

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
AUGUST 2, 2011**

CHAIRMAN DEAN SANDOVAL BROUGHT THE AUGUST 2, 2011 MEETING OF THE PLANNING COMMISSION TO ORDER AT 4:00 P.M.

**MEMBERS PRESENT**

Dean Sandoval, Chairman  
Daryl Robinson, Vice Chairman  
Byron Alsup, Secretary  
Joe Lamanna  
Steve Smith  
Mike Krauth, Jr.  
Larry Baker

**STAFF PRESENT**

Bill Giordano, Planning Director  
Marshall Butler, Planning Coordinator  
Vicki Alley, Planning Assistant

**MEMBERS ABSENT**

NONE

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF THE JULY 6, 2011 PLANNING COMMISSION MEETING MINUTES**

**5. DISCUSSION ITEMS**

Discussion of any items or concerns of the Planning Commission members.

**6. ADJOURNMENT**

**7. PLANNING COMMISSION WORKSHOP**

- General Master Plan discussion.
  - Discussion of proposed amendment to Fremont County Zoning Resolution
- 

**1. CALL TO ORDER**

Chairman Dean Sandoval called the meeting to order at 4:00 pm.

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

Chairman Sandoval asked if there were any changes, additions or corrections to the August 2, 2011 Fremont County Planning Commission Meeting Agenda.

**MOTION**

Mr. Larry Baker moved to accept the August 2, 2011 Fremont County Planning Commission Meeting agenda as written.

**SECOND**

Mr. Daryl Robinson seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (7 of 7)

**4. APPROVAL OF THE JULY 6, 2011 PLANNING COMMISSION MEETING MINUTES**

Chairman Sandoval asked if there were any changes, additions or corrections to the July 6, 2011 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Byron Alsup moved to accept the July 6, 2011 Fremont County Planning Commission Meeting Minutes as written.

**SECOND**

Mr. Steve Smith seconded the motion.

Chairman Sandoval called for a roll call vote, with the following results:

Chairman Sandoval	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Alsup	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Krauth	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Smith	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Baker	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Lamanna	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Robinson	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain

Chairman Sandoval announced that the motion passed with six Aye votes and one abstention.

**5. DISCUSSION ITEMS**

Chairman Sandoval asked the Planning Commission members if they had any items for discussion. None of the members raised any issues.

Mr. Lee Alter, a member of the audience, asked if the Planning Commission would entertain short comments on a subject of discussion planned for the workshop, specifically, amending the Zoning Resolution.

Chairman Sandoval agreed to hear comments, under the condition that they be specific and brief.

**Mr. Lee Alter, 0489 FCR 21A, Cañon City, Colorado 81212** – Mr. Alter stated that his comments do not relate to the subject of the Zoning Resolution amendment to be considered in the workshop, but rather two other sections of the Zoning Resolution that are ambiguous and confusing, and are of concern. The first is the definition of “Milling,” Section 1.5.110 of the Zoning Resolution – “An act or process of grinding (especially grain into flour or meal), the operation of cutting, shaping, finishing, or working metal, cloth or any other similar product.” I made an inquiry of Commissioner Larry Lasha about a year and a half ago, asking him if a steel mill, or a copper mill, or a uranium mill is considered a mill under this definition. The reason for the question is that in the Zoning Resolution, mills are allowed, subject to a Conditional Use Permit (CUP) in the Agricultural Forestry Zone District. My question was, if I discover a vein

of iron ore on my property in Tallahassee, could I get a CUP for a steel mill? My belief is that I couldn't because a steel mill would be inappropriate in the Agricultural Forestry zone district. The same is true for a uranium mill, such as the superfund site that is in the Industrial zone district in the County. An equivalent mill in the Agricultural Forestry zone district would be an economic, environmental, and human health and safety disaster. I made the inquiry to see if there was an interpretation (*of the definition of "Milling"*) that would leave a uranium mill or any other mineral processing facility in the Agricultural Forestry zone district, and the response I got from the Department of Planning & Zoning was that yes, a steel mill could be approved, subject to a CUP in the Agricultural Forestry zone district. I think that is inappropriate, so what I ask you to do when you are considering the amendment to the Zoning Resolution is to take another look at the definition of "Milling" and see if there is a way to separate the benign milling that is intended in the wording of the definition from milling that is not so benign.

Mr. Alter continued, the second issue relates to the procedure dealing with a violation to a CUP, which is Section 8.2.10 of the Zoning Resolution. The way the section reads now, if a complaint comes in on a potential or alleged violation of a CUP, the Code Enforcement Officer investigates, and if the complaint is real (has merit), attempts to resolve it with the permit holder. If the complaint can't be resolved with the permit holder, then the item goes to a hearing of the Board of County Commissioners (BOCC) where they act in their quasi-judicial role to decide whether or not this is a real violation. The problem is that when a complaint comes in that is not frivolous and cannot be easily resolved just by discussion with the permit holder, if the Code Enforcement Officer decides that the complaint, for whatever reason arbitrarily, has no merit, there is no appeal. There is no way to bring the matter to a discussion of the circumstances of the complaint. I understand that many zoning complaints that are dismissed as having no merit are frivolous; however, there is currently a complaint that I filed that is based on the interpretation of language written and approved by the BOCC. The Department decided that my complaint was without merit and that ended the process, and that's not right. The only alternative that is left to me in getting this illuminated is to go public, and I'm not particularly interested in doing that. What I would like is a hearing before the BOCC to get them to decide whether or not the language they wrote was in fact violated, as I alleged. The way the Zoning Resolution reads now, that can't be done.

Chairman Sandoval noted that the Planning Commission has not yet been presented with the amendment document. Tonight (*in the Workshop*) we are going to initiate discussion of the proposed amendment to the Zoning Resolution. This is going to be our first exposure.

Mr. Alter said he understands that, and the proposed amendment the Planning Commission is being presented has nothing to do with the two issues just raised. Please consider these two issues as long as you are looking at amendments to the Zoning Resolution.

**Mr. Paul Maye, 72 Pleasure Trail, Penrose** – Mr. Maye stated that he has a very good understanding of the need for a workshop on the Master Plan. I know what that struggle is all about, and have been supportive of it. We have submitted inputs into the system we hope were useful. My question, when I saw tonight's agenda is you are getting into another item, a Zoning Resolution amendment. This item may very well be appropriate for a workshop, but I would like to keep in front of you the public input subject. There was an editorial in the Pueblo Chieftain that talked about public meetings and that people who take jobs such as you have taken need to be very cognizant of the "Sunshine Law," what it means, what the true essence is.

The editorial specifically said that boards should not try to dodge the “Sunshine Law” by having workshops, meetings out of context, etc. I’m supportive of what you are going through on the Master Plan, but I don’t think you want to give the appearance of dodging public meetings in an open forum and discussing things publicly. I am not critiquing, I am just asking each of you gentlemen to do a very careful reading of the “Sunshine Law,” and understand what the true essence of that is. This is a public meeting tonight, then you are going to your main focus as a workshop. Most of the meetings I have attended have an item on the agenda for things to be brought up by the public, or if there is someone from the public who would like to have a quick input. This is a Planning Commission, so maybe you don’t have to take any input from the public. I will make the editorial available to anyone who is interested. You are now serving the public, you are in public meetings, and you want to make sure you are open to public input. I would recommend that you review the “Sunshine Law” individually so you know personally that you are living up to the law in what you are discussing in a closed meeting.

Chairman Sandoval suggested that in light of the comments made by Mr. Maye, the Planning Commission should have a discussion about this issue right now. The County Attorney is not here to give us any legal advice, but we can talk about what Mr. Maye brought up. All we are trying to do at this point is go through key chapters of the Master Plan, get a scope of work that we can present to the County Commissioners so that we can find a professional consultant, based upon what the budget allowances might be, to guide us professionally so that we can obtain formal public input. Chairman Sandoval stated that he doesn’t consider calling an adjournment and having a workshop in a public setting to discuss this subject a violation of the “Sunshine Law.” We are still here in public. We have not yet initiated any sort of informal discussion, although we may choose to do that. If anyone sees a conflict, or any validity to the concerns that Mr. Maye brought up, let’s discuss it right now. Mr. Maye did say the public should be able to have input at any time in this process. Is that idea valid for what we are trying to accomplish right now? Is there such thing as a short interruption by members of the public?

Mr. Maye explained that he has no problem with the Master Plan process; however, the concern is other subjects starting to sneak into the workshop. The Planning Commission is going to discuss two things tonight (*in the Workshop*). Are you taking business off-line, such as the amendment to the Zoning Resolution?

Chairman Sandoval differed with Mr. Maye’s statement. He said that no matter how Mr. Maye presents it, there always seems to be some form of concern that he has with whatever the Planning Commission does.

Mr. Maye called himself a watchdog. Tonight’s agenda includes a second item for the workshop. Does that imply that you are going to go off-line to do the Planning Commission meetings? It is a matter of degree. I do not have a specific complaint, just a reminder that the “Sunshine Law” is pretty over-arching. It is a big responsibility of anyone on a public board. I just suggested you read it again. You are having a public meeting. Now you are going to dismiss the public to discuss two items. The appearance of a second agenda item, taking the meeting off-line and out of the purview of the public is something you need to think about. The editorial in the Pueblo Chieftain, which was written by the chief editor, was right. Is that what future Planning Commission meetings are going to be – a pledge to the flag, dismiss the public, and do the work off-line?

Mr. Mike Krauth said the problem is that the use of words like “sneak in” or the idea that we are going to go “off-line” is an implication of impropriety by the board.

Mr. Maye told the Planning Commission that they don’t want to give the appearance of a work-around.

Mr. Krauth stated that the Planning Commission is following procedure. Mr. Maye has been given the opportunity to speak. We have not seen the proposed amendment to the Zoning Resolution yet.

Mr. Maye asked why the amendment to the Zoning Resolution is being brought up in a workshop.

Mr. Krauth answered that maybe Mr. Giordano intends to make a comment or a statement about the proposed amendment. The spin is that we can’t have a workshop because of the “Sunshine Law,” because we are trying to “sneak” something else on the agenda.

