

# COMMISSIONERS PROCEEDING 1

## BOARD OF MORGAN COUNTY COMMISSIONERS

### Minutes of Meeting

February 22, 2011

The Board of Morgan County Commissioners met on Tuesday, February 22, 2011 at 9:03 a.m. with Chairman Tony Carlson, Commissioner Brian McCracken and Commissioner Laura Teague in attendance. Chairman Tony Carlson called the meeting to order with Morgan County Undersheriff Dave Martin leading the Pledge of Allegiance to the Flag.

### CONSENT AGENDA

Consideration of Approval of Minutes dated February 15, 2011

Ratify Chairman Tony Carlson's signature on Morgan County Right of Way Permit, Permit 2011 PMT 07, applicant being Wiggins Telephone Association, to install the fiber optic telephone cabling

Ratify Managing Commissioner Brian McCracken's signature approving the January 2011 County Veterans Service Officers Monthly Report and Certification of Pay

Ratify Board of County Commissioners approval revising the Morgan County Right of Way Permit and Application

Ratify Past Chairman Brian McCracken's signature for Morgan County Board of Human Services Financial

Meeting Minutes dated November 8, 2010 and December 13, 2010

Ratify Chairman Tony Carlson's signature of Morgan County Board of Human Services Financial Meeting Minutes dated January 10, 2011

Commissioner McCracken made a motion to approve all items on the Consent Agenda. Commissioner Teague seconded the motion. Motion carried 3-0.

### GENERAL BUSINESS AND ADMINISTRATIVE ITEMS

#### **CONSIDERATION OF APPROVAL-RESOLUTION-2011 BCC 5-GRANTING A TAX REBATE FOR A PERIOD OF 4 YEARS TO BM PROCESSORS, LLC**

#### **RESOLUTION**

#### **2011 BCC 5**

#### **A RESOLUTION GRANTING A TAX REBATE FOR A PERIOD OF 4 YEARS**

**WHEREAS**, BM Processors, LLC ("applicant") has proposed to establish a \$8,128,542 in capital improvements and 30 new full time employees for a bison and beef processing facility ("project"), and

**WHEREAS**, the project qualifies as a "new business facility" as defined by Section 39-22-508.2(3), excluding subparagraph (b), and

**WHEREAS**, the applicant has requested an economic incentive of a refund of fifty percent (50%) of the real and personal property taxes attributable to the project for a period of four (4) years, and

**WHEREAS**, the Board of County Commissioners is authorized to grant such a refund pursuant to the authority of Section 30-11-123 C.R.S., and

**WHEREAS**, the Morgan County Economic Development Corporation has completed an economic analysis of the project, its benefits, and the requested refund, and

**WHEREAS**, the Board of County Commissioners finds that the project will benefit Morgan County by providing new employment opportunities, increasing the tax base of the county, and overcoming conditions of unemployment and economic distress, and

**WHEREAS**, the Board of County Commissioners has determined that it is in the best interests of the health, safety, and welfare of the citizens of Morgan County to grant the applicant's request.

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

1. An economic development tax refund shall be made to the applicant equal to fifty percent (50%) of the county taxes levied and paid to Morgan County (including but not limited to the County General Fund, Road and Bridge Fund, Social Services Fund, Capital Lease Purchase Fund), excluding any interest or penalty, on any real and personal property attributed to the project for a four (4) year period commencing with the 2012 tax year (payable in 2013).

2. The refund shall only be made under the following conditions:

A. All taxes due to be paid to Morgan County are paid on time for each year for which the refund applies.

B. The applicant remains eligible to receive the refund and the County remains authorized to grant a refund under applicable Colorado statute.

# 2 COMMISSIONERS PROCEEDING

C. Payment will be made only to the extent appropriations are made by the Board of County Commissioners each year for the purpose of such payment. The Board of County Commissioners is under no legal obligation to appropriate to make the payment.

D. The refund shall not be for any Morgan County personal property taxes levied on equipment used during construction of the project.

