

# COMMISSIONERS PROCEEDINGS 1

## BOARD OF COUNTY COMMISSIONERS

### Minutes of Meeting

September 8, 2015

The Board of Morgan County Commissioners met on Tuesday, September 8, 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 Morgan County Emergency Manager Steven Enfante to lead the meeting in the Pledge of Allegiance to the Flag.

#### **CONSENT AGENDA**

Ratify the Board of County Commissioners approval of Minutes dated September 1, 2015  
Ratify the Board of County Commissioners approval of Contract 2015 CNT 160, Concept Auto Body, Vehicle Repairs, Term of Contract August 1, 2015 until completed  
Ratify the Board of County Commissioners approval of Waiver of Fairgrounds Rental Fees, Colorado State University Extension Service, ServSafe Training, September 11, 2015.  
Ratify the Board of County Commissioners approval of Waiver of Fairgrounds Rental Fees, Fort Morgan FFA, District Leadership Conference, December 2, 2015  
Ratify Chairman Brian McCracken's signature approving the assignment of debt collections to Wakefield and Associates, Client #121125  
Ratify Commissioner Laura Teague's signature on Construction Permit-Initial Approval and the Self Certification form dated August 31, 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 – GRANT – 2015 EMPG/LEMS 15EM-16-45**

Morgan County Emergency Management Director Steven Enfante presented to the Board for approval, a Grant 2015 EMPG/LEMS 15EM-16-45. Mr. Enfante stated this grant is between Morgan County and The State of Colorado Homeland Security. He explained these funds are passed onto the States for the County's Emergency Management program. These funds cover approximately fifty percent of the overall budget for the Emergency Management Department and commences from December 2015 for one year. Commissioner Teague noted this grant is not covering 50 percent any longer as it indicates roughly forty percent only asking Mr. Enfante to explain why this has been decreased and it seems to be an unfunded mandate. Mr. Enfante stated from what he understands they went back to the 2014 fiscal year reviewing those numbers and that is where they obtained the grant funding numbers and is hopeful that in 2016 the funding will again reach the fifty percent mark.

Commissioner Zwetzig made a motion to approve Right Grant 2015 EMPG/LEMS 15EM-16-45 as presented by Mr. Enfante and authorized the Chair to sign. Commissioner Teague seconded the motion and motion carried 3-0.

##### **Consideration of Approval – CONTRACT – 2015 CNT 102 – Morgan County Economic Development Corporation, tabled June 30, 2015**

Morgan County Economic Development Executive Director Kari Linker presented to the Board for approval Contract 2015 CNT 102 with Morgan County Economic Development Corporation. Ms. Linker stated this is a contract that had been tabled from June 30, 2015 and explained the contract will allow the Morgan County Economic Development Corporation to utilize Administrative Assistant, Kristine Rodine, to provide administrative services for Tourism efforts in Morgan County. This contract will terminate December 31, 2015. She further explained her office will also be processing payments for services that have been provided since April 27, 2015. Chairman McCracken explained this matter had been tabled due to some questions the Board had at the prior meeting and those questions have since been answered.

Commissioner Teague made a motion to approve Contract 2015 CNT 102 with Morgan County Economic Development Corporation not to exceed \$10,000 as presented by Ms. Linker and authorized the Chair to sign. Commissioner Zwetzig seconded the motion and motion carried 3-0.

Commissioner Zwetzig stated this contract will be in place throughout this calendar year, ending December 31, 2015 and that Ms. Linker will assist the County in establishing a Tourism Administrative job position, separate from MCEDC. Ms. Linker expressed her excitement about these possible opportunities.

##### **Consideration of Approval – 2013 ABATEMENT - BM Processors, LLC**

Morgan County Assessor Bob Wooldridge presented to the Board for approval 2013 Abatement with BM Processors, LLC. Mr. Wooldridge provided a background on this abatement stating that in 2014 BM Processors, LLC had appealed the personal property and a new value was set for 2013. He indicated that Steven & Associates have appealed for abatement on the real property with Mr. Wooldridge stating they do have this right to file this appeal, indicating that this abatement has been approved by his office and indicated the new value that will now be created, of \$10,027.10. He explained the process that will now need to take place and explained the Property Tax Administrator will have to also approve given it is over \$10,000. He stated the documentation has been provided including the stipulation that went through the Board of Assessment Appeals which had initially been granted.

