

May 28, 2013

TENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on May 28th, 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 and Marshall Butler, Planning and Zoning Representative.

The Invocation was given by Pastor Dave Grooters from the Evangelical Free Church.

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

APPROVAL OF AGENDA

Commissioner Norden moved to approve the agenda. 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 #20 is attached.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

a. Public Trustee's Quarterly Report – Pat McFarland

Pat McFarland, County Treasurer and Public Trustee gave her Quarterly Report for the first quarter of 2013. There were 75 foreclosures in the first quarter this year compared to 65 last year. Total Releases for the first quarter were 567. Pat noted the deadline for property taxes to be paid is June 15, 2013.

Commissioner Norden moved to accept the Public Trustee's Quarterly Report. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

2. Citizens Not Scheduled: None.

OLD BUSINESS

None.

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NEW BUSINESS

1. Presentation regarding Electronic Recycling at Canon City High School.
Representative: Ken Cline

Commissioner Bell stated that Mr. Cline was not present to give his presentation.

2. Consideration of appointments to the Upper Arkansas Area Workforce Board

Commissioner Bell said she currently sits on the Workforce Board. The Commissioners agreed the appointments to the Upper Arkansas Workforce Board needed to be done formally.

Commissioner Bell moved to appoint Wanda Embry, an employee of the Fremont County Department of Human Services, and Mark Crespin, the Branch Manager of Rocky Mountain Bank in Florence to the Upper Arkansas Workforce Board. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

3. Consideration of a Proclamation of Elder Abuse Awareness Day in Fremont County – June 15, 2013. Representative: Steve Clifton, Department of Human Services Director.

Steve Clifton explained there have been many problems with elder abuse in our community whether it is health, financial, physical abuse or lack of proper nutrition.

Helen Foster said Fremont County currently serves as Guardian to 11 individuals in Fremont County who have no family to care for them. Fremont County is currently Payee Representative to 2 individuals, handling their financial affairs. The Department of Human Services receives anywhere from 10 to 35 allegations per month that need investigated. Legislation will take effect July 1, 2014 that will require mandatory reporting by certain agencies of any type of abuse to individuals 70 years or older to the authorities. Helen read the Proclamation.

Commissioner Norden moved to adopt the Proclamation naming June 15, 2013 as Elder Abuse Awareness Day in Fremont County. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

4. Resolution adopting six amended policies regarding Civil Union partners in the Fremont County Personnel Policies and Procedures Manual

County Attorney Jackson explained the Colorado Legislature adopted the Civil Union Act. The Clerk's Office has been issuing Civil Union Licenses upon request to qualified individuals as of May 1, 2013. The Fremont County Employee Policy Manual needs to be amended in order to comply with the new legislation that became effective May 1, 2013. The six amended policies include Nepotism; Change of Dependents, Marital Status or Civil Union Status; Bereavement Leave; Family and Medical Leave; Tax Lien Sales; and Gifts and Gratuities. The resolution is presented with the six affected policies and the amended language adding Civil Unions and Civil Union Partners. If the Board adopts the Resolution, the effective date would be today.

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Commissioner Norden moved to adopt Resolution #23 adopting amended policies to extend employee benefits, obligations and responsibilities to Civil Union partners in the Fremont County Personnel Policies and Procedures Manual. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #23 is attached.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

None.

Chairman Bell adjourned the meeting at 9:53 A.M.

Clerk and Recorder

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Commissioner Payne moved the adoption of the following Resolution:

RESOLUTION NO. 20
Series of 2013

RESOLUTION FOR SPECIAL REVIEW USE PERMIT
DEPARTMENT OF PLANNING AND ZONING
FILE #SRU 13-001 TALLAHASSEE VOLUNTEER FIRE PROTECTION – MAIN STATION
(FIRE STATION)

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter “Board”):

THAT WHEREAS, Tallahassee Volunteer Fire Protection, Inc., (hereafter “applicant”) has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont County for Permit **to allow a fire station for the Tallahassee Volunteer Fire Protection, which will include housing of operations and administration activities**; which application has been designated as file #SRU 13-001 Tallahassee Volunteer Fire Protection – Main Station (Fire Station);

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **April 2, 2013** regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter “Department”), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within one thousand five-hundred (1,500) feet of the boundaries of the subject parcel and to appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

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WHEREAS, the Board held a public hearing concerning said application on May 14, 2013, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

WHEREAS, it appears that issuance of a Special Review Use Permit is appropriate;

NOW, THEREFORE, BE IT RESOLVED by the Board that:

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The posting of the property for the Public Hearing was performed according to the Fremont County Zoning Resolution.
 - b. There were no irregularities in the review of the application by the Planning Department and it was in accordance with the Fremont County Zoning Resolution.
 - c. The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
 - d. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - e. The proposed use will not have detrimental effects on property values.
 - f. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - g. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - h. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - i. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.

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2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
 - A. Special Review Use Permit shall be issued for life of the use.
 - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
 - C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
 - D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
 - E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
 - F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit

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intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.

- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan, if required.
- J. Provide a copy of the following approved permits, licenses or the like, prior to operation: *(If not required provide documentation from the listed entity that the following is not required, prior to operation)*. The applicant shall provide copies of all permits, licenses or the like required from any entity for the operation of the proposed use whether contained in the following list or not.
 - 1. Fremont County Building permit
 - 2. Fremont County Sewage Disposal permit
 - 3. A Colorado Department of Transportation Access permit is required for the specified use.
- K. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- L. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others

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requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

M. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (complete reapplication).

Commissioner Norden seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Nay / Abstain / Absent

Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: May 28, 2013

Deborah Bell
CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: Katie E. Bau
FREMONT COUNTY CLERK AND RECORDER

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RESOLUTION NO. 23, SERIES OF 2013

**RESOLUTION ADOPTING AMENDED POLICIES TO EXTEND EMPLOYEE BENEFITS,
OBLIGATIONS AND RESPONSIBILITIES TO CIVIL UNION PARTNERS IN THE
FREMONT COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, pursuant to §30-2-104, the Board of County Commissioners is authorized to adopt a classification and compensation plan for all county employees paid in whole or in part by the county; and

WHEREAS, the Board of County Commissioners, with consent of all elected officials, has adopted the March 1, 2010 Fremont County Personnel Policies and Procedure Manual; and

WHEREAS, in 2013, the Colorado General Assembly enacted Senate Bill 13-011, authorizing civil unions in the State of Colorado, which was signed by the Governor on March 21, 2013 and became the law of the State on May 1, 2013; and

WHEREAS, SB 13-011 provides that a party to a civil union has the rights, benefits, protections, duties, obligations, responsibilities and other incidents under law as are granted to or imposed upon spouses, whether those rights, benefits, protections, duties, obligations, responsibilities, and other incidents derive from statute, administrative or court rule, policy, common law, or any other source of law; and

WHEREAS, the Board of County Commissioners has determined that the language of Policies 2.05, regarding Nepotism; 6.13, regarding Change of Dependents or Marital Status; 7.05, regarding Bereavement Leave; 7.09, regarding Family and Medical Leave; 10.03, regarding Acquisition of Tax Lien or Property by Sale of a Tax Lien; and 10.04, regarding Gifts and Gratuities: Employee Ethics, require revision to enable County Employees to bring the Fremont County Personnel Policies and Procedures into compliance with SB 13-011; and

WHEREAS, a copy of each amended Policy, numbers 2.05, 6.13, 7.05, 7.09, 10.03, and 10.04 7.13, is attached to this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Fremont County:

1. Amended Policies 2.05, 6.13, 7.05, 7.09, 10.03, and 10.04, for the Fremont County Personnel Policies and Procedures Manual, (March 1, 2010) are hereby approved and adopted.
2. The Amended Policies shall be effective immediately upon approval of this Resolution by the Board of County Commissioners.
3. The County Manager, in his Human Resources capacity, shall provide a copy of the Amended Policies to all employees and shall ensure the changes are implemented and included in all future copies (digital or paper) of the Fremont County Personnel Policies and Procedures Manual, (March 1, 2010).

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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	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
Edward H. Norden	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
Timothy R. Payne	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent

Date: May 28, 2013

BOARD OF COUNTY COMMISSIONERS
OF FREMONT COUNTY

ATTEST:

By: Debbie Bell
Chairman

By: Katie E. Bau
Clerk to the Board

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2.05 Nepotism –Personal Relationships in the Workplace

Personal Relationship shall mean marital, civil union, or other committed relationship, significant familial relationship, or consensual sexual or romantic relationship.

