applicant, Mr. Alter, the opportunity to make a final statement. I will close the public hearing following the applicant's final presentation. Then the Planning Commission will have

discussion and questions to either the staff or the applicant, and finally, a motion and vote on the proposed amendment. I would ask the Planning Commission to hold questions until after the public hearing is closed. I want to reiterate that this Planning Commission has always sought public input, even at normal Planning Commission meetings where public input is not required. This is your night to tell us what you believe the Master Plan should reflect. With that, I will re-open the public hearing from June for the proposed amendment to the Master Plan. Please be respectful of other opinions, and we will try to get through this in a professional manner.

PUBLIC COMMENT

Stuart Sanderson, President, Colorado Mining Association

I am the President of the Colorado Mining Association, an organization founded in 1876, the year that Colorado achieved statehood. Our organization's members include about one-thousand (1,000) people and organizations throughout Colorado. Mining is the foundation of the state. It is important to the economy. It contributes over \$3 billion in direct sales, billions more in economic value. Mining companies very frequently are the largest taxpayers in the communities in which they do business. When I appeared before the Commissioners last year in connection with other proceedings, I talked about how mining can be a win-win situation for local communities and for the company.

Tonight I am here to comment in opposition to the proposed amendment to the Fremont County Master Plan. We have concerns about the provisions in that plan, particularly the provisions that require the imposition of a two-mile buffer zone or radius around populated areas. The Colorado Mining Association was a party to litigation before the Colorado Supreme Court which recently rendered a definitive legal opinion on the scope of state authority and county authority. This has been very adequately summarized in the June second memorandum by the County Attorney, which I will not repeat.

The Colorado Mined Land Reclamation Act was amended in 1993, completely overhauled to require the imposition of some of the strictest standards in the country on mining operations, including the category of Designated Mining Operation (DMO) for those operations that mine in certain conditions or that use chemical reagents. The law has been successfully implemented during that period of time, and essentially provides a very adequate regulatory system in Colorado, and a very strict one for the mining industry. The Colorado Supreme Court, in connection with a ruling on a land use resolution by Summit County which prohibited certain mining practices and technologies, essentially ruled that the county could not prohibit that which the state law specifically authorizes.

Mining is a necessary and proper activity in Colorado. The orderly development of the state's resources is deemed essential, both to the economic wellbeing of the state and to its economic future. I would also note that the operations in this county, cement for example, are an extremely important component in the new energy economy. Cement is used to construct the pads that support the wind towers for wind facilities. Other minerals are used for the construction of solar panels. Coal, uranium, and other fuels provide important base-load, twenty-four/seven power.

I think the County Attorney has properly outlined the concerns about the Master Plan. I think it is an unusual context in which the Master Plan amendments actually seek to impose certain regulatory solutions which we believe are not supported by state law. Certainly there is no prohibition on mining in such a broad buffer zone around these areas, nor do I believe it would be necessary. It could create exposure to takings claims and intrude on substantial investment-backed expectations of mining companies while accomplishing nothing in the way of environmental protection. With that, I know you have a long evening ahead of you, I want to thank you for your time and attention, and I would be happy to try to answer any questions.

Gary Lack, 266 Elk Run Road, Cañon City

In the interest of brevity, just let me say that I oppose the amendment to the Master Plan.

Jason Morin, 3500 Highway 120, Florence

I am the Plant Manager of the Holcim Cement Plant in Portland, located just east of Florence. Our interest in this issue has nothing to do with uranium. It has everything to do with property rights, jobs, and economic development. TAC has stated that it is not their intention to ban uranium mining in the county. Clearly, that would be illegal, but make no mistake; this is a back-door mining ban, plain and simple. The purpose of this amendment is to impose language and conditions so onerous as to make siting a mine practically impossible. TAC would have us believe that somehow the county can draw a great big circle around any square mile with ten houses in it and ban mining within this circle. Let me put this in perspective. Simple geometry tells us that would be a ban on twenty-three square miles of land around each square mile of houses. Where would there be any land left? Still doubt that this is about banning mining? TAC states in their submission "Large scale mining operations in general are not compatible with either agricultural or residential land use and should not be collocated." Mr. Maye was here last month and has voiced his support for this amendment, as it is aligned with his interests in banning mining in his part of the county. They even share the same lawyer between the groups. Is this a coincidence? We think not. This is about a ban on mining. I will not address the legal issues regarding whether or not this proposal should even be favorably considered in the first place. The County Attorney has commented on this extensively in her legal opinion reviewed at the last hearing, as well as Mr. Sanderson's comments. However, if the Planning Commission is still considering moving forward, contrary to the advice of the County Attorney, I would like to present a few points to add to your evaluation:

Property Rights

This amendment seeks to expand the property rights of a few by denying or outright taking the existing property rights of many. People have a fundamental expectation of the right to earn a living using their own property, subject to pre-existing reasonable limitations. Does the county want to establish the precedence of arbitrarily taking people's property rights through administrative changes such as this? What will that say to any person or business that would be considering locating here?

Jobs

Banning or even discouraging mining in this way puts at risk significant numbers of high-paying jobs. In the 2001 Master Plan, mining was found to be among the highest average

wages of any industry in the county, and I expect the next version of the Master Plan will be the same. Without these jobs, what will these people do? Where will our young people go? Not everyone is cut out to be a corrections officer. It is a great career, but it is not for everyone. If there are not enough good-paying jobs in the county, these people will leave. That will not bode well for our future.

Economic Stability and Development

Even in this slow time, average weekly wages of mining and mining-related businesses are in the millions of dollars, weekly. The majority of this money stays in the county and turns over several times as it works its way through the local economy. I am sure (*Fremont Economic Development Corporation*) FEDC would be happy to validate this. Mining businesses contribute substantial taxes for the benefit of the county, and by extension the community. In Holcim's case, outside of the state-assessed public utilities, we are the single largest tax payer in the entire county and we are a mining-related business. As justification for this proposal, TAC states that one of the benefits would be stimulating high-end development and that such development would significantly increase property taxes. Again, let's put that in perspective. The average residential tax bill in the county is less than \$900 per year. Assuming these high-end homes have tripled the average tax bill, and there are a hundred of them (I don't know how many of these mansions TAC intends to construct – ten, twenty, one-hundred? Let's assume one-hundred.) That is still less than \$300,000 per year. Our tax bill alone is ten times that, and we are just one mining-related business in the county. Why can't there be both (*mining and residential*)? In our medium-term planning, we consider how and when we would build the next iteration of our plant. This amendment and this sort of language would force us to move outside the county, taking with us hundreds of direct and indirect jobs, and the vast majority of our tax contributions. The main tax value is in the personal property – the equipment, not in the real property – the land. This amendment would also stifle future economic growth. Aircrete is a company that is considering locating within the county, providing good-paying jobs and redeveloping an old factory. They are a manufacturer, but their decision to locate here is largely based on the proximity of locally mined and processed raw materials. I can't speak for them, but if it were my business, such language in the Master Plan would have me seriously reconsidering putting my capital at risk. Permitting is also underway for the proposed Northfield coal mine project. Would this amendment pave the way for blocking this jobs and tax revenue generating project? These are just two current examples. Surely there are more.

Question of the appropriateness of the approach being used by TAC

The residents represented by TAC have legitimate concerns regarding uranium mining in their specific area. While this subject is certainly controversial, it is particular to one potential operation and narrow in scope. These concerns should be presented and addressed during the existing Conditional Use Permit (CUP) process. That is exactly why the CUP process seeks public input. In addition to the county's CUP, there are numerous other state and federal permitting processes involved in opening a mine, all of which take and consider public input. If a mine should go forward, this is the place where binding conditions can be set. The Master Plan, on the other hand, is a general planning guidance document for the county. Adding provisions to the Master Plan to block and discourage mining activity in the county just to deal with the specific issue of uranium mining in the Tallahassee Area is inappropriate as it does not consider the full needs and input of stakeholders in the county. In

TAC's letter to Mr. Giordano dated March 17, 2009, they urge adoption of this amendment prior to the routine updating of the county Master Plan because "the next two years is a critical time since the mining interests have already begun making detailed plans to exploit the known uranium resources and have commenced their permitting process with the state mining authorities." So, since these mining interests have been following the proper process, TAC has seen fit to make this attempt to subvert the Master Plan to deny property owners and these mining interests due process. This is just not right.

In conclusion, members of the Planning Commission, you have a tough decision to make. You will hear a lot of feedback for and against this issue. Mining has long been a beneficial part of our heritage in Fremont County. The county is literally built upon it. The Master Plan should seek to balance the needs and desires of all the county stakeholders. Adopting specific objectives of a small but well-funded special interest group is neither prudent nor appropriate. Revising the Master Plan should be an inclusive process that considers the input of all who have a stake in the future of Fremont County, just as it was done in the 2001 version. Please deny this proposed amendment for the good of Fremont County.

Lee McCreight, 613 West 3rd, Florence

I would like to comment more as a citizen. I work at Holcim. I have been fortunate to be there for thirty-three years. I am against this plan (*proposed amendment*). People get these little things in there slowly, and they take away the opportunities for anyone to come in and provide for a family like mine. I think it is critical that you take a look at all this and realize there is more involved than people with their homes within a two mile radius to mine. Make sure people who mine do it right. At Portland we have to do it right. There are federal and state rules in place. Make those people follow those rules correctly. I am tired of the jobs going everywhere else. I have two sons who work at Holcim. They have an opportunity to raise their families in Fremont County. Our incomes come right back into the county. These are considerations that I hope you will look at also.

JoAnn Marchand, 1135 Kelly Creek Trail

I represent the fourth generation of a five-generation cattle ranching operation. Any ecological system depends on water, what it is and what it produces. The Tallahassee region is probably described as semi-arid, a fragile system because of the lack of depth of topsoil. One of my major concerns is the de-watering of that system. If you remove as much water as I have been told will be removed, it will have a profound effect on the whole ecological system there. No water, no forage, no wildlife, no big game hunting, no cattle, my family is gone. We are a large family. We own eight residences which we pay taxes on. We own about 2,000 acres of private land that we pay taxes on. We lease most of our privately owned lease pasture from Cabin Creek Landowners Association, which is about 2,500 acres. We also lease the BLM pasture lands. We have to pay a county land use tax on that lease also.

This is a really tough position for me because I am a firm believer in private property owner's rights. If you own the mineral rights on your property you should have the right to see some sort of financial return for the resources on that property, as long as it is not harmful to your neighbors. I think the crux of this problem with uranium mining is the possibility of the potential hazard of the settling ponds and the mine dumps. I currently live in a house that is scarcely half a mile from the southeast corner stake of the Hanson ore body.

When I look out to the northeast from my house I see the remains of one of the old abandoned uranium mines. Those mine dumps are flat ugly. Everything that runs off of them runs downstream. And what is downstream? Cañon City, Florence, Penrose and all the other municipalities downstream. There are no baseline surveys on what has come off of these mine dumps. Every time it rains, all that fine particulate matter is wandering downhill, slowly but surely into the Arkansas River system. You have a really tough decision to make here. It needs to be done right for the future of the health, and the people, and the economy of Fremont County.

Bryan Sisson, 5 Dante Court, Pueblo

I am also a fourth generation native in this area. My grandparents and uncles are buried in the Penrose cemetery right in view of our quarry. I am also a proud miner with a fine group of people at the Holcim Portland Plant. It is important that we have some input because we have to remember our heritage here – it is mining and agriculture. That is why we have this amazing community here all down the Front Range. Our kids have had to leave, and they came back, but there would be no community to come back to if we didn't have the mining and agricultural base here. I understand the concerns about uranium. We can't take a machete and try to correct this problem. We need to make the companies responsible for their actions. There are mechanisms for that right now. The scrutiny that companies are under right now is immense, and it should be. We are constantly watched and monitored, and we follow the rules as a company. We need to hold people accountable. In the end, there are two issues here. You want to get rid of the uranium enrichment, but there are actions that could potentially affect all mining. That affects our jobs and our communities and the reason that we are here. Be very careful how you approach that.

Rick Archuletta, 419 Petroleum, Florence

I am a fourth generation Fremont County resident. I work at the mining facility at Holcim, and I'm proud of it. My concern is, over the past several years Fremont County is becoming a little anti-business. In this economy and the culture we have now, I hope you will take a look at this and say we need to be a diverse county and have diverse businesses that come here. I am against this (*amendment*).

Cecil Slattery, 301 Oriole Road, Florence

I have been a resident of Fremont County for over fifty years. I worked at Energy Fuels Coal for twenty years. I worked for the state of Colorado as a mine safety trainer for two years. I am presently the safety manager at Holcim Portland Plant. I'd like to look at our past. At about the turn of the century coal mining became Fremont County's primary industry. The economy had also branched into extracting other minerals such as silver, oil, later uranium, quarry and/or processing rock into bricks and cement. These industries have remained the principal components of Fremont County's private sector employment. Coal mining remained strong in Fremont County until the end of the 1970s when it dwindled into one remaining operation. The population declined as people moved away to find employment. Unemployment reached a high of 11.6% in 1987. Will history repeat itself? Gentlemen, this (*amendment*) is a bad idea. As a thirty year miner, I ask that you do not approve this amendment.

