

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS

Minutes of Meeting
September 10, 2019

The Board of Morgan County Commissioners met Tuesday, September 10, 2019 at 9:01 a.m. with Chairman James Zwetzig, Commissioner Mark Arndt and Commissioner Jon Becker in attendance. Chairman Zwetzig asked Morgan County Emergency Manager Roger Doll to lead the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There were no citizens present, so action was suspended by Chairman Zwetzig.

ADOPTION OF THE AGENDA

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

CONSENT AGENDA

1. Ratify the Board of County Commissioners approval of Contract 2019 CNT 111, Kairos Family Services, LLC, Term of Contract July 1, 2019 through June 30, 2020
2. Ratify Chairman James P. Zwetzig's signature on 2019 EMPG Grant Letter of Acceptance, signed September 3, 2019
3. Ratify the Board of County Commissioners approval on assignment of debt collections to State Collections, Client #191196, #190239, #191105, #190974, #190858, #190724, #190894, #190790, #190658, #190771, #190928, #191122, #190982, #190900, #190680, #190933, #190968, #190816, #190889, #190767, #190400, #190936, #182590, #190958, #190929, #190890, #190930, #190455

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

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

There was no general business or administrative items.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Emergency Management Director-Roger Doll, FEMA National Emergency Management Basic Academy Certification

Morgan County Emergency Management Director, Roger Doll, presented to the Board the FEMA National Emergency Management Basic Academy Certification that he received and provided a background of the program.

Commissioners reviewed the calendar dated September 6, 2019 through September 17, 2019 with changes.

Commissioner Arndt provided the weekly road and bridge report.

Morgan County Clerk and Recorder Susan Bailey provided an update regarding the upcoming 2019 Coordinated Election announcing those entities who will be participating in the upcoming election as well as those who have canceled.

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 Mark Arndt and Commissioner Jon Becker were present. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and Donald K. Springer applicant and landowner.

1. **Consideration Of Approval – RESOLUTION 2019 BCC 21 - A Resolution Amending Morgan County Zoning Regulations Concerning The Morgan County Livestock Confinement Operation Regulations**

MORGAN COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2019 BCC 21

2 COMMISSIONERS PROCEEDINGS

A RESOLUTION AMENDING MORGAN COUNTY ZONING REGULATIONS CONCERNING THE MORGAN COUNTY LIVESTOCK CONFINEMENT OPERATION REGULATIONS

WHEREAS, the Board of County Commissioners (“Board”) to amend the County’s confined animal feeding operation regulations to allow for the cessation of operation in any zone district for up to 60 months without requiring the operation to conform to current regulations;

WHEREAS, the Board also desires to clarify that the distance limitation buffer applicable to confined animal feeding operations is measured from the nearest exterior property line of the property upon which the operation is located;

WHEREAS, the Board further desires to limit the distance restrictions between confined animal feeding operations and residences which are located on the same legal parcel;

WHEREAS, on August 12, 2019, the Planning Commission held a duly noticed public hearing on the proposed amendments and recommended approval;

WHEREAS, on September 10, 2019, the Board of County Commissioners held a duly noticed public hearing on the proposed amendments;

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

Section 1. Section 2-180 of the Morgan County Zoning Regulations is hereby amended to read as follows:

If any such non-conforming use of land is a livestock confinement operation, the use may be ceased for a period of up to sixty (60) months without loss of right to re-commence the use without conformity to the current regulations.

Section 2. Section 3-180(A) of the Morgan County Zoning Regulations is hereby amended to read as follows:

Single-family dwellings located less than 1,320 feet from an existing animal confinement operation, packing plant, slaughter house, or rendering plant, except for single-family dwellings located on the same legal parcel as an existing animal confinement operation.

Section 3. Section of 4-200(A) of the Morgan County Zoning Regulations is hereby amended to read as follows:

Livestock confinement facilities which exceed sizes set out in Section 3-175, slaughter houses, packing plants, or rendering plants shall be located at least thirteen hundred twenty feet (1320’) from any public place of assembly, from any existing residence or occupied commercial building, any county or municipal residential zone, or from any residential building site for which a building permit has been issued as measured from the permitted building footprint.

Section 4. Section 4-200(D) of Morgan County Zoning Regulations is hereby amended to read as follows:

The permitted area of livestock confinement facilities shall be located at least fifteen feet (15’) from any County, State or Federal highway right-of-way, and subject to review by the County and the Colorado Department of Transportation. This distance limitation shall be measured from the nearest boundary of the permitted area and not as set forth in Subsection (E). At the discretion of the Board of County Commissioners these location restrictions may be adjusted when considering the proximity to incorporated areas and residential planned developments.

Section 5. Section 4-200 of the Morgan County Zoning Regulations is hereby amended by the addition of new subsections (E) and (F) to read as follows:

E. Unless stated otherwise, distances from livestock confinement facilities set forth in these Zoning Regulations shall be measured from the footprint of the permitted area upon which the livestock confinement operation is or will be located.

COMMISSIONERS PROCEEDINGS 3

F. The distance limitations in subsections A and B of this Section shall not apply to existing residences or residence for which a building permit has been issued when that residence is located on the same legal parcel as the livestock confinement facilities.

Section 6. Section 4-260 of the Morgan County Zoning Regulations is hereby amended to read as follows:

It is the policy of Morgan County to discourage and/or deny applications for residential subdivisions, residential subdivision exemptions and home construction within thirteen hundred and twenty feet (1,320') of an animal confinement operation, packing plant, slaughter house, or rendering plant sited under these Regulations without a use by special review, except for residences located or to be located in the same legal parcel as an animal confinement operation. Should such a use by special review be granted in order to meet the needs of a property owner under hardship conditions, then a deed will also be recorded by the property owner at the time of granting the use by special review noting that the property owner acknowledges full knowledge that a permitted animal confinement operation, packing plant, slaughter house, or rendering plant was located closer than thirteen hundred and twenty feet (1,320') from the residence.

Section 7. Notes (c) of Section 3-650, Table 1, Appendix B, pages 1 and 2, of the Morgan County Zoning Regulations is hereby amended to read as follows:

1,320' (1,320 foot) setbacks are required from animal confinement facilities, slaughter houses, rendering plants and packing plants for residences without a SRU, except for residences on the same legal parcel as animal confinement facilities.

APPROVED this 10th day of September, 2019.

THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

James P. Zwetzig, Chairman

Mark A. Arndt, Commissioner

Jon J. Becker, Commissioner

(SEAL)

ATTEST:

Susan L. Bailey

Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry presented to the Board Resolution 2019 BCC 21, a Resolution Amending Morgan County Zoning Regulations Concerning The Morgan County Livestock Confinement Operation Regulations. Ms. Cherry stated that Planning Commission reviewed the proposed amendments at their meeting on August 12, 2019. At that meeting Planning Commission unanimously recommended approval of the amendments.

Ms. Cherry explained that in the Boards packets are two different documents related to the changes. The first with yellow highlights shows revisions requested related to residential structures on the same property as a feeding operation.

Ms. Cherry stated that another revision is to clarify the setback for residential structure to be from the feeding operation footprint. Notification area for CAFO applications will be measured from the property boundary.

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

Ms. Cherry stated it is allowed to have a residence on the same parcel the CAFO is approved for, same ownership, and same parcel as questioned by Chairman Zwetzig.

At this time, Chairman Zwetzig opened the matter for public comment of the hearing in which there was no public comments provided.

Commissioner Arndt summarized the revisions that have been made to the regulations, with Ms. Cherry explaining in detail the difference between the different boundaries used to notify surrounding landowners of any proposed livestock confinement.

Commissioner Becker made a motion to approve Resolution 2019 BCC 21 a Resolution Amending Morgan County Zoning Regulations Concerning The Morgan County Livestock Confinement Operation Regulations presented by Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry. Commissioner Arndt seconded the motion. Chairman Zwetzig questioned if the document has been revised to correct any

4 COMMISSIONERS PROCEEDINGS

misspellings with Ms. Cherry stating this document does not have any misspellings at this time. At this time, the motion carried 3-0.

2. Consideration of Approval - Donald K. and Immaculada C. Springer - Landowners

Donald Springer – applicant

Legal Description: A parcel of land in the W1/2 of Section 11, Township 2 North, Range 60 West of the 6th p.m., Morgan County, Colorado; aka: 4009 and 4005 Co Rd K, Wiggins, CO 80654.

Reason: Minor Subdivision to create 2(two) lots, one parcel of 30.35 acres with improvements and one parcel of 4.7 acres with improvements.

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.

Ms. Cherry explained that this application is for a Minor Subdivision on property located SW¼ of Section 11 Township 2 North, Range 60 West of the 6th P.M. The property is addressed as 4005 and 4009 Morgan County Road K and is 35 acres.

Ms. Cherry stated that Don Springer the applicant is requesting approval of a minor subdivision to create two lots one is 4.7 acres, the second lot is 30.35 acres. There are two existing homes and one barn on the property. This subdivision will result in one home and the barn on the 4.7 acre parcel and one home on the 30.35 acre parcel. Locations of the buildings are in compliance with the Agriculture Production District setback requirements. The 4.7 acre parcel is being created for a family member.

Ms. Cherry explained the access for the 30.35 acre lot is proposed by easement across the 4.7 acre lot. Staff has requested that a flag stem be created for the 30.35 acre lot to provide access. Applicant requests that the existing unrecorded access be used for the larger lot.

Section 8-195 of the Morgan County Subdivision Regulations requires review of the listed criteria and compliance to be determined prior to approval of the proposed subdivision.

In reviewing an application for a minor subdivision the Planning Commission and the Board of County Commissioners shall apply the following criteria as listed from Section 8-195 of the Morgan County Subdivision Regulations:

- (A) Whether the application documents are complete and present a clear picture of how the subdivision is to be laid out including all infrastructure, easements, and access.

The application documents are complete:

Document	30.35 Acres (4009)	4.7 Acres (4005)
Quality Water	Tap #2453	Tap #1182
Health Department (Septic)	Existing Permit #M04-080	Existing Septic System
Road and Bridge	Existing access	Existing access
Fire	Wiggins	Wiggins
Soil map	USDA/NRCS	USDA/NRCS
Extension Service	3 animal units	3 animal units
Mineral Rights Notification	Contacted	
Right to Farm	Provided	
Improvement Location Cert	Yes	

- (B) Whether the proposed subdivision is consistent with the Morgan County Comprehensive Plan. The subdivision is located in the southwest planning area.

Chapter 6, C. Land Use

Goal: To encourage preservation of agricultural production land to ensure continuation of this important industry.

- (C) Whether the proposed subdivision is compatible with surrounding land uses and is adequately buffered as needed.

This subdivision is located in the Agricultural Production District and buffering is not required, uses are compatible.

Ms. Cherry stated that all appropriate notice requirements have been completed with one comment related to junk accumulation on the north portion of the proposed 30.35 acres parcel. The site of the minor subdivision is not located within the 100-year floodplain. Subject property is located within the Wiggins Rural Fire District. Taxes are current.

Ms. Cherry explained that the Planning Commission reviewed this application at their meeting on August 12, 2019 and unanimously recommends approval subject to conditions:

At this time Ms. Cherry recommended approval of this application for a Minor Subdivision subject to:

1) Plat revisions will be required to the drawing to adequately show access for both proposed lots.

2) Junk on the 30.35 acre parcel shall be removed in accordance with Section 4-360 of the Morgan County Zoning regulations prior to recordation of the plat.

COMMISSIONERS PROCEEDINGS 5

Chairman Zwetzig asked for clarification on the term “junk” and how it is defined with Ms. Cherry reading aloud what “junk” is referenced to in the regulations.

At this time, Chairman Zwetzig asked the applicant for comments with Mr. Donald Springer, 4009 County Road K, Wiggins, CO, stated he is positive that he is working on the property but has worries about the winter months, and the six month limit that has been placed, is concerning. He states his ability to move things and the weather is of concern as well as financial reasons. He stated he is willing to clean up the property and asked for detailed definition of what is considered “junk”, namely what a dead car is stating the vehicles on his property are not wrecked, they have good bodies and are ready to run expressing concerns in having to purchase batteries for all the vehicles on the property. Chairman Zwetzig asked Ms. Cherry if she has been on the property, with Ms. Cherry stating she has driven by, but has not been on the property. Chairman Zwetzig asked if the vehicles located on the property fit the criteria of junk, with Ms. Cherry stating if they are not licensed and they do not run, they would be considered junk. Mr. Springer stated his insurance company requires he has to have two vehicles on standby, stating he literally maintains all the vehicles, and if they should break down, he will cancel the insurance and place the insurance on one that is in running condition. He questioned why with all the acreage he has, why the concern about the number of vehicles, feeling the County is interfering with what he is doing, expressing it is a hobby and he works on the vehicles to help others who may need parts or vehicles.

Further discussion followed regarding the vehicles on the property whether or not they fit the criteria of a “dead vehicle” as junk and expressing his concerns about a surrounding neighbor and his junk, asking Ms. Cherry what the status of his complaint was, with Ms. Cherry stating Mr. Heid, Building Inspector, has contacted the individual in question.

