

Joint Meeting of the Planning Commission and Board of County Commissioners

June 2, 2009
Custer County Courthouse
Westcliffe, Colorado

Present:

Planning Commission: Pat Bailey, Keith Hood, Paul Buckles and Bill Donley

Absent: Vic Barnes, Sherry Rorick and Rod Coker

Associate Members: Dee Hoag, Locket Pitman, Dorothy Nepa

Absent: Roger Camper and Dave Nequette

County Commissioners: Lynn Attebery, Jim Austin and Carole Custer

County Attorney: John Naylor

Staff: Jackie Hobby

The meeting was called to order at 2:30 P.M. by Jackie Hobby, Custer County Planning and Zoning office Director/Code Enforcement

Pledge;

HOBBY: Asked all the Associate members to move to a seated position to replace absent members.

HOBBY: Acting as Chairperson to conduct election of officers. There were two nominations, VIC BARNES for Chairperson and KEITH HOOD for Vice-Chairperson. CUSTER and NAYLOR verified that there are seven ballots. Ballots were passed out to the seated members and associates.

VIC BARNES was elected Chairperson and KEITH HOOD, Vice-Chairperson.

Hobby: Asked if he would accept the position and KEITH HOOD accepted.

HOOD: Moved to the Chairpersons seat in BARNES absence to continue the meeting, with a choice for Secretary, official newspaper and posting place.

BAILEY: Made a motion to have JACKIE HOBBY as Secretary, Wet Mountain Tribune the official newspaper, and the Custer County Courthouse bulletin board as the official posting place.

DONLEY: Seconded

Motion passed unanimously by voice vote.

HOOD: Next agenda item is a presentation, not a hearing as posted in the Agenda, on green burials by Custer County Coroner, ART NORDYKE.

NORDYKE; Green Burials are becoming more popular in all areas of the United States, mainly because of the cost. Typically, a green burial is done on private property, instead of going to a mortuary, with no casket or vault and no embalming. The body is covered in a favorite blanket, shroud or biodegradable bag and placed into a two foot deep grave.

The ramifications in our area, especially, may create difficulties if not controlled before they become popular. Dogs, coyotes, bears and other animals could be attracted to a shallow grave and spread the remains over a large area. This could result in much work in identifying the remains and cause of death.

There should be rules governing this practice if it to be allowed in Custer County. There should as requiring a permit showing the location of the grave, date of burial and a permanent marker and the grave should be at least 6' (six) foot deep.

Questions from the Zoning Office and the Commission were answered by NORDYKE.

HOBBY: Isn't it true, with green burials you may also place the body on top of the ground in a biodegradable bag? Yes.

HOBBY: If this were allowed, what are the repercussions to the county? If the remains were scattered and discovered, or someone, unknowingly, bought the property and discovered remains and reported them, the Coroner would have to investigate, contact a pathologist, discover the cause of death and determine if the remains are Native American, which would require more attention.

BAILEY: Are you looking at county regulations besides what you have already mentioned? Yes, registering with the County Clerks Office, some sort of death certificate, and maybe if there are more than two burials on the same parcel, consider it a cemetery.

PITMAN: I have a couple of questions. What was is the emphasis to get this out in front of us now? What started this? This issue is being addressed by other coroners throughout the state. We are having a meeting next week with all the county coroners and this subject will be addressed. A lot of other counties are doing this through their Land Use documents and I wanted this groups opinion.

PITMAN: You are not against Green Burials, you just want to control them? We need to identify the graves.

HOBBY: Also, keep in mind that you have to keep your leach field and your septic one hundred feet away from your neighbors and your well. Green burials should maintain the distance of one hundred feet from your well and neighbors.

DONLEY: I am worried about these burials that a dog, coyote or bear could dig them up and you wake up one morning and you have a skull, arm or leg in your yard. How do you know where it came from?

NORDYKE: That is what I am worried about the state does not have any regulations on how deep they can be buried. I would like to recommend that they are buried at least 6'(Six) foot deep.

DONLEY: I am m not sure unless we have a lot of request for this sort of thing to go ahead and ban them.

NORDYKE: That is up to you guys. I think you would have more repercussions on something like that.

BUCKLES: You would have to articulate what you are going to ban and right now we don't have anything. What would we be banning?

