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BOARD OF COUNTY COMMISSIONERS Minutes of Meeting October 24, 2017

The Board of Morgan County Commissioners met Tuesday, October 24, 2017 at 9:01 a.m. with Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt in attendance. 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.

CONSENT AGENDA

Ratify the Board of County Commissioners approval of Board of Equalization meeting minutes dated October 12, 2017

Ratify the Board of County Commissioners approval of meeting minutes dated October 17, 2017

Ratify the Board of County Commissioners approval on Contract 2017 CNT 217, Peak Communication, phone system upgrade in the Administration, Judicial Center and DHS buildings, Term of Contract October 16, 2017 through March 31, 2018

Ratify the Board of County Commissioners approval on Contract 2017 CNT 218, Mile High Sports, lodging and tourism advertising, Term of Contract October 1, 2017 through November 30, 2017

Ratify the Board of County Commissioners approval on Grant 2017 GRA 13, State Court Security grant, request for funds for continued funding of a deputy in court security and upgrade video monitoring system for the court end of Justice Center

Ratify the Board of County Commissioners approval of amended Resolution 2017 BCC 26, correction of the "in effect date" for the moratorium, the wrong year was listed in the date on the original recorded resolution

Ratify Chairman Jim Zwetzig's signature on a Solid Waste credit application for Penni Storage, LLC signed on October 19, 2017

Ratify the Chairman Jim Zwetzig's signature on the Solid Waste Storm water Inspection Form dated October 17, 2017

Amended Resolution 2017 BCC 26 as stated on the Consent Agenda

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 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

WHEREAS, oil and gas exploration and production is a rapidly developing and evolving industry across Colorado and particularly in counties adjacent to Morgan County;

WHEREAS, due to the rapid development of oil and gas exploration and production, there have been significant modifications and clarifications to the law governing the oil and gas industry during the past few years;

WHEREAS, the treatment of oil and gas waste and the storage and disposal of exploration and production wastes ("E&P waste") and other oil and gas waste through injection wells has a significant impact on the health, safety and welfare of the citizens of Morgan County (the "County") through increased noise, odor, dust, traffic, noxious weeds and other disturbances, as well as the potential to significantly impact the County's air, water, soil, wildlife habitat, floodplains, water, storm water, drainage and erosion control, transportation infrastructure, emergency response plans and commitment to agricultural production;

WHEREAS, in its role administrating County floodplain regulations, the County is concerned about increased interest in disposal of E&P waste and other oil and gas waste in mapped floodplain areas, posing potential serious risk to public health and safety;

WHEREAS, in its role administrating the County transportation system, the County is concerned about the potential increase in impacts due to the potential for injection wells and treatment facilities for oil and gas waste, including increased wear and tear on road from heavy truck traffic resulting in greater need for road and bridge improvements and maintenance;

WHEREAS, the Colorado Oil and Gas Conservation Act, C.R.S. § 37-60-101 *et seq.*, (the "Act") declares that it is in the public interest to foster the responsible, balanced development, production, and utilization of the

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natural resources of oil and gas in Colorado in a manner consistent with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources;

WHEREAS, the Act grants the Colorado Oil and Gas Conservation Commission (“COGCC”) authority to adopt statewide rules and regulations concerning the development and production of oil and gas resources and the COGCC has adopted such rules and regulations;

WHEREAS, the Act provided that it is not intended to establish, alter, impair or negate the authority of county governments to regulate land use related to oil and gas operations;

WHEREAS, Colorado courts have continually recognized that the Act does not expressly or impliedly preempt a county’s authority to enact land use regulations applicable to oil and gas operations within the county and thus a county’s regulations pertaining to operations addressed in the Act are legal and valid as long as a county’s regulations do not result in an operational conflict with state law with regard to the technical aspects of oil and gas operations;

WHEREAS, Colorado courts have not addressed the precise issue of a county’s authority over, including the authority to prohibit within its jurisdiction, the disposal or storage of E&P Waste or other oil and gas waste when such treatment, storage or disposal is completely independent from any other oil and gas operations, including but not limited to drilling and extraction of oil and gas;

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, provides the County with the broad authority to plan for and regulate the use of land in order to provide for orderly development while balancing the health, safety and welfare of its citizens;

WHEREAS, the Local Government Land Use Control Enabling Act authorizes local governments within their respective jurisdictions to plan for and regulate the use of land by, among other actions, regulating development and activities in hazardous areas; protecting land from activities that would cause immediate or foreseeable material danger to significant wildlife habitat; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide for the planned and orderly use of land;

WHEREAS, the Board believes it has the responsibility to its residents to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, and to promote the health, safety and general welfare of its residents;

WHEREAS, the Board, pursuant to its land use authority, has from time to time adopted planning, zoning and other regulations governing land use in the incorporated portions of the County;

WHEREAS, the County’s current zoning regulations regarding oil and gas operations were drafted nearly a decade ago, prior to the increase of oil and gas operations in Colorado and prior to several relevant Colorado court decisions concerning local authority to regulate oil and gas activities, and do not include regulations specifically related to the treatment, storage, and/or disposal of E&P Waste and other oil and gas waste, and therefore those regulations are ripe for review in light of the current significant concerns over the impact of continuing oil and gas development activities in Colorado;

WHEREAS, currently the County’s zoning regulations do not expressly permit the treatment of oil and gas waste or the storage and/or disposal of E&P Waste and other oil and gas waste in any zone district within the unincorporated County;

WHEREAS, County staff has begun to analyze whether the existing zoning and other land use regulations that may be applicable to the storage and/or disposal of E&P Waste and other oil and gas wastes are sufficient to protect the public health, safety and welfare;

WHEREAS, the Board estimates that the time needed to perform the appropriate study and determine the appropriate action to govern the treatment of oil and gas waste, the storage and/or disposal of E&P Waste and other oil and gas wastes through injection wells, is approximately six months;

WHEREAS, if applications requesting approval to treat oil and gas waste and/or store and dispose of E&P Waste and other oil and gas waste through injection wells are submitted prior to the County having adequate time to conduct the appropriate studies and make necessary revisions to its zoning regulations, the Board believes irreparable harm may be done to the public health, safety and welfare;

WHEREAS, the U.S. Supreme Court and the Colorado Supreme Court recognize that in the field of land use regulation, temporary moratoria of reasonable duration are often employed to preserve the status quo in a particular area while developing a long-term plan for development; indeed, in countering the incentive of property owners to develop their property quickly to avoid the consequences of an impending land use plan for the jurisdiction, moratoria are a crucial tool for local governments and, therefore, pursuant to express and implied authority granted by the Colorado Revised Statutes and multiple Colorado and federal legal decisions upholding temporary moratoria on land use applications while amendments are considered, the Board has the legal authority to adopt a temporary moratorium in this situation; and

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WHEREAS, in light of the foregoing recitals and findings, after a duly noticed public hearing held on August 21, 2017, the Board desires to adopt this temporary moratorium to protect the public health, safety, and welfare, and to avoid development which, during the County's planning and land use regulation amendment process, may contravene the results of this study and process put the public at risk.

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

1. This temporary moratorium shall take effective immediately. The County Planning Department is directed not to accept, process, or approve any applications for uses of land that involve the treatment of oil and gas waste and /or the storage or disposal of E&P Waste or other oil and gas waste through injection wells.
2. This temporary moratorium shall remain in place until February 21, 2018, unless terminated or extended.
3. County staff is hereby directed to continue analyzing whether the County's Zoning Regulations pertaining to oil and gas operations are sufficient to protect the public health, safety and welfare, or whether amendments to the County's Zoning Regulations are necessary to adequately address the impacts of these uses.
4. The County hereby affirms that any treatment of oil and gas waste and/or the storage or disposal of E&P Waste and other oil and gas waste through injection wells without appropriate County approvals may be in violation of the Morgan County Zoning Regulations.

DATED this 24th day of October, 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

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 – RIGHT OF WAY - 2017 PMT 35 – Wiggins Telephone Association

Chairman Zwetzig presented for Road Supervisor John Goodman to the Board for approval, a Right of Way Permit 2017 PMT 35, with Wiggins Telephone Association. Chairman Zwetzig stated this right of way permit is to trench the east right of way and across County Road 1, starting at 2650 feet south of Highway 52 in the west right of way of Country Road 1 at an existing vault and trenching north 766 feet in the west right of way of County Road 1, then trenching east 60 feet across County Road 1 ending in the east right of way of County Road 1, for the purpose of installing new fiber service. Chairman Zwetzig stated that fees were attached in the amount of \$226.60.

Commissioner Teague made a motion to approve Right of Way Permit 2017 PMT 35 with Wiggins Telephone Association as outlined in the narrative of the permit as presented by Chairman Zwetzig noting the fees are attached and authorized the Chair to sign. Commissioner Arndt seconded the motion and the motion carried 3-0.

Consideration of Approval – GRANT– 2017 GRA 12 Department of Local Affairs (DOLA) Consulting Services for Judicial Center Assessment Study

Kristi Waite, Morgan County Administrative Assistant to the Board, presented for approval, Grant 2017 GRA 12 Department of Local Affairs (DOLA) Consulting Services for Judicial Center Assessment Study. Ms. Waite stated currently the County established a judicial center task force and after several meetings it was decided to assess the current building needs and whether or not it needs remodeled or a new building is needed. Grant funds are available for this type of study and the County has applied for the grant for an administrative study in the amount of \$25,000.00 whereas the County will be required to provide a monetary match not to exceed \$75,000.00 for a total project cost not to exceed \$100,000.00.

Chairman Zwetzig thanked the citizens who are serving on the task force, stating it is not too late to join and further stated this study will benefit the County as to what direction the County should take regarding this matter.

Commissioner Arndt made a motion to approve Grant 2017 GRA 12 with Department of Local Affairs (DOLA) Consulting Services for Judicial Center Assessment Study as presented noting the grant is in the amount of \$25,000.00 with a monetary match to be made by the County and for the total expenditures to not exceed

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\$100,000.00 and authorized the Chair to sign. Commissioner Teague seconded the motion and the motion carried 3-0.

Consideration of Approval – BID AWARD – RFP 2017-0907-001 Health Assessments and Screening

Morgan County Human Resources Director Tracy Amen presented to the Board for approval Bid Award RFP 2017-0907-001 Health Assessments and Screenings. Ms. Amen stated they received one bid from Colorado Plains Medical Center and outlined the bid submitted as to the proposed costs for the various services. Ms. Amen noted that the County utilizes the Northeast Colorado Health Department for the DOT Drug Screens. At this time, Ms. Amen recommended the Board award the bid to Colorado Plains Medical Center and asked that a contract be prepared and asked that part of that contract allow for utilization of Banner Health or another medical facility if there should be a time issue in getting employees hired and asked that it include a non-exclusivity clause so this allowance could be an option.

Commissioner Teague made a motion to approve bid award RFP 2017-0907-001 Health Assessments and Screenings to Colorado Plains Medical Center as outlined and recommended by Morgan County Human Resources Director Tracy Amen and authorized the preparation of the contract noting the non-exclusivity clause as requested by Ms. Amen. Chairman Zwetzig asked that it be noted the other hospital chose not to bid on this matter. Commissioner Arndt seconded the motion, motion passed 3-0.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated October 20, 2017 through October 31, 2017 with changes.

Chairman Zwetzig noted there will be an excellent panel of speakers in regards to the current moratorium in place for the meeting scheduled at 2 p.m. today and asked Ms. Cherry to provide an update. She stated one of the speakers is the Weld County Planning Administrator Tom Parko, and also Anne Sheehan from University of Colorado who will also be speaking about the issue of induced seismicity caused by injection wells.

Susan Bailey, Morgan County Clerk and Recorder provided an update to the Board regarding the upcoming coordinated election stating her office has mailed a total of 13,237 ballots to voters with a total of 1,195 voted ballots having been returned by end of day, October 23, 2017, indicating a 9 percent return so far. Ms. Bailey also indicated there was a total of 498 ballots having been returned as undeliverable. Chairman Zwetzig inquired about how the number of undeliverable ballots compared with those in 2016 with Ms. Bailey indicating the number is just a bit higher than those returned as such in last year's general election and voters were reminded to update their voter registration regarding their mailing address.

UNFINISHED BUSINESS

There was no unfinished business.

CITIZEN'S COMMENT

There was no citizen comments made at this time.

At this time, the Board proceeded with the Public Hearing as posted.

PUBLIC HEARING

Chairman Zwetzig called the hearing to order at 9:15 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman James Zwetzig Commissioner Laura Teague and Commissioner Mark Arndt in attendance. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and staff.

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.

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

Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

Background Information

Ms. Cherry explained that this is an Application for 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: 5971 County Road H, Wiggins, Colorado 80654.

Ms. Cherry stated Craig Gerhard Potthoff is the applicant and landowner is requesting this Exemption from Subdivision to create a parcel to sell as a home site.

