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SPECIAL MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Special Session on January 5, 2015, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Tim Payne called the meeting to order at 9:30 A.M.

Tim Payne	Commissioner	Present
Edward H. Norden	Commissioner	Present
Debbie Bell	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director; and Dotty Gardunio, Deputy Clerk.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Norden moved to approve the Agenda. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

NEW BUSINESS

1. Request: MMC 14-001 JMC Enterprises, Inc. (Medical Marijuana Center-Pharmacy)
Request for issuance of a medical marijuana license, Department file #MMC 14-001 JMC Enterprises, Inc. (Medical Marijuana Center-Pharmacy), by JMC Enterprises, Inc., doing business as Fremont Cannabis, for property which is owned by Gary Howard, to allow for a Medical Marijuana Center which is addressed as 1505 Elm Street (State Highway 115) and is located approximately 220 feet to the center of the property, from the intersection of Elm Avenue (State Highway 115) and Lombard Street, in the Lincoln Park Area. The property is zoned Business and contains 0.81 acres.
Representative: Dana Soux

Dana Soux and Jeff Cain gave an overview of the business. The Center is a local family-run business. Between the grow facility in Buena Vista and the retail center in Fremont County they currently have 17 employees. All employees are badged with the State of Colorado.

Bill Giordano reported that the on-site inspection indicated that the facility met all requirements and is in compliance with all State regulations.

Commissioner Bell noted appreciation for the fact that the application was the only application with no negative letters or complaints against it.

Commissioner Norden asked how many inspections the facility had by the State since starting business and what the inspections entailed.

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Dana Soux noted that two inspections had been performed with the most recent being around April of 2014. The State checks the ratio of plant count to patients, the security camera footage, the locks and the badges of employees. She stated that the two inspections were performed with 24 hours notice, but the State can perform an inspection with no notice. Dana also noted that all employees will be completing State required training in the next month.

Commissioner Bell moved to approve a medical marijuana license for the Medical Marijuana Center JMC Enterprises DBA as Fremont County Cannabis at 1505 Elm St. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

2. REQUEST: OPC 14-001 Today's Health Care, LLC/Today's Health Care II, LLC dba Today's Health Care II (Optional Premises Cultivation-Commercial Greenhouse).

Request for issuance of an Optional Premises Cultivation license for an indoor grow operation, Department file #OPC 14-001 Today's Health Care, LLC/Today's Health Care II, LLC (Optional Premises Cultivation-Commercial, Greenhouse), by Today's Health Care, LLC/ Today's Health Care II, LLC, dba Today's Health Care II, for property which is owned by COAZ North, LLC. The address of the property is 934 C Street in the Beaver Park/Penrose Area, which is located on the east side of C Street, approximately 978 feet to the center of the property from the intersection of State Highway 115 and C Street, in the Beaver Park/Penrose Area. The property is zoned Agricultural Rural and contains 10 acres more or less. Representative: Natalie Romolt/Angela Morton

Natalie Romolt gave an overview of the entire business. The business has been operating in El Paso County since 2009. There are three medical marijuana centers and one cultivation center. In addition, the business has a medical marijuana center and a cultivation center located in Pueblo County. Currently, they have no infractions in either county. Romolt said that the Penrose location has been operational for 18 months, and the facility has been expanded with two additional greenhouses to the existing one greenhouse.

Bill Giordano reported that the on-site inspection found a storage container that was being used for trimming and drying, and the trimming is not allowed inside the storage container. Water supply and signage are in compliance, and the Planning and Zoning Department has not received anything indicating non-compliance with the State. He noted items for consideration include: documentation from the Marijuana Enforcement Division to move the license from 1015 West Highway 115 to 934 C Street; a copy of a Certificate of Occupancy or Certificate of Completion or Compliance from the County Building Department; documentation of the plan for odor mitigation, and documentation from the mechanical engineer indicating it has been installed in accordance with regulations; evidence from the electrician showing that the lighting plan has been installed in accordance with the plan submitted; zoning compliance with an onsite wastewater treatment system; copies of the renewed state medical marijuana license; and plans for how and where the trimming will be done. He recommended that the Board limit the number of storage containers on the property. He also recommended that the Board issue a permit conditional upon compliance with the above considerations and that the Board put a limit of time upon which compliance must be met.

