

# COMMISSIONERS PROCEEDINGS 1

**BOARD OF COUNTY COMMISSIONERS  
Minutes of Meeting  
May 5, 2015**

The Board of Morgan County Commissioners met on Tuesday, May 5, 2015 at 9:01 a.m. with Chairman Brian McCracken, Commissioner Laura Teague and Commissioner James Zwetzig in attendance. Chairman Brian McCracken called the meeting to order, and asked City of Brush Mayor Charles Schonberger to lead the meeting in the Pledge of Allegiance to the Flag.

**CONSENT AGENDA**

Ratify the Board of County Commissioners approval of Meeting Minutes dated April 28, 2015  
Ratify the Board of County Commissioners approval of Contract 2015 CNT 62, Language Line Services, Inc. – Language Translation Service, Term of Contract April 29, 2015 – April 28, 2016  
Ratify the Board of County Commissioners consideration of Proclamation of Mental Health Month

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.

Commissioner Teague asked to note that during last week's public meeting, after hearing a report from Kortnie Mendoza, from Centennial Mental Health Center, the Board requested to have her provide the Mental Health Proclamation to consider and expressed how important the Board feels this matter is to the community. The proclamation was provided in written form as written below and signatures ratified today.

**PROCLAMATION  
MENTAL HEALTH MONTH  
MAY 2015**

**WHEREAS**, Mental Health Month has been observed since 1949 to raise awareness of mental health conditions and the value of mental health to all Coloradans; and

**WHEREAS**, one in three Coloradans of all ages experience mental health conditions and/or substance use disorders each year; and

**WHEREAS**, fifty percent of all people with mental health conditions experience them by age fourteen, and seventy-five percent by age twenty-four; and

**WHEREAS**, increased focus on the prevention of mental health conditions and substance use disorders among youth through protective factors, healthy environments, screening and early intervention has the potential to save and improve countless lives; and

**WHEREAS**, people with lived experience of mental health conditions and substance use disorders have invaluable knowledge of how to improve and transform systems of care; and

**WHEREAS**, greater trauma-informed care and peer support services are needed to support recovery for all Coloradans; and

**WHEREAS**, the stigma against mental health conditions and substance use disorders remains one of the greatest barriers to improving the lives of all Coloradans through better mental health; and

**WHEREAS**, the Morgan County is dedicated to becoming the healthiest state in the nation by ending that stigma and focusing on the integral role of mental health in all our lives;

Therefore, the Board of County Commissioners, Morgan County, do hereby proclaim May 2015, MENTAL HEALTH MONTH

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

\_\_\_\_\_  
s/ Brian D. 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

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## GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

There was no general business and administrative items.

## COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS

Commissioners reviewed the calendar dated May 1, 2015 through May 12, 2015 with changes.

## UNFINISHED BUSINESS

There was no unfinished business.

## LIQUOR LICENSES

The Board of County Commissioners convened as the Morgan County Local Liquor Licensing Authority in the matters of:

### **Liquor License or 3.2 Beer Transfer of Ownership – Hotel and Restaurant with Optional Premises (County)**

**Licensee: City of Brush dba Bunker Hill**

**Operating Manager: Sally Hazen**

Morgan County Clerk and Recorder Susan Bailey presented to the Board the request for a temporary liquor license and transfer application submitted by the City of Brush doing business as Bunker Hill. Ms. Bailey explained that she has received a request for a transfer of the Hotel and Restaurant with optional premises liquor license application which would transfer the existing license from East Morgan County Recreation (EMCO) doing business as Bunker Hill to the City of Brush doing business as Bunker Hill. Ms. Bailey further stated that in order for the transfer application to be approved by the State of Colorado, a temporary liquor license would need to be issued to the City of Brush to allow them to continue serving alcohol. She stated that all individuals had submitted to the necessary fingerprinting and criminal background checks but given the short time frame, the background checks from Colorado Bureau of Investigations had not been received. She recommended to the Board that if they should approve the temporary license and the transfer application that it is approved with the condition that the background checks indicate no issues or concerns.

Ms. Bailey further reported that the City of Brush had submitted all the necessary documentation to complete the transfer of the license and have provided a letter verifying they are in the process of upgrading the current kitchen facilities at Bunker Hill. Ms. Bailey explained that this had been reported as an issue in July 2014 by the State Liquor License Authority in written form and she would recommend to the Board if they should approve the temporary license and transfer application that it is approved with the condition that the kitchen upgrade be completed in a timely fashion.

Ms. Bailey then asked for a report from the Morgan County Sheriff's Department with Under Sheriff Dave Martin stating he had nothing to report.

At this time Chairman Brian McCracken opened the matter for public comment with no public comment following. Representatives from the City of Brush were present and indicated they had nothing to present at this time.

