

## NINTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on May 14, 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
Sean Garrett	Planning & Zoning Director	Present

### INVOCATION

Todd Luce, of Grandview Christian 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. 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 / April 23, 2019
2. Approval of Bills for \$3,015,888.96
3. Ratification of the Chairman's signature on a Lease Agreement with Central Mountain Options for Long Term Care
4. Ratification of the Chairman's signature on the General Indemnity Agreement and Inducement Letter regarding posting of an appeal bond in O'Neal v. Fremont County
5. Approval of Change Order No. 1 with Frontier Environmental on the Hayden Pass EWP for construction services
6. Approval of Change Order No. 1 with OTAK on the Hayden Pass EWP for engineering services
7. Schedule Public Hearing: May 28, 2019 at 10:00 a.m.
  - a. Request: TUP 19-003 – FAR Royal 50  
Request approval of a Temporary Use Permit, Department file #TUP 19-003 Royal 50 Race to allow a Mountain Bike Race over the course of two (2) days. Event will include post-race festival with music, beer, and food sales. The general location will be on existing trails off County Road 3A (Royal Gorge Area).
  - b. Request: TUP 19-005 – Penrose Park Yard Sale  
Request approval of a Temporary Use Permit, Department file #TUP 19-005 Penrose Park to allow for yard sales to occur on the 2<sup>nd</sup> Saturday of each month from June to September of 2019. The yard sales are community

based with spaces sold to those wishing to participate. Events will be held at the Parking lot area of the Goose Berry Patch located on the intersection of 6th Street & Colorado State Highway 115 in Penrose, Colorado.

c. Request: TUP 19-006 – Star Point STEAM fair.

Request approval of a Temporary Use Permit, Department file #TUP 19-006 Star Point STEAM fair. Event is for early childhood (preschool) to explore Science, Technology, Engineering, Art, and Math. Numerous vendors and organizations will be in attendance. The date is June 15, 2019, beginning at 10 a.m. and ending at 2 p.m., excluding set up and tear down time.

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

**ADMINISTRATIVE/INFORMATIONAL**

1. Staff / Elected Officials:

a. County Clerk's Monthly Report

**Clerk and Recorder Grantham** gave the monthly Clerk's Report for April 2019. He said that the total Motor Vehicle fees, sales taxes and Recording fees collected were \$1,348,518.04. Fremont County's portion for disbursement was \$744,826.59, which was 55% of the total fees collected and was \$58,924.50 more than April of last year. Year-to-date, his office is up \$9,844.80.

**Commissioner Bell** moved to accept the Clerk's Report for April 2019. **Commissioner Payne** seconded the motion. Upon Vote: **Commissioner Bell**, aye; **Commissioner Payne**, aye; **Commissioner McFall**, aye. The motion carried.

b. County Manager Report, Sunny Bryant, County Manager

**County Manager Bryant** reported the following:

- They have had two public meetings on the EPA Brownfield Grant. They have received six site nomination forms and are moving forward with reviewing them prior to submitting them to the EPA for eligibility determination.
- They are in the final weeks of the Hayden Pass Project. The contractor is finishing the project and they will begin closeout of the project the last week of May.
- The landscaping is complete at War Memorial Park. They are having a dedication of bricks at the park on June 29<sup>th</sup> at 10:00 a.m. More information will come.
- They are hosting a Medicare seminar presented by Agora Wealth Management as part of the county PERKS program. The seminar is also open to the public. It will be on June 5<sup>th</sup> from 4:00 pm. to 5:00 p.m. in the Fremont County Garden Park Conference Room. More information can be found at [www.fremontco.com](http://www.fremontco.com).
- They are still looking for a Noxious Weed Manager. The position has been vacant since the beginning of April. The deadline for applications is May 21<sup>st</sup> at 2:00 p.m. More information on the position can be found at [www.fremontco.com](http://www.fremontco.com).
- The IT Department has finalized the email notification feature on the County Website. To receive email notifications go to [www.fremontco.com](http://www.fremontco.com) and click on "sign up for email subscriptions", on the left side.

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

**County Manger Bryant** gave the Sales and Use Tax Report. She said that the Retail Sales Tax for March 2019 were \$441,083, which is up \$52,718 from last year, year-to-date is up \$109,153. The Auto Use Tax for April 2019 were \$110,607, up from last year by \$21,401, year-to-date down \$37,698. The Construction Use Tax for April 2019 was \$28,017, which is down \$16,253 from last year, year-to-date down \$19,225. The

Lodging Tax for March 2019 was \$25,316, up \$5,151 from last year and year-to-date is up \$7,901. The Sheriff Retail Sales Tax for March 2019 was \$294,056, which is up \$35,145 from last year, year-to-date is up \$72,769. The Sheriff Auto Use Tax from April 2019 was \$74,038, which is up \$14,568 from last year and year-to-date is down \$24,832. The Sheriff Construction Use Tax for April 2019 was \$18,678, which was down \$10,836 from last year and year-to-date is down \$12,767. She said overall everything is looking great and figures are coming in as they had anticipated.

**Commissioner Payne** said that all three commissioners met with the State Land Trust Board last Thursday. The State Land Trust Board oversees lease agreements for agricultural and mining operations on state lands. They use the money from these leases to issue grants for schools. Since 2011, Fremont County has received 45 million dollars in grant money for school districts RE-1 and RE-3. He said good job to the school districts for getting this money for construction and remodeling.

**Commissioner McFall** mentioned that while we have had moisture, it will dry out again and the fire danger is still pretty high. He asked that everyone be careful and diligent.

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

**George Storey** said that is a lot of construction going on around town. He said there is a water main being replaced from 9<sup>th</sup> Street down to 13<sup>th</sup> Street on the Sherwin Williams side of Main Street and after it is done, they will be paving this section. He also said that they have about finished tying the fiber optics system together. He urged everyone to be careful of all the construction.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

1. Proclamation for Foster Care Month in Fremont County – May 2019  
Representative: Barry Acton, Department of Human Services

**Barry Acton** welcomed everyone to Foster Care Month and said that kinship families are superheroes. To celebrate, they will be having a big superhero party to commemorate that. Supervisor Acton then read the proclamation stating that there are currently more than 80 children in Fremont County whose families are in crisis and must temporarily rely on the care and protection of foster parents.

**Commissioner Bell** asked Supervisor Acton if he knew how many of the 80 children are being housed in homes outside of Fremont County because there are not enough foster homes for them locally. Acton said he believed the number to be in the 30's. He said they are making every diligent effort to recruit more foster families in Fremont County, which has been one of his hardest challenges as supervisor of the department.

**Commissioner McFall** wanted to know what the best way is to get in touch with the department if they need information or are interested. Supervisor Acton said that they can call the department at 719-275-2318 and ask about fostering children.

**Commissioner Bell** moved to approve the proclamation for Foster Care Month in Fremont County, May 2019. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

2. 2018 Colorado Forest Health Report  
Representative: Andy Schlosberg, Colorado State Forest Service

**Andy Schlosberg** gave the 2018 Colorado Forest Health Report. He said that 2018 was the warmest year in the last 124 years and was the 2<sup>nd</sup> driest year since 1895. He said this

greatly affects our tree health and snowpack. In Fremont County they have detected 4,800 acres of Spruce Beetle and 1,200 acres of Western Spruce Budworm, which was one of the current biggest threats in 2018. Other than 2002, 2018 was recorded as having the highest amount of acreage with forest fires in Colorado than any other year. Colorado spent 40 million dollars on fire suppression in 2018. He said this year, the Canon City Field Office has begun to work on 111 acres of state land on Waugh Mountain. They are removing trees infested with Spruce Beetle and creating a fuel break to reduce fire hazard.

**John Grieve**, of the Canon City Field Office, said that the Waugh 2 Timber Sale is about 2-3 weeks away from completion and will not be able to finish it until mud season is over. He said there is a lot of work to be done on Waugh Mountain. There is a lot of dead timber and BLM is working right alongside them to help clean all of this up and restore some growth.

**Commissioner McFall** asked if BLM was in fact also working on this project. Mr. Grieve said, yes, they are also cleaning up dead and infested trees. Commissioner McFall said he had noted all the activity and that it is much needed and the forests are in terrible shape.

**Commissioner Bell** said that it was mentioned the costs of wildfires are extremely high and that we haven't been doing a great job at forest health, which would prevent some of those fires. She wanted to know if there was any kind of trend for keeping the forests healthy rather than allowing them to burn and then could maybe spend some of the money in other areas. Mr. Schlosberg said that is the mission of the State Forest Service. He said they do work with private landowners and municipalities, which is far cheaper than dealing with it after the fact.

3. Acceptance of the executed grant contract for the Fremont County Judicial Building Remodel from the Department of Local Affairs, Energy & Mineral Impact Assistance Program

**Commissioner McFall** said that when the judicial building was built, there was a room on the second floor that was built for a courtroom, but was never finished. He said that with courts being more crowded and more cases, they may be a need for another judge in the near future. He said the county has applied for an Underfunded Courthouse Grant to help with costs along with a grant from DOLA.

**County Manager Bryant** said that the Underfunded Grant came in at \$180,000. The original request was for \$250,000. The commissioners had agreed at that time to increase the county's portion to move forward with this important project. The DOLA Grant is for \$250,000, which makes the county's portion \$70,000 for a total budget of \$500,000.

**Commissioner McFall** said this project will go out for bid and hopefully come in less than the budget of \$500,000.

**Commissioner Bell** asked what the timeline would be for starting the bidding process. Manager Bryant said that as soon as they receive the executed contract back from the State, they will work with the engineers to get final drawings and everything needed to put it out for bid. She said that she spoke with Lisa Rowe, the courthouse administrator, and she said that they are working on getting the room cleaned out, since it has been used for storage. Manager Bryant said they are looking at construction within the next 2-3 months.

**Commissioner McFall** said he feels they are taking a proactive approach on this project. They were able to fund a larger portion of the project this year which he believes helped in securing these grants.

**Commissioner Payne** moved to accept the executed grant contract for the Fremont County Judicial Building Remodel. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

4. Authorization for Commissioner Debbie Bell to participate in a court settlement conference on May 20, 2019, in Attebery v. Fremont County, 2019 CV 253-KMT, and granting authority for Commissioner Bell to agree to settlement on behalf of Fremont County

**County Attorney Jackson** explained that a suit was filed in January as an employment action against the Department of Human Services. She said that before the case gets too expensive the courts encourage a settlement conference. She said if it's going to settle, this would be the best time to do that. In order to participate, we have to have someone physically present with settlement authority, which would be a commissioner. Commissioner Bell is available that day to attend and Stacey Kwitek-Russell, the Director of Human Services, will also be attending.

**Commissioner Payne** moved to approve Resolution #19, authorizing Commissioner Debbie Bell to participate in a court settlement conference on May 20, 2019. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

### PUBLIC HEARINGS

1. Request: TUP 19-002 – Howard Creek Farm  
Request approval of a Temporary Use Permit, Department file #TUP 19-002 Howard Creek Farm to allow a Wedding Venue, including a 4000 square foot hay barn on 11 acres adjacent to the Arkansas River in Howard. The site will host 6 to 12 events a year from May to October each year, primarily on the weekends. The events will be restricted to 200 maximum guests and will run from 10:30 a.m. to 10:30 p.m. All catering will be outsourced. The site is located at 356 County Road No. 4 in Howard. This is the second submittal of this request for the TUP.  
Representative: Alyson and Orlin Camerlo

**Orlin Camerlo** said that they are busy getting the frame up for the 4,000 square foot barn. He said they are hoping to have it completed by October so that they can host an event.

**Planning and Zoning Director Garrett** said that their application is complete and all zoning requirements will be satisfied. He said they are requesting a waiver of the cash surety bond, which was granted last year.

**Commissioner Bell** asked the applicants how or if they plan to serve alcohol. Alyson Orlin said that all alcohol would also be provided by a third party who would hold the liquor license.

**Commissioner McFall** opened the Public Hearing at 10:05 a.m.

There were no public comments.

**Commissioner McFall** closed the Public Hearing at 10:05 a.m.

**Commissioner Bell** moved to approve TUP 19-002- Howard Creek Farm. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

Commissioner McFall adjourned the meeting at 10:08 a.m.



  
Clerk and Recorder

RESOLUTION NO. 19, SERIES OF 2019

RESOLUTION AUTHORIZING COMMISSIONER DEBBIE BELL SETTLEMENT AUTHORITY IN ACTION CONCERNING FREMONT COUNTY DEPARTMENT OF HUMAN SERVICES

WHEREAS, in 2019, Fremont County and the Fremont County Department of Human Services were named as defendants in Case Number 19-CV-253- KMT, in the United States District Court for the District of Colorado brought by Plaintiff Amanda Attebery; and

WHEREAS, the federal court has scheduled a settlement conference on May 20, 2019, among the parties for purposes of exploring the possibility of settlement; and.

WHEREAS, the federal judge has ordered that the parties have a representative present for purposes of participation in the settlement conference; and

WHEREAS, Human Services Director Stacie Kwitek-Russell has indicated that she will attend the conference on behalf of Human Services; and

WHEREAS, Commissioner Debbie Bell has offered to attend the settlement conference on behalf of the Board of Commissioners; and

WHEREAS, the Board wishes to confer upon Debbie Bell the authority to attend and represent the county in settlement discussions.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR FREMONT COUNTY, that Commissioner Debbie Bell is hereby authorized to participate in the settlement conference in Case Number 19 CV 2530 KMT, in the federal court for the District of Colorado and negotiate on behalf of the Board of Commissioners in such conference, including commitment of funds in the event settlement is reached.

Commissioner Payne 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



Date: 5/14/2019

ATTEST:

Dwayne McFall  
Chairman

[Signature]  
Clerk to the Board