

March 8, 2016

FIFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 8, 2016, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward Norden called the meeting to order at 9:30 a.m.

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

Also present: George Sugars, County Manager and Matt Koch, Planning and Zoning Director

The Invocation was given by Joe Garkovich of First Christian Church.

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

APPROVAL OF AGENDA

Commissioner Bell moved to approve the Agenda striking item #8 under New Business. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / February 22, 2016
2. Approval of Bills for March 8, 2016 / \$ 861,673.45
3. Approval of Water Lease Agreements (CWPDA #951 and #952) with the Upper Arkansas Water Conservancy District
4. Adoption of Resolution #10 Series of 2016, ZC 15-002 Mountindale Campground
5. Approval of an Agreement with Forest Stewardship Concepts, Ltd. for the Indian Springs Community Wildfire Protection Plan
6. Schedule Public Hearing for March 22, 2016 at 10 a.m.
 - a. CUP 16-001, Iron Mountain Road Gravel Pit
Request approval of a Conditional Use Permit, Department file # CUP 16-001, Iron Mountain Road Gravel Pit, to allow the open pit mining, screening, crushing, blasting and hauling of sand and gravel, by Bennie Koch, for property which is owned by BLM

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

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ADMINISTRATIVE/INFORMATIONAL

1. Staff / Elected Officials:
 - a. County Clerk's Monthly Report, Katie Barr, County Clerk and Recorder

Clerk Barr reported the total MV Fees, Sales Taxes and Recording Fees collected for February 2016 were \$921,611.70. Fremont County's portion for disbursement is \$523,577.80, which is 57% of the total fees and is \$67,603.38 more than February of 2015.

Commissioner Bell moved to approve the County Clerk's Monthly Report for February 2016. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

- b. County Treasurer's Semi-Annual Report and Public Trustee's Quarterly Report - Kathy Elliott, County Treasurer

Treasurer Elliott reported 131 foreclosures for 2015, which is down 26% from 2014. The Trustees Report showed the County's ending balance up almost \$1 million from the year before.

Commissioner Payne moved to approve the County Treasurer's Semi-Annual Report and Public Trustees Quarterly Report. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

Commissioner Bell noted the 2015 Accountability Report is on the agenda to be presented at the next meeting on March 22, 2016. The final draft of the report will be posted on the website.

Commissioner Norden said the County is sponsoring the Fremont County Spring Cleanup Campaign in cooperation with the City of Canon City. Three hundred trash vouchers will be available starting March 21 that entitles the holder to haul up to a half-ton of trash to TwinEnviro. The vouchers are limited to one per household and are available to residents of the unincorporated areas of the county.

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

Richard Hilderbrand is part of the Fremont County Youth Coalition, whose purpose is to battle drug problems in the youth in the county. On April 13, a meeting to bring awareness to the problem will be held from 6:30 to 8:00 p.m. at CCHS auditorium. The event is open to the public.

David Miskura owns a store on Copper Gulch Road. He feels that drugs other than marijuana are a problem in the area.

Jennifer Vanover feels the people are being petty in the west end of Fremont County. The citizens should meet to talk about the problems and find a solution.

Rob Harper has a child addicted to heroin. He would like focus to be on helping individuals who are addicted to harder drugs than marijuana.

OLD BUSINESS

None.

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NEW BUSINESS

1. In consideration to appoint Judy Lazor to the Penrose Community Library District Board of Trustees for a 5-year term expiring December 31, 2020

Commissioner Bell moved to appoint Judy Lazor to the Penrose Library District Board of Trustees. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

2. Request: MMC 14-002 Alternative Medical Remedies, LLC (Medical Marijuana Center-Pharmacy) Request for issuance of a medical marijuana license renewal, Department file #MMC 14-002 Alternative Medical Remedies, LLC (Medical Marijuana Center-Pharmacy and Commercial greenhouse), by Alternative Medical Remedies, LLC (Thomas Ballman, Sr.), dba Alternative Medical Remedies, for property which is owned by Collegiate Management, to allow for a Medical Marijuana Center and a marijuana grow operation within the same building, which is addressed as 1450 L Street, Penrose, Colorado. The property is located at the southeast corner of the intersection of US Highway 50 and L Street in the Penrose/Beaver Park Area. The property is zoned Business and contains 3.75 acres.

Representative: Tom Ballman, Sr. /Shana Ballman

Shana Ballman said there are no changes from last year.

Director Koch reiterated there are no changes. There have been no complaints or violations in the last year either. Proof of property tax payment needs to be submitted within the next 90 days.

Commissioner Payne moved to approve renewal of MMC 14-002 Alternative Medical Remedies LLC. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

3. Request: MMC 14-003 Heritage Organics, LLC (Medical Marijuana Center-Pharmacy) Request for issuance of a medical marijuana license renewal, Department file #MMC 14-003 Heritage Organics, LLC (Medical Marijuana Center-Pharmacy), by Heritage Organics, LLC, dba Heritage Organics, LLC, for property which is owned by Kendall R. and Connie K. Gjelsness, to allow for a Medical Marijuana Center which is addressed as 401 Broadway Street, Suite A, Penrose, Colorado. The property is located at the northeast corner of the intersection of Broadway and Grant Streets in the Town of Penrose. The property is zoned Business and contains 0.24 acres.

Representative: Micheline Smith

Director Koch said there are no changes to the application. All items have been submitted, and there have been no complaints or state violations.

Commissioner Bell moved to approve for renewal of MMC 14-003 Heritage Organics LLC. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

4. New Liquor License Application
Gilmo Enterprises Inc.
DBA Elm Liquor & Drive-Thru
Retail Liquor Store
1503 Elm Ave., Canon City, CO
Representative: Richard Mills

Richard Mills said the location where he would like to open his liquor store had a liquor store for several years but was recently vacated. He will be active in the day-to-day

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management of the store, and plans on having his employees trained under the laws of the state.

Clerk Barr said the application was in order and all items had been returned in a timely manner.

Mike Abbott is in opposition to the liquor license since he owns a liquor store 600 feet up the road. He feels the State Liquor Code would be in violation if approved since the area does not have a need for a second store. He presented a petition from only Lincoln Park residents in opposition of a second store in the neighborhood. The petition had 133 signatures. His store has been in the neighborhood for 40 years and recently vacated the proposed location due to a rent increase.

Kay Abbott presented a petition in favor of Waterhole #1 staying in the Lincoln Park area that collected 349 signatures when they moved their liquor store down the street. She opposes the liquor license for Elm Liquor & Drive-Thru since it will have a significant impact on her business.

Robert Abbott is in opposition to the liquor license. He feels the impact on an established business should be considered.

Gary Howard owns the property where the new store will be and is in favor of the liquor license. As property owner, he needs the vacant storefront to be filled. He feels the needs of the neighborhood will be met based on the drive-thru alone. He also owns American Liquor Store, and Richard Mills is a family member.

Tanna Prentiss from Lincoln Park is opposed to the new liquor store since she feels there is no need for two stores.

William DeSpain is a resident of Lincoln Park. He is opposed since it will not reflect well on the community.

John Micke as a resident of Lincoln Park is opposed to the liquor license.

Caroline Daum is a Lincoln Park resident and does not want a second liquor store.

Richard Mills feels the American way is to have competition decide the necessity in the area for two stores.

Commissioner Payne moved to deny the Liquor License for Gilmo Enterprises Inc DBA Elm Liquor & Drive-Thru based on the undo concentration of liquor stores in the area and no neighborhood need. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

5. CDP 14-002 The Outpost at Texas Creek Commercial Development Plan
Request approval of a six (6) month extension of the deadline for submittal of contingency items in conjunction with CDP 14-002 The Outpost at Texas Creek Retail Stores, Mini-Storage Facility, Personal Services, Feed Store, Restaurant, Bar/Lounge, Automobile Sales, Carwash and a Watchman's Quarters and any other allowed uses and all allowed Business uses, by Phillip & Teresa Poindexter, for their property which is located on the Southside of U.S. Highway 50, 0.17 miles east of Fremont County road #37, aka McCoy Gulch Road in the Texas Creek Area
Representative: Theresa Poindexter

Director Koch said the CDP had been granted extensions previously, but due to the weather and unforeseen circumstances there are items left to be completed. The items are minimal.

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Commissioner Bell moved to approve a 6-month extension for CDP 14-002 The Outpost at Texas Creek Commercial Development Plan. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

6. SRU 13-002 Captain Zip Line Adventure Park Special Review Use
Request approval of a minor modification in regards to the dust suppressant for the roadway.

Monte Holmes said traffic count studies have shown the park's impact on the roads is a minimal part of the traffic in the area. The expense of the dust suppressant is more than he feels is necessary due to his small impact. He would like to see the dust suppressant requirements modified.

Director Koch said the original resolution approved has the applicant paying the County for dust suppressant.

Commissioner Payne moved to table until the March 22, 2016 meeting for additional staff comment the SRU 13-002 Captain Zip Line Adventure Park modification. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

7. Introduction and First Reading of Ordinance No. 1 Series of 2016, an Ordinance Regulating the Cultivation of Marijuana on Residential Properties, in Residential Structures, on Unoccupied Property and Requiring Registration of Primary Caregivers in the Unincorporated Area of Fremont County, Colorado

Attorney Jackson read the ordinance into the record.

William DeSpain has a concern with section 7-A. He feels that the required acreage is too large for people who are handicapped and whose life partner is their caregiver. Low-income people do not have the means to take care of a large piece of property along with a person requiring a caregiver.

Janel Armstrong said she is a responsible grower and caregiver. She feels that following the State laws should be enough, and the ordinance compromises patients' rights.

John Hamrick submitted written comments in regards to the wording of the ordinance.

Darren Jones feels, as a local grower, the regulation of plant count is a necessity, but Section 7 is too limiting. The limitation is inhibiting low-income people from accessing or providing for medical needs since a caregiver can provide marijuana at a much lower rate than a store under current regulations.

Matthew Connor is the regional manager of the Wet Mountain Organics. His operation provides amendments for the soil for growers. He feels the economic impact of the ordinance will be great on him since it will limit the caregivers in the area. He agreed there should be regulations such as lock and key and discretion in growing though.

Karen Hunter lives in Lincoln Park, and is a registered caregiver and patient. Her two-acre registered garden has 36 plants. The ordinance will inhibit her from growing any plants for herself or her patients.

Rich Bandlow is in support of the ordinance. He feels the ordinance is minimal.

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Beverly Krieger supports the ordinance. She lives in Meadowdale Acres where new neighbors have moved to grow marijuana.

Ingrid Aniol questioned how the ordinance will be enforced and with which funds.

Chris Garrison feels that the recreational industry should be regulated more than medical caregiver grows and co-operational grows.

Sheriff Beicker is in support of the ordinance. He said the ordinance is reasonable even though it will affect existing business. The ordinance is limiting as intended.

Tom Misel has concerns about sections 7 and 8. He feels the ordinance penalizes people of lower socio-economic status who are unable to afford a larger piece of land.

Misha Smith supports caregivers since they can provide marijuana at a lower cost. Fencing with a passkey should be required, but she feels the acreage requirement should be recreational versus medical.

Scott Strong said his necessary medicine would not be available if his caregiver is regulated as per the ordinance. He feels this is punishing the people who are complying.

Rob Harper feels there are other things that are more offensive than marijuana. He said an outdoor grow is a healthy grow that is financially sound.

Max Klemm says the everyday person does not have time to grow the maximum number of plants.

The Board took note of the public comment and indicated they would consider possible changes to the ordinance before it comes up for second reading at the March 22nd meeting. Chairman Norden said that once language changes are proposed a second draft of the ordinance will be posted for public review on the Fremont County website.

9. In consideration of Bid Award for Airport Hangar #4 Foundation Repair Project
Representative: George Sugars, County Manager

Manager Sugars said the County received four bids for the repair project. Patch Construction had the lowest bid. He recommended the bid be awarded to Patch Construction.

Commissioner Bell moved to award the bid to Patch Construction for \$9663 for hangar repairs. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

10. In consideration of a Grant Agreement with Colorado Division of Homeland Security and Emergency Management for the Arkansas Riverwalk Trail Streambank Stabilization Project
Representative: George Sugars, County Manager

Manager Sugars said this is the beginning of reimbursements by FEMA grant funds for the stabilization project on the Riverwalk.

Commissioner Payne moved to execute the Grant Agreement with Colorado Division of Homeland Security and Emergency Management for the Arkansas Riverwalk Trail Streambank Stabilization Project. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

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11. Approval of Change Order #1 with Whinnery Construction, Inc. for the Arkansas Riverwalk Trail Streambank Stabilization Project
Representative: George Sugars, County Manager

Manager Sugars said more material is required to complete the project.

Commissioner Bell moved to approve Change Order #1 with Whinnery Construction, Inc. for \$40,306.16. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

12. In consideration of an agreement for professional services with Lee & Burgess Associates for conducting a compensation and classification study and update
Representative: George Sugars, County Manager

Manager Sugars recommended conducting a compensation and classification study with Lee & Burgess Associates to keep the County up-to-date in the market with job classifications. He said the study would cost between \$14,500 and \$17,500.

Commissioner Payne moved to approve the agreement for professional services with Lee & Burgess Associates not to exceed \$17,500. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

13. Consideration of a Resolution authorizing Transfer of Appropriated Funds between the various funds of Fremont County, Colorado for the Budget Year ending December 31, 2015
Representative: Sunny Bryant, Assistant County Manager/Budget & Finance Officer

Sunny Bryant said this is the annual resolution transferring appropriated funds. The total transfer is \$6,294,597.

Commissioner Bell moved to approve Resolution #12 authorizing the Transfer of Appropriated Funds between various funds for Fremont County, Colorado for the Budget Year ending December 31, 2015. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10 A.M.

None.

Chairman Norden adjourned the meeting at 1:01 p.m.

Clerk and Recorder

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RESOLUTION NO. 12, SERIES OF 2016

**A RESOLUTION AUTHORIZING THE TRANSFER OF APPROPRIATED FUNDS
BETWEEN THE VARIOUS FUNDS OF FREMONT COUNTY, COLORADO, FOR THE
BUDGET YEAR ENDING DECEMBER 31, 2015**

WHEREAS, the Fremont County Board of Commissioners did approve the 2015 Budget for the various funds of Fremont County, Colorado, by Resolution No. 42, Series 2014, on December 18, 2014, and

WHEREAS, such approved budget did include certain Transfers and In-Direct Costs between the various Funds.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Fremont County, Colorado, that the following transfers and in-direct costs between the various Funds of Fremont County, Colorado, are hereby approved, and The County Treasurer is authorized to perform such Transfers for the 2015 Budget Year:

TRANSFERS TO:

GENERAL FUND	\$ 1,120,648
SHERIFFS FUND	3,939,852
DEPT OF TRANSPORTATION	82,614
DEPT OF HEALTH	94,606
CAPITAL EXPENDITURES FUND	351,765
SALES & USE TAX CAP IMP FUND	465,000
SELF-FUNDED INSURANCE FUND	200,000
WEED FUND	39,112
RESTRICTED FUND	<u>1,000</u>

TOTAL TRANSFERS TO \$ 6,294,597

TRANSFERS FROM:

GENERAL FUND	\$ 4,412,180
SHERIFFS FUND	293,455
DEPT OF TRANSPORTATION	190,315
DEPT OF HEALTH	5,500
WASTE DISPOSAL FUND	15,000
LODGING TAX FUND	1,574
AIRPORT FUND	16,236
PILT FUND	1,076,954
SALES & USE TAX CAP IMP FUND	162,500
DEPARTMENT OF HUMAN SERVICES	17,186
CONSERVATION TRUST FUND	74,031
SELF-FUNDED HEALTH INS FUND	24,183
WEED FUND	<u>5,483</u>

TOTAL TRANSFERS FROM \$ 6,294,597

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Commissioner Bell moved for adoption of this Resolution, with a second by
Commissioner Payne. The roll call vote of the Board was 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

The Resolution was declared to be duly adopted.

Date: 8 March, 2016

Edward H. Norden
Chairman

Attest:

Katie E. Barr
County Clerk and Recorder