

COMMISSIONERS PROCEEDINGS 1

**BOARD OF COUNTY COMMISSIONERS
Minutes of Meeting
November 7, 2017**

The Board of Morgan County Commissioners met Tuesday, November 7, 2017 at 9:00 a.m. with Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt in attendance, also present was Kathryn Sellers, County Attorney. Chairman James Zwetzig called the meeting to order and asked Morgan County Administrative Intern Connor Woodall 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 October 31, 2017
Ratify the Board of County Commissioners approval on Contract 2017 CNT 221, CML Security, trouble shoot door security at Judicial Center, Term of Contract October 16, 2017 until completed
Ratify the Board of County Commissioners approval of Peak Communication maintenance services and support agreement signed on October 27, 2017
Ratify the Board of County Commissioners approval of the amended Retirement Policy in the Morgan County Personnel Policy
Ratify Chairman Jim Zwetzig's signature on the Colorado County Officials and Employees Retirement Association Retirement Plan and Trust Agreement for the 401(a) participant plan amending from a 5 year vesting to a six year vesting period signed on November 3, 2017
Ratify Chairman Jim Zwetzig's signature on the State of Colorado discharge ability of account through bankruptcy for ambulance client #141034 signed on November 2, 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 46 – A Resolution updating the financial authority of County Officials and employees relating to the County bank accounts

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

RESOLUTION NO. 2017 BCC 46

A RESOLUTION UPDATING THE FINANCIAL AUTHORITY OF COUNTY OFFICIALS AND EMPLOYEES RELATING TO COUNTY BANK ACCOUNTS

WHEREAS, the County Commissioners desire to update which County officials have authority to open or close accounts; endorse for cash, deposit, negotiation, collection; sign checks or orders for payment; or execute fund withdrawal requests from County bank accounts on behalf of the County.

NOW THEREFORE be it resolved by the Morgan County Board of County Commissioners as follows:

Section 1. The following County Officials are hereby authorized to open or close accounts; endorse for cash, deposit, negotiation, collection; sign checks or orders for payment; or execute fund withdrawal request from the following County bank account.

- a. Bank of Colorado, Morgan County, Board of Commissioners Account Number 6700006937

Mark A. Arndt, County Commissioner

Laura D. Teague, County Commissioner

James P. Zwetzig, County Commissioner

Susan L. Bailey, County Clerk and Recorder

Robert A. Sagel, County Treasurer

Section 2. No withdrawal request shall be effective unless execute by two of the above-named individuals.

Section 3. All previous authorizations relating to the same subject matter are hereby repealed.

APPROVED this 7th day of November, 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 Treasurer Robert Sagel presented to the Board for approval, Resolution 2017 BCC 46, a Resolution updating the financial authority of County Officials and employees relating to the County bank accounts. Mr. Sagel stated when the RFP was being completed for banking services for the County it was brought to his attention that the Board of County Commissioners account still had Brian McCracken listed and Mark Arndt was not currently not listed on the account. Also, Jim Zwetzig was not listed as Chairman of the Board on the account. Mr. Sagel stated that this resolution will correct the account to add Mark Arndt to the account and change Jim Zwetzig from Commissioner to Chairman. At this time Mr. Sagel asked for approval. Commissioner Teague asked if this item could be added to the annual meeting with Mr. Sagel stating it would be a good idea to do so.

Commissioner Teague made a motion to approve Resolution 2017 BCC 46, a Resolution updating the financial authority of County Officials and employees relating to the County bank accounts reflecting Jim Zwetzig as the Chair and Mark Arndt replacing Brian McCracken as County Commissioner as outlined by Morgan County Treasurer Robert Sagel, with Commissioner Arndt seconded the motion. At this time, the motion carried 3-0.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated November 3, 2017 through November 14, 2017 with changes.

Chairman Zwetzig stated that today is Election Day and encouraged the public to vote.

UNFINISHED BUSINESS

There was no unfinished business.

CITIZEN'S COMMENT

Ken Bohl, Superintendent for Jackson Lake Reservoir and Irrigation and Fort Morgan Reservoir and Irrigation Company, stated that at their last board meeting it was brought to his attention that on the Upper Platte and Beaver there is a building too close to the ditch and was informed there are not any regulations through the planning and zoning on easements close to canals. He stated that for Morgan Ditch the policy is 75 foot from the center of the ditch either way or as needed and that is standard. Mr. Bohl stated that if the County does not have a policy, there should be one. He further stated when Gary DeJohn came in behind where Country Liquors was located, one requirement for the housing development was there had to be an 8 foot fence on the edge of the easement so no one could encroach the canal. Also, at the new middle school when they develop down towards the canal, they will have to do the same to keep people from encroaching on the easement.

Chairman Zwetzig stated that there will be a public hearing for the Upper and Platte Beaver use so and encouraged Mr. Bohl to stay to hear that hearing today.

Commissioner Teague asked if there is 75 foot easement on laterals and delivery ditches as the canals with Mr. Bohl stating the only problem is usually the main canals and that would be too wide on the laterals.

Ms. Sellers stated the county does not have authority to set easements for ditches, but the issue is that ditch companies are not being notified of the building and activity on the property and they do not have the ability to say if that is our easement.

