

COMMISSIONERS PROCEEDINGS 1

BOARD OF COUNTY COMMISSIONERS Minutes of Meeting October 8, 2019

The Board of Morgan County Commissioners met Tuesday, October 1, 2019 at 9:00 a.m. with Chairman James Zwetzig, Commissioner Mark Arndt and Commissioner Jon Becker in attendance. Chairman Zwetzig led the meeting in the Pledge of Allegiance.

CITIZEN'S COMMENT

There was no citizen comment provided.

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 125 BNSF Railway, CR 3 Crossing, Term of Contract September 27, 2019 through completion
2. Ratify the Board of County Commissioners approval of Contract 2019 CNT 126 BNSF Railway, CR 16 Crossing, Term of Contract September 27, 2019 through completion
3. Ratify the Board of County Commissioners approval of Contract 2019 CNT 127 Media Logic LLC./ Cover Theatre, Term of Contract September 24, 2019 through September 23, 2020
4. Ratify the Board of County Commissioners approval of Contract 2019 CNT 128 Kyle Marshall/DJ Beardo KBPI, Term of Contract September 20, 2019 through September 29, 2019
5. Ratify the Board of County Commissioners approval of Contract 2019 CNT 129 Mortec Industries, Term of Contract March 18, 2019 through completion
6. Ratify the Board of County Commissioners approval of Contract 2019 CNT 130 Mortec Industries, Term of Contract September 25, 2019 through completion
7. Ratify the Chairman Jim Zwetzig's signature on the Agreement for Cooperative Wildfire Protection signed October 3, 2019

Commissioner Becker made a motion to approve items 1-7 as presented, Commissioner Arndt seconded the motion. At this time the motion carried 3-0.

GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

Discussion of closing county road to public use starting at a point thirty (30) feet south of the Northwest corner of Section 5, Township 2 North, Range 60 West of the 6th Principle Meridian, also known as the south right of way edge of Morgan County Road M, thence south on a line between Sections 5 and 6 of Township 2 North, Range 60 West of the 6th Principal Meridian for a distance of five thousand two hundred fifty feet (5250) also known as Morgan County Road 1.

**HUTF Segment Numbers for Road being closed
Route 1 Segment 800
Route 1 Segment 1000**

Commissioner Arndt made a motion to set this matter for public hearing and public comment at 9:00 a.m. on Tuesday, October 22, 2019 to adequately notify members of the public of this pending action, with Commissioner Becker seconding the motion. Discussion followed with the explanation that this action is different from vacating a roadway, that it is the closing of a roadway and county maintenance would still be required. At this time the motion carried 3-0.

RESOLUTION NO. 2019 BCC 24 -A Resolution Establishing That the Designated Posting Location For Morgan County Meeting Notices Shall Be Online At The County's Official Website

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

RESOLUTION NO. 2019 BCC 24

A RESOLUTION ESTABLISHING THAT THE DESIGNATED POSTING LOCATION FOR MORGAN COUNTY MEETING NOTICES SHALL BE ONLINE AT THE COUNTY'S OFFICIAL WEBSITE

WHEREAS, the Board of County Commissioners (the "Board") desires to establish that the official website of Morgan County shall be the designated posting location for County meeting notices pursuant to House Bill 19-1087.

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

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Section 1. The official posting location for meeting notices of Morgan County Boards and Commissions shall be the official website of Morgan County, which currently has the following URL: <https://www.colorado.gov/pacific/morgancounty>. All previous designations of official posting locations are hereby repealed.

Section 2. This Resolution shall be filed with the Colorado Department of Local Affairs.

APPROVED this 8th day of October, 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

Commissioner Becker made the motion to approve Resolution 2019 BCC 24 A Resolution Establishing That the Designated Posting Location for Morgan County Meeting Notices Shall Be Online at the County's Official Website. Commissioner Arndt seconded the motion. Commissioner Arndt clarified that notices will continue to be posted on the bulletin boards at this time, with Chairman Zwetzig stating yes. After no further discussion, the motion carried 3-0.

UNFINISHED BUSINESS

There was no unfinished business.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated October 4, 2019 through October 15, 2019 with no changes.

Commissioner Arndt provided the weekly road and bridge report ending October 4th 2019.

Morgan County Clerk and Recorder Susan Bailey provided an update regarding the upcoming Coordinated Election.

Chairman Zwetzig also noted that County offices will be closed Monday, October 14, 2019 in observance of Columbus Day.

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.

- 1. Applicant:** Felimon Castaneda, Cargill Meat Solutions
Landowner – Cargill Meat Solutions

Legal Description: A parcel of land located in the E½ of the NE¼ of Section 8, Township 3 North, Range 57 West of the 6th P.M., Morgan County Colorado, addressed as 1505 E Burlington Ave, Fort Morgan , Colorado 80701.

Request: Amended Special Use permit for a third anaerobic lagoon to provide redundancy for the existing operations. The new lagoon will provide flexibility and backup while another is being cleaned or relined allowing Cargill to remain in compliance with Colorado Department of Public Health and Environment regulations.

Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry presented to the Board a Special Use permit for a third anaerobic lagoon to provide redundancy for the existing operations. The new lagoon will provide flexibility and backup while another is being cleaned or relined allowing Cargill to remain in compliance with Colorado Department of Public Health and Environment regulations. A parcel of land located in the E½ of the NE¼ of Section 8, Township 3 North, Range 57 West of the 6th P.M., Morgan County Colorado, addressed as 1505 E Burlington Ave, Fort Morgan , Colorado 80701.

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Ms. Cherry explained that this application is to amend Special Use Permit 2017 BCC 35 to construct a third covered anaerobic lagoon that will be adjacent to two existing lagoons. The property is located in the E½ of the NE¼ of Section 8 Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

Ms. Cherry stated that all uses under Resolution 2017 BCC 35 continue to be permitted; this amendment is an expansion of the previously permitted uses. The property is zoned Light Industrial and two other lagoons are currently in use on the property. With construction of the third lagoon a backup will be available while existing ponds are being relined and will provide Cargill flexibility for operations. Impacts on adjacent areas are not anticipated. The project will also enable them to remain in compliance with regulations of the Colorado Department of Public Health and Environment.

Ms. Cherry explained that the proposal is in compliance with the Morgan County Comprehensive Plan and the criteria for approval of the Special Use permit.

- a. The use and its proposed location are in conformance with the Morgan County Comprehensive Plan. Specifically:
 - i. The project will broaden employment opportunities for residents and will further economic growth.
 - ii. The proposed use is compatible with existing land uses and there is access to established public infrastructure.
 - iii. The use will protect existing agriculture operations by allowing it to continue while not restricting private property rights.
- b. The Application is complete and presents a clear picture of how the use is to be arranged on the site.
- c. The site conforms to the district design standards of Section 4-555 through 4-570 of the Morgan County Zoning Regulations. Specifically:
 - i. The proposed anaerobic lagoon is located in excess of seven hundred and fifty feet (750') from any residence or one hundred feet (100') from the property line.
 - ii. The Applicant shall construct the facility according to the final design plans as submitted to Morgan County, and as approved by the Colorado Department of Public Health and Environment.
- d. The special use is compatible with surrounding uses and is adequately buffered from any incompatible uses by distance and topography.
- e. The special use poses no or minimal risk to the public health, safety and welfare.
- f. The special use will not be located on a nonconforming parcel of land.
- g. The applicant has adequately documented a public need for the project. The Applicant has submitted all pertinent technical information, has demonstrated that it has adequate financial resources to implement the project, and has paid all County fees and review costs.

Ms. Cherry stated the use is an improvement to the existing operation which has been in place for many years. The addition of the third, covered, anaerobic lagoon will provide redundancy for Cargill which will protect the health, safety and welfare of the residents of Morgan County.

Ms. Cherry explained that all on and offsite impacts are determined to be satisfactorily mitigated, provided the following conditions are met:

- a. The Applicant shall rigorously follow the engineered plans as submitted and accepted by Morgan County and the Colorado Department of Public Health and Environment.
- b. Access to the facility shall be limited through property owned by Cargill Meat Solutions Corporation.
- c. The entire lagoon area shall be securely fenced with a six foot (6') chain link fence with three strands of barbed wire atop, in excess of the 6' fence. Gate access to the fenced lagoon shall be securely locked and monitored for security.
- d. The lagoon area shall be shielded from public view by planting trees and shrubs approved by the Morgan County Extension Service, the Morgan County Soil Conservation District, or the Colorado State Forestry Service.
- e. The entire 46.95 acre parcel on which the anaerobic lagoon is located shall be planted into a grass seed mixture approved by the Morgan County Extension Service or the Morgan County Soil

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Conservation District. The subject parcel shall be kept free of weeds and properly mechanically mowed.