DONLEY: Mortician has certain rules that they have to follow. They wait at the gravesite to make sure that the grave is covered, there are certain things that they must do to certify the death. This would not happen with a Green Burial. I have been involved where a person was buried on private ground. Funeral was

over and the mortician was still there and I asked him what he was hanging around for, he replied I need to see the grave covered up.

HOBBY: There is rumor that we already have a Green Burial that has already happened in Custer County.

BUCKLES: How do you generate a Death Certificate? With our existing cemeteries like Rosita and Ula how do they determine the depth of the graves.

NORDYKE: The cemetery boards usually have that in there bylaws.

BUCKLES: It isn't state mandated?

NORDYKE: No, I don't believe it is.

HOBBY: You get disposition papers from a mortuary that is filed with the Clerk's office, that they were cremated or embalmed. With a Green Burial I could place you on my property and there would not be any records. This will be so we can regulate the situation that in years from now the county will not have to identify these bodies. That could cost this county a lot of money.

BAILEY: You are going to a Coroners meeting next week?

NORDYKE: YES,

BAILEY; This subject will probably be brought up and maybe some of them has already done some of this and we could get some feedback from that.

NORDYKE: Yes, that is what I am hoping for that I can come back and have some more information.

BAILEY; We just need some bullets on what we recommend so that we can have a record.

NORDYKE: Yes that is what I would like to see done also.

BUCKLES: On a back yard type burial how is a death certificate created.

NORDYKE: You know I haven't done one yet.

DONLEY: I think you are confusing a Death Certificate with a Burial Certificate.

NORDYKE: I sign a removal Certificate not the Death Certificate.

BUCKLES: Jackie you were talking about a person that is rumored to already be a Green BURIAL do we have a Death Certificate on that person?

HOBBY: No, if the die in another county we would not normally get one. That does not stop you from coming to Custer County and doing a Green Burial. Most people need a Death Certificate if you want to receive the benefits from Social Security and Life Insurance.

NORDYKE: You don't necessary have to go through a Mortuary.

NEPA: Have you read about all the other Green Cemeteries so we could probably go with what they have in place. It's possible that they are much less confining?

NORDYKE: yes, that is why everyone is doing it. You don't have to be embalmed or have a casket, headstone.

HOBBY: Something else to keep in mind is that are local cemeteries are very cheap. We need to get some control over what could be coming and also counties in Georgia have banned Green Burials. We need some perimeters on how deep etc.

NORDYKE: That is why I would like to see a minimum of 6' (six) foot deep.

BUCKLES: It would not necessary be banning them it would be setting up some guidelines.

NEPA: I don't see how the cost would be that much savings after burying several horses renting a backhoe is still a very expensive item. I don't believe that placing them on top of the ground is acceptable.

COMMISSIONER AUSTIN: Why don't we wait until ART comes back from his conference?

BUCKLES: Mr. Chairman can we make a request that ART have specific bullet points that we can work from when he comes back to the next meeting?

HOOD: Yes, I do have a question; do we want to continue with the presentation at a later time?

DONLEY: I move that we make a motion that we continue with the presentation until ART has time to do more research. This does not put a time line on it.

BAILEY: I SECONDED the motion.

The motion passed unanimously by roll call.

HOOD: The next item on our agenda is an informational item on the Colorado Land Use Code.

HOBBY: Mr. ARBUCKLE has made some updates to his slide show so I will pass these out.

ARBUCKLE: In my line of work when we do briefing we traditionally start out with a statement stating this is an informational briefing or decision briefing. This is an informational briefing. There is a lot of detail in the charts that we passed out a month ago. I do not intend to go over it chart by chart. I will pick out the most important points. I am by no means an expert on the Model Land Use Code. This is a copy of the Model Land Use Code that the Colorado Smart Growth put out. There is a lot of great information on it and I would advise you to get a copy of it from JACKIE. I am representing C-4 and what I hope to do in this briefing is basically wet your appetite on the Model Land Use Code give you enough information that you will want to dig into it more and see if it has applicability to use in Custer County or not. I think the most important part is the pros and cons at the end. (Power point slide show enclosed) What is the bottom line from this is I believe it does have applicability. What is the purpose of the code? It's laid out so if counties decide to use this you can basically copy and paste. What is the relationship of the Code and the Master Plan? For example take the Zoning Regulations for the county and take that and plug it in. Here is the relationship, the Master Plan is a visionary document of what you want to do in the future where the Model Land Use Code is how you get there. When this was done it met all the statutory documents at that time. If the County adopts the Model Land Use Code any of the regulations like Subdivision and Zoning the get plugged in and is one document. If you did nothing else with this I strongly recommend that you adopt the definitions. I would strongly suggest that you take a look at the Model Land Use Code.

