

# COMMISSIONERS PROCEEDINGS 1

**BOARD OF COUNTY COMMISSIONERS  
Morgan County Board of Social/Human Services  
Minutes of Meeting  
November 19, 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/87986137971> If you cannot connect via Zoom, you may submit written public comment to [morgancountybcc@co.morgan.co.us](mailto:morgancountybcc@co.morgan.co.us) by email by 4 p.m. on Monday November 18, 2024.

To participate in Public Hearings you may connect via Zoom Conferencing Access Information: <https://us02web.zoom.us/j/87986137971> listen via phone, please dial: 1-312-626-6799, Meeting ID: 879 8613 7971

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/87986137971> or to listen via phone, please dial: 1-312-626-6799, Meeting ID: 879 8613 7971

The Board of Morgan County Commissioners met on Tuesday, November 19, 2024 at 9:03 a.m. with Chairman Mark Arndt appearing remotely, 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. 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 October 22, 2024**

Chairman Arndt presented for review and approval the Department of Human Services Minutes dated October 22, 2024. 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 – September 2024**

Susan Nitzel, Accounting Manager presented to the Board for their review and approval of the Department of Human Services Warrants for the month of September 2024. Ms. Nitzel summarized the operating warrants as being a total of \$283,292.12 for operating costs and direct deposits for payroll were \$211,589.58, which totaled \$494,881.70. Ms. Nitzel stated there were fewer contract payments in August therefore the increase of \$38,000.00 to September.

Commissioner Becker made the motion to approve the warrants as presented for September 2024 in the amount of \$494,881.70 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 – September 2024**

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 September 2024. Ms. Nitzel summarized the Certification of Provider and Vendor Benefit Authorizations indicating the monthly total of \$870,692.93. Ms. Nitzel stated there was a decrease of \$53,000.00 from August which was in child care, foster care and food stamps. She explained that compared to last year there was an increase of \$74.00.

Commissioner Westhoff made the motion to approve the Certification of Provider and Vendor Benefits as presented for August 2024 in the amount of \$870,692.93, as presented and authorized the Chairman to sign, with Commissioner Becker seconding the motion. Motion carried 3-0.

Ms. Frenier explained that the LEAP season has started and encourages citizen to apply for that assistance. Also November is adoption awareness month and the Neal family a local Morgan County family will be honored.

There being no further business, the Board stood in recess at 9:09 a.m.

Respectfully Submitted,

Randee Aleman  
Deputy Clerk to the Board

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

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

# 2 COMMISSIONERS PROCEEDINGS

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

# COMMISSIONERS PROCEEDINGS 1

## MEETING OF THE BOARD OF COUNTY COMMISSIONERS

Minutes of Meeting

November 19, 2024

As reflected in posted agenda:

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The Board of Morgan County Commissioners met Tuesday, November 19, 2024 at 9:10 a.m. Chairman Mark Arndt appearing remotely, Commissioner Jon Becker, and Commissioner Gordon Westhoff attended.

### CITIZEN'S COMMENT

Chuck Miller, 26060 Morgan County Road S Brush, Colorado thanked the Board for their challenges that they are facing and the decisions they are making in the new green energy situations that are being brought into our county. Mr. Miller further discussed his concerns on the green energy.

### CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of **meeting minutes** dated October 29, 2024.
2. Ratify the Board of County Commissioners approval of **meeting minutes** dated November 6, 2024.
3. Ratify Chairman Mark Arndt's signature on **October 2024 Morgan County Warrants**, signed November 4, 2024.
4. Ratify the Board of County Commissioners approval of **Contract 2024 CNT 035 Union Colony Protective Services, Inc.**, Term of Contract March and November 2024 Elections.
5. Ratify the Board of County Commissioners approval of **Contract 2024 CNT 115 Blue Sky Electric Services, Inc.**, Term of Contract November 7, 2024 through November 7, 2025.
6. Ratify the Board of County Commissioners approval of **Contract 2024 CNT 116 Dean A. Graham dba Graham Upholstery & Carpet Cleaning/Graham Catastrophe Restoration**, Term of Contract July 15, 2024 through completion.
7. Ratify the Board of County Commissioners approval of **Contract Renewal 2023 CNT 023 R3-3 TK Elevator Corporation**, Term of Contract December 24, 2024 through December 24, 2025.
8. Ratify the Board of County Commissioners approval of **Intergovernmental Agreement 2024 IGA 003 City of Fort Morgan Fire Department**, Term of Contract October 29, 2024 Until Termination.
9. Ratify the Board of County Commissioners approval of Request for **Waiver of Rental Fees for Morgan County Golden Stars**, signed November 4, 2024.
10. Ratify Chairman Mark Arndt's signature on **Storm Water Inspection Report**, Inspection Date October 23, 2024 signed November 4, 2024.
11. Ratify Chairman Pro Tem Jon Becker's signature on **Morgan County Public Trustee October 2024 Report**, signed November 18, 2024

At this time, Commissioner Becker made a motion to approve items 1-11 as presented; Commissioner Westhoff seconded the motion. The motion carried 3-0.

### UNFINISHED BUSINESS

There was no unfinished business.

### GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

#### **Consideration of Approval – County Held Tax Sale Liens**

Morgan County Treasurer and Public Trustee, Robert Sagel, presented for approval the County Held Tax Sale Liens. Mr. Sagel explained there are explained there are four accounts that are up for tax sale.

1. Account #R009713, Tax Lien Cert #19960306, Assessed to: GATEWAY MORTGAGE CORP  
SECT,TWN,RNG: 01-3-57 DESC: PARC NE1/4SE1/4 B562 P126-7 LODI  
Current Amount Due \$ 6,122.53

# 2 COMMISSIONERS PROCEEDINGS

2. Account #R007172, Tax Lien Cert #19960309, Assessed to: RICKEL, C C EST  
SUB:RIVERSIDE ADD, FM BLK:28 LOT:16 & LOT:17 DESC: W5FT OF E45FT LT 16 & W5FT OF E45FT LT 17  
Current Amount Due \$ 2,743.49
3. Account #R004629, Tax Lien Cert #19990002, Assessed to: ACHZIGER OIL COMPANY INC  
DESC: IMPS ON CB&Q RR SO OF BLK 26 ORIGINAL TOWN, FM  
Current Amount Due \$ 6,985.60
4. Account #R020999, Tax Lien Cert #2018-00220, Assessed to: CLARK, CECILE S  
Subd: MUNNS ADD REPLAT OF LTS 28,37,50-52, BR Lot: 02 N 8.35FT OF THE S 68.35FT OF LOT 2  
Current Amount Due \$ 385.01

## **Consideration of Approval - Bid Tabulation and Award, RFP 2024-1031-001 Facilities Infrastructure Replacement Project**

Morgan County Building Maintenance Mike Cox and Dave Cornwell, presented to the Board for approval Bid Tabulation and Award RFP 2024-1031-001 Facilities Infrastructure Replacement Project. Mr. Cox explained he received four bids, a bid from The JAMAR Company in the amount of \$1,552,940.00, a bid from Economy Air Conditioning & Heating in the amount of \$2,182,964.00, a bid from Tolin Mechanical Systems Company in the amount of \$1,431,249.00 and a bid from Douglass Colony which only bid the solar without the structure in the amount of \$160,000.00. Mr. Cox explained each bid in detail.

Mr. Cox recommended that the lighting be done in house & with the price being \$59,182.00 and that solar is awarded to Bid #4 Douglass Colony in the amount of \$160,000.00. He stated that after carefully reviewing the remaining bids he had two finalists Bid# 1 The JAMAR Company and Bid# 2 Economy Air & Conditioning with these companies meeting the majority of the line items.

### **Economy Air Conditioning & Heating:**

Numerous exceptions. This has the potential to exceed the budget allotted for 2025.

Additional \$8,432.00 for the server for the HVAC control system Admin BAS Server that is not added into the total price.

Line item pricing does not match total.

Total **\$2,176,532.00**

Corrected total is **\$2,174,532.00**.

Additional control pricing of **\$8,432.00**.

New total with addition is **\$2,182,964.00.00**

Amount removed for lights is **\$738,451.00**

New total is **\$1,444,515.00**

Trane Units - currently in use

Bid incomplete at time of opening

### **JAMAR:**

Cost of project **\$1,552,940.00**

Mr. Cox stated that throughout his Building Maintenance/Construction Career gaining knowledge and experience with different HVAC units/systems available it is his personal opinion to go with Carrier Units. Which are proposed by JAMAR Company. While the cost is more upfront he believes the County will be saving money and labor hours in the long run due to repair work, failing parts and/or upgrades in the future. He stated that our current experience with Trane Units has been frustrating and difficult to keep operational.

In addition, Morgan County currently has a working relationship with JAMAR Company. He stated that they are quick to response to downed units, swift repairs, preventative maintenance, and current experience with operations, layout and restrictions of County Buildings. Mr. Cox stated that he believes the best fit for Morgan County is to award this project to The JAMAR Company.

# COMMISSIONERS PROCEEDINGS 3

Mr. Cornwell explained that the train units are more difficult to work on and get fixed.

Commissioner Becker asked if the solar is being addressed now, with Mr. Cox stating that he would recommended it be awarded to award to Douglass. Commissioner Becker asked if that includes the building with Mr. Cox stating no it does not.

Commissioner Westhoff explained that this is for DOLA grant that is due June 2025, for these projects.

Mr. Cox is currently working on getting bids for the structure.