Chairman Zwetzig stated that there is notification if it is on the title work, as that has happened in a previous situation. Chairman Zwetzig explained that is why it is required to have a title commitment, when they the applicant applies for a variance, new subdivision or exemption, it has to be within the last 6 months. Ms. Sellers stated that is the case on zoning permits but not on building permits. With Chairman Zwetzig stating that is advisement with the Planning Commission.

Mr. Bohl stated the Board really needs to look at there being a 75 foot, or as needed, easement that should be taken into consideration.

Chairman Zwetzig explained this happens across the state not just Morgan County and there is not a defined answer. Ms Sellers stated that it is whatever is reasonably necessary for the ditch company to maintain the operation. Chairman Zwetzig stated that some places may need more than others.

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At this time, the Board took a short recess at 9:12 before proceeding with the Public Hearing as posted.

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, Commissioner Mark Arndt and Morgan County Attorney Kathryn Sellers.

2018 Proposed Budget Presentation

Chairman Zwetzig asked Morgan County Finance Director Michelle Covelli to present the 2018 Proposed Budget at which time Ms. Covelli explained all department heads submitted their budget request into the Board and the Board has met with each department. Currently the proposed budget for 2018 is \$37.5 million, which is a decrease from last year's \$42 million, the decrease from last year being due to less capital projects. The departments have requested \$6 million is capital projects for the 2018 proposed budget. Ms. Covelli explained that one project is for a new roof on the justice center in the amount of \$1.2 million, also \$1.6 million for asphalt projects.

The preliminary assessed value has increased as indicated by the assessor's office in the amount of 6 percent with the assessed value being approximately \$553 million, which will increase property tax revenue by approximately \$900,000 that is then split over all the funds that receive property tax. There is a 6 percent increase in the health insurance premiums, resulting in an increase of \$150,000 a year. The County pays approximately \$2.5 million in health insurance for employees. Ms. Covelli stated Commissioners have until December 15 for final budget additions or decreases to the final budget requests.

At this time, Chairman Zwetzig opened the matter for public comment at which time there was no public comment.

Chairman Zwetzig asked Karol Kopetzky, the IT Director, if the proposed budget will it be posted on the County's website, with Ms. Kopetzky stating the final budget is posted however this may also be posted with Chairman Zwetzig stating it would be good for the community to be able to review.

Chairman Zwetzig stated that the county is working on the County website to make it more user friendly.

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

Commissioner Arndt thanked all the department heads for their work and thanked the finance department for all the time and work they put into the budget.

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. Applicant is seeking authorization for signature on Subdivision Exemption Resolution.

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO.2017 BCC 47

A RESOLUTION CONDITIONALLY APPROVING A SUBDIVISION EXEMPTION ON PROPERTY LOCATED IN THE SE¼ OF SECTION 25, TOWNSHIP 2 NORTH, RANGE 60 WEST OF THE 6TH P.M. MORGAN COUNTY COLORADO WITH AN ADDRESS OF 5971 COUNTY ROAD H, WIGGINS, COLORADO 80654.

WHEREAS, Craig Gerhard Potthoff (the "Owner") owns property located in the SE¼ of Section 25, Township 2 North, Range 60 West of the 6th P.M. Morgan County, Colorado with an address of 5971 County Road H, Wiggins, Colorado 80654;

WHEREAS, the Owner filed an application for a subdivision exemption pursuant to Section 9-100 of the Morgan County Subdivision Regulations;

WHEREAS, on April 4, 2017 the Planning Commission held a properly noticed public hearing on the application where approval was recommended;

WHEREAS, having reviewed the Subdivision Exemption application the Board of County Commissioners held a properly noticed public hearing on October 24, 2017; and

WHEREAS, the Board of County Commissioners of Morgan County, Colorado, after taking staff and public testimony and reviewing the material provided to it, desires to grant the Subdivision Exemption application, subject to the conditions below.

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NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MORGAN COUNTY, COLORADO, that based upon the findings below that they wish to conditionally approve the application as follows:

1. The Board of County Commissioners having reviewed the criteria for a subdivision exemption finds that the application has met such criteria and approve the application subject to the following conditions:

a. Construction on this property will be in compliance with the Drainage Plan including the construction of a retention pond;

b. If construction occurs outside of the building area indicated on the Drainage Plan revisions to the plan may be required as determined by the Planning Administrator.

APPROVED this 7th day of November 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

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 on October 24, 2017 the Board of County Commissioners approved the Subdivision Exemption application on property 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. At that meeting the Commissioners requested that the Planning Administrator work with Chadwin Cox, P.E., the applicant's engineer to develop appropriate conditions to the resolution related to the drainage on the site.

Ms. Cherry stated that the drainage plans were received from the applicant's engineer and are included in your packet. The proposed resolution has been reviewed by County Attorney Kathryn Sellars.

Ms. Cherry explained that just this morning she received revised drainage letter that has been submitted to the Board. At the request of the Commissioners the resolution remain very general and basically refer to the drainage plan which is what was done with the resolution everything will go to the drainage plan and a possible amendment to it if the building is built outside the footprint that is indicated on the plan.

