

November 13, 2012

TWENTYFIRST MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on November 13th, 2012, 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
Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

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

The Morning Prayer was given by Loren Kolman of Young Life Ministries.

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

APPROVAL OF AGENDA

Commissioner Stiehl moved to approve the agenda. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried. Resolution #38 is attached.

CONSENT AGENDA

Commissioner Norden moved to approve the consent agenda. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

County Clerk Barr gave her report for October. The total collected was \$894,079.78 of which the county kept \$449,420.19. This is \$60,381.46 more than last year.

Commissioner Stiehl moved to accept the County Clerk's Report for October 2012. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

County Treasurer Pat McFarland presented the Board with the Public Trustee's Report for the third quarter. There were 452 Releases of Deed of Trust. Foreclosures commenced were 68 for a total of 252 year to date. Total fees collected were \$38,024.21 and total expenses were \$11,976.85. This left an income of \$26,047.36 for the third quarter. The beginning balance was \$67,360.45 plus the income left an ending balance of \$93,047.81.

Commissioner Norden moved to accept the Public Trustee's Quarterly Report for July, August, and September of 2012. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

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County Treasurer McFarland announced the Tax Lien Sale will be held Thursday November 15th at 9:00 a.m. in Room LL3. In order to participate citizens must obtain a bidder number from her office. The sale will be conducted by Woolsey Auction Services.

County Manager Sugars gave his report on Sales and Use Tax through October 31st 2012. The Retail Sales Tax increased 3.7% over last year. The Auto Use Tax is up 3.1% above last year. The Construction Use Tax has decreased 2% from the previous year. The Total Sales and Use Tax collected are up 3.35% from a year ago.

Commissioner Norden said the deadline for letters of interest for the vacancy on the Planning Commission is November 15th. He encouraged interested citizens to apply. Norden announced another brick dedication will be held at the Airport War Memorial Park next spring. Twenty more bricks are needed to complete the engraving order. The cost for an engraved brick is \$50 and may be purchased through the Fremont County Veteran Services Department. A sound system is currently being installed at the War Memorial Park as well.

Commissioner Bell said the Fremont County Tourism Council (FCTC) provides 5% of the proceeds collected from lodging taxes to local community organizations for event advertising. Grant applications for these funds are due on November 15th at the County Commissioners office. There are three upcoming vacancies on the FCTC. Citizens interested in serving can submit a letter of interest to the County Commissioners.

2. Citizens Not Scheduled: None.

OLD BUSINESS

Request: Amendment to Fremont County Subdivision Regulations: this amendment is continued from the Board of County Commissioner Public Hearing that was held on October 9, 2012. Request approval of a proposed amendment to the Sketch Plan and Exemptions Sections of the Fremont County Subdivision Regulations. Representative: Department of Planning and Zoning.

Planning and Zoning Director Giordano reviewed the changes to the proposed amendment that were made by the Commissioners at the workshop. If the amendment is approved today he will prepare a Resolution for adoption at the next Board of County Commissioners meeting.

Commissioner Norden noted they had discussed having a second Public Hearing when this amendment was tabled at the October 9th meeting. Many of the changes were editorial in nature. A second Public Hearing was not necessary as the intent stays the same.

Commissioner Stiehl said the intent is for the sketch plan process to become more streamlined. The editorial changes made to the amendment will be more cost effective for the applicant.

Commissioner Bell explained that in most cases the sketch plan process is completely voluntary. She asked if any citizens wished to speak on the matter and there were none.

Commissioner Norden moved to approve the proposed Amendment to the Subdivision Regulations Sketch Plan and Exemptions version dated October 24, 2012 as Resolution #39. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

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NEW BUSINESS

1. Consideration of a resolution adopting Liquor Licensing Authority Hearing Procedures and Penalty Guidelines.

County Attorney Jackson said this proposed Resolution sets a hearing procedural process for liquor license violations. Fremont County previously did not have a procedure in place. This will give a liquor licensee an idea of what will happen if there is a liquor violation. State jurisdiction and local jurisdiction run concurrently as both have equal jurisdiction to do enforcement. The Board of County Commissioners would sit as the local liquor license authority during any local hearing process. This Resolution would also allow for the County Clerk to approve routine renewals administratively without putting them on the Board of County Commissioners Consent Agenda. The Sheriff, Environmental Health Officer, and County Attorney would all still be part of the renewal approval process. If this Resolution is approved it will be recorded for public record and a copy would be mailed to current Fremont County liquor licensees. The penalty schedule is consistent with the City of Florence and the City of Canon City. The burden of proof in a liquor hearing is considered to be substantial evidence. It is a lower burden of proof as it is a licensed authority. Liquor licensees are held to a higher standard as they hold a license that carries certain responsibilities.

Commissioner Stiehl moved to approve Resolution #40 Adopting Liquor Licensing Authority Hearing Procedures and Penalty Guidelines. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried. Resolution #40 is attached.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

1. Proposed 2013 Fremont County Budget. Representative: George Sugars, County Manager.

Chairman Bell opened the Public Hearing at 10:04 a.m.

County Manager Sugars presented the Board with the proposed 2013 Budget. The projection is for a slight increase of 1.25% in the Assessed Valuation and a slight increase of 1% in Sales and Use Tax Collections. Projected revenues are \$39,827,392. Reserves must be used in the amount of \$835,890. The goal is to have at least \$1,000,000 in General Fund reserves. Total projected expenditures are \$40,663,290. The adoption of the budget is scheduled for December 11, 2012. The 2013 Proposed Budget is posted on the County website.

Commissioner Bell said the County Assessor is projecting one more year of decreasing property valuations. The 2013 reassessment will be using sales data from January 1, 2011 through June 30, 2012. This will cause another drop in assessed value and affect two more years of budgets.

Commissioner Norden said it is hard to produce a budget in this economy. It is unfortunate that the County will not be giving employee raises again this year for the fourth consecutive year. It is challenging to provide some of the basic services that citizens expect on a daily basis. As revenues continue to drop it becomes more difficult to maintain the same level of service.

Commissioner Bell said even though citizens expect the same level of service it is hard to provide when the cost of doing business continues to rise. The cost of fuel has a huge impact on the Sheriff's Department and the Department of Transportation.

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Commissioner Stiehl said even though employees will not be getting raises they are getting some of their holidays back. The cost of their health care remains the same as well. He believes county assets such as the infrastructure and buildings need to be protected.

County Public Trustee Pat McFarland said in order to comply with a new state statute she has to announce this is also a hearing for the Public Trustee budget. The Public Trustees budget is included in the Fremont County Budget and always has been.

Public Comments: None.

Chairman Bell closed the Public Hearing at 10:23 a.m. and said the budget is scheduled for adoption on December 11th, 2012.

NEW BUSINESS CONTINUED

2. Consideration of a request for Proposal Award for County Audit Services, Representative: George Sugars, County Manager.

County Manager Sugars said there are bids from three firms for audit services for Fremont County. The bids are for 2013, 2014, and 2015. The three bids are: John Cutler & Associates \$56,000; Holscher, Mayberry & Co. \$77,250; and Rubin Brown LLP \$112,500. The current audit services are provided by Holscher, Mayberry & Co.

Dana Angel, County Finance Officer, recommends staying with the existing auditor even though their bid is higher. As the finance department is going through a software conversion it may be beneficial to use the existing auditor.

County Manager Sugars said Holscher, Mayberry & Co. is currently at \$21,000 per year and offered to extend this price for one more year through 2013.

Commissioner Stiehl moved to accept the proposal from John Cutler & Associates for three years, 2013, 2014, and 2015, for a total of \$56,000. Commissioner Bell seconded the motion. Commissioner Bell said the county needs to save money wherever it can. Commissioner Norden said he did not second the motion as he wanted Mr. Sugars to comment on the impact of the software conversion and switching auditors. County Manager Sugars believes there will be a learning curve with the new software but recommends going with the less expensive audit services bid. Dana Angel said this is only \$1,000 difference for one more year. Commissioner Bell said they are considering the three year period. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried.

3. Consideration of a Resolution Approving Funding Commitment for Membership in the Southern Colorado Economic Development District for 2013. Representative: Dana Angel, Finance Officer.

Dana Angel said this resolution is something new that the Southern Colorado Economic Development Board is requiring. It indicates that Fremont County intends to participate in 2013 and pay the annual dues. The dues are based on 17 cents per capita and equal \$7,960.08.

Commissioner Norden moved to approve Resolution #41 approving funding commitment for membership in the Southern Colorado Economic Development District for 2013. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried. Resolution #41 is attached.

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4. Board of Health Meeting scheduled for Tuesday, November 27th, 2012, change to Monday, November 26th, 2012 at 1:00 p.m. and Board of Social Services (BOSS) Board Meeting scheduled for November 27th, 2012, change to Monday, November 26th, 2012 at 2:30 p.m.

Commissioner Bell explained the County Commissioners will be attending the Colorado Counties Winter Conference the evening of Monday November 26th, all day Tuesday November 27th and Wednesday November 28th which presents a scheduling conflict.

Commissioner Norden moved to reschedule the monthly Board of Health Meeting from Tuesday, November 27th to Monday November 26th at 1:00 p.m. and the Board of Social Services Meeting from Tuesday November 27th to Monday November 26th at 2:30 p.m. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

5. Board of Health Meeting scheduled for Tuesday, December 25th, 2012, change to Monday, December 31st, 2012 at 1:00 p.m. and Board of Social Services (BOSS) Board Meeting scheduled for December 25th, 2012, change to Monday, December 31st, 2012 at 2:30 p.m.

Commissioner Bell said the next two agenda items need to be rescheduled due to Christmas.

Commissioner Norden moved to reschedule the Board of Health meeting from Tuesday, December 25th to Monday December 31st at 1:00 p.m. and the Board of Social Services meeting from Tuesday December 25th to Monday December 31st at 2:30 p.m. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

6. Board of County Commissioners meeting scheduled for Tuesday, December 25th, 2012, change to Monday, December 24th, 2012 at 9:30 a.m.

Commissioner Stiehl moved to reschedule the Board of County Commissioners meeting from Tuesday, December 25th to Monday, December 24th at 9:30 a.m. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

7. Consideration of appointment to fill vacancy on the Fremont County Airport Advisory Committee.

Commissioner Norden said the Board of Commissioners received four letters of interest for appointment to the Fremont County Airport Advisory Board. The vacant seat was previously held by Dean Baird who did not wish to be reappointed. All four of the applicants were interviewed. Duane Cozadd is a pilot with over 30 years experience in aerospace and 25 years as an Air Force Officer.

Commissioner Norden moved to appoint Duane Cozadd to a three year term on the Airport Advisory Committee to expire on October 1, 2015 with noted appreciation to Dean Baird for his years of service on the committee. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

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8. Board of Zoning Adjustment Appointments
 - a. Consideration of reappointment of Mr. Michael Welch to an additional three-year term on the Board of Zoning Adjustment (BOZA). He has served on the BOZA since November 25, 1997. The new term will extend through November 27, 2015.
 - b. Consideration of reappointment of Mr. James Javernick to an additional three-year term on the BOZA. He has served on the BOZA since November 25, 1997. The new term will extend through November 27, 2015.

Planning and Zoning Director Giordano said letters had been received from both applicants indicating they both wish to continue to serve on the BOZA. He recommends reappointment of both applicants for three year terms.

