

*Phillips County Commissioner  
Meeting Minutes  
September 30, 2020*

**Call to order**

Chairman Hofmeister called to order the regular meeting of the Phillips County Commissioners at 9:00 A.M. on September 30, 2020, at the Phillips County Event Center Bieseemeier Room.

**Attendees**

Chairman Terry Hofmeister, Commissioners Don Lock and Harlan Stern, County Administrator Pam Jensen and County Clerk Beth Zilla, Commissioner candidates Garold Roberts and Tom Timm, County Attorney Tammy Kelley, Maintenance Supervisor Dan Waln, County Budget Officer Laura Schroetlin, and County Weed and Pest Supervisor Kerri Doleshall.

From the public Ryan Brackhan, Tom Bennett, Mark Lutze, Wayne Salyards, Jerry Owens, Randy Owens, Pat Meakins, Dale Vieselmeyer, Kayla Kafka, Riley Dubbert, Dee Ann Dubbert, Shawna Kafka, Roger Hogan, Brett Gerk, Casey Gerk, Kenny Ham, Darcy Rodriguez (Holyoke Enterprise), Carolyn Arens, Richard Arens, Gary Engels, and Evan Fust.

**Public Comment**

Wayne Salyards' concerns were the water supply and contamination of the water supply, also that of those attending the meetings for the WeldCo Farms, 90% are against.

Jerry Owens' concerns were the containment of the cattle and water concerns.  
Dale Vieselmeyer's concerns were for the air quality and water supply and contamination.

Roger Hogan asked where the commissioners' loyalty lies, with those in the community that voted them into office or is it with outside corporations. Hogan also said that he lived in Greeley not far from another WeldCo Farms site and the smell was very noticeable.

Pat Meakins commented that she lives 2 miles from another dairy, "Brightwater", and states she has no flies or smell from the dairy.

Shawna Kafka's concerns were the property values going down and the safety of neighboring families.

Casey Gerk's concerns were that at the previous meetings he did not hear of anyone from the community that was in favor of the WeldCo Farms. Gerk questioned if approximately \$120,000 in tax revenue was more important than the quality of life that the community has now.

Gary Engles stated that for all the negatives that he has heard there really is no reason for the addition of WeldCo Farms to the community.

**Additions to the Agenda**

- CVRF/DOLA funds
- Pro-Ag complaint

**Approval of Minutes and Consent Agenda**

Lock made a motion to approve the Consent Agenda. Stern seconded the motion. Motion carried.

Stern made a motion to approve the minutes from the September 18, 2020 meeting. Lock seconded the motion. Motion carried.

## Appointments

The board met with Andrew Nygaard with the Holyoke Enterprise for their monthly briefing. Notes will be sent to the Haxtun-Fleming Herald.

The board met with Martha Kinnie to discuss her upcoming event at the Event Center on October 23<sup>rd</sup>-October 25<sup>th</sup>, 2020. Kinnie will be serving alcohol at her event. The board approved the use as long as she provides the liquor damage deposit and the liquor liability insurance. No special event permit will be required.

## Old Business

The board decided to postpone the discussion of American Fidelity's proposal until all employees have been notified.

## New Business/Motions

Lock made a motion to accept the conditional use application submitted by WeldCo Farms LLC to change use of land from farmland to animal feeding at NE1/4 of Section 22, Township 7n, Range 45W with the following conditions:

### BOARD OF COUNTY COMMISSIONERS (BOCC) Phillips County, Colorado

#### RE: WELDCO Conditional Use Permit

#### Conditions of Granting the Permit/Application:

1. All required permits from the State of Colorado Department of Water Resources must be approved prior to construction beginning on the facilities.
2. The purpose of the facility is to house young heifers to feed and grow them to be replacement dairy cows. The number of heifer cattle for the Conditional Use Permit shall at no time exceed 7,000 head.
3. WeldCo shall consider constructing as much of the improvements for the heifer facility (the "Improvements") as feasible within SW1/4NE1/4 of Section 22, T7N, R45W.
4. WeldCo shall commission, at WeldCo's expense, a water study acceptable to Phillips County to determine an optimum placement, depth, and frequency of testing of at least two monitoring wells on the WeldCo property. Said study with well placement and frequency of testing, as well as a baseline sample of nitrates shall be completed prior to beginning operations at the facility. The intent is that the wells will measure nitrate levels immediately prior to the site as well as those immediately downstream from the heifer facility.  
  
Drilling, maintenance, repair, and replacement costs of said wells to be paid by WeldCo. Immediately after wells are drilled a baseline sample will be taken on all wells. The wells shall be monitored by a certified third party, twice a year, with the cost of said monitoring to be paid by WeldCo. Monitoring will include any elements currently regulated for livestock operations by Phillips County, Colorado, and federal governmental authorities, specifically nitrates, as well as those that may become regulated in the future. Resulting reports shall be submitted and maintained by the Phillips County Planning office. If levels of nitrates are found to have increased in a statistically meaningful manner from the baseline levels between the incoming and outgoing wells, the process detailed in Condition No. 17 will be followed for compliance.
5. WeldCo will meet or exceed Phillips County and State air quality control standards for Concentrated Animal Feeding Operations. WeldCo will monitor and report to the BOCC at least annually whether the air quality exceeds the permissible levels for swine facilities in 5-CCR- 1001-4. If air quality at the heifer facility exceed the standards indicated the process detailed in Condition No. 17 will be used for corrective action.
6. There will be a one-time road impact fee for construction traffic in the amount of \$15,000 assessed to WeldCo, payable within 30 days of when invoiced by Phillips County. Further, WeldCo will not be exempted from any countywide future road regulations or fees enacted by Phillips County.

7. Phillips County will oversee dust control on roadways immediately fronting residences within 1/2 of a mile of the Improvements. Dust control shall be managed with mag chloride products, or their equivalent, as necessary. Phillips County will coordinate with Weldco the locations and timing of such dust control measures. The cost of labor, equipment, and product will be billed to WeldCo Farms.
8. Due to citizen safety and county road safety issues, Phillips County may provide preferred route's to and from the facility. WeldCo will notify trucking vendors of same, but WeldCo will not be responsible for the enforcement.
9. No county road shall be closed in excess of 10 minutes at any one time for WeldCo heifer crossings. WeldCo operations shall not result in undue traffic congestion or traffic hazards, including, but not limited to, limiting heifer movement across the county roads to daylight hours except in the case of an emergency. WeldCo will use temporary ropes or panels for crossings to connect the gates. Cattle crossings shall be coordinated with essential services such as Postal Service and School Bus times to eliminate or significantly minimize any delay in their service. These times will be provided by these essential services.
10. Phillips County's understanding is that the fifteen (15) foot perimeter buffer zone required for Organic Certification is the first fifteen feet OUTSIDE of the County right-of-way. Because of the Organic Certification, it shall be WeldCo's responsibility to maintain the Phillips County right-of-way, to Phillips County's standards, using methods that will not impact the organic certification of such area. However, should WeldCo not meet Phillips County's standards, Phillips County shall provide immediate notice of the problem to the Manager of the Phillips County WeldCo/AOD Site. Once notification is made, the process detailed in Condition No. 17 will be used for corrective action.
11. WeldCo officials have stated that WeldCo will maintain weed control on the property and County right-of-way. If weed control is not maintained per the standards specified in Phillips County Zoning Regulations, Phillips County shall provide immediate notice to the Manager of the Phillips County WeldCo/AOD Site. Once notification is made, the process detailed in Condition No. 17 will be used for corrective action.
12. WeldCo will maintain manure piles located on the property in a manner consistent with Conditions No. 4 and No. 12 of this document. WeldCo will remove manure piles at least once annually. If a valid complaint is made to Phillips County Administrative Office/BOCC regarding the manure piles, the Manager of the WeldCo/AOD facility will be notified immediately by the BOCC, and the process detailed in Condition No. 17 of this document shall apply.
13. WeldCo will adhere to Aurora Organic Dairy's (or AOD's successors or assigns) then current "Parasite Prevention and Control Protocols" as well as all then current Phillips County and State regulations for the control of pests and flies.
14. It is the preference of Phillips County that no mobile homes or trailers be placed on the property to house employees. However, should one or more mobile homes be placed on any of the property included in the overall WeldCo facility, it will be considered a Mobile Home District according to the regulations under Phillips County Zoning Resolution "Section 2, Part 4. Residential Districts, 2-402.MH: Mobile Home Districts." WeldCo will be expected to adhere to the zoning regulations for any placement of mobile homes.
15. Light pollution will not exceed any then current Phillips County Regulations and Colorado State guidelines.
16. WeldCo shall reimburse Phillips County for legal costs associated with the June 2020 Application for the Conditional Use Permit, up to a maximum of \$20,000.00. Reimbursement shall occur within 30 days of presentation of actual legal costs and attorney fees.
17. If WeldCo violates any conditions that are not otherwise governed by a regulatory or County enforcement process, WeldCo will have 1 month, with the possibility of two (2), one (1) month extensions to present a plan for correction/compliance to Phillips County for approval. Granting of an extension will depend entirely on the progress in presenting and developing a plan for correction/compliance. If there is no compliance upon completion of a mutually agreed upon plan, the conditional use permit will be examined for possible termination and further action by Phillips County BOCC.

18. Barring an incident of force majeure, construction on the facility must be substantially complete within one year of the Conditional Use Permit being granted, with a possibility of two (2), six (6) month extensions that may be granted by the Phillips County Planning Department and BOCC. Extensions will be granted solely at the discretion of the Phillips County Planner and BOCC based on progress of construction and reasons for delay.

19. WeldCo/AOD must maintain comprehensive general liability insurance (on a per occurrence basis) in the amount of Five Million Dollars (\$5,000,000.00) for any harm, regardless of direct or indirect negligence, or omissions, by WeldCo/AOD in connection with the property or operations on the property, naming Phillips County as an additional insured party. A certificate of insurance shall be provided to the Phillips County BOCC within 5 days of WeldCo/AOD's acceptance of these conditions, with an update of the certificate provided to the BOCC annually upon renewal of the policy. The BOCC also requires WeldCo to adhere to any and all Federal, State, and Phillips County government regulations and guidelines concerning Concentrated Animal Feeding Operations. Phillips County BOCC may, from time to time, request reports submitted to CAFO governing authorities to monitor compliance.

20. WeldCo shall indemnify Phillips County from all losses and damages for which Phillips County is liable caused by the negligence, gross recklessness and willful misconduct of any employee, agent, officer, manager or director of WeldCo and its affiliated companies operation of the heifer facility.

Hofmeister seconded the motion. Hofmeister voted in favor of the motion, Lock voted in favor of the motion and Stern voted against the motion. Motion carried.

Regarding this conditional permit application, Stern asked that the following statement be entered into the minutes, outlining his reasons for voting against motion:

I am voting No on the motion to approve the conditional permit for Weldco and I request that the following statement be entered into the permanent record as to why.

Although I accept that there may be certain benefits, including economic benefits, that Weldco might bring to Phillips County, there are any number of negatives as well. Not the least of which is the risk of contaminating the water supply for the City of Holyoke. Furthermore, there may be other negatives that we don't even know about at this point.

As to the possible economic benefits for the County, they are not even being maximized. The County will receive property taxes and possibly some economic benefit from the employees, but as I understand all of the inputs are coming from outside the County. So, it is the residents in and around Holyoke, who make up over 50% of the population of the County, who will bear the brunt of the negative consequences while the producers and taxpayers of the County will not even be receiving the maximum economic benefits from this deal.

I still have a number of concerns regarding the nature, scope, feasibility and impact of this project. More importantly, I have concerns that the permit conditions do not provide an adequate level of safeguards necessary to protect the County and in particular the residents of Holyoke which is part of Districts 1 and 2.

Although I do not believe we are bound to popular opinion, we do have an obligation to consider the input and opinions of our constituents and most importantly to do the right thing. Under these circumstances I do not believe this is the right thing or in the best interest of the County or its residents.

That is why I voted No.

Stern made a motion to approve the request by Maintenance Supervisor Dan Waln to purchase a gravel/clay mixture for the pavilion floor in the amount not to exceed \$13,000.00 and that funds will be taken out of capital outlay. Lock seconded the motion. Motion carried.

Stern made a motion to pay for an invoice submitted by Potters Septic for porta potties used back in 2018 in the amount of \$6,330.00, the funds will be taken out of capital outlay. Lock seconded the motion. Motion carried.

Stern made a motion to approve a step increase for Weed and Pest Manager Kerri Doleshall. Doleshall will move to GN40 Grade 26 Step 6 (\$46,360.69 annually, \$3,863.39 monthly), effective October 01, 2020. Lock seconded the motion. Motion carried.

The board agreed to sign a letter of support for Cheyenne County in their proposal to recognize helium drilling and expedite the permitting of new wells.

Stern moved to appoint Aaron Sprague to the Republican River Water Conservation District Board. Lock seconded the motion. Motion carried.

Lock made a motion to allow Ben Hendrix from Pro-Ag to occupy the trailer until October 07, 2020. After that he will be fined \$100 plus legal action. Stern seconded the motion. Motion carried.

The board met with the 4-H Kids to acknowledge 4-H Proclamation Month.

Jensen gave an update on the DOLA Funds Grant.

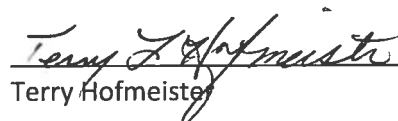
## Adjournment

Chairman Hofmeister adjourned the meeting at 11:20 A.M.

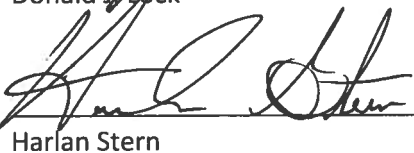
Minutes submitted by County Clerk Beth Zilla.

Next meeting is scheduled for October 09, 2020

County Commissioners:

  
Terry Hofmeister

  
Donald J. Lock

  
Harlan Stern

Attest:

  
Beth Zilla – County Clerk

