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BOARD OF COUNTY COMMISSIONERS Minutes of Meeting August 21, 2017

The Board of Morgan County Commissioners met Monday, August 21, 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 Planning Assistant Jody Meyer 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.

PUBLIC HEARING

Chairman Zwetzig called the hearing to order at 9:00 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 Morgan County Planning and Zoning Planning Director/Floodplain Administrator, Planning Department staff and County Attorney Kathryn Sellars.

Resolution 2017 BCC 26 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

At this time, Chairman Zwetzig asked County Attorney Kathryn Sellars to provide details regarding today's matter at which time, Kathryn Sellars, County Attorney, outlined the matter being heard today explaining the purpose of the moratorium would allow the County time to see if they would like to amend their zoning regulations regarding this specific use. The moratorium would be for up to six months and would then terminate February 2018 and explained that the Board could make a decision sooner than that if they should choose to. This moratorium does not affect current injection wells that are in existence. It was further discussed the purpose of this agenda item is to discuss how the County wishes to address the injection of exploration and production wastewater as a use in the Morgan County. Currently, zoning regulations do not permit injection wells, unless they are accessory uses, in any zone district in the county. For the health, safety and welfare of the citizens of Morgan County it may be necessary to take some time to research the potential negative and positive impacts from the practice of injecting exploration and production wastewater and determine an appropriate review and permitting process.

At this time, Chairman Zwetzig opened the matter for public comment.

Ryan Seastrom, 1800 Glenarm Place, Denver, CO 80202, stated he is a community outreach coordinator with Colorado Oil and Gas Association, and stated they recently heard about this matter indicating they would like to warn the County about the message a moratorium may send to others in the state actions like this can be setting precedence and encourage other local governments to do the same and further suggested that the County bring to the table a more broad stakeholder process explaining that process. He offered COGA and himself as a resource to the County in this matter.

Josh Sonnenburg, 30452 County Road 12, Sterling, CO, 80751, stated he is with Colorado Rural Energy Action Council, stating they represent the western slope as well as six counties on the Eastern Plains and stated their job and mission is to educate and advocate about the oil and gas industry. He further stated that he believes this moratorium sets precedence not only with other counties, but with other areas within the State. He urged the County as well as the oil and gas industry to follow a process to help educate the citizens of Morgan County and the citizens of Colorado before putting in place the moratorium. He offered his assistance to the Board for any questions they may have.

Dusty Johnson, Congressman Ken Buck's office, stated that there has not been much new legislative wise, stating he has been attending public meetings, explaining the substance of those meetings which included health care. She stated she is here today to listen to the public feedback as to this matter regarding oil and gas industry to allow Mr. Buck the information to provide to his constituents as needed.

At this time, the public comment period was closed and moved to discussion and decision.

Commissioner Teague stated it is her perception of this moratorium is to allow for the stakeholder process and also sees there is a caution as far as precedence setting, and further expressed concerns about if the Board should receive an application at this time, what the Board would be required to do. She further stated the Board is currently looking at the commercial side of the regulations, could it be considered accessory use, is it just an application for an injection well, or might an applicant think they do not need to come to the Board for approval.

Ms. Sellars explained the zoning regulations at this time in place, there is a current argument to be made at this time is prohibited, an applicant could make application for a special use permit regulation within the ag zone with the risk

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of denial because of lack of knowledge or criteria, or an applicant could interpret that this could be deemed an accessory use.

Commissioner Teague asked if the Board could state that they are in a six month period stakeholder process stating she would prefer to not define it as a moratorium, whereas the Board is currently working under conditions whereas an application would not be considered until then and that it could possibly take only a month to put in place regulations. Ms. Sellars stated it is basically a moratorium process and at this time, the Board is directing staff not to accept any application and if they should receive an application, they would be placed on hold.

Chairman Zwetzig asked why the Board would consider passing a moratorium if it feels the regulations right now require a special use. Ms. Sellars stated she does not believe the regulations currently cover injection wells, with Chairman Zwetzig summarizing what the regulations currently cover, with Ms. Sellars stating it is prohibited, and now we are in the process of addressing this matter. The moratorium puts everyone on notice that the County is in the process of considering these types of applications, puts people on notice the County is in the process of taking this process and knowing how to handle these types of applications. Puts everything on pause while the County takes some time to be further educated themselves and the community.

Ms. Sellars outlined the legal wording for "Moratorium" stating in the land use context it means that they are temporarily prohibiting something from happening. She provided the comparison of temporarily not allowing any building permits until zoning regulations are in place as to what is required.

Commissioner Arndt stated in this case it gives the Board the time to be educated and allows time to make good educated rules for Morgan County. Ms. Sellars stated it allows for good planning, well informed planning decisions by the local government and this will allow for stakeholders and citizens to make suggestions as to how this matter should be addressed. Ms. Sellars indicated this is a very narrow moratorium for a very specific oil and gas matter.

Chairman Zwetzig reopened the public comment period for Commissioner Teague to ask a question, which was directed to Mr. Seastrom, her question being on a drill site, is there often or always an injection well associated with that site on the well head?

Mr. Seastrom stated he cannot actually comment on that specifically but would be able to obtain the information.

Commissioner Teague also asked the question about the Colorado Department of Health and Environment having updated regulations using a good stakeholder process which is at least acceptable to the industry, as to what happens during that certain period of time, does the industry do business as usual until processes are in place?

Mr. Seastrom stated he cannot comment on CDPHE, but can speak on COGA's processes, stating they would work with the industry and work with other informative groups and citizens to become more educated in making the final decision.

