

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, MARCH 31, 2015**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COMMISSIONER'S BOARDROOM.

Commissioner Kit Shy called the meeting to order at 9:04 AM and the Pledge of Allegiance was recited.

Roll Call was taken:

Kit Shy	Chairman	Present
Lynn Attebery	Vice Chair	Present
Bob Kattnig	Commissioner	Present
Clint Smith	Attorney	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present: Dallas Anderson, Amy Finger, Brent Bruser, Bob Dreher, Joe Arbuckle, Lockett Pitman, Sue Pitman, Jillian Ward, reporter for the Wet Mountain Tribune and Paul Sage, reporter for the Sangre DeCristo Sentinel.

AGENDA:

Call meeting to order

Pledge of allegiance

Roll Call

Amend agenda

Approval of minutes

Audience Introduction

Public Comment

Commissioner Items

Attorney Items

Executive Session

New/Old Business

Review Vouchers and Sign Checks

Tax Liens/Treasurer – V. Trujillo

10:00 AM Liquor License modification of premise – Letter Drop, Rosita CO.

Liquor License Renewal – Hotel Restaurant Lodge at San Isabel, Rye, CO.

West Custer County Library District 2014 Annual Report/Custer County Then and Now – A. Moulton

Family Matters Custer County Group – P. Collins

STAFF MEETING

AMEND AGENDA

None

APPROVAL OF MINUTES

**MOTION by Commissioner Kattnig seconded by Commissioner Shy:**

**To approve and accept the minutes of March 3, 2015 as presented. The motion carried unanimously.**

Commissioner Kattnig said that he had a correction to the submitted minutes of March 18, 2015. He said that the second paragraph on page 3 should be revised from southwest to southeast.

**MOTION by Commissioner Shy, seconded by Commissioner Kattnig:**

To approve the minutes with the revision stated for March 18, 2015. The motion carried unanimously.

**PUBLIC COMMENTS**

Commissioner Shy asked if there were any public comments. Amy Finger expressed concern regarding the county's participation and expense pertaining to Case Number 12CV23, the land dispute lawsuit among Robert Hamilton, Michael and Laura Halpin, and Custer County. She questioned why the Board of County Commissioners got involved in a legal matter between two private citizens. She challenged the county's decision to issue a deed to one adjacent land owner of CR 390 and not to the other adjacent land owner and felt that the county was choosing sides in a dispute between two private citizens. She commented that it appeared dishonest to her. She expressed concern regarding the use of taxpayer monies for those legal fees. Ms. Finger asked if the BOCC had control over the county lawyers and whether there is a policy that oversees the cost of the county money being spent on the issue. Commissioner Shy said that the BOCC receives a status and financial report from the county attorneys anytime an action happens on the suit. He said that the county did not perpetuate the lawsuit but was drawn into the issue with regards to County Road 390. He explained that the county attempted to resolve the issue and entered into a mediation process with Hamilton and Halpin. He said the county offered numerous considerations and concessions to resolve the issue. However, the suggestions were rejected and the mediation process failed. Commissioner Attebery agreed and said that the actions regarding the quit claim deed were completed at the advice of the County Attorney, John Naylor. Clint Smith, Attorney said that the county does not own the land and that the quit claim deed has no legal effect. The county gave up ownership interest and not a right-of-way interest. Brent Bruser said that he found it odd that the Board would support one neighboring party over another. Lockett Pitman requested clarification on whether the deed was a land deed or a county road deed. Paul Sage said that he supported the recent District Court Summary Judgement on the case in favor of Custer County.

Brent Bruser remarked that all eyes will be on our community during the Ride the Rockies Event scheduled to come through Westcliffe on June 20, 2015. He expressed concern regarding the amount of trash and debris currently existing on the county roadsides. He asked the BOCC to consider adopting a county program for its removal prior to the June 20, 2015 event. Sue Pitman said that she had adopted the clean-up of the county road area where she walks.

Dallas Anderson asked if he could make a short comment. He said that the recent article published in the Wet Mountain Tribune regarding the airport was unfair, incomplete, and involved a gross misstatement from an outside party.

**COMMISSIONER ITEMS**

Commissioner Kattnig said he attended a Fair Board Meeting and that one of the concerns expressed was regarding individuals sleeping overnight in the pet barn area during the Custer County Fair Days. He said that Colorado Technical Services, Inc. (CTSI), the county's liability insurance will not cover this type of situation. Commissioner Kattnig said that CTSI strongly discourages this type of practice. Commissioner Kattnig reported that ten applications have been received for the Veterans Service Officer position and that three candidates would be interviewed on April 1, 2015. He said that the American Legion and the Veterans Foreign War organizations will participate in the interviewing process. He said that he would be unable to participate due to a family commitment and asked Commissioner Shy to attend in his absence. Commissioner Shy agreed. Bob Dreher asked if any of the three candidates were actual veterans. Commissioner Kattnig responded that all three were veterans.

