

August 9, 2016

FIFTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on August 9, 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: County Manager Sunny Bryant and Planning and Zoning Director Matt Koch

Ethan McLaugherty of the Evangelical Free Church gave the invocation.

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. 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 / July 26, 2016
2. Approval of Minutes/ Special BOCC Meeting August 4, 2016
3. Approval of Bills for \$828,987.93
4. Schedule Public Hearings for August 23, 2016 at 10:00 a.m.
 - a) TUP 16-006 Diana's Pumpkin Patch: Request approval of a Temporary Use Permit, Department file #TUP 16-006 Diana's Pumpkin Patch to allow pumpkin picking, corn maze, hayrides, hay slide, grain barn, snack bar, hamburgers and hotdogs. To run September 17th through October 31st, 7 days a week. The site is located at 1649 Poplar Ave, being at the northwest corner of Poplar Ave, & Locust St, in the Lincoln Park Area. This is the second year for a submittal of a request for the TUP.
 - b) OPC 14-001 Today's Health Care/Today's Health Care II, LLC (Modification): Request approval of a Modification of Premises to allow five (5) greenhouses for Department file #OPC 14-001 Today's Health Care/Today's Health Care II, LLC (Optional Premises Cultivation-Commercial, Greenhouse), by Today's Health Care/Today's Health Care II, LLC, (dba Today's Health Care/Today's Health Care II, LLC), for property which is owned by Coaz North, LLC. The address of the property is 934 C St, Penrose, Colorado (indoor grow), in the Beaver Park/Penrose Area, which is located on the east side of C Street, approximately 978 feet to the center of the property from the intersection of State Highway 115 and C Street. The property is zoned Agricultural Rural and contains 10 acres more or less.

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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 Reports:
 - a. County Manager Report, Sunny Bryant, County Manager

County Manager Bryant gave an update on the Sheriff's kitchen and laundry remodel project. She reported on a meeting regarding the homeless population in Fremont County, which is an ongoing concern, and on the Fremont County Road & Bridge annual Equipment Road-e-o. Manager Bryant said she would be working with Commissioner Bell and SCEDD in the upcoming week to update the Comprehensive Economic Development Strategy report.

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

Karen Hunter addressed the Board concerning opening the meetings with an invocation. She is against praying before the meetings and feels that religion is being forced on everyone who attends.

Attorney Jackson replied that there have been two instances where this same issue came before the Supreme Court, and both times, it was deemed appropriate and not against the Constitution.

George Storey addressed the Board with the idea of consolidating the Canon City Police Department and the Fremont County Sheriff's Department. He believes this would save a lot of money.

Commissioner Norden told him that they had accomplished this with the regional dispatch center.

Harry Kitchen addressed the Board concerning emails he had written and phone calls he had made to Commissioner Payne regarding the paving of West Grand Ave. Mr. Kitchen claimed he never received a response.

Commissioner Payne expressed his apologies and told Mr. Kitchen that he would be in touch.

OLD BUSINESS

None.

NEW BUSINESS

1. District Attorney Supplemental Budget Request
Representative: Molly Chilson

Molly Chilson spoke to the Board about a cold case from 1980. Beverly England went missing in 1980 and some of her remains were found in 1992. Other things have been brought to light concerning her death along with advancements in technology. Ms. Chilson requested a total of \$100,000 from the 11th Judicial District to fund a second Assistant District Attorney to ensure the proper work force for the investigation. Fremont County's 55% share would amount to \$55,000.

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Commissioner Norden explained that since the County is in the middle of a budget year coming up with that kind of money is difficult when it was not in the 2016 budget.

Commissioner Bell added that waiting one more year would not be different, and suggested Ms. Chilson ask for the funding in 2017.

Molly Chilson said that time is of the essence for the funding, but she could not offer any details in order to protect the integrity of the investigation, and asked the Board to take her word for it.

No action was taken.

2. Consideration of a Proclamation for Fremont Fall Heritage Festival September 10, 2016 through October 15, 2016
Representative: Mary Chamberlin

Mary Chamberlin reported that this will be the 3rd Fremont Fall Heritage Festival, and the festival will be September 10, 2016 – October 15, 2016. Ms. Chamberlin read the Proclamation.

Commissioner Payne moved to approve the Proclamation for Fremont Fall Heritage Festival September 10, 2016 through October 15, 2016. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

3. Update from the Heritage Commission
Representative: Mary Chamberlin

Mary Chamberlin presented the 2016 mid-year report, listing all of the upcoming events.

4. First Reading of ORDINANCE NO. 2, SERIES OF 2016: An Ordinance Amending Certain Provisions of Ordinance 2016- 1 Regulating the Cultivation of Marijuana on Residential Properties, in Residential Structures, on Unoccupied Property and in Structures on Unoccupied Property and Requiring Registration of Primary Caregivers in the Unincorporated Area of Fremont County, Colorado.

