

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS

Morgan County Board of Social/Human Services

Minutes of Meeting

January 23, 2024

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/87296123964> 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 22, 2024.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/87296123964> listen via phone, please dial: 1-312-626-6799, Meeting ID: 872 9612 3964

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/87296123964> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 872 9612 3964

The Board of Morgan County Commissioners met on Tuesday, January 23, 2024 at 9:00 a.m. with Chairman Mark Arndt, Commissioner Jon Becker and Commissioner Gordon Westhoff in attendance. Chairman Arndt asked Jacque Frenier, Morgan County Department of Human Services Director to lead the meeting in the Pledge of Allegiance.

At this time, the Board convened as the Morgan County Board of Social/Human Services. Chairman Arndt noted that Jacque Frenier, Morgan County Department of Human Services Director, and Accounting Manager Susan Nitzel were present.

Consideration of Approval –DHS Minutes dated December 19, 2023

Chairman Arndt presented for review and approval the Department of Human Services Minutes dated December 19, 2023. A motion was made by Commissioner Westhoff to approve the minutes as presented with Commissioner Becker seconding the motion. The motion carried 3-0.

Consideration of Approval – DHS WARRANTS – November 2023

Susan Nitzel, Accounting Manager presented to the Board for their review and approval the Department of Human Services Warrants for the month of November 2023. Ms. Nitzel summarized the operating warrants as being a total of \$234,956.06 for operating costs and direct deposits for payroll were \$212,160.50, which totaled \$447,116.56. Ms. Nitzel stated that compared to October there was a decrease of \$80,000 due to employment first program for the truck driving school.

Commissioner Becker made the motion to approve the warrants as presented for November 2023 in the amount of \$447,116.56 as presented and authorized the Chairman to sign with Commissioner Westhoff seconding the motion. Motion carried 3-0.

Consideration of Approval – DHS CERTIFICATION OF PROVIDER AND VENDOR BENEFIT AUTHORIZATIONS – November 2023

Susan Nitzel, Accounting Manager presented to the Board for their review and approval the Department of Human Services Certification of Provider and Vendor Benefit Authorizations for November 2023. Ms. Nitzel summarized the Certification of Provider and Vendor Benefit Authorizations indicating the monthly total of \$954,080.42. Ms. Nitzel stated that there was an increase of \$27,000 from October to November which was in the LEAP program, this was the first payment this winter. From last year to this year there was a decrease of \$368,000 which was in the food stamp program.

Commissioner Westhoff made the motion to approve the Certification of Provider and Vendor Benefits as presented for November 2023 in the amount of \$954,080.42 as presented and authorized the Chairman to sign, with Commissioner Becker seconding the motion. Motion carried 3-0.

Ms. Frenier explained that the department is very busy due to the end of the public health emergency the eligibility for food stamps, the snap program and medicaid is back to pre-pandemic, so there is a lot of extra work for the technicians between filing out extra forms and there is a lot of confusion for the participates so there is a lot of questions to be answered. Also, there has been an increase in the number of Adult protection cases.

There being no further business, the Board stood in recess at 9:07 a.m.

Respectfully Submitted,

Randee Aleman
Deputy Clerk to the Board

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

s/ Mark A. Arndt

2 COMMISSIONERS PROCEEDINGS

Mark A. Arndt, Chairman

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

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

s/ Jacque Frenier
Jacque Frenier, Human Services Director

(SEAL)

ATTEST:

s/ Kevin Strauch
Kevin Strauch

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The Board of Morgan County Commissioners met Tuesday, January 23, 2024 at 9:09 a.m. Chairman Mark Arndt, Commissioner Jon Becker and Commissioner Gordon Westhoff in attendance.

CITIZEN'S COMMENT

There was no citizen comment provided.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated January 9, 2024
2. Ratify the Board of County Commissioners approval of meeting minutes dated January 16, 2024
3. Ratify Chairman Gordon Westhoff's signature on Colorado Liquor Retail License Application for Mug Shot Café and Saloon, LLC, signed November 13, 2023.
4. Ratify Pro-Temp Chairman Jon Becker's signature on Morgan Community College Foundation to the Colorado Opportunity Scholarship Initiative (COSI) Matching Scholarships, signed January 16, 2024.
5. Ratify the Board of County Commissioners approval of Contract 2024 CNT 006, Jamar Company dba CMS Mechanical, Term of Contract February 17, 2024 through February 16, 2025.
6. Ratify the Board of County Commissioners approval of Contract 2024 CNT 007, Specialty Shoppe Floors and More, Term of Contract January 10, 2024 through January 31, 2024.
7. Ratify the Board of County Commissioners approval of Contract 2024 CNT 008, TK Elevator Corporation, Term of Contract December 26, 2023 through December 25, 2024.
8. Ratify the Board of County Commissioners approval of Contract 2024 CNT 009, D&J Electric, Term of Contract February 2, 2024 through February 1, 2025.
9. Ratify the Board of County Commissioners approval of Contract 2024 CNT 010, Convergent Technologies, Term of Contract December 7, 2023 through December 6, 2024.
10. Ratify the Board of County Commissioners approval of Contract 2024 CNT 011, Rick Lapp DBA EPEC LLC, Term of Contract January 1, 2024 through December 31, 2024.
11. Ratify the Board of County Commissioners approval on assignment of debt collections to Wakefield and Associates, Client #232021, #231020, #231291, #231367, #231817, #231902, #231998, #232207, #231384, #232039.
12. Ratify Chairman Mark Arndt's signature on Colorado Liquor Retail or Fermented Malt Beverage License Renewal Application for NOCO Axe Throwing, Inc., signed January 9, 2024.

