

**February 12, 2013**

**THIRD MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on February 12, 2013, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:30 A.M.

Debbie Bell	Commissioner	Present
Tim Payne	Commissioner	Present
Edward H. Norden	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 Jody Blauser, Deputy Clerk.

The Morning Prayer was given by Keith Naumann, Pastor of the Church at the Abbey.

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

**APPROVAL OF AGENDA**

**Commissioner Bell** added consideration of appointments to the Fremont County Building Code Board of Appeals as New Business item #9 on the agenda.

**Commissioner Norden** moved to approve the amended agenda adding New Business #9, consideration of appointments to the Fremont County Building Code Board of Appeals. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

**CONSENT AGENDA**

**Commissioner Bell** noted a Public Hearing is being scheduled for March 12, 2013 at 10:00 a.m. for CUP 12-001, The Aggregate Source, for a request to mine granite products.

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

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials

**County Clerk Barr** gave her end of year report for 2012. Total collected for the year was \$9,693,183.53. Of this amount the County kept \$4,857,550.07 to disburse to other entities. This is approximately 51% of the total collected and \$59,403.33 more than 2011.

**County Clerk Barr** then gave the monthly report for January 2013. The total collected was \$767,588.20. The County kept \$401,771.71 which was about 53%. This was down \$29,107.77 from January of 2012.

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**Commissioner Norden** moved to accept the County Clerk's yearend report for 2012 and the report for January 2013. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

**County Manager Sugars** gave a report on Sales and Use Tax for January 2013. The Retail Sales Tax collected was 3.86% above January 2012. This tax was actually collected in November 2012 and sent to Fremont County in January 2013. The Auto Use Tax is 10.2% higher than last year. This was collected in December 2012 and received by Fremont County in January 2013. The Construction Use Tax was down 42.30% from this time last year. The overall Sales and Use Tax collections are 1.92% above January of 2012.

**Commissioner Bell** said the Commissioners attended the Penrose Chamber of Commerce Banquet last night and would like to congratulate Dale Johns who was named the Penrose Citizen of the Year. Bell also welcomed Sonny Bryant as the new Fremont County Budget and Finance Officer.

**Commissioner Norden** said the Firewise Trailer was recently delivered. There are also 15 signs that will be installed throughout the county that will display the level of fire danger.

2. Citizens Not Scheduled: None.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

1. Consideration of a Resolution upholding the Second Amendment of the Constitution of the United States.

**Commissioner Payne** read the proposed Resolution.

**Commissioner Norden** moved to adopt Resolution #12 to uphold the Second Amendment of the United States Constitution. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #12 is attached.

2. Annual Review of John C. Fremont Library District. Representative: Tabby Selakovich, Director.

**Tabby Selakovich** presented the annual review with an update of the programs and activities going on at the John C. Fremont Library. In January over 1600 books were checked out and 1900 media items were checked out. They have received a broadband opportunity grant that allowed them to purchase new computers and laptops for the library. The grant also helped them to purchase an early literacy computer program geared for children ages 2-8. The grant funds received total \$3,000.

3. Consideration of an appointment of Cherry Jones to Penrose Community Library District Board of Trustees.

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**Commissioner Bell** stated they have a letter from the current Penrose Library Board of Trustees recommending Cherry Jones be appointed to Board of Trustees.

**Commissioner Payne** moved to appoint Cherry Jones to fill the seat vacated by Bill Flemming on the Penrose Community Library District Board of Trustees. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

4. Cripple Creek & Victor gold Mining Company update on 2012 activities and 2013 plans. Representative: Jane Mannon, Manager, Community Affairs.

**Jane Mannon** presented an update for activities in 2012 and future plans for the Cripple Creek and Victor Gold Mine. The Mine employs 504 employees of which 119 are from Fremont County. The average salary is \$25.28 per hour. Production in 2012 was 247,266 ounces of gold and 101682 ounces of silver. They have donated to several projects in Fremont County that include the 4-H Awards Show and Livestock Sale. In September Amendment 10 was approved by Teller County which will extend the mine life through 2025 and add more employees. This will also require Highway construction and blasting resulting in some periodic closures of Highway 67. Tours of the mine are available during the summer months.

#### **PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.**

- 1.) Request: CUP 12-003 Dawson Gold Project (Exploration) Request approval of a Conditional Use Permit (CUP), Department file #CUP 12-003 Dawson Gold Project (Exploration), by Zephyr Gold USA Ltd, to allow for surface excavation and drilling exploration for precious metals. The exploration is proposed to occur in three phases, depending on exploration results of each phase: Phase 1 will be Mineral Resource Delineation Drilling, Phase 2 will be Preliminary Economic Analysis possibly including bulk sampling for metallurgical testing, and Phase 3 will be the Geotechnical Studies and Resource Confirmation Drilling. In Phase 1 up to fifteen holes will be drilled as much as possible along the existing mountain trails; however, due to the remoteness of the claims, approximately 800 lineal feet of new mountain trail may need to be constructed. In the event mineral outcrops are encountered, overburden removal may be necessary (removal will be by a backhoe, which will create a trench the width and approximate depth of a backhoe bucket). The trenches will be filled and reclaimed immediately following geologic evaluation and sampling. Phase 2 would entail extraction of approximately five to ten tons of material at the surface that will be removed (by drilling and blasting) and by one, ten ton truck. All surface disturbances will be reclaimed immediately. If Phase 2 results are promising, Phase 3 will result in drilling in the same manner as Phase 1. Total disturbance will be limited to less than two acres and the total life of exploration will be less than one year, if Phase 1 results are promising. The property (access entrance) is located on the south side of Fremont County Road #3 approximately three miles southwest from the intersection of Fremont County Road #3 and Mariposa Road, thence approximately one mile south from County Road #3 to the claim area. The CUP property (mining claims) is zoned Agricultural Forestry and contains approximately 593 acres of which less than two acres will be affected. Representative: Angela Bellantoni, Environmental Alternatives, Inc.

**Chairman Bell** opened the Public Hearing at 10:04 a.m.

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**Angela Bellantoni**, introduced Will Felderhoff, the Senior Technical Consultant of Zephyr and Mark Graves, the Project Manager. Ms. Bellantoni gave a presentation explaining the Dawson Gold Exploration Project request. In 1987 a CUP was granted at this site to mine underground and on the surface. The CUP was withdrawn in August 2001. The applicant's main purpose is exploration on Dawson Mountain and the Windy Gulch area. The nearest structure is located 1.5 miles from the proposed mining site. There are mountain ridges in between the site and the structures. Access is through a gate off Temple Canyon Road. They hope to begin the first phase of drilling from February to April of 2013. If the results are not promising then the holes will be sealed and reclamation completed. Of the 593 acre site approximately 2 of the acres will be explored. If the results are favorable then phase 2 would be implemented in the summer of 2013 to remove bulk material and surface exploration. Phase 3 would be confirmation drilling in the fall of 2013.

**Planning and Zoning Director Giordano** said the proof of publication was completed, and the property was posted. Notification to surrounding property owners within 500 feet of the property was completed. Additional notifications were sent to the Sheriff's Department, the Fremont/Custer Historical Society, the Colorado Nature Conservancy, and the Parks and Wildlife Department. The Planning Commission did recommend unanimous approval with seven members present at the January 2<sup>nd</sup> meeting. Giordano discussed the recommended conditions, contingencies and waivers.

**Commissioner Norden** asked for an explanation of the permitting history for the property.

**Angela Bellantoni** explained the original CUP had been issued for exploration and mining in 1987. A septic permit was issued at that time as well.

**Bill Giordano** said the permits had been transferred to Jascan and Celtic Minerals.

**Angela Bellantoni** said the CUP was active until August 28, 2001 but the last exploration activity was in the 1990's.

#### **Public Comments:**

**Jim Javernick** said he has been involved with this project since the 1980's. He said this project will work as the price of gold today is substantially higher than in prior years. This will benefit the private sector as well as generate tax revenue for Fremont County.

**Will Felderhoff** said if the project goes well they hope to produce 25,000 to 30,000 ounces of gold per year. The cost to produce one ounce of gold costs \$600 which would amount to \$15,000,000 to \$20,000,000 per year for the local economy. An underground mine of this size has a minimal footprint. The drill holes at this stage would be 200 to 300 feet deep.

**Chairman Bell** closed the Public Hearing at 10:42 a.m.

**Commissioner Norden** asked how deep the surface disturbance would be during phase 2.

**Will Felderhoff** said during phase 2 a road may need to be built but would be reclaimed. Some samples may need to be taken in the field as well.

**Bill Giordano** said the Fire Protection District was notified of this CUP request and a response was received. They had no problems with the request unless structures would be present on the property.

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**Commissioner Payne** moved to approve CUP 12-003 Dawson Gold Project (exploration) with the Recommended Conditions A-R, Additional Notification Requirements 1-4, and Waiver Requests 1-5 as Resolution #13. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

5. Fremont County Tourism Council Annual Report. Representative: Doug Shane and Larry Oddo.

**Doug Shane** presented the Fremont County Tourism Council (FCTC) Annual Report to the Board of Commissioners. More than 18,959 people received information regarding Fremont County through the Chamber of Commerce. A mobile web application was launched that welcomes visitors to the community and provides information on upcoming activities. The Visitors Guide will be distributed by the end of February. The FCTC awarded \$7,000 to 17 applicants for community events in 2012. The Waldo Canyon fire completely devastated the tourism industry. Many businesses were down 35% to 65% as a direct result of the fire.

**Larry Oddo** said part of the challenge is allocating how to spend the lodging tax revenue. While social media is less expensive, it is harder to track. The Visitors Guide is more expensive to produce but is a tangible product and easier to measure the return.

**Commissioner Norden** said he is working on the billboard project to be placed along Highway 50. The size of billboard still needs to be determined.

**Commissioner Norden** moved to accept the Fremont County Tourism Council Annual Report for 2012. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

6. Consideration of a Resolution Granting an Exemption from the Subdivision Regulations for a Tract of Land in Fremont County.

**County Attorney Jackson** explained the request came to the county from Charles and Donna Dudley through their attorney, Norm Lemons. They purchased this 4 acre parcel in Western Fremont County in 1974. This conveyance did not go through the subdivision process for the county. This means it is illegal to sell the parcel as is. The land would not be eligible for a building permit or a well permit from the State as it is less than 35 acres. Statute allows the Board of County Commissioners to grant an exemption from the Subdivision Regulations if they can determine it is not a request to circumvent the subdivision regulations. Ms. Jackson has discussed this with the zoning department and believes it is not an attempt to circumvent the subdivision regulations.

**Commissioner Norden** moved to approve Resolution #14 Granting the Exemption from the Subdivision Regulations for this tract of land in Fremont County owned by Charles and Donna Dudley. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #14 is attached.

7. Consideration of an appointment to the Fremont County Heritage Commission created by the resignation of Margaret Storm.

**Commissioner Payne** moved to appoint Richard Jacobson of Florence to fill the vacancy created by the resignation of Margaret Storm to the Fremont County Heritage Commission with a term expiring January 1, 2015. Commissioner Norden seconded the motion.

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Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

8. Consideration of an IGA with the Canon City Area Fire Protection District regarding enforcement of fire restrictions under the Fremont County Fire Restriction Ordinance.

**County Attorney Jackson** said the Board approved Ordinance 2012-1 rewriting fire restrictions for Fremont County to have consistency with the agencies involved in fire protection and enforcement. The Canon City Area Fire Protection District lies partly within Brookside, Canon City and in Fremont County. Statute says these Fire Districts, the Sheriff and County can enter into an IGA to allow uniform enforcement. The Fire District Board approved this IGA last night. This IGA will also need signed by the Sheriff and the Board of Commissioners.

**Commissioner Payne** moved to approve the IGA with the Canon City Area Fire Protection District. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

9. Consideration of Appointments to the Fremont County Building Code Board of Appeals.

**Commissioner Norden** moved to appoint Michael Pullen to serve as a regular member on the Fremont County Building Code Board of Appeals with a term expiring August 1, 2015, and appoint Marvin Dornhecker as an alternate member with a term expiring August 1, 2016. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

**Chairman Bell** adjourned the meeting at 11:10 A.M.

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Clerk and Recorder

February 12, 2013

RESOLUTION NO. 12, SERIES OF 2013

**RESOLUTION EXPRESSING THE RESOLVE OF THE FREMONT COUNTY BOARD OF COMMISSIONERS TO UPHOLD THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION AND ENCOURAGING STATE AND FEDERAL REPRESENTATIVES TO RECOGNIZE AND ENFORCE EXISTING GUN LAWS**

**WHEREAS**, the Second Amendment of the United States Constitution provides “A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed;” and

**WHEREAS**, the Article II of the Colorado Constitution provides “The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question;” and

**WHEREAS**, for centuries tyrants have recognized that a disarmed population is a readily-dominated population; and

**WHEREAS**, the Second Amendment protects the rights of defense of self, defense of others and defense of the nation, and assumes the rights to hunting and sport shooting; and

**WHEREAS**, it is estimated that more than 70 million people, representing more than half the households in America, have chosen to lawfully exercise the right to bear arms and defend themselves and their families; and

**WHEREAS**, the vast majority of all lawfully-owned firearms in America are not used in crime; and

**WHEREAS**, statistically, lawful gun owners are less likely to break the law than the average member of the public; and

**WHEREAS**, studies by the National Academies of Science and the Centers for Disease Control have found no persuasive evidence that gun-control laws actually reduce crime; and

**WHEREAS**, Americans today are safer from violent crime than they have been at any time since the mid-1960s.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners for Fremont County, that the County of Fremont, State of Colorado, WILL uphold the Second Amendment of the Constitution of the United States, and WILL act in conformity with our sworn duties as duly elected officials charged with public trust.

Further, the Board of Fremont County Commissioners strongly urges the United States Congress to reject international treaties that will infringe on the Second Amendment rights of American

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citizens, and believes neither the United States Congress nor the Colorado General Assembly of the State of Colorado should entertain consideration of any new legislation that would infringe on constitutionally-protected rights under the Second Amendment through any means, including additional restrictions on lawful firearms and accessories; or on the possession, use, sale or transfer of legitimately-owned firearms.

**AND BE IT FURTHER RESOLVED** that the Fremont County Board of County Commissioners calls upon the United States Congress and the Colorado General Assembly to recognize the multitudes of existing laws related to the manufacture, sale and possession of firearms, and acknowledge that in order to combat gun violence, the Country must enforce existing laws and more effectively punish and deter those who commit these crimes.

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

Debbie Bell	<u>Aye</u>	Nay	Absent	Abstain
Edward H. Norden	<u>Aye</u>	Nay	Absent	Abstain
Timothy R. Payne	<u>Aye</u>	Nay	Absent	Abstain

Date: February 12, 2013

BOARD OF COUNTY COMMISSIONERS  
OF FREMONT COUNTY

ATTEST:

By: Debbie Bell  
Chairman

By: Katie E. Bau  
Clerk to the Board

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RESOLUTION NO. 14, SERIES OF 2013

**RESOLUTION GRANTING AN EXEMPTION FROM THE SUBDIVISION REGULATIONS  
FOR A TRACT OF LAND IN FREMONT COUNTY**

WHEREAS, the Fremont County Board of County Commissioners has received a request from Charles and Donna Dudley for an exemption from the county subdivision requirements regarding a vacant 4-acre parcel of property described as:

TRACT "AT"

A tract of land located in the Northwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  and in the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 22, Township 48 North, Range 10 East of the New Mexico Principal Meridian, Fremont County, Colorado, being described as follows:

Beginning at a point on the southeasterly boundary of a County Road whence the North  $\frac{1}{4}$  Corner (brass capped) of said Section 22 bears North  $52^{\circ}09.7'$  West 1125.8 feet, said beginning point and the other three corners of the tract being marked by a  $\frac{5}{8}$  inch steel reinforcing bar 2 feet long driven in the ground and having an aluminum cap; thence proceeding around the tract North  $48^{\circ}05.6'$  East along said road boundary 542.0 feet; thence South  $46^{\circ}46.2'$  East 322.7 feet; thence South  $48^{\circ}05.6'$  West 542 feet; thence North  $46^{\circ}46.2'$  West 322.7 feet to the point of beginning; containing 4.0 acres. (Directions by solar observation.)

WHEREAS, pursuant to §30-28-101 (10)(d), C.R.S., the Board possesses the authority to grant a subdivision exemption if it determines that the division of land is not within the purposes of the subdivision requirements and the exemption is not intended to evade the subdivision requirements; and

WHEREAS, the Board has considered the request and all attendant circumstances regarding the ownership history of the property and the facts surrounding the initial transfer of the 4-acre parcel, including:

- a. The 1974 transaction by which the property was transferred under a contract for sale to the Dudleys (purchasers) was handled by legal counsel, who apparently failed to inform the parties of the statutory and regulatory subdivision requirements;
- b. Several parcels in the immediate vicinity of the property have been transferred in violation of subdivision laws and have had structures constructed on the properties, presumably with county-issued building permits;
- c. The Dudleys have maintained uninterrupted ownership of the property for 38 years under the belief that the parcel was lawfully created;
- d. For various reasons, the majority of the owners of other parcels in the immediate vicinity have not been required by the County to comply with subdivision regulations and have had permits issued by the County and State (water well permits).

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Katie E. Barr, Clerk and Recorder, Fremont County, CO



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WHEREAS, the Board is persuaded that the request for the subdivision exemption is meritorious and that a grant of the request would not evade or defeat the purpose of the subdivision statutes and regulations.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of Fremont County hereby grants the request for an exemption from the requirements of county subdivision regulations with respect to the following property:

TRACT "AT"

A tract of land located in the Northwest ¼ of the Northeast ¼ and in the Northeast ¼ of the Northeast ¼ of Section 22, Township 48 North, Range 10 East of the New Mexico Principal Meridian, Fremont County, Colorado, being described as follows:

Beginning at a point on the southeasterly boundary of a County Road whence the North ¼ Corner (brass capped) of said Section 22 bears North 52°09.7' West 1125.8 feet, said beginning point and the other three corners of the tract being marked by a 5/8 inch steel reinforcing bar 2 feet long driven in the ground and having an aluminum cap; thence proceeding around the tract North 48°05.6' East along said road boundary 542.0 feet; thence South 46°46.2' East 322.7 feet; thence South 48°05.6' West 542 feet; thence North 46°46.2' West 322.7 feet to the point of beginning; containing 4.0 acres. (Directions by solar observation.)

BE IT FURTHER RESOLVED, that the Board specifically finds that the equities of the circumstances regarding the transfer of the property, combined with the historic implied "exemptions" granted by the County for other similar parcels in the vicinity of this parcel, warrant granting an exemption in this case. The parcel is hereby deemed by the Board to be a legally-created 4-acre parcel. Any future division of the property shall fully comply in all respects to all applicable subdivision laws and regulations.

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

Debbie Bell	<u>Aye</u>	Nay	Absent	Abstain
Edward H. Norden	<u>Aye</u>	Nay	Absent	Abstain
Timothy R. Payne	<u>Aye</u>	Nay	Absent	Abstain

Date: February 12, 2013

BOARD OF COUNTY COMMISSIONERS  
OF FREMONT COUNTY

ATTEST:

By: Debbie Bell  
Chairman

By: Katie E. Barr  
Clerk to the Board