

EIGHTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 28, 2006, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Michael Stiehl called the meeting to order at 9:30 A.M.

Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

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

The Morning Prayer was given by Pastor Don Farr from Church Alive.

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

AGENDA

Commissioner Lasha moved to approve the Agenda. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

CONSENT AGENDA

Commissioner Norden stated that the minutes for the March 14th meeting needed to be removed since they have not been submitted yet. He moved to approve the Consent Agenda with the removal of the minutes for March 14, 2006:

1. Approval of Minutes Special Meeting March 2, 2006
2. Approval of Bills, March 28, 2006/\$609,517.57
3. LIQUOR LICENSES
 KWIK STAR INC
 KWIK STOP #6
 916 HWY 115
 Penrose, CO 81240
 3.2 Percent Beer Retail License Renewal
4. Adoption of Resolution #23, Series of 2006, file #ZC 05-005 Jewett Zone Change.
5. Adoption of Resolution #24, Series of 2006, file #SRU 05-007 Fawn Hollow Transfer Station.

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, stated they were in the process of preparing the contract for the HAVA voting machines. She stated the State wants the contracts with the invoice, and they will reimburse the County. Mrs. Hatfield stated they were not willing to do that since they have the money there. They are supposed to have the contract signed by April 15th. The County is only going to pay 15% after the final testing and another percentage after the successful Primary and General election. There

will be enough funds in what the State is giving to pay for all the machines they are ordering from Hart.

2. Citizens Not Scheduled: There were none.

OLD BUSINESS:

RESOLUTION #25/REQUEST: SRU 05-008 CINGULAR WIRELESS TOWER (WALKER PROPERTY)

Commissioner Stiehl stated that at the last Commissioner Meeting on March 14th, the Commissioners denied this request. Now they need to adopt a resolution specifying findings. **Commissioner Norden** moved to approve **Resolution #25** adopting the findings of the Board of Commissioners' denial of the SRU 05-008 Cingular Wireless Tower on the Walker property. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried, and carried the adoption of **Resolution #25**.

NEW BUSINESS:

PROCLAMATION – FREMONT COUNTY CRIME VICTIMS' RIGHTS WEEK APRIL 23 TO APRIL 29, 2006.

Commissioner Norden read the Proclamation in its entirety, and moved approval of Proclamation recognizing National Crime Victims' Rights Week for April 23 to April 29, 2006. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

CHANGE IN LOCATION OF A POLLING PLACE FOR PRIMARY AND GENERAL ELECTION

Norma Hatfield submitted a revised list of combined polling places for the 2006 Primary and General Elections. She stated the Board had approved the list previously, but they have had to make a change in Florence. They have changed from St. Benedicts Church to the Florence Senior Community Center. **Commissioner Lasha** moved to amend the initial notice with the change on Precinct 3 for change of location for combined polling places for Primary and General election. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

RESOLUTION #26 - PETITION FOR ABATEMENT OF TAXES FOR 2004/FLORENCE FOUR SQUARE CHURCH/SCH. #991-04-591 \$2,491.08.

Suzie Veatch, Fremont County Assessor's Office, submitted the Petition and stated this was a State-granted exemption for the Four Square Church in Florence effective back to 2003. **Commissioner Norden** moved to approve the Petition for Abatement of Taxes for Florence Four Square Church in the amount of \$2,491.08, **Resolution #26**. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried, and carried the adoption of **Resolution #26**.

RECOMMENDATION FOR AWARD OF BID FOR 4500 TONS OF CHIP-SEAL CHIPS.

Commissioner Lasha stated they received a bid, but it was higher than they anticipated. He stated he thought the recommendation would be to go out to bid and open up a larger range of bidders. The money is not there to pay the amount of the bid they received. **Commissioner Norden** moved to recommend that the bid amount be rejected because the bid amount exceeds the budget available under the Gaming Impact Grant money approved for these projects in 2006 and direct that the Road & Bridge Department and the Finance Office readvertise in an effort to secure more qualified bids. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**RESOLUTION #27/REQUEST: ZC 05-006 BRILL ZONE CHANGE
RESOLUTION NUMBER**

Commissioner Stiehl stated this was approved at the last meeting; however, a resolution number was not assigned. **Commissioner Stiehl** moved to assign **Resolution #27** to ZC 05-006 Brill Zone Change. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Lasha, aye. The motion carried, and carried the adoption of **Resolution #27**. After discussion with the County Attorney, **Commissioner Stiehl** stated that since they approved this zone change at the previous regular Board meeting, this would have appeared on the Consent Agenda approving this resolution. Since they did not have the Resolution number assigned, and now they do, they need to approve that zone change. **Commissioner Lasha** moved to approve Zone Change 05-006 Brill Zone Change, **Resolution #27**. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried, and carried the adoption of **Resolution #27**.

