

COMMISSIONERS PROCEEDINGS 1

MEETING OF THE BOARD OF COUNTY COMMISSIONERS
Minutes of Meeting
May 7, 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/88143455214> 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 May 6, 2024.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/881434552149> listen via phone, please dial: 1-312-626-6799, Meeting ID: 881 4345 5214

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/88143455214> or to listen via phone, please dial: 1-312-626-6799, Meeting 881 4345 5214

The Board of Morgan County Commissioners met Tuesday, May 7, 2024 at 9:00 a.m. Chairman Mark Arndt, Commissioner Jon Becker, and Commissioner Gordon Westhoff were in attendance. Chairman Arndt asked Carrie Schmeckle from the Department of Human Services to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

Dusty Johnson House District 63 candidate updated the board on current bills in the Colorado Legislature.

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of meeting minutes dated April 30, 2024.
2. Ratify the Board of County Commissioners approval of Road Use Agreement, Segment 1 – Colorado's Power Pathway, Public Service Company of Colorado, a Colorado corporation conducting business as Xcel Energy.
3. Ratify the Board of County Commissioners approval of Contract **2024 CNT 045**, Convergent Technologies, LLC, term of contract March 13, 2024 through March 12, 2025.
4. Ratify the Board of County Commissioners approval of Contract **2024 CNT 046**, Long Building Technologies, Inc., term of contract April 3, 2024 through August 31, 2024.
5. Ratify the Board of County Commissioners approval on assignment of debt collections to Wakefield and Associates dated April 29, 2024. Client #232447, #232931, #232214, #233220.

At this time, Commissioner Westhoff made a motion to approve items 1-5 as presented; Commissioner Becker seconded the motion. The motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – Resolution 2024 BCC 19, A Resolution approving the renewal application of an Ambulance Service License for the Morgan County Ambulance Service

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

RESOLUTION NO. 2024 BCC 19

A RESOLUTION APPROVING THE RENEWAL APPLICATION OF AN AMBULANCE SERVICE LICENSE FOR THE MORGAN COUNTY AMBULANCE SERVICE

WHEREAS, pursuant to C.R.S. § 25-3.5-301, no person may provide ambulance services without being licensed by the Board of County Commissioners in the Morgan County;

WHEREAS, the Morgan County Board of County Commissioners ("BOCC"), adopted Morgan County Ambulance Regulations through Resolution No. 2022 BCC 10,

WHEREAS, the BOCC reviewed and considered the renewal application of the Morgan County Ambulance Service at its meeting on May 7, 2024; and

WHEREAS, the BOCC desires to approve the renewal application of the Morgan County Ambulance Service.

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

1. The renewal application for an Ambulance Service License submitted by the Morgan County Ambulance Service is hereby approved and the Ambulance Service License is renewed effective upon approval of this Resolution. The County is authorized to issue any necessary vehicle permits under the License.

APPROVED this 7th day of May, 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

Commissioner Becker made a motion Resolution 2024 BCC 19, A Resolution approving the renewal application of an Ambulance Service License for the Morgan County Ambulance Service. Commissioner Westhoff seconded the motion and motion carried 3-0.

Consideration of Approval – Resolution 2024 BCC 20, A Resolution amending a Use by Special Review Permit Issued for a Confined Animal Feeding Operation for Sandy Hills Family Dairy, LLC

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

RESOLUTION 2024 BCC 20

A RESOLUTION AMENDING A USE BY SPECIAL REVIEW PERMIT ISSUED FOR A CONFINED ANIMAL FEEDING OPERATION LOCATED IN A PART OF THE NW1/4 AND THE N1/2SW1/4 OF SECTION 14 AND IN A PART OF THE NE1/4 OF SECTION 15, ALL IN TOWNSHIP 3 NORTH, RANGE 59 WEST OF THE 6TH P.M., MORGAN COUNTY, COLORADO AND GRANTING VESTED RIGHTS

WHEREAS, Sandy Hills Family Dairy, LLC (the “Owner”) has operated a confined animal feeding operation (“CAFO”), more specifically a dairy, since 1993 pursuant to the Morgan County Zoning Regulations and previously as a grandfathered nonconforming use;

WHEREAS, the Owner has previously obtained a special use permit through Resolutions 93 BCC 45 and 93 BCC 60 and an amended special use permit through Resolution 2000 BCC 59 for the CAFO, which is located in a part of the NW1/4 and the N1/2SW1/4 of Section 14, Township 3 North, Range 59 West of the 6th P.M., Morgan County, Colorado and addressed as 15884 County Road 10, Fort Morgan, Colorado (the “Property”);

WHEREAS, the Owner has applied for an amendment to the amended special use permit to expand the CAFO into a part of the NE1/4 of Section 15, Township 3 North, Range 59 West of the 6th P.M., Morgan County and to increase allowed animal units from 5,600 animal units to 14,245 animal units, which includes calves, dry cows, milking cows, and heifers (the “Application”). This expansion would also include installation of the heifer operations, composting, an anaerobic digester facility, an additional dairy barn, two free stalls, and exercise lots;

WHEREAS, the Owner has concurrently applied for vested rights associated with the Application for period of eight (8) years;

WHEREAS, the Owner obtained a variance to reduce the required setback from the CAFO’s proposed new boundaries to occupied structures from the Morgan County Board of Adjustment through Resolution 2023 BOA 02 recorded in Reception No. 947869 in the Morgan County records;

WHEREAS, on September 11, 2023, after holding a duly noticed public hearing, the Morgan County Planning Commission recommended that the Application be conditionally approved;

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WHEREAS, on April 16, 2024, the Board of County Commissioners (“Board”) held a duly noticed public hearing on the Application;

WHEREAS, during the public hearing, the Board received testimony and evidence from the Owner, Morgan County staff and the public; and

WHEREAS, the Board desires to conditionally approve the Application.

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

1. APPROVAL

- a. The Application is hereby granted subject to the conditions and terms contained in this Resolution. This Resolution shall constitute the amended special use permit (hereinafter referred to as this “Resolution” or the “Permit”).
- b. The County approves vested rights for a period of eight (8) years from the date of approval of this Resolution. The vested rights granted herein shall not prohibit enforcement of the conditions and terms of this Permit.

2. FINDINGS OF FACT

The Board, having reviewed the application, all information provided and testimony heard, finds that:

- a. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. Specifically:

The property is located in the southwestern planning area as defined by the Morgan County Comprehensive Plan. In this area Comprehensive Plan goals include:

Encourage the preservation of agricultural production land to ensure continuation of this important industry. The facility is an agricultural business related to the dairy industry. The property use is necessary in Morgan County to preserve the agricultural economic base historically attributed to the area.

- 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 4-200 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, with the exception of traffic impacts and potential public safety concerns related to the movement of traffic related to the CAFO operation on and off of County Road Q. To address traffic impacts and safety issues, the Owner submitted a traffic report from Keller Engineering which provided information regarding traffic counts on County Road Q. In addition, the Owner submitted a proposed traffic circulation pattern on the property at the location of the scale entrance off of County Road Q, located approximately 888 feet to the east of the intersection of County Road 10 and Q. To determine whether the proposed traffic circulation pattern mitigates the impacts on the public traffic interactions with traffic generated by the CAFO and in reliance upon the representations by the Owner and the Owner’s agent through the Application and more specifically the traffic report, the County is imposing condition (c) below. However, as noted in this condition, the County finds that the circulation pattern may not alleviate and mitigate the traffic impacts and the County may exercise its continuing jurisdiction over this Permit to address traffic impacts and public safety issues in a more adequate and appropriate manner. Proposed use impacts upon existing uses and the environment are detailed in the included Nutrient Management Plan and Nuisance Plan. The Owner shall comply with all plans proposed by the Owner to mitigate any related impacts due to the operation of the CAFO and to be in compliance with this Permit.
- e. The special use proposed has been made compatible with the surrounding uses and is adequately buffered as determined by the County. A variance was granted from existing residences located within 1,320 feet of the proposed site. Other adjacent uses include pasture and dry farmland.
- f. The special use poses no or minimal risk to the public health, safety, and welfare.
- g. The amended special use proposed is located on a conforming parcel.
- h. The applicant has adequately documented a public need for the project, all pertinent technical information, 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.

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3. CONDITIONS

The approval of the amended special use is conditioned upon the following:

- a. The digester approved with this Permit may only process plant and animal materials originating from the permitted area of this SUP. No plant and animal materials originating from outside the permitted area shall be processed through the digester, until approval for such activity by the County is granted, under the applicable County regulations and requirements.
- b. The unpermitted access off of County Road Q on the northwest corner off the Owner's property in Section 15 shall be not be used unless approved by the Morgan County Road and Bridge Department. Nothing herein shall be deemed to require Morgan County Road and Bridge Department to issue a driveway permit for that access.
- c. The circulation pattern for truck delivery of silage as shown on the site plan, dated April 10, 2024, shall be implemented by the Owner during the period of silage deliveries to the Property. For the first three (3) years after the approval of this Permit, the Owner shall contact Road & Bridge Department at least two (2) days prior to the beginning of truck deliveries during silage season. The Road & Bridge Department, or its designee, should observe the traffic circulation pattern, at various times, to determine whether it is alleviating traffic and safety concerns. If the Road & Bridge Department, or its designee, determines that the circulation pattern is not being complied with or that the pattern is not alleviating the traffic and safety concerns, it shall report such observations to the Planning Department. Upon receipt of such report, the Planning Department shall set the matter for a public hearing before the Planning Commission for review and recommendation to the Board of County Commissioners and then for a public hearing before the Board of County Commissioners for a final decision. Notice for the public hearings shall be the same as required for a special use permit. Nothing in this condition should be deemed to prevent the County from observing the traffic impacts of the direct accesses from County Road Q onto the property at any time and reevaluating the traffic impacts from the operation of the CAFO, as outlined in the findings above.
- d. Any run-off should slope away from the Bijou Canal, a 60-foot setback shall be established by the Owner from the edge of the Canal for buildings and corrals to allow for maintenance of the Canal, and the Owner shall continue to be obligated to provide its ability to contain any run-off that might occur.
- e. The Owner shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit pursuant to Sec. 2-160 of the Morgan County Zoning Regulations. The County shall invoice the Applicant for costs and fees and payment will be due by the Owner within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County and revocation of this Permit.
- f. All other third-party permits, approvals and authorizations required under other applicable law will be obtained prior to the commencement of any expansion of the existing CAFO under this Permit.

4. GENERAL PROVISIONS.

- a. The Board of County Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County Representatives are authorized to inspect the Property at any reasonable time upon notice to the Applicant. This approval is conditioned on compliance with all information and representations contained in the Application and presented by the Owner and Owner's agent, which are incorporated into this Permit. If any representations or information presented by the Owner and Owner's agent during the public hearing or the Application are found to be erroneous, lacking a factual basis or otherwise inaccurate, the County may institute enforcement proceedings to address such representations or information and require the Owner to take measures to correct such representations or information. The County, subject to notice and hearing, may amend, add, or remove any conditions on this Permit or exercise any action provided for in the Morgan County Zoning Regulations.
- b. The Owner shall comply with all governmental and regulatory agency requirements and permits, including without limitation those promulgated for the protection of health, safety, and welfare of the inhabitants of Morgan County. Such compliance shall include without limitation compliance with the regulations of the Colorado Department of Public Health and Environment, the Colorado Department of Agriculture, and the United States Environmental Protection Agency.
- c. This Owner shall comply with all requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.

DATED this 7th day of May, 2024, *nunc pro tunc* April 16, 2024.

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**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

Nicole Hay, Morgan County Planning and Zoning Administrator, presented to the Board Resolution 2024 BCC 20, A Resolution amending a Use by Special Review Permit Issued for a Confined Animal Feeding Operation for Sandy Hills Family Dairy, LLC. Ms. Hay stated that on September 11, 2023, the Planning Commission held a public hearing on an application for an amendment to the amended special use permit and vested rights to allow for the expansion of an existing permitted Sandy Hills Family Dairy confinement operations which was originally granted by Resolutions 93 BCC 45 and 93 BCC 60 and amended through resolution 2000 BCC 59. The original permitted area is located in a part of the NW¼ and the N½SW¼ of Section 14, Township 3 North, Range 59 West of the 6th P.M., Morgan County, Colorado and addressed as 15884 County Road 10, Fort Morgan, Colorado. The amendment is to expand the CAFO into a part of the NE¼ of Section 15, Township 3 North, Range 59 West of the 6th P.M., Morgan County and to increase allowed animal units from 5,600 animal units to 14,245 animal units. The Planning Commission recommended approval on a vote of 7-0. On April 16, 2024, the Board of County Commissioners considered the application and conditionally approved it unanimously. Resolution 2024 BCC 20 reflects the outcome of that hearing.

Commissioner Westhoff made a motion to approve Resolution 2024 BCC 20, A Resolution amending a Use by Special Review Permit Issued for a Confined Animal Feeding Operation for Sandy Hills Family Dairy, LLC as presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Becker seconded the motion and motion carried 3-0.

Consideration of Approval – PROCLAMATION – May 2024 as Foster Care Month.

Carrie Schmeackle, from the Department of Human Services, presented the proclamation to the Board and read aloud the proclamation.



Foster Care Month Proclamation

WHEREAS, children are key to the state's future success, prosperity and quality of life;

WHEREAS, children have a right to thrive, learn and grow;

WHEREAS, foster parents provide the love, safety and stability that young children need in order to overcome past traumatic experiences in order to reach their full potential;

WHEREAS, Colorado foster parents are caring for and nurturing more than 2,000 children and youth in foster care today;

WHEREAS, we must come together as a community to recognize the important role foster parents play in caring for children who have experienced abuse and neglect, supporting family reunification and building strong communities;

WHEREAS, there is always a need for more foster parents in order to ensure children – especially older youth, children with complex needs, and siblings - have a safe, stable home in their community;

WHEREAS, there are numerous individuals, nonprofit organizations and public servants who are dedicated to raising awareness about the needs of children and youth in foster care as well as the invaluable contribution of foster parents;

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Therefore, we do hereby proclaim May 2024, Foster Care Month.

**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

At this time, Commissioner Becker made a motion to adopt the proclamation declaring May 2024 as Foster Care Month in Morgan County, as presented with Commissioner Westhoff seconding the motion. The motion carried 3-0.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Morgan County Clerk and Recorder, Kevin Strauch noted that UOCAVA ballots are being sent this this weekend and that the Clerk and Recorder's Office will becoming a Voter Service and Polling Center on June 10th.

Chairman Arndt noted that the ballot box has been moved to the South side of the building and encouraged everyone to vote.

Commissioner Westhoff noted that Brush and Wiggins High Schools have graduations this weekend. He also noted that his grandson is graduating and has already signed up with the Marines.

Commissioners reviewed the calendar dated May 3, 2024 through May 14, 2024 with no changes.

Being no further business the meeting was then adjourned at 9:15 a.m.

Respectfully Submitted,

Kevin Strauch
Clerk to the Board

(Minutes ratified May 21, 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