At this time, Chairman Zwetzig asked the applicant for comments where as Chad Cox, Western Engineering Consultants, noting his address as 2501 Mill Street Brush, CO and Craig Potthoff, noting his address as 711 Custer Street Brush, CO. Mr. Cox stated that as requested the pond was added to the drainage plan indicating it is the rectangle on the map being 100 X 225, there is 4 foot of storage and 1 foot of freeboard. The elevation that was set is once that the area is filled up with water it will drain out into the culvert. There are a series of notes that were added if the structure were to move it would have to increase the elevation if it went to the west for every 100 feet they have to come up a foot.

At this time, Chairman Zwetzig opened the matter for public comment at which there was no public comment.

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

At this time, a motion was made by Commissioner Teague to approve Resolution 2017 BCC 47 for a conditionally approved subdivision exemption on a property located 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, with the conditions as clarified by Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry regarding the drainage plan and the building site. Commissioner Arndt seconded the motion, and the motion carried 3-0.

Chairman Zwetzig thanked Mr. Potthoff and Mr. Cox for their work addressing the needs of the County's regulations.

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Applicant: Wesley Challis
Landowner: Wesley Challis

Application for a Variance to the Bulk Regulations related to setbacks in the Agriculture Production zone district. The applicant requests a reduction of the required front setback of 30' to 21' and a reduction in the required rear setback of 20' to 14'. The property is located in the SE1/4 of the SE1/4 of Section 17 and the W1/2 of Section 16, Township 4 North Range 55 West of the 6th P.M., Morgan County Colorado, also known as 32009 County Road V, Hillrose, Colorado 80733.

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 stated that this application is for a Variance to Morgan County Zoning Regulations Section 3-650 Appendix B Table 1, Line 3 for the front and rear setbacks required in the Agriculture Production Zone District to build a 30'x50' (1,500 square foot) shop. The front setback required in the zone district is thirty feet which is proposed to be reduced to twenty-one feet, a reduction of 30%. The rear setback required in the zone district is twenty feet which is proposed to be reduced to fourteen feet, a reduction of 30%. The property is .91 acres (39,639.6 square feet) and is located in the SE ¼ of the SE ¼ of Section 17 and the W ½ of Section 16, Township 4 North Range 55 West of the 6th P.M., Morgan County Colorado, parcel number 1035-170-00-009, with an address of 32009 County Road V, Hillrose, Colorado 80733.

Ms. Cherry explained that this application met the 30% requirement for administrative review as permitted by Morgan County Zoning Regulations Section 5-110(A). The Planning Administrator may grant variances for up to 30% of the standards for bulk regulations related to the lot including (1) Minimum area of lot; (2) Minimum width of lot; (3) Minimum front, side, and rear yard setbacks. When an objection to the proposal is received a public hearing is required. An objection was received from Terry Linker, President and Allyn Wind, Secretary of the Lower Platte and Beaver Canal Company. The complaint is for the issuance of a building permit within 14 feet of the south side of the canal. All other bulk requirements for the property are in compliance with the regulations. Lot coverage for the property with this shop will be 7% and the maximum lot coverage in the Agriculture Production zone is 10%.

Ms. Cherry explained the adjoining property owners and agency referrals were completed there were no other objections received on this variance request.

Ms. Cherry explained the Criteria for review of a Variance:

- (1) The application requirements of Section 5-185 have been met; the application was complete and represents a clear picture of the requested variance.
- (2) There are no off-site impacts of the requested variance which would require additional infrastructure (utilities, drainage, or roads) by the County or Special Districts.
- (3) The variance proposed is compatible with surrounding uses and is adequately buffered as necessary. Aerial imagery is included in the packet to show proximity of other structures along the canal.
- (4) The general intent and purpose of these Regulations and the Morgan County Comprehensive Plan would be served by granting the variance.
- (5) The granting of this variance would prevent undue hardship in the application of the requirements of these Regulations and would be in the best interests of public health, safety, and welfare. This property is limited for the placement of structures due to the shape of the lot.

Ms. Cherry shared the applicant statements included with application:

- (1) Due to shape, size of my lot and the ditch and road that abuts property, buildings are to be placed within the limits required to comply within permitted regulations.
- (2) Literal interpretation of the provisions of the Zoning Regulations deprives me of regular permitted variances and other properties in the area because of the shape and size of my lot.
- (3) The shape, size and abutting ditch and road of my property are not in my control to meet the permitted variances.
- (4) Attached map of property/lot shows minimum variances needed for placement of my proposed building on my lot.

At this time Ms. Cherry recommended the approval of the application.

Chairman Zwetzig asked Ms. Cherry if this went before Planning Commission with Ms. Cherry stating it his was not heard by Planning Commission as it goes straight to the Board of Commissioners.

At this time, Chairman Zwetzig asked the applicant for comments.

Wesley Challis, P.O. Box 281 Brush CO, Jim Kauffman 908 Bob Blvd., Brush, CO both indicated their address.

