

TWENTYSIXTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session On November 26th, 2024, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Chairman McFall called the meeting to order at 9:00 a.m.

Dwayne McFall	Commissioner	Present
Debbie Bell	Commissioner	Present
Kevin Grantham	Commissioner	Present
Justin Grantham	Clerk and Recorder	Present
Eric Bellas	County Attorney	Present
Brenda Jackson	County Attorney	Present
Tony Carochi	County Administrator	Present
Dan Victoria	Planning & Zoning Director	Present

INVOCATION

Bradley Buck from Bridge to Life gave the invocation.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

Commissioner Bell moved to approve the agenda as presented. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

CONSENT AGENDA

1. Approval of Minutes / October 15, 2024, and October 22, 2024
2. Approval of Bills for \$3,878,645.25
3. Approval of Fremont County Weed Advisory Board Bylaws
4. Ratification of Chairman's Signature on Agreement Between Chaffee County and Fremont County Regarding Joint Civil Action Against Linda Stanley
5. Ratification of Chairman's Signature on Upper Arkansas Cooperative Weed Management Area
6. Schedule Public Hearings: None.

Commissioner Bell moved to approve the consent agenda as presented. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

ADMINISTRATIVE & INFORMATIONAL

Ref. Fremont County BOCC Meeting 11/26/2024 4:12

1. Staff / Elected Officials:

a. Sales & Use Tax Report, Shawn Sutton, Budget & Finance Officer

Budget & Finance Officer Sutton gave the Sales & Use Tax Report, which can be found in its entirety at www.fremontcountyco.gov

b. County Clerk’s Monthly Report, Justin Grantham, County Clerk

Clerk Grantham gave the County Clerk’s Monthly Report, which can be found in its entirety at www.fremontco.com.

Commissioner McFall moved to accept the County Clerk’s monthly report. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

c. County Assessor Stacey Seifert, Report on Property Tax Reduction Bill

County Assessor Seifert said she is present at the meeting to inform the commissioners and the public about House Bill 24-1001 and the effect that it is going to have on the community. She said if you take an average house in north Cañon City and look at the rates and amount of taxes you will see the affect. In 2022 the taxes were \$1,447.68 with an assessment rate of 6.95%. Then in 2023 and 2024 the rates were the same at 6.7% with a \$55,000 exemption raising the amount slightly to \$1,566.68. Ms. Seifert then explained during the extraordinary session that took place in August is when this house bill was signed into effect changing the assessment rates. Starting in the year 2026 which is payable in 2027, there will be a split assessment rates, one for the schools and one for everyone else. The one for everyone else will raise considerable in 2026, there will be a 10% actual value exemption on residential properties up to \$70,000, however that 10% is not applied to the schools. This will result in a tax bill of \$1,823.44 for this house. Rates for non-residential properties will be decreasing over the next four years so the 5.25% revenue limit will more than likely not come into play and mill levies won’t be forced down.

d. County Administrator Report, Tony Carochi, County Administrator

County Manager Carochi gave the County Manager Report, which can be found on in its entirety at www.fremontco.com.

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

UNFINISHED BUSINESS

None.

NEW BUSINESS

Ref. Fremont County BOCC Meeting 11/26/2024 32:55

1. TUP 24-017 Pop's Christmas Town

Request to create a Christmas in the country theme.

The Event will Start on Nov. 29th thru Dec. 29th Friday-Sunday. The Event will run Fridays starting at 3:30 pm and ending at 7:30 pm Saturday and Sunday starting at 12:00 pm and ending at 3:30 pm. Applicant: Steve Smith

Mr. Smith wanted to express his appreciation for the Planning and Zoning staff for rushing and being patient with him since this application was last minute and only his second request for a TUP. He gave all artistic credit to his daughter for painting all the decorations making the theme of the event "A Simpler Time" which includes decorated antique cars, slides, places to roast marshmallows, a bowling alley, and hot cocoa or apple cider.

Planning and Zoning Director Victoria introduced the applicant and the event stating that the event is a "Christmas in the Country" theme with a lit-up forest that you ride through being pulled on a tractor. The event will run through November 29th through December 29th Friday through Sundays. Director Victoria said this is the second TUP, the first one being the Pumpkin Patch which the department didn't receive any negative feedback. Water will be available for purchase on the property, there will be no vendors present but snacks and mini pizzas will be available for purchase. For sanitation, the restrooms inside the winery will be open for participants and an 8-yard dumpster is on site. The department received an approved fire protection plan signed by James Peterson. The applicant submitted a waiver request of the surety bond. Director Victoria said the application follows the requirements of the Fremont County zoning resolution resulting in staff recommending approval of the TUP with the waiver of the surety bond.

Commissioner Bell moved to approve temporary use permit 24-017 for Pop's Christmas Town to start on November 29th running through December 29th on Friday, Saturday, and Sunday. Fridays from 3:30pm to 7:30 pm Saturday and Sunday from noon until 3:30pm at 1940 13th Street in Penrose and this motion does include a waiver of the surety bond. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

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2. Notice of Award to Freedom Mechanical for the Detention Center Rooftop Unit Project. Representative: J Bunderson, Fremont County Engineer and Project Manager

County Engineering Project Manager J Bunderson said the committee received three bids from local construction companies to replace the rooftop units at the detention center. The three bids ranged from \$319,000 to \$484,000 however only one bid responded to all the requested information which included warranty, total cost, manufacturer specifications, and previous experience that included photographs of

previous work done by the contractor. The bid that responded in full was from Freedom Mechanical for \$359,000, the county has contracted with this company before which resulted in top notch quality.

Commissioner Bell moved to award this bid to Freedom Mechanical for the detention center rooftop unit replacement project. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

PUBLIC HEARING SCHEDULED 9:30 a.m.

Ref. Fremont County BOCC Meeting 11/26/2024

1. Designation of activities of state interest by Fremont County, to include site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems; site selection and construction of major facilities of a public utility. and efficient utilization of municipal and industrial water projects, and regulations concerning the same.

Commissioner McFall wanted to further explain the history of this regulations referred to as 1041 Powers. In 1974 the Colorado General Assembly authorized state and local governments in making and planning decisions for matters of statewide interest. These powers are commonly known as 1041 Powers. They are based on the number of the bill that was proposed legislation, House Bill 74 1041, which allows local government to identify, designate, regulate areas and activities of state interest through local permitting process. The general intention of these powers is to allow local government to maintain their control over developments projects that has statewide impacts. The statue concerning the areas of activities of state interest can be found in Colorado Stature 24-651-101. The areas of interest that were listed are selections sites and construction of major new domestic and water sewage treatment systems and major domestic extensions of existing domestic waters. As well as site selections for airports, site selection of rapid or mass transit terminal stations, fixed guideways, sites of arterial highways and interchanges, construction of major facilities for public utilities, nuclear detonations, geothermal resources, and commercial production of electricity. Commissioner McFall explained the county belongs to the National Association of Counties and said they discuss these things and after having these discussions he felt it was necessary to protect land use in Fremont County.

Commissioner McFall opened the public hearing at 9:46am.

County Attorney Jackson explained that this is going to be a general overview of what's being proposed as far as the regulations. She reminded those present that this a public hearing and they will receive comment both on the designation itself and the regulations as proposed. She said there are 10 chapters, chapter one is the administrative provisions, the authority of the board and the planning and zoning department to administer the regulations and approve these types of applications. Chapter two designates the matters of state interest that the board is interested in regulating currently and the purpose for this public hearing. The county already has flood preventions regulations in effect which falls under 1041 Powers. Chapter three explains procedures and application requirements for a general 1041 application since there are permits required for any of these activities. She said that subpart C in chapter three is called a FONSI provision, which means when a project isn't expected to make a significant impact to the public

or community it's an exemption provision for projects for which these regulations don't apply and are not intended to apply to smaller projects, if the board believes there is no significant impact. There is an application process for the FONSI provision, it will still go before a public hearing to determine whether the full set of regulations should be exempted and fall under normal zoning and or subdivision processes. The application submittal requirements are extensive, it includes any category of impact such as socioeconomic impacts, water, air, property rights, impacts to the surrounding neighborhood, and decommissioning how the project will end its useful life. Chapter four is about the approval criteria that the board will review in evaluating the project and whether it should be approved or not. Chapter five involves financial assurance; it covers everything from the commencement of the project to reclamation and decommissioning of the project. The scope of financial assurance is broad, it can be provided by bonding, cash, irrevocable letters of credit or anything else proposed by the applicant that would cover the financial responsibilities. Chapter six is permitting administration and enforcement, essentially how the permit is to operate which includes annual inspections and reviews, how permits are transferred, the judicial review for an applicant who disagrees with the County's decisions, and enforcements with penalties for non-compliance with the permit. Chapter seven, eight, and nine are add on provisions for applicants such as municipal and industrial water projects as well as domestic water and wastewater treatment systems. Public utilities also apply to additional provisions such as solar and wind facilities. Chapter ten is a set of definitions that are specific to 1041 regulations.

Commissioner Grantham commented that this has been in the works a long time since before this current board of commissioners, but it became a rush to enact these because of state interference, the commissioners felt the need to protect its authority and land use in Fremont County.

Todd Hammerbacher introduced himself as a commercial designer for Freedom Solar, and he was present at the meeting to address the proposed photovoltaic solar array project for Estes Rockets located in Penrose. The ground mounted system was contracted on March 9th, 2023, all project documentation was submitted to Fremont County on March 12th, 2024. Mr. Hammerbacher said since then the project has been under the moratorium Resolution No. 25 dated June 11th, 2024. He said there hasn't been any further communication and that is why the company's legal counsel sent a letter in July 2024 seeking clarity and next steps, he said the response was a copy of the moratorium. The moratorium states it applies to site selection and construction of major facilities of a public utility. Mr. Hammerbacher said he would like to prove why this project does not meet that definition. For one this project would only be for private use, the entire system will rest on private property and is designed for only private consumption and the company has no intention of selling the energy back to the grid. He said that according to Colorado Revised Statute 40-2-123 defines a utility scale project as those exceeding 2,000 kilowatts and rated power output even at the federal level of the US energy Information Administration classifies utility scale project is over 1,000 kilowatts. There project is well below that threshold at 360 kilowatts. Mr. Hammerbacher then referred to the Fremont County 1041 guidelines in chapter 10 section W which states regulations define a utility scale solar energy facility as a project occupying 9 acres or more, and their proposed project covers only 1.5 acres which includes all associated electrical equipment. He respectfully asked the board to reconsider the applicability of the moratorium to the project and consider their clients role as a competitive employer in Fremont County.

Stacy Martel introduced herself as the Chief of Staff at Estes Rockets. She wanted to remind the community that this business is locally owned and has been in Penrose for more than 65 years, employing

70 citizens and the founder of the company still lives in Cañon City. She said the reason for this relatively small solar project is to remain at competitive rates as a manufacturer in the region. This project is partially funded by a grant from the United States Department of Agriculture bringing more than \$500,00 in federal grant funding to Fremont County. The company has already received approval from Black Hills Energy for interconnection but still need the permits from the county to move forward which isn't possible since the moratorium was placed in June of this year. Ms. Martel said that this delay could jeopardize the federal grant money they received. She explained that the portion of their land they are wanting to use is already zoned industrial meaning no land acquisition or zoning changes are required to complete the project. The size of the solar field is just big enough to power the manufacturing and not to maximize production.

Commissioner McFall – closed the public hearing at 10:05am.

Commissioner Bell moved to table this designation of activities of state interests by Fremont County also known as 1041 regulations to the next meeting which occurs at 9:00am on Tuesday December the 10th. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

NEW BUSINESS continued at 10:09am

Ref. Fremont County BOCC Meeting 11/26/2024 1:09:38

3. Reappointment of Chris Wood to the Fremont County Fair Board with a term expiring December 31, 2027.

Commissioner McFall moved to reappoint Chris Wood to the Fair Board with a term ending December 31st, 2027. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

4. Reappointment of Delores Comstock to the Fremont County Fair Board with a term expiring December 31, 2027.

Commissioner Bell moved to reappoint Delored Comstock to the Fremont County Fair Board with the term expiring on December 31st, 2027. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

5. Reappointment of Kristina Brubaker to the Fremont County Fair Board with a term ending December 31, 2027.

Commissioner McFall moved to reappoint Kristina Brubaker to the Fair Board ending December 31st, 2027. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

6. Reappointment of Betsy Denney to the Fremont County Heritage Commission with a term expiring December 31, 2027.

Commissioner Grantham moved to reappoint Betsy Denney to the Fremont County Heritage Commission with a term expiring December 31st, 2027. Commissioner Bell seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried by unanimous consent.

7. Reappointment of Keith Berry to the Fremont County Heritage Commission with a term expiring December 31, 2027.

Commissioner McFall moved to reappoint Keith Berry to the Fremont County Heritage Commission with a term expiring December 31st, 2027. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

8. Reappointment of Lisa Studts to the Fremont County Heritage Commission with a term expiring December 31, 2027.

Commissioner Bell moved to reappoint Lisa Studts to the Fremont County Heritage Commission with the term expiring December 31st, 2027. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

Commissioner McFall adjourned the meeting at 10:14am.

To view the YouTube Video for Commissioner Minutes, go to the following website:

<https://www.youtube.com/watch?v=nkQLpjZqFL4>

Clerk to the Board of County Commissioners