At this time, Commissioner Becker made a motion to approve items 1-12 as presented; Commissioner Westhoff seconded the motion. The motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Dusty Johnson, Colorado House District 63 Candidate.

Dusty Johnson introduced herself and stated she is running for Colorado House District 63. She stated she is attending today wanting to be sure she is being active to make sure she is aware of what is happening in Morgan County. Ms. Johnson stated if she is elected she will be our county liaison at the State level.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Morgan County Chief Deputy Clerk, Randee stated that UOCAVA ballots went out Friday to all the overseas voters for the 2024 Presidential Primary.

2 COMMISSIONERS PROCEEDINGS

LIQUOR LICENSES

At this time, the Board of County Commissioners convened as the Morgan County Liquor License Authority in the matters of:

**1. Consideration of Approval – Application for Special Events Liquor License Permit
(Applicant: Morgan Community College Foundation, Susan Clough)**

Susan Clough the Authorized Representative and Event Manager, of the Morgan Community College Foundation stated they have submitted an application for a special events permit for Morgan Community College Foundation for the Morgan Community College Gala, the event is scheduled for Friday, February 23, 2024. The event will take place at the Morgan County REA, warehouse space, located 734 Barlow Road, Fort Morgan, Colorado, with permission from the Morgan County REA. Ms. Clough stated that the notice has been properly posted. She thanked the Community for all their support for this event.

Ms. Aleman explained that the event will be on February 23, 2024 from 9:00 A.M. to 11:00 P.M. Ms. Aleman stated that a background check has been completed for Ms. Clough, who is named as the Authorized Representative for the Organization and the Event Manager of the organization of this event and no concerns have been reported. A diagram of the area in which alcohol will be sold and served has also been provided as required. This matter has been properly posted and all legal requirements have been met which include that of the notice of hearing having been published in the Fort Morgan Times on December 27, 2023 as well as signage having been placed at the location of this event for the required time frame, commencing on January 5, 2024 and the sign was still up yesterday.

At this time, Ms. Aleman, asked Morgan County Sheriff Dave Martin if he had anything further to add.

Sheriff Martin stated that he had nothing further to add noting that they are a great Community Partner and his department has provided security and there has never been any issues.

Commissioner Westhoff asked since this is the 25th Anniversary and it is a well-attended event will there be enough room at the REA building, with Ms. Clough stating yes they only have a maximum number of tickets that they can sell and they have about 110 tickets left.

At this time, Chairman Arndt opened the matter for public comment with no comment.

A motion was made by Commissioner Westhoff to approve the Special Events Permit submitted by Susan Clough representing Morgan County Community College Foundation on February 23, 2024 at the Morgan County REA warehouse located at 734 Barlow Road, Fort Morgan, Colorado as presented by Morgan County Chief Deputy Clerk Randeale Aleman. Commissioner Becker seconded the motion and motion carried 3-0.

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

Respectfully Submitted,

Randeale Aleman
Deputy Clerk to the Board

(Minutes ratified February 6, 2024)

**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/ Kevin Strauch
Kevin Strauch

PUBLIC HEARING

Chairman Arndt called the public hearing to order at 9:26 a.m. on Tuesday, January 23, 2024 in the Assembly Room of the Morgan County Administration Building.

Chairman Mark Arndt, Commissioner Jon Becker, and Commissioner Gordon Westhoff were present. Planning and Zoning Administrator Nicole Hay, Planning and Zoning Technician Jenafer Santos Planning and Zoning Administrative Assistant Cheryl Brinsidi were present. Attorney Kathryn Sellars and IT Specialist Karol Kopetzky were also present.

APPLICATION:

Applicant: Taelor Solar 1, LLC

Landowners: L&R Rumsey Land, LLC & Magnum Feedyard, LLC

Taelor Solar 1, LLC, Solar Energy Facility Legal Description: A part of Sections 4, 5, 6, 7, 8, 9, 17, 18, 20 and 21, Township 2 North, Range 60 West and a part of Section 31, Township 3 North, Range 60 West of the 6th PM, Morgan County, Colorado.

Taelor Solar 1, LLC, BESS Legal Description: A part of Sections 8 and 9, Township 2 North, Range 60 West of the 6th PM, Morgan County, Colorado.

Request: Taelor Solar 1, LLC has submitted a Special Use Permit Application to construct and operate a 250MW Solar PV project in conjunction with a 500MWh Battery Energy Storage System (BESS).

APPLICATION OVERVIEW:

Planning Administrator Nicole Hay read her file summary as follows:

APPLICANTS: Taelor Solar 1, LLC

OWNERS: L&R Rumsey Land, LLC and Magnum Feedyard, LLC

These applications are for Special Use Permits for the activities described below. The applicants are requesting two special use permits: one for the solar collector facility and one for the battery energy storage system (BESS). The Board of County Commissioners will conduct one public hearing for two applications, but each application will require separate action by motion.

Taelor Solar 1 Energy Collector Facility has a maximum power output of 250 MWac. The permitted area is located in part of Sections 4 thru 9, 17, 18, 20, and 21, Township 2 North, Range 60 West and a part of Section 31, Township 3 North, Range 60 West of the 6th PM, Morgan County, Colorado. The permitted area is zoned Agriculture Production and is located in the Wiggins Fire District.

The applicant, Taelor Solar 1, LLC, proposes a solar collector facility within a 4,410-acre project area. The facility will consist of photovoltaic (PV) panels, inverters and associated transformers, underground electric collection lines and/or above ground cabling, access roads, a project substation, security fencing, and an operations and maintenance building. The applicant has also requested waivers of the setback requirements for several interior property lines and several rights-of-way along section lines.

Taelor Solar 1 Battery Energy Storage System (BESS) has a capacity of up to 500 MWhrs (a maximum power output of 125 MWac). The permitted area is located in part of Sections 8 and 9, Township 2 North, Range 60 West of the 6th PM, Morgan County, Colorado. The permitted area is zoned Agriculture Production and is located in the Wiggins Fire District.

The applicant, Taelor Solar 1, LLC, proposes a BESS within a 10 acre project area. Geotechnical investigation will determine foundation and compaction requirements. Bess equipment could have pre-cast concrete bases or concrete could be delivered to the site. Vegetation within the BESS site will be

removed and weed management plans will be prepared prior to the start of construction and following construction. The perimeter will be surrounded by security fence. The applicant has also requested a waiver of the setback requirements for a right-of-way along a section line.

In addition to the permit applications, packets include responses from FEMA, CDOT, Town of Wiggins, Xcel Energy, and CPW. The packets also include emails, letters, petitions, and additional information from the public.

The projects are proposing to interconnect at a new switching station along Xcel Energy's Fort Lupton to Pawnee 230KV transmission line, which runs through the project area. A crossing agreement will also be obtained to accommodate the projects electrical lines crossing Xcel Energy's transmission line.

A designated floodplain is identified on the western part of the site along Rock Creek. A hydrology study for the area was completed in order to avoid the FEMA designated floodplain and any other potential areas of concern. Matt Harris with Harris Engineering Consultants, Inc., the County's consulting engineer, did not have any major comments after review of the preliminary engineering reports with drainage plans. One note he did have was some substantial differences between the area inundated during the 100-Yr 24-hour event and the regulatory Zone A floodplain. The calculated 100 year storm depths and the FEMA Zone A floodplain are both overlaid on the original Site Plan Map for clarity.

Planning Commission Meeting

A Planning Commission hearing was held on August 14, 2023, where the Commissioners heard from the Applicant's representative and the public. The public hearing was continued until September 11, 2023 in order for Taelor Solar 1, LLC to submit the following additional information:

1. A glare report
2. Reseeding vegetation component to the Erosion Control Plan
3. Aerial photographs of similar projects

The continued public hearing was held on September 11, 2023, where the Commissioners reopened public comment regarding the additional information supplied by the applicant.

The Planning Commission motioned for recommended conditional approval as presented and to include the following recommended conditions:

- (1) Removal of modules and inverters from the 320 acres (the S½ of Section 31, T3N, R60W)
- (2) The paving of Co Rd M.

The motion was denied on a vote of 4 opposed and 3 in favor. As result, the Planning Commission's recommendation to the Board of County Commissioners was to deny the applications.

After the Planning Commission hearing, the Applicant requested an extension of the timing of the Board of County Commissioners hearing to address community questions and concerns.

Since the Planning Commission meeting, the applicant held an open house on October 24, 2023 to address concerns and provide additional information to the public. The application has been modified as follows:

1. Removal of solar panels and inverters from certain areas (including the 320 acres mentioned in the Planning Commission meeting) to improve setbacks and viewshed impacts.

2. Change to the haul route to use State Highway 52 to Co Rd 3 to Co Rd I for the primary route for construction traffic and deliveries. A secondary/light duty access using Co Rd 1 from State Highway 52 would also be used to better distribute traffic during peak hours.
3. The applicant has also submitted visual simulations, a revegetation plan supplement, and project economic impacts.

In reviewing these applications, the Planning Commission and Board of County Commissioners are required to make a finding that the criteria for granting a Use by Special Review in Section 2-395 of the Morgan County Zoning Regulations have been satisfied. In addition, the County shall consider whether the application for a solar collector facility complies with the requirements of the Solar Collector Regulations and the BESS complies with the requirements of the BESS Regulations in Zoning Regulations.

Section 2-395 Special Use Permit Criteria:

- A. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. The property is located in the southwest planning area.

Chapter 2 – Plan Summary

2.II.A - Economic Development

Goal – Diversify the economy in Morgan County to broaden business employment opportunities for residents and to further economic growth.

Both projects would provide economic benefit to Morgan County through increased revenues to the county and school district tax bases through the taxation of the projects. To the extent possible the operator will seek to hire local contractors throughout construction and the life of the project.

Chapter 4 – Economic Development

Goal – Encourage the location of new industry and the expansion of existing businesses that will provide employment opportunities and increase the tax base to strengthen the economy of Morgan County.

Policy 10. Contribute to the Colorado New Energy Economy; work to attract and maintain renewable energy projects to capture this.

Chapter 5 - Environment

IX-Environmental Resources and Hazards Plan

Goal - To preserve the manmade and natural environment in order to enhance the quality of life in Morgan County.

Both projects will not impact wetlands or drainage patterns. Rock Creek and its surrounding floodplain will be avoided by the site layout. A desktop review and field assessment has been completed for the site to avoid adverse impacts on plant and wildlife species. These projects will encourage use of renewable resources and production of electric power.

- B. The application documents are complete and present a clear picture of how the use is to be arranged on the site.

- C. The Site Plan conforms to the district design standards of Section 2-420 and Section 4-820 of the Morgan County Zoning Regulations.
- D. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvement, site plan requirements or other mitigation measures.
Both projects will result in long-term minimal impacts to off-site areas. Once construction is completed, traffic will be minimal and the glare report indicates no glare will impact neighboring properties. During construction and when necessary, either water or dust control chemicals will be used for dust mitigation and will be addressed in the Road Agreement. Best management practices (BMP) will be implemented to protect newly established vegetation for Storm Water Management and Erosion Control.
- E. The special use proposed has been made compatible with the surrounding uses and is adequately buffered from any incompatible uses by distance and topography.
Residences are more than the County's 500-foot setback requirement The majority of the parcels adjacent to the facility are zoned Agricultural Production District and are vacant, except the Magnum Feedyard.
- F. The special use poses no or minimal risk to the public health, safety and welfare.
Granting the Special Use Permits will not increase risk to public health, safety or welfare.
- G. The special use proposed is not planned on a nonconforming parcel.
Both projects are located on conforming parcels.
- H. The applicant has adequately documented a public need for the project. The Applicant has submitted all pertinent technical information, has demonstrated that it has adequate financial resources to implement the project, and has paid all County fees and review costs.
The general purpose of both projects is to maximize energy production from available solar resources to deliver renewable electricity to the bulk power transmission system to serve the needs of electric utilities and their customers.
- 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.
Both projects are expected to require a supply of water both during construction and operation phases. Water for the Taelor Project will be sourced from the Magnum Feedyard, LLC Ranch.

The following conditions are recommended for the special use permits:

1. Taelor Solar 1 Collector Facility:

- a. Proof of lease between Taelor Solar 1, LLC and the property owners must be submitted to the Planning & Zoning Department prior to construction.
- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, and stormwater permits.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the solar collector facility and may include, but are not

- limited to, interconnection/crossing agreements, final drainage & erosion control plan, signed and sealed geotechnical report, decommissioning plan, operations and maintenance plan, Liability Insurance Certificate, final locations for any laydown yard, a copy of the APEN issued by the Colorado Department of Public Health and Environment, Unanticipated Discovery plan, and glare analysis.
- d. Taelor Solar 1, LLC will comply with proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when the Applicant commences decommissioning.
 - e. Any building greater than 120 sq. ft. will require a building permit.
 - f. The substation and solar collector facility shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
 - g. Prior the commencement of construction, Taelor Solar 1, LLC will enter into a road use agreement for the use of any public road during construction. The agreement shall include the following:
 - a. A designated haul route or routes, subject to approval by the Morgan County Road & Bridge Department. A map showing the designated haul route to be used during construction.
 - b. A pre-construction baseline inventory of County roads on the designated haul route or routes to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant.
 - c. A mitigation plan to address traffic congestion, control, and potential impacts to County roads on the designated haul route. The mitigation plan shall also include any dust mitigation activities.
 - d. A requirement that the applicant is to return any County roads to their pre-construction baseline condition.
 - e. A requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to complete all road restoration, in the form of an irrevocable letter of credit or cash escrow. Cost estimates shall be provided by a licensed Colorado engineer. Upon preliminary acceptance of the restored public road, the County shall release all but fifteen percent (15%) of total actual costs of restoration of the public roads, so long as Taelor Solar 1, LLC are not in default of any provision of the public improvements agreement. The County shall inspect the restored roads and Taelor Solar 1, LLC shall pay to the County the cost incurred by the County in conducting such inspections. These costs shall be due and payable upon demand of the County. Taelor Solar 1, LLC shall be responsible for correcting or properly completing the restoration.
 - f. The residual fifteen percent (15%) retained by the County shall act as security for Taelor Solar 1, LLC's guarantee that the restoration remains free of defect during a two-year warranty period. Taelor Solar 1, LLC may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial

security to that security as originally posted with and/or retained by the County. The County may accept substitute or supplemental forms of security in its sole discretion.

- h. Prior to the commencement of construction, Taelor Solar 1, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.
- i. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities (“Temporary Areas”) utilized after final construction is completed. Taelor Solar 1, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary area. It shall be a condition that all equipment and materials must be removed from the Temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- j. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Taelor Solar 1, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- k. Construction occurring within ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- l. Taelor Solar 1, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice under this Agreement, draw upon the Performance Guarantee to pay the cost and expenses of abating the nuisance. The decision to draw on the Performance Guarantee shall be within the sole discretion of the County.
- m. Taelor Solar 1, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- n. Taelor Solar 1, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Taelor Solar 1, LLC for costs and fees and payment will be due by Taelor Solar 1, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

2. Taelor Solar 1 BESS Facility:

- a. Proof of lease between Taelor Solar 1, LLC and the property owners must be submitted to the Planning & Zoning Department prior to construction.

- b. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, and stormwater permits.
- c. All necessary plans, reports, permits, and certificates will be submitted prior to issuance of any building permit associated with the BESS facility and may include, but are not limited to, Electrical Diagram, final equipment specification sheet, contact information, maintenance plan, final drainage plan, decommissioning plan, emergency operation plan, and Liability Insurance Certificate.
- d. Taelor Solar 1, LLC will comply with proposed decommissioning plan, any modifications/deviations from the proposed plan must be approved by the County. The County must be notified in writing when the Applicant commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. The BESS shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- g. Prior to the commencement of construction, Taelor Solar 1, LLC must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners. The County may require that the road use agreement for the solar collector facility govern any road impacts related to the construction of the BESS or require a separate road use agreement.
- h. The County will require written notice for all staging or laydown areas, or other temporary areas for construction or repair activities (“Temporary Areas”) utilized after final construction is completed. Taelor Solar 1, LLC must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and must notify the County at least thirty (30) days prior to the use of the temporary area. It shall be a condition that all equipment and materials must be removed from the Temporary Areas and the area returned to a condition similar to its condition prior to construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.
- i. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after Taelor Solar 1, LLC has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- j. Construction occurring within ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
- k. Taelor Solar 1, LLC shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice under this Agreement, draw upon the

Performance Guarantee to pay the cost and expenses of abating the nuisance. The decision to draw on the Performance Guarantee shall be within the sole discretion of the County.

1. Taelor Solar 1, LLC shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- m. Taelor Solar 1, LLC shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Taelor Solar 1, LLC for costs and fees and payment will be due by Taelor Solar 1, LLC within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

As per Sections 4-845 and 4-880 of the Morgan County Zoning Regulations, Taelor Solar 1, LLC is also requesting approval of the three year renewals for the Taelor Solar 1 Energy Collector Facility and the Taelor Solar 1 Battery Energy Storage System (BESS). The extension to a total of 6 years is being requested to accommodate the long lead time required to move through the interconnection processes and complete construction on a utility-scale project.

Nicole Hay,
Morgan County Planning Administrator

DISCUSSION: Board of County Commissioners to applicant:

Attorney Kathryn Sellars noted for the record that the Commissioners are sitting in on a quasi-judicial matter today, meaning they will apply specific criteria that is listed in the Zoning Regulations to the fact of this application and the information and testimony received during the public hearing.

At this time, Chairman Arndt asked the applicant if there is anything they would like to add to the application. Matt Mooney with Balanced Rock Power presented this application to the Board of County Commissioners.

Tom Haren with AGPROfessionals stated that AGPRO doesn't work against the interest of agriculture. If this project was taking irrigated ground or productive dry land out of production, he would not be working on this project. He added that the area this project is proposed in is some of the most remote and unproductive areas of Morgan County. The ground has never been grazed and cannot generate enough revenue to pay its own taxes. This project is on private ground with only 2 landowners. Everything of possible concern has been taken into account by the applicants. AGPRO is very experienced with site selection for projects and is very familiar with Morgan County. The Taelor Solar site is a good site. The ground is fragile, but it is not something unique to this project and it is something that can be taken care of. We have an expert reclamation plan for protecting the soils. This project is in compliance with the Morgan County Comprehensive Plan.

