

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting July 31, 2018

The Board of Morgan County Commissioners met Tuesday, July 31, 2018 at 9:00 a.m. with Chairman Mark Arndt and Commissioner Laura Teague in attendance with Commissioner James Zwetzig absent. Chairman Arndt Morgan County asked Morgan County Treasurer Robert Sagel 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 Chairman Arndt seconding the motion. Motion carried 2-0.

CONSENT AGENDA

Ratify the Board of County Commissioners approval of meetings minutes dated July 6, 2018
Ratify the Board of County Commissioners approval of meetings minutes dated July 17, 2018
Ratify the Board of County Commissioners approval of meetings minutes dated July 24, 2018
Ratify the Board of County Commissioners approval of special meetings minutes dated July 24, 2018
Ratify the Board of County Commissioners approval on Contract 2018 CNT 165, Colorado Department of Human Services, cost share partnership for Wendy's wonderful kids, Term of Contract July 1, 2018 until June 30, 2019
Ratify the Board of County Commissioners approval on Contract 2018 CNT 166, AS Inc., temporary help for the fair, Term of Contract August 6, 2018 through August 10, 2018
Ratify the Board of County Commissioners approval on Contract 2018 CNT 167, Buchanan Construction & Specialty Services, install approximately 812 feet of fence at the Mitchell property, Term of Contract until completed
Ratify the Board of County Commissioners approval on Contract 2018 CNT 168, Knipscheer and Associates, Inc., to provide polygraph services, Term of Contract until completed
Ratify the Board of County Commissioners approval on Contract 2018 CNT 169, Kaitlyn Mullins, to provide day care services, Term of Contract until completed
Ratify the Board of County Commissioners approval of the South Platte Master Plan Grant Reimbursement
Ratify the Board of County Commissioners approval on CDBG-DR Final Program Report
Ratify the Board of County Commissioners approval employee credit card issuance agreement
Ratify the Board of County Commissioners approval of the waiver of fairground fees for Cub Scout Pack 25

Commissioner Teague made a motion to approve all items on the Consent Agenda with the exception of item number 5 to allow Jacque Frenier, Director of Human Services to explain further in detail the contract and approved the remaining items as presented. Chairman Arndt seconded the motion and motion carried 2-0.

Jacque Frenier, Director of Human Services presented item number 5, Contract 2018 CNT 165, stating this contract is with the State Department and Wendy's Wonderful Kids Foundation and further explained what the program entails indicating the ultimate goal is adoption, and if adopted parents are not found, they do allow for permanent placements. She stated the State Department allowed the county to utilize services for one or two children and the department has found this program so valuable, that they would like to provide funding through the county for these services. She stated the staff will conduct a thorough search, to find either an adoptive home or permanent connections for the child. The dollar amount for this first year is \$5,014.00 and the next year would be \$8,036.00 and will review in May of 2019 to see if the program is producing the benefits necessary to keep the program in place.

At this time, Commissioner Teague made the motion to approve Contract 2018 CNT 165, Colorado Department of Human Services, and cost share partnership for Wendy's wonderful kids, Term of Contract July 1, 2018 until June 30, 2019, in the amount of \$5,014.00. Chairman Arndt seconded the motion and motion carried 2-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – RESOLUTION - 2018 BCC 2018 BCC 24, A resolution amending various sections of the Morgan County zoning regulations concerning oil and gas operations and other related amendments

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2018 BCC 24

A RESOLUTION AMENDING VARIOUS SECTIONS OF THE MORGAN COUNTY ZONING REGULATIONS CONCERNING OIL AND GAS OPERATIONS AND OTHER RELATED AMENDMENTS

WHEREAS, the Board of County Commissioners desires to amend its Zoning Regulations to recategorize oil and gas uses to reflect the current application of its regulations to oil and gas uses and adopt procedures regarding certain applications for specific oil and gas operations;

2 COMMISSIONERS PROCEEDINGS

WHEREAS, on March 27, 2018, the Board of County Commissioners did adopt use categorizations for oil and gas operations;

WHEREAS, the Board now desires to revisit those use categorizations previously adopted;

WHEREAS, to complement the adoption of use categorizations for oil and gas operations, the Board believes it is in the best interest of the County to adopt certain procedural and land use regulations for oil and gas operations; 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:

1. Section 3-170(P), Agriculture Zone Uses-By-Right, Parcels Larger Than 20 Acres, of the Morgan County Zoning Regulations, is hereby amended to read as follows:

(P) Injection wells, except commercial disposal injection wells.

2. Section 3-170(L), Agriculture Zone Uses-By-Right, Parcels 20 Acres or Smaller, of the Morgan County Zoning Regulations, is hereby amended to read as follows:

(L) Injection wells, except commercial disposal injection wells

3. Section 3-175(D), Agriculture Zone Conditional Uses, Parcels Larger Than 20 Acres, of the Morgan County Zoning Regulations, is hereby amended to read as follows:

(D) Commercial disposal injection wells.

4. Section 3-175(D), Agriculture Zone Conditional Uses, Parcel 20 Acres or Smaller, of the Morgan County Zoning Regulations, is hereby amended to read as follows:

(D) Commercial disposal injection wells.

5. Section 3-190(L), Agriculture/Agri-Business Zone Uses-by-Right, of the Morgan County Zoning Regulations is hereby amended to read as follows:

(L) Injection wells, except commercial disposal injection wells.

6. Section 3-195(C), Agriculture/Agri-Business Zone Conditional Uses, of the Morgan County Zoning Regulations is amended to read as follows:

(C) Commercial disposal injection wells.

7. Section 3-333.5(K), Light Industrial Zone Uses-by-Right, of the Morgan County Zoning Regulations is hereby amended to read as follows:

(K) Injection wells, except commercial disposal injection wells.

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

(HH) Commercial disposal injection wells.

9. Section 3-355.5(J), Heavy Industrial Uses-by-Right, of the Morgan County Zoning Regulations is hereby amended to read as follows:

(J) Injection wells, except commercial disposal injection wells.

10. Section 3-360(G), Heavy Industrial Conditional Uses, of the Morgan County Zoning Regulations is hereby amended to read as follows:

(G) Commercial disposal injection wells

11. Section 2-105 of the Morgan County Zoning Regulations shall be amended by the addition of new subsection (E) to read as follows:

(E) May be erected over an abandoned oil or gas well.

12. Table 1, Appendix B of the Morgan County Zoning Regulations is hereby amended by the addition of a new footnote on both pages of the Table:

COMMISSIONERS PROCEEDINGS 3

f. All structures shall comply with the setbacks required pursuant to Sec. 4-476.

13. Sections 4-455 through 4-495 of the Morgan County Zoning Regulations are hereby repealed and Sections 4-452 and 4-474 are adopted as provided in **Exhibit A**, attached hereto and incorporated herein by reference.

APPROVED this 31st day of July, 2018, *nunc pro tunc* July 24, 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

(Noted as absent)
James P. Zwetzig, Commissioner

(SEAL)
ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Planning Director and Flood Plain Administrator, Pam Cherry to the Board for approval, a Resolution 2018 BCC 24, a resolution amending various sections of the Morgan County zoning regulations concerning oil and gas operations and other related amendments. Ms. Cherry stated that this matter was discussed at a prior meeting and this is placed on today's agenda for signature reflecting the approval.

Commissioner Teague made a motion to approve Resolution 2018 BCC 24, a resolution amending various sections of the Morgan County zoning regulations concerning oil and gas operations and other related amendments as presented by Morgan County Planning Director and Flood Plain Administrator, Pam Cherry, signing as nunc pro tunc, with Chairman Arndt seconding the motion and the motion carried 2-0.

Consideration of Approval – RIGHT OF WAY - 2018 PMT 43 – Morgan County Quality Water District

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018 PMT 43, with Morgan County Quality Water District. Mr. Goodman stated this right of way permit is for trenching Morgan County Road O.5 (Road Segment 300), starting at the east side of Highway 71 Right of Way in the north Right of Way of Morgan County Road O.5, trenching east for 1904 feet a 3 inch PVC pipe at a depth of 5 feet, for the purpose of installing a new main line and to install tap 2561. He stated the fees are attached in the amount of \$240.20 and Morgan County Road Supervisor John Goodman inspected the location.

Commissioner Teague inquired about the change in the permit requiring the compatible GIS shape file, with Mr. Goodman stating the permit does reflect this requirement and upon review the original permit document does not reflect this information.

Commissioner Teague made a motion to approve Right of Way Permit 2018 PMT 43, with Morgan County Quality Water District as outlined in the narrative of the and noting the fees in the amount of \$240.20 are attached and include the statement that compatible GIS shape files will be provided upon completion of the project as presented by Morgan County Road Supervisor John Goodman and authorized the Chair to sign. Chairman Arndt seconded the motion. At this time, the motion carried 2-0.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Morgan County Treasurer and Public Trustee Bob Sagel presented to the Board the Morgan County Treasurer's 2nd Quarter Report for 2018. Mr. Sagel provided detailed information to the board and summarized the information provided. Commissioner Teague made a motion to accept Morgan County Treasurer's report as submitted by Treasurer and Public Trustee Bob Sagel. Chairman Arndt seconded the motion and motion carried 2-0.

Commissioners reviewed the calendar dated July 27, 2018 through August 7, 2018 with changes.

Roger Doll, Morgan County Emergency Operations Manager, provided an update about the storm incident that occurred July 29th, 2018. He indicated that they did open the emergency operation center and indicated the great collaboration that occurred between all of the entities within the county. He stated that he believes the critical needs are being met at this time, and stated there may still be a few road closures due to downed power lines but travel to the surrounding towns, there does not appear to be any issues. He did update regarding power outages that Rural Electric Association experienced stating they have been able to restore power to the majority of those affected. He stated that it was confirmed there was two EF-2 tornadoes and also that there were possibly two additional EF-2 tornadoes that may have occurred. He summarized the locations that were affected. He provided 970-542-3533 as

4 COMMISSIONERS PROCEEDINGS

the number for anyone who may need to relay additional storm information to the county. An email address of storm@co.morgan.co.us was provided and it was requested that anyone who may have pictures regarding damage or storm pictures to be sent to this email.

Commissioner Teague explained why the Morgan County Assessor's office is out in the field inspecting what damage there is due to the reason the State has to be able to assess what extent the damage was which will allow for data to be provided to the State and be able to determine a value of what financial damage there was. She further stated they will be looking at proclaiming a local disaster by resolution this week.

The Board thanked Kevin Kuretich and his team who represented Homeland Security and FEMA for their assistance.

Morgan County Clerk and Recorder Susan Bailey provided an update regarding the closure of the Motor Vehicle Department scheduled for Wednesday, August 1st through Friday, August 3rd due to the new system DRIVES being implemented.

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 9:31 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Mark Arndt and Commissioner Laura Teague with Commissioner James Zwetzig absent. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry.

Application is for mining, processing, asphalt production and then to reclaim as a lake surrounded by rangeland on a parcel of land located in the SE1/4, and SW1/4 of Section 33, Township 4N, Range 57 West of the 6th P.M., Morgan County, Colorado

**Applicant: Green Brothers, Inc. / Rod Havens
Landowner: McAtee Construction Company Inc.**

Chairman Arndt asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

Ms. Cherry stated that as of Friday afternoon, the asphalt production section of the application was withdrawn by the applicant, therefore, changing the application to be for mining, processing, and then to reclaim as a lake surrounded by rangeland on a parcel of land located in the SE1/4, and SW1/4 of Section 33, Township 4N, Range 57 West of the 6th P.M., Morgan County, Colorado.

Application Overview

Ms. Cherry stated that this application was submitted by Green Brothers, Inc. as applicant and McAtee Construction Company as property owner to amend a Special Use Permit issued pursuant to Resolution 94 BCC 51 that was for the purpose of extracting gravel and auxiliary uses associated with mining and processing. The applicant wants to expand the Special Use permit to 78.89 acres from the current 55.60 acres to allow mining, processing, and reclamation. On July 27, 2018 the asphalt production portion of the application was withdrawn. There are two parcels included on this application, 1039-330-00-008 and 1039-330-00-010 that total 78.89 acres in the Agriculture Production Zone District. The properties are located in Section 33, Township 4 North, Range 57 West of the 6th P.M., Morgan County, Colorado.

Ms. Cherry explained that section 3-180(G) states that mineral resource development and extraction operations and facilities (including quarrying and sand and gravel pit) are also special uses. The parcel has been used for mining and extraction since the late 1950's. A portion of the additional 24.29 acres will be used as a processing site of the material mined on the site and as a recycled material processing area. The plant site is included in the current Mined Land Reclamation Board Permit and is approximately 8.43 acres. At the present time there is active mining occurring in the southern portion of the originally permitted area. The west area that is being added to the Special Use permit includes an area for processing and stockpiling material mined at the site. There is an area of the old mined area that will be filled then used for recycling of concrete and asphalt crushing and processing.

Public Comments/Concerns

Ms. Cherry stated that on June 8, 2018, notifications of this hearing were sent to twelve property owners within 1,320 feet of the subject property. As of the date of this report, July 27, 2018, three letters in opposition to the batch plant portion of the application had been received. At the Planning Commission hearing three citizens spoke in opposition to the batch plant portion of the application; one spoke in favor to the entire application. The opposition was based on the negative environmental and traffic impacts associated with the expansion, most specifically the batch plant. On July 27, 2018 the request for approval of the asphalt batch plant was withdrawn.

COMMISSIONERS PROCEEDINGS 5

Special Use Permits

Ms. Cherry explained the amendments to special use permits are governed under Sec. 2-430 of the County's Zoning Regulations. Under that section, amendments to special use permits are subject to the same criteria as the original permit. The criteria to be used for analysis of a proposal are listed below with the Planning Administrator's analysis. These criteria are to be used by the Planning Commission and the Board of County Commissioners when reviewing an application for a Special Use Permit.

Criteria and Planning Administrator's Analysis

(*Requirements are italicized)

The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan.

Ms. Cherry stated that the property is located in the north central planning area as defined by the Morgan County Comprehensive Plan. In this area of Morgan County there are pockets of commercial and industrial uses. A goal for this area is to "Encourage the preservation of agricultural production land to ensure continuation of this important industry." The immediate area of this application has long been used for gravel mining in the Agriculture Production zone district. By continuing these sorts of uses in this area, other agriculture ground will be preserved for agriculture uses.

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

Ms. Cherry stated that the application is complete and presents a clear picture of how the uses are to be arranged on the expanded site of 78.89 acres.

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

Ms. Cherry stated that the Site Plan meets the district design standards of the Morgan County Zoning Regulations pursuant to Sections 3-620 through 3-710.

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

Ms. Cherry explained the impacts to surrounding properties will be minimal as adjoining properties are also used for gravel mining. There are five gravel pits in the immediate area and have been there for many years. Three of these are currently operated under State Mined Land Use Permits. Increases in traffic are not anticipated with the expansion in mined area.

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

Ms. Cherry stated that buffering from adjacent agricultural uses is not necessary as many of the surrounding uses are also mining and compatible.

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

Ms. Cherry stated that the amending Resolution 94 BCC 51 will not change or increase the risk to public health safety and welfare. The use has been in existence for many years without known adverse impacts.

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

Ms. Cherry stated that the proposed amendment to a special use will not result in a non-conforming parcel.

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

Ms. Cherry stated that there is a public need for gravel in the county. The applicant has paid all fees and costs.

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

Ms. Cherry explained that the requested amendments do not affect the current supply of water used by the special use on the property. Therefore, there is no evidence that additional water is needed as a result of the requested amendment.

6 COMMISSIONERS PROCEEDINGS

Morgan County Staff Comments

Ms. Cherry stated that no staff comments have been received as of July 27, 2018.

Recommendation

Ms. Cherry stated that the Planning Commission and she recommended approval of this application to the Board of County Commissioners subject to two conditions:

1. The applicant shall obtain necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.
2. The applicant shall be responsible for dust mitigation of Barlow Road and access to the pit.
(Dust mitigation condition was largely requested as a result of the request for the asphalt batch plant portion of the application. The asphalt batch plant portion of the application was withdrawn by the applicant on July 27, 2018.)

Chairman Arndt asked when Ms. Cherry reviewed the resolution were there any special conditions in 1994 that would be of concern, with Ms. Cherry stating there was a requirement that they submit regular environment reports with expansions which is required by the State and the applicants were not aware of this requirement and stated they have submitted this information with this filed application.

At this time, Chairman Arndt asked the applicants for comments at which time Rod Havens, Simon Contractors, 6215 Clear Creek Parkway, Cheyenne, Wyoming; David Rau, 1103 Oak Park Drive, #110, Fort Collins, Colorado; and Steve O'Brian, 7985 Vance Drive, Arvada, Colorado introduced themselves to the Board as the applicants.

Mr. Rau stated he believed the comments provided by staff provided a comprehensive summary of the application and also confirmed they have withdrawn the asphalt production from the application.

Commissioner Teague asked what the life span of the pit would be, with Mr. O'Brien stating it should last about 40 years, and pointed out on the screen the area where mining is taking place now, covering about three acres, and stated that is where they first started mining in the late 1990's so it does not grow very fast. He then pointed to the new area that is being added, and explained the area in detail. He also outlined the location of the warm water slough. He stated the original permit covered a 9.9 acre area and they have expanded an area explaining the area, where it has extended to and the recycle area, where they are bringing in recycled asphalt, and other items. He stated they will continue to mine the area north of the creek and the move south, the 1994 resolution anticipating moving the lower piece, but they have chosen to leave that, and summarized they should remain in the original 10 acres over the next 10-12 years unless the economy should change to require additional materials. Commissioner Teague clarified that they are not planning to pull out more aggregate, and that it is just increasing the footprint with Mr. O'Brien stating that was correct. Commissioner Teague questioned if the recycling and crushing has been happening since the beginning of the permit, with Mr. O'Brien stating that was correct and further stated they are adding a 24 acre piece to the original 55 acres that was originally permitted and its historical use remains the same.

Commissioner Teague asked about what the state says they can do with the slough, with Mr. O'Brien stating they will leave a 100 foot wide strip through there and leave it. He stated it used to be run off water from the old water treatment plant in Fort Morgan, stating no one really owns it; it is just a return flow out from the City of Fort Morgan. He stated under the existing state reclamation plan, the ditch stays where it is located now. The intent is to have two separate lakes when they are done. The original resolution did anticipate moving it, but at this point, they plan to leave it. It is a man made ditch, as per Dave Rau, and stating there is the ability to change the alignment as long as it does not interfere with the flow.

Commissioner Teague asked what water logs were, with Mr. Rau stating that references their record keeping.

Chairman Arndt made mention about the letters received from Nick Erker and Steve Glassey and the fact that those have been resolved now since they have changed their application to eliminate the batch plant.

Ms. Cherry also indicated that the Planning Commission did vote, with five members voting in favor and two in opposition and the two who opposed did so due to the batch plant being proposed.

Discussion followed about the dust mitigation requirement, with Commissioner Teague asking if there has been any complaint about the dust issue, with Ms. Cherry stating as long as she has been employed with the County they have not received any complaints in her office. Dave Rau explained that Barlow Road is a road utilized by others, including Erker Ponds, and the question becomes whose dust is it.

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

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

At this time, a motion was made by Commissioner Teague to approve the Application is for mining, processing, and then to reclaim as a lake surrounded by rangeland on a parcel of land located in the SE1/4, and SW1/4 of Section 33, Township 4N, Range 57 West of the 6th P.M., Morgan County, Colorado, as presented by Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and authorized a resolution be prepared to be approved at a later date. She noted to add the condition that the applicant shall obtain necessary permits and comply with the requirements and conditions of those permits as determined by other governmental

COMMISSIONERS PROCEEDINGS 7

agencies with jurisdiction over this operation and further stated her motion would not include the dust mitigation requirement to be added to this permit. Chairman Arndt seconded the motion. At this time, the motion carried 2-0.

Being no further business the meeting was then adjourned at 9:52 a.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board
(Minutes ratified August 21, 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

(noted as absent/excused)
James P. Zwetzig, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

NOTE ADDED at the direction of the Board of County Commissioners regarding the matter below: “indicating that this matter was not heard on that date whereas it had been tabled from July 24, 2018 to allow for staff to review the recorded minutes to clarify the accuracy of the conditions of the resolution and the matter was then placed on the agenda for the special meeting held August 3, 2018”.

Consideration of Approval – RESOLUTION – 2018 BCC 20 a Resolution Conditionally Approving a Conditional Use Permit for the Construction of a Buried Natural Gas Liquids Pipeline to enter Morgan County in the NW¹/₄ of Section 3, Township 6 North, Range 55 West and exit the county in the W¹/₂ of Section 24, Township 6 North, Range 55 West of the of the 6th P.M., Morgan County, Colorado

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey