



Suzanne Allen de
Sanchez/PV/EDC
12/08/2008 04:49 PM

To Cynthia C Johnson/PV/EDC@TCP
cc
bcc
Subject Fw: BOS Item 24: Help Keep the Range Open to the Public

Suzanne Allen de Sanchez
Clerk of the Board of Supervisors
El Dorado County
530.621.5394

----- Forwarded by Suzanne Allen de Sanchez/PV/EDC on 12/08/2008 04:49 PM -----



Ken Greenwood
<krq@d-web.com>
12/08/2008 04:13 PM

To suzanne.allendesanch@edcgov.us
cc
Subject BOS Item 24: Help Keep the Range Open to the Public

December 8, 2008

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Subject: Item 25, December 9, 2008 Agenda: Gun Club Facilities Use Agreement #332-00711

Dear Supervisors,

You are considering the Facilities Use Agreement (Agreement) for the El Dorado Rod and Gun Club (Club) range facility. Please pull this item from the consent calendar for a public hearing. I urge you to return this item to staff for more analysis and revision to protect the interests of all involved, especially those who are not allowed or choose not to be members of the Club.

The primary issue is to maintain public access to and insure the long term viability and safety of the Club range facility. The facility is absolutely necessary for both public and private purposes, but needs to comply with the rules just like any other public or private improvement. Additionally, as the facility is located on Public Property and subject to public subsidy per the Agreement (Building Permit Fee waiver), it is subject to both sets of rules, and perhaps a few more. There needs to be a much closer look at this Agreement before it is ready for a vote.

This long term (automatically renewed for three years every year) Agreement is potentially a good thing as we all need a place OPEN TO THE PUBLIC to pursue our practice with firearms so we are legitimate participants in the "Well Regulated (practiced) Militia" the Founding Fathers envisioned. From a practical and political standpoint, we must keep all ranges open because

some suggest target shooting and hunting are the only "legitimate" uses of firearms. (Let's at least placate them until we can resolve the big picture issue.)

Regardless of the need for this facility, this Agreement allows the Sheriff or the Club Board of Directors (BOD) to bar any member of the Public from the property without cause. Similar language in the Club Bylaws has been used to bar me from commercial teaching or conducting 4-H/Youth shoots at the facility since 2005 when I was denied membership after 15 years of service to the Club (you must be a member to be a Range Safety Officer).

The terms of this Agreement are poorly written and contain several loopholes that are potentially damaging to the County, BOS, Club, facility users and people who are not in good favor with the Club BOD. This Agreement is unacceptable and needs further review, clarification and revision to protect all our interests. Let's fix it, remove and resolve the issues to get it done right so we have a safe and secure place to shoot well into the future.

My goal is to provide a comprehensive review and revision to this agreement to guarantee TRUE public access to this facility based on objective criteria for little or no fee beyond collection of regular user fees. This will insure that no qualified people are barred from use of this publicly owned and funded facility for whatever legitimate public, private or commercial purpose, regardless of membership status. I also seek to have the site improvements brought into compliance with applicable Building Codes so we taxpayers and users are not victim to fire or collapse. There must also be a concerted effort to formally adopt and CONSISTENTLY implement an appropriate safety plan for all activities on site. There is no intention to cancel or end this agreement, nor to end the use of the property by the public, the Club, Law Enforcement or commercial users as a range facility. We must maintain and improve that capability, but not as currently written and practiced.

This or any future Board of Supervisors will find it much easier to support, "defend and indemnify" a range facility that is truly open to the public and is in full compliance with all applicable rules and regulations, than to try and justify a situation that must survive on sheer political will alone.

At best this Agreement is a great deal for the Club that has received at least two generous Gifts of Public Funds (recent free paving of the access road by El Dorado County Sheriff's Office, and in 2006, \$30,000+ to bring PG&E power to the site that appears to have ONLY been used by the Club for their private benefit). At worst, the Club gets stuck with the current and long term management and future cleanup of the toxic waste (lead) at the site regardless of who put it there (Law Enforcement may be responsible for up to 40% of the lead at the rifle and pistol ranges. The relative amounts could be easily calculated, and it must be done in the future to provide assessment of relative amounts). The good news is there was testing in the 1990's that confirmed lead was not leaching into the soil profile or nearby waterways. We must keep it that way through management of the situation. Unfortunately, the same County Funded study did not include an evaluation of and prescription for soil management to maintenance of that condition. My suggestion for same was discounted by the BOD.

As land owner, the County is ultimately stuck with potential lead/toxics liability if the Club were to abandon the site (the \$2 million Club insurance would go fast, even if it were payable after liquidation). The County would also be liable for the potentially negligent actions of the Club (unpermitted Commercial improvements that are open and accessible to the Public, use of electrical power by additional unpermitted improvements and a Safety Plan that has not been meaningfully implemented for nearly four years) as the \$2 Million would once again go fast.

The Agreement requires the Club make their records available for County review. I know for a fact that minutes from meetings from 2000-2005 are at best 50% complete for those years (when many of the current unpermitted improvements were made), but the record of knowingly constructing the unpermitted Clubhouse is clearly documented as is the inadequacy of the electrical system for same (it was noted it caught fire!).

"Local" Law Enforcement (LE) use of the facility is a stated "Public Benefit." County LE (Sheriff, District Atty., Animal Control, Probation, etc.) are allowed to use the facility for free, as is Amador County Sheriff, but only for "Co-Training." However, the Agreement APPEARS TO EXCLUDE Co-Training with Placerville, South Lake Tahoe and Folsom City Police Department's, and Sacramento, Placer and Alpine County Sheriffs (all within or immediately adjacent to El Dorado County and are statutory "Cooperating Agencies" in any LE emergency). This alone is an example of the poor construction of this agreement underscoring the need for REVIEW AND REVISION of this very important document to insure long term success of the facility and those running it.

The most egregious provision of the Agreement is Section G. that allows exclusion of any member of the public from the range facility without specified cause.

G. PUBLIC ACCESS:

The characteristics of firearms training do not permit free and uncontrolled access by the public to the Property. For safety reasons, Rod & Gun Club shall have the right to control public access to the Property and its facilities. Individual members of the public may be excluded from use of the Property by the Sheriff of El Dorado County, the Board of Directors of the Rod & Gun Club, or the Range Safety Officer on duty.

The first sentence cannot be denied. We need only look at unsupervised use of local public lands by irresponsible shooters. However, the open ended nature of sentence two could be used to bar any public user or trainer for a perceived "safety" reason. The third sentence allows barring a person for any reason. That appears to be unqualified discrimination.

There is a potential conflict of interest between the BOD and oversight of Commercial Operations at the range. Currently, at least two members of the Club BOD are El Dorado Sheriff's Office CCW and NRA instructors such as I. This is a business potentially worth \$10,000 to \$30,000 (I wish) per year. They were the leaders of the effort to revoke my membership from the Club in 2005 (ending my designation as a Range Safety Officer, therefore losing access for my commercial range classes and the Public Benefit 4-H/Youth programs I had conducted for 10 years). There are at least five other instructors (maybe more) who conduct

Sheriff's Office Approved CCW and other Commercial Training at the facility. Despite a statement by the President to develop "Operating Guidelines for Commercial Users" in January of 2004, there has been no known production of such a document. It is increasingly clear that all us local instructors appear to be treated differently from one another, and especially those on the BOD. This disparity must be addressed. We all provide a public good as an armed society is a polite society. Therefore, we must be treated equally in our access to this publicly owned and subsidized facility with no additional strings attached.

Current UNWRITTEN and selectively applied policy appears to be: To teach or instruct during a session open to the public, you must be a member of the Club. By law, private Club membership can be restricted without cause. Fine, but can an otherwise qualified non-member instructor be lawfully barred from teaching at this PUBLICLY OWNED and subsidized facility if both client and instructor pay required fees and operate under the guidance of the RSO? I believe that is discrimination on public property. This needs to be rectified.

All this needs to be reviewed and the text of the agreement REVISED to allow true public access to the facility with clearly identified and objective training/credential standards for such access regardless of membership status. There is also a need for an appeal process to the Board of Supervisors to resolve any issues that arise.

Based on the information above and below, I hope there are enough unanswered questions to compel the Board to take a long look at this agreement. I urge you to continue this item and direct staff to work with the Public, the Club and County agencies to resolve these issues PRIOR to granting this Agreement. At a minimum, there needs to be consistent access to the facilities regardless of membership status, the Building Permit issues need to be resolved, and the safety program needs to be finalized, adopted and implemented.

Thank you for consideration of this request.

Sincerely,

Ken Greenwood
Straight Shot Consulting
530-306-6390

Attachment: ADDENDUM

ADDENDUM:

Here's the documents you have before you for consideration with comments:

<http://www.co.el-dorado.ca.us/bos/wwwroot/detailreport/matter.aspx?key=9290&mode=print>
Basic Web Page intro document that has access to the documents linked below.

<http://www.co.el-dorado.ca.us/bos/wwwroot/attachments/6b84be7a-427d-4e52-90ac-1df174ad1e9.pdf> The Agreement itself that has many issues (details below)

<http://www.co.el-dorado.ca.us/bos/wwwroot/attachments/bfc27e7e-beb4-4b66-afd5-bc5bb2c440ae.pdf> Contract Routing Sheet (showing all applicable departments find this text acceptable). Approval and review by County Counsel (the lawyers) and Risk Management (the worriers) are present, but it seems they missed a few salient points. But there is no review by Building Department (who has unresolved Code Compliance issues with the property), Planning Department (is their Special Use Permit in Full Compliance?), Environmental Management (Assessment of Toxic liability/current Managing Agency of the Landfill Property, and former manager of the previous 1996-2006 Club agreement), Sheriff's Office (the agency charged with review and approval of the annual safety inspection of the facility per the 1977 Special Use Permit, 40% by time user of the facility and potential primary lead/toxics source at the rifle and pistol ranges). Seems a little short on review of salient issues.

<http://www.co.el-dorado.ca.us/bos/wwwroot/attachments/01c3b71f-fbc3-4397-8f24-0ec8c913a274.pdf> memo from Sheriff Neves who seems to infer he wants even more access than the current 40% of available days (12 days per month). In 2006, a similar request for 1st and 3d Mondays each month eliminated a long running, very popular "Every Monday" Public Pistol shoot twice a month!). When will the SO be satisfied with their use of the range?

<http://www.co.el-dorado.ca.us/bos/wwwroot/detailreport/Reports/Temp/123200818145.pdf> Forwarding memo that recommends approval (disagree) and suggests "concurrence" only from County Counsel and Risk Management on the "Department Routing Form" above (other important Departments above are not routed)

Again, this agreement is not ready for approval.

Why do I care?

I was an active member of the Club from 1989 until 2005. I served as a Range Safety Officer from 1993 to 2005, Youth Shooting Sports Coordinator 1995-2005, Appointed Board Member 2001-2003, Grant Writer and Coordinator 1997-2004 (wrote and completed over \$30,000 worth of grants for the Pistol Range Cover, Youth Guns and Equipment, Site Plan for future planning and obtaining Building Permits.) and top member recruiter for several of those years. I hosted monthly basic and Defensive Rifle, Pistol, and/or Shotgun shoots 1993-2005, 4-H /Youth Shooting Sports 1994-2005 (training over 300 kids, and their parents, in the safe and responsible use of firearms, 4-H/Youth Shooting Team 2002-2005, member of Law Enforcement Coordination and Review Committee. Following an NRA approved Template, I wrote the (unadopted?) "Standard Operating Procedures" Manual following consultation with local EMS and Fire Providers and presented the manual to the Club BOD in 2002 and 2003. I was co-founder and eight year active member of the local "Friends of NRA" committee from 1995-2003 (Chairman 2000-2003, the most successful years to that time and perhaps since). The Club was the primary Beneficiary of the fruits of that labor. From 2002 through 2005,

during afternoon and other underutilized time periods, I used the Club facility for my private firearms training business paying use fees for my clients and myself.

I was "banned" for a year from the El Dorado Rod and Gun Club property and events on June 20, 2005 for "High Crimes and Misdemeanors" that focused on my saying bad things about the Board of Directors. This meant that I was no longer a member, no longer a Range Safety Officer, and therefore could no longer continue my 10 year commitment to the El Dorado County 4-H Shooting Sports program and could not conduct my Firearms training business at the facility.

- Yes I did say bad things about them. It was very mutual and unfortunate. I publicly apologized for my behavior. The underlying issue was due to BOD failure to develop, implement and adhere to basic, necessary and accepted rules of operation for safety and to be in compliance with County rules regarding building and grading permits. My level of frustration and concern grew to a boiling point over a ten year period of inactivity, near disasters and a clear desire of the BOD to "NOT do the right thing." My fear of what would follow if there were an accident or a challenge to our Special Use Permit was met with opposition like I have never experienced in either the public or private sector. They wanted to do it "their way" which was focused on schmoozing "the powers that be" instead of 100% compliance and transparency in our operations. Yes, raw politics is good thing to have on your side, but compliance is even better so the politicians can retreat to the cover you have provided! This was somehow lost on the BOD.

After that year in September 2006, I attempted to be reinstated and continue my 4-H/Youth activities per their 2005 decision letter. The request was denied. Another year and 1/2 later (Feb. 10, 2007) I attempted to renew my membership which was met with a denial with "no reason stated for this decision" (No membership, no RSO status and no ability to do 4-H, much less Private Training). It should be noted that the Club Bylaws appear to have been modified since 2003 to allow such exclusions with no justification.

I used the range for one morning of training in October 2007 during an established "Open Pistol" session for two clients with no issue or comment from the RSO.

- However, I did note serious violations of basic safety rules:
 - the worst was a shooter waving a gun at the entire firing line (approx. 10 people). Both my students called this to my attention and I notified the RSO who dismissed it as "He's cleaning it, the bolt is not in the gun." I begged to differ as to importance (as did the rest of those present) and the RSO finally asked the shooter to point his gun down range.
 - During "Cease Fire" periods there were several people handling guns while people were down range checking and replacing targets. As there is no "Yellow" line for them to step behind during times such as this, there was no adherence to this basic safety rule until I insisted the RSO do so.

In February 2008 I again used the range during a "Open Pistol" session with one client. I also observed a "Cease Fire gun handling" safety violations on that visit and an RSO that was more interested in his shooting than ours. During this session I was approached by Board Member Simon Russell who informed me "You are not allowed to teach here. You need to leave." I explain that both I and my student had paid the appropriate range fees and were under the control and supervision of the assigned RSO. Mr. Russell went on to say the BOD had decided that Ken

Greenwood cannot conduct classes at the facility. I responded that I was never notified by letter, e-mail or phone call of such a decision, and that I would continue my session and would come back to teach during an open range whenever needed. I suggested Mr. Russell notify the BOD that this facility is open to the public, and is on public property. The RSO on duty told me he later contacted President Charney and was told that only "Members" could teach at the range (recall I was denied membership!). Best yet, there has never been any notice of this policy/decision, even though I was the target of it. All the other RSO's I have talked to (to this date) are unaware of this "policy" nor was it mentioned at the annual RSO meeting in April 2008. This is clearly discrimination against me for my past "crime" of seeking compliance with standards of procedure.

That is why I care!

Miscellaneous Agreement Items:

Goal here is to truly provide public access to this publicly owned and funded facility to be consistent with the stated reason(s) on Page 1 of the agreement:

- WHEREAS, County desires to continue to allow Rod & Gun Club to use, manage, and control the Property, and Rod & Gun Club desires to continue to use, manage, and control the Property *for the purpose of firearms safety, training, proficiency, competition and recreation* and for other purposes as described further herein; and,

The word public should be added to this statement. ...*for the purpose of PUBLIC firearms safety...*

The property (APN 092-010-27) can be better identified to include the address of the improved access road to the facility.

I believe it is 5941 Union Mine Road.

Page 1:

WHEREAS, the providing of the Property by County is deemed to be in the public interest since the Rod & Gun Club facilities comprise one of the few *expert-staffed range facilities* for firearms safety training in El Dorado County.

- The range facility is the ONLY designated public range facility in the county! Land use regulations and other issues suggest there will never be another public or private range approved in the County, ever! Therefore, this one must pass long term muster and this agreement must be modified to require that happen now and in the future.
- The volunteer RSO's that staff the calendared events are minimally trained and not supervised. Each "should" have NRA 8 hour RSO training and certification AND be given "On the Job" training of at least 8 hours. Not convinced this has been accomplished. Some RSO training and certification dates from the 1960's and is at best, not fresh or updated.
- Several Private trainers approved by the El Dorado Sheriff's Office for Concealed

Weapons training utilize the Club range facilities monthly. Some are NRA (and above) Certified RSO's, but that cannot be verified.

- Two trainers are current members of the Club BOD and have a brisk business. They may be using the (unpermitted) Club House for Classroom training of their students, but are they paying rent for such use? Or is it subsidized by Club Members and the public?
- In the late 90's, while conducting a scheduled Children's event as an RSO (that no one showed up for, so I was doing maintenance), I was accosted by a fellow RSO who showed up to shoot after (later admitting to) consuming six beers prior to his arrival. He demanded to shoot after swearing he had not been drinking (I could smell the alcohol across the hood of my car). He essentially bullied his way onto the range after a veiled threat he would shoot me. He and his friend stayed about an hour and left. It was one of the most uncomfortable hours of my life.
 - I later reported this incident to the Club President in the presence of the RSO. The RSO admitted at that time to consuming the six beers. The matter was forwarded to the Club BOD, but no action was ever taken on this clear and admitted violation of the most basic of rules. I was however discounted as I allowed this person to shoot (I did so only to avoid a potentially deadly encounter and there were no others present. This RSO was recognized as an Alcoholic by most in the Club, but is reportedly in recovery since 2002. He is still an active RSO to this day.
 - There is a bit of disparity regarding Alcohol on the premises: According to the sign at the Trap Range, the possession of Alcohol is tolerated, but the consumption or being under the influence bars you from shooting. At the Rifle and Pistol ranges, possession of Alcohol is prohibited on the premises!
- Go ahead and try to call the Rifle/Pistol Range 530-651-3012 during a scheduled event... "The person you are trying to reach is not accepting calls at this time" is what you get.
- The biggest complaint I hear is "The range is run differently every time I go out there." This is a clear indication there is little or no consistent implementation of basic safety rules.
 - This is because the basic safety rules posted need to be updated and standardized range commands posted for all to see. Yes, different events require different specific rules of operation, but the basics are universal.

These are not indications of an "Expertly Staffed Range." Let's standardize the rules, consistently implement them, and designate a lead contact to properly train staff and communicate with them regularly. Personal experience and recent interviews with RSO's suggest past and current practice does not include such regular training and communication to update staff on current events and safety tips and issues. It is as easy as a monthly e-mail to the 90% that have it.

B. USE OF PROPERTY:

Subject to the terms of its Special Use Permit, Rod & Gun Club is authorized to occupy, manage, and use the Property for the purpose of a firing range and for firearms safety, training, proficiency, competition, recreation and for law enforcement use by State, Federal and Local law enforcement agencies for their firearms training and proficiency

programs consistent with State and Federal statutes and regulations.

- Where is the provision for public benefit to groups, (Boy Scouts, 4-H, Local Trainers not affiliated with the Club, etc.)? A = There is none!! There are no standards for allowing same with Public Oversight.

D. MONTHLY RENT:

Rod & Gun Club shall have no obligation to pay any cash rent to County; however, in consideration for Rod & Gun Club's use of the Property, Rod & Gun Club shall, at its sole expense and at no cost to the County or any other law enforcement agency enumerated herein, maintain and make available the Property to the El Dorado County Sheriffs Department, the Amador County Sheriffs Department (for purposes of cotraining with the El Dorado County Sheriffs Department only), and other El Dorado County departments as follows:

- + Exclusive use of the firing range on Tuesdays, Wednesdays, and the first and third Monday of each month during daylight hours;
- + *Exclusive use of the firing range during nighttime hours for no more than two one-week periods (Monday through Friday) each year for night shoot training and qualification; and*
 - How are they operating at night? SUP 77-82 says no shooting after 6 PM. SUP must be revised or BOS must make some very specific findings. If not done, let's get it done!
- + Exclusive use of the unimproved middle firing range on Tuesdays, Wednesdays, and the first and third Monday of each month during daylight hours.
 - This seems to allow all other EDCo Departments to have access at EDRGC expense with little or no reimbursement for wear and tear on target frames, etc. OR, is this a pay back for the paving and especially \$30K+ to run power to the trap range to power the trap machines and club house (that has no permits for occupancy per its use as a commercial structure)?

Building Permits?

Are there legitimate building permits or other permission and/or recognition (finaled or in process) for:

- Club house (was subject to a Code Compliance Action in 2005, now "closed" with a "Notice to Complete" list as reason for closure. There is no application for any such work).
- Construction in 2007-2008 of third Trap House and Electrical connection to (unpermitted) Club House, Trap House or anything else that is currently hooked up to PG&E? (I can find no record for any).
- Propane connection to (unpermitted) Club House

My investigation of County records indicates there are no such records for APN 092-010-27. There is a record for

Perhaps this should be researched and required prior to granting this Agreement.

From the Club December E-Newsletter at:

<http://www.eldoradorodandgun.com/enews-12-2008.htm>

1. Help support the club at the El Dorado County Board of Supervisors Meeting Tuesday December 9, 2009 @ 9am. The Club's New Facility Use Agreement (lease) will be heard before the county board of supervisors on 12/9/08 at 9am. The Agreement should be on the consent calendar and I don't expect it to be pulled but we have to be prepared to address any question from the supervisors. I would like to see us pack the chamber to show the supervisors we are in unity and of one voice. Hope you can make it.

2. Thank you to EDSO!

A big thank you to the El Dorado Sheriff's Department for the help to improve our range. EDSO paved another section of road and rebuilt the target holders at the 50 yard line. Thank you Stg Sesak, Stg Hammitt and Sheriff Neves for the support and help maintaining the range.

- Interesting to note the "one voice" comment as if you were there to speak another way, you are not "one of us."
- Sounds like the writer feels this is all in the bag as if all is well with the operation and the agreement. Many I have talked to disagree, but are fearful of speaking out after what happened to me. Don't expect many members to be there to disagree with the Club BOD.
- This is where our tax money is being spent? Yes, good access is important to LE's training needs, but what is the amount of traffic by EDSO VS EDRC? Would like to see this illustrated in the daylight before we continue.
 - Similarly, and more egregious, approximately \$30,000 to \$40,000 of public funds were expended in 2006 to run PG&E power to the Trap Range and Club House. Has there been demonstrable public benefit from this expenditure? Or, has it been used to throw clay birds and keep salads and drinks cold?
 - There is a finalized Building Permit for a "Service Panel" for "security cameras and phones" (presumably for the EDSO storage box) and for night training (which is not allowed per the 1977 Special Use Permit that established the facility). Problem is, the only power being used since 2006 has been for the (unpermitted) Club House and trap throwers (a new one was installed within the last year... no permits). Thirty grand to throw targets and keep their drinks cold! How can I get that same deal at my house?
- And Agreement says EDSO will pay no fees to use the facility. How does that work? Sounds like they ARE paying "fees" but by a different name. We appear to have a gift of public funds that is not clearly consistent with past and proposed agreements.
 - The Club House is a "commercial occupancy" and is subject to Traffic Impact Mitigation Fees, but none have been paid as no permit has been applied for nor finalized for the structure that was converted from a storage shed.

- If the BOS wants to waive these fees, so be it. Let's get it done right.
