

COMMISSIONERS PROCEEDINGS1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting March 27, 2018

The Board of Morgan County Commissioners met Tuesday, March 27, 2018 at 9:00 a.m. with Chairman Mark Arndt, Commissioner Laura Teague and Commissioner Zwetzig in attendance as well as County Attorney Kathryn Sellars. Chairman Arndt asked Morgan County Director of Emergency Management Steve Enfante to lead the meeting in the Pledge of Allegiance.

ADOPTION OF THE AGENDA

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

CONSENT AGENDA

- Ratify the Board of County Commissioners approval of meeting minutes dated March 20, 2018
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 087, 21st Century, replace timing wheel on unit #110, Term of Contract March 22, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 088, Serck Services/Denver Radiator, repair radiator & new core on unit #359, Term of Contract March 13, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 089, S & B Refrigeration, repair cooler located at Judicial Center, Term of Contract February 20, 2018 until completed
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 090, Wireless Advanced Communications, maintenance for U-Wave system at tower sites, Term of Contract April 1, 2018 through March 31, 2019
- Ratify the Board of County Commissioners approval on assignment of debt collections to State Collections, Client #172355, #172461, #172296, #172538, #172013, #172525, #172486, #172546, #172303, #172491, #172113, #180162, #172494, #172485, #172357, #172535, #172389
- Ratify Chairman Mark Arndt's signature on the letter of support for the Morgan Community College Foundation for being an identified recipient of potential funds from the Colorado Opportunity Scholarship Initiative signed on March 22, 2018
- Ratify the Board of County Commissioners approval of waiver of fairground fees for the Brush Rodeo Association

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

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – RIGHT OF WAY - 2018 PMT 11 – Morgan County Quality Water District

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018 PMT 11, with Morgan County Quality Water District. Mr. Goodman stated this right of way permit is to bore under Carrie Court (Road Segment 100), starting approximately 620 feet southwest of the intersection of Carrie Court and County Road U in the south right of way of Carrie Court from an existing 4 inch PVC main boring north under Carrie Court a ¾ inch HDPE service line to the south side of the property line, for the purpose of installing a new water service. He stated the fees are attached in the amount of \$150.00 and the location has been inspected.

Commissioner Zwetzig made a motion to approve Right of Way Permit 2018 PMT 11 with Morgan County Quality Water District as outlined in the narrative of the permit noting the fees in the amount of \$150.00 is attached as presented by Morgan County Road Supervisor John Goodman and authorized the Chair to sign. Commissioner Teague seconded the motion. At this time, the motion carried 3-0.

Consideration of Approval – PROCLAMATION – National Service Recognition Day

PROCLAMATION National Service Recognition Day April 3, 2018

WHEREAS, service to others is a hallmark of the American character, and central to how we meet our challenges; and

WHEREAS, the nation's counties are increasingly turning to national service and volunteerism as a cost-effective strategy to meet their needs; and

WHEREAS, AmeriCorps and Senior Corps participants address the most pressing challenges facing our communities, from educating students for the jobs of the 21st century, to fighting the opioid epidemic, to responding to natural disasters, to supporting veterans and military families; and

WHEREAS, national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and

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WHEREAS, AmeriCorps and Senior Corps participants serve in more than 50,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and

WHEREAS, national service participants increase the impact of the organizations they serve, both through their direct service and by managing millions of additional volunteers; and

WHEREAS, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and

WHEREAS, national service participants demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

WHEREAS, the Corporation for National and Community Service shares a priority with local leaders nationwide to engage citizens, improve lives, and strengthen communities; and is joining with the National League of Cities, the National Association of Counties, Cities of Service, and local leaders across the country for National Service Recognition Day on April 3, 2018.

THEREFORE, BE IT RESOLVED that the Commissioners of Morgan County, do hereby proclaim April 3, 2018, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our community, to thank those who serve; and to find ways to give back to their communities.

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

Due to Josh Gillogly not present to introduce this proclamation, Ms. Kristi Waite, Morgan County Administrative Services Manager, presented the proclamation that Hannah Hostack, from the Greeley area, asked Morgan County to recognize this day as National Service Recognition Day, April 3, 2018 which highlights the AmeriCorps Program, Senior Corps, in the various projects and asked the Board to accept the proclamation as written.

Commissioner Zwetzig made a motion to accept the proclamation as written and felt it was not necessary to read aloud and to approve and recognize the Proclamation proclaiming April 3, 2018 as National Service Recognition day as presented by Ms. Krisit Waite. Commissioner Teague seconded the motion and further commented that the County has worked with these individuals who have assisted the 4H programs and feels the recognition of this program is merited given the fact they are helping with youth residing in Morgan County. Chairman Arndt then read aloud a paragraph of the proclamation regarding the opioid epidemic, the national disasters and to support our military and veterans which he felt was very important to recognize. At this time the motion carried 3-0.

Commissioner Zwetzig asked to reserve the right for Josh Gillogly to speak in regards to this proclamation if he should arrive later during the meeting.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Emergency Management- Recognition of the retirement of Steve Enfante, Emergency Management Director

Chairman Arndt thanked Mr. Enfante for his 20 years of service as the Emergency Management Director and he was then presented with a vest to express the County's appreciation of his 20 years of service by Commissioner Zwetzig and Commissioner Teague.

Both Mr. Enfante and Mr. Doll stated there will be an exercise conducted commencing Tuesday, April 3, 2018 collaborating with the City of Fort Morgan stating there will be a tornado that comes through the County, with the Morgan County School District participating, stating there will be mass casualties involved where the Air National Guard will be on site as well as hospital participation, EMS, law enforcement agencies, Valley View Villa and other agencies within the County.

There will be ambulance services participating from several area counties, this will commence on Tuesday April 3 and conclude on Friday, April 7. He stated the agenda will vary from day to day and the Emergency Operation Center will be in full operation each day. He believes this is one of the best exercises the County has participated in stating the several participants. He further stated this is a training exercise.

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Commissioner Zwetzig stated the public needs to be aware of this exercise, and explained there will be helicopters in the area, national guard, and activities occurring within the County and reiterated this is only an exercise and for the public to be aware.

Commissioners reviewed the calendar dated March 23, 2018 through April 3, 2018 with changes.

At this time, Mr. Josh Gillogly appeared to speak further about the Proclamation the Board accepted as National Service Day, indicated his address as being 113 West Street, Fort Morgan. He provided a brief summary of AmeriCorps stating it is a service for the community and is currently working with Jodi Walker.

Commissioner Zwetzig made note that due to the disaster exercise scheduled to commence April 3, 2018, there will be no Commissioner meeting held as the Assembly Room will be utilized as the Emergency Operations Center.

UNFINISHED BUSINESS

There was no unfinished business.

CITIZEN'S COMMENT

Daniel Burtherus introduced himself as the new area representative for Congressman Ken Buck who is temporarily taking over for Dusty Johnson, and introduced himself to the Board stating he would be happy to speak with anyone after today's meeting. He resides in the Greeley area.

At this time, the Board recessed until the public hearing scheduled for 9:30 a.m.

PUBLIC HEARING

Chairman Arndt called the hearing to order at 9:34 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 and Morgan County Attorney Kathryn Sellers.

1. Consideration for Approval – Amendments to the Floodplain Regulations and Definitions

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

CORRECTION - RESOLUTION NO.2018 BCC 13

A RESOLUTION AMENDING VARIOUS SECTIONS OF THE MORGAN COUNTY ZONING REGULATIONS REGARDING FLOODPLAIN REGULATIONS

WHEREAS, the Board of County Commissioners of Morgan County has adopted the Morgan County Zoning Regulations to protect the public health, safety and welfare of citizens;

WHEREAS, the flood hazard areas of Morgan County are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public;

WHEREAS, in order to participate in the National Flood Insurance Program, the County must adopt a new Flood Insurance Study ("FIS") and Floodplain Insurance Rate Maps ("FIRM") dated April 4, 2018 and created by FEMA;

WHEREAS, the County's FIS and FIRM have been recently updated by FEMA and the County desires to adopt the FIRM's and FIS in order to maintain the ability of its citizens to obtain flood insurance and to maintain the County's continued ability to receive federal grants and funding related to floodplain management;

WHEREAS, the County further desires to lower the threshold for the lowest floor of any new construction and substantial improvements of any residential or non-residential structure; and

WHEREAS, this Correction Resolution No. 13, 2018 BCC shall supersede the Resolution No. 13, 2018 BCC recorded at reception number 911034 in the records of the Morgan County Clerk and Recorder.

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

1. Sections 3-760 "Boundaries" of the Morgan County Zoning Regulations is amended to read as follows:

"Boundaries" The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled, "The Flood Insurance Study for Morgan County," Dated April 4, 2018, with an accompanying Flood Insurance Rate Maps (FIRM), and any revisions thereto, is here by adopted by reference and declared to be a part of these Regulations. The Flood Insurance Study

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and FIRM are on file in the Planning Department of Morgan County, 231 Ensign Street, Fort Morgan Colorado 80701. Zones A and AE on these maps delineate the areas within which the requirement of these Regulations apply.

2. Section 3-820(A) of the Morgan County Zoning Regulations is amended to read as follows:

New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, one foot (1') above the base flood elevation.

In areas that the base flood elevation has not been determined, new construction and substantial improvements of any residential structure shall have the lowest floor, including basement, one foot (1') above the highest adjacent grade.

3. Section 3-820(D) of the Morgan County Zoning Regulations is amended to read as follows:

New construction and substantial improvement of any nonresidential structure, excluding critical facilities, shall either have the lowest floor, including basement, elevated one foot (1') above the base flood elevation in Flood Zone AE, or one foot (1') above the highest adjacent grade in Flood Zone A or, together with attendant utility and sanitary facilities shall:

* * *

4. Section 3-820 of the Morgan County Zoning Regulations is amended by the revision of subsection E and addition of a new subsection F to read as follows:

(E) New construction and substantial improvement of critical facilities shall either have the lowest floor, including basement, elevated two feet (2') above the base flood elevation in Flood Zone AE, or two feet (2') above the highest adjacent grade in Flood Zone A or, together with attendant utility and sanitary facilities shall:

- (1) Be flood-proofed so that below the base flood elevation the structure is water tight with walls impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a registered professional engineer that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the Morgan County Planning Administrator as set forth in Section 3-780.

(F) Any exterior fuel storage or supply equipment must be adequately anchored to prevent flotation.

APPROVED this 27th day of March, 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

Chairman Arndt asked Morgan County Planning Director/Floodplain Administrator Pam Cherry to present the file.

Ms. Cherry explained that at Planning Commission's regular meeting on February 12, 2018 an item on the agenda was the request for a recommendation of approval forwarded to the Board of County Commissioners on the Floodplain Regulations and Flood Insurance Rate Maps and Flood Insurance Study that are to take effect on or before April 4, 2018. The Planning Commission recommended denial of the regulations which included the adoption of the associated maps and flood insurance study. They again heard testimony related to the floodplain regulations at their meeting on March 12 and again recommended denial of the adoption of the new regulations. The commission was concerned about the inability to exempt agricultural activities and roadway maintenance from the requirement for obtaining a floodplain development permit.

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Ms. Cherry stated that the Planning Commission had requested information on the funds received from FEMA related to flood damage. Ms. Cherry stated she requested the information from the Morgan County Accounting Department and FEMA, noting the following information:

- 2013 and 2015 flood damages were paid for road repairs in the amount of \$1,000,000.00. There are additional claims still pending that were recently completed and submitted to FEMA for payment (Road and Bridge project list and Accounting reimbursements received are attached to her report as she stated).
- FEMA has provided \$13,000.00 in Hazard Mitigation Assistance.
- FEMA has provided \$93,575.00 in Individual Assistance.
- FEMA has provided \$457,815.00 in Public Assistance.
- FEMA has provided \$41,000.00 in Emergency Preparedness Grant Program Assistance.
- FEMA reports that total claims paid on NFIP policies since 1978 on 41 claims in the amount of \$449,479.00.

Ms. Cherry explained that this is approximately \$2,054,869.00. This does not include financial assistance in the form of studies and research on the floodplains that have been completed or are still ongoing.

Ms. Cherry stated that in addition, the Planning Commission requested that some language be included in the regulations to exempt agriculture and roadway maintenance. Since February 12, the county attorney drafted a definition of development that would exclude agriculture and roadway maintenance from the requirement to obtain a Floodplain Development permit. That definition was not acceptable to FEMA or the Colorado Water Conservation Board. As a participant in the NFIP the County is required to comply with federal and state regulations including definitions, so the definition of development will be the same as FEMA's.

Ms. Cherry stated however, FEMA issued a draft policy (included in the Board's packet) in May 2017 that will allow a designation of low to no-impact projects. The policy has not been formally adopted due staff shortages related to the hurricanes and damages sustained during 2017. FEMA is permitting the use of the language so a definition of low to no-impact has been added to the Morgan County regulations.

Ms. Cherry explained Planning Commission reviewed a draft version of the floodplain regulations that included Sections C&D under "Findings of Fact" which were prepared by the county attorney. These have been reviewed by FEMA and CWCB; and she stated the findings are not acceptable.

At this time Ms. Cherry explained the findings of fact and read aloud the following:

FINDINGS OF FACT ADDED:
(Page 1 of Regulations)

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(C) The County expressly finds that agricultural activities, which do not include buildings or other structures, do not increase flood damage and/or increase exposure to flood hazards, do not constitute new construction or substantial improvement and would not trigger the requirements of these Floodplain Regulations.

(D) The County expressly finds that dirt and gravel road maintenance conducted regularly and annually by the County's Road and Bridge Department does not involve significant movement or relocation of dirt and gravel, does not increase flood damage and/or increase exposure to flood hazards, and does not constitute new construction or substantial improvement and would not trigger the requirements of these Floodplain Regulations.

The definition of "Development" was changed for compliance with FEMA regulations. The definition in the current regulations reads:

(Page 3-4) Definition of Development to be removed and replaced (required to be same as FEMA):

Development: Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Development does not mean agricultural activities including but not limited to the use of land for the growing of crops, gardening, grazing, and other agricultural production pursuits. Buildings and other structures related to agricultural activities are development under these Floodplain Regulations. Development also does not include annual dirt and gravel road maintenance conducted by the County on its road. Substantial maintenance, construction, relocation or significant resurfacing of County roads does constitute development under these Floodplain Regulations.

The draft definition of development is:

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Development: means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(Page 7) **Definition of Low to No Impact added:**

Low to No Impact Development: Certain development, known as low to no impact development, does not trigger these Floodplain Regulations due to their nature and the lack of impact or increase of hazards in the floodplain. This low to no impact development includes agricultural activities, such as the use of land for the growing of crops, gardening, grazing, and other agricultural production pursuits but not any activity which would increase the hazards in the SFHA. Buildings and other structures related to agricultural activities are development under these Floodplain Regulations and are not categorized as low to no impact development. Low to no impact development also includes annual dirt and gravel road maintenance conducted by the County on its roads. Substantial maintenance, construction, relocation or significant resurfacing of County roads constitutes development under these Floodplain Regulations.

Ms. Cherry stated that on February 12, 2018 and March 12, 2018 the Planning Commission recommended denial of the proposed floodplain regulations that included the adoption of the Flood Insurance Rate Maps and the Flood Insurance Study to become effective on April 4, 2018. It was the choice of the Planning Commission how they want to move forward with this item.

At this time, Ms. Cherry recommended that the Board of County Commissioners either approve the draft floodplain regulations, or adopt the Morgan County Flood Insurance Rate Maps and the Flood Insurance Study dated April 4, 2018.

Commissioner Teague asked about the statement which was made as to “it was the choice of the planning commission how to move forward on this item”. Ms. Cherry explained the Planning Commission met on February 12, 2018 and recommended denial and sent it to the Board of County Commissioners for their review at which time the matter was continued for the Planning Commission to hear again on March 12, 2018 and the Commission did not change their initial recommendation.

Kathryn Sellars, County Attorney, clarified their packets as stating there are two resolutions in their packets and summarized each of them to the Board explaining the Board has two options in front of them to review today.

At this time, Chairman Arndt opened the matter for public comment. Chairman Arndt stated there is a limit of three minutes for each individual to make public comment and obtained the sign in sheet so he was able to call those forward who wish to make public comment.

At this time, Chuck Miller, 26060 Morgan County Road S, Brush, Colorado spoke to the Board. He stated with all due respect after four years of working on this matter, he respectfully asked for additional time to comment. He stated the first question this morning, was when he pulled the resolution off the website that he believed was going to be addressed this morning and the one he pulled up on the website is not the one available today and expressed concern. He asked the legal counsel to explain paragraph 1 of the resolution for clarification. Commissioner Zwetzig clarified the board had the planning commission review the resolution that was placed on the web page and that is still in front of the Board for its consideration.

Chuck Miller stated he has not had the time to research the second resolution which was presented at the meeting and his questions fall in line with how the Board chooses to move forward. He stated the resolution was presented to the Planning Commission on February 12, and March 1, and wants it to be part of the record that the Planning Commission met on March 1, not March 12. He stated the Planning Commission board presented information at that time they would like to see in the resolution and Ms. Cherry also presented at the March 1 meeting in paragraphs C and D, sections 3-742 and these were permitted and would be included and asked if that is a correct statement.

Chairman Arndt stated this is what was presented and it was agreed to move forward notifying FEMA of those changes, and Mr. Miller stated that at the Planning Commission, C and D would be included and it was approved and questioned why this is not included in the resolution being presented.

Ms. Cherry stated that FEMA and CWCB got back to her after the March 1st meeting stating that cannot be included, and Mr. Miller asked about the low to no impact, with Ms. Cherry stating at that time she had not received comment back from FEMA in regards to items C and D being approved. Mr. Miller thanked her and stated, “so your point is to abort that is working hard and the well being for Morgan County to give them something and utilize no comment or no objection as permission?”

Mr. Miller asked if the definitions as repealed, is that still the same way as being presented, with Ms. Cherry stating yes, those will be repealed if the regulations are replaced if the regulations are not replaced then those definitely would remain.

Mr. Miller asked if what she said if the regulations are replaced, are those going back to 1998 or 2014. She stated the regulations that are currently within the Morgan County Regulations, with Commissioner Teague stating what was approved in 2010. Mr. Miller stated he does not understand how that refers to 2010 when the County adopted new regulations in 2014.

Commissioner Teague referenced the CWCB regulations in paragraph 1, with Mr. Miller stating he has the information and read aloud the information and indicated there was no date.

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Mr. Miller further stated the study ended in 2012, and the Board adopted the new regulations in 2014 because they were required by FEMA to adopt them. He asked to move on unless the Board would like to stay on this topic, feeling what has been done has been done, and for the record wants to get the facts and the dates straight.

Mr. Miller spoke about communicating with the Board and stated, first he would like to apologize to the Board, staff and Morgan County citizens stating when you address the planning and zoning decisions through education and through property rights over the last 12-15 years, he has been taught that organized political activism by citizens is the only way you make a unified voice heard. He further stated, unfortunately, he chose to do it in a more respectful way stating he is directly affected and unfortunately chose to work with the Board for four years and feels the respect has not been given to him. He stated there are additional numbers of those who are concerned about the floodplain regulations and he stated we are backed in a corner. On March 16, 2006, FEMA sent a letter to Chairman McCracken, reading aloud the letter which referenced the flood insurance rate map and flood insurance study and further read aloud the additional information included in that letter. He stated that there was to be a citizen coordinated meeting to discuss the information regarding this matter. He stated he did receive a letter in June, and would like to address the workings of the Planning and Zoning administrator and staff as the appointee of the floodplain coordinator. He further mentioned on June 22, 2016, a letter was sent out by John Crosthwait, it stated the designation or possible changes has important implications related to flood insurance requirements, flood insurance rates, obtaining federal loans for the sale of your property as a result of a meeting held at the fairgrounds.

He stated he feels the meeting was basically a flop, unfortunately nothing came of the meeting. He asked the current floodplain administrator 30 days into office, he heard her state to potential buyers they would not be able to build in a floodplain area. He stated she has also more than five times in public, told him if he would have done a LOMR (Letter of Map Revision) in 1999 his situation would have been different. He expressed frustration stating he is tired of hearing her tell him that.

He stated he has asked her to produce the documentation to support what she has said stating that his situation could be different, she stated she did not understand, and have to get back with him and did call him back later asking him to clarify. He stated he told her that he has heard this in the public more and more and did not understand what he was talking about so he asked her to pull out his latest floodplain elevations and she found them, and he asked her to pull out the current revised base elevation map and asked her to tell him what would be a difference. At that time she stated he has been grandfathered in and he asked what this meant and she told him she did not have time to discuss this and hung up the phone. He stated this was brought to the Board's attention.

Mr. Miller stated that two weeks ago he was asked by a party who wishes to build in the floodplain wanting to know what he knew, and he stated he pointed out the information and the process to go through this and the zero rise tolerance and the part where the applicant must apply to FEMA for a conditional map revision and this party told him that he does not know what he is talking about as they had talked to Ms. Cherry and they were told they needed to speak with an engineer and an architect and they had the impression they could build.

He stated it is these types of actions that have gone on in this County, that are high risk to a law suit. Back to the coordination process, he asked Commissioner Teague about coordination being a NEPA thing and it has to do with federal lands, with Ms. Teague stating it is her understanding. Commissioner Zwetzig asked about the information, as to the wording, with him stating it has to do with federal departments, not lands. Commissioner Teague stated that is her understanding. Mr. Miller stated that coordination was adopted in 1974 reading information to the Board explaining how it was adopted which states all agencies must give notice to local government and provide the information and coordinate with local government in including them in the decision process. He made mention of an executive order President Trump recently signed. Mr. Miller asked Commissioner Teague about her understanding of NEPA, stating that NEPA is the agency you apply to when you have an issue with EIS, stating when you have a problem, you report to NEPA and they tell them they must comply. He asked if she had reviewed NEPA's EIS with her stating they had not.

Chairman Arndt stated he understand that the flood insurance program is strictly a volunteer program, the County does not have to adopt these maps, it is voluntary to do so if you want the citizens in a floodplain to obtain flood insurance, stating it is strictly volunteering and if we do not adopt the floodplain maps and the regulations, that would mean there will not be floodplain insurance from the federal government asking if he is correct. Ms. Cherry stated he is correct and stated another impact would be federally backed mortgages it would not be available as well.

Mr. Miller asked what percentage of Morgan County's citizens carries federal insurance with Ms. Cherry stating she believes there are between 70 and 80 with federally backed mortgages that have federal flood insurance. Mr. Miller asked what percentage carry flood insurance but not through FEMA, with Ms. Cherry stating she did not have the information. Mr. Miller stated it would be the majority. Commissioner Teague asked where he gets the information regarding this with Mr. Miller stating from the City of Brush who had stated very few carry FEMA insurance with the majority being covered by private insurance.

Mr. Miller then asked the entire Board if any of them had reviewed the FEMA EIS, with the Board stating they had not.

Mr. Miller stated in closing, shared with the Board, for the record, Fred Kelly Grant's work who is a federal prosecutor who changed to a federal defense lawyer, stating the quote he made why changing. In teaching coordination, he points out property owners are faced with different problems, reading aloud the information to the Board. He thanked the Board for the opportunity to discuss this with the Board today, stating there are many things that could have been coordinated and come up with a better plan feeling there may be some questions today that fall right in line. He stated that Morgan County did not coordinate when FEMA brought it to their attention.

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He again read additional information to the Board stating the colors on a map that he had in his possession. He stated there is a major problem and FEMA is falling right in line with what was called Agenda 21 now called Agenda 30.

Chairman Arndt asked Mr. Miller as the Board has gone through this process does he feel the maps indicate he is accurately in a floodplain or floodway on your property. He stated he knew he was in the floodplain when he acquired the property and he complied with all the regulations in place and he did raise his property to be able to build and he stated the problem is there is a zero rise tolerance and that has taken away his right to build and it is required to hire an architect and an engineer, and if that engineer determines you have created a one inch rise, you cannot build. He stated there are costs that are unknown and if you want to build a building that he would like to build and if FEMA has the right to come in and deny this to be completed, he is concerned that FEMA has come in and denied the citizens to be able to comply feeling they have dumped things on the taxpayers shoulders. The Planning and Zoning office has to do all the work and FEMA does not compensate the County for this work, and he believes FEMA is overstepping their bounds within the County.

Chairman Arndt stated what was in the floodplain is now in the floodway and this changed the way he complies. Mr. Miller stated that there is no flow of water within his property and FEMA does not have an answer for that. He further explained the options the Board had in front of them, a resolution that was presented to the Planning Commission where there was no recommendation or to deny without the wording about agriculture and the roadways, those being the two issues resulting from that hearing. The other option would be to adopt the maps, only no new regulations meaning that they operate under the current regulations that are in the County's book and also adopt the flood insurance stud. He further stated the last option would be to deny all and drop out of the flood insurance program.

Mr. Miller stated he wanted to address a point of confusion, with stating for the record the Board has adopted all of the new regulations already and that is what is in the County's comprehensive land use plan adopted in 2014 stating there are some things being left out and he found out today they were not permitted. None the less, they have adopted in 2014 the new regulations, they do not have to readopt them, they have already adopted them. Chairman Arndt stated there are some changes, with Mr. Miller stating they are still not addressing the roads which are an expense to the County, and to give into FEMA to grade a road, spending hours and hours working through that. He wants to clarify they are only here today to adopt the maps because everything else is done. Chairman Arndt stated the regulations that are in the current County's regulation book is what they have been acting under.

Mr. Miller stated the County has not been operating under them until recently as they have been in non-compliance several times. Chairman Arndt stated the County has posted in the regulations those adopted regulations from 2014 the new regulations also that were proposed have a lot more definitions in them and it was also talked about getting the exemptions in about agriculture into the regulations.

Chairman Arndt then called the next speaker to the front with ScottKembel, Brush, Colorado. Mr. Kembel stated what concerns him on the FEMA regulations is the fact there is a huge interpretation issue. He stated that the agricultural portion of this is important stating his family has five farms that are either in the floodplain or the floodway stating they do still have damage from 2013. He stated they have banks in the Beaver Creek, which he is afraid to fix because of FEMA. He stated that if agriculture is allowed to fix these items under normal maintenance that is what they need. He explained what normal maintenance is as being pull out the thistle, straighten out the kinks, dig down to the original level that is normal maintenance. He asked if they cannot maintain it, he believes it becomes the local government responsibility. His question is can he go home and ask to do something, and hope he is not doing something wrong because he feels he is doing something right. He stated he has not touched the damage and believes it is a hazard, and asked the Board can he do his normal maintenance, or can he ask the County to do the maintenance because he does not want to be in trouble.

Chairman Arndt stated he follows Mr. Kembel very closely and understands that agriculture is important to the County and the community and understands the concerns about the road maintenance and stated his words are not going unheard and are not being ignored. Chairman Arndt stated he could not provide legal advice today but assured him the Board does understand the concerns and the needs of the agricultural community.

Mr. Kembel mentioned the wording, no dredging involved, as in Ms. Cherry's words, asking what that means, and feels it is a matter of interpretation reading aloud the regulation. He is worried about losing his farm if FEMA would make him an example for doing something and they feel it is wrong. He asked if he could go dig out Beaver Creek and straighten it out, with Commissioner Zwetzig stating not unless he would get a floodplain permit with Ms. Cherry explaining what it would involve. Mr. Kembel stated he feels by getting a permit it could cause more expense and problems.

Commissioner Zwetzig stated the County did actually get a permit in writing to dredge in the South Platte River to protect the bridge and explained they did apply for it and stated the County is under the same situation.

Jason Holdren, 25521 Highway 71 Snyder, stated he had a neighbor tell him he is currently located in the floodplain, and before this conversation, he had no idea that he was. His question was did the County notify everyone if they were in the floodplains so it could be addressed. Commissioner Zwetzig explained there was information sent out to those the mapping department found was in the existing floodplain and those who would be in the new floodplain, stating there were happy people and there were unhappy people as a result of that meeting.

Mr. Holdren stated 8 inches of rain fell on his property Mothers Day 2015 and the Dead Horse did run and further stated his place is in a bowl and the water came nowhere near his property that is located in the floodplain. He stated his last thing is to pay attention to Mr. Miller's comment on the takings, as this is a taking for everyone involved in this, whether or not a person has flood insurance and at the local level it is very impactful.

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At this time, the matter moved to discussion and decision.

Commissioner Teague stated what the Board has wrestled with and they do agree it is frustrating the maps only include data, in 2008 the Commissioners asked for updated maps, and the fact there were two flood events in 2013 and 2015 that data cannot be integrated into the maps. If it is a taking on one side, it is a taking on the other side for those individuals who have federally backed mortgages who could lose their loans to be able to maintain the federally backed flood insurance. She stated that the balance is there to balance it for those who cannot afford as well as those that do not need flood insurance. She stated there have been ongoing conversations with FEMA and CWCB explaining the options that have been discussed.

Chairman Arndt stated he agrees with most of the testimony today, but what if another interpretation of today's rules are forced upon and not have the wording in the regulations themselves, and have had the conversations with FEMA that you have to use common sense, and he understands the agriculture needs. FEMA will not allow the County to put this in their regulations but the County can do a guidance document and went so far as to talk about county road maintenance, and their comment is to use common sense. The County's question to FEMA is if they use common sense and they come in and do an audit and they don't like what was done, that is problematic.

Chairman Arndt outlined the options; the Board can adopt the map, or the option to just adopt the maps as presented in the resolution and the flood insurance study or the option to deny all. Commissioner Zwetzig stated the other option would be to repeal the regulations adopted in 2014, with Mr. Miller stating he did not state that as Commissioner Zwetzig mentioned. Mr. Miller again approached stating he did not make the statement Commissioner Zwetzig said he made.

Mr. Miller stated the point being the map is the killer, it is not right, it is the killer. If we want to get down to what we talk about that is the economic impact, and the map and the base elevations changes is what impacted him. He spoke of someone in the audience who purchased property four years ago that was not in the floodplain and now is ready to build and cannot due to the map indicating he is now in the floodplain. He stated the County has been in violation 11 times and have been called out on it, with Commissioner Zwetzig stating they have not followed through 11 times, explaining the change in administrators.

Commissioner Teague stated they have been directed by FEMA they have to at least adopt the most current maps and the flood study to keep the NFIP program. In 60 days, the County cannot get anywhere and they believe it is reasonable to eliminate the NFIP program, the Board can always get rid of them but the Board has to make a decision on the new maps by April 4, 2018 and feels she needs to make a decision based on all parties. She stated it is important the Commissioners have staff in place to make sure they are protecting is important the Commissioners have staff in place to make sure they are protecting the agricultural community interpreting the rules in a common sense way that protect what they are intended to protect.

Mr. Miller stated he did indicate the 1998 regulations; if those were the regulations would that change Mr. Miller's situation as asked by Commissioner Zwetzig. Mr. Miller stated it did not include a designation of floodway, only a floodplain. Commissioner Zwetzig stated would his situation be better using the 1998 regulations or the 2016 regulations. Mr. Miller stated he acquired his property and had to build a one or two foot elevation and complied with everything and got a building permit, built a pad where he hired a local engineer and everything was done, he placed his modular home and put in the infrastructure to build a building in the future, once these new regulations came out, it was until the base elevation maps that came out is when it changed the whole thing. The base elevation maps appear to him it raised it five feet, stating Ms. Cherry would argue it was different datum they used on the new maps. Simply, he has to go up seven feet to comply but cannot go up seven feet because it will change the flow. He mentioned the half of foot rise and then go back to a zero foot rise. He stated if the Board wants go back to the 1998 regulations and the mapping, he would be in compliance and he could build with a permit tomorrow. Commissioner Zwetzig stated he is reviewing those counties who are participating in the NFIP, stating many of them have regulations from 1979, 1985, with the mapping back to those dates but are participating in the floodplain. Mr. Miller stated the point is if the County would have just coordinated, we would not have the issue today, believing coordination was the answer.

Chairman Arndt mentioned the one other topic not discussed today, with the fact that Morgan County is two feet above base flood elevation and is more restrictive than the State of Colorado who requires one foot above, which is more restrictive than the federal government with Ms. Cherry stating that is correct.

Commissioner Teague asked other than that change in any other place is the County more restrictive than the State, with Ms. Cherry stating no, indicating the regulations could be amended to make that change.

Commissioner Teague made a motion to approve Resolution 2018 BCC 13, a Resolution amending Section 370 Boundaries of the Morgan County Zoning Regulations to adopt the Federal Emergency Management Association (FEMA) Flood Plain Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) April 4, 2018 and reduce or change all references to the two foot of elevation rise to one foot elevation rise making the County no more restrictive than the State of Colorado in the County's current regulations as presented. Chairman Arndt seconded the motion at this time.

Discussion followed with Commissioner Zwetzig stating it is urgent to do something to protect the regulations for the National Flood Insurance Program in Morgan County and feels as the County develops, it knows their regulations are not going to be accepted and the County will be under some pressure to amend the regulations also. He stated that may mean that at some point the County may drop out of the National Flood Insurance Program if we cannot find some resolution with FEMA. He further stated he does not believe that any action taken today does not affect the future and all guidance documents have to be prepared that are acceptable to the County or they will just

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have to drop out of the program. What this will allow the County to do as Chairman Arndt stated is in order to remain in the NFIP. At this time, the motion passed 3-0.

1. Consideration for Approval – Amending various sections of the Morgan County Zoning Regulations concerning the use of property by Oil and Gas Operations

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO.2018 BCC 14

A RESOLUTION AMENDING CERTAIN SECTIONS TO ALLOW FOR USE OF PROPERTY BY OIL AND GAS OPERATIONS

WHEREAS, the Board of County Commissioners desires to amend its oil and gas regulations to address the current law, advances in technology in the oil and gas business and increased use of property for oil and gas operations;

WHEREAS, the Board of County Commissioners may make amendments to the Morgan County Zoning Regulations upon its own motion or upon petition of the Morgan County Planning Commission; and

WHEREAS, the Board of County Commissioners has complied with all relevant provisions of the Morgan County Zoning Regulations, as well as the requirements of C.R.S. § 30-28-116, for amending the Morgan County Zoning Regulations.

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

5. Section 1-288 of the Morgan County Zoning Regulations is hereby deleted.
6. Section 3-170, Agriculture Zone Uses-By-Right, Parcels Larger Than 20 Acres, of the Morgan County Zoning Regulations, is hereby amended by the addition of new subsections to read as follows:
 - (O) Oil and gas wells
 - (P) Noncommercial injection wells
7. Section 3-170, Agriculture Zone Uses-By-Right, Parcels 20 Acres or Smaller, of the Morgan County Zoning Regulations, is hereby amended by the addition of new subsections to read as follows:
 - (K) Oil and gas wells
 - (L) Noncommercial injection wells
8. Section 3-175(D), Agriculture Zone Conditional Uses, Parcels Larger Than 20 Acres, of the Morgan County Zoning Regulations, is hereby repealed and reenacted to read as follows:
 - (D) Commercial injection wells
9. Section 3-175(D), Agriculture Zone Conditional Uses, Parcel 20 Acres or Smaller, of the Morgan County Zoning Regulations, is hereby repealed and reenacted to read as follows:
 - (D) Commercial injection wells
10. Section 3-175, Agriculture Zone Conditional Uses, Parcels Larger than 20 Acres, of Morgan County Zoning Regulations, is amended by the addition of new subsections to read as follows:
 - (FF) Flowlines and Gathering lines
11. Section 3-175, Agriculture Zone Conditional Uses, Parcel 20 Acres or Smaller, of Morgan County Zoning Regulations, is amended by the addition of new subsections to read as follows:
 - (II) Flowlines and Gathering lines
12. Section 3-180(F), Agriculture Zone Special Review Uses, of the Morgan County Zoning Regulations is hereby deleted and the remaining sections renumbered accordingly.
13. Section 3-190, Agriculture/Agri-Business Zone Uses-by-Right, of the Morgan County Zoning Regulations is hereby amended by the addition of new subsections to read as follows:
 - (K) Oil and gas wells
 - (L) Noncommercial injection wells
14. Section 3-195(C), Agriculture/Agri-Business Zone Conditional Uses, of the Morgan County Zoning Regulations is hereby repealed and reenacted to read as follows:

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(C) Commercial injection wells

15. Section 3-195, Agriculture/Agri-Business Zone Conditional Uses, of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection to read as follows:

(Y) Flowlines and Gathering lines

16. Section 3-200(E), Agriculture/Agri-Business Zone Uses by Special Review, of the Morgan County Zoning Regulations is hereby deleted and the remaining sections renumbered accordingly.

17. Section 3-220(A), Estate Residential Zone Special Review Uses, of the Morgan County Zoning Regulations is hereby deleted and the remaining sections renumbered accordingly.

18. Section 3-320, Commercial Zone Conditional Uses, of the Morgan County Zoning Regulations is hereby amended by the addition of new subsections to read as follows:

(HHH) Oil and gas wells

(III) Injections wells

(JJJ) Flowlines and Gathering lines

19. Section 3-333.5, Light Industrial Zone Uses-by-Right, of the Morgan County Zoning Regulations is hereby amended by the addition of new subsections to read as follows:

(J) Oil and gas wells

(K) Noncommercial injection wells

20. Section 3-340(HH), Light Industrial Zone Conditional Uses, of the Morgan County Zoning Regulations is hereby repealed and reenacted to read as follows:

(HH) Commercial injection wells

21. Section 3-340, Light Industrial Zone Conditional Uses, of the Morgan County Zoning Regulations is amended by the addition of a new subsection to read as follows:

(LL) Flowlines and Gathering lines

22. Section 3-355.5, Heavy Industrial Uses-by-Right, of the Morgan County Zoning Regulations is hereby amended by the addition of new subsections to read as follows:

(I) Oil and gas wells

(J) Noncommercial injection wells

23. Section 3-360, Heavy Industrial Conditional Uses, of the Morgan County Zoning Regulations is hereby amended by the addition of new subsections to read as follows:

(G) Commercial injection wells

(H) Flowlines and Gathering lines

APPROVED this 27th day of March, 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

Chairman Arndt asked Morgan County Planning Director/Floodplain Administrator Pam Cherry to present the file.

Ms. Cherry 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 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. On February 20, 2018 the Board

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extended the moratorium until March 30, 2018. The Board has held a series of stakeholder meetings to learn and to guide its decision on the drafting and adoption of regulations of oil and gas commercial disposal wells.

Ms. Cherry explained that included in the Board's packets are the proposed resolution to adopt new regulations of oil and gas and the proposed amendment. The drafted regulations will completely replace Sections 4-455 through 4-495 of the Morgan County Zoning Code.

At this time, Ms. Cherry explained the Proposed changes include:

- 1.) Producing oil and gas wells and non-commercial injection wells become a use-by-right in the following zone districts:
 - Agriculture Production
 - Agriculture/Agri-Business
 - Light Industrial
 - Heavy Industrial

- 2.) Commercial injection wells and flow lines and gathering lines become Conditional Uses in the following zone districts:
 - Agriculture Production
 - Agriculture/Agri-Business
 - Light Industrial
 - Heavy Industrial

Ms. Cherry stated that these amendments are proposed to simplify application procedures related to oil and gas development. Previously, it has been the practice of Morgan County to allow the drilling of wells without a land use application to process. Currently the regulations require a conditional use or special use for any related operations. There are approximately 3,028 oil and gas wells in Morgan County in all statuses 1) active, 2) abandoned, 3) closed, 4) comingled, etc.

Ms. Cherry stated that since the first of the year the Planning Department has received twenty-five application referrals from COGCC for either reopening wells or drilling new ones. Because of the number of existing wells in the county and the COGCC regulation of oil and gas operations county regulation through land use processes duplicates efforts already completed and reviewed at the state level. Non-commercial injection wells are also a use-by-right if associated with the operator's own drilling operation. Any commercial injection wells would be required to submit a land use application for review and approval prior to the start of operations.

Ms. Cherry explained that the Planning Commission reviewed the proposed regulations at their meeting on March 12, 2018 and unanimously recommended approval of the amendment.

Ms. Cherry stated that the Colorado Oil and Gas Association provided comments to the Planning Commission which has been incorporated as comments to the final draft document. Upon request by the Board the suggested changes will be made.

Ms. Cherry read aloud the Planning Commissions questions as follows:

Ryan Seastrom response to Chuck Miller question - Ken Strauch used to be the president of the North East COGA chapter. COGA chapters are comprised of industry employees who volunteer to serve and promote the best interests of industry in their respective areas along with creating and hosting philanthropic efforts to benefit their communities.

Commercial injection wells in Weld County - Ben Fissell, an Environmental Health Specialist in Weld - "I believe we have 26 active Injection Well facilities within the County with an additional one within the Town of Keenesburg. She stated, however, there are a few more in the permitting stage and some that have land use permits but have not been constructed. These are not included in the above number. Based on the COGCC's website data (<http://cogcc.state.co.us/data.html#/cogis>) we have 62 wells, with 46 active and the remaining closed." Data obtained from COGCC indicates that there are 46 active waste injection wells in Weld County. The list is attached. NGL Water Solutions is a commercial disposal well operator. She indicated through the stakeholder meetings Expedition Water Solutions was a presenter and they have four facilities in Weld County (indicated there was an attached map).

Weed Control - is regulated by the state the guidance document for an operator is attached in the packets as well. Disposal of slurry from drilling - COGCC's Series 900 rules regulate disposal of waste. Attached are two pages from the 24 page document that states slurry can be applied no thicker than 3 inches and shall be incorporated into the soil within ten days of application.

At this time, Ms. Cherry requested the approval of the oil and gas regulations and stated this is also the recommendation of the Planning Commission.

At this time, Chairman Arndt opened the matter for public comment.

Commissioner Teague noted since this time, they have received a redline version of comments received from the COGA. Chairman Arndt asked those who make public comment to refer to their exhibit so they are able to reference them in the minutes.

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Chuck Miller, 26060 Morgan County Road S, Brush, Colorado spoke stating he will not speak long due to there being some very reputable individuals from the community to address this matter and shared his concerns about the fact these individuals were not included in the comments. He made mention that the resolution has now been broadened to include more than just injection wells and feels that those speaking today will have Morgan County in their heart when they speak.

Mr. Miller made mention of House Bill 18-1150 which is currently being acted upon at the State level which addresses the indication that a local government who enacts a ban on hydraulic fracturing of an oil and gas wells, would be liable to the mineral interest owner for the value of the mineral interest and that the local government that enact a moratorium on oil and gas activities shall compensate oil and gas operators, mineral leases, and royalty owners for all costs as to damages and losses of fair market value associated with the moratorium.

Mr. Miller stated he has read the notes regarding this proposed bill and the biggest problem he sees is the statement that indicates all oil and gas operations. He made mention of an Adams County resident who was approached for an injection well on their property and indicated they were not interested. He stated they were then threatened with the fact their wells would be shut down and fortunately they were witty with their response, as "we don't care, the wells are barely pumping so shut them down as we have already been paid a lot of money."

Mr. Miller made mention of another black mark stating Patricia Bartlett, Logan County Assessor, he indicated information regarding the letter. Patricia Bartlett sent a letter out to sell three different locations that had been shut down by COGA and they were in arrears in paying property tax and statute allows the seizure of the property, so she wanted to have an auction. Mr. Miller stated his question of who is liable to reclaim the property, and unfortunately, the way he understands, in contacting COGCC they have a \$60,000 bond that is strictly for COGCC enforcement purposes. He stated after speaking with the assessor, they chose to forego in trying to collect those delinquent property taxes given the legal liability it could incur.

Mr. Miller stated that COGA presented a redline version on March 12, 2018 where he requested a copy of this redlined version at a public meeting, and was informed he had to use the CORA process to request this information and does not believe after sitting through a public meeting, that he should have to go through a CORA process when the information was presented during a public meeting.

Chairman Arndt asked Mr. Miller where he stands with this proposed bill HB18-1150, with Mr. Miller stating he is concerned with the language stating all oil and gas operations. He has not formed an opinion whether he is against or for the bill but has spoken with both Sonnenberg and Becker and they have informed him about the taking of property rights and the County should be liable and leases are now being written differently which now give permission to enter the property so it is easy to go to the mineral right owners to obtain approval to enter the property without the non-mineral right owner's knowledge.

Commissioner Teague asked about the Logan County issue, if he knows specifically what happened given the amount they would be losing is quite high and Mr. Miller stated he would have to answer that question as he is not sure, he just knows that the bond is strictly for COGCC purposes it does not have anything to do with the landowner.

Harvey Greenwood spoke, stating he has worked in the oil and gas industry since 1980. He asked the Board to clarify what they mean by commercial injection wells stating there is no commercial disposal injection wells, stating the difference is huge, stating the injection wells in Morgan County is used to inject fluid produced by other wells in the area to raise the level of hydro carbons in a zone and that is what Morgan County has as well as a large natural gas storage field because we have some wonderful sandstone that are great for storing of natural gas for future uses. He stated they are not a disposal facility, they are a storage facility.

Commissioner Teague read aloud the statement in the proposed regulations, indicating a commercial injection well is for storage or disposal from a third party for financial profit, where they are used to help create a better environment in the field, asking about if there is money exchanged. Mr. Greenwood stated the operator in the case of an injection well in which our county has a lot of, and a few that are permitted to drill and move ahead in our county, the only exchange of money is to the service companies doing the work. The water comes from its own facilities, the clarification of that has to be very clear.

Commissioner Zwetzig asked Ms. Sellars to explain the Commissioner's amendment to the moratorium on injections well to exclude what is considered non-commercial injection wells which is that nothing is coming in front a third party. Non-commercial injection wells have been defined in the revised proposed regulations.

Mr. Greenwood stated he is also the president of the local chapter stating the State of Colorado COGCC has some of the most stringent rules in the lower 48; they go through a lot of rule changes which engage flow lines, tank batteries, etc. He stated their operators spend hundreds of thousands of dollars to remain in compliance explaining the different areas. He stated for the County to impose anything outside of the State, the County should look at what the State already has in their regulations. He stated there are a lot of ways to communicate with the COGCC and be sure what is done in the County is beneficial to all its citizens in the community.

Commissioner Zwetzig thanked COGA and the association's staff, because when the moratorium was first imposed, they were the first to reach out and expert testimony was provided at four different sessions noting those who presented and the other presentations including that from Weld County's Planning and Zoning. He stated there was also a seismic professional who testified and a commercial operator in Weld County, Expedition, who is partially owned by someone who used to be an appraiser in this area. He further stated this testimony provided the Board a great deal of information they needed to make a better decision in how they proceed in what happens above ground in the land use regulations. He stated they have spoken to Weld County given they are a neighbor and Morgan County wants to be sure what is put in place is what is best for its citizens.

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Commissioner Zwetzig further comments that the Board dealt with was just a moratorium, and the fact that they are dealing with all the oil and gas regulations, so to do a corrective action, it was included in these proposed regulations and feels they have made all of them a use by right. He stated hopefully they can address the issues where the industry may feel the County is overburdening those involved. Mr. Greenwood stated COGCC has sent the County's redline to the State Attorney General and if there should be any comments or changes, it will be sent back to the County.

Commissioner Zwetzig stated there was discussion in regards to the HB18-1150, and CCI was unanimously opposed to this bill given the way the language is written and the broadness in nature. Only to allow the counties to continue to have land use regulations and asked him to show the County where they may be overburdening in the proposed regulations, with Mr. Greenwood stating he just wanted to make sure the local industry was represented.

The industry is locally being represented and finds it terrible that he did not know about these meetings, and did not know about these meetings until an annual meeting held last week. The Board thought they were being represented by those who were in attendance speaking, Mr. Greenwood stated he wants to express locally they have concerns, and they are not in opposition to anything that is redlined, and will wait to hear back from the State Attorney General at the state level and COGCC. Commissioner Zwetzig stated that the moratorium in place is not in any way a ban on oil and gas activities, the only concern is that the County has the correct regulations in place of what occurs above ground to be sure the county is protecting its citizens. Commissioner Zwetzig stated Morgan County is oil and gas friendly and understands the importance of oil and gas and at no time did they want to represent they were trying to limit that activity.

Commissioner Teague did state that one consideration they have there is the moratorium that is set to end on March 30 2018 which has been extended once to complete these regulations. She stated she does think this is important and asked Ms. Sellars where the County stands. Ms. Sellars states the moratorium does expire on Friday and the County is not set up to continue that moratorium and feels that the new regulations that are being considered are more related than what is in the current zoning regulations. She stated the Board can take a couple of weeks to review this and is happy to talk to the Attorney General's office, COGCC's office, and see what those comments are and bring those back to the County.

Chairman Arndt stated when reading the current regulations the County operates under, drilling is a conditional use and it is now being relaxed to a use by right. Mr. Greenwood stated the biggest thing is many of them who work in Morgan County is the fact they were not aware of the hearings that were going on in Morgan County, knowing nothing of these hearings until their annual meeting, so this is an effort to be here to be sure the Board knows the local producers and the local operators are interested.

Commissioner Zwetzig stated they feel COGA was very helpful in the situation at hand, and the Board thought they were involved with the correct people. Mr. Greenwood explained the local chapter includes the local people here and Commissioner Zwetzig apologized for them not knowing of what was occurring.

Mr. Greenwood spoke about the issue that happened in Logan County, and that is an issue being addressed by COGCC, called orphan wells, and explained these are wells that are not producing any longer and they have walked away, and he stated it is regulated by the COGCC bonds, and they are aware of those in Logan County and stated there is a lot being done on this issue. He stated that he personally knows about COGCC who have taken action to plug and making sure they are taken care of.

Commissioner Zwetzig stated they have heard that most players don't even need the COGCC and feel they can conduct business on their own and feels that is part of the reason; even the commercial well testifier believes there needs to be regulations.

Karina Graulus, 19014 MCR 20.5, Fort Morgan, stated she does the assessments on the wells working on the oil and gas industry in the Assessor's office. She stated she is in agreement with Chuck Miller to try and coordinate something with all those necessary and stated she was amazed what she seen on the website as to what the Board was doing with the oil and gas regulations and did not know any of this information until she seen it on the website. Chairman Arndt asked Ms. Graulus whose behalf she was speaking on, her own behalf or that of the Assessor's Office. Ms. Graulus stated she was speaking on behalf of the assessor's office as well as on her own behalf for the reason that the oil and gas representatives provide her with a great deal of knowledge. Commissioner Zwetzig stated he would hope that Ms. Graulus assist the County in getting the word out regarding this process in which Ms. Graulus replied she was not aware of the scheduled meetings.

Dave Kunovic, VP, PCR Operating, Home office in San Antonio, Texas. He stated he is happy to answer any questions the Board may have, and stated they operate the Adena field in Morgan County, operating there since 2011. He stated there has been more done in that field, trying to enhance recovery. He stated he was absolutely shocked to see this draft set of rules last week not knowing anything about it. He stated the first thing he did was to call the oil and gas commission and they were not aware of it as well. He stated his concerns are what are up with the new set of rules.

He asked the question where the set of rules came from, this draft version, who wrote those rules? Ms. Sellars state she drafted them, and he wanted to know where they came from. He stated they are pretty close to the oil and gas rules, stating he does not see what purpose they serve if they are almost identical to the oil and gas commission. Why would the County propose the same rules stating those responsibilities that he carries out and those rules he is required to follow, stating he has drilled wells in all states across the Rockies. He stated he has permitted most of this himself and worked with several states further indicating that Colorado gas and oil rules are the most detailed and protected which he believes is good. He asked the question why the Colorado oil and gas commission rules

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aren't sufficient, and if he gets the permit approved by the oil and gas commission, can the County step in and say no that is not good enough.

Commissioner Teague stated that Morgan County is a land use permitted county, currently the land use regulations say, in the several zones, any oil and gas drilling that requires a conditional use permit which most operators have not been paying attention to nor has the County been enforcing it. She compared it to herself building a new cattle operating facility, stating it is the requirement of whoever is building the feedlot to come in and get the assistance from the County. She stated the oil and gas rules were looked at to fix some of the common practices that are going on in Morgan County which most operators were not looking at our land use and the County was not enforcing, so the County felt the current regulations needed to be fixed.

Chairman Arndt stated that he believes it is being done to use those same rules, and by using today's book, they want this to be an oil friendly county, a county who wants to follow what the state does and protect people and not be more restrictive than the State of Colorado.

Mr. Kunovic asked procedurally he goes through the oil and gas commission to get a permit which takes about 45 days, so procedurally, the state now provides the County notice they have filed a permit, and asked if he is now required to submit the same permit materials to the County. Ms. Cherry stated that PCR is one of those operators they have received the certain form spoken about and she stated they are still sitting on her desk and did send the new draft regulations to him to get some feedback and stated she has asked him for feedback to try and make things simpler. She stated those land use by right applications are still sitting on her desk waiting for this matter to be resolved.

Mr. Kunovic stated the rules he did see leads him to believe the Board can deny his permit application even after it is approved by the oil and gas commission and require a hearing, a public meeting with the current rules.

Ms. Sellars stated the current rules either require a land use permit, use by right or special use permit, those will require a hearing, and a conditional use could require a hearing, but now with the shift being proposed they will probably see a lot less hearings, not requiring the hearing, but there could be circumstances that they could deny an application with their land use authority which is separate from the COGCC's authority. The County is only ensuring the public is aware of the application and the County is making a decision based upon their land use regulations.

Mr. Kunovic further stated the Adena field is the third largest oil field in Colorado, stating the entire field is one unit. Back in the fifties, the unit agreement calls for the right to drill wherever they want, the depth however, and all the surface rights have been given up, explaining they do have to obtain a permit from COGCC, but the land use rules of offsets, and where to drill according to the County's proposed regulations, they already have their land use rights spelled out.

Commissioner Teague stated other types of operations there are grandfathered types of land use specified, so there would be some type of interpretation of grandfathered use. Ms. Sellars stated these regulations would only apply to those new applications the County would receive and any others would be grandfathered in.

Mr. Kunovic stated the oil and gas commission does have stringent rules in place and stated often times it is difficult to line out the service companies lined out to do the drilling, and explained the vertical drilling has dropped off and indicated the four wells they are drilling now, they can move the rig across the County and drill the well consecutively and release the rig to drill somewhere else and it is important to know when they can get a permit, as it is a costly issue.

Mr. Kunovic further stated he knows when he can get a permit from the oil and gas commission and is concerned about not knowing how this process works with Morgan County. He stated he found out about it the first time when Ms. Cherry called him saying she had seen he had permits with COGCC and stated he completed the permits as needed but is concerned about the time it may take to approve these permits. He asked who will be making these decisions, due to the legal aspects, and the expertise it takes whether or not to make the judgment about a permit being valid or not, and asked if the County is prepared to hire someone to make these decisions.

Commissioner Teague stated the Board is only wanting to be sure to know what is the land use to protect the County and indicated what the Board is wanting to do to require explaining the information the County would want to have to see what zone their proposed permit is being applied for so they know what the land use regulations are.

Chairman Arndt stated the Board does have a responsibility to the citizens of what the effects are going on in the area that these wells are being proposed. Mr. Kumovich stated he understands very well what is going on underground.

He asked the question if no other permits will be required other than the conditional land use permit, with the Board stating they agree.

Commissioner Zwetzig stated he finds it strange that Stuart Ellsworth being the first presenter and he would have no knowledge of this asking when he made his call, with Mr. Kunovic stating he called last Tuesday, and they knew nothing of this, explaining he was told this was the first he had heard of it. He also noted some other associations that were present, Josh Sonnenberg was present from CREAC, and also noted COGA and also someone from the Colorado Petroleum Counsel was present so the Board did think they were reaching out to the industry.

Mr. Kunovic stated they only want to find out about this matter was to read the newspaper and the county website, with Commissioner Zwetzig announcing the county's website address and the fact that it is now relaying the

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information that is current. Mr. Kunovic stated when he did find out about this he did look on the website for the draft rules and he was not able to locate them, with discussion following that given the new website was just implemented, that could have been an issue.

Chairman Arndt stated the Board takes his comments seriously and Mr. Kunovic thanked the Board for its time.

Ryan Seastrom, 1800 Glenarm Place, Denver, CO 80222, one of the outreach coordinators of COGA, stated that on behalf of NE COGA he apologized for the breakdown in communication. In regards to the moratorium, he stated that over the past seven months, the County has heard from the several agencies in regards to the concerns of injections wells. He further stated that there are redlined comments proposed and these will be taken into consideration and reviewed by the Attorney General's office. He asked for a point of clarification about the EMP Waste from outside counties, with PC recommending approval but had shared concerns about receiving out of county waste. Mr. Seastrom suggested the Board look into the legalities of this matter before implementing the new regulations.

Chairman Arndt thanked Mr. Seastrom for his time and his input throughout this process.

Mike Paules spoke to the Board who provided information in writing to the Board, as exhibit #2. Mr. Paules outlined his experience, and indicated the letter he has provided, with Chairman Arndt noting it is exhibit 2 (as attached to these prepared minutes). Mr. Paules stated they have been trying to follow along, but felt it was related to commercial disposal wells explaining that when these new rules were drafted, this was a surprise and have some significant concerns. He stated the letter provided explanation of those concerns and recommended a stakeholder process. He stated there are some inconsistencies with the definitions by the COGCC and could create some confusion with those trying to comply with the rules put in place.

He further spoke about the fact that they need to understand what is being imposed and explained the local governmental designee, the LGD program, which allows the county's concerns to be considered in the application process. He outlined the duties of the LGD Program stating this is something again the Board may want to consider to still have a voice in the permitting process.

He stated what they are trying to do is to provide a warning surrounding this matter as well as offering the willingness to participate and collaborate with the County staff to work on the language that would result in regulations that are a benefit to all parties. He strongly urged the Board to participate in a stakeholder process in working through this matter.

Commissioner Zwetzig noted the Local Government Designee is on the website and Ms. Cherry is the designee for Morgan County. Commissioner Teague asked about reading the changes side by side, with Ms. Sellars stating they have made further revisions to consider regarding the rules and information received. Commissioner Teague stated the bigger issue is to fix the land use zone regulations thinking that operators were not aware they needed to apply for a conditional use permit and the County was not enforcing the regulation. Mr. Paules stated he would be happy to sit down and work through this process to try and help find the best resolution.

Commissioner Teague asked about clarification about the definition between flow lines and use by right includes oil and gas, termed an oil and gas site, making sure we don't exclude an use by right for an oil and gas site, we don't create a problem for oil and gas flow lines.

Abby Rimmell, Sterling Energy, 1200 17th Street, Denver CO stated she has permitted by conditional use and has some questions, Essentially she agrees that all the oil and gas drilling activity is considered use by right but what is not considered as use by right is flow lines and gathering lines. Her interpretation is that all gathering lines would require the conditional use process. She asked the question, it can be administratively reviewed and approved which makes the process straight forward and that has not been the case with the last two permits they have applied for. She asked would the administrative use by right be approved to be used in these types of gathering lines and not go to multiple public hearings. Commissioner Teague stated that would be contingent upon no opposition from neighboring parties with Chairman Arndt explaining the adjoining neighbors must be notified in a use by right process and if there should be an objection, it would require a public hearing process, with Ms. Cherry stating the requirements is all landowners located within ¼ of a mile radius would be required to be notified.

Ms. Rimmell stated the other question she had, the addition of a neighborhood meeting, and wants to understand the timing and the intent, where they have built multiple pipelines in the county, explaining the right of way agreements they are required to have in place, and asked the timing of when this neighborhood meeting would be required to be held. She stated it is a bit unclear if the neighborhood meeting would happen within the referral process or the administrative review process.

Ms. Sellars stated one of the issues that has been raised is when is that neighborhood meeting required, and if a pipeline should require this or other issues would require and the timeline that would be required. Ms. Sellars stated that it has been found that a neighborhood meeting is effective for the larger drilling projects.

Ms. Rimmell stated that any of their pipelines would use this same process with the Board stating that is correct. She does not object to the definition of gathering lines if they are going to allow all of these types of matters are permitted. Ms. Sellars mentioned the 1041 regulations, with Ms. Rimmell stating those are already processed, not in terms of gathering flow lines.

Mr. Paules again spoke, stating there are really two reasons to change the definition, one is to establish the authority they fall under the COGCC, flow lines fall within the PUC, stating there are regulations. The second is to

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reflect the changes that occur from the shale drilling where you are getting multiple well pads, where you require larger diameter, they are still called flow lines, in many cases these in order to be productive of nearby residences being piped so they are not tanks right at the location, not relying on trucks and they are going to a centralized facility, where they are stabilized.

Commissioner Teague stated a true definition of a flow line would go over several parcels, and not on the site, if there is a tank on site, or a storage facility on site, so we are not eliminating the ability to get a special use permit, asking that is not a definition of a flow line.

Mr. Paules stated the definitions of flow lines are now very lengthy and further explained the various types of flow lines. He stated the rules go into effect May 1st, 2018, and there is training that will be provided to try and give support.

Karina Graulus asked the question the PCR, where the County is holding their permits if they could proceed since the Board is making the decision today with Ms. Cherry stating there is no problem with anyone continuing as they have in the past and she has been allowing them to proceed and go through.

Chuck Miller stated we can say this either did work or did not work, and the fact we did find out we have educated constituents, this went from a commercial injection well topic to oil and gas operations topic. He stated he has a couple of individuals texting him asking what is going on, as they did not know anything about this matter and stated he believes it would be best for the Board to vote no on this matter and allow for further discussion by the local community and stakeholders.

Chairman Arndt made mention of an email received, noting it as Exhibit 3, an email from Marc Morton, from the Local Government Liaison with Chairman Arndt reading aloud the information.

Chairman Arndt stated the moratorium is a separate issue, and the county wanted to be sure that the current oil and gas industry was not held back in moving forward with activity without undue regulations. The Board felt it was in the best interest of the oil and gas industry to review the regulations and the moratorium was important to put in place to be able to make the best decision given the amount of information received to help the Board see there are many regulations on these people already and not wanting to over regulate them anymore than we can. Chairman Arndt believes the County did a good job

Commissioner Zwetzig asked a procedural question if the matter could be continued without having to go through the required posting with Ms. Sellars stating it can be continued until a later date with a date certain.

Commissioner Teague stated she would like to see the use by right zoning issue fixed and if this matter is extended that it be done no later than 30 days. Ms. Sellars stated the regulations could be passed and then amended after thirty days.

Discussion followed with Chairman Arndt stating he would like to feel sure about what he votes and knows what it is that he votes on, and feels it is important that this Board knows what will be directing staff to do.

At this time, the matter moved to discussion and decision.

Commissioner Zwetzig made a motion to approve Resolution 2018 BCC 14, a Resolution Amending various sections of the Morgan County Zoning Regulations concerning the use of property by Oil and Gas Operations as presented by Morgan County Attorney Kathryn Sellers and Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry with lack of second.

Commissioner Teague made the motion to continue this hearing for 30 days, until April 24, 2018 and directed the Planning Administrator to have at least one stakeholder meeting for comments to be accepted in regards to the proposed regulations. Chairman Arndt seconded the motion. Commissioner Zwetzig stated, for the record, he is opposed and asked legal counsel for her legal opinion, then of the Board operating as it has been, in effect is violating our own regulations. Ms. Sellars stated she thinks that is legally problematic for the Board to do that and they can direct staff to do that.

Commissioner Teague amended her motion to indicate that the Board change the use by right and the conditional use requirements in the resolution and the remainder of the resolution be reconsidered in 30 days. Ms. Sellars clarified that the Board wants to adopt items 1-19 in the regulations with Commissioner Teague stating that was correct. Ms. Sellars stated the title of the resolution will need to be amended and nothing will be repealed. Commissioner Teague finished her motion to indicate to direct the Planning Administrator to draft a resolution incorporating only the use zoning part of the resolution and reconsider the additional regulations on April 24th, 2018 continuing the Public Hearing to that date. Chairman Arndt seconded this amended motion.

Commissioner Zwetzig asked if the continuation was not added for the 24th of April, could they do the whole thing if they had the COGCC information back with Commissioner Teague stating that there are other stockholders that would like to also make comment. Commissioner Zwetzig stated that he would like to see things be done as quickly as possible if that is what it takes, he agrees. Chairman Arndt stated what that does is only adopts the uses by right versus now being in the current regulations and a conditional use could require a hearing if there were objections so it does move it to the uses by right, it does not adopt any of the other parts of the resolution that was discussed about the actual operation of the oil and gas activity. Chairman Arndt clarified that at this time, the hearing will still be heard on April 24th, 2018 for the continuing adoption of any rules that could be amended at this time.

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Commissioner Zwetzig stated that he wants everyone to understand the resolution does not go into effect until it is written and affirmed by the Commissioners at the next meeting with Ms. Sellars stating this was correct, but if the Board was voting to approve, the Board would be acting to approve items #1-#19 which would go into effect upon voting. At this time, the motion carried 3-0.

Chairman Arndt then thanked everyone for their attendance and asked those who wished to be a part of the stakeholder meetings to provide their information to Ms. Cherry, Planning Administrator. Ms. Cherry was asked to also email the redlined version of the resolution and regulations to all those interested.

Being no further business the meeting was then adjourned at 12:27 p.m.

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified April 16, 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