

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting August 1, 2017

The Board of Morgan County Commissioners met Tuesday, August 1, 2017 at 9:00 a.m. with Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt in attendance. Also present was County Attorney Kathryn Sellars. Chairman James Zwetzig called the meeting to order and asked Morgan County Road Supervisor John Goodman to lead the meeting in the Pledge of Allegiance.

ADOPTION OF THE AGENDA

Commissioner Teague made a motion to adopt the agenda as presented, with Commissioner Arndt seconding the motion. Motion carried 3-0.

CONSENT AGENDA

- Ratify the Board of County Commissioners approval of meeting minutes dated July 25, 2017
- Ratify the Board of County Commissioners approval on Contract 2017 CNT 155, Andrew McClary, Attorney, provide legal services to Human Services, Term of Contract July 1, 2017 until completed
- Ratify the Board of County Commissioners approval on Contract 2017 CNT 156, Ehrlich Toyota, program key transmitters for unit #5298, Term of Contract July 19, 2017 until completed
- Ratify the Board of County Commissioners approval on Contract 2017 CNT 157, Advance Services, Inc, temporary personnel during the County Fair, Term of Contract July 19, 2017 until completed
- Ratify the Board of County Commissioners approval on amended Intergovernmental agreement 2017 IGA 05, regarding extraction of gravel with Washington County signed on July 28, 2017
- Ratify the Board of County Commissioners approval on the Colorado Tourism Leadership Journey application dated on July 27, 2017
- Ratify the Board of County Commissioners approval on the Stormwater Inspection Form signed on July 28, 2017
- Ratify the Board of County Commissioners approval on the 2017 Morgan County Fee Schedule: Planning and Zoning copy fees
- Ratify Chairman Jim Zwetzig's signature on the credit application for Fuzion Field Services dated on July 26, 2017
- Ratify Chairman Jim Zwetzig's signature on the Notice of Determination for Colorado Department of Health Care Policy for the 2017-18 County Grant Program Workload Management Project for Department of Human Services dated on 7/26/17
- Ratify the Board of County Commissioners approval of Tracy Amen, Human Resources Director's signature on the Arthur J. Gallagher & Co client authorization form to bind coverage for Morgan County Retirement Plan dated on July 25, 2017
- Ratify Chairman Jim Zwetzig's signature on credit application for Serck Services Inc, parts purchased for Fleet Department, signed on July 28, 2017
- Ratify Chairman Jim Zwetzig's signature on credit application for Advance Services, Inc, temporary personnel during County Fair activities, signed on July 28, 2017

Commissioner Arndt made a motion to approve all items on the Consent Agenda as presented. Commissioner Teague seconded the motion and motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Consideration of Approval – RESOLUTION – 2017 BCC 25 – A Resolution amending the Morgan County zoning regulations to allow water pipelines as a use by right in all zone districts

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2017 BCC 25

A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS TO ALLOW WATER PIPELINES AS A USE BY RIGHT IN ALL ZONE DISTRICTS

WHEREAS, the Board of County Commissioners of Morgan County has adopted the Morgan County Zoning Regulations to protect the public health, safety and welfare;

WHEREAS, the Board of County Commissioners may make amendments to the Morgan County Zoning Regulations upon its own motion or upon petition of the Morgan County Planning Commission;

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the County to amend the existing zoning regulations to permit water pipelines as a use by right in all Morgan County Zoning Districts; and

WHEREAS, the Board of County Commissioners has complied with all relevant provisions of the Morgan County Zoning Regulations, as well as the requirements of C.R.S. § 30-28-116, for amending the Morgan County Zoning Regulations.

