

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting January 5, 2021

As reflected in posted agenda:

The County Will Be Abiding By the Social Distancing Requirements in Public Health Order 20-28 for This Meeting. Due To Limited Space In The Assembly Room, Remote Attendance Is Encouraged. If You Have Any Questions Regarding Attending The Meeting, Please Contact Karla Powell at 970-542-3500.

To participate in the Citizen's Comment Period you must connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/82504333521> If you cannot connect via Zoom, you may submit written public comment to morgancountybcc@co.morgan.co.us by email by 4 p.m. on Monday January 4, 2021.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/82504333521> to listen via phone, please dial: 1-312-626-6799, Meeting ID: 825 0433 3521

To watch and/or listen to the meeting but not participate, you may do so by connecting via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/82504333521> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 825 0433 3521

The Board of Morgan County Commissioners met Tuesday, January 5, 2021 at 9:02 a.m. with Chairman Mark Arndt, Commissioner James Zwetzig and Commissioner Jon Becker in attendance. Chairman Arndt asked Morgan County Commissioner Jim Zwetzig to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There was no citizen comment provided.

ADOPTION OF THE AGENDA

Commissioner Becker made a motion to adopt the agenda as presented, with Commissioner Zwetzig seconding the motion. Motion carried 3-0.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated December 22, 2020
2. Ratify the Board of County Commissioners approval of Contract 2020 CNT 146, Viaero Wireless, Term of Contract December 2, 2020 through December 1, 2021
3. Ratify the Board of County Commissioners approval of Contract 2021 CNT 007, Front Range Pest Control, Term of Contract January 1, 2021 through December 31, 2021
4. Ratify the Board of County Commissioners approval of Contract 2021 CNT 008, Progressive Therapy Services, P.C., Term of Contract January 1, 2021 through December 31, 2021
5. Ratify Chairman Mark Arndt's signature on December 24, 2020 Stormwater Inspection Form, signed January 4, 2021
6. Ratify the Board of County Commissioners approval on January 1, 2021 Morgan County Salary Increases Memo dated December 31, 2021

Commissioner Becker asked that item #2 be removed from the consent agenda and allow for the matter to be voted on separately. Commissioner Zwetzig made a motion to approve items #1, #3, #4, #5 and #6 as presented, Commissioner Becker seconded the motion. At this time the motion carried 3-0.

Chairman Arndt then asked for approval of Item #2, Viaero Wireless, Term of Contract December 2, 2020 through December 1, 2021 with Commissioner Becker asking to abstain from the matter due to possible conflict. At this time, Commissioner Zwetzig moved to approve Contract 2020 CNT 146, Viaero Wireless, Term of Contract December 2, 2020 through December 1, 2021. Chairman Arndt seconded the motion and motion carried 2-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval - Morgan County Tourism Panel Appointment of Andrew Stieb, Rodeway Inn Representative

Morgan County Tourism Marketing Manager, Kristen Clifford-Basil asked the Board to consider the appointment of Andrew Stieb, Representative for the Rodeway Inn to the Morgan County Tourism Panel with the appointment to expire on December 31, 2021. Ms. Clifford-Basil stated this will replace Andrea Campa.

Commissioner Becker made a motion to approve the appointment of Andrew Stieb, Representative for the Rodeway Inn, replacing Andrea Campa to the Morgan County Tourism Panel with Commissioner Zwetzig seconding the motion and motion carried 3-0.

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Consideration of Approval – Resolution 2021 BCC 01 Chapin Dairy Two, LLC

RESOLUTION 2021 BCC 01

A RESOLUTION GRANTING CHAPIN DAIRY TWO, LLC AN AMENDMENT TO USE BY SPECIAL REVIEW PERMIT, BY AMENDING RESOLUTION 2005 BCC 63, FOR A LIVESTOCK CONFINEMENT FACILITY LOCATED IN ON A PORTION OF PROPERTY IN SW ¼, SECTION 26, TOWNSHIP 5 NORTH, RANGE 56 WEST OF THE 6TH P.M., WITH AN ADDRESS OF 28253 COUNTY ROAD Z, MORGAN COUNTY, COLORADO

WHEREAS, Chapin Dairy Two, LLC (the “Owner”) owns property located in the SW1/4, Section 26, Township 5 North, Range 56 West of the 6th P.M., with an address of 28253 County Road Z, Snyder, Colorado (the “Property”);

WHEREAS, in 2005, Morgan County approved a use by special review permit for a livestock confinement facility through Resolution 2005 BCC 63 for up to 857.5 animal units to be operated and located within a specific area on the Property (the “Permitted Area”);

WHEREAS, Riverside Milk, LLC (the “Applicant”) has applied for an amendment to the existing special use permit to increase the number of animal units to 3,500 and to construct a cross-ventilated barn (the “Application”) to be located on the Property;

WHEREAS, on October 15, 2019, after holding a duly noticed public hearing, the Morgan County Planning Commission recommended that the Application be approved with certain conditions;

WHEREAS, on November 12, 2019, the Board of County Commissioners of Morgan County, Colorado held a public hearing on the Application;

WHEREAS, notice of the public hearing before the Board of County Commissioners was properly published and the notice was properly posted at the Property;

WHEREAS, during the public hearing, the Board of County Commissioners received testimony and evidence from staff, the Applicant, the Owner and the public; and

WHEREAS, after considering all relevant testimony and evidence, the Board of County Commissioners desires to approve the Application, subject to certain conditions set forth herein.

NOW, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MORGAN COUNTY, COLORADO:

1. APPROVAL.

The Application is hereby granted, subject to the conditions set forth herein. This Resolution shall constitute the special use permit (hereinafter referred to as this “Resolution” or the “Permit”) for the Property and specifically the area shown as the Permitted Area in Exhibit T2 of the Application and attached hereto as **Exhibit A**.

2. FINDINGS OF FACT.

Subject to the Applicant meeting and complying with all conditions set forth herein, the following findings are made:

- a. The use and location are in conformance with the Morgan County Comprehensive Plan. The Property is located in the northeast planning area according to the Morgan County Comprehensive Plan. This area is recognized as being primarily irrigated farm ground. Specifically, the amendment furthers a goal of the Morgan County Comprehensive Plan for the northeast planning area by protecting an existing agriculture operation by allowing an existing dairy to grow and implement new technology to make its operation more efficient and respond to market demands.
- b. Subject to the condition below to submit an approved fire protection and mitigation plan, the application is complete and presents a clear picture of how the use is to be arranged on the site.
- c. The site conforms to the district design standards of the Morgan County Zoning Regulations. The residence on the exempt parcel adjacent to the Permitted Area was approved as a variance by the Morgan County Board of Adjustment on September 16, 2019.
- d. Subject to the conditions imposed herein, all on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures through the representations by the Applicant and Owner in the Application and the

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statement made during the hearing before the Board of County Commissioners. Any potential effect on property values, as raised through public testimony, are found to be too speculative and effected by other variables, unrelated by the livestock confinement facility on the Property, to be addressed through this Permit.

- e. The special use is compatible with surrounding uses and is adequately buffered from any incompatible uses by distance and topography. The Permitted Area, originally approved through the existing use by special review permit, is not increasing as a result of this Application and as a result, the distance between the Permitted Area and any residences within the vicinity is unchanged by this Application.
- f. Subject to the conditions imposed herein, the amendment poses only the minimum amount of risk to the public health, safety and welfare, subject to the conditions below. The specific circumstances of this amendment, namely the increased animal units and the new cross-ventilated barn, have not been demonstrated to increase the risks to the public health, safety and welfare.
- g. The amendment to the special use will not be located on a nonconforming parcel of land.
- h. The Applicant has adequately documented a public need for the project in the form of increased economic development and support for an existing agricultural operation. The Applicant has submitted all pertinent technical information, has demonstrated that it has adequate financial resources to implement the project, and has paid all County fees and review costs. The technology that will be implemented as part of the cross-ventilated barn and the barn itself will make the milking process more efficient in order to improve the Owner's operations.
- i. The Applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability. Morgan County Quality Water has approved an additional two tap equivalents for the amendment to the special use.

3. CONDITIONS.

The approval of the use by special review is conditioned upon the following:

- a. Animal units are limited to 3,500 units.
- b. This approval is conditioned on the Owner's compliance with all information and representations contained in the Application and presented by the Applicant and the Owner, which are incorporated into this Resolution. In particular, but not by way of limitation, the Owner shall follow and comply with all nuisance control measures set out in the Riverside Milk Facility Management Plan, dated August 12, 2019, and Nuisance Mitigation Plan, as prepared by Paragon Consulting Group and submitted with the Application.
- c. The Owner shall remain in compliance with all regulatory agencies having jurisdiction over the livestock confinement operation.
- d. The Owner shall not commence operations which are the subject of the Application until it has received approval from all federal and state agencies with jurisdiction over the livestock confinement operation and all required permits have been issued.
- e. Prior to commencement of operations which are the subject of the Application, the Owner shall submit a fire protection and mitigation plan, approved by the Hillrose Fire Protection District, to the County.
- f. No processed water from the livestock confinement operations shall be disposed on the Property through the use of sprinkler end guns.
- g. The Owner will shut off the irrigation pipe that flows onto the property directly to the south of the Property, across County Road Z. The owner of the property to the south gave express approval of this condition and this action by the Owner at the hearing on November 12, 2019.

4. GENERAL PROVISIONS.

- a. The Board of County Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County Representatives are authorized to inspect the Property at any reasonable time upon notice to the Owner.
- b. The Owner shall comply and ensure compliance by third parties with all requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.

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c. This Resolution shall supersede Resolution 2005 BCC 63.

DATED this 5th day of January, 2021, *nunc pro tunc* 12th day of November 2019

**THE BOARD OF COUNTY COMMISSIONERS
MORGAN COUNTY, COLORADO**

s/Mark A. Arndt
Mark A. Arndt, Chairman

s/ Jon J. Becker
Jon J. Becker, Commissioner

s/James P. Zwetzig
James P. Zwetzig, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Planning and Zoning Planning Administrator, Pam Cherry, presented to the Board Resolution 2021 BCC 01, a Resolution for Chapin Dairy Two, LLC. Ms. Cherry stated that on October 15, 2019, the Planning Commission held a public hearing on an application from Chapin Dairy Two, LLC, Foy Chapin, for an amendment to a Special Use approved as Resolution 2005 BCC 63 to expand the number of permitted animal units from 857.5 to 3,500. Planning Commission unanimously recommended approval of the application. The property is located in the SW¼ of Section 26, Township 5 North, Range 56 West of the 6th P.M. and addressed as 28253 County Road Z, Snyder, CO.

On November 12, 2019 the Board of County Commissioners considered the application in public hearings and conditionally approved the application. Resolution 2021 BCC 01 reflects the outcome of the hearing. Chairman Arndt noted the presented resolution supersedes the resolution approved in 2005, and will be signed *nunc pro tunc*, November 12, 2019.

Commissioner Zwetzig made the motion to approve Resolution 2021 BCC 01, a Resolution for Chapin Dairy Two, LLC, Chapin Dairy Two, LLC, Foy Chapin, for an amendment to a Special Use approved as Resolution 2005 BCC 63 to expand the number of permitted animal units from 857.5 to 3,500 with the property being located in the SW¼ of Section 26, Township 5 North, Range 56 West of the 6th P.M. and addressed as 28253 County Road Z, Snyder, CO as outlined by the Morgan County Planning and Zoning Planning Administrator, Pam Cherry, signing *nunc pro tunc*. Commissioner Becker seconded the motion. Chairman Arndt noted this public hearing was held in 2019 and this action is required to complete the file. At this time, the motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated January 1, 2021 through January 12, 2021 with no changes.

Commissioner Arndt provided the weekly road and bridge report ending January 1, 2021.

Morgan County Clerk Susan Bailey provided an update that business is running as usual and her office is open for business and normal and explained there are remote services being provided with the availability of the document drop box indicating its location.

At this time, a short recess was taken until the public hearing at 9:30 a.m.

PUBLIC HEARING

Chairman Arndt called the hearing to order at 9:31 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Mark Arndt, Commissioner James Zwetzig, Commissioner Jon Becker, Morgan County Planning Zoning Director Pam Cherry and County Attorney Kathryn Sellars appearing remotely.

Chairman Arndt read aloud each matter set for hearing as follows:

- 1. Consideration of Approval – 2020 BCC 41 A Resolution Amending Certain Sections Of The Morgan County Zoning Regulations Concerning Setbacks-continued from December 8, 2020**

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2. **Consideration Of Amendment To The Morgan County Zoning Regulations Concerning The Commercial And Industrial Zoning Districts**
3. **Consideration Of Amendment To The Morgan County Zoning Regulations Concerning The Non-Conforming And Permitted Single Family Dwellings**
4. **Consideration Of Amendment To The Morgan County Zoning Regulations Concerning The Permitting Processes And Submittal Requirements**

Both Ms. Cherry and Ms. Sellars stated they had nothing further to add regarding the matter. Ms. Sellars stated she understands the Board is wishing to table these four items to a later date.

After discussion regarding the reason for wanting to continue the matter, Commissioner Becker made a motion to continue items #1, #2, #3, and #4, for January 26, 2021 at 9:30 a.m. Chairman Arndt seconded the motion and discussion followed with Commissioner Zwetzig stating the reason he did not wish to second the motion was due to the fact he will not be present to take action on these items and has little faith in getting these matters acted upon given it has taken three years to move on the items. Commissioner Zwetzig stated he would like to see that these items be moved on soon explaining the reasons why. At this time, the motion carried 2-1, with Commissioner Zwetzig being the opposing vote.

Being no further business the meeting was then adjourned at 9:38 a.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board
(Minutes ratified January 12, 2021)

**THE BOARD OF COUNTY COMMISSIONERS
MORGAN COUNTY, COLORADO**

s/Mark A. Arndt
Mark A. Arndt, Chairman

s/ Jon J. Becker
Jon J. Becker, Commissioner

s/James P. Zwetzig
James P. Zwetzig, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey