

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, MAY 5, 2009**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COMMISSIONERS BOARDROOM WITH THE FOLLOWING MEMBERS PRESENT:

Lynn Attebery	Chairman
Jim Austin	Vice-Chairman
Carole Custer	Commissioner
Kris Lang	Deputy Clerk to the Board

Also present was Nora Drenner reporter for the Wet Mountain Tribune and several community members.

AGENDA

- Call meeting to order
- Pledge of allegiance
- Amend agenda
- Approval of Minutes: March 30, 31; April 6, 7, 15 of 2009

Old Business:

- Bill Gillette Photography
- Scale House

County Attorney

- Youth Club
- Kids Club 501C3
- MOU Kids Club, Youth Club, Hanssen Haus Resource Center and School District
- HHRC usage for religious group
- Charter county wide energy savings project and MOU
- Presentation from Jerry Seifert
- Publish/post county meetings/facilities
- Disposal of outdated county vehicles

Staff Report

- Treasurer
- Planning and Zoning/Assessor
- Planning and Zoning/Clerk and Recorder/ Painted View Ranch
- OEM
- Airport Board

The meeting was called to order at 9:00 AM and the Pledge of Allegiance was recited.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To accept the agenda as posted. Motion carried unanimously.

Commissioner Austin reported that professional photographer Bill Gillette is compiling documentation and photographs about the county for posting on the county website. He said that Mr. Gillette has been incurring the expenses and proposed checking into a grant or funds to off set those costs.

Commissioner Austin proposed revised weight scale fees of \$5.00 for loads less than 40,000 pounds and \$10.00 for loads over 40,000 pounds. Scale house coverage, hours of operation, certified tickets and upcoming cattle season were also discussed.

John Naylor, County Attorney stated that the Memorandums of Understanding (MOU) for the Custer County Kids Club (CCKC), Custer County Youth Club (CCYC) and the Hanssen Haus Resource Center (HHRC) should be processed as soon as possible to release the TANF funds. He suggested the proposed MOU's be condensed to a simpler form and content. Laura Lockhart, Director of Social Services presented Mr. Naylor with a two page service contract for CCKC, CCYC and HHRC (MOU) for review.

Commissioner Austin stated the existing TANF funds would not be available after June 30, 2009 requested an update on the plan for CCKC, CCYC and HHRC after that date. Commissioner Custer responded that the CCKC Advisory Board was discussing acquiring 501 (3) (c) non-profit status. She stated that the CCKC staff salaries were covered until June 30, 2009 and asked Laura Lockhart, Director of Social Services if there were available TANF funds through her Department to extend the staff salaries to the end of the calendar year. Ms. Lockhart replied that the BOCC would have to determine the distributions of available TANF funds after June 30, 2009. Commissioner Custer reported that Child Care monies were being used in addition to the TANF funds allocated to the CCKC. She explained all the expenditures of the CCYC were covered until June 30, 2009 as the State Technical Assistance Team had determined in April and advised that Jefferson County has already offered additional TANF funds after that date. The CCYC Advisory Board is also exploring options to acquiring 501 (3) (c) non-profit status. She explained a portion of the HHRC expenditures were TANG eligible and that HHRC staff are keeping track of their time as the Technical Assistant Team had requested in April During their visit. The operating funds for the HHRC would be supplemented with the local and regional agencies using the HHC entering into rental agreements and contracts.

Commissioner Austin asked the Custer County School District C-1 (CCSD) Superintendent, Lance Villers for input regarding the CCYC. Mr. Villers responded that CCSD was in support of the CCYC. He clarified the CCSD had representation on the Advisory Board but was not responsible for the operation or activities provided by the CCYC and wants all CCYC activities to be conducted after school time. He does not want youth participating in CCTC to use any classroom or school time to participate in the activities or programs of the CCYC.

Commissioner Custer introduced CCYC High School Coordinator Micki Campbell to the Board and those present and explained that Ms. Campbell was offered the quarter-time CCYC Coordinator position to help get the program up and functioning under the county policy of recruiting existing employees, since she currently works under another grant doing similar activities. Ms. Campbell accepted the position knowing it was a temporary position with funding guaranteed only through June 30, 2009. Commissioner Custer asked that Ms Campbell remain in the position as CCYC Coordinator. Virginia Trujillo, remarked that the county policy requires the posting of any job opening and that had not been done with the CCYC Coordinator position.

Commissioner Attebery asked Commissioner Custer how the salaries for the CCKC and CCYC were determined. Commissioner Custer replied the salaries were determined by the CCKC and CCYC Advisory Boards based on salaries of like positions in rural settings throughout the region including funded positions in Boys and Girls Club settings. Commissioner Attebery stated at this time the positions were considered county employment and he felt the salaries for the CCKC and CCYC were not in line with the pay received by the other county employees.

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To publish and post the part-time Custer County Youth Club Coordinator position for two weeks. The salary will be comparable to a new county employee at \$450.00 per month. The position will end on June 30, 2009. Commissioner Custer abstained from voting. Motion carried.

The BOCC recessed from the Boardroom at 10:10AM.

The BOCC reconvened in the Courtroom at 10:25 AM.

Jackie Hobby, Planning and Zoning Director addressed the BOCC and stated that the first notice the Planning and Zoning Department (P&Z D) had regarding the scheduled event at concert on June 5, 2009 with Tracy Byrd. The subsequent published advertisement in the Wet Mountain Tribune read National Cutting Horse Association (NCHA) with the Tracy Byrd Concert. She reported that on behalf of the P&Z D she sent a certified letter was issued to RDH Holdings LLC dba Painted View Ranch (PVR) notifying them that it had come to the attention of the P & Z office that the property is out of compliance with the Custer County Zoning Resolution. The PVY current Special Use Permit (SUP) on file would require a modification or the submission of an application for a Special Events Permit (SEP) for the planned concert. Ms. Hobby outlined the list of events allowed under the Special Use Permit (SUP) that was granted in 2006 to RDH Holdings LLC (Ralph and Donna Hood). The events allowed included: Horse Shows (4-H Classes other than County Fair, Cowboy mounting shooting and open classes); 4-H Shows; Roping; Clinics; Riding Lessons; Jackpots; Rental of Arena to Non-Profit Organizations; Alternate Venue (bad weather) for Community Events, Livestock Shows and Livestock Sales. She said the SUP did not list a concert as an allowable event. She shared concerns regarding the electrical plugs being installed for recreational vehicles (RV) to plug in since RV parking was not listed in the SUP. She state that the septic permit on the property only has 13 infiltrates and she did not know how they were going to address the septic issues. She stated the property did not have a commercial well for water use and expressed concerns over the sale of alcohol and food without the proper licenses. Ms. Hobby stated that she did not believe that PVR had the proper permits to conduct the event.

Pete Michaelson representing RDH Holdings dba PVR stated the SUP granted three years ago allowed horse shows and that entertainment is a component of a horse show. He explained the SUP was granted so the PVR would be able to hold events under the categories mentioned without having to appear before the Board every time they scheduled an event. The SUP allows what the applicants are asking for which is a horse show. Mr. Michaelson stated when he came before the Board in 2006 the focal point was not only whether the PVR needed a SUP but the fact that the county needs to re-evaluate its resolutions and ordinances. When it comes to these activities because there is a total absence of clarity about exactly what can be done in an agricultural zone. He said he believes that there is a problem with the way a SUP is being interpreted and that a horse show is only a horse show as defined by someone other than the people running the horse show. This is a horse show and Tracy Byrd is part of the entertainment at the horse show. Mr. Michaelson stated if the county determined a SEP was required PVR would submit an application. He asked for a wavier of the 60 day notice since the event is scheduled for June 5, 2009. He stated the liquor license application was required 30 days in advance and PVR was partnering with the Custer County Chamber of Commerce (CCCC) a non-profit organization. He reported the liquor license application was signed and ready to be submitted this date. Mr. Michaelson asked Christy Veltrie from the CCCC to provide an update.

