

TWENTIETH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 27, 2020 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. Chairperson Debbie Bell called the meeting to order at 9:30 a.m.

Debbie Bell	Commissioner	Present
Dwayne McFall	Commissioner	Present
Tim Payne	Commissioner	Present
Justin Grantham	Clerk & Recorder	Present
Brenda Jackson	County Attorney	Present
Sunny Bryant	County Manager	Present
Sean Garrett	Planning & Zoning Director	Present

INVOCATION

Loren Kolman, of the Evangelical Free Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Those present cited the Pledge of Allegiance to the flag of the United States of America.

APPROVAL OF AGENDA

Commissioner McFall moved to approve the Agenda, with the change to remove item #3 from New Business. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried by unanimous consent.

CONSENT AGENDA

1. Approval of Minutes / October 13, 2020
2. Approval of Minutes / October 22, 2020 Special Meeting
3. Approval of Bills for \$2,082,818.80
4. Approval of Resolution #54 for Special Review Use Permit SRU 20-007 Desert Concrete
5. Approval of Resolution #55 for Special Review Use Permit SRU 20-005 Black Hills Energy Hogback Station
6. Schedule Public Hearings: None.

Commissioner McFall moved to approve the Consent Agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

ADMINISTRATIVE/INFORMATIONAL

1. Staff / Elected Officials:
 - a. County Manager Report, Sunny Bryant, County Manager

County Manager Bryant gave her Manager's Report, which can be found on the County website at www.fremontco.com.

- b. Sales & Use Tax Report, Sunny Bryant, County Manager

County Manager Bryant gave her Sales & Use Tax Report, which can be found on the County website at www.fremontco.com.

Commissioner McFall just wanted to remind everyone that Fremont County is in a stage 2 fire ban.

Commissioner Bell said that Fremont County is now offering COVID testing seven days a week. She said that the number of positive cases are sure to rise, due to the fact that more testing being done than before.

County Clerk Grantham wanted to let everyone know that early voting is going on and that yesterday, October 26th, was the last day to mail any ballots. He encouraged the public to visit the vote center in the Garden Park Building, 201 N. 6th St. in Canon, today through Friday from 9:00 a.m. to 5:00 p.m., Saturday from 9:00 a.m. to 1:00 p.m., Monday from 9:00 a.m. to 5:00 p.m. and on Election Day from 7:00 a.m. to 7:00 p.m. He also said that we would have a vote center available on Election Day in room 207 of the Administration Building, Florence City Hall, and the Penrose Public Library.

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

There were none.

OLD BUSINESS

1. SRU 20-006 Black Hills Energy North Penrose Station (Resolution #57)

Commissioner Bell explained that this item was tabled from the previous meeting from two weeks prior, so that the Board could review all of the information, and have discussions to come up findings that would help guide them with their decisions. Commissioner Bell read some specific sections of the findings. The complete document of findings will be available on the County website at www.fremontco.com.

Commissioner McFall said that land use issues are impactful and can be controversial. He said they have pros and cons and are sometimes not easy decisions to make. He thanked all parties involved for all of the input that was given.

Commissioner Payne said that he felt the redundancy for the supply of electricity was important for the citizens of Penrose.

Commissioner Bell moved to approve Resolution #57, with the waiver request. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, nay. The motion carried.

NEW BUSINESS

1. National Adoption Day Proclamation
Representatives: Tony Carochi and Tonia Sutton, Department of Human Services

Tony Carochi said that two little girls would be getting adopted on National Adoption Day this year in Fremont County. He said each year, in the month of November, Adoption Day focuses on children waiting for a permanent home. He said that National Adoption Day raises awareness to the more than 100,000 children waiting to find their forever homes.

Tonia Sutton was not able to attend, but Molly Wilyard of DHS, read the proclamation, in her place.

Commissioner McFall moved to approve the Proclamation stating that November 13, 2020, as National Adoption Day. Commissioner Payne seconded the motion. Upon Vote:

Commissioner McFall, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

2. Nomination of Donna Murphy for Outstanding Civic Leader of Fremont County
Representative: Stacey Cline, Colorado Museum of Prisons Director

Geraldine Colette said that Donna Murphy spent her life committed to make things better for everyone around her. She asked the Board to place Donna Murphy's name on a plaque for Outstanding Civic Leader for Fremont County, 2020.

Stacey Cline read the letter that was presented to the Board from the Colorado Museum of Prisons.

Commissioner Bell moved to approve the nomination for Donna Murphy for Outstanding Civic Leader of Fremont County, 2020. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Payne, aye. The motion carried by unanimous consent.

PUBLIC HEARINGS

There were no Public Hearings.

Commissioner Bell adjourned the meeting at 10:05 a.m.





Clerk to the Board of County Commissioners

RESOLUTION NO. 54

Series of 2020

RESOLUTION FOR SPECIAL REVIEW USE PERMIT

DEPARTMENT OF PLANNING AND ZONING

FILE # SRU 20-007 DESERT CONCRETE

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

THAT WHEREAS, DESERT CONCRETE (hereafter "applicant") has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont County for a Permit to allow for a Contractors Yard, which application has been designated as file #SRU 20-007 DESERT CONCRETE to be located on certain real property that the applicant owns; and

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its September 1, 2020, regular meeting and recommended the **APPROVAL** of such application; and

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

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

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

WHEREAS, the Board held a public hearing concerning said application on October 13, 2020, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

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

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

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - f. The site is sufficient size to accommodate the proposed use together with all yards, open

spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.

- g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions that must be met within six (6) months, if applicable, since the use was previously in operation prior to approval by the Board:
 - A. Special Review Use Permit shall be issued for life of the use.
 - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
 - C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
 - D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended

- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Refuse service provider will be determined upon completion of development. Frequency should be governed by a rate sufficient to prevent nuisance conditions.
- J. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- K. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

- L. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (complete reapplication).

WAIVER REQUESTS: Waivers of the following have been requested and granted:

5.3.2 Surfacing: Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

5.3.4 Landscaping: All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

CONTINGENCY ITEMS TO BE COMPLETED PRIOR TO COMMENCING OPERATIONS:

1. Revisions to the site plan
2. Information regarding the fuel storage tank

Commissioner Payne moved the adoption of the foregoing Resolution, seconded by Commissioner McFall and approved by roll call vote as follows:

Commissioner Payne: Aye / Nay / Abstain / Absent

Commissioner McFall: Aye / Nay / Abstain / Absent

Commissioner Bell: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: 10/27/2020

Debbore Bell

CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: *[Signature]*

FREMONT COUNTY CLERK AND RECORDER



RESOLUTION NO. 55

Series of 2020

RESOLUTION FOR SPECIAL REVIEW USE PERMIT

DEPARTMENT OF PLANNING AND ZONING

FILE # SRU 20-005 BLACK HILLS ENERGY HOGBACK STATION

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

THAT WHEREAS, BLACK HILLS ENERGY HOGBACK STATION, (hereafter "applicant") has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont County for a Permit to allow for an Electrical Substation which application has been designated as file #SRU 20-005 BLACK HILLS ENERGY HOGBACK STATION to be located on certain real property that the applicant owns; and

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its September 1, 2020, regular meeting and recommended the **APPROVAL** of such application; and

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

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

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

WHEREAS, the Board held a public hearing concerning said application on October 13, 2020, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

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

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

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - f. The site is sufficient size to accommodate the proposed use together with all yards, open

spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.

- g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions that must be met within six (6) months, if applicable, since the use was previously in operation prior to approval by the Board:
 - A. Special Review Use Permit shall be issued for life of the use.
 - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
 - C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
 - D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of

America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.

- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- J. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

K. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (complete reapplication).

WAIVER REQUESTS: Waivers of the following have been requested and granted:

5.3.2 Surfacing: Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

5.3.4 Landscaping: All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

CONTINGENCY ITEMS TO BE COMPLETED PRIOR TO COMMENCING OPERATIONS:

1. Minor revisions to the site plan.

Commissioner Payne moved the adoption of the foregoing Resolution, seconded by Commissioner McFall and approved by roll call vote as follows:

Commissioner Payne: Aye / Nay / Abstain / Absent

Commissioner McFall: Aye / Nay / Abstain / Absent

Commissioner Bell: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: 10/27/2020

Deborah Bell

CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

[Signature]

FREMONT COUNTY CLERK AND RECORDER



RESOLUTION NO. 57 SERIES OF 2020

**RESOLUTION APPROVING SPECIAL REVIEW USE 20-006
BLACK HILLS COLORADO ELECTRIC, LLC d/b/a BLACK HILLS ENERGY
NORTH PENROSE STATION**

WHEREAS, on June 23, 2020, Black Hills Energy (hereafter "Applicant" or Black Hills) made application for approval of a Special Review Use (SRU 20-006) pursuant to Section 8 of the Fremont County Zoning Resolution, to construct, maintain and operate the North Penrose Substation at 19 K Street in the Penrose area of Fremont County; and

WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its September 1, 2020 regular meeting and recommended the approval of such application; and

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

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

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

WHEREAS, the Board held a public hearing concerning said application on October 13, 2020, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the county's file concerning the application; and

WHEREAS, the Board received and considered additional written public comments, through the date of the public hearing on October 13, 2020; and

WHEREAS, the Board has received and considered written input and comments from various departments and agencies including the Fremont County Department of Transportation, Fremont County Engineer, Fremont County Weed Management, and Florence Fire Protection District; and

WHEREAS, the Board believes that the approval of the application for approval of SRU 20-006, to construct, maintain and operate the North Penrose Substation as proposed by the Applicant, is appropriate and sufficiently supported by the evidence before the Board.

FINDINGS OF THE BOARD OF COUNTY COMMISSIONERS

1. This Application is for an electric power substation that will serve the Penrose area with a redundant supply of reliable electricity. Penrose presently does not have a redundant source of power and when an outage occurs, restoration of power can take a considerable length of time while repairs are being made.

2. There is no reasonable dispute that an additional substation to serve the community of Penrose is necessary and essential to achieve consistency in the electrical power supply for the area.

3. The proposed location for the substation is 19 K Street, which is in the immediate vicinity of the intersection of Colorado State Highway 115 and K Street. The property is a 22 acre parcel in the Agricultural Rural Zone District and a substation is an allowed use, upon issuance of a Special Review Use Permit. (Fremont County Zoning Resolution (FCZR) §4.4.4.18.) Public utility substations are a Special Review Use in every zone district across the County.

4. Approximately three acres of the 22 acre parcel will be used for the substation and the remainder of the parcel will be vacant land. The proposed location for the substation will be buffered on three sides by existing hills, although the hills do not provide complete screening of the substation, which will be visible, primarily, to northbound traffic on Highway 115 and to traffic on K Street. Additional parts of the substation will be visible due to the height of the taller structures.

5. The proposed substation is consistent with the Fremont County Master Plan (MP) including, but not limited to, the following:

a. Future urban development should eliminate haphazard sprawl, assure the provision of adequate urban services, and maximize return on funds invested in public facilities and services. Urban development areas include the Penrose/Beaver Park area due primarily to the availability of public water. (MP Chpt. 4, B). The general location of the substation includes a major transmission line (Western Area Power Administration), and numerous other towers for communications.

b. Commercial and industrial development exists along the Highway 115 corridor through the Penrose area and continues to expand, since there is access to public water and major transportation systems. The proposed substation will provide electrical service for future commercial and industrial development in the area. (MP Chpt. 4 B4).

c. Reliable electrical service is essential to achieve the goal of encouraging economic development activities that will provide sustainable employment opportunities in Fremont County. (MP Chpt. 4C)

d. The proposed site is presently vacant land and is not used for any agricultural, residential or commercial purpose. No impacts to existing agricultural uses or agricultural water are anticipated.

e. The proposed substation supports cost-effective upgrades and expansion of existing service infrastructure and facilities. (MP Chpt. 4 F5).

6. The Board of County Commissioners is very mindful of the aesthetic concerns applicable to siting the proposed substation on this site. Highway 115 is a multi-lane thoroughfare in this area and the substation will be partially screened by existing landscape features. While it may not be the most desirable location, the benefit to the community outweighs the minimal visual disturbance to the area, which is mitigated to an extent by existing topography. The record is devoid of any suggestions or proposals for alternate sites that would serve the needs of the community and provide the separation and overlap required by the Applicant to effectively deliver electrical service to the community.

7. While unattractive, the substation is essential to the community for sustaining existing residential, agricultural, commercial and industrial activities and will be an integral part of encouraging future growth in all sectors.

8. Compatibility with surrounding property uses is not generally an applicable factor when analyzing this land use. Substations are allowed in every zone district in the County and must be sited where the service can be delivered most effectively. Electrical substations cannot be clustered in a central location if electricity is to be distributed and delivered throughout the county. In this respect, a substation is not going to be a similar use to the surrounding land uses. However, if the surrounding land uses require electrical power to function, a substation is entirely compatible with all such uses.

9. The risk of leakage, spillage or contamination from the oil contained in the transformers is minimal and is mitigated by the construction of engineered containment basins or structures to capture any leaked or spilled oil.

10. While a risk of fire may exist, such risk is very low and the site will be cleared of brush, trees and other potential wildfire fuels.

11. According to the engineered drainage report, submitted and reviewed by the county engineer, the risk of flooding on the site is very minimal or nonexistent.

12. The Board is quite aware that a substation requires transmission and distribution lines to convey power to off-site locations. In a large region where structures and development requiring power are scattered throughout an expansive rural area, overhead power lines become a part of the overall landscape by necessity. Each public benefit to a community is accompanied by certain burdens and detriments. Unfortunately, a community must endure the burden to receive the benefit.

13. The Board attributes no weight to the signed petition submitted as part of the public comments. The petition states:

“Black Hills Energy proposed 115kv power transmission line threatens the future of Penrose on the east, northeast, north and northwest, by creating a power line corridor up to 250 feet wide. This proposed route will adversely affect hundreds of residents both on and around the line, as well as future development decisions. We, the undersigned, are requesting that Black Hills Energy change the proposed 115kv transmission line route to a route that minimizes the impact to properties and citizens of Fremont County.”

The petition signers were not asked to consider the pending application for a substation in the north Penrose area. The statement on the petition is not specific to the proposed siting of a substation at K Street and Highway 115. The petition also does not show or designate the actual route of the “proposed 115kv power transmission line.” This application was submitted to the county on June 23, 2020. There is no date on the petition, and Penrose citizens stated during the public hearing that at least a portion of the signatures were gathered as much as two years ago.

14. The Board is unpersuaded that the proposed use will have detrimental effects on property values, overall. There is considerable power and communications infrastructure in the immediate vicinity of the proposed site. The Board has considered public comments about a 23% reduction in property values, but has been presented with no credible objective appraisal evidence in support of this opinion. The Board rejects the contention that property values across the entire Penrose area will decline if a substation is constructed on this 22-acre site.

15. The proposed use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions.

16. The site is served by roads of sufficient capacity to carry the traffic generated by the proposed use and the proposed use will not result in undue traffic congestion or traffic hazards.

17. The site is clearly of sufficient size to accommodate the proposed use.

18. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety, and welfare of the inhabitants of the County, and will not cause significant air, water, noise, or other pollution.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF FREMONT THAT THE FOLLOWING CONDITIONS ARE HEREBY APPROVED AND ADOPTED AND SHALL BE IMPOSED AS CONDITIONS APPLICABLE TO BLACK HILLS ENERGY NORTH PENROSE SUBSTATION UNDER SRU 20-006:

A. The term of the Special Review Use Permit shall be for the life of the use.

- B. The Department of Planning and Zoning (“Department”) shall review the permit annually, or more frequently if required or appropriate, to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations.
- C. Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicant shall obtain and keep in effect all other necessary permits, licenses or the like required by any other governmental agency and as otherwise may be required by Fremont County. The revocation, suspension or expiration of any such other necessary permits, licenses or the like may in the discretion of the Board result in the revocation, suspension or termination of the permit authorized hereunder, as the case may be.
- F. If a special review use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to, or does temporarily cease the special review use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board. So long as applicant continues with exploration activities related to the land covered by this permit, including such activities as exploration drilling, baseline studies, water monitoring operations or reclamation activities under this permit, it shall not be deemed to be abandoned, discontinued, terminated or in a state of cessation.
- G. Applicant shall develop and implement a noxious weed plan to treat and mitigate the spread of noxious weeds in disturbed lands, such plan to be coordinated through the Fremont County Weed Management Department, before commencing operations and remain in full compliance with the Plan throughout operations.
- H. If applicable under current state regulations, Applicant shall conform its Storm Water Management Plan (“SWMP”) to the requirements of Colorado Department of Public Health and Environment, which has jurisdiction over SWMP.
- I. The County to the extent allowed by its Zoning Resolution shall retain the right to modify any condition of the permit, if the operation demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modifications shall not be imposed

without notice and a public hearing being provided to the applicant at which time Applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit. Any modifications from the original representations and any changes may result in additional conditions being imposed.

J. The applicant shall be considered the operator under this permit. Only the applicant or contractors or agents authorized by applicant shall be allowed to conduct activities pursuant to this Special Review

Use Permit. Applicant shall be responsible for all activities conducted by its contractors or agents.

K. Applicant shall provide a copy of the fire safety plan for operations on site to the Florence Fire Protection District (Penrose Volunteers), and the Fremont County Sheriff.

L. The Application approved pursuant to this Resolution anticipates an estimated 15-year build-out, in accordance with the plans submitted as part of the application. No additional expansion is authorized by this Approval Resolution and any further expansion would require modification of this Special Review Use Permit or issuance of a new Special Review Use Permit, as appropriate for the proposal.

WAIVER REQUESTS: Waivers of the following have been requested and are granted:

5.3.2 Surfacing: Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

5.3.3 Lighting: All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.

5.3.4 Landscaping: All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

BE IT FURTHER RESOLVED that all applicable provisions of the Fremont County Zoning Resolution, particularly Chapter 8, shall apply to all activities conducted pursuant to this permit and shall govern the process for enforcement, violations and other issues arising under the permit.

Commissioner Bell moved the adoption of the foregoing Resolution with a second by Commissioner McFall.

Debbie Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Dwayne McFall	AYE	<u>NAY</u>	ABSTAIN	ABSENT
Timothy R. Payne	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: October 27th, 2020

Debbie Bell
Chairman

Attest: [Signature]
Clerk to the Board