- f. The lagoons shall be monitored for leaks by the leak detection system submitted in the design plan, as monitoring wells to assure water quality. All leak detection design and monitoring wells shall be approved and in compliance with the Colorado Department of Public Health and Environment.
- g. The Applicant shall submit quarterly Salinity Test results from the brine lagoon to the Morgan County Planning and Zoning Department.
- h. The applicant shall provide CDPHE reports to the Morgan County Planning and Zoning Department whenever submitted to CDPHE.

GENERAL PROVISIONS

- a. The Board of Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County representatives are authorized to inspect the Property at any reasonable time upon notice to the Applicant.
- b. The Applicant shall comply with all governmental and regulatory agency requirements and permits, including without limitation those promulgated for the protection of health, safety and welfare of the inhabitants of Morgan County. Such compliance shall include without limitation compliance with the regulations of the Colorado Department of Public Health and Environment and the United States Environmental Protection Agency.
- c. Material alterations to the proposed development as set forth in this Application shall require an amendment to this Permit, after hearings before the Morgan County Planning Commission and the Board of County Commissioners. Nonmaterial alterations may be approved by the Morgan County Planning Administrator, upon receipt of written application requesting approval of the proposed alterations.
- d. The Applicant shall comply with all the requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.
- e. Applicant shall submit a survey as required under Section 2-480 of the Morgan County Zoning regulations and be in a format as required by Section 8-180 of the Morgan County Subdivision Regulations.

Ms. Cherry stated that the Morgan County Planning Commission reviewed the project at their meeting on September 16, 2019 and unanimously recommended approval.

At this time, the applicant, Cargill Meat Solutions, represented by Brian Mulinex, HDR, Omaha, Nebraska; Felimon Castaneda, 705 Meng Drive, Fort Morgan, CO and Alex McHugh, Capital Manager for Cargill, 1915 E. 9th Avenue, Fort Morgan, CO, introduced themselves. Mr. Mulinex summarized in detail the application submitted for the Amended Special Use Permit explaining the reasons for the request providing a summary of the compliance plan as well as the reasons for the third cell being proposed. He further explained why they have entered into an agreement with CDPHE in regards to this project.

At this time, Chairman Zwetzig opened the matter for public comment of the hearing in which there was no public comment provided during the hearing. Ms Cherry also confirmed there was no public comment provided during the planning commission meeting as well as no correspondence having been received in favor or against the matter.

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

Commissioner Arndt asked a procedural question, regarding the request to amend the existing resolution, and the fact that the resolution was for a different structure, with Ms. Cherry explaining each special use amends the previous process, with Commissioner Arndt wanting to be sure the wrong resolution is not being amended. Ms. Cherry stated the new resolution will include what is necessary. Chairman Zwetzig asked about the permitted area on the mapping, with Ms. Cherry stating the entire property was permitted and explained how the County's practice has handled this subject property.

Chairman Zwetzig further asked about the blue line on the colored map, being the city limits, with Ms. Cherry asking the applicant to provide the response. The applicant reviewed the map and indicated the map was originally designed for the brine lagoons, further stating he believes it is related to city boundaries. City of Fort Morgan Steve Glammeyer, indicated that would be the City of Fort Morgan boundaries, with further discussion following as to an area of question on the map, with Mr. Mulinex stating there is a drainage channel that may be owned by the City of Fort Morgan, and Mr. Glammeyer stated there is a pond where the drainage flows, and it is possible that area is an easement owned by the City of Fort Morgan for this purpose.

Further discussion followed regarding the resolution approved in 2017 and the details of that resolution, and the 2014/2015 resolution being the brine lagoon information which would require county approval as well and prior to that would be the construction in the '90's. Commissioner Arndt stated he believes it is odd to be amending a resolution that does not pertain to the proposal being presented with Ms. Cherry stating how that needs to be

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reflected and the Board agreed that it was not handled that way in the 2017 resolution. Commissioner Arndt wants to be sure that the historical data is documented correctly.

Chairman Zwetzig asked about the current parcel, and the fact that this was proposed in the early construction with the applicants confirming that information. Chairman Zwetzig confirmed they are not under any kind of compliance order with CDPHE, with Mr. Mulinex stating that is correct. Chairman Zwetzig asked about the new gas burner being shown on the application and if that will be visible, with Mr. Mulinex stating no more visible than that of the current one and the original burner will be deconstructed and explained what the facility intends to do in their process. He explained this will be a much more desirable method in an impending storm situation stating the facility wants to use as much of the gas as possible within their facility. It was pointed out by Mr. Castaneda that there has not been a complaint about the flare.