Commissioner Arndt made note of a photograph that was presented, dated August 23, 2019, stating he would agree with Mr. Springer that someone’s junk is another man’s treasure. He further stated there are things in the picture that do not reflect as “parts”, with Mr. Springer speaking about the old mobile home that is in the photograph. Commissioner Arndt stated he does understand the comments about taking parts from the cars, but suggested that he comes to some sort of agreement and meets with Mr. Heid and uses the common sense approach in how the clean up the property will take place. Mr. Springer stated that he is working on cleaning up the property but has concerns about the individual who filed a complaint about it stating the cleanup will have to be on his time frame, explaining his concerns asking for a longer period of time to perform the cleanup. Commissioner Arndt asked Mr. Springer if he is agreeable in meeting with Mr. Heid to figure out what needs to be cleaned up and work on a timeline to do the cleanup before the Mylar would be recorded and everything finalized. Mr. Springer stated he is in agreement to meeting with Mr. Heid.

Chairman Zwetzig asked Mr. Heid if he wanted to make comment, with Dustin Heid, speaking, representing Morgan County Planning and Zoning, stated he was on the property and there was evidence of what would be considered “junk” and realizes that Mr. Springer is making the efforts to do the cleanup as necessary and understands Mr. Springer’s concerns and feels the progress for cleanup needs to be completed prior to the Mylar being recorded.

At this time, Chairman Zwetzig opened the matter for public comment and noted there was no one in attendance to speak in favor or against the application.

At this time, Chairman Zwetzig moved into discussion and decision. Commissioner Becker asked Ms. Cherry the question about the mobile home that is on the property that is burnt out, what are the regulations, can that be left to sit there. Ms. Cherry stated it is considered abandoned, and it should be removed, and in the ag zone it is allowed to have two inoperable vehicles on the property and he has more than that. Commissioner Becker clarified the definition as being unlicensed and inoperable, with that being and/or with Ms. Cherry stating and/or and it could be unlicensed and running. Commissioner Becker asked Mr. Springer if he could have the vehicles operating with a battery, with Mr. Springer stating yes and explained further his priorities at this time, stating he cannot have a pile of batteries laying around, especially over the winter months, as those would have to be kept warm inside. He further stated another constant thing is keeping gasoline in the tanks and it varnishing. Commissioner Becker made mention that Mr. Springer sees these as projects, and he himself has several vehicles on his property, located inside sheds, that he considers projects as well. Commissioner Becker stated he believes the mobile homes on the property do need to be removed, with Mr. Springer asking if he could bury them, with Commissioner Becker stating they cannot be buried explaining why. Commissioner Becker stated he does not have a problem with extending the deadline but they do need to be cleaned up and explained the final plat will not be able to be recorded until the cleanup is completed. Mr. Springer stated this is needed for the loan process to take place and things have been stalled because of the cleanup of property issue, not understanding once it is divided, it becomes separate.

Chairman Zwetzig asked about the existing home on lot B, having a separate water supply with Ms. Cherry stating yes, and the existing home in place having a separate water supply with Ms. Cherry stating yes. Discussion followed where the mobile home will be moved, and will it go to the pile or somewhere else. Mr. Springer stated it is inhabitable, and Chairman Zwetzig asked if it will remain on the property. Mr. Springer stated he is waiting on the title for the mobile home, and following a process to obtain the title explaining the County Clerk’s office is working with the Department of Revenue to obtain title to the mobile home and stated it cannot be moved until the title matter is taken care of. Chairman Zwetzig asked if a mobile home can be placed on a single lot, with Ms. Cherry explaining those requirements. Chairman Zwetzig asked about the creation of a new lot that will not allow for a mobile home, with Ms. Cherry stating yes, and it should be requested to be moved off of the property.

6 COMMISSIONERS PROCEEDINGS

Chairman Zwetzig asked about the access to the creation of the new lot, and Ms. Cherry explained how they currently access the property with Mr. Heid confirming the information presented by Chairman Zwetzig. A question was asked about the easement that is indicated with Mr. Springer stating that is where the utilities are located, and that being an auxiliary roadway they do use when the water gets too deep on the west side.

Access to the properties was questioned with Ms. Cherry stating Mr. Springer wants to continue using the access road to the properties as they are now given it is family using the properties. Chairman Zwetzig stated the board will be creating a subdivision, and does not understand how the application could even get to the Board for approval without access and explained he is totally opposed to any creating of a lot that does not have a defined access.

Commissioner Arndt made mention there will need to be a recorded easement for access, with Chairman Zwetzig stating there will need to be an easement drawn on the plat map and recorded. Further discussion followed regarding the access requirement.

