

**April 26, 2016**

**EIGHTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on April 26, 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: Sunny Bryant, County Manager and Matt Koch, Planning and Zoning Director

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 with the addition of item #4 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 / April 12, 2016
2. Approval of Bills for \$794,316.82
3. Ratification of Chairman's signature on an Application for Federal Assistance for the 2016 Fremont County Airport Runway Improvement Project
4. Approval of Solid Mineral Lease No. 102442 (GL 3437) with the Colorado State Board of Land Commissioners for the Indian Park Pit for a five-year term ending April 13, 2021
5. Acceptance of a bid from Patch Construction in the amount of \$29,050.00 for a low water crossing on County Road 45
6. Approval of the Airport Through the Fence Agreement with Jim Cole
7. Schedule Public Hearings: None

**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.

**ADMINISTRATIVE/INFORMATIONAL**

1. Staff / Elected Officials:
  - a. County Sales & Use Tax Report, Sunny Bryant, County Manager

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**Manager Bryant** reported the February figures for Retail Sales Tax Collections were \$305,590; Sheriff-Retail Sales Tax Collections were \$203,727; and Lodging Tax was \$1,044. In March, Auto Use Tax Collections were \$85,797; Sheriff-Auto Use Tax Collections were \$57,198; Construction Use Tax Collections were \$21,434; and Sheriff-Construction Use Tax Collections were \$9,037.

**Manager Bryant** gave a County Manager's Report. She reported on visiting the Western Fremont County Park, attending the Southern Economic Development District meeting, and attending Fremont Economic Development Council.

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

**George Storey** commented on the positive direction the County is headed.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

1. Consideration of a Proclamation for Fremont County Older Coloradans Month – May 2016  
Representative: Steve Clifton, Department of Human Services Director and Vivian Simon

**Steve Clifton** said awareness of the growing population of older people in Colorado is important.

**Vivian Simon** read the proclamation.

**Commissioner Bell** moved to approve the Proclamation for Fremont County Older Coloradans Month—May 2016. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

2. Consideration of a Proclamation for Foster Care Month in Fremont County – May 2016  
Representative: Steve Clifton, Department of Human Services Director and Carrie Porter

**Steve Clifton** thanked the Board for the support provided.

**Carrie Porter** read the proclamation. She reported 30 to 40 of Fremont County children are sent to other counties due to the lack of sufficient foster homes in the area. As a result, the department is always looking for foster families.

**Commissioner Payne** moved to approve the Proclamation for Foster Care Month in Fremont County—May 2016. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

3. Adoption of a Resolution Canceling Uncollectible Creekside Cinema Personal Property Taxes for Tax Years 2011, 2012, and 2013

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**Commissioner Bell** noted the Creekside Cinema closed for business in 2011, and personal property taxes have not been paid since. The purpose of the resolution is to relieve the tax burden for the theater to be able to open again in the near future.

**Commissioner Bell** moved to adopt Resolution #15, Canceling Uncollectible Creekside Cinema Personal Property Taxes for Tax Years 2011 for \$3,273.28, 2012 for \$3,198.33, and 2013 for \$2,629.73. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

4. Consideration of a resolution and letter of support with a \$5,000 funding commitment to participate in the Colorado Department of Higher Education's Colorado Opportunity Scholarship Initiative

**Commissioner Norden** explained the initiative was created to provide scholarships for those seeking a higher education that have a qualifying low income. The funding is a 1:1 match from the State for new money generated within the county up to \$50,000. Individuals, non-profits, and other organizations are encouraged to contribute. Fremont Community Foundation will be the fiscal agent for the funds for Fremont County.

**Commissioner Norden** moved to adopt Resolution #16 and the authorization of the Chairman's signature on the letter of support with a \$5,000 funding commitment to participate in the Colorado Department of Higher Education's Colorado Opportunity Scholarship Initiative. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

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

1. Request approval of a Zone Change (ZC #1 application as per the Fremont County Zoning Resolution) from the Low Density Residence Zone District to the Agricultural Rural Zone District, Department file #ZC 16-001 BHEB Zone Change, by Bill Balhiser, for his property which is located on the south side of Grandview Avenue, 300 feet west of the intersection of Grandview Avenue and Steinmeier Avenue, in the East Canon area. This parcel was part of the development plan for Canon Creek Ranch. The original plan was to develop this lot in to 28 lots with utilities, curb & gutter and sidewalks. This proposal will allow for no more than 2 (two) lots being a minimum of 4 ½ acres. Access will be taken from Grandview Avenue or via an easement from Longs Peak Lane in the future and all utilities are existing adjacent to the parcel. The purpose of this proposal is to rezone to a zone that allows agricultural uses as it has been used for in the past. The LDR zone district does not allow for agricultural uses. The property contains 13.455 acres more or less.  
Representative: Bill Balhiser

**Chairman Norden** opened the Public Hearing at 10:00 a.m.

**Director Koch** said the application is straightforward. The original parcel was approximately 13.5 acres and was developed into 28 lots as part of the Canon Creek Ranch Subdivision. The new zoning will allow at most 2 lots in the future. A deed restriction will be needed for the northern part of the property due to the width of the area.

**Chairman Norden** closed the Public Hearing at 10:02 a.m.

**Commissioner Payne** moved to approve Resolution #17, ZC 16-001 BHEB Zone Change with Justification D and Criteria D and E, including recommended Contingency

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#1. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

2. Request approval of a Modification of Premises to allow two greenhouses for Department file #OPC 14-006 Mile High Green Cross, LLC (Optional Premises Cultivation-Commercial, Greenhouse), by Mile High Green Cross, LLC, (dba Mile High Green Cross, LLC), for property which is owned by ADW, LLC. The address of the property is 685 State Highway 115 – Unit A (indoor grow), in the Beaver Park/Penrose Area, which is located on the west side of State Highway 115, approximately 500 south of 6<sup>th</sup> Street, in the Beaver Park/Penrose Area. The property is zoned Business and contains 4.65 acres more or less.

Representative: Leif Wagner/Adam Ziegler

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

**Leif Wagner** said they are seeking approval for a fence around the greenhouse on the property. The fence was constructed to include an existing greenhouse. He feels the fence does not require a Modification of Premise even though he believes the fence will extend the privileges of his license. Through the letters submitted, he feels the aesthetics on the property, odor control, and water consumption are the main issues of Penrose citizens. Each greenhouse provides two full-time jobs and eight part-time jobs. He has retained Dr. Bellantoni to aide in the process and the aesthetics of the property.

**Director Koch** said the applicant is wishing to put up an additional greenhouse. He is wishing to use the existing greenhouse and build a new one while erecting a fence around the entire facility.

**Tony Gleiforst** is against the modification. He feels the number of grows are enough in the area since the smell is noticeable at neighboring businesses.

**Carolyn Menzer** is upset with the greenhouses. The obnoxious smells are depreciating the property values.

**Barb Elliot** is against the modification.

**Kemp Coit** feels making possession of a small amount of something such as marijuana legal while making possession of a large amount of the same substance illegal does not make sense.

**Rockford Wagner** is Director of Cultivation at Mile High and lives five minutes from the facility. He is in favor of the modification. The employees of the facility live in the area as well.

**Stephanie Luck** as representative of Penrose Park and Recreation District feels the odor will hinder the plans to create a multi-million dollar park in the area.

**Tina Heffner** feels the modification should be denied because of the moratorium.

**Tami Mundy** thought the moratorium prevented the modification. Her concerns includes the increase in transient and homeless people in the area since the grow facilities have been established and the odor on the weekends.

**Monte Axtell** thought the greenhouse was to be dismantled under the original issuance of license.

**Stephanie Luck** asked, on a personal note, if the funds collected could be given to the Penrose Park and Recreation District if the modification is approved.

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**Nicholas Tolkash** asked if the original greenhouse owner's statement that the greenhouse would not be used in the operations and dismantled when a buyer was found was taken into account during the original approval of the Bikertown facility licenses.

**Dr. Angela Bellantoni** reminded the commissioners that no written complaints have been filed through Planning and Zoning against the applicant. She feels the newly acquired odor detector by Planning and Zoning will have a more objective result during investigations to prove the facility is in compliance.

**Steve Collins** feels the odor issue is the biggest complaint for the citizens of Penrose. The smell affects the quality of life.

**Chairman Norden** closed the Public Hearing at 10:54 a.m.

**Leif Wagner** addressed the concern for additional odor for the second greenhouse. The ventilation will blow onto the ventilation system for the existing greenhouse. The current location in Bikertown has the odor contained. He is the new owner of the current greenhouse, so he is not the one who said it would be dismantled.

**Commissioner Bell** moved to table the Modification of Premises to OPC #14-006 Mile High Cross, LLC for findings to the May 10<sup>th</sup> meeting. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

**Chairman Norden** adjourned the meeting at 11:07 a.m.

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Clerk and Recorder

April 26, 2016

RESOLUTION NO. 15, SERIES OF 2016

RESOLUTION CANCELLING UNCOLLECTIBLE CREEKSIDE CINEMA PERSONAL PROPERTY TAXES FOR TAX YEAR 2011, 2012, AND 2013

WHEREAS, Creekside Cinema owed unpaid personal property taxes for tax years 2011, 2012, 2013, and 2014 on commercial furniture and office equipment; and

WHEREAS, it is common knowledge in the community that the Creekside Cinema business closed in June of 2013 and has not operated since that time; and

WHEREAS, the Fremont County Treasurer and Fremont County Attorney are responsible for collection of the personal property taxes and have recommended that the taxes for the years 2011, 2012, and 2013 be determined to be uncollectible, as the business operation is no longer viable; and

WHEREAS, pursuant to C.R.S. §39-10-114(2)(a), the Fremont County Board of Commissioners is authorized to cancel personal property taxes that are determined to be uncollectible after a period of one year after the date of their becoming delinquent; and

WHEREAS, the Board of Commissioners is of the opinion that the Creekside Cinema delinquent personal property taxes for tax years 2011, 2012, and 2013 are, in fact, uncollectible.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREMONT COUNTY, that the delinquent personal property taxes of Creekside Cinema, Account P033800 for tax years 2011, 2012, and 2013 are hereby cancelled, including accrued interest and fees assessed on the same, in the amounts as shown on Exhibit A, attached hereto and incorporated herein by reference.

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	ABSTAIN	ABSENT
Edward H. Norden	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Timothy R. Payne	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: 26 April, 2016

Edward H. Norden  
Chairman

Attest: Katie E. Barr  
Clerk

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**Fremont County Treasurer  
Statement of Taxes Due**

EXHIBIT A  
CREEKSIDE CINEMA  
PERSONAL PROPERTY  
TAXES

Account Number P033800	Parcel
Legal Description 99925180	Situs Address 127 JUSTICE CENTER RD

Account: P033800  
CREEKSIDE CINEMA  
C/O WESTSIDE CC LLCC  
4100 E MISSISSIPPI AVE #500  
GLENDALE, CO 80246-3048  
USA

Year	Tax	Interest	Fees	Payments	Balance
<b>Tax Charge</b>					
2015	\$1,441.96	\$0.00	\$50.00	\$0.00	\$1,491.96
2014	\$1,793.28	\$215.19	\$50.00	\$0.00	\$2,058.47
2013	\$2,072.36	\$497.37	\$60.00	\$0.00	\$2,629.73
2012	\$2,344.36	\$843.97	\$10.00	\$0.00	\$3,198.33
2011	\$2,725.80	\$1,293.46	\$0.00	(\$745.98)	\$3,273.28
<b>Total Tax Charge</b>					\$12,651.77
<b>Grand Total Due as of 04/28/2016</b>					<b>\$12,651.77</b>

Tax Billed at 2015 Rates for Tax Area 11A - 11A

Authority	Tax Rate	Amount	Values	Actual	Assessed
SCHOOL DISTRICT RE-1	0.0351740000	\$694.15	COMMERCIAL	\$68,052	\$19,735
CANON CITY RECREATION DISTR	0.0035240000	\$69.55	FURNITURE & OFFICE EQUIP PP		
SE COLO WATER	0.0009410000*	\$18.57			
UPPER ARKANSAS WATER CONS D	0.0004710000*	\$9.30	Total	\$68,052	\$19,735
FREMONT COUNTY	0.0118970000	\$234.77			
CITY OF CANON CITY	0.0033290000*	\$65.70			
CANON CITY FIRE PROTECTION	0.0177310000	\$349.92			
Taxes Billed 2015	0.0730670000	\$1,441.96			

\* Credit Levy

<b>DCLPEN</b>		<b>\$50.00</b>
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RESOLUTION NO. 16, SERIES 2016

**A RESOLUTION OF PARTNERSHIP TO APPLY FOR AND DISTRIBUTE  
MATCHING FUNDS FROM THE COLORADO OPPORTUNITY SCHOLARSHIP  
PROGRAM TO BENEFIT RESIDENTS OF FREMONT COUNTY**

WHEREAS, the State of Colorado, through the Colorado Opportunity Scholarship (COSI) has provided an opportunity for local counties to apply for scholarship support for students post-secondary education; and

WHEREAS, COSI has required that matching scholarship funds awarded to any county be deposited with and administered by a local representative non-profit community foundation; and

WHEREAS, COSI has required that matching scholarship funds will only be awarded to a county in which the student participants are engaged in a rigorous student success support program; and

WHEREAS, the provision of additional scholarship support, to offset the cost of attending postsecondary education and a vigorous student success support are critical to the continued economic competitiveness of Fremont County; and

WHEREAS, the Fremont Community Foundation has agreed to serve as the non-profit fiscal agent to collect and disburse all monies secured locally in Fremont County for COSI scholarships; and

WHEREAS, a local committee of educators has been created to serve in an advisory capacity to the Fremont Community Foundation for the purpose of reviewing and awarding scholarships to qualifying students attending Cañon City High School, Florence High School, and Cotopaxi High School;

WHEREAS, the Fremont County Board of Commissioners agrees to support fiscal year 2015-2016 COSI funding in the amount of \$5,000; and

WHEREAS, any community fundraising and donations for COSI Scholarship matching dollars will be also be deposited with the Fremont Community Foundation;

THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Fremont County that \$5,000 is contributed by Fremont County in initial matching funds and to be deposited with the Fremont Community Foundation COSI Scholarship Fund.

BE IT FURTHER RESOLVED that the Fremont Community Foundation will be responsible for the monitoring, distribution, and oversight of COSI scholarship awards. The scholarships to be awarded are for the postsecondary education of Fremont County high school graduates utilizing those county funds and any other community funds donated for the purpose of COSI scholarships.

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Commissioner Norden moved adoption of the foregoing Resolution, seconded by  
Commissioner Bell 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: 4/26/16

**BOARD OF COUNTY COMMISSIONERS      ATTEST:**  
**OF FREMONT COUNTY**

By: Edward H. Norden  
Chairman

By: Kati E. Bau  
Clerk to the Board