Commissioner Stiehl moved to reappoint Michael Welch and James Javernick to the Board of Zoning Adjustment for three year terms expiring on November 27, 2015. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

9. Request: Extension of LLA 12-004 North Lot Line Adjustment. Request approval of a six month extension of the deadline for submittal of deficiency items in conjunction with Lot Line Adjustment #LLA 12-004 North. Representative: Matt Koch, Cornerstone Land Surveying.

Matt Koch said they are requesting a six month extension of the deficiency deadline for this property in Penrose. The process has been held up by the bank which needs to grant ratification to the applicant. This paperwork has now all been submitted to the Planning and Zoning Department.

Commissioner Norden moved to approve the six month extension of LLA 12-004 North Lot Line Adjustment. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

10. Consideration of a Resolution Dissolving the Fremont County North Canon Area Sewer Line Extension Local Improvement District No. 2008-1, Created by Fremont County Commissioner Resolution No. 64, Series of 2008.

County Attorney Jackson said the local improvement district was formed in 2008 for the sewer line extension on Pennsylvania and York Avenues. The project has been completed. According to the IGA between Fremont Sanitation District and Fremont County once the funding is completed, and an inclusion election is held the local improvement district can be dissolved. As all of the contingencies have been met there is no longer a purpose for the local improvement district.

Commissioner Norden moved to approve Resolution #42 dissolving the Fremont County North Canon Area Sewer Line Extension Local Improvement District No. 2008-1. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried. Resolution #42 is attached.

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11. Board of County Commissioners meeting scheduled for Tuesday, November 27th, 2012, change to Monday, November 26th, 2012 at 9:30 a.m.

Commissioner Bell said this item needed to be added to the agenda due to a scheduling conflict with the Winter Conference.

Commissioner Norden moved to reschedule the Board of County Commissioners meeting from Tuesday, November 27th to Monday November 26th at 9:30 a.m. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

Chairman Bell adjourned the meeting at 10:55 A.M.

Clerk and Recorder

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Commissioner Norden moved the adoption of the following Resolution:

RESOLUTION NO. 38
Series of 2012

RESOLUTION FOR SPECIAL REVIEW USE PERMIT
DEPARTMENT OF PLANNING AND ZONING FILE
#SRU 12-005 COLORADO PROPANE SUPPLY DISTRIBUTION FACILITY

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

THAT WHEREAS, Aercrete Land LLC, a Colorado Limited Liability Company, dba Fremont Land Partners, (hereafter "applicant") has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont to allow for a propane distribution facility, which will consist of 48 tanks with a total propane storage capacity of 1,440,000 gallons. The propane will be shipped by train to the site; one train every two days with six to eight cars per train and two tractor / tankers per car; which application has been designated as file #SRU 12-005 Colorado Propane Supply Distribution Facility (Bulk Fuel Storage);

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **October 2, 2012** 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 five-hundred (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

WHEREAS, the Board held a public hearing concerning said application on **October 23, 2012**, 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;

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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 procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. 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.
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 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

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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 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 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.
- 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 of operation shall not be limited.
- I. Hours of operation shall not be limited.
- J. There shall be no public or retail sale of propane at this site.

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- K. 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.
- L. 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. Approved copy of the Colorado Department of Public Health and Environment, Water Quality Control Division, Storm Water Management Plan and Discharge Permit, prior to operation.
 2. Copy of a permit or license from the Colorado Department of Labor and Employment, Division of Oil and Public Safety, prior to operation.
 3. Approved copies of the Colorado Department of Transportation Access Permit or documentation that existing access is adequate for the proposed use, prior to operation.
 4. Documentation from the Colorado Division of Water Resources evidencing that the well(s) are adequate for the proposed use, prior to operation.
- M. 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.
- N. 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 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.
- O. 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 Stiehl seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

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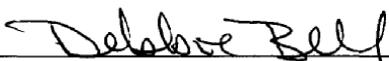
Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Nay / Abstain / Absent

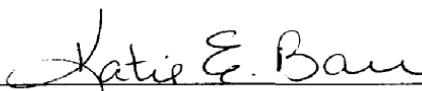
Commissioner Stiehl: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: November 13, 2012



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: 

FREMONT COUNTY CLERK AND RECORDER

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RESOLUTION NO. 40, SERIES OF 2012

**A RESOLUTION ADOPTING LIQUOR LICENSING AUTHORITY
HEARING PROCEDURES AND PENALTY GUIDELINES**

WHEREAS, the Board of County Commissioners is the local liquor licensing authority for the County of Fremont (hereinafter sometimes "Authority"); and

WHEREAS, the Board of Commissioners (BOCC) has the authority to adopt hearing procedures and penalty guidelines for use by the BOCC when hearing and considering matters regarding violations of the Colorado Liquor Code and Regulations and suspensions ; and

WHEREAS, the BOCC has determined that it would be appropriate to adopt hearing procedures and penalty guidelines to be use by the BOCC, in its capacity as the liquor licensing Authority, which will provide notice to all liquor licensees of the hearing process and potential penalties for liquor code violations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY of FREMONT as follows:

1. That the **FREMONT COUNTY LIQUOR LICENSING AUTHORITY HEARING PROCEDURES AND PENALTY GUIDELINES**, Exhibit A, attached hereto and by this reference incorporated herein, are hereby adopted for use by the BOCC in the exercise and performance of its duties and functions as the local liquor licensing Authority for the unincorporated areas of Fremont County.

2. That the Board may, by subsequent resolution, modify, amend, supplement or revoke said hearing procedures and penalty guidelines, or any portion of them.

3. That the Board, when functioning as the Authority and acting with respect to any matter not covered by the procedures and guidelines adopted through this resolution, reserves the right to consult and follow any guidelines and procedures developed and published by the Liquor Enforcement Division of the Colorado Department of Revenue to assist local licensing authorities in the performance of their duties.

4. That any matter not covered by the attached hearing procedures and penalty guidelines shall be governed by the applicable provisions of the Colorado Liquor Code, if any, Colorado Liquor Regulations, applicable Colorado case law, if any, and general rules and procedures applicable to quasi-judicial administrative hearings in the County of Fremont.

5. That this resolution, including the attached Exhibit A, shall become effective as of the date of its adoption.

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Commissioner Stiehl moved for adoption of this Resolution, with a second by
Commissioner Norden. 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
Michael J. Stiehl	<u>Aye</u>	Nay	Absent	Abstain

Date: Nov. 13th 2012

ATTEST:

Debbie Bell
Chairman

Katie E. Bau
Clerk to the Board

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Exhibit A

**Fremont County Liquor Licensing Authority
Hearing Procedures and Penalty Guidelines**

These guidelines are intended to be a guide with respect to the administration of hearings and penalties for violations of the Colorado Liquor, Beer and Special Events Codes (hereinafter sometimes collectively called "Code"), and Colorado Regulations interpreting such Codes, in the County of Fremont, Colorado, wherein the Board of Commissioners for Fremont County (hereinafter "BOCC") serves as the local Liquor Licensing authority for the unincorporated areas of the County (hereinafter "Authority"). Licensee shall mean any person or entity within the County of Fremont to whom or which a license permitted under the Code has been issued. Words, phrases and terms used in these guidelines shall have the meanings set forth in the definitions sections of the Colorado Beer Code or the Colorado Liquor Code. See Sections 12-46-103 and 12-47-103, C.R.S.

I. Show Cause Hearings.

A. Notices.

A hearing to suspend or revoke a liquor or beer license may be initiated as provided for in subsection G of this Section I. Upon receipt of a written incident report or complaint suggesting a possible violation of the Code, the Authority (acting through its liquor licensing staff identified in said subsection G) will determine if there is probable cause to believe that the Licensee has violated the Code. If the liquor licensing staff determines that probable cause exists, an Order to Show Cause and Notice of Hearing directing the Licensee to appear before the Authority to show cause why the license held by such Licensee should not be suspended or revoked may be issued. This notice will detail the charges alleged, provide the Licensee with the date and time of the hearing, or a time at which the date and time of a hearing will be set by the County Clerk, and be served upon the Licensee or its agent at its business location. The Order to Show Cause and Notice of Hearing may be personally served or served by certified mail, or both, at least ten (10) days prior to the actual hearing. Any such Order to Show Cause and Notice of Hearing shall be signed by the Chairman of the BOCC, or by any other member of the Authority.

B. Presenting and Preserving Evidence in Support of Allegation.

All Show Cause hearings shall be electronically recorded or preserved in case of an appeal. The Authority should first enter into an evidentiary phase of the hearing. Unless another person is designated by the Authority, the BOCC Chairman shall be the presiding officer at all Show Cause hearings. The presiding officer shall make all necessary rulings during the evidentiary phase. The

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Colorado Rules of Evidence may be used as a guide, but shall not be strictly applied. It is during this phase that the Authority will consider the evidence in support of the allegations. Evidence in support of the allegations may be presented by an attorney licensed in the State of Colorado who is authorized by the Authority to prosecute Show Cause proceedings, but in no event shall the attorney prosecuting a particular case advise the Authority during the same case.

C. Presenting Evidence in Defense of Allegations.

Following the presentation by the prosecuting attorney, the Licensee may present evidence in defense of the allegations. The Licensee, at the Licensee's own expense, may be represented by legal counsel during all phases of all Show Cause proceedings involving the Licensee. If the Licensee's evidence is not readily available, the Authority may grant a continuance for a period of not fewer than ten (10) nor more than twenty (20) days, at which time the Licensee may provide its explanation and mitigation. Notwithstanding the foregoing, a Licensee will be expected to come to a Show Cause hearing fully prepared to address all counts raised in the written Order to Show Cause.

D. Findings and Standard of Proof.

At the conclusion of the evidentiary phase of the hearing, the Authority will consider all of the evidence. If the evidence does not support the allegations, the charge(s) shall be dismissed. If a majority of the members of the Authority who are present for the Show Cause hearing determines that the evidence supports such a finding, the Authority shall find that a violation of the Code has been proved. If multiple counts are alleged in the Show Cause Order, a separate finding shall be required as to each such count. Thereafter, the Authority will enter into the penalty phase of the hearing where it will consider evidence in aggravation and/or mitigation of each violation proved during the evidentiary phase. The standard of proof in all administrative hearings conducted by the Authority shall be the "substantial evidence standard." Substantial evidence refers to evidence that a reasonable mind could accept as adequate to support a conclusion (more than a scintilla but less than preponderance). Violations may be proved by direct evidence and/or by circumstantial evidence and reasonable inferences drawn therefrom. The Findings, Conclusions and Orders of the Authority will be reduced to writing and approved by formal action of the Authority following the conclusion of the hearing.

E. Stipulations.

At any stage in the proceedings, liquor licensing staff and the Licensee may present to the Authority for its consideration a proposed stipulated agreement intended by them to resolve all issues in the case. Any such proposed stipulation must be written and contain: (a) Licensee's promise to admit to one or more specific violations of the Code; (b) a proposed penalty that is considered

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appropriate by the Licensee and liquor licensing staff and consistent with Section II hereof; and (c) factors in mitigation and aggravation, if any. If the Authority approves the proposed stipulation, appropriate orders—consistent with the terms and provisions of the stipulation, as approved—will enter and the agreed-upon penalty will be imposed and enforced. If the Authority does not approve the proposed stipulation, it shall be deemed withdrawn and the matter shall proceed to hearing. Neither the fact that a proposed stipulation was tendered to the Authority, nor the terms of any such proposed stipulation shall be offered, received or otherwise treated as evidence during the hearing if the proposed stipulation is rejected by the Authority.

F. Subpoenas.

The County Clerk is hereby authorized to issue subpoenas on behalf of the Authority in regard to any Show Cause proceeding. The Fremont County Court and any other court of competent jurisdiction is hereby authorized to impose sanctions upon persons who fail to comply with the requirements of any subpoena issued pursuant to this subsection.

G. Investigation of Complaints and Incidents.

The Sheriff and the County Clerk, in consultation with the County Attorney shall jointly investigate with respect to any complaint or incident report coming to their attention that suggests that a Licensee has violated the Code. If these two members of liquor licensing staff (or their respective designees) unanimously agree that there is probable cause to believe that a Licensee has violated the Code a written Show Cause Order and Notice of Hearing shall be presented to the Chairman or other member of the Authority for issuance. Any member of the Authority is hereby authorized to issue a Show Cause Order and Notice of Hearing.

II. Penalties.

A. Matters to be Considered.

1. When imposing a penalty, the Authority will consider the Penalty Schedule set forth in subsection C of this Section II. The Authority also will consider aggravating and mitigating factors, if any, surrounding the violation when imposing a penalty. Examples of both types of such factors are included in the Penalty Schedule.
2. Whenever the term “Go to Hearing” is used in the Penalty Schedule, the applicable penalty following the hearing on the penalty phase shall be no less than the maximum penalty for a first offense (if clear and convincing evidence in mitigation is presented and no or minimal evidence in aggravation is presented) and such penalty may be as severe as revocation

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of Licensee's license, or a suspension for as long as six (6) months (where there is little or no evidence in mitigation and clear and convincing evidence in aggravation).

3. At the conclusion of any Show Cause hearing where a penalty is imposed, the Authority shall report to the Liquor Enforcement Division in accordance with the requirements of applicable law.

B. General Provisions Having a Bearing on Penalties.

1. Whenever a Warning/Admission letter had been issued to a Licensee not less than two years prior to the date of a violation admitted or proven in a Show Cause proceeding, the subject matter of the Warning/Admission letter may be considered in aggravation in the penalty phase of the Show Cause Proceeding, if offered by the prosecuting attorney for that purpose.
2. Whenever the Authority, through the County Clerk's office or otherwise, has made a written request for the Licensee to respond to the Authority in writing with respect to a specific incident, and the Licensee has failed to respond as requested, or if the Licensee responds but does not adequately address the incident giving rise to the Authority's request, or if the response indicates that there is probable cause that a violation of the Code occurred, the Authority may issue a Warning/Admission letter or order a Show Cause hearing, as determined in its sole discretion, depending upon the circumstances of the particular incident or incidents.
3. A Licensee's failure to adequately respond to the Authority's inquiries with respect to specific incidents involving the licensed establishment may be considered as an aggravating factor in the penalty phase of any Show Cause proceeding.
4. A Licensee's pattern or practice of promptly responding to and adequately addressing the Authority's inquiries regarding incidents reported to it may be considered a mitigating factor in the penalty phase of any Show Cause proceeding.
5. Whenever a closure is ordered as a penalty, the Authority shall determine the details of the closure and specify them in its written order.
6. The Mitigation and Aggravation factors listed below in the Penalty Schedule shall be by way of example only. Any relevant facts in mitigation or aggravation of the Offense may be offered and considered by the Authority.
7. a. Whenever a decision of the Authority suspending a license or permit for fourteen days or less becomes final, whether by failure of the

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licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license or permit suspended for all or part of the suspension period. The Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

1. That the public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

2. That the books and records of the licensee are kept in such a manner that the loss of sales of alcohol beverages that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

3. That the licensee has not had his or her license or permit suspended or revoked, nor had any suspension stayed by payment of a fine during the two years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend.

b. The fine accepted shall be the equivalent to twenty percent of the licensee's estimated gross revenues from sales of alcohol beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars nor more than five thousand dollars.

c. The fine shall be payable in cash or certified funds payable to Fremont County and shall be paid into the general fund of the Authority.

d. Upon payment of the fine, the Authority shall enter further orders permanently staying the imposition of the suspension.

C. Penalty Schedule

<u>Code Violation:</u>	<u>Total # Days of Suspension</u>	<u># Days of Closure</u>	<u># Days in Abeyance</u>
1. Sale to an Underage Person			
1st offense - 1 count:	14	6	8
2nd offense within 2 years:	30	12	18
3rd offense within 2 years:	60	60	0

Mitigation: 1st offense wherein the patron has been a regular and the Licensee was shown prior identification and/or management was not involved. Employees have been through meaningful server/seller training.

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Aggravation: Underage persons enter store in high school letter jackets for local school. No identification presented or checked and/or management involved.

***Note:** The Authority may consider, but shall not be bound by the provisions of, State Regulation 47-604 with respect to violations detected by law enforcement personnel with active assistance from one or more underage persons (so-called “stings” or “compliance checks”). In most, if not all cases, the provisions of this paragraph 1 will apply with respect to any sale to an underage person. See paragraph 14 of this subsection C.

2. Sale to an Intoxicated Person.

1st offense - 1 count:	15	5	10
2nd offense within 1 year:	Go to Hearing		

Mitigation: 1st offense where the patron was not in proximity of management or management was not involved and employees have been through meaningful server/seller training.

Aggravation: Management participated in or endorsed sale after visible signs of intoxication were displayed; over-service resulted in patron being hospitalized or receiving medical treatment as a result of intoxication; no evidence of meaningful server/seller training.

3. Sale to a Known Habitual Drunkard.

1st offense - 1 count:	15	5	10
2nd offense within 1 year:	Go to Hearing		

Mitigation: 1st offense where the patron was not in proximity of management or management was not involved and employees had been through meaningful server/seller training.

Aggravation: Management participated in or endorsed the sale to a known habitual drunkard; the patron, within six (6) hours following service by the Licensee, was admitted to a detoxification center or was hospitalized or otherwise given medical treatment as a result of intoxication; no evidence of meaningful server/seller training.

4. Sale after Hours.

1st offense:	up to 7 days		
2nd offense:	30	10	20

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Mitigation: 1st offense occurring in close proximity to lawful business hours, i.e., 2:05 AM; management was not involved and/or no sale was made to the patron (patron hid possession of product). Single, isolated offense; employees have been through meaningful server/seller training.

Aggravation: Management participated in or endorsed sale after the lawful hours; violation occurred well after the lawful hours, i.e., 3:00 AM or later; there were multiple offenses; employees have had no meaningful server/seller training.

5. Failure to meet 25% Food Requirement (Hotel/Restaurant).

1 st offense detected during routine inspection:	Written warning - 30 days to correct
1 st offense from complaint:	15 5 10 (30 days to correct)
2nd offense in 1 year, or failure to comply with warning:	Go to hearing

6. Purchase of Liquor From Source Other than a Wholesaler.

1st offense:	up to 3 days
2nd offense:	Go to Hearing

Mitigation: 1st offense occurring in rural area; amount purchased barely exceeds maximum amount authorized.

Aggravation: Licensee seldom/never has purchased from a wholesaler; greatly exceeded amount authorized; off premises Licensee purchasing from another retail Licensee.

7. Permitting Illegal Gambling.

Football pools, attendance pools, shake a day, card games, etc.

1st offense:	Written warning
2nd offense:	10 3 7
3rd offense:	Go to Hearing

Mitigation: Compliance related violations, football pools, attendance pools, shake a day and similar games usually involving small amounts of moneys; Licensee terminates use of the games and recognizes them as gambling.

Aggravation: Bookmaking, repeated violations, video gaming devices or repeated failure to allow access to machines, etc. Violations of this type

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should normally receive 15 & 30 (or Hearing) for a first offense since they may involve organized crime or other criminal activity.

8. Conduct of Establishment.

1st offense:	30	10	20
2nd offense:	Go to Hearing		

Mitigation: 1st offense involving termination of the employee and meaningful server/seller training for staff; management not directly involved or not in a position to have observed/be aware of activity.

Aggravation: Multiple offenses, long term investigation disclosing a pattern of violations and/or other criminal activity; lack of meaningful seller/server training; management involved or in a position to be aware of activity.

9. Failure to Maintain Books and Records.

1st offense:	warning up to 5 days		
2nd offense:	15	5	10

Mitigation: Issue is disclosed through routine compliance inspection and absent hidden ownership allegations (small business owner who is a sloppy record keeper); no intent to deceive.

Aggravation: Uncovered through investigation of complaint alleging hidden ownership. Records supporting allegation are missing.

10. Violations on Inspection Issues Detected Within the Previous Year.

For each violation initially disclosed:	3	1	2
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Mitigation: Employee signed for warning and management was not directly involved in violation.

Aggravation: Management directly involved or directed employee to violate or not conform to request. Multiple offenses in a short time frame.

11. Failure to Register or Report Manager, Corporate or Financial Changes.

1st offense:	Written warning		
2nd offense:	14	4	10
3rd offense (minimum):	30	10	20
3 rd offense (maximum):	6 months suspension or revocation		

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Mitigation: Violations detected through routine inspection; violations resulting from recent statutory changes, i.e., tavern managers, etc.; minor financial changes requiring reports which do not involve new persons.

Aggravation: Changes requiring a transfer of ownership resulting in hidden ownership or create unlawful financial interest/ownership between multiple classes of licenses; Person involved has an extensive record that has not been disclosed (intent).

12. Underage Person Selling or Serving.

1st offense - 1 count:	14	6	8
2nd offense within 2 years:	30	12	18
3rd offense within 2 years:	60	60	0

Mitigation: Licensee requires employees to attend meaningful seller/server training and violator/employee has attended said training. Licensee and/or management were not directly involved with violation. First offense involved failure to supervise a person between 18-21 years of age, i.e., Licensee left restaurant and walked across the street to go to the bank and returned during action.

Aggravation: Lack of meaningful seller/server training or management involvement in and/or management awareness of the violation.

13. Hidden Ownership - Unlawful Financial Interest.

Any offense: (minimum)	Written warning
(maximum)	Revocation of existing license and denial of new license to involved parties.

Matters respecting hidden ownership and unlawful financial interests must be handled on a case-by-case basis and may be resolved by liquor licensing staff with the cooperation of the Licensee and other involved parties. In cases where a violation appears to have been purposeful and motivated by intent to involve a person of poor moral character or who is otherwise prohibited by the Code from holding an ownership interest in a licensed establishment, show cause proceedings may be appropriate and penalties upon proof of violations should adequately address the circumstances brought to light during a Show Cause Hearing.

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14. Compliance Check Penalties. (Derived from State Reg. 47-604, but see the Note at the conclusion of this paragraph).

When the Authority finds that a Licensee has sold alcohol beverages to an underage person and that said violation was investigated or detected by using a person or persons under twenty-one (21) years of age to purchase alcohol beverages from the Licensee, the Authority may consider the following penalties to be imposed for the violation:

- a.
 - i. 1st Offense: A written warning up to a fifteen (15) day suspension. Accepting a fine in lieu of up to 14 days of actual suspension is at the discretion of the Authority, as is holding a portion of the suspension time in abeyance for a period of time.
 - ii. As an inducement for Licensees to provide meaningful training for servers, because server training has proven to be an aid in the reduction of violations, where there are no aggravating circumstances, a Licensee who has provided meaningful training to its staff members may be issued only a warning on first violation.
- b. 2nd offense (within one year): A 5 to 30 day suspension. If no fine was paid or suspension served at the time of the first offense, accepting a fine in lieu of up to 14 days of actual suspension is at the discretion of the Authority, as is holding a portion of the suspension time in abeyance for a period of time.
- c. 3rd Offense (within one year): 20 to 45 day suspension.
- d. 4th Offense (within two years): 45 day suspension to revocation.
- e. The Authority may consider mitigating and aggravating factors when considering the imposition of the penalty. These factors may include:
 - i. Action taken by the Licensee to prevent violations., i.e., meaningful training of servers within two years of violation.
 - ii. Licensee's past history of success or failure with compliance checks.
 - iii. Corrective action(s) taken by the Licensee.

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- iv. Prior violations/prior corrective action(s) and its effectiveness.
- v. Willfulness or deliberateness of the violation.
- vi. Likelihood of recurrence of the violation.
- vii. Factors which might make the situation unique, such as:
 - 1. Prior notification letter to the Licensee that a compliance check would be forthcoming.
 - 2. The dress or appearance of the underage operative, i.e., the operative was wearing a high school letter jacket.
- viii. Licensee or manager is the violator or has directed an employee or other individual to violate the law.

III. License Application Denial (New Licenses, Change of Location, Transfer of Ownership and Renewal Applications).

Applications for new liquor or beer licenses may be denied for good cause, including the failure of the Applicant to fill out the applications, failure to prove the needs and desires (reasonable requirements) of the neighborhood, and unlawful financial interest in another license. Denials also are required when the applicant (or an agent or principal of an applicant) is a "person who is not of good moral character". The hearing requirements vary for each denial, as follows:

A. New Licenses and Change of Location Applications.

An application for a new license, or a change of location of an existing license, may not be considered at a hearing until the application has been on file with the Authority at least 30 days. (§12-47-311, C.R.S.) No hearing may be held to consider any such application until the premises has been posted and a legal notice has been published in a paper of local circulation for a period of at least 10 days prior to the hearing. (§12-47-311, C.R.S.) A minimum of five (5) days prior to the hearing, the Authority must make its findings, i.e., zoning issues, distance restrictions, and/or any known objections to the issuance of the license, known to the Applicant. Such findings may be communicated to the Licensee by the office of the County Clerk. A hearing must then be held to establish the reasonable requirements (needs and desires) of the neighborhood and the Applicant's good moral character. (Character may not be considered for a change of location of an existing license). Once an application has been denied based upon the reasonable requirements of the neighborhood, the Authority may not consider another application for the same class of license (at that same location or another location

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within 500' of the place of denial) for a period of two (2) years if a liquor license application or one (1) year if a 3.2% Fermented Malt Beverage License. (§12-47-313, C.R.S.) Applicants that are denied based upon an issue of unsatisfactory character, record, or reputation, are prohibited from holding a liquor or beer license in Colorado. (§12-47-307, C.R.S.) Any decision of the Authority denying the application must be in writing, be sent to the Applicant and be reported to the Liquor Enforcement Division, in accordance with applicable provisions of the Code.

B. Transfer of Ownership Applications.

A hearing will be held by the Authority to consider the transfer of the license from the current Licensee to a new applicant. The Authority will post the premises and provide notice to the Applicant at least ten (10) days prior to the hearing. (§12-47-303, C.R.S.)

C. Administrative Renewal of Licenses and Renewal Hearings.

The Board hereby authorizes the County Clerk to renew liquor licenses administratively whenever a renewal hearing is not required by the Code and the County Clerk, Sheriff and County Attorney unanimously agree that a complete application has been filed and that a renewal hearing or appearance before the Authority is not warranted or needed due to the absence of founded complaints and actual incidents suggesting possible Code violations at the licensed establishment during the effective period of the license being renewed. However, if it is determined that a renewal hearing or appearance before the Authority will be required, notice shall be given to the Licensee in writing and a renewal hearing shall be held. At the conclusion of any such hearing, the Authority may decide not to renew an existing license for good cause shown [§12-47-103(9), C.R.S.] Licensees are required to file license renewal applications with the Authority not later than forty-five (45) days prior to the date of expiration. Those applications filed in an untimely manner (less than forty-five (45) days prior to the date of expiration), at the sole discretion of the Authority, may be accepted and renewed upon a demonstration of good cause. No renewal hearing will be held until a notice of hearing has been conspicuously posted on the licensed premises and notice has been given to the Licensee at least ten (10) days prior to the date of the hearing. (§12-47-302, C.R.S.)

D. Good Cause for Denial or Revocation of Licenses.

“Good cause” is defined at Section 12-47-103(9), C.R.S., as follows:

- a. The Licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article or any rules and regulations promulgated pursuant to this article;

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- b. The Licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior disciplinary proceedings or arose in the context of potential disciplinary proceedings;
 - c. In the case of a new license or a change of location application, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants as provided in Section 12-47-301(2); or
 - d. Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity, or disorderly conduct. For purposes of this subparagraph d, "disorderly conduct" has the meaning as provided for in Section 18-9-106, C.R.S."
- E.** A Licensee's failure to timely file state and/or County sales and use tax returns and/or a Licensee's failure to pay state and/or County sales and use taxes when due may be evidence of poor moral character and, as such, grounds for denial or revocation of a liquor license. See the "Good Moral Character Rule" at Regulation 47-310(E)(4), 1 C.C.R. 203-2.
- F.** Whenever the term "meaningful seller/server training" is used herein, it shall refer to training that has occurred within a two year period preceding a renewal or Show Cause hearing, which training is provided by:
- 1. The City Clerk's office (City of Canon City);
 - 2. The State of Colorado Department of Revenue, Liquor Enforcement Division;
 - 3. A major national or regional corporation, through the use of qualified instructors and/or instruction techniques.

"TIPS" and similar programs also may qualify as meaningful seller/server training. The County Clerk is hereby authorized to require applicants and Licensees to provide copies of materials used or proposed for use by such applicants and/or Licensees as meaningful seller/server training materials whenever proof of meaningful seller/server training is an issue with respect to any matter under the jurisdiction of the Authority. If the County Clerk is not furnished such materials or if the County Clerk determines that the quality of the course materials is insufficient, those principals and employees of the applicant or Licensee who received such training shall not be deemed to have received meaningful seller/server training for any purpose under these guidelines.

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RESOLUTION NO. 41, SERIES OF 2012

RESOLUTION APPROVING FUNDING COMMITMENT FOR MEMBERSHIP IN THE SOUTHERN COLORADO ECONOMIC DEVELOPMENT DISTRICT FOR 2013

WHEREAS, a letter was submitted to the Board of County Commissioners asking for a resolution committing to payment of membership dues to Southern Colorado Economic Development District (SCEDD) to enable for the year; and

WHEREAS, a resolution of commitment for funding from Fremont County will assist SCEDD in a grant application for additional funding from EDA; and

WHEREAS, the preliminary budget for 2013 contemplates appropriation of funds for the SCEDD membership dues; and

WHEREAS, the Board of Commissioners intends to appropriate funds for SCEDD dues and pay the same in 2013.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FREMONT COUNTY AS FOLLOWS:

1. Commitment is hereby made to pay SCEDD membership dues in the amount of \$7,960.08, which is based on the 2010 census population for Fremont County showing 46,824 people.
2. The payment of such dues will enable Fremont County to benefit from SCEDD services, which include but are not limited to: implementation of the CEDS program with annual updates, grant assistance, demographic profiles and monitoring of trends, assistance to local economic developers, loan assistance to small businesses and a regional partnership through twelve counties, which are provided at little or no cost to clients and member counties.

Commissioner Norden moved for adoption of this Resolution, with a second by Commissioner Stiehl. 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
Michael J. Stiehl	<u>Aye</u>	Nay	Absent	Abstain

Date: Nov. 13, 2012

ATTEST:

Debbie Bell
Chairman

Katie E. Bau
Clerk to the Board

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RESOLUTION NO. 42, SERIES OF 2012

**DISSOLVING THE FREMONT COUNTY NORTH CANON AREA SEWER LINE
EXTENSION LOCAL IMPROVEMENT DISTRICT NO. 2008-1, CREATED BY
FREMONT COUNTY COMMISSIONERS RESOLUTION NO. 64, SERIES OF 2008**

WHEREAS, the Board of County Commissioners of Fremont County, Colorado, pursuant to Colorado statutes, is vested with the authority of administering the affairs of Fremont County; and

WHEREAS, §30-20-601, et seq. authorizes the Board of County Commissioners to form Local Improvement Districts for the purpose of construction of local capital improvements; and

WHEREAS, pursuant to Resolution No. 64, Series of 2008, the Board of Commissioners formed the Fremont County North Canon Area Sewer Line Extension Local Improvement District No. 2008-1 to construct and extend sanitary sewer lines into certain portions of Fremont County; and

WHEREAS, the primary purpose of formation of Fremont County North Canon Area Sewer Line Extension Local Improvement District No. 2008-1 was to establish and verify eligibility for grants and loans for the residents of the Local Improvement District; and

WHEREAS, after application of grant and loan funds to the cost of the project, cost assessments against the property of the residents were not necessary and no repayment to or through the County by the residents has been required; and

WHEREAS, the project has been completed and all properties located within the Local Improvement District have been included in the Fremont Sanitation District, which is the entity responsible for administration of the project; and

WHEREAS, there is no remaining purpose to justify retaining the Local Improvement District as an entity in accordance with Colorado statutes and no moneys to the credit of the district exist within any funds of Fremont County; and

WHEREAS, the Board of Commissioners hereby finds that it is in the best interests of the residents of the Local Improvement District and of the County that the Local Improvement District be dissolved.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF FREMONT THAT IN ACCORDANCE WITH §30-20-627, C.R.S., THE FREMONT COUNTY NORTH CANON AREA SEWER LINE EXTENSION LOCAL IMPROVEMENT DISTRICT NO. 2008-1, ESTABLISHED BY RESOLUTION NO. 64, SERIES OF 2008, IS DECLARED TO BE AND BY THIS RESOLUTION IS DISSOLVED, EFFECTIVE NOVEMBER 13, 2012.

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A copy of this Resolution, once signed and fully executed, shall be provided to the following entities and/or offices:

- 1. Fremont County Treasurer
- 2. Fremont County Assessor
- 3. Fremont County Finance Office
- 4. Fremont Sanitation District
- 5. Colorado Department of Local Affairs

Commissioner Norden moved the adoption of the foregoing Resolution with
 a second by Commissioner Stiehl.

Debbie Bell	<input checked="" type="radio"/> AYE	NAY	ABSTAIN	ABSENT
Edward H. Norden	<input checked="" type="radio"/> AYE	NAY	ABSTAIN	ABSENT
Michael J. Stiehl	<input checked="" type="radio"/> AYE	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: Nov. 13th 2012

Debbie Bell
 Chairman

Attest: Hattie E. Bau
 Clerk