E. The Board of County Commissioners or its designee shall be the sole authority to determine the amount of the refund due pursuant to this resolution.

F. As a condition of this tax rebate the applicant shall be required to maintain at least 30 full time equivalent new jobs at 100% above the Morgan County Standard Industrial Classification (SIC) code for each position. The applicant shall be required to report annually, prior to January 30<sup>th</sup> of each year, the number of jobs for the previous calendar year, the months those jobs were occupied, the salary paid for those jobs, and the SIC code and Morgan County annual wage for those jobs.

G. The refund as to taxable personal property shall be calculated for the net value of personal property installed as part of the project. The personal property shall be deemed to depreciate at 10% per year from the value assigned for the first year. The applicant will report a list and value of personal property attributable to the project to the County Assessor along with its normal reporting of taxable personal property. An amount equal to 50% of the taxes on the net value of the personal property attributable to the project shall be refunded for the years 1 through 4. This amount shall be the largest for the first year and decline in subsequent years as a result of depreciation. The total value of personal property attributable to the project shall not exceed three million three hundred thirty three thousand six hundred dollars (\$3,333,600).

E. The taxable value of the real property of the applicant attributable to the project shall be assumed to be the difference in value between the value of the entire real property of the applicant prior to the start of the project and the value upon completion of the project. The underlying value of the property shall not be considered a portion of the project.

3. The refund payments shall be made to the applicant within thirty (30) days of the receipt of the final tax payment for a particular year from the applicant for the taxes levied and paid on the project property.

**DATED** this 22<sup>nd</sup> Day of February, 2011.

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

s/Tony Carlson

Tony Carlson, Chairman

s/Laura Teague

Laura Teague, Commissioner

s/Brian McCracken

Brian McCracken, Commissioner

(SEAL)

**ATTEST:**

s/Connie Ingmire

Connie Ingmire, Clerk to the Board

Morgan County Economic Development Director Kari Linker presented to the Board for approval Resolution 2011 BCC 5 to approve the tax rebate to BM Processors, LLC conducting business as Rocky Mountain Natural Meat. Linker stated the rebate expands four years and amounts to fifty percent of the real and personal property taxes. The company will employ twenty-five to thirty individuals with a median income of \$41,000.00 a year. Linker stated a capital investment incentive package of over eight million dollars was offered to BM Processors, LLC from the City of Brush. Linker noted an estimated increase in revenue of \$16, 800,000.00 after ten years which was determined during the initial analysis. Linker introduced Bob Dineen, CEO, and Ace Ward, Plant Manager, both in attendance. Dineen addressed the Board stating to hopefully break ground on the project in either April or May of 2011 with an eight to ten month completion. Commissioner Teague stated the City of Brush has been working aggressively to

# COMMISSIONERS PROCEEDING 3

bring this business to Morgan County. Commissioner Teague made a motion to approve Resolution 2011 BCC 5 and authorize the Chairman to sign. Commissioner McCracken seconded the motion. Motion carried 3-0.

## **CONSIDERATION OF APPROVAL-RIGHT OF WAY PERMIT-2011 PMT 08-WIGGINS TELEPHONE ASSOCIATION**

Morgan County Road Supervisor John Goodman presented to the Board for approval 2011 PMT 08. Goodman stated Wiggins Telephone Association will bore four hundred thirty-five feet across Morgan County Road 3 and Morgan County Road P, Wiggins, CO. Goodman stated the fiber optic telephone cable is being laid for a new residence. Goodman noted he inspected and approved the permit. A check amounting to \$193.50 was attached to cover all fees. Commissioner McCracken made a motion to approve the Right of Way Permit 2011 PMT 08 and authorize the Chairman to sign. Commissioner Teague seconded the motion. Motion carried 3-0.

## **CONSIDERATION OF APPROVAL-CONTRACT-2011 CNT 13-MORGAN COUNTY CENTRAL SERVICES-HUMAN RESOURCE DEPARTMENT**

Morgan County Human Services Director Steve Romero presented to the Board for approval 2011 CNT 13 the contract for Human Resources Services. Romero stated Human Resources will provide resources and personnel services to Morgan County Human Services including announcements of positions, screening and organizing employment applications, keeping and maintaining individual personnel records of DHS employees, administration of benefits, consultation on job descriptions, training and education, exit interviews and all other human resources and personnel services. Romero noted the terms of the contract are for one calendar year running from January 1, 2011 to December 31, 2011 and not to exceed \$1,332.00 a month for sixty-five full time employees totaling \$15,984.00 annually. Commissioner Teague made a motion to approve Contract 2011 CNT 13 and authorize the Chairman to sign. Commissioner McCracken seconded the motion. Motion carried 3-0.

## **CONSIDERATION OF APPROVAL-CONTRACT-2011 CNT 14-HART INTERCIVIC**

Morgan County Clerk and Recorder Connie Ingmire presented to the Board for approval 2011 CNT 14 the contract for extended warranty for all election equipment. Ingmire stated the extended warranty covers ten Judge's Booth Controllers, forty-one eSlates, eight eScans, and forty-five VBOs. Ingmire noted the terms of the contract are from January 1, 2011 to February 3, 2012 and not to exceed \$6,110.00 annually. Commissioner McCracken made a motion to approve Contract 2011 CNT 14 and authorize the Chairman to sign. Commissioner Teague seconded the motion. Motion carried 3-0.

## **CONSIDERATION OF APPROVAL-LEASE-2011 CNT 15-FORT MORGAN WATER COMPANY, LTD**

Morgan County Administrative Services Manager Susan Bailey presented to the Board for approval 2011 CNT 15 the leasing of one share of Jackson Lake water. Bailey stated only Fort Morgan Water Company, LTD submitted a proposal for this lease. Bailey noted the terms of the lease are from February 22, 2011 to December 31, 2011 and not to exceed \$450.00 annually. Commissioner Teague made a motion to approve Contract 2011 CNT 15 and authorize the Chairman to sign. Commissioner McCracken seconded the motion. Motion carried 3-0.

## **CONSIDERATION OF APPROVAL-CONTRACT-2011 CNT 16-CORRECTIONAL HEALTHCARE MANAGEMENT, INC.**

Morgan County Undersheriff Dave Martin presented to the Board for approval 2011 CNT 16 the contract renewal for inmate health care. Martin stated a nurse is on duty on site all week with a physician available once a week. Martin noted the daily population of the jail is on average one hundred inmates with the nurse seeing ten to twelve inmates a day. Martin noted there are inmates with serious medical conditions and it is the County's responsibility to maintain the appropriate level of care. Martin stated Morgan County has been using this company for three years. Martin noted the terms of the contract are from January 1, 2011 to December 31, 2011 in the amount of \$185,483.76 annually and not to exceed \$21,000.00 for out of facility care. Commissioner McCracken made a motion to approve Contract 2011 CNT 16 and authorize the Chairman to sign. Commissioner Teague seconded the motion. Motion carried 3-0.

## **CONSIDERATION OF APPROVAL-POLICY-MORGAN COUNTY ROAD AND BRIDGE SNOW AND ICE REMOVAL POLICY**

Morgan County Road Supervisor John Goodman presented to the Board for approval the Morgan County Snow and Ice Removal Policy. Goodman stated only wording has changed in the policy to provide clarification. Goodman noted he and Dick Early, Morgan County Bridge Supervisor, have both reviewed the policy and approve it. Commissioner Teague made a motion to approve Morgan County Snow and Ice Removal Policy. Commissioner McCracken seconded the motion. Motion carried 3-0.

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

Morgan County Road Supervisor John Goodman presented to the Board the monthly Road and Bridge Report. Goodman stated the road crews have begun to crack seal in District 2. Goodman noted the ditch digging at County Road 31 and County Road AA, Snyder, CO will begin shortly. Goodman stated the new loader was taken to the pit. The bridge crew will finish the bridge on County Road Q this week.

Commissioners reviewed the calendar dated February 18, 2011 through March 01, 2011 with no changes.

# 4 COMMISSIONERS PROCEEDING

## UNFINISHED BUSINESS

### **MEMORANDUM OF UNDERSTANDING-NORTHEASTERN COLORADO ASSOCIATION OF LOCAL GOVERNMENTS**

Northeast Colorado Association of Local Governments Director Larry Worth presented to the Board the Memorandum of Understanding on Enterprise Zone for Morgan County. Worth explained how the enterprise zone will be administered for 2011. Worth stated that contributors are eligible for a twenty-five percent tax credit from the State of Colorado. Worth noted Morgan County was congratulated on their number of incentive items totaling \$304,967.00 for 2011. East Morgan County Hospital was the largest contributor with a contribution of \$179,858.00. Commissioner McCracken made a motion to approve the Memorandum of Understanding on Enterprise Zone for Morgan County. Commissioner Teague seconded the motion. Motion carried 3-0.

## CITIZEN'S COMMENT PERIOD

There were no citizen comments.

We hereby adjourn and are in recess at 9:29 a.m.

Respectfully submitted,

Erin Kral  
Deputy Clerk to the Board

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

\_\_\_\_\_  
s/Tony Carlson  
Tony Carlson, Chairman

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

\_\_\_\_\_  
s/Brian McCracken  
Brian McCracken, Commissioner

(SEAL)

## **ATTEST:**

\_\_\_\_\_  
s/Connie Ingmire  
Connie Ingmire, Clerk to the Board

### **MORGAN COUNTY BOARD OF HUMAN SERVICES**

FINANCIAL MEETING MINUTES  
November 8, 2010

Present: Commissioner Brian McCracken – Chairman, Commissioner Laura Teague, Director Steve Romero,  
Finance Director Michelle Covelli, Administrative Services Manager Susan Bailey.

Meeting called to order at 10:20 a.m. by Chairman McCracken.

## **ITEMS REQUIRING ACTION**

The minutes of the regular monthly Board meeting of October 12, 2010 were corrected to reflect that Commissioner Carlson made motions at the October 12, 2010 meeting, not Commissioner Teague. With corrections the minutes

# COMMISSIONERS PROCEEDING 5

were approved upon a motion from Commissioner Teague, with second by Commissioner McCracken. Motion passes. Motion includes authorization for Chair to sign.

Human Services Warrants for September 2010 were approved on a motion by Commissioner Teague, seconded by Commissioner McCracken, including authorization for Chair to sign.

HMS warrants	\$ 199,590.12
HMS payroll	<u>\$ 131,063.39</u>
	\$ 330,653.51

Certification of Provider, Vendor and Benefit Authorizations for September 2010 was presented.

Temporary Assistance for Needy Families (TANF)	\$ 50,590.52
Child Care	27,973.00
Foster Care	187,949.43
Core Services	15,356.41
LEAP	1,800.00
Aid to Needy Disabled (AND)	12,572.55
Old Age Pension (OAP)	41,798.27
Food Assistance Benefits	<u>350,430.62</u>
Total	\$ 692,470.80

The report was approved upon a motion by Commissioner Teague to approve with authorization for Chair to sign and second by Commissioner McCracken. Motion passes.

## ITEMS FOR INFORMATION ONLY

### *Financial Reports:*

- The Cash Reconciliation Report was presented by Finance Director Covelli. It indicated a cash balance as of September 30, 2010 of \$608,500.78. This compared to the cash balance of September 30, 2009 of \$1,011,596.27.
- Actual Revenue to Actual Expenditures Report for the period 09/10 was submitted for review.
- The Budgeted to Actual Expenditure Reports were presented.
- The State Allocation to Actual Expenditures Reports were presented.
- The Federal Allocation Reports were presented.

There being no further business to bring before the Board of Human Services.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steve Romero, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Brian McCracken, Chairman  
Morgan County Board of Human Services

# 6 COMMISSIONERS PROCEEDING

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

\_\_\_\_\_  
s/Tony Carlson  
Tony Carlson, Chairman

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

\_\_\_\_\_  
s/Brian McCracken  
Brian McCracken, Commissioner

(SEAL)

**ATTEST:**

\_\_\_\_\_  
s/Connie Ingmire  
Connie Ingmire, Clerk to the Board

**MORGAN COUNTY BOARD OF HUMAN SERVICES  
FINANCIAL MEETING MINUTES  
December 13, 2010**

Present: Commissioner Brian McCracken – Chairman, Commissioner Tony Carlson, Director Steve Romero,  
Finance Director Michelle Covelli, Finance Officer Marianne Oskarson. Administrative Services  
Manager  
Susan Bailey.

Meeting called to order at 10:20 a.m. by Chairman McCracken.

**ITEMS REQUIRING ACTION**

The minutes of the regular monthly Board meeting of November 8, 2010 were reviewed, but approval of minutes was tabled until next meeting.

Human Services Warrants for October 2010 were approved on a motion by Commissioner Carlson, seconded by Commissioner McCracken, including authorization for Chair to sign.

HMS warrants	\$ 230,161.21
HMS payroll	<u>\$ 133,354.58</u>
	\$ 363,515.79

Certification of Provider, Vendor and Benefit Authorizations for October 2010 was presented.

Temporary Assistance for Needy Families (TANF)	\$ 54,721.96
Child Care	27,411.00
Foster Care	191,270.80
Core Services	17,742.26
LEAP	.00
Aid to Needy Disabled (AND)	13,073.26

# COMMISSIONERS PROCEEDING 7

Old Age Pension (OAP)	40,886.92
Food Assistance Benefits	<u>359,899.00</u>
Total	\$ 705,005.20

The report was approved upon a motion by Commissioner Carlson to approve with authorization for Chair to sign and second by Commissioner McCracken. Motion passes.

## ITEMS FOR INFORMATION ONLY

### *Financial Reports:*

- The Cash Reconciliation Report was presented by Finance Director Covelli. It indicated a cash balance as of October 31, 2010 of \$549,220.84. This compared to the cash balance of October 31, 2009 of \$924,819.27.
- Reviewed Monthly Balance Sheet
- Actual Revenue to Actual Expenditures Report for the period 10/10 was submitted for review.
- The Budgeted to Actual Expenditure Reports were presented.
- The State Allocation to Actual Expenditures Reports were presented.
- The Federal Allocation Reports were presented.

There being no further business to bring before the Board of Human Services.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steve Romero, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Brian McCracken, Chairman  
Morgan County Board of Human Services

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

\_\_\_\_\_  
s/Tony Carlson  
Tony Carlson, Chairman

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

\_\_\_\_\_  
s/Brian McCracken  
Brian McCracken, Commissioner

(SEAL)

### **ATTEST:**

\_\_\_\_\_  
s/Connie Ingmire  
Connie Ingmire, Clerk to the Board

# 8 COMMISSIONERS PROCEEDING

## MORGAN COUNTY BOARD OF HUMAN SERVICES

### FINANCIAL MEETING MINUTES

January 10, 2011

Present: Commissioner Brian McCracken – Chairman, Commissioner Tony Carlson, Director Steve Romero, Finance Director Michelle Covelli, Finance Officer Marianne Oskarson. Administrative Services Manager  
Susan Bailey.

Meeting called to order at 10:15 a.m. by Chairman McCracken.

#### ITEMS REQUIRING ACTION

The minutes of the regular monthly Board meeting of November 8, 2010 were reviewed, but approval of minutes was tabled until February meeting.

The minutes of the regular monthly Board meeting of December 13, 2010 were approved and Chair was authorized to sign upon a motion from Commissioner Carlson, with second by Commissioner McCracken.

Human Services Warrants for November 2010 were approved on a motion by Commissioner Carlson, seconded by Commissioner McCracken, including authorization for Chair to sign.

HMS warrants	\$ 217,066.54
HMS payroll	<u>\$ 133,862.51</u>
	\$ 350,929.05

Certification of Provider, Vendor and Benefit Authorizations for November 2010 was presented.

Temporary Assistance for Needy Families (TANF)	\$ 58,184.00
Child Care	37,669.43
Foster Care	175,021.39
Core Services	17,508.49
LEAP	300.00
Aid to Needy Disabled (AND)	12,763.31
Old Age Pension (OAP)	39,822.77
Food Assistance Benefits	<u>365,097.00</u>
Total	\$ 706,366.39

The report was approved upon a motion by Commissioner Carlson to approve with authorization for Chair to sign and second by Commissioner McCracken. Motion passes.

#### TEMS FOR INFORMATION ONLY

##### *Financial Reports:*

- The Cash Reconciliation Report was presented by Finance Director Covelli. It indicated a cash balance as of November 30, 2010 of \$440,805.80. This compared to the cash balance of November 30, 2009 of \$914,523.53.
- Reviewed Monthly Balance Sheet
- Actual Revenue to Actual Expenditures Report for the period 11/10 was submitted for review.
- The Budgeted to Actual Expenditure Reports were presented.
- The State Allocation to Actual Expenditures Reports were presented.

# COMMISSIONERS PROCEEDING 9

- The Federal Allocation Reports were presented.

There being no further business to bring before the Board of Human Services.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steve Romero, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tony Carlson, Chairman  
Morgan County Board of Human Services

## THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

\_\_\_\_\_  
s/Tony Carlson  
Tony Carlson, Chairman

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

\_\_\_\_\_  
s/Brian McCracken  
Brian McCracken, Commissioner

(SEAL)

### ATTEST:

\_\_\_\_\_  
s/Connie Ingmire  
Connie Ingmire, Clerk to the Board

### MORGAN COUNTY BOARD OF COMMISSIONERS February 15, 2011 MINUTES

The Morgan County Board of Commissioners met at their regular meeting on Tuesday, February 15, 2011 at 9:30 A.M. in the Assembly Room of the Morgan County Administration Building. Present were Commissioners McCracken, Carlson and Teague. Also present were Barb Gorrell, Planning Administrator; Jody Meyer, Planning Assistant; George Monsson, County Attorney; and Susan Bailey, Administrative Services Manager for Morgan County.

The hearing was called to order by Chairman Commissioner Carlson.

### NEW BUSINESS:

**Applicant: Town of Wiggins**

**Landowner: Same**

Application for Conditional Use Permit for construction of two augmentation ponds located in the NE1/4 of Section 34 and the NW1/4 of Section 35, all in Township 5 North, Range 60 West of the 6<sup>th</sup> P.M., Morgan County, Colorado.

Brent Nation from Nation Engineering Services LLC and Heath Kuntz from Leonard Rice Engineers, Inc. were present to represent this application.

Barb Gorrell presented the following file:

The town plans to construct two 19 acre augmentation ponds on a parcel of 112 acres. These augmentation ponds are an integral part of the proposed municipal water system. The application includes a great deal of engineering information that I will let the applicants representatives review.

This application has been referred to the Planning Commission and the Board of County Commissioners due to neighbor concerns with offsite impacts.

# 10 COMMISSIONERS PROCEEDING

Seepage from these ponds appears to be the biggest concern. Information submitted in the application is extensive. Although it may be covered I did not see anything specifically addressing the seepage issue and would request that the applicant's representative address this issue.

All appropriate notices, posting and publication requirements have been met. Property is zoned "A" Agriculture. Site is not in the floodplain.

I fully understand the need for improvements to the municipal water system for the Town of Wiggins; however neighbor concerns should be addressed.

Barb noted that the Planning Commission recommended approval of this application. There was one party speaking in opposition and he is here today (Mr. Joe Hawkins). Barb said they received a call from John Rusch stating he was in favor of this application and there were several phone inquiries.

Brent Nation, 827 Maple, Fort Morgan, of Nation Engineering, said he was an engineer working for the Town of Wiggins along with Heath Kuntz, 615 Aurora, Fort Morgan, of Leonard Rice Engineers, Inc.

Brent Nation gave an overview of this application. He explained that these ponds would be used for augmentation for the Town of Wiggins. The Town of Wiggins will use the crop water shares by putting it into the ponds to use against the well pumping. His professional feeling is the amount of water going into these ponds should not make any impacts on the neighbors. He explained the return flow and historic flows. This will only serve a portion of what the Town of Wiggins needs. Right now the Town is looking to use only the Kammerer water shares; however they will continue to look for other shares. He talked about the historic and consumptive use of the water, which amounts to 230 acre feet total which would be delivered over the entire summer. (Details can be listened to on recorded system)

Soils – Brent Nation said there is about 20" of heavy top soil followed by coarse sand and gravel for quick percolation. Borings done in June 2010 found water at 15 feet. At 25 to 30 feet they found clay layers. Mr. Kuntz stated that soil samples were taken on this parcel. Brent Nation said there is no junior water filing, but the Town of Wiggins is drafting their application and getting it ready to submit. Mr. Kuntz said the Weldon Valley Ditch Company is reviewing it now.

Commissioner Teague asked Barb Gorrell to explain the procedure of processing this application and the difference between Conditional and Special Use. She was concerned about setting a precedent as far as all augmentation ponds having to get a Special Use Permit. Barb Gorrell explained the different level of uses on water storage reservoirs and read from the County Rules and Regulations why this was considered a Conditional Use: *Water storage reservoirs of 10 acres and greater and less than 20 acres maximum surface area or 65 acre feet and greater and less than 130 acre feet maximum capacity.* Barb said she could approve Conditional Uses, but because of the opposition, she turned this into a regular hearing process. Barb noted this regulation has been in place for approximately 8 years and was put in place to watch for off-site impacts.

## PUBLIC:

There was no one present to speak in favor of this application.

Speaking in opposition were:

Joe Hawkins, 22411 Dunreath, Orchard, Colorado, is an adjoining landowner to this parcel to the southeast. His land is at a lower elevation than the proposed site. He has visited with the Town of Wiggins several times on his concerns of seepage issue and they tried to come up with ideas to resolve those concerns. One of them being 1) to trade lands with the Town of Wiggins; 2) Offer an existing pond site; one that is up and running; or 3) have the Town of Wiggins buy him out because he was sure the seep damage would ruin his crop. He said nothing has been resolved with the Town of Wiggins. He did say he was okay with the historic water use (140 acre ft.) on this parcel, but why is the applicant holding the right to add more water in the ponds. He was concerned with water being in there all year which will then surface on his ground.

Brent Nation talked about recharge rights and direct flows. The Town of Wiggins' first priority right now is to make the 1881 water rights work and they don't want to jeopardize this. As far as trading lands as Mr. Hawkins suggested, Brent said the Town of Wiggins is locked into government funding and any changes could jeopardize those funds. Brent Nation said he cannot say with certainty that Mr. Hawkins property will not get flooded out because there are too many variables. But after looking at the alluvium under the Kammerer property and looking and the amount of water that will be returned with the Kammerer shares, it is his feeling this will not impact Mr. Hawkins.

Heath Kuntz noted that Jackson Lake Reservoir, Weldon Valley Ditch, and Riverside Irrigation are all above this site and they also fluctuate the ground water levels.

George Monsson, County Attorney, discussed remedies if damage did occur to neighboring parcels. Joe Hawkins said the burden of proof would then be on him and he feels he would be the loser. Commissioner Carlson asked Mr. Hawkins what he wanted the County to do. Mr. Hawkins thinks the 140 acre feet is enough and does not want to add additional water.

George Monsson told the Board of Commissioners they could place limitations on the amount of water going into the pond. He read the criteria for a Conditional Use. Another option is to require more data from another source, at the applicant's expense.



