

---

Minutes of the Board of County Commissioners Regular Meeting held on April 02, 2020 at 9:00 AM in the Commissioners Board Room, 6683 County Rd 13, Conejos, CO. 81129

---

Call the meeting to order

Chrmn. Jarvies called the meeting to order at 9:00 AM.

Roll Call: Mitchell Jarvies- Chrmn.- Present  
Steve McCarroll-Vice-Chair-Tele-Conferencing  
Carlos Garcia-Vice Chair-Tele-Conferencing  
Tressesa Martinez-County Admn.-Via-phone

Also present were Nick Sarmiento-County Attorney and Connie Ricci-HR-Director-Tele-Conferencing. Also present was Annabelle Gomez, Deputy Clerk and Recorder.

Pledge of Allegiance: Chrmn. Jarvies led everyone in the Pledge of Allegiance.

Prayer: Chrmn. Jarvies gave the opening prayer.

Approval of Agenda

Motion to approve the agenda as presented: Comm. McCarroll/Second: Comm. Garcia, all in favor.

3-0 Motion carried.

Approval of Minutes

Motion to approve the Minutes of the Special Meeting held on March 16, 2020 as amended: Comm. McCarroll/Second: Comm. Garcia, all in favor.

3-0 Motion carried.

Motion to approve the minutes of the March 19, 2020 Payroll Meeting: Comm. Garcia, Second: Comm. McCarroll, all in favor.

3-0 Motion carried.

Public Comment: None

Administrators Correspondence: None

Morgan Drain District

County Attorney Nick Sarmiento stated that he has been contacted by numerous people concerning the appointment of directors to this district. He asked for by-laws and other foundational documents and he doesn't think any of the parties have the by-laws. They received one application but since the parties are in litigation he feels that they should publish in the newspaper. They have gotten away from publishing and have been posting on their website and posting in various places such as the grocery stores and in Post Offices. They should publish in the Valley Courier that they are accepting applications. There are 3 open positions. He feels the parties should give an update as to what should happen. The appointment should be within 2 weeks with a deadline. The parties should present what they think is right.

Chrmn. Jarvies stated that they did receive another application this morning from Mark Bahr; the other is from Jason Coombs.

Tressesa-County Admn. stated that she also received one from Damian Chavez.

Steve Atencio stated that he represents Max and Margie DeHerrera. They are trying to work with the District for quite some time to address some issues that is a subject of a cease and desist that was issued by the division engineer primarily addressing some un-decreed points of diversion. One of which we believe is what's constructed and being used by Jason Coombs, our efforts weren't really successful so they filed a suit on March 23<sup>rd</sup> addressing those issues trying to get the district to comply with the division engineer cease and desist. Also in the complaint addressed the fact that Mark Bahr and Jason Coombs alleged that they are not qualified to serve as directors for the district. In the complaint they asked for a declaration that they were not qualified and that the court enter an order requiring that the position is vacant and asking the Board of County Commissioners to fill the vacancy. According to state law; copies which he has provided to Mr. Sarmiento.

Chrmn. Jarvies asked Mr. Atencio how he felt if they post for the position of Board of Directors and give a 2 week notice, take letters and post it in the various locations. Chrmn. Jarvies asked if he and his client are okay with that, asked how do we move forward as a county to get Board of Directors back in place; what would be good with you.

Mr. Atencio stated that the board is required to fill the vacancy. I believe the district's attorney Richard Marin got ahold of the county and arranged this to happen today with the deadline of yesterday so they submit letters of intent, but he didn't tell him about it until Tuesday. He called Mr. Sarmiento to tell him that they needed more time. After discussion with Mr. Sarmiento and approval from his client, his client will accept a procedure that requires posting of the notice in the newspaper and if Mr. Marin gets back in touch with him he will also ask the district to send notice to all of the landowners in the district so that they become aware that there are those vacancies and that the commissioners are going to fill the vacancy. I am fine with your perspective if you publish it in the newspaper, continue to post it on your website and allow a couple of weeks for folks to present letters of interest. His client has no objection if you want to continue it for a couple of weeks.

Chrmn. Jarvies stated that as long as they follow procedures that they have done in the past.

Mr. Atencio stated that this is a very unusual situation but if we follow this procedure it will comply with the laws that apply to initial vacancies and elections as well.

Nick Sarmiento-County Attorney asked Mr. Atencio if this district is divided if one director lives in one division or we don't know that.

Mr. Atencio stated that it is his understanding that there are no divisions, they have to be a landowner within the district and there have to be 3 that is the only thing the law says. He did try to get a copy of the by-laws and was told by the former secretary of the district that if there are any they couldn't find them.

