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BOARD OF COUNTY COMMISSIONERS Minutes of Meeting May 30, 2017

The Board of Morgan County Commissioners met on Tuesday, May 30, 2017 at 9:00 a.m. with Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt in attendance. Chairman James Zwetzig called the meeting to order and asked Morgan County Sheriff James Crone to lead the meeting in the Pledge of Allegiance and a moment of silence was observed for the recent Memorial Holiday in honor of those who have served.

ADOPTION OF THE AGENDA

Morgan County Administrative Services Manager Kristi Waite made mention of a revision to the agenda as to a typo on the agenda indicating a name change for Public Hearing Item #3 and #4, changing the name from Robert L. and Patti Seiber to Robert E. and Edith Sieber as landowners.

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

CONSENT AGENDA

Ratify the Board of County Commissioners approval on Contract 2017 CNT 118, Concept Auto Body, repairs to patrol car unit #5507, Term of Contract May 22, 2017 until completed
Ratify Chairman Jim Zwetzig's signature on a Discharge ability of account through bankruptcy for the State of Colorado for ambulance services for client #141835, #142058 signed on May 19, 2017
Ratify the Commissioner Laura Teague's signature on the Electronic Signature Agreement for U.S. Environmental Protection Agency for the e-Report Tool for Morgan County Solid Waste signed on May 22, 2017
Ratify Chairman Jim Zwetzig's signature on SB15-242 Child Welfare Allocation Award for SFY 2017-18 signed on May 22, 2017
Ratify Commissioner Mark Arndt's signature for assignment of debt collection to Wakefield and Associates for Morgan County Ambulance Service client #131136
Ratify Chairman Jim Zwetzig's signature on the Stormwater Inspection Report for April 2017 signed on May 21, 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 – FIREWORKS DISPLAY PERMIT – June 10, 2017 – Morgan County Relay for Life Event

Morgan County Administrative Services Manager Kristi Waite presented to the Board the application submitted by Cass Yearous for the Morgan County Relay for Life Event for a Fireworks Display Permit on June 10, 2017. Ms. Waite stated the necessary paperwork has been submitted and the Fort Morgan Fire Department has approved this fireworks permit and this will be contingent upon any fire ban that may be in place at the time. Chairman Zwetzig indicated the annexation of American Legion will be finalized next week and this matter will be considered a grandfathered condition upon annexation of this area per a phone conversation with Jeff Wells of the City of Fort Morgan.

Commissioner Teague made a motion to approve the Fireworks Display Permit with the notation that if there should be any fire ban in place, the permit will not be authorized with the applicant being Cass Yearous for the Morgan County Relay for Life Event as outlined by Morgan County Administrative Services Manager Kristi Waite and authorized the Chair to sign. Chairman Zwetzig asked that it be noted the City of Fort Morgan has agreed to honor this approval as noted. Commissioner Arndt seconded the motion and motion carried 3-0.

Sheriff Crone stated that in past years when there has been a fire ban in place, they have approved some firework displays depending on where the display was within the County and depending on individual circumstances. He stated that it is no different than issuing a permit for certain burning to take place and it could be done in a safe manner in the time frame. He stated that for future reference if there is a fire ban in place and the Board approved contingent upon any fire ban in place, he would have the applicants get with them and step back and look at the situation and still possibly approve the permit.

COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated May 26, 2017 through June 6, 2017 with no changes.

UNFINISHED BUSINESS

There was no unfinished business.

LIQUOR LICENSES

At this time, the Board of County Commissioners convened as the Morgan County Liquor License Authority in the matters of:

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Liquor License or 3.2 Beer License Renewal Application – Hotel and Restaurant (County)

Licensee: CSO, LLC dba Country Steak Out

Operating Manager: Alvina Schrum

Morgan County Clerk and Recorder Susan Bailey presented to the Board a Liquor License or 3.2 Beer License Renewal Application submitted by Alvina Schrum for CSO, LLC dba Country Steak Out for a Hotel and Restaurant (county) license. Ms. Bailey stated that she has received the necessary documents and all fees have been submitted. Ms. Bailey stated she has had no issues with this licensee and then asked the Morgan County Sheriff's Department to report at which time Sheriff Jim Crone indicated he had nothing to report. Ms. Bailey then asked that the Board for approval of this license renewal.