Ms. Veltrie reported she had sent an e-mail to CCCC board members regarding a possible partnership for the event. She stated since she had not yet heard back from the entire CCCC board members, she could not definitely state the CCCC were definite partners for the event. Mr. Michaelson requested the assistance of the P&Z D in locating the food service license application required. He reported eighteen (18) porta potties and numerous trash receptacles would be provided by Veltrie Disposal. He advised that Sheriff Jobe has inspected the premise for security, safety and traffic and as well as in his role as the Fire Marshal. Mr. Michaelson addressed the concerns regarding RV parking. He stated the PVR was not an RV park. He explained there is a proposal from Sangre DeCristo Electric is an improvement to install a permanent power line along one fence and that after the events PVR will have other uses for this improvement. During the event people living in the quarters of their horse trailers will have access to the power. He stated the county ordinance does not regulate an RV unless it is parked in the same place for 90 days and used for habitation and this is just a three day event. Mr. Michaelson stated this was a National Cutting Horse Association Event (NCHA) scheduled June 5, 6 and 7, 2009. He introduced Brad Johnson, Director of Operations for PVR. Mr. Johnson explained that when he joined the PVR in January, his job included finding a way to generate income as an equine facility as well as generate income that would be compatible with the valley. He advised that NCHA Days rotates between Wyoming, Colorado and New Mexico and he felt very fortunate to be able to secure the event for Custer County. He said as Events Manager when this began to evolve he asked the owners Ralph and Donna Hood about any necessary permits and was assured everything was in place aside from the liquor license. He stated it was never his intention to schedule an event outside county rules and regulations. Mr. Johnson presented a diagram and outlined the layout of the events facility; trash receptacles, ticket booths, ID check, proposed alcohol stand and the porta-potties. He said that he had contacted adjoining property owners Mike and Sara Shields and Tom Flowers and they were in support of the event and had opened their homes for any over-flow. He reported that Tony Supan of the Sheriff's Department has been hired to serve as the Head of Security. Sheriff Jobe has reviewed the diagram and plans both as a Sheriff and Fire Marshall. Mr. Johnson stated the event would be a positive and financial boost for the community. He reported the two day event has been spread out to three days so people can see our community, walk the streets, having something to eat, buy in our shops and look at our real estate.

Tim Kelling, citizen asked if there were wells to support the water use for a three day event accommodating over 1200 people. Mr. Johnson responded that the anticipated 1200 people would be for the Friday night (concert) and 150 people were anticipated for Friday day, Saturday and Sunday. He advised that Jerry Livengood has been at the premise and located the two wells. Mr. Kelling asked about the two restrooms in the arena and whether the food service people were going to require water from the private well. Mr. Johnson responded the restrooms will be locked and that most food services have self contained concession trailers with their own water. He stated there will be no water use other than the contestants who are watering their horses.

Commissioner Attebery stated that under the well permit issued by the state, PVR can only water their livestock. He proposed changing the venue to the fairgrounds. Commissioner Custer supported the change in venue. Pete Michaelson responded it would not be in PVR's best interest to change the entire nature of the event for people to have to go off site. He explained the nature of the event is come to a horse show scheduled at PVR and see a concert.

Vic Barnes citizen stated he was in support of the event. The issue is the process has not been followed to this point. He reported the SUP and SEP regulations are in place for a reason and stated he wished this would have been done the right way. Mr. Barnes said part of the SEP requirements was the notification of all the property owners and although some had been contacted a great deal have not. Brad Johnson replied that he had contacted the two adjoining property owners.

Jackie Hobby explained to determine all the adjoining property owners one needs to pretend the county roads are not there and that any property touching yours is considered an adjoining property owner. She stated there were a total of nine (9) adjoining property owners to the PVR property. Mr. Johnson responded he was not aware of the formula but was willing to contact each of those property owners for permission to hold the event.

Tim Kelling, citizen stated he was in support of the event. He expressed concern how this would affect other citizens who have followed the SUP and SEP if the county waived the process.

Lockett Pittman, citizen stated he was on the Planning Commission (PC) when the SUP was approved. He said the PC did not agree to any special events other than what was listed on the SUP and a concert was not a part of the SUP.

Commissioner Custer stated that although she was in support of the event, she agrees with Mr. Barn's assessment that PVR had not followed the proper permitting process to this point. If the county did not require PVR to apply for a separate SEP it would send the wrong message to the citizens that do follow the proper protocols that the county has in place.

Ken Felty, citizen stated the impact that the event would bring to the community is tremendous and since PVR was not told they could not have a concert, the county should work with them. He stated was in full support of the event.

Claire McCutcheon, citizen remarked that PVR thought they were working within the issued SUP and it would a negative impact on the county if the event does not transpire. She stated she was in complete support of the event.

Bob Dreher, citizen stated he was in support of the event and felt PVR put this all together with the best of intentions. He urged the county to work together with PVR for the event.

Dee Hoag, citizen said she can understand both sides. She remarked there are a lot of people here from the planning commission and shares their concern that PVR did not follow the process in place. She agreed with Mr. Barnes that the SUP did not say anything about a concert. Ms. Hoag she was in support of the event and encouraged the county to work with PVR and bring the event into compliance.

John Naylor, County Attorney stated the county could waive the 60 day requirement for a Special Events Permit and expedite the process. That would be a fair compromise to schedule the events and be in compliance.

Jackie Hobby stated it was a great event and everyone would profit. She remarked if the Board decides to require a SEP and waive the 60 day notice, she would issue letters to the adjoining property owners this date to ensure adequate time for their feedback. The BOCC and Planning Commission agreed to schedule additional special meetings to expedite the SEP process. Ms. Hobby suggested the SUP be modified for the allowance of concerts in the future.

Commissioner Austin stated he was in support of the event. He stated if we make rules we need to abide by them. He said he was not certain if entertainment was part of a horse show and competition. He remarked that portions of the SUP appeared vague and needed clarification.

Commissioner Attebery stated he supported the SEP and agreed the county waive the 60 day requirement and expedite the process. He stressed the need to make sure all adjoining property owners are notified. He said he wanted to make sure the county resources are covered and the fees for the sheriff deputies and security are finalized.

MOTION by Commissioner Attebery, seconded by Commissioner Custer:

Requiring RDH Holdings dba Painted View Ranch (PVR) to submit a Special Events Permit (SEP) application for the events scheduled June 5, 6 and 7, 2009; waiving the 60 days requirement this one time for PVR and only PVR; ensuring that all adjoining property owners are notified; the appropriate agencies have signed off on the permit and that any funds incurred by the county will be addressed and finalized. Motion carried unanimously.

The BOCC recessed from the Courtroom at 12:50 PM.

The BOCC reconvened in the Boardroom at 1:15 PM.

Jackie Hobby, Planning and Zoning Director met with the Board and gave a monthly report. She presented the revised zoning protocols that will be implemented in the Planning and Zoning office. She proposed uniform fee's for accessory building and garages. Ms. Hobby reported that 104 ISDS variances have been approved with ten (10) structures that need an approved septic system. She said during communication with the Assessors office she learned these applicants were receiving residential status on their property. JD Henrich, Assessor explained that vacant land is taxed at 29% and residential status at 7.96%. He said there is an inequity regarding the residential status since accessory buildings and camper shells were previously issued a dwelling status that qualified under the 7.96 tax formula He commented that once the two year ISDS expires, an approved septic system is required or the status will be removed. Mr. Henrich said he felt the BOCC should be aware of the situation for future reference.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To change the fee schedule to state that all dwellings, homes, garages and accessory building will be \$.45 per square foot starting July 1, 2009. Motion carried unanimously.

Ms. Hobby reported that Brigido Vargas stated he never received a letter from the County Attorney and provided a revised mailing address. The County Attorney will forward a copy of the issued letter to Ms. Hobby. Michael Bellow, Wetmore has thirty days to bring his septic system into compliance. She proposed attaching a notice on his title work after that date. Len Lankford of Greenleaf Forestry and Wood Products has a portable chemical toilet on his premise. He had two years to install an approved septic system and is proposing installing a vault, with toilets over the vault. The water would be hauled from his cistern since he does not have a well. He asked the \$25 ISDS chemical toilet fee per year be waived.

Following a discussion the Board approved the installation of the vault. The yearly ISDS fee would remain. Ms. Hobby advised special events permits were being submitted for the Bike Ride and National Cutting Horse Association Days. The Planning Commission was in the courtroom reviewing the Master Plan. She announced the first monthly Board of Zoning and Planning Commission meeting this year was scheduled on June 2, 2009.