Discussion followed with Commissioner Arndt stating he is not comfortable with the resolution being presented for approval as indicating the adequate information with Chairman Zwetzig stating the language can be drawn to properly identify this matter. It was mentioned that all the information from the past be presented in one resolution to capture the historical data and action taken. In response to Chairman Zwetzig's question, Mr. Castaneda stated they are not under any formal compliance issues with the State at this time, both within the County and inside the city limits of Fort Morgan.

Commissioner Arndt made a motion to approve a Special Use permit for a third anaerobic lagoon to provide redundancy for the existing operations. The new lagoon will provide flexibility and backup while another is being cleaned or relined allowing Cargill to remain in compliance with Colorado Department of Public Health and Environment regulations. A parcel of land located in the E½ of the NE¼ of Section 8, Township 3 North, Range 57 West of the 6th P.M., Morgan County Colorado, addressed as 1505 E Burlington Ave, Fort Morgan , Colorado 80701, with the Applicant being Felimon Castaneda, Cargill Meat Solutions and the Landowner being Cargill Meat Solutions. Commissioner Arndt also instructed staff to prepare a resolution to include the information that will combine all the permitted area. Commissioner Becker seconded the motion. At this time, the motion carried 3-0.

2. Proposed Amendments to the Morgan County Zoning Regulations:

Repeal Airport Influence Area Overlay District: Sections 1-165, 3-830, 3-835, 3-840, 3-845, 3-850 and 3-855

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 Proposed Amendments to the Morgan County Zoning Regulations to Repeal Airport Influence Area Overlay District: Sections 1-165, 3-830, 3-835, 3-840, 3-845, 3-850 and 3-855.

Ms. Cherry explained that this proposed amendment would repeal zoning regulations related to the airport overlay area. The Part 150 deals with noise and Part 77 deals with approaches and restricts what development may occur in the overlay areas. Included in your packets is a 2017 report by RS&H, a consultant for the City of Fort Morgan, that completed a review of the Morgan County Zoning Ordinance related to the airport overlay area and the recommended changes to the regulations.

- a. Repeal Airport Influence Area Overlay District: Sections 1-165, 3-830, 3-835, 3-840, 3-845, 3-850 and 3-855

Ms. Cherry stated that the proposed amendments were considered by Planning Commission at their meeting on August 19, 2019 and was tabled until September 16, 2019. On September 16, 2019 Planning Commission recommended approval of the repeal of the Airport Influence Area Overlay District portion of the Morgan County Zoning Regulations on a vote of 6 in favor and 1 opposed.

Chairman Zwetzig asked for the background of why these regulations are being considered with Ms. Cherry stating the request came from the City of Fort Morgan and explained those reasons.

Chairman Zwetzig asked those representing the City of Fort Morgan to comment, at this time Steve Glammeyer, Director of Public Works for the City of Fort Morgan and the Airport Manager, spoke providing the information as to how this request for amendments has come to fruition. He stated they would like for the conversations to continue explaining the current operations occurring at the Fort Morgan Airport in order to protect the needs for the airport now and in the future. He spoke about complaints they receive from time to time from residents in the area and would ask for the opportunity to sit down and find a way to create regulations that make sense for both the City of Fort Morgan, Morgan County and citizens.

Mr. Glammeyer introduced those present today, Jeff Wells, City Manager, Terry Rutenbach, Planning Commission Member, and Alan Dahms who serves on the Airport Advisory Board.

At this time, Chairman Zwetzig opened the matter for public comment at which time the following individuals spoke in favor of the matter.

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Terry Rutenbach, 203 West 4th Avenue, Wiggins; Jeff Wells, City Manager, City of Fort Morgan, 710 East Railroad, Fort Morgan, CO, and Alan Dahms, citizen of Fort Morgan, all spoke in favor of the application citing their reasons for supporting.

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

Commissioner Becker asked the question to clarify would they suggest they go ahead and follow through with this resolution and move forward, or scrap this resolution and further meet with the City of Fort Morgan in how to handle this matter for future needs.

Mr. Glammeyer stated he believes they could move forward in either direction, and could start with the resolution being presented, and use it as a framework to continue the conversation. He provided further information as to what he believes can be done, stating this is a good starting point. Mr. Glammeyer thanked the Board for having something on their books and allowing for conversations to continue.

Commissioner Becker asked if he would own land next to the airport, are they allowing individuals to build a hangar on their property and be able to taxi over to the airport, with Mr. Glammeyer explained they do have regulations in their minimum standards that speak to "through the fence", and stated they would have to look into this further and would rather work with an individual to build the hangar on the airport property given they have land available for this growth. He stated they could work with someone who would want to come "through the fence", but would want to have the conversation as to the options available. Commissioner Becker stated he believes this is the concern he has given someone has land adjoining the airport and explained his concerns in detail. Mr. Glammeyer stated there is no guarantee, but it could be discussed.

Commissioner Arndt asked Ms. Cherry about 3-855 a question with Ms. Cherry providing an answer as to the private land strips being covered elsewhere other than these regulations. Chairman Zwetzig asked the question, "are we getting rid of something that is adopted and being used and enforced", with Ms. Cherry stating no. Ms. Cherry read aloud a statement referring to the regulations, as of March 1, 2011.

Discussion followed regarding the noise issues and the fact there is not the issue at this time, but in the future if this is an issue that a specific set of standards going forward would be important. Chairman Zwetzig commented the importance for every County and City in the nation to have two things in their community, a golf course, as well as an airport expressing the airport is important in order to sustain economic growth. He further stated there is nothing where the County is in disagreement with the importance of the airport, but it is difficult when there is discussions about takings and restrictions, stating that most of the growth at the airport they have had to work around what has already been allowed feeling this needs to be recognized. Chairman Zwetzig does not feel it is wrong to give notice to those who may build in this area to know there is the airport and there are some restrictions in place.

Mr. Glammeyer stated he appreciates the comments made and looks forward to sitting down with the Board to further discuss this matter. Discussion followed regarding parachuting planes and any complaints, with Mr. Glammeyer stating he has not been contacted from any landowners regarding any offsite landings. Ms. Cherry stated she has heard rumblings from neighbors mainly regarding the noise, and has not had any specific complaints with Mr. Rutenbach stating the planes used for parachuting is a noisier plane.

Discussion followed with Mr. Rutenbach explaining the rules and regulations that are in place at various municipal airports regarding specific traffic patterns that are required for recreational activities explaining the problems that can be caused and other restrictions that he is aware of.

Mr. Dahms spoke about information regarding many airports that avoid population centers, and spoke in detail about the matter.

Regulations that are there and they have been there quite a while asking the City of Fort Morgan if they are hurting the City of Fort Morgan in any manner, with Mr. Glammeyer stating they were never adopted but in speaking with the FAA, they do encourage regulations that are adopted, and does not feel what the County has now does not affect them in obtaining grants.

Commissioner Arndt stated they had to balance the matter with takings, and it all festered with the new subdivisions that went into place, and the height restrictions that were necessary. Discussion followed that the height restrictions should not create any issues, but it is really about the noise contours and what point does the City go to in identifying what those are, but feels that is a long time away from that issue.

Commissioner Becker stated he does believe there needs to be something, but does not like the restriction for landowners who own land next to the airport and spoke about his concerns, and feels the best thing to do is to remove the regulations and start over.

Commissioner Becker made a motion to approve Resolution 2019 BCC 25, a Resolution Amending the Morgan County Zoning Regulations by the Removal of Airport Influence Area Overlay District noting one correction to the signature line. Commissioner Arndt seconded the motion and after no further discussion, the motion carried 3-0.

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

RESOLUTION NO. 2019 BCC 25

**A RESOLUTION AMENDING THE MORGAN COUNTY ZONING REGULATIONS BY
THE REMOVAL OF AIRPORT INFLUENCE AREA OVERLAY DISTRICT**

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

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

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the County to amend the existing zoning regulations; and

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

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

1. Sections 1-165, 3-830, 3-835, 3-840, 3-845, 3-850 and 3-855 of the Morgan County Zoning Regulations are hereby repealed in their entirety.

APPROVED this 8th day of October, 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

Being no further business the meeting was then adjourned at 10:41 a.m.

Respectfully Submitted,

Susan L. Bailey
Clerk to the Board

(Minutes ratified October 29, 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:

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s/Susan L. Bailey

Susan L. Bailey