Chairman Arndt suggested that they hold off on the solar bid until we find out about the structure cost.

Mr. Cox stated that the current units on the justice center will not go through another summer.

Commissioner Westhoff made a motion to accept the Bid Tabulation and Award RFP 2024-1031-001 Facilities Infrastructure Replacement Project be awarded to JAMAR Company in the amount of \$1,552,940.00, as recommended by Morgan County Building Maintenance Mike Cox and Dave Cornwell, with Commissioner Becker seconding the motion. At this time motion carried 3-0.

**Consideration of Approval – Resolution 2024 BCC 44, A Resolution amending the Morgan County zoning and subdivision regulations concerning notice requirements.**

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

**RESOLUTION NO. 2024 BCC 44**

**A RESOLUTION AMENDING THE MORGAN COUNTY ZONING AND SUBDIVISION REGULATIONS CONCERNING NOTICE REQUIREMENTS**

WHEREAS, the County desires to amend the Morgan County Zoning and Subdivision Regulations to address the notice requirements for land use applications, variances, subdivisions and text amendments to the Zoning and Subdivision Regulations:

WHEREAS, on October 15, 2024, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval of the amendments;

WHEREAS, on November 6, 2024, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

WHEREAS, the Board of County Commissioners has complied with all relevant provisions for amending the Morgan County Zoning and Subdivision Regulations; and

WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these amendments to be in the best interest of the citizens of Morgan County.

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

Section 1. Section 2-255 of the Morgan County Zoning Regulations is amended to read as follows:

Notice of a public hearing on amendments to these Regulations shall be given at least fourteen (14) days prior to the public hearing by publication in a newspaper of general circulation within the County and posting on the County’s website. The notice shall remain posted through the conclusion of the hearing. Notices for the public hearings required under Section 2-250 may run concurrently. Notice shall be in the form provided in Appendix A.

Section 2. Section 2-280(A) of the Morgan County Zoning Regulations is amended to read as follows:

(A) Publication in newspaper of general circulation and posting on the County’s website which shall remain posted through the conclusion of the hearing. Notice shall be in the form provided in Appendix A.

Section 3. Section 2-420(A) of the Morgan County Zoning Regulations is amended to read as follows:

(A) Posting on the County’s website which shall remain posted through the conclusion of the hearing. Notice shall be in the form provided in Appendix A.

Section 4. Section 2-450(A) of the Morgan County Zoning Regulations is amended to read as follows:

# 4 COMMISSIONERS PROCEEDINGS

- (A) Posting on the County's website which shall remain posted through the conclusion of the hearing. Notice shall be in the form provided in Appendix A.

Section 5. Section 5-200(A) of the Morgan County Zoning Regulations is amended to read as follows:

- (A) Planning Administrator or designee shall be responsible for posting the notice of a public hearing, required under Section 5-215 of these Regulations, on the County's website, at least ten (10) days prior to said hearing before the Board of Adjustment and which shall remain posted through the conclusion of the hearing. Notice shall be in the form provided in Appendix A.

Section 6. Section 1-130(C) of the Morgan County Subdivision Regulations is amended to read as follows:

- (C) Procedures. A petition for any such deviation shall be submitted in writing by the subdivider at the time when the preliminary plan is filed for the consideration of the Planning Commission. If there is no preliminary plan, the petition shall be made at the time of the final plat is submitted for consideration by the Board. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. As applicable, the Planning Commission and the Board shall hold a public hearing on the request. At least fourteen (14) days prior to the public hearing, notice of the hearing shall be mailed to landowners within one-thousand three hundred and twenty feet (1320') of the boundary of the proposed subdivision and posted on the County's website. The notice shall remain posted through the conclusion of the hearing.

Section 7. Sections 1-150(B) and (C) of the Morgan County Subdivision Regulations are amended to read as follows:

- (B) The Planning Commission shall hold a public hearing prior to recommending the adoption of any amendments or changes. At least fourteen (14) days prior to the public hearing, notice of the hearing shall be published once in a newspaper of general circulation within the County and posted on the County's website. The notice shall remain posted through the conclusion of the hearing. After considering the testimony at the public hearing, comments from governmental agencies, and interested parties, the Planning Commission shall recommend approval, conditional approval or disapproval of the proposed changes or amendments to the County Commissioners.
- (C) The County Commissioners shall hold a public hearing prior to taking action upon such recommendation. At least fourteen (14) days prior to the public hearing, notice of the hearing shall be published once in a newspaper of general circulation in the County and posted on the County's website. The notice shall remain posted through the conclusion of the hearing. Before adopting any such subdivision regulations, the County Commissioners may revise, alter, or amend any such subdivision regulations developed, proposed, or recommended by the County Planning Commission. After due consideration, the County Commissioners shall approve, conditionally approve, or disapprove the proposed changes or amendments and such decision shall be binding on all parties affected by this regulation.

Section 8. Sections 6-140(E) and (G) of the Morgan County Subdivision Regulations are amended to read as follows:

- (E) Staff will schedule a public hearing before the Planning Commission and notify the applicant in writing of the hearing date and time. At least fourteen (14) days prior to the public hearing notice of the hearing shall be mailed to landowners within one-thousand three hundred and twenty feet (1320') of the boundary of the proposed subdivision and posted notice on the County's website. The notice shall remain posted through the conclusion of the hearing. Applicants are required to send notice, by certified mail, return receipt requested to mineral estate notice in accordance with C.R.S. § 24-65.5-103, thirty (30) days prior to the hearing. Applicants must file with the Planning Department a certification of notice to mineral estate owners on a form provided by the County. Failure to file certification may result in a continuation of the hearing.
- (G) Following the recommendation by the Planning Commission, staff shall schedule a public hearing before the Board and notify the applicant in writing of the hearing date and time. At least fourteen (14) days prior to the public hearing, notice of the hearing shall be mailed to landowners within one-thousand three hundred and twenty feet (1320') of the boundary of the proposed subdivision and posted notice on the County's website. The notice shall remain posted through the conclusion of the hearing.

Section 9. Section 6-140 of the Morgan County Subdivision Regulations is amended with a new subsection (H) to read as follows with the current subsections (H) and (I) re-lettered to (I) and (J) accordingly:

- (H) The applicant shall be required to post notice on the property for which the major subdivision is requested. Such notice shall consist of at least one (1) sign facing each public right-of-way adjacent to the property. Such signs shall measure not less than twenty-four inches by thirty-six

# COMMISSIONERS PROCEEDINGS 5

inches (24" x 36"). The size of the letters, indicating the notice, should be a minimum of two inches (2") above ground level. Such sign(s) shall read as indicated in Appendix A. Signs advertising the major subdivision application must be photographed by the applicant and submitted to the Planning Department subject to the following requirements:

- (1) Photographs of the signs posted on the property shall be submitted to the Planning Department at least five (5) days prior to each public hearing date. These photographs shall be accompanied by an affidavit from the applicant or applicant's representative that signs were posted at least ten (10) days prior to the public hearing date. The affidavit shall be in the form provided in Appendix A.

Section 10. Section 8-170 of the Morgan County Subdivision Regulations is amended by the addition of a new subsection as follows:

- (I) If Applicable, the applicant shall be required to post notice on the property for which the minor subdivision is requested. Such notice shall consist of at least (1) sign facing each public right-of-way adjacent to the property. Such sign(s) shall measure not less than twenty-four inches by thirty-six inches (24" x 36"). The size of the letters, indicating the notice, should be a minimum of two inches (2") high and such signs shall be erected on posts no less than four feet (4') above ground level. Such sign(s) shall read as indicated in Appendix A. Signs advertising the minor subdivision application must be photographed by the applicant and submitted to the Planning Department subject to the following requirements:

- (1) Photographs of the signs posted on the property shall be submitted to the Planning Department at least five (5) days prior to each public hearing date. These photographs shall be accompanied by an affidavit from the applicant or applicant's representative that signs were posted at least ten (10) days prior to the public hearing date. The affidavit shall be in the form provided in Appendix A.

Section 11. Section 8-190 of the Morgan County Subdivision Regulations is amended to read as follows:

The staff shall review the application and determine if the application is complete and whether the application should be referred to any other agency or department. If the application is referred, the department or referral agency will have fourteen (14) days to respond. Lack of response shall be deemed an approval. Upon determination that an application is complete, staff shall mail notice of the application to the landowners within one-thousand three hundred and twenty feet (1320') of the proposed minor subdivision at least fourteen days prior to the hearing, if applicable, notice of the public hearing shall be posted on the County's website. The notice shall remain posted through the conclusion of the hearing.

Section 12: Section 10-200(E) of the Morgan County Subdivision Regulations is amended to read as follows:

- (E) Review of Submission. Staff shall review the submittal information within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted and at least fourteen (14) days prior to the public hearing, notice of the hearing shall be mailed to landowners within the subdivision or planned development and posted on the County's website. The notice shall remain posted through the conclusion of the hearing.

Section 13. Section 10-400(E) of the Morgan County Subdivision Regulations is amended to read as follows:

- (E) Review of Submission. Staff shall review the submittal information within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted and at least fourteen (14) days prior to the public hearing, notice of the hearing shall be mailed to landowners within the subdivision or planned development and posted on the County's website. The notice shall remain posted through the conclusion of the hearing.

Section 14. Section 10-500(E) of the Morgan County Subdivision Regulations is amended to read as follows:

- (E) Review of Submission. Staff shall review the submittal information within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be

# 6 COMMISSIONERS PROCEEDINGS

processed. Once a complete application has been submitted and at least fourteen (14) days prior to the public hearing, notice of the hearing shall be mailed to landowners within the subdivision or planned development and posted on the County's website. The notice shall remain posted through the conclusion of the hearing.