REQUEST: FP 06-001 FREMONT TRAILS CONDOMINIUMS

Matt Koch, Cornerstone Land Surveying, stated they were requesting final plat approval for Fremont Trails Condominiums. This is a single duplex unit that they are converting into condos, which means they are selling the air space and everything else is dealt with through a Homeowners Association and declarations filed with the State and County.

Bill Giordano, Planning & Zoning Director, stated this was published and the notifications were done as required. This does not go to the Planning Commission, so the recommendation is from the Department.

Commissioner Lasha moved to approve FP 06-001 Fremont Trails Condominiums with the two recommended contingencies. The motion was seconded by Commissioner Norden. Upon Vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

REQUIRED CONTINGENCIES

The following items shall be provided to the Department of Planning and Zoning, prior to recording of the final plat and within twelve (12) months (*with no extensions*) after final approval by the Board of County Commissioners:

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations (FCSR).
2. Title Commitment dated with thirty (30) days of recording of the final plat. (NOTE: *This item may necessitate further requirements of the applicant, by the Department, prior to recording of the final plat*).

REQUEST: FP 05-007 KERNAL ESTATES FILING NO. 1

George Hall, GR Hall and Associates, stated that this project began in 1996 and a sketch plan and preliminary plan went through the process. In 1998 they were ready to file the plat, and the developer chose not to complete the project. They started over again in 2000 with sketch plan and preliminary plan. They were ready again to file when the client got very sick. Since they have submitted the sketch plan and preliminary plan on two different occasions, they were asking for a waiver of these plans and go into final plat state. They have agreed that before they bring the final plat, they would have everything ready to be signed, all contingencies met and ready to be recorded.

Bill Giordano stated they went to the Planning Commission with this because of the waiver of the sketch plan and preliminary plan. They did recommend this and they are looking for the waiver of the sketch plan and preliminary plan. If that is ok, George would be able to go ahead and proceed with the final plat. They are asking that there be no contingencies, that everything would be in place. As part of the trade off, they are asking for an additional contingency. On #5 the original approval was that they would only put

up enough money to guarantee pavement of 2/3 of Melvina Street. Mr. Giordano stated he did not think that was appropriate because all the lots that he is developing in this final plat phase are along Melvina. They are asking in this instance that it be for the whole road. This is a change, and they are requiring it. One of the items they are asking for that was not asked originally is an assessment of the traffic.

George Hall stated they do not feel that the traffic assessment would be adequate. They went to the County road foreman, and he wrote a letter stating that the existing roads with the improvement to Melvina would be adequate for the traffic at least for the first phase of this project.

Bill Giordano stated that was maybe another waiver item that needs to be addressed. The things that were required previously, when you are reinstating this, all the other roads will be paved. You are reinstating the existing submittal with these changes, minus the assessment.

Commissioner Norden moved to waive the requirement for sketch plan and preliminary plan as well as waiving a traffic assessment for Kernal Estates Filing No. 1, FP 05-007 and under Item 5 of the previous contingencies that all of Melvina be paved. The motion was seconded by Commissioner Lasha. **County Attorney Jackson** stated that they were not really waving a preliminary plan, they are reinstating the previous preliminary plan. **Commissioner Stiehl** stated it had been moved and seconded to reinstate the preliminary plan and plat with the contingencies 1 through 11 from the Planning Commission and omitting Item #12, the traffic assessment and restating that under Item #5 from the Planning Commission, that the entire stretch of Melvina abutting that property will be paved. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

RECOMMENDED CONTINGENCIES:

1. Final plat and copies as per regulation.
2. Documentation that Ross M. Blanchard is authorized agent to sign for Kernal Management, Inc. A Nevada Corporation.
3. A title commitment, dated within thirty (30) days of the requested recording of the final plat.
4. An executed Ratification, Consent and Release Form for deed of trust or copy of a recorded release of deed of trust for documents found at reception #778163
5. Estimate, escrow and maintenance agreements shall reflect the total cost of Melvina Street. **Originally only 2/3 of the total cost of the street was required, however since the majority of the lots in phase 1 are along Melvina, the entire street shall be constructed and paved.**
6. An executed escrow and improvement agreement for all required improvements in the amount determined by the County Engineer.
7. Final plat shall contain a note that the Outlots cannot be used for a building site unless replatted.
8. Compliance with any requirements by the County Engineer related to the drainage plan and report.
9. An executed quitclaim deed to the County for a 30 foot right-of-way from the centerline of North Street, Minnesota Avenue and Melvina Street and a 35 foot right-of-way for York Street, along the entire property frontage.
10. Documentation from design engineer that all drainage facilities have been installed in accordance with design standards.
11. An executed Quit-Claim Deed(s) with a deed restriction addressing the maintenance of any drainage facilities, easements, rights-of-way etcetera, required, such deed(s) to be recorded at the time of recording of the final plat, recording fees for the same will be the expense of the applicant.

REQUEST: SUD 06-001 JONES SIMILAR USE DESIGNATION/THERAPY OFFICE

Dennis J. Jones stated he and his wife were going to build a residential unit on one of their parcels in north Canon. His sister-in-law, who currently operates the Wellness Center, asked if there would ever be an opportunity for her to move her treatment facility out next to her home, which is adjacent to that planned site. There are three options – home occupation, neighborhood business zone change or the similar use designation and go through the Special Review Use. This is going to be built as a residential unit and, if approved, go through Special Review Use with public hearings, and probably turned into the massage therapy.

Bill Giordano stated that under this Special Review, Mr. Jones will be tied to that specific use. The Department does not have a problem with this. This will be an expansion of a Special Review Use. This approval gives Mr. Jones the right to apply for the Special Review.

Commissioner Norden moved to approve a Similar Use Designation SUD 06-001 Jones Similar Use Designation to recognize holistic health service including, but not limited to, massage therapy, reiki therapy, aromatherapy and essential oil therapy. The motion was seconded by Commissioner Lasha. **Commissioner Stiehl** restated the motion to approve the Similar Use Designation designating the therapy office to be equivalent to a nursing home in Fremont County. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

PUBLIC HEARING
REQUEST: 2ND AMENDMENT TO SUBDIVISION REGULATIONS
MARCH 28, 2006 10:00 A.M.
RESOLUTION #28

Commissioner Stiehl stated that there were two issues before the Board, the 2nd Amendment to Subdivision Regulations and the 23rd Amendment to Zoning Resolution. Since there is some overlap, he stated he would open both items up for the same hearing.

Bill Giordano stated this was published, entered on the Internet and notifications had been done. Both of these amendments are a continuing effort to what they did previously with the increase in fees. They are trying to get development to pay its share instead of putting it on the taxpayer. The Planning Commission did recommend approval of these. The only change they made was on the travel trailer. They felt that it should be a unit instead of a vehicle. Mr. Giordano started with the Amendment to the Subdivision Regulations, and stated the major impact is the traffic analysis that is required. The traffic analysis will be required on all major subdivisions, minor subdivisions will be exempt. The traffic impact analysis does not address maintenance at all. There will probably be some kind of recommendation for a change in the language that would include something to the effect of the level of maintenance versus the level of the traffic increase. In the Zoning Amendment there is an issue with the orchard and vineyard. Under the present regulations, they list the permitted uses as an orchard and a vineyard. They went into the definition and they added vineyard into it since they only defined orchard. They are not changing any of the orchard and vineyard permitted uses in the first four agricultural zoned districts. They said that anyone that is zoned agricultural estates or agricultural suburban, they will allow orchards, but it has to be a minimum of 4 ½ acres. They are talking about commercial orchards and vineyards and not individual orchards and vineyards. Another issue is that they are proposing a change from Project Development Plan to Site Development Plan. A Site Development Plan is specific in exactly what is going to be done on the property. This will not allow speculative development. Another major aspect is under the Temporary Use Permit section. They do not have regulations on TUP's, and all of these permits are issued on the basis of policy or procedure.

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

George Hall, Crown Point Land Services, stated that he wanted to discuss under the Subdivision Regulations XIII, d. 23. the final plat drawings, boundary line adjustments drawings, etc. He asked if there would be a line table on all plats for all possible lines? Item #29 deals with building in the FEMA flood plain. He stated he would like to see some different wording regarding meeting FEMA criteria.

Jim Ensley, Illinois Avenue Resident, stated that he thought the definition for the orchard and vineyard was satisfactory. He had a concern with the lot size for the people who had less than 4 ½ acres. These people have been successfully producing and selling their produce for revenue for some time. To disallow this would be destructive to part of the fabric of this small community that is agriculturally based. He suggested that the minimum be reduced to one acre or less.

Gloria Stultz, Oak Creek Grade Resident, stated she manages a local farmer's market. Some of the vendors have less than 4 ½ acres. It is a tradition in the County to produce agriculture. If the amount of land was reduced to an acre, that would serve their purpose. Backyard gardeners often don't have an acre of land and can produce a lot of fruit and vegetables. She asked for consideration that they are not creating a new entity of problems, and wanted her vendors to be in compliance.

Virginia Patton stated she was representing Fremont Cattlemen's Association. She stated she wanted to address changes to 4.1 a.f. Agricultural Forestry Zone District. They have no objections as long as definitions for feedlot and dairy remain the same.

Jeff Stultz, Oak Creek Grade Resident, stated his issue was with the orchards and vineyards as permitted uses in Agriculture-Suburban Zone Districts. He stated he was the assistant wine maker at Holy Cross Abbey. One of the wines they make is from local grapes, and last year they took in 25,000 pounds of fruit from Fremont County. At least 2/3 of that fruit came from backyards of gardens from people already in the Agriculture-Suburban Zone District. He stated he thought the 4 ½ minimum should be eliminated.

Frank Speers, N. 14th Street Resident, asked what were the thoughts of the County as far as impacts, what are they looking for, what are they looking down the road towards, what are they looking for in the relationship with the City?

Brenda Jackson, Fremont County Attorney, stated that the idea of zoning is to protect the existing neighborhoods and to prevent impacts and burdens on the taxpayers in the existing neighborhoods. That is all governed by the planning of the Master Plan.

Flo Orona, Cottonwood St. Resident, asked what happens to the little people that already have small vineyards or orchards?

Matthew Cookson, Winemaker for Holy Cross Abbey Winery, stated he wanted to address the minimum of 4 ½ acres for orchards and vineyards. Cañon City was built on small farms and vineyards. By putting a 4 ½ acre minimum, it is destroying the fiber of agriculture. Currently, there would probably be 2 or 3 vineyards and orchards that would qualify under these regulations. He asked that they do away with the 4 ½ acre minimum. He submitted a handout on the farming and agricultural history of Cañon City.

Mannie Colon, Grandview Avenue Resident, stated that the 4 ½ acre ruling did not have any impact on him at this time. He stated that he wanted to address the zoning changes and how they may or may not impact other people who are in the same industry. He asked what made the determination for 4 ½ acres? If you are non-conforming, you are required a permit which costs \$750.

Brenda Jackson stated that non-conforming means that it was legal when it was established. When you change the zoning, you cannot make it illegal so it is allowed to

lawfully continue. It is called non-conforming because the zone district would not allow it as a new operation. Any existing operations are totally legal and valid.

Bill Giordano stated that if you have a non-conforming use that was legally placed in the first place, you could expand through a Special Review Use permit. They are not trying to stop the orchard, they are trying to make it more reasonable to have orchards.

Bruce Redus, Valley Road Resident, stated that just taking a look at the Winery at the Abbey, there were about 12,000 bottles of wine harvested in this last crop. We have the crops, we have the value-added product, and we have the tourism component that comes into play with the Winery with their special events. He stated we should encourage anything they can do for product that is exported out of the County, and look to support the agricultural industry.

Holly Arnett, Penrose Resident, stated she wanted to address seasonal limits as far as roadside stands. The trend is towards agricultural methods that extend their seasons through greenhouses and covers and special irrigation methods. By limiting a roadside stand to 90 days impacts a person's ability to sell what they have grown. In determining a hobbyist from a commercial producer they might consider whether they file a Schedule F with the Assessor's Office for the production or not.

Commissioner Stiehl closed the Public Hearing on both Subdivision Regulations and Zoning Resolutions and returned to the Regular Meeting.

Commissioner Lasha stated that the agriculture issue certainly came up and the hobbyist versus commercial and the importance of agriculture in the community. He stated he believed they needed to go back and talk about what they had heard today. It is very important that they listen and act on it. **Commissioner Lasha** moved to approve the 2nd Amendment to Subdivision Regulations. The motion was seconded by Commissioner Stiehl. **Commissioner Stiehl** stated that they had some verbiage changes from their work session and asked the County Attorney how to address that. **Brenda Jackson** stated that they could incorporate those language changes. It was just cleanup, so any kind of clarification changes could just be incorporated into the motion. One thing that needs to be added to the motion is that the traffic analysis include analysis of the maintenance requirements now and with the proposed development. **Commissioner Lasha** amended his motion to include statements presented by County Attorney Jackson. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried, and carried the adoption of **Resolution #28**.

Commissioner Lasha stated that on the 23rd Amendment to Zoning Resolution, he would move to table that issue to the April 25th meeting with a Public Hearing. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Stiehl adjourned the meeting at 11:35 A.M.