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

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1. Section 3-170 of the Morgan County Zoning Regulations, Parcels Larger Than 20 Acres, is hereby amended by the addition of a new subsection (N) to read as follows:

(N) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
2. Section 3-170 of the Morgan County Zoning Regulations, Parcels 20 Acres and Smaller, is hereby amended by the addition of a new subsection (J) to read as follows:

(J) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
3. Section 3-190 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (J) to read as follows:

(J) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
4. Section 3-210 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (L) to read as follows:

(L) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
5. Section 3-230 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (J) to read as follows:

(J) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
6. Section 3-250 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (M) to read as follows:

(M) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
7. Section 3-270 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (I) to read as follows:

(I) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
8. Section 3-295 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (G) to read as follows:

(G) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
9. Section 3-315.5 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (G) to read as follows:

(G) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
10. Section 3-335.5 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (I) to read as follows:

(I) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
11. Section 3-355 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (H) to read as follows:

(H) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.
12. Section 3-380 of the Morgan County Zoning Regulations is hereby amended by the addition of a new subsection (J) to read as follows:

(J) Pipelines, and accessory structures, that transport water for domestic, agricultural, commercial and/or industrial use.

APPROVED this 18th day of July, 2017.

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THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

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

s/Laura D. Teague
Laura D. Teague, Commissioner

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

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey

Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry presented to the Board for approval, Resolution 2017 BCC 25, a Resolution amending the Morgan County zoning regulations to allow water pipelines as a use by right in all zone districts. Ms. Cherry stated the Board heard this matter during public hearing on July 18, 2017 and is basically requesting signature authorizing the approval of the matter.

Commissioner Teague made a motion to approve Resolution 2017 BCC 25, A Resolution amending the Morgan County zoning regulations to allow water pipelines as a use by right in all zone districts, as outlined Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and Commissioner Arndt seconded the motion. At this time, the motion carried 3-0.

Chairman Zwetzig asked Ms. Cherry to be sure that this information gets posted on the Morgan County web page.

Consideration of Approval – RESOLUTION – 2017 BCC 26 – A Resolution imposing a temporary moratorium on Morgan County’s processing of applications for proposed injection wells used for the storage or disposal of exploration and production wastes and other oil and gas waste and proposed facilities to treat waste from oil and gas operations in all unincorporated portions of Morgan County pending consideration of amendments to County regulations

Ms. Sellars summarized the proposed moratorium and stated this matter must be formally noticed for a future hearing date with Ms. Waite stating she is unable to make contact with the local media to obtain a date for publishing the notice at this time.

Commissioner Arndt made a motion to table the matter, Resolution 2017 BCC 26, a Resolution imposing a temporary moratorium on Morgan County’s processing of applications for proposed injection wells used for the storage or disposal of exploration and production wastes and other oil and gas waste and proposed facilities to treat waste from oil and gas operations in all unincorporated portions of Morgan County pending consideration of amendments to County regulations, until a date is determined. Commissioner Teague seconded the motion. At this time, the motion carried 3-0. Chairman Zwetzig stated this matter is being tabled for the proper posting of the matter as explained by County Attorney Kathryn Sellars.

Consideration of Approval – RIGHT OF WAY - 2017 PMT 21 – Morgan County Quality Water District

Morgan County Roads Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2017 PMT 21, with Morgan County Quality Water District. Mr. Goodman stated this right of way permit is to trench in the east right of way of County Road 4, starting at a point 4,260 feet south of County Road B at the existing 3” main located in the barrow ditch on the east side of County Road 4, for the purpose of installing new water service at 182 County Road 4. He stated the fees are attached in the amount of \$50.00 and the location has been inspected.

Commissioner Teague made a motion to approve Right of Way Permit 2017 PMT 21 with Morgan County Quality Water District as outlined in the narrative of the permit noting the fees are attached as presented by Morgan County Roads Supervisor John Goodman and authorized the Chair to sign. Commissioner Arndt seconded the motion and motion carried 3-0.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Mr. Goodman provided an update to the County’s chipseal projects explaining the areas they have been working on stating they are just short of County Road 20 and once they complete this area they will complete the remaining of County Road S between County Road 16 and 17. He further indicated that yesterday they lost a belt on the chipper which created some down time of three to four hours.

Commissioners reviewed the calendar dated July 28, 2017 through August 8, 2017 with no changes.