Significant Familial Relationship shall mean a parent, spouse, civil union partner, child, grandchild, grandparent, brother, sister, nephew, niece, aunt, uncle, and the in-laws of the same relationship. A person adopted is also a relative as used herein. This definition shall be interpreted to include relationships by marriage (step-relation or half-relation).

In the interest of maintaining impartial and fair employment practices, no employee shall be hired, transferred to, promoted to, demoted to, or rehired in a position within the same department or office as another employee having supervisory authority over the other if the two employees are involved in a personal relationship.

It is the policy of the County that employee shall not be allowed to secure or maintain employment with the County if a financial conflict of interest exists. A financial conflict of interest exists if a person with whom the employee maintains a personal relationship makes or could make approvals for expenditures or other financial matters for such employee.

Existing employees who marry, enter into a civil union, or otherwise establish a personal relationship, may continue employment so long as one is not the immediate supervisor over the other. When feasible, one of the employees will be transferred to a different department, office, or position. If it is not feasible to transfer one of the employees, one of the affected employees may be required to terminate employment with the County.

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6.13 Change of Dependents or Marital Status

Any change of dependents or change in marital or civil union status must be reported to the County Human Resource Department by submitting a corrected W-4 Form (Federal Withholding Exemption Certification) and completing other forms as may be required for change in benefit status, within ten (10) days after the effective date of the change.

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7.05 Bereavement Leave

Each regular full-time employee shall be allowed bereavement/funeral leave for the loss of immediate family members of the employee, the employee's spouse or civil union partner. Immediate family member is defined as a child, parent, sibling, grandparent and grandchild. Special consideration will also be given to any other person whose association with the employee was similar to any of the immediate family relationships set out herein.

The maximum allowed for out-of-state funerals is 5 days and for in-state funerals is 3 days.

Bereavement leave, with pay, will be granted to attend the funeral of an employee or the employee's immediate family member, when approved by the Department Head or Elected Official.

One day (1) of bereavement leave will be allowed, upon request, to act as pallbearer at a funeral.

Any additional leave time needed for attendance at a funeral of family members or others shall be assessed against vacation leave or compensatory time of the employee. Sick leave may be used for this purpose, but only if all vacation leave and compensatory time has been fully exhausted.

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7.09 Family and Medical Leave

Fremont County follows the Family and Medical Leave Act (FMLA). The County recognizes that under certain circumstances an employee may need to be away from work for an extended period of time, up to 12 weeks within a given 52-week period, as outlined in the FMLA. Absences requested under the provisions of the FMLA will be handled on a case-by-case basis under the law.

The FMLA and interpretive regulations provide detailed requirements for both the employer and employee to follow. This policy summarizes the key components of FMLA for simple reference by the employee, but the County comprehensively complies with all statutory and regulatory requirements. Any employee who anticipates needing or is faced with a need for FMLA time off from work should contact the Department Head/Elected Official and the Human Resource Department.

A. Eligibility: To be eligible for FMLA benefits, an employee must have been employed by the County for at least twelve (12) months and have actually worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave. The employee must also be employed at a worksite of the County where 50 or more employees are employed by the County within 75 miles of that worksite.

B. Qualified Leave Reasons: The County will grant FMLA leave to eligible employees for the following reasons:

1. The employee's serious health condition;
2. The birth and care of the employee's child;
3. Placement with the employee of a child for adoption or foster care and;
4. Care of the employee's spouse, domestic or civil union partner, child, or parent with a serious health condition;
5. Qualifying exigencies arising out of the fact that the employee's spouse, civil union partner, child or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation;
6. Care of current member of the Armed Forces (including National Guard or Reserves) when that person has a serious injury or illness, by a county employee who is the member's spouse, civil union partner, child, parent or next of kin (up to a total of 26 workweeks of unpaid leave during a "single 12-month period."