Mr. Kauffman stated that they have done everything by the book. The set back from the corner by the ditch that they are concerned about by the ditch is more than what is required. Mr. Kauffman explained that the building will be not

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be too close to the ditch, they will still be able to do any work that the ditch company may need to do. Numerous people that have lived out in the area, the ditch has not moved a bit as it is the same from 60 years ago. They have taken down livestock structures and the ditch company had no trouble with that when it was there. He stated he is a little confused why they can't build what they would like to in this same area.

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

Allyn Wind, 345 Howell Avenue Brush, CO, stated he has been with the Lower Platte and Beaver Creek Canal Company for 55 years. He stated that the Lower Platte board of directors are objecting to the application being filed with the County and the 14 foot setback variance for a shop on land that is adjacent to the canal. The canal company has operated and maintained the canal by a descriptive easement which in his opinion is the distance that is needed to operate and maintain the canal. Mr. Wind stated the 14 foot the applicant is requesting is not enough room for the ditch company to maintain or repair the ditch as the first 4 foot you cannot put a vehicle or machine as the ground is too soft so that leaves only 8 feet to work with. The board has agreed, for this case only, of a setback of 25 feet for this area only and this application only, not for the rest of the ditch. It was very unfortunate that the land seller, buyer or realtor did not contact the ditch company prior to the selling of the property.

Dustin Heid, Morgan County Planning and Zoning Building Inspector, has been out to the property and did measure the setbacks. The size of the building will not fit on this property without a variance. Mr. Heid stated there is a well house and to move the building north of the well house cannot happen, the only place to put it is to go south and it would be close to the road, which will make more issues for the traffic that is on the highway. He is not sure how far the well house is from the bank edge with a 15 foot setback, it barely fits, but with a 25 foot setback it will not fit. Mr. Heid explained that moving it east will block the garage that has already been approved and purchased, but to the best of his knowledge it has not been constructed yet.

Don Chapman, 34272 Road X Hillrose, Riverside Irrigation would like to echo Mr. Wind's comments. There is importance that these applications need to respect the easements that ditch companies have. He would recommend that Planning and Zoning continue to use email notifications of these situations.

Commissioner Teague would like to clarify that on land use or variance applications the ditch companies are getting notifications and they would like to have those on building permits as well, with Mr. Chapman stating that is correct. Chairman Zwetzig stated that is under advisement at this time with the Planning Commission.

Ms. Cherry stated that she is asking for the ditch companies to submit the easements that they have and the locations they have no record of there being those easements. Mr. Chapman stated it depends on the size of the canal and the space that is needed to maintain and operate. Chairman Zwetzig said with a ditch it should be a given that there is an easement. Mr. Chapman stated that the Colorado Water Conservation Board has for free downloadable files of all the ditches in Colorado that can go into the GIS. Ms. Kopetzky could get those and make those available through GIS or McMapper for the GIS.

Bart Ginther, 25545 Highway 34, Brush CO, stated the things that everyone has said making moves prior to the easements being taken into consideration are a problem when they have not been notified. It is important that these easements are paid attention to before, not after the fact.

Mr. Kauffman asked why was the livestock allowed and they are farther away with the shed from the ditch than it is. Commissioner Teague stated she is not sure they don't know what guidelines or considerations were followed at the time.

Ms. Cherry stated that in the maps that are in the Boards packet there are structures that are closer to the ditch than this shed would be placed. Mr. Kauffman stated the building will be 16 foot that is the flat dirt that does not include that angle of the bank so it will be further than 16 foot. Mr. Kauffman explained that Planning and Zoning told him it was 15 foot from the center of the ditch that is what is to be measured for the setback, with Ms. Cherry stating that 15 foot is from south bank is the property line. Further discussion about the property line ensued. Chairman Zwetzig asked how the parcel was created as there has to be a record of how the parcel was created. A survey plat was shown and discussed. Chairman Zwetzig asked what the county setback requires, with Ms. Cherry stating the setback is 20 feet from the property line.

Mr. Kauffman stated he prepared the drawing in question and the 16 foot is from the top of the bank to the ditch to the corner of the shed. Chairman Zwetzig stated it has to be certain that it is from that property line, you would have to be certain that the measurements are from the property line not the ditch. Mr. Heid stated the original setting for the shop was close to the property line so the applicants were told to move it so there could be a 30 percent variance done through the Planning and Zoning office. Commissioner Teague asked how the property line was measured with Mr. Heid stating that they strung a tape measure to the center of the ditch and went out 15 foot and measured from there to the corner of the shop which was 16 to 18 feet which was still closer than the 20 foot setback.

Mr. Kauffman stated there is still access to the ditch on the other side and there is no blocking on the other side of the canal. When they purchased the property there was dead trees in the canal that they have cleaned out, not the ditch company.

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

Commissioner Teague stated in her mind, there are some properties that are not buildable. The County is currently working on making some changes to the setbacks. Commissioner Teague stated that this property may not be big enough for this size structure.

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Ms. Sellers is concerned that this parcel may have been created in violation of the subdivision regulations since it is unclear how the parcel was created it may have been created prior to there being regulations in place, this needs to be figured out. Ms. Sellers explained that what the board is looking at today, they are reviewing whether or not there are special conditions on the property that create hardship for the owner to be able to do what they are requesting to do. In the considerations the Board needs to look at if the hardship is self imposed, whether it's the minimum necessary use of the parcel and not allowed to grant relief if it is detrimental to the public good. Ms. Sellers stated that is something to consider even though the ditch easement are not acknowledged in the variance criteria.

Commissioner Arndt asked the Lower South Platte the 25 feet where that was being measured was from 25 feet from the center of the ditch or the bank with Mr. Wind stating that 25 feet from the edge of the bank to the south.

Chairman Zwetzig stated the county regulations, as written, there is no variance needed to build at a 20 foot setback with Ms. Sellers stating yes that is correct. Ms. Sellers explained that the regulations do not to deny a building permit because of an objection from an easement holder. Discussion followed regarding the setbacks.

Commissioner Teague asked if the parcel was done illegally in 2004 how that fixed should be, with Ms. Sellers stating it needs to be looked into and if it hasn't been, it would have to be done through a subdivision exemption process if it was not done.

A recess was called at 10:12 a.m. recess was called to find out how the subdivision was handled in 2004.

At 10:23 a.m. the meeting was brought back to order.

Ms. Sellers stated it was created in January 1997 as a subdivision exemption, it is legally created and the regulations do apply. Chairman Zwetzig stated that if a zoning permit is issued, how property lines and setbacks measured are, Mr. Heid stated he takes the existing boundaries, verifies them on the mapping system, if he can find the pins that is the best but the older properties don't have that. If there needs to be a variance he will suggest it, if it is close to needing a variance he will recommend to the property owner to get it surveyed or get a Location Certificate.

Commissioner Teague stated the map they have is from the edge of the ditch and it is from 2004 and does not show what the center of the ditch is. Commissioner Arndt asked if the setback is 20 feet and they can get a building permit, if at this time the Board cannot ask for the 25 feet with Ms. Sellers stating that is correct.

Commissioner Teague asked about the measurement taken which was 16 feet, if may not even need a setback depending on how wide the ditch is. Chairman Zwetzig asked Ms. Sellars to look through the file and see who was notified during the process who was notified during the exemption in 1997 with Ms. Sellars stating landowners within a quarter mile. They also notified Northeast Health Department stating there was a letter with no objections and there is a letter from planning administrator to the planning commission stating that the property is surround by a irrigation ditch, a state highway and a buried irrigation pipeline.

Commissioner Teague stated we do not know how many feet is being requested from the rear property line because we don't know where the property line is. Ms. Sellers stated she would trust or rely on the surveyor map. Discussion ensued about the rear and front setbacks.

Mr. Kauffman asked if we do not know where the property line is, how he would find out with Chairman Zwetzig stating to have the property surveyed. He explained once the property is surveyed it is measured from that property line on the survey map. Chairman Zwetzig stated to the applicant he should want to be sure, when he is requesting he should have the correct measurements.

Commissioner Arndt stated the 24 x 26 building that it is possible to get the 30X50 on that property as well and meet the setbacks but is it real a hardship because you are wanting two buildings and one already purchased how is that a hardship, does it have to be that you have to choose which building you want.

Chairman Zwetzig asked if the Board denies the variance is it one year for them to come back, it is up to the applicant but he would think they would like to be sure the measurements are correct.

Ms. Sellers there is a measurement issue and is there a better location or a better size that can be requested. Perhaps that applicant could look at reducing the size of the shop.

Mr. Kauffman asked if is there is a minimum they could move towards the road, with Mr. Heid stating he could move it to the south and he could request a zero foot setback, however, that would not get approved due to the highway and the traffic. Discussion continues about the access and setbacks.

Mr. Kauffman asked if there was a limit for the front of the building and to a house. Mr. Heid stated that the County follows international fire code to have this type of building have a 10 foot clearance from the residence to the shop.

Mr. Kauffman stated if the 30X50 shop is moved east, it will bring it further from the ditch and would that okay, Mr. Heid stated any location of this size building, there will have to be a variance given that building is larger than what would be allowed without a variance.

Commissioner Teague asked if the application is denied, can he reapply for one year or could they table it and have the applicant do come changes with Ms. Sellers stating that is correct.

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Commissioner Arndt moved to table the variance until December 12, 2017 with Commissioner Teague seconding the motion, and the motion carried 3-0.

Amendments to Morgan County Zoning and Subdivision Regulations

Proposed amendments to Chapter 9 of the Morgan County Subdivision Regulations concerning subdivision exemptions and providing for an amendment process for subdivision exemptions.

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO.2017 BCC 48

A RESOLUTION AMENDING THE MORGAN COUNTY SUBDIVISION REGULATIONS ESTABLISHING A PROCESS TO AMEND SUBDIVISION EXEMPTIONS

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

WHEREAS, the Board of County Commissioners may make amendments to the Morgan County Subdivision Regulations pursuant to the procedures in Sec. 1-150 of the Morgan County Subdivision Regulations;

WHEREAS, the Morgan County Subdivision Regulations currently prohibit amendments to subdivision exemption plats except in cases of technical errors and expressly prohibits amendments to subdivision exemptions which would create additional lots;

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the County to provide for a process to amend and reconfigure lots which have previously been subject to a subdivision exemption even though they are not simply technical errors and therefore would not meet the current criteria to amend the original subdivision exemption;

WHEREAS, on October 16, 2017, the Planning Commission held a duly noticed public hearing on the proposed amendment and recommended approval;

WHEREAS, on November 7, 2017, the Board of County Commission held a duly noticed public hearing on the proposed amendments;

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

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

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

1. Section 2-245 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

Any parcel of land in Morgan County, which is intended to be divided into two (2) or more lots or units, tracts, sites, parcels, separate interests, interests in common or other divisions, to be used for industrial, commercial, or residential uses including condominiums, townhouses, or other separate ownership of multiple-dwelling units, unless such land or buildings when previously subdivided was accompanied by a filing which complied with the provisions of this section with substantially the same development density or which is divided into two (2) or more parcels, separate interest or interests in common, unless otherwise exempted under these Subdivision Regulations.

2. Section 9-100 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

Subdivision exemptions provide for divisions of land on a small scale under circumstances in which the need to comply with Morgan County Subdivision Regulations would cause undue hardships and the impact of the proposed division does not bring the division within the purpose and intent of the Morgan County Subdivision Regulations. The abbreviated procedure set forth in these Exemption Regulations permits an applicant to process a proposed land division with a minimum of time and expense, while encouraging the proper arrangement of access roads in relation to existing or planned roads; providing for adequate light and air; avoiding congested population; providing for proper traffic circulation; insuring adequate provisions for water, sewage and recreation; and regulating such other matters as the Planning Commission and Board of County Commissioners may deem necessary in order to protect the best interests of the public, This procedure requires an exemption plat to be prepared.

3. Section 9-105 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

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Pursuant to §30-28-101(10)(d), C.R.S., the Board of County Commissioners of Morgan County has the authority to exempt from the definition of “subdivision” or “subdivided land” any division of land that the Board determines is not consistent with the purpose of the Subdivision Regulations.

4. Section 9-110 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

Except as herein provided, no exemptions from State and County Subdivision Regulations shall be granted. These Exemption Regulations shall apply within the unincorporated areas of Morgan County, Colorado when the division of land meets the criteria in this Chapter. These Exemption Regulations shall not apply to the following activities:

5. Section 9-110(B) of the Morgan County Subdivision Regulations is hereby amended to read as follows:

(B) Except as provided for herein, division of a parcel of land which has been created or divided pursuant to these Exemption Regulations.

6. Section 9-120 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

Except as allowed in Sections 9-110(C) and 9-190, only one subdivision exemption shall be granted for each discrete tract of land under common ownership. Notwithstanding the amendment procedure in Section 9-190, no more than four (4) exemptions may be approved in any officially defined quarter section (¼ square mile) of land.

7. Section 9-157 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

The Morgan County Planning Administrator may approve an exemption if the criteria of Section 9-180 are met. The Planning Administrator may refer the application to the Morgan County Planning Commission and Board of County Commissioners if an objection is received from a landowner located within ¼ mile of the proposed exemption or any referral agency. Approval of an exemption by the Morgan County Planning Commission and Morgan County Board of Commissioners may be required at the discretion of the Planning Administrator. Review of an application for a subdivision exemption by the Planning Commission and Board of Commissioners shall comply with the procedures as provided for herein.

8. Section 9-170(D) of the Morgan County Subdivision Regulations is hereby amended to read as follows:

Amendments to an exemption plat may be made as provided for in Sec. 9-190 of these Exemption Regulations. Under no circumstances may exemption plats be amended to create an additional number of parcels.

9. Section 9-180 of the Morgan County Subdivision Regulations is hereby amended to read as follows:

Subdivision exemptions shall satisfy all of the following criteria for approval:

* * *

10. Section 9-180(H) of the Morgan County Subdivision Regulations is hereby amended to read as follows:

(H) Exemptions shall not be considered on previously exempted land, except as provided for in Section 9-190 of these Exemption Regulations.

11. Section 9-180(N) of the Morgan County Subdivision Regulations is hereby deleted in its entirety.

12. Section 9-180(O) of the Morgan County Subdivision Regulations is hereby amended to read as follows:

(O) Exemptions shall not be granted for purposes of aggregating a new parcel(s) from adjacent parcels or previous exemptions, except as provided for in Sec. 9-190 of these Exemption Regulations, since this procedure avoids the subdivision intent of these Exemption Regulations.

13. Section 9-180 of the Morgan County Subdivision Regulations is hereby amended by the addition of new subsections (P) and (Q) to read as follows:

(P) Subdivision exemptions may not result in the creation of more than two parcels of land.

(Q) As a result of the exemption, at least one parcel shall be a minimum of 35 acres.

14. The Morgan County Subdivision Regulations are hereby amended by the addition of a new Section 9-190 to read as follows:

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9-190 Amendments to Subdivision Exemptions.

(A) Applicability

Owners of property which was subject to a previously approved subdivision exemption pursuant to these Exemption Regulations may apply for an amendment to a subdivision exemption provided that the amendment meets the criteria in this Section 9-190.