# 12 COMMISSIONERS PROCEEDING

## MORGAN COUNTY BOARD OF COMMISSIONERS February 22, 2011 MINUTES

The Morgan County Board of Commissioners met at their regular meeting on Tuesday, February 22, 2011 at 9:30 A.M. in the Assembly Room of the Morgan County Administration Building. Present were Commissioners McCracken, Carlson and Teague. Also present were Barb Gorrell, Planning Administrator; Jody Meyer, Planning Assistant; George Monsson, County Attorney; and Susan Bailey, Administrative Services Manager for Morgan County.

The hearing was called to order by Chairman Commissioner Carlson.

### NEW BUSINESS:

**APPLICANT: Brush Livestock of Colorado, Inc.**

**LANDOWNER: Same**

Application for Use by Special Review located in the SW1/4 of Section 31, Township 4 North, Range 55 West of the 6<sup>th</sup> P.M., Morgan County, aka 29870 Highway 6, Brush, Colorado.

Chris DeJulio and Bill Anderson from Connell Resources, Inc. were present to represent this application.

Barb Gorrell presented the file as stated below and recommended approval:

The landowner is requesting a Special Use Permit for mining. The total parcel area is 47.8 acres. The mined or borrow area will be approximately 2.3 acres. The file includes a lease agreement with Connell Resources, Inc., pending approval of this application, for the removal of 16,000 cubic yards of material. This operation will basically remove a hill located on the eastern portion of the parcel.

The excavated material will be used for CDOT's Highway 71 project north of Brush. This grading site is close to the construction site and will reduce trucking costs.

The application also states that this grading will enhance Brush Livestock's property allowing for more efficient operations.

Excavation will begin almost immediately upon approval of this permit and will continue for approximately 60 working days. Reclamation includes applying native seed to the disturbed slope.

Off site impacts will include noise and dust. Dust will be monitored daily. A water truck will be available at all times to apply water for dust mitigation. Work will not be performed during nighttime hours.

Connell Resources has submitted a Stormwater Management Plan that includes Best Management Practices. Copies of applications to the State of Colorado for access and reclamation are also included in the file. It is my recommendation that once these permits have been issued, copies be submitted to the County Planning Dept.

All appropriate notices, posting and publication requirements have been met. Property is zoned "AB" Agri/Business. Taxes are current. Site is not in the floodplain.

Barb noted that the Planning Commission also recommended approval of this application. She reported that Gene Mitchell, a landowner to the southeast objected to this application. Mr. Mitchell believes that the soils on this parcel will not vegetate properly and will cause problems.

Barb Gorrell said, as a condition of approval of this permit, she wanted copies of the CDOT access permit and the State Reclamation Permit to be turned into the Planning Department when issued and this parcel shall be properly revegetated as outlined in the application. She also noted that the State is in the process of considering the Reclamation Permit.

Chris DeJulio, the project engineer for Connell Resources, Inc. informed the Commissioners that the Reclamation Permit has been approved by the State; he just hasn't gotten a copy yet. Bill Anderson, also representing Connell Resources, stated that they will post a reclamation bond. He noted the request was for 60 days, however he thinks it will likely be about a 3-week project.

All Commissioners stated they had no issues with this application and it will benefit with the Hwy 71 project.

Regarding Gene Mitchell's soil concerns, Commissioner Carlson said because they are posting a bond and covering the site with manure, it should never blow.

George Monsson told the Commissioners this process was very similar to the one the County did a short while ago north of Weldona and didn't foresee any issues.

There was no one present to speak in favor of or in opposition to this application.

It was moved by Commissioner Teague and seconded by Commissioner McCracken to approve this Application for Use by Special Review for a mining permit located in the SW1/4 of Section 31, Township 4 North, Range 55 West of the 6<sup>th</sup> P.M., Morgan County, aka 29870 Highway 6, Brush, Colorado, as outlined by Barb Gorrell, Planning Administrator. Motion carried 3-0, becoming Resolution #2011 BCC 07.