Chairman Zwetzig opened the matter for public comment at which time no comment followed.

A motion was made by Commissioner Teague to approve the liquor license renewal for Alvina Schrum for CSO, LLC dba Country Steak Out and authorized the Chair to sign noting the fees are attached. Commissioner Arndt seconded the motion and motion carried 3-0.

Liquor License or 3.2 Beer License Renewal Application – Hotel and Restaurant (County)

Licensee: Danette L. Garlis dba Elaine's Place

Operating Manager: Danette L. Garlis

Morgan County Clerk and Recorder Susan Bailey presented to the Board a Liquor License or 3.2 Beer License Renewal Application submitted by Danette L. Garlis dba Elaine's Place for a Hotel and Restaurant (county) license. Ms. Bailey stated that she has received the necessary documents and all fees have been submitted. Ms. Bailey stated she has had no issues with this licensee and then asked the Morgan County Sheriff's Department to report at which time Sheriff Jim Crone indicated he had nothing to report. Ms. Bailey then asked the Board for approval of this license renewal.

Chairman Zwetzig opened the matter for public comment at which time no comment followed.

A motion was made by Commissioner Arndt to approve the liquor license renewal for Danette L. Garlis dba Elaine's Place indicating the address as 17590 County Road T.5, Fort Morgan, Colorado and authorized the Chair to sign noting the fees are attached. Commissioner Teague seconded the motion and motion carried 3-0.

CITIZEN'S COMMENT

Sheriff James Crone congratulated the high school seniors upon their recent graduation and also made mention of his gratitude to those who were observed for their service on Memorial Day.

At this time, the Board recessed until 9:30 a.m. at which time they moved into the Public Hearing matters on the agenda as follows:

PUBLIC HEARING

Application is for an Amended Special Use Permit to expand an open pit sand and gravel mining operation to add 36.4 mineable acres to an existing 40-acre permit area for a total area of approximately 76.4 acres, more or less. Property is located in the NE1/4 of Section 34, Township 5 North, Range 58 West of the 6th P.M., Morgan County, aka 21215 Highway 52, Fort Morgan, CO 80701

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 and Commissioner Mark Arndt. Also present were Pam Cherry, Planning Administrator and Morgan Sand and Gravel, Inc., the applicant.

APPLICANT: Morgan Sand & Gravel, Inc.

Chairman Zwetzig asked Planning Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

Background Information

Ms. Cherry stated the subject property is located in the Section 34, Township 5 North, Range 58 West of the 6th P.M., aka 21215 Highway 52, Fort Morgan, CO 80701.

Ms. Cherry explained this application is to amend a Special Use permit that was granted for Morgan Sand and Gravel in 2008 for mining of 40 acres which is nearly completely mined. This amendment will add 36.4 acres to the original permit for a total of 76 acres.

Ms. Cherry stated there is a reclamation plan that has been approved by the Colorado Division of Reclamation, Mining and Safety. In addition, there is a Stormwater Discharge permit from the Colorado Water Quality Control Commission is not required for this operation. There is also a Fugitive Dust permit and Air Pollution Notice (APEN) from the Colorado Air Pollution Control Division State and water trucks will be used when necessary to minimize

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impacts from dust. The nearest residence is 1.5 miles from the pit. This will not cause issues with noise due to the crushing portion of the operation. The pit is not visible to any towns or residential uses.

Ms. Cherry stated that comments either in support or opposition for expansion of the mining operation have not been received by their office.

Utilities – Public utilities are not required for this use.

Access – The existing access will be used for this land use.

Ms. Cherry stated the Amended Special Use is required in the “A” Zone per Section 3-180 (G) Mineral resource development and extraction operations and facilities) including quarrying and sand and gravel pit).