Richard Marin stated that the district as far as he understands and Mr. Coombs is there he can speak up if he disagrees but I don't think that we would have any objection to the process proposed by Mr. Sarmiento in terms of posting, publishing notification of the April 16<sup>th</sup> appointment of three members to the Morgan District Board and also requesting letters of interest to be submitted. I don't think that we need to go to the next step that Mr. Atencio suggested and mail notice to all the landowners that is not required anywhere in the statute as far as I know and I think it is an unnecessary additional expense and also consume additional time that the district doesn't have; he would just propose that we not send notice to the individual landowners by mail, that they publish and everybody do their best to get the word

out. It is a fairly tight knit community and they will learn very quickly what the County Commissioners will be doing with respect to the board appointment at their next meeting.

With respect he would respond to Mr. Atencio's ascertain that Mr. Coombs and Mr. Bahr are not authorized or they would not be authorized to hold board positions. We disagree with what Mr. Atencio said the only thing required is for the board members to be landowners and it is his understanding that both Mr. Coombs and Mr. Bahr are landowners in the district, asked if Mr. Coombs had anything to add.

Jason Coombs said no.

Chrmn. Jarvies stated that because of the cost of advertising and lack of response from people to serve on boards they have discontinued advertising in the newspaper, they just post on their web site, post offices, and some of the businesses, in lieu of this it is a good idea to publish in the newspaper, take letters, as well as posting it in other places. As far as notifying the landowners in the drainage district they have never done that. If we want to appoint on April 16<sup>th</sup> they do interviews they would need time to do that as well.

Tressesa, County Admn. stated that if the deadline for applications is on the 14<sup>th</sup> she can post that they will do interviews on the 15<sup>th</sup>.

Mr. Atencio stated that he wasn't asking the Commissioners to send a letter to the landowners. That is not even a request. As far as the time frame he has no objection.

Mr. Marin stated he has no objections. He feels that is a reasonable approach to get this done at their April 16<sup>th</sup> meeting.

Chrmn. Jarvies stated that they will post in the newspaper, website and public places. The deadline will be April 14<sup>th</sup> to accept letters, the requirements will be that they are landowners within the drain district, they set up interviews and make a decision on the 16<sup>th</sup>.

Steve Atencio stated that he agrees, he would request that he be invited to attend the meeting on the 16<sup>th</sup> for the appointments.

Chrmn. Jarvies stated that is fine. They can involve everybody, it will be a public meeting.

#### **Fire Ban Resolution**

Nick Sarmiento-County Attorney shared the Fire Ban Resolution and described the changes that he has done. He stated that they should publish in the newspaper 10 days before the public hearing. He would like a discussion.

Sheriff Crowther stated that he doesn't know if he included Nick on an email. He has some thoughts on a fire ban right now, it is drying out and the wind and what not and with their resources if we had a big fire we do not want all the firemen out there and the groups of people that it would take to fight that fire. We would be putting a lot of rules and regulations at our public so it is something that we can all discuss but we can always work under what we used to without the ordinance. He would like to get it adopted but doesn't know that it is really essential. He wanted to know if we can place a fire ban like they used to.

Nick Sarmiento stated that if he feels that what we have is sufficient we can hold off on adopting this; they can probably hold off until May or June.

Sheriff Crowther stated that the only thing this ordinance does is that if they have somebody that won't comply with us then we have something to fall back on but we can always do what we have done in the past.

Nick stated that after the first reading they will probably have to wait until another 2 meetings. It will be about a 45 day process.

Chrmn. Jarvies stated that he feels they can wait. They need to have a balance that they have to meet because people have to burn ditches so as long as they let them know what's going on he is okay waiting a little bit and taking public comment.

Comm. McCarroll stated that they still have a little bit of time. We don't want anything to happen like last year but we need to give the farmers and ranchers a little bit of time to burn the ditches. We need to watch if for a while, but he is with the sheriff and do it as quickly as we need to.

Comm. Garcia stated that if they are not having the first reading today he would like to have it on the 16<sup>TH</sup>. The Sheriff can still call a fire ban if necessary even in 10 days. He asked Nick if they could put the ordinance back to the penalty part of the fines; this concerns someone that would really violate this. The first time it would be

\$250.00 and the next time another \$250.00 more because of the amount of damage that someone could cause like they saw on the G18 fire.

Nick Sarmiento stated that this isn't designed to capture actual damages that were caused. This is just for starting the fire. The damage itself will have to be between the parties themselves.

Chrmn. Jarvies stated that because we are imposing fines and penalties and putting that in place I feel that we allow public comment and have that meeting open. We don't know how many people would feel comfortable coming out to a public meeting to comment for or against but feels like the public needs that opportunity. Right now we still have the authority to put a fire ban in place. Basically we have another 30 days of quarantine and hopefully by May people can come in and comment.

Sheriff Crowther stated that he agrees 100% with the commissioners the farmers need to be able to burn their ditches but if the ordinance is ready to go I would say read it today, if it is read today can we hold off until May.

Nick Sarmiento stated that we can read it today, they would have to post it 10 days before the public hearing.

Chrmn. Jarvies asked if they can delay the reading until the next meeting or the May 2<sup>nd</sup> meeting, then they can pick a date for the public hearing.

The board members were in agreement as well as Sheriff Crowther.

### Amber Pacheco-District 3 and Well Discussion

Amber Pacheco-via phone stated that she sent out the participation contract. She spoke with Don Martinez and he mentioned that there are 2 wells at the county that needed to be included in the sub-district and she didn't have them on her list. She did her research and found that there are 2 smaller wells one at the sheriff's and at the county offices. In order to get those included with the sub-district and for the sub-district to cover any depletion caused by those wells we need this participation agreement that allows us to include you in our filing. They are approving their annual replacement plan on the 13<sup>th</sup> of April sub-district 3 in to get them covered she has to have that contract if not they would have to wait until next year at this time. They would be out of compliance with the state's ground water rules. The wells have to be covered under a sub-district or under their own

augmentation plan by March 15<sup>th</sup> that would leave about a 6 week period that you would not be in compliance with the state and they could potentially red flag your wells which means they are being used illegally.

Nick Sarmiento stated that he reviewed the contract and because of the sub-district and the augmentation of the wells and taking those into consideration he thinks they have to enter in the contract.

Motion to enter into a contract with District 3 Sub-District for 2 wells that we have within that district: Comm. McCarroll/Second: Comm. Garcia, all in favor.

3-0 Motion carried.

Amber stated that she would like to let them know that if during the year if anyone has any concerns or feel that they need to add anything more to the contract it automatically renews. She would like to let the government entities know that if you find another way to augment your wells, either someone has a plan that they could cover you or you could find water that could cover you in the rivers you can be relieved of sub-district fees going forward. This does not put you in the sub-district indefinitely which is different with petitioned wells. She will present it to the board with their annual replacement plan and following that she will send an invoice with estimated fees by the middle of June.

Chrmn. Jarvies stated that the board will get the contract signed and Tressesa, County Admn. will send it to Amber.

Comm. McCarroll asked about the well at the arena.

Tressesa-County Admn. stated that Donnie sent all the paperwork to Nick. They have three but one is considered domestic.

Chrmn. Jarvies asked Nick Sarmiento to check and make sure that we are covered.

Nick will look into it.

#### Sheriff Crowther- Report

Sheriff Crowther stated he sent the reports out.

- The reports are down because he is trying to restrict the guys as far as the public as much as he can. They are out and being seen.
- They had a search and rescue come in; that was successful.
- Meal cost is down and are keeping it down, they are taking the lowest of the 3 companies.
- They have 8 inmates- it fluctuates from 8 to 12. They are getting them out as fast as they can. They have about 7 or 8 that they cannot get a PR Bond.
- Have a couple of major cases that they are working with CBI.
- Have 3 new hires at the jail.
- Sent an MOU for the Forest Service to Nick- has a couple of guys from the law enforcement that working at the Forest Service and he didn't realize that if there is a warrant they don't have the authority to make an arrest. They want to know if they can enter into an MOU acting under his authority. They are helping Milo and Lynn from the Forest Service.
- Feels they need a nurse for their staff. They have a couple of options that they have looked at. Alamosa has 2 nurses on board and said they would share one.

Chrmn. Jarvies stated that they need look at covering some of those issues that they have.

The board recessed out of the Regular County Commissioners Meeting and opened it up as Board of Health. Chrmn. Jarvies turned the time over to Denise Jiron-Public Health Director.

Denise stated that she wants to expand our county closure to be in sync with the rest of the valley and the state. I understand what kind of burden and impact this would have but what we are learning in terms of our area our search for this pandemic is coming within 2 weeks; thinks it is very important for us to limit our activity and keep people at home. We are already seeing a shortage of supplies in our area. We are basically on the back burner for the state's ability to assist us. Asked Rodney-EMS if he agrees with that

Rodney stated that he agrees with that assessment.

Denise suggested staying closed at least until April 30<sup>th</sup>. We do not have a confirmed case in Conejos County. Staying home is vital to flatten that curve; we do not have the resources to fight it. There is already a lot of stress on our local health providers. She understands the impact but also fears the consequences.

Comm. Garcia stated that he is fine with the recommendation.



Comm. McCarroll stated he is also fine with the recommendation.

Tressesa, County Admn. stated that she is thinking the same also mentioned that Governor Polis stated to stay at home until the 30<sup>th</sup> . We would be in compliance with the state order as well. She is in agreement, some employees are staying home and not working at all and others are staggering; asked what are their thoughts are on those that are getting paid 100% and not coming in at all.

Connie -HR stated that they have a couple of issues that need to be discussed on Road and Bridge and those people that Tressesa mentioned. They also need to talk about the PCP's some have applied for unemployment.

Denise stated that they can continue to do the staggering and still minimize risk. If they can get departments like Road and Bridge not to interact and sanitize and keep those practices going that would be functional. Our PCP's are still working except those that chose not to work, those are the ones that Connie is talking about; they have the ability to apply for unemployment. They have provided them with masks and gloves that they were able to round up. They do a daily check in with their clients and all the providers. If they have symptoms they are not to go into the home whether it's the provider or the client; same thing in their office.

Tressesa, County Admn. stated that there is a report from Donnie that they are out and about doing what they have to do but he had a question if he calls out the guys and they refuse to go what does he do then.

Connie-HR stated that the feds came out with the Family Medical Leave that addresses additional extended sick leave related to COVID and we do have to comply, they get paid 2/3; however we do need to talk about those employees that are afraid to go out, she understands that at Road and Bridge there is a gentleman that does not meet the medical criteria such as a compromised immune system or the age. Also talked about the group such as Dept. of Social Services, they are staggering their case workers right now. When they get the lap tops they will be staggering the amount of people that come in. Those are essential but what are we going to do with those employees that have fear.

Chrmn. Jarvies stated that he agrees that they have the courthouse closed. That is an example that we are taking it serious. There have been a few people not happy about the closure. As far as employees they have some that are working and some that aren't, they are all getting paid; how do we handle that.

Denise stated that is also a concern in her building; do they work that individually per department; she doesn't have an answer to that.

Chrmn. Jarvies felt that they should leave it as it stands and let each department deal with their employees using HR as their resource. If they don't want to go out because of the fear of the virus whether they meet the criteria or not how do they handle that.

Tressesa stated that they had a situation with an employee can they use sick leave for that one day.

Connie-HR stated that they are doing that with those that are mandated they are charging them sick leave.

Chrmn. Jarvies stated that if they are not within that vulnerable population and if they chose not to come in then they use their sick days or personal days.

Comm. McCarroll stated that he agrees if others are going out and working and if they are not in the group that are susceptible they need to set up something that can work.

Comm. Garcia stated that he agrees with Comm. McCarroll but doesn't know the legality. Mr. Sarmiento can probably speak on that.

Connie-HR stated that they do have some that are over 60 in Road and Bridge and they want to work. In the governor's order under critical services it specifically says "snow removal, law enforcement, fire" and as far as critical functions it list transportation infrastructure, road construction and maintenance. She stated that they need to define for Donnie what is critical, they did some culvert work which is critical because water is coming; is grading of roads critical he does need some guidance.

Chrmn. Jarvies stated that because of the area in which we live, we need to keep the roads graded for safety. The infrastructure is critical.

Tressesa, Admn. stated that they need something in writing concerning those individuals that don't fall into the age group or that category and are refusing to go out can we charge them vacation or sick leave.

Nick Sarmiento stated that essential and non-essential is your discretion. There are many things that are open, road construction continues. Infrastructure is essential all the way to maintaining those vehicles is essential. We should take precaution whether it is stagger or limit their ability to pass this on to other coworkers we should take precaution that doesn't mean that they just get to go

home. I believe that they will say that Road and Bridge is essential, maybe not all functions but most of them. As to the differentiation between people that are sick or scared, people with child care issues, and how we should treat them in our policies. The laws have changed right now FMLA has been extended to protect people for COVID related issues and that includes child care so if they are in need of taking care of their children because of schools closed due to COVID or one of their family members is prone to the COVID then FMLA applies.

Nick then talked about Emergency Leave Act. There are 5 different categories. One of them is child care. The other is do they have the diagnoses or do they even present symptoms of COVID, under that they have to give them 10 extra days on top of what we already give them. The first 10 days can be unpaid but at their option they can say they want their unpaid time off. For the people that are just scared the law hasn't changed for them we have to go back to essential and non-essential the 50% that the governor has issued; in that situation as long as we are complying with the mandates of the state, if they are essential they are required to be there but we are giving them protection. As to the differentiation between 60, 50, 40 or even 30 year old we can discriminate based on youngness but we can't discriminate after they enter the clause of 40 or above even if the discrimination is in their benefit. The 50, 40, 30 or 20 year olds are not immune to this. If we start giving preference to the 60 year old opposed to a 40 year old who would say they have a health condition or a respiratory issue.

Connie-HR stated that Public Health is a little bit different than Road and Bridge, you have to treat them all different. Denise couldn't send out 60 year olds to take care of other 60 year olds.

Nick stated "where do we draw the line", also talked about the 50% essential, he believes those employees are essential if they are sick with COVID or a family member is sick with COVID or you lost child care because of COVID, if you don't fit those 3 categories and you are just scared, how do we treat those. We can say you have to come in to work. You just have to go with what's right.

Chrmn. Jarvies stated that most of the departments are pretty clear on what they are doing. We just need to decide on Road and Bridge and asked Nick to print out what he read about infrastructure being part of essential work force and they can send that out to their department heads and Road and Bridge Supervisors and let them communicate that with everybody. If someone doesn't want to come in then they will know that they have to use sick or personal time.

Nick stated that they will pass a new resolution and they exempt Road and Bridge.

Chrmn. Jarvies stated that he feels that they need to be out and they can get that separation. They don't have to be close together. It is essential to take care of the roads.

Comm. McCarroll agreed with Chrmn. Jarvies.

Comm. Garcia stated that he agrees but would like some clarification if they exempt them do they have to start defining some of those things or is Donnie going to define them. Also asked Connie that one person at DSS is refusing to work is that ok with DSS.

Connie stated that they have an employee that has been calling in. They are charging them sick leave. If they are none COVID and they are an essential position and they are not coming in then it will be a disciplinary thing. She just wants clarification from Nick. We do need our ambulances to run, our ambulances and our farmers coming out. If we list them as essential do we still follow the 50% reduction order from the state.

Nick said no because they are essential but we can still restrict their hours and we can stagger them, a lot of the projects can be postponed.

Chrmn. Jarvies stated that between Donnie and their Road and Bridge Supervisors if they see a road that is falling apart they should call them in to go blade that road, they can make those decisions.

Comm. Garcia stated that between Donnie, Connie and Nick they can talk and make it easier for Donnie, he is fine.

Comm. McCarroll stated that there are roads in District 3 that are hit so hard that they need to be maintained. They can be maintained at least every 2 weeks. If you let them go past two weeks it might create bigger problems.

Connie-HR stated that they can come up with a schedule. The supervisors are going out every other day and looking at the roads.

Chrmn. Jarvies asked Nick Sarmiento to read what he has so they can make a motion to continue like they are.

Nick read the following: Except for essential services provided by the Conejos County Department of Social Services, the Conejos County Department of Public Health, the Conejos County Ambulance Service, the Conejos County Sheriff, the Conejos County Road and Bridge Department,

the Conejos County Jail, and the 12<sup>th</sup> Judicial Courts, all non-essential government services are closed until further notice. Individual Departments and County Offices shall develop their own policies to comply with COVID-19 laws and regulations.

Motion to approve Resolution C-12-20 A RESOLUTION CONTINUING THE SHUT DOWN OF NON-ESSENTIAL COUNTY GOVERNMENT SERVICES as presented: Comm. Garcia/Second: Comm. McCarroll, all in favor.

3-0 motion carried.

Connie-HR stated that she will have a policy at the next meeting concerning the extended Family Medical Response Act.

Chrmn. Jarvies closed the Public Health portion of the meeting and reconvened to the Regular Commissioner's Meeting.

Connie-HR stated that on Mondays, Wednesdays and Fridays their county emergency operations meet on a phone with Denise and her staff, their PIO Marietta, their planner Jolene, incident commander, Rodney and herself so if any of the commissioners want to call in on that it is at 7:30 PM.


Rodney mentioned that he sent them an e-mail that has all the numbers.


Chrmn. Jarvies stated that Linda DeHerrera sent an e-mail summarizing what services they are offering, asked Tressesa to send an e-mail out to all the department heads and ask them what services they are offering and how; that way they have some answers for the public when they call.

Connie-HR stated that people can go on line to our website. Each elected official and department head gave a short synopsis of what you can do if you have questions.

There being no further business to come before the board, Chrmn. Jarvies declared the meeting adjourned at 10:50 AM.

ATTEST:

  
NATHAN RUYBAL  
CLERK OF THE BOARD

  
MITCHELL JARVIES  
CHRMN. BD OF COUNTY COMM.