Section 15. Section 10-600(E) of the Morgan County Subdivision Regulations is amended to read as follows:

- (E) Review of Submission. Staff shall review the submittal information within fifteen (15) working days and provide the applicant with initial written comments, specifically noting any inadequacies in the submittal items. Staff may request that the applicant make changes or clarifications to the submittal information prior to referral agency review. An incomplete submittal will not be processed. Once a complete application has been submitted and at least fourteen (14) days prior to the public hearing, notice of the hearing shall be mailed to landowners within the subdivision or planned development and posted on the County's website. The notice shall remain posted through the conclusion of the hearing.

APPROVED this 19th day of November, 2024.

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

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

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

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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 for approval 2024 BCC 44, a Resolution amending the Morgan County zoning and subdivision regulations concerning notice requirements. Ms. Hay stated that on October 15, 2024, the Planning Commission reviewed and considered amendments to the Morgan County Zoning and Subdivision Regulations. These amendments revise the requirements related to methods of published and public notices for land use permits, variances, subdivisions, and text amendments to the Subdivision and Zoning Regulations. The Planning Commission recommended approval on a vote of 5-0, 1 member was absent. On November 6, 2024, the Board of County Commissioners reviewed and considered the same amendments to the Morgan County Zoning and Subdivision Regulations and approved them on a vote 3-0. Resolution 2024 BCC 44 reflects the outcome of that hearing.

Commissioner Becker made a motion to approve 2024 BCC 44, a Resolution amending the Morgan County zoning and subdivision regulations concerning notice requirements, as presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Westhoff seconded the motion and motion carried 3-0.

**Consideration of Approval – Resolution 2024 BCC 45, A Resolution approving an amended plat to be known as the Tate Amended Plat and more specifically an amended plat of lots 175 and 176, Jackson Lake Recreational Vehicle Park Subdivision.**

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

**RESOLUTION 2024 BCC 45**

**A RESOLUTION APPROVING AN AMENDED PLAT TO BE KNOWN AS THE TATE AMENDED PLAT AND MORE SPECIFICALLY AN AMENDED PLAT OF LOTS 175 AND 176, JACKSON LAKE RECREATIONAL VEHICLE PARK SUBDIVISION LOCATED IN THE W ½ NW ¼ OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 60 WEST OF THE 6<sup>TH</sup> P.M. MORGAN COUNTY, COLORADO**

**WHEREAS**, Brandy Living Revocable Trust (“Owner”) owns Lots 175 and 176 in the Jackson Lake Recreational Vehicle Park Subdivision, a subdivision located in the W½ NW¼ of Section 27, Township 5 North, Range 60 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, otherwise known as 176 Indian Way Weldona, CO 80653;

# COMMISSIONERS PROCEEDINGS 7

**WHEREAS**, Chris and Beck Tate (“Applicants”) submitted an application for an amended plat to vacate the lot line between Lots 175 and 176 (the “Application”);

**WHEREAS**, on November 6, 2024, the Board of County Commissioners (the “Board”) reviewed and considered the Application; and

**WHEREAS**, the Board desires to approve the Application.

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

- 1. The Board, having reviewed the Application and all information provided finds that:
  - a. No additional lots will be created.
  - b. The lot line vacation is keeping with the purpose and intent of the Morgan County Subdivision Regulations.
  - c. The vacation will not create a nonconforming setback for any existing buildings.
  - d. The resulting lot will meet the requirements of the applicable zone district, including those requirements in Appendix B of the Morgan County Zoning Regulations.
  - e. The vacation will not adversely affect access, drainage or utility easement or rights-of-way serving the property or other properties.
  - f. The plat adequately renames or renumbers the combined lots to Lot 176A.
  - g. The lot line vacation is consistent with the goals and policies of the County’s Comprehensive Plan.
- 2. The Board hereby approves the Tate Amended Plat, an amended plat of Lots 175 and 176, in the Jackson Lake Recreational Vehicle Park Subdivision, a subdivision located in the W½ NW¼ of Section 27, Township 5 North, Range 60 West of the 6<sup>th</sup> P.M., Morgan County, Colorado.

DATED this 19th day of November, 2024, *nunc pro tunc* November 6, 2024.

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

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

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

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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 for approval 2024 BCC 45, a Resolution approving an amended plat to be known as the Tate Amended Plat and more specifically an amended plat of lots 175 and 176, Jackson Lake Recreational Vehicle Park Subdivision. Ms. Hay stated that on November 6, 2024, the Board of County Commissioners reviewed and considered an application submitted by Chris and Becky Tate. The application is to amend and combine Lots 175 and 176 in the Jackson Lake Recreational Vehicle Park Subdivision, a subdivision located in the W½ NW¼ of Section 27, Township 5 North, Range 60 West of the 6<sup>th</sup> P.M., Morgan County, Colorado. The new lot will be Lot 176A of the Tate Amended Plat. The Board of County Commissioners approved it on a vote 3-0. Resolution 2024 BCC 45 reflects the outcome of that hearing.

Commissioner Westhoff made a motion to approve 2024 BCC 45, a Resolution approving an amended plat to be known as the Tate Amended Plat and more specifically an amended plat of lots 175 and 176, Jackson Lake Recreational Vehicle Park Subdivision, as presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Becker seconded the motion and motion carried 3-0.

**Consideration of Approval – Resolution 2024 BCC 46, A Resolution approving a replat to be known as Kroskob-Mese Replat of lots 1 and 2 of Legler Minor Subdivision.**

# 8 COMMISSIONERS PROCEEDINGS

MORGAN COUNTY, COLORADO  
BOARD OF COUNTY COMMISSIONERS

RESOLUTION 2024 BCC 46

A RESOLUTION APPROVING A REPLAT TO BE KNOWN AS  
KROSKOB-MESE REPLAT OF LOTS 1 AND 2 OF LEGLER MINOR SUBDIVISION  
AND A PART OF THE S ½ SW ¼ OF SECTION 34, TOWNSHIP 4 NORTH, RANGE 58 WEST OF THE  
6<sup>TH</sup> P.M., MORGAN COUNTY, COLORADO

**WHEREAS**, Paul A. Legler (the “Owner”) owns Lots 1 and 2 of Legler Minor Subdivision and a part of the S½SW¼ of Section 34, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M.;

**WHEREAS**, the Owner has applied for approval to replat Lots 1 and 2 of Legler Minor Subdivision and a part of the S½SW¼ of Section 34, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M., pursuant to the County’s Subdivision Regulations (the “Application”);

**WHEREAS**, notice of the public hearing before the Board of County Commissioners was properly published;

**WHEREAS**, on November 6, 2024, the Board of County Commissioners (the “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 approve the Application.

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

1. The Board, having reviewed the application, all information provided and testimony heard, finds that:
  - (a) The replat complies with the standards and regulations of the Morgan County Subdivision Regulations, and the original conditions of approval.
  - (b) Nonconforming lots are not created.
  - (c) The replat is in keeping with the purpose and intent of the Morgan County Subdivision Regulations.
  - (d) Legal and physical access is provided to all parcels by public right-of-way.
  - (e) The approval will not adversely affect the public health, safety, and welfare.
2. The Board hereby approves Kroskob-Mese Replat of Lots 1 and 2 of Legler Minor Subdivision and a part of the S½SW¼ of Section 34, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M, Morgan County, Colorado.

**DATED** this 19th day of November, 2024, nunc pro tunc November 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

Nicole Hay, Morgan County Planning and Zoning Administrator presented to the Board for approval 2024 BCC 46, a Resolution approving a replat to be known as Kroskob-Mese Replat of lots 1 and 2 of Legler Minor Subdivision. Ms. Hay stated that on November 6, 2024, the Board of County Commissioners held a public hearing on an

# COMMISSIONERS PROCEEDINGS 9

application from Paul Legler for a replat of Lots 1 and 2 of Legler Minor Subdivision and a part of the S1/2 SW1/4 of Section 34, Township 4 North, Range 58 West of the 6th P.M., Morgan County, Colorado. The intent of this replat was to move property lines to properly reflect the use of each lot. The replat will be known as the Kroskob-Mese Replat. The Board of County Commissioners considered all relevant testimony and evidence and approved the application. Resolution 2024 BCC 46 reflects the outcome of that hearing.

Commissioner Becker made a motion to approve 2024 BCC 46, a Resolution approving a replat to be known as Kroskob-Mese Replat of lots 1 and 2 of Legler Minor Subdivision, as presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Westhoff seconded the motion and motion carried 3-0.

**Consideration of Approval – Resolution 2024 BCC 47, A Resolution granting a special use permit to Pivot Solar 71, LLC for a Solar Collector Facility.**

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

**RESOLUTION  
2024 BCC 47**

**A RESOLUTION GRANTING A SPECIAL USE PERMIT TO PIVOT SOLAR 71 LLC  
FOR A SOLAR COLLECTOR FACILITY LOCATED IN SW ¼ OF SECTION 33,  
TOWNSHIP 4 NORTH, RANGE 56 WEST, 6<sup>TH</sup> P.M., MORGAN COUNTY, COLORADO**

**WHEREAS**, The Terry L. Larsen Trust, Dated May 14, 2017, and The Anna M. Larsen Trust, Dated May 14, 2014 (the “Owners”) own property located in SW ¼ of Section 33, Township 4 North, Range 56 West, 6<sup>th</sup> P.M., Morgan County, Colorado (“Property”) in the Rural Residential Zone District;

**WHEREAS**, Pivot Solar 71 LLC (the “Applicant”), on behalf of and with authorization of the Owners, has applied for a special use permit for a solar collector facility (the “Application”) to be located on the Property;

**WHEREAS**, on October 15, 2024, after holding a duly noticed public hearing, the Morgan County Planning Commission recommended that the Application be conditionally approved;

**WHEREAS**, on November 6, 2024, the Board of County Commissioners of Morgan County, Colorado held a public hearing on the Application;

**WHEREAS**, notice of the public hearing before the Board of County Commissioners was properly published and the notice was properly posted at the Property;

**WHEREAS**, during the public hearing the Board of County Commissioners received testimony and evidence from staff, the Applicant and the public; and

**WHEREAS**, after considering all relevant testimony and evidence, the Board of County Commissioners desires to approve the Application, subject to certain conditions set forth herein.

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

**1. APPROVAL.**

The Application is hereby granted, subject to the conditions set forth herein. This Resolution shall constitute the special use permit (hereinafter referred to as this “Resolution” or the “Permit”).

**2. FINDING OF FACT.**

Subject to the Applicant and Operator satisfying and complying with all conditions set forth herein, the following findings are made:

- a. The use and its location as proposed are in conformance with the Morgan County Comprehensive Plan. Specifically:
  - i. The project will 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 life of the project.
  - ii. The project will ensure adequate and financially secure public utilities are provided to all developments in Morgan County. This project will not require the use of water, sewage, or telecommunications onsite and the proposed connection to the utility grid will result in upgrades made to the area’s existing electric distribution grid at the Applicant’s sole cost.

# 10 COMMISSIONERS PROCEEDINGS

- iii. To preserve the manmade and natural environment in order to enhance the quality of life in Morgan County. The project will not impact wetlands, floodplain or drainage pattern. The project will encourage the use of renewable resources and production of electric power.
- b. All the application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.
- c. The site plan conforms to the district design standards of these Regulations.
- d. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures. During construction and, when necessary, water trucks will be used for dust mitigation. Upon completion of the project, the site will be reseeded with a native low-growth prairie grass mix. Landscaping maintenance will occur on a regular basis during the growing season. Pursuant to the County's Comprehensive Plan and its Zoning Regulations, the County may require development to mitigate impacts to County roads, including paving such roads. The County's Comprehensive Plan specifically recognizes that it is the County's policy and goal that the responsibility for developing the public facilities and services, including road building and maintenance, is imposed on developers of projects within the County. Further, pursuant to state law, the County has authority to order public improvements, including the paving of roads, and assess the costs on properties that specifically benefit from such public improvements. County Road 26 between County Road S and Interstate 76 is in such condition that substantial improvements to the road base would be required in order to improve the condition of the road to a point where asphalt could be applied, and such asphalt be properly maintained. The County finds that if it were to improve and pave County Road 26, the use and the Property subject to this Permit would specifically benefit as access to the project on the Property is from County Road 26 and could increase the value of the Property for additional or other uses during the life of the project or when the project is decommissioned.
- e. The special use proposed has been made compatible with the surrounding uses and adequately buffered as determined by the County. The proposed solar facility is compatible with the co-located solar facilities and has been designed to meet or exceed the 500' setback requirements to the residences to the south. To the north is Interstate 76 and to the east is Petteys Park Golf Course.
- f. The special use poses only the minimum amount of risk to the public health, safety and welfare as set by federal, state or county regulation, whichever is the strictest. The project will have minimal impacts, with the exception to adjacent roads, on surrounding adjacent uses as the facility is unstaffed, generates no emissions, emits no light or discernible noise.
- g. The special use proposed is not planned to be developed on a non-conforming parcel.
- h. The applicant has adequately documented a public need for the project, all pertinent technical information, adequate financial resources to implement it, and has paid all fees and review costs levied by the County for application processing and review. The energy generated from this project will be injected into Xcel Energy's existing electrical infrastructure and will provide cost savings to participating electrical ratepayers as part of Xcel Energy's Solar\*Rewards Offsite program.
- i. For any special use requiring a supply of water for human consumption that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity, quality, and reliability. For any special use which does not require a supply of water for human consumption, an adequate source of water for the proposed use in terms of quantity and reliability must be obtained prior to commencement of the use. Water is only needed during construction and will be supplied by trucks and sourced from an off-site location.
- j. The project's maximum power output is 1.8 MWac and will occupy a project area of approximately 11.3 acres as shown on the map attached to this Resolution as Exhibit A.
- k. Pivot Solar 71 LLC is the designated owner and operator of the solar collector facility approved by this Permit.

### 3. CONDITIONS.

The approval of the use by special review is conditioned upon the following:

- a. 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.
- b. 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, on-site percolation testing results that substantiate the estimated infiltration rate the Applicant presented in the letter

# COMMISSIONERS PROCEEDINGS 11

dated October 21, 2024 to verify compliance with State criteria for stormwater infiltration and release rates, 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.

- c. The Applicant will comply with the 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.
- d. The solar collector facility shall be enclosed by a security fence and be secured at all times. Emergency services must have access at all times.
- e. Prior to the commencement of construction, the Applicant will enter into a road use agreement for the use of any public road during construction which shall include the following:
  - i. A map showing which County roads will be used during construction.
  - ii. A pre-construction baseline inventory of County roads on the designated haul route to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant.
  - iii. A mitigation plan to address traffic congestion, control, and potential impacts to County roads to be used during construction. The mitigation plan shall also include any dust mitigation activities.
  - iv. A requirement that the Applicant return any County roads to their pre-construction baseline condition.
  - v. 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 the Applicant is not in default of any provision of the Permit. The County shall inspect the restored roads and the Applicant 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. The Applicant shall be responsible for correcting or properly completing the restoration.
  - vi. The residual fifteen percent (15%) retained by the County shall act as security for the Applicant's guarantee that the restoration remains free of defect during a two-year warranty period. The Applicant 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.
- f. The County has determined that the traffic during and after construction related to the project subject to this Permit will have an impact on County Road 26 between County Road S and Interstate 76 and that the Property will specifically benefit if the County undertakes asphalt paving of County Road 26, which abuts the Property, between Interstate 76 and County Road S. As such, the Applicant shall financially contribute to asphalt paving undertaken by the County as described in this condition. That financial contribution will be based upon the linear feet of the Property that abuts County Road 26 where the project will be located and the current estimated costs to improve and apply asphalt to County Road 26 between County Road S and Interstate 76. Pursuant to that formula, the Applicant is obligated to pay a percentage of total cost of installing asphalt pavement, which is estimated to be \$750,000.00. Based upon the linear feet of the Property abutting County Road 26, the Applicant is obligated to pay 23% of the total costs, which is equal to \$170,000.00. This financial contribution is triggered only if the County commences a project for road improvements, which includes the installation of asphalt pavement, for the identified portion of County Road 26 within five years of November 6, 2024. For purposes of this condition, commencement of the road improvement project requires approval of funding for the road improvement project, which includes the installation of asphalt pavement, by the Board of County Commissioners through the County's annual budget and a start date for the road improvement project prior to November 5, 2029. The County shall provide written notice to the Applicant of the approval and planned commencement of the road project, as described herein, and make the demand for payment in that notice. The Applicant shall have five years from the date of the notice to make full payment of the \$170,000.00; however, a minimum annual payment of \$34,000.00 shall be made to the County on or before each anniversary of date of the County's notice. If the County does not commence a project for road improvements, as described herein, for the designated segment of County Road 26 by November 5, 2029, the obligation to financially contribute as described in this condition shall terminate. However, nothing herein shall be deemed

# 12 COMMISSIONERS PROCEEDINGS

to limit or bar the County from exercising its statutory authority to assess the costs of any applicable public improvements.

- g. Prior to construction, the Applicant will work with the City of Brush on landscaped screening, which may include fencing, on the east side of the Property and submit the landscaping plan approved by the City of Brush to the County Planning and Zoning Department. Any ongoing obligations for the Applicant in the landscaping plan may be enforced by the County as a condition of this Permit.
- h. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after the Applicant has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- i. Construction occurring within one-quarter (1/4) mile of any residence shall not commence earlier than 7 a.m.
- j. The Applicant 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, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.
- k. The Applicant shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- l. The Applicant shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice the Applicant for costs and fees and payment will be due from the Applicant within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County. This obligation shall continue through the life of the project and its decommissioning.
- m. The Applicant shall pay the applicable Permit Fee, as adopted by the County Commissioners prior to construction.
- n. This Permit is valid for a period of three years from the date of approval below in accordance with Morgan County Zoning Regulations for the Applicant to substantially construct and install the solar collector facility approved by this Permit. Any extensions to the term of the Permit shall be governed by the provisions of the Morgan County Zoning Regulations.
- o. This Permit is subject to all applicable provisions of the Morgan County Zoning Regulations.

#### 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 appropriate Owner and the Applicant.
- b. This approval is conditioned on compliance with all information and representations contained in the Application and presented by the Applicant, which are incorporated into this Resolution.
- c. The Applicant shall comply and ensure compliance by third parties 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. All conditions and terms of this approval run with the land and apply to any subsequent operators or owners of the facility and the Property.

