

May 13, 2014

### NINTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on May 13th, 2014, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Tim Payne called the meeting to order at 9:30 A.M.

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

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director and Jody Blauser, Chief Deputy Clerk.

The Invocation was given by Tom Killgore of the First Southern Baptist Church.

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

### APPROVAL OF AGENDA

**Commissioner Bell** reorganized the order of items under New Business and added an item under New Business on the agenda as follows: item #2 TUP 14-004 Cotopaxi Farmer's Market moved to item #1; add a new item #2, Recognition of Mike and Adelee Drake, and Sergeant John Fandry; change item #1 Ambulance Licenses in Fremont County to item #3; change item #3 removal of Casey Myers from BOZA to item #4; change item #4 declaration of a vacancy on BOZA to item #5.

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

### CONSENT AGENDA

1. Approval of Minutes / April 22, 2014
2. Approval of Bills May 13, 2014
3. Ratify approval of signed Intergovernmental Agreement with the Colorado Department of Public Safety for participation in the Colorado Emergency Fire Fund.
4. Ratify approval of signed 2014 Fremont County Annual Operating Plan for Wildland Fire Management
5. Schedule Public Hearings: None

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

### ADMINISTRATIVE/INFORMATIONAL

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

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**County Clerk Barr** presented her report for April 2014. The total collected was \$1,024,552.63 for April. The County kept \$53,445.55 of the total collected for disbursement. This is \$126,273.55 more than last year.

**Commissioner Norden** moved to accept the County Clerk's Report for April 2014. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

2. Citizens Not Scheduled: None.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

1. Request: TUP 14-004 Cotopaxi Farmer's Market. Request approval of a Temporary Use Permit to allow a Farmer's Market by Big Sky Cooperative Inc. The event will take place at the Cotopaxi Community Church, 20326 U.S. Highway 50 Cotopaxi Colorado. The Farmers Market will run once weekly on Fridays from June 13<sup>th</sup> through September 26<sup>th</sup> from 9 am to 1 pm. The subject property is located in the Agricultural Suburban Zone District. Representative: Kathy Reese, Big Sky Cooperative, Inc.

**Kathy Reese** explained this event will be held on Fridays from 9:00 a.m. to 1:00 p.m. at the Cotopaxi Community Church. This is the second year for the event. There will be many new participants this year. There is plenty of parking available at the lot next to the church. The events will run from June 13, 2014 thru September 26, 2014.

**Planning and Zoning Director Giordano** discussed the conditions of the request. The applicant is requesting a waiver of the surety bond for cleanup. The Board would also need to approve the liability insurance if the TUP request is approved.

**Commissioner Norden** moved to approve TUP 14-004 Cotopaxi Farmer's Market providing all of the required documentation has been submitted, accepting the liability insurance and waiving the surety bond. Commissioner Bell seconded the motion noting the liability insurance is for \$1,000,000 for each occurrence, and \$2,000,000 for general aggregate. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

2. Recognition of Mike and Adelee Drake and Sergeant John Fandry for years of dedicated service with the War Memorial Park.

**Commissioner Norden** said that Dennis Withers and Mike Drake did a significant amount of work on the War Memorial Park at the airport. He said that Mike Drake will leave the War Memorial Committee.

**Mike Drake** explained that Adelee had to inspect over 2 million pennies for the project. He thanked the Clerk's Office, the Commissioners, County Attorney Jackson and the Department of Transportation for their help in the penny collection process.

**Dennis Withers** thanked Mike and Adelee Drake for their thousands of hours they volunteered on the project. He said their commitment to the project was unbelievable.

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**Commissioner Bell** read the Award and the Commissioners presented the Patriot Award to Mike and Adelee Drake. Sergeant Fandry is not present at this time to receive his award.

3. Status of ambulance licenses in Fremont County. Representative: Steve Morrissey, Fremont County Emergency Management Director.

**Steve Morrissey** has completed inspections on all of the ambulances himself. All needed repairs on the vehicles have been completed. These are annual licenses and each agency is requesting the licensing fee be waived. The four agencies are: Penrose Volunteer Fire Department, Florence Volunteer Fire Department, Ark River EMS and Deer Mountain EMS. AMR Ambulance will be licensed out of Pueblo. He recommends approval of all four ambulance licenses.

**Commissioner Bell** moved to approve the annual ambulance licenses for Penrose Volunteer Fire Department, Florence Volunteer Fire Department, Ark River EMS and Deer Mountain EMS and to waive the annual license fees. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

4. Consideration of removal of Casey Myers from the Fremont County Board of Zoning Adjustment due to unavailability.

**Commissioner Norden** said the Board of Zoning Adjustment does not meet very often, but the Board members need to be available for those meetings. Mr. Myers is not available as he is in jail so a vacancy needs to be declared for his seat.

**Commissioner Norden** moved to remove Casey Myers from the Fremont County Board of Zoning Adjustment. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

5. Declaration of Vacancy of Joseph Scranton from the Fremont County Board of Zoning Adjustment.

**Commissioner Norden** said that Joseph Scranton has passed away. Mr. Scranton served many years on the Board of Zoning Adjustment and the Commissioners are grateful for his service. Applications for the vacant seats will be accepted until June 5<sup>th</sup>, 2014.

**Commissioner Norden** moved to declare a vacant seat held by Joseph Scranton on the Fremont County Board of Zoning Adjustment. Commissioner Bell seconded the motion noting that Mr. Scranton had served on the Board of Zoning Adjustment since 2006. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

**Chairman Payne** recessed the meeting at 9:51 A.M.

**Chairman Payne** called the meeting back to order at 9:55 A.M.

**Dennis Withers** said he has had this award for Mr. Fandry for over 10 years. Mr. Fandry was employed with the US Army at Ft. Carson and had access to two damaged Helix helicopters that were used to build the helicopter at the War Memorial Park.

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The Commissioners presented Sgt. John Fandry with the Patriot Award and thanked him for his contributions.

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

1. Proposed adoption of Fremont County Onsite Wastewater Treatment System (OWTS) Regulations. Representative: Sid Darden, Fremont County Environmental Health Officer.

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

**Sid Darden** gave a brief explanation of the proposed regulations. The state adopted new regulations on May 13, 2013 with an effective date of June 30, 2013. After the effective date Counties were given the option to adopt the new regulations or adopt their own. Wyatt Sanders took on the task of writing the new regulations. These were presented to the Colorado Department of Health in December. The amended version was approved by the State and these are the proposed regulations before the Board today. The notice of the hearing for the proposed regulations was posted on the website and published in the newspaper. A copy of the regulations was available on line and in the office. If the regulations are approved today the effective date would be June 30, 2014.

**Wyatt Sanders** of the Building Department said these regulations do not change the fees or the application forms.

**Public Comments:** None.

**Chairman Payne** closed the Public Hearing at 10:08 A.M.

**Commissioner Bell** noted this is a Board of Health action and the Board of County Commissioners sits as the Board of Health as well.

**Commissioner Bell** moved to adopt the Fremont County Onsite Wastewater Treatment System Regulations to be effective June 30, 2014. Commissioner Norden seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Norden, aye; Commissioner Payne, aye. The motion carried.

2. Request: Amendment to Fremont County Zoning Resolution. Request approval of a proposed amendment to the Fremont County Zoning Resolution regarding Special Review Uses for Towers, the deletion of the Performance Standards in the Airport Zone District, and General Requirements for Off-Street Parking including the number of parking spaces required based on the use, requirements for individuals with disabilities spaces and dimensional. Representative: Department of Planning and Zoning.

**Chairman Payne** opened the Public Hearing at 10:09 A.M.

**Planning and Zoning Director Giordano** said notice of this hearing was published in the newspaper and was on the website. He reviewed the proposed changes to the Fremont County Zoning Resolution as it was proposed to the Fremont County Planning Commission. Some language was added to comply with the parking space requirements for Individuals with Disabilities. If approved today he would prepare a Resolution for approval at the next meeting. No public comments were received on the proposed amendment.

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**Public Comments:** None.

**Chairman Payne** closed the Public Hearing at 10:22 A.M.

**Commissioner Norden** moved to amend the Fremont County Zoning Resolution and adopt the language recommended by the Fremont County Planning Commission Minutes in section 5.3.1, and section 5.4.2 as Resolution #17. Commissioner Bell seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

3. Request: ZC 14-001 Crossroads Business Center Zone Change. Request approval of a Zone Change from the Agricultural Living Zone District to Business Zone District, Department file #ZC 14-001 Crossroads Business Center Zone Change, by WHP Crossroads, LLC (William H. Peetz), for his property which is located on the east side of Colorado State Highway 115, approximately ½ mile south of the intersection of U.S. Highway 50 and Colorado State Highway 115, in the Beaver Park Area (13760 CSH #115, Penrose, CO). The proposed zone change is to allow a restaurant and event center (similar use to an Auditorium or Recreation and Outdoor Amusements or Amusement Facility). The property was previously issued Special Review Use Permits (SRU 00-01 McDowell Sports Club) which allowed a veterinary premise (permitted use in the AL Zone District), a future residence (permitted use in the AL Zone District) and overnight parking for event participants (self-contained units only). The property is zoned Agricultural Living and contains 41.42 acres. Representative: Angela Bellantoni, Environmental Alternatives, Inc.

**Commissioner Payne** said the Commissioners have received numerous letters and emails on this application. He explained the initial application did have language for potential use of the property for marijuana cultivation. The applicant has since changed the application that is before the Board today. The Public Hearing today is for the current request of a zone change on the property.

**Chairman Payne** opened the Public Hearing at 10:26 A.M.

**Dr. Angela Bellantoni** explained the owner intends to use the property as it has been used in the past. The current Special Review Use (SRU) allows the restaurant and rodeo grounds. The zone change to Business Zone District will be a better fit for the property. She discussed the Fremont County Master Plan from 2002 and the Fremont County Zoning Resolution. Under the current zoning there are 23 allowed (SRU) uses compared to 46 allowed (SRU) uses under the Business Zone District. The applicant has submitted a Commercial Site Development Plan that will continue to use the property as a restaurant and events center. The applicant has also applied for a Liquor License and Food Service License for the property.

**Commissioner Bell** asked if the applicant is requesting any kind of marijuana business use with this application. Dr. Bellantoni replied no.

**Commissioner Norden** asked for an explanation regarding the ground water well use for the business. Dr. Bellantoni replied the well is approved for the current use and it will be allowed to continue as is. If the use is changed to manufacturing or industrial the owner would need to get approval from the State Water Commission.

**Planning and Zoning Director Giordano** explained the owner is tied to the specific use applied for within the Commercial Development Plan that was submitted. Should they want to change the use they would have to submit a new Commercial Development Plan and go back to the Planning Commission and the Board of County Commissioners for approval.

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The notifications, posting and publications for this application have all been completed according to the regulations. All letters received regarding this application have been given to the County Commissioners. The Planning Commission did approve this request with a 5-2 vote at their meeting on April 1, 2014. Mr. Giordano discussed the Contingencies and Waiver Requests of the application. The Planning Commission did recommend approval of a waiver of the buffering and landscaping requirements. The Planning Commission did recommend denial of a waiver of the off street parking lighting requirements. The applicant did supply a lighting plan.

**Public Comments:**

**Clarice Roney** lives in Penrose and is against the zone change. She does not understand why the applicant wants to do a zone change if he intends to operate the business as it has been in the past. The access in and out of the property is dangerous as there is not a turn lane.

**Stephanie Luck** lives in Penrose and is against the zone change. She discussed Resolution 40 Series 1998 that references changing zoning from agricultural to commercial. She stated a higher level of scrutiny should be applied for such a zone change. As the restaurant would be able to operate under the current zoning she does not believe a zone change is justified.

**Philip Flanders** lives in Penrose and is in favor of the zone change. The past businesses at this location have not been successful. He believes the owner should be allowed to have a profitable business at this location. The zone change will help promote economic development.

**Chairman Payne** closed the Public Hearing at 11:02 A.M.

**Commissioner Norden** said the Commissioners have been criticized in the past for requiring a Commercial Development Plan. Business owners complain how difficult it is to start a business in Fremont County. However it is this process that helps to protect property owners.

**Commissioner Bell** said she understands that citizens want the business to remain an events center but that is not something that can be enforced.

**Commissioner Norden** moved to approve ZC 14-001 Crossroads Business Center, stating justification #D, the proposed zone change will be in conformance to the Comprehensive or Master Plan for the area; adding other criteria of item #C, there will not be any effect on existing traffic; item #D, there will be no effect on adjacent uses, as Resolution #18. Commissioner Bell seconded the motion. Commissioner Norden noted the Planning Commission is not required to have a Public Hearing process for an application, it is only required for the Board of County Commissioners. Commissioner Norden amended his motion by accepting the recommended contingencies 1-8, accepting all of the waiver requests for buffering and landscaping, surfacing, and lighting. Commissioner Bell seconded the amended motion. Commissioner Bell stated there are plenty of opportunities for this Board to say no to another type of business that may want to operate at that location. Upon Vote: Commissioner Norden, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

**Chairman Payne** adjourned the meeting at 11:17 A.M.