Leave for the birth and care, or placement and care of a child must conclude within 12 months of the birth or placement of the child. FMLA applies equally to male and female employees

C. Definitions: Serious Health Condition means an illness, injury, impairment, or physical or mental condition that involves either:

- a) inpatient care in a hospital, hospice or residential medical care facility, or
- b) continuing treatment by a health care provider.
- c) Continuing treatment means, in broad terms:

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- 1) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment thereof, or recovery there from) of more than three consecutive calendar days (and any subsequent treatment period of incapacity involving the same condition) or involving treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the health care provider's supervision.
- 2) Any period of incapacity due to pregnancy or prenatal care.
- 3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires periodic visits for treatment by a health care provider; continues over an extended period of time; and may cause episodic rather than continuing incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- 4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, terminal stages of a disease).
- 5) Any period of absence to receive multiple treatments by a health care provider either for restorative surgery after an accident or injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy for cancer, physical therapy for severe arthritis, or dialysis for kidney disease).

Parent means the biological parent of an employee or an individual who stands or stood in the place of a parent to an employee when the employee was a child.

Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Health Care Provider means a physician, dentist, podiatrist, clinical psychologist, optometrist or other similar medical professional who is authorized to practice medicine or surgery in the state in which the individual practices his/her profession and who is authorized to treat the condition for which the employee is being treated. In cases limited to treatment consisting of manual manipulation of the spine to correct a subluxation, medical certification may be provided by a chiropractor.

D. Notice Requirements

Employees seeking FMLA leave are required to provide their supervisors and the County's Department of Human Resources at least 30 days prior written notice of the proposed leave. Where advance notice is not possible, such as in the event of a medical emergency, notice should be given as soon as practicable. Failure to give advance notice where foreseeable may delay or postpone the commencement of the leave. Please contact the Department of Human Resources for the applicable forms.

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E. Notice to the Employee

When an employee has proposed or requested a leave, the County is expected to notify the employee, in writing, within five days of the written request, that the County is provisionally designating the leave as Family Medical Leave subject to receipt and approval of the required Certification information.

F. Certification of a Serious Health Condition

If FMLA leave is based on a serious health condition, whether it involves the employee or a family member (parent, spouse, domestic or civil union partner or child), medical certification from a health care provider will be required. Failure to provide such certification may result in a delay of the employee's leave. Where the County requires an employee to provide a medical certification, that certification must be provided within fifteen (15) calendar days of the County's request. In addition, when returning to work from a leave taken because of the employee's own serious health condition, the employee will be required to provide medical certification that the employee is fit to return to work. Please contact your supervisor or the Department of Human Resources for available medical certifications forms. Employees should be aware that the County may, under certain circumstances, require recertification of a medical condition. In addition, employees may be required to report on their intent to return to work. Whenever an employee learns of a change in the anticipated length of a FMLA leave, the employee must notify the County within two (2) business days of learning of such a change.

G. Length of Leave

Eligible employees may be entitled to up to twelve (12) weeks of unpaid leave during any 12-month period. The county uses the "rolling" 12-month period measured backward from the date an employee uses FMLA leave. (which period is measured backward from the date an employee uses any FMLA leave). Each time an employee takes FMLA leave, the remaining leave entitlement equals the balance of the 12 weeks that has not been used during the immediately preceding 12 months. Where both spouses, civil union or domestic partners are employed by the County, they are entitled to a combined total of 12 weeks of FMLA leave for the birth and care of their newborn child, or for the care and placement with them of a child for adoption or foster care.

In certain circumstances and upon a showing of medical necessity, employees may take intermittent leave or leave on a reduced leave schedule. Intermittent leave or leave on a reduced schedule for the birth and care or placement and care of a child for adoption or foster care will be allowed only with the County's prior written approval. Intermittent leave or leave on a reduced schedule may be taken whenever medically necessary to care for a seriously ill family member or because of the employee's own serious health condition, including medical conditions related to pregnancy and prenatal care.

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H. Substituting Paid Leave

Where an employee takes FMLA leave for any authorized reason, the employee must substitute any unused paid time off, including vacation leave, sick leave and sick leave bank time for any (otherwise) unpaid FMLA leave. Upon the employee's request, compensatory time may be used concurrently with FMLA leave. The County will designate an employee's use of paid leave as FMLA leave based on the information provided by the employee. Paid leave that is substituted for unpaid leave will be counted toward the 12 weeks of FMLA leave.