Chairman Zwetzig asked Mr. Sonnenburg if he had an opinion on this matter, with Mr. Sonnenburg stating he does not have an answer as well but would be happy to look further into the matter if they would like.

Commissioner Arndt asked Ms. Sellars, in regards to this moratorium by looking at the current regulations, approving the injection wells at this time is a prohibited use, and by enacting this moratorium it would put everyone on notice and allow the County to work with the industry and others to make a better educated decision and feels that this would be something the industry would be interested in working with to be able to partake in the discussion and decision making process.

Chairman Zwetzig stated moratorium is up to six months as it could be ten days, could be far less, clarified it is for a time period up to six months and the second part is this is prohibited at this time, but the State claims and oil and gas claims they are the authority to make these decisions, with Ms. Sellars stating the current legal matter at hand, with the moratorium helping them to take time and resources to address the land use regulations.

Commissioner Teague stated part of her argument was in regards to a former applicant who had an application, with her not knowing much about an injection well, especially a large volume of an injection well, and would be unable to indicate to citizens that it is safe, as she does not know that with conviction and believes this is an opportunity to learn to be able to make a decision. Commissioner Teague stated that concerns were expressed from all different ranges from citizens, the coroner, towns people, farmers, those on the road next to the ranches, not just a certain sector.

Commissioner Arndt asked how they should establish the working group and the time frame of notifying all those interested in being a part of this process, other than the two gentleman here today, how does the County get this information out to stakeholders, what will the process be. Will it go in front of the planning commission, with Commissioner Teague asking if the Board is allowed to be privy to a stakeholder process, with Ms. Sellars stating they most certainly can, they are legislative and it could be heard by the Planning Commission and the Board can be a part of the process. Commissioner Arndt believes it would be his thought to proceed jointly with the Planning Commission in order to avoid having citizens attend a meeting twice. If nothing happens within the six months, the moratorium expires, and nothing further occurs, with Ms. Sellars in agreement.

Chairman Zwetzig made mention of an article, which Department of Natural Resources stated it caused them to take a 20 day time out, to see what could cause a change in direction with Ms. Sellars stating she is not sure what is being referenced. Chairman Zwetzig stated this was in regards to seismic activity in Weld County, and asked if it is possible to state this is a six month time out, so there is not any precedence set. Ms. Sellars stated unfortunately, the

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wording time out is still what the moratorium would indicate; essentially the Board is providing a directive to staff to not allow any applications.

Chairman Zwetzig further read aloud information from the article and clarified that the County does not have any current injection well applications. Ms. Cherry stated there is a total of 17 injection wells within the County and stated there are two on this application which are currently on hold at this time as they are waiting for information from the State, but the application is not with the County. It was stated that the State permit does not allow the permit without the approval of the local county government, with it being contingent upon that approval.

Ms. Cherry stated that even if the County would accept an application today, it would take at least three to four months for that application to process, and that would be enough time to have COGA assists with this process in coming to an educated decision for Morgan County in regards to injection wells.

Ms. Cherry further commented that it is taking three to four months to process a special use permit application indicating there are several items the County can request before the process is completed.

Ms. Sellars stated if the County would receive an application today for an injection well, the time frame would take well over six months.

Commissioner Teague stated it sounds like if the Board would get on the ball they would have time to follow the same process, with Ms. Sellars stating she believes there are risks involved with that explaining why.

Chairman Zwetzig asked about what regulation, asking will it be naming it as a conditional use or specific requirements of what has to happen with Ms. Sellars stating everything is on the table from making it a use by right explaining the County does have oil and gas regulations and the first point would be do the current oil and gas regulations have the necessary limitations and possibly modifying the regulations that are in place and she stated she does not want to close any door to any options at this time.

Commissioner Arndt stated the County is looking at regulations that are 25 years old and the County needs to look at the terminology which fits within the gas and oil industry as it stands today.

Chairman Zwetzig stated that Morgan County has always been oil and gas friendly and have been receptive to the industry; wanting to be sure this perception is clear that if Morgan County would pass the moratorium regarding injection wells, they are still in support of oil and gas.

Commissioner Arndt mentioned the scenario about if this moratorium is in place, and the fact we have other wells, what process was followed. Ms. Sellars and Ms. Cherry both could not answer the question as it is before their time. Ms. Cherry stated that COGA wants these companies to go through the process wanting approval from the local jurisdiction. She stated this is a question that can be asked.

Discussion followed as a County have they been relinquishing this to COGA and not having been a part of the process in the past, with Chairman Zwetzig stating he believes the County has not been a part of the process. Commissioner Arndt asked if that is a standard, with Ms. Sellars stating she does not believe so, with discussion following it may be a standard in a county that has not had any oil and gas activity for the last 20 years.

Chairman Zwetzig made comment regarding the injection well permit in what it states as to minimum requirements, with approval of this form does not grant permission to inject. He referred to the article again stating the biggest fears as being seismic activity with Ms. Sellars stating that would be something to address in the regulations.

A motion was made by Commissioner Teague to approve a 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. Commissioner Arndt seconded the motion. Chairman Zwetzig noted that as this resolution passes, today is the date the County will be sending out notification to stakeholders and citizens industry wide of this matter to set up a meeting time, secondly, as Commissioner Arndt eluded it would be most practical to have both the Planning Commission and the Board of County Commissioners involved without having two separate meetings. At this time, the motion carried 3-0.

Commissioner Arndt asked those in the audience to provide their information to Ms. Pam Cherry, Planning Administrator if they should choose to be a part of this process.

Chairman Zwetzig directed Director Pam Cherry to immediately begin scheduling the process.

Being no further business, the meeting was adjourned at 9:38 a.m.

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified August 29, 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