Dennis Gray, Holcim employee

I have been in mining for thirteen years, and I am a proud employee of the Holcim Plant in Portland. I say that because I know that the company is responsible and a good neighbor. I am for jobs and this amendment is against jobs in mining.

Vincent J. Capozzella, 0123 County Road 21, Cañon City

I am a New Yorker by birth and by education, and my grandparents came here from Italy. That doesn't make me much less in the argument, although I appreciate the people that have been raised here and their positions. I have two points to make:

Prejudice

I've heard people talk about the old days. Back in Utica, New York where I was raised my mother worked in a mill. The mills left in 1960 to go to the south, cheaper labor. In the 1980s they went out of the country. Things change. The original settlers in Colorado were Native Americans. I am sure they were upset when the trappers came in. The trappers were upset when the cattlemen came in. The cattlemen were upset when the miners came in. The miners and the cattlemen were upset when the farmers came in. Things change. There is change in Colorado now. I have heard people say "Outsiders, newcomers shouldn't expect to change our ways." Why not? I am no less a citizen than anybody else. I have served my country in two wars, and I have two children still in the service. I am not asking for special because of that, but I do ask for the same, equal. So when people say outsiders are trying to change, or newcomers shouldn't be here, that upsets me.

It is hard to establish rules and guidelines to protect ourselves

I bought my place in 1992 or 1993. I didn't buy the property until I had a well drilled. The well was put in and it was good water. I had the house built and moved in 1995. When the county authorized the tests of my water, it is now twice what the EPA says is safe for uranium in my water. I have a tester that will not tell the amount of uranium, but it will tell the amount of particles in the water. The water from the building drinking fountain tested at 88. The water from the cold tap in my kitchen tested at 1079 particles. I have heard people say we can establish rules and guidelines to protect ourselves. When I lived in Pennsylvania I was with the FBI. One of my neighbors downstream from me decided to take all of the cities of Allentown's and Bethlehem's processed sewage. It contained strontium 90 and arsenic, the two worst. Every well downstream of that property became contaminated with strontium 90 and arsenic. My well didn't because I was upstream. They put the sludge on this man's property. The EPA got involved. Of course, I was on the side of the landowners because I didn't want the wells contaminated. I was with the FBI and I was doing my best to help them. The EPA decided there was no connection between the contamination of their wells and the sludge that was approximately a quarter of a mile away, and that strontium 90 is common. It is very difficult to get mine owners to keep things proper. Communities are formed to protect people. They should be protecting our health and welfare. Would anyone want to try my water on a consistent basis? You would be very foolish. I understand monetary considerations. I am also concerned with the health of all the people that are downstream. I am one of the first people downstream from where the excavation is going on. I don't think my water was contaminated by the old mine. That is so far away from my place and it would have to run uphill, so it (*the contamination*) has to be recent. Just testing my water doesn't mean anything. There has been no consideration for what happens if my well

does become contaminated. Are they going to do anything? No. You know what they told me to do? Stop drinking the water. That is what the test people told me. Don't drink your water, it is not safe. I have given you a practical demonstration of what could happen. I understand that none of you live near me, but it is not safe.

E.L. Fry, 887 County Road 21A

In 1983, my wife and I purchased a forty acre tract at Cabin Creek. We made that purchase because of the quality of life here. I think uranium mining in this area would have a detrimental effect in Fremont County and adjoining areas. The roads that we do have are not of sufficient quality to support mining trucks and the regular traffic. We have a switch-back that wouldn't work. If there is going to be mining in this area, we need to have extremely strict enforcement of all of the rules. State and federal have rules, and Fremont County can add a little to that if they want to. We moved here because of the quality of life, and big trucks running up and down the road are not going to help. There will be a lot of road costs that somebody is going to have to pay for to make these roads better and there will be constant maintenance.

Matt Branam, 1365 Allison Avenue, Cañon City

I have grown up in this county. I have been here almost all my life. I have two children that I am currently raising in this county. I work for Holcim. The mining community provides the quality of living that my children have. I would like for this county to be a viable place for them to raise their children, and I believe that if we start restricting mining and the availability of where people can go to work that will start hurting the economy of this county and the quality of living in this county. For this I am against the amendment.

Virgil Burke, 23387 County Road 2

I moved here in 2000. I actually purchased my property in a development called Autumn Creek in 1996. My concern is more with the Mountain District in the Master Plan. That is where I am living and that is where the uranium mining is. That is probably what stimulated most of us to get involved in this. I had my water tested as soon as I found out that test wells were being drilled, before they got the approval from the county. I was very close to the EPA allowed limit at that time. When Black Range Minerals decided they would test some wells, I allowed them to test my well along with some others. In that year's time since they started drilling, my gross alpha, which is the primary concern for kidney and bladder cancer and things like that, had more than doubled. I checked it again six months later, and it had nearly doubled again. It tripled plus in less than two years. Can I prove it is because they drilled the holes up there? I can't prove that. I have spent a lot of money to try to remediate my water to get it to a useable level. My wife had leukemia, so she has a compromised immune system, so that is a real concern for me. I didn't come to Colorado by mistake. I came to Colorado because I had planned to for some time. I started to visit Colorado and the Cañon City area in the early 1990s. I didn't build my home to get rich off of selling it. It is not a big fancy trophy home. It is a nice comfortable home. It took pretty much everything I had to invest in it. I can't pack up and leave my home. I can't sell it. I don't think I can get a market value bid on my home for what I built it for. I understand part of that is the economy. I am able to stay around. I don't have to go anywhere tomorrow. When I read the Master Plan for the Mountain District, it seemed it would protect me. The primary use was

ranching, industrial was discouraged, and the next use along with ranching would be homes on thirty-five acres, which are specifically addressed. I felt the Master Plan did a good job of laying it out and I felt comfortably protected. Obviously with the last Commissioner's meeting with the mining, I don't feel comfortably protected any more. I am concerned about where it is going. I can understand these guys from Holcim, and I don't have a problem with that. I have a problem with uranium mining that could be as close as six-hundred feet from my house. They will de-water the area. All of our wells will be worthless. What are they going to tell us? You can put in a tank and have your water hauled in. It is not cheap. I managed to treat my water and get it drinkable. I am concerned about the future. I was hoping that my home up in the mountains might be something my children might want to have some day. They both live in Colorado.

Frank Erisman, 1700 Lincoln Street, Suite 4100, Denver

I am a mining lawyer. I represent Black Range, but I am not here on their nickel. I am here because I believe in Black Range. I am not being paid to be here, and I want you to know that. I have worked in the mining business for over forty years. I am a graduate of the Colorado School of Mines. I have worked on projects all over the world. I run into a lot of different kinds of mining people, and I believe that Black Range, if they ever proceed to mine, will do it in a responsible way. I also believe that what you have in front of you (*the proposed amendment*), which I am opposed to, is not a very good idea, because, as your County Attorney has told you, you are running right in the face of what the responsibilities of the state of Colorado are. I think you are pitting yourselves against the experts that Colorado already has and you are going to duplicate efforts that might not be legal. You are going to be walking into the potential for legal challenges and expenses to the county. There is one thing on your website that I really like. I don't want to talk about the legal argument so much because I adopt what the County Attorney has told you, I adopt what Mr. Stuart Sanderson said, and I also adopt your Code of the West. I think it is very well written. It says "The men and women who came to this part of the country during the westward expansion of the United States were bound by an unwritten code of conduct. The values of integrity and self reliance guided their decisions, actions and interactions. In keeping with that spirit, we [and that's the county Commissioners] offer this information to help citizens of Fremont County who wish to follow the footsteps of those rugged individualists by living outside city limits."

This is a question of property rights. Mr. Taylor and his people have property rights. They have mineral rights that this proposal will have the effect of banning the development of. The Code of the West has a lot of good common sense. It says "Many property owners do not own the mineral rights under their property. Owners of mineral rights have the ability to change the surface characteristics in order to extract their minerals. It is very important to know what minerals may be located under the land and who owns them." This is advice to people before they move in. This is advice to people when they buy. "Much of the rural land in Fremont County can be used for mining; however, a special review by the county commissioners is usually required. Be aware that adjacent mining uses can expand and cause negative impacts." Another bullet point is "The surrounding properties will probably not remain as they are indefinitely." There is a lot of good common sense in there, and a lot of good western advice to people. I hope you take that into account as you are doing this tough job that you have.

Ron Walker, 2055 Highway 50, Penrose

I, along with ten other people here, am totally against this change to our Master Plan. Mining has always been a part of Fremont County. Fremont County has enough financial problems today. We don't need to take any more financial ability away from the county.

John Hamrick, 108 Dewey Road, Cañon City

I wanted to rise in opposition to this amendment. I am a graduate of Mackay School of Mines in Nevada. I have been in the mining industry for over thirty-five years. I know that a lot of people have concerns and fears. I would urge the Commission not to make your decision based on concerns or fears, but based on the law, number one, and science, number two. Where the science will lead you is that the people who are responsible and who have the training and experience to deal with these issues are more properly in state rather than at the county level.

Randall Coan, Holcim Portland Plant, Florence

I would just like to say that I am in opposition to this amendment.

Sheila Coan, Holcim Portland Plant, Florence

I am a former employee of Holcim Inc. and I am against this (amendment).

Trevor Coan, Holcim Portland Plant, Florence

I am against the amendment.

Roger Woolsey, 1501 Dylan Drive, Cañon City

I am a native, I am a Holcim employee and I live in Cañon City. I am against this amendment.

Jim Javernick, 1739 Sherman, Cañon City

All four of my grandparents moved to this country before the turn of the century into Fremont County because there was mining to work at and free land. My family has remained in this county ever since. We are involved in agriculture and to some minor extent mining. You know I am in the oil business. We have always made our living out of the land. When you mine something out of the land or you grow it, it is created. It is new, it is new wealth. You either mine it or grow it, or you don't have it. We need to remember that. The other problem that I want to state is that my children have all moved out of the area. I have one daughter who has a job with the Forest Service, which I am not against, but it is not in the private sector. I am sick and tired of seeing the younger generation with no opportunity, and no good jobs to go to in the private sector. They either go to work at the prison, the forest service, BLM, or some government agency. This amendment is a job killer. Where are we going to end up with this? You are outlawing all kinds of mining. There will be no more gravel pits. I don't see where this domino stops falling. I have to be concerned because I am in the business that is extracting minerals out of the ground. When does some neighbor group get tired of me and I'm next on the list? I think it is time that you just say no to this amendment and move on.

Joe Lamanna, 71 Ptarmigan Trail, Cañon City

I am a resident of Fremont County. I am also a Holcim employee. I am not going to go into a lot of detail. I support what has already been said. I want to make one additional point. The Master Plan should be a vision for everybody in the county, not just one group, especially right now because the economy is not in too good a shape. We need to be supporting industries that bring jobs in and not discouraging it.

Donna Murphy, 241 Glenmoor Road, Cañon City

I moved here in 1978. My ex-husband worked up at Portec and he came home one of the first weeks he was working and said there was a uranium mill near where he worked. Over the years I've come to know a lot about it. It has been consuming. Things that they did then weren't very good. They have improved somewhat, but it is still a very dangerous industry. I knew people who worked up at Cypress when they were doing the drilling. I think they quit about 1982. They knew there was a big ore body up there. At the time there were just ranches, there weren't really any subdivisions up there. Now things have changed and there are subdivisions. I think that because conditions have changed, you do have the ability to make some changes to the Master Plan and protect the people and the water and the air that is up there. I understand the miners' concerns that this would be a slippery slope, but I think because uranium mines are DMOs, it is different for coal mines or gypsum mines or other mines. I don't think this would affect those kinds of mines. I don't think it is really going to hurt us economically that badly to make some positive changes like this. I am for the amendment. What I have seen in the thirty-one years I have been here is that oftentimes we do need to make more protections for what we have. We have made mistakes in the past and we need to correct them. I think most of these changes would be good changes, and protective to the Mountain District. They are not going to mine on Glenmoor Road. If I had moved up there years ago I would be justifiably upset at losing water. I think the water problem of uranium mines is a big problem. I would ask that you take this into consideration. We really do need to protect the area up there. Tallahassee Creek is a fragile area. Maybe thirty years ago we thought it was compatible with uranium mining, but I don't think it is now. I want to thank all of you for serving because I know you put a lot of time into this and it is a big effort. We the citizens really appreciate all of you serving on this board and helping protect our community.

Ken Siddoway, 527 North Ramaldo Drive, Pueblo West

There has been a question asked sometimes, where does milk come from. Many people say from WalMart. They don't know where milk comes from. This relates to the mining industry. The gypsum board in this room, the driveways and the foundations of your homes, which everyone here left, the concrete keeps you out of the mud, the paved highways that we all drove on, are from mining. I see many in here with wedding bands, silver watches and gold watches, came from mining. The electricity we are using is powered by coal which is mining. We need to know where all these things come from. Mining is a valuable resource in this area. I have lived in two other states. I also am a Holcim employee. I worked at cement plants in those two other states. These communities welcomed the cement plants. They provided many jobs for the community and the tax dollars were also there. To throw a blanket on this Tallahassee problem is the wrong thing to do. I agree that there is a problem in Tallahassee and it should be addressed, but not as throwing a blanket on everything. I totally oppose this (*amendment*).