(B) Process

Amendments to subdivision exemptions shall be subject to subdivision exemption application process as provided for this Chapter 9. The application fee shall be set by the Morgan County fee schedule.

(C) Criteria for Approval

The Planning Administrator or Morgan County Board of County Commissioners, in approving an amendment to a subdivision exemption, shall find:

1. The amendment will not result in any non-conforming parcels under the Morgan County Zoning Regulations and is consistent with the intent and purpose of these Regulations;
2. The amendment will not adversely affect access, drainage or utility easements or rights of way serving the property or other properties in the area;
3. The amendment meets all design standards and other criteria applicable to exemptions under this Chapter or, as applicable, a technical error was made to the recorded original exemption plat; and
4. The amendment will not increase the number of lots approved in the original subdivision exemption.

APPROVED this 7th day of November, 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

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 the purpose of this proposed amendment is to establish a process to amend previously approved Subdivision Exemptions. At the present time an amendment to an exemption requires that the Subdivision Exemption process be repeated. For example, there are occasions when an amendment is reasonable to adjust a property line because of a sprinkler encroaching on the adjoining property, or an owner wants to make the initial exemption larger. The minimum parcel size of the larger property will be required to be 35 acres or larger as has been practiced.

Ms. Cherry stated that a public hearing on this resolution was held before the Planning Commission on October 16, 2017. The Planning Commission, on an affirmative vote of 5-0 recommends approval of this resolution.

At this time, Chairman Zwetzig opened the matter for public comment at which there was no public comment.

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

At this time, a motion was made by Commissioner Teague to approve Resolution 2017 BCC 48 a resolution amending the amendments to Chapter 9 of the Morgan County Subdivision Regulations concerning subdivision

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exemptions and providing for an amendment process for subdivision exemptions as presented by Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry. Commissioner Arndt seconded the motion, and the motion carried 3-0.

Chairman Zwetzig is pleased that the Board is moving forward and changing the regulations.

Proposed amendments to various sections of Morgan County Zoning Regulations regarding the size of accessory uses and structures; requirements for accessory uses and structures; and lot coverage in the Agricultural Production Zone.

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO.2017 BCC 49

A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS REGARDING THE SIZE OF ACCESSORY STRUCTURES, REQUIREMENTS FOR ACCESSORY USES AND STRUCTURES AND LOT COVERAGE IN THE AGRICULTURAL PRODUCTION ZONE

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 and clarify the applicability zoning permit under the Morgan County Zoning Regulations; 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.

WHEREAS, the Planning Commission has considered the amendment set forth herein and recommended approval on October 16, 2017; and

WHEREAS, the Board of County Commissioners, after a duly noticed public hearing on November 7, 2017 considered any public testimony and the Planning Commission recommendation and finds that the amendment is in the best interests of the citizens of Morgan County.

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

1. Section 1-135 of the Morgan County Zoning Regulations is amended to read as follows:

Accessory Building: A building, the use of which is customarily incidental to that of the main building or to the main use of the land (principal use) and which is located on the same lot with the main building or use.

2. Section 1-140 of the Morgan County Zoning Regulation is amended to read as follows:

Accessory Use: A use naturally and normally incidental to, and devoted exclusively to the main use of the premises.

3. Section 3-130 of the Morgan County Zoning Regulations is amended as follows:

3-130 Accessory Uses and Structures

These uses are naturally and normally incidental to a use-by-right and comply with all the following conditions:

- (A) Is clearly incidental and customary to and commonly associated with the operation of the use-by-right.
- (B) Is operated and maintained under the same ownership as the use-by-right on the same zone lot.
- (C) Includes only those structures or structural features consistent with the use-by-right.
- (D) The maximum lot coverage percentage for the zone district shall apply according Section 3-650, Zone District Bulk Requirements and Special Design Standard Chart, Table 1 of Appendix B.
- (E) May include home occupations, as defined by the zoning regulations and/or by zone district.
- (F) Must comply with setback and other design standard requirements in each zone district.

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(G) A drainage plan may be required prior to approval of the accessory use if the Planning Administrator determines that the accessory use or building meets at one of the following criteria:

1. The accessory use or building may have a drainage impact on adjacent properties;
2. The accessory use or building may have a drainage impact on adjacent rights of way; or
3. The accessory structure is 5000 square feet or larger.

(H) Construction of accessory uses may or may not require a building or zoning permit. If a permit is required, a map showing the location of the accessory use on the zone lot in relation to other buildings and property lines will be required.

4. Appendix B, Table 1 of the Morgan County Zoning Regulations is hereby amended by the deletion of the limitation on lot coverage by structures in the Agricultural Production Zone.

APPROVED this 7th day of November, 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

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 the purpose of this proposed amendment is to clarify the Morgan County Zoning Regulations as they regulate accessory buildings and structures. The current regulations refer to accessory structures as subordinate to the use-by-right on the property. This implies that the accessory structure would be smaller in size than the primary use, which in many cases is a residential building. All references to an accessory structure as being subordinate have been removed from the resolution. There are many cases throughout Morgan County where accessory structures are larger than the residential structure. As an example, as the code currently reads, a 4,000 square foot home would be permitted to have one 400 square foot shed exclusive of a garage.