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Commissioner Zwetzig made a motion to approve the 2013 Abatement with BM Processors, LLC as presented by Mr. Wooldridge and authorized the refund to be made. Commissioner Teague seconded the motion and motion carried 3-0.

## **Consideration of Approval – ENTERPRISE ZONE ADJUSTMENT OF ABATEMENT REFUND - BM Processors**

Morgan County Treasurer Bob Sagel presented to the Board for approval an Enterprise Zone Adjustment of Abatement Refund with BM Processors, LLC. Mr. Sagel stated that pursuant to what was voted in regards to the issuance of the abatement to BM Processors, LLC, once it is returned from the Property Tax Administrator, he stated there could be interest that would be required to be paid on the abatement amount. Mr. Sagel stated it has been brought to his attention that the County had been granting enterprise zone credits and explained that this could be pulled back on, but in this case they have already paid the taxes and have received the enterprise zone credits. He recommended revising the total amount which includes the interest, leaving a sum of \$1,769.58 and by deleting this amount from the total abatement that would leave the amount payable back to BM Processor, LLC at \$9,962.12. He stated this is the figure only if the Property Tax Administrator should return their decision in the month of September. He explained that by law he is required to pay the interest and it is necessary to have the Board's direction and authorization to be able to abate those funds less the interest and enterprise zone credits that had already been issued.

Commissioner Zwetzig asked how the motion should be made stating he would like to be sure it a motion that includes the formula that is being used in the abatement to BM Processors, LLC as presented by Mr. Sagel. Further discussion followed with Mr. Sagel providing a detailed explanation regarding the formula stating the payback will remain the same at \$1,579.80 and the amount of the abatement would remain the same at \$10,027.10. Mr. Sagel stated there would also be interest in the amount of 12 percent per annum from the date of their tax payment. The County would figure the interest on the incentive from the date since September of last year, at the same rate of 12 percent per annum. Commissioner Teague than asked if it is the Board who should authorize the Treasure to collect the interest on the amount and to withhold the amount of the abatement, being the amount of the incentive paid plus the interest calculated to the day the Treasurer receives the notice from the Property Tax Administrator with Mr. Sagel confirming.

Commissioner Zwetzig then made the motion to hold out from our check abating the taxes the incentives plus interest calculated to the date. Commissioner Teague seconded the motion and motion carried 3-0.

Mr. Wooldridge commented that the other taxing authorities will be showing this on their 2016 tax roles.

## **COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS**

Commissioners reviewed the calendar dated September 4, 2015 through September 15, 2015 with no changes.

## **UNFINISHED BUSINESS**

There was no unfinished business.

## **CITIZEN'S COMMENT PERIOD**

There was no citizen comment.

At this time, Chairman McCracken recessed the meeting at 9:19 a.m. until the scheduled Public Hearing at 9:30 a.m.

## **PUBLIC HEARING**

### **Application for a Minor Subdivision to create 4 lots located in the N ½ NW ¼ of Section 24, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M., aka 17380 County Road V, Fort Morgan, Colorado, 80701**

The hearing was called to order by Chairman Commissioner McCracken at 9:32 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: GERALD D. CARPENTER AND DELORIS E. CARPENTER LANDOWNERS: GERALD D. CARPENTER AND DELORIS E. CARPENTER**

Chairman McCracken asked Morgan County Planning Administrator John Crosthwait to present the file and invit3d the applicants to the front. Mr. Crosthwait presented the file noting the applicants plan to keep Lot 4 with their existing home and improvements, sell Lot 2 to their son with his home and existing improvements, and sell the remaining Lots 1 and 2.

The file includes purchased Morgan County Quality Water Taps #2883 and #2884 for vacant Lots 1 and 3, and existing Morgan County Quality Water Tap #240 for Lot 4 and Morgan County Quality Water Tap # 1559 for Lot 2.

The file contains a will serve letter from the Northeast Colorado Health Department. The file contains a letter from the Morgan County Road and Bridge Department approving a new driveway from Morgan County Road V for the access of Lots 1 and 3. Lot 3 will be accessed via a 30 foot access and utility easement as indicated on the plat. Lots 2 and 4 have existing access from Morgan County Road V.

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The file contains restrictive covenants allowing only site built homes, establishing a 30 foot setback from property lines. The covenants also restrict animal unit densities to the current Morgan County Estate Residential regulations, with no pigs allowed. The covenants also define the method of which the 30 foot access and utility easement for lot 1 and 3 shall be maintained and shared expense between Lots 1 and 3.

Parcel is located within the Fort Morgan Rural Fire District. Mr. Crosthwait further stated that all appropriate notices, posting and publication requirements have been met. Property is zoned "A" Agriculture. Taxes are current. Parcel is not in the floodplain.

Gerald Carpenter, stating his name and address as 17380 County Road V, Fort Morgan, CO, indicated he had no comments to add and believes that what Mr. Crosthwait has presented covers the matter appropriately.

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

Chairman McCracken moved to discussion and decision with Commissioner Zwetzig asking about the easement being defined as well as the driveways asking for Mr. Crosthwait to point those out. Mr. Crosthwait pointed the easement as well as the driveway location to the Board, with discussion following as to whether or not the easement is adequate for access to the property. Commissioner Zwetzig asked if there was any definition as to the distance for the access, with Mr. Crosthwait stating not to his knowledge. Commissioner Zwetzig asked about if a landowner would place a fence in the area of question, would that prohibit access at a future date. The Carpenter's then reviewed the map and explained this could be expanded if necessary. Commissioner Teague also stated she would like to clearly note this easement is the ownership of the subdivision and the County would have no intention of taking over maintenance of this access/road explaining past issues that have occurred wanting to clearly define this easement. Mr. Carpenter stated he understood and explained this would not affect the County in any manner. Discussion followed as to access to the other landowners in the subdivision with Mr. Carpenter stating both drives would be side by side with the driveway to Lot 1 and Lot 3 being the ones side by side. Commissioner Teague asked about the covenants having information pertaining whether the driveway access will not come from Road V, sharing her concerns about the two access points and culvert issues. Commissioner Zwetzig stated this would be something they would still have to obtain permission from the Road/Bridge Department and the County would be able to police this in the future.

Discussion then followed regarding the shared road and shared maintenance according to covenants, is there a provision if Lot 1 sells first, builds the road, what would happen if Lot 3 comes in and wants to finish the road completely, are they to share those costs equally. Mr. Carpenter stated the covenants read that the owners shall be responsible for the road equally for all the maintenance and costs. Mr. Carpenter stated there is a similar situation where the Jess' reside and they all share the common expenses for the access ways. Commissioner Zwetzig stated he does not like access from easements and his preference to be that the access be platted as part of the subdivision.

After no further discussion, Commissioner Teague made the motion to approve Resolution 2015 BCC 26, granting a four lot minor subdivision located as indicated above noting the County assumes no responsibility for the access easement. Commissioner Zwetzig seconded the motion and asked if the Planning Commission had approved this request with Mr. Crosthwait stating they did approve. Commissioner Zwetzig asked Mr. Crosthwait to read aloud what the Commissioners Certificate indicates upon approval on the plat map with Mr. Crosthwait stating, verbatim, "This approval does not guarantee that the size, soil conditions, subsurface geology, groundwater conditions, or flooding conditions of any lot shown hereon are such that a building permit, or sewage disposal permit will be issued. This approval is with the understanding that all expenses involving improvements for all utility services, paving, grading, landscaping, curbs, gutters, sidewalks, road lighting, road signs, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the subdivider and not the County of Morgan".

Mr. Crosthwait also noted that the resolution does include the verbiage indicating "No lot in this four lot minor subdivision shall be allowed to be re-subdivided unless the entire Carpenter Minor Subdivision be considered a Planned Development, and such application, design standards, and approvals be obtained".