Joe Maple, 32 Cougar Loop, Cañon City

First of all, I oppose the amendment for several reasons. Most of them have been talked about. I want to reiterate that taxes are a big issue. Fremont County was built around mining. Probably half to three fourths of the tax revenue in Fremont County comes from the mining industry. Some of the higher paying jobs in Cañon City are in the mining industry. I work at Holcim also. I transferred here seven years ago from a community in northern Colorado that has a lot of mining – gypsum, coal, limestone. There were no uranium mines, but I think that this is a smokescreen that the people of the Tallahassee area are trying to use to take care of a problem in Tallahassee. I think those residents have a concern. I think they should abide by the effective procedures and practices of Fremont County and communicate their issues through the CUP process and not try to get it into the Master Plan. I ask you to deny this amendment.

John Todd, 3500 Highway 120, Florence

I am the maintenance manager at Holcim's facility. I have eighteen years of mining experience. Each of us here today understand the difficulty you face in determining a plausible and just solution to guide the direction and vision of the county. In opposition to the proposed amendment, I kindly ask that you consider the extent of the emotional basis and subjective bias behind such a proposal. The final decision and direction must be based on factual and realistic merits that ensure financial health, sustainable business activities, and employment longevity for Fremont County. As previously mentioned by members of the opposition, the mining industry defines much of the heritage and history of the county. It provides a stable and substantial source of tax revenue to spur growth and longevity for years to come. Through reasonable efforts and guidance, the industry can maintain responsible operations while interacting and engaging the functional facets of the county. There are governing bodies and regulatory actions that guide the mining activities in this county and the state. They ensure environmental stewardship and an ecological conscience. Denying the (*garbled*) rights driven by these bodies inhibits the ability of this county to realize long-term gains through financial growth with consistent tax revenues and a solid job base. Based on the widespread and overwhelmingly negative impacts associated with this amendment, I oppose it in its entirety.

Lisa Moody, 901 West 1st Street, Florence

I work at a local financial institution. This is a great community. I grew up in Colorado Springs, and moved down here because of the community – the size and the people. I believe change is needed up in the Tallahassee Area. That is something that needs to be addressed with that issue. The way things are going right now, you are trying to change a whole lot of things. The mining issue down here is big. I would hate for a lot of people I know to lose their jobs. Working at a financial institution, we are seeing foreclosures and repossessions coming in every day. The economy is not good. I believe in change if it is good, but in a lot of areas, if it is not broken, why try to fix it? I think we need to take a look at one single thing at a time, instead of trying to amend a lot of things.

Trayce Farrell, 765 Amber Lane Court, Colorado Springs

I am a human resource manager at the Holcim Plant. Most of my points have been made. I just want to provide a little more detail. We provide jobs for approximately 170 employees at the plant, with an approximate annual income of \$60,000. This amendment jeopardizes the jobs of all these people, 70% of whom live in Fremont County. As part of my function, I have seen the devastation of closing plants. Despite what it does to the employees, and trying to find additional jobs and resources, they have closed schools, restaurants, businesses. It can destroy a community. I oppose this amendment. Thank you for your time and consideration.

Greg Moody, 901 West 1st Street, Florence

I am a Holcim employee. Twenty years ago I moved here to Fremont County. I bought some property south of Florence, and I went to one of the old-timers to talk to them about water, the quality of it, and if I could find it. He told me exactly what I needed to do and I came up with good water. There were no thousand particles in my water. If we don't mine here it is going to be done somewhere else. We all have jobs here in this county, but if the mining goes to China or Mexico, none of us are going to have jobs. The ones that do won't be able to afford anything. I am against this amendment to the Master Plan.

Jeff Allbrandt, 220 Wolf Cub Trail

I am also a Holcim employee and I oppose this amendment to the Master Plan.

Moses Guillen, 722 East 3rd Street, Florence

I am a miner, I buy my groceries in Fremont County, my tires, my gas. My family shops in Fremont County. I am against this amendment. Originally I was supposed to be an auto worker, but they moved all the jobs away.

Susan Revack, 1631 South T-Bar Trail, Cañon City

I am a full-time resident on T-Bar Trail since 2003, and plan to continue to live there. I would like to speak on behalf of Kimberly Wolfe, the President of the South T-Bar Property Owners' Association. This is the letter from Kim who was not able to be here tonight:

I am currently the President of the south T-Bar Property Owners' Association (POA). As you may know, south T-Bar Ranch occupies over 4,000 acres of Fremont County that was previously part of the Taylor Ranch. 113 of your constituents pay property taxes to, and many vote in, Fremont County. You may also know that South T-Bar Ranch sits squarely on top of the Hansen and Picnic Tree ore bodies, known for decades to be sources of high-grade yellow cake uranium. Almost exactly one year ago, a large majority of the property owners at South T-Bar voted in favor of pursuing the sale of the mineral rights held by the POA, and encouraging the ecologically responsible mining of these uranium deposits. On behalf of these property owners, I strongly oppose adoption of the amendment to the Master Plan proposed by the TAC.

We object to the fact that the proposed amendment calls for limiting mining to remote locations at least two miles from areas with a population density, at present or in the reasonably foreseeable future, of ten or more houses per square mile. These density requirements are vague and unnecessarily restrictive. I think you will hear from several potentially affected property owners tonight, who believe that safe, responsible mining can

occur near residences, as long as care is taken to mitigate environmental impacts during mining and after mining is completed. Ecological stewardship is one of the mandates that will travel with the mineral rights as prospective purchasers are considered. All of us who own property at South T-Bar Ranch bought and continue to own our parcels because of our love for the land, the views, the wildlife, and the lifestyle they offer. It is not our intention to allow the contamination or destruction of the surrounding environment.

If you allow the adoption of this amendment, you may effectively be denying the expressed wishes and rights of the property owners to develop their mineral resources, potentially inflicting significant economic harm on these owners. A large amount of money has already been spent to investigate and pursue a responsible course of development, and we respectfully request that you allow us to continue to pursue a course of action that will benefit many in Fremont County. We also request that you continue to consider mining projects on an individual basis, on their individual merits, rather than trying to adopt an unrealistic “one size fits all” plan.

For these reasons, I respectfully request that the Fremont County Planning Commission reject TAC’s amendment to the Master Plan.

Gary Hawley, 2421 South Tallahassee Trail

Gentlemen, I live on the ranch and our county needs additional revenues. Don’t put it on the backs of the property owners and the residents by raising the taxes on our properties. I noticed when I got my annual assessment this year; it had gone up 8%. I know, because of the recent decline in housing throughout the country, my property values have gone down at least twenty to forty percent. You are raising my taxes while the prices of the houses are going down. I agree we don’t want to lose our young people around here. They need jobs. Let’s take that into consideration. Our planning should be for the improvement and growth of our community. Don’t restrict the mining.

Randy Haynes, 441 Dozier Avenue, Cañon City

I also work at Holcim and I have worked on ranches. I am against the proposal. I think there is a better way of going about getting the job done than the way it is now.

Virginia Green Haynes, 441 Dozier Avenue, Cañon City

I am an employee of the Department of Corrections. I am also a fourth generation rancher. Any adoption to the Master Plan that restricts private property rights is going to be a critical precedence for agriculture. Farmers and ranchers have a tough enough time making ends meet without somebody telling them what else they can’t do. Agriculture is one of the few businesses that somebody else tells us what we get for our product. So we have to seek other sources to make ends meet. I really hope you don’t vote for this amendment.

Leslie Suleiman, 113 Latigo Lane, Cañon City

I am the interim president of TAC. I would like to say something about vision and commitment. The story goes that when Colorado divvied up the best services for the state, Denver became the capital, Boulder lost and got the university, and Cañon City won and acquired the prison system. I’ve come to think of Cañon City as the world’s largest gated community. There is a lot of job security that comes with that.

When Cotter arrived, Cañon's identity was further solidified. This is one vision for the direction for Fremont County. And you could close the doors on your gated community, invite Cotter to rise from its toxic roots and create another superfund site up on Tallahassee.

There is talk of an honor system in place for monitoring mining projects. *The Division of Reclamation, Mining and Safety* (DRMS) has reduced its workforce by ten percent. A hazardous project of this size cannot be allowed to just happen and hope for the best in trade for a very few short-lived mining jobs up there. Trusting industry to monitor itself is like asking a pedophile to babysit your toddler. If there is a problem, the environment is a victim that doesn't speak and the damage comes to light too late.

Without a clear vision there is no going forward, and oftentimes you have to backtrack.

This according to the Associated Press, "the Federal Government plans to spend up to \$3 million a year to demolish and rebuild uranium-contaminated structures across the Navajo Nation where Cold War-era mining of the radioactive substance left a legacy of disease and death...Navajos who toiled in the mines and their dependents have suffered or died from cancer, lung and kidney disease, and other health problems caused by exposure to low levels of radiation over time...Navajo EPA officials worry about recontamination when it rains and contaminated soils are carried toward homes or into the drinking water supply. The caps that cover some former mining sites are eroding...and we run the risk of the exposure happening again."

An alternate vision is of a community consensus representing the health and wellbeing of Cañon's citizens, including those of us who are new to the area. We in the Tallahassee area come from all over this country and some of us have lived around the world. We have participated in various vocations and avocations. With our disparate life experiences, we can all agree we would like to live in a thriving, vibrant community. Most of us would like to participate in and contribute to such a community. However, the situation in Tallahassee, as well as at Cotter, has brought visions of growth and development to a screeching halt. Not everyone is deeply affected by the economic downturn. But they certainly can't fathom investing in an area that is not committed to its people, its vision and its master plan.

You made your commitment to us when we were sold our properties. At this point, this is also a commitment to the people in our community who build our homes, feed our families, teach our children, maintain our roads, provide electricity and all the other services we might need. We tell our friends and families about this area. We brag about how beautiful it is out here and how the way of life suits us and our health. They visit the Royal Gorge, raft in the river, and stay in the hotels. These are all long term relationships. Most of us are planning on being here for a very long time.

The best way to protect us, and the community we have become part of, is to create the two mile buffer zone between us and the heavy uranium industry that threatens to encroach upon us. The best way to be rid of us is to continue on the path of uranium exploration in our area, with no protection or thought of our rights and the commitment originally made to us. That will close and lock the gates behind us. Until this is resolved and more protective language is in place, we should have a moratorium on any further CUPs.

Be very sure of your vision. Be very sure of the legacy you are creating.

We thought we lived in the information age thirty years ago when Cotter first started spewing poison and Hansen was warming up. However, now we are truly there. You are creating our history right now. News of what happens here will travel around the world many times over, you can be sure of that. Be proud of what you decide and be sure it's for the very best and highest purpose. The people of this county will support you if you act on what's in your heart.

We did our due diligence by reading the Master Plan when we bought our properties. And we trust that you are people of your word.

Charles Bell, 2925 Sierra Court, Cañon City

Everything has pretty much been said. I am an employee of Holcim and I am against amending the Master Plan. I agree that it should be addressed in the proper functions where it has always been addressed and should not be moved at this point.

Jim Smith, 405 Del Rey, Cañon City

I also had grandparents that came over from Italy. I am third generation. My parents settled in Rockvale. I grew up in Rockvale watching the coal trucks go up and down the road. In the 1950s and 1960s coal was king, along with other mining in this county. I heard a couple minutes ago that if you do make the changes, it is only going to affect a few short-time jobs. I can't believe that, because I know where I work, I'm a miner, I have 35 years in. That is not short time. I also heard that an individual read the Master Plan before they bought their property. Now why do they want to change it, after they read the plan, why isn't it good enough? I am definitely against the changes. We can't reduce our county to retirement and prisons. We need the mining in this county and I am totally against this amendment.

Patricia Angel, 118 Wind Rose Drive, Cañon City

I am actually for the amendment. I wrote on my paper against. I am a business owner here in town plus I am a private resident. I moved to Cañon City five years ago, started my business then, and have been in business ever since. A lot of my business is dependent upon the people of this community, and I mean all of the people of this community, not just the people who live in the new homes. My concerns are that the residents of Tallahassee Area are not able to feel secure in their homes and have a future there. A lot of them will stay I am sure, but there are people who come into this community and hear about all of what we are talking about tonight and it scares them. There have been scare tactics about a lot of things that have been said this evening, and I have listened carefully. My point is that it is not just Tallahassee that is involved here. The residual effect of uranium mining affects us all. That is your responsibility to be careful about how you rule on this tonight because it affects not just us in this room, or the people living on this land this day. It affects us, our children and grandchildren and the health and wellbeing of everyone who comes here. The economy is dependent on a lot of other activities that go on here because of the beauty of this community. It is a very diligent responsibility that you have.

Gail Palmgren, 187 Cedar Ridge Drive, Cañon City

The issue we are talking about is uranium – uranium mining and uranium milling in Fremont County. You have to look at the three major revenues coming into our county: 1) Government, state and federal; 2) Retirement people; 3) Tourism. Now how is uranium mining and milling in Fremont County going to affect these groups? This is steady income coming in. We have 9.5% unemployment rate in the United States. We are actually maintaining this county. If uranium mining and milling comes in here, how is it going to affect our number two and three major revenue coming into this county? If we don't mess things up, I think we can keep this county going until the economy turns around. If we start attacking the retirees and the areas they are in, like the Tallahassee Area, this is the revenue that is floating Fremont County at this time. Are these mines going to produce enough jobs to keep us afloat? I don't think so. It is not going to come in here immediately. If you start ruining the retirees' area and the communities we live in, they are going to leave, and then what are we going to do for revenue coming into this county?

Terry Hartman, 442 Cimarron Crossing East, South T-Bar Ranch

I bought my property in 2000. We were advised that the uranium was there and we still bought. After hearing about the Cotter incident, I'd like to think that, as a country, we can make mining better, whatever type it is, and trust the people who are supposed to govern how things are done, as far as proper sequence and cleanup, doing all they can to keep it healthy and safe. Part of the Cotter mistake was just being in town. I believe the mill will be on site, the work is going to be done there, and the traffic will be at a minimum. As far as visibility, unless you crest the last little hill, you can't even see that valley. I see more restrictions on drilling test holes for uranium than I do on drilling a well hole. If these particles are increasing in the water, is it due to test holes or is it due to well drilling holes. I think of it as revenue versus cost. The mineral rights are for sale. If you want to keep uranium in the ground, buy the mineral rights. This is a way to bring revenue and good jobs into the county. I live on the ranch. I wish it would open now so I could get a job. I am against the amendment. The uranium has been known since the 1970s, so if they bought their land since then and they read the Master Plan, that levels that playing field. I am concerned about my kids. All the jobs are being farmed out of the country and there is nothing left for us.

Jerry Dietz, 370 Lincoln Avenue, Cañon City

I have thirty years of mining and I am against the amendment.

Karen Barton, 166 South Meadow Court

I am a Libra and I have a scale. My scale says uranium - radioactive, cement - not. Health - important, money - not.

Jane Browning, 774 County Road 4, Howard

I'll be presenting testimony for someone who couldn't be here. Also, from all over the county we are interested in this. This is from Mr. Pat Caulfield, 2274 Autumn Creek Drive, Cañon City:

Members of the Planning Commission, my name is Patrick Caulfield and I am the current president of the Autumn Creek Property Owners Association, located in the Mountain District area of Fremont County.

As you know the primary purpose of government is to protect the health and wellbeing of its citizens. The level at which you do this depends on the level of government in which you service. In the case of the Planning Commission you are responsible to the people of Fremont County. In fact, the first line of the Fremont County Building and Health website says “Our mission is to help protect the citizens of Fremont County.”

The Fremont County Master Plan for the Mountain District is clear in that it says “The primary non-agricultural land use will be residential.” This in fact has been the case. The implementation of the existing plan has encouraged the development of residential communities in the area. It has also identified a number of specific requirements for residential infrastructure and systems to protect the health and wellbeing of the residents of all of Fremont County.

This would indicate that this is not uncontrolled sprawl, but a thoughtful expansion.

But as always, with time and experience comes the need for changes and clarifications. It is assumed that the Master Plan is a living document and that it will change to meet the needs of its residents. In this case, that need is to safeguard the health of its residents and protect the tax base that generates the revenue for the county to provide services to its citizens.

There is much we don’t know about the impacts of the handling and mining of uranium, especially in close proximity to residential areas, as the radon emissions issue from the Cotter Mill has shown in recent weeks. Imagine the impact of actual mining operations on the air and water in the Mountain District.

Just as the advantages of the prison campus expansion in the eastern portions of Fremont County offset the removal of those areas from the tax roles, so does the long term impact of jobs, property and sales taxes paid for by the Mountain District residents offset any short-term tax gain from mining in this area.

I encourage the Planning Commission to accept and approve the changes put forth in the document submitted by Mr. Lee Alter.

Emily Charlesworth, 102 South Tejon Street, Suite 900, Colorado Springs

I work at Mr. Steve Mulliken’s office in Colorado Springs. We represent the TAC. I believe you have an opinion we prepared last hearing. I won’t repeat everything we said in the opinion, but I wanted to make a few points based on what I have heard tonight.

The Summit County case has been discussed a couple of times and I wanted to make the point that in the Summit County case that ordinance was overturned because it prohibited mining in all areas of the county. This is very different. We are just proposing regulations on mining in the county, not banning mining. I think that distinction needs to be made.

This is not a ban on mining at all. Most of the comments tonight have been that we are trying to ban mining, or that we are anti-mining, and we are not. This is about uranium mining and regulations on uranium mining. There have been a couple of comments tonight that this decision needs to be based on law rather than emotion. I think the law is very clear, the statutes are very clear, that you have the authority of the county to make land use determinations and you not only have the authority but the duty to make land use

determinations. I would also like to open it up to any questions that you have for me or Mr. Mulliken regarding our opinion letter.

Jeri Fry, 220 West Catlin Avenue, Cañon City

As I came to the meeting tonight, I drove by Veterans Park and I saw people gathering in the evening to enjoy a little bit of entertainment, and although many of us here work at given jobs much of our time, we live in Fremont County all of the time. You have an enormous job, particularly when a decision like this can have a global impact, and this will have a global impact. Informed decisions on all levels are paramount. You know that, we all know that. House Bill 1161 was passed a little over a year ago. It was known as the Land and Water Stewardship Act of 2008. When it was signed into law, it declared uranium type mining as a DMO, different from other mining operations. I have read the comments to the Master Plan by the Planning Department and I find that it would be a good idea if we made the distinction between the different kinds of mining that are done here in Fremont County. Anyone affected by mining activity has a right to full disclosure. By the same token, in a democracy, citizens have a right and a responsibility to help with the decision process. Each of us out here should have done their homework and know why they are saying what they are saying. I did read the comments, and I found that many times it was repeated that said controls were found elsewhere in the planning document. I would like to stress that it can't be found elsewhere when we have got a newly designated mining operation. This is different than other mining in Fremont County. Mr. Sanderson said in the beginning that there was a need for orderly development of resources. I wholeheartedly agree. He also spoke to the fact that the Code of the West is one of the things that we should definitely be proud of. But there are people in the community who build the community we live in, and they are sitting in this room – all of us. There are people in the community who live in the community that we build. I am glad to be part of the ones who are making those decisions, but I would like to stress that the 1872 Mining Act that brought those courageous people out to the wild west to settle isn't needed any more. We don't need to bring people out here in the way that we did in 1872. So the laws need to be changed periodically. When you are sailing in a ship and you get off course, you reset the sails. I would highly encourage the Planning Commission to please recommend that we do adopt these changes. I have read them and they make sense to me, and I think it would be a major protection to the community.

Cathy Cutrell, Littleton

I work with Black Range. I'm speaking tonight from a very personal perspective. I appreciate the opportunity to speak. It has been on my heart for some time to be able to do this because I have come to know many people in the community and their concerns and their perspectives. I have lived in Colorado all my life. I have a history in Cañon City for over forty years with grandmother, parents, and other family who have lived here, and my original studies in geology down here when I was with Colorado School of Mines. I was also involved in the original (*uranium*) discovery at Tallahassee Creek.

I have been very involved throughout my career on several paths of community development and other personal perspectives that I would like to share tonight that I hope are relevant. Situations in our communities are difficult to solve because we are working in our own limited power within a world system that is broken or difficult with the complexities in our world. I believe the Lord is encouraging us not to conform to old patterns of this world, but

to be open to how He will help lead us more and more of His will for our communities. I would hope that we could have a broader Master Plan update process that would be more inclusive of interests of more people throughout the community. Our plan with Black Range is to involve a very comprehensive process with the community to build collaboration and agreement, should we get to future stages beyond exploration.

I worked in the past with the Jewish community in Denver, an inner-city community in Denver, and Kenya communities right now in developing plans for their future. One of the things in Kenya that I think is very applicable here too is their vision statement – For I know the plans I have for you, plans to prosper you and not to harm you, plans to give you hope and a future; a hope for life in its fullness and relationships that work for peace and prosperity, to redeem all things in and through us; a vision for a transformed future that is devoted to caring for one another's interests, caring for His world, and sharing in His blessings. One of the things that happen in so many situations in communities is that we get stuck in a poverty barrier. It is more poverty of being, that we have too much or have too little, and that can sometimes consume our perspectives or disempower us. This often leads to distorted, broken relationships. We need to heal more of the divide between the poor and the non-poor. A lot of times, so many in the community who don't have property interests or mineral interests are left out of the process. I would advocate that we could have a broader process involving those people and / or trusting that through the whole CUP process and involving the community would work.

I know there is limited funding in the county, but would there be the opportunity to work together on a comprehensive Master Plan update to realize more of these benefits? I understand that by August 1st there is an opportunity to apply for grant funding by the county to the Department of Local Affairs. That might be something that all the interested parties could work together on, if that was desired. Next week there is also an economic redevelopment workshop in Cañon. We will be attending that. It may be an opportunity to learn more about how we can look at future ideas. We will be having a booth sponsored by the Colorado Mining Association at Fiddlers on the Arkansas toward the end of the month. We invite the whole community to come and learn more and we would share and learn more from them. I want to leave with the belief that through a more holistic process this change will work in us, more of a spirit of compassion and outreach and sensitivity and trust in what we do together so that material blessings really can't hurt us and will be used for right purposes for the good of all.

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Robert Wellott, 187 Autumn Creek Drive, Cañon City

I am not a Democrat. I believe in the Constitution, Capitalism, low taxes, small government, and personal responsibility – a lifelong Republican. When the Master Plan was created in 2001, the planners at that time had a vision. In that vision, primarily residential development, agriculture, and then low down on the list was the mining. What you are being asked to do is move the mining up a little bit. I am not against the mining. Property rights – as long as it doesn't impact me negatively, do whatever you want to do. I'm all for that.

I left a handout, it is a white paper done for the mining industry, not uranium mining, the mining industry. Uranium is not mentioned in this paper at all. It describes how easily a mine can make the EPA Superfund National Priorities List (NPL). Because of the presence

of metals, large waste volumes, and observable releases, mining and smelting sites often receive high enough scores to be proposed for the NPL based on a single pathway. There are four pathways they use. They evaluate the sites by groundwater migration, surface water migration, soil exposure, and air migration. I just want to cite a couple of these things into the record. It discusses the threat to the population served by drinking water intakes within fifteen miles. Environmental threat applies to natural areas, which most of Western Fremont County is. I am addressing the Mountain District of the Master Plan. The nearby population is those people living within one mile of an area of observed soil contamination. The air pathway considers population within a four mile radius of the sources. Sensitive environments within the four mile radius are also considered.

The white paper contains strategies for reducing the risks of being placed on the NPL. Individually, many of these things sound very nefarious. Keep a low profile – address aesthetics, show some cleanup progress, maintain good community relations. Unhappy local citizens can pressure EPA to list a site. Divert surface runoff if possible. Avoid conditions where a regulatory agency can establish an observed release by direct observation – hide it. Fence the site to prevent public access – keep people away, don't let them have access. Buy up a buffer zone – sounds reasonable. That is one of the things that are being asked for in the amendment.

I know Holcim is a very reputable firm. They have documented actual background concentrations of metals. They conduct samplings. There is a whole host of things in these strategies that I think you should take a look at, that need to be considered as you consider this amendment. As the Master Plan Mountain District was originally set up and the way the area was developed, the ranchers wanted us here. I would love to be a fifth generation county person. My dad is from New York. I couldn't help that. This is where I have wanted to be since my dad first brought me here when I was ten years old. I am one of those retirees that accounts for about 25% of the county income. You think I want to live within a mile of a uranium mine, let alone any other mine? After thirty years in county politics, you have a tremendously difficult decision ahead of you. You are being asked to take the side of a bunch of upstarts against a bunch of close personal friends of yours who have been around for years, as many of you have. Many of the people you are asked to take the side of are seeking windfall profits. All we are asking for is that some reasonable protections to our health, welfare and safety be included in the Mountain District Master Plan, the same as you would if a mine was proposed in your neighborhood. Motto I live by – Do your best, do the right thing for the right reason, and treat others as you would like to be treated. Intuitively, I think you know that mining close to residential is not a good thing.

Linda Wellott, 187 Autumn Creek Drive, Cañon City

I am for the amendment. I respect the generations that came before us and everybody's right to work. I hope we are the grandparents that our great-grandchildren are talking about at one of these forums, because I think it is a great opportunity to get up and tell people what you believe. It is a wonderful country, but without water, and with the contamination that can potentially come from mining, you won't have any kind of mining, recreation, or residences. I have given you a copy of a handout regarding Uranium Mines / Superfund Sites, where contamination of ground water and surface water have drained communities of their surface water. That has taken place in New Mexico, Utah, Washington, Oregon, and Arizona. All

these are examples. If somebody had taken the time before the mining had started and done some regulation, or done their homework, then maybe some of these contaminated areas wouldn't be on the superfund list. I hope you get a chance to read the handout.

Dana Iarussi, 0866 Rosebush Road, Cañon City

I am one of those new people. I have been here for three years now. I am here to read a letter from Mr. Jeffrey C. Parsons, Senior Attorney, Western Mining Action Project:

I have reviewed the recently submitted legal memoranda prepared by Mr. Steve Mulliken and that prepared by Ms. Brenda Jackson regarding Fremont County's legal authority to impose conditions and restrictions on uranium mining development within the County in order to protect the health, welfare, and safety of residents. The two documents arrive at strikingly different conclusions, with Mr. Mulliken concluding that the County possesses substantial authority to regulate the location and impacts associated with uranium mining, and Ms. Jackson contending that the County is extremely limited in its ability to regulate such land uses. While Mr. Mulliken presents a broad review of relevant legal authorities, it appears that Ms. Jackson's memo, in contrast, omits significant legal authority.

The principle case in Colorado regarding a statutory county's authority to regulate the location and impacts of mining development is Colorado Mining Association v. Board of County Commissioners of Summit County. Ms. Jackson's memorandum recognizes this case as the controlling authority on the subject, but fails to address critically important portions of the judicial opinion affirming local government land use control over mining land uses. Instead, the memorandum focuses solely on those portions discussing the broad state authority to determine final mined land reclamation standards.

For instance, relying on the Summit County case, Ms. Jackson's memorandum broadly asserts that "local governments may not forbid that which the state has explicitly authorized." Based in part on this broad assertion, the memorandum concludes that "the County is legally required to allow mining requests to come before the County for consideration." However, this broad conclusion fails to accurately reflect the law as set forth in the recent Summit County case. Rather, while the state has primary authority over mined land reclamation standards, the Colorado Supreme Court specifically and repeatedly recognized in the Summit County case that statutory counties retain "considerable land use authority over the location and impacts of mining operations within the county."

Importantly, the Court recognized that the Summit County regulation at issue in the case was unique in that it prohibited toxic and acidic leach ore-processing across the entire county. Thus the Court recognized that "courts examine with particular scrutiny those zoning ordinances that ban certain land uses or activities instead of delineating appropriate areas for those uses or activities." The Court continued, stating that "though counties have broad land use planning authority, that authority does not generally include the right to ban disfavored uses from all zoning districts." Indeed, the Court's ruling was specifically premised on a finding that "the General Assembly did not contemplate that statutory counties could entirely prohibit a broad category of mining operations by ordinance."

Overall, contrary to the broad assertions of a lack of local government authority over mine siting and impacts portrayed by Ms. Jackson's memorandum, the Court concluded its

majority opinion by clarifying that “our decision does not prevent statutory counties from considering and implementing regulations that are valid under the Local Government Land Use Control Enabling Act, the County Planning Act, and the Areas and Activities of State Interest Act. The General Assembly has provided authority for county regulation of mine siting and impacts consistent with the MLRA...” Therefore, far from holding that a statutory county is “legally required to allow mining requests to come before the County for consideration,” as argued in Ms. Jackson’s memorandum, the Colorado Supreme Court has specifically recognized that statutory counties may prohibit mining in specific portions of the county where a rational basis exists to prohibit such land uses, such as in setting a buffer between mining uses and residential land uses.

In summary, the Summit County case was focused on instances where a statutory county completely prohibits a form of mining across the entire county. In contrast, the Court specifically recognized broad county land use authority to set forth restrictions regarding the siting and impact of mining operations, including prohibitions in portions of a county (such as a buffer zone), so long as a complete county-wide ban is not put in place.

Peter Iarussi, 0866 Rosebush Road, Cañon City

I live in the Autumn Creek development. I would like to add on to what Mr. Wellott said earlier. I will refer to a document produced by the Colorado Department of Public Health and Environment. It concerns the Summitville Mine superfund site. In the section of the document that concerns exposure, I quote “Human exposure to these contaminants is limited, since no one lives within two miles of the site nor uses the immediately surrounding groundwater for drinking. Drinking water wells for San Louis Valley residents living more than 20 miles downstream of Summitville have been sampled on numerous occasions and have never shown elevated metals concentrations associated with the site.” Why did they think they had to go 20 miles from the site and test the water?

Diane Taylor, 0498 County Road 9A, Cañon City

What has encouraged all the development up there wasn’t the Mountain District Plan, it was because the ranchers starved out trying to do something else to make a living. We live closer to the drilling that has gone on up there since the 1950s than anybody here. We have had our water tested numerous times, and I would put that water test up against anybody else’s for clarity. The particles per million that Mr. Capozzella had up here could be particles of anything. He doesn’t prove anything with that test.

My family has lived in the Tallahassee Area for almost 100 years and we have very dear friends who have moved into our country in the last few years. The housing developments, per se, are not our target in this opinion. There are so many of these proposed changes that are already addressed in county, state, and federal regulations that I see absolutely no reason to burden the existing Master Plan with any of this mish-mash of verbiage proposed by the TAC group. This small group of people did not read, or ignored what they read, in the existing Master Plan and now they want to change this document to suit their own personal agenda and they are using the Planning Commission to do so.

These proposed changes are all dangerous, far-reaching, ill-advised, and poorly written. One of the proposals would create a population density, present and in the foreseeable future, of

ten households per square mile, 640 acres. That is 64 acres per household. Is that population density to anybody? Another proposed change addresses the dust problem in an area where it is miles to a paved road. Our son lives about a mile east of our home and a little lower in elevation, about 200 feet south of County Road 2. We have a clear view of his place, and before the Fremont County road crew started applying dust suppressant a couple of years ago, we could barely make out his house and out-buildings in the morning and evening due to the dust rolling off of County Road 2 when it was about time for everyone to head to work in town and the housing contractors coming up for the day. If these proposals would be approved, a lot of the present developments would already be in violation. Oh wait, these proposals are only for the new guys who may have had the audacity to actually read the Master Plan. There are already standards to be met by land development, or any other development. Leave it alone. There are places in the TAC proposal that talk about de-watering, although even exploration drilling has secured augmentation water. What in the world are hundreds of domestic wells doing to our water table? In Strategy E2, surface water is vital to residential areas. How is surface water vital to a residence? How many of the current residents in our particular area have surface rights? Depleting and contamination take place each time a domestic water well is and has been drilled. They would be in violation again. Strategy D2 – the only reason they want to make this change is because most mining operations are on agricultural property.

This TAC group obviously does not speak for everyone in the Tallahassee Area. How can the Planning Commission suppose that they speak for all of Fremont County? What is the Fremont County population? 48,000? If the TAC group has 480 members, that is one percent of the Fremont County population. Please do not let this small activist group dictate to the Planning Commission, thus molding the future of Fremont County to suit their personal agenda.

Barbara Capozzella, 0123 County Road 21, Cañon City

I know you have a tough job and I am concerned about the health and welfare, not just of our area, but all of Fremont County, because it is going to affect the water to the Arkansas. So, do your best.

Bob Parker, 16081 Highway 50, Coaldale

I found out in a very round-about way that the Commissioners have hired Mr. Don Moore, who I have been told is an engineer with Fremont County, who lives in the west end of the county, to rewrite the Fremont County Master Plan. I verified this with Commissioner Mike Stiehl, only he told me that you (*the Planning Commission*) hired Mr. Moore. I have two problems with this:

First, I find it irregular that these Tallahassee folk here tonight have had to try so hard to get a few sentences changed in the Master Plan that might allow them to actually have more safe and productive lives if a uranium mine actually opens in their turf, while at the same time and very quietly you have hired an individual to rewrite the entire plan by himself. If you had made this clear in the beginning that the old Master Plan was not going to stand, they would not have needed to waste your time and theirs jumping through so many hoops, hiring lawyers, doing such extensive research, and attending meeting after meeting.

Second, I find it not only irregular, but actually rather unacceptable that you would hire a single individual, I'm not singling out Mr. Moore, to write a document so vast and so important. This document must address the goals, agendas, and lifestyles of so many diverse communities, groups, and individuals. It will impact all of our very lives for the foreseeable future. You hired one individual to do all of this. Yes, this is unacceptable.

I'm suggesting a citizen's advisory committee, made up of representatives of the different communities in the county, the cities of Cañon City, Florence, Penrose, and the Tallahassee community, and the other west-end communities, involved county agencies, the major business types i.e. tourism, mining, prisons, real estate, retail, emergency services, medical services, utilities, forestry, and the educational facilities, to name just a few. This citizen's advisory committee will be formed to assist in this project before it is brought to the Planning Commission. Commissioner Stiehl told me that you gentlemen would take on the burden yourselves of fine-tuning Mr. Moore's strawman document into a workable document to be open to the public for review and comment. I reminded him that you answer to the Commissioners and not necessarily the public. If we have balanced input from the entire Fremont County community before you get the document, not only will the final plan be much better and much more inclusive, you won't have to work so hard or take so much grief from the public later. I have been speaking only in the first person. There are however already a growing number of us who want to be represented in designing our own future in Fremont County. Please voluntarily in a bi-partisan manner form this citizen's advisory committee. That way we won't have to go all over the county riling people up to get it done the hard way.

Mr. McNew said point of order please. We are discussing an amendment to the Master Plan. We are not discussing how the Master Plan is made. You are taking a lot of people's time who have something valuable to say on the amendment.

Chairman Piltingsrud said I will have some comments later, because I think there are some areas we need to discuss.

Erika Schabert, 110 North Rubey Drive, Golden

I am a geologist at Black Range Minerals. I would first like to talk about some of the pages and quotes from the Master Plan that are already included that support mining:

- Page 9 - "The Pikes Peak Gold Rush in 1859 brought more residents resulting in the settlement of Cañon City, Florence and the Hardscrabble area"
- Page 9 - "Early in 1860 the first mining claim for coal was filed..."
- Page 9 - "...the current mining boom of aggregates has been thriving for several years"
- Page 10 - "Throughout its history, the County has attracted growth with its mild climate, rich soils, available water supply, abundant mineral resources, and outstanding beauty."
- Page 10 - "Active land uses within the County include: mining and mineral processing..."
- Page 53 - "Fremont County is actively pursuing methods to widen the economic base of the area."
- Page 54 - "Encourage economic development activities that will provide additional employment opportunities."

- Page 95 (Mountain District) – “The federally controlled lands are multiple use lands, often leased for agricultural, forestry or mining operations. The State Land Board lands can be leased for similar purposes.”
- Page 67 – “Mining will continue to be an element of the land use pattern for the County, and the impacts of this use should be considered.”
- Page 69 H3.1 – “Proposed land uses which may have an adverse impact on environmental quality will be considered on a site specific case by case basis...”
- Page 69 H4.2 – “Partner with appropriate agencies, organizations and universities to map recoverable resources and require future land uses in and around those mapped areas to extract the resource with only minimal disturbance to existing uses”

In conclusion, the current Master Plan sees that mining was important to the foundation of Fremont County and its continuing economic development. If you approve the proposed changes you will be introducing contradiction into the Master Plan as it currently appears to support mining. The Master Plan needs to be updated but not “bit by bit” as proposed. I urge you, the Planning Commission, to deny the request today and work with the greater community to address all the issues in redrafting the Master Plan.

Some general considerations that I ask when you are redrafting the Master Plan: Mineral rights in Colorado are equal to surface rights. You have as much right to develop the minerals you own as you do to build a home on your property. Does the County have the appropriate staff to assess these mine plans? The State handles mine permitting as staff are trained and educated in mining and environmental protection. Does the County have the legal right to ban DMOs in specific areas? According to Ms. Jackson, the answer is no.

With regards directly to the proposed amendments: They use the word “remote” to mean two miles from populated areas, and they define “populated area” as a current or reasonably foreseeable population density of at least ten households per square mile. How do you determine what the reasonable foreseeable future would be? What is the time constraint or limit on that? I also strongly object to the classification of ten houses per square mile as a “populated area.” This indicates an average lot size of 64 acres, hardly populated. There is an assumption that all residents within two miles do not want or support mining. This is false even in the Tallahassee Area where the residents closest to the known deposits are in support of mining. What if the owner of the ten households per square mile is the mining company or mining employees? What if the perimeter of the mining project was two miles from the actual mining activity itself, because the mining company diligently established a protective buffer? Mining towns are commonly established within two miles of a mine.

To quickly touch on the Summit County case, the quote that came from the Supreme Court of Colorado says “The court holds that the MLRA impliedly preempts this ordinance because the ordinance prohibits in all Summit County zoning districts a mining technique the General Assembly has authorized the Board to allow under rules that protect human health, property, and the environment.”

