

August 23, 2016

SIXTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on August 23, 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

Benny Soto of Mountain View Community 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/August 9, 2016
2. Approval of Bills for \$854,061.93
3. Authorization for Chairman to sign the 2016 Emergency Management Performance Grant for Fremont County Award #16EM-17-23
4. Authorization for Chairman to sign the Federal Aviation Administration Grant for the Airport Runway Maintenance Project
5. Ratification of County Manager's Signature on the Standard Form of Agreement with Nunn Construction for the Fremont County Justice Center Kitchen and Laundry Remodel Project
6. Schedule Public Hearings for September 13, 2016 at 10:00
 - a. Review of Ambulance Licensing for Deer Mountain Fire Protection District EMS License Number ALS 16-4 and Ark River EMS License Number ALS 16-3

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 Clerk's Monthly Report, Katie Barr, County Clerk and Recorder

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Clerk Barr reported the total Motor Vehicle Fees, Sales Taxes, and Recording Fees collected for July 2016, were \$1,019,332.54. Fremont County's portion for disbursement is \$547,093.66.

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

b. County Manager Report, Sunny Bryant, County Manager

Manager Bryant reported on improvement projects within the County. The projects include the Western Fremont Park, the Pathfinder Park parking lot, the bridge on County Road 143A and the Sheriff's Kitchen and Laundry Facilities.

c. Sales & Use Tax Report, Sunny Bryant, County Manager

Manager Bryant reported through the month of June, Retail Sales Tax Collections were \$432,107; Sheriff-Retail Sales Tax Collections were \$288,072; and Lodging Tax was \$37,876. Through the month of July, Auto Use Tax Collections were \$87,348; Sheriff-Auto Use Tax Collections were \$58,232; Construction Use Tax Collections were \$21,169; and Sheriff-Construction Use Tax Collections were \$13,990.

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

George Storey proposed that a fund be created to help with the cost of the Hayden Pass Fire. Commissioner Norden suggested sending money directly to the Howard Fire Department since they absorbed the majority of the financial burden.

OLD BUSINESS

1. Second 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

Chairman Norden read the caption of the Ordinance.

Commissioner Bell moved to adopt and approve on second reading Ordinance No. 2, Series of 2016. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

NEW BUSINESS

1. Consideration of a Proclamation for Kinship Care Month in Fremont County for the month of September 2016
Representative: Carrie Porter, Department of Human Services

Carrie Porter read the proclamation declaring September Kinship Care Month in Fremont County.

Commissioner Norden expressed the importance of Kinship Care with the shortage of foster families available.

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Commissioner Payne moved to accept the Proclamation for Kinship Care Month in Fremont County for the month of September 2016. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

2. Presentation of the 2015 Audit Report
Representative: John Cutler, Cutler & Associates

John Cutler reported the General Fund grew by about \$500,000. There were no accounts or funds over budget in 2015. The management letter recommended the Treasurer's Reconciliation be added to the Tyler System to avoid any potential future fraud.

Treasurer Kathy Elliott reported that the Tyler System and the current hand reconciliation are not completely compatible. She is working with Tyler to find a way to convert.

Commissioner Bell said the problem has been identified and a solution has been set into motion.

Chairman Norden said the Board of Commissioners wants to see the financial software system integrated throughout the county and the Board has an expectation that this problem will not reoccur by the time for the 2016 audit.

Commissioner Bell moved to accept the 2015 Audit Report. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

3. Consideration of a bid award for the Fremont County Airport Runway Maintenance Project
Representative: Jake Hoban, Armstrong Consultants, Inc.

Jake Hoban reported bids were recently open for the Airport Runway Maintenance Project for the paving of the taxiways and the apron. An FAA grant will fund 90% of the project, with 5% each coming from the County and the State to make up the remaining 10%. Mr. Hoban recommended Maxwell Asphalt for bid award since their project bid is within budget and the FAA has approved it as well. A non-federally-funded project was included in the bid process coming in at \$23,162.40. Fremont County's responsibility for matching the FAA grant is \$14,459.67.

Commissioner Payne moved to award the bid for the Fremont County Airport Runway Maintenance Project to Maxwell Asphalt for \$247,587.73. 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.

1. 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.
Representative: Sue Madone

Chairman Norden opened the Public Hearing at 10:05 a.m.

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Sue Madone reported that last year's parking issues were not as significant as previous years with the hired parking attendants and additional parking. People are still parking on the county right-of-ways even though the parking attendants discouraged it.

Director Koch said all requirements were submitted. He reviewed the recommended contingency from the Fremont County Health and Environment to show compliance prior to operation.

Norma Jean Fouche said that traffic has still been a problem with cars crowding the streets and parking on her property.

John Hyatt was a parking attendant in 2015. He observed "No Parking" signs on property that contributed to people crowding the county road.

Dave Bunker Sr. said the problem is parking and is afraid a kid will get hurt. He feels more off-street parking would help eliminate the problem.

Norman Walter said he has no problems with the pumpkin patch.

Chairman Norden closed the Public Hearing at 10:55 a.m.

Sue Madone explained that she has rented an empty field at the end of Locust Street to open up additional off-street parking.

Commissioner Norden noted that during an informal meeting with the Sheriff, the commissioners stated their intent is not to stop people from parking on the county right-of-way.

Commissioner Payne moved to approve TUP 16-006 Diana's Pumpkin Patch with recommended contingency. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

2. OPC 14-001 Today's Health Care/Today's Health Care II, LLC (Modification of Premises) – 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.
Representative: Kyle Wendland, onsite manager

Chairman Norden opened the Public Hearing at 11:10 a.m.

Kyle Wendland said Today's Health Care would like to add five greenhouses to operate more efficiently. The plan does not include an increase in plant count but to spread out the operation. The additional greenhouses would help with odor and light mitigation. The existing greenhouse that does not have a light-mitigation system will be eliminated from future use if the additional greenhouses are built. The trimming and curing area will also be expanded, and the building will house bathrooms for the facility.

Vince Linden, attorney for the applicant, said the applicant has complied with all criteria for the application.

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Director Koch said proof of available water for the application had not been submitted yet. He reviewed the contingencies and items for consideration. Director Koch noted the additional trimming and curing area is not included on the site plan. Code enforcement has inspected the site numerous times for odor, and the odor has not exceeded State recommendations. A significant increase in odor mitigation has been implanted though.

Tina Heffner is against the modification.

Cathy Gonzales is against expansion due to odor, lighting and trash.

Kim Mowers said she is against the expansion as well due to health concerns. The weeds and branches on the property have been piled along her property line, and she is afraid of a fire.

Brenda VanEgmond would like the expansion to be denied.

Dan Cattell is in favor of Medical Marijuana.

Karl Armstrong is in favor of the expansion for odor control.

Janelle Armstrong is also in favor of expanding the industry in general due to a shortage in medical marijuana in the state.

Timme Pearson is a mental health clinician and certified addiction counselor. She reviewed the Federal Drug Administration's stance on marijuana.

Allan Labus is against the expansion.

Barb Elliott is opposed to the modification, because she feels the plant increase will eventually occur with the added space.

Stephanie Luck asked about inconsistencies she noted in the presentation by the applicant.

Tyler Hearn is in favor of the expansion to provide a solution to the complaints by opponents.

Richard Hildebrand is opposed to the expansion since the odor mitigation is not removing the chemicals from the air but masking them. People with impaired respiratory function are still breathing in the chemicals.

Deputy Jenkins reported that calls for service for the facility were mostly welfare checks on the security staff.

Chairman Norden closed the Public Hearing at 12:09 p.m.

Kyle Wendland reported the water issue is on the agenda for the September meeting of the Penrose Water District.

Linden said the facility has been in compliance with established criteria. He feels they have a permitted right to set forth.

Commissioner Bell moved to deny the Modification of Premises for OPC 14-001 Today's Health Care with findings for denial at the September 13, 2016 meeting. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

NEW BUSINESS cont.

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4. CDP 14-002 The Outpost at Texas Creek Commercial Development Plan - Request approval of a one (1) year extension of the deadline for submittal of contingency items in conjunction with CDP 14-002 The Outpost at Texas Creek Retail Stores, Mini-Storage Facility, Personal Services, Feed Store, Restaurant, Bar/Lounge, Automobile Sales, Carwash and a Watchman's Quarters and any other allowed uses and all allowed Business uses, by Phillip & Teresa Poindexter, for their property which is located on the Southside of U.S. Highway 50, 0.17 miles east of Fremont County road #37, aka McCoy Gulch Road in the Texas Creek Area. This is their third extension request
Representative: Theresa Poindexter

Director Koch said the property is for sale and the owner is hoping to sell within the year. This is the third extension to the original CDP.

Commissioner Payne moved to approve a one-year extension of the deadline for submittal of contingency items in conjunction with CDP 14-002 The Outpost at Texas Creek Commercial Development Plan. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

5. Resolution to Suspend Fire Restrictions imposed by Ordinance No. 2012-1

Sheriff Beicker said the surrounding areas and entities have lifted their bans and his office is not enforcing the current ban at this time.

Commissioner Bell moved to approve Resolution #26 to Suspend Fire Restrictions imposed by Ordinance No. 2012-1. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

6. Consideration of a bid award for the Fremont County Airport Fire Control Utility Project

Manager Bryant recommended the bid award go to Patch Construction for \$24,561. The expected timeline for the project is through the middle of October.

Commissioner Payne moved to award the bid for the Fremont County Airport Fire Control Utility Project to Patch Construction for \$24,561. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

7. Approval of an Intergovernmental Agreement with the City of Canon City for the Lease of Certain Space for Communications Equipment located at 136 Justice Center Road, Canon City

Manager Bryant explained the City of Canon City would like to install a meter reading system which requires a high location. The roof of the Judicial Building is ideal for this purpose.

Commissioner Bell moved to approve an Intergovernmental Agreement with the City of Canon City for the Lease of Certain Space for Communications Equipment. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

8. Approval of a Lease Agreement with the City of Florence for the commercial kitchen located on the lower level of the existing building at 600 W. 3rd Street, Florence, Colorado

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Sheriff Beicker reported leasing the Florence kitchen facility in the basement of its municipal building for \$750 monthly during the jail remodel project is ideal.

Commissioner Payne moved to approve a Lease Agreement with the City of Florence for the commercial kitchen located on the lower level of the existing building at 600 W. 3rd St, Florence. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

9. Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of a Private Activity Bond Allocation for the 2016 Allocation Year

Attorney Jackson explained that State Statute allows counties to assign this fund to other organizations. The County currently has no other projects using the allocation, and this is the only request that has been received.

Commissioner Bell moved to approve Resolution #27, Authorizing Assignment to the Colorado Housing and Finance Authority of a Private Activity Bond Allocation for the 2016 Allocation Year. 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 12:34 p.m.

Clerk and Recorder

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**RESOLUTION NO. 26 SERIES OF 2016
A RESOLUTION SUSPENDING THE FIRE RESTRICTIONS (FIRE BAN) FOR
FREMONT COUNTY PURSUANT TO ORDINANCE NO. 2012-1**

WHEREAS, on June 26, 2012, Fremont County adopted Ordinance number 1, Series of 2012, which imposes county-wide fire restrictions in Fremont County; and

WHEREAS, Section 10 of the language of the Fire Ban Ordinance allows for the Board of Commissioners to temporarily suspend the Fire Ban if conditions and circumstances warrant such a suspension; and

WHEREAS, Sheriff James Beicker, in his capacity as fire warden for Fremont County in accordance with §30-10-512, C.R.S., has consulted with other entities sharing jurisdiction concerning fires within the county, has assessed the fire danger for Fremont County and has concluded that the Ordinance imposing Fire Restrictions may be temporarily suspended at this time; and

WHEREAS, the Sheriff of Fremont County has requested that the Board of Commissioners adopt a resolution that suspends the Fire Restriction Ordinance and the Commissioners hereby defer to his request.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR FREMONT COUNTY, that Fremont County Ordinance Number 2012-1, restricting open fires and open burning in the unincorporated areas of Fremont County, shall be temporarily suspended in accordance with Section 10 of said Ordinance. This suspension shall be effective as of **10:00 a.m. on August 23, 2016**. The Board of County Commissioners and the Sheriff of Fremont County strongly encourage residents of Fremont County, and visitors to Fremont County, to continue exercise great caution with fires and sources that contribute to the fire danger to keep Fremont County safe from wild fires.

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

Date: 23 August, 2016

ATTEST:

Ed H. Norden
Chairman

John E. Bau
Clerk to the Board

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**RESOLUTION NO. 27, SERIES OF 2016
AUTHORIZING ASSIGNMENT TO THE COLORADO HOUSING AND
FINANCE AUTHORITY OF A PRIVATE ACTIVITY BOND ALLOCATION
OF THE COUNTY OF FREMONT PURSUANT TO THE
COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT**

WHEREAS, the County of Fremont is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental projects for low- and moderate-income persons and families; and

WHEREAS, the County of Fremont is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the County of Fremont has an allocation of the 2016 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to **September 15, 2016** (the "2016 Allocation"); and

WHEREAS, the County of Fremont has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the County of Fremont and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2016 Allocation; and

WHEREAS, the County of Fremont has determined that the 2016 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") or for the issuance of mortgage credit certificates; and

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WHEREAS, the Board of County Commissioners of the County of Fremont has determined to assign \$2,314,700 of its 2016 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the County of Fremont and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Fremont as follows:

1. The assignment to the Authority of \$2,314,700 of the County of Fremont's 2016 Allocation be and hereby is approved.

2. The form and substance of the Assignment of Allocation be and hereby are approved; provided, however, that the Chairman of the Board of County Commissioners be and hereby is authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as he shall deem necessary or appropriate and not inconsistent with the approval thereof by this resolution.

3. The Chairman of the Board of County Commissioners of the County of Fremont be and hereby is authorized to execute and deliver the Assignment of Allocation on behalf of the County of Fremont and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this resolution.

4. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

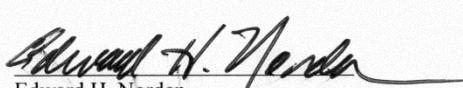
5. This resolution shall be in full force and effect upon its passage and approval.

PASSED, ADOPTED AND APPROVED this 23rd day of August, 2016.

ATTEST:


~~Katie Barr~~ Dotty Gardunio - deputy
 Clerk to the Board of Commissioners
 County of Fremont

ASSIGNOR:


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