

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting February 2, 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/81911762023> 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 February 1, 2021.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81911762023> to listen via phone, please dial: 1-312-626-6799, Meeting ID: 819 1176 2023

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/81911762023> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 819 1176 2023

The Board of Morgan County Commissioners met Tuesday, February 2, 2021 at 9:00 a.m. with Chairman Mark Arndt, Commissioner Jon Becker and Commissioner Gordon Westhoff in attendance. Chairman Arndt asked Darlene Carpio, Northeast Area Representative for Congressman Ken Buck to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

Chuck Miller, appeared remotely, and stated that Morgan County has adopted coordination and Yuma County is looking at adopting it as well. He stated that with Darlene Carpio, a Yuma County resident, being here today he hopes that she will share with Congressman Ken Buck the need for coordination along with the inheritance tax on property, that President Biden wants to begin enforcing, and what they will do to the citizens of Eastern Colorado. Ms. Carpio thanked Mr. Miller for bringing these matters to her attention and would be in contact with Mr. Miller for further discussion.

ADOPTION OF THE AGENDA

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

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated January 26, 2021
2. Ratify The Board Of County Commissioners Approval Of Contract 2021 CNT 021 Bear Communications dba Bearcom, Term Of Contract January 1, 2021 through December 31, 2021
3. Ratify Chairman Mark Arndt's Signature On The Storm Water Inspection Form, Inspection Date January 26, 2021
4. Ratify Chairman Mark Arndt's Signature On The EMTS Funding Program Grant Attestation signed January 27, 2021
5. Ratify Chairman Mark Arndt's Signature On The Designation Of Representative To County Health Pool signed January 27, 2021
6. Ratify The Board Of County Commissioners Approval On Morgan County Fairgrounds Fee Waiver Request For Food Bank Of The Rockies Mobile Food Bank signed January 27, 2021

Commissioner Becker made a motion to approve items 1-6 as presented, Commissioner Westhoff seconded the motion. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

There was no general business or administrative items.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Darlene Carpio, Northeast Area Representative for Congressman Ken Buck provided a Legislative Update to the Board. Commissioner Becker asked how the County can help the Congressman in Washington and get the word out that executive orders are not what should be being done. Commissioner Westhoff agrees with Commissioner Becker and is willing to help as well. Chairman Arndt agreed that the step up tax mentioned by Mr. Miller is a concern in

2 COMMISSIONERS PROCEEDINGS

our community. Mr. Miller stated that with Commissioner Becker's and Commissioner Westhoff's concerns that is why there needs to be coordination with all counties.

Commissioners reviewed the calendar dated January 29, 2021 through February 9, 2021 with changes.

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 Jon Becker, Commissioner Gordon Westhoff, Morgan County Planning and Zoning Director Pam Cherry and Morgan County Attorney Kathryn Sellars appearing remotely.

1. Walter Thomas Jones as applicant and landowner

Legal Description: A parcel located in the SW1/4SW1/4 of Section 4, Township 3North, Range 60 West of the 6th PM, Morgan County, Colorado aka 17024 Co Rd 2, Wiggins, CO 80654.

Request: Minor Subdivision Application to create 2 lots: Lot 1 consists of 10.15 acres with existing residence and Lot 2 consists of 25.33 acres with existing residence. Reference - Chapter 8, Minor Subdivision of the Morgan County Subdivision Regulations.

Ms. Cherry explained that this application was considered by the Planning Commission on December 9, 2019 and received a recommendation of approval, without conditions, on a vote of 4 in favor and one opposed, with one member of the commission recusing himself from the vote. Requests from the State Engineer's office have delayed this project from consideration by the County Commissioners. The applicant continues to work with the state to resolve the use on the well that will provide historic water use, as it has in the past, to the existing home on proposed Lot 2. There is a Quality Water tap for the newly constructed home on Lot 1.

Ms. Cherry stated that this application is for the 2-lot Jones Minor Subdivision located in the SW¹/₄ of the SW¹/₄ Section 4, Township 3 North, Range 60 West of the 6th P.M. The property is addressed as 17024 County Road 2, Wiggins, CO 80654. The property is about one mile south of County Road S and on the east side of County Road 2. There is currently one single-family home on the property with the second under construction and is in the Agriculture Production zone district.

Ms. Cherry explained Walter Thomas Jones the applicant is requesting approval of a minor subdivision to create two lots, one is 10.15 acres the second is 25.33 acres. There was a previous subdivision exemption of approximately 5 acres in this quarter section and recorded at Book 957, Page 100. Proposed Lot 1 has been issued a building permit for a new residence. Lot 2 has several existing structures on it which all meet setback requirements.

Section 8-195 of the Morgan County Subdivision Regulations requires review of the listed criteria and compliance to be determined prior to approval of the proposed subdivision.

Ms. Cherry stated that in reviewing an application for a minor subdivision the Planning Commission and the Board of County Commissioners shall apply the following criteria as listed from Section 8-195 of the Morgan County Subdivision Regulations:

- (A) Whether the application documents are complete and present a clear picture of how the subdivision is to be laid out including all infrastructure, easements, and access.
The application documents are complete:
- 1.) Northeast Colorado Health Department has issued a permit for installation of a new septic system on proposed Lot 1. There is a previously permitted onsite wastewater treatment system on Lot 2.
 - 2.) The applicant is working with the State Engineer's office on the well permit for Lot 2 that is proposed to be used at historic quantities. Proposed Lot 2 has an existing well permit #71458 that is permitted for domestic and livestock purposes.
 - 3.) Access will be from County Road 2. Road and Bridge has no objection to the continued use of the driveway that provides access to Lot 2. Road and Bridge has approved a new driveway for Lot 1.
 - 4.) Property is located in the Wiggins Fire District.
 - 5.) Soil map was provided by the Natural Resources Conservation Service.
 - 6.) Morgan County Extension Service has approved 9 animal units for Lot 1, and 20 animal units for Lot 2.
 - 7.) The mineral rights owner of record was notified of the subdivision application, no comments were received.
 - 8.) Right to Farm notice was signed and provided with the application.

COMMISSIONERS PROCEEDINGS 3

- 9.) Proposed Lot 1 has had a building permit issued for a residence. Proposed Lot 2 has a pre-existing residence, and several out buildings upon it.
- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan. The subdivision is located in the northwest planning area.
Chapter 2, Plan Summary.
Goal: To encourage development where proposed development is compatible with existing land uses and access to public infrastructure is established;
- (C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.
This subdivision is located in the Agricultural Production District and buffering is not required, uses are compatible.

Ms. Cherry stated that all appropriate notice requirements have been completed.

Ms. Cherry explained that at the Planning Commission meeting on December 9, 2019 approval of the Jones Minor Subdivision was recommended on a vote of 4 in favor and one opposed, with one member recusing himself.

At this time, Chairman Arndt asked if the applicant Walter Thomas Jones along with a perspective buyer Dave Knievel had any further information to add at which time the Mr. Jones stated he had nothing further to add.

Chairman Arndt stated that this application has taken some time, but they have worked with Senator Sonnenberg and legislation was run that clarified in the rules for the State Engineer that this was historic and cleared up the questions on the well.

At this time Chairman Arndt opened public comment.

Chairman Arndt made note there was no one in the audience present to make comment.

At this time, Chairman Arndt asked if there was anyone online to speak from the public.

Chuck Miller stated that the Division of Water Resources has no involvement or authority over determining the usage of quality water taps that is Morgan County Quality Water District. Mr. Miller stated that he spoke with Morgan County Quality Water District Manager Kent Pflager and he confirmed that they monitor the usage and have full authority over the water tap and the water usage and the State does not have any authority.

At this time, Chairman Arndt closed the public comment portion.

At this time, Chairman Arndt moved into discussion and decision.

Commissioner Becker said that the issues that were holding up this application have been resolved and that he sees no further issues. Commissioner Westhoff thanked the applicant for their hard work and shared that he had no concerns with approving the application.

Commissioner Westhoff made the motion to approve the Minor Subdivision Application to create 2 lots: Lot 1 consists of 10.15 acres with existing residence and Lot 2 consists of 25.33 acres with existing residence. Reference - Chapter 8, Minor Subdivision of the Morgan County Subdivision Regulations, the a parcel located in the SW1/4SW1/4 of Section 4, Township 3North, Range 60 West of the 6th PM, Morgan County, Colorado aka 17024 County Road 2, Wiggins, CO 80654, with the applicant and landowner being Walter Thomas Jones. Commissioner Becker seconded the motion. Mr. Knievel, prospective buyer, shared that the address for the lot with 10 acres is 17002 County Road 2 Wiggins, CO 80654. At this time, the motion carried 3-0.

2. Consideration of Approval – Resolution 2021 BCC 06 A Resolution Amending the Morgan County Zoning Regulations

Morgan County Attorney Kathryn Sellars, presented to the Board Resolution 2021 BCC 06, a Resolution Amending the Morgan County Zoning Regulations. Ms. Sellars stated that this resolution was to reorganization portions of Chapter 2 in the zoning regulations. The first goal was to provide discrete and concise sections on each of the different permitting. Ms. Sellars explained that the second goal was to revisit the drawing requirements for the different types of land use permitting that the County can take. Ms. Sellars stated there are three different types of drawing requirements depending on which permit or land use action the applicant is applying for. She stated that there is also some flexibility for submittal requirements that the planning administrator can waive certain requirements for permitting. Also in section 2-350 the section on submittal requirements for conditional use permit in the first paragraph the last sentence will be stricken and replaced with electronic submissions are encouraged, but not required.

Commissioner Westhoff stated that the verbiage on section 2-440 it states Colorado Division of Wildlife should be changed to Colorado Parks & Wildlife with Ms. Sellars stating that she could make that change.

At this time Chairman Arndt opened public comment.

Chairman Arndt made note there was no one in the audience present to make comment.

At this time, Chairman Arndt asked if there was anyone online to speak from the public.

4 COMMISSIONERS PROCEEDINGS

Chuck Miller 26060 County Road S Brush, Colorado asked for better clarification on Section 2-135 that permits are required for all uses of property. Ms. Sellars explained that it is a clarification on what the current regulations require, anytime you use property you need to obtain a permit for what you are doing and it will depend on what type of permit is required. Mr. Miller asked if it only applies to special reviews not use by right, with Ms. Sellars stating he is correct. Mr. Miller stating that there needs to be a correction to the language because it does state all uses in the resolution. There was further discussion continued as to how to clarify the wording for this section.

Chairman Arndt explained that the discussion is for the language in section 2-135 and also section 2-320, with Ms. Sellars stating that in 2-135 the permits required section, the language would be to accept as exempt in these zoning regulations permits are required for all uses of property in the County the type of use and zone district will determine the type of permit. Ms. Sellars stated that 2-320 there would need to be a section added with a list of exemptions and there would need to be discussion as to what that list would entail.

Mr. Miller thanked the Board for working to clarify the language for this resolution.

Morgan County Tourism Marketing Manager, Kristen Clifford-Basil sent an online chat asking if Agri Tourism be addressed in these changes, with Ms. Sellars stating these regulations do not change any of the uses in the zoned district.

At this time, Chairman Arndt closed the public comment portion.

Chairman Arndt said this will take additional work sessions and time to work on the language changes for the resolution.

Commissioner Becker made the motion to continue Resolution 2021 BCC 06, A Resolution Amending the Morgan County Zoning Regulations to February 23, 2021 at 9:30 a.m. Commissioner Westhoff seconded the motion. At this time, the motion carried 3-0.

3. Consideration of Approval – Resolution 2021 BCC 07 A Resolution Amending the Morgan County Zoning Regulations Concerning the Rebuilding of Non-Conforming Single-Family Dwellings and Single-Family Dwellings Subject to Conditional and Special Use Permits

Morgan County Attorney Kathryn Sellars, presented to the Board Resolution 2021 BCC 07, a Resolution Amending the Morgan County Zoning Regulations Concerning the Rebuilding of Non-Conforming Single-Family Dwellings and Single-Family Dwellings Subject to Conditional and Special Use Permits. Ms. Sellars stated there are two goals of this resolution. The first being the rebuilding of non-conforming single family dwellings if it is destroyed by more than 50 percent of its fair market value it can be rebuilt with these changes subject to a building permit and flood plain permit if applicable. The second goal being addressed is single family dwellings that are currently subject to a conditional or special use permit previously granted and are destroyed by more than 50 percent of its fair market value this allows the rebuilding without having to obtain a new condition or special use permit but they still have to get a building permit or flood plain permit if applicable.

At this time Chairman Arndt opened public comment.

Chairman Arndt made note there was no one in the audience present to make comment.

At this time, Chairman Arndt asked if there was anyone online to speak from the public.

Mr. Miller addressed the flood plain regulations he stated that the new flood plain regulations do not apply unless changes to ownership has happened after the new flood plain regulations were adopted. Morgan County Planning and Zoning Administrator, Pam Cherry stated that they still have to get a flood plain permit, regardless if the damage is less than 50 percent if it is over the 50 percent they have come into compliance with current regulations. Ms. Sellars stated that she would like to double check the current flood plain regulations along with the previous flood plain regulations pertaining to the language surrounding substantial improvement. Chairman Arndt stated that this is not a new regulation, but one from 2018 for sure if not prior to, about a flood plain permit being required if destroyed more than 50 percent, that the language is not new. Commissioner Jon Becker stated this may be a good time to take the time to look into correcting the language. Commissioner Westhoff agrees that prior to adopting the resolution, the language should be correct. Commissioner Becker asked Mr. Miller if he had any information from the real estate industry that touches on the topic, with Mr. Miller stating no he does not.

At this time, Chairman Arndt closed the public comment portion.

Commissioner Westhoff made a motion to continue Resolution 2021 BCC 07, A Resolution Amending the Morgan County Zoning Regulations Concerning the Rebuilding of Non-Conforming Single-Family Dwellings and Single-Family Dwellings Subject to Conditional and Special Use Permits to February 23, 2021 at 9:30 a.m. Commissioner Becker seconding the motion. At this time, the motion carried 3-0.

Being no further business the meeting was then adjourned at 10:22 a.m.

Respectfully Submitted,

Randee Aleman
Deputy Clerk to the Board

(Minutes ratified February 16, 2021)

COMMISSIONERS PROCEEDINGS 5

**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/Gordon H. Westhoff
Gordon Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey