

## EIGHTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on September 25, 2018, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Chairman Tim Payne called the meeting to order at 9:30 a.m.

Tim Payne	Commissioner	Present
Dwayne McFall	Commissioner	Present
Debbie Bell	Commissioner	Present
Dotty Gardunio, Chief Deputy for Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present
Sunny Bryant	County Manager	Present
Matt Koch	Planning & Zoning Director	Present

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

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 with the removal of New Business item six. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Payne, aye. The motion carried.

### CONSENT AGENDA

1. Approval of Minutes / September 11, 2018
2. Approval of Bills for \$1,210,247.52
3. Schedule Public Hearing: None.

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

### ADMINISTRATIVE/INFORMATIONAL

1. Staff / Elected Officials:
  - a. County Clerk's Monthly Report

**Chief Deputy Gardunio** said that she did not have a report. She indicated that it has been frustrating with the new DRIVES system. DRIVES is still working on formulating reports that break out fees correctly.

**Commissioner Bell** wanted to clarify that this is not just a Fremont County issue. It is a problem that has affected the whole state of Colorado.

**Commissioner McFall** added that the wait in Motor Vehicle is tied to the conversion of the state's new system for vehicle registration. Commissioner McFall said that it isn't the staff's fault that the system is making the process slow. He commended the employees for working through this difficult transition.

**Chief Deputy Gardunio** added that the transition has not been a smooth one for any of the counties. She also said that to her knowledge none of the counties in Colorado have been able to balance. Chief Deputy Gardunio was told by the Fremont County Treasurer that our Motor Vehicle Department has at least been able to give them a daily report that

shows the checks, cash and credit card transactions. She was told that other counties have not even been able to do that so we are ahead of the game, so to speak.

b. County Manager Report, Sunny Bryant, County Manager

**County Manager Bryant** said that Wednesday, September 19<sup>th</sup>, was the bid opening for the Hayden Pass Flood Recovery Design Services. There is an item on the agenda for a recommendation for that project. On Thursday, September 20<sup>th</sup>, the commissioners, the county attorney and herself, took a tour of two of the Martin Marietta quarry sites. She said that it was nice to get out and see some of the things that have been the topic of conversations. Also on September 20<sup>th</sup>, she had a discussion with our representative from the EPA. That project is moving along. Those are the Brownfields assessment projects around the county. The contract with the EPA will be available sometime next week. She said that the contract will be given to the attorney for review. County Manager Bryant indicated that those assessments will hopefully start in the month of October. She also stated that it is a three-year contract. County Manager Bryant went on to say that the 2019 budget is coming together. She said she has received the requests from all departments and is compiling all the information. She said she has started meeting with commissioners, so that process is underway. She reported that the roof project is finished and the notice of final payment should be closed out over the next couple of weeks.

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

**County Manager Bryant** reported that the retail sales tax collections for the month of July are up and year to date those numbers are up as well. She said that the construction use tax is also up from last year, but year to date we are slightly down. County Manager Bryant said that the lodging tax is not a quarterly remittance but year to date we are still up. She reported that the Sheriff's 1% tax came in up from last year and year to date we are up as well. And lastly she said that the construction use tax came in slightly down from where we were this time last year.

**Commissioner McFall** reported that the electronics recycling event held by the Council of Governments was impressive. The rates were subsidized by Fremont County to help people recycle items that cannot go into the land fill at a significantly lower price. Commissioner McFall also wanted to remind people that the arena at Pathfinder Park is available for open riding on Tuesdays.

**Commissioner Bell** wanted to urge voters to be informed on the ballot issues in the November election. She spent Friday in Pueblo with Action 22 listening to pro and con arguments and working on a stand they will take as an organization on these ballot issues. She and Commissioner Payne will be traveling next Friday to Denver for the CCI hearings on the same ballot issues.

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

**George Storey** has some good news for all of us. He said as of September 12, 2018, America is the largest crude oil producer in the world. He feels that Russia and Saudi Arabia have been dethroned. He hopes we can eventually say good-bye to OPEC.

**Grant Bellm** was wondering if there were any updates on the smell in Lincoln Park.

**Commissioner Payne** said that the county is working with CDPHE and he is emailing them daily. Commissioner Payne said that at this time the ball is in their court.

**Grant Bellm** asked that the county consider paving South Birch.

**OLD BUSINESS**

None

## **NEW BUSINESS**

1. Designation of county representative and alternate to the General Governance Board for the Combined Regional Communications Authority and representative and alternate to the CRCA Technical Advisory Committee

**Commissioner Payne** said that in the past we had appointed Sheriff Beicker and Under-Sheriff Martin (at the time). He explained that instead of appointing the person holding the office that the office itself would be designated and whomever holds that office will be the representative.

**Commissioner Bell** said that this makes it easier to simply designate Sheriff and Under-Sheriff without including a last name.

