

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
SPECIAL HEARING
WEDNESDAY, FEBRUARY 1, 2017
SANGRE DE CRISTO ARTS AND CONFERENCE CENTER THEATER ROOM
210 NORTH SANTA FE AVENUE, 2ND FLOOR**

Please note this is a continuance of the hearing for Special Use Permit No. 2016-007, Fremont Paving & Redi-Mix, Inc., which was continued from January 18, 2017, to January 25, 2017 and from January 25, 2017 to February 1, 2017. Since this is an ongoing hearing, staff was advised by the attorneys that only those members who were in attendance on January 18th could participate in the February 1, 2017 special hearing. Those members present at the January 18th hearing were Donald Bruestle, Kiera Hatton, Judy Leonard, Ron Leyba, Roger Lowe, Donald Thorne, and Phillip Mancha.

ROLL CALL AND DECLARATION OF QUORUM

Commissioners Present: Donald Bruestle, Kiera Hatton, Judy Leonard, Roger Lowe, Donald Thorne, and Philip Mancha.

Commissioners Absent: Ronald Leyba.

Staff Present: Joan Armstrong, Director; Dominga Jimenez-Garcia; and Sandra Smith.

Others Present: Marci Day, Assistant County Attorney; and Epimenio Griego, Planning Commission member, noting he was only observing the meeting.

Chair Bruestle called the Pueblo County Planning Commission hearing to order at 5:35 p.m.

CORRESPONDENCE

Ms. Day reported there was one piece of late correspondence: A letter from Phillip J. Courtney, Solid Minerals Leasing Manager, the Colorado State Land Board, regarding the difference in the annual rent and royalties protected revenue for grazing versus sand and gravel extraction, which was a question raised at the January 25, 2017 hearing; and the Planning Department received two calls in opposition from Violet Fusxa and John Adams.

STATEMENT OF HEARING PROCEDURES BY CHAIRPERSON

Chair Bruestle reported that the applicant and/or representative are called upon to speak, which was concluded at the hearing on January 25, 2017; followed by any opposition, which a portion of the opponents spoke at the hearing on January 25, 2017; with the applicant having the final say. Due to the continuance of hearing from January 25, 2017 to February 1, 2017, the hearing will begin with the remaining speakers in opposition.

Chair Bruestle asked the audience members to refrain from approaching Commission members during intermissions. All discussion must be made part of the record of proceedings.

REGULAR ITEMS:

Statement of Conduct and Demeanor

Chair Bruestle stated for the business of the Commission to be conducted in the most effective and expeditious manner, it is necessary that all persons maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of a person's right to remain in attendance and may result in them being asked to leave the meeting by the chairperson or, upon their refusal, being escorted out of the meeting by the proper authority.

- Special Use Permit No. 2016-007, Fremont Paving & Redi-Mix, Inc., c/o John P. Ary. The owners within the mine area are State of Colorado; Pritekel Brothers Farm, LLC; and Danny J. and Cindy L. Henrichs. The owners within the north haul road are Thomas J. and Nancy L. Bregar; Centa Land Co., LLC; BL & KJH, LLC; State of Colorado; and Danny J. and Cindy L. Henrichs. The owners within the southwest haul road are Martin Valadez; Douglas Thacker; Pikes Peak Homes Center, Inc.; and State of Colorado. The representative is Environmental Alternatives, Inc., c/o Angela Bellantoni, Ph.D.

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
FEBRUARY 1, 2017**

IN FAVOR

The testimony concluded on January 25, 2017.

IN OPPOSITION

Chair Bruestle stated he understood that there were three experts for the opposition that would provide testimony and then the hearing would be open to others to speak in opposition with a three-minute limitation. He questioned the opposition how long the expert testimony may take.

Ms. Day informed Chair Bruestle there was a request from the applicant.

Mr. Richard Ranson, attorney for Fremont Paving & Redi-Mix, Inc., stated that the applicant would like to request a 60-day continuance to Wednesday, April 5, 2017. The basis of the request is to discuss and review details and conditions of the application with members of the opposition.

Chair Bruestle questioned if the intention was to arrive to a resolution of this matter. Mr. Ranson replied that would be the desired outcome. Chair Bruestle stated that there may be people in attendance that would like to be assured the opportunity to provide testimony.

Mr. Michael Callahan, attorney for some of the people in opposition, stated he concurred with the applicant's continuance request.

Chair Bruestle stated there has been a request to continue this matter until Wednesday, April 5, 2017, at 5:30 p.m., in the Board of County Commissioners' Chambers, 215 West 10th Street, which would accommodate the number of people in attendance this evening, but not 150 people.

Mr. Ranson stated there was good-faith effort being made to resolve differences, questions, and conditions. He felt it would be worth everybody's time to grant a 60-day continuance.

Additional testimony from the opponents has been continued to April 5, 2017.

REBUTTAL

The applicant's rebuttal was continued to April 5, 2017.

MOTION

Mr. Thorne motioned to continue the hearing for Special Use Permit No. 2016-007 to Wednesday, April 5, 2017, at 5:30 p.m., in the Commissioners' Chambers at the Pueblo County Courthouse, 215 West 10th Street. Ms. Leonard seconded the motion.

Discussion ensued. Mr. Mancha questioned if they were going to work out an agreement. Chair Bruestle replied it appeared they are trying to work out an agreement. Mr. Mancha stated it was the Commission's duty to approve special use permits. He questioned what the connection was with the parties' agreement and the Commission's responsibility to issue special use permits.

Ms. Day replied that the purpose of the discussion between both sides was to extend additional community outreach resolving some of the issues. The opposition is testifying that they believe they can come to an agreement on certain issues where the opposition will be satisfied and no longer interested in giving testimony.

Mr. Mancha stated that they must determine what is fact and whether to issue a special use permit.

Ms. Day replied that the testimony of both the opposition and proponents provides evidence allowing the Commission to make a determination based on the requirements in the Pueblo County Code. There may be a different case to present at the next meeting if both parties come to an agreement on certain issues. The Commission will then take those facts that should be applied to the conditions that need to meet in order to issue a special use permit. Because the opposition is making an argument on the health, safety, and welfare issues, the applicant feels they can address those concerns prior to the Commission deciding on whether to grant the special use permit. Therefore, the applicant is requesting a continuance so they can have the opportunity to address those concerns.

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
FEBRUARY 1, 2017**

Mr. Mancha stated that he was fine with that, but still wanted to make sure the Commission still met its responsibility. It sounded as if these discussions could bring some unity in both facts and interpretation, which would make the Commission's job a little easier.

Chair Bruestle replied that was yet to be determined.

Ms. Day replied that it may change the evidence that is presented to the Commission, which will be used to make a determination.

Ms. Armstrong stated that staff will prepare an updated staff review that will be presented to the Commission one week prior to the April 5th hearing. It will reflect any evidence presented as well as any revisions of the conditions of approval. She stated that the opposition would still be allowed to provide testimony, noting that rebuttal from the applicant also needs to be provided, which follows the standard meeting procedures.

Mr. Mancha stated he just needed to see the connection.

Mr. Thorne questioned regardless if there is opposition testimony or not, the Commission still must vote on the special use permit.

Ms. Day replied Mr. Thorne was correct. The evidence that is provided is applied to the conditions set forth in the Pueblo County Code and approval or denial is based on those grounds. In some instances, the only evidence that is provided is the staff report and that is what is used to make the determination. In the case of Special Use Permit No. 2016-007, there was the staff report, additional testimony from the applicants and the proponents, and some testimony from the opponents. What the two parties would like to do is work out some of the issues that have been mentioned. As Ms. Armstrong stated, it could potentially change the conditions of approval for granting the permit.

Mr. Thorne questioned if the hearing was over.

Ms. Day replied that the hearing will remain open, essentially pressing the "pause button", allowing the continuance, and begin at the next hearing with the opposition testimony with the applicant having the opportunity for rebuttal. After rebuttal, the hearing will be closed for public testimony, thus allowing the Commission to discuss the testimony and make a motion.

Ms. Armstrong stated that there were two staff members working on the minutes, noting the minutes from the January 18, 2017 meeting were completed. The January 25, 2017 hearing minutes were still being transcribed, which should be done by next Friday (February 10th). She will ask staff to have the draft minutes completed by February 20th in order to be sent to the Commission members with ample time to review prior to the April 5th hearing.

Chair Bruestle questioned if the minutes would be provided to the public. Recording Secretary, Sandra Smith, replied that the draft minutes were posted online.

Mr. Thorne questioned if the Commission was supposed to disregard testimony already provided. Ms. Day replied no. Mr. Thorne stated he had several questions about the proposed permit and wanted to know if he would be able to ask those questions. Ms. Day replied yes. If the Commission votes for the continuance, the Commission will reconvene on April 5th and begin where it left off. The Commission has all the same rights and responsibilities as in any other hearing. Questions can be asked of the applicants, proponents, and opposition. Once the public testimony is closed, the Commission has the same opportunities to discuss testimony beginning from the first hearing date, noting it was all the same hearing from the first meeting, to the second meeting, to this meeting, to the continuance. All the evidence received during those hearings was what the Commission will consider when making a determination. What the two parties work out on their own may change the evidence that is yet to be presented, which should be applied to the previous evidence. The applicant may provide additional testimony outlining the result of the discussions.

Chair Bruestle stated that it was very possible that the questions Mr. Thorne has may be addressed as part of the outcome of those discussions.

After discussion, the motion carried unanimously.

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
FEBRUARY 1, 2017**

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:49 p.m.

Respectfully submitted,



Joan Armstrong, Director
Department of Planning and Development

SMS