# COMMISSIONERS PROCEEDINGS 13



## EXHIBIT A

### Project Details



*Proposed array area highlighted in blue*

- Project Size: 1.8MW AC, enough to power roughly 483 Colorado homes
- Project Acreage: roughly 11.3
- Final phase of solar development on this parcel
- Arrays will appear contiguous with previous phases

**DATED** this 19<sup>th</sup> day of November, 2024, *nunc pro tunc* November 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

Nicole Hay, Morgan County Planning and Zoning Administrator presented to the Board for approval 2024 BCC 47, a Resolution granting a special use permit to Pivot Solar 71, LLC for a Solar Collector Facility. Ms. Hay stated that on October 15, 2024, the Planning Commission held a public hearing on an application submitted by Pivot Energy for a Special Use Permit to allow a solar collector facility with a maximum of power output of 1.8 MWac within an approximate 14 acre leased area. The permitted area is located in part of the SW1/4 of Section 33, Township 4 North, Range 56 West of the 6 th PM, Morgan County, Colorado. The Planning Commission recommended conditional approval on a vote of 4-1, 1 member was absent. On November 6, 2024, the Board of County Commissioners considered all relevant testimony and evidence, and the Board of County Commissioner conditionally approved the application. Resolution 2024 BCC 47 reflects the outcome of that hearing. Condition F is in regards to County Road 26 between County Road S and I-76 and upgrading it to asphalt surface which Pivot would be responsible for their percentage.

# 14 COMMISSIONERS PROCEEDINGS

Commissioner Becker proposed reconsidering resolution 47, there had been discussions during the hearing regarding the golf course and the solar farm, the screening was discussed but not addressed.

Commissioner Becker made a motion to reconsider 2024 BCC 47, a Resolution granting a special use permit to Pivot Solar 71, LLC for a Solar Collector Facility, for the purpose of looking at other conditions. Commissioner Westoff seconded the motion and motion carried 3-0.

Commissioner Becker noted that there was discussion as to the screening between the facility and the golf course in the City of Brush. There was a letter submitted from the City of Brush asking for a five-hundred-foot setback and some kind of screening. Under the County regulations the five-hundred-foot setback does not work, because there is not a structure on the golf course. During the hearing it was discussed that Pivot Solar 71 was to meet with the City of Brush to get the screening done, but it was not a condition of approval. He believes this should be a condition of approval to make sure Pivot Solar 71 goes in and works with the City of Brush to come up some type of screening that both parties can agree on.

Commissioner Becker provided some sample language for the condition. Chairman Arndt stated he agrees with Commissioner Becker as to there needing to be some type of condition. Morgan County Attorney Kathryn Sellars appearing remotely stated the only suggestion she would like the Board to consider is landscaping plans do have an ongoing maintenance component and the County needs to figure out if they want a continuing jurisdiction over the compliance of those terms of the landscaping agreement.

Commissioner Becker stated he would prefer that the agreement with the City of Brush allow the City of Brush to make sure that the screening continues. Ms. Sellers stated that can be added as a component to the landscape plan that is has to have an enforcement mechanism for the City of Brush.

Chairman Arndt explained he would feel more comfortable if the wording was they work with the City of Brush and the jurisdiction of the landscaping, but for the enforcement should stay with the County. Commissioner Westhoff stated that he spoke with City of Brush and they would like a slotted fence rather than trees or bushes.

Commissioner Becker made a motion to add a condition that states prior to construction the applicant will work with the City of Brush on landscape screening on the east side of the property and submit a landscaping plan approved by the City and County Planning and Zoning Departments and any further maintenance or upkeep or issues with that landscaping plan will be addressed through the County Planning and Zoning office. Commissioner Westhoff seconded the motion and motion carried 3-0.

Commissioner Becker made a motion to approve 2024 BCC 47, a Resolution granting a special use permit to Pivot Solar 71, LLC for a Solar Collector Facility, as amended presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Westhoff seconded the motion and motion carried 3-0.

**Consideration of Approval – Resolution 2024 BCC 48, A Resolution granting a special use permit to Roadrunner Energy Farm, LLC for a Solar Collector Facility.**

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

### **RESOLUTION 2024 BCC 48**

#### **A RESOLUTION GRANTING A SPECIAL USE PERMIT TO ROADRUNNER ENERGY FARM, LLC FOR A SOLAR COLLECTOR FACILITY LOCATED IN A PART OF SECTIONS 17, 19, 20, AND 29 THROUGH 32, TOWNSHIP 3 NORTH, RANGE 55 WEST AND IN A PART OF SECTIONS 5 AND 6, TOWNSHIP 2 NORTH, RANGE 55 WEST OF THE 6<sup>TH</sup> P.M., MORGAN COUNTY, COLORADO AND GRANTING WAIVERS FROM SETBACKS FOR CERTAIN SECTION AND PROPERTY LINES**

**WHEREAS**, Gold Spur Genetics, LLC, Bonnie Frazier, Bruce B. Bass Family LLLP, Michael L. Dixon Family LLLP, and Mary Ellen Hellyer (the “Owners”) own property located in Sections 17, 19, 20, and 29 through 32, Township 3 North, Range 55 West and a part of Sections 5 and 6, Township 2 North, Range 55 West of the 6<sup>th</sup> P.M., Morgan County, Colorado (the “Property”) in the Agriculture Production zone;

**WHEREAS**, Martha Colburn owns property located in part of Section 24, Township 3 North, Range 56 West of the 6<sup>th</sup> P.M., Morgan County (the “Colburn Property”) in the Agriculture Production zone;

**WHEREAS**, Roadrunner Energy Farm, LLC (the “Applicant”), on behalf of and with authorization of the Owners, has applied for a special use permit for a solar collector facility to be located on the Property and a gen-tie transmission line across the Colburn Property (together the “Application”);

**WHEREAS**, by separate written request, the Applicant requested waivers from the setback requirements from section lines and from setback requirements from property lines within the project boundary;

# COMMISSIONERS PROCEEDINGS 15

**WHEREAS**, after holding a duly noticed public hearing on October 15, 2024, the Morgan County Planning Commission recommended that the Application be conditionally approved;

**WHEREAS**, on November 6, 2024, the Board of County Commissioners of Morgan County, Colorado held a public hearing on the Application;

**WHEREAS**, notice of the public hearing before the Board of County Commissioners was properly published and the notice was properly posted at the Property;

**WHEREAS**, during the public hearing the Board of County Commissioners received testimony and evidence from staff, the Applicant, and the public; and

**WHEREAS**, after considering all relevant testimony and evidence, the Board of County Commissioners desires to approve the Application, subject to certain conditions set forth herein.

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

## **5. APPROVAL.**

The Application is hereby granted, subject to the conditions set forth herein. This Resolution shall constitute the special use permit (hereinafter referred to as this "Resolution" or the "Permit").

## **6. FINDING OF FACT.**

Subject to the Applicant, as the operator, satisfying and complying with all conditions set forth herein, the following findings are made:

- I. The use and location are in conformance with the Morgan County Comprehensive Plan. Specifically:
  - iv. The project will 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 life of the project.
  - v. The project conforms to the Goal and Policy 10 in Chapter 4 of the Comprehensive Plan by encouraging 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. The project contributes to the Colorado New Energy Economy, by attracting and maintaining renewable energy projects to capture this.
  - vi. Preserving the manmade and natural environment in order to enhance the quality of life in Morgan County. The project will not impact wetlands or floodplains and will avoid adverse impacts on plant and wildlife species. These projects will encourage use of renewable resources and production of electric power.
- m. The application documents are complete and present a clear picture of how uses are to be arranged on the site or within Morgan County.
- n. Subject to the conditions below, the site conforms to the district design standards of the Morgan County Zoning Regulations, specifically Secs. 2-470 and 4-820.
- o. The off-site impacts during construction and the life of the property will need to be addressed by the Applicant. The execution of a road use agreement, as required by the Morgan County Zoning Regulations, is a condition for approval. To address the condition of the access route, County Road O.5, the Applicant will complete the improvements in condition (j) below and execute a public improvement agreement to ensure that the necessary improvements are made to the designated County roads. Drainage issues have been experienced on County Road 30 (between County Roads O.5 and N) and the Applicant will need to assess and potentially address stormwater not contained on the Property, including making improvements to keep stormwater off of County Road 30. Satisfaction of those conditions will mitigate the off-site impacts during as a result of the project. Once construction is completed, the glare report indicates no glare will impact neighboring properties. Best management practices (BMP) will be implemented to protect newly established vegetation for Storm Water Management and Erosion Control.
- p. The special use is compatible with surrounding uses and adequately buffered as determined by the County. Residences are more than the County's 500-foot setback requirement. The parcels adjacent to the facility are pastureland in the Agricultural Production zone.
- q. This special use poses only the minimum amount of risk to the public health, safety and welfare as set by either federal, state or county regulation, whichever is the strictest.

# 16 COMMISSIONERS PROCEEDINGS

- r. The special use will not be located on a nonconforming parcel of land.
- s. The Applicant has adequately documented a public need for the project in the form of increased economic development. 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 the project 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.
- t. For any special use requiring a supply of water for human consumption that the applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity, quality, and reliability. For any special use which does not require a supply of water for human consumption, an adequate source of water for the proposed use in terms of quantity and reliability must be obtained prior to commencement of the use. Water for the project will be sourced from offsite commercial suppliers. Water will be stored in an onsite water tank.
- u. The project's maximum power output is 500 MWac and will occupy a maximum project area of 2,886 acres as shown on the map attached to this Resolution as Exhibit A.
- v. The Applicant is the designated owner and operator of the solar collector facility approved by this Permit.