She further indicated that all appropriate notices, posting, and publication requirements have been met. Appropriate fees have been paid for application and review. The subject property is located within the Fort Morgan Rural Fire District. Taxes are current. The subject property is zoned “A” Agriculture Production District and the proposed site of the facility is not located in the floodplain.

At this time Ms. Cherry stated the Planning Commission recommended approval subject to the following conditions:

1. When mining operations are complete on the currently permitted property reclamation will begin in compliance with the plan approved by the Colorado Board of Reclamation.
2. When mining operations are complete on this parcel the Reclamation Plan will be followed as approved by the State Board of Reclamation.
3. If groundwater is exposed notification will be provided to the State Department of Water Resources, Board of Reclamation and Morgan County Planning.
4. The mining operation will remain in compliance with the Fugitive Dust permit and Air Pollution Emission Notice. Water trucks will be utilized for control when necessary.

She also stated that reports of purchase of water for use on the site are required to be submitted to the State.

Ms. Cherry stated a list of mineral rights owners are to be provided to her office, stating this is a state statute that property owners are to notify mineral right owners. Commissioner Teague expressed concerns with individual agencies and conditions regarding these agencies specifically called out as conditions of this permit. She asked what if regulations should change at the state level creating a conflict within the permit. She suggested a conditions such as complying with current regulations under state agency jurisdictions. Ms. Cherry stated that the applicant is subject to comply with what is required at this time. Commissioner Teague asked if the regulation could be more of a blanket statement with Ms. Cherry stating that could be done.

Chairman Zwetzig asked about the storm water discharge permit not being required, with clarification made by Mr. Westhoff stating it is required by the State and they do have one in place. The applicant confirmed there is a discharge permit and has that in place as required.

At this time the applicant, Greg Westhoff, representing as owner of Morgan Sand & Gravel, Inc, address being 21252 Highway 52, Fort Morgan, stated he has had a water discharge permit now for 7 years issued by the State, and explained what the State requires. He stated he has 72 hours to release the stored water. He also indicated that he was required by the County to contact the mineral rights landowners which he has complied with. He noted that was a new requirement, he had not had to do that before. Ms. Cherry explained the reason this is required by the State indicating it is statutory related to subdivisions and land use in general explaining the responsibility is placed upon the applicant on all land use applications. Discussion followed that it should be defined as making the best effort to locating these mineral right owners as it could be quite difficult to find those that could be historically 100 years old. Ms. Cherry stated once her office receives the list, this application will be fully compliant.

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. Commissioner Teague asked if Ms. Cherry feels it is adequate to refer to the State agencies rather than to name them individually with requirements, with Ms. Cherry stating it would be appropriate to refer to the State Board of Reclamation requirements.

At this time, a motion was made by Commissioner Teague to approve the application is for a Special Use Permit to expand an open pit sand and gravel mining operation to add 36.4 mineable acres to an existing 40-acre permit area for a total area of approximately 76.4 acres, more or less. Property is located in the NE1/4 of Section 34, Township 5 North, Range 58 West of the 6th P.M., Morgan County, aka 21215 Highway 52, Fort Morgan, CO 80701, and requested the preparation of a resolution and asked that the conditions be more generalized to generalize compliance with current regulations under the appropriate state agency having jurisdiction such as the State Board of Reclamation and State Department of Water Resources. Chairman Zwetzig clarified that the condition Mr. Westhoff provides the list of landowners that were notified regarding mineral rights be submitted as discussed be included. Commissioner Arndt seconded the motion, and the motion carried 3-0.

Application is for a replat of Subdivision to combine Lots 7 and 8, Block 3, Hedges Addition to the Town of Orchard with an address of 22769 Dunreathe Avenue, Orchard, CO 80649

APPLICANT: Rebecca A. Schmidt

LANDOWNERS: Rebecca A. Schmidt

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Chairman Zwetzig asked Planning Administrator Pam Cherry to present the file at which time she read aloud the following information.