A motion was made by Commissioner Zwetzig to approve the temporary liquor license and the transfer application with the condition that the criminal background checks are returned with no concerns as well as the kitchen upgrade to be completed within an appropriate time frame and authorized the Chair to sign. Commissioner Teague seconded the motion and motion carried 3-0.

### **Liquor License or 3.2 Beer Renewal Application – Liquor Store (County)**

**Licensee: Muaatasem M. Ibrahim dba W J Liquors**

**Operating Manager: Muaatasem M. Ibrahim**

Morgan County Clerk and Recorder Susan Bailey presented to the Board a liquor license renewal application submitted by Muaatasem (Mike) M. Ibrahim doing business as W J Liquors for a Liquor Store (county) license. Ms. Bailey stated that she has received the necessary documents and all fees have been submitted. She asked the Morgan County Sheriff's Department to report at which time Under Sheriff Dave Martin indicated he had nothing to report.

Chairman McCracken 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 "Mike" Ibrahim doing business as W J Liquors and authorized the Chair to sign. Commissioner Zwetzig seconded the motion and motion carried 3-0.

### **Liquor License or 3.2 Beer 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 the liquor license renewal application submitted by Danette Garlis doing business as 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. She then asked the

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Morgan County Sheriff's Department to report at which time Under Sheriff Dave Martin indicated he had nothing to report.

Chairman McCracken 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 Danette Garliss doing business as Elaine's Place and authorized the Chair to sign. Commissioner Zwetzig seconded the motion and motion carried 3-0.

## CITIZEN'S COMMENT PERIOD

There were no citizen comments.

At this time the Board recessed at 9:14 a.m.

Respectfully Submitted,  
Susan L. Bailey  
Clerk to the Board

(Minutes ratified May 12, 2015)

## PUBLIC HEARING

**Application for a Special Use Permit to place a livestock confinement facility (dairy) for 16,596 total animal units being 19,135 total head of dairy livestock located in the W1/2 and a portion of the E1/2 of Section 6, Township 4 North, Range 56 West of the 6<sup>th</sup> p.m. Morgan County, Colorado, located south of Co Rd Y and east of Co Rd 24, Fort Morgan, Colorado 80701.**

The Morgan County Board of Commissioners met at their regular meeting on Tuesday, May 5, 2015 at 9:30 A.M. in the Assembly Room of the Morgan County Administration Building. Present were Commissioners Brian McCracken, Laura Teague and James P. Zwetzig. Also present were John Crosthwait, Planning Administrator; Jody Meyer, Planning Assistant; and County Attorney, Jeff Parker.

The hearing was called to order by Chairman Commissioner McCracken.

## NEW BUSINESS:

**APPLICANT: AGPROfessionals (TIM NAYLOR)**

**LANDOWNER: WILDCAT DAIRY, LLC**

Application for a Use by Special Review located in the W1/2 and a portion of the E1/2 of Section 6, Township 4 North, Range 56 West of the 6<sup>th</sup> P.M., Morgan County, Colorado.

Tim Naylor from AGPROfessionals and Ed and Kathy Wilgenburg and son, Jacob Wilgenburg of Wildcat Dairy, LLC were present to represent this application.

John Crosthwait presented the application as follows:

The applicants are requesting this special use permit for a 16,596 animal unit dairy, being 19,135 total head of dairy cattle. The animal units are 6,000 mature cows, 375 maternity, 820 dry cows, 615 springers, 5,700 heifers (600-1000 pounds), 1,200 calves (400-600 pounds), 4,425 calves (babies). The 301.6 acre parcel is presently vacant native grass. This parcel was previously owned by M&J Dairy (Melvin and JoAnn Fleishenreim), and was issued a Special Use permit in 2003 for a 10,985 animal unit dairy. Wildcat Dairy, LLC (Wilgenburg) has determined that the configuration of the previously permitted dairy was not consistent with their plans, and is now applying for a new Special Use Permit for the new dairy known as Deer Valley Dairy.

The proposed dairy will be a freestall and open lot dairy configuration with a milking center, concrete aprons and feed bunk areas, fenced exercise corrals, alleys, hospital/doctoring area and a waste management system including a centrifuge system for manure separation, manure storage area and a waste/stormwater pond system. The facility will be built in three phases. Phase I and II will include earthwork for both Phase I and II facility design and storm water ponds. Phase I will also include the construction of the milk parlor, maternity barn, freestalls 1-4, and feed area as well as the heifer and calf area.

The file includes a waste management plan which includes the construction of four waste storage ponds. The ponds will be constructed to contain all runoff from the production area including the lot area, manure storage area, and barn water generated during milking. The ponds will use a dedicated pump and pipeline to dewater to nine center pivots on farm land owned by the Dairy, and adjacent to or within one mile of the Dairy. This water will be applied to the cropped fields at agronomic rates as a fertilizer according to a nutrient management plan that will meet state requirements. A centrifuge and two sediment basins will be installed to settle solids out from the parlor water. The waste management system is designed to contain the 25 year-24 hour storm event. The dairy will generate 71,357 tons of dry manure annually. Solid manure will be used on additional crop ground owned by the dairy for beneficial use by their crops as well as given to area farmers via 3<sup>rd</sup> party transfer. It is stated in the application that the ponds will "likely be lined with a synthetic liner to meet State Regulations". I will suggest that more definitive language be used relating to seepage rate using clay liner or impervious synthetic liner in the approval of these ponds.

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Deer Valley Dairy (Ed Wilgenburg) has purchased 47 tap equivalents from Morgan County Quality Water District to be used as sanitary water inside the milking parlor. The Dairy has also identified six (6) irrigation wells to be used for the Dairy. These wells are identified in the Request for Approval of Substitute Water Supply Plan (SWSP), and the application has been filed with the Water Court for Water Division No. 1. A copy of this application is included in the file as well as in the local newspaper.

The Dairy and Riverside Irrigation District have been in negotiations relating to the Riverside Canal which presently exists on the subject property. The Dairy has proposed relocation of portions of the canal. The Riverside Irrigation District is also studying and considering the impact to the canal from rain runoff, vehicular traffic, bridging of the canal, and temporary use of culverts in the canal during construction. Riverside Irrigation District has not taken a position at this time but are actively working with Mr. Wilgenburg to resolve design issues.

Access from Morgan County Road 24 (West side of the Dairy) and Morgan County Road Y (North side of the Dairy) have been granted by Richard Early from Morgan County Road and Bridge Department.

Three residential homes exist with 1320 feet of the Dairy. Two of the homes lying West of the dairy are owned by the Dairy. The third home is owned by Martin Christensen (Four X Ranch). Mr. Christensen has signed a waiver, and is supportive of the Dairy. The Dairy has submitted three Variance applications requesting Variances to the 1320 foot setback as required by the Morgan County Zoning Regulations.

All appropriate notices and publication requirements have been met. Property is zoned "A" Agriculture. Site is not in the floodplain. Taxes are paid. Variances have been granted by the Board of Adjustment on April 20, 2015 for the three residences which are located within 1,320 feet of the Dairy. These Variances are represented by Resolutions 2015 BOA 01, 02, and 03.

Planning Administrator John Crosthwait recommend approval on the condition that mutual agreements are made with the Riverside Irrigation District and Deer Valley Dairy (Wilgenburg Wildcat Dairy) and an approved Substitute Water Supply Plan is approved from the State of Colorado Water Court for existing irrigation wells supplying necessary water for the Dairy.

Tim Naylor from AgPROfessionals presented a file summary of this application. This summary packet is included in the file and covers a Vicinity Map of the area showing the location of the three residences within a quarter of a mile of the dairy site. The Board of Adjustments did review and approve the setback Variances on April 20, 2015. The summary packet also covered an Animal Number Comparison between the 2004 dairy permit and what is requested in this new permit; Dairy Operations (the waste system includes a centrifuge system for manure solids separation); and Proposed Site showing phases.

Riverside Irrigation: Tim Naylor said Mr. Wilgenburg is working with Riverside Irrigation District to relocate the ditch which runs on the east side of the facility. Tim Naylor noted that Riverside Irrigation District is here today and is represented by manager Don Chapman who will be speaking on Riverside's behalf. Mr. Naylor said the facility is working with the District to make sure all the design constraints are taken care of. A letter from Mr. Wilgenburg (dated May 4, 2015) has been provided stating the facility will meet all those requirements. They are asking to have those documents incorporated into the Resolution.

Mr. Naylor continued with review of the Special Use Criteria; Provisions for Protection of Health, Safety, Welfare which includes water protection, water supply, septic and sanitation, manure and stormwater, nutrient management, nuisance management and codes, referrals, conditions and development standards.

Tim Naylor noted the pond will be clay lined to meet State requirement of 1/32 of inch seepage per day.

This facility will meet State CAFO regulations. Ed Wilgenburg has bought 47 Morgan County Quality Water tap equivalents for parlor use only and has existing irrigation wells which will be permitted for commercial use for animals and irrigation.

Wastewater Pond Design: Designed for a 25 yr/24 hr storm event -155 acre ft. Riverside Irrigation District has requested the facility take on an additional storm event to capture a 7" 25 yr/24 hr storm.

Traffic: Main entrance on Co Rd 24 on the south end, a harvest entrance in the middle of parcel and a farm entrance off of Co Rd Y. 2-3 milk trucks in phase I, in full build out 6-7 trucks a day and anticipate 4-8 commodity trucks a day (not including harvest season). Ed Wilgenburg said they probably would have to purchase about 50% of silage for this new facility.

## PUBLIC COMMENTS

Don Chapman, manager for Riverside Irrigation District, Fort Morgan, Colorado – Mr. Chapman said most of the issues have been resolved except for some technical issues. Regarding storm out flow and discharge, Riverside wants the facility to take on an additional storm event to capture a 7" 25 yr/24 hr storm. In the letter dated May 4, 2015 from Riverside Irrigation to the Commissioners it states no discharge in the ditch. Riverside expects issues to be addressed, however an agreement is not here yet. Don Chapman said there is a concern with offsite runoff impact and that is why they requesting the higher storm event capacity to prevent discharge into the ditch.

Commissioner Zwetzig asked why relocate the ditch. Ed Wilgenburg stated this will keep the cows closer to the milk barn. Tim Naylor said the 7" 25 yr/24 hr storm event requirement – they believe they can engineer to move the water past the ditch into Mr. Wilgenburg's fields. Ed Wilgenburg said he owns property to the east of the ditch. They can siphon under or build bridges over the ditch.

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Marvin Kembel, Co Rd 23, Fort Morgan, CO, lives and owns property to the west of the dairy site. He had the following concerns: 1) his well drying up because of the use of Wildcat Dairy well; 2) runoff water issue from other land coming onto the dairy and this should be figured into the plan; 3) Co Rd 24 is a mess, very dusty – it needs to be paved.

Ed Wilgenburg said the offsite runoff will be piped down to a swale through the site. Tim Naylor said this issue has been accounted for in their plan.

Curt Poitz, Co Rd 24, Fort Morgan, said Co Rd 24 needs to be paved.

Road Issues: Ed Wilgenburg said he met with Kari Linker-Nation from Morgan County Economic Development about getting a grant to pave the road. He has the potential to receive a \$1,000,000 grant from two phases of the Dairy. Kari Linker-Nation outlined the requirements to be eligible for the grant and believed that the Dairy has an extremely good chance of getting the grant. She also explained the County and Applicant shared responsibilities in order to receive the grant. Some of these responsibilities may be in-kind services. There was discussion regarding time lines on grant approval.

Commissioner Zwetzig said that an upgrade to the Riverside Bridge would also be part of the road project.

James Edson, 446 Howell, Brush, stated the following concerns: road needs to be paved; their property lies south of this dairy and north of Co Rd W and he is worried about additional seepage on their ground. Tim Naylor said the pond is lined and it should have no effect on seepage. More discussion followed regarding seepage rates and return flows etc. along with discussion on types of liners.

Travis Hertneky, THEngineering, LLC, Greeley, is a design engineer for the project and showed the inflow swales on the site plan and explained how the pond will work during a storm event.

Ed Wilgenburg explained the centrifuge of solid wastes and using leftover material to bed pens for the animals. He also stated they will use drop down sprinkler nozzles for land applied manure water and they will not use end guns.

Commissioner Zwetzig said the Board of County Commissioners could not make any decisions on the Kembel wells; they have no control on that issue; that is determined by the State. Jeff Parker confirmed what Commissioner Zwetzig said.

Commissioner Zwetzig said there were two main issues: paving of Co Rd 24 and Riverside concerns. Laura Teague and Jim Zwetzig both said they really need to know the terms of the grant. Commissioner Teague thought they should table this application for additional information. Jeff Parker said that information would need to be presented to the Commissioners in a public hearing. Attorney, Jeff Parker, said the County would need to make a finding that the impacts from the dairy basically necessitate paving of the road.

Tim Naylor questioned public comment at the next hearing. Jeff Parker thought the Commissioners should allow public comment. Mr. Naylor did want to have additional issues brought up for discussion at the next hearing. Commissioner Zwetzig was not opposed to limiting comments to those two issues.

**It was moved by Commissioner Zwetzig and seconded by Commissioner Teague to TABLE the Application for a Special Use Permit to place a livestock confinement facility (dairy) for 16,596 total animal units being 19,135 total head of dairy livestock located in the W1/2 and a portion of the E1/2 of Section 6, Township 4 North, Range 56 West of the 6<sup>th</sup> p.m. Morgan County, Colorado, located south of Co Rd Y and east of Co Rd 24, Fort Morgan, Colorado, with limitation to public comment concerning road construction and runoff conditions and the Riverside Agreement as discussed. This hearing will be continued to Tuesday, May 19, 2015, at 9:30 A.M. in the Assembly Room of the Morgan County Administration Building. Motion carried 3-0.**

There being no further business, the meeting was adjourned 11:22 a.m.

Respectfully submitted,  
Jody Meyer, Planning Assistant

**(Public Hearing Minutes ratified May 19, 2015)**

## THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

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s/ Brian D. 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

