

September 3, 2013

SPECIAL MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Special Session on September 3, 2013, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:00 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: Jody Blausen, Chief Deputy Clerk.

The Invocation was given by County Treasurer Pat McFarland.

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

APPROVAL OF AGENDA

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

NEW BUSINESS

1. Proposed county ordinances prohibiting or prohibiting with exceptions the operation of retail marijuana cultivation facilities, retail marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores in the unincorporated areas of Fremont County.

Commissioner Bell went over the procedures for the Public Hearing which includes a three minute time limit for each speaker.

PUBLIC HEARING

Chairman Bell opened the Public Hearing at 9:06 a.m.

County Attorney Jackson explained the two different proposed ordinances. The first ordinance is a ban on any retail or recreational marijuana facilities. This includes all four retail/recreational marijuana classifications; cultivation facilities, product manufacturing facilities, testing facilities, and retail marijuana stores. The second ordinance is the same as the first with exceptions for existing medical marijuana facilities that were in existence as of September 30, 2013 located within unincorporated Fremont County. The state will only allow existing medical marijuana licensed facilities in good standing to apply for a retail marijuana license until next summer. Existing medical facilities are still lawful in the state of Colorado and will be able to continue to operate after October 1, 2013 but would not have the option of converting to a retail facility in Fremont County under the ban if the first ordinance is passed. Under Amendment #64 personal use of recreational marijuana is legal in a person's own home, and they can grow their own marijuana for personal use as of January 1, 2013. State or local jurisdictions cannot prohibit this.

September 3, 2013

Public Comments:

Jackie Ronco of Canon City is against the sale of retail marijuana. She said we teach our children to “Just say No to drugs” and she encouraged the Commissioners to do the same. The effects of the second hand smoke are unknown at this time. The exposure of marijuana to our children will be increased if the ban is not passed.

Niels Hyder has been the site manager for the past three years of an existing medical marijuana facility in Fremont County. He would like existing facilities to be allowed to convert to retail facilities. This will generate jobs and additional revenue for our county.

Tom Ballman is the owner of a medical marijuana facility in Penrose and has nine employees. He was always against marijuana until three years ago when he saw how many people it can help. He encouraged people to educate themselves about marijuana before making any decisions. The voters of Colorado decided to legalize retail marijuana and nobody should go against them. He is in favor of retail marijuana in Fremont County.

Commissioner Bell stated that Fremont County voters opposed Amendment #64 there were 9813 (48.76%) people in favor of recreational marijuana and 10,311 (51.24%) who voted against recreational marijuana.

Chairman Bell recessed the meeting at 9:22 A.M.

Chairman Bell called the Public Hearing back to order at 9:32 A.M.

Kristen Klosterman from Canon City works at a medical marijuana facility. Her job has allowed her to spend more time with her children. She asked the Commissioners to allow medical facilities to become retail facilities. This will allow them to be competitive with other retail establishments and she will be able to keep her job.

Undersheriff Ty Martin said Sheriff Beicker was not able to attend the public hearing today. Martin addressed the Board regarding several concerns with retail marijuana. It is still a violation of federal law to possess marijuana. This creates a conflict when it comes to enforcement. This jeopardizes federal grant money the Sheriff’s office depends on. Based off current revenue from medical marijuana it is unlikely that retail revenue will be enough to offset the resources needed for licensing and enforcement. There will be more impaired drivers on the road. The cost for testing these drivers is more complicated, more costly, and takes more time. It is bad for the state, community, and especially our children. There is an increasing number of youth using marijuana. To allow retail marijuana will make it more readily available to our youth. There is an increase of crime with all drug use, not just marijuana. The Sheriff and his department are requesting the Commissioners prohibit all four classes of retail marijuana in Fremont County. Commissioner Bell noted for the record that these statements by Undersheriff Martin are the same statements Sheriff Beicker has made to the Commissioners.

Marti Lawrence of Canon City wants the growing of marijuana in residential areas to be regulated. She suggests simple regulations be put in place at the local level. She was told by the state that marijuana plants on residential properties must be encased in a locked, gated area, out of view from neighboring properties. Vandalism will increase in residential areas where marijuana plants are growing.

September 3, 2013

County Attorney Jackson explained Amendment #64 allows people over the age of 21 to possess, grow, process or transport no more than six marijuana plants provided that the growing takes place in an enclosed, locked space, not conducted openly or publicly, and is not made available for sale. This pertains to recreational marijuana.

Amy Parks has lived in Florence for ten years. She has been employed by a medical marijuana facility for two years. The company she works for is a compliant law abiding company that helps the local economy thrive. She asked the Commissioners to limit new facilities coming into the county and allow existing facilities the retail option.

Richard Hilderbrand from Penrose is against recreational marijuana in Fremont County. He stated that California has classified marijuana as a carcinogen with many of the same effects of tobacco smoke. The use of marijuana is prohibited in the military, Olympic athletes, pilots, truck drivers, and on federal lands. Studies show children as young as ten years old using marijuana. He asked the Commissioners to vote against retail marijuana.

Charlotte Norman is the President for the Penrose Water District. They have secured a supplemental water source but the pipeline will not be in place till next year. This still will not provide enough water to residents at full build out under the current master plan. They have been approached by companies wanting to purchase commercial water taps for production of marijuana. A one acre greenhouse can use up to one acre foot of water per month which is equal to water use in 36 residences. They have issued a moratorium on commercial taps and upgrades to consider all of the impacts on the public water supply and infrastructure.

Larry Packard from Florence is totally against all marijuana sales and use. He believes it is wrong. He is a Pastor at a church in Penrose where a medical marijuana facility is operating adjacent to the church property. It is difficult to explain to his parishioners and the children how this can be allowed.

Nita Gowdy of Canon City is against recreational marijuana sales in Fremont County. Marijuana has led to destruction in her family. She has been involved with foster children in our community, many of which come from homes where drug abuse is present. There are not currently enough foster homes for these children.

Larry Luck of Penrose is totally against recreational marijuana. He feels it is a detriment to our community. He believes crime will increase, causing taxes to increase as we will have to pay more for law enforcement. He moved here from Colorado Springs because he thought this was a conservative safe community.

Cathy Gonzales of Penrose is against allowing marijuana growing facilities in Fremont County. There are two proposed grow sites adjoining her property that are owned by an LLC with an Arizona address. One of the requirements for retail marijuana facilities is that they have to be Colorado residents. She does not see how that would be legal.

Ione McGuire from Penrose is against recreational marijuana. She is concerned that property taxes will rise while the property values will fall. If the revenue would go to the schools that would be good, but it won't be enough. She thinks people will move away from Fremont County if retail marijuana is allowed here.

Lon Bradfield is the general manager of a medical marijuana facility in Penrose. The licensing fees and administration fees would be good for the county. If retail marijuana is allowed, the employees at his facility would double from 7 to 14, plus seasonal help. He suggested a moratorium on new businesses coming in, but allow existing facilities to expand to retail.

September 3, 2013

Donna Landrum of Canon City is in favor of retail marijuana. She works for a medical marijuana facility in Penrose. She agrees with many statements that have already been made by the supporters. It will create many needed jobs for our area.

Laurel Ashburn of Colorado Springs is employed by a marijuana facility. She is proud to work for a company that supports farming and uses “made in the U.S.A. products”. Marijuana is not going to go away. It should be legally taxed and regulated or it will be sold by the drug cartels. Marijuana is a very useful medicine for pain control.

Reed Mason lives in Colorado Springs and works in Fremont County. He said this is about the future of marijuana. It is not going away. Now is the time to capitalize on the revenue opportunity that retail marijuana can bring.

Tom Shipley lives in Englewood part time and in Fremont County part time. He works for a medical marijuana facility. He believes his employer is responsible and does not infringe on any other property owners rights. He wants his employer to be able to convert to a retail facility as is now legal in the state.

Shawn Hauser is an attorney from Denver who has worked with marijuana laws for a few years. This is not about whether marijuana is right or wrong. This is about allowing compliant medical marijuana business owners being able to become responsible retail vendors. The Department of Revenue has very stringent regulatory controls in place for marijuana. The Department of Justice recently recognized the State for handling retail and medical marijuana in a safe effective manner.

Bill Conkling owns a medical marijuana facility in Penrose. He thanked Fremont County officials for all of their cooperation with him and his business. He has owned property here with irrigation rights since 1996. He has offered to meet with the Commissioners regarding fee structures and licensing procedures that other municipalities have implemented. He asked to be able to keep his 15 workers employed by converting to a retail facility.

Brenda Van Egmond lives in Penrose and does not believe medical marijuana businesses will suffer in Fremont County. She is concerned with retail grow operations coming into residential areas where many children live. She noted that Fremont County voted against recreational marijuana.

Larry Dial of Penrose is against recreational marijuana. He said Fremont County voted against Amendment #64. The City of Canon City and the City of Florence will soon be meeting to discuss a moratorium on retail marijuana. He believes the majority of people have already said no to retail marijuana locally.

Timothy Brown lives in Littleton and owns a marijuana facility in Fremont County. He believes by making recreational marijuana more readily available to people who already use marijuana it will keep them from growing their own. The possible fees collected could range from \$550,000 to \$850,000 in revenue for the county. There is a camera on marijuana from seed to sale. No children are allowed in stores or growing sites.

Andrew Peterson of Denver works at marijuana grow site and is a third generation farmer. He believes marijuana should be heavily regulated similar to alcohol. Marijuana has been in existence for years and he thinks it should be available for retail sales.

Stephanie Luck of Penrose requested the Commissioners ban cultivation, and sale of retail marijuana in our county. Marijuana causes permanent brain damage and increases the risk of depression and suicide. Workplace safety and road safety are significantly decreased when people use marijuana.

September 3, 2013

Steve Cool from Canon City believes we should take financial benefit of retail marijuana sales. If we do not, the drug cartels will bring it here. The operators who are already here are intelligent people who create jobs for our community. He believes retail marijuana sales should be taxed and heavily regulated.

Roger Parsons lives in Canon City and is a Canon City Councilman. His previous experience in law enforcement allowed him to see the effects marijuana has on people. He does not believe we will be able to keep it out of Fremont County. People will go to Pueblo to buy it and we will lose out on revenue. He believes retail marijuana sales should be taxed but is against cultivation, manufacturing and testing.

Nathan Lund lives in Colorado Springs and works at a marijuana facility in Fremont County. The facts show that medical marijuana has created jobs and generated revenue. He deals with people in severe pain every day that depend on marijuana for pain relief. If retail marijuana is allowed it will help differentiate between those who need it versus those who use it recreationally.

Jason Glasoe lives in Colorado Springs and works at a marijuana facility in Fremont County. He asked the Commissioners to allow the medical marijuana facilities to convert to retail and have a moratorium on any other businesses opening into the county.

Cheri Chiaro lives in Penrose and is against retail marijuana sales. She is concerned with the effects that second hand marijuana smoke will have on children. Many people can be affected in neighboring apartment buildings and homes by the toxic fumes.

Charlie Newlon lives in Penrose and is against marijuana farming. He moved here from the Denver area to raise his children in a rural community. He owns an apple orchard and in the past three years has only gotten irrigation water in three years. The water shortage in Penrose will get worse if more marijuana farms are allowed.

Chad Mowers has lived in Fremont County his entire life. He works at a marijuana facility. If the existing medical marijuana facilities are allowed to transition to retail facilities it will generate money for the county. This will have a positive impact on our economy.

Travis Lee lives in Colorado Springs and works for a local marijuana cultivation facility. He believes it is up to the adults to teach our children to make responsible choices and the difference between right and wrong. The existing medical marijuana facilities will not be able to compete if they are not allowed to convert to retail sales.

Dana Soux from Canon City owns a marijuana facility here. She currently employs 22 people of which 20 are from Fremont County. The fact is that the State of Colorado voted to make recreational marijuana legal; you can't ignore the state constitution. Marijuana is not as dangerous as alcohol which actually causes deaths every day.

Lissa Pinello lives in Victor but owns property in Fremont County. In 2010 she decided to turn her commercial building into a medical marijuana facility for economic reasons. This facility has several employees. She encouraged the Commissioners to consider the amount of revenue retail marijuana will generate for our county.

Leif Wagner lives in Denver and owns a marijuana facility in Penrose. Many people have voiced their opinions today but have ignored fact and logic. He suggested there be a two year moratorium on any new retail facilities but allow the existing ones to convert. This will allow time for the Commissioners to see what amount of revenue will be produced.

September 3, 2013

Charles Staley lives in Colorado Springs and works at an established medical marijuana facility in Fremont County. He asked that existing marijuana facilities be allowed to convert to retail facilities so that he can keep his job.

Derek Matten lives in Colorado Springs and works in Fremont County four days a week at a medical marijuana facility. The cost for transition to a retail facility would be paid by the existing owners. He loves his job and wants to keep it.

Michael Miller lives in Penrose and works for a marijuana facility. He has personally seen what harm can come from underground drugs. The community will be safer if retail marijuana is regulated. He believes responsibility is up to each individual.

Clarice Roney Shipman from Penrose has been discussing retail marijuana with different levels of government officials since January. She said the Penrose Chamber of Commerce is not in opposition of recreational marijuana, the people are in opposition of it. There is currently a grow facility located next to her church which should not be allowed. She is strongly against marijuana being allowed in Fremont County.

Bill McGuire lives in Penrose and is the Executive Director of the Penrose Chamber of Commerce. The Chamber tries to keep out of politics and remain neutral as they have to deal with all businesses. On a personal level he is against the marijuana growth facilities.

Nova Espinosa lives in Canon City and owns several properties here. Her concern is if retail marijuana is not allowed here many people will buy it on the street or grow their own. People who grow their own may not know what chemicals to use or how to properly contain it. These people may even sell it to others.

Norma Degenhart of Penrose is against retail marijuana. She previously worked for the Santa Fe Railway in the drug and alcohol testing division. There were two train accidents where both engineers were under the influence of THC. Federal law requires drug and alcohol testing of all pilots and engineers.

Jay Anthony Gleiforst from Penrose is definitely against marijuana sales. There are already three facilities in Penrose, one is next to a church, one is in a residential area, and the other is off the highway. Any revenue that is generated would need to be used to train law enforcement.

Tafari Ownbey lives in Canon City and works at a local marijuana facility. He was previously on unemployment before getting a well paying job in this industry. Fremont County is need of additional revenue for the Sheriff's Department. His employer has their own water rights already. He believes marijuana has medicinal benefits that are better than prescription drugs.

Craig Aurelius lives in Penrose and has worked for a marijuana facility there for three years. He asked the Commissioners to please allow retail cultivation and sales in Fremont County so that he may continue to provide for his family. This company also uses a lot of local resources and generates revenue for Fremont County.

Terry Palm lives in Penrose and is concerned with property values. She currently has her home listed for sale and does not believe she will be able to sell it. There are growing operations surrounding her property that are decreasing the value of her home.

Chairman Bell closed the Public Hearing at 11:40 a.m.

September 3, 2013

Commissioner Norden said it bothers him that so many of the people that spoke here today live in Colorado Springs or Denver but are in favor of having retail marijuana in Fremont County. It concerns him that if retail marijuana is banned here it will spread vastly into residential neighborhoods. If property values decrease, it will hurt our economy. In Amendment #64 the language stated \$40 million dollars would go to education funding, yet the Amendment did not implement a tax. The marijuana tax question will go to the voters this November but municipalities must either opt in or opt out by October 1, 2013. Norden would want to know that a revenue stream was in place before he would approve retail marijuana sales in the county. There is no way to know this until after the election.

Commissioner Payne said this subject has been talked about more than any other since he took office in January. This is obviously a complex issue. The Commissioners and the County Attorney have all studied and discussed retail marijuana at length. Payne had always felt it could be taxed and regulated but there is much more to it.

Commissioner Bell said the Commissioners are expected to be experts and understand the ramifications on every issue. She is very concerned with the future of economic development and the effects retail marijuana may have on it. Bell sits on the FCEDC Board and knows how vital new businesses are to the community. There are currently some large companies looking at Fremont County but are waiting to see how retail marijuana is handled. Her fear is that retail marijuana would deter any other new businesses wanting to come to our area. The state constitution says the individual municipalities get to choose if they wish to allow retail marijuana.

Commissioner Norden said he is not averse to transitioning existing medical marijuana facilities to retail. He understands the value of jobs in our community and how important revenue is. Regardless of the vote today Norden would like to examine revenue data with our Assessor and Finance Officer. If the voters approve the marijuana tax in November the Commissioners could revisit the issue.

Commissioner Norden moved to approve Ordinance 2013-1 prohibiting the operation of retail/recreational marijuana cultivation facilities, retail/recreational marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores in Fremont County. Commissioner Payne seconded the motion.

County Attorney Jackson read the First Reading of the Ordinance for the record.

Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

Chairman Bell adjourned the meeting at 12:09 P.M.

Clerk and Recorder



ORDINANCE NO. 2013-1

FREMONT COUNTY, STATE OF COLORADO

PROHIBITING THE OPERATION OF RETAIL/RECREATIONAL MARIJUANA CULTIVATION FACILITIES, RETAIL/RECREATIONAL MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES PURSUANT TO ARTICLE XVIII, §16 OF THE COLORADO CONSTITUTION

WHEREAS, Colorado voters approved the adoption of Amendment 64 at the general election held on November 6, 2012, thereby adding Article XVIII, Section 16: Personal use and regulation of marijuana to Article XVIII of the Colorado Constitution; and

WHEREAS, Amendment 64 provides for the state licensing and regulation of recreational marijuana establishments, including marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores; and

WHEREAS, paragraph 5(f) of Amendment 64 allows a locality, defined to include a county, to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores through the enactment of an ordinance; and

WHEREAS, a majority of voters in unincorporated Fremont County voted against Amendment 64; and

WHEREAS, Amendment 64 conflicts with federal law, as the possession, cultivation, sale and use of marijuana remains illegal under federal criminal statutes; and

WHEREAS, the Board of County Commissioners of Fremont County ("Board") finds that the licensing and operation of marijuana establishments provided for in Amendment 64, by making marijuana more readily available in the community and facilitating the recreational use of marijuana, presents a threat to the health and education of Fremont County's children, to the safety of the workplace and the travelling public and to the public health, safety and welfare as a whole; and

WHEREAS, the licensing and operation of medical marijuana centers, medical marijuana infused products manufacturing, and optional premises cultivation operations pursuant to the Colorado Medical Marijuana Code and the Fremont County Zoning Resolution shall be unaffected by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Fremont County, Colorado:

Section 1: Purpose.

The purpose of this Ordinance is to prohibit the operation of recreational or retail marijuana cultivation facilities, retail or recreational marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores through the enactment of an ordinance as authorized by Amendment 64, paragraph 5(f).

Section 2: Authority.

This Ordinance is authorized under Article XVIII, Section 16, paragraph 5(f) of the Colorado Constitution.

Section 3: Applicability.

This Ordinance shall apply throughout the unincorporated area of Fremont County.

Section 4: Definitions.

Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution.

Section 5: Marijuana Establishments Prohibited.

The licensing and operation of recreational or retail marijuana cultivation facilities, recreational or retail marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores is hereby prohibited.

Section 6: Enforcement. This Ordinance shall be enforced by the Fremont County Sheriff.

Section 7: Violation. It shall be unlawful for any person to violate any provision of this Ordinance.

Section 8: Disposition of Fines and Surcharges. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into the treasury of Fremont County. The fine for a first offense and for any subsequent offense shall be one thousand dollars (\$1,000.00) per violation and each day shall be deemed a separate violation. In addition to the fines and penalties, any person convicted of a violation of this ordinance shall be subject to the statutory surcharge of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of the court by each person convicted of violating this ordinance. The clerk shall transmit the moneys to the respective funds in accordance with Colorado law.

Section 9: Severability Clause.

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

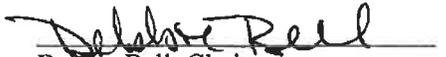
Section 10: Publication and Effective Date.

The foregoing text is the authentic text of Fremont County Ordinance No. 2013-1. The first reading of the ordinance took place on September 3, 2013. It was published in full in the Canon City Daily Record on September 9, 2013.

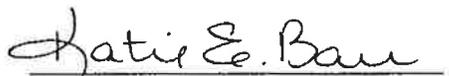
Second Reading is set for September 24, 2013 at 9:30 a.m. at the Fremont County Administration Building, Room LL-3, 615 Macon Ave., Canon City, CO 81212.

It was adopted with/without amendments on 9-24-13. It is to be republished by title in Canon City Daily Record on 9-26-13 and shall take effect September 24, 2013.

Done and signed this 24th day of September, at Canon City, Colorado.


Debbie Bell, Chair
Board of County Commissioners of
Fremont County, Colorado

I hereby testify and attest that the provisions of Ordinance 2013-1 as set forth hereinabove are true and correct to the best of my knowledge, information and belief.


Fremont County Clerk and Recorder