

# COMMISSIONERS PROCEEDINGS 1

## BOARD OF COUNTY COMMISSIONERS

### Minutes of Meeting

February 26, 2019

The Board of Morgan County Commissioners met Tuesday, February 26, 2019 at 9:01 a.m. with Chairman James Zwetzig, Commissioner Mark Arndt and Commissioner Jon Becker in attendance. Chairman Zwetzig then asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator, Pam Cherry to lead the meeting in the Pledge of Allegiance.

#### CITIZEN'S COMMENT

There was no citizen comment provided.

#### ADOPTION OF THE AGENDA

Commissioner Arndt made a motion to adopt the agenda with one correction on item number three in the general business it is \$1,225.92 with Commissioner Becker seconding the motion. Motion carried 3-0.

#### CONSENT AGENDA

Ratify the Board of County Commissioners approval of Contract 2019 CNT 028, City of Brush, Cardboard Recycling, Term of Contract January 1, 2019 through December 31, 2019

Ratify the Board of County Commissioners approval of Contract 2019 CNT 029, Wellpath, Inmate Medical Services, Term of Contract January 1, 2019 through December 31, 2019

Ratify the Board of County Commissioners approval of the waiver of fees at the fairgrounds for East Morgan County Hospital Foundation, October 19, 2019 Non-profit fundraiser, dated February 25, 2019

Ratify the Board of County Commissioners approval on assignment of debt collections to State Collections, Client #3828502, 3828501

Commissioner Becker made a motion to approve items 1-4 as presented, Commissioner Arndt seconded the motion and motion carried 3-0.

#### GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

**RESOLUTION 2019 BCC 08 A Resolution Granting A Two Lot Minor Subdivision, Known As The Pickens West No. 2 Minor Subdivision, Located In The W $\frac{1}{2}$  Of The Nw $\frac{1}{4}$  Of Section 3, Township 3 North, Range 58 West Of The 6<sup>th</sup> P.M., Morgan County, Colorado**

### MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

#### RESOLUTION 2019 BCC 08

**A RESOLUTION GRANTING A TWO LOT MINOR SUBDIVISION, KNOWN AS THE PICKENS WEST NO. 2 MINOR SUBDIVISION, LOCATED IN THE W $\frac{1}{2}$  OF THE NW $\frac{1}{4}$  OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 58 WEST OF THE 6<sup>TH</sup> P.M., MORGAN COUNTY, COLORADO**

**WHEREAS**, Roger Defenbaugh, Matthew Wulf and Tiffini Wulf (Owners), own property located in the W $\frac{1}{2}$  of the NW $\frac{1}{4}$  of Section 3, Township 3 North, Range 58 West of the 6<sup>th</sup> P.M., Morgan County, Colorado (Property);

**WHEREAS**, the Owners have applied for approval of a minor subdivision of the Property into two lots pursuant to the County's Subdivision Regulations to be known as the Pickens West No. 2 Minor Subdivision;

**WHEREAS**, on January 14, 2018, the Morgan County Planning Commission held a duly noticed public hearing on the application where they received public comment, staff input and recommended approval of the application;

**WHEREAS**, on February 5, 2019, the Board of County Commissioners held a duly noticed public hearing on the application;

**WHEREAS**, during the public hearing, the BoCC received testimony and evidence from the Applicants and Morgan County staff; and

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

1. The Board of County Commissioners, having reviewed the application, all information provided and testimony heard, finds that:
  - a. The application documents are complete and represent how the subdivision will be laid out including infrastructure, easements and access.

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- b. The subdivision is in conformance with the Morgan County Comprehensive Plan and there is access to established public infrastructure.
  - c. The subdivision is compatible with surrounding land uses.
2. The Board of County Commissioners hereby approves the Pickens West No. 2 Minor Subdivision subject to the following conditions:
- a. Prior to any construction on Lot 1 a permit for an OWTS must be obtained from the Northeast Colorado Health Department.
  - b. The acreages on the lots must be verified prior to recording of the plat.
  - c. Deeds between the Owners, ensuring the proper of ownership of Lots 1 and 2 in the Pickens West No. 2 Minor Subdivision, must be presented to the Planning and Zoning office for review prior to recording the plat or the deeds with the Morgan County Clerk and Recorder. Upon approval of the deeds by the County, the plat shall be recorded followed by the deed. .
  - d. Morgan County Quality Water taps are to be correctly assigned and designated.