Background Information

Ms. Cherry explained the subject property to be replatted includes Lots 7 and 8, Block 3, Hedges Addition to the Town of Orchard with an address of 22769 Dunreath Ave, Orchard, CO 80649.

Ms. Cherry stated the property is zoned RCR, Rural Community Residential. There are two contiguous lots that the applicant proposes to combine into one lot. There is an existing mobile home on the property that will be removed and replaced with a new modular home. There is an existing Morgan County Quality Water tap serving the home. There is an existing septic system on the property that will be used for the new home.

Seventy-eight (78) property owners in the 1,320 foot notification area received notices of the application. No objections or inquiries have been received referencing this application.

Ms. Cherry stated in regards to access indicating the file contains a letter from Road and Bridge that an additional driveway to the new lot approved; there is an existing driveway on the developed lot.

Ms. Cherry stated the Planning Commission recommended approval if the following conditions are met:

- 1.) If the bulk regulations i.e. setbacks for the RCR zone cannot be met, an application for a variance will be submitted. Administrative approval can be granted if the reduction of setbacks is no more than thirty percent (30%).
- 2.) If, at a future date Morgan County determines a culvert is needed for drainage, or any existing culvert needs repaired, the landowner will assume all costs; and culvert and driveway must meet Morgan County specifications. This may require a forty foot (40') driveway. Culvert may be installed by others, but the culvert must be pre-approved by the County.
- 3.) If existing Onsite Wastewater Treatment System fails to operate properly, the owner shall obtain from the Northeast Colorado Health Department an application for a permit to repair the OTWS in compliance with all regulations.

At this time the applicant Rebecca A. Schmidt, 6250 Highway 52, Lot 4, Wiggins, Colorado stated they are basically attempting to place a new modular and was informed the replat needed to be completed. Ms. Cherry stated the replat was necessary as the existing lot size would not allow compliance with setbacks and other regulations, i.e. the modular would be built over the lot lines.

Ms. Schmidt stated she has a survey plat that was completed by Thomas Surveying with Ms. Cherry stated that the survey prepared will be required to be revised for a variance matter related to a garage, that will be addressed at a later time by the Board of Adjustments or the Planning Department administratively. Discussion followed if that will need to be a condition of approval of today's matter, with Ms. Cherry stating that condition could be removed as the matter today, the Board is only considering approval of the replat. Further discussion followed as to the requirements of the Onsite Wastewater Treatment System as that is a requirement made by the Northeast Colorado Health Department.

Commissioner Arndt asked about the statement regarding the culverts and other information as being items to be considered at a different time, with Commissioner Teague stating those are items that should be included in all approvals regarding exemptions. Discussion followed as to these are subdivision requirements, not an exemption, and the placement of culverts and driveways would be a part of those requirements.

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 Arndt to approve the application is for a replat of Subdivision to combine Lots 7 and 8, Block 3, Hedges Addition to the Town of Orchard with an address of 22769 Dunreath Avenue, Orchard, CO 80649, indicating the applicant further noting that there are two recommendations that would be part of the resolution, item #2, wording for the culvert and #3, as the Chairman has noted as an important statement as part of a subdivision. Commissioner Teague seconded the motion and the motion carried 3-0.

Application for a Special Use Permit for a residence located within 1320 feet from an existing animal confinement operation.

Application for an Exemption from the Subdivision Regulations to plat 4.955 acres located in the SW1/4NW1/4 and the N1/2NW1/4 of Section 33, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado. Property is also known as 18600 County Road 2, Wiggins CO 80654.

APPLICANT: Robert L. and Patti Seiber

LANDOWNERS: Robert E. and Edith Seiber

Chairman Zwetzig asked Planning Administrator Pam Cherry to present both applications for the property at which time Ms. Cherry read aloud the following information:

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Background Information

Ms. Cherry explained there are two applications for this property:

- 1.) Exemption from the Subdivision Regulations for 4.955 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 33, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado. Property is also known as 18600 Co Rd 2, Wiggins, CO 80654.
- 2.) Special Use to locate a residence within 1,320 feet of a Confined Animal Feeding Operation.