Discussion followed regarding the mobile home placement and the creation of an additional lot, with Chairman Zwetzig stating once there is a change in the parcel and subdivided, that creates a new parcel, and that is not the same as leaving it as the 35 acres parcel. Commissioner Arndt agreed with Chairman Zwetzig stating it is creating another parcel, and that is a non-conforming lot.

Commissioner Becker stated there is the issue with access and Chairman Zwetzig commented about the issues he sees with allowing an easement for access.

Commissioner Arndt stated he does question about approvals being made regarding the easement being recorded with the plat, the mobile home would have to be removed before the recoding of the plat, as that would be violating their own regulations if they would allow it to remain on the newly created parcel, and feels it is a condition of approval. In regards to the removal of the junk, he believes there is a common sense approach to get this completed and work out a timeline, and the recording of the plat be completed according to the plan that would be put in place, and it be a plan that is signed and recorded as part of the file. Mr. Springer stated he cannot say it will be gone next week, or next month, with Commissioner Arndt stating he feels there just needs to be common sense used and work on an agreement that will be satisfactory.

Commissioner Becker stated his question is whether or not they can move forward, and asked if Mr. Springer agrees with Commissioner Arndt's requirements, if the Board can move forward with these conditions to be able to approve the application. Mr. Springer stated he is positive he can remove the junk and will do what is being asked. Commissioner Becker asked about his comment that his son needs this application approved so his son can apply for his loan, with Mr. Springer expressing his concerns about what the County requires. Chairman Zwetzig stated the purpose of zoning regulations is to protect the public and the existing zoning regulations do allow for a special use permit to be applied for.

Chairman Zwetzig asked if there were any written complaints about the creation of a subdivision, with Ms. Cherry stating there were none. The only opposition is making sure there is legal adequate access to lot B, and they have added some conditions to bring the parcel into compliance with the nuisance portion of the regulations as well as the mobile home.

Chairman Zwetzig stated he would prefer the matter be tabled until there is a defined access in place for the property as subdivided. Discussion followed regarding the 60 foot right of way the County has, with Mr. Springer stating he did not realize there was a section line.

Commissioner Becker stated he is fine with the conditions as outlined by Commissioner Arndt and a motion to that affect would be appropriate.

Commissioner Arndt made the motion to approve the application submitted by Donald K. and Immaculada C. Springer for a Minor Subdivision to create 2(two) lots, one parcel of 30.35 acres with improvements and one parcel of 4.7 acres with improvements, noting the condition of the plat being recorded a dedicated easement through parcel A being described as the 4.7 acres, must be recorded on the plat to provide legal access to the remaining parcel of land being the 30.35 acres; also noting the mobile home that is sitting on lot A, that is now a nonconforming lot must be removed prior to being recorded and an agreement between Mr. Springer and Morgan County be developed and signed and recorded on the cleanup of the junk using a common sense approach between both parties with a limited time of one year to complete the entire cleanup. At this time, the motion was seconded by Commissioner Becker. Ms. Cherry asked to clarify that the plat will not be recorded until these conditions are met, with Chairman Zwetzig asking if the lots are created when the plat is recording and Ms. Cherry stated the lots will not be divided until the plat is recorded.

Chairman Zwetzig noted that he would want the easement shown on the plat to be subject to the approval of the County Commissioners, with Commissioner Arndt stating he would accept that as an amendment to his initial motion, with Commissioner Becker seconding the amendment.

Discussion followed regarding the matter of cleaning up the junk, as if it is subject to what needs to come off before the plat can be recorded. Commissioner Arndt stated there is some that can be removed from the property granting a time line up to one year, and that it was not his intent that the entire property would have to be cleaned up, that once an acceptable agreement is signed by both parties regarding the cleanup, the necessary documents can be recorded including the agreement.

COMMISSIONERS PROCEEDINGS 7

Mr. Springer asked about the A lot and the numerous trees, he has been building rabbit hutches on the back part of the 30 acres, and the giant limbs that are there, he would like to leave them and that is part of the animal habitat. Discussion followed with Chairman Zwetzig stating the matter being heard today is in regards to the application and moved into decision.

At this time, the motion and the amended motion was voted on and motion passed 2-1, with Chairman Zwetzig being the dissenting vote.

Being no further business the meeting was then adjourned at 10:32 a.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board

(Minutes ratified September 17, 2019)

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

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

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

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

(SEAL)

ATTEST:

s/Susan L. Bailey
Susan L. Bailey