I. Benefits During Leave

During any FMLA leave, the County will maintain the employee's health and life insurance coverage on the same conditions that coverage would have been provided if the employee had been continuously employed during the entire leave period. The County and the employee will each continue to pay their portion of the benefit costs. The County may recover, on a pro rata basis, premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

During a FMLA leave, sick leave and paid time off will continue to accrue only during that portion of the leave which is paid by using sick, vacation or paid time off days. During any unpaid FMLA leave, sick leave and vacation leave will not accrue. For those persons returning from any unpaid FMLA leave, accrual of paid time off and sick leave will resume with the first pay period which follows or coincides with the date the individual returns to active work. Where the FMLA leave is taken on an intermittent basis or as a reduced-schedule, sick leave and vacation leave will continue to accrue on a pro rata basis for actual time worked.

J. Return From Leave

Employees returning from leave will be reinstated to the same or equivalent position, with equivalent pay, benefits, and other terms and conditions of employment. Failure to return to work at the end of the leave may result in termination of employment.

Employees returning from a leave for a serious health condition must also provide the County with a certification from a health care provider documenting their fitness to return to work 14 days prior to their final return date. Employees who are unable to return to work at the end of the leave should notify the Human Resource Department in writing two weeks in advance. Supervisors should contact the Human Resource Department to discuss alternatives prior to taking any action if an employee is unable to return to work. Except as provided in this policy, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned before using FMLA leave.

K. Other Leave Arrangements

If an employee is ineligible for leave under FMLA, the employee may be eligible for a leave of absence under the County's established policy addressing leaves of absence. The determination of whether an employee qualifies for FMLA leave will be made at the time leave is requested.

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L. For More Information

Information can be obtained by contacting the Department of Human Resources. In addition, a poster has been placed on the bulletin board for the Department of Human Resources which includes further details regarding eligibility and other requirements of the law. Employees of temporary staffing agencies should contact their agency directly for information regarding their rights under the FMLA. Questions of interpretation under this policy will be resolved by reference to the FMLA and regulations issued by the United States Department of Labor. Employee's rights under this policy shall in no case be less than those afforded by the FMLA.

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10.03 Acquisition of Tax Lien or Property by Sale of a Tax Lien

Each year, pursuant to law, the County Treasurer conducts a public auction for the sale of tax liens on properties throughout the county. These liens are a result of unpaid, or delinquent, property taxes. Colorado law provides:

No property for which a tax lien is sold for delinquent taxes shall be conveyed to an elected or appointed county official, to a county employee, or to a member of the immediate family of any such person or to the agent of any such county official or employee, if the tax lien on such property is sold during the time the official or employee holds office or is employed.

No tax lien shall be sold to an elected or appointed county official, to a county employee, or to a member of the immediate family of such person or to the agent of any such county official or employee during the time the official or employee holds office or is employed.

Be advised that not only is a county employee prohibited by law from purchasing tax sale properties or tax liens, a county employee is prohibited from asking someone else to purchase a tax sale property or a tax lien, on the employee's behalf. The employee's immediate family is subject to the same prohibitions. "Immediate family" is not defined, but undoubtedly includes spouse, civil union partner, parent, child (related by blood or marriage), family members and relatives residing with the employee and other relatives with whom the employee maintains a close, personal relationship.

An employee is not prohibited from purchasing a tax lien or property by tax deed if:

If the property to be conveyed was owned by the county official or county employee, or by a member of the immediate family of any such person, immediately prior to the sale of a tax lien on such property for delinquent taxes;

If such property is situated within a county other than the county to which such county official or employee is elected, appointed, or employed; or

If the property to be conveyed is a severed mineral interest and, at the time of the conveyance, the county official or county employee is the owner of the surface estate which is coterminous with the severed mineral interest.

A violation of the Colorado statute prohibiting purchasing of tax liens or tax sale property is a class one misdemeanor, a criminal violation, and is punishable according to law. A violation of this policy, even if not a technical violation of state law, may result in discipline against the employee, up to and including termination.

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10.04 Gifts and Gratuities: Employee Ethics

In November of 2006, the voters of Colorado passed the 41st Amendment to the Colorado Constitution, titled "Ethics in Government." No county official or employee shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than \$50.00 (from the same donor) in any calendar year. This prohibition is imposed on both direct acts and indirectly as the beneficiary of a gift or thing of value given to such person's spouse, civil union partner, or dependent child. No county employee shall accept or receive any money, forbearance, or forgiveness of indebtedness from any person without such person receiving lawful consideration of equal or greater value in return from the local government official or government employee.

Prohibited items include but are not limited to gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, and special discounts.