## 7. CONDITIONS.

The approval of the use by special review is conditioned upon the following:

- a. The Applicant shall demonstrate ownership or possession of the properties on which the solar collector facility and gen-tie transmission line will be located prior to commencement of construction. The Applicant can demonstrate satisfaction with this condition through vested title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the properties.
- 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, public improvement 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, 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, an adequate supply of water, and a final drainage & erosion control plan including recommended infiltration testing conducted at the natural depressions that will be used to collect stormwater runoff to demonstrate that the underlying soils have sufficient capacity to infiltrate the captured stormwater per the requirements defined by the State of Colorado. The excess stormwater runoff that would otherwise drain offsite should either be detained and released in a controlled manner per the provisions of the Morgan County Zoning Regulations or captured and infiltrated in accordance with the requirements referenced above. The final site plan should reflect any potential "no-build" areas where excessive stormwater inundation depths would preclude development, as determined by the hydrologic and hydraulic analysis performed by the applicant's engineer.
- d. The Applicant and/or Owners will comply with the 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 and/or Owners commences decommissioning.
- e. Any building greater than 120 sq. ft. will require a building permit.
- f. No poles shall exceed a height of 100 feet. Any poles that exceed this height will require prior approval from the County, upon a showing by the Applicant that such height is necessary. Such additional height may be approved by the County Planning Administrator upon application and request from the Applicant. The County Planning Administrator may request any additional information necessary to determine whether approval should be granted.
- g. 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.
- h. Prior to the commencement of construction, to the extent deemed necessary by the County after the completed improvements to County Road O.5, the Applicant will enter into a road use

# COMMISSIONERS PROCEEDINGS 17

agreement for the use of any public road during construction. The agreement shall include the following:

- i. 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.
  - ii. 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.
  - iii. 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.
  - iv. A requirement that the applicant is to return any County roads to their pre-construction baseline condition.
  - v. 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 the Applicant are not in default of any provision of the road use agreement. The County shall inspect the restored roads and the Applicant 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. The Applicant shall be responsible for correcting or properly completing the restoration.
  - vi. The residual fifteen percent (15%) retained by the County shall act as security for the Applicant's guarantee that the restoration remains free of defect during a two-year warranty period. The Applicant 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.
- i. County Road N may not be used as a haul or access route to any phase of the overall project or during its operation. County Road N may only be used as a crossing from the north and south sides of the project during construction and operation. Prior to construction, the exact location of the crossover should be clearly defined. The crossing section of County Road N shall be subject to the road use agreement provisions condition (h) above.
  - j. The Applicant shall make all necessary improvements to the access roads (County Road O.5) prior to commencement of construction. Specifically, the Applicant shall improve County Road O.5 to a gravel surfaced road. In addition, a comprehensive stormwater analysis of County Road 30 (between County Roads O.5 and N) shall be conducted and submitted to the County prior to execution of any public improvement agreement. If stormwater is found to exceed the property's capacity and is not contained on site, the Applicant would be responsible for mitigating the drainage on County Road 30 and such mitigation measures shall be part of the public improvement agreement. The Applicant shall be required to submit road specifications as required by the County Road & Bridge Department detailing the improvements. Such specifications will be reviewed and approved by the County and its consultants, as necessary. Once such specifications are approved by the County, the Applicant shall be required to enter into a public improvement agreement, which at a minimum will require the posting of adequate security to ensure the improvements are completed in conformity with the approved specifications and a two-year warranty period from preliminary acceptance for all improvements. The public improvement agreement may be combined with the required road use agreement.
  - k. Prior to the commencement of construction, the Applicant 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.
  - l. 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. The Applicant 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

# 18 COMMISSIONERS PROCEEDINGS

construction. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.

- m. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six (6) months after the Applicant has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- n. Construction occurring within one-quarter (1/4) mile of any residence shall not commence earlier than 7 a.m.
- o. The Applicant 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 undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.
- p. The Applicant shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
- q. The Applicant shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice the Applicant for costs and fees and payment will be due from the Applicant within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.
- r. The Applicant shall pay the applicable Permit Fee, as adopted by the County Commissioners prior to construction.
- s. The project shall be substantially constructed, and the facility installed within six (6) years of the date of approval below. Failure to satisfy this condition shall result in the expiration of this Permit.
- t. This Permit is subject to all applicable provisions of the Morgan County Zoning Regulations.

## 8. SETBACK WAIVER

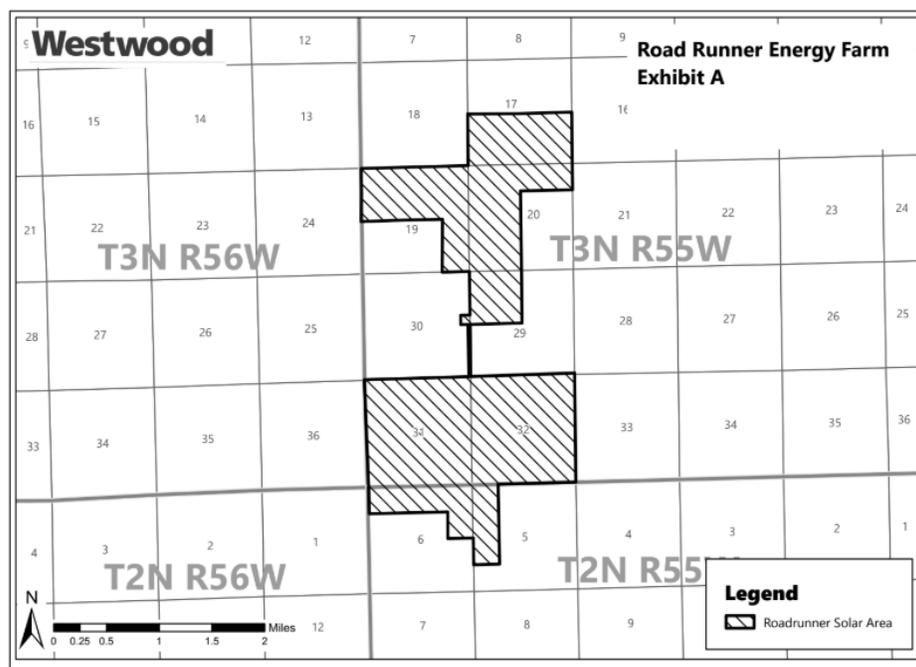
- a. Setback requirements established in the Morgan County Zoning Regulations for the following section lines are waived, subject to the reserved rights of Morgan County:
  - i. Section line between Sections 17 and 20, Township 3 North, Range 55 West.
  - ii. Section line between Sections 19 and 20, Township 3 North, Range 55 West.
  - iii. Section line between the W $\frac{1}{2}$  of Section 20 and the NW $\frac{1}{4}$  of Section 29, Township 3 North, Range 55 West located within the project boundary.
  - iv. Section line between the NW $\frac{1}{4}$  of Section 29 and the NE $\frac{1}{4}$  of Section 30, Township 3 North, Range 55 West located within the project boundary.
  - v. Section line between Sections 31 and 32, Township 3 North, Range 55 West.
  - vi. Section line between Section 31, Township 3 North, Range 55 West and Section 6, Township 2 North, Range 55 West.
  - vii. Section line between the NE $\frac{1}{4}$  of section 6 and the NW $\frac{1}{4}$  of Section 5, Township 2 North, Range 55 West located within the project boundary.
  - viii. Section line between the W $\frac{1}{2}$ W $\frac{1}{2}$  of section 32, Township 3 North, Range 55 West and the W $\frac{1}{2}$ W $\frac{1}{2}$  of Section 5, Township 2 North, Range 55 West located within the project boundary.
- b. Setback requirements established in the Morgan County Zoning Regulations for the following property lines are waived:
  - i. Property line between the NE $\frac{1}{4}$  and the NW $\frac{1}{4}$  of Section 19, Township 3 North, Range 55 West.
  - ii. Property line between the NE $\frac{1}{4}$  and the E $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 19, Township 3 North, Range 55 West.
  - iii. Property line between the W $\frac{1}{2}$  and the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 20, Township 3 North, Range 55 West.

# COMMISSIONERS PROCEEDINGS 19

- iv. Property lines located within Section 31, Township 3 North, Range 55 West, by excluding the property lines which are also section lines or constitute the project boundary.
- v. Property lines located within the N½ of Section 6, Township 2 North, Range 55 West, within the project boundary, by excluding the property lines which are also section lines or constitute the project boundary.
- vi. Property lines located within the W½W½ of Section 5, Township 2 North, Range 55 West, within the project boundary, by excluding the property lines which are also section lines or constitute the project boundary.

## 9. GENERAL PROVISIONS.

- d. 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 appropriate Owner and the Applicant.
- e. This approval is conditioned on compliance with all information and representations contained in the Application and presented by the Applicant, which are incorporated into this Resolution.
- f. The Applicant shall comply and ensure compliance by third parties 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. All conditions and terms of this approval run with the land and apply to any subsequent operators or owners of the facility and the Property.



