

# COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS  
Minutes of Meeting  
June 2, 2020

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/85104446435>. If you cannot connect via Zoom, you may submit written public comment to [bccmorganc@co.morgan.co.us](mailto:bccmorganc@co.morgan.co.us) by email by 5 p.m. on Monday June 1, 2020.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/85104446435> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 851 0444 6435.

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/85104446435> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 851 0444 6435.

The Board of Morgan County Commissioners met Tuesday, June 2, 2020 at 9:03 a.m. with Chairman Mark Arndt, Commissioner Jon Becker and Commissioner James Zwetzig in attendance. Chairman Arndt asked Morgan County Administrative Services Manager Karla Powell 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 May 21, 2020
2. Ratify the Board of County Commissioners approval of meeting minutes dated May 26, 2020
3. Ratify the Board of County Commissioners approval of Contract 2020 CNT 065, CMS Mechanical Services, Inc., Term of Contract May 27, 2020 till completed
4. Ratify the Board of County Commissioners approval of Contract 2020 CNT 066, Centennial BOCES, Term of Contract June 1, 2020 through May 31, 2021
5. Ratify the Board of County Commissioners approval of Contract 2020 CNT 067, Caberra Systems, Term of Contract May 11, 2020 till completed
6. Ratify Chairman Mark Arndt's signature on Retail Liquor or Fermented Malt Beverage License for Elaine's Place, signed date May 26, 2020
7. Ratify the Board of County Commissioners approval on assignment of debt collections to State Collections, Client #200448, #200047

Commissioner Zwetzig made a motion to approve items 1-7 as presented, Commissioner Becker seconded the motion. At this time the motion carried 3-0.

## GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

**Consideration of Approval – 2020 BCC 18 – A Resolution Rescinding Resolution 2020 BCC 12 and Concerning Public Access to County Buildings**

### **RESOLUTION 2020 BCC 18**

#### **RESOLUTION RESCINDING RESOLUTION 2020 BCC 12 AND CONCERNING PUBLIC ACCESS TO COUNTY BUILDINGS**

**WHEREAS**, C.R.S. § 30-10-109 authorizes the Board of County Commissioners of Morgan County (BOCC) to prescribe the days and hours that County offices will be open for the transaction of business;

**WHEREAS**, the BOCC has declared a local emergency pursuant to C.R.S. § 24-33.5-709 in response to the COVID-19 pandemic;

**WHEREAS**, through Resolution 2020 BCC 12, the BOCC restricted public access to County buildings;

**WHEREAS**, the State of Colorado has begun the process of reopening certain areas and activities to the public, subject to the requirements in Public Health Order 20-28 (PHO 20-28), as issued by the Colorado Department of Public Health and Environment; and

**WHEREAS**, in response to the lifting of Colorado's stay at home order and further lifting of restrictions on access to certain areas and activities, the BOCC desires to adopt a new resolution concerning public access to County buildings.

# 2 COMMISSIONERS PROCEEDINGS

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

Section 1. Beginning June 1, 2020, the following buildings will be open to the public, subject to the social distancing and limits on gathering of individuals, as prescribed in PHO 20-28, issued by the Colorado Department of Public Health and Environment, as may be amended. Anyone who desires to obtain County services remotely is encouraged to contact the applicable office to arrange for such services.

1. Administrative Building
  - a. County Clerk & Recorder - (970-542-3521)
  - b. County Treasurer - (970-542-3518)
  - c. County Assessor - (970-542-3512)
  - d. Office of Emergency Management - (970-542-3510)
  - e. Finance Department - (970-542-3505)
  - f. Information Systems - (970-542-3507)
  - g. Human Resources - (970-542-3537)
  - h. Planning & Zoning - (970-542-3526)
  - i. Tourism - (970-542-3508)
2. Commissioner's Office – (970-542-3500)
3. Department of Human Services – (970-542-3530)
4. Auxiliary Services
  - a. CSU Extension Services (970-542-3400)
5. Public Works
  - a. Road & Bridge (970-542-3560)
  - b. Landfill (970-867-9713)
6. Fairgrounds – (970-542-3500)

Section 2. The following buildings shall have limited public access and the public is encourage to contact these offices for information regarding access.

1. Emergency Services – Limited Public Access; (970-542-3570)
2. Sheriff's Office – Limited Public Access, subject to the order of the Morgan County Sheriff; (970-867-2461)

Adopted this 2<sup>nd</sup> day of June, 2020.

**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

Chairman Mark Arndt presented to the Board for Resolution 2020 BCC 18, a Resolution Rescinding Resolution 2020 BCC 12 and Concerning Public Access to County Buildings. Chairman Arndt stated this resolution amends the resolution that was earlier enacted which restricted access to the County Administration Building and other buildings and this now amends that order, and at this time, effective June 1, 2020, the building is open to the public and the details of the resolution were read into the minutes. Chairman Arndt encouraged citizens to continue utilizing the remote options available for the County Clerk's office as well as the Treasurer's office as well as those services provided by other county departments.

Commissioner Becker made a motion to approve Resolution 2020 BCC 18, a Resolution Rescinding Resolution 2020 BCC 12 and Concerning Public Access to County Buildings, with Commissioner Zwetzig seconding the motion. Commissioner Zwetzig made note that this is the only action the Board of County Commissioners has taken regarding the COVID matter, and this being the only orders issued by the BOCC and this order is now being rescinded and stated the County has always remained open. At this time, the motion carried 3-0.

# COMMISSIONERS PROCEEDINGS 3

## UNFINISHED BUSINESS

There was no unfinished business.

## COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated May 29, 2020 through June 9, 2020 with changes.

Commissioner Arndt presented the road report ending May 29, 2020 reading the report into the minutes.

Commissioner Zwetzig made the announcement regarding Colorado Counties, Inc. (CCI) has joined forces with the Colorado Municipal League and Special Districts, regarding the issuance of the CARES Act monies, and provided an update as to the counties receiving funding from the CARES Act.

Dusty Johnson, representative to Congressman Ken Buck, provided an update to the Board regarding matters Congressman Buck is currently working on and provided details of each.

At this time, Morgan County Assessor Tim Amen and Morgan County Economic Director Kristen Clifford-Basil provided an update regarding their respective offices.

Chairman Arndt made note that small businesses and restaurants are opening at the allowable capacities and encouraged citizens to support these local businesses.

At this time, the board stood in recess until the public hearing scheduled 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 and Zoning Planning Director/Floodplain Administrator Pam Cherry and Morgan County Attorney Kathryn Sellars.

**1. Harrison Homes LLC as applicant**

**David A. Baugh and James D. Baugh and Marguerite D. Baugh (deceased):** as landowners

**Legal Description:** A parcel located in the SW ¼ of Section 26, Township 5 North, Range 60 West of the of the 6<sup>th</sup> PM, Morgan County, Colorado, aka 25192 County Road 4, Weldona, Colorado 80653.

**Reason:** Minor Subdivision to create 3(three) lots. Proposed Lot 1 is vacant and will consist of 2.968 acres; Lot 2 and Lot 3 are vacant and will consist of 2.425 acres each. These will be used for residential sites.

Ms. Cherry explained this application was considered by the Planning Commission at their meeting on May 11, 2020 and was unanimously recommends approval.

Ms. Cherry stated this application is for the Baugh Minor Subdivision, Second Filing in the SW¼ of Section 26, T5N, R60W of the 6<sup>th</sup> P.M. Morgan County, Colorado. The property is located on County Road Z.5 about midway between County Roads 4 and 5. The property is currently undeveloped and the lots will become residential lots in the Agriculture Production zone district.

Ms. Cherry explained that Harrison Homes, LLC as applicant is requesting approval of a minor subdivision that will plat 7.818 acres into three lots, Lot 1 is 2.968 acres, Lots 2 and 3 are each 2.425 acres. The lots are being subdivided from an existing 227 acre parcel identified as 0971-260-00-005. There are no existing structures on the property subject to subdivision, nor any structures within the Agriculture Production setbacks.

Ms. Cherry stated 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

	<b>Lot 1</b>	<b>Lot 2</b>	<b>Lot 3</b>
Water	Quality Water Tap 2276	Quality Water Tap 2277	Quality Water Tap 2278
Septic	NE Colo Health – no objection – new septic	NE Colo Health – no objection – new septic	NE Colo Health – no objection – new septic
Access (3)	Road and Bridge – ok new	Road and Bridge – ok new	Road and Bridge – ok new
Fire	Wiggins Rural Fire	Wiggins Rural Fire	Wiggins Rural Fire
Soil map	Provided	Provided	Provided
Ext Svc	No AU proposed at this time	No AU proposed at this time	No AU proposed at this time
Minerals	Complete	Complete	Complete
R-T-F	Complete	Complete	Complete

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- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan. The subdivision is located in the northwest planning area.  
Chapter 2.II.C. 1., County Wide  
Goals: Encourage the development where the proposed development is compatible with existing land uses – other exempted properties, minor subdivisions and small acreage properties are in the area.  
There is access to existing infrastructure, Quality Water and County Roads.

- C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.  
All properties adjoining this proposed subdivision are zoned Agriculture Production.

To the north, across County Road Z is a 105 acre property owned by C&C Farms that is farmed. Buffer is created by the road and distance.

This property and additional property to the south is 200 acres and is farmed. Distance provides a buffer from the agriculture uses.

To the east are other subdivisions and an exemption that are used as family home sites, buffering is not necessary.

To the west is an exemption that is a residential use, buffering is not necessary.

Ms. Cherry explained that all appropriate notice requirements have been completed with no comments received as of today. Twenty-five property owners within 1,320 feet were notified of the application; there have not been comments, either in favor or opposed. There has been no opposition received from referral agencies.

Ms. Cherry stated this application was considered by the Planning Commission at their meeting on May 11, 2020 and unanimously recommends approval.

At this time, Chairman Arndt asked if the applicant had any further information to add at which time the applicant stated they had everything in order for the application.

At this time, Chairman Arndt opened the matter for public comment asking them to raise their hands remotely if they have anything to state with Ms. Kopetzky stating there was no activity.

At this time, Chairman Arndt closed the public comment portion and indicated there was no public comment made.

At this time, Chairman Arndt moved into discussion and decision where Commissioner Zwetzig asked the question about the no animal units being contemplated at this time, with Ms. Cherry stating that was included in the application submitted. Further discussion followed, and Commissioner Zwetzig asked County Attorney Sellars to make comment. Commissioner Zwetzig asked about the regulations that indicate the number of animal units are defined, and Ms. Sellars stated she has not experienced that, and believes that what Ms. Cherry has indicated is the applicant has stated they do not plan to have animal units at this time, with Commissioner Zwetzig stating that there would be the right to have animal units, with Ms. Cherry referencing a letter in the Board's packet that referenced the number of animal units for this subdivision. The applicant stated that the information is correct, there will be no animal units allowed, and they explained the reason they did add this to their application noting this, was because of complaints that had occurred in the past and the fact there is not much room for animals. He also confirmed there are covenants for the subdivision noted and explained further the issue about the animal units. Commissioner Zwetzig asked Ms. Sellars if this becomes a covenant issue, with Ms. Sellars stating this will need to be a part of the covenants or a condition of approval, but left up to the Board. Further discussion followed, with Commissioner Zwetzig explaining the covenants are an agreement between landowners but the resolution would be the agreement between the County and the applicant and asked Ms. Sellars if the County would then become the enforcer of this requirement. Ms. Sellars stated that would be correct, that would be an enforceable action and if they should list it as a covenant that could be changed at a later date. Commissioner Zwetzig stated that he has not seen the County include this type of restriction in the resolution that has been a part of the covenants. Further discussion followed with Chairman Arndt stating he has seen it designated as part of the covenants given the property owner and needs could change at a later date, and that would be the agreement between the landowners. Commissioner Zwetzig stated he does not want the County to become the enforcer of animal units, and would prefer it be included in the covenants.

Commissioner Becker made a motion to approve a Minor Subdivision to create 3(three) lots. Proposed Lot 1 is vacant and will consist of 2.968 acres; Lot 2 and Lot 3 are vacant and will consist of 2.425 acres each. These will be used for residential sites. A parcel located in the SW ¼ of Section 26, Township 5 North, Range 60 West of the of the 6<sup>th</sup> PM, Morgan County, Colorado, aka 25192 County Road 4, Weldona, Colorado 80653, with Harrison Homes LLC as applicant and David A. Baugh and James D. Baugh and Marguerite D. Baugh (deceased) as landowners. Commissioner Zwetzig seconded the motion. At this time the motion carried 3-0.

**2. Toby Eisenach** – Applicant

**Leif Stephens** - Landowner

**Legal Description**- Located in the S ½, S ½, NW ¼ of Section 1 Township 3 N, Range 60 W of the 6<sup>th</sup> P.M. Morgan County, Colorado addressed as 17500 Highway 39, Wiggins, CO 80654.

**Reason**- Use by Special Review to operate a commercial shop and storage, commercial trucking and heavy equipment parking and maintenance for Toby's Oilfield Service Equipment

Ms. Cherry stated that this application was considered by the Planning Commission at their meeting on May 11, 2020 and unanimously recommends approval subject to two conditions.

# COMMISSIONERS PROCEEDINGS 5

## Application Overview

Ms. Cherry explained Leif Stephens as landowner and Toby Eisenach – Toby's Oil Field Services as applicant have submitted an application for a Special Use Permit for approval to operate a shop and heavy equipment parking and maintenance facility including associated storage of oil field equipment and fuel. The property is zoned Agriculture Production and is 4.89 acres, located in Section 1, Township 3 North, Range 60 West of the 6<sup>th</sup> P.M. Morgan County, Colorado addressed as 17500 Highway 39, Wiggins, CO.

- a. Pursuant to Section 2-325, 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 these Regulations.
- b. Pursuant to Section 3-175, Parcels smaller than 20 acres does not list storage of oil field equipment and maintenance as a Use by Right, Conditional Use or Use by Special Review.

## Criteria – Special Use Permits

Ms. Cherry stated that 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

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 support economic development by providing a location for storage of oil field equipment when it is not being used on location.*

2.II.C

Goal - To encourage development where it is in proximity to the activity centers, compatible with existing land use, and there is access to established public infrastructure.

*There is adjacent Agriculture Production zoning to the north, east and west of the property. Commercial zoning is directly to the south. The property is located adjacent to existing infrastructure, roads and Morgan County Quality Water will monitor water use for the potential to upgrade to a commercial tap. The project is compatible with the adjacent commercial use to the south. The applicant has proposed to construct fencing adjacent to Agriculture Production properties as well as add some trees to the landscape which will provide buffering.*

Goal - The County will encourage the preservation of agriculture production lands in balance with pressure for land use changes to higher intensity development.

Goal – Improve Morgan County's image by dealing with community design issues in relation to land use.

*Because this project is adjacent to commercial zoning commercial uses will expand while preservation of the adjacent Agriculture Production zoning is preserved.*

(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.

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

*The project as proposed will include landscaping and fencing along the property boundaries that will serve as additional buffer to adjacent Agriculture Production zones. Buffering on the south side of the property is not necessary due to being adjacent to Commercial zoning.*

(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.

(G) The special use proposed is not planned to be developed on a non-conforming parcel.  
*The property was created by exemption and is conforming.*

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

*Storage is necessary for oil field equipment as oil production has recently declined.*

(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.

*There is an existing Morgan County Quality Water tap on the property that will be monitored for possible increase to a commercial tap.*

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## Comments

Ms. Cherry stated that the day of the Planning Commission hearing we received one objection to the application from Stephen Smith that is included in your packets.

## Recommendation and conditions

Ms. Cherry explained the suggested conditions recommended by the Planning Commission:

1. The applicant shall obtain necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.
2. Add location and screening for trash receptacle to the site plan.

Ms. Cherry stated this application was considered by the Planning Commission at their meeting on May 11, 2020 and unanimously recommends approval subject to the above conditions.

Commissioner Zwetzig asked for clarification about the statement noted in the application overview, with Ms. Sellars stating they can request a use by special review, if it's not listed as one that does not mean they cannot obtain one. It was then noted that it was established that a request for special use review is allowed.

At this time, Chairman Arndt asked if the applicant had any further information to add at which time the applicant stated his name, George Cromwell, his wife Laurie, representing Toby's Oilfield Service, his business being Epic Design, address being 17108 CR 25, Fort Morgan. Mr. Cromwell provided a detailed overview of Toby's Oilfield Services and the efforts that have been made to find the necessary property and location for his growing business. He provided a detailed explanation of those items that are necessary to be stored on this property in question and named the many local businesses that this company supports in Morgan County.

At this time, Chairman Arndt opened the matter for public comment asking them to raise their hands remotely if they have any objection to this application with Ms. Kopetzky stating there was no activity.

At this time, Chairman Arndt stated there was no one online who made notice of objection to the application.

At this time, Chairman Arndt asked if there was anyone online in favor of the application with Ms. Kopetzky stating she seen no activity. At this time, a participant who was present in the audience asked to speak in favor. Aaron Columbia, 16610 County Road 7, Wiggins, CO, expressed his support of the application and provided reasons for his support.

Chairman Arndt stated there was one person remotely, Desiree Garside, who spoke in favor of the application as well. Ms. Garside stated her address as 12932 MCR W.5, Weldona, CO, spoke in favor of the application and as a witness providing detailed reasons as to how the business was operated when it was located in her neighborhood. Commissioner Zwetzig asked her to provide the direction and if there was shared property line with Mr. Eisenach, with Ms. Garside explaining her proximity directly south to the property.

Commissioner Zwetzig asked Ms. Garside about her witnessing the traffic from this business on a daily basis, with Ms. Garside providing specific details as to the number of trucks and the hours she has observed employees leaving and coming. She stated as an adjoining residential owner, the traffic was not of concern.

At this time, the rejection submitted by Steve Smith was reviewed. Ms. Cherry stated Mr. Smith was aware of the hearing today, with the Board moving forward and closed the public comment portion of the meeting at this time.

Toby Eisenach, applicant, asked to speak at which time Chairman Arndt allowed him to speak, he stated his address as being #6 Trailside, Fort Morgan, CO, owner of the business and stated those representing the application have presented the file hands down and stated he is present to answer any questions they may have.

At this time, Chairman Arndt moved into discussion and decision with Commissioner Zwetzig asking County Attorney Sellars if he has a question, if it would need to move into an executive session with Ms. Sellars explaining the Board could take the matter into consideration and close the public hearing, and a decision be made later in the day or continue for the next board meeting, and could move into executive session. Commissioner Zwetzig stated he would forego the question, with Ms. Sellars stating he could ask the question and she could not answer if she felt it was a conflict.

Commissioner Zwetzig then asked the question, if the decision to be made concerning the application's request for a special use permit, if it could also be considered whether or not a building permit was obtained or whether or not there is a potential violation on the property. Ms. Sellars stated if there was a building built on the property in violation of the building code and zoning regulations, one of the conditions could be to require the building permit be obtained as part of the approval if that is the way the Board moves forward. Chairman Arndt asked if there are any current violations of the zoning regulations on the property at this time, with Ms. Cherry stating at this time, there are not any current violations and provided a detailed explanation of the history of the property and the current status.

Commissioner Zwetzig asked Mr. Eisenach about him pulling onto the State highway, and there is no county roadways affected, and would the entrance and exit be increased at all with Mr. Eisenach stating no less than probably ten times a day in and out and as high as 20 times a day explaining what that would entail. The heavy equipment would be in and out early morning and then back early evening.

# COMMISSIONERS PROCEEDINGS 7

Commissioner Zwetzig asked what the comments and concerns were regarding the trash requirements, with Ms. Cherry stating that is part of the site plan to be sure there is an enclosed trash receptacle on site, with Mr. Eisenach stating he has had a trash receptacle on site and has utilized that for his business.

Commissioner Zwetzig asked if it is an industrial use or heavy industrial use, with Ms. Cherry stating neither, it tends to "walk that line". Mr. Cromwell stated that Mr. Eisenach does not have drilling rigs, he only has the smaller units and not as large as the heavy industrial units. Mr. Eisenach stated his equipment is only a small ma and pop business, nothing as large as the larger oil companies.

Commissioner Zwetzig asked about the "trailer setback" with asking for clarification. Mr. Eisenach stated it is a trailer that can be moved out when needed, with Commissioner Zwetzig asking about trailer parking, with discussion following regarding it is only equipment.

Fuel was discussed, with Mr. Eisenach stating he did this to satisfy the neighbors and explained what is required by the State of Colorado, and included this in his application as an extra precaution to show the neighbors that he cares about the County, the soil and the environment and satisfy the neighbors, stating it is a small amount, but it is contained.

Chairman Arndt asked Mr. Eisenach about the size of the operation not being any larger than what he had operated from his home on County Road W.5, Weldona, CO, with Mr. Eisenach stating that is correct. Chairman Arndt stated as a true neighbor, the property was always well kept and there were no issues stating the previous business he witnessed, everything was done correctly. Commissioner Zwetzig reminded everyone that in the future the landowner could change and that could be a different situation than what Mr. Eisenach is maintaining.

Commissioner Becker made comment that Mr. Eisenach was willing to place trees along the highway and if that was a requirement or a suggestion. Mr. Eisenach stated it was a suggestion by himself, and he would be willing to do so if the County would want him to do this given his equipment is not the best to look at. Commissioner Zwetzig made comment that he preferred his equipment be used all the time but is skeptical given the current economical situation. Mr. Eisenach stated he can adapt to make this work, and has no one above him that indicates he has to meet a quota and can adapt downward, and can make the profit he needs explaining the way he can adapt.

At this time, Chairman Arndt made note of the letter of opposition from Steven Smith who owns property across at an address of 5597 County Road S, Wiggins, and that is part of the submitted application.

Commissioner Becker made a motion to approve a Use by Special Review to operate a commercial shop and storage, commercial trucking and heavy equipment parking and maintenance for Toby's Oilfield Service Equipment. These will be used for residential sites. Located in the S ½, S ½, NW ¼ of Section 1 Township 3 N, Range 60 W of the 6<sup>th</sup> P.M. Morgan County, Colorado addressed as 17500 Highway 39, Wiggins, CO 80654, with Toby Eisenach as applicant and Leif Stephens as landowner. Commissioner Zwetzig seconded the motion. Commissioner Zwetzig asked if the property in question is still owned by Leif Stephens, with Mr. Stephens stating he still owns the property as the transaction has not been completed as of yet. Chairman Arndt made note that Mr. Stephens is present in the audience and stated the transaction has not been completed as of yet. At this time the motion carried 3-0.

Chairman Arndt asked Ms. Cherry to provide an update regarding a hearing scheduled for June 9<sup>th</sup>, 2020, with Ms. Cherry stating an application submitted by Rob and Wendy Danielson for an RV Park located on County Road 25 and County Road T, Brush, CO has been withdrawn and this will not be heard on June 9<sup>th</sup>, 2020 therefore, the hearing has been cancelled.

## **Executive Session – Conference Call with County Attorney**

At this time, a motion was made by Commissioner Becker to move into executive session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) concerning pending litigation. Commissioner Zwetzig seconded the motion and motion carried 3-0.

At this time, the executive session was held.

Chairman Arndt stated those present as being Commissioner Becker, Commissioner Zwetzig, County Clerk Susan Bailey, and Planning Administrator Pam Cherry. At this time, County Attorney Kathryn Sellars indicated the date as being June 2, 2020 and the time as 10:36 a.m. and further stated the executive session was being held for the purpose to hold a conference with the County Attorney to receive legal advice on specific legal questions, pursuant to C.R.S. 24-6-402(4)(b) concerning pending litigation. She cautioned each participant that all discussion must be confined to the stated purpose of the executive session, that no formal action may occur in the executive session, and that everything that occurs in the executive session is confidential and may not be disclosed to any outside party. At this time she certified the conversation that will be held as an attorney-client privileged communication and asked for the tape to be turned off.

Chairman Arndt indicated the board as being back in regular session, stating the time as being 10:56 am. County Attorney Kathryn Sellars noted the executive session having been concluded. She named those present during the executive session as being Chairman Arndt, Commissioner Zwetzig, Commissioner Becker, Clerk to the Board Susan Bailey, and Planning Administrator Pam Cherry.

County Attorney Sellars, asked for the record, if any person who participated in the executive session believed that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, she asked that they state their concerns. Upon hearing none, Ms. Sellars turned the meeting back over to Chairman Arndt.

# 8 COMMISSIONERS PROCEEDINGS

Chairman Arndt asked if there was any further business to bring before the Board, and upon hearing none, the meeting was adjourned at 10:57 a.m.

Respectfully Submitted,  
Susan L. Bailey  
Clerk to the Board  
(Minutes ratified June 9, 2020)

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

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

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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