Mr. Giordano stated that there is nothing being “sneaked in”; there is nothing being done illegally. There is no violation of the “Sunshine Law.” We would not do this if it was a violation of the “Sunshine Law.” Our attorney is aware of what we are doing and she is fine with it. We are not discussing the proposed amendment tonight; I will provide an overview. Assumptions are being made about what is being done tonight. There is no intent not to provide the proposed amendment to the public, but it is not ready for the public yet. The Planning Commission has not seen this amendment yet. The Planning Commission asked to review amendments in a workshop, so we could discuss these items without having to deal with public input at that time. When we have an amendment that is ready for the public, then we will ask the public for comments. There is nothing that prohibits the public from giving us comments in writing to be taken into consideration at any time. When the Planning Commission is ready to open this proposed amendment to the public, it will be put on the internet, and it will be a regularly scheduled item on the agenda, and everybody will have their say.

Mr. Alsup stated that after we adjourn and we have this workshop, we are not going to remove these people from the room and close the door. We haven’t done that before, and I wouldn’t approve of that. This meeting has been announced to the public, the agenda is out there, and you are welcome to sit here and listen as long as we are here. We are not asking you to leave. We are not doing anything behind closed doors.

Mr. Maye apologized to the Commissioners for wasting their time, as he thought the Planning Commission was going into a closed session.

Mr. Giordano stated that all workshops are open to the public, but we do not have to accept public input. The purpose of the workshop is so that the Planning Commission can concentrate on the project without too many interruptions. In the past, we have not been able to keep moving forward, because there have been too many interruptions from the public. What we need to do is allow the Planning commission time to review the amendment and then they can decide when they open it up for public review. We are not saying that written input cannot come in, in the meantime.

Mr. Robinson stated that if we were going to have a session without the public even being present, I would consider that an Executive Session. A workshop is still in a public forum. It was never my intent to shoo out anyone in attendance.

Mr. Smith mentioned that he is new to this process, but he welcomes comments. Apparently, there is animosity, and we need to make sure that we talk with respect and listen with respect.

Mr. Baker stated that he has been involved with the Planning Commission and the City Council in Florence, where the workshops are open to the public, and we will take comments from the public. I was a little surprised that this Planning Commission would not have public comment at this time. I appreciate that the Master Plan might take a long time if we have a lot of public input. The workshop is very open – no one is asked to leave and they shouldn't be. I actually favor public input.

Mr. Joe Lamanna said that there is a time for public input, after we go through this process, and see where we all stand on things. We are reviewing each section (*of the Master Plan*) to put together a scope of work so we can get to the point where we have public input. If we were to have public input now, it wouldn't be very focused or effective, because we haven't defined the scope of work. Public input is definitely part of the process and we will get there.

Mr. Robinson stated that on the City Council, a standing item on the agenda is the opportunity for the public to address the Council. I would not be opposed to having a standing line item on the agenda for any of the general public to address anything, restricting them to five minutes. I'm never opposed to listening to people who are concerned about various issues. That might alleviate some of the stress of people wanting to express themselves but not having a specific item (*on the agenda*) to focus on.

Mr. Giordano stated that even though there has not been a line item on the agenda to allow the public to speak, to my knowledge no one has ever been denied the opportunity to speak.

### **MOTION**

Mr. Robinson made a motion to have a standing agenda item for public input for items that are not on the agenda.

### **SECOND**

Mr. Baker seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (7 of 7)

Chairman Sandoval asked if the Public Input Item would come after the Discussion Items on the agenda.

Mr. Alsup stated that public input should be prior to any actual agenda items.

Mr. Robinson agreed, stating that this agenda item would be for comment on non-agenda topics. The public would have the opportunity to address any agenda item during that discussion.

Mr. Baker noted that the Florence City Council agenda has the Pledge of Allegiance, and attendance, then public input is one of the first things on the agenda.

Mr. Robinson said the Cañon City agenda has approval of agenda and consent agenda first. The order of the agenda is a staff issue.

Mr. Giordano noted that the Commissioners have a similar item up front on their agenda. The only argument against putting the public comment agenda item early is someone who is scheduled may have to wait a long time to have their item heard.

Mr. Alsup said people could always ask to be allowed to speak earlier and we could change the agenda to accommodate them.

Mr. Robinson said the members of the public should be limited to five minutes. He clarified that the comments would be for non-agenda items, because if there are comments for an agenda item, there will be opportunity for public input for that item. The public comment agenda item is an opportunity for people who want to express a general comment, or comment about something that we are not addressing at the meeting.

Mr. Baker said that the Florence City Council suggests that people call the City Clerk to be put on the agenda.

Mr. Robinson said he would not want to require people to provide notification in advance.

**6. ADJOURNMENT**

**MOTION**

Mr. Robinson moved to adjourn the August 2, 2011 meeting.

**SECOND**

Mr. Lamanna seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (7 of 7)

Chairman Sandoval adjourned the meeting at 4:50 p.m.

---

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

---

DATE