DATED this 19th day of February, 2019 *nunc pro tunc* February 5, 2018.

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

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s/James P. Zwetzig  
James P. Zwetzig, Chairman

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s/Mark A. Arndt  
Mark A. Arndt, Commissioner

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s/ Jon J. Becker  
Jon J. Becker, Commissioner

(SEAL)

ATTEST:

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s/ Susan L. Bailey  
Susan L. Bailey

Morgan County Planning and Zoning Planning Director/Floodplain Administrator, Pam Cherry presented Resolution 2019 BCC 08, A Resolution Granting A Two Lot Minor Subdivision, Known As The Pickens West No. 2 Minor Subdivision, Located In The W $\frac{1}{2}$  Of The NW $\frac{1}{4}$  Of Section 3, Township 3 North, Range 58 West Of The 6<sup>th</sup> P.M., Morgan County, Colorado. Ms. Cherry stated that on February 5, 2019 the Board of County Commissioners held the public hearing on the two-lot minor subdivision known as the Pickens West No. 2 Minor Subdivision. This is the resolution that has been prepared to reflect the outcome of the hearing.

Commissioner Arndt made a motion to approve Resolution 2019 BCC 08, a Resolution Granting A Two Lot Minor Subdivision, Known As The Pickens West No. 2 Minor Subdivision, Located In The W $\frac{1}{2}$  Of The NW $\frac{1}{4}$  Of Section 3, Township 3 North, Range 58 West Of The 6<sup>th</sup> P.M., Morgan County, signing nunc pro tunc for February 5, 2019 with Commissioner Becker seconding the motion and the motion carried 3-0.

**RESOLUTION 2019 BCC 09 A Resolution Approving A Use By Special Review Permitting The Operation Of A Livestock Truck Washing And Cleaning Facility South And East Of The Intersection Of County Road O And County Road 16 In The N $\frac{1}{2}$  Of The S $\frac{1}{2}$  Of Section 26, Township 3n, Range 58w Of The 6th P.M. And South And West Of The Bijou Canal, Morgan County, Colorado**

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

**RESOLUTION 2019 BCC 09**

**A RESOLUTION APPROVING A USE BY SPECIAL REVIEW PERMITTING THE OPERATION OF A LIVESTOCK TRUCK WASHING AND CLEANING FACILITY SOUTH AND EAST OF THE INTERSECTION OF COUNTY ROAD O AND COUNTY ROAD 16 IN THE N $\frac{1}{2}$  OF THE S $\frac{1}{2}$  OF SECTION 26, TOWNSHIP 3N, RANGE 58W OF THE 6TH P.M. AND SOUTH AND WEST OF THE BIJOU CANAL, MORGAN COUNTY, COLORADO**

**WHEREAS**, Bullseye Holdings, LLC (“Applicant”) has filed an application (the “Application”) for a special use permit for a livestock truck washing and cleaning facility at property located in Morgan County located south and east of the intersection of County Road O and County Road 16 in the N $\frac{1}{2}$  of the S $\frac{1}{2}$  of Section 26, Township 3N, Range 58W of the 6th P.M. and south and west of the Bijou Canal with the legal description attached hereto as **Exhibit A** (the “Property”);

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**WHEREAS**, at the time of the filing of the Application, the Property was a portion of a larger parcel of property, but as a condition of approval of this special use, the Board of County Commissioners required that a separate parcel for the Property be created and that this separate parcel be the area subject to the special use approval;

**WHEREAS**, after a properly noticed public hearing before the Planning Commission, receipt of the Planning Commission's recommendations, and proper notice, the Board of County Commissioners held public hearings on October 23, 2018, December 4, 2018, and February 12, 2019 to consider the Application; and

**WHEREAS**, the Board of County Commissioners of Morgan County, Colorado, after taking staff and public testimony and reviewing the material provided to it, desires to grant the Application as set forth herein.

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

1. The Board of County Commissioners having reviewed the Application, all information provided, and having considered the testimony heard and the criteria for a Special Use as set forth in Section 2-345 of the Regulations, finds as follows, provided that all the Conditions set forth in Section 2 herein are met:

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

(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) Applicant's site plan conforms to the district design standards of the Morgan County Zoning Regulations.

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

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

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

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

(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) 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.

2. The Board of County Commissioners hereby approves the Special Use Permit for a livestock truck washing and cleaning facility subject to the following conditions:

(A) The facility shall not commence operations until it has received approval from all federal and state agencies with jurisdiction over the operation and all required permits have been issued.

(B) The facility shall not commence operations until all improvements set forth in the Application have been constructed and are operational.

(C) The wells serving the Property shall be operated in compliance with all applicable decrees, court orders, and substitute water supply plans.

(D) Generally accepted best management practices as recommended by the Natural Resources Conservation Service and established in applicable publications of Colorado State University for land application of manure and waste water shall be followed. Prior to the application of effluent on the permitted property, soil sampling shall be conducted to show compliance with such best management practices, and the results submitted to the County.

(E) Future expansion of the facility shall require an amendment to this Special Use permit.

(F) Final design plan shall be submitted to and approved by the Planning Department prior to construction.

(G) Applicant shall comply with all representations, standards, and specifications set forth in the Bullseye Holdings Truck Washout Design Report prepared by THEngineering, dated January 3, 2019.

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(H) Bijou Irrigation shall be granted access to the Bijou ditch for the purpose of inspection and maintenance of the irrigation ditch.

(I) The permitted parcel (southern) shall be legally separated from the remainder of the property (northern) owned by Bullseye Holdings, LLC, by the recordation of the quitclaim deed dated February 8, 2019 submitted by the Applicant.

(J) The subject property shall not share utility service with the northern parcel.

APPROVED this 26th day of February, 2019.

## THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

Dissent

James P. Zwetzig, Chairman

s/Mark A. Arndt

Mark A. Arndt, Commissioner

s/ Jon J. Becker

Jon J. Becker, Commissioner

(SEAL)

ATTEST:

s/ Susan L. Bailey

Susan L. Bailey

Morgan County Planning and Zoning Planning Director/Floodplain Administrator, Pam Cherry presented Resolution 2019 BCC 09 A Resolution Approving A Use By Special Review Permitting The Operation Of A Livestock Truck Washing And Cleaning Facility south and east of the intersection of County Road O and County Road 16 in the N½ of the S½ Of Section 26, Township 3N, Range 58W of the 6th P.M. and south and west of the Bijou Canal, Morgan County, Colorado. Ms. Cherry explained the applicant as being Bullseye Holdings LLC with Kevin Lamb the manager. Ms. Cherry stated that on February 19, 2019 the Board of County Commissioners held the public hearing on a Use by Special Review to permit a livestock truck washout. This is the resolution that has been prepared to reflect the outcome of the hearing.

Commissioner Becker made a motion to approve Resolution 2019 BCC 09 a Resolution Approving A Use By Special Review Permitting The Operation Of A Livestock Truck Washing and Cleaning Facility south and east of the intersection of County Road O and County Road 16 in the N½ of the S½ Of Section 26, Township 3N, Range 58W of the 6th P.M. and south and west of the Bijou Canal, Morgan County, Colorado with Commissioner Arndt seconding the motion.

Chairman Zwetzig asked Ms. Cherry to read the correspondences received into the record. Ms. Cherry read aloud an email dated Monday, February 25, 2019 from Kevin Lamb addressed to Ms. Cherry and Mr. Wilson. Chairman Zwetzig stated for the record the resolution was prepared by Morgan County Attorney Jeff Parker and would like to clarify that what Ms. Cherry read aloud was not provided in the resolution, with Ms. Cherry stating that was correct.

Stuart Corbridge, attorney from Vranesh and Raischin LLP, 1720 14<sup>th</sup> Street, Boulder, representing Bijou Irrigation District explained that at the last hearing they did not have the written resolution in front of them, therefore were not able to review and compare it to other items in the record. Mr. Corbridge stated that in Mr. Lamb's statement referencing the design report, the report explains what Bullseye is hoping to do with the facility. He also stated that they would feel more comfortable with the resolution stating what Bullseye needs to do rather than what they hope to do, along with the items which they have presented to the Board, in order to accomplish the purposes of the special use permit application and approval. With these items being added it will avoid disagreements and disputes in the future.

Commissioner Arndt stated that he feels the Board was strong and that the wording reflects what is in the plan and the file is part of the application and part of the duties of the applicant, so what was submitted at the hearing shall be in that file, as well as what was said, and the intent of the Board was to accept the engineering and design report submitted.

Commissioner Becker stated that on the suggested changes, he agrees with Commissioner Arndt that they were being strong on the conditions being put forward from Mr. Parker. Commissioner Becker explained that one of the things that the Board should be doing is finding a path for these business to come into the county. The design parameters that were brought forward by the engineer company are straight forward and would be used as guidance as to what needed to be done. Commissioner Becker explained that there is one suggestion that was brought forward by Bijou which is on page 2 under I, it needs to say livestock truck washing not just livestock washing.

Chairman Zwetzig asked Ms. Cherry if the application is for a livestock truck washing is that how it is defined, with Ms. Cherry stating it is a livestock truck washing facility.

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Mr. Corbridge would like to confirm for the record that, regarding the reference in G of the resolution, it is the commissioners intent that compliance with the report and testimony is a requirement of issuing the permit as opposed to merely a goal that needs to happen in order for the permit to be valid. With Commissioner Arndt stating that is correct. Mr. Corbridge stated that if the language is going to be more general then he would like to confirm that the intent is that they are operating under accordance to the specific detail of the design report. Chairman Zwetzig explained that with Commissioner Arndt's statement that the design report reflects the standards that are required, with Commissioner Becker in agreeance to the statement.

Commissioner Arndt stated that under item F "Final design plan shall be submitted to and approved by the Planning Department prior to construction," any changes would have to be brought forward.

Commissioner Becker moved to amend the original motion to include on page 2 under letter I #2 to include the word truck between livestock and washing with Commissioner Arndt seconding the motion, the amendment passed 3-0.

Chairman Zwetzig stated that there is the original resolution as amended, at this time the motion passed 2-1, with Chairman Zwetzig the dissenting vote.

## **Consideration of Approval – Pricing Adjustment on BID AWARD – RFP 2018 1115 001, Fuel Site Equipment Upgrade, \$1,225.92 for increased cost of materials**

Morgan County Public Works Director Bruce Bass presented to the Board for approval, of a Pricing Adjustment on BID AWARD – RFP 2018 1115 001, Fuel Site Equipment Upgrade, \$1,225.92 for increased cost of materials. Mr. Bass stated this is an adjustment to the purchase order price in the amount of \$1, 225.92. He explained that the original bid award was awarded outside of the 60 day period and the bidder has incurred a price increase from the manufacturer. He stated that final amount will be \$50,350.92 and asked for the board's approval. Commissioner Becker asked if they are still the lowest bidder, with Mr. Bass stating they are still the lowest bidder even with the increase.

Commissioner Arndt made the motion to approve the pricing adjustment increase RFP 2018-1115-001, Fuel Site Equipment Upgrade, \$1,225.92 noting this still leaves the bidder as the low vendor; the reason for the price adjustment is due to the fact that the bid was awarded after 60 day price holding. Commissioner Becker seconded the motion and motion carried 3-0.

## **UNFINISHED BUSINESS**

There was no unfinished business.

## **COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS**

Commissioners reviewed the calendar dated February 22, 2019 through March 5, 2019 with no changes.

Chairman Zwetzig stated he will be out March 1-7, 2019 attending the NACO legislative conference.

Being no further business the meeting was then adjourned at 9:23 a.m.

Respectfully Submitted,

Randee Aleman  
Deputy Clerk to the Board

**(Minutes ratified March 5, 2019)**

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

\_\_\_\_\_  
s/James P. Zwetzig  
James P. Zwetzig, Chairman

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s/Mark A. Arndt  
Mark A. Arndt, Commissioner

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s/ Jon J. Becker  
Jon J. Becker, Commissioner

(SEAL)  
ATTEST:

\_\_\_\_\_  
s/ Susan L. Bailey  
Susan L. Bailey