The prohibitions do not apply if the gift or thing of value is:

- A. A campaign contribution as defined by law;
- B. An unsolicited item of trivial value less than \$50 (pen, calendar, book)
- C. An unsolicited token or award of appreciation (plaque, trophy)
- D. Unsolicited informational material, publications, subscriptions related to the performance of official duties;
- E. Admission to, and the cost of food or beverages consumed at a reception, meal or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program;
- F. Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the local government, provided that the nonprofit organization receives less than five percent of its funding from for-profit organizations or entities;
- G. Given by an individual who is a relative or personal friend of the recipient on a special occasion;
- H. A component of the compensation paid or other incentive given to the recipient in the normal course of employment.

The primary means of enforcing these prohibitions is through the Colorado Independent Ethics Commission. Its function is to hear complaints, issue findings, assess penalties and issue advisory opinions on ethics issues and any other standards of conduct and reporting requirements as provided by law.

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However, violations may also be dealt with as a violation of County policy, which may result in disciplinary action, up to and including termination.

The Colorado Independent Ethics Commission periodically issues opinions interpreting Amendment 41 regarding ethics of public officials and employees. These opinions assist county employees and officials with interpretation of when “gifts” (anything of value including meals) valued at more than \$50 can be solicited or accepted.

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The main rulings are:

1. Scholarships generally are permissible.
2. Honoraria are permissible if: (a) Delivering the speech or writing the publication is not part of the employee or official's official duties; (b) Public resources are not used in preparation of the speech or publication (including computers, telephones, staff); (c) Government time is not used for the preparation or delivery of the speech or publication; (d) The amount of the honorarium is reasonable related to the services the employee or official is being asked to perform; and (e) Neither the sponsor nor the source of the honorarium has had, or reasonably expects to have, dealings with the employee or official in his or her official capacity.
3. Insurance proceeds are permissible.
4. Prizes are permissible if the competition was fair, open to everyone similarly situated, and if the gift is not given based on the official or employee's governmental status. This exception allows acceptance of scholarly prizes like the Nobel Prize.
5. Raffles, lotteries and silent auctions are permissible as long as they are fair, the employee or official either bought a ticket or otherwise shared an equal chance to win (like putting a card in a fishbowl), and the awards were not rigged in favor of the public employee or official based on his or her governmental status.
6. Inheritances are allowed because they are based on the personal relationship.
7. Special occasions are broadly defined. Amendment 41 allowed personal friends to give gifts on "special occasions." This opinion loosens the definition of "special occasions" to allow social amenities like meals and gifts among personal friends and family members so long as:
 - A. The personal or family relationship is the controlling factor and not the governmental position, and
 - B. The receipt of the gift or thing of value by the public official or employee would not create the appearance of:
 1. Using his or her office for personal benefit;
 2. Giving preferential treatment to any person or entity;
 3. Losing independence or impartiality; or
 4. Accepting gifts or favors for performing official duties.
8. Acceptance of travel-related expenses may be considered a gift to the State or local government, rather than to the public official or employee if the following conditions are met:
 - A. The travel is for a legitimate state or county purpose;
 - B. The travel arrangements are appropriate to the legitimate purpose;

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C. The trip is no longer than necessary to accomplish the legitimate purpose;

D. The government official or employee is not currently and will not in the reasonably foreseeable future, be in a position to take direct action with respect to the donor;

E. The traveler is required to verify compliance with conditions A-D above.

It is best not to accept or solicit things of value greater than \$50 from anybody who is currently doing, or would like to do, business with the County or with whom you do business in your professional capacity, including nonprofit corporations, charitable corporations or trade associations.

If you get a gift or invitation, ask yourself, "If I did not have this job, would I have gotten this?" If the answer is, "Yes, this person would have given me this regardless of my job because of our personal relationship," then it is probably lawful to accept. If the answer is, "If I did not have this job, this gift or invitation would have gone to the person who did," then don't accept the gift or invitation. This policy states only general concepts and guidelines. More complete information and opinions should be sought from the County Attorney if there are questions regarding a specific gift situation.

Should an employee receive any compensation, gift, expense money, rewards, gratuities or anything of value as described in this policy that was unsolicited or that cannot be practically returned, it shall be reported to the supervisor, Department Head or Elected Official, who may require that the item be turned in as County property