Commissioner Kattnig said that he attended the EMS 101 Training. Commissioner Kattnig shared concern regarding the active water situation in California and how that could affect Colorado. He said that he would like the county to be proactive on the issue. Joe Arbuckle said that the BOCC appointed a Water Forum Advisory Board in 2011 and that they forwarded recommendations to the BOCC. He said he would forward those recommendations to Commissioner Kattnig.

Commissioner Attebery said that the water topic has been an on-going battle for a long time. He said that since Custer County is a political subdivision of Colorado, the County defers to the State guidelines. He advised Commissioner Kattnig that the county is represented and participates in the Water Basin Round Table sessions and suggested that he consider attending and participating in those discussions and session.

Commissioner Shy said that he attended the Colorado Counties Incorporated (CCI) Legislative Session and that the proposed Off Highway Vehicle Use Legislation for the State did not pass at this time. He said that he attended the Transportation Planning Region Meeting and the Statewide Transportation Advisory Committee Meeting.

#### ATTORNEY ITEMS

Clint Smith said that he was working on a draft for the proposed Off Highway Vehicle (OHV) Ordinance. Commissioner Attebery suggested that Custer County notify the adjacent counties once the OHV Ordinance is adopted. The Board agreed. Mr. Smith said that he prepared a press release on behalf of the BOCC addressing the Custer Community Clinic and the Service Plan for the Boards approval.

#### **MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:**

**To approve and issue the press release as follows. The motion carried unanimously.**

The Board of County Commissioners for Custer County wishes to address the allegations that have been made that it is “stalling” and refusing to take action on a proposal filed by the West Custer County Hospital District to modify its Service Plan. The proposal was filed on June 23, 2014, in the form of a letter from Joe Arbuckle, who was Chairman of the Board of Directors of the Hospital District at the time (Joe has since resigned from the Board). The letter requested that certain changes be approved, but it also candidly acknowledged that all the requested changes had already *“occurred well before our board assumed its duties and these changes should have been made at the time they were previously implemented.”*

Therefore, the Board of County Commissioners was essentially being asked to ratify modifications to the original Service Plan that had been in effect for a significant period of time rather than being asked to consider proposed changes and whether those proposed changes were in the best interest of this community. We declined to simply “rubber stamp” the unilateral actions of the Hospital District.

The Board of County Commissioners does not have any statutory authority to oversee or supervise the operations of the Hospital District. Whether we agree or disagree with how the Hospital District has been managed in the past or is being managed at the present time is immaterial. The West Custer County Hospital District was approved by the voters in 1988 and it became an autonomous political subdivision of the State of Colorado at that time. The only ongoing role the Board of County Commissioners has with respect to the operation of the Hospital District is to approve any modifications or amendments of the Service Plan that are proposed or to seek a court injunction to stop the proposed changes from being implemented.

The Colorado Department of Local Affairs has rendered an opinion that the Board of County Commissioners had 45 days from the date the petition was filed to either seek a court injunction or to take no action, and that if no action was taken within this 45-day period then the modified Service Plan would go into effect. Based on this opinion, the Hospital District has taken the position that its

Amended Service Plan has gone into effect by default. The County Attorney has advised the Board that the relevant statutory language on this issue is rather ambiguous and confusing, and that it is not clear there was a 45-day deadline for the Board to take affirmative action to enjoin the “proposed” changes which were, in fact, a done deal long before the petition was filed. Nevertheless, the Board has decided to defer to the DOLA opinion. If we had chosen the option of seeking a court injunction after the Hospital District had already implemented the changes, we would have been in the position of trying to “unring the bell”. That would have been a futile effort and would have further exacerbated the controversy that has surrounded the operation of the Hospital District.

**EXECUTIVE SESSION**

None at this time.

**NEW/OLD BUSINESS**

**Payroll and Accounts Payable**

County payroll and accounts payable were approved from the following funds:

County General	\$187,578.77
Road and Bridge	\$119,081.45
Emergency Services	\$ 21,722.13
Human Services	\$ 25,273.28
Capital Improvement	\$ 8,308.47
Airport Fund	\$ 636.88
Tourism	\$ 988.00
Total	\$363,588.98

**MOTION by Commissioner Attebery, seconded by Commissioner Shy:**

To approve the March 2015 payroll and accounts payable. The motion carried unanimously

**Liquor License modification of premise – Letter Drop, Rosita CO. Public Notice 10:00 AM.**

Debbie Livengood, Clerk and Recorder met with the BOCC and presented a change in premise application for the Letter Drop Restaurant in Rosita, CO. She said that liquor will be served on the patio area adjacent to the restaurant. She remarked that the area was fully enclosed and that the appropriate signage would be posted. She said that the application was complete and in order.

Commissioner Shy asked if there was anyone in the audience that wished to comment. Dallas Anderson said that he agreed with the expansion as proposed.

**MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:**

To approve the liquor license premise modification at the Letter Drop as presented by the Clerk and Recorder. The motion carried unanimously.

**Liquor License Renewal – Hotel Restaurant Lodge at San Isabel, Rye, CO.**

Debbie Livengood, Clerk and Recorder presented the liquor license renewal for the San Isabel Hotel and Restaurant. She said that the application was complete and in order. She reported that the sheriff investigation report was without incident.

**MOTION by Commissioner