Ms. Cherry stated upon adoption of this resolution, the size of the accessory structure would be limited by the Zone District Bulk Requirements and Special Design Standard Chart, Section 3-650, Table 1 of Appendix B, not the residential structure square footage. Lot coverage limitations currently range between 10% and 75% depending on the zone district classification of the property.

Ms. Cherry explained the proposed Resolution will maintain the requirement for a drainage plan for buildings larger than 5,000 square feet in size as determined by the Planning Administrator.

Ms. Cherry stated that a public hearing on this resolution was held before the Planning Commission on October 16, 2017. The Planning Commission, on an affirmative vote of 5-0 recommends approval of this resolution.

Chairman Zwetzig asked if the charts are changed, if this resolution reflects what chart is in affect with Ms. Sellers stating yes.

At this time, Chairman Zwetzig opened the matter for public comment at which there was public comment Jody Meyer Planning and Zoning wants to make clarification 5000 and over in the memo it has larger than 5000, it reads two different ways with Ms. Cherry stating it should be 5,000 and over.

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

Commissioner Arndt asked Ms. Cherry if this is part of the bulk regulations chart that we will be looking at and what is there is this resolution will go in and it can move on but the rest is also being looked at as well, with Ms. Sellers stating it will only change what boxes this applies to and the chart.

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At this time, a motion was made by Commissioner Arndt to approve Resolution 2017 BCC 49 a resolution Morgan County Zoning Regulations regarding the size of accessory uses and structures; requirements for accessory uses and structures; and lot coverage in the Agricultural Production Zone, as presented by Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry. Commissioner Teague seconded the motion, and the motion carried 3-0.

Proposed amendments to Section 2-325 of the Morgan County Zoning Regulations to make uses not special listed within the Zoning Regulations subject to the special use permit regulations.

MORGAN COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2017 BCC 50

A RESOLUTION AMENDING SECTION 2-325 OF THE MORGAN COUNTY ZONING REGULATIONS TO ALLOW FOR USES NOT LISTED WITHIN THE DESIGNATED ZONE DISTRICTS TO BE SUBJECT TO THE SPECIAL USE REGULATIONS

WHEREAS, the County has determined that uses not listed within each zone districts, and not otherwise prohibited, should be subject to the County's Special Use regulations and criteria;

WHEREAS, this amendment shall not alter the County's continuing authority to prohibit certain uses in any zone district as it deems in the best interests of the citizens of Morgan County;

WHEREAS, the Planning Commission has considered the amendment set forth herein and recommended approval on October 16, 2017; and

WHEREAS, the Board of County Commissioners, after a duly noticed public hearing on November 7, 2017 considered any public testimony and the Planning Commission recommendation and finds that the amendment is in the best interests of the citizens of Morgan County.

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

1. Section 2-325 of the Morgan County Zoning Regulations shall be renamed and amended to read as follows:

2-325 Uses Not Listed

Any use, not designated as a Use by Right, Accessory Use, Conditional Use, Use by Special Review or not otherwise prohibited in a particular zone, may be approved as Use by Special Review pursuant to the criteria and procedure as established by these Regulations.

DATED this 7th day of November, 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

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 the purpose of this proposed amendment is to clarify the Morgan County Zoning Regulations as they regulate specific designated uses. The current regulations have conflicting information. Section 2-325 Prohibited Uses of the Zoning Regulations states "Any use not designated as a Use by Right, Accessory Use, Conditional Use or Use by Special Review in a particular zone shall be considered a prohibited use in that zone." Traditionally, Morgan County has processed Special Use applications for uses not designated in the regulations.

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Ms. Cherry stated that a public hearing on this resolution was held before the Planning Commission on October 16, 2017. The Planning Commission, on an affirmative vote of 5-0 recommends approval of this resolution.

At this time, Chairman Zwetzig opened the matter for public comment at which there was no public comment.

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

Ms. Sellers stated this is a large change, indicating there is a risk down the road that if there is a use that the Board has not considered and does not want to allow, they currently do not prohibit, it will be a special use under these regulations. The other side the staff will not have to figure out what use it needs to be fit into they can use this for those situations.

Connor Woodall, County Intern 602 Ellsworth Street Brush, CO asked are these special uses being added going to be allowed with the regulations with Ms. Sellers explaining they can if they want to they no longer have to. Chairman Zwetzig stated they would not have to be added as a special condition. Commissioner Arndt stated it gives some guidance and it opens it up to.

At this time, a motion was made by Commissioner Teague to approve the Resolution 2017 BCC 48 a resolution amending Section 2-325 of the Morgan County Zoning Regulations to make uses not special listed within the Zoning Regulations subject to the special use permit regulations, presented Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry. Commissioner Arndt seconded the motion, Chairman Zwetzig asked how does the board know if they are doing the right thing, with Ms. Sellers stating the discussions in the public record and that sometimes things change and it has to be done differently, at this time motion carried 3-0.

Being no further business, the meeting was adjourned at 11:02 a.m.

Respectfully Submitted,
Ranee Aleman
Deputy Clerk to the Board

(Minutes ratified November 14, 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