Other terminology that we deem questionable from this proposed amendment – “particular scrutiny”, “heightened degree of scrutiny”, “reasonably foreseeable future”, “particularly sensitive locations”. All of these terms are very vague and open to interpretation. Does “particular scrutiny” simply mean the Planning Commission reads the application twice?

The fact that a DMO is a Conditional Use means that it requires a Conditional Use Permit, which is in fact heightened scrutiny from the County already. “Organized residential communities” – Is this protection limited to those organized residential communities, or does the entire county warrant the same level of protection? The following phrases are used frequently – “due to potential long term human health and safety, environmental, and negative socio-economic impacts” and “long term economic risks”. This language assumes negative impacts to the safety and the environment, and this is simply not the case. There is also the assumption that the DMO will have negative socio-economic impacts, and this is untrue. A DMO will have positive impact. A perfect example of that is Cripple Creek where the DMO has a positive impact in both Teller and in Fremont County today.

Regarding other regulatory language used: DMO terminology simply does not belong in the Master Plan. They also say that mined rock is solid waste. This is a contradiction to the definition of solid waste in federal, state, and county documents. Overburden piles consist of the surface alluvium from which residents get their potable water, the near surface gravels that the local residents construct their driveways or county roads from, and the granite that people use for countertops in their kitchens, none of which are solid waste. They also state that mine water is wastewater. Science and the application of state and federal regulatory definitions for the type of operation will decide how water is classified and treated. 100% of the water pumped from the hypothetical DMO in the Tallahassee Creek Area would come from a maximum of five aquifers, all of which are being used for domestic water supply in the immediate area. The request by the TAC to classify these natural waters and rock of Colorado as waste is simply inappropriate. Their definition of a DMO is a long term heavy use industrial operation. Why should a DMO automatically be classified as “long term”? A DMO can be short term. This dual classification for mining operations will inevitably bring about contradictions in the way applications are handled. Mining operations are unique operations and hence the need for individual classification.

The majority of the claims for additional protection are already in place. The DMO classification by DRMS requires an Environmental Protection Plan, management of mined rock, management of water and a Reclamation Plan. The County CUP application is heightened scrutiny, requiring a Road Impact Study, viewshed assessment, fire plan, and watershed plan. The Division of Water requires a water augmentation plan and legal access to water is required. In conclusion, I urge the Planning Commission to reject the amendment to the Master Plan.

Christine Atkinson, 2024 Goldenvue Drive, Golden

I have mineral and property interests in Fremont County. I am also a geologist that has worked in various capacities in the nuclear fuel industry since 1975. I have a few comments and questions which I think are relevant to this current process:

How much land would actually be withdrawn from mining due to the two-mile setback proposed by TAC? Do we know? Such a major action should be accompanied by facts so that all concerned can understand the impacts of those actions.

What would be the cost to the county should this two-mile setback be put in place? Not only would there be the potential loss of mining jobs and the expansion of those jobs into the community, there of course would be lawsuits from mineral rights holders. And can anyone

here predict what future mineral deposits may be discovered in Fremont County, and their value, that would be affected by such an action? Again, such a major action should be accompanied by facts so that all concerned can understand the impacts of those actions.

What input to this process have you had from the County's largest landowners: the Bureau of Land Management, the Forest Service and the State of Colorado? There are a large number of existing mining claims on Federal Land and I would like to remind you that the State of Colorado receives royalties from mining severance taxes as well as lease payments on State land. To what degree will these stakeholders be affected by the proposed action?

I won't reiterate that mining is already highly regulated and the Federal and State governments have people that are trained and knowledgeable in this. Are you willing to take on some of that responsibility? Can the County handle environmental regulation of these operations?

A much more thorough review of the existing regulations needs to be made before a determination can be made whether or not existing regulations might need some modifications or additions.

Finally, I would question the basis on which a two-mile exclusion zone is even being considered. I currently reside in Golden, Colorado. In our community there is a sizable gravel quarry (approximately one-half mile by one-quarter mile) that has operated since 1977 and is within a half-mile of a very nice housing subdivision where I lived at one time. I challenge anyone in this room to stand in that subdivision and truthfully say they are aware of the existence of a gravel quarry that close. As a matter of fact, last fall I hiked for several hours along the Apex Trail which runs between that subdivision and the quarry and was totally unaware of the quarry operations. I knew the quarry was there, but I totally forgot while I was hiking this trail. It had that little impact. This is an operating quarry. It operates all day long. Also, last April I had the chance to visit Kalgoorlie, Western Australia, home of the Super Pit – the largest open pit operation in Australia (approximately two miles long by one mile wide by about 1600 feet deep). It operates within a mile of a town of 30,000 people, and again I would challenge anyone to stand in that community and say they were aware of the Super Pit. You would not know it. So where does the two mile exclusion zone come from?

I currently live within a quarter mile of a portion of Highway 6 that many people in the Denver area would like to see upgraded to complete a beltway around Denver. With the traffic, noise, air and light pollution it would bring for the foreseeable future to my house, I would gladly trade that beltway for a uranium mine any day.

Ted Groome, 430 South Tallahassee Trail

Not all people who live in the Tallahassee Creek Area are opposed to mining. Very few residents that are in favor of mining speak out in favor of mining. They elect to remain silent. In fact there are approximately 94 Fremont County property owners that are partners in South T-Bar (STB) Minerals LLC which own majority interests in the mineral rights to a substantial ore body. It is the Hanson ore body and the Picnic Tree. Fremont County and the Planning Commission should be well aware of this very significant ore body as it was permitted for removal in the early 1980s. STB Minerals LLC was established as a result of

and to comply with the existing federal, state, and county regulations regarding uranium mining at a considerable expense to the partnership prior to the formation of the TAC group. We realize that even though we own the majority interest in the ore body, state law allows minority interest groups to legally access the minerals. This was confirmed by the county tax assessor's office. We were advised by our attorney, who specializes in mining and minerals, that we should be proactive and establish our own company to simplify problems which may arise in the future.

I believe the TAC group is infringing on our rights as property owners and are trying to change the rules after the fact. If the county was concerned, the regulations should have been changed prior to the TAC special interest group's protests on uranium mining and their attempt to change the county's Master Plan. TAC had the same opportunity to protect their mineral rights and create a company to sell them as did STB Minerals LLC but elected not to do so. Instead they decided to attempt to block others rights to take advantage of resources they own.

We were advised prior to the purchase of our property that the ore body was located partially below our property. The developer provided a letter stating our property owners association owned a controlling interest in the mineral rights, and we viewed this as a potential opportunity. I don't believe the county should side with one group at the expense of another, especially after the significant investment by STB Minerals LLC to capitalize on the opportunity presently allowed by the federal, state and local government regulations. The special interests of others should not prevent the membership of STB Minerals LLC from recovering their organizational costs and realizing the anticipated profit on their investments if the market allows. Otherwise, STB Minerals LLC will have to consider available options to protect our interests and recover this substantial investment.

Michael Meyrick, 1871 Canyon Terrace, Cañon City

As a matter of full disclosure, I am the lawyer who represents the plaintiffs who are suing the county over the issuance of the CUP to Black Range Minerals. I will confine my remarks tonight to just one issue, and the issue is the opinion letter that the County Attorney provided to you. Like Mr. Parsons, I disagree with the conclusion. It is not that I disagree with everything that is in there. I think there is a lot in there that is accurate. I think there is stuff that is accurate as far as it goes, that doesn't go far enough. It seems to leave the impression that because uranium is a designated mining operation, therefore there is very little you can do in the way of land use regulation as a result of that. What is important to understand is that the statute that creates DMOs and includes uranium in the definition of a DMO, in the same statute creates an exemption. The exemption says that if the operator at the time of application or at a subsequent hearing before the state certifies that he is not going to use acidic or toxic chemicals during the extraction process, or that such chemicals will not be produced as a result of his activities, he is exempt. It is not an option. The exemption is required to be given by the state. My guess is, you are never going to see a DMO application because they are going to apply for the exemption because if they want to dig a pit that is a thousand feet deep, and they want to certify that they are not going to use any chemicals to extract the minerals, and that no toxic chemicals will be produced as a result of their activities, then they will apply for the exemption. Then you won't have a DMO and all this heightened scrutiny that you have heard about isn't going to happen. But even if it does

happen, there are certain things you need to know about what you can do and what you are entitled to do.

What the Summit County case is and what it is not is important. All it says essentially is that the county cannot prohibit what the state permits. That is all it says. That is the bottom line. There is no more to it. So all the rest of the stuff about once the state gets involved in this you don't have any authority to do anything is not accurate at all. The Supreme Court is very careful in that opinion to tell you what power you do have. Summit County doesn't change anything. It doesn't take away from the counties anything at all. The counties have as much power after Summit County as they did before. The problem in Summit County was that they banned the use of certain chemicals in a mining operation after the state said that it was okay to use those chemicals. That is something you can't do, just like you can't ban uranium mining. You are preempted by the state.

The Supreme Court also points out two different circumstances in the Summit County opinion, one is in the Edwards case and one is in the Voss case. They are the flip side of each other. In the Edwards case, the oil and gas companies said to La Plata County, when La Plata County said you have to comply with our land use regulations with respect to the land where you are performing gas and oil operations, they said no we don't because there is this state oil and gas conservation act so you are preempted and you can't tell us what to do. The Supreme Court said that is not true. The county can tell you what to do as long as it pertains to land use and doesn't regulate your activities. In the Voss case, a home rule city came in and said you can't drill for oil and gas anywhere within the boundaries of this home rule city. The Supreme Court said you can't do that. You are banning that activity throughout the whole city, so that is what you can't do.

They are very careful to explain to you what you can do. What you can do is to apply your land use regulations beforehand, in order to be sure that this is a proper use. That doesn't mean you have to grant every mining application that comes before you. What it does say is that even if a mining operation is designated as a DMO, one of the things that they have to do is to certify to the state that they have already complied with all the state and local permits. So the approval by the state of a DMO is dependent on approval by the county, not vice versa. That is an important distinction. You can demand that there be some sort of buffer zone, whether it is two miles or another figure that you think is appropriate. You can require that a uranium mining operation not de-water the entire area. You can require that it not have a detrimental effect on surrounding property values. You can require all of that because that is all within your police power as a county and it is necessary.

The idea that somehow once the state gets involved you can't do anything only applies once you have been through that permitting process and they have begun operations. Once they have begun operations, you can't go out there and regulate their activity. You can't tell them what kind of drill bits to use; you can't tell them what decibel levels of noise are permitted for certain pieces of equipment, because that is operation. You can't tell them about reclamation because that is an area that is controlled by the state. Your authority comes before that. You have every right to exercise that authority. You have every responsibility to exercise that authority to make sure that the land use is proper. Because local ordinances at the county level are geared toward the health, safety, welfare, and prosperity of the citizens of the county, as long as your focus in your regulations is for health and safety, as long as it

is for protection of the land, as long as it is for protection of the environment, it will be upheld, so long as it doesn't conflict with a state regulation. Most state regulations don't go into health, safety, and welfare because they deem that to be a proper function of the county. So you have a broad range there to work with. You shouldn't feel that there is nothing you can do regardless of whether this is a DMO or it is not a DMO. I think I will end with that. I will provide copies of my own opinion letter as to the specific points that I disagree with the County attorney but I won't take up your time with that now.

Brian Trogden, 1605 Lombard, Cañon City

I am opposed to this amendment to the Master Plan. My family came here mining, and has a long history of mining to support our families.

END OF PUBLIC COMMENT

Chairman Piltingsrud called for a ten minute recess. He called the meeting back to order at 10:02 pm.

Mr. Lee Alter, Chairman, Government Affairs Committee, Tallahassee Area Community, Inc.

I would like to thank you for your attentive consideration of our presentation last month and your courtesies tonight. We believe that the Planning Commission's thoughtful consideration of our Master Plan amendments will go a long way to enhancing the quality of life for all county residents and encourage sensible economic growth while protecting the extraordinary environmental advantages that the county offers. Also, I would like to acknowledge the help of the Planning Department staff, especially Vicki Alley, in navigating through the procedure for this historic, first time ever, citizen initiated amendment to the Master Plan.

Permit me to discuss a couple of specific issues that were raised last month but that we were unable to respond to due to the late hour.

First, Mr. Lateer commented that our lack of "doing due diligence" has led us to this point; that we out-of-area purchasers should have known about the exploitable uranium resources in the Tallahassee area. There are a number of answers to that:

The uranium exploration and small scale mining in the area ceased abruptly in 1980 or thereabouts when the market collapsed and the price for yellowcake plummeted. At that time, all of the potential uranium resources were on large cattle ranches or BLM public lands.

Many of those ranches were sold off to land developers in the mid 1980s and later, who offered 35 to 40 acre parcels across the United States for residential and recreational buyers.

In one case, the developer expressly disclosed the previous interest in the uranium resources on the land, the Hansen ore body, provided water quality information, and stated clearly that there was no further interest in the resources, and conveyed the mineral rights to the Landowners Association. The initial purchasers of those parcels made their decisions to buy based on the same major factor as the rest of us: the pristine beauty of the area. It was only after others began staking mineral claims in the area in 2006, that a uranium industry

opportunist purchased some parcels and began promoting the thought of riding the projected uranium boom to riches.

In another case, the developer expressly conveyed the private mineral rights to the landowners and placed a prohibition against mining within the association lands in the CCRs.

In another case, in fact the first development in the area, the existing mining leases, which were about to expire, and the mineral rights were conveyed to the landowners association.

In other cases, individual purchasers were told by realtors that since the mineral rights were reserved to the United States government, they need not worry about mining. That turned out to be a misrepresentation of the facts, but that is what those people were relying on.

In other cases, realtors, developers, and private sellers concealed the prior uranium activity in the area, which was not identified in title insurance documents.

And in general, it was common knowledge that one could not find mountain land in the western United States that was not on or close to historical mining activity.

Further, from 1980 to 2006 there was no reason for any expectation that renewed uranium exploration and mining would resume in the Tallahassee Area for a number of reasons: as a result of Three Mile Island and Chernobyl, there were no new nuclear power plants being considered in the United States; as a result of the end of the Cold War and the decommissioning of bombs, there was a long term superabundance of uranium for fuel; there was continuing research in the reprocessing of spent fuel, thereby extending the long term supply of uranium; and there was no solution (and there is still no solution) to the problem of disposal of radioactive waste.

It also has become clear to us now that the county itself did not consider the resumption of uranium interest in the area as a real possibility, since it had the opportunity to reserve the resources by establishing a mineral resource district, and did not do so. Rather, it encouraged residential development as the primary non-agricultural land use.

Next, I would like to respond briefly to what we believe is a misreading of the law by the County Attorney. Mr. Mulliken's presentation last month and his opinion letter, as well as some of the legal opinions that you have received since, should provide you with a clear understanding of current law.

The state expects and, in fact, requires the county to create a Master Plan that provides the basic guidance for implementation of its land use control authority. And it mandates the creation of a mineral extraction policy in the Master Plan. While one could quibble over specific language as to what is guidance and what is regulatory, it is clear from other county master plans that concepts, issues, and potential problems can be expressed and clearly identified in detail while leaving standards and regulatory controls to zoning and subdivision documents. For the county to take the position that no discussion of the potential adverse impacts of a state-acknowledged dangerous activity belongs in the Master Plan is irresponsible.

Contrary to the County Attorney's position, the state of Colorado, in its mining law, in the regulations and statements of the agency responsible for the implementation of that law, and

in the opinions of the Colorado Supreme Court, has clearly and expressly delegated to the land use control authority of the county, the power and responsibility to determine, on the basis of environmental and health and safety considerations, the appropriate location of mine sites. In no way does this impinge or conflict with DRMS's absolute authority to regulate mining operations and post mining reclamation. The Master Plan already calls for buffering between incompatible land uses. We are merely asking for more detail as to what the appropriate buffer should be for a state-identified dangerous mining activity.

Regarding mineral property rights, both state and federal court opinions, including those of the United States Supreme Court, place limits on the mineral property rights of private parties. Government action, taken in a reasonable and constitutional manner, can preclude the exploitation of claimed minerals. One major consideration is that the land would still have significant value absent the ability to extract the minerals. Consider the facts of Tallahassee: while the land was cattle rangeland and uranium resources were known to exist and being exploited on a small scale, the value of the surface land was on the order of \$100 per acre. Once uranium activity ceased and some of the land was divided into rural residential parcels, the value from 1985 to 2006 ranged from \$2000 to \$5000 per acre for unimproved land. The wide range depended on the terrain, views, and the degree of existence of various utilities within the development. While uranium exploration and the prospect of mining is continuing, it is impossible to determine the current value of the land since no non-mining related land sales have occurred. Absent the threat of mining there is no reason not to believe that pre-2006 land valuation would not return based on the intrinsic beauty and other benefits of living and recreating in the area. Further, the undivided ranch land itself would retain significant value from the continuation of cattle husbandry and the production of hay as well as its rural residential development potential.

Now, I would like to respond briefly to some of the very specific objections that the County Attorney raised in her memorandum. The lawyers Mr. Mulliken, Mr. Parsons, and Mr. Meyrick have presented clear statements of your authority and responsibility in contradiction to the position taken by Ms. Jackson. We believe that the law is clear however, as always, the "devil is in the details".

One criticism made by Ms. Jackson is that it is inappropriate that our focus on mine site buffering and location is in the Mountain District rather than in general across the county. This is a valid criticism and I acknowledge the mistake. There is also language including Goals and Strategies referring to mining in the Urban Growth District, Penrose/Beaver Park District, Arkansas Valley District, and Plains District. Some is identical to the Mountain District language while there are some differences across the county. Here is a direct quote from the Plains District section of the Plan:

F3 Uses that are compatible with mineral extraction, such as recreation, open space, agricultural, and animal reserves should be encouraged in areas adjacent to existing or proposed mining activity.

Please note that there is no mention of residential land use in areas adjacent to existing or proposed mining activity. The obvious conclusion is that the writers and the approvers of the Plan in 2000, including the current County Attorney, believed that residential land use is not compatible with mining activity. We agree.

We also agree that the expected complete rewrite of the Plan should include protective language with respect to dangerous mining activities across the entire county.

Ms. Jackson expressed concern that certain words and phrases in our suggested amendment are ill-defined and unclear while others, with specific definitions, are “regulatory” and therefore do not belong in the Master Plan. One cannot have it both ways. There can be no debate that a Master Plan requirement that the county must consider an identifiable potential threat to the health and safety of its citizens is an appropriate statement. Requiring the Zoning Resolution to develop more stringent standards for the approval of Conditional or Special Use Permits for activities that are recognized as dangerous is an appropriate function of the Master Plan. General statements like “consideration of health and safety concerns” and “particular or heightened degree of scrutiny” should be considered “triggers” for the specific development of criteria in the regulatory documents.

Regarding the buffering issue between mining and residences, we have proposed a minimum two mile separation based on a massive amount of scientific and socio-economic data that we have identified. We would be happy to provide the Commission with as much of this data as you would like to wade through, but consider this: there has been no disagreement, from any of the speakers and correspondence presented to you thus far, to our basic premise that DMOs, and specifically uranium mining, are dangerous activities with known adverse health, safety, and environmental impacts that are not confined to the specific mine site and that persist well beyond the cessation of active mining.

We submit that the establishment in the Master Plan of a minimum protective buffer is not regulatory but rather precautionary. There can and should be developed specific criteria in the CUP / SRU approval sections of the Zoning Resolution that would govern extending buffer zones beyond the minimum.

There are many examples in the current Master Plan of Goals and Strategies whose language are similar to our proposed amendment language. We carefully crafted the language to conform to the current document as closely as possible. One example of what was acceptable to the County Attorney in 2000 would have to be considered an extreme case of “regulatory language” can be found in the Penrose/Beaver Park District section:

B1.2 The maximum density of the Penrose/Beaver Park area will be one unit per 4.5 acres, unless the area becomes serviced by public sanitary sewer. Cluster development is encouraged in Agricultural Rural, Agricultural Living, and Agricultural Farming and Ranching Zone Districts, as long as the overall maximum allowed density limit for the specified district is not exceeded.

How much more regulatory can that language be? And that was perfectly acceptable to the County Attorney, who is the same County Attorney now.

Obviously, the distinction between appropriate guidance and regulation is difficult to define precisely. We have proposed our amendment for the purpose of enhancing the Master Plan’s commitment (page 2 of the Master Plan) to the development and maintenance of a quality living environment and a sound economy for its citizens. We trust that the Planning

Commission will consider it in the spirit in which it was submitted and work with us to resolve any differences in emphasis.

I would like to close by saying that we would be more than happy to defer decision on these amendments, or some of them, to a full rewrite of the Master Plan, but only if uranium mining Conditional Use Permits are tabled (if submitted) until a final resolution of this matter is made, and that the process of developing the Master Plan be open and transparent. We are available for questions and Mr. Mulliken is here.

PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Sandoval said I would like to propose that we vote on whether to accept these amendments tonight. I have friends in the Tallahassee Area and I have friends at Holcim. I have friends from both factions. I agree with many points on both sides. One thing that has overwhelmed me a little bit is that the Planning Commission has not really taken the opportunity to have an active part in writing of these amendments. I feel the Master Plan needs to be revisited and revised in many ways. I think we need to address uranium mining in particular. I appreciate your willingness to have us revisit the issues. I think that is the level of cooperation that we need here. We have a lot of special interest groups to represent. They are not all here tonight. We have Holcim here, some people from Black Range here, the Tallahassee people here, some people from CCAT, but we are really missing a good part of the population here. We can't really write the Master Plan as it relates to all the issues that we talked about tonight without input from the rest of the community. This looks like a very hard job and it is not anything that we can do right away. I know that the right way to do it is not under these circumstances. I think that the value we have in what is going on here is that we have come to the realization that we have some really serious issues in front of us.

He went on to say, I have been on the Planning Commission for ten years, and I have been a resident of Cañon City for 27 years, and I run my own business, so I think I have the advantage of having some experience. In the past 18 months I have seen four major applications that have involved mining come across our table. Three of them rendered very strong public input: the Javernick aggregate application in February 2008, the Black Range Minerals exploration application in 2008, and the issue involving the Eastern Fremont County Alliance and the Walker Zone Change. This is unprecedented public interest. I've never seen it before. A fourth issue that really needed a lot of attention was the Salt Canyon gypsum application a few months ago. There are no residents out in that area, thus zero interest, but I think it does and will continue to have some viewshed concerns later on.

Mr. Sandoval said if the Planning Commission, the Planning and Zoning Department, and the County Commissioners think these issues are going to go away or not pose future concerns, then we are out of touch with the realities that are engulfing this community. Mining is an issue in this community. It is a fact and will continue to be a fact. I am glad that there are active groups out here. I am concerned about the animosity we may have with the Holcim people and the Tallahassee people. I have never heard the Tallahassee people say they are opposed to mining. I have voted against mining applications, but I bet I have voted more for mining applications than denying. I am not opposed to mining. I think a good part of our community is not opposed to mining. We are talking about where it is at. Is it a good idea where it is at? These are things we are going to have to visit.

Mr. Sandoval went on to say we had a First Amendment to an existing Conditional Use Permit for the Parkdale Aggregate Mine back in late 2007. Parkdale had a representative named Tom Maul of Front Range Aggregates. This quote from his presentation has stuck with me and bothered me. Mr. Maul said he knows that Fremont County is often criticized for being advocates of mining and gravel, but the fact of the matter is it is just because the resource is here. The Arkansas is probably the most significant gravel resource in the state. Fremont County just happens to be straddling it, and that is the county's unfortunate burden to have to manage it. That bothered me because here we have a representative from a mining company telling us that we have an unfortunate burden.

Mr. Sandoval continued we have to come up with something palatable for everyone. How are we going to do this? I am going to follow up on your (*Mr. Alter's*) suggestion that we have a special citizen's group to supplement what the County Engineer is going to present to us, and we will try to come up with something that is palatable to as many groups as possible because we have some future concerns. I contacted another Planning and Zoning Department in the state who I thought might have very stringent regulations and Master Plan, and may have had the type of language that could prohibit or control things that we have come across, in Boulder County. I received a very informative letter from a Planning and Zoning Specialist in Boulder County. He said that Master or Comprehensive Plans are not legally binding in and of themselves, nor the proper location for regulatory language, but the Master Plan language can be used as advisory language for a decision maker. Our decision makers are the County Commissioners. They are the ones who are elected. We need to be able to provide them with enough strong language that they feel legally safe in making their decisions. We have received some very good information from some attorneys here over the course of the past month that really opens up possibilities. If we can create strong enough Master Plan language, then we can give the County Commissioners, who want to make some bold decisions or some very difficult decisions, we can give them something that has some justification behind it.

Mr. Alter said he agrees that it is important for an open, transparent, broad-based group in a workshop-type setting to get this thing done right. The only concern relating to that is the potential for the submission of an application to mine will happen before this process is complete. So long as there is an understanding that everything would be deferred until the decisions are made, we have no problem in sitting down with you and working this thing out. We agree that the Master Plan should make a strong statement as to the precautionary steps that have to be considered. They don't have to specify what they are, just a requirement that there be precaution in developing the specific criteria for approval of various activities across the county. Not just mining, activities in general. Health and safety, environmental protection, these are things that weren't deeply embedded in the Master Plan originally. They are there, but not deeply embedded, and we want them to be deeply embedded. Regarding the issues that you were raising about the aggregate application, nowhere in what we have presented is any involvement with aggregate, gravel, sand, gypsum or a wide range of mining activities. We have made it very clear that we are not looking to ban even uranium mining. All we want is the establishment of protective buffer zones.

Mr. Schnobrich said that he has been on the Planning Commission as long as Mr. Sandoval has, and this is the first time we have been confronted by such an extremely complex

problem. I was involved with the last comprehensive Master Plan rewrite. We had a public hearing on it over in Cotopaxi where about ten people showed up, in Cañon City three people showed up, and in Penrose no one showed up. One of the problems we are looking at is the future of mining in Fremont County. Front Range Aggregates said that a lot of the materials along the Platte River were getting played out, and building materials needed in the Denver area were going to start coming more from Fremont County. We are going to start seeing a lot more mining down here. Mining issues have been very prevalent in the past few years, and not just big company mining. Even small mines are becoming more of an issue as Fremont County's population starts to grow. One of the things I am very serious about on this Planning Commission is we do have to get this mining issue right. There are many things in the Plan that few people will have an interest in, but mining issues are going to come up over and over again in a lot of different ways. Another issue is that uranium mining is different from other types of mining. I don't see any long term health concerns with the type of mining that Holcim does. I think it will take a lot of effort on the part of the federal, state and local government to make sure that uranium mining is done safely. We only get one chance to get this right. I think we need to move very carefully on how we do this. We just had a ton of pros and cons on mining in general, but Mr. Alter is really talking about uranium mining, not gypsum or gravel mining. I don't think the Planning Commission has a process in place for bringing in community involvement. We have never done it before, not that we can't do it or don't want to. I am not sure we know how to do something like that. We are dealing with uranium mining, which is a very dangerous mining activity. Do we need to do uranium mining? That's not our decision to make. The Planning Commission's role is to make sure it is done safely, within the confines of what we are allowed to deal with. I don't feel comfortable with voting on it (*the proposed amendment*) tonight. There are too many questions in my mind. I'd like to know how we are going to go about the conversation we need to have within the community to make a good decision. We have to protect the jobs in mining. If we don't have jobs in this county we don't have anything else in terms of our economic security. We also have to have reasonable and understandable regulations for our mine operators. They have to be fair, consistent and well put together. We also have to consider the retirement community, the prisons, recreational and tourist industries. I can't support voting on it tonight. I would like to see it move into our workshops and work with some of the other community members, put together a good plan, and then bring it back into a public hearing later on and actually vote on something. I do agree that this is something that needs to be addressed. It will be very difficult but we have to do it right the first time.

Mr. Alter said I agree this is a big job and it has to be done right. I think the first task that you have is to resolve what is obviously a conflict in the legal opinion as to what your authority is.

Mr. Schnobrich said I agree, but this is not the Colorado Supreme Court and none of us are lawyers on this board. This is a community planning group, and our job is to pull together what the community feels about these things, not what the lawyers say.

Mr. Alter said the point is, what the lawyers are debating is related specifically to the degree and the amount and the type of authority that you have. Until you understand that fully, I don't see how you can go any further.

Mr. Schnobrich said I could agree with that.

Mr. McNew said the question isn't whether we are approving the mines or not, the question is whether we need to put this amendment in the Master Plan. I don't think we need to put this amendment in the Master Plan. However, this session of listening to a lot of people has brought awareness in my mind that we do need to put some attention on uranium mining specifically.

Mr. Alter said as it stands right now, the County Commissioners have very little guidance to distinguish between the hazards of uranium mining and the much less severe and perhaps virtually nonexistent hazards of aggregate mining. There is nothing to give them direction. I don't have any problem with not having the amendment itself as we presented it being resolved today or next month or whenever in the immediate future, so long as the precautions that you take which would be to specifically defer any further uranium mining activity until you decide how you are going to handle it. Black Range is prepared to go forward with a major uranium mining project as close as a couple hundred yards from where people live. If that is to be considered as approvable by the county, have some criteria that makes sense. Use the concept of the precautionary principle to put protective criteria in general in place via the Master Plan so that you and the County Commissioners, when you consider a Conditional Use Permit, have some background to work with.

Mr. McNew said we don't need this amendment. This amendment needs to go in the Zoning Resolution. We can put broad coverage in the Master Plan, but this amendment isn't the way to do it.

Mr. Doxey said we need regulations. Our Commissioners don't have anything ironclad to draw from. Tonight I heard a lot of testimony. We've got to do something. This has bothered me for a month. Not that this is a fault, but I didn't hear the Holcim people talk much about health and safety. You talked about jobs. Without health and safety, you don't have jobs. I worked in the construction industry since I was eighteen years old. I worked with asbestos and thirty years later they found stuff in my lungs. It is calcified and grown over, but I came close to having lung cancer. Back in the 1960s and 1970s the government hadn't gotten into EPA and OSHA and they weren't too sincere. There was no ventilation and we were breathing asbestos and concrete dust. I'm really concerned about health and safety. I know you want jobs. That is why I kept working in dust and filth, because I needed the job to raise four daughters. We need to work harder on this. We have to sit down and work this out so we have something lasting, because the Commissioners serving now aren't going to be there forever and this Planning Commission is going to change also through the years. We all need some guidelines to work from.

Chairman Piltingsrud addressed one issue that came up, Mr. Parker's issue about how this Planning Commission has been conducting its review of the Master Plan. For the 2001 Master Plan, \$10,000 went to URS for one person to write the Master Plan, get input and present it. This Planning Commission has no money in the budget to do that, so we tried to come up with a concept on how to develop a new Master Plan. We have seven different

philosophical opinions on this Planning Commission. We are as left and right as you can imagine. Without some straw man to look at, we floundered in our first three meetings, trying to devise how to attack the rewrite of the Master Plan. The only reason it was done in “secret” was because no one ever comes to a Planning Commission meeting unless they have an axe to grind. Our meetings are open to the public. We have encouraged the public to attend our meetings. We welcome input from the public. If we have representatives from every known walk of life, from every federal, state, local and interested agency show up to help us write a Master Plan, we are never going to get there. We couldn’t get there with the seven of us. We are not going to get there with thirty other people sitting around a giant table, because it will take us three months to figure out where everybody sits. I am going to talk to the County Commissioners and I will tell them that my opinion is that we continue to allow Mr. Moore, who is doing this at minimal cost to the county, to give us a straw man. We have not gotten to mining yet. Come to our meetings. When we get to mining, we want your input. I just want to make it clear, there is nothing secret going on with the Planning Commission and I take umbrage at that. Every time we have met with the Commissioners in a workshop, it has been a noticed and publicized meeting, so there is no secrecy there.

Mr. Alter said the agenda for things like that gets on the website very late.

Chairman Piltingsrud said we meet at the same time every month.

Mr. Alter said I have no problem with what you are saying in terms of getting it done right and getting it done economically. That doesn’t go to our basic concern about timing. If it takes three years to get the mining language fine-tuned so everyone understands and agrees with it, that’s fine, as long as nothing slips in ahead of time. With a commitment and assurance from the Commission that is the case, we are more than willing to work with you as hard and as long as it takes. We have a lot of data that would be useful to you in understanding how to set some guidance and vision and ground rules.

Chairman Piltingsrud said a distinction has been made, but not clearly, between commercial mining and uranium mining. Your attorney’s opinion kind of wove those two together, when I believe they are completely and utterly separate. When the Planning Commission sits down to look at mining, we need to look at uranium mining from a different viewpoint than we do commercial mining because commercial mining is defined by statute, limestone, aggregate, gypsum, etc., no uranium.

Mr. Alter said you will notice in my initial letter and in everything we submitted to you I made that distinction. I made a point that it was important to make that distinction.

Chairman Piltingsrud said in the first meeting we heard arguments for buffers for all mining. It may not have come from your group but someone said it. We are going to make a distinction between commercial mining and uranium mining.

Mr. Alter said it is not only uranium mining, it is DMOs, which are primarily metal mining – gold, silver, zinc, molybdenum, vanadium, uranium. DMOs are established as more dangerous than other mining operations.

Chairman Piltingsrud read a paragraph from Chapter 6, page 118 of the Master Plan currently in effect:

“The Master Plan amendment will come before the County Planning Commission for a public hearing. At the public hearing, the Planning Commission will recommend approval with conditions, or denial of the amendment request. Final authority rests with the Planning Commission.”

Chairman Piltingsrud said we can't delay this to a workshop or another meeting unless we continue the public hearing to August and then deliberate and decide. So we either decide tonight or we continue the public hearing to August and deliberate then.

Mr. Alter suggested that a request be made of the County Attorney as to whether or not a third alternative, as in all the County Commissioner resolutions, that the matter could be tabled until resolution through a workshop situation, and then brought to a final determination.

Chairman Piltingsrud asked if he was talking about tabling the public hearing until August.

Mr. Alter said table the whole thing, go into a workshop process, and once it is resolved bring it forward and have a final vote on it.

Chairman Piltingsrud said clearly we could continue the public hearing until August.

Mr. Alter said you don't have to continue it, you could table the whole process.

Chairman Piltingsrud asked Ms. Jackson for a definition of table and continuance. I don't think we can do what he is asking us to do given the language.

Ms. Jackson said he is asking for a distinction under Robert's Rules, which is a flexible guide for a body to conduct their business. I don't care if you call it continuance or tabling, if you set a date certain, it will just be held over. The Master Plan language is not good language, but it says the vote has to be taken at the public hearing. There is no penalty if you don't do that, however that is what the Master Plan says you will do, and it is the document you adopted. You have to leave the public hearing open if you want to continue it over to August because otherwise you are not taking a vote at the public hearing as required by the Master Plan.

Chairman Piltingsrud called for a motion.

MOTION

Mr. McNew moved to deny the application for the amendment but take very seriously in the mining part of the Master Plan to consider uranium mining separately.

SECOND

Mr. Doxey seconded the motion.

Chairman Piltingsrud called for discussion on the motion.

Mr. Schnobrich said I am not going to vote for that motion, not because I don't think you are going in the right direction. At this time I don't think we have a system in place that would adequately address it. That is why I would prefer that we would table the item until the August meeting to give us a chance to get into a format to talk about how we are going to address this properly. Probably at that point I would agree with you.

Mr. McNew said what I am recommending is that we deny the amendment so that we can let due process get us into a discussion of mining in the Master Plan in a little bit faster time period which will accommodate what they are asking for.

Chairman Piltingsrud said every month that we continue to do public hearings is a month that we don't get back to the revision of the Master Plan. What your argument is, you want it done quicker and faster rather than later, but if we continue this to August, and it is still a public hearing, we are going to have to take testimony. That is what a public hearing is for.

Mr. Alter said if you suspend the public hearing until you come to a resolution of the matter internally and then reopen it, which would be the public comment period anyhow, then that would serve both purposes.

Chairman Piltingsrud called for more discussion on the motion. Hearing no more discussion, he called for a roll call vote, and the vote was as follows:

Mr. Sandoval	Nay	<input type="checkbox"/> Aye
Mr. Lateer	Nay	<input type="checkbox"/> Aye
Mr. Schnobrich	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	Nay	<input type="checkbox"/> Aye
Mr. Jackson	Nay	<input type="checkbox"/> Aye
Mr. McNew	Nay	<input type="checkbox"/> Aye
Mr. Doxey	Nay	<input type="checkbox"/> Aye

The motion passed by a vote of 6 to 1 and the amendment dies.

3. CAÑON CITY URBAN GROWTH BOUNDARY AREA (UGBA)

Chairman Piltingsrud solicited a motion to table this item to the August meeting.

MOTION

Mr. Doxey moved to table the Cañon City Urban Growth Boundary Area (UGBA) agenda item to the August 4, 2009 Planning Commission meeting.

SECOND

Mr. McNew seconded the motion.

Upon a roll call vote, the motion passed unanimously.

4. OTHER ITEMS FOR DISCUSSION

Mr. Schnobrich commented that Mr. Moore is a valuable asset to the Planning Commission and he has been doing that straw man to get the conversations going. In the past on the last comprehensive plan, it took us forever to get anything moving, and it really does take one person to get it out there. Mr. Moore presents his opinion and expects us to discuss and challenge it. Mr. Moore is an asset to the Planning Commission and I think maybe you misunderstood what is going on.

5. ADJOURNMENT

With no other items for discussion, Chairman Piltingsrud adjourned the meeting at 11:00 p.m.

The following people submitted a slip in support of the proposed amendment to the Master Plan but did not provide public comment:

John Suleiman, 480 Rosebush Road, Cañon City
Carol Dunn, 380 Barrett, Cañon City
Jim Barton, 166 South Meadow Court, Cañon City
Alan Rule, 774 County Road 4, Howard

The following people submitted a slip in opposition to the proposed amendment to the Master Plan and / or in support of mining in Fremont County but did not provide public comment:

Joe Gingerich, 715 College Avenue, Cañon City
Walt Anderson, 425 West Main Street, Florence
Trent J. Smith, 2965 Central Avenue, Cañon City
Regina Smith, 2965 Central Avenue, Cañon City
Miguel Bonetto, 2118 North Place, Pueblo
Joe Lovett, 507 Greenwood Avenue, Cañon City
Michelle Abercrombie, 1218 York Avenue, Cañon City
Grant Abercrombie, 1218 York Avenue, Cañon City
Jose Gutierrez, 733 South Aguilar Drive, Pueblo West
Carrie Wakley, 1029 Sherman Avenue, Cañon City
Paul Smith, 706 West 8th, Florence

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE