

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting February 20, 2018

The Board of Morgan County Commissioners met Tuesday, February 20, 2018 at 9:07 a.m. with Chairman Mark Arndt, Commissioner Laura Teague and Commissioner James Zwetzig in attendance. Chairman Arndt asked Morgan County Clerk and Recorder Susan Bailey to lead the meeting in the Pledge of Allegiance.

ADOPTION OF THE AGENDA

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

CONSENT AGENDA

- Ratify the Board of County Commissioners approval of meetings minutes dated February 13, 2018
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 046, SBrand Consulting, consulting services for Tourism Strategic Planning meeting, Term of Contract February 20, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 047, Front Range Pest Control, pest control for Morgan County buildings, Term of Contract January 1, 2018 through December 31, 2018
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 048, Winstead Construction, build arch cover for new placement of sprinkler in Judicial Center, Term of Contract January 26, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 049, Winstead Construction, repair water damage on drywall in Judicial Center, Term of Contract February 1, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 050, Winstead Construction, repairs and floor tile work in the work release area, Term of Contract February 1, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 051, Winstead Construction, repair walls in the County Clerk area, Term of Contract January 10, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 052, Abbey Environmental, air sample in Judicial Center Courtroom #2, Term of Contract February 9, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 053, Central Auto Supply, automotive fuel filters for 2018, Term of Contract January 1, 2018 through December 31, 2018
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 054, A & R Automotive, alignment on unit #5493, Term of Contract February 7, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 055, Farm Boy Crossfit, monthly rental of Wiggins Ambulance building, Term of Contract January 1, 2018 through December 31, 2018
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 056, Arapahoe County Colorado, CBMS Services with Human Services, Term of Contract January 1, 2018 through December 31, 2018
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 057, D & J Electric, Inc, 2018 On Call services, Term of Contract April 1, 2018 through March 31, 2019
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 058, Mercedes Benz of Littleton, diagnose & repair NOx sensors in SCR system, Term of Contract February 8, 2018 until completed
- Ratify the Board of County Commissioners approval on Grant 2018 GRA 05, Williams Family Foundation, Ambulance power cots, signed on February 20, 2018
- Ratify the Board of County Commissioners approval on Morgan County Duplication of Benefits Policy signed on February 20, 2018
- Ratify the Board of County Commissioners approval on Morgan County Accounting Policies and Procedures signed on February 20, 2018
- Ratify the Board of County Commissioners approval of transfer of debtors to the State Collections Agency, Ambulance Clients #172176, #172133, #171561, #172329, #172101B, #171797, #172181A, #172010, #172126, #172212, #171939, #172109, #171829, #172139, #171507, #171807, #171683, #172175, #172117, #171476, #171933, #172041A, #171841, #172090A, 171642, #172095, #172018, #172020, #172189B, #172152, #172392, #172401, #170470, #171090, #171152, #171941, #172186, #172220, #172134, #172060, #172500A, 172188, #172051, #151542, #151396, #152311, #160647, #170437A, #162509, #172105, #172141
- Ratify the Board of County Commissioners approval of waiver of fees for the fairgrounds for CHS Inc & Food Bank of the Rockies

Commissioner Teague made a motion to approve all items 1-19 on the Consent Agenda as presented. Commissioner Zwetzig seconded the motion and motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Presentation of Annual Report for the East Morgan County Library – Laura McConnell, MLS Director of East Morgan County Library

Kristi Waite, Morgan County Administrative Services Manager reported to the Board that Ms. McConnell was not able to attend this morning's meeting and this matter will be rescheduled for a future meeting date.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated February 16, 2018 through February 27, 2018 with no changes.

2 COMMISSIONERS PROCEEDINGS

Kristi Waite, Morgan County Administrative Services Manager asked that the agenda reflect a revision indicating it had been prepared in the incorrect order. The amended agenda was noted and Chairman Arndt then moved to the next item of business as being unfinished business and then citizen's comment.

UNFINISHED BUSINESS

There was no unfinished business.

CITIZEN'S COMMENT

There was no citizen comment provided.

PUBLIC HEARING

Chairman Arndt called the hearing to order at 9:30 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Mark Arndt, Commissioner Laura Teague and Commissioner James Zwetzig in attendance. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry.

Consideration for Approval – Resolution 2018 BCC 11, a Resolution extending a temporary moratorium on Morgan County's processing of applications for proposed injection wells used for the storage or disposal of exploration and production wastes and other oil and gas waste and proposed facilities to treat waste from oil and gas operations in all unincorporated portions of Morgan County pending consideration of amendments to County regulations

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2018 BCC 11

A RESOLUTION EXTENDING A TEMPORARY MORATORIUM ON MORGAN COUNTY'S PROCESSING OF APPLICATIONS FOR PROPOSED INJECTION WELLS USED FOR THE STORAGE OR DISPOSAL OF EXPLORATION AND PRODUCTION WASTES AND OTHER OIL AND GAS WASTE AND PROPOSED FACILITIES TO TREAT WASTE FROM OIL AND GAS OPERATIONS IN ALL UNINCORPORATED PORTIONS OF MORGAN COUNTY PENDING CONSIDERATION OF AMENDMENTS TO COUNTY REGULATIONS

WHEREAS, on August 21, 2017, the Board of County adopted a moratorium on the applications for proposed injection wells used for the storage or disposal of exploration and production ("E&P") wastes and other oil and gas waste and proposed facilities to treat waste from oil and gas operations in Morgan County;

WHEREAS, the County adopted the moratorium pursuant to its land use authority under the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, which provides the County with the broad authority to plan for and regulate the use of land in order to provide for orderly development while balancing the health, safety and welfare of its citizens;

WHEREAS, the Board believes it has the responsibility to its residents to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, and to promote the health, safety and general welfare of its residents;

WHEREAS, on November 21, 2017, the Board amended the moratorium by limiting its application to only commercial disposal well facilities, as defined by the Morgan County Zoning Regulations;

WHEREAS, since the imposition of the moratorium, the Board has held several stakeholder meetings to gather information to guide its decisions and the public regarding oil and gas regulations and County staff has been consistently working on draft regulations of oil and gas operations including commercial disposal well facilities;

WHEREAS, the current moratorium, as amended on November 21, 2017, is scheduled to expire on February 21, 2018;

WHEREAS, the County requires additional time to draft regulations for oil and gas operations and to adopt regulations through the required process;

WHEREAS, the County desires to extend the moratorium, as amended, for a short period to finalize and adopt regulations; and

WHEREAS, in light of the foregoing recitals and findings, and incorporating the recitals and findings from Resolution 2017 BCC 26, after a duly noticed public hearing held on February 20, 2018, the Board desires to extend the moratorium, adopted on August 21, 2017, and as amended on November 21, 2017, to protect the public health, safety, and welfare, and to avoid development which, during the County's planning and land use regulation amendment process, may contravene the results of this study and process and put the public at risk.

COMMISSIONERS PROCEEDINGS 3

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

1. This extension of the moratorium, as amended, shall take effect immediately. The County Planning Department is directed not to accept, process, or approve any applications for uses of land that involve the treatment of oil and gas waste and /or the storage or disposal of E&P waste or other oil and gas waste through injection wells which constitute commercial disposal well facilities and related operations to a commercial disposal well facility.
2. The temporary moratorium, as amended, shall remain in place until March 30, 2018, unless terminated or extended.
3. County staff is hereby directed to continue analyzing whether the County's Zoning Regulations pertaining to oil and gas operations are sufficient to protect the public health, safety and welfare, whether amendments to the County's Zoning Regulations are necessary to adequately address the impacts of these uses and drafting amendments to the County's Zoning Regulations.
4. The County hereby affirms that any treatment of oil and gas waste and/or the storage or disposal of E&P Waste and other oil and gas waste through injection wells without appropriate County approvals may be in violation of the Morgan County Zoning Regulations.

DATED this 20th day of February, 2018.

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

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

s/Laura D. Teague
Laura D. Teague, Commissioner

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

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Planning and Zoning Director and Floodplain Administrator Pam Cherry stated she is presenting Resolution 2018 BCC 11, a resolution to extend a temporary moratorium that was approved under Resolution 2017 BCC 26 related to the proposed oil and gas injection wells in all zoning districts of Morgan County. She further stated that on August 21, 2017, the Board of County Commissioners adopted a moratorium on applications for proposed injection wells for the storage or disposal of exploration and production wastes and other oil and gas waste to treat waste from oil and gas operations in Morgan County. On November 21, 2017 the Board amended the moratorium by limiting its application to only commercial disposal well facilities. The Board has held a series of stakeholder meetings to guide its decision on the drafting and adoption of regulations of oil and gas commercial disposal wells. The County desires a short extension of the moratorium to complete the revisions to the regulations. The request is to have the moratorium remain in place until March 30, 2018 unless terminated or extended.

Chairman Arndt read aloud the resolution information for the board's purpose and asked if there were any questions to staff or any further discussion.

At this time, Chairman Arndt opened the matter up for public comment in which there was no public comment.

Chairman Arndt moved to discussion and decision at this time in which Commissioner Zwetzig pointed out a current bill HB18-1150, reading aloud a provision of that law being considered. He stated a local government that enacts a moratorium of any duration on oil and gas activities in its jurisdiction shall compensate oil and gas operators, mineral lessees, and royalty owners for all costs, damages and losses of fair market value associated in any respect with imposition of the moratorium, including delay or loss of royalty payments, delay or loss in developing oil and gas resources, or delay or loss in realizing the value of mineral leases.

He further stated the question that he has – "is what the definition of oil and gas activities are", as he does not want to put the County in a position where it would have to compensate for any losses, explaining the reason the moratorium that is being put in place is only for land use, not oil and gas activity. He stated that we are all aware the Oil and Gas Conservation Commission regulates oil and gas, fracking and other activities in the State below the ground and expressed there is local control for the land use of that activity above the ground. He states he still feels that Morgan County is still appropriate in what action they have taken and the local jurisdictions have the right to place moratorium on anything that is considered as land use, feeling the Morgan County is within its authority and right to do so. He expressed his concern about not being able to have the hearings that were set up allowing for all parties to participate and assist the County in making a correct and thoughtful decision. He stated that this has been discussed at CCI, and one county abstained and the rest of the counties voted to oppose this bill due to the statement in the drafted legislation of this bill.

4 COMMISSIONERS PROCEEDINGS

Chairman Arndt stated the time out or moratorium was to gather information in order for the Board to be a better decision maker, and feels that after having this time it has given them the opportunity to gather the information and is able to make a better educated decision and feels it is the job of the Commissioners to protect the citizens in matter such as these. Commissioner Teague stated that she has heard from others within the community and they have expressed appreciation in the manner the Board has taken this issue in asking for additional information to make a better decision, they understand the need to protect both our citizens and the industry.

Commissioner Teague made a motion to approve Resolution 2018 BCC 11 a Resolution extending a temporary moratorium on Morgan County's processing of applications for proposed injection wells used for the storage or disposal of exploration and production wastes and other oil and gas waste and proposed facilities to treat waste from oil and gas operations in all unincorporated portions of Morgan County pending consideration of amendments to County zoning regulations. Commissioner Zwetzig seconded the motion the motion carried 3-0.

Executive Session – Conference Call with County Attorney

Chairman Mark Arndt called the Executive Session to order at 9:39 a.m. at which time a motion was made by Commissioner Zwetzig 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). Commissioner Teague seconded the motion and the motion carried 3-0.

At this time, Chairman Arndt indicated the date as being February 20, 2018 and the time being 9:41 a.m. and stated for the record, he as the Chairman and as required by Open Meetings Law, that the executive session is being electronically recorded. He further stated those present at this time as being Chairman Mark Arndt, Commissioner Laura Teague, James Zwetzig, Morgan County Clerk Susan L. Bailey, Chief Deputy Clerk Randee Aleman, Morgan County Planning Administrator Pam Cherry, and County Attorney Kathryn Sellars who was in attendance by phone. He further indicated this is an executive session for a conference with the County Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b).

At this time, by phone, County Attorney Kathryn Sellars attested to the subject of this meeting as attorney client privileged and stated the tape could be left on for this executive session at which time Ms. Bailey and Ms. Aleman recused themselves and left the meeting.

Ms. Bailey and Ms. Aleman returned to the meeting at the request of Chairman Arndt who stated the time as being 10:26 a.m. and explained the recording had been left on and the privileged attorney-client communication was finished. Chairman Arndt indicated the recording reflects the actual contents of the discussion at the executive session and has been made in lieu of any written minutes to satisfy the recording requirements of the Open Meetings Law and indicated he will retain the tape in the Clerk's possession for 90 days.

Chairman Arndt noted the time as being 10:28 a.m. and moving back into regular session indicating those present at this executive session as being Chairman Arndt, Commissioner Teague, Commissioner Arndt and Planning Administrator Pam Cherry and County Attorney Kathryn Sellars (who appeared by phone). Chairman Arndt stated, 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, he asked for them to state their concerns for the record. No concerns were expressed.

Being no further business the meeting was then adjourned at 10:29 a.m.

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified February 27, 2018)

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

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

s/Laura D. Teague
Laura D. Teague, Commissioner

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

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey