

TWELFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 14, 2022, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Chair Debbie Bell called the meeting to order at 9:30 a.m.

Debbie Bell	Commissioner	Present
Kevin Grantham	Commissioner	Present
Dwayne McFall	Commissioner	Present
Talia Smith	Records Technician	Present
Brenda Jackson	County Attorney	Present
Sunny Bryant	County Manager	Present
Mica Simpleman	Planning & Zoning Director	Present

INVOCATION

Luke Canady, Canon City Vineyard

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. Commissioner Grantham seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Grantham, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

CONSENT AGENDA

1. Approval of Minutes / May 24, 2022
2. Approval of Bills for \$3,056,980.56
3. Approval of Memorandum of Agreement between Fremont County and Michael and Judy Minnick
4. Schedule Public Hearing for July 12th, 2022 at 10:00a.m.:
 - a. CUP 22-001 Fremont Paving & Redi-Mix. Fremont Paving and Redi Mix, Inc. is requesting approval of an expansion of their Penrose pit from 791 acres to 1021.4 acres, for the purpose of mining activity, dust suppression and Aggregate washing.

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

ADMINISTRATIVE & INFORMATIONAL

1. Staff / Elected Officials:
 - a. County Clerk's Monthly Report

Clerk & Recorder Grantham gave the Clerk's Monthly Report which can be found in its entirety at www.fremontco.com.

Commissioner McFall moved to accept the County Clerk's Monthly Report. Commissioner Grantham seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

Clerk & Recorder Grantham informed the public about election ballots being mailed out recently and said the voting center will be open Monday June 20th through Friday June 24th between 9:00 a.m. and 5:00 p.m.; Saturday June 25th between 9:00 a.m. and 1:00 p.m.; Monday June 27th between 9:00 a.m. to 5:00 p.m.; and June 28th 7:00 a.m. to 7:00 p.m. at 201 N 6th Street in Cañon City. He added that drop-box locations are throughout the County then noted that electioneering within 100 feet of at all drop-box locations, the County Admin Building, and the voting center is prohibited during an active election.

b. County Manager Report, Sunny Bryant, County Manager

County Manager Bryant gave the County Manager's Report which can be found in its entirety at www.fremontco.com.

Commissioner McFall said that as well as having job availability, the County also has vacancies for volunteer positions on various boards. He also spoke about the importance of fire diligence.

Commissioner Grantham clarified that drop-box locations are chosen for the convenience of County voters. He reminded the public that June 14th is Flag Day then talked about the proposed VA clinic in Fremont County.

Commissioner Bell said she missed the last meeting on bereavement leave for the loss of her mother. She thanked the other Commissioners for their support and for conducting business during her absence.

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

a. Stuart Phelps – 1807 Red Canyon Rd., Cañon City

Stuart Phelps asked why there was no SRU done for the section of transmission line between the North Penrose Substation and the Hogback Substation.

b. Adam Freeman – 820 Valley Dr., Penrose

Adam Freeman said that Black Hills is being dishonest regarding not having started construction on the hill by his home and shared an image with the Board taken in December 2021. He also spoke about Prudent Avoidance and cited a portion of Colorado regulation 700 CO Code Regs 4 CCR 723-3-3102.

c. Vincent Stoldt – 230 Wendy Dr., Cotopaxi

Vincent Stolt explained that they live in the Glen Vista POA and there have been disputes regarding whether their roads are public or private.

d. Larry Swisher – 707 Cedar Hills Rd., Penrose

Larry Swisher read a section of a letter sent to the BOCC and Planning & Zoning Director in 2020 regarding Black Hills transmission lines and substations. He urged the Board to consider Colorado's 1041 Regulations when large projects are proposed.

Commissioner McFall conveyed that he hadn't received the email Mr. Swisher referred to.

Mr. Swisher replied that it was sent by mail.

OLD BUSINESS

1. Request SRU 21-006 Black Hills Energy Desert Cove-North Penrose for a Special Review Use Permit for a 115kV overhead transmission line located between North Penrose Substation and the Fremont County Line

Commissioner Bell explained that they tabled the discussion on May 24 to find a set of findings and read several of the most pertinent findings and conditions. The document can be found in its entirety at www.fremontco.com.

Commissioner McFall responded to Mr. Phelps' concern in Item 2 of Administrative & Informational and said they never discouraged talk about the two substations and pointed out that Black Hills adjusted their original plan dramatically to accommodate the wishes of the those in community. He also determined that the image Mr. Freeman provided would not be sufficient evidence of construction and suggested that it should have been provided before the public hearing on May 10th was closed.

Commissioner Grantham addressed the arguments made about the effect of the view of powerlines and their impact on property values. He maintained that electricity is a necessity.

Commissioner Bell added that this was a difficult matter to settle and recalled that the Board requested that Black Hills avoid exercising eminent domain. She pointed out that Black Hills has created an entire route using private easements or the purchase of property.

Commissioner McFall said the resolution will be available online at www.fremontco.com.

Commissioner Grantham moved to approve Resolution #21 SRU 21-006 Black Hills Energy Desert Cove-North Penrose for a Special Review Use Permit for a 115kV overhead transmission line located between North Penrose Substation and the Fremont County Line. Commissioner McFall seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner McFall, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

NEW BUSINESS

1. Resolution to extend the moratorium regarding manufactured homes, single wide.

County Attorney Jackson explained that the moratorium – to keep the county from enforcing its own prohibition of setting manufactured homes where a site-build home would be accepted – was approved last year and this would extend the moratorium before redoing a zoning resolution and making it permanent.

Commissioner Grantham highlighted the task of redoing the zoning resolution.

Commissioner McFall said the moratorium as well as the changes to the zoning resolution may help to reduce the effect of the nationwide housing crisis.

Commissioner McFall moved to approve Resolution #22 to extend the moratorium regarding manufactured homes, single wide. Commissioner Grantham seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

2. SuperTeam PCSO is requesting an issuance of a Special Events Permit for Malt, Vinous and Spirituous Liquor at Pathfinder Park Event Center, 6655 Hwy 115 Florence, CO 81226 for events in 2022 as follows: July 8, August 26, September 23, October 28 from 6 p.m. to 12 a.m. each day.
Representative: Gillian Cheek

Gillian Cheek is the owner of Coyote Ridge and told the Board that they teamed with SuperTeam PCSO to provide alcohol at upcoming concerts.

Brad Riccillo is the captain of captain of SuperTeam PCSO, which works with the St. Baldricks Foundation. He said when SuperTeam PCSO holds and participates in events all funds collected are donated to the St. Baldricks Foundation.

Commissioner Bell asked how they will ensure nobody underage will be served alcohol.

Brad Riccillo said he will have a team assisting him with security.

Commissioner Bell asked about staff training.

Brad Riccillo relayed that Ms. Cheek and Coyote Ridge will be serving alcohol.

Ms. Cheek replied that she is TIPs certified and is expecting to be a TIPs trainer within the next month.

Commissioner Bell reminded Ms. Cheek that all servers must be TIPs certified.

Recording Technician, Talia Smith gave the staff report.

Commissioner McFall asked whether all the events on the application will be the same.

Ms. Cheek assured the Board that they will be, but they will make beneficial changes if necessary.

Commissioner McFall asked whether the arrangement of security will be the same.

Ms. Cheek said if they need to add more security after the first event they will.

Commissioner McFall thanked them for using the events center.

Commissioner Bell asked what off-duty officers will be employed for security.

Mr. Riccillo said they will have private security and are looking into using the Pueblo County Sheriff's Office, where he works.

Commissioner Bell thanked Mr. Riccillo for his service.

Commissioner Grantham wondered about the spelling of "St. Baldricks."

Commissioner Bell opened the floor for public comment. None approached.

Commissioner Grantham moved to approve the issuance of a Special Events Permit for Malt, Vinous and Spirituous Liquor for SuperTeam PCSO at Pathfinder Park Event Center, 6655 Hwy 115 Florence, CO 81226 for events in 2022 as follows: July 8, August 26, September 23, October 28 from 6 p.m. to 12 a.m. each day. Commissioner McFall seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner McFall, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

PUBLIC HEARINGS

1. None.

Commissioner Bell adjourned the meeting at 10:23 a.m.




Clerk to the Board of County Commissioners

RESOLUTION NO. 21 SERIES OF 2022

**RESOLUTION APPROVING SPECIAL REVIEW USE
BLACK HILLS COLORADO ELECTRIC, LLC d/b/a BLACK HILLS ENERGY
SOUTHERN COLORADO RELIABILITY PROJECT
DESERT COVE-NORTH PENROSE
SRU 21-006**

WHEREAS, on November 12, 2021, Black Hills Energy (hereafter "Applicant" or Black Hills) made application for approval of a Special Review Use (SRU 21-006) pursuant to Section 8 of the Fremont County Zoning Resolution, to construct, maintain and operate a transmission line carrying 115V three phase electric power to complete the loop feed from Pueblo County to the North Penrose Substation at 19 K Street in Fremont County; and

WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its April 5, 2022 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 at the North Penrose substation 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 May 10, 2022, 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, including signed petitions, through the date of the public hearing on May 10, 2022; 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 planning of the route, including contacts with various members of the Penrose community regarding easements for the transmission line has been ongoing, well-known and discussed within the community for more than four years prior to the actual submission of the application; and

WHEREAS, the Board believes that the approval of the application for approval of SRU 21-006, to construct, maintain and operate the Southern Colorado Reliability Project, Desert Cove-North Penrose transmission line 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 transmission line 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 transmission line to serve the community of Penrose is necessary and essential to achieve consistency in the electrical power supply for the area. Reliable and adequate electric service to a community is a key indicator of civilization and progress, and managed growth.

3. An SRU application for a transmission line is not required by the Fremont County Zoning Resolution. Applicant, however, volunteered to submit a separate SRU application for the transmission line from the eastern Fremont County line to North Penrose substation when it submitted the Application for the North Penrose substation (SRU 20-006). Black Hills had not finalized the actual route for the easterly transmission line and agreed to have the transmission line separately considered by the Board of County Commissioners after the actual route was determined.

4. The route for the transmission lines from the North Penrose substation proceeding to the West were included as part of the SRU application processes for the North Penrose Substation (SRU 20-006) and the Hogbacks Substation (SRU 20-005). Applicant clearly explained that the easements for the transmission lines running west of Penrose were secured and in place. The North Canon, Hogbacks and North Penrose substations were to be connected with various transmission lines to create redundancy, but the easements for the transmission lines running east of Penrose were not yet secured at the time of the public hearings on SRU 20-005 and SRU 20-006.

5. The Colorado Public Utilities Commission regulates various aspects of transmission lines at 4 CCR 723-3. Such regulations require that the plant, equipment and facilities of a utility be constructed, installed, inspected, maintained, and operated in accordance with

accepted engineering practice in the electric industry to assure continuity of service, uniformity in the quality of service, and the safety of persons and property. Such regulation includes threshold requirements for magnetic field levels, noise, and service connections.

6. According to Applicant, the transmission line has been engineered to regulate the level of electromagnetic field outside of the designated easement and Applicant's line will stay well below the allowed limits. In addition, Applicant indicates that the route has been designed to be as far away from residences as is feasible based on topographical and other limitations.

7. The proposed transmission line 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 Ch. 4, B). The general location of the transmission line parallels another major transmission line (Western Area Power Administration "WAPA").

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 transmission line will provide electrical service for future commercial and industrial development in the area. (MP Ch. 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 Ch. 4C)

8. The Board of County Commissioners is aware of the aesthetic concerns applicable to siting the proposed transmission line. Applicant has made concerted efforts to plan the route near to the existing WAPA to minimize effects on other areas of the community. 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.

9. While some consider it unattractive, a transmission line 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.

10. Compatibility with surrounding property uses is not generally an applicable factor when analyzing this land use. Transmission lines are allowed in every zone district in the County and must be sited where the service can be distributed and delivered most effectively. Since the County requires reliable electrical power to function, a transmission line is essential to achieving this goal.

11. While a risk of fire may exist, as with the entire drought-stricken county, such risk is very low and the site will be cleared of brush, trees and other potential wildfire fuels.

12. 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 from 2020 submitted as part of the public comments. The petition is dated and was prepared before the transmission line route was acquired and established.

14. To its credit, Applicant has made very diligent efforts to secure voluntary easements from private landowners for the entire 6.2 mile route. Applicant has the option to exercise the power of eminent domain to secure easements and the Board repeatedly discouraged the use of such power.

15. The Board is unpersuaded that the proposed use will have detrimental effects on property values, overall. There was no credible evidence presented that supported this position.

16. The Fremont County Weed Management Department has determined that a Noxious Weed Control Plan is not necessary for this project and would not be adequate given the scope of work and the size of the project.

17. The Fremont County Project Engineer has determined that a Stormwater Drainage Plan and Report is unnecessary, as the effect on stormwater is minimal.

18. The Fremont County Department of Transportation has offered no recommendations or requirements.

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

20. 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.

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

22. 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 SOUTHERN COLORADO RELIABILITY PROJECT: DESERT COVE-NORTH PENROSE UNDER SRU 21-006:

- 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 conditional 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 conditional 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. 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.

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

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

J. 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.

K. Many of the zoning development requirements are inapplicable.

L. The Weed Management Plan, Stormwater Drainage Plan and Fire Plan are not necessary or required.

M. The Applicant is strongly encouraged, but not required, to place the transmission line at least 300 feet from residences.

N. Applicant may use any materials that best serve the intended purpose and is not limited solely to use of wooden poles.

O. Applicant shall repair any damage to private or public roadways occurring during construction, to the extent such damage exceeds ordinary wear and tear.

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

1. Storm Water Drainage Plan and Report;
2. Buffering and screening requirements;
3. Weed Management Plan.

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

Debbie Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Kevin J. Grantham	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Dwayne McFall	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: June 14th, 2022

Debbie Bell
Chairman

Attest: [Signature]
Clerk to the Board



RESOLUTION NO. 22, SERIES OF 2022

RESOLUTION EXTENDING THE MORATORIUM ON ENFORCEMENT OF CERTAIN PROVISIONS OF THE FREMONT COUNTY ZONING RESOLUTION REGARDING MANUFACTURED HOMES SINGLE-WIDE FOR FREMONT COUNTY, COLORADO

WHEREAS, on June 22, 2021, the Fremont County Board of County Commissioners adopted Resolution No. 28, Series of 2021, which imposed a one-year moratorium on enforcement of such provisions of the Fremont County Zoning Resolution that require a minimum width for factory-built and manufactured homes, constructed to International Building Code, International Residential Code, or HUD standards and are permanently affixed to an engineered foundation, in the same or similar manner as a site-built home; and

WHEREAS, the County has recently been awarded grant funding to assist with the expense and costs of planning and development of revised zoning regulations, which is expected to commence within the next few months; and

WHEREAS, the moratorium is scheduled to expire on June 21, 2022, and the Board finds that extension of the June 22, 2021 moratorium is appropriate and should continue while zoning regulations are developed and approved.

NOW, THEREFORE, BE IT RESOLVED that the June 22, 2021 Moratorium on enforcement of such provisions of the FCZR that require a minimum width for factory-built and manufactured homes, provided that the factory-built and manufactured homes are constructed to International Building Code, International Residential Code, or HUD standards and are permanently affixed to an engineered foundation, in the same or similar manner as a site-built home, SHALL BE AND IS EXTENDED for one-year from the date of this Resolution, unless terminated earlier by Board of Commissioners action or by adoption of an amendment to the Fremont County Zoning Resolution addressing this issue.

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

Debbie Bell	<input checked="" type="radio"/>	Nay	Absent	Abstain
Kevin J. Grantham	<input checked="" type="radio"/>	Nay	Absent	Abstain
Dwayne McFall	<input checked="" type="radio"/>	Nay	Absent	Abstain

Date: June 14th, 2022

BOARD OF COUNTY COMMISSIONERS
OF FREMONT COUNTY

ATTEST:

By: Debbie Bell
Chairman

By: [Signature]
Clerk to the Board

