

### THIRTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 28, 2022, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Chair Debbie Bell called the meeting to order at 9:30 a.m.

Debbie Bell	Commissioner	Present
Kevin Grantham	Commissioner	Present
Dwayne McFall	Commissioner	Present
Justin Grantham	Clerk & Recorder	Present
Brenda Jackson	County Attorney	Present
Sunny Bryant	County Manager	Present
Mica Simpleman	Planning & Zoning Director	Present

#### INVOCATION

Rob Meeker, Solvista Health

#### PLEDGE OF ALLEGIANCE

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

#### APPROVAL OF AGENDA

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

#### CONSENT AGENDA

1. Approval of Minutes / June 14, 2022
2. Approval of Bills for \$3,210,232.02
3. Ratification of Chairman's Signature on DOLA Fremont County Housing Strategies Grant
4. Approval of Department of Human Services Memorandum of Understanding for the Colorado Works Program
5. Schedule Public Hearings: None.

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

#### ADMINISTRATIVE & INFORMATIONAL

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

**County Manager Bryant** gave the County Manager's Report which can be found in its entirety at [www.fremontco.com](http://www.fremontco.com).

- b. Sales & Use Tax Report, Brett Patterson, Budget & Finance Officer

**Budget & Finance Officer, Brett Patterson** gave the Sales & Use Tax Report which can be found in its entirety at [www.fremontco.com](http://www.fremontco.com).

**Commissioner Bell** compared the current income to the budget numbers and said they look good.



**Clerk & Recorder Grantham** announced it is the last day of the June Primary Election. He said polls will be open until 7:00 p.m. and reminded the public that Colorado is a hybrid voting state, which allows voters to vote in-person or by mail. He also mentioned that voter turn-out was so far at 27%.

**Commissioner Bell** asked how 27% compares to the last primary.

**Clerk & Recorder Grantham** said the voter turnout for the last two primaries was in the high 40s and encouraged a higher turnout this evening.

**Commissioner McFall** spoke about fire safety and urged the community to be aware of fire restrictions while celebrating the 4<sup>th</sup> of July.

**Commissioner Bell** imparted to the public that County Offices will be closed for 4<sup>th</sup> of July and encouraged people to celebrate America.

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

a. John Rambish

**John Rambish** spoke on his concerns regarding the lack of County and community services and measures to provide services for special education students and those with cognitive disabilities.

**Commissioner Bell** offered to help Mr. Rambish contact agencies and folks within the community who may be able to assist him.

**Mr. Rambish** explained in detail that he has already contacted various offices and asked whether Commissioner Bell was certain they could help him.

**Commissioner Bell** responded that the Board can try.

**Mr. Rambish** cited forced control and slavery.

**Commissioner Bell** offered to speak with Mr. Rambish privately after the meeting and invited anyone else to approach the board and speak. None approached.

### **OLD BUSINESS**

1. None.

### **NEW BUSINESS**

1. 2021 Fremont County Accountability Report

**Commissioner Bell** notified the public that the Accountability Report is available for review online at [www.fremontco.com](http://www.fremontco.com). She thanked the staff who organized the report, the other elected officials, and department heads. Commissioner Bell explained that the Accountability Report lays out what is done with collected taxes and revenues in Fremont County.

2. Award Bid for Pathfinder Pavilion Covered Arena

**Commissioner McFall** mentioned the use of the buildings at Pathfinder Park for the County Fair and explained that the bid was originally for a barn measuring 150' by 325', but after some budget concerns, they agreed to reduce it to 150' by 200'.

**County Manager Bryant** relayed that four bids had come in for the project and recommended the Board award the bid for construction of the Pathfinder Pavilion Covered Arena to Corsentino Construction at \$1,915,883.00. She noted that it is a design build project.

**Commissioner Bell** commented that it is an exciting project since the County has been working on it for a couple decades and mentioned the anticipated use of the facilities for the County Fair and other events.



**Commissioner McFall** spoke about the difference in the bid prices based off of material. He noted that the project will be funded by the money saved by the refinance of certificates of participation and ARPA money

**Commissioner Grantham** moved to award the bid for construction of the Pathfinder Pavilion Covered Arena to Corsentino Construction at \$1,915,883.00. Commissioner McFall seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner McFall, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

3. Resolution to Suspend Use Tax Collection

**County Manager Bryant** explained that CDOR now requires that Sales Tax be collected on anything purchased through the internet and there is no way to show a tax-exempt certificate when making a purchase online. Builders are issued a tax-exempt certificate after paying Use Tax at the time they get a building permit, so because of new regulations, they are paying use tax twice – once up front, and then again when purchasing materials. She said the resolution will suspend upfront Use Tax collection when getting a building permit.

**Attorney Jackson** clarified that use tax on Motor Vehicle taxes will not be suspended because there is no duplication occurring.

**Commissioner Bell** said if approved, this goes into effect immediately.

**Commissioner Grantham** commented that Use Tax will still be collected by the County, but on the back end.

**Commissioner McFall** moved to approve Resolution #23 to Suspend Use Tax Collection. Commissioner Grantham seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Grantham, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

4. Resolution Declining Participation in the “FAMLI” Program and Providing for Notification to the State of Colorado of Such Declination of Participation.

**Attorney Jackson** imparted that the legislature is establishing a paid leave program for businesses with more than 10 employees, which the County has the option to decline. She explained that the County provides the same or better leave benefits, so the resolution opts-out of program. She added that the County has the option to renew every 8 years, but may review sooner and in the future, there may be an individual option to apply.

**Commissioner McFall** clarified that employees can apply individually.

**Attorney Jackson** explained that those applying individually would have to pay the full .9% rather than receiving the County’s contribution.

**Commissioner McFall** pointed out that the State passed the legislation without establishing rules for it, making implementation unrealistic.

**Clerk & Recorder Grantham** referred to park passes.

**Commissioner Bell** agreed that the County likes to know what’s happening before opting-in to anything.

**Commissioner Grantham** moved to approve Resolution #24 Declining Participation in the “FAMLI” Program and Providing for Notification to the State of Colorado of Such Declination of Participation. Commissioner McFall seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner McFall, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

5. CUP 07-003 Parkdale Quarry. Request of Martin Marietta for an increase in in the number of daily truck trips by 40 (20 trucks) for 90 days, beginning July 1, 2022.



**Phillip Courtney** is a Land Manager for Martin Marietta and explained that the current infrastructure doesn't allow transportation of certain materials by rail, so they are requesting the frequency of transportation by trucks to increase during this construction project.

**Commissioner Bell** asked Mr. Courtney to describe the project.

**Mr. Courtney** said they are constructing the Federal Rail Test Facility for testing rail cars and rail equipment. He added that Park Dale Quarry is the only quarry in Colorado that has met Federal requirements.

**Director Simpleman** reported that there are no concerns with the request and noted that they are requesting a minimal increase. He also imparted that the bridge has been rebuilt.

**Commissioner Bell** number of daily truck trips by 40 (20 trucks) for 90 days, beginning July 1, 2022

**Commissioner Grantham** asked where else meets the Federal requirements.

**Mr. Courtney** replied that Cheyenne, Wyoming is the nearest.

**Commissioner McFall** said they would still have to truck it in.

**Mr. Courtney** confirmed that it is coming by truck.

**Commissioner Grantham** moved to approve the Request of Martin Marietta for an increase in in the number of daily truck trips by 40 (20 trucks) for 90 days, beginning July 1, 2022 for CUP 07-003 Parkdale Quarry. Commissioner McFall seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner McFall, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

6. Contract with Greener Pastures Meat and Processing, LLC for the sale of Lots 35, 36, 37, Airport Industrial Park, Filing I.

**County Manager Bryant** said they received an offer to purchase the lots and there is now a contract in place.

**Commissioner Bell** clarified that the total purchase price is \$155,000.

**Commissioner McFall** pointed out this contract includes contingencies for future SRUs and a zoning change.

**Commissioner Grantham** explained that if they don't meet the contingencies, it would nullify the contract. He added that the contract is with Greener Pastures Meat and Processing.

**Commissioner McFall** moved to approve a contract with Greener Pastures Meat and Processing, LLC for the sale of Lots 35, 36, 37, Airport Industrial Park, Filing I. Upon Vote: Commissioner McFall, aye; Commissioner Grantham, aye; Commissioner Bell, aye. The motion carried by unanimous consent.

### PUBLIC HEARINGS

1. None.

**Commissioner Bell** adjourned the meeting at 10:18 a.m.

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Clerk to the Board of County Commissioners



RESOLUTION NO. 23, SERIES OF 2022

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, COLORADO, SUSPENDING USE TAX COLLECTIONS ON CONSTRUCTION AND BUILDING MATERIALS PURCHASED AT RETAIL

**WHEREAS**, Fremont County, Colorado (the "County") is authorized pursuant to part 1 of Article 2 of Title 29, Colorado Revised Statutes, as amended ("CRS") to levy a county use tax on the privilege of storing, using or consuming in the County any construction and building materials purchased at retail or for the privilege of storing, using or consuming in the County any motor and other vehicles purchased at retail on which registration is required upon the approval of the registered electors of the County voting on such proposal, which shall be effective throughout the incorporated and unincorporated portions of the County; and

**WHEREAS**, in November of 1982, the voters of Fremont County approved a ballot measure imposing a use tax to be paid and collected upon the privilege of storing, using, or consuming within Fremont County any construction and building materials, and any motor and other vehicles on which registration is required, purchased at retail, and subject to certain exceptions and exemptions; and

**WHEREAS**, the rate paid for the use tax in Fremont County is presently 2-1/2%; and

**WHEREAS**, §29-2-109, C.R.S. provides that a credit shall be granted against the use tax imposed in the amount equal to any sales or use tax paid in another local jurisdiction; and

**WHEREAS**, §29-2-105, C.R.S. provides that no sales tax of any other local jurisdiction shall apply to the sale of construction and building materials, if the purchaser presents to the retailer a building permit or other documentation acceptable to such local government evidencing that local use tax has been paid or is required to be paid; and

**WHEREAS**, it has come to the attention of the Board that the Exemption Certificate for use tax collected by the Fremont County Building Department is generally honored by Fremont County merchants, but not by other local taxing jurisdictions as required by Colorado law, which results in taxpayers receiving no credit for use tax paid at the time of issuance of the building permit in Fremont County; and

**WHEREAS**, the Board has determined that collection of estimated use tax at the time of issuance of a Fremont County building permit can result in inequitable double taxation, particularly for those persons purchasing building and construction materials in a local jurisdiction other than Fremont County; and

**WHEREAS**, persons purchasing building and construction materials in Fremont County will be required to pay the Fremont County sales tax at the time of purchase of the materials, resulting in more accurate payment and collection of accurate tax amounts owed; and

**WHEREAS**, beginning December 1, 2018, the Colorado Department of Revenue began requiring all businesses who sell goods to customers in Colorado to assess sales tax based on the customer's address, not the location of the business resulting in the collection of sales tax on

building and construction materials purchased either online or in another jurisdiction and delivered to Fremont County; and

WHEREAS, the Board of County Commissioners has determined that suspending collection of the Fremont County Use Tax imposed on construction and building materials would result in minimal loss of revenue to the County, eliminate potential double taxation on persons purchasing such materials at retail, and better serve the citizens of Fremont County.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. As of the date of adoption of this Resolution, Fremont County by and through its Board of County Commissioners hereby suspends the collection of the 2-1/2% Fremont County Use Tax imposed on the privilege of storing, using or consuming in the County any construction and building materials purchased at retail.
2. Upon the approval of this Resolution, the Fremont County Building Department shall cease advance collection of Fremont County Use Tax and shall cease issuance of Exemption Certificates evidencing the payment of Fremont County Use Tax, presently provided to building permit applicants at the time of issuance of the building permit.
3. This Resolution shall not be interpreted to suspend or stop the collection of Fremont County Use Tax for the privilege of storing, using or consuming in the County any motor and other vehicles purchased at retail on which registration is required. Fremont County Use Tax shall continue to be imposed and collected with respect to motor and other vehicles.
4. The suspension of Fremont County Use Tax, as set forth in this Resolution, shall continue until repealed, revoked or modified in writing by the Board of County Commissioners of Fremont County, Colorado.

Commissioner McFall moved adoption of the foregoing Resolution, seconded by Commissioner Grantham and approved by roll call vote as follows:

Debbie Bell	<u>Aye</u>	Nay	Absent	Abstain
Kevin J. Grantham	<u>Aye</u>	Nay	Absent	Abstain
Dwayne McFall	<u>Aye</u>	Nay	Absent	Abstain

ADOPTED AND EFFECTIVE THIS 28<sup>th</sup> DAY OF June, 2022.

BOARD OF COUNTY COMMISSIONERS  
FOR FREMONT COUNTY

ATTEST:

By: Debbie Bell  
Chairman

By: [Signature]  
Clerk to the Board

RESOLUTION NO. 24, SERIES OF 2022

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, COLORADO, DECLINING PARTICIPATION IN THE “FAMLI” PROGRAM AND PROVIDING FOR NOTIFICATION TO THE STATE OF COLORADO OF SUCH DECLINATION OF PARTICIPATION**

**WHEREAS**, the Board of County Commissioners has the authority under Colorado law, including, but not limited to C.R.S. 30-11-103 and 107 to make decisions regarding the County budget, personnel benefits, and employment policies in the unincorporated areas of the County; and

**WHEREAS**, the Colorado General Assembly enacted legislation known as the Paid Family and Medical Leave Insurance Act (FAMLI) in 2021 C.R.S. 8-13.3-501, et seq., the provisions of which will become operative in 2023; and

**WHEREAS**, the Board has reviewed and considered the advantages and disadvantages of participation in FAMLI, and the current benefits provided by the County to its employees; and

**WHEREAS**, the Board has concluded that current benefits provided are inclusive of benefits under FAMLI; and

**WHEREAS**, upon the Board’s consent, an employee of a local government that has declined participation in the program pursuant to statute may elect coverage and individual participation; and

**WHEREAS**, a local government may decline participation by formally notifying the division of family and medical leave insurance in writing and providing the date of the vote and the local government’s decision to decline participation in the FAMLI program.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. As of the date of adoption of this Resolution, Fremont County by and through its Board of County Commissioners provides written notice that it is declining participation in the Paid Family and Medical Leave Insurance Program (FAMLI) by sending a copy of this Resolution to the division of family and medical leave insurance.
2. For purposes of compliance with the regulations promulgated concerning local government participation with FAMLI found at 7 CCR 1107-2, and in particular, Section 7 CCR 1107 2.5.A, the date of the vote of the Board of County Commissioners to decline participation in the date below identified as “Adopted and Effective”.
3. The Board specifically also declines to provide County employees with the option or election to participate in FAMLI as individuals.

4. The County will renew this declination not later than eight years from the adopted and effective date, or may elect coverage in the future as provided by statute and regulation.

Commissioner Grantham moved adoption of the foregoing Resolution, seconded by Commissioner McFall and approved by roll call vote as follows:

Debbie Bell	<u>Aye</u>	Nay	Absent	Abstain
Kevin J. Grantham	<u>Aye</u>	Nay	Absent	Abstain
Dwayne McFall	<u>Aye</u>	Nay	Absent	Abstain

ADOPTED AND EFFECTIVE THIS 28<sup>th</sup> DAY OF June, 2022.

BOARD OF COUNTY COMMISSIONERS  
FOR FREMONT COUNTY

ATTEST:

By: Debbie Bell  
Chairman

By: [Signature]  
Clerk to the Board