JD Henrich, Assessor met with the BOCC and gave a report. He advised 2009 is a reappraisal year and that all properties had to be reappraisal based on 2007 and the first half of 2008 comparable sales. Notice of Evaluations (NOE) were mailed to approximately 9,800 property owners. He advised his department will publish and post an employment ad within the next few weeks for the position available in the Assessors Office. He will start scheduling interviews for the position in the middle of the month with tentative hiring in late June or early July.

Allen Butler, Airport Board met with the BOCC and reported construction of the metal building at the airport was awarded to White Building in the amount of \$85,240. The bid includes R30 spray-in insulation. He advised the next step would be to obtain estimates for the concrete, plumbing, electrical and finish work. Mr. Butler remarked that a transfer of funds from the General Fund to the Airport Fund would be necessary by the end of the month to proceed. The annual safety inspection with Aeronautic Division of CDOT is scheduled for May 6, 2009.

Commissioner Custer asked the County Attorney for his advice on the charter terminology in the proposed county wide energy savings project. She asked for clarification regarding the use of the term Charter rather than Committee. John Naylor, County Attorney stated he was not concerned with the term charter. He stated as proposed the charter indicates the county is required to act on the recommendations. Tim Kelling explained the charter does not obligate the county. It allows a group of volunteers (core team) to research the project and submit the findings to the BOCC for review. The Board and County Attorney expressed concern regarding controversial public reaction if the recommendations by the core-team are not approved by the BOCC. Robin Young recommended using Ennovate Corporation and explained there is no charge for the preliminary studies performed prior to the audit. Mr. Naylor proposed several revisions to the charter and suggested adding the statement that either party can cancel the charter at anytime with written notice. Robin Young clarified the charter is an agreement allowing the core team to proceed with research of the energy savings project. The MOU is an agreement with the Governors Energy Office Contracting Program.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To approve the Custer County Board of Commissioners enter into a charter agreement as outlined on the revised paperwork in front of the BOCC to engage the project management team to move forward with the no cost preliminary Ennovate Corp. assessment. The charter agreement can be terminated at anytime by either party. The preliminary assessment should be completed by June 30, 2009. Motion carried unanimously.

Tim Kelling will revise the charter as agreed and e-mail it to the Administrative Assistance for the Commissioner's signatures.

Laura Lockhart, Director of Social Services presented the revised Purchase of Service Contract TANF/Colorado Works Program for the CCKC, CCYC and HHRC for the County Attorney review. John Naylor, County Attorney reviewed and approved the contracts.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

The BOCC enter into a contract with the Custer County Department of Social Services to provide start up monies for the Custer County Kid's Club (CCKC), Custer County Youth Club (CCYC) and the Hanssen Haus Resource Center (HHRC) to expend TANF and Childcare dollars as outlined in the contract. Motion carried unanimously.

Commissioner Attebery signed the contracts this date N.P.T. to January 5, 2009.

Virginia Trujillo, Treasurer Trustee met with the Board and gave a monthly report from April 2008. The beginning balance on April 1, 2009 was \$2,478,627.04 with an ending balance of \$3,477,377.42.

Commissioner Austin excused himself at 3:30 PM due to a previous appointment.

The Board met with John Naylor, County Attorney and discussed the following items:

- The Custer County Kids Club can either be a 501 (3) (c) or a county administered program.
- Religious committees, board or groups will be deferred from using the Hanssen Haus Resource Center (HHRC).
- Custer County Kids Club (CCKC), Custer County Youth Club (CCYC) and Hanssen Haus Resource Center (HHRC) meetings should be published and posted.
- Use of the old landfill property will be reviewed as requested by Jerry Seifert.
- Outdated county vehicle will be disposal of at the discretion of the BOCC and Road & Bridge Department and the proceeds from the sale of outdated county vehicles will be deposited into the county general fund.

MOTION by Commissioner Custer, seconded by Commissioner Attebery:

To adjourn the meeting. Motion carried.

The meeting was adjourned at 3:40 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery
Chair