This application for exemption from the subdivision regulations has a history of public hearings:

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- March 13, 2017 before the Planning Commission and recommended approval;
- April 4, 2017 the Board of County Commissioners the application was referred back to the Planning Commission due to drainage concerns at the southeast corner of the property. The Board gave the applicant the option of reconfiguring the five acres;
- July 10, 2017 the application was again heard by the Planning Commission where approval was recommended without changes to the plan;
- August 1, 2017 The Board heard the application that resulted in the applicant requesting a continuance until October 3, 2017 to address the drainage issues;
- October 3, 2017 the applicant requested the application be continued until October 17, 2017 to complete the drainage plan;
- October 17, 2017, hearing continued to today, October 24, 2017, at Ms. Cherry's request, following the receipt of the drainage plans on October 16, 2017.

Ms. Cherry stated she has reviewed the Drainage Plan that was prepared by Chadwin Cox of Western Engineering Consultants. He has proposed a location for the home that should have top of the foundation at 4,663 feet with the finished floor at 4,664 feet. This provides 18 inches of clearance above the existing low point in County Road 6. Fill will be required to bring the structure to this elevation, though would be offset if a basement were built. Ms. Cherry stated she does not believe a basement would be possible and still have the elevations as proposed by Mr. Cox. She further stated that if the existing culverts become clogged any runoff will overtop the adjacent roadways before reaching the proposed structure. Detention/Retention is not proposed though the requirement to retain runoff was calculated. Drainage is proposed to continue as it has in the past, draining from the property to the borrow ditch on the east, through a culvert to the property on the other side of County Road 6. Ms. Cherry stated the Drainage Report is included with this report.

Ms. Cherry explained the file contains a will serve letter from the Northeast Colorado Health Department for the proposed onsite waste water disposal system. The proposed parcel is served by Morgan County Quality Water District Tap #2814. Access to the property is from County Road H, a semi-circle driveway will not be allowed.

Ms. Cherry stated the soils on the parcel are listed as BvA; not limited for construction purposes.

She said that all appropriate notices have been completed. Subject property is zoned "A" Agriculture Production Zone, and is presently vacant. Site is not in the floodplain. Subject property is located within the Wiggins Rural Fire District. Taxes are current.

Ms. Cherry explained there have been objections to the exemption have been received from three property owners in the notification area. Two of the owner's objections included drainage issues and property values, the third objection did not specify a reason. She stated they did notify all landowners within the 1,320 feet perimeter as required.

Ms. Cherry explained her Planning Administrator Evaluation:
Chapter 9 – Subdivision Exemption Regulations

9-145 – Natural Hazards Area

In areas determined to have significant flood, fire, geological or other natural hazards, the Planning Commission and the Board of County Commissioners may, in the interest of public safety, require applicants to submit for review, plans to eliminate or reduce hazards to a reasonable level. Such plans may include, but are not limited to engineering designs, fuel modification, emergency water systems, etc. The exempted property has drainage issues that were documented by two objecting parties. There is Google imagery included with the packet that shows a significant ponding on the southeast corner on the five acres to be exempted and appears it may be 30-40% of the five-acre site. She stated she had requested the applicant to consider a reconfiguration of the 5-acres so drainage issues do not impact as much of the site and the applicant has decided not to do that.

9-157 – The Morgan County Planning Administrator may approve an exemption if the criteria of Section 9-180 are met.

Section 9-180(F) - All areas of the proposal which may involve soil or topographical conditions presenting hazards or requiring special precautions shall be identified by the applicant and the proposed use of these areas shall be found to be compatible with such conditions.

At this time Ms. Cherry recommended approval of this application subject to the following conditions:

1. This exemption is the only one permitted on this 40-acre parcel;
2. The home to be constructed shall have a top of foundation at 4,663 feet;
3. The finish floor elevation shall be at 4,664 feet;
4. Drainage shall be retained onsite by the construction of a 100-year retention pond as recommended by the applicant's engineer.
5. Culverts necessary as determined by Morgan County shall be installed at the expense of the property owner.

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Chairman Zwetzig asked if the prior details were taken care of that had been discussed at the last hearing and the information has been identified as per Ms. Cherry.

At this time, Chairman Zwetzig asked the applicant for comments. Craig Potthoff, 711 Custer Street, Brush, CO and Chad Cox, Western Engineering, 2501 Mill Street, Brush, both introduced themselves with Mr. Potthoff asking the Board to approve the application.

At this time, Chairman Zwetzig opened the matter for public comment at which there was public comment.

Eric Gable, 6159 County Road H, Wiggins, CO asked to see what is going to be done regarding the drainage issues prior to this matter being approved. Chairman Zwetzig asked Mr. Cox to address the question with Mr. Cox stating he was contacted by Mr. Potthoff to provide a study and stated he did not receive the background information from the County Road and Bridge Department, appears over time the pivot has been farmed and there is a culvert that exists less than 200 feet of the intersection of county roads 6 and H, indicating the historical topography and stated the issues that can happen intermittently between those two locations. He stated there is no fall in 1300 feet, indicating the findings stating the minimum standards for curb and gutter is 1/10th of that.

He outlined his findings indicating he was tasked to put together a drainage plan so the house would not be in jeopardy and was not asked to prepare a drainage plan to fix the overall drainage issues. Mr. Gable asked if the existing culvert or drainage will be changed or fixed.

Commissioner Teague stated it was suggested by the road and bridge the County should not accept more drainage from this house being built and the culvert would not be changed, with Commissioner Arndt stating the County should not accept more drainage but they could allow for an improvement.

Mr. Gable stated they are opposed to lowering the culvert, with Chairman Zwetzig stating that he does not believe any of the County's culverts are intended to take water off of property only to take water off the county roads, and it is the landowner's responsibility to mitigate the water and drainage issues from their own property.

Mr. Gable stated that if the parcel was larger, the house would be built on the hill, and explained he believes this is another way to develop wasteland and devalued ground around this location.

Commissioner Arndt asked about the retention pond that was mentioned, with Mr. Cox stating he did recommend a retention pond and explained the calculations used. He stated it would be "a hole in the ground" but large enough that would store a 24 hour rainfall, 100 year event. Mr. Gable asked are they able to capture that much water with Mr. Cox stating it is based on established NOAA, rainfall atlases that establish that calculation and basically taking 4.6 inches from the entire five acres and storing it in this retention area.

Chairman Zwetzig asked Ms. Cherry to comment on condition number 4 before proceeding further. Ms. Cherry stated with the construction of this retention pond, this will improve the drainage conditions and decrease the water that is coming off the road onto the other property.

Commissioner Arndt asked about taking the entire five acres into his calculations, with Mr. Cox stating it is the property as a whole, the tributary area. Mr. Gable stated one more comment being the lowest point on the five acre parcel that is where the water will flow to. Commissioner Arndt stated that the requirement would be any additional drainage issues caused by the development, he believes in his mind the drainage study and recommendations have more than adequately taken care of the drainage concerns.

Mr. Cox stated there is an existing rain condition, where it will be a large volume that is mitigated versus what has been in place in the past. Commissioner Zwetzig reviewed the description of the depth of the retention pond, indicating the drainage will be retained on site as recommended and prepared by the engineer. Chairman Zwetzig stated that he believes when the County creates an exemption, they should keep in mind these corner areas and problem areas and it is not improper to ask for additional storage of water runoff, and drainage issues. Commissioner Teague stated the County's conditions do state that all water is to be managed by the landowners on their own site, stating landowners have cut the road, pumped the water across the roadways in the past, and wants to be sure the County does not have those consequences down the road.

Mr. Cox stated his proposal includes 84,000 cubic feet which is roughly 200 cubic yards, four feet deep and 130 foot square, but would need to confirm these figures at a later date with Ms. Cherry. Ms. Cherry answered Chairman Zwetzig's questions about if someone in the future would need this information for future information regarding the property with Ms. Cherry stating they have started recording documents that will be attached to title work when a property is purchased and this process will also assist with historical information and data on the parcel of property. Further discussion followed as to this specific matter with Commissioner Arndt stating he would like to have final numbers and specifics as to the completion of the project.

Mr. Potthoff asked about the fact that Mr. Cox having calculated the volume of the pond for the entire run off on the five acres, but is it not the County's requirement to be sure the pond only be sized to contain the volume of the additional runoff from a proposed building or structure site.

Chairman Zwetzig stated no, the County is trying to discourage development of property that has resulted in drainage issues and the issue with landowners building homes, and the issues that occur with landowners pumping water across the county roads, and the County should be sure the building sites do not cause damage to adjoining landowners.

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Chairman Zwetzig further stated the drainage study was required and the County wants to be sure that there are mechanisms in place to be sure that these items are completed as in the past, this has not been done. Commissioner Arndt stated that some of the processes that are being put in place are making it better and further discussion can be held to see how to put in place specific mechanisms to ensure that things are done.

A circle driveway was initially requested with Ms. Cherry stating that this was deemed not allowed as long as it is not connected to the public roadway.

At this time, Chairman Zwetzig moved to discussion and decision.

Commissioner Teague asked about the condition of the 100 year retention pond, and asked Ms. Cherry if the statement is broad enough if the purchaser of the property wanted to move the home, that it may require a new drainage study or a different drainage study, with Ms. Cherry believing it is broad enough and should allow for the house to be placed in a different location, and a redesign could be done. Chairman Zwetzig asked if a condition would be appropriate to indicate if the applicant does not choose to use the site already determined to be usable, that this condition could be required.

Mr. Cox stated he will revise the plan which will show the recommended location of the retention pond and if there is something significantly different from the proposed plan, that should be reviewed and amended.

Chairman Zwetzig stated the final drawing and exemption survey will indicate a site plan design of the actual location of the retention pond. Ms. Cherry stated that grading will also need to be indicated, with Mr. Cox stating he is aware of the permit that may be required. Commissioner Teague stated it is important to have in the resolution historical and new drainage caused by the exemption and the building site will be captured in a 100 year manner on the property.

She wants a generalized statement, rather than referring to more drainage studies, with Chairman Zwetzig stating he believes it should be stated in the exemption approval, wanting to be sure enforcement is done so it does not create more problems with adjoining landowners.

Commissioner Arndt believes that Ms. Cherry's conditions as stated are appropriate and believes by adding to those conditions the Board will require the size that the final map shows the size of the retention pond. Chairman Zwetzig stated he wants more clarification regarding additional drainage and historical drainage data. Ms. Cherry stated that if an accessory building should be applied for under a separate building permit, it could add to the flow coming from that site, so somewhere there needs to be the approval if there should be another structure built on site.

Mr. Cox explained the difference about when a retention pond is put in place there is the difference between detention and retention ponds and believes that the County is protected in this situation with having a retention pond being placed, volumes are twice as much versus that of detention. It is treated as everything coming from the sky or that area, has to be stored in the retention area. Mr. Cox believes if a 10,000 foot barn would be built, this retention storage area will be sufficient to store that runoff as well.

Commissioner Teague asked if it is important to mention what happens to 4663 or 4664, if the house is moved to a different location, with Mr. Cox stating there are a lot of ways to approach, from a FHA and HUD financing standpoint, residential requirements are that of setting the foundation, and those requirements were outlined. He further indicated what can be done, naming a concrete pan, he agrees if the location changes, he believes the location of where the residence is placed needs to be reviewed stating there are places where homes are built and there is not enough fall around the structure, which causes drainage issues. He stated he believes it is important to review the proposed site if it should be changed from the proposed site plan as it is now.

Further discussion followed with Mr. Cox stating he can further discuss the issues with Ms. Cherry as to what should be done if there would be significant site plan changes.

Commissioner Teague asked the question if the County should approve the application that we leave it open ended as to making the conditions appropriate to the resolution, with Commissioner Zwetzig in agreement. Commissioner Arndt stated he believes the site plan is what should be looked at as it is now, and any significant change would require the engineer to complete another study given the change in elevation, and to require the engineer to present new numbers.

Ms. Cherry stated she would be willing to work with Mr. Cox in preparing the resolution, and having the appropriate language and then present it at a later date to be sure it has captured the adequate information. Ms. Cherry asked if it would be appropriate to continue the matter for an additional two weeks to give staff time to prepare the appropriate resolution so the language is adequate.

Commissioner Arndt stated he has seen it done in the manner that the Board takes the matter under advisement and allows staff to prepare the appropriate language and resolution.

Mr. Potthoff stated he is confident that Mr. Cox and staff can come up with appropriate information and is comfortable with either requirement.

At this time, a motion was made by Commissioner Arndt to take the matter under advisement and render a decision until Tuesday, November 7, 2017 directing the staff to work with the engineer, and for a resolution to be prepared for the Board's review. Commissioner Teague seconded the motion and the motion carried 3-0.

Being no further business, the meeting was adjourned at 9:59 a.m.

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Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified October 31, 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