Commissioner Arndt stated the Board had a meeting with Viaero Wireless yesterday and stated they will be expanding the Wi-Fi service at the fairgrounds where it will provide commercial grade quality Wi-Fi and this will be done at no cost to the County as Viaero Wireless feels that schools and fairgrounds are important to have good WI-FI coverage. Commissioner Arndt also provided an update regarding the upcoming Morgan County Fair stating the steak fry is scheduled for Wednesday, August 9th in the evening, and there will be a beef show on Tuesday. On

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Monday there will be a pig show and Sunday a lamb show, Saturday a goat show, and also on Saturday there will be the bull riders special which will go on all day, but the actual charging part will be that evening. He stated that County Fair entertainment will be Tuesday evening, and there will also be entertainment Saturday evening sponsored by the bull riding event. Commissioner Arndt stated that the grand finale is Thursday evening where the livestock sale will take place stating this is a great way to support youth in the community and that all the youth who have participated in the fair are so important including those who partake in shooting sports and other 4H events, stating there are some that are participating at state fair level.

UNFINISHED BUSINESS

There was no unfinished business.

CITIZEN'S COMMENT

Chairman Zwetzig asked Clerk Susan Bailey to provide an update regarding the 2017 Mock Election. Clerk Bailey stated that Mock Election Day is happening today and invited all department managers and elected officials to vote using the new equipment. Chairman Zwetzig asked about the possibility of the equipment being hacked by Russians with Clerk Bailey stating the equipment is stand alone equipment and the only possible way to have this occur would be if someone was physically present in the office to do so and further outlined the security measures that are in place to maintain the integrity of the election process.

Terry Winberg, 16093 Highway 34, Fort Morgan, CO, spoke in concern of rabid animals, with the understanding that Northeast Colorado Health Department is the agency responsible for this matter, and in speaking with them they do not have funding available for these services and has a concern about how the testing process is being completed with the individual who may send the specimen in for testing would be responsible for the costs.

Commissioner Teague stated this issue is very important to the Northeast Colorado Health Department indicating she is a sitting member of this Board. She stated and feels there may have been some miscommunication regarding this situation and feels he may not have been able to speak to the appropriate person. She stated she will provide Mr. Winberg with the appropriate contact information to be able to express his concerns with and believes they are taking this matter seriously. She is aware there was an animal that did test positive as rabid, and understands the concern. Mr. Winberg stated he did recently experience this situation and was concerned. Commissioner Teague will provide the correct number to both the media and Mr. Winberg.

At this time, the Board recessed at 9:20 a.m. until the Public Hearing scheduled for 9:30 a.m..

PUBLIC HEARING

Chairman Zwetzig called the hearing to order at 9:30 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt. Also present were Pam Cherry, Planning Administrator and Eddy Melendez the applicant.

Application is for a Conditional Use Permit to pave a dirt parking lot for Cargill operations. The Property is located in the North 1/2 of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701

Applicant: Eddy Melendez

Landowner: Cargill Meat Solutions Corporation

Chairman Zwetzig asked Planning Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information:

Background Information

Ms. Cherry stated this application is for a Conditional Use Permit to pave a dirt parking lot for Cargill operations. The property is located in the North 1/2 of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

Ms. Cherry explained that the property is zoned Light Industrial and has been used by Cargill as a staging area for trucks for many years. In the Light Industrial Zone District Section 3-340(AA) states that Public and Private parking lots and Section 3-340(EE) Storage and Warehousing Facilities each require the Conditional Use process to be followed. The parcel is located within the Fort Morgan Rural Fire District and property taxes are current.

Ms. Cherry stated all the required documents for the application were included in the file.

At this time Ms. Cherry recommends the approval of the Conditional Use to permit the paving of the property in two phases. Phase 1 will pave 2.78 acres; Phase 2 will pave an additional 1.2 acres of the 46.95 acres parcel. The storage is to be used for storage and staging of empty box vans and shuttle vehicles related to Cargill operations with these suggested conditions, the site is to be graded and retention/detention constructed in compliance with City of Fort Morgan approved drainage plans.

Chairman Zwetzig asked Ms. Sellars if she had anything to add with her stating none.

At this time the applicants representing Cargill stated they had nothing further to add as well.

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Chairman Zwetzig opened the matter for public comment at which there was no public comment in favor or against the application being presented today.

Being no public comment, Chairman Zwetzig moved to discussion and decision at which time a motion was made by Commissioner Teague to approve the application for a Conditional Use Permit to pave a dirt parking lot for Cargill operations with the property being located in the North 1/2 of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701, naming the applicant as being Eddy Melendez and Landowner as Cargill Meat Solutions Corporation. She requested the preparation of a resolution with the pending impending approval of this matter. Commissioner Arndt seconded the motion. Chairman Zwetzig asked if the suggested condition is being considered with Commissioner Teague amending her motion to incorporate the condition be built according to the approved drainage and further indicated that she believes this will be beneficial to the community given they have been dealing with mud conditions for quite some time. An individual representing Cargill stated this has been quite an eyesore for some time, and believes this will be better for all.

Chad Cox, Western Engineering Consultant, 2501 Mill Street, Brush, spoke stating he worked with Mr. Curtis and Mr. Nation from the City of Fort Morgan to work on the engineering phase of this project explaining the plans that are being implemented in its entirety. The retention infiltration system will hold a two year event and is sized to take on a 25 year plan. Chairman Zwetzig confirmed the City of Fort Morgan will be taking the water off, and wanted to make a point there would be no damage to any adjoining properties with Mr. Cox stating this will be a major improvement plan to this area. At this time, Chairman Zwetzig asked if there was any public comment in regards to these comments with no public comment.

At this time, the amended motion carried 3-0.

Application is for a Variance to Section 3-650(6) Table 1 of Appendix B that states the maximum height of fences in the (LI) Light Industrial zone district is six feet. Cargill has applied for a variance of two feet to increase the overall height of the fence to eight feet that will be constructed of galvanized materials with barbed wire on top. The property is located in the North 1/2 of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

**Applicant: BTE Concrete Construction, Inc.
Landowner: Cargill Meat Solutions Corporation**

Chairman Zwetzig asked Planning Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

Ms. Cherry stated this application is for a Variance to Section 3-650(6) Table 1 of Appendix B that states the maximum height of fences in the LI Light Industrial zone district is six feet. Cargill has applied for a variance of two feet to increase the overall height of the fence to eight feet that will be constructed of galvanized materials with barbed wire on top. The property is located in the North 1/2 of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

Ms. Cherry explained the property to be fenced has been used by Cargill as a staging and storage area, same area being paved, for trucks and box vans for many years. Cargill also has a conditional use application, which was just approved.

At this time Ms. Cherry recommended the approval of the Variance from Section 3-650(6) maximum fence height of 6' to 8' with barbed wire atop galvanized chain link in the Light Industrial Zone District.

Chairman Zwetzig asked County Attorney Kathryn Sellars if she had anything to add, with Ms. Sellars stating she had none.

At this time the applicant stated the main reason for asking for this height of fencing is to remain at the same height as the existing fence line as well as providing the necessary security for those items located within this area.

Chairman Zwetzig opened the matter for public comment at which there was no public comment in favor or against the application being presented today.

Upon receiving no public comments, Chairman Zwetzig moved to discussion and decision.

A motion was made by Commissioner Arndt to approve the application for Cargill to go from a six foot fence to an 8 foot fence as proposed in the application and requested the preparation of a resolution. Commissioner Teague seconded the motion, with Chairman Zwetzig making the comment the Board is currently working on revising the County's regulations and the height of the fencing sometimes raises concerns with the applicant stating they will not be doing anything different from what they have been. At this time, the motion carried 3-0.

Application is for an Exemption from subdivision of 5.0 acres located in the SE 1/4 of Section 25, Township 2 North, Range 60 West of the 6th P.M., Morgan County, Colorado. The property will be known as 05971 County Road H, Wiggins, Colorado 80654.

**Applicant: Craig Gerhard Potthoff
Landowner: Craig Gerhard Potthoff**

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Ms. Cherry stated this matter was initially brought forward for the Board to hear April 4, 2017, whereas she came to them asking for full approval and had brought forward drainage issues. At that time the Board granted Mr. Potthoff 90 days to resolve the drainage issues and given 90 days which was July 4, 2017. Ms. Cherry stated the matter was then taken back to the Planning Commission on July 12, 2017 at which time approval was recommended with two members voting against. Ms. Cherry stated however, there was no drainage plans provided and has asked Public Works Director Bruce Bass to address this matter.

Chairman Zwetzig asked Ms. Sellars a procedural question with Ms. Sellars asking if the motion contained the language that if the applicant failed to provide the information, if in fact this matter would be denied. At this time, Ms. Cherry read aloud the motion that was made on April 4, 2017 whereas the motion included that if this matter is not resolved it will be considered a denied permit application.

Ms. Sellars stated there are two choices, the Board could take in consider that the matter was not resolved by the deadline and could deny the permit, or they could go forward with the public hearing and make their decision.

At this time, Commissioner Teague asked Ms. Cherry if she feels there have been considerable changes in the application in the way the applicant will be handling the drainage, with Ms. Cherry stating she could ask Mr. Bass this question further.

Ms. Sellars stated the Board could open the public hearing and allow further information stating the Board could hear from staff before the public hearing and then allow the applicant to speak.

Mr. Bruce Bass, Morgan County Public Works Director summarized information provided by Dick Early, Morgan County Bridge Supervisor. He stated that Mr. Early did note some drainage issues, noting there was three obstacles moving in the north direction from the intersection of County Road H moving on the west side of County Road 6, these being 475 feet north of the intersection stating there is a field access driveway, at 1460 feet there is a driveway accessing the adjacent property to the north of the applicant's property and at 1600 feet there is a filled in section in the barrow ditch in front of a house.

Mr. Bass indicated the benchmark measurement, utilizing the laser level was documented at 5 foot 11 inches. Mr. Early then measured the bottom culvert edge on the east side of the roadway. The reading of 6 foot 1 inch was documented. The reading indicates that the culvert was installed with two inches of fall moving from the west to the east, therefore; water should flow from west to east at this location.

Mr. Early then measured a point 1300 feet north of the intersection. The documented measurement at this location is 6 foot 7 inches. This indicates 8 inches of fall moving to the north from the culvert to the south side of an existing driveway. Mr. Early documented his final measurement 2600 feet north of the intersection. The reading at this location is 9 feet. This gives a total fall from the culvert to this point of 3 foot 1 inches. We noted three obstacles in the right of way on the west side of Road 6 between the culvert (benchmark point) and the final measurement 2600 feet north of the intersection. The first is a field access driveway located 475 feet north of the intersection, the second, an existing driveway, 1460 feet north of the intersection and a parking area in front of a house, approximately 1600 feet north of the intersection.

Mr. Bass stated that based on the information gathered, it is their opinion that any water making its way to the borrow ditch on the west side of County Road 6 would flow north from the existing culvert. If the obstacles were to be removed or have culverts installed in them, the water would be able to continue on to the Antelope Creek. This is along the barrow ditch, and they are making no assumptions as far as what is on the property itself. Chairman Zwetzig stated the barrow ditches are designed to take the water off the roadway with Mr. Bass agreeing.

Commissioner Arndt asked if this will be a change in what is currently happening at this time, with Mr. Bass stating he discussed this with Mr. Early and the water does go to the east side of the road which goes to the north and then back to the west, with this referencing the water on the road. Commissioner Arndt spoke about the two exemptions along County Road 6, were these done prior to Mr. Potthoff owning the land, with Ms. Cherry stating yes.