Commissioner Bell requested clarification on the current number of greenhouses and the future plans of the facility.

Natalie Romolt informed the Board that the three greenhouses totaling roughly 27,000 square feet are the only greenhouses the facility plans to have on the property.

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She indicated that there are no future plans at this time to expand beyond the 3,000 plants that will be grown. She also stated that the entire area has been fenced in accordance with state regulations.

Commissioner Norden asked Ms. Romolt to clarify the relationship between the two properties located at 1015 Highway 115 and 934 C Street.

Natalie Romolt explained that both properties are owned by COAZ North, LLC and that Today's Healthcare is leasing both properties. She explained that the grow operation has permission to use the bathroom facilities located on the next door property which she thought was sufficient for the waste water requirements. She indicated that one portable toilet is also on-site.

Commissioner Norden inquired what the plan would be for trimming plants since the storage containers could not be used for that purpose.

Natalie Romolt indicated that a section of one greenhouse will be sliced out to accommodate the trimming of plants. The existing storage container will be used for drying and storing, and the operation may need two storage containers. She also reported that the odor mitigation system is being installed in the new greenhouses where the flowering plants will be located. The system was designed for dairy farms and needed no modifications for installation. A mechanical engineer out of Denver is overseeing the entire process. She said that the facility is currently waiting on parts to complete the electrical part of the construction process, and they are anticipating a completion date of 3-6 weeks.

Commissioner Bell noted that an email received by the County indicated no light was being emitted from the property the last few nights. She asked Ms. Romolt to comment and explain further.

Natalie Romolt explained that the operation does not currently have any plants in stages that require excess lighting. With the completion of the new greenhouses, no light should be emitted since a complete blackout system has been installed. During the daylight hours, the buildings will act as a greenhouse using sunlight, but during the couple of hours after sundown requiring excess light, the blackout system prevents light from escaping.

Commissioner Norden moved to approve OPC 14-001 for Today's Health Care, LLC located at 934 C Street in Penrose noting a limitation of three greenhouses with documentation as noted by staff review for: a copy of the Certificate of Occupancy; a copy of the detailed report of the odor mitigation including the mechanical engineer's certification; documentation from the licensed electrical engineer on the lighting system; documentation of the Marijuana Enforcement Division to move the license from 1015 Highway 115 to 934 C Street; copies of the renewed state licenses; a limit of two storage containers on-site with a limit of using the containers to hang and dry product and storage of equipment; and documentation of how the trimming and harvesting shall be handled within the existing greenhouses with a limit of three months to come into compliance. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

3. Request: OPC 14-002 High Mountain Medz, LLC dba Levity Wellness (Optional Premises Cultivation-Commercial Greenhouse)
Request for issuance of an Optional Premises Cultivation license for an indoor and outdoor grow operation, Department file #OPC 14-002 High Mountain Medz, LLC (Optional Premises Cultivation-Commercial, Greenhouse), by High Mountain Medz, LLC, doing business as Levity Wellness, for property which is owned by Levity Wellness.

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The property addressed as 3000 County Road 103, south of Florence, Colorado is located approximately 3 miles southwest from the intersection of Colorado State Highway 67 and County Road 103, thence west approximately 800 feet to the southeast corner of the property, south of Florence, Colorado. The property is zoned Agricultural Forestry and contains 40 acres more or less. Representative: Tom McMenamin, Levity Wellness

Ryan Foster, an owner of High Mountain Medz LLC, stood in for Tom McMenamin and explained that the company currently has an OPC for the property, but is not currently growing any plants because the property is under construction. The company is seeking to maintain the license. The property currently has one greenhouse, but they are planning to expand to three greenhouses. The entire area around the three greenhouses is fenced. A warehouse and a Medical Marijuana Center in Colorado Springs are included in the company's holdings, leaving this site as an expansion. Plants were grown on the property during the summer months, but with construction, that has been put on hold until they are in compliance with the Building Department.

