

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting January 4, 2022

As reflected in posted agenda:

To participate in the Citizen's Comment Period you must connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81126521694> If you cannot connect via Zoom, you may submit written public comment to morgancountybcc@co.morgan.co.us by email by 4 p.m. on Monday January 3, 2022.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81126521694> to listen via phone, please dial: 1-312-626-6799, Meeting ID: 811 2652 1694

To watch and/or listen to the meeting but not participate, you may do so by connecting via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/81126521694> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 811 2652 1694

The Board of Morgan County Commissioners met Tuesday, January 4, 2022 at 9:03 a.m. with Chairman Mark Arndt, Commissioner Jon Becker and Commissioner Gordon Westhoff in attendance. Chairman Arndt asked Darlene Carpio, Regional Director for the Eastern Plains for Congressman Ken Buck to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There was no citizen comment provided.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated December 21, 2021
2. Ratify the Board of County Commissioners approval of Contract 2021 CNT 111, LAMAR, Term of Contract December 27, 2021 through December 25, 2022
3. Ratify the Board of County Commissioners approval of Contract 2021 CNT 112, Johnson & Sekin., Term of Contract December 13, 2021 through completion
4. Ratify the Board of County Commissioners approval of 2022 CNT 008 Javan Jones Lease Agreement for Morgan County Coroner's Office., Term of Contract January 1, 2022 through December 31, 2022 with 3 years auto renew
5. Ratify Chairman Pro-Tem Jon Becker's signature on Morgan County Service Vendor Form 2021 SV 08 AJ's Backflow Testing, signed December 29, 2021
6. Ratify Chairman Pro-Tem Jon Becker's signature on Grant Award 2022 GRA 01, Ambulance AED Project Public Access, signed December 29, 2021
7. Ratify Chairman Pro-Tem Jon Becker's signature on Grant Award 2022 GRA 02, VALE Victims Assistance, signed December 27, 2021
8. Revision Ratifying Chairman Pro-Tem Jon Becker's signature on the 2022 Colorado Retirement Association Retirement Plan and Trust Agreement, signed December 21, 2021
9. Revision Ratifying Chairman Pro-Tem Jon Becker's signature on the 2022 Section 125 Flexible Benefit Plan Adoption Agreement, signed December 21, 2021
10. Ratify Chairman Pro-Tem Jon Becker's signature on December 20, 2021 Storm Water Inspection, signed December 27, 2021
11. Ratify Chairman Mark Arndt's signature on OnSolve Subscription Services Order Form, signed December 8, 2021
12. Ratify Chairman Pro-Tem Jon Becker's signature on October Public Trustee Report, signed December 29, 2021
13. Ratify the Board of County Commissioners approval of Fairgrounds Fee Waiver Request for Morgan County Family Center-Mobile Food Pantry event dates monthly
14. Ratify the Board of County Commissioners approval on assignment of debt collections to Wakefield and Associates, Client #211813, #211742, #211911, #211951, #211737, #322873, #212060, #211955, #211970, #211421A, #211654, #211910, #210210, #211805, #211830B, #211670, #212064, #211705, #211799, #211835, #211204, #211978, #212079, #210935A, #210816A, #211739, #211701, #211660, #210458, #211696, #211533, #211815, #211793, #211710, #211708A, #212063, #211421B, #210003

Commissioner Becker made a motion to approve the consent agenda items 1-14 as presented, Commissioner Westhoff seconded the motion. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – 2022 BCC 01 A Resolution Imposing A Temporary Moratorium On The Processing Of Applications For Wind And Solar Power Generation Or Collection Facilities, Associated Power Lines And Battery Energy Storage Systems In All Unincorporated Portions Of Morgan County Pending Consideration Of Amendments To County Land Use Regulations Governing Such Uses

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MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2022 BCC 01

A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON THE PROCESSING OF APPLICATIONS FOR WIND AND SOLAR POWER GENERATION OR COLLECTION FACILITIES, ASSOCIATED POWER LINES AND BATTERY ENERGY STORAGE SYSTEMS IN ALL UNINCORPORATED PORTIONS OF MORGAN COUNTY PENDING CONSIDERATION OF AMENDMENTS TO COUNTY LAND USE REGULATIONS GOVERNING SUCH USES

WHEREAS, the development of wind and solar power collection or generation facilities, associated power lines and battery energy storage systems (“BESS”) are rapidly developing and evolving industry across Colorado and particularly in unincorporated areas with substantial open agricultural land;

WHEREAS, the use of agricultural and other large tracts of land for wind and solar power collection or generation facilities and BESS has a significant impact on the health, safety and welfare of the citizens of Morgan County (the “County”) in a number of ways, including without limitation impacted views, loss of land for traditional agricultural uses, increased noise and traffic, reduced, fragmented, or degraded habitat for wildlife, fish, and plants, noxious weeds and other disturbances, and potential impacts on air, water, soil, floodplains, water, storm water, drainage and erosion control, and commitment to agricultural production;

WHEREAS, in its role administering the County transportation system, the County is concerned about the potential increased impacts due to increased wear and tear on roads from heavy truck traffic used to install and maintain wind and solar facilities and BESS resulting in greater need for road and bridge improvements and maintenance;

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, provides the County with the broad authority to plan for and regulate the use of land in order to provide for orderly development while balancing the health, safety and welfare of its citizens;

WHEREAS, the Local Government Land Use Control Enabling Act authorizes local governments within their respective jurisdictions to plan for and regulate the use of land by, among other actions, regulating development and activities in hazardous areas; protecting land from activities that would cause immediate or foreseeable material danger to significant wildlife habitat; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide for the planned and orderly use of land;

WHEREAS, the Board of County Commissioners (“Board”) believes it has the responsibility to its residents to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, and to promote the health, safety and general welfare of its residents;

WHEREAS, the Board, pursuant to its land use authority, has from time to time adopted planning, zoning and other regulations governing land use in the unincorporated portions of the County;

WHEREAS, the County currently has zoning regulations which would apply in a general manner to wind and solar power collection or generation facilities and BESS;

WHEREAS, the County’s current zoning regulations have few specific provisions that would govern wind and solar power collection or generation facilities and BESS, and therefore the County desires to undertake review of such regulations to ensure they sufficiently address such facilities in an orderly manner that protects the public's health, safety and welfare while at the same time allowing for the development of important alternative sources of energy;

WHEREAS, the Board estimates that the time needed to perform the appropriate study and to determine the appropriate action to govern the treatment of wind and solar power generation or collection facilities and BESS in the County is approximately six months;

WHEREAS, if applications requesting review and approval of wind or solar power generation or collection facilities and BESS are submitted prior to the County having adequate time to conduct the appropriate studies and adopt appropriate regulations, the Board believes irreparable harm may be done to the public health, safety and welfare;

WHEREAS, the U.S. Supreme Court and the Colorado Supreme Court recognize that in the field of land use regulation, temporary moratoria of reasonable duration are often employed to preserve the status quo in a particular area while developing a long-term plan for development; indeed, in countering the incentive of property owners to develop their property quickly to avoid the consequences of an impending land use plan for the jurisdiction, moratoria are a crucial tool for local governments and, therefore, pursuant to express and implied authority granted by the Colorado Revised Statutes and multiple Colorado and federal legal decisions upholding temporary moratoria on land use applications while amendments are considered, the Board has the legal authority to adopt a temporary moratorium in this situation;

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WHEREAS, in light of the foregoing recitals and findings, after a duly noticed public meeting held on January 4th, 2022, the Board desires to adopt this temporary moratorium to protect the public health, safety, and welfare, and to avoid development which, during the County's planning and land use regulation amendment process, may contravene the results of this study and process put the public at risk.

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

1. This temporary moratorium shall take effect immediately. The County shall not accept, process, or approve any applications for uses of land that involve the development of wind or solar power collection or generation facilities, associated transmission lines and BESS facilities. This moratorium shall only apply to these activities which consist of more than 30+ acres.
2. This temporary moratorium shall remain in place until July 4th, 2022, unless terminated or extended.
3. County staff is hereby directed to continue analyzing whether the County's Zoning Regulations are sufficient to protect the public health, safety and welfare, or whether amendments to the County's Zoning Regulations are necessary to adequately address the impacts of wind or solar power collection or generation facilities, associated transmission lines and BESS facilities
4. The County hereby affirms that any development of wind and solar power collection or generation facilities and BESS that are subject to this moratorium without appropriate County approvals will be in violation of the Morgan County's land use regulations.

DATED this 4th day of January, 2022.

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

s/Mark A. Arndt
Mark A. Arndt, Chairman

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

s/Gordon H. Westhoff
Gordon H. Westhoff, Commissioner

(SEAL)
ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Commissioner Westhoff, presented to the Board for approval Resolution 2022 BCC 01, a Resolution Imposing A Temporary Moratorium On The Processing Of Applications For Wind And Solar Power Generation Or Collection Facilities, Associated Power Lines And Battery Energy Storage Systems In All Unincorporated Portions Of Morgan County Pending Consideration Of Amendments To County Land Use Regulations Governing Such Uses. Commissioner Westhoff read the resolution aloud into the record. Commissioner Becker stated that this is a temporary moratorium for larger scale projects so the appropriate land regulations can be put into place. Chairman Arndt stated that anything under 30 acres the application is still able to be processed.

Commissioner Westhoff made a motion to approve Resolution 2022 BCC 01, a Resolution for Imposing A Temporary Moratorium On The Processing Of Applications For Wind And Solar Power Generation Or Collection Facilities, Associated Power Lines And Battery Energy Storage Systems In All Unincorporated Portions Of Morgan County Pending Consideration Of Amendments To County Land Use Regulations Governing Such Uses., as presented with Commissioner Becker seconding the motion. At this time, the motion carried 3-0.

Consideration of Approval – RFP 2021-1230-001 Weldon Valley Farm Bid Tabulation and Award

Morgan County Administrative Services Manager, Karla Powell presented to the Board for approval, the RFP 2021-1230-001 Weldon Valley Farm Bid Tabulation and Award. Ms. Powell stated that they received only one bid from Lorenzini Farms in the amount of \$131/acre for a total of \$4,978.00. The contract will be from January 1, 2022 through December 31, 2022, with a 4 years auto renewable.

At this time, Ms. Powell recommended the bid be awarded to Lorenzini Farms in the amount of \$131/acre for a total of \$4,978.00.

Chairman Arndt clarified that year 2022 is year one and has four auto renews for a total of five years, with Ms. Powell stating that is correct.

Chairman Arndt asked to recue himself from the vote, with Commissioner Becker taking over the meeting as Chairman Pro Tem.

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Commissioner Westhoff made the motion to approve award the RFP 2021-1230-001 Weldon Valley Farm Bid Tabulation and Award to Lorenzini Farms in the amount of \$131/acre for a total of \$4,978.00, with a one year lease with the term dates of January 1, 2022 through December 31, 2022 with the 4 years auto renewable as recommended by Morgan County Administrative Services Manager Karla Powell. Chairman Pro Tem Becker seconded the motion and motion carried 2-0.

Chairman Pro Tem Becker turned the meeting back over to Chairman Arndt.

Consideration of Approval – RFP 2021-1230-002 Jackson Lake Water Share Bid Tabulation and Award

Chairman Arndt stated that maybe there is a misunderstanding with one of the bidders, he believes that they think that they are buying the water shares not leasing the water shares. Morgan County Administrative Services Manager, Karla Powell stated she is in agreeance with Chairman Arndt. Ms. Powell stated that the bidder did not use the proposal sheet, so that could be where the confusion is coming from. Ms. Powell stated that they received two bids one from Fort Morgan Water Company, LTD in the amount of \$501.00 and a second bid from Bijou Irrigation Company, in the amount of \$167,000.00.

At this time, Ms. Powell stated she would like to get clarification on Bijou Irrigation Company’s bid and represent the bid at the next meeting.

Commissioner Becker made the motion to table RFP 2021-1230-001 Jackson Lake Water Share Bid Tabulation and Award until January 11, 2022 meeting, with Commissioner Westhoff seconding the motion and motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Darlene Carpio Regional Director for the Eastern Plains for Congressman Ken Buck provided a Legislative Update to the Board.

Morgan County Emergency Management Director, Roger Doll and Morgan County Sheriff Dave Martin gave an update to the Board on the County’s new Emergency Alert Program Code Red that will be implemented for Morgan County. Mr. Doll stated that citizens can sign up through the link on the Morgan County website or you can text MorganCodeRed to the 99411.

Being no further business the meeting was then adjourned at 9:37 a.m.

Respectfully Submitted,

Randee Aleman
Deputy Clerk to the Board

(Minutes ratified January 11, 2022)

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

s/Mark A. Arndt
Mark A. Arndt, Chairman

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

s/Gordon H. Westhoff
Gordon H. Westhoff, Commissioner

(SEAL)
ATTEST:

s/ Susan L. Bailey
Susan L. Bailey