

March 12, 2013

FIFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on March 12th, 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.

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

APPROVAL OF AGENDA

Commissioner Bell said New Business item #5, Consideration of Task Order A with Armstrong Consultants needs to be stricken from the agenda today.

Commissioner Norden moved to approve the amended agenda, striking New Business item #5. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

CONSENT AGENDA

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. Resolution #15 is attached.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

County Clerk Barr gave her report for February 2013. The total collected was \$692,141.74. Of this amount the County's portion for disbursement was \$362,372.33. This was \$21,536.53 more than February of 2012.

Commissioner Norden moved to accept the County Clerk's Report for February 2013. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

Commissioner Norden said the Commissioners and County Manager toured the Quixotic Fish Farm last week. This operation processes the Tilapia Fish from the Department of Corrections fish farm. The business hopes to expand current operations and employ about 20 more people in Fremont County.

Commissioner Bell announced the Canon City Chamber of Commerce will be hosting a Legislative Hour at City Hall this Saturday from 11:00 a.m. until noon. This program will also be televised on local channel #19.

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2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

NEW BUSINESS

1. Consideration of appointments and reappointments to the Fremont County Weed Advisory Board.

Commissioner Norden said the Weed Advisory Board will meet on March 20, 2013 and the appointments need to be in place before then.

Commissioner Norden moved to reappoint: Paul Telck, Doug Burford, Ralph Kunselman, Curt Sorenson, and Fred Smith to three year terms expiring December 31, 2015, and appoint Tony Telck and Darrell DeLing to three year terms expiring December 31, 2015 to the Fremont County Weed Advisory Board. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

2. Consideration of appointment to the Fremont County Planning Commission.

Commissioner Payne moved to appoint Michael Pullen to the Fremont County Planning Commission to fill the balance of the term ending April 27, 2013 and to a new three year term ending April 27, 2016. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

3. Consideration of appointments to the newly formed Fremont County 4-H Fair Sales Committee.

Commissioner Bell explained the 4-H Sale has taken place the past few years under the Fairs and Shows Committee. For better transparency and accountability the Board of Commissioners have decided to create a 4-H Sales Committee. Commissioner Norden said the 4-H Sales Committee will be under the umbrella of the Fremont County Fair Board.

Commissioner Norden moved to appoint: Ralph Kunselman, Tami Ratkovich, and Mark Masar to three year terms; Bob Masse, Samantha Faoro, and Greg Van Riper to two year terms; Jared Huston, Gina Grisenti, and Kathy Kunselman to one year terms on the Fremont County 4-H Sales Committee. Commissioner Payne seconded the motion. Commissioner Bell thanked all of the applicants, especially the younger applicants who applied for this committee. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

4. Consideration of Lease Agreement for Civil Air Patrol Office Space at the Fremont County Airport.

Richard Baker, Airport Manager, said the Civil Air Patrol has met in various places in past years. They now have a double wide modular in place at the Fremont County Airport to hold meetings and exercises.

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Commissioner Payne moved to approve the lease agreement with the Civil Air Patrol for space at the Fremont County Airport. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

5. Consideration of a Resolution Denying an Exemption from Fremont County Sales Tax for Low Emitting Vehicles.

County Attorney Jackson explained the original Sales and Use Tax Resolution from 1982 is unclear about exemptions. The existing state exemptions were in place in 1982 and included in the resolution. This resolution was a ballot question approved by the voters. In January 2000 the Board of County Commissioners clarified their position on sales tax exemptions, stating the Commissioners can choose to deny an exemption.

Commissioner Norden moved to approve Resolution #16, Denying an Exemption from Fremont County Sales Tax for Low Emitting Vehicles. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #16 is attached.

6. Consideration of a Resolution Placing a Temporary Moratorium on the Establishment or Operation of Personal Use Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, or Retail Marijuana Stores in the Unincorporated Areas of Fremont County Until October 1, 2013.

County Attorney Jackson explained the ballot question that passed in November would regulate the personal use of marijuana similar to liquor regulations. The state and local governments must have regulations in place for personal use marijuana no later than October 1, 2013. The state is required to have the rules in place by July 1, 2013. If the state does not get the regulations in place by October 1, 2013, localities are allowed to issue licenses. This resolution will prohibit any of these establishments in Fremont County until the regulatory structure is in place. Commissioner Payne noted this does not affect medical marijuana facilities.

Commissioner Norden moved to approve Resolution #17 placing a Temporary Moratorium on the Establishment or Operation of "Personal Use" Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, or Retail Marijuana Stores in the Unincorporated Areas of Fremont County until October 1, 2013. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #17 is attached.

Chairman Bell recessed the meeting at 9:56 A.M.

Chairman Bell called the meeting back to order at 10:00 A.M.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

1. Consideration of Liquor License Renewal for Marv's Place

Chairman Bell opened the Public Hearing at 10:00 A.M.

Chairman Bell explained how the hearing procedure would work. She gave administrative notice of the contents of the liquor file and the reports from the Sheriff's office.

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Tom Lincoln, Owner of Marv's Place, said since the last liquor license renewal there have not been any incidents. He had notified the police a few times of some disturbances but no citations were issued. He does not understand why Sheriff Beicker is opposed to the license renewal. He received the package from County Attorney Jackson on Saturday. He has collected 100 petition signatures in support of the bar. He submitted these signatures to the Board for consideration.

Public Comments In Support Of The Renewal Application:

Sabrina Fetty said her parents are the Lincolns and have owned the bar for eleven years. She said it is a friendly environment and a nice place for the community to socialize. She does not understand why the Sheriff would be against the renewal.

Officers Testimony:

Sheriff Beicker said the bar does not have problems every single day. Over the years there have been many problems. He is concerned with the lack of cooperation with law enforcement. The Sheriff's Department is not called when they are needed. There is very little cooperation from patrons in the bar and the bartenders. Many times law enforcement is contacted by other citizens or patrons who have left the bar, not from the bar employees. His officers continually report over service at this bar and a hostile environment toward law enforcement. There was one incident where Sergeant Koch had advised wait staff not to serve alcohol to some individuals. After the officers left, the wait staff continued to serve these patrons. Sergeant Koch had been threatened with a beer bottle to the back of the head during this incident. Sheriff Beicker is also concerned that Mr. Lincoln is not able to obtain a long term lease for the building. Other bars that call law enforcement for help are friendly and cooperative, that is how it should be.

Captain Don Pinover said he has personally responded to calls in the past regarding Marv's Place. These calls were rarely placed by the employees of the bar. Statements have been made that they like to take care of their own problems, and not call the police. During routine bar checks there may only be a few people in the bar, or it may be very busy. When it is very crowded they usually have three or four Deputies complete the bar check. It is never a law enforcement friendly environment in Marv's Place.

Commissioner Bell asked Sheriff Beicker if he has ever witnessed either of the owners consuming alcohol while serving others. Sheriff Beicker said he did observe Mr. Lincoln consuming alcohol which is legal under Colorado liquor code. He is concerned with their judgment being impaired if drinking while working. Captain Pinover said both owners have had DUI arrests which substantiates the lack of judgment.

Public Comments In Opposition Of The Renewal Application: None.

Tom Lincoln said he encourages law enforcement to come through the bar any time. He has been told the Sheriff's Department is under staffed and does not have the man power to do this. He has never witnessed patrons in his bar be threatening to officers. Commissioner Bell asked why they never call for assistance. Mr. Lincoln said the bartender is normally trying to break up the situation and asks one of the regular customers to call police. There is only one bartender working at a time. Commissioner Norden asked Mr. Lincoln for information about an incident on September 29, 2012, where a man was assaulted and knocked unconscious. The bartender did not call law enforcement for this incident. Mr. Lincoln was not present during that time and learned of this incident the following day. Commissioner Payne asked Mr. Lincoln why his lease agreements were for short periods of time. Mr. Lincoln does not know why the landlord will not commit to a long term lease. He currently has had the business for sale for a few months. Mr. Lincoln continued to answer several questions from the Commissioners regarding over service and failing to call law enforcement when problems occur. Mr. Lincoln noted he, his wife, and bartender had attended the liquor training class last year.

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Commissioner Norden asked Mr. Lincoln to explain a very serious vehicular assault on February 17, 2012. Mr. Lincoln said he was trying to stop a patron from leaving the parking lot who had beat up a female patron. The patron ran over Mr. Lincoln with his truck. Mr. Lincoln was transported to the hospital for treatment where he was interviewed by Deputy Bell. He admitted to having a few beers prior to the incident but said he was not intoxicated.

Commissioner Bell stated she counted 82 signatures on the petition of support the applicant had submitted.

Commissioner Norden asked the County Attorney if the Board has the authority to consider the contents of the entire liquor file, not just the past 12 months. County Attorney Jackson explained they could not go back the entire 11 years. She said the Lincolns had self reported the DUI arrests in 2011. At that time Ms. Jackson sent the applicants a warning letter that it was problematic under their liquor license. She noted the application is still incomplete as the applicants do not have proof of possession. The current lease expires on March 31, 2013 as does the liquor license. They do not have a lease in effect when the new license would start on April 1, 2013.

Commissioner Norden moved to deny the request for liquor license renewal to Thomas and Sandra Lincoln for Marv's Place. Commissioner Norden cited the lack of a lease, no prior long term lease, the failed obligations of the licensee to report disturbances, the testimonies of Sheriff Beicker, Captain Pinover, and the reports made from Deputies regarding over service as a basis for denial. Commissioner Payne seconded the motion. Commissioner Bell asked the County Attorney if these findings were sufficient for denial. County Attorney Jackson agreed the findings were sufficient. Ms. Jackson noted the applicant can continue to operate under the current license until the expiration date of March 31, 2013. Commissioner Bell said it is troubling to her how many citations are not issued because so many eye witnesses refuse to come forward. Commissioner Payne is very concerned with the lack of lease agreement as well as the testimony from Sheriff Beicker. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

Chairman Bell closed the Public Hearing at 10:55 A.M.

2. Request: CUP 12-001 T.H.E. Aggregate Source (Major Modification to CUP 00-01) Request approval of a Conditional Use Permit, Department file #CUP 12-001 T.H.E. Aggregate Source (major modification to CUP 00-01), for mining and operation of a granite products mine, including dozing, blasting, crushing, screening, loading and hauling, the operation of a concrete recycling program and operation of an asphalt batch plant, by Aggsources, LLC. The proposed CUP property will be leased from the BLM. The property is located on the west side of U.S. Highway 50, approximately 0.8 miles north of Tunnel Drive, west of Canon City. The property is currently being mined under CUP 00-02 and it consists of approximately 216 acres. With the addition of the proposed 79 acre BLM parcel, the total CUP property will be approximately 295 acres. The existing CUP property is located in the Agricultural Farming & Ranching and Industrial Zone Districts and the proposed CUP property is located in the Agricultural Forestry Zone District. Representative: Kenneth Klco, Azurite, Inc.

Chairman Bell opened the Public Hearing at 10:56 A.M.

Kenneth Klco explained this major modification request is for the addition of 83 acres to the existing 230 acres at the Tezak Heavy Equipment Aggregate Source site. The plan is to extend the high wall and expand mining west of the pit.

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The southern portion of the land is where the pit is located. The operator has mined safely at this location for the past 15 years. The modification will allow the operator to continue to produce aggregate for the next 50 years. This mine can produce nearly one million tons per year. The applicant currently has 50 full time employees for this operation. The BLM lease process has taken almost one year due to the precise studies involved. The view points from Highway 50 will not be significantly impacted.

Planning and Zoning Director Giordano said this is a major modification to Resolution #20 of 2000. The applicant has provided notice to property owners within 500 feet. The property was posted and notice was published according to regulations. Additional notifications were sent to the City of Canon City, the Sheriff's Department, the Fremont Historical Society, Parks and Wildlife Department, State Historic Preservation Office, the Colorado Department of Transportation (CDOT), and the Arkansas Headwater Recreation Area. The only written comment received was from Dan Ainsworth who supports the operation. Commissioner Norden said a letter was received at the Commissioner's Office last Thursday from Donna Young who opposes the operation. Giordano said a letter was received from CDOT stating the applicant would need to apply for an access permit. This morning CDOT clarified the access permit would need to come from the City of Canon City as Tunnel Drive is a city road. The Planning Commission did recommend approval with a 6 to 1 vote in favor of the CUP request at their February 5th meeting. Giordano discussed the conditions of the permit.

Public Comments:

Russ Hager said that mining is a big industry in Colorado and an important resource for Fremont County. The state has strict guidelines regarding the land once the mining process is finished. Russ knows the Tezak family and said they are good people who give back to the community. This Tezak Corporation supports 50 local jobs and is a good corporation. Russ requested the permit modification be approved.

Jim Meacham is Chairman of the local geology club. He is neither for nor against the permit request. He is in favor of mining overall. During the mining process if any rock containing hazardous material is found, it needs to be isolated and dealt with. He believes there should be a long range plan for reclamation once the mining is finished.

Commissioner Norden read a letter submitted by **Cara Fisher** who is against the permit request. She is concerned with the view point from Highway 50. The site will continue to have a negative impact on rafting, hiking, biking, and tourists in the area.

Stephanie Carter of BLM gave a visual presentation of the property boundaries of the impacted area. She demonstrated the actual view point from Highway 50 of the overall proposed boundary.

Lee Ann Oliver said the current visual impact of the mine is horrible along Highway 50. She does not believe the site will ever look decent again. Lee Ann is concerned with the disruption to wild life, dust control, and the impact on tourism.

Chairman Bell closed the Public Hearing at 11:30 A.M.

Kenneth Klcio said the dust is controlled as much as possible from process operations and hauling operations. By keeping the mining in a concentrated zone it will minimize the use of haul trucks. The applicant buys water from the city to use in the dust control process. The applicant holds active permits (APENS) for the dust that is emitted. A study was done by the School of Mines that showed the high walls will not deter wildlife but may protect the nesting areas. The site is very difficult to get to and does not have hiking trails or roads on it. There is a long term reclamation plan in place. The mine plan will eliminate some of the high wall from view for the short term. The expansion area is behind the existing mine area. The high walls will be permanent.

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Stephanie Carter explained the BLM has an agreement with DRMS and they work together as far as the reclamation is concerned. She said studies were done from different viewpoints along Highway 50 and from 11,000 addresses to see what the visual impact would be. About 5% of the areas will be exposed to the new impacts on the BLM land.

Commissioner Payne moved to approve CUP 12-001 T.H.E. Aggregate Source changing the language in Condition #L to allow the use of Tunnel Drive, deleting Contingencies #1 and #2, and granting the Waiver Requests as Resolution #18. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

Chairman Bell adjourned the meeting at 11:55 A.M.

Clerk and Recorder

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Mr. Commissioner Norden moved the adoption of the following Resolution:

**RESOLUTION NO. 15
Series of 2013**

6th Amendment to the Subdivision Regulations of Fremont County

BE IT RESOLVED by the Board of County Commissioners of Fremont County:

THAT WHEREAS, effective **March 14, 2000**, the Board of County Commissioners re-adopted the Subdivision Regulations of Fremont County; and

WHEREAS, certain amendments to said Regulations have been proposed; and

WHEREAS, the Fremont County Planning Commission has promulgated and recommended approval of the proposed 5th Amendment to the Subdivision Regulations of Fremont County; and

WHEREAS, the Board of County Commissioners has conducted a public hearing on the proposed amendment on **February 26, 2013**, pursuant to such publication and notice as may be provided by law; and

WHEREAS, it is necessary to amend Resolution Number 15, Series of 2000, re-adopting the Subdivision Regulations of Fremont County;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that the Subdivision Regulations of Fremont County be and hereby are amended as set forth in Exhibit A attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that such amendment shall become effective on **March 12, 2013**.

BE IT FURTHER RESOLVED, that Resolution Number 15, Series of 2000, is hereby amended.

Mr. Commissioner Payne seconded the adoption of the foregoing Resolution and upon a vote of the Fremont County Board of County Commissioners as follows:

Commissioner Bell:	<input checked="" type="checkbox"/> Aye / Nay / Absent
Commissioner Stiehl:	<input checked="" type="checkbox"/> Aye / Nay / Absent
Commissioner Norden:	<input checked="" type="checkbox"/> Aye / Nay / Absent

The Resolution was declared to be duly adopted.

DATE: March 12, 2013

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



Dolore Bell
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ATTEST: *Katie E. Barr*
FREMONT COUNTY CLERK AND RECORDER

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EXHIBIT A – 6TH AMENDMENT
TO THE FREMONT COUNTY SUBDIVISION REGULATIONS

ADDED

DELETED

In many circumstances due to insertions and deletions, numbering and lettering in the final document may change. In addition, there are a number of clerical changes that standardize language but do not change the content or meaning that are not shown in the amendment but will be changed in the final recorded document.

V. ~~PROCEDURE FOR SUBMISSION & REVIEW OF~~ PRELIMINARY PLAN APPLICATION

A. ~~SUBMISSION: A preliminary plan application submission shall be required upon:~~ A Preliminary Plan application shall be submitted if:

1. ~~The creation of Four (4) or more lots~~ are created from any parent parcel, tract or lot which has not been previously ~~granted an~~ divided by exemption, minor or major subdivision;
- OR,
2. The total number of lots created by a previous subdivision of the parent tract or parcel ~~as an~~ by exemption, minor or major subdivision, ~~plus and~~ plus the total number of proposed lots results in the creation of ~~a total of~~ four (4) or more lots.

~~B. METHOD OF SUBMISSION:~~

- ~~1. The applicant or his representative shall submit Preliminary Plan materials and supporting documents to the Board prior to the submission of a Final Plat.~~
- ~~2. The applicant or his representative shall submit Preliminary Plan materials and documents to the Board by delivering the same to the Department.~~
- ~~3. Preliminary Plan and accompanying materials and documents shall be submitted to the Department sixty (60) days prior to the regular scheduled meeting at which they are to be considered.~~
3. The applicant shall submit Preliminary Plan application, materials and required supporting documents, including an application fee, to the Department, prior to the submission of a Final Plat application.
 - a. The applicant shall submit the Preliminary Plan application on a form provided by the Department.
 - b. The application submittal shall be delivered in person, to a Department representative. The Department representative will accept the application submittal only if all minimum submittal requirements have

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been met and presented at the time of submission.