**DATED** this 19th day of November, 2024, *nunc pro tunc* November 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

# 20 COMMISSIONERS PROCEEDINGS

(SEAL)

ATTEST:

s/ Kevin Strauch

Kevin Strauch

Nicole Hay, Morgan County Planning and Zoning Administrator presented to the Board for approval 2024 BCC 48, a Resolution granting a special use permit to Roadrunner Energy Farm, LLC for a Solar Collector Facility. Ms. Hay stated that on October 15, 2024, the Planning Commission held a public hearing on an application submitted by Roadrunner Energy Farms, LLC for a special use permit to allow an up to 500 MWac solar collector facility within a 2,886 acre project area. This facility would be located in a part of Sections 17, 19, 20, and 29-32, Township 3 North, Range 55 West, and a part of Sections 5 and 6, Township 2 North, Range 55 West of the 6th PM, Morgan County, Colorado. A gen-tie line will also go through Section 24, Township 3 North, Range 56 West of the 6th P.M.. Morgan County, Colorado to a point of interconnection. The Planning Commission recommended conditional approval on a vote of 4 in favor, 1 opposed, and 1 member absent. On November 6, 2024, the Board of County Commissioners considered all relevant testimony and evidence and conditionally approved the application. The conditions do include the recommendations made by HDR (upgrading CR O.5 to gravel surfaced road, a comprehensive stormwater analysis for CR 30 between CR O.5 and CR N, and pre and post construction surveys for the segment of CR N that will be used for the cross over). It was not represented in the application that CR N would be used as a haul route, therefore, may not be used as haul route without an amendment to this permit. Resolution 2024 BCC 48 reflects the outcome of that hearing and the approval of waivers from setbacks for certain section and property lines and a 3 year renewal to extend the permit to a total of 6 years.

Commissioner Becker asked if this will also have a road agreement as a condition as well, with Ms. Hay stating yes and that conditions H, I, and J are the conditions that address the road concerns.

Commissioner Westhoff made a motion to approve 2024 BCC 48, a Resolution granting a special use permit to Roadrunner Energy Farm, LLC for a Solar Collector Facility, as presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Becker seconded the motion and motion carried 3-0.

**Consideration of Approval – Resolution 2024 BCC 49, A Resolution Granting a special use permit to Roadrunner Energy Farm, LLC for a Battery Energy Storage System.**

## MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

### RESOLUTION 2024 BCC 49

#### **A RESOLUTION GRANTING A SPECIAL USE PERMIT TO ROADRUNNER ENERGY FARM, LLC FOR A BATTERY ENERGY STORAGE SYSTEM FACILITY LOCATED IN SECTION 19, TOWNSHIP 3 NORTH, RANGE 55 WEST OF THE 6<sup>th</sup> P.M., MORGAN COUNTY, COLORADO**

**WHEREAS**, Bonnie Frazier (the “Owner”) owns property located in Section 19, Township 3 North, Range 55 West of the 6<sup>th</sup> P.M., Morgan County, Colorado (“Property”) in the Agriculture Production zone;

**WHEREAS**, Roadrunner Energy Farm, LLC (the “Applicant”), on behalf of and with authorization of the Owner has applied for a special use permit for a battery energy storage system facility (the “Application”) to be located on the Property;

**WHEREAS**, after holding a duly noticed public hearing on October 15, 2024, the Morgan County Planning Commission recommended that the Application be conditionally approved;

**WHEREAS**, on November 6, 2024, the Board of County Commissioners of Morgan County, Colorado held a public hearing on the Application;

**WHEREAS**, notice of the public hearing before the Board of County Commissioners was properly published and the notice was properly posted at the Property;

**WHEREAS**, during the public hearing the Board of County Commissioners received testimony and evidence from staff, the Applicant and the public; and

**WHEREAS**, after considering all relevant testimony and evidence, the Board of County Commissioners desires to approve the Application, subject to certain conditions set forth herein.

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

**10. APPROVAL.**

# COMMISSIONERS PROCEEDINGS 21

The Application is hereby granted, subject to the conditions set forth herein. This Resolution shall constitute the special use permit (hereinafter referred to as this "Resolution" or the "Permit").

## 11. FINDING OF FACT.

Subject to the Applicant, as the operator, satisfying and complying with all conditions set forth herein, the following findings are made:

- w. The use and location are in conformance with the Morgan County Comprehensive Plan. Specifically:
  - vii. The project will 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 life of the project.
  - viii. The project conforms to the Goal and Policy 10 in Chapter 4 of the Comprehensive Plan, by encouraging 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. The project contributes to the Colorado New Energy Economy, by attracting and maintaining renewable energy projects to capture this.
  - ix. Preserving the manmade and natural environment in order to enhance the quality of life in Morgan County. The project will not impact wetlands or drainage patterns. These projects will encourage use of renewable resources and production of electric power.
- x. The application is complete and presents a clear picture of how the use is to be arranged on the site.
- y. Subject to the conditions below, the site conforms to the district design standards of the Morgan County Zoning Regulations, specifically Secs. 2-470 and 4-855.
- z. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures. During construction, any off-site mitigation for roads will be addressed through a road use agreement associated with Roadrunner Energy Farm, LLC solar collector facility construction. Best management practices (BMP) will be implemented to protect newly established vegetation for Storm Water Management and Erosion Control.
- aa. The special use is compatible with surrounding uses and buffering is not necessary because the adjacent uses are compatible. Residences are more than the County's 500-foot setback requirement. The parcels adjacent to the facility are zoned Agricultural Production and are pastureland.
- bb. This special use poses only the minimum amount of risk to public health, safety, and welfare.
- cc. The special use will not be located on a nonconforming parcel of land.
- dd. The Applicant has adequately documented a public need for the project in the form of increased economic development. 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 this project and the solar facility 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.
- ee. The Applicant has demonstrated a source of water which is adequate for the proposed use in terms of quantity and reliability. Water is only needed during construction and will be supplied by trucks and sourced from an off-site location.
- ff. The project's maximum has a capacity of up to 2000 MWhrs (a maximum power output of 500 MWac) located within 8.3-acre project area as shown on the map attached to this Resolution as Exhibit A.
- gg. The Applicant is the designated owner and operator of the BESS facility approved by this Permit.

## 12. CONDITIONS.

The approval of the use by special review is conditioned upon the following:

- e. The Applicant shall demonstrate ownership or possession of the property prior to commencement of construction. The Applicant can demonstrate satisfaction with this condition through vested

## 22 COMMISSIONERS PROCEEDINGS

title in its name, or a lease or other agreement directly with the property owner allowing the permitted use to be conducted on the property.

- 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, Liability Insurance Certificate, and an adequate supply of water.
- d. The Applicant and Owners will comply with the proposed decommissioning plan and 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 facility shall be enclosed by a security fence and be secured at all times. Emergency services must have access to the facility at all times.
- g. The proposed location of the BESS facility is in the NW ¼ Section 19, Township 3 North, Range 55 West. If the BESS facility needs to be relocated from the proposed location designated in the IFP plan, dated July 8, 2024 to accommodate for existing topography, drainage or other site conditions, the distance between any residence and the proposed location on that plan shall be maintained and not reduced under any circumstances. Any relocation of the BESS facility to another parcel, other than the NW ¼, Section 19, Township 3 North, Range 55 West shall require an amendment to the Permit.
- h. Prior to construction, the Applicant shall submit updated civil plans which including the identified points of access for mineral rights owners. These points of access shall be any portion of the BESS facility.
- i. Prior to the commencement of construction, the Applicant 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.
- j. The County may require that the road use agreement for the related solar collector facility govern any road impacts related to the construction of the BESS facility or require a separate road use agreement. In addition, for any public improvements to roads required for the associated solar collector facility, the County may require that the public improvement agreement govern public improvements for the construction of the BESS or require a separate public improvement agreement.
- k. 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. The Applicant 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.
- l. The project area shall be reclaimed and/or reseeded as soon as practicable but no later than six months after the Applicant has completed construction, unless the County Planning Administrator grants an extension for demonstrated good cause.
- m. Construction occurring within one-quarter (1/4) mile of any residence shall not commence earlier than 7 a.m.
- n. The Applicant 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, undertake such abatement and lien the property for the costs of the abatement. Such abatement shall not be deemed to limit any other enforcement rights of the County.