**Commissioner Bell** moved to designate the county representative to the General Governance Board for the Combined Regional Communications Authority as well as the representative to the Technical Advisory Committee as the Fremont County Sheriff as well as designate the Under Sheriff as the alternate to the General Governance and alternate to the CRCA Technical Advisory Committee. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Payne, aye. The motion carried.

2. Appoint a new member to the Fremont County Airport Advisory Board for a three-year term ending October 1, 2021

**Commissioner Payne** said that one letter was received from Dan Meeks for consideration.

**Commissioner McFall** said that there was another opening on the Fremont County Airport Advisory Board.

**Commissioner McFall** moved to appoint the new member, Mr. Dan Meeks, to the Fremont County Airport Advisory Board for a three-year term ending October 1, 2021 starting October 1, 2018. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

3. Hotel & Restaurant Liquor License Renewal  
Deadline Waiver/Late Fee Waiver  
Penrose Family Enterprises  
DBA Broadway's Bar & Grill  
103 Broadway Ste 11 & 12, Penrose, CO 81240

**Chief Deputy Gardunio** asked the Board to approve the waiver for the late fee.

**Commissioner McFall** indicated that the reason for the late filing was a death in the family.

**Commissioner Bell** moved to approve the deadline waiver as well as a waiver for the late fee. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Payne, aye. The motion carried.

4. Liquor Store Renewal  
Deadline Waiver/Late Fee Waiver  
TZ Liquor LLC  
105 Forge Rd, Canon City, CO 81212

**Commissioner McFall** moved to approve the late deadline waiver but deny the late fee waiver. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried

5. Award bid for Hayden Pass Flood Recovery Design Services, NRCS EWP Project

**Commissioner McFall** said that the bid deadline was September 19, 2018. Commissioner McFall said that two bids were received. He indicated that both companies were very qualified to do the project. After the proposals were reviewed, it was recommended by the review group to award the bid OTEC.

**Commissioner McFall** moved to award the bid for design services to OTEC not to exceed \$258,956.00. This is contingent on an updated contract with NRCS. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

6. Presentation of the 2017 Audit Report  
Representative: John Cutler, Cutler & Associates

This item was removed from the agenda.

### **Public Hearings Scheduled for 10:00 a.m.**

1. TUP 18-005 Skyline Mennonite Benefit Auction  
Request approval of a Temporary Use Permit, Department file #TUP 18-005 Skyline Mennonite Benefit Auction, to allow an auction benefiting children locally and globally. The auction will take place on October 6, 2018 at 155 Shoop Drive, in the Airport Industrial Park on the Innovative Structures lot. This is the first submittal of this request for the TUP.  
Representative: Loren Miller

**Loren Miller** said that he had spent four years in Thailand and became very aware of the human trafficking problem that happens. Mr. Miller said that 5,000-7,000 children are trafficked from Thailand to America every year. Their Mission is called SAFE (Serving Asian Families Endangered). They want to hold a benefit auction on Saturday, October 6, 2018. They have over 300 new and used items to auction off that have been donated by various businesses, the response has been great.

**Planning and Zoning Director Koch** said that their application is complete and everything has been reviewed as required.

**Chairman Payne** opened the Public Hearing. There were no public comments, so Chairman Payne closed the Public Hearing.

**Commissioner Bell** said that she hopes things go well and that this is a very good cause not only locally, but globally.

**Commissioner McFall** said he appreciated all the work they have put in to this event and program.

**Commissioner Bell** moved to approve TUP 18-005. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Payne, aye. The motion carried.

2. ZC 18-001 – Marilyn & 9th Zone Change Request  
Request approval of a Zone Change, Department file #ZC 18-001 Marilyn & 9th by Vaquero Penrose Partners, LP, for the property which is located at the northwest corner of the intersection of Marilyn Drive and 9<sup>th</sup> Street in Penrose. The property is currently a portion of the Dollar General lot and is under review for a lot Line Adjustment combining the portion being rezoned to an existing lot being owned by Russell & Alice Sanders, at 509 9<sup>th</sup> Street.  
Representative: Kyle Barrett

**Griffin Bryant**, the developer, said he was here in place of Kyle Barrett who is their attorney representing them.

**Planning and Zoning Director Koch** said that this is a zone change as they are trying to get rid of remaining property behind Dollar General. They have an agreement with the neighbors behind them to sign over the property. Currently, the land is zoned as business and needs to be changed to agricultural rural to match the land that it will be joined to. They will do a lot line adjustment, which has already been submitted. He said that the application is complete and all postings and publications were done.

**Commissioner Bell** asked if this was simply a zone change from business to agricultural rural and Director Koch answered, yes. Commissioner McFall asked if this had anything to do with the lot line adjustment and Director Koch said, no, that is approved administratively.

**Chairman Payne** opened the Public Hearing.

**William McGuire** said that this adjustment will affective 8 feet of fencing on his property. He wants to know if the fencing will be moved or replaced. He feels that Dollar General should put fencing along the whole side of that property. That is how the property was when he purchased it. He said that utility trucks, etc. will need to be able to access property through this piece of land.

**Commissioner Bell** wanted to clarify which border of his land this new survey was affecting. Mr. McGuire said it is the west border.

**Ione McGuire** said that it is important that the fence is in place because of the leach field on their property. She said that it cannot be driven over or it will crush all of the equipment underground. She said if there is a fence in existence, then they should have to keep the fence in place.

**Planning and Zoning Director Koch** said that Dollar General does have a 15 foot stem on this property and maybe put the fence up on private property, off of their property, creating some of these issues. He said that there is an encroachment easement on this stem to acknowledge that the garage is over the lot line. He also said there is another easement for the issue of utilities and that there is legal access for the purposes of utility trucks, etc.

**Commissioner Bell** asked Director Koch for clarification that the fence issue should have been brought up during the lot line adjustment and not for a zone change. Director Koch said, not necessarily, the matter of the fence would be more of an issue for the courts and not for the county to decide. Ione McGuire said that they shouldn't have to pay to go to court when Dollar General is a huge corporation they are just regular people. Koch explained that would be a discussion between the two of them, but the county doesn't have anything to do with it.

**Mr. Bryant** said that he would be happy to try and facilitate something for the McGuire's regarding the fencing issue and come to some kind of a solution.

**Commissioner Payne** wanted to know if there was a building on the far west side of the property. Koch said yes, it is a movable carport.

**Ione McGuire** said that there is a gas line that will need to be moved that runs along the line of the property and that is how they fuel their home.

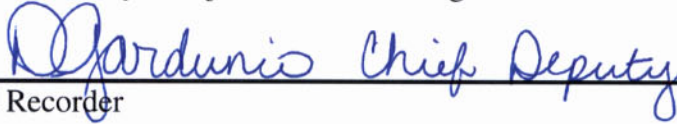
**Commissioner McFall** said that he understands the McGuire's concerns but this matter doesn't have anything to do with the zone change. It is a matter for something else, but this is simply to change the zoning of the land.

**Commissioner Bell** said that she urges the McGuire's to talk with Mr. Bryant as he stated he would do what he could to help with the fencing issues.

**Chairman Payne** closed the Public Hearing.

**Commissioner McFall** moved to approve resolution #34. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Payne, aye. The motion carried.

**Chairman Tim Payne** adjourned the meeting at 10:26 a.m.

  
Clerk and Recorder

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**RESOLUTION NO. 34, SERIES OF 2018**

**RESOLUTION ZONE CHANGE  
DEPARTMENT OF PLANNING AND ZONING  
FILE #18-001 MARILYN & 9TH**

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

THAT WHEREAS, Vaquero Ventures, (hereafter "applicant") has made application for an amendment of the zoning map of Fremont County to change from the BUSINESS ZONE DISTRICT TO THE AGRICULTURAL RURAL ZONE DISTRICT for certain described real property owned by Vaquero Ventures;

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its September 4, 2018 regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, and location of the public hearing, 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 the appropriate reviewing agencies.

WHEREAS, a notice containing the specific request, proposed use, date, time, and location of the public hearing, 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 September 25, 2018 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

NOW THEREFORE, BE IT RESOLVED by the Board that:

The Board did make the following findings with respect to the application for Zone Change as follows:

- 1. A statement of justification for the rezoning, including at least one (1) of the following conditions
  - a. The property was not properly zoned when existing zoning was imposed.
  - b. Additional land is needed in the proposed zone district.
  - c. There has been a material change in the neighborhood which justifies the requested zone change.
  - d. The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

NOW THEREFORE, BE IT RESOLVED that the above and foregoing application and request for change be and is hereby approved; that the zoning classification of the hereinafter described real property is changed from BUSINESS ZONE DISTRICT TO THE AGRICULTURAL RURAL ZONE DISTRICT and that the zoning map of Fremont County be and is hereby amended to show and record such change of classification and that the legal description of the real property so affected is described as follows:

To Be Known As Lot 4 Marilyn & 9<sup>th</sup> Lot Line Adjustment.

The Real Property is commonly known as Vacant Land Southwest Corner of 9<sup>th</sup> St. and Marilyn Dr., Penrose, CO 81240.

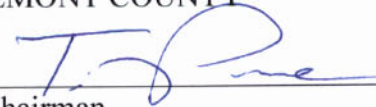
Commissioner McFall moved adoption of the foregoing Resolution, seconded by Commissioner Bell and approved by roll call vote as follows:

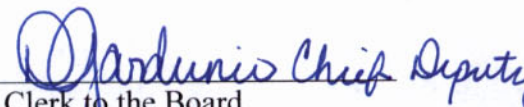
Commissioner Bell:  Aye / Nay / Abstain / Absent  
 Commissioner McFall:  Aye / Nay / Abstain / Absent  
 Commissioner Payne:  Aye / Nay / Abstain / Absent

Date: 9/25/18

BOARD OF COUNTY COMMISSIONERS  
OF FREMONT COUNTY

ATTEST:

By:   
Chairman

By:   
Clerk to the Board