

TENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on May 23, 2023, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Chair Kevin Grantham called the meeting to order at 9:30 a.m.

Kevin Grantham	Commissioner	Present
Dwayne McFall	Commissioner	Present
Debbie Bell	Commissioner	Present
Talia Smith	Assistant Clerk to the Board	Present
Brenda Jackson	County Attorney	Present
Tony Carochi	County Manager	Present
Danielle Adamic	Planning & Zoning Coordinator	Present

INVOCATION

Loren Kolman, Free Church

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

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

CONSENT AGENDA

1. Approval of Minutes / April 25, 2023, May 9, 2023
2. Approval of Bills for \$ 1,587,771.54
3. Schedule Public Hearings:
 - a. Public Hearing scheduled for June 13, 2023
ZC 23-001 YODER STORAGE SHEDS
Requesting approval for a Zone Change #2 with Final Development Plan that will change the zoning from Agricultural Rural to Industrial.
Lot size: 4.51 acres. The subject property is located in the Agricultural Rural Zone District, on K Street & Highway 50, Penrose, CO.
Consultant: Matt Koch- Cornerstone Land Surveying
 - b. Public Hearing scheduled for August 8, 2023
PP 22-001 MISTRY SUBDIVISION FILING 2
Preliminary Plan approval to subdivide 33.65 acres into 7 single family residential lots; Vacate the 25-foot road easement dedicated to Fremont County for Roadway; and Waiver from Subdivision Design Standards-Appendix 1 (B) Lot Standards (4) Front on Public Street, to exempt Lots 3 and 4 from the requirement to front on public street.
Waiver of development of Margarita Way to County standards.
Site address is located at 1245 3rd Street Penrose, CO 81240
Consultant: Dr. Angela Bellantoni

Commissioner Bell moved to approve the consent agenda. 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 5/23/2023 – 3:43

1. Staff / Elected Officials:

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

Budget & Finance Officer Shawn Sutton gave the Sales & Use Tax Report which can be found at www.fremontco.com, not including the Auto-use Sales Tax Collection Report for April.

Commissioner Bell agreed with a comment by Budget & Finance Officer Sutton that the sales tax collections will increase in the coming months.

Commissioner Grantham clarified that the Budgeted Revenue amount on the Sales & Use Tax Report is based on the 12-month average of county revenue.

- b. County Manager Report, Tony Carochi, County Manager

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

Commissioner McFall wished everyone a safe Memorial Day weekend and spoke about the new Pathfinder Park building, which is undergoing construction.

Commissioner Bell reminded the public that the Board always works to advocate for those they represent. She briefed those attending on topics discussed at the recent National Association of Counties Western Interstate Region Conference that her and Commissioner McFall attended. Commissioner Bell specifically mentioned sessions regarding US Border Patrol and public land management as presented by the American Lands Council. She added that the following week would see the Board at the CCI (Colorado Counties Incorporated) Summer Conference in Eagle County, CO.

Commissioner Grantham thanked the public for their patience while appealing their property tax assessments, given the results from Senate Bill 303.

2. Citizens who wish to address the Commissioners on a matter not scheduled on the agenda.
 - a. Tim Jordan – Pathfinder Park/District Attorney Budget

Tim Jordan approached the Board to inquire about whether anyone has questioned the Board about their agreement to allocate \$108,000 per month to the District Attorney (DA) Office Budget.

The Board said nobody has questioned the DA budget.

Mr. Jordan asked whether there was any increase in the DA's budget for 2023.

Commissioner McFall replied that there was not an increase, as Fremont County did not receive the necessary financials to make a determination. He added that the four counties in the 11th Judicial District agreed to not increase the DA budget.

Commissioner Bell clarified that while County Administration was down during the Cyber Attack, the Board was unable to meet with or hear back from the DA during the normal budget timeframe. The 2023 Budget was finalized before the DA made a formal budget request to the four counties in the 11th Judicial District.

Mr. Jordan referred to an email conversation between Commissioner McFall and the DA.

Commissioner McFall agreed that during a meeting in February they requested the financials from the DA again and still haven't received them.

Mr. Jordan asked when the preliminary budget is due to be given to all four counties.

Commissioner McFall said it was in July or August during 2023 review.

Commissioner Grantham further explained that with the lack of response during the 2022 cyberattack and after the County was back up, the Board went with a 0% increase. The purpose of the February meeting, prompted by the Fremont BoCC, was to give the DA an opportunity to present a case for her request, which she failed to do. That is why the County is funding her office according to the 2022 budget.

Mr. Jordan moved on to the other subject matter regarding a water tap at Pathfinder Park. He asked whether the County can get their water taps before they start developing.

Commissioner Grantham said it was possible.

Mr. Jordan asked whether the County will be asking for an inside-city limits or outside-city limits rate.

Attorney Jackson said it will be an out-of-city tap.

Mr. Jordan explained that he would like to see the process of deciding rates done before anything else. He also mentioned a comment made at the last Florence City Council Meeting about the County owing the City water shares.

Commissioner Grantham explained that the County got a tap for the Pathfinder Event Center and owed a fee plus a certain amount of water shares per the tap-size. He explained that the construction company paid for the water tap and the water shares weren't transferred. When City Manager Tom Piltingsrud found the mistake and notified former County Manager Sunny Bryant, she immediately took care of it. He brought up his concern that the Florence Mayor would relay the situation in a way that would make it appear as if the County intended not to satisfy the debt.

Mr. Jordan said he had assumed it was lost in the translation with people coming and going from different positions within the City government.

Commissioner Grantham said many things were left undone.

Mr. Jordan asked what the agreement for water payment is to the City of Florence.

Commissioner Grantham says the County keeps track of the water from the hydrant at Pathfinder Park used by the county Department of Transportation, and that the agreement is a payment of other services in lieu of funds. The written agreement is unresolved by the City of Florence since October 2022.

Mr. Jordan asked whether it's a written or verbal agreement.

Commissioner Bell said it's been a handshake agreement in the past but hasn't been an issue until recently. He added that the written agreement has been on the City Manager's desk since October of 2022.

Mr. Jordan asked whether the agreement is public.

Attorney Jackson said it is and offered to send it to Mr. Jordan.

Mr. Jordan advised the Board to get all agreements with City of Florence in writing.

b. Kathy Madonna – DA Budget/Meade Annexation

Kathy Madonna agreed that future agreements with Florence need to be in writing. She added that the new City Manager seems beneficent.

Commissioner Grantham agreed with Ms. Madonna about Florence's new City Manager.

Ms. Madonna brought up her concern about a contractor looking to develop an RV park in Florence who said they will go to the county if the City of Florence refuses to annex and rezone the land as they desire.

Commissioner Bell told Ms. Madonna that there will be a public hearing if they do decide to apply with the county.

Commissioner McFall added that if a public hearing happens, all neighbors within 500 feet of the property will be notified by mail.

Director Victoria put in that his office received concerns about the visibility of the hearing poster and that if it comes to the county his office will be sure to make the poster visible from the road.

Ms. Madonna said she spoke with the City Manager about the value of transparency. She then talked about the DA and about the victims who are being affected by the DA's actions. She told the Board to do whatever they can to get the DA out and that the people in Fremont County need better protection and better results.

Commissioner McFall agreed with Ms. Madonna and pointed out that since the DA represents all four counties, her actions are affecting them as well. He added that he has reached out to the Attorney General, but she has so far done nothing illegal.

Ms. Madonna brought up an incident that is being investigated regarding a former Florence City councilmember.

OLD BUSINESS

Ref. Fremont County BOCC Meeting 5/23/2023 – 39:52

1. Resolution No. 16 Establishing Commissioner Districts for Fremont County

Commissioner Grantham explained the purpose of adjusting the Commissioner District boundaries.

Commissioner McFall added that each district is very close in population size.

Commissioner Grantham thanked Clerk & Recorder Justin Grantham and GIS Manager Keith Berry for their efforts while keeping the County in compliance.

Commissioner Grantham moved to approve Resolution No. 16 Establishing Commissioner Districts for Fremont County. Commissioner Bell seconded the motion. Upon Vote: Commissioner Grantham, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried by unanimous consent.

NEW BUSINESS

Ref. Fremont County BOCC Meeting 5/23/2023 – 42:37

1. Royal Gorge Chamber Alliance is requesting the issuance of a Malt, Vinous, and Spirituous Special Events Permit for an event at Royal Gorge RV Resort 43595 W US Hwy 50 Cañon City, CO 81212 on June 8th, 2023, from 4:00 p.m. to 8:00 p.m.
Representative: Emmy Dennehy

Emmy Dennehy told the Board that the Chamber Alliance is applying for a special events permit to serve alcohol at a Business After Hours event meant to showcase recent improvements at Royal Gorge RV Resort and Boudreaux's BBQ, a new local restaurant that will be catering the event.

Commissioner Bell asked Ms. Dennehy about what staff training will be in place to ensure nobody underage will be served.

Ms. Dennehy explained that most of the ambassadors, including herself, have participated in trainings. She also pointed out that the event will host a relatively small and easily controllable crowd.

Commissioner Bell asked whether they will have a system to track people's ages.

Ms. Dennehy said those of age will get two drink tickets and that they don't generally ID since those attending often frequent the Business After Hours events but added that they will establish a more regimented system if necessary.

Commissioner Bell said they can continue checking IDs when considered necessary.

Commissioner Grantham asked about the notation on the map of premises that reads "Alcohol Service only within the fenced area."

Ms. Dennehy told the Board that they will rope and fence off the premises if permanent fencing isn't up yet.

Commissioner Grantham asked if both alcohol service and consumption will occur within the defined area.

Ms. Dennehy agreed that it will.

Assistant Clerk to the BoCC, Talia Smith gave the staff report.

Commissioner Grantham invited those in the public to speak on the matter.

Commissioner McFall moved to approve the issuance of a Malt, Vinous, and Spirituous Special Events Permit for Royal Gorge Chamber Alliance for an event at Royal Gorge RV Resort 43595 W US Hwy 50 Cañon City, CO 81212 on June 8th, 2023, from 4:00 p.m. to 8:00 p.m. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

2. **MS 23-002 J & S HALL MINOR SUBDIVISION**

Requesting approval for minor subdivision that will create a total of 2 lots.

Lot 1: 4.77 acres 207,851.43 square feet

Lot 2: 4.77 acres 207,790.00 square feet

The subject property is located in the Agricultural Rural Zone District, located at 569 E Street, Penrose, CO

Consultant: George Hall-Crown Point Land Services

George Hall briefed the Board on the subdivision and mentioned that the Planning Commission approved the requested waivers.

Commissioner Bell clarified that the Planning Commission did not approve the waivers but recommended their approvals.

P&Z Director Victoria gave the staff report, which included requests for a waiver of the drainage plan, the wastewater treatment system report and a detailed Utility Plan. He reported that the Fremont County Engineer does not recommend deferring the drainage plan until time of development.

Commissioner Bell asked for clarification regarding FCDOT's recommendation to require driveway access at time of *building* versus Planning & Zoning's recommendation to defer until time of *development*.

P&Z Director Victoria clarified that in this context, they are recommending the same action.

Mr. Hall said his report notes that the drainage plan and report are due at the time of building.

Commissioner McFall said it was the recommendation of the Planning Commission. He also pointed out that the Board has familiarized themselves with the packet before them to make an assessment.

Commissioner Grantham explained that at this time the Board is not inclined to approve drainage plan waivers.

Mr. Hall pointed out that the Board has consistently granted similar waivers in the past and dubbed it an informal modification of the regulation and the costs that would accompany enforcement of the regulation.

Commissioner Bell agreed with Mr. Hall on the importance of building affordability and explained that because of that, the Board is doing a study on the code, with input from citizens and subject experts. She also pointed out that no matter what, a party has to pay the cost of the drainage plan, whether it's upfront or at time of building.

Mr. Hall expressed concern regarding the accuracy of a drainage plan carried out at this stage of the project.

Commissioner Bell explained that it often hasn't been caught at time of development and this way the Board can ensure it gets done.

Mr. Hall said the statement is supposed to get put on plat and it isn't their fault if it's missed at time of development.

Commissioner McFall agreed that it's nobody's fault if a note gets overlooked. He also agreed that the drainage plan may change at time of building depending on what is being built.

Commissioner Grantham recognized the need to get regulations built in to account for situation like these and clarified that though the Board has been granting waivers, the regulation doesn't go away.

Mr. Hall explained that doing the drainage plan on the front-end changes the costs all the way through the process and affects his prices.

Commissioner Bell put in that the Board understands the issues and is working to resolve them.

Commissioner Bell moved to approve MS 23-002 J & S Hall Minor Subdivision, including the following: a contingency of the drainage plan prior to recording, driveway access at time of development, and a waiver of the TS Report and Detail Utility Report. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

3. Resolution No. 17 Supporting El Paso County lawsuit against CDLE regarding Collective Bargaining

Commissioner Grantham explained that this resolution is in response to Senate Bill 230 regarding collective bargaining. He then read Resolution #17 and continued to explain El Paso County's lawsuit and the extraordinary burden that collective bargaining will have on smaller counties.

Commissioner McFall added that there is an unknown amount in taxpayer funds tied to the bill that would normally go to services but will instead fund union battles.

Commissioner Grantham said the estimated cost for over 40 counties comes to over \$30 million, including more than a quarter of a million dollars in Fremont County alone. He mentioned the result of the bill would be fewer services, vacated positions, bad roads, and more.

Commissioner Bell pointed out that any county interested before the bill could choose to implement collective bargaining to whatever extent they preferred, but with the passing of this bill Counties are being forced to fully implement it completely.

Commissioner McFall moved to approve Resolution #17 Supporting El Paso County lawsuit against CDLE Regarding Collective Bargaining. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

4. Engagement letter with Advance Colorado regarding challenge to SB23-303

Commissioner Grantham explained that that the engagement letter with Advance Colorado is challenging SB23-303. He mentioned that citizens have to conform to single subject rule while this bill has multiple subjects in the title.

Commissioner Bell clarified that no County funds or taxpayer dollars are being expended toward this letter.

Commissioner McFall recalled the bill passed last year that decriminalized psilocybin mushrooms with almost no regulations.

Commissioner Bell moved to approve the engagement letter with Advance Colorado regarding challenge to SB23-303. Commissioner McFall seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner McFall, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

5. Re-appointment of Dan Brixey to the Board of Appeals for a term ending August 1, 2026

Commissioner McFall said Dan Brixey reapplied for his position on the Board of Appeals.

Commissioner McFall moved to approve the re-appointment of Dan Brixey to the Board of Appeals for a term ending August 1, 2026. Commissioner Bell seconded the motion. Upon Vote: Commissioner McFall, aye; Commissioner Bell, aye; Commissioner Grantham, aye. The motion carried by unanimous consent.

Commissioner Grantham adjourned the meeting at 10:52 a.m.

Clerk to the Board of County Commissioners

DRAFT