Ms. Cherry stated this amendment is to create a new 4.955 acre parcel from the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 33, Township 4 North, Range 60 West of the 6th P.M.

Ms. Cherry stated that nine property owners in the 1,320 foot notification area received notices of the applications and this hearing indicating that there have not been any objections or inquiries. Ms. Cherry stated the existing Seiber Dairy is on the property from which this parcel is being exempted; the dairy is a family business. The exemption process is necessary to obtain a mortgage for an addition and improvements to the existing home.

Ms. Cherry stated that water will be provided by Morgan County Quality Water from an existing tap which has been transferred from Rob and Edith Seiber to Rob and Patti Seiber. There is an existing Onsite Wastewater System on the property.

All appropriate notices, postings and publication requirements have been met. Property is zoned "A" Agriculture Production. Any new construction will be required to be built in compliance with all Morgan County regulations.

Ms. Cherry stated the Planning Commission recommended approval of both applications subject to the following conditions:

- 1.) If, at a future date Morgan County determines a culvert is needed for drainage, or any existing culvert needs repaired, the landowner will assume all costs; and culvert and driveway must meet Morgan County specifications. This may require a forty foot (40') driveway. Culvert may be installed by others, but the culvert must be pre-approved by the County.

She stated the Planning Commission also recommended the approval of the Special Use to locate a residential property within 1,320 of a Confined Animal Feeding Operation.

Chairman Zwetzig asked for a point of order, procedurally how the Board should proceed in approval. Ms. Cherry stated the Board should consider the exemption first and two motions would be necessary.

At this time the applicants Robert L. and Patti Seiber, stating their address as 18600 County Road 2, Wiggins, Colorado stating they are here today wanting to do things the way they should, and follow the process given they are next to the dairy and would like to prepare a parcel of its own.

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 the application is for an Exemption from the Subdivision Regulations for 4.955 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 33, Township 4 North, Range 60 West of the 6th P.M., Morgan County, Colorado, the property is also known as 18600 Co Rd 2, Wiggins, CO 80654 naming the applicants and landowners. Commissioner Teague further authorized the preparation of the resolution with the condition as outlined by Planning Administrator Pam Cherry. Chairman Zwetzig clarified that the area has been properly identified in the exemption with Ms. Cherry confirming they are taking from the 80 acres located along the section line, with discussion following as to ensuring the area is being identified for the 40 acres and not leave it up to someone in the future to establish the 40 acres. Ms. Cherry stated it does show the defined area, as it is coming from two adjacent 40 acre parcels. One exemption is allowed per 40 acres was explained as the reason for the question as per Chairman Zwetzig. Commissioner Arndt seconded the motion and the motion carried 3-0.

At this time, Chairman Zwetzig asked the applicant if they wished to provide comment in regards to the second issue, that being the application for a special use permit for a residence located within 1,320 feet from an existing animal confinement operation.

The applicant stated this has been there since 2000 and it is all a family farm, and it will not affect anything. Commissioner Teague made mention about how important this process is in order to protect the dairy.

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

At this time, a motion was made by Commissioner Arndt to approve the application is for a Special Use Permit for a residence located within 1320 feet from an existing animal confinement operation, indicating the applicant and landowner information and noted the right to farm policy must be signed by all parties and be made part of this permit. Commissioner Teague seconded the motion and the motion carried 3-0.

Chairman Zwetzig asked Ms. Cherry if the procedures identified during today's hearings will be difficult to enact with Ms. Cherry stating she would be able to put forth these procedures. Commissioner Teague spoke to the concern she had that by calling out the specifics of any rule could cause conflict between jurisdictions and to be able

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to generalize that the applicant should be required to comply with any state or federal requirement, would alleviate this conflict.

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

Respectfully Submitted,
Susan L. Bailey
Clerk to the Board

(Minutes ratified June 13, 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