Commissioner Teague stated there are other exempted properties in the County that are historically drainage pools for farms and it is difficult to only count on the barrow ditches or adjacent farms to handle drainage with making the exempted landowner to handle his own drainage. She stated there is a misconception that it is okay to pump the water off your own property and further stated the concern is judging from the historical data and testimony by concerned parties, this property tends to pool water, and given the applicant was not present, the Board was told he was wanting to build a home there, and the Board was not aware how the drainage issues were going to be handled with that being what the Board is wanting to understand.

At this time, it was indicated that when exemptions of the area was completed, there being a 3.135 acre parcel in the NE SE Section which Mr. Potthoff did create, and this current hearing is regarding the SE SE section, an additional one in the SE NE 40 acres that is 2.51 acres and that was created by Hoffners. For the record, Chairman Zwetzig clarified this statement was issued by Laurie Cromwell, from the Planning Department.

Chairman Zwetzig summarized the tabled matter is in regards to how will the drainage be handled that is created onsite.

At this time the applicant Craig Gerhard Potthoff, 711 Custer, Brush, Colorado, spoke stating the first thing he wanted to mention is the state of the situation, as the Commissioners have stated there is water that is puddling and the parcel is affected. Commissioner Teague stated there was concern at the time of the original hearing this has a

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chronic puddling area and drainage was a concern brought forth in the first hearing and the fact there was no testimony offered to mitigate the drainage issues. Ms. Cherry stated that Mr. Potthoff did come in prior to July 4th and stated he was not going to make any changes to his plan with Mr. Potthoff stating he was not aware how to make a change and that is the reason why he asked for a meeting with the Commissioners. It was clarified that the Board cannot have any discussion with the applicant outside of the hearing setting as per Ms. Sellars. At this time, the response from Mr. Potthoff did come back prior to the 90 day timeline.

Commissioner Teague made the motion to rehear the application, from Applicant: Craig Gerhard Potthoff, Landowner: Craig Gerhard Potthoff, Application is for an Exemption from subdivision of 5.0 acres located in the SE1/4 of Section 25, Township 2 North, Range 60 West of the 6th P.M., Morgan County, Colorado. The property will be known as 05971 County Road H, Wiggins, Colorado 80654. The motion was seconded by Commissioner Arndt. Chairman Zwetzig commented that this is being based on the comments that were made by the applicant and it is proper to reconsider the application at this time and allow further testimony from the applicant at this time. At this time, the motion carried 3-0.

Chairman Zwetzig opened the matter for public comment at which there was no public comment in favor or against the application being presented today.

Mr. Potthoff asked to clarify the state of the property, with his belief it is a chronic pooling point, and asked why it pools there, with his belief as being the road being there which acts as a dam, they are about two to three feet higher than the fields. He also stated that in his experience he has never seen water flow through the culvert and no water flows down the barrow ditch given there is an obstruction. He stated that as Chairman Zwetzig stated, the barrow ditch is there to take water from the roadways and does not believe this is any different.

Chairman Zwetzig stated that in the past exemptions did not require drainage mitigation and this has been an issue and the Board wants to ensure that pooling of water and drainage issues are reviewed and mitigated. Commissioner Teague stated the one thing she wants to be cautious about is given the situation with the flood in the past, the County had to handle water situations from properties where they should only have to worry about the water in the roadways and the Board wants to follow what is being regulated in the subdivision regulations.

Mr. Potthoff stated this land has been farmed every year and the year the picture was taken was when he planted that year and the rows were planted in that direction. He stated it still does not eliminate the water problem and stated whether it is farmed or not, it does not eliminate the water problem. He asked what he could do to mitigate this issue, making a comment about a retention pond and if that is illegal, with the Board discussing the rules with retention ponds and detention ponds. Chairman Zwetzig stated that he is not sure how someone can say the drainage plan is not going to work unless you are an engineer.