Attorney Jackson explained the items that were amended. They were Section 7 (D), Section 8 (A-G) adding (H), and Section 9.

Ms. Jackson then read the ordinance. (See attached Ordinance)

Commissioner Bell moved to approve the First Reading of Ordinance No. 2, Series of 2016: An Ordinance Amending Certain Provisions of Ordinance 2016-1 Regulating the Cultivation of Marijuana on Residential Properties, in Residential Structures, on Unoccupied Property and in Structures on Unoccupied Property and Requiring Registration of Primary Caregivers in the Unincorporated Area of Fremont County, Colorado. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

5. CUP 96-001 Valco, Inc. Request an extension of Conditional Use Permit for five years to accomplish the release from the Colorado Division of Reclamation, Mining and Safety. All of lots Number Thirty-Four (34) and Forty-seven (47) and that portion of lots Number Thirty-one (31), Thirty-five (35), Forty-five (45) and Forty-six (46), lying Southerly and Westerly of the Denver and Rio Grande Western Railroad Company's right-of-way, all in Section 1, Township 19 South, Range 70 West of the 6th P.M. being a part of the Dozier and McKenzie's Grand View Subdivision, according to the plat

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therefore on file and of record in the office of the County Clerk and Recorder of the County of Fremont and State of Colorado, and; Beginning at a point on the West line of Sec. 1, T 19s, R 70 W of the 6th P.M. which lies N 00 degrees 00'00" E E 502.70 feet from the West ¼ corner of said section 1; thence S 52 degrees 22'03" E 492.46 feet; thence S 90 degrees 00'00" E 240.00 feet to a point on the West R.O.W. line of McKenzie Avenue; thence S 00 degrees 00'00" E along said R.O.W. line 1230.79 feet; thence N 78 degrees 43'05" W 642.41 feet to a point on the west l ine of Sec. 1 thence N 00 degrees 00'00" E 903.11 feet; thence N 90 degrees 00'00" W 50.00 feet; thence N 01 degrees 59'38" E 503.01 feet; thence S 90 degrees 00'00" 32.50 feet to the point of beginning. Contains 18.71 Acres more or less.

Tom Brubaker explained to the Board that they are in the reclamation process. This process could take up to five years. He just needs the time to finish the reclamation.

Director Koch told the Commissioners that the CUP must stay active during the reclamation process and extending the permit for 5 years is appropriate.

Commissioner Bell moved to approve an extension of CUP 96-001 Valco, Inc. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

6. Authorization for the Chairman to sign the Right of Way Grants with the Bureau of Land Management for the four communication sites located at Cotopaxi Falls Gulch; just south of Cotopaxi; near the town of Howard; and northwest of the Cotopaxi High School.
Representative: Sunny Bryant, County Manager

County Manager Bryant explained that two of the grants expired in 2013 and the other two will expire in 2018. If the Board approves her request it would renew all four of them with no expiration date.

Commissioner Payne moved to authorize the Chairman to sign the Right of Way Grants with Bureau of Land Management for the four communication sites located at Cotopaxi Falls Gulch; just south of Cotopaxi; near the town of Howard; and northwest of the Cotopaxi High School. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10 A.M.

None.

Chairman Norden adjourned the meeting at 10:40 a.m.

Clerk and Recorder

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ORDINANCE NO. 2 SERIES OF 2016

**AN ORDINANCE AMENDING CERTAIN PROVISIONS OF ORDINANCE 2016- 1
REGULATING THE CULTIVATION OF MARIJUANA ON RESIDENTIAL PROPERTIES,
IN RESIDENTIAL STRUCTURES, ON UNOCCUPIED PROPERTY
AND IN STRUCTURES ON UNOCCUPIED PROPERTY
AND REQUIRING REGISTRATION OF PRIMARY CAREGIVERS**

IN THE UNINCORPORATED AREA OF FREMONT COUNTY, COLORADO

WHEREAS, Fremont County, Colorado possesses the authority pursuant to C.R.S. §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety and welfare issues; and

WHEREAS, the Colorado Constitution Article XVIII, Section 14 and the Colorado Medical Marijuana Code, C.R.S. §§12-43.3-101, *et seq.*, recognize that local governments such as Fremont County retain authority to regulate the cultivation of medical marijuana; and

WHEREAS, the Colorado Constitution, Article XVIII, Section 16 and the Colorado Retail Marijuana Code, C.R.S. §§12-43.4-101, *et seq.*, recognize that local governments such as Fremont County may regulate the personal use of marijuana to serve the purpose and intent of the constitutional and statutory provisions regarding such use; and

WHEREAS, no person is allowed to possess, cultivate, grow, use or distribute marijuana in any manner or for any purpose other than that allowed by the Colorado Constitution and Colorado State Statutes; and

WHEREAS, the Board of County Commissioners for the County of Fremont has determined that the adoption of regulations governing the cultivation of medical and personal-use marijuana is necessary and desirable for the health, safety and welfare of the citizens of Fremont County; and

WHEREAS, on April 12, 2016, the Board of County Commissioners adopted Ordinance 1, Series of 2016 (Ordinance 2016- 1), regarding personal cultivation of marijuana on residential and unoccupied properties; and

WHEREAS, implementation of Ordinance 1- 2016 has disclosed certain inconsistencies in the enforcement process which require certain corrective amendments.

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

1. Section 7 (D) of Ordinance 2016-1 is AMENDED to read as follows:

D. A Medical Marijuana patient holding a valid Colorado Medical Marijuana card may exceed the plant count and cultivate the number of plants authorized by the patient's Medical Marijuana card, and/or valid and current written authorization from the patient's licensed Colorado physician, provided that the cultivation complies with all other requirements of this Ordinance. If the

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number of authorized and cultivated plants for a patient exceeds the maximum plant counts set forth in this Section, then such patient shall be prohibited from cultivating any additional marijuana plants or allowing others to cultivate marijuana plants on the parcel.

2. Section 8 of Ordinance 2016-1 is REPEALED in its entirety and is Re-Enacted to read as follows:

Section 8. Outdoor Medical Marijuana Cultivation by a Primary Caregiver and/or Medical Marijuana Patient. Outdoor cultivation by a state-registered primary caregiver and/or a Medical Marijuana patient holding a valid Colorado Medical Marijuana card, may occur on residential or vacant property. No more than thirty-six (36) Marijuana plants may be grown on any parcel less than 10 acres in size. On parcels that are 10 acres or more in size, the plant limit shall not exceed ninety-nine (99), plants, regardless of the number of patients or caregivers. Outdoor Medical Marijuana cultivation by a primary caregiver and/or Medical Marijuana patient holding a valid Colorado Medical Marijuana card, is subject to the following conditions:

- A. Any Marijuana grown outdoors shall be contained entirely in an area that is completely screened and not visible from any right-of-way, any other residence, or the public. Screening may include fencing, vegetative visual barrier, natural topographic features or conditions, buildings, structures, or similar measures which effectively block the view (excluding aerial views) from any right-of-way, any other residence, or the general public.
- B. If there is a residence on the property, at least one of the person(s) engaged in Marijuana cultivation must reside in the single-family residence located on the parcel.
- C. The Marijuana cultivation must comply with all other applicable provisions of this Ordinance, including those set forth in Section 6 (F).
- D. The use of temporary dwelling accommodations, including travel trailers, recreational vehicles, tents and similar accommodations, shall strictly comply with zoning, building code, health, sanitation, and other regulatory requirements for such use.
- E. Cooperative, joint, collective, or other combined grows on a single parcel by more than one primary caregiver and/or Medical Marijuana patient holding a valid Colorado Medical Marijuana card, are allowed, subject to the total plant limit (99) and other requirements provided herein. However, the marijuana plants of each caregiver and/or patient in any cooperative, joint, collective or combined cultivation operation shall be physically separated and separately identified from the plants of other caregivers or patients.
- F. No parcel, 10 acres or more in size, may be used for cultivation of more than 36 marijuana plants by a primary caregiver or Medical Marijuana patient holding a valid Colorado Medical Marijuana card, or combination of caregivers and/or patients, unless one of the caregivers and/or patients engaged in the cultivation operation has a 50% or more fee-simple ownership interest in the parcel used for cultivation.

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G. No parcel of any size may be used for cultivation of marijuana plants unless the parcel is legally-created in accordance with subdivision and other legal requirements.

H. Documentation verifying plant counts, patient names, and caregiver registration for each cultivation shall be readily available on site and provided to code enforcement and law enforcement officials upon request.

3. Section 9 of Ordinance 2016-1 is hereby AMENDED to read as follows:

Section 9. Cultivation on Vacant or Unoccupied Property. Cultivation of personal use Marijuana on any vacant or unoccupied property (not containing an occupied, primary residence) shall be prohibited, except caregiver and/or medical marijuana patient cultivation, as specifically allowed herein.

4. Publication and Effective Date.

The foregoing text is the authentic text of Fremont County Ordinance No. 2016-2. The first reading of the Ordinance took place on August 9, 2016. It was published in full in the Cañon City Daily Record on August ____, 2016

Second Reading of the Ordinance took place on August ____, 2016.

Done and signed this ____ day of _____, at Cañon City, Colorado.

Edward H. Norden, Chairman
Board of County Commissioners of
Fremont County, Colorado

I hereby testify and attest that the provisions of Ordinance 2016-2 as set forth hereinabove are true and correct to the best of my knowledge, information and belief.

Fremont County Clerk and Recorder