Bill Giordano reported that the site is a very isolated facility with only one residence within the 1000 feet radius. There is no lighting in the greenhouse, and water is hauled to the site daily. The company has holding tanks on site for the water. There are no signs currently, nor will there be signs on the property in the future. A recreational travel trailer is on the property possibly being used as a residence. The property has no on-site waste water treatment system. Also, Giordano noted that the county has nothing in their file to indicate that the facility is in violation of the state regulations.

Commissioner Bell inquired about the current size of the operation and future plans for the operation.

Ryan Foster indicated that the current facility consists of one greenhouse of 2500 square feet, but the concept is to expand to three total greenhouses. The facility is strictly a summer grow process, meaning they do not grow during the winter months and require no lighting. He said that he is planning on putting a residence on the property within the year on an overlook, not in the same area of the 40 acres that the grow operation is located.

Bill Giordano informed Mr. Foster that the use of the Recreational Vehicle/Travel Trailer is acceptable during construction of the domestic dwelling as well as during the winter months when cultivation is not occurring.

Commissioner Norden stated that a well would be needed to build a residence. He asked Mr. Foster if the well water would be used in the operation.

Ryan Foster assured the Board that the well water would be used strictly for domestic purposes and would be located away from the grow area. He explained that they currently haul water that is purchased from the City of Florence approximately once per week. He said that they use a 1200-gallon water truck. The property is equipped with a 10,000-gallon holding tank as well as five 275-gallon tanks.

Commissioner Norden questioned Mr. Foster about the State's most recent inspection of the facility.

Ryan Foster informed the Board that the last inspection by the State was performed in September of 2014. The State found the property and security to be in compliance with all regulations. He said that the grow area has a 6' tall fence with barbed wire around it. The fence has wind-break throughout preventing a person who happens upon the area from seeing anything. The isolated location of the grow area is an added security feature, as well as security cameras are set up throughout the facility.

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Commissioner Bell moved to approve OPC 14-002 for High Mountain Medz LLC dba Levity Wellness with the following considerations: a copy of the Certificate of Occupancy; Completion of Compliance for the proposed greenhouse structures be submitted; the use of the recreational vehicle/travel trailer in conjunction with the operation shall be in compliance with all Zoning regulations; and that documentation from the Fremont County Environmental Health Officer as to the use of a proper or installation of an On Site Wastewater Treatment System with three months to come into compliance. Commissioner Norden seconded the motion.

With the second's approval, Commissioner Bell amended the motion to include the approval of the waiver for odor mitigation since there is only one residence within the 1000 foot radius. Upon vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

4. Request: OPC 14-003 The Organic Seed, LLC dba Cannasseur (Optional Premises Cultivation-Commercial Greenhouse)
Request for issuance of an Optional Premises Cultivation license, Department file #OPC 14-003 The Organic Seed, LLC (Optional Premises Cultivation-Commercial, greenhouse), by The Organic Seed, LLC, doing business as Canasseur, for property which is owned by Pinion Valley Properties, LLC. The northwest corner of the property is located approximately 1.4 miles from the intersection of County Road #1 and Kit Carson Trail, which is generally located in the Glen Vista/Colorado Acres Area. The property address is 1785 Kit Carson Trail, which is zoned Agricultural Rural, and contains 40 acres more or less.
Representative: Ryan Griego

Ryan Griego explained that the business has been operating since 2010 and currently holds 11 licenses, some medical and some recreational. He explained that this is the first time seeking a license from Fremont County. With the exception of one violation in October 2014, the business has no negative marks with the State of Colorado.

Commissioner Bell requested an explanation for the violation in October.

Ryan Griego explained that the violation was for having 347 plants in excess. He rationalized that when the State implemented state-wide software that tracked caregivers, centers and patients, many patients had claimed multiple centers. The State determined that the most recent center a patient had claimed would then be the center assigned to that patient. He said that multiple centers had the same violation which is the reason the Marijuana Enforcement Division found the discrepancies in plants, they allowed Organic Seed to destroy the plants on site within a week.

Bill Giordano reported that the operation is located within a residential area. Water is hauled to the site 1 to 3 times per week at an average of 2470 gallons, and the applicant has stated that the existing well on site is not used for irrigation of the marijuana plants. Odor mitigation is not required for an outdoor grow. He noted the Planning and Zoning Department has received numerous letters regarding the operation. An on-site inspection revealed that the operation is in violation of the Fremont County Zoning Resolution. The department has received numerous complaints that the domestic well has been used for outdoor watering of the operation; personnel have been living on site without any source of sewage disposal; a recreation vehicle/travel trailer has been used in conjunction with the operation; and storage containers have been placed within the setback. He noted that Mr. Griego has offered to move the storage containers. Giordano did note that the department has no knowledge of the operation being in violation of state regulations. He presented a list of items for consideration. He would like confirmation of building permits for an existing building on the premises that is fairly new and a Certificate of Completion or Compliance for the structure if it is to be used for trimming.

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Storage containers shall be used for agricultural purposes only with no trimming allowed inside the containers, and a limit should be set to the number allowed on the property. He felt that the applicant should provide a plan as to how the trimming and harvesting will be handled. The use of the Recreation Vehicle/Travel Trailer in conjunction with the operation is not allowed. He also is requesting documentation from the Environmental Health Office to use portable toilets or a proper on site wastewater treatment system, documentation from the state on the well permit, and documentation from Colorado Marijuana Enforcement Division as to compliance related to security, fencing, and lighting. Giordano also requested that any animals used for security purposes remain on the property.

Commissioner Norden requested clarification on who Nick Dremel and Josh Barnes are to the operation.

Ryan Griego clarified that Nicholas Dremel is a business partner in The Organic Seed, LLC. Josh Barnes was the previous owner of Pinion Valley Properties, LLC, which owns the property where the operation is located. Griego has purchased Pinion Valley Properties, LLC, from Barnes. He stated that he had no business relationship with Josh Barnes, that Barnes was an old friend from college who approached him about purchasing the property.

Brenda Jackson inquired why Ryan Griego is listed as the person filing the documents for Josh Barnes for Pinion Valley Properties, LLC, and why Griego was listed for a brief time as agent for service of process. She wanted to know what the relationship was between the two that would allow Griego to be the registered agent for process for Pinion Valley Properties, LLC.

Ryan Griego stated that he did aide Barnes in processing paperwork, but was not listed on the operation agreement for the business. He said that he helped with the legal filings for the business, but did not help financially or physically.

Commissioner Norden asked when the newest structure was built and for what purpose, and he asked why Mr. Griego did not inquire as to the compliance of the building at the time of purchase.

Ryan Griego stated that the building was constructed either late 2013 or early 2014, but before Griego purchased Pinion Valley from Josh Barnes. Griego said he was unaware of the intentions for the structure. He stated that Organic Seed used the building for trimming purposes until they were informed that a Certificate of Occupancy or Completion was required. He stated that he had assumed that Barnes was in compliance.

Commissioner Norden asked if the R.V. on site was being utilized by the security people.

Ryan Griego explained that Iron Protection Group was housing some of their equipment in the RV. They are a 24 hour security service that worked 12 hour shifts. The RV was used solely for the purpose of storing equipment and not as a residence.

Commissioner Norden requested information regarding the sanitation on the property for the security personnel and why approval had not been sought for use of portable toilets on-site.

Ryan Griego informed the Board that there were a couple of portable toilets in use that did not have prior approval for the site. Mr. Griego stated he was unaware that he needed to apply for approval to use the portable toilets but will now comply with the regulations. If approved for this license, the grow area on the property will be reduced to 3-4 acres in size with proper fencing and security by May 1st. The company is willing to provide proper documentation from the Marijuana Enforcement Division proving that they are in compliance with the appropriate fencing, alarm systems, and cameras.

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Commissioner Norden asked Mr. Griego why he was telling neighbors that fencing was not required, when indeed the State did require fencing to be in place.

Ryan Griego replied that the plot plan submitted to the state did not show any fencing and that was what had been approved by the state.

Commissioner Norden asked how many metal storage facilities are in place.

Ryan Griego answered there were six units at one point but has since been reduced to two units. These units are used for drying and curing.

Commissioner Norden verified that all of the trimming and processing was being done in the building that was built without a building permit and does not have a Certificate of Occupancy.

Ryan Griego verified that was correct.

Commissioner Norden asked if he has a permit for the domestic well and what it is used for.

Ryan Griego said the well was not in use during the growing season. He is aware of the complaints from people stating the well was used for cultivation, which is not correct. He has provided proof that water was delivered to the property for irrigating the plants.

Commissioner Norden noted the Board had received written complaints from Mr. Chambers that well water was being used for irrigation and that this had been acknowledged by Mr. Dremel.

Ryan Griego explained that Mr. Dremel could not be here today, and these complaints were coming from a disgruntled ex-employee.

Commissioner Norden asked if he could explain how they are storing the water that is being brought in for irrigation.

Ryan Griego said they are capable of storing about 6000 gallons of water. They use two 1550 gallon cisterns, one 1700 gallon cistern, a couple of 1000 gallon cisterns, and a 250 gallon watering container. About 2400 gallons of water would be delivered about three times per week towards the end of the growing season. The domestic well was in place when he purchased the property. The generator on the property was used to transfer water from the storage containers into the watering containers.

Commissioner Norden pointed out the impact that the trucks hauling water have on roads that are maintained by owners who live in the Glen Vista Subdivision.

Ryan Griego stated that the damage to the roads needs to be assessed, and even though the operation is not located in the Glen Vista Subdivision, the operation would be willing to meet with the homeowner's association to potentially contribute to the association.

Commissioner Norden requested clarification on the two conflicting reports of security cameras in use. The report from Mr. Giordano showed one security camera, and the USA Today News article reported wireless security cameras.

Ryan Griego explained that the operation has 5 cameras in use. The cameras are hardwired to a pole and feed to a server in the most recently constructed building onsite. They appear to be wireless, but are not wireless.

Commissioner Payne asked what the State Enforcement Division during their visit in October recommended about the cameras in use.

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Ryan Griego revealed the State recommended a camera on the ingress and egress of the entrance to the grow space. Cameras would be added to the pole as well. The State requires a modification of the grow space with fencing around the entire area that would shrink the grow space. The fencing would include the newest structure. However, the use of the structure will depend on if a Certificate of Occupancy will be issued.

Commissioner Norden requested clarification on a written response that Mr. Griego had previously submitted stating the County had written a letter of recommendation for plans of the operation. He wanted to know when the letter was written

Ryan Griego read a typical zoning review dated January 20, 2014 that Planning and Zoning had issued. He apologized that his original written response was misleading.

Commissioner Norden wanted to know if the number of plants would increase this summer.

Ryan Griego assured the Board that the number of plants would not be increased in the summer of 2015 since patient count does not necessitate it.

Commissioner Norden asked for specifics on the size of area that would be fenced, what would be located within the fencing, and how visible to neighbors would the area be.

Ryan Griego reiterated that the State requires a modification of premise before they would approve the new grow space. Mr. Griego would submit the new plots to Fremont County. The fenced area will consist of 3-5 acres. Only the modified area will then be used for cultivation, trimming or storing of product. The fenced area will become the only licensed area on the property. He said that visibility by neighbors would be minimal unless the existing structure could not be used. Storage containers would be located within the fenced area as well, and it is a possibility that they would be buried in the future.

Commissioner Norden asked if setbacks on the property line were checked before the storage containers were first placed.

Ryan Griego reported that he was not aware that there were setbacks in place so he had not checked on them.

Commissioner Bell wanted to know the impact on the placement of security personnel once the fenced area was in place.

Ryan Griego stated that security would be moved to the outside perimeter of the fenced in grow area within 100 feet. He reiterated that the security guards are a common entity within the marijuana industry. Multiple operations within Fremont County use the same security company.

Commissioner Payne wanted to know what effect not being able to use the existing structure would have on the operation.

Ryan Griego confirmed that if a Certificate of Occupancy cannot be obtained for the building that the trimming could occur outdoors since it is an outdoor grow operation, operating seasonally. Storage containers would be utilized to compensate storage area.

Commissioner Norden asked Ryan to comment on the events occurring October 10th, 2014 with the Chambers, where the security company's dog attacked the Chambers' dog on the Chambers' property, and then the security personnel entered the Chambers' property and told them to leave.

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Ryan Griego stated that the dog belonged to the security company. He is not completely aware of what happened that day, because one source is a disgruntled ex-employee and another is a report from the security company. He requested that the dog be removed, and the security company will no longer be able to use animals in the future. He said that he was unaware that the security company had a dog on the premises. He thought a fence should have been in place.

Commissioner Norden asked about the locked gate located on Kit Carson Trail. In a previous written comment by Mr. Griego, he stated that the neighbor to the Southwest has adequate access from other areas without using Kit Carson Trail. Commissioner Norden wanted to know what the response would be if that neighbor requested access.

Ryan Griego stated that Mr. Barnes had placed the gate, and the County had given Mr. Barnes the permission to do so before the property was purchased by Organic Seed, LLC. If the County insisted that the neighbor be allowed access through Kit Carson Trail, then the gate would be removed. The lock on the gate was placed by Organic Seed because of information relayed by Josh Barnes regarding permission. The fire department and emergency personnel have a key to the lock on the gate.

Commissioner Payne asked Sheriff Jim Beicker to the microphone for comments on the incidents that have occurred.

Sheriff Jim Beicker commented that concerning the security issue that occurred with the Chambers and the security dog a report was filed, however the Chambers declined to pursue the issue. Documentation was just requested for the incident and other issues. He is extremely concerned with this particular industry and the security aspects of it. Any person has the right to seek security for their business interests, but it is not acceptable to seek out a person outside of property lines. If an incident occurs, it should be reported to the sheriff's office. To his knowledge, it has not been reported.

Ryan Griego apologized to the community for the 9 News Story and the fear that the new industry has created. He felt that the story would be an excellent marketing opportunity. He said that it was a mistake on his part. He realizes that some of what is occurring is affecting people's livelihoods, but the company would like to minimize the effect and nuisance. The company and Mr. Greigo would be willing to work with the County and everyone involved to correct these issues.

Commissioner Norden has a problem with the lack of concern to check on building occupancy, the domestic water well use, the concern of property lines and not informing the security company of such lines. Responsibility needs to be taken for the security company's actions by the people who hold the OPC license.

Commissioner Bell voiced her concern that early on Ryan Greigo stated that he had no business relationship with Josh Barnes, but throughout the interview Mr. Greigo admitted to performing duties for Mr. Barnes. Ryan Greigo clarified that he should have been more specific that he did not have a business relationship with Mr. Barnes in regards to what occurred on the property prior to Mr. Greigo purchasing it.

Commissioner Norden moved to deny the application for OPC 14-003, The Organic seed, LLC DBA Cannasseur. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

Chairman Payne adjourned the meeting at 11:19 A.M.