At this time Chairman McCracken proceeded with the vote with motion passing 3-0.

## **RESOLUTION 2015 BCC 26**

### **A RESOLUTION GRANTING A FOUR LOT MINOR SUBDIVISION LOCATED IN THE N1/2NW1/4 OF SECTION 24, TOWNSHIP 4 NORTH, RANGE 58 WEST OF THE 6<sup>TH</sup> P.M., MORGAN COUNTY, COLORADO**

**WHEREAS**, on September 8, 2015 the Board of County Commissioners of Morgan County, Colorado held as public hearing pursuant to the Morgan County Zoning and Subdivision Regulations on the application of Gerald D. Carpenter and Deloris E. Carpenter for a four lot Minor Subdivision located in the N1/2NW1/4 of Section 24, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, and

**WHEREAS**, the notice of the public hearing was properly published and all other notices and posting requirements were made, and

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**WHEREAS**, on August 10, 2015 the Planning Commission Commissioners held a properly noticed and published public hearing on the application of Gerald D. Carpenter and Deloris E. Carpenter where they received public comment and recommended approval, and

**WHEREAS**, the Board of County Commissioners received testimony and evidence from the applicant, and

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

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

### **1. APPROVAL:**

The application of Gerald D. Carpenter and Deloris E. Carpenter for a four lot Minor Subdivision known as the Carpenter Minor Subdivision located in the N1/2NW1/4 of Section 24, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M., Morgan County, Colorado is hereby granted.

### **2. FINDING OF FACT:**

- a. The use and proposed location are in conformance with the Morgan County Comprehensive Plan, being Zoned "A" Agriculture, and there is access to established public infrastructure.
- b. All applicable design standards have been met. The application is complete and presents a clear picture of the arrangement of the lots. The Morgan County Board of Commissioners retain continuing jurisdiction on the issue of design standards.
- c. All off site and onsite impacts have been satisfactorily mitigated by the terms and conditions of this permit.
- d. The Minor Subdivision is satisfactorily compatible with surrounding uses.
- e. It is in the best interest of the public health, safety, and welfare to grant this application.
- f. There is a public need for the project.

### **CONDITIONS:**

- a. All present, past and future drainage problems on this site are the responsibility of the applicant and their successors in interest and not that of Morgan County.
- b. As a condition of this application by Gerald D. Carpenter and Deloris E. Carpenter for a four lot Minor Subdivision known as the Carpenter Minor Subdivision, Lot 1 shall contain 9.47 acres, Lot 2 shall contain 6.83 acres, Lot 3 shall contain 6.24 acres, and Lot 4 shall contain 7.76 acres.
- c. The applicants are required, as a condition of this permit, to furnish any purchaser or other successors in interest to any lot in this subdivision with a copy of the Morgan County Right to Farm Policy as adopted by Resolution 96 BCC 41 on July 23, 1996, and 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.
- d. All information submitted by the applicants in their application and recorded plat is part of the approval of this subdivision and all terms, conditions, and information submitted shall be strictly adhered to.
- e. No lot in this four lot minor subdivision shall be allowed to be re-subdivided unless the entire Carpenter Minor Subdivision be considered a Planned Development, and such application, design standards, and approvals be obtained.
- f. The applicant shall be responsible for complying with all foregoing requirements and conditions of this permit. Noncompliance with any foregoing may be reason for revocation of this permit by the Board of County Commissioners after notice to the applicants or their successors in interest and hearing.
- g. 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.

DATED this 8<sup>th</sup> day of September, 2015.

**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

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

(SEAL)

**ATTEST:**

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

## **PUBLIC HEARING**

**Application for a Use by Special Review for a new third waste water brine lagoon located in the N ½ of Section 8, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, aka 1505 E. Burlington, Fort Morgan, Colorado, 80701**

The hearing was called to order by Chairman Commissioner McCracken asking those representing Cargill Meat Solutions to appear at the front.