Randall Rumsey, Landowner for R&L Rumsey Land, LLC added that they have supported the local community since they have been in Morgan County. "We know the ground better than anyone, and we believe the solar project is currently the highest and best use for the land at this time." The solar project will benefit the local and county economy. If this solar project were to ever terminate, the ground could be restored back to agriculture.

Steve Gabel, Landowner for Magnum Feedyard, LLC added they have turned a rundown feed yard into a 35,000 head business. Magnum Feedyard is a family business. They are an economic driver in the county. They state that Balanced Rock Power has done a lot of community outreach. He is a strong believer in private property. The highest and best use of this marginal land is solar production.

Commissioner Becker asked how much of this project is in Weld County?

Matt Mooney, "Split, approximately 50/50."

Commissioner Becker asked if it was in the permitting process now, and has it been approved?

Matt Mooney said they have only had pre-application meetings.

Commissioner Westhoff asked what the spacing is between the battery storage units?

Liam Norris, Director of Engineering for Balanced Rock Power answered the spacing between the units depends on the final technology selection.

Chairman Arndt asked Attorney Kathryn Sellars to clarify mineral rights in a general sense.

Attorney Kathryn Sellars stated that in general, mineral rights owners have an easement to access the property for the exploitation of the minerals they have rights to. There are statutes in Colorado specific to Oil & Gas. A mineral rights owner has to exercise due regard to the surface owner.

Chairman Arndt asked the applicants how they plan to address the questions and concerns that have been brought forth regarding the mineral rights?

Matt Mooney stated that they have done their research and have found there are no Oil & Gas mineral owners on the property they are leasing. They have had conversations with mineral owners who reached out to them that they are open to conversations and entering into negotiations to leave well pads open to access the minerals under the surface.

Commissioner Westhoff asked how far this project is from the Kinder Morgan Gas Plant?

Matt Mooney stated they are 2/3 or a mile north.

PUBLIC COMMENT OPEN:

In Favor: None

Opposed: Sandy Gomke, 12851 Co Rd 2. Her main concern is an adequate source of water. Taelor Solar intends to get their water from the Magnum Feedyard wells. Magnum Feedyard, on average, uses 168,630,000 gallons of water per year. The EPA states the average family of 3 uses 109,500 gallons per year. 250 acre-feet will be used by Taelor Solar during the construction period. The amount of water being used by Taelor Solar during the life of the project is enough water for 20 families for a year. She does not believe the Kiowa Bijou has enough water to support this project and has not seen an agreement to replenish this source. She is seeking denial for both of the Taelor Solar special use permits.

Jessica Price, 12434 Co Rd 1. She appreciates that Balanced Rock Power was able to accommodate some of her concerns. The portion of solar panels that they removed on their site plan has grazing done on that property all of the time. She does not believe all of the property is useless as mentioned previously. There are a lot of unknowns about how this project will affect property values. She wants to know who makes sure that they stay in compliance with this permit? Who oversees complaints about this project? What happens if they don't use the permitted haul route?

Randy Ravensborg, 12851 Co Rd 2. He has concerns about the water use. Magnum Feedyard owns 2 wells close to the aquifer that his well pulls out from. The removal of that water has a direct effect on him. When Magnum Feedyard expanded, there was a strain on groundwater. The solar farm will further deplete this shared resource. This is his only water access. If his well dries up, the options he has for water are limited.

Jolene Baumgartner, 0747 Co Rd M.5. She has a concern about the disease insurance that the project has for their employees. She feels that the county should protect its residents from corporations that come in. They have failed to lock in a contract with Xcel Energy. With no sale agreement, she believes this is a risky gamble. She asks the Commissioners to deny this project.

Mark Tapey, 2715 Co Rd M. He is requesting a property value guarantee. There will be a decrease in his property value. He also mentioned the amount of tax dollar incentives that this project will reward is in the millions, and he is not sure where these numbers are coming from. He believes this will decimate the middle class. He doesn't agree with this project.

Julian Steffen 2547 Co Rd M. She has concerns about her generation being surrounded by glass in an Agriculture zone. Why do we have zoning if we don't follow it? This project isn't needed in the area.

Mattie Bowling, 885 Co Rd M.5. There is a petition with 748 signatures, most are of local community members who do not support this project. Balance Rock Power has not responded to many of her questions and concerns. The unknowns are concerning. The future generations will be the ones who will be left paying for this. She referenced California and Texas' renewable issues that caused blackouts.

Clinton Warnberg, 885 Co Rd M.5. He strongly opposes this project. There are many offsite impacts that will negatively affect the surrounding area. Zoning laws regarding what you can put on your property are there for a reason. Large installations of lithium storage banks could make us a target for crime or terrorist attacks. How will the county pay for the additional law enforcement to ensure traffic safety during construction and the ongoing safety for the community? He is requesting the county to adopt a special performance standard to protect public health, safety, and welfare. He is also requesting a more detailed hydrology study. The county does not benefit from this project. There is a lack of risk assessment.

Justin Steffen, 2547 Co Rd M. He stated that in his research findings, property values drop between 2-4% near a 20-40 acre solar farm. There is starting to be an issue with insuring solar farms due to the fires that can happen. He referenced a solar fire in New York. What happens when our property values fail? Do our property taxes decrease because our values decreased? The values that Balanced Rock Power has shown are just estimates.

James Burt, 881 Spring Drive, Boulder. Lithium burns at over 3,000 degrees Fahrenheit. Water cannot put these fires out. He referenced the issues that other countries are having with battery fires. He is hoping that there is some sort of chemical extinguishing and deployment of that technology for the fire department.

Brandon Allart, 1151 Co Rd M. Brandon stated that there will be habitat loss, habitat fragmentation, habitat degradation, and multiple migratory birds in the area are a concern. He referenced a study by the Denver Gazette that showed migratory birds can be impacted by solar activity and changes to the earth's geomagnetic field. The soil type is type C and is the worst for acclimation, dust mitigation, and erosion control once it's disturbed. He has multiple questions that have not been answered by the applicant. Who is going to regulate the speeds? Who is going to pay the increase to his homeowner's insurance? Why was there not a study done on the view shed from his property looking to the west? How long is it going to take the local fire department to get to the project site when there is a catastrophic event? What is the status of the FAA concern? In regards to the BESS storage units, what happens when the buildings catch fire? How are the lithium vapors captured from migrating over to my house? What state is the SCADA network being controlled at? How often are the D.O.T regulation shutdowns tested? What kind of communications are going to be operated for SCADA?

Juan Ayala, 631 W. Platte Ave. He does not see the construction jobs that are being created during this project having an effect on the City of Fort Morgan. He does not believe there will be a positive impact on the economy of the Fort Morgan area.

Virginia Steffen, 2547 Co Rd M. She has found in her research that some of these solar companies are having issues with funding, finding supplies, mineral rights arguments, etc. Many aspects of this are economically unstable. It's green energy, but at what cost? Batteries lose a tremendous amount of efficiency in cold weather.

PUBLIC COMMENT CLOSED:

BOARD OF COUNTY COMMISSIONER COMMENTS:

Taylor Henderson noted he has been in conversation with Assistant Fire Chief John Pachek and Justin Ryan from Wiggins Fire and presented to the Wiggins Fire Protection Board of Directors recently. In that meeting, they offered a vesting class training and partnership with the fire department. The primary concern they gathered from the Board was the fire with the BESS systems. The applicants stated they would supply the fire department with the technology necessary for this project.

Andy Blum, Fire Protection Engineer stated the best way to stop thermal runaway is to cool the batteries off. If they can get a direct injection of water into the cells, they can cool off and slow down the propagation. These batteries are a lithium salt, and not a lithium metal. These batteries are stored in cabinets, kind of like a utility cabinet. There is no structure for the fire department to enter in case of a fire. He stated they can't get water to the direct cells, so the best thing to do is apply water to the exterior of the surface. Water is the recommended agent.

Commissioner Westhoff asked why do you want to put water on a battery that is burning?

Andy Blum clarified they would only be putting water to nearby exposures.

Taylor Henderson stated they would be able to deputize someone from their team to serve as a member of the fire department so that the fire department would be able to go back to their day jobs.

Commissioner Becker asked if there is a worry about the off-gases and letting these batteries burn?

Andy Blum stated that a major study that was done a couple of years ago where they burned multiple batteries and collected the smoke plume to analyze it. The constituents of the products collected were the same things as modern-day fires like plastics, sofas, and furniture. There were no toxins in the air that would be harmful to people.

Anthony Natale, Fire Rick Alliance stated there are 3 reasons that batteries fail. Thermal, which would be when these batteries are exposed to elemental heat, electrical, which is being overcharged, and mechanical, which is when the batteries are being used in an area where not mechanically able to work i.e. car battery. A study found that the 4 gases that come off of the battery are carbon monoxide, carbon dioxide, hydrogen, and methane. The chemistry they are using now in these batteries is comparable to diesel.

Chairman Arndt asked for clarification about the heat with the BESS.

Anthony Natale stated that these units are designed with climate control.

Liam Norris stated that each enclosure will have their own HVAC system.

Commissioner Becker asked what the redundancy is on those units?

Anthony Natale answered that if you lose the thermal management system, the other systems will shut themselves down. SCADA is like having an ADT system.

Commissioner Becker asked what the response time is on that, and if you shut it down are you still draining batteries, or is everything in and out stopped?

Anthony Natale replied that when you have this type of class C fire, the batteries will still contain some type of charge so they will handle the fire accordingly. He was not able to provide a response time.

Liam Norris stated that shutting off the system would happen automatically.

Commissioner Westhoff asked what are the intentions if one of the batteries fail. How are they disposed of?

Anthony Natale stated that they have a decommissioning plan, and in that plan, they have to state a facility that will take their materials. They have a facility in New York and one in Arizona, so that material would get shipped out there.

Commissioner Arndt asked if there was anything like the previous projects where the fire department can do fire suppressant from afar?

Anthony Natale said there is always an option to install an FDC. With that option, you only want to do that if the container is fully burning otherwise it will ruin the other modules. That is another reason they space the batteries out as far as they do.

Sheriff Dave Martin commented that what Chairman Arndt had asked was something he brought up with another project. It was mentioned to have pre-connects to the storage facilities in order for the fire department to hook up and not open up the compartments.

Anthony Natale said there would be an entire assessment after the fire, and it is more complicated than just opening up the container once the fire is burnt out.

Steve Gabel stated the Magnum Feedyard leased area to Taelor Solar has 6 irrigation wells and 4 livestock wells. They obtained a change of use permit from the State to change 4 of the irrigation wells to dual irrigation and large-capacity commercial. Each of those 4 wells has a limit to how much they pump. They are required to read the meters monthly by an independent 3rd party and then have the 3rd party supply those readings to the Division of Water. They also have to do annual reports for their water usage. During their reports, they have to identify how many gallons were used for commercial uses, and how many gallons were used for agricultural uses.

Taylor Henderson stated the best form of cleaning the modules is snow. They believe 10 acre-feet will be on the high end for what they are going to use for this project.

Commissioner Westhoff asked during construction what is your best maintenance to control blowing sand?

Taylor Henderson said they will be watering the dirt and going to keep a layer of shrub brush on top.

Steve Gabel stated they can dedicate manure to soil erosion mitigation from the feed yard.

Commissioner Westhoff asked what is the common practice to keep the vegetation down?

Taylor Henderson noted they are more than likely going to mow.

Commissioner Becker asked if they are the developer and the person who is going to run the project?

Matt Mooney stated their business model is to develop and sell projects prior to construction. They were not successful in the latest Xcel RFP. They are committed long-term to this project.

Commissioner Becker asked what the efficiency is of these solar panels to capture sunlight?

Liam Norris stated they are between 23% - 25%.

Commissioner Becker asked for clarification on the grazing of the land due to multiple differentiating statements.

Tom Haren with AGPROfessionals stated some parcels can be and have been grazed. A significant part of the project is on previously abused ground that has not been reestablished. There is potential this solar project can improve the property out there with their maintenance.

Commissioner Becker asked with the system you are using, is any of it parasitic load or are you actually powering these units with power coming into the facility?

Liam Norris stated they they've designed these systems to be powered by the power being used to charge the battery.

BOARD OF COUNTY COMMISSIONER DISCUSSION:

Commissioner Becker stated whoever buys this project will need to stand by these promises. This project does live within what is permissible for this piece of land. The battery storage is what is the most concerning. There are a lot of unknowns and the fire expertise isn't there yet. This BESS system is closer to subdivisions. What are our guarantees to show this system is safe? He does not see any reason why this cannot be permitted on this piece of land.

Commissioner Westhoff agreed with what Commissioner Becker stated. The county has approved 3 other solar facilities with battery storage facilities. It is an ideal use for the area and it is a needed facility.

Chairman Arndt stated his main concern is the battery storage and fire. He would like a condition to be in place is an M.O.U with the Wiggins Fire Department. The fire department needs to be knowledgeable about this.

Commissioner Becker noted that there needs to be a new map completely addressing everything that was mentioned. He wants to make sure the dust suppression is mentioned in the Road Use Agreement. The fire suppression needs to be addressed in the conditions and that the applicant has agreed to a funded fire department. If there is a failure inside of a BESS system, the community and the neighbors are to be included in any action report before being allowed to move forward again. During construction, the trucks need to follow the allowed haul route.

Taylor Henderson stated that they would look into enforcing some sort of penalty for drivers who left the road use agreement area.

Commissioner Becker stated there have to be resources for the Town of Wiggins or the Fire Department to make sure those routes are held.

Chairman Arndt noted the Board is not allowed to discuss this project with the other Board members or anyone other than the County Attorney.

Commissioner Becker moved to continue the hearing to February 6th, 2024 where at that time they will render a decision with no further testimony.

Commissioner Westhoff seconded the motion.

Motion carries 3-0.

Being no further business the meeting was then adjourned at 1:10 p.m.

Respectfully Submitted,
Jenafer Santos
Planning Technician

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/ Kevin Strauch

Kevin Strauch