# COMMISSIONERS PROCEEDINGS 23

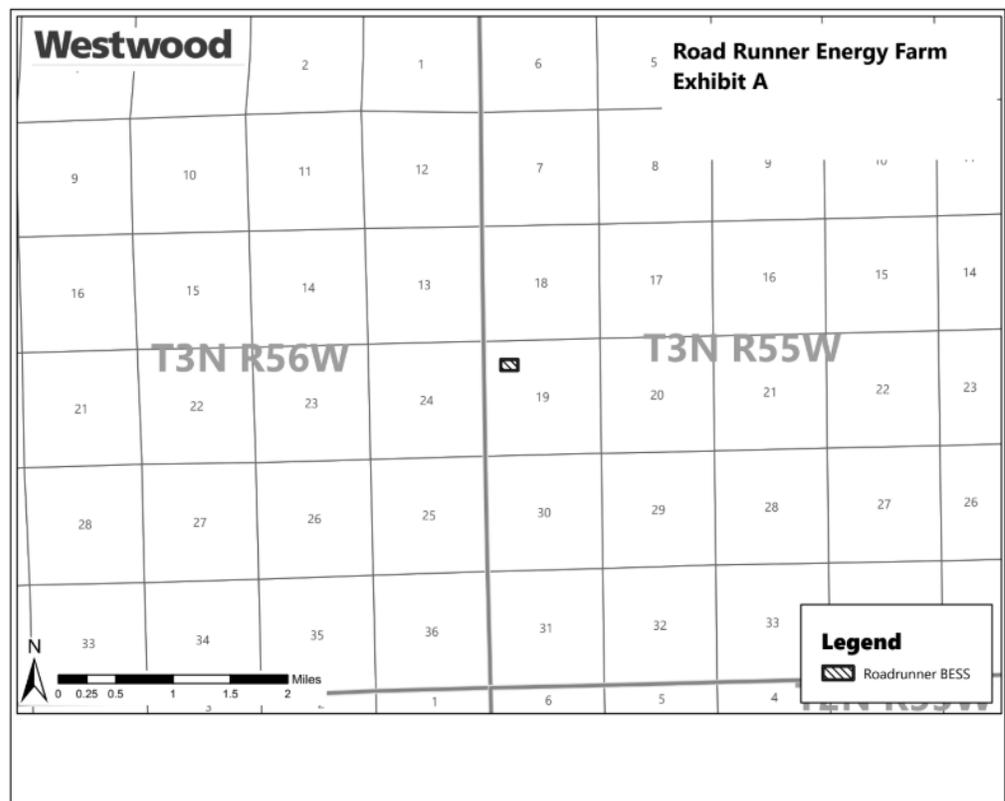
- o. The Applicant shall comply with all applicable laws and regulations related to safety and emergency management during construction and on-going operations.
- p. The Applicant shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice the Applicant for costs and fees and the Applicant shall submit payment within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.
- q. Prior to commencement of construction, the Applicant shall supply evidence of, at a minimum, an agreement between the Brush Rural Fire Protection District, Morgan County Sheriff's Office, and Morgan County Emergency Management Department and the Applicant concerning the provision of emergency and fire services to the BESS. As part of the agreement, the Applicant shall provide training and equipment necessary to respond to any incident or failure of the BESS facility, or any portion of the facility. The initial training must be provided to law enforcement, fire, ambulance, and the Morgan County Emergency Management Department prior to the commencement of operations at the BESS facility. The agreement shall require ongoing training on a schedule determined by the parties to the agreement. The ongoing training shall be made available to all agencies for which the initial training is required in this condition. Every three years after the commencement of operations, the Brush Rural Fire Protection District, Morgan County Sheriff's Office, and Morgan County Emergency Management Department and the Applicant shall review the agreement to ensure adequate response training and equipment.
- r. A minor incident, defined as failure of or fire in one battery container, shall trigger an immediate shutdown of the effected battery container by the Applicant. A major incident is defined as occurrence of one or more of the following: 1) a failure of or fire in two or more battery containers, 2) when a fire expands beyond the defensible space required in condition (u), or 3) an incident at the BESS facility results in an order of evacuation or shelter in place to residents in the vicinity of the facility. A major incident shall trigger an immediate shutdown of the entire BESS facility by the Applicant. Upon the occurrence of either type of incident, the Applicant shall issue an incident notification within three (3) days of the incident. The incident notification will describe the time, duration or nature of incident and must be mailed to all property owners within a half mile of the BESS facility at the addresses of record through the Morgan County Assessor's Office; the County Planning and Zoning Department; the City of Brush; Brush Rural Fire Protection District; Morgan County Sheriff's Office; Morgan County Ambulance Services and Morgan County Emergency Management Department. Within thirty (30) days of the incident, the Applicant shall deliver to the County Planning and Zoning Department an after-action report prepared by a qualified independent third-party with expertise in subject matter and shall identify any changes to the operations of the BESS facility necessary to maintain life and safety within the BESS facility and the neighboring residential properties. No operations may occur in the battery container or at BESS facility, as applicable based upon the type of incident, until the after-action report has been considered by the Board of County Commissioners at a noticed public hearing and the Board of County Commissioners approves restarting operations at the BESS facility, or within the battery container. Such a decision shall be made based upon the impact of the failure on neighboring residential properties, the threat and continuing threat to public safety, the response to the incident, cause of the failure and whether the Applicant has implemented or is in the process of implementing changes to the operations of the BESS facility, or battery container, necessary to maintain life and safety within the BESS facility and the neighboring residential properties. Notice of the hearing shall be provided in the same manner as public notice for a permit for a use by special review as provided in the Morgan County Zoning Regulations, as amended. If the Board of County Commissioners decides that the BESS facility or the battery container, as applicable, may not be returned to operation, the Board of County Commissioners may direct the Applicant to take any necessary steps to protect the public safety and welfare or alternative, schedule a hearing to revoke this Permit.
- s. Prior to construction, the Applicant will submit a fire mitigation plan and emergency operations plan. These plans may be submitted as one plan at the Applicant's discretion; however, the plans or plan must address the following:
  - i. The fire mitigation plan shall include a site plan which includes strategic information for first responders including access points and road, gates and fence access restrictions, lock box locations, fire command center or response location(s), water supply location water source and control critical fire protection system information, site hazards, and high-level emergency response plan notes.
  - ii. The emergency response plan shall provide operational steps by site personnel and first responders if an incident or failure occurs. The plan should include equipment description and overview, emergency access, a site map, access points, staging areas, hazard evaluations, signage, and safety protocols.
- t. The Applicant must obtain the approval from the Brush Rural Fire Protection District for the plans required in condition (s) above. That approval must be obtained prior to the plans being submitted to the County.

# 24 COMMISSIONERS PROCEEDINGS

- u. Due the high probability of wildland and grassland fires in Morgan County as established through the Morgan County Plan Element to the 2021 Northeast Colorado Regional Hazard Mitigation Plan, the BESS facility must be surrounded by a defensible space of at least 200 feet in width from the edge of the BESS facility. Within this defensible space, the Applicant must employ material which is nonflammable and will aid in the prevention of fire and suppress any vegetation or other flammable items. Conditions or materials which will create dust, such as the employment of dirt only in the defensible space, are also not permitted.
- v. The Applicant shall pay the applicable Permit Fee, as adopted by the County Commissioners prior to construction.
- w. The project shall be substantially constructed, and the facility installed within six (6) years of the date of approval below. Failure to satisfy this condition shall result in the expiration of this Permit.
- x. This Permit is subject to all applicable provisions of the Morgan County Zoning Regulations.

### 13. GENERAL PROVISIONS.

- g. 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 appropriate Owner and the Applicant.
- h. This approval is conditioned on compliance with all information and representations contained in the Application and presented by the Applicant, which are incorporated into this Resolution.
- i. The Applicant shall comply and ensure compliance by third parties 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. All conditions and terms of this approval run with the land and apply to any subsequent operators or owners of the facility and the Property.



**DATED** this 19th day of November, 2024, *nunc pro tunc* November 6, 2024.

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

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

\_\_\_\_\_  
s/ Jon J. Becker

# COMMISSIONERS PROCEEDINGS 25

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 for approval 2024 BCC 49, a Resolution Granting a special use permit to Roadrunner Energy Farm, LLC for a Battery Energy Storage System. Ms. Hay stated that on October 15, 2024, the Planning Commission held a public hearing on an application submitted by Roadrunner Energy Farm, LLC for a special use permit to allow an up to 2000 MWhr battery energy storage system within a 8.3 acre project area. This facility would be located in a part of Section 19, Township 3 North, Range 55 West of the 6 th PM, Morgan County, Colorado. The Planning Commission recommended conditional approval on a vote of 4 in favor, 1 opposed and 1 member was absent. On November 6, 2024, the Board of County Commissioners considered all relevant testimony and evidence and conditionally approved the application. The conditions do include that if the BESS needs to be relocated from the proposed location, under no circumstances may the distance between the facility and any residence be reduced. Resolution 2024 BCC 49 reflects the outcome of that hearing and a 3 year renewal to extend the permit to a total of 6 years.

Commissioner Becker made a motion to approve 2024 BCC 49, a Resolution Granting a special use permit to Roadrunner Energy Farm, LLC for a Battery Energy Storage System, as presented by Nicole Hay, Morgan County Planning and Zoning Administrator. Commissioner Westhoff seconded the motion and motion carried 3-0.

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

### **Upcoming Legislative Session – Senator Byron Pelton**

Mr. Pelton thanked Chairman Arndt and Commissioner Westhoff for their service on Boards that they served on together. He explained that they are 1.3 billion dollars in the hole. He is glad that he was able to hear the solar discussions today because the Colorado Energy Office is trying to take away the rights of the local jurisdiction to make those decisions. He will have a few bills that will be for Agriculture. He wants the land use rights to stay with the local jurisdictions and the State not taking it over.

Morgan County Chief Deputy Clerk, Randee Aleman stated that today is the Risk Limiting Audit for the November General Election, once that is passed we will certify the election. There will be a recount for The Wiggins Board of Trustees there was five candidates and it was vote for four and the 4<sup>th</sup> and 5<sup>th</sup> are separated by one vote.

Morgan County Sheriff Dave Martin stated that with the plumbing reconstruction of the kitchen in the jail they are using the fair grounds for meal prep and they have severed 1000 meals. He thanked Mike Cox and the building maintenance staff.

Morgan County Assessor Tim Amen thanked Senator Pelton they have been working together in a committee and he is listening to all those concerns with potential legislation. In the Assessor's office in the next couple of weeks' tax authorities will be seeing final value, they will then be able to submit their mill levy's.

Commissioners reviewed the calendar dated November 15, 2024 through November 26, 2024 with changes.

The meeting was adjourned at 10:22 a.m.

Respectfully Submitted,

Randee Aleman  
Deputy Clerk to the Board

**(Minutes ratified December 3, 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)

# 26 COMMISSIONERS PROCEEDINGS

ATTEST:

s/ Kevin Strauch

Kevin Strauch