

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS

Minutes of Meeting

September 3, 2019

The Board of Morgan County Commissioners met Tuesday, September 3, 2019 at 9:00 a.m. with Chairman James Zwetzig, Commissioner Mark Arndt and Commissioner Jon Becker in attendance. Chairman Zwetzig asked Morgan County Sheriff Dave Martin 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 as presented, with Commissioner Becker seconding the motion. Motion carried 3-0.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated August 2, 2019
2. Ratify the Board of County Commissioners approval of meeting minutes dated August 27, 2019
3. Ratify the Board of County Commissioners approval of Contract 2019 CNT 108, Streamline Crane Service, Term of Contract August 28, 2019 until completion
4. Ratify the Board of County Commissioners approval of Contract 2019 CNT 109, MJ Garage Door Service, Term of Contract August 23, 2019 until completion
5. Ratify the Board of County Commissioners approval of Contract 2019 CNT 110, Morgan County DHS, To Provide Washington County Child Support Enforcement, Term of Contract July 1, 2019 through June 30, 2020
6. Ratify Chairman James P. Zwetzig's signature on Storm Water Inspection Form, Inspection Date August 27, signed date August 30, 2019
7. Ratify Chairman James P. Zwetzig's signature on iSolved Time and Attendance Solutions Subscription and Equipment Order, signed date August 30, 2019
8. Ratify the Board of County Commissioners approval on assignment of debt collections to State Collections, Client #172262, #172469

Chairman Zwetzig noted item #7 as an action to update the County's time clocks, and the contract has not been approved by the County Attorney as the standard county contract. Commissioner Becker made a motion to approve items 1-8 as presented, Commissioner Arndt seconded the motion. Chairman Zwetzig made comment regarding item #5, and summarized the contract as an agreement between Washington County DHS and Morgan County DHS. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – BID AWARD – RFP 2019-0829-001– Propane Fuel Bid

Morgan County Administrative Services Manager, Karla Powell presented to the Board for approval Bid Award 2019-0829-001 Propane Fuel Bid. Ms. Powell stated she received three bids from Affordable Propane in the amount of \$1.34 per gallon, CHS- Wiggins Office in the amount of \$1.20 per gallon and Hill Petroleum in the amount of \$1.01 per gallon.

At this time, Ms. Powell recommend to the Board to award the bid to the lowest bidder Hill Petroleum in the amount of \$1.01 per gallon, pricing to include delivery to all locations. Commissioner Arndt made note the delivery of propane is for the County grader sheds. Ms. Powell stated this is a six month contract agreement.

Commissioner Arndt made a motion to approve bid award RFP 2019-0829-001 Propane Fuel Bid to Hill Petroleum in the amount of \$1.01 per gallon as outlined and recommended by Morgan County Administrative Services Manager, Karla Powell. Commissioner Becker seconded the motion. At this time, the motion carried 3-0.

Consideration of Approval – Morgan County Facility Enhancement Planning, Design and Implementation Services Proposal

Morgan County Building Maintenance Supervisor, Dave Cornwell presented to the Board the Morgan County Facility Enhancement Planning, Design and Implementation Services Proposal. Mr. Cornwell summarized the services to be provided and stated this is similar to the process the County went through with Ennovate approximately ten years ago which was a cost savings to the County. He stated the cost will not exceed \$30,000.00 as proposed by IconEnergy, and stated he believes it would be a benefit to the County at this time.

Commissioner Arndt asked if this will also allow for review of all the HVAC equipment with Mr. Cornwell stating yes, and explained what they would do. Commissioner Becker asked if this company would bring in the contractors to move onto the next phase, with Mr. Cornwell stating that would be the next phase and the project would go out for bid and they would find the qualified bidders.

2 COMMISSIONERS PROCEEDINGS

Commissioner Arndt made a motion to approve the contract with IconEnergy for the Morgan County Facility Enhancement Planning, Design and Implementation Services Proposal as presented by Morgan County Building Maintenance Supervisor, Dave Cornwell, and authorized the chair to sign, with Commissioner Becker seconding the motion. Commissioner Becker asked Mr. Cornwell to clarify that this company will then bid the projects out and the County will be given the opportunity to review those bids, with Mr. Cornwell stating that is correct, the County will not be giving up that right. At this time, the motion carried 3-0.

UNFINISHED BUSINESS

Consideration Of Approval – RESOLUTION 2019 BCC 20 - A Resolution Calling For Special Election On November 5, 2019 To Authorize The Imposition Of A New Sales Tax Of Three Quarters Of One Percent (0.75%) For Purpose Of Funding The Morgan County Park And Recreational District’s Provision Of Recreational Services Within Morgan County With All Of Such Tax To Be Transferred To The District Provided The Eligible Electors Approve The Creation Of The District; Adopting Certain Sales Tax Provisions; And Setting The Ballot Title And Text Of The Ballot Issue For The Election

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2019 BCC 20

A RESOLUTION CALLING FOR SPECIAL ELECTION ON NOVEMBER 5, 2019 TO AUTHORIZE THE IMPOSITION OF A NEW SALES TAX OF THREE QUARTERS OF ONE PERCENT (0.75%) FOR PURPOSE OF FUNDING THE MORGAN COUNTY PARK AND RECREATIONAL DISTRICT’S PROVISION OF RECREATIONAL SERVICES WITHIN MORGAN COUNTY WITH ALL OF SUCH TAX TO BE TRANSFERRED TO THE DISTRICT PROVIDED THE ELIGIBLE ELECTORS APPROVE THE CREATION OF THE DISTRICT; ADOPTING CERTAIN SALES TAX PROVISIONS; AND SETTING THE BALLOT TITLE AND TEXT OF THE BALLOT ISSUE FOR THE ELECTION

WHEREAS, Morgan Strong, Inc., (“Petitioner”) submitted a service plan to the Board of County Commissioners (“BOCC”) for a proposed special district, named the Morgan County Park and Recreation District (“District”);

WHEREAS, the BOCC approved the service plan after a duly noticed public hearing in accordance with C.R.S. § 32-1-201 *et seq.*;

WHEREAS, the Petitioners have sought approval by the Morgan County District Court and the Court has ordered an election on the creation of the District;

WHEREAS, the service plan of the District does not allow for the imposition of a property tax and the District is not authorized to levy any other type of tax under Colorado law;

WHEREAS, in exchange for the limitation on property tax, the BOCC agreed to submit to the eligible electors of the Morgan County a question on whether the County should impose a new sales tax to fund the District;

WHEREAS, the BOCC has determined that a ballot issue to levy a new sales tax for the purpose of funding the District and its services should be submitted to the eligible electors of Morgan County at the November 5, 2019 election;

WHEREAS, the BOCC has authority to call for a special election on a ballot issue pursuant to C.R.S. § 1-41-103;

WHEREAS, the BOCC has determined to set the ballot title and ballot text for the ballot issue to be submitted at the election called by this Resolution; and

WHEREAS, the County currently does not levy any sales tax and to impose, collect and administer this sales tax, if approved by the eligible electors, the County must adopt the sales tax provisions contained within this Resolution.

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

1. A special election shall be held on Tuesday November 5, 2019, at which there shall be submitted to the eligible electors of Morgan County a ballot issue authorizing the levying of a sales tax, imposed through this Resolution, the title of which issue shall be in substantially the following form:

SHALL MORGAN COUNTY TAXES BE INCREASED UP TO \$3,000,000 IN 2020, AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING A SALES TAX BEGINNING JANUARY 1, 2020 AT A RATE NOT TO EXCEED THREE QUARTERS OF ONE

COMMISSIONERS PROCEEDINGS 3

PERCENT (0.75%), THE PROCEEDS OF SUCH TAX WILL BE PLEDGED TO THE MORGAN COUNTY PARK AND RECREATION DISTRICT TO PROVIDE RECREATION SERVICES AND FACILITIES, AND SHALL MORGAN COUNTY AND THE RECREATION DISTRICT BE AUTHORIZED TO ENTER INTO AN AGREEMENT CREATING FINANCIAL OBLIGATIONS EXTENDING BEYOND THE CURRENT FISCAL YEAR TO PAY OVER THE PLEDGED REVENUES TO THE RECREATION DISTRICT, AND SHALL THE COUNTY SALES TAX REVENUES BE COLLECTED, RETAINED AND SPENT NOTWITHSTANDING ANY REVENUE LIMITS PROVIDED BY LAW; PROVIDED SUCH TAX SHALL ONLY BECOME EFFECTIVE IF THE ELIGIBLE ELECTORS APPROVE THE ORGANIZATION OF THE MORGAN COUNTY PARK AND RECREATION DISTRICT?

2. The election shall be conducted by the Morgan County Clerk and Recorder (“Clerk and Recorder”) in accordance with the Uniform Election Code and other laws of the State of Colorado, including without limitation, the requirements of article X, section 20 of the Colorado Constitution (hereinafter “TABOR”).
3. All acts required or permitted by the Uniform Election Code relevant to voting by early voters’ ballots, absentee ballots, emergency absentee ballots, and provisional ballots shall be performed by the Clerk and Recorder.
4. The Clerk and Recorder shall cause a Notice of Election to be published in accordance with the laws of the State of Colorado, including but not limited to, the Uniform Election Code and TABOR.
5. Pursuant to C.R.S. § 29-2-104(5), the Clerk and Recorder is directed to publish the text of this Resolution four separate times, a week apart, in the official newspaper of the county and each city and incorporated town within the County.
6. Pursuant to the Agreement entered into by the BOCC and Petitioner, Petitioner is responsible for the portion of all costs and fees associated with the referral of this ballot issue to the eligible electors of the County.
7. If a majority of the votes cast on the ballot issue of imposition of the sales tax shall be in favor of such ballot issue, the sales tax shall apply to all taxable transactions, unless exempt, occurring on or after January 1, 2020, and shall be collected and administered in accordance with this Resolution and the schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue.
8. Imposition of Sales Tax. There is hereby imposed a county-wide sales tax in the amount of three quarters of one percent (0.75%) on all sales of tangible personal property at retail or the furnishing of services in Morgan County, as provided in C.R.S. § 29-2-105 *et seq.* as amended, effective throughout the incorporated and unincorporated portions of Morgan County, subject to the limitations contained herein.
 - A. Definitions, Rules and Regulations Adopted. For the purposes of this Resolution, the definitions of the words contained herein shall be as defined in C.R.S. §§ 39-26-102 and 39-26-201, as may be amended, which definitions are incorporated herein by this reference. The County further adopts all rules and regulations adopted by the Colorado Department of Revenue and such rules and regulations are incorporated herein by this reference.
 - B. Transactions Subject to Sales Tax. The transaction subject to the sales tax shall be as set forth below and as required by Colorado state law.
 - i. The tangible personal property and services taxable hereunder shall be the same as the tangible personal property and services taxable pursuant to C.R.S. 39-26-104, except as provided herein, and shall be subject to the same exemptions as those specified in part 7 of article 26 of title 39, C.R.S., expressly including the following exemptions:
 - a. For the sales of machinery or machine tools specified in C.R.S. §39-26-709(1).
 - b. For the sales of electricity, coal, wood, fuel oil, or coke specified in C.R.S. § 39-26-715(1)(a)(II).
 - c. For sales of food, as defined in C.R.S. § 39-26-102(4.5), specified in C.R.S. § 39-26-707(1)(E).
 - d. For vending machine sales of food specified in C.R.S. § 39-26-714(2).
 - e. For sales by a charitable organization specified in C.R.S. § 39-26-718(1)(b).
 - f. For sales of farm equipment and farm equipment under lease or contract specific in C.R.S. §§ 39-26-716(2)(b) and (2)(c).
 - g. For sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as specified in C.R.S. § 39-26-723.

4 COMMISSIONERS PROCEEDINGS

- h. For sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in C.R.S. § 39-26-724.
 - i. For sales that benefit a Colorado school specified in C.R.S. § 39-26-725.
 - j. For sales by an association or organization of parents and teachers of public school students that is a charitable organization as specified in C.R.S. § 39-26-718(1)(c).
 - k. For sales of property for use in space flight specified in C.R.S. §39-26-728.
 - l. For sales of components use in biogas production systems specified in C.R.S. § 39-26-724(1)(c).
 - m. For manufactured homes set forth in C.R.S. § 39-26-721(3).
 - n. For sales of personal property though vending machines.
- ii. The sales tax shall not be imposed on the sale of construction and building materials, as the term is used in C.R.S. § 29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other acceptable documentation that a local use tax has been paid or is required to be paid on the value thereof.
 - iii. The sales tax shall not be imposed on the sale of personal property on which a specific ownership tax has been paid or is payable if: (1) the purchaser is a nonresident of or has its principal place of business outside the County, and (2) such personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.
 - iv. The sales tax shall not apply to the sale of food purchased with food stamps. For the purposes of this paragraph, "food" shall have the meaning as provided in 7 U.S.C., Section 2012(g), as amended.
 - v. The sales tax shall not apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C., Section 1786. For the purposes of this paragraph, "food" shall have the meaning as provided in 42 U.S.C., Section 1786, as amended.
 - vi. The sales tax shall not be imposed on the sale of tangible personal property at retail or the furnishing of services if the transaction has been previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of the amount imposed by this Resolution. A credit shall be granted against the sales tax payable with respect to such transaction equal in amount to the lawfully imposed sales or use tax previously paid by the purchaser or user to such other statutory or home rule county, provided that such credit shall not exceed the amount imposed by this Resolution.
- C. Determination of Place at Which Sales are Consummated. For the purpose of this Resolution, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or its agent to a destination outside the County or to a common carrier for delivery to a destination outside the limits of the County. The gross taxable sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by article 26 of title 39, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business in the County, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of article 26 of title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue. The amount subject to the sales tax shall not include the amount of any state sales and use tax imposed by article 26 of title 39, C.R.S.
- D. Collection, Administration and Enforcement. The collection, administration and enforcement of the Sales Tax shall be performed by the Executive Director of the Colorado Department of Revenue (the "Executive Director") in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of article 26 of title 39, C.R.S. and all rules and regulations promulgated thereunder by the Executive Director shall govern the collection, administration, and enforcement of the sales tax.
- E. Vendor Fee. No vendor fee shall be permitted or withheld with respect to the collection and remittance of the sales tax.
9. Distribution of Sales Tax Revenue. One hundred percent (100%) of the sales tax Revenue collected pursuant to this Resolution, minus all administrative costs determined pursuant to an agreement between

COMMISSIONERS PROCEEDINGS 5

Morgan County and the Morgan County Park and Recreation District, shall be automatically remitted to the Morgan County Park and Recreation District. The revenue from the sales tax must be used by the Morgan County Park and Recreation District for services and facilities in accordance with its approved service plan.

10. If a majority of the votes cast on the issue of extending the sales tax shall be in favor of such ballot issue, the County Clerk and Recorder is hereby directed to provide a notice of adoption of this Resolution, together with a certified copy of this Resolution, to the Executive Director of the Colorado Department of Revenue at least forty-five (45) days prior to January 1, 2020.
11. This Resolution shall serve to set the ballot title and the ballot issue for the issue set forth herein, and the ballot title for such issue shall be the text of the issue itself.
12. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.
13. This Resolution shall take effect immediately upon its passage.

APPROVED this 3rd day of September, 2019.

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

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

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

Dissenting vote
Jon J. Becker, Commissioner

(SEAL)

ATTEST:

s/Susan L. Bailey
Susan L. Bailey

Chairman Zwetzig presented to the Board Resolution 2019 BCC 20, a Resolution Calling For Special Election On November 5, 2019 To Authorize The Imposition Of A New Sales Tax Of Three Quarters Of One Percent (0.75%) For Purpose Of Funding The Morgan County Park And Recreational District's Provision Of Recreational Services Within Morgan County With All Of Such Tax To Be Transferred To The District Provided The Eligible Electors Approve The Creation Of The District; Adopting Certain Sales Tax Provisions; And Setting The Ballot Title And Text Of The Ballot Issue For The Election. Chairman Zwetzig stated this matter was tabled during the previous meeting to allow for Commissioner Arndt's presence.

Commissioner Arndt stated this has been approved during previous discussion, and made the motion to approve Resolution 2019 BCC 20 a Resolution Calling For Special Election On November 5, 2019 To Authorize The Imposition Of A New Sales Tax Of Three Quarters Of One Percent (0.75%) For Purpose Of Funding The Morgan County Park And Recreational District's Provision Of Recreational Services Within Morgan County With All Of Such Tax To Be Transferred To The District Provided The Eligible Electors Approve The Creation Of The District; Adopting Certain Sales Tax Provisions; And Setting The Ballot Title And Text Of The Ballot Issue For The Election with the provision that the district is created by the vote of the electors. Chairman Zwetzig seconded the motion. Chairman Zwetzig made the comment that the Morgan Strong committee met with the Commissioners in the previous months and were encouraged not to use the mill levy as the form of fund and the proposal of a sales tax was made to the Commissioners, and it was agreed by the Board to move forward with the sales tax but Chairman Zwetzig's preference would have been the mill levy. At this time, the motion carried 2-1, with Commissioner Becker the dissenting vote.

At this time, Rob Carruth, 428 Sherman Street, Fort Morgan, stated they do have contested elections in four of the five elector districts and stated things are moving forward.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated August 30, 2019 through September 10, 2019 with changes.

Morgan County Clerk and Recorder Susan Bailey announced the upcoming Logic and Accuracy Testing of the election equipment for the upcoming 2019 Coordinated Election and updated the board regarding those entities who have notified the County of their cancellation.

Commissioner Arndt provided the weekly road and bridge report.

6 COMMISSIONERS PROCEEDINGS

Being no further business the meeting was then adjourned at 9:17 a.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board

(Minutes ratified September 17, 2019)

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

s/James P. Zwetzig
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