

FOURTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on February 26, 2019 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. Chairman Dwayne McFall called the meeting to order at 9:30 a.m.

Dwayne McFall	Commissioner	Present
Tim Payne	Commissioner	Present
Debbie Bell	Commissioner	Present
Justin Grantham	Clerk & Recorder	Present
Brenda Jackson	County Attorney	Present
Sunny Bryant	County Manager	Present
Marshall Butler	Planning & Zoning Dept	Present

INVOCATION

Tom Kilgore, of First Southern Baptist Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Those present cited the Pledge of Allegiance to the flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Bell moved to approve the Agenda, adding item #7 under New Business, a Resolution for the Fremont County Board of County Commissioners, Fremont County, Colorado, Declaring Fremont County to be a Second Amendment Sanctuary County. Also, changing verbiage on item #4 under New Business to read, Hangar #5, not Hangar #43. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / February 12, 2019
2. Approval of Bills for \$1,348,652.79
3. Approval of 2019 Fremont County Annual Operating Plan
4. Ratification of Chairman's signature on a Lifestyle Management Services Agreement with Centura Health-St. Thomas More Hospital
5. Schedule Public Hearings: None.

Commissioner Payne moved to approve the Consent Agenda. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, Commissioner McFall, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff / Elected Officials:
 - a. County Manager Report, Sunny Bryant, County Manager

County Manager Bryant reported the following:

- The week of February 19 she participated in an Area Manager's Luncheon and a Regional Manager's Luncheon. She said there are a lot of positive things going on throughout community.

- Her department is working on closing out 2018 fiscal year. They are preparing for the final audit in April.
- This Thursday they have their annual Cost Allocation Plan meeting. They work with MGT Consulting to prepare a county-wide cost allocation plan to determine the indirect costs to each department.

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

County Manager Bryant reported the Retail Sales Tax collections for December 2018 were \$418,555, year-to-date up from 2017 by \$213,511. The Auto Use Tax collections for January 2019 were \$75,810, which were down from last January by \$34,936. The Construction Use Tax collections for January 2019 were \$8,907, up from last January by \$3,361. Lodging Tax collections for December 2018 were \$29,505, year-to-date up from 2017 by \$6,576. The Sheriff Retail Sales Tax collections for the month of December 2018 were \$279,036, year-to-date up from 2017 by \$142,341. The Sheriff Auto Use Tax collections for January 2019 were \$50,540, down from last January by \$23,290. The Sheriff Construction Use Tax collections for January 2019 were \$5,938, up from last January by \$2,240.

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

George Storey remarked on the summit taking place between President Trump and Kim Jong Un of North Korea. He said that this is their second summit and there hasn't been a single rocket launched in the last 18 months. After seven decades, he is hopeful that the Korean War is over.

Commissioner Bell mentioned that the annual Accountability Report will be presented at the next meeting on, March 12, 2019. She also wanted to remind residents that tonight is the big reveal of the Small Business Revolution in the Tiger Dome at Canon City High School at 5:00 p.m. She encouraged anyone and everyone to attend and thanked Ryan Stevens from the City of Canon City for spearheading the project.

OLD BUSINESS

None.

NEW BUSINESS

1. Resolution recognizing Grant Chess for his years of service to Fremont County

Commissioner Bell read the resolution recognizing Grant Chess for his many years of service to Fremont County, stating he has been a loyal and valued employee and dedicated to his job and respected by others.

Commissioner Bell moved to approve the resolution, recognizing Grant Chess for his 27 years of service. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

The Board of Commissioners all thanked Mr. Chess and presented him with the resolution.

2. Weed Management 2018 Report
Representative: Nick Bankston, Weed Management Director

Director Bankston gave his annual report for 2018. Commissioner McFall mentioned that the noxious weed known as Giant Reed is actually used a lot in landscaping unbeknownst to most that it is actually a noxious weed. Director Bankston said that there are plenty of alternatives and their department will offer free or greatly reduced prices in helping the landowner remove any noxious weeds as required by the Department of Agriculture. He said their department also offers weed management plans for free, they

are available to hire for spraying and they do sell chemicals to the public if they wish to treat the weeds on their own.

Commissioner Bell mentioned that all of this information and the Weed Department's information can be found on the County's website at fremontco.com.

3. Liquor License Renewal/Late Fee Waiver Request
PS Camping Inc. /DBA Prospector RV Park
43595 Hwy 50 W, Canon City CO 81212
Retail Liquor Store
Representative: Rhonda Schirado

Chief Deputy Gardunio gave a staff report, noting that the application and fees are in order and everything has been submitted to their office. She mentioned that the applicant does need to ask the Board for a waiver of the late fee of \$100, as her application was submitted beyond the 45 day requirement.

Commissioner Bell asked Ms. Schirado if, according to the map she provided, there were any changes. Ms. Schirado said that there were no changes. Commissioner Bell mentioned that both the Health Department and Sheriff's Office did recommend approval.

Commissioner Payne verified that she submitted her application five days late and also was late last year, upon which the late fee was waived. Ms. Schirado agreed with Commissioner Payne.

Commissioner Payne moved to approve the renewal and waive the late fee for PS Camping Inc. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, Commissioner McFall, aye. The motion carried.

Rhonda Schirado asked the Board if it was a good time for an update on the Emergency Housing for the Homeless Coalition.

Commissioner McFall informed her that the County would continue to provide assistance through DHS at this time and no other funding would be provided.

Ms. Schirado wanted an explanation as to why she felt like she was personally being attacked in regards to the homeless issue.

Commissioner McFall informed her that she was not being attacked and the Board would need to continue with the Agenda.

Ms. Schirado said she has received no thanks and instead gets dismissal, which she feels is a personal attack.

4. Approval of a Fremont County Airport Land Lease with JustinTime Cargo LLC for property to be developed and known as Hangar #5 and Approval of a five-year landing area lease for Landing Zone #2

Jason Dawson, of JustinTime Cargo LLC, said they are moving along with the hangar project at the airport.

County Manager Bryant said that everything is in place and Mr. Dawson will be installing a new hangar upon FAA approval. Bryant said it has been presented to the Airport Advisory Board and to Armstrong Consulting, this is the recommendation for the formal approval of the land lease. She said that the second piece to this is that Mr. Dawson already has an existing lease for the landing area of his skydiving operation and wants a five year lease on this as well. Currently, it is year to year and this would make things more consistent with the plans of his skydiving business. This also includes a name change on the landing lease from US Aeronautics to JustinTime Cargo LLC, both companies are owned by Mr. Dawson.

Commissioner McFall asked Mr. Dawson if he knew how long the FAA approval would take. Mr. Dawson said that he was hopeful it would be in a few months.

Commissioner Bell asked Manager Bryant if the lease for the hangar was a five year lease. Bryant replied no, that is it a 25 year lease, consistent with other leases granted at the airport. She said the hangar lease is 25 years and the land lease is for five years.

Commissioner Bell moved to approve both the hangar lease and the land lease for JustinTime Cargo LLC, upon contingencies being met. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

5. OPC 17-001 JMC Enterprises (OPTIONAL PREMISES CULTIVATION-COMMERCIAL GREENHOUSE) 2019 renewal

Request for renewal of an Optional Premises Cultivation license for JMC Enterprises, doing business as Fremont County Cannabis, for property which is owned by Marcia Greene. The address of the property is 1800 C.R. 835C, south of Florence, off of Siloam Road. The property contains 100 acres, more or less. The grow area including structures contains 2 acres, more or less. The grow area will use an existing metal agricultural building and 2 new green houses. The grow will utilize metal containers for grow rooms inside the agricultural building for starting the plants, and then they will then be transplanted to the green houses and the outdoor grow area. The property is zoned Agricultural Forestry.

Representative: Jeff Cain

Jeff Cain, of JMC Enterprises, stated that this will be his third renewal and there have been no violations or complaints and they haven't made any significant changes.

Marshall Butler, of the Planning and Zoning Department, gave a staff report. He said that their application is in order and they have received no complaints.

Commissioner Bell mentioned that this requires Board approval because it is the third renewal and as long as there are no problems, it will go to administrative approval in the future.

Commissioner Payne moved to approve the renewal for OPC 17-001. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, Commissioner McFall, aye. The motion carried.

6. OPC 14-001 THE GREEN SOURCE (Formerly Today's Health Care I & II) (OPTIONAL PREMISES CULTIVATION-COMMERCIAL GREENHOUSE) 2019 RENEWAL

Request for renewal of an Optional Premises Cultivation license by National Green Source doing business as Green Source, for property which is owned by Osceola Green Equity. The address of the property is 934 C Street in the Beaver Park/Penrose Area, which is located on the east side of C Street, approximately 978 feet to the center of the property from the intersection of State Highway 115 and C Street in the Beaver Park/Penrose Area. The property is zoned Agricultural Rural and contains 10 acres more or less.

Representative: Natalie Romolt, Green Source, LLC

No representation was present from The Green Source.

Commissioner McFall said that the reason this could not be approved administratively was because they had received complaints on this license.

Marshall Butler, of the Planning and Zoning Department, said that they are still waiting on documents to complete the renewal process. An updated lease and an updated and valid Colorado State license is still required. He said they received two complaints last year, one regarding odor and the other regarding lighting. The last inspection was conducted on

December 19, 2018 in the evening and lighting was still an issue. He said slight odor was detected but not enough to register on their odor machine.

Commissioner Bell asked Mr. Butler when the email was sent to Ms. Romolt to address the odor issue, how long it took for them to correct the problem with their odor mitigation system.

Mr. Butler said that she was emailed on March 29, 2018 with a ten day turnaround time to have odor mitigation system installed and operating. He said she met that deadline.

Commissioner Bell asked if he knew why it took an email from the county notifying of them of this issue.

Mr. Butler said he had no information regarding this. Commissioner Bell verified that no further complaints have been received.

Mr. Butler said no, that they continue to monitor the property.

Commissioner Bell moved to approve the renewal of OPC 14-001, upon the three contingencies being met. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

7. Resolution No. 12, A Resolution for the Fremont County Board of County Commissioners, Fremont County, Colorado, Declaring Fremont County to be a Second Amendment Sanctuary County

Commissioner McFall explained that there is a bill before legislation called the Red Flag Law. He reached out to the local Sheriff, Allen Cooper, to get his opinion of this new law. He said it is House Bill 1177 and does away with "due process".

Sheriff Cooper said that he did review HB 1177. He did not want to convey personal or professional opinion, but rather talk narrowly about the topic. He also had his staff review this bill and they are all of the opinion that this will not offer enough due process to anyone who is targeted with an accusation of being mentally incompetent and/or dangerous and that the regress for someone falsely accused does not exist. He said he cannot support this bill as it is currently written.

Commissioner McFall read the resolution.

Commissioner Payne said what bothers him the most on this bill is the fourth amendment to The Bill of Rights, the due process and probable cause. He said it has been in place for over 200 years and served us well.

Commissioner Bell agreed with Commissioner Payne and said it should deeply disturb residents and citizens because a right is being taken away.

Commissioner McFall sited a quote from Thomas Jefferson, "the strongest reason for people to retain the right to keep and bear arms is, at last resort, to protect themselves from tyranny in government".

Commissioner McFall moved to approve resolution #12. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

PUBLIC HEARINGS

None.

Commissioner McFall adjourned the meeting at 10:19 a.m.


Clerk and Recorder

RESOLUTION NO. 12, SERIES OF 2019

**A RESOLUTION FOR THE FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS,
FREMONT COUNTY, COLORADO, DECLARING FREMONT COUNTY TO BE A
SECOND AMENDMENT SANCTUARY COUNTY**

WHEREAS, §30-11-101, C.R.S. provides that Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues; and

WHEREAS, §30-11-103, C.R.S provides that the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and

WHEREAS, the Second Amendment to the United States Constitution, adopted in 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms; and

WHEREAS, the Supreme Court in the *District of Columbia v. Heller*, 554 U.S. 570 (2008), decision affirmed an individual's right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home; and,

WHEREAS, the Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to "keep and bear arms," as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment against the states; and,

WHEREAS, the Supreme Court, in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that are part of ordinary military equipment, or with use that could contribute to the common defense are protected by the Second Amendment; and,

WHEREAS, Article II, Section 3 of the Constitution of Colorado provides that all "persons have certain inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness"; and

WHEREAS, Article II, Section 13 of the Constitution of Colorado provides that the "right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question"; and

WHEREAS, Article II, Section 11 of the Constitution of Colorado provides that no "ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation...shall be passed by the general assembly"; and

WHEREAS, Article II, Section 7 of the Constitution of Colorado provides that the "people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures"; and

WHEREAS, Article II, Section 15 of the Constitution of Colorado provides that “[P]rivate property shall not be taken or damaged, for public or private use, without just compensation,” which the Colorado Supreme Court has indicated includes a legal interference with the physical use, possession, disposition, or enjoyment of the property, including temporarily; and

WHEREAS, it is the desire of the Board to declare its support of the Second Amendment to the United States Constitution and the Colorado Constitution protecting citizens’ inalienable and individual right to keep and bear arms; and

WHEREAS, the members of this Board took an oath to support and defend the United States Constitution, the Constitution of the State of Colorado and the laws of the State of Colorado, insofar as they are constitutional.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Fremont by the authority granted the Board by the laws of the State of Colorado and people of Fremont County, Colorado to stand and defend their rights and liberties, which are guaranteed by the United States and Colorado Constitutions, we hereby declare this Resolution to be a Second Amendment Preservation Resolution Designating Fremont County a Second Amendment “Sanctuary County.”

BE IT FURTHER RESOLVED that this Board affirms its support for the duly elected Sheriff of Fremont County, Colorado in the exercise of his sound discretion and affirms its resolve to support decisions by our Sheriff to not enforce any unconstitutional firearms law against any citizen.

BE IT FURTHER RESOLVED that this Board will not authorize or appropriate government funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing law that unconstitutionally infringes on the right of the people to keep and bear arms.

Commissioner McFall moved for adoption of this resolution, with a second by Commissioner Bell. The roll call vote of the Board was as follows:

Debbie Bell	<u>Aye</u>	Nay	Absent	Abstain
Dwayne McFall	<u>Aye</u>	Nay	Absent	Abstain
Timothy R Payne	<u>Aye</u>	Nay	Absent	Abstain

The Resolution was declared to be duly adopted.

Date: 2/26/19

Dwayne McFall
Chairman

Attest: [Signature]
Clerk