**APPLICANT: CARGILL MEAT SOLUTIONS CORPORATION**  
**LANDOWNERS: CARGILL MEAT SOLUTIONS CORPORATION**

Chairman McCracken asked Morgan County Planning Administrator John Crosthwait to present the file. Mr. Crosthwait presented the file and stated this application is a request to build an 8 acre lagoon on a 49 acre parcel of land that Cargill Meat Solutions recently purchase for the purpose of locating the proposed brine lagoon. Cargill presently is using two older brine ponds which have effectively exceeded their life expectancy, and have accumulated about six feet of solids (salt) in the bottom of each of the lagoons. This proposed new brine lagoon complements the adjacent facility's operation to evaporate brine wastewater from Cargill's hide brine curing system. Cargill intends to recondition the two existing brine ponds and consequently have three brine ponds for the hide processing part of their facility. The application indicated that the proposed brine lagoon will have minimal impacts to water, air quality, wildlife, wetlands, dust, odor, noise, storm water runoff and visual amenities.

Mr. Crosthwait further indicated water quality both on site and off site is a primary concern. The proposed construction indicated that the lagoon will be constructed utilizing a two liner system to prevent leakage. There are monitoring wells associated with the two existing brine lagoons, and I will suggest that the same be required for the proposed third lagoon to assure that any leakage be detected, and appropriate corrective action be taken.

Mr. Crosthwait stated that odor has apparently not been an issue with the two previously permitted brine lagoons. It is not anticipated that odor will be an issue with the proposed third brine lagoon provided that the salt concentration be maintained at desirable concentrations. Cargill has sent quarterly reports to the County indicating the monthly salinity results for each brine lagoon, and I would require that Cargill continue this practice.

Mr. Crosthwait indicated that visual amenities must be addressed due to the proximity to a recreational park and the residential area. The proposed brine pond must be landscaped to minimize visual impacts. The entire parcel must also be maintained and planted with natural vegetation. The lagoon must also be fenced and secured so there will be no possibility for any child or person or animal to enter the area.

Mr. Crosthwait verified this brine lagoon project will also be permitted through the Colorado Department of Public Health and Environment, and any permitting of this lagoon must be closely coordinated with CDPHE. Initial conversations with CDPHE indicated that this new impoundment (brine lagoon) will be a Type B facility, and must be permitted under the most current CDPHE regulations. CDPHE indicated that the proposed brine lagoon will not require a Certificate of Designation since it will not accept waste water from any other source other than that produced from the Cargill hide facility. Furthermore, if Cargill intends to clean out and reconstruct the two existing brine lagoons, they will be required to comply with all the new CDPHE Impoundment Regulations.

Mr. Crosthwait stated that all appropriate notices, posing and publication requirements have been met. Property is zoned "C" Commercial. Access will be obtained from existing Cargill owned property. Taxes are paid. Parcel is not located within the floodplain and recommended approval provided that the aforementioned requirements of leak detection, landscaping, fencing and maintenance and security, and coordination and permitting through the Colorado Department of Public Health and Environment be met, and close coordination with the City of Fort Morgan due to City facilities, utilities, and easements on the parcel.

Ray Padgett, Project Manager for Cargill Meat Solutions, stated his name and address as 1505 E. Burlington Avenue, Fort Morgan, and indicated that Mr. Crosthwait covered the applicant's information well. Chairman McCracken then opened the matter for public comment and there was no public comment.

Chairman McCracken then moved to discussion and decision, and inquiring about the liner being a double liner with Brian Mullenix, who stated he was a Project Engineer for HDR and his address as 8404 Indian Hills, Omaha, verified the liner does comply with the CDPHE requirements and is considered a double liner with protection and further explained the structure of the liner and the materials. He stated that water will be drained into two separate channels within the lagoon and those will move to two separate sump pumps that will be monitored on a regular basis.

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Commissioner Teague asked about the substantial effort that has been made in regards to contacting the surrounding property owners and asked Mr. Crosthwait to describe any comments he received. Mr. Crosthwait stated they notified close to 200 landowners within the area of this permit application and did receive a phone call from an individual who was concerned about the property maintenance and landscaping which he has included in the requirements. He stated they also received one individual who attended the Planning Commission meeting who did not make comment. Mr. Crosthwait further stated that the City of Fort Morgan is present today and has worked closely with Cargill in this process and invited Mr. Curtis to make comment if necessary. Mr. Crosthwait stated this property use will be for the brine lagoon and no other projects for Cargill be considered for this parcel as his understanding of the City of Fort Morgan requirements.