BUCKLES: What do you think the states motive on producing a document like this?

ARBUCKLE: I don't know. I asked a lot of questions but did not ask that particular question.

BUCKLES: In relationship to our county documents is there a lot of overlap or are their loggerheads.

ARBUCKLE: I don't see any major overlaps. Some of it is not necessary for Custer County.

BUCKLES: The pros and cons did they come with it or were they C-4 generated?

ARBUCKLE: C-4 generated.

BUCKLES: Was that the Board or the Board of Directors.

ARBUCKLE: It was the Board of Directors then we sent it to all our membership for comments.

HOOD: Any other questions?

No response

HOOD: Thank you Joe.

HOOD: announced the next agenda item for GIEM and LUCKEZIC Plat and replat.

GIEM & LUCKEZIC/CREATION OF UNDERSIZED LOT

Legal Description: 5147 County Road 125 and 5203 County Road 125

Schedule Number: 101-52-800,101-30-401,101-30-402

HOOD: Read applicants statement. *"This parcel was acquired in 7 separate pieces we now want to consolidate these into 2 parcels for family convenience and simplification of our present uses"*.

HOOD: Same applicant that the BZA did earlier granting a creation of an undersized lot. SKIP NORTHCROSS will represent KIT SHY.

NORTHCROSS: As we mentioned earlier KIT SHY is attending a funeral that came up at the last minute and he did not want to delay the land owners so I agreed to represent KIT SHY. Its seven (7) parcels that they would like to be platted into two (2) parcels it meets all the setbacks has two (two) dwellings with individual septics and wells. Bordered by South Colony and in the North Middle Colony. The land was done rezoning and the houses in the 1950's.

HOOD: Were the adjoining land owners notified?

HOBBY: Yes, seven (7) with no responses.

HOOD: Recommendations from the Zoning office:

1. Updated Title Commitment on the entire parcel to be created.
2. New Vacation/Replat properly executed by owners of record, surveyor the Planning Commission and the County Commissioners. The plat must also have a recording section for the County Clerk.
3. The Plat must show the structures and their dimensional relationship to the lot boundaries.
4. We will need two paper copies and one signed mylar. The zoning office will do the plat recording at your expense once the proper documentation has been submitted.

These are items that you wish to be conditions.

HOBBY: Yes

DONLEY: The accesses to these lots are off the county road?

HOBBY: Yes

DONLEY: Does this land lock anyone behind them?

HOBBY: No

DONLEY: I move that we adopt the Zoning office recommendations for the conditions.

NEPA: SECONDED the motion.

The motion passed unanimously by roll call.

DONLEY: Made a motion to recommend the Board of County Commissioners APPROVE the applicants request for a creation of the undersized lots with the recommendation from the zoning office.

The motion passed unanimously by roll call.

REASONS:

BUCKLE: Yes, Serve the Land owners keep it sensible for the zoning office.

HOAG: Yes, The BZA approved the creation of an undersized lot and less density no objections from the adjoining land owners.

NEPA: yes, with all the conditions are met in protects the current and future owners of the property and less density.

BAILEY; Yes, all the above.

LOCKETT: Yes, all the above.

DONLEY: Yes, all the above.

HOOD: Yes, That's the way those two lots have always been handled, less density.

HOOD: Commissioners.

COMMISSIONER CHAIRMAN ATTEBERY: Thank you, CAROLE, JIM

COMMISSIONER CHAIRMAN ATTEBERY: I make a motion that we accept the recommendations from the planning commission.

COMMISSIONER AUSTIN: SECONDED the motion.

The motion to **APPROVE** the applicants request for a Plat and Replat has been moved and seconded and **Passes** unanimously by voice vote.

HOOD: Do I have a motion to adjourn.

DONLEY: I motion to adjourn.

BUCKLES: SECONDED

The meeting adjourned at 2:27 P.M.