

# COMMISSIONERS PROCEEDINGS 1

## BOARD OF COUNTY COMMISSIONERS Minutes of Meeting October 20, 2015

The Board of Morgan County Commissioners met on Tuesday, October 20, 2015 at 9:25 a.m. with Chairman Brian McCracken, Commissioner Laura Teague and Commissioner James Zwetzig in attendance.

### CONSENT AGENDA

Ratify the Board of County Commissioners approval of Contract 2015 CNT 184, Colorado Groundwater Resource Services, Testing Fuel Sites, Term of Contract October 9, 2015 until completed.

Ratify the Board of County Commissioners approval of Contract 2015 CNT 185, Quad County Plumbing and Heating, Inc, DHS Building, Term of Contract September 11, 2015 until completed

Ratify the Board of County Commissioners approval of Contract 2015 CNT 186, Quad County Plumbing and Heating, Inc, Justice Center, Term of Contract October 9, 2015 until completed

Ratify Chairman Brian McCracken's signature on Certification of Local Government Approval for Nonprofit Organizations, SHARE receiving ESG Funds dated October 13, 2015

Ratify Chairman Brian McCracken's signature for assignment of debt collection to Wakefield and Associates (#121053)

Ratify Chairman Brian McCracken's signature of Solid Waste Acceptance Policy dated September 30, 2015

Commissioner Teague made a motion to approve all items on the Consent Agenda as presented. Commissioner Zwetzig seconded the motion and motion carried 3-0.

### GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

#### **Consideration of Approval – RIGHT OF WAY PERMIT – 2015 PMT 35 – T-Mobile**

Morgan County Road Supervisor John Goodman presented to the Board for approval, Right of Way Permit 2015 PMT 35, with T-Mobile. Mr. Goodman stated this permit is for the purpose of installing 2 inch PVC conduit starting at the east side of 18700 County Road 27, boring parallel to County Road 27 South 180 feet to a telephone pedestal, Brush, Morgan County Colorado. Mr. Goodman stated he believes this is a continuation of a prior project that needs completed. Mr. Goodman stated he has completed the necessary inspection and all fees are attached in the amount of \$68.00.

Commissioner Teague made a motion to approve Right of Way Permit 2015 PMT 35 with T-Mobile as stated on the permit presented by Mr. Goodman and authorized the Chair to sign and noted the fees are attached. Commissioner Zwetzig seconded the motion and motion carried 3-0.

Commissioner Zwetzig noted that he has attended broadband and GIS meetings, explaining this is a good example of why mapping our right of way permits are so important in order to be sure the County's Right of Ways are not being burdened and broadband unnecessarily duplicated.

Mr. Goodman stated that they have a bridge closure November 2, 2015 through January 8, 2016 for a bridge located at County Road 17 and County Road U for total bridge replacement and widening.

### COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated October 16, 2015 through October 27, 2015 with no changes.

### UNFINISHED BUSINESS

There was no unfinished business.

### CITIZEN'S COMMENT

There were no citizen comments.

### PUBLIC HEARING

**Application for Variance to Minimum Lot Size from 80 acres to 40 acres located in the S1/2S1/2NE1/4 of Section 5, Township 3 North, Range 59 West of the 6<sup>th</sup> P.M., more commonly known as 17503 Morgan County Road 8, Wiggins, Colorado.**

The hearing was called to order by Chairman Commissioner McCracken at 9:31 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman Brian McCracken, Commissioner James Zwetzig and Commissioner Laura Teague. Also present were John Crosthwait, Planning Administrator.

**APPLICANT: LEVI AND CAROL FRANCONI  
LANDOWNERS: LEVI AND CAROL FRANCONI**

Chairman McCracken asked Morgan County Planning Administrator John Crosthwait to present the file and invited the applicants to the front. Mr. Crosthwait presented the file stating this is an Application for a Variance to minimum lot size from 80 acres to 40 acres located in the S1/2S1/2NE1/4 of Section 5, Township 3 North, Range 59

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West of the 6<sup>th</sup> P.M., Morgan County, Colorado, more commonly known as 17503 Morgan County Road 8, Wiggins, Colorado, 80654. The parcel is zoned "A" Agriculture, and the minimum lot size in the Agriculture Zone is 80 acres. Mr. Crosthwait indicated this parcel was created by deed in December, 1991, and a mobile home presently existing on the parcel. The Planning and Zoning office has been unable to find a permit allow the mobile home. The applicant wishes to remove the old mobile home from the property and build a custom built ranch style home in its place. Mr. Crosthwait confirmed the file contains a septic system permit from the Northeast Colorado Health Department, and an installed domestic well bearing permit number 81082. The parcel also has a commercial well bearing permit 87504. The file also contains a letter from the Morgan County Road and Bridge Department approving the existing access to this parcel. The location of the residence is in the vicinity of a confined animal feeding operation, however the residence is approximately one half mile from the property line of the Dairy. He stated the parcel is located within the Wiggins Rural Fire District.

Mr. Crosthwait confirmed that all appropriate notices, posting and requirements have been met. Property is Zoned "A" Agriculture. The parcel is not in the floodplain, and taxes are current and he recommended approval of the variance.

Mary Walter, Realtor for Gateway Realty, 201 Clayton, Brush, Colorado stated to the Board the reason this is being brought forward today is her office came across this issue and wanted to go through the steps that had been missed previously to improve the property at this time. She stated that no one has lived on the property for quite some time feeling that something had been missed in the past and they are trying to make it official at this time thus this variance being applied for.

Mr. Crosthwait stated after doing some research, he has found these 40 acre parcels seem to have this same issue providing a history of the location. The property line of the dairy is in compliance with the operation of the dairy. Commissioner Teague spoke about the dairy having a pivot right behind the properties and is it is considered acceptable agricultural practice. Mandy Dreier, Realtor, Gateway Realty, 902 Main Street, Fort Morgan spoke stating the dairy is .51 miles located from the sprinkler pivot, to answer the question raised by Commissioner Zwetzig.

At this time, Chairman McCracken asked for public comment and there was no public comment. Mr. Crosthwait stated that property owners were notified, and he received no comment from anyone.

Ms. Dreier stated that the Right to Farm Policy has been signed by the current owner and at the time of the sale, the buyers will also sign the Right to Farm Policy.

After no further discussion, Chairman McCracken opened the matter for discussion and decision. Commissioner Zwetzig asked if this matter was taken to the Planning Commission with Mr. Crosthwait stating variances are only heard by the Board of County Commissioners. Discussion followed that this applicant is going over and beyond what they needed to do in order to bring this property in compliance with Mr. Crosthwait stating this issue would have been caught at the time of a building permit would have been applied for. The realtor explained they wanted to be sure the buyer would not have any issues with applying for a building permit.

A motion was made by Commissioner Teague to approve Resolution 2015 BCC 29 granting a variance to minimum lot size located in the S1/2S1/2NE1/4 of Section 5, Township 3 North, Range 59 West of the 6<sup>th</sup> P.M. Morgan County, Colorado. Commissioner Zwetzig seconded the motion and motion carried 3-0.

### **RESOLUTION 2015 BCC 29**

#### **A RESOLUTION APPROVING A VARIANCE TO MINIMUM LOT SIZE LOCATED IN THE S1/2S1/2NE1/4 OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 59 WEST OF THE 6<sup>TH</sup> P.M. MORGAN COUNTY, COLORADO**

**WHEREAS**, the Board of County Commissioners of Morgan County, Colorado held a properly noticed and published public hearing on October 20, 2015, on the application of Levi James Francone and Carol Jean Francone as applicants and Michael T. Ochs (now deceased) and Mary Jo Ochs Living Trust for a Variance to minimum lot size from 80 acres to 40 acres. The subject parcel is located in the S1/2S1/2NE1/4 of Section 5, Township 3 North, Range 59 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, more commonly known as 17503 Morgan County Road 8, Wiggins, Colorado, and

**WHEREAS**, the Board of County Commissioners heard testimony from the applicant regarding the application in which they stated that the variance was necessary to prevent exceptional and undue hardship, and

**WHEREAS**, the Board of County Commissioners heard testimony from the Morgan County Planning Administrator who recommended approval of the application, and

**WHEREAS**, there was no public comment on this application.

#### **NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MORGAN COUNTY, COLORADO**

1. The application of Levi James Francone and Carol Jean Francone as applicants and Michael T. Ochs (now deceased) and Mary Jo Ochs Living Trust as landowner for a Variance to Minimum Lot Size from 80 acres to 40 acres located in the S1/2S1/2NE1/4 of Section 5, Township 3 North, Range 59 West of the 6<sup>th</sup> P.M., more commonly known as 17503 Morgan County Road 8, Wiggins, Colorado, is hereby granted.

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2. Any past, present or future drainage problems on this property are the responsibility of the landowners, and not that of Morgan County.
3. The applicants are required, as a condition of this permit, to furnish any purchaser or other successor in interest with a copy of the Morgan County Right to Farm Policy as adopted by Resolution 96 BCC 41 on July 23, 1996, and the Receipt of Understanding of said policy. The policy and Receipt and Statement of Understanding shall be recorded as addenda to any deeds conveying the permitted property to any purchaser or other successors in interest.

DATED this 20<sup>th</sup> day of October, 2015

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

\_\_\_\_\_  
s/ Brian K. McCracken  
Brian K. McCracken, Chairman

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s/Laura D. Teague  
Laura D. Teague, Commissioner

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s/ James P. Zwetzig  
James P. Zwetzig, Commissioner

(SEAL)

**ATTEST:**

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s/ Susan L. Bailey  
Susan L. Bailey, Clerk to the Board

Being no further business, the meeting was adjourned at 9:40 a.m.

Respectfully Submitted,  
Susan L. Bailey  
Clerk to the Board

**(Minutes ratified October 27, 2015)**

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

\_\_\_\_\_  
s/ Brian K. McCracken  
Brian K. McCracken, Chairman

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s/Laura D. Teague  
Laura D. Teague, Commissioner

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s/ James P. Zwetzig  
James P. Zwetzig, Commissioner

(SEAL)

**ATTEST:**

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s/ Susan L. Bailey  
Susan L. Bailey, Clerk to the Board