Mr. Crosthwait also stated that security is an important requirement and explained that the existing brine lagoon should not be confused with the wastewater system, explaining this is a completely different process.

Commissioner Zwetzig asked about the current city limit line location, east of Gateway, with Brad Curtis, City of Fort Morgan, presenting himself as the Public Works Director for the City of Fort Morgan, 110 Main Street, Fort Morgan. He further clarified the city limits as Gateway Park being within the city limits, and outlined the northern limits. Commissioner Zwetzig asked about the road that goes between the facilities, with Mr. Curtis stating that none of the proposed facility being in the city limits. The waste water treatment facility is not in the City limits. Commissioner Zwetzig stated that he would like to see some kind of IGA with the municipalities to have facilities such as these as part of the facility being in the city limits that they are all in one jurisdiction. He would prefer to develop the IGA that has been in discussions for the last three years, if there should be an addition to an existing facility within the city limits, that it be required to be annexed. Mr. Curtis stated he is in agreement somewhat but in this case; the waste water facility would pose some type of problems for the City.

Mr. Curtis also stated that this application is within industrial use zoning and stated this was reviewed so in the future this would not create any zoning issues.

Commissioner Zwetzig asked where brine comes from, asking why the need for a brine lagoon. Mr. Padgett stated it is a part of the curing of the cow hides and they go through a brine process for the leather to be used. The brine becomes a waste product which is evaporated and their plan is to return the salt to reuse. The salt to be reused will be contracted. Commissioner Zwetzig asked in regards to quantities. Paul Peake, Cargill, Plant Engineer, 1505 E. Burlington Avenue, Fort Morgan, stated the existing two lagoons have approximately six feet of salt in the bottom, the top is brine water. They will evaporate the water off the service and then dig out the remaining salt and blend with good salt and put it back into the plant's process. Mr. Peake stated it is a reasonable product for their facility, and its benefit of use. Discussion followed as to Cargill will then go into a rotation basis for the two lagoons and Mr. Peake stated the last one has lasted approximately 20 years, and believes once the ponds are cleaned they will have another 25-30 years of life.

Commissioner Teague asked Mr. Crosthwait to read aloud the conditions as indicated in the actual resolution. Mr. Crosthwait then read aloud those conditions as indicated in the resolution above.

Commissioner Zwetzig then asked about if the City of Fort Morgan's concerns have been met with Mr. Curtis stating Cargill is working through issues about keeping drainage clear, fire department has adequate access and electrical issues, and the City is comfortable with their efforts at this time.

Mr. Padgett then mentioned the southwest corner access, if an emergency crew should need access, they can utilize this location as well. Commissioner Teague suggested this language be added with Mr. Curtis in agreement with this addition to the resolution.

A motion was then made by Commissioner Teague to approve Resolution 2015 BCC 27 granting a use by special review of a new brine waste water lagoon to include the conditions that were read aloud by Mr. Crosthwait and to include the additional language regarding the secondary access for emergency purposes as requested by the City of Fort Morgan and the Fire Department. Commissioner Zwetzig seconded the motion and motion carried 3-0.

## **RESOLUTION 2015 BCC 27**

### **A RESOLUTION GRANTING A USE BY SPECIAL REVIEW FOR ESTABLISHMENT OF A NEW BRINE WASTE WATER LAGOON LOCATED IN THE N1/2 OF SECTION 8, TOWNSHIP 3 NORTH, RANGE 57 WEST OF THE 6<sup>TH</sup> P.M., MORGAN COUNTY, COLORADO**

**WHEREAS**, Cargill Meat Solutions Corporation (the "Applicant") has applied for a special use permit for a brine water lagoon located in the N1/2 of Section 8, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., as more specifically described in the attached **Exhibit 2** (the "Property").

**WHEREAS**, on August 10, 2015, after holding a properly noticed and published public hearing, the Morgan County Planning Commission recommended that the application be approved;

**WHEREAS**, on September 8, 2015 the Board of County Commissioners of Morgan County, Colorado held a public hearing on the Application;

**WHEREAS**, notice of the public hearing was properly published and the Property was properly posted;

**WHEREAS**, the Board of County Commissioners received testimony and evidence from the Applicant;

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**WHEREAS**, the Board of County Commissioners received public comment on the Application;

**WHEREAS**, the Board of County Commissioners received testimony from the Morgan County Planning Administrator, who recommended approval of the Application with certain conditions and;

**WHEREAS**, the Board of County Commissioners desires to approve the Application, subject to certain conditions set forth herein.

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

**1. APPROVAL.**

The Application is hereby granted, subject to the conditions set forth herein. This Resolution shall constitute the special use permit (hereinafter referred to as this "Resolution" or the "Permit").

**2. FINDING OF FACT.**

Provided the Applicant meets all conditions as set forth herein, the following findings are made:

- 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 brine lagoon is located in excess of three hundred and fifty feet (350') from any residence or one hundred fifty feet (150') from the property line, whichever is greater.
  - ii. The proposed brine lagoon is located in excess of one hundred fifty feet (150') from domestic water wells.
  - iii. 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.

**3. CONDITIONS.**

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 brine lagoon 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.

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- d. The brine lagoon shall be shielded for 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 49.7 acre parcel on which the brine lagoon is located shall be planted into a grass seed mixture approved by the Morgan County Extension Service or the Morgan County Soil Conservation District. The subject parcel shall be kept free of weeds and properly mechanically mowed.
- f. The brine 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. A secondary access to the brine lagoon shall be created in the southwest corner of the lot.
- h. The Applicant shall submit quarterly Salinity Rest results from the brine lagoon to the Morgan County Planning and Zoning Department.

#### 4. ADDITIONAL CONDITIONS.

This approval is conditioned on compliance with all information and representations contained in the Application and presented by the Applicant, which are hereby incorporated into this Resolution.

#### 5. 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.

#### Exhibit #2

Morgan County, CO, Special Use Permit

Legal Description;

Agricultural land total approximately 49.7 acres, located in Morgan County, Fort Morgan CO.

Parcel No. (APN): R009856

S: 08 T: 3 R: 57 Pare N1/2 B1156 P699

That portion of the N1/2 of Section 8, Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado, described as follows: Beginning at the NE corner of Gateway Park as described in Deed recorded in Book 954 at page 730, records of Morgan County, Colorado; thence N88°51'26"E along the South right of way line of Gateway Avenue a distance of 1068.60 feet to a point 40 feet West measured at right angles from the East line of the W1/2NE1/4 of said Section 8; thence S0°59'47"E parallel with said East line a distance of 1471.42 feet to a point on the South line of the N1/2 of said Section 8; thence S88°26'22"W along said South line a distance of 1529.18 feet to a point on the East line of Gateway Subdivision; thence N0°47'03"W along the East line of said Gateway Subdivision a distance of 1482.60 feet to the NE corner of said Gateway Subdivision, also being a point on the South right of way line of Gateway Avenue, thence N88°51'27"E along the right of way a distance of 145.00 feet to the NW corner of said deed recorded in Book 954 at page 730; thence S0°47'3"E along the West line of said deed a distance of 281.03 feet to the SW corner of said deed; thence N88°51'27"E along South line of said deed a distance of 310.00 feet to the SE corner of said deed; thence N0°47'3"W along the East line of said deed a distance of 281.03 feet to the true point of beginning.

DATED this 8<sup>th</sup> day of September, 2015

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

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

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

# COMMISSIONERS PROCEEDINGS 9

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

(SEAL)

**ATTEST:**

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

There being no further business, the meeting was adjourned 10:10 a.m.

Respectfully Submitted,  
Susan L. Bailey  
Clerk to the Board

**(Minutes ratified September 22, 2015)**

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

s/ Brian D. McCracken  
Brian K. McCracken, Chairman

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

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

(SEAL)

**ATTEST:**

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