4. **The Preliminary Plan application and accompanying materials and required supporting documents shall be submitted to the Department no less than seventy-five (75) days prior to the date of the regularly scheduled Commission meeting at which they are to be considered.**

B. **€ DISTRIBUTION OF THE PRELIMINARY PLAN:** No later than ~~ten (10)~~ **eight (8)** working days after receipt of complete Preliminary Plan **application, required materials and supporting documents**, the Department shall distribute copies, of the same for review, comment, suggestions and recommendations to **the following**:

1. Appropriate school district(s).
2. Each county or municipality within a two (2) mile radius of any portion of the proposed subdivision.
3. Any **affected** utility, local improvement and service district, or ditch company. ~~when applicable.~~
4. The Colorado State Forest Service, when applicable.
5. Other Planning Commissions with jurisdiction over the area. ~~if any.~~
6. The Soil Conservation District Board within the county for explicit review and recommendations regarding soil suitability, floodwater problems, and watershed protection. Such referral shall be made even though all or part of a proposed subdivision is not located within the boundaries of a conservation district.
7. ~~When applicable,~~ The Colorado Department of Health, **when applicable**, for review of the on-lot sewage disposal reports for review of the adequacy of existing or proposed sewage treatment works to handle the estimated effluent, and for a report on the water quality of the proposed water supply to serve the subdivision. The Colorado Department of Health to which the plan is referred may require the ~~subdivider~~ **applicant** to submit additional engineering or geological reports or data and to conduct a study of the economic feasibility of a sewage treatment works prior to making its recommendations. No Preliminary Plan shall receive the approval of the Board unless the Colorado Department of Health, to which the plan is referred, has made a favorable recommendation regarding the proposed method of sewage disposal.
8. The State Engineer for an opinion regarding material injury likely to occur to decreed water rights by virtue of diversion of water necessary or ~~proposed~~ to be used to supply the proposed subdivision and **regarding** adequacy of proposed water supply to meet requirements of the proposed subdivision. If the State Engineer finds such injury or finds inadequacy, he shall express such finding in an

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opinion in writing to the Board, stating the reason for the finding, including, but not limited to, the amount of additional or exchange water that may be required to prevent such injury. In the event the subdivision is approved notwithstanding the State Engineer's opinion, the ~~subdivider~~ **applicant** shall furnish to all potential purchasers, a copy of the State Engineer's opinion; except that the ~~subdivider~~ **applicant** need not supply the potential purchaser with a copy of such ~~or a~~ synopsis if, in the opinion of the Board, the ~~subdivider~~ **applicant** has corrected the injury or inadequacy set forth in the State Engineer's finding.

- a. A municipality or quasi-municipality, upon receiving the Preliminary Plan designating said municipality or quasi-municipality as the source of water for a proposed subdivision, shall file, with the Board and the State Engineer, a statement documenting the amount of water which can be supplied by said municipality or quasi-municipality to the proposed subdivision without causing injury to existing water rights. The State Engineer shall file with the Board written comments on the report. If, in the judgment of the State Engineer the report is insufficient to issue an opinion, the State Engineer shall notify the Board, indicating the deficiencies.
9. The Colorado Geological Survey for an evaluation of those geological factors which would have a significant impact on the proposed use of the land.
10. The ~~appropriate~~ Fire Protection District **with jurisdiction over the area.**
11. The Colorado Department of Transportation.
12. ~~The Appropriate~~ Recreation district **with jurisdiction over the area.** Notification of the district will be required within a three (3) mile radius of any municipal boundary, that contains a recreation district and within a one (1) mile radius of the recreation district boundaries, if there is no municipality within the area.
13. Any department, agency or entity as deemed necessary by the Department.

C. D REVIEW OF THE PRELIMINARY PLAN APPLICATION: ~~Review of the Preliminary Plan materials shall be conducted in accordance with Section VI., and the following:~~

1. **The Department will conduct a preliminary review of the application to determine the adequacy of the application for Commission review.**
2. **The applicant will be notified of the results of the Department review via a Department Deficiency and Comment Letter.**
 - a. **If there are deficiencies in the application that would make the application unacceptable for review by the Commission, the Department will provide the applicant with a time frame in which to**

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- address the deficiencies in order for the Department to place the application on the agenda of the Commission.**
- b. **The applicant will be notified of how many revised copies of the application and accompanying materials shall be provided to the Department for distribution in the deficiency and comment letter.**
3. **If there are no deficiencies or deficiencies are addressed within the time frame, the Department will provide the applicant and Commission with a review of the application, taking into consideration regulatory requirements, and place the application on the agenda of the Commission.**
 4. **If the deficiencies are not addressed or if acceptable reasoning is not provided as to why the application should be placed on the Commission agenda without addressing the deficiencies within the established time frame, the Department will not place the application on the Commission agenda for review.**
 - a. **As per Board Resolution No. 68, Series of 2006: A full application fee will be charged to the applicant, if all deficiencies as per the initial application review letter are not adequately addressed.**
 - b. **Each subsequent deficiency review letter will result in another full application fee.**
 - c. **All such fees shall be paid along with the deficiency submittal, prior to any further review of the application.**
5. 4. The agencies notified pursuant to Section V., C. B shall make recommendations within twenty-one (21) days after the mailing **of such plans** by the County, ~~or its authorized representative of such plans~~ unless a necessary extension of not more than thirty (30) days has been consented to by the ~~subdivider~~ **applicant** and the Board. The failure of any agency to respond within twenty one (21) days or within the period of an extension may, for the purpose of the meeting on the Preliminary Plan, be deemed an approval of such plan; except that, where such plan involves twenty (20) or more dwelling units, a school district shall be required to submit within said time limit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures.
 2. ~~Upon receipt of the response by agencies provided for in Section V., C. the Commission, at a public meeting, shall conduct a review and study of the Preliminary Plan and responses as it deems necessary, and shall arrive at an informed and reasoned judgment on the Preliminary Plan.~~
 6. 3. In the event of an adverse recommendation from one (1) or more of the entities, the Department shall provide a copy to the ~~subdivider~~ **applicant** of such adverse

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recommendation prior to the meeting of the Commission at which the Preliminary Plan will be considered. In the event that the Department omits or is unable to provide the subdivider **applicant** with such notice prior to the meeting of the Commission, the Commission shall proceed with a review of the Preliminary Plan and will not disapprove the subdivision on account of said adverse recommendation unless it finds that correction of the condition leading to the adverse recommendation is impossible.

4. ~~A subdivider may ask for additional time before action by the Board, if such time is needed to accommodate the recommendations of the Commission or the recommendations of an entity or person listed under Section V., C. Said request shall be made in writing to the Department, which is authorized to grant the request on behalf of the Board.~~
5. ~~Final action of the Commission shall be in the form of a continuance (no continuance shall exceed thirty (30) days) approval, conditional approval or disapproval of the Preliminary Plan. Such decision shall be made at a regularly scheduled meeting of the Commission, at which meeting, the subdivider or his representative shall be present to answer questions of the Commission.~~
6. ~~The Commission shall only recommend approval of those Preliminary Plans which it finds to be developed in accordance with the intent, standards, and criteria specified in these Subdivision Regulations.~~
7. ~~The Board shall act on the Preliminary Plan at a public meeting of the Board within thirty five (35) days after the receipt of the recommendation of the Commission. The Board shall not approve a Preliminary Plan disapproved or conditionally approved by the Commission without a specific finding that the conditions giving rise to such disapproval or conditional approval have been corrected or rendered inapplicable by the subdivider during the period between the recommendation of the Commission and the meeting of the Board to consider the Preliminary Plan; or if the Board finds that such disapproval or conditional approval was contrary to Federal, State or local laws.~~
8. ~~The Board shall continue (no continuance shall exceed thirty (30) days), approve, conditionally approve, or disapprove the plan at its meeting and such action shall be final.~~
7. **The Commission shall consider the application and Department comments at a public meeting.**
 - a. **The applicant shall attend the Commission meeting at which the application is scheduled to be reviewed.**
 - 1) **Failure of the applicant to attend the meeting will result in tabling of the application review by the Commission.**

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- 2) Failure of the applicant to attend the meeting to which review of the application was tabled will be considered a withdrawal of the application by the applicant. Fees will not be refunded.
 - b. The applicant may offer comments, evidence and testimony concerning the application.
 - c. The Commission may hear comments and receive evidence or testimony from interested persons, but shall not hold formal public hearings, unless expressly authorized by law, or upon request of the Board.
8. The Commission may recommend approval, approval with contingencies or denial of the application to the Board. The Commission may include comments and / or suggestions with its recommendation.
9. The Commission may continue review of the application to the next regular meeting of the Commission to receive more comments, to enable further study of information and input received at the meeting, or to request that the applicant provide additional information regarding the application. Any continuance shall be no later than the next regularly scheduled Commission meeting.
 - a. The applicant, prior to a motion by the Commission, may request an extension of time before continued review by the Commission, if the applicant wants to provide additional information in support of the application. Such extension request shall not exceed ninety (90) days and must coincide with a regular Commission meeting date.
10. If the applicant presents a significantly different proposal at the Commission meeting than was submitted in the application to the Department, the Commission shall continue the application to the next regular meeting of the Commission and request a Department review of the proposal. The Department may require an additional review fee if deemed appropriate.
11. The Department shall mail to the applicant, the Commission's recommendations, comments and suggestions within five (5) working days after the meeting at which the Commission's review of the application was finalized. Said mailing shall contain the date and time of the regular Board meeting at which the Board will review the application.
12. The Department shall place the application on the agenda of the Board, within thirty-five (35) days after completion of action by the Planning Commission.
 - a. The applicant may ask for an extension of time before the Board

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considers the application, if such time is needed to accommodate the recommendations, comments or suggestions of the Commission.

- 1) A request for additional time shall be made, in writing, to the Department which is authorized to grant the request on behalf of the Board.
 - 2) Any such extension request shall not exceed ninety (90) days from the date the Commission review was completed.
 - 3) The extension of time for Board review must coincide with a regular Board meeting date.
 - 4) No later than ten (10) working days prior to the Board meeting at which the application is to be reviewed, the applicant shall provide to the Department copies of information and or documentation to be submitted for Board review.
 - 5) The Board, at its discretion, may require further review of the application by the Commission.
 - 6) No significant changes to an application shall be proposed after review by the Commission unless such changes are made to accommodate recommendations, comments or suggestions of the Commission.
 - a) If significant changes are needed due to change of area conditions or circumstances beyond control of the applicant, then further review by the Commission shall be required prior to review of the application by the Board.
13. The Board shall take into consideration the application, Commission recommendations, comments, and suggestions, minutes from the Commission meeting and Department review at the Board meeting.
- a. The applicant shall attend the Board meeting at which the application is scheduled to be reviewed.
 - 1) Failure of the applicant to attend the Board meeting will result in tabling of the application.
 - 2) Failure of the applicant to attend the Board meeting to which review of the application was tabled will be considered a withdrawal of the application and fees will not be refunded.
 - b. The applicant may offer comments, evidence and testimony concerning

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the application.

- c. The Board may hear comments and receive evidence or testimony from interested persons.
14. The Board may continue review of the application to the next regular meeting of the Board to receive more comments, enable further study of information and input received at the meeting or to request that the applicant provide additional information regarding the application. No such continuance shall exceed thirty (30) days.
 - a. The applicant, prior to a motion by the Board, may request an extended time before continued consideration by the Board, if the applicant wants to provide additional information in support of the application. Such continuance request shall not exceed ninety (90) days and the application must be set on a regular Board meeting date.
 15. The Board shall approve, deny, or approve the application with contingencies within thirty (30) days after the conclusion of the Board meeting or after the date to which it was continued.
 16. The Department shall mail to the applicant the Board's decision within five (5) working days after the meeting at which the Board's review of the application was finalized.
- ~~E. EFFECTS OF APPROVAL: Approval of the Preliminary Plan shall be effective for eighteen (18) months. Thereafter, approval of the preliminary plan will be deemed expired unless all contingencies have been satisfied and a Final Plat has been submitted to the Board, or an extension has been granted by the Board. Whenever a Final Plat is submitted for less than the entire area covered by the Preliminary Plan, approval of the Preliminary Plan for the remaining unplatted area shall be extended for an additional eighteen (18) months.~~
- D. EFFECTS OF APPROVAL: Final approval of a Preliminary Plan by the Board will allow the applicant to make application for a Final Plat. Such application shall be made within eighteen (18) months of the Preliminary Plan approval or prior to expiration of any granted extensions unless a Vested Property Right Development Plan has been approved as per these regulations. (Section IX).**
1. Contingencies - If Preliminary Plan Application was approved with contingencies, all contingencies shall be submitted to the Department within eighteen (18) months of the date of approval by the Board. Preliminary Plan Contingencies may be addressed in the Final Plat application. If the contingency items are not submitted by the deadline, the Preliminary Plan approval shall be deemed expired and a new application will be required (including fees) to proceed with the project.

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2. Extensions - The Board may extend the time period for submittal of contingency items or extension of approval of the Preliminary Plan upon documented showing of good cause. If extension(s) are requested, further review by the Commission may be required
 - a. No extensions may be granted unless a written request, detailing the reasons and justification for extension, and required fee is submitted to the Department no less than ten (10) working days prior to the expiration of the initial eighteen (18) month period or previous extension granted.
 - b. The Department shall schedule the request for extension for the next regular Board meeting at which time the Board will consider the request.
 - c. In absence of justification warranting a longer time frame, extensions shall not be granted for more than eighteen (18) months from the date of Board approval or previous extension.
- E. DENIAL OF A PRELIMINARY PLAN APPLICATION: A denial of a Preliminary Plan application by the Board will result in closure of the application file by the Department. Without evidence of a significant change of area conditions or a significant change in the proposed application, an application for Preliminary Plan will not be accepted for the same property within two (2) years of the date of denial by the Board.

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VI. PRELIMINARY PLAN REQUIREMENTS

A. CONFORMANCE WITH THE SKETCH PLAN:

If a Sketch Plan application was required, the Preliminary Plan application shall conform in all major aspects to the Sketch Plan as previously reviewed by the Commission and approved by the Board and shall incorporate all modifications required in the Sketch Plan approval. The Commission can review and the Board can approve a Preliminary Plan application which has been modified to reflect improvements in design or changes ~~which~~ **that** have occurred in its natural surroundings and environment since the time of the Sketch Plan review and approval.

B. REQUIRED COPIES:

The applicant or his representative shall submit at least ~~three (3)~~, **six (6)**, twenty-four (24) inch by thirty-six (36) inch copies of the Preliminary Plan drawing, ~~and three (3)~~ **six (6)** reduced copies, (8 1/2" x 11" or 11" x 17") of the Preliminary Plan drawing, ~~and at least three (3)~~ **six (6)** copies of all other required documents ~~shall be provided~~ with the initial application. The applicant will be notified ~~if as to how many~~ additional copies will be required within the Department "Comment and Submittal Deficiency letter".

C. PRELIMINARY PLAN ~~GENERAL DESIGN MAP~~ DRAWING REQUIREMENTS:

1. The scale of the drawing shall **be consistent and of adequate size to enable all information to be easily interpreted and read.** ~~not be less than one (1) inch to one hundred (100) feet, unless approval of another scale is granted by the Department, prior to submission of the application.~~
2. ~~The sheet size of the drawing shall be twenty-four (24) inches by thirty-six (36) inches.~~
- 2.3 In the case of multiple sheets, a key map showing the relationship of the individual sheets **to each other** shall be provided on each sheet.
- 3.4 No subdivision, **street or road** in the county shall bear the same name or substantially similar name as another subdivision, **street or road** unless adjoining and using consecutive filing numbers. The Department shall have the authority to require applicant to change the proposed name if such name is substantially similar to the name of an existing subdivision, **street or road** in the County.
- 4.5 The sub-title of the drawing shall read: A portion of the (*aliquot description*) Section, Township, Range, Fremont County, Colorado or A Vacation and Replat of (*Lot(s), Block(s) of [Name of Subdivision]*), Fremont County, Colorado, as appropriate, dependent on whether or not the property being subdivided is un-platted or platted property.

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5. 6 The total acreage contained within the area subdivision being platted.
6. 7 **The** acreage and/or square footage for each proposed lot.
7. 8 Name and address of the person, firm or organization preparing the drawing.
8. 9 The date of preparation of the drawing and revision dates to the submitted drawing.
9. 10 A North arrow ~~point~~.
10. 11 A written and graphic scale. ~~of the drawing~~.
11. 12 A Vicinity map ~~adequately labeled to locate~~ **locating** the proposed subdivision **in relation to the surrounding area, streets and major natural features.**
12. 13 The proposed lot layout, including lot numbers, **the total number of lots proposed, acreage,** bearings and dimensions.
13. 14 **The length and bearings for** the exterior boundary lines of the proposed subdivision. ~~indicating length and bearing~~.
14. 15 Any proposed phasing shall be indicated **by** ~~as to~~ location and **type** **number of phases.**
15. 16 The location, width, and name of all streets.
16. 17 The location, width, length and identification label for all other public ways, easements and rights-of-way that traverse **or adjoin** the **subject** property.
17. **The acreage and lineal footage proposed to be devoted to roadways.**
18. The location and an identification label for all section lines that traverse the **subject** property.
19. The location and an identification label for all Municipal and County boundaries adjacent to, **or within** the **subject** property.
20. The location and an identification label for all district boundaries, including but not limited to, sewer, water, school, recreation, conservation and fire or a note on the drawing indicating that the proposed subdivision lies entirely within a certain district.
21. The existing contours at two (2) foot intervals for predominant ground slopes within the tract between level and five (5) percent grade. In cases of predominantly level topography throughout a subdivision, one (1) foot interval

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contours are required.

22. The name of adjacent subdivisions.
23. The name of adjacent property owners.
24. The current and proposed zoning of the **subject** property.
25. The existing zoning for all adjacent properties.
26. The location and size, by dimension, and an identification label of all existing structures to remain on the property after subdivision.
27. The location of all existing sewer lines, water lines, public utilities, live streams, existing water bodies, water courses, drainage ditches, septic systems, natural features, and all structures.
28. All legally described easements ~~described~~ in the title insurance commitment or policy shall be **shown located** or if not applicable, a written statement to that effect shall be provided.
29. Sites to be reserved or dedicated for parks, playgrounds, schools or other public uses, other than easements shall be shown as outlots and shall be labeled with a statement as to the designated use.
30. The total number of proposed off-street parking spaces, excluding those associated with single-family residential development.
31. The total number of proposed lots shall be noted, including lot numbers per phase, if applicable.
32. The **overall** densities ~~proposed~~ shall be noted.

The following Sections will not change:

- D. INDIVIDUAL SEWAGE DISPOSAL SYSTEM MAP & REPORT**
- E. PUBLIC SANITARY SEWER SYSTEM REPORT**
- F. WATER RESOURCES REPORT FOR INDIVIDUAL WATER SYSTEMS**
- G. WATER RESOURCES REPORT FOR A PUBLIC WATER SUPPLY SYSTEM**
- H. DRAINAGE PLAN & REPORT**
- I. EROSION CONTROL MAP AND REPORT**
- J. GEOLOGIC HAZARD MAP AND REPORT**
- K. GEOLOGY RESOURCE REPORT**
- L. POTENTIAL MINERAL RESOURCE AREAS MAP AND REPORT**
- M. WILDFIRE HAZARD MAP AND REPORT**
- N. WILDLIFE HABITAT MAP AND REPORT**
- O. SOILS BOUNDARY MAP AND REPORT**

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P. DRAINAGE FEATURES, STREAMS, WATER COURSES, LAKES, TOPOGRAPHY, & VEGETATION REPORT

The following Section will not change:

Q. POTENTIAL RADIATION HAZARD REPORT

- R. FIRE PROTECTION REPORT AND MAP:** Applicant shall submit a report and / or map addressing proposed method of fire protection and location of proposed fire hydrants or other means of fire protection for the proposed subdivision, if the subdivision is not located within a Fire Protection District. If the subdivision is located within a fire protection district, the fire protection form, provided by the Department and completed by the District, shall be included with the application.

The following Sections will not change:

S. ROADWAY IMPACT ANALYSIS

T. CONDOMINIUM OR TOWNHOUSE DRAWING

- U. GENERAL ADDITIONAL INFORMATION REQUIRED:** At least one (1) original of the following information shall be submitted, along with the specified number of copies:

1. A title insurance commitment or policy with an effective date within thirty (30) days of submittal which shall set forth the names of all owners of property included in the subdivision plat, and shall include a list of all mortgages, judgments, liens, easements, contracts, agreements, and other interests of record in the County, which affect the property covered by such subdivision plat.
2. The substance of all covenants, grants of easements or restrictions to be imposed upon the use of land, buildings and structures.
3. Function, ownership and manner of maintenance of common open space reserved or dedicated for public or private use.
4. Estimated construction cost and proposed method of financing for the construction of streets and related facilities, such as, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required of the developer by the Board.
5. Documentation evidencing proof of access to public rights-of-way shall be provided when each proposed lot does not have direct access.
6. A list of property owners within five-hundred (500) feet of the subject parcel(s) and mineral interest owner(s) of the subject property as shown by the real estate records of the county, which include the records of the County Assessor, and "requests for notification" filed by a mineral estate owner in

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the records of the County Clerk and Recorder, of subject parcel(s) and such owners' current mailing address.

7. Such other and additional information as required by the Department, the Commission or the Board.

V. NOTIFICATION / PUBLICATION:

1. ~~At least fourteen (14) days prior to the date of the Commission meeting, the applicant or his representative shall notify all land owners, whose property is within five hundred (500) feet of the boundaries of the parcel or parcels, in writing, by certified mail, postage prepaid, return receipt requested to the Department. The notice shall state the time, date and location of the meeting and that the owner(s) may appear in person or by a designated representative or, if unable to attend, they may submit a written statement expressing their comments on the submission. In addition, a vicinity map locating the subdivision shall be enclosed with the letter to the owners within five hundred (500) feet. Additional notice may be required at the discretion of the Commission and / or the Board.~~

1. Mailing by United States Postal Service (USPS) certified mail, return receipt (labeled to identify the application) requested to the Department at least fourteen (14) days prior to the Commission meeting date, to all property owners within five-hundred (500) feet of the boundaries of the subject property and any additional notifications as may be required by the Commission.

- a. The applicant shall provide the Department with USPS mailing receipts evidencing the date the notice packets were mailed.

- 1) The mailing shall include the following:

- a) A notice form with information relevant to the public meeting completed by the Department and mailing information to be completed by the applicant.
- b) A copy or a readable reduced copy of the preliminary plan drawing.
- c) A vicinity map locating the subject property in relation to the surrounding area, streets and major features.

2. ~~If a mineral interest has been severed, the applicant or his representative shall notify by certified mail, postage prepaid, return receipt requested to the Department, mineral owners of property to be subdivided as their names appear upon the plat or records in the County Assessor's office and as their most recent addresses may appear in a telephone or other directory of general use in the area of~~

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the property or on the tax records of the County.

2. **If the mineral interest for the subject property has been severed from the surface ownership, then not less than thirty (30) days before the date of the scheduled Commission meeting, the applicant shall send notice, by certified mail, return receipt requested or by a nationally recognized overnight courier to the mineral interest owner(s), as shown in the county records identified in subparagraph U.6 above.**
3. ~~A list of property owners and mineral interest owner(s) shall be provided by the applicant upon application.~~
4. ~~A public notice of each meeting before the Commission or Board shall be published in a newspaper of general circulation within Fremont County at least fourteen (14) days prior to the meeting date. Said notice shall include the time, place and purpose of said meeting; the address and telephone number of the office of the Department where materials relating to the proposal for subdivision may be reviewed prior to the hearing; the names of the landowner and applicant; the total number of proposed lots; and a general location description shall consist of Section, Township and Range, together with a road address or location by road mileage. The public notice shall state that a complete legal description is available for review and the location of such review materials.~~
3. **A notice of the public meeting for each meeting before the Commission or Board shall be published once by the Department, at the expense of the applicant, at least fourteen (14) days prior to the Commission meeting date in a newspaper of general circulation in Fremont County. Such notice shall indicate the time, place of the meeting and shall provide the purpose of the said meeting, the address and telephone number of the Department where materials relating to the proposal and where a complete legal description of the subdivision may be reviewed prior to the meeting, the names of landowner and applicant, the total number of proposed lots, the general location description, which shall consist of Section, Township, Range, together with a road or street address or by road mileage from a known point or intersection.**

W. RELATIONSHIP TO DESIGN STANDARDS: The Design Standards set forth at Appendix 1 of these Subdivision Regulations shall govern review of Preliminary Plan applications submitted under these Subdivision Regulations.

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RESOLUTION NO. 116, SERIES OF 2013

A RESOLUTION DENYING AN EXEMPTION FROM FREMONT COUNTY SALES TAX FOR LOW EMITTING VEHICLES

WHEREAS, in 1982, the Fremont County Board of County Commissioners adopted Resolution Number 41, which referred to the voters of Fremont County, a proposal for imposition of a sales and use tax in the amount of one and one-half percent (1-1/2%); and

WHEREAS, such sales and use tax was approved by a majority vote of the registered electors; and

WHEREAS, Resolution 41, Series of 1982 sets forth certain exemptions to the sales and use tax, in Sections 5 and 9 of the Resolution; and

WHEREAS, on January 25, 2000, the Board of Commissioners adopted Resolution Number 9, Series of 2000, which clarified the Fremont County sales and use tax exemptions and stated that all sales and use tax exemptions established by the Colorado State Legislature in future years shall also constitute exemptions from the Fremont County sales and use tax, unless the Fremont County Board of Commissioners indicates a contrary intention by formal action; and

WHEREAS, the Colorado Legislature, in §39-26-719 has recently granted an exemption from state sales and use tax for certain low-emitting vehicles weighing more than 10,000 pounds; and

WHEREAS, the Fremont County Board of Commissioners has determined that the low-emitting vehicle exemption should not be granted as an exemption from Fremont County sales and use tax.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR FREMONT COUNTY that the sales and use tax exemption granted by the State of Colorado for low-emitting vehicles shall not be and is not granted for the purposes of Fremont County sales and use tax collections. Fremont County sales and use tax shall continue to be imposed and collected on these vehicles.

Commissioner Norden 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

Date: March 12, 2013

ATTEST:

Debbie Bell
Chairman

Hattie E. Bau
Clerk to the Board

March 12, 2013

RESOLUTION NO. 17, SERIES 2013

**A RESOLUTION PLACING A TEMPORARY MORATORIUM ON
THE ESTABLISHMENT OR OPERATION OF "PERSONAL USE" MARIJUANA
CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING
FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA
STORES IN THE UNINCORPORATED AREAS OF FREMONT COUNTY
UNTIL OCTOBER 1, 2013**

WHEREAS, the Board of Commissioners for Fremont County ("Board") has the authority to exercise all County powers for the unincorporated areas of Fremont County, pursuant to Section 30-11-103, C.R.S.; and

WHEREAS, on November 6, 2012, the voters of the State of Colorado approved the adoption of Amendment 64, Personal Use and Regulation of Marijuana; and

WHEREAS, on December 10, 2012, pursuant to Section 1(4) of Article V of the Colorado Constitution, Governor Hickenlooper signed a proclamation officially declaring the vote on Amendment 64; and

WHEREAS, Amendment 64 added a new Section 16 to Article XVIII of the Colorado Constitution; and

WHEREAS, a "locality" is defined in section 2(e) of Section 16 and includes a county; and

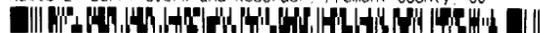
WHEREAS, part 5(a) of Section 16 requires the Colorado Department of Revenue to adopt regulations necessary for implementation of Section 16 and such regulations are being developed through the rule-making process for final adoption by the State of Colorado no later than July 1, 2013; and

WHEREAS, part 5(e) of Section 16 requires the county to enact an ordinance or regulations, no later than October 1, 2013, specifying the entity within the county that is responsible for processing applications submitted for a license to operate a marijuana establishment within the unincorporated areas of Fremont County; and

WHEREAS, part 5(f) of Section 16 allows a county to enact ordinances or regulations governing the time, place, manner and number of marijuana establishment operations; and establishing procedures for the issuance, suspension and revocation of a license issued by the county; and

WHEREAS, part 5(f) of Section 16 provides that a locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure; and

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



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WHEREAS, Section 16 appears to prohibit licensing or establishment of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores until the earlier of the date the Colorado Department of Revenue adopts final regulations pursuant to part 5(a), or October 1, 2013; and

WHEREAS, the Board of Commissioners for Fremont County fully intends to comply with the provisions of Section 16, and be prepared to license marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores no later than October 1, 2013, unless these facilities are banned in Fremont County by ordinance or regulation; and

WHEREAS, the Board believes it is prudent to examine and review the regulations promulgated by the State Department of Revenue before determining how to proceed with licensing or regulating marijuana facilities at the local level; and

WHEREAS, to prevent establishment of unlicensed or unregulated marijuana facilities in the unincorporated areas of Fremont County, it is necessary to impose a temporary moratorium on such facilities; and

WHEREAS, allowing or permitting new marijuana operations and facilities prior to the finalization of the licensing rules and regulations contemplated by the State Department of Revenue would be contrary to Section 16 and could result in conflicts between the County regulations and State rules.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY:

1. The establishment or operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores pursuant to Section 16 to Article XVIII of the Colorado Constitution is hereby prohibited in the unincorporated territory of Fremont County until October 1, 2013.

2. This moratorium shall be effective as of the date of adoption and may be terminated prior to October 1, 2013, only by formal action and resolution by the Board of Commissioners for Fremont County.

3. This resolution shall be recorded in the records of the Clerk and Recorder for Fremont County to provide public notice of the adoption of this temporary moratorium.

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

Date: March 12, 2013

**BOARD OF COUNTY COMMISSIONERS
OF FREMONT COUNTY**

ATTEST:

By: Debbie Bell
Chairman

By: Hattie E. Bau
Clerk to the Board