Chairman Zwetzig spoke in agreement with Commissioner Teague regarding the heavy rain events, explaining the hard surfacing and more people in the area, and it is a different use, and the fact they are only allowed to use five acres of land, the individual cannot decide how the rows will be planted for the drainage issues. He asked if the parcel was an exemption, where does the water go, with Mr. Potthoff stating a city drainage scenario versus how the system should work in the County areas. Discussion followed with Chairman Zwetzig stating the City has a system where the rural areas do not have the same avenues for release of water.

Commissioner Arndt stated that in looking at the parcel, most of the parcel is underwater in a heavy rainfall event, and stated the County staff did go and review the area, but they are not engineers or qualified, they are only doing their best job to see how this should flow. The question is should it be Mr. Potthoff's responsibility to hire an engineer and see what needs to be put in place as to culverts, and other ways to drain the water from this parcel. He stated the County does not have this ability, nor does it have an engineer to conduct this study and this would be up to him as the landowner. He stated that in looking at the exemption, as who will be responsible for paying for the culverts, with Mr. Potthoff stating it is his understanding the landowner pays for the culvert and the County installs them. Commissioner Arndt stated this does not have one so with that would he be responsible.

Commissioner Arndt asked if they have the designated 40 acres of where this exemption is coming out of, with Ms. Cherry stating there have been no changes to the drawing since the April 4th hearing and stated that this statement is correct.

Chairman Zwetzig asked Ms. Cherry if she could read aloud the information as it is written in the resolution that is included in all exemption resolutions that state the landowner is responsible for drainage and stated Mr. Potthoff may be the unfortunate one who this action will be taken with Commissioner Teague stating the last exemptions approved by the Board have included this requirement. Chairman Zwetzig stated there is the 40 acre designation requirement, with Mr. Potthoff stating that was an oversight the surveyor failed to provide. Chairman Zwetzig stated the Board has a responsible to the citizens when creating exemptions and how it affects individuals.

Mr. Potthoff asked if he will need to have a plan for drainage before the exemption is approved, with Commissioner Teague stating that if the exemption would be approved, the drainage plan should be completed at the time of building permit with Ms. Cherry stating she believes it should be at the time of the exemption, not the building permit. Commissioner Arndt stated that he believes hearing there were two individuals who objected to this matter given the drainage issues, and agrees that this should be addressed at the time of the exemption. He expressed a scenario as to how the issue can turn into a problem whereas the urgency changes, given the fact that these smaller parcels are being created and believes that if there is a way to drain water from the property, the Board should look at this with the applicant, and should look at the consideration of how the County could work with this.

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Commissioner Teague stated that the drainage of property that may occur that is not historically draining after an exemption is allowed, in her opinion; an exemption is a non-conforming use in an agriculture zone and the impact should be handled different than a farm.

Mr. Potthoff spoke about Antelope Springs and the drainage issues that have occurred there indicating the barrow ditches are not functioning adequately. Commissioner Teague asked Mr. Bass in a normal rain year does the water run across the road in this location, with Mr. Bass stating in a normal rain event, he personally does not have this information, stating that Mr. Early would have better knowledge of rain events, with 2013 and 2015 being way past normal, and there was a great deal of damage during those events but does not have personal historical knowledge to provide information.

Chairman Zwetzig opened the matter for public comment with no public comment in favor or against.

Terry Winberg, 16093 Highway 34, Fort Morgan, CO spoke as a former employee of the Bridge Department addressed where the water goes, as it does go to the north and the next road to the north, County Road I and County Road 6 are an issue and if the Board should divert more water, it will become an issue to the landowner to the north. He stated that it is his belief that if the water has not been going in that direction, does not make it go that way; he does not believe the County should take care of something that is not a problem. He does not believe it is a good idea to put a house in a puddle.

Commissioner Arndt stated that the water right of the property currently now crosses to the east side of the road, travels north and then crosses back to the west side of the road. Mr. Potthoff stated that in his experience water has not crossed the road on the east side because the culvert is higher, with Mr. Winberg stating he would disagree.

Ms. Cherry read aloud the language from the Bruntz Exemption that was approved recently which refers to the right to farm policy as part of this exemption from subdivision property zoned "A" Agriculture, and landowner is notified that any past existing future drainage problems are the responsibility of the landowner and not that of Morgan County.

Chairman Zwetzig summarized the issues at hand, one being to have a 40 acre designation and the other being a drainage study to be completed before the Board can move forward with a decision.

Commissioner Arndt again stated that he believes they will need to see both the 40 acre designation and have an approved drainage plan of how it will be handled.

Ms. Sellars stated from what she is hearing is the application is incomplete and does not meet the criteria for an exemption as it is missing the drainage plan and affect or impact and that is what they are looking for. They are looking for a complete application with the 40 acre parcel and the drainage engineer plans to show a solution to the problem and any impacts to other neighboring properties. Ms. Sellars further outlined the options the board has, they can deny the permit application or they can do as they wish or table and continue the matter for a future public hearing asking for these additional items.

Commissioner Arndt stated the Board needs to be very careful when we go down a path like this because all of a sudden does a drainage plan become necessary for every exemption that happens. Also, why are we considering this one to be special and require a drainage plan? In his mind the reason is they can see this property right now even without any changes or any buildings, it has some sort of drainage problem. Through testimony of neighbors and through looking at the maps where it is noticeable that there has been considerable amount of water backed up in the 5 acre parcel. He stated he wants to be very clear that this property has special conditions and that is the reason this is being discussed, with Ms. Sellars pointing out the criteria as it is stated in the regulations.

Commissioner Teague inquired that typically the Board has approved an exemption based on the conditions made by the Board and clarified that the Board is looking at tabling this matter based on the discussion today, with Commissioner Arndt stating that is his understanding, and that it be tabled until we have the information necessary, the 40 acre parcel designation and a drainage plan. Commissioner Arndt stated that part of his motion would have to be that it not blocks the historical flow of the water.

Mr. Potthoff clarified the Commissioners are asking that he submit a survey showing where this parcel will be within the 40 acres and a drainage plan that would be completed by a qualified expert with Commissioner Arndt stating yes, he would want to see a qualified drainage plan with Chairman Zwetzig stating it would have to be acceptable to the County. Ms. Cherry stated she would like to request that it be a professional engineer as a college professor would not suffice as she summarized.

Ms. Sellars made the recommendation that the Board table the matter for a date certain so this can be completed by a certain date. Chairman Zwetzig asked how soon the Board should set this date given it will require a professional drainage study be completed with Commissioner Arndt stating he has concerns about setting it for a specific date given the requirements. Mr. Potthoff stated that he believes sixty days would be more than enough time for him to gather the necessary information.

At this time, a motion was made by Commissioner Arndt to table this application submitted by Craig Gerhard Potthoff, the Application for an Exemption from subdivision of 5.0 acres located in the SE1/4 of Section 25, Township 2 North, Range 60 West of the 6th P.M., Morgan County, Colorado. The property will be known as 05971 County Road H, Wiggins, Colorado 80654, naming the applicant and landowner as Craig Gerhard Potthoff noting the Commissioners would like to see a professional drainage plan by a qualified engineer for a drainage project and also a plat map designed to show the designated 40 acres that this parcel is coming out of. These are the two items being asked for the Board to then consider the application in 60 days. Ms. Bailey clarified that 60 days would be

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October 3rd with the hearing being at 9:30 a.m. , Commissioner Teague seconded the motion , and the motion carried 3-0.

Commissioner Teague asked if the applicant has a potential conflict with this date with Chariman Zwetzig stating the new plat only means that they draw where the 40 acres will be located with Ms. Cherry stating it will require a vicinity map basically showing the Board where the 40 acres will be. Mr. Potthoff stated he has no conflicts with any of neither the information nor the date the matter is being set for.

Being no further business, the meeting was adjourned at 10:34 a.m.

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified August 15, 2017)

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

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

s/Laura D. Teague
Laura D. Teague, Commissioner

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

(SEAL)

ATTEST:

s/ Susan L. Bailey
Susan L. Bailey