

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting May 4, 2021

As reflected in posted agenda:

To participate in the Citizen's Comment Period you must connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81798104818> 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 May 3, 2021.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81798104818> to listen via phone, please dial: 1-312-626-6799, Meeting ID: 817 9810 4818

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/81798104818> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 817 9810 4818

The Board of Morgan County Commissioners met Tuesday, May 4, 2021 at 9:00 a.m. with Chairman Mark Arndt, Commissioner Jon Becker and Commissioner Gordon Westhoff in attendance. Chairman Arndt asked Pete Wagner, a new member of the press for KFTM as the News Director, to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There was no citizen comment provided.

ADOPTION OF THE AGENDA

Chairman Arndt made note of a change to the agenda that #7 of the consent agenda will need to be pulled forward for formal action. At this time, Commissioner Westhoff made a motion to adopt the agenda with the change as noted by Chairman Arndt, with Commissioner Becker seconding the motion. Motion carried 3-0.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated April 16, 2021
2. Ratify the Board of County Commissioners approval of meeting minutes dated April 20, 2021
3. Ratify the Board of County Commissioners approval of Contract 2021 CNT 051, Runbeck Election Services, Inc., Term of Contract October 25, 2020 through October 24, 2021
4. Ratify the Board of County Commissioners approval of Contract 2021 CNT 052, Motorola Solutions, Inc., Term of Contract April 22, 2021 through April 21, 2022
5. Ratify the Board of County Commissioners approval of Contract 2021 GRA 01, JBBS, Term of Contract July 1, 2021 through June 30, 2022
6. Ratify the Board of County Commissioners approval of Fairgrounds Fee Waiver Request for Freedom to Cowboy Up, Event date October 1, 2021
7. Ratify the Board of County Commissioners approval on the appointment of Charlotte Buldoc for witness and signatures in the absence of Planning and Zoning Administrator
8. Ratify Chairman Mark Arndt's signature on Melvin Geib Change Order, signed April 13, 2021
9. Ratify Chairman Mark Arndt's signature on Coronavirus Relief Fund Reimbursement Request, signed April 12, 2021
10. Ratify Chairman Mark Arndt's signature on Morgan County Service Vendor Form – United Reprographic Supply, signed April 16, 2021
11. Ratify Chairman Mark Arndt's signature on Robert Pennington Special Waste Application, signed April 21, 2021

Commissioner Becker made a motion to approve items 1-6 and 8-11 as presented, Commissioner Westhoff seconded the motion. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Item #7 – Approval of the appointment of Charlotte Buldoc

Commissioner Westhoff made a motion to approve the appointment of Charlotte Buldoc to witness and sign documents in the absence of the Planning Administrator. Commissioner Becker seconded the motion and motion passed 3-0.

Notice for Public Comment – STOP SIGN INSTALLATION At The Intersections Of County Road II And County Roads 19, Morgan County, Colorado

Chairman Arndt explained the process that Morgan County uses to adopt or reject the recommendation for the placement of a stop sign in Morgan County. At this time, Morgan County Public Works Director, Bruce Bass presented to the Board a consideration of approval of a stop sign installation at the intersection of County Road II and County Road 19, Morgan County, Colorado and read aloud the proposed resolution.

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Chairman Arndt made mention of an email received from Colorado State Patrolman Burl Giffin recommending the placement of this stop sign.

Chairman Arndt noted this will be posted on the County's website for public comment and will be acted on in two weeks.

Consideration of Approval – RFP 2021-0415-001 Asphalt Paving Project Tabulation and Award

Morgan County Public Works Director, Bruce Bass, presented to the Board for approval Tabulation and Award RFP 2021-0415-001 Asphalt Paving Project. Mr. Bass stated he received three bids, a bid from Connell Resources, Inc. in the amount of \$856,587.50, a bid from Martin Marietta Materials Inc. in the amount of \$793,150.00 and a bid from McAtee Construction Co. doing business as Simon in the amount of \$797,550.00. He further summarized the individual bids submitted.

At this time, Mr. Bass recommended the bid be awarded to Martin Marietta Materials Inc. in the amount of \$793,150.00 as submitted indicating this vendor did submit the lowest bid. Mr. Bass stated they have used this vendor in the past and have had no issues.

Commissioner Becker asked why the County would not consider Simon who is a local company and employ local citizens, with Mr. Bass stating he did not look at that option explaining how he reviewed the bids and the return of the bid from Simon was noted as a Sterling address. Further discussion followed regarding this matter with Commissioner Becker stating the recommendation made by Mr. Bass is logical but does see Simon as a local business and they pay taxes here and employ those who pay taxes here. At this time, Commissioner Becker asked Road Supervisor John Goodman the question considering the facilities that sit in Morgan County, his belief would be Simon should be considered a local company and the bid be awarded to the local company, with Mr. Goodman stating this had been discussed with the previous board who determined the business to be a Sterling business. Commissioner Westhoff asked the question about whether or not there had been any timeline issues in the past utilizing Simon, with Mr. Goodman stating they did experience some timeline issues in the past but their quality of work has not been a problem. Chairman Arndt stated he does not disagree with the comments, and this is a local company doing business in the County and in his mind this would qualify for the five percent allowance the County allows for local businesses.

Commissioner Becker made a motion to approve RFP 2021-0415-001 Asphalt Paving Project Bid Tabulation and Award to McAtee Construction dba Simon, noting they have a local company conducting business in Morgan County, in the amount of \$797,550.00 with Commissioner Westhoff seconding the motion. Chairman Arndt noted this company does have a Sterling address but does have a business located in the County and the bid is well within the five percent allowance the County's policy allows. At this time motion carried 3-0.

Consideration of Approval – RFP 2021-0415-002 Contract Haulage Project Tabulation and Award

Morgan County Public Works Director, Bruce Bass, presented to the Board for approval Tabulation and Award RFP 2021-0415-002 Contract Haulage Project explaining the scope of the project indicating the County will be right at 50 miles for this budget year. Mr. Bass stated he received three bids, a bid from Bulk Transport Company West in the amount of \$131,760.00, a bid from Wheels by Wheels LLC in the amount of \$126,000.00 and a bid from KLS LLC in the amount of \$137,640.00. He further summarized the individual bids submitted.

At this time, Mr. Bass recommended the bid be awarded to Wheels by Wheels LLC located in Brush, CO in the amount of \$126,000.00 as submitted indicating this vendor did submit the lowest bid.

Commissioner Westhoff asked about whether or not the vendor, Wheels by Wheels LLC has been contacted regarding contamination given they are currently a grain hauler, and Mr. Bass stated he did make contact with this vendor and they provided a comfort level that the County can be confident in using this vendor given they have hauled this type of material the County is requiring for other counties and states.

Commissioner Westhoff made a motion to approve RFP 2021-0415-002 Contract Haulage Project Bid Tabulation and Award to Wheels by Wheels LLC in the amount of \$126,000.00 as recommended by Morgan County Public Works Director Bruce Bass, with Commissioner Becker seconding the motion. At this time motion carried 3-0.

Consideration of Approval – 2021 BCC 17 A Resolution Opposing Ballot Initiative 16 In Order To Protect Our Livestock Industry

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2021 BCC 17

RESOLUTION OPPOSING BALLOT INITIATIVE 16 IN ORDER TO PROTECT OUR LIVESTOCK INDUSTRY

WHEREAS, on March 17, 2021, a citizens initiative entitled "Protect Animals from Unnecessary Suffering and Exploitation (PAUSE) was approved by the Title Board of the Colorado Secretary of State for petition to the November 2022 General Election as Initiative 16;

WHEREAS, Initiative 16 is an industry annihilation effort that will disrupt all aspects of meat production, sales, and export;

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WHEREAS, Initiative 16 criminalizes farmers, ranchers and veterinarians who use accepted animal husbandry practices to care for animals;

WHEREAS, Initiative 16 changes state statutory language to define common animal care practices as cruelty to animals;

WHEREAS, Initiative 16 bans slaughter for animals that have lived less than 25 percent of their “natural” life span;

WHEREAS, Initiative 16 criminalizes the following veterinary and animal husbandry practices: spaying and neutering, reproductive practices (artificial insemination, pregnancy diagnosis, fertility testing), etc.;

WHEREAS, Initiative 16 eliminates accepted animal husbandry practices, opening the door to animal cruelty prosecution for common and basic practices such as feeding, sheltering and transportation;

WHEREAS, Morgan County is the fourth largest agriculture producing county in the state, accounting for 7 percent of the agricultural sales, approximately \$559 million in production;

WHEREAS, the economic impact of Initiative 16 to farmers, ranchers, meat processors, veterinarians and other related industries would be tremendous and negative; and

WHEREAS, this Board abhors the infliction of needless suffering of animals and recognizes that our cattle and livestock producers take great effort to treat their animals humanely.

THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Morgan County, Colorado, that:

1. The Board believes that Initiative 16 is radical and reactionary ballot initiative proposal. It is a direct and brazen attack on a way of life and a backbone industry in the state.
2. This Board opposes Initiative 16 and urges the Governor of Colorado and Commissioner of the Colorado Department of Agriculture to continue to do the same.
3. The Board urges all citizens of Morgan County to decline signing any petition that supports placing Initiative 16 on the ballot for the election to be held in November 2022.
4. The Board encourages all Morgan County citizens to educate all citizens throughout the state about the importance of agriculture to the entire State of Colorado.
5. All people that care about the well-being of animals – be they livestock, pets, service animals, or other – should take action to defeat Initiative 16 in the event it is placed on the November 2022 ballot.
6. If Initiative 16 should appear on the ballot, this Board urges all Morgan County citizens to vote against it.

If Initiative 16 should pass in Colorado, Morgan County will not recognize, follow, or enforce any of its provisions.

APPROVED this 4th day of May, 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/Gordon H. Westhoff
Gordon H. Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Commissioner Becker presented to the Board Resolution 2021 BCC 17, a draft Resolution Opposing Ballot Initiative 16 In Order To Protect Our Livestock Industry. Commissioner Becker provided comment as to the status of this ballot initiative process outlining what this proposed act would do to the ag industry in Eastern Colorado. At this time, Commissioner Becker read the draft resolution aloud.

Commissioner Westhoff made the motion to approve Resolution 2021 BCC 17, a Resolution Opposing Ballot Initiative 16 In Order To Protect Our Livestock Industry as presented with the correction noted during the reading of the resolution. Commissioner Becker seconded the motion and motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated April 30, 2021 through May 11, 2021 with no changes.

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At this time, Kari Linker, Regional Director for the Eastern Plains for Senator Hickenlooper's provided an update to the Board. The Commissioners directed several questions to Ms. Linker of concerns and issues they currently see at this time asking for some input and collaboration from the Senator.

At this time, this portion of the meeting was adjourned and continued with the public hearing as posted.

PUBLIC HEARING

Chairman Arndt called the hearing to order at 9:46 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 Zoning Director Pam Cherry and County Attorney Kathryn Sellars appearing remotely.

1. Applicant: Pivot Energy

Landowners: Terry L. Larsen Trust and Anna M. Larsen Trust

Legal Description: A parcel of land in the N ½ of SW ¼, Section 33, Township 4 N, Range 56 W of the 6th P.M., Morgan County, Colorado and addressed as 18712 County Road 26, Brush, Colorado 80723.

Request: The landowners and applicant are requesting approval of a Special Use Permit for a Solar Energy System. The energy generated from this project will be injected into Xcel Energy's existing electrical infrastructure along MCR 26 and will provide cost savings to participating electrical rate payers as part of Xcel Energy's Solar *Rewards Community Program.

Ms. Cherry stated the Planning Commission considered this application at the meeting on April 12, 2021 and recommends approval on a vote of 6 in favor, 0 opposed, with one member absent.

Ms. Cherry explained this application is for a Special Use Permit to construct a solar energy system just south of I-76 and east of County Road 26. The property is located in the N½ of the SW¼ of Section 33, Township 4 North, Range 56 West of the 6th P.M. Brush, Colorado 80723, owned by the Terry L. Larsen Trust and the Anna M. Larsen Trust.

Ms. Cherry stated the property is zoned Rural Residential. Initially, the proposal, initially, was to designate 25 acres of a 65 acre parcel for the solar panels and other equipment. When presented to the Planning Commission the acreage increased slightly to 30 acres of the 65 acres to allow for more space between rows of collectors and does not increase the number of units or the amount of electricity to be produced at the proposed facility. This increase does not affect the notification area as the landowner letters are sent to every property owner within 1,320 feet of the property boundary. This is a 5mw facility and is not a major facility of a public utility and will be privately owned.

- a. Pursuant to Section 2-325 of the Morgan County zoning regulations, any use, not designated as a Use by Right, Accessory Use, Conditional Use and Use by Special Review or not otherwise prohibited in a particular zone, may be approved as a Use by Special Review pursuant to the criteria and procedures as established by the zoning regulations.
- b. Pursuant to Section 3-175 of the Morgan County zoning regulations, parcels larger than 20 acres, solar energy systems are not listed as a Use by Right, Conditional Use or Use by Special Review.

Ms. Cherry explained the electricity generated from this project will be injected into Xcel Energy's existing electrical infrastructure along County Road 26. Thirty acres, as updated during Planning Commission, of the 65 acre parcel will be used for the solar system for an initial term of 20 years with the possibility of an extended operational time period of up to 20 more years. Any increase to the 30 acres for the solar use will require an amendment to this permit.

Ms. Cherry stated during construction, onsite activity is expected to take place between the hours of 7am and 5pm, Monday through Saturday. Construction will take 3-4 months. During operation the facility will not be staffed so will have minimal traffic impacts once constructed. The perimeter of the project will be fenced, fence type to be coordinated with Colorado Parks and Wildlife, to enclose the solar panels and other equipment and pads. The equipment moves to track the sun during the day at a very slow speed, no noise results. The project will not use security lighting so adjacent properties will not be exposed to objectionable night lighting.

Criteria – Special Use Permits

Ms. Cherry explained the following criteria are to be used by the Planning Commission and the Board of County Commissioners when reviewing an application for a Special Use Permit.

(A) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. The property is located in the northeast planning area.

Chapter 2 – Plan Summary

2.II.A - Economic Development

Goal – Diversify the economy in Morgan County to broaden business employment opportunities for residents and to further economic growth.

This project will generate additional property taxes without strain on public resources provided by the county. To the extent possible the operator will seek to hire local contractors throughout construction and the life of the project.

2.C.1 – County Wide Goal

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Goal - To encourage development where: 1) it is in proximity to the activity centers; 2) the proposed development is compatible with existing land uses; 3) there is access to established public infrastructure; and 4) where in outlying areas of the county there is access to utilities and there is little additional burden on rural services.

Uses adjacent to this property include agriculture, I-76, residential and a golf course. The property is unable to be irrigated so it is not feasible to be used for agriculture production.

2.E.1 Utilities

Goal: To ensure that adequate and financially secure public utilities are provided to all developments in Morgan County.

This project will not require the use of water, sewage or telecommunications onsite and will connect directly into Xcel Energy's existing electrical infrastructure on the west side of the parcel.

Chapter 5 - Environment

5.IX

Goal - To preserve the manmade and natural environment in order to enhance the quality of life in Morgan County.

This project will not impact wetlands, floodplain or drainage patterns. A Constraints Analysis has been completed for the site as well as a Phase 1 Environmental Site Assessment to avoid adverse impacts on plant and wildlife species.

(B) All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.

(C) The Site Plan conforms to the district design standards of these Regulations.

(D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.

During construction and when necessary water trucks will be used for dust mitigation. Upon completion of the project the site will be reseeded with a native low-growth prairie grass mix. Landscaping maintenance will occur on a regular basis during the growing season.

(E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.

The closest residences to the facility are more than 500' to the south and already have trees along their northern boundary, which act as a visual buffer from the project area and Interstate.

(F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulation, whichever is the strictest.

A solar glare Analysis was completed using the industry standard tool for studying glare impacts. East and westbound traffic on I-76 from County Road 25, north and southbound traffic on Co Rd 26, two-way traffic along residential roads as well as glare from 33 observation points at nearby residences were evaluated in the analysis. No instances of glare caused by the project. The project will have minimal impacts on surrounding adjacent uses as the facility is unstaffed, generates no emissions, emits no light or discernible noise.

(G) The special use proposed is not planned to be developed on a non-conforming parcel.

The parcel is conforming.

(H) The applicant has adequately documented a public need for the project, all pertinent technical information, and adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.

*The energy generated from this project will be injected into Xcel Energy's existing electrical infrastructure along MCR 26 and will provide cost savings to participating electrical ratepayers as part of Xcel Energy's Solar*Rewards Community program.*

(I) For any special use requiring a supply of water that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability and in the case of human consumption, quantity, quality, and reliability.

This project does not require a water supply.

All referrals and owner notifications within 1,320 feet from the boundary of the 65-acre parcel have been completed. Comments either in favor or opposed have not been received as today, May 4, 2021.

Ms. Cherry stated the Planning Commission considered this application at the meeting on April 12, 2021 and recommends approval.

Commissioner Becker asked if the City of Brush provided any comments regarding this application with Ms. Cherry stating they did not and her office has not received any comment from anyone regarding the application.

At this time, Chairman Arndt asked if the applicant had any further information to add at which time the applicant stated his name as being Eli Oppenheimer representing Pivot Energy and the landowners, stating his address being 1750 15th Street, Denver, CO 80202. At this time, he provided a power point presentation to the Board regarding the proposed application. Mr. Oppenheimer then responded to questions asked by the Commissioners regarding his presentation. Landowner, Terry Larson made comment regarding the land this project will be placed upon and

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provided a historical background of the land and its challenges over the years, noting that when they were approached by this vendor for this project, they felt it was an ideal location for the placement of this project.

Chairman Arndt asked if there was anyone online or in the audience who may be in opposition to the application and noting there was no one online or in person who indicated they wished to speak in opposition.

Chuck Miller, 26060 County Road S, Brush, CO, approached the podium stating he is not in opposition but wanted to speak strictly in the capacity of informational purposes asking some specific questions whereas the applicant provided answers to those questions and concerns. Commissioners also spoke and asked questions of the applicant at this time with answers provided by Mr. Oppenheimer.

Chairman Arndt asked if there was anyone else either online or in person who wished to speak in favor of the application noting there were none and closed the public comment portion of the hearing.

Chairman Arndt asked County Attorney Kathryn Sellars if she had anything to add at which time she indicated she did not.

At this time, Chairman Arndt moved into discussion and decision where each Commissioner provided their input and comments in support of the project providing detailed reasons as to why.

Commissioner Becker made a motion to approve Special Use Permit for a Solar Energy System. The energy generated from this project will be injected into Xcel Energy's existing electrical infrastructure along MCR 26 and will provide cost savings to participating electrical rate payers as part of Xcel Energy's Solar *Rewards Community Program, with the applicant being Pivot Energy and the landowners being the Terry L. Larson Trust and the Anna M. Larsen Trust with the legal description being a parcel of land in the N ½ of SW ¼, Section 33, Township 4 N, Range 56 W of the 6th P.M., Morgan County, Colorado and addressed as 18712 County Road 26, Brush, Colorado 80723 as presented by Morgan County Planning Zoning Director Pam Cherry with Commissioner Westhoff seconding the motion. At this time, the motion carried 3-0.

At this time, Chairman Arndt directed the County Attorney to prepare the necessary resolution to be signed nunc pro tunc at a future meeting date.

2. Proposed amendments to the Morgan County Zoning Regulations regarding:

A resolution amending the Morgan County Zoning Regulations concerning floodplain maps and floodplain regulations

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2021 BCC 16

A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS CONCERNING FLOODPLAIN MAPS AND FLOODPLAIN REGULATIONS

WHEREAS, Federal Emergency Management Agency (FEMA) has produced a new Flood Insurance Study (FIS) and Floodplain Insurance Rate Map (FIRM) for Morgan County;

WHEREAS, the County has been mandated by FEMA and Colorado Water Conservation Board (CWCB), together with federal and state law, to adopt the new maps or risk being suspended from the National Flood Insurance Program (NFIP);

WHEREAS, loss of the NFIP participation will result in harm to citizens of Morgan County who need and obtain flood insurance to protect their property through the NFIP;

WHEREAS, to avoid loss of the NFIP participation, the County will follow the mandate of FEMA and CWCB and adopt the new floodplain maps;

WHEREAS, on April 12, 2021, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval;

WHEREAS, on May 4, 2021, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

WHEREAS, the Board of County Commissioners has complied with all relevant provisions for amending the Morgan County Zoning Regulations; and

WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these amendments to be in the best interest of the citizens of Morgan County.

NOW THEREFORE BE IT RESOLVED by the Morgan County Board of County Commissioners as follows:

Section 1. All references to "DFD" and "FPD" shall be amended to reference "SFHA".

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Section 2. The second paragraph of Sec. 3-742 of the Morgan County Zoning Regulations is hereby revised to read as follows:

Wherever the requirements contained in these floodplain regulations are at variance with the requirements of the Rules and Regulations for Regulatory Floodplains in Colorado, the one which is least restrictive shall apply. Whenever these floodplain regulations are silent, the Rules and Regulations for Regulatory Floodplains in Colorado shall apply.

Section 3. Section 3-760(B) of the Morgan County Zoning Regulations is hereby revised to read as follows:

(B) Basis for Establishing the Special Flood Hazard Area

SFHAs are identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering reports entitled, "The Flood Insurance Study for Morgan County," dated April 4, 2018 and May 18, 2021, with accompanying Flood Insurance Rate Maps (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of these floodplain regulations. The Flood Insurance Studies and their accompanying FIRMs are on file in the Planning Department of Morgan County, 231 Ensign Street, Fort Morgan Colorado 80701.

APPROVED this 4th day of May, 2021.

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

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

s/Gordon H. Westhoff
Gordon H. Westhoff, Commissioner

(SEAL)
ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Ms. Cherry stated that the Planning Commission reviewed this amendment to the floodplain regulations at the meeting on April 12, 2021 and recommends approval on a vote of 5 in favor, 1 opposed and one member absent.

Ms. Cherry explained that the Federal Emergency Management Agency (FEMA) provided Morgan County preliminary floodplain maps and a Flood Insurance Study (FIS) for the South Platte River on May 29, 2019. She made mention of April 2018 whereas the county adopted FEMA maps and the FIS for Beaver Creek that included base flood information in the Brush area. She stated those maps will remain in effect; and these maps add the South Platte River as an area that has been studied extensively.

Ms. Cherry stated upon receipt of the preliminary maps and FIS there is a FEMA process in place for the adoption of the preliminary study and maps that includes public meetings and publication. The process has been followed. Included in your packets is a FACT Sheet prepared by the Colorado Water Conservation Board which is an overview of that process. Adoption of the maps had been delayed due to the Corona Virus and staff changes at the Colorado Water Conservation Board.

Ms. Cherry explained the changes to the Morgan County regulations have been specifically identified by FEMA:

1. Addition of No-Rise Certification definition;
2. Reference to Designated Flood District and Flood Prone District replace with Special Flood Hazard Area in compliance with state and federal law;
3. Addition of the basis for establishing the SFHA from the South Platte Flood Insurance Rate Maps (FIRM) and the Flood Insurance Study (FIS);
4. 3-780 H requires the use of federal, state or other source, for administration of regulations;
5. 3-780 I will require any new construction, substantial improvement or other development within waterways with base flood elevations and without a floodway will be permitted until demonstrated that the effect of development will not cause a rise in the base flood more than six inches at any point in the county;
6. Section 3-822 was added to comply with state and federal law to address floodway development.

Ms. Cherry stated there was a public meeting held on October 8, 2019 at Morgan County Community College that met FEMA requirements. All maps were displayed at the meeting and the FIS was also available. Approximately ten Morgan County citizens attended that meeting to discuss their particular properties and floodplain impact upon them. There were no objections received to the preliminary documents and no appeals filed with FEMA. The maps and the FIS are as they were provided to the county in 2019 and presented at the community meeting.

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Ms. Cherry explained Morgan County is required to adopt the maps by May 18, 2021. She further explained the process whereas the Planning Commission is to review all proposed changes to the floodplain regulations and make a recommendation to the Board of County Commissioners where it is to then be considered and formal action taken.

Ms. Cherry stated the Planning Commission reviewed the proposed changes and recommended approval of these amendments. Ms. Cherry stated as an item of clarification, what she has presented is what the Planning Commission recommended.

Chairman Arndt noted there is a proposed resolution prepared in regards to this matter and asked Ms. Sellars the question about the language and changes in terminology that has been made, with Ms. Sellars explaining the reason why she would like to see these language changes made to be consistent across the board.

Section 2 of the resolution was then reviewed, with Ms. Sellars explaining back in 2011, the County was mandated by FEMA to either adopt floodplain regulations in concordance with the federal rules or those of the State of Colorado and the County chose to adopt those of the State, and explained if there were any conflicts, how that would occur, and the reason for this language has been revised, to flip the requirement where the less restrictive rules would apply.

Section 3 of the resolution was reviewed, with Ms. Sellars stating this section exists in the current regulations and all that is being referenced is the map being approved for the May 18, 2021 adoption.

Discussion followed regarding the need for this action being taken and why this is being done. Commissioner Becker stated no matter what action the County takes, the insurance industry and the banks will still have to deal with this and makes it difficult for them to conduct business if this is not adopted by the County. Chairman Arndt explained the board has received a letter from the bank industry explaining what would occur if this would not be adopted by the County and also from the local insurance industry explaining what would occur if this is not adopted including rate increases. He explained the differences between private insurance coverage and that of the federal insurance, where the private insurance companies would require higher coverage amounts, where the federal insurance would allow for lower amounts resulting in lower insurance rates to citizens. Lengthy discussion followed regarding these factors. Commissioner Westhoff stated he is aware that both the City of Fort Morgan and City of Brush have adopted the maps, and this would affect the Snyder area where this is only adopting the South Platte corridor.

Chairman Arndt asked if there was anyone in the audience present who wished to make public comment in opposition or in favor of the application.

At this time, Chuck Miller, 26060 County Road S, Brush, CO expressed his concerns and issues regarding the proposed resolution and action being taken. Mr. Miller asked to make it of record he is opposed of anything FEMA wants to do and unfortunately, it is another government carrot dangled over our heads regarding how funding will be allowed and does not support this action. He read aloud a Supreme Court ruling that occurred on June 21, 2019 to the Board in his closing.

At this time, there was no further public comment in which Chairman Arndt closed the public comment portion of the hearing.

At this time, Chairman Arndt moved into discussion and decision. Commissioner Becker made comment regarding the resolution that may not have been available to the public for its review and would like to see that resolution be provided so citizens are able to review the correct resolution and stated he understands the frustration being expressed by Mr. Miller and agrees with his frustration. Commissioner Becker stated his choice would be to delay this matter until the next board meeting so the proper resolution is provided. Chairman Arndt asked to review the resolution that was posted on the website for today's meeting with Ms. Kopetzky providing that information on the screen where it was determined it was posted appropriately. Discussion ensued whereas it was noted that the only substantive change to the resolution was the language concerning the County would be using the less restrictive ways in enforcing the regulations.

Commissioner Westhoff made a motion to approve the resolution 2021 BCC 16 amending the Morgan County Zoning Regulations concerning floodplain maps and floodplain regulations as presented by Morgan County Planning Zoning Director Pam Cherry. Chairman Arndt seconded the motion. Commissioner Becker commented that he understands May 18th is coming quickly, but feels it would still be best to allow time for any citizens who may wish to review the resolution who may be affected. Mr. Miller spoke asking for a point of clarification expressing his concerns about the language of the resolution and what has already been adopted, feeling they are creating additional issues. Chairman Arndt summarized the approval of the motion on the table and at this time, the motion carried 2-1 with Commissioner Becker being the dissenting vote.

Chuck Miller again spoke providing comments regarding the resolution approved earlier in the meeting regarding the ballot initiative 16 (PAUSE).

Being no further business the meeting was then adjourned at 11:10 a.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board

(Minutes ratified May 18, 2021)

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**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 H. Westhoff, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey