

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting October 2, 2018

The Board of Morgan County Commissioners met Tuesday, October 2, 2018 at 9:04 a.m. with Chairman Mark Arndt, Commissioner Laura Teague and Commissioner James Zwetzig in attendance. Chairman Arndt asked Morgan County Undersheriff Dave Martin to lead the meeting in the Pledge of Allegiance.

ADOPTION OF THE AGENDA

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

CONSENT AGENDA

- Ratify the Board of County Commissioners approval on Contract 2018 CNT 183, Media Logic LLC/ Cover 4 Theatre, monthly ads for cover 4 - annual rate, Term of Contract September 24, 2018 through September 24, 2019
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 184, Colorado Mobile Drug Testing, pre-employment & CDOT random, Term of Contract October 1, 2018 through October 1, 2019
- Ratify the Board of County Commissioners approval on Contract 2018 CNT 185, Mile High Sports, LLC. Joel Dressen fall/winter campaign print & radio, Term of Contract September 26, 2018 through December 31, 2018
- Ratify Commissioner Laura Teague's signature on the Memorandum of Understanding between Morgan County Government and Colorado Department of Transportation
- Ratify Commissioner Laura Teague's online approval of the Courthouse Security Grant
- Ratify the Board of County Commissioners approval on the Victim's Assistance Program Grant Process Routing Form
- Ratify the Board of County Commissioners approval on Morgan County Purchasing Policies and Procedures
- Ratify the Board of County Commissioners approval of the waiver of fairground fees for the Lads and Lassies 4-H Club
- Ratify the Board of County Commissioners approval of the waiver of fairground fees for A Caring Pregnancy Resource Center of NE Colorado

Commissioner Zwetzig made a motion to approve items 1-9 on the Consent Agenda as presented, Commissioner Teague seconded the motion and motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – RIGHT OF WAY - 2018 PMT 66 – Public Service Company of Colorado

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018 PMT 66, with Public Service Company of Colorado. Mr. Goodman stated this right of way permit is for cutting asphalt on N Custer St (Road Segment 200-2), starting 17 feet west and 8 feet north of the stop sign at the northeast corner of Dessa St and N Custer St, cutting a pot hole to place an anode, starting 17 feet west and 14 feet north of the stop sign at the northeast corner of Dessa St and N Custer St, cutting a pot hole to place an anode, starting 17 feet west and 19 feet north of the stop sign at the northeast corner of Dessa St and N Custer St, cutting a pot hole to place an anode, starting 17 feet west and 24 feet north of the stop sign at the northeast corner of Dessa St and N Custer St, cutting a pot hole to place an anode, starting 17 feet west and 29 feet north of the stop sign at the northeast corner of Dessa St and N Custer St, cutting a pot hole to place an anode, starting 17 feet west and 35 feet north of the stop sign at the northeast corner of Dessa St and N Custer St, cutting a pot hole to place an anode, for the purpose of installing six anodes on the gas main via potholes in the asphalt. Chairman Arndt asked how big the circular hole would be with Mr. Goodman stating about an 8 inch hole. Discussion ensued as to how the distance of this permit is being detailed with Commissioner Zwetzig stating the description provided would provide details where the locations of the holes being cut are exactly without the use of equipment.

Commissioner Zwetzig asked to make note that the actual fees of this permit should be a total of \$250.00 and the County is waiving part of the fee making the total fee \$101.00, noting it is being waived due to this being an unusual situation whereas it does not match what our fees require.

Commissioner Teague made a motion to approve Right of Way Permit 2018 PMT 66, with Public Service Company of Colorado as outlined in the narrative of the and noting the fees in the amount of \$101.00 are attached as presented by Morgan County Road Supervisor John Goodman and authorized the Chair to sign. Commissioner Zwetzig seconded the motion. Chairman Arndt confirmed that the fees have been collected in the amount of \$101.00. At this time, the motion carried 3-0.

Consideration of Approval – RIGHT OF WAY - 2018 PMT 67 – Century Link

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018 PMT 67, with Century Link. Mr. Goodman stated this right of way permit is for trenching Morgan County Road 19 (Road Segment 600), starting 30 feet south of the intersection of Morgan County Road 19 and Morgan County Road L and/or at GPS coordinates 40.15960 and -103.79251 in the west right of way, trenching 200 feet south to the ending GSP coordinates of 40.15932 and -103.79252, for the purpose of the installation of 2 hand holes and the

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installation of 200 feet of fiber. Commissioner Teague asked if this is new fiber, with Mr. Goodman stating it is.

Commissioner Zwetzig made a motion to approve Right of Way Permit 2018 PMT 67, with Century Link as outlined in the narrative of the and noting the fees in the amount of \$70.00 are 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 – RIGHT OF WAY - 2018 PMT 69 – Century Link

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018 PMT 69, with Century Link. Mr. Goodman stated this right of way permit is for trenching/plowing/boring Morgan County Road T (Road Segment 1600), starting 15 feet east of the intersection of Morgan County Road T and Morgan County Road 26 at GPS coordinates 40.27598 and -103.65939 in the north right of way boring 300 feet east, starting 315 feet East of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, trenching east 185 feet, starting 500 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, boring east 20 feet, starting 520 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, plowing east 899 feet, starting 1419 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, boring east 32 feet, starting 1451 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, plowing east 1094 feet, starting 2545 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, boring east 64 feet, starting 2609 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, trenching east 1636 feet, starting 4245 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, boring east 90 feet, starting 4335 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, trenching east 142 feet, starting 4477 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, boring East 65 feet, starting 4542 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, plowing east 615 feet, starting 5157 feet east of the intersection of Morgan County Road T and Morgan County Road 26 in the north right of way, boring east 112 feet at ending GPS coordinates 40.27621 and -103.64060, for the purpose of placing fiber cable.

Commissioner Zwetzig stated the road segment seems to be off as indicated in the narrative, asking Mr. Goodman about adding a couple of additional road segments which will be taken care of after the approval of this matter.

Commissioner Teague made a motion to approve Right of Way Permit 2018 PMT 69, with Century Link as outlined in the narrative noting the permit will be corrected to indicate the appropriate road segments and also noted the fees in the amount of \$665.70 are attached and as presented by Morgan County Road Supervisor John Goodman and authorized the Chair to sign. Commissioner Zwetzig seconded the motion. At this time, the motion carried 3-0.

Consideration of Approval – RIGHT OF WAY - 2018 PMT 76 – Century Link

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018 PMT 76, with Century Link. Mr. Goodman stated this right of way permit is for plowing Morgan County Road R (Road Segment 2400), starting 616 feet west of the intersection of Morgan County Road R and Morgan County Road 29 in the south right of way, plowing east 616 feet and ending at GPS coordinates 40.44821 and -103.60434, for the purpose of the installation of fiber cable. Chairman Arndt made note the permit fees are in the amount of \$111.60.

Commissioner Zwetzig made a motion to approve Right of Way Permit 2018 PMT 76, with Century Link as outlined in the narrative of the and noting the fees in the amount of \$111.60 are 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.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated September 28, 2018 through October 9, 2018 with changes.

Road Supervisor John Goodman stated the paving project was completed Thursday and also indicated the upcoming project they will be starting. He also provided an update in regards to the bridge repairs on County Road W and the fact that County Road W is still closed due to the time it takes to cure.

Undersheriff Dave Martin updated the Board that Kubal, the vendor completing the jail security system will be on site for the next couple of weeks pulling wire and will be installing the security cameras.

Morgan County Clerk and Recorder Susan Bailey provided an update as to the upcoming General Election as well as thanking the citizens for their patience during a recent outage in the Motor Vehicle Department.

Chairman Arndt also noted the County offices will be closed Monday, October 8, 2018 in observance of Columbus Day.

UNFINISHED BUSINESS

Consideration of Approval – RIGHT OF WAY - 2018 PMT 65 – Century Link

Morgan County Road Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2018

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PMT 65, with Century Link. Mr. Goodman stated this right of way permit is for trenching Morgan County Road R (Road Segment 2000), starting 537 feet east of the intersection of Morgan County Road R and South Clayton Street in the south right of way trenching east 1950 feet, starting 1950 feet east of the intersection of Morgan County Road R and South Clayton Street in the South right of way, a 20-foot riser will be placed onto the existing pole, starting 1950 feet east of the intersection of Morgan County Road R and South Clayton Street in the south right of way, aerial to a pole 196 feet east, starting 2166 feet east of the intersection of Morgan County Road R and South Clayton Street in the south right of way, plow east 1942 feet, starting at 4108 feet east of the intersection of Morgan County Road R and South Clayton Street in the south right of way, boring north 60 feet at ending GPS coordinates 40.24823 and -103.60654, for the purpose of the installation fiber cable. Chairman Arndt made note the amount of this permit is \$566.80.

Commissioner Teague made a motion to approve Right of Way Permit 2018 PMT 65, with Century Link as outlined in the narrative of the and noting the fees in the amount of \$566.80 are attached as presented by Morgan County Road Supervisor John Goodman and authorized the Chair to sign. Commissioner Zwetzig seconded the motion. At this time, the motion carried 3-0.

CITIZEN'S COMMENT

There was no citizen comment provided.

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. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry.

Legal Description: Section 4, Township 3N, Range 56 W ½ of SW ¼ AKA: 26150 Hwy 34, Brush, CO 80723

Reason: To create 2 parcels from 13.3. Parcel 1 will contain 8.3 acres. Parcel 2 will contain 5 acres.

Applicant: Robert Pennington

Landowner: Brush First Church of the Nazarene

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 this application is for a Minor Subdivision of a 13.3 acre parcel located at 26150 Highway 34, Brush, CO 80723. It is located in the W½ of the SW¼ of Section 4, Township 3 North, Range 56 West of the 6th P.M. Morgan County, Colorado. The Brush First Church of the Nazarene as landowner and Robert Pennington as applicant are requesting approval of the Minor Subdivision to create two lots from one 13.3 acre parcel; Lot 1 will be 5 acres to be owned by the applicant for speculative commercial purposes; Lot 2 will be 8.3 acres and will remain church property, for church use. The property is zoned Commercial District.

Ms. Cherry stated that Section 8-195 of the Morgan County Subdivision Regulations requires review of the listed criteria and compliance to be determined prior to approval of the proposed subdivision.

Ms. Cherry further indicated that in reviewing an application for a minor subdivision the Planning Commission and the Board of County Commissioners shall apply the following criteria as listed in Section 8-195 of the Morgan County Subdivision Regulations:

- (A) Whether the application documents are complete and present a clear picture of how the subdivision is to be laid out including all infrastructure, easements, and access.

The application documents are complete:

- There is an existing Morgan County Quality Water tap #2940 for the church.
- Morgan Quality Water tap #2949 has been purchased for the proposed 5 acres.
- Northeast Colorado Health Department has issued permit #M18-33 for the church.
- Northeast Colorado Health Department issued a letter dated July 12, 2018 stating the requirements for a septic system when the property is built upon.
- CDOT has issued a letter to the church stating that the current access is approved.
- CDOT has issued a letter stating that access to the new parcel will be through the Penni-Storage property, no additional access is requested at this time.
- There is an existing 30' access easement for benefit of the church.
- There is an existing 20' drainage easement on proposed Lot 1 for the benefit of the Brush First Church of the Nazarene. This is a CDOT controlled access and has been approved to be shared between Lot 1 and Lot 2 of this subdivision.

- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan. The subdivision is located in the southeast planning area. Highway 34 is the boundary line between southeast and northeast.

Chapter 2, II Policy Plan Summary, C.5., Brush Area

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Goal Concentrate new developments around the city to take advantage of existing municipal services. There is existing infrastructure and services available to this new subdivision.

- (C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.
This subdivision is located in a commercial zoned area and buffering is not required, uses are compatible.

Ms. Cherry noted that all appropriate notice requirements have been completed with no comments received in favor and no comments in opposition as of October 2, 2018. There are several mineral rights owners on the property that have also been notified, with no comments received as of October 2, 2018. The site of the minor subdivision is not located within the 100-year floodplain. Subject property is located within the Brush Fire District. Taxes are current.

Ms. Cherry stated the Planning Commission held a public hearing on this application at their meeting on September 10, 2018 and recommended approval on a vote of 5-0 with Robert Pennington recusing himself from this application. At this time, Ms. Cherry recommended approval of this subdivision.

At this time, Chairman Arndt asked the applicant for comments at which Robert Pennington, address being 18410 Acoma, Fort Morgan, CO stated he had nothing further to add to the narrative of this application.

At this time, Chairman Arndt opened the matter for public comment either for or against the application being reviewed.

At this time, John Crosthwait, address being 20934 County Road 33, Brush Co spoke on behalf of the Brush Church of the Nazarene stating he has worked with both the applicants and the church regarding this matter, and indicated the church itself does support this application explaining his reasons for supporting the matter. Chairman Arndt asked about the drainage issue, with the fact that the church has already looked at the drainage plan, with Mr. Crosthwait stating that during the second phase of their project, they will be working on the drainage plan. Commissioner Teague asked about the lot lines recognizing both phases of the church's project with Mr. Crosthwait stating yes.

At this time, it was noted by Chairman Arndt there was no further public comment and closed the public comment portion of the hearing.

Commissioner Zwetzig asked if the City of Brush had been notified of this matter with Ms. Cherry stating yes and they have not made any comments, nor did they during the hearing regarding the Brush Church of the Nazarene. Commissioner Zwetzig asked that it be noted that the City of Brush has been notified and they have not expressed any concerns given there is a parcel involved within this area that belongs to the City of Brush.

At this time, Chairman Arndt moved to discussion and decision with no further discussion.

A motion was made by Commissioner Teague to approve the application to create 2 parcels from 13.3. Parcel 1 will contain 8.3 acres. Parcel 2 will contain 5 acres for Landowners being Brush First Church of the Nazarene and applicant being Robert Pennington. The parcel is located in W1/2 of SW1/4 of Section 4, Township 3N, Range 56 West of the 6th p.m., 26150 Hwy 34, Brush, CO 80723, Morgan County, Colorado, as presented by Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and authorized the preparation of the appropriate resolution to be approved at a later date. Commissioner Zwetzig seconded the motion. At this, time motion carried 3-0.

Legal Description: A parcel of land in the N ½ NW ¼ of Section 12, Township 4 North, Range 58 West of the 6th p.m., Morgan County, Colorado

Reason: The landowner is requesting this Special Use Application for a small capacity (250 person maximum) event venue to host special occasions. This facility will be available for rent.

Applicant: Kyle and Jennifer Eiring
Landowner: Kyle and Jennifer Eiring

At this time, Chairman Arndt asked the applicants to provide their names and address with Kyle Eiring stating his address as being 14129 County Road X, Weldona, CO and Jennifer Eiring, 14129 County Road X, Weldona, CO.

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 this application is for a Special Use on a 868 acre property in the Agriculture Production zone district. It is located in the N½ of the NW¼ of Section 12, Township 4 North, Range 58 West of the 6th P.M. Morgan County, Colorado. It is approximately ¾ of a mile north of County Road W, on unmaintained Road 17.

Ms. Cherry further stated the Eiring's, as applicants and land owner, are requesting approval of a salon and event center with a capacity of 250 people that will host special occasions on a rental basis. The proposed barn will be used for weddings, baby showers, business meetings, holiday gatherings etc. There will be no food preparation onsite and applying for a liquor license is not anticipated at this time. If an event will serve alcohol the sheriff has recommended that security be provided by a reputable individual or company. The salon is anticipated to be open three days a week, five hours a day.

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Ms. Cherry further indicated that neither an event center nor salon is listed as a use-by-right, conditional or special use in the Morgan County Zoning Regulations. As such, this application becomes eligible for consideration under Section 2-325 - Uses Not Listed - Any use, not designated as a Use by Right, Accessory Use, Conditional Use, Use by Special Review or not otherwise prohibited in a particular zone, may be approved as Use by Special Review pursuant to the criteria and procedure as established by these Regulations.

Criteria – Special Use Permits

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

- (A) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan.
The North Central Planning Area with a goal of encouraging the preservation of agricultural production land to ensure continuation of this important industry. At this time, the only proposed structure is the barn to be used for events.
- (B) All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.
The file is complete and all documentation provided meets requirements.
- (C) The Site Plan conforms to the district design standards of these Regulations.
- (D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.
The applicant has agreed to the following recommendations by the Morgan County Sheriff's office:
- *40-foot width driveway to accommodate emergency vehicles*
 - *Stop sign be erected at the intersection of paved County Road 17 and County Road W*
 - *Security will be hired should an event serve alcohol*
- The sheriff also notified the applicant that due to the distance from the Fort Morgan area response times, in the event of an emergency, will not be as timely.*
- The applicant has requested that Road and Bridge to construct and maintain County Road 17. In a letter dated July 31, 2018, Road and Bridge has no objection to the use of petitioned County Road 17 for a new maximum width 40' driveway, but will not improve nor maintain it.*
- There is a shotgun only shooting range off of unmaintained Road 17 that is approximately ½ a mile south of the proposed event center. The range has events that are normally held during daylight hours. The applicant expects that most of their events will be during the evening and nighttime hours.*
- (E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.
The closest home to the proposed event center is approximately ¾ mile to the south. This property owner may be impacted by traffic on event days.
- (F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulations, whichever is the strictest.
Northeast Colorado Health Department will require an engineered Onsite Wastewater Treatment System to be applied for and approved prior to building construction.
- (G) The special use proposed is not planned to be developed on a non-conforming parcel.
The parcel is 868 acres and is not a non-conforming parcel.
- (H) The applicant has adequately documented a public need for the project, all pertinent technical information, and adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.
- (I) For any special use requiring a supply of water that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability and in the case of human consumption, quantity, quality, and reliability.
Morgan County Quality Water has an existing waterline on Road W. Applicant will extend the water line to the proposed event center.

Ms. Cherry stated that all appropriate notice requirements have been completed that resulted in one inquiry from an adjoining landowner that wanted to know about the use of unimproved County Road 17. As of October 2, 2018, no other comments have been received.

Ms. Cherry stated the Planning Commission considered this application at their meeting on September 10, 2018 and unanimously recommends approval with five conditions including an amendment to the drafted first condition and further read aloud the following conditions:

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1. As originally drafted:
 - a. The applicant shall be solely responsible for the improvements and maintenance to the driveway (County Road 17) as recommended by Morgan County Road and Bridge and the Morgan County Sheriff's office;

Planning Commission amended this first condition to read:
 - b. *The access shall be 40' in width per Road and Bridge and the Sheriff's Department recommendation.*
2. The applicant shall be solely responsible for installation of a stop sign to be coordinated with Road and Bridge and the Sheriff's office;
3. The applicant shall be solely responsible for the extension of Morgan County Quality Water to the event center;
4. Prior to construction the applicant shall submit an application to Northeast Colorado Health Department for an Onsite Wastewater Treatment System;
5. The applicant shall obtain all necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.

Commissioner Zwetzig asked if the property is located within any aeronautical area asking if the City of Fort Morgan has been notified. Ms. Cherry stated that they were contacted, but not aware of this information with Commissioner Zwetzig asking if that could be explored, and Ms. Cherry stated this could certainly be added as a condition.

Commissioner Teague asked about the landowner's question about the road matter with Ms. Cherry stating it was a general question as to how the road would be maintained, with Chairman Arndt reading aloud Condition number 1, noting the importance of a permit needing to be requested and approved through the Road and Bridge Department for the access being maintained by the applicant.

At this time, Chairman Arndt asked the applicant for comments at which Ms. Eiring stating she believes they should ask for permission to build and maintain a road there as indicated, asking about a road maintenance agreement with the County. Commissioner Teague asked who uses the road at this time, asking for them to explain the use of the road in question.

Ms. Eiring stated that there are currently eight personal businesses who use the road in question and further named those individuals who do use the road for access stating they themselves utilize the roadway as well as Rock Larsen, Wendell and Margaret Wacker, Hazel Jess, Kinder Morgan Gas Company, REA, Longacre Ranch, and High Plains Clay Busters) indicating at this location there is a gate present and everyone collaborates and has a key to be able to access. Ms. Eiring stated that something does need to happen given the condition of the road that is in place now, and Mr. Eiring asked how many taxpayers need to be involved to make it a county maintained road, with Commissioner Zwetzig stated the County has not taken any more roads on, with Ms. Eiring asking what the reason for that as being, with Commissioner Teague stating the reasons and asked who told them it was illegal to upgrade a section line road, with Ms. Eiring stating they have been told by road and bridge they cannot legally maintain the road, with Commissioner Zwetzig stating the "legal" part of this was probably not given by our attorney.

Further discussion ensued, regarding the maintenance of the road in question with Commissioner Zwetzig stating roads are dedicated for public use and the County is not required to do any amount of maintenance, and feels they are appropriate in asking for permission to maintain the road in question with Ms. Eiring stating they would prefer to be able to maintain and keep their gate. Chairman Arndt agreed with Commissioner Zwetzig in the comment the County does not have an obligation to maintain any road.

Commissioner Zwetzig asked about the request for a salon, with Ms. Eiring stating it would be a one booth salon, with Commissioner Zwetzig expressing his concern about how large of a salon it would be, with Ms. Cherry stating the Board could limit the amount of use and access, with Ms. Eiring stating it is only a hair styling salon. Commissioner Zwetzig stated once it is approved, it would be approved given the regulations as they are presently. Ms. Cherry stated the regulations in place do not have anything allowing an event center at this time.

Commissioner Teague asked about the recommendations from the Morgan County Sheriff's Office regarding the traffic control with Ms. Eiring stating they asked that it accommodate two lane traffic and it have a stop sign at the intersection of County Road 17 and County Road W.

Discussion followed there is a letter from road and bridge in the file for the road width with Ms. Cherry stating 40 feet, with Commissioner Teague noting she feels that is for the driveway in question.

Commissioner Zwetzig asked about the question being when these events would occur, believing there could be a conflict with the vested right in place for a shooting range in the locale, asking if there is some type of way to accommodate that. Ms. Eiring stated she has worked with Clay Busters stating they are willing to work together for the safety of their guests and at this time, they allow for Sunday mornings to use the shooting range.

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Chairman Arndt asked about the salon and the one chair salon comment, would she have any issues with limiting it to one chair, with Ms. Eiring stating she does not have any issue with that.

Commissioner Teague asked if there will be restrictions on a salon, the permit would then be for a salon and an event center, with Ms. Eiring stating that is correct, that is what is being planned for.

Mr. Eiring stated he is confused asking if the road can be basically built to their expectations with Chairman Arndt stating that will be discussed later.

At this time, Chairman Arndt opened the matter for public comment with Chairman Arndt noting there was no one present in opposition of this matter.

At this time, Matt Wolf, 17792 Road 15, Lot 3, Fort Morgan spoke in favor of the application stating they are in favor of the road as it benefits their shooting club, stating currently they maintain the road annually, but only minimally, given they are non-profit and they do not have the ability or funding to maintain the road any more than minimally. He further stated that the Eiring's have been beneficial to their club and feels they will be able to work together in this matter explaining the ways the shooting range is currently being used. He explained the history of the club, indicating they now lease the club, Wildcat Trap Club is no longer in place and stated clay busters maintain the lease of the club.

Chairman Arndt asked about the direction of the shooting, asking him to explain further. Mr. Wolf stated the shooting range is set up in a manner whereas the shot cannot extend past the property line that is controlled by the type of shotguns being used at the range, and the only safety concern they would have is if someone from the Eiring's property would come onto the shooting range stating there are appropriate barriers and signage in place to have a controlled entrance. It is a 100 percent shotgun only range in the disciplines of clay shooting. Wildcat Trap Club is the owner, but they no longer insure the club, Clay Busters now provide the liability insurance. Ms. Cherry confirmed that Wildcat Trap Club has been notified with no response.

Commissioner Zwetzig spoke about the permit allowance and that is what must be considered today. Mr. Wolf stated his objective was to answer the question about how they are working together and ensuring the safety is intact.

At this time, there were no further comments and public testimony was closed.

At this time, Chairman Arndt moved to discussion and decision with no further discussion. Commissioner Zwetzig asked the question about the gun range concerns, with Undersheriff Martin stating that he did not write the impact letter but did know that the only statement being made is if there was alcohol being served, there would need to be security measures in place and sees no issue with the shooting range being there in regards to this application. He stated that he has participated in activities in this shooting club and stated that they do not shoot when cars are present on County Road 17 trying to teach youth the safety and respect.

Commissioner Zwetzig asked how many miles it is from County Road W, with Ms. Eiring stating it is $\frac{3}{4}$ of a mile, stating the venue would be on a hill explaining the reason why they are proposing this location. Commissioner Zwetzig asked about infrastructure in place, with Ms. Eiring stating that Kinder Morgan does have some infrastructure in the area. It was further stated they are approximately two miles from the airport.

Chairman Arndt then asked to discuss the road issues, and explained the County has been looking at developing road maintenance agreements and will be looking into this further for possible approval. He further stated the County does have standards in place for subdivisions explaining the material requirements and asked if they do have at their disposal the proper equipment to maintain a roadway. Ms. Eiring stated her father is Randy Jess who owns the necessary equipment as well as the material that would be needed to maintain the road but wants the approval to do so to be sure they are compliant with maintaining the road.

Commissioner Teague stated she sees the benefit to keep the road in the manner it is today, but asked what happens in five years if one of the adjoining property owners sells and all of a sudden the new owner does not want 250 vehicles coming into this road, could that be a concern in the future. Commissioner Zwetzig stating that it is a public right of way now, with Commissioner Teague stating at any time the County could take over the road.

The gate is an issue, in both Commissioner Teague and Commissioner Zwetzig's minds; with Ms. Eiring stating that road and bridge stated that if at any time anyone from the public would want to come up there, they would have to remove the gate. She then spoke about Quality Water is requiring her to put in main line for future development which may be in the County's interest to maintain the road, further stating she is investing in overhead power, and asked if the County would be in favor of that now or when. Commissioner Zwetzig believes it is a public right of way and Ms. Eiring stated she would prefer to keep the gate.

Discussion followed regarding the requirement of the maintenance of the road with Commissioner Teague feeling that it would be best to stay quiet on the road matter, with Commissioner Zwetzig stating they cannot stay silent given it is a public right of way.

The map provided in the Board packet was reviewed to ensure that there are no landlocked issues and all parcels do have access with the exception of Edwin Jess' from the county road. It was determined that the information in the packet was incorrect with Mr. Eiring indicating in person the correction to the map.

Ms. Eiring stated they do have a verbal agreement with Edwin Jess that they would like to have first rights to the property, but it is only verbal.

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At this time, Chairman Arndt asked for each board member's thoughts about the road. Commissioner Zwetzig stated the application is for an event center and a salon and it is the duty of the Board to be sure that there is infrastructure in place for these requests and the road is one of those issues stating he does not have any problem with a road maintenance agreement and is supportive of the application for the salon with a limitation as well as the event center with a capacity limitation. Commissioner Teague stated in comparison to the event center, the salon condition is not substantial, with Commissioner Zwetzig stating his concerns as to why he believes there should be a limit to the salon given the traffic flow.

Commissioner Zwetzig stated the maintenance agreement could include that the County could come in at any time to do its own maintenance.

Chairman Arndt made the comment that experience has told him the clearer that things are clarified at the approval of a matter, that when all players change, it is better to have things spelled out.

Ms. Eiring asked about a time frame as to when a maintenance agreement will happen with Chairman Arndt stating the Board could work fairly quickly stating they do have an engineering firm given the County information as to standards for growth and information needed to have a clear adopted county standard.

Mr. Eiring asked if they would foresee in the future where they would want to move their residency to this location, would that be a mandatory maintained road at that point, with the Board stating they do not know and there is no way of predicting that. Chairman Arndt stated that citizens always have the ability to petition the Board to open and maintain a road, and the County has the option to say no, but the ability to request is there.

Ms. Eiring stated their plans to build is time sensitive as she would like to be enclosed through the winter to be able to host events in the spring. Commissioner Zwetzig asked if the applicants would be in agreement to enter into a formal road maintenance agreement before this matter would be approved. Ms. Eiring stated she would like to have approval of this matter so she can contract with those necessary to get this started. Discussion followed with Mr. Eiring stating if the Board would give them approval for the building itself, the road matter would then be looked at where they would move the road so they can work on their own specifications.

Chairman Arndt stated that if they give a 30 day time limit, the approval could happen just knowing the county and the applicant will have 45 days to get the road maintenance agreement in place. Ms. Eiring stated the application was filed in July and here we are in October, and if she knew there was a road maintenance agreement in place, stating the details of that do not concern her, as she is able to meet the requirements. Chairman Arndt stated there is testimony as to those maintaining the road to the best of their ability at this time.

Discussion followed as to the possibility of approving this permit and placing the condition of the road maintenance agreement, with Chairman Arndt stating that if the County would find that their road maintenance agreement is too restrictive, the applicants will move onto finding their own easement and building their own access.

A motion was made by Commissioner Teague to approve the application for a Special Use Permit on an 868 acre property in the agricultural production zone district for applicants, Kyle and Jennifer Eiring with the following conditions. The applicant shall be solely responsible for the improvements and maintenance to the driveway and unmaintained County Road 17 and will enter into a maintenance agreement with the County to design and improve the road. Also, noting the maintenance agreement would allow the gate to be left in place. Commissioner Teague further noted the conditions to be: applicant shall be solely responsible for installation of a stop sign to be coordinated with Road and Bridge and the Sheriff's office; the applicant shall be solely responsible for the extension of Morgan County Quality Water to the event center; prior to construction the applicant shall submit an application to Northeast Colorado Health Department for an Onsite Wastewater Treatment System; the applicant shall obtain all necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation and authorize the preparation of a resolution outlining the approval with the stated conditions.

Chairman Arndt stated that condition #3, applicant shall be solely responsible for the extension of Morgan County Quality Water to the event center, as being the intent that any placement of Quality Water in that right of way will have to be approved by the Road and Bridge Department with Commissioner Teague stating that is correct. At this time the motion was seconded by Commissioner Zwetzig.

Mr. Eiring questioned what Commissioner Teague meant by the applicant maintaining County Road 17, with Commissioner Zwetzig stating he would like to amend this condition. Discussion followed with Commissioner Zwetzig asking for the motion to be read again with Commissioner Teague stating she did not say the condition her motion stated the applicant would be responsible for the upgrade and the maintenance of the road and would enter into a maintenance agreement with the County regarding the road. Commissioner Zwetzig asked if that is a condition of approval, with that he stated there is a requirement that the applicant upgrade the road and maintain it and that becomes a permanent part of the permit and approval of the application and he does not feel that is the way they want to go with the current conditions as now the applicant will be required to upgrade the road and agree to a maintenance agreement but in the future it could become a maintained right of way.

Chairman Arndt stated if the County is unreasonable as to the costs being too high, that the applicant had stated they would build their own road on the property and asked if it could state if the applicant wishes to use the unimproved County Road 17, the applicant, will solely be responsible until such time the County would desire to open the road.

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Commissioner Zwetzig noted that the understanding if that road becomes a county maintained road, what they trying to build it at any standard, and he would prefer that it be built on the road that is in place now, and not add the second road, with Mr. Eiring stating in building another road, it is not feasible if the County is going to require it to be a \$500,000 road, they would be able to build one on their property cheaper. Commissioner Zwetzig further stated it is probably the best to say build a road to their standard now, and if the County ever wants to open it up, the County would then build it to their standards. Commissioner Zwetzig stated there still needs to be a maintenance agreement for them to open the road with a road grader and it gives them permission on the public road right of way.

Motion amended at the current time a road maintenance agreement will be developed to allow the applicant to use that road as a right of way and allow the applicant to upgrade it in the manner they choose to do so at this time but if the County should decide to come in at a later date, they will then be allowed to do so. This amendment was then accepted. Chairman Arndt read aloud the amended information indicating they have the approval to begin building the venue. Commissioner Zwetzig asked to clarify the salon and the condition that was discussed, with Commissioner Teague amending the motion to include there only being one chair salon. Amended motion seconded by Commissioner Zwetzig. At this time, the amended motions passed 3-0.

Legal Description: SW ¼ of Section 35, Township 3 North, Range 57 West of the 6th p.m., Morgan County, Colorado.

Reason: To operate a data facility powered by co-located gas-electric generators.

Applicant: Starlight Energy Corporation

Landowner: Jolene E. Steenburgen

Brian Bentley, Executive Officer for Starlight Energy Corporation, indicating his address as being ??

Stated he does have a power point presentation to provide.

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.

This application is for a Special Use on a 10-acre portion of a 160 acre property in the Agriculture Production zone district. It is located in the SW¼ of Section 35, Township 3 North, Range 57 West of the 6th P.M. Morgan County, Colorado, Parcel Number 1229-350-00-002. The general location is approximately 1.5 miles east of County Road 21 with access County Road M.

Ms. Cherry stated that Starlight Energy, as applicant and Jolene Steenburgen as landowner are requesting approval Data Center and natural gas to electric conversion for use on the 10-acre portion of the property (Southeast of the Southwest corner of Section 35) to be later exempted from the 160 acre property. Approving the application will be strictly limited to the 10-acres. Neither a data center nor electric generation from gas is listed as a use-by-right, conditional or special use in the Morgan County Zoning Regulations. As such, this application becomes eligible for consideration under Section 2-325 - Uses Not Listed - Any use, not designated as a Use by Right, Accessory Use, Conditional Use, Use by Special Review or not otherwise prohibited in a particular zone, may be approved as Use by Special Review pursuant to the criteria and procedure as established by these Regulations.

Criteria – Special Use Permits

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

- (B) The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan.
The property is in the South Central Planning Area with a goal to preserve and protect existing agriculture uses.
 - *The proposal will have a favorable impact on the County tax base and employment*
 - *The project will not have adverse environmental impacts*
 - *Will meet CDPHE air quality standard and be permitted for air emissions*
 - *Production and development of natural gas will not result in noise, odors, etc*
 - *Conversion of natural gas to electricity is a lower carbon footprint and other methods of electric generation*
 - *Grazing will continue on the remainder of the property and will result in no adverse effects to adjoining properties*
- (B) All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.
- (C) The Site Plan conforms to the district design standards of these Regulations.
- (D) All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures.
 - *Western Area Power Administration and Public Service has granted licenses;*
 - *An access easement (along unimproved County Road M) will be granted at time of building permit application or, if platted, will be dedicated to the applicant. The easement will be upon the Steenburgen property and be 30' in width;*

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- *Morgan County Quality Water tap has been purchased and water pipeline will be constructed to the operations area along established easements*
- (E) The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County.
The operations center is located on an existing 160-acre parcel. The building to be constructed will be compatible with surrounding uses with no buffering necessary.
- (F) The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulations, whichever is the strictest.
Northeast Colorado Health Department will require an Onsite Wastewater Treatment System to be applied for and approved prior to building construction.
- (G) The special use proposed is not planned to be developed on a non-conforming parcel.
The parcel is currently 160 acres and is not a non-conforming parcel.
- (H) The applicant has adequately documented a public need for the project, all pertinent technical information, and adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review.
This project could have a positive impact for economic development in Morgan County.
- (I) For any special use requiring a supply of water that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability and in the case of human consumption, quantity, quality, and reliability.
A new Morgan County Quality Water tap has been purchased and 9,500 feet of new pipeline will be constructed, at applicant's expense, to provide a water supply to the data center. Applicant is required to complete the inclusion process for MCQWD and Northern Colorado Conservancy Water District.

Ms. Cherry noted that all appropriate notice requirements have been completed. On September 21, 2018 a general inquiry was received from Morgan County Rural Electric Association. There were no other comments received on this application either in favor or opposition.

Ms. Cherry stated that the Planning Commission held a public hearing on this application at their meeting on September 10, 2018 and unanimously recommends approval of this Use by Special Review subject to the following conditions:

1. The applicant shall be solely responsible for the improvements and maintenance to the unimproved, not yet petitioned County Road M;
2. The applicant shall be solely responsible for the extension of Morgan County Quality Water to the data center;
4. Prior to construction of an onsite wastewater treatment system the applicant shall submit an application to Northeast Colorado Health Department;
5. An access easement shall be dedicated by plat or other document to provide 30' wide driveway to the data center;
6. The applicant shall obtain all necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.

At this time, Ms. Cherry recommended approval of this application.

At this time, Chairman Arndt asked the applicant for comments at which time Mr. Bentley provided the power point presentation to the Board. Mr. Bentley pointed out on the map the location of their proposed project indicating it is about six and a half miles southeast of the City of Brush. He further outlined the roads in the area, different infrastructure in the vicinity. He outlined the distance to the nearest occupied residence as well as a nearby feedlot stating it is approximately two miles. He explained the overall acreage is 160 acres and wants to purchase a ten acre tract from Steenburgen's and explained the right of way they wish to purchase to ensure there are no land lock issues. He explained their proposal will allow for the necessary 30 feet right of ways. Mr. Bentley further reviewed the information provided to each board member in detail.

Mr. Bentley provided information regarding the gas infrastructure and outlined the location. Mr. Bentley explained they are able to produce their own electricity at a much lower cost that they would be required to purchase it for and could not propose a project of this magnitude if they had to purchase it at the costs as reported to the PUC by the several electrical companies. He further explained the water infrastructure indicating where the quality water line is located. He then provided an overview of the preliminary site plan.

He provided detailed information regarding the roads located in the proposed project explaining the public works department is not able to find a petition for the area on County Road M, so they are requesting a right of way easement for this area to ensure there are no future issues.

Mr. Bentley answered the question asked by Commissioner Teague as to what the building will look like, with Mr. Bentley stating it will be a one story building and the request would go through the Planning process.

At this time, Chairman Arndt again asked about the noise factor, in regards to the generators with Mr. Bentley stating the generators are muffled for what is called for to be used in residential, indicating the nearest residence is

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almost two miles from the proposed project location. Chairman Arndt asked the question about when they build the building and the requirement for septic and will the water line also provide the water for cooling, with Mr. Bentley stating that is why they have gone with the plan they have, so they would have the ample amount of water to provide the cooling. Commissioner Teague asked about the approved right of way for Quality Water as going down County Road 22, with Mr. Bentley showing on the map where Morgan County Quality Water District has indicated they would have a county right of way access, on County Road 22.

Commissioner Teague asked if this is approved, will the parcel be required to go through the exemption process with Ms. Cherry stating yes.

Chairman Arndt noted Commissioner Zwetzig is reviewing the maps to ensure the information about the Quality Water access and easement using the County's right of way, with Mr. Bentley stating they are looking at burying a four inch poly line and he has the information from Kent at Quality Water.

Commissioner Teague asked if the adjacent landowners were notified, with Ms. Cherry stating they have been contacted and no comments have been made. Chairman Arndt asked if John Glenn is a neighboring landowner at which time he was told yes.

Mr. Bentley provided additional details in regards to the site plan and the fact there is fencing proposed and where the structure is being proposed to be located. Grazing will take place in the areas where it is allowed, not in the area where there is equipment whereas he explained they can do a great deal of damage to equipment.

At this time, Chairman Arndt opened the matter for public comment asking if there is anyone in opposition to the matter at which time Matt Richardson, Attorney representing Morgan County REA who asked to make some comments. He made mention that he had some questions for the applicant.

Matt Richardson, attorney representing Morgan County Rural Electric Association along with David Frick, General Manager, indicating his address as being 626 East Platte Avenue, Fort Morgan, CO stated that MCREA is an electrical distribution cooperative, explaining that it serves the area where this proposed project is set to take place. He stated what the MCREA provides and the CPCN, state statute relevant regulations provide them the exclusive right to provide electrical service in this area and stated it is unclear to them where they are concerned about the infringement of their rights and non-compliance issue with PUC regulations. He mentioned the state statute, any company that is involved with electrical energy to anyone else is a public utility company and in order to proceed with doing so, they would have to follow the PUC regulations. He stated they are here to determine whether or not that would be a procedure that should be followed in this matter.

Mr. Richardson further asked about the voice message he has he can provide from the PUC, and also asked about the LLC during Mr. Bentley's presentation that he mentioned the sales price to the affiliate, talking about the cost that will be generated from using their gas well, if there are any third party involved, that would be an infringement. He stated he has questions for the applicant are what entity will be generating the electricity, what entity will be consuming the electricity, whether there will be any other entities consuming the energy that is generated and if they are able to get clarification on these items they would then be able to make comment if they are in agreement or opposed to the application.

Commissioner Teague stated she understands that, according to PUC regulations, someone can produce energy for self use, with Mr. Richardson stating that is correct, but if it is being generated for someone else's use, then there would be the requirement a CPCN should be obtained. Commissioner Teague stated typically the County does not try to be experts in the various fields of expertise, with Mr. Richardson stating ultimately it would be an issue between the applicant and MCREA. Although, if it is clear the applicant would be in non-compliance with the PUC, it would be stated and Commissioner Teague stated that would be a requirement that the application ensure they are compliant with these types of regulatory issues.

Commissioner Zwetzig suggested that the voice message be read into the record, at which time Mr. Bentley played a voice mail Cal Caldera PUC stating information. This was played verbatim from the caller through Mr. Bentley's cell phone. It indicated they are not seeing any regulatory concerns, giving information of what they understand. He stated this is not a legal opinion, just providing a response to the information provided. 303-894-2025, with Mr. Bentley stating Cal heads up the energy department.

At this time, Commissioner Zwetzig asked the County Attorney to step in and participate in the hearing at which time, Kathryn Sellars joined the meeting. Chairman Arndt welcomed Ms. Sellars and explained there is the question from MCREA to ensure this process does not violate any state statute or PUC rules selling electricity on the grid, and that this is truly a self contained facility that will produce and use the electricity on their own facility.

Mr. Richardson again explained to Ms. Sellars his concern, stating he understands there will be generation activity and wants to ensure that the entity doing the generation is the same entity doing the data center, ensuring there are no other individuals where that would be an evasion of the PUC. Ms. Sellars stated the County does not have any authority on the regulation of the PUC, only can gather factual information.

Mr. Richardson stated from the materials he reviewed he felt was ambiguous of who would be doing what in the project and be able to make a recommendation or comment as to where they stand with the application.

At this time, Mr. Bentley responded to the questions raised by Mr. Richardson, where he stated that Starlight Corporation is the applicant, and then mentioned that Morgan County Midstream LLC, wholly owners of Starlight, they will be also the entity that owns the facility, all those as cited in the site plan. He further explained the midstream entity as making the electricity from gas on site. The entity that will be producing the oil, is called

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Starlight Energy 2, which is also a wholly owned entity of Starlight. He further explained the reason why they are named differently, but they are wholly owned entities and they are being identified this way to keep the accounting side completed. He stated they do not sell any electricity and will only be generating their own electricity.

Chairman Arndt mentioned the voice mail from Cal Caldera from the PUC, that it be placed into a hard copy for the record which Mr. Bentley stated he would do so.

Mr. Richardson asked that the email that Mr. Bentley referenced be placed in the record as well at which time Mr. Bentley agreed to provide to Ms. Cherry.

Commissioner Teague clarified the fact the Board does not get into the ownership of things, with Ms. Sellars stating generally the Board would not get into who owns who and the subsidiaries stating he believes it comes down to whether or not they are selling electricity to anyone and that has been answered.

Mr. Richardson disagreed with the interpretation, believing this will be operating as a PUC and therefore opposed the application.

Mr. Bentley stated the challenge they have and the reason they are not just going to MCREA to purchase the electricity is due to the cost, as they will be able to generate the electricity at a much lower cost to make the project viable stating the challenge is the project would simply not work if they have to purchase the power from MCREA.

Commissioner Teague clarified they asked if they use 69.8 megawatts, with Mr. Bentley explaining that no that was an annual usage and the associated costs. Further discussion followed with Mr. Bentley stating their reasons for generating their own power and explained how they will do so.

Commissioner Teague asked the question if these guys were able to produce enough energy to sell to the grid, would that be allowed with Mr. Richardson asking Dave Frick, General Manager to provide approval to speak. Mr. Richardson stated with this type of generation they would not be obligated to purchase, and the rules they have to follow, where they could purchase a certain amount from a project like this, and what Commissioner Teague is referring to is solar type projects. Chairman Arndt asked if that would throw it into the third party where as Mr. Richardson stated they are a distribution provider and explained their concern is simply whether the entity that is producing the electricity is the same that will be consuming, and he finds that as no and feels that is a direct violation of state statute and PUC regulations. Mr. Bentley argued this stating it is two separate wholly owned entities owned by Starlight Energy.

Chairman Arndt stated that the concerns have been noted and the information from the PUC will be submitted and by resolution any state or federal authority that regulations over them, they will have to meet all the standards.

At this time, Chairman Arndt asked if there was anyone in favor of the application at which time Pete Anderson, who stated he is not an adjoining landowner of the ten acre parcel, but does own property adjoining the Stroh property and stated they do not have a problem with this project stating it appears to be a favorable project. He stated that this property is watered by a solar well and has been, stating there has never been electricity on this property before. He stated there is electricity about a mile and half north and a mile west of there. He stated they are in favor of the project and they will continue to be the leaseholder as long as the Stroh's are in agreement.

At this time, there was no further public testimony and Chairman Arndt closed the public comment portion of the hearing at this time.

At this time, Commissioner Zwetzig asked for a five minute recess at which time Chairman Arndt granted this request.

Chairman Arndt brought the meeting back into session at 12:05 p.m. and moved to discussion and decision.

Commissioner Teague asked if the applicant perceives if there will be any need for road improvements to County Road 21, with Mr. Bentley stating he believes it will be adequate, and explained the condition it is in now where there are some ruts and they would ask the road and bridge department to place some road base in the areas of concern. Commissioner Teague expressed that she is curious about a road maintenance agreement being in place with Chairman Arndt stating the County would not want anyone in there disturbing the vegetation and minimal maintenance such as the previous hearing indicated, and there was no such of a thing, and the fact they did the minimal amount, but feels it is important that this not be disturbed too much.

Mr. Bentley stated that when it is dry, the soil can dry and feels that it would be necessary for road base to be placed, with Commissioner Teague stating the one condition that road maintenance be done by the parties, and feels that it may be best to assume it will be okay or do not reply. Chairman Arndt stated that anything that the Board would do is to obtain approval from the road department so we are not causing any harm to other landowners.

Commissioner Zwetzig asked about who would do the work, with Mr. Bentley stating they would do it, they would ask the Road Department what is needed, but Commissioner Zwetzig believes it would be best to have a road maintenance agreement completed. Chairman Arndt stated he believes it is fair whereas they have required a prior applicant to enter into an agreement so to treat all applicants fairly, it should be noted in this matter.

Commissioner Zwetzig stated the roads used to access the easement to the property are petitioned and asked if those are public right of ways, with Ms. Sellars stating yes, that would be correct since there are road petitions for the roads in questions. Discussion followed that there is fencing with the 30 feet right of ways, and stated it was mentioned or implied there are easements for WAPA and the natural gas line that is used for access to this area.

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Discussion followed whereas until it was known it was a petitioned road, they did not feel comfortable accessing the roadway given it was fenced. Ms. Sellars stated those are public roads unless they have been vacated.

Further discussion followed as to where the road petitions designate the area, and Mr. Bentley clarified that Ms. Steenburgen is providing an easement on the area that they are not able to locate the road petition.

Commissioner Zwetzig brought forward his concerns in regards to the information brought forward by MCREA and the names of those who will be operating and owning, as well as the noise concern that he feels could be an issue. Mr. Bentley stated the area is enclosed and muffled, beyond that he would have to provide the technical data which Commissioner Zwetzig stated he would like to have. Commissioner Zwetzig stated he would like to know the decibel data asking Ms. Sellars if the oil and gas regulations have any decibel requirements with Ms. Sellars stating she did not believe it references that, only noise nuisance issues.

Mr. Bentley stated he could obtain the information from Caterpillar and what data the Board would like to see, with Commissioner Zwetzig stating he would like to see data that would indicate noise levels from the edge of the dairy.

Chairman Arndt asked about the exemption coming after this hearing and is there anything that would keep an individual and what if the exemption was never done and it was a lease owned by the Steenburgen's, would it require an exemption. Ms. Sellars stated that a portion of the property could be leased, so no not necessarily as per Ms. Sellars. Ms. Sellars stated they could approve the matter with the condition that there be an approval of an exemption of the approval of a lease agreement with the owner.

A motion was made by Commissioner Teague to approve the application for a special use permit for a data facility powered by co-located gas-electric generators on a ten acre parcel. The landowner being Jolene E. Steenburgen and applicant being Starlight Energy Corporation stating the application is based on the following conditions being required: the property will need to go through an independent considered exemption process of the 10 acres, if maintenance is deemed required on the unmaintained road right of way of County Road M and County Road 21, a maintenance agreement will need to be approved by Morgan County Road and Bridge Department, the applicant shall be solely responsible for the extension of Morgan County Quality Water to the data center; prior to construction of an onsite wastewater treatment system the applicant shall submit an application to Northeast Colorado Health Department; an access easement shall be dedicated by plat or other document to provide 30' wide driveway to the data center; the applicant shall obtain all necessary permits and comply with the requirements and conditions of those permits as determined by other governmental agencies with jurisdiction over this operation.

Commissioner Teague then authorized the preparation of the appropriate resolution including the above conditions as noted to be approved at a later date. Commissioner Zwetzig seconded the motion. Chairman Arndt noted for the record that even though the easement is being required, that in no way represents that Morgan County thinks that it does not have the ability to use a section line as referenced in the 1907 Road Petition Resolution. Ms. Sellars they can recite that information in the resolution, and the Board will guarantee they will have that access. At this, time motion carried 3-0.

Commissioner Zwetzig thanked MCREA General Manager Dave Frick and his attorney for being present. Chairman Arndt confirmed the request of the voice mail and the email that was read and transmitted during the hearing.

Being no further business the meeting was then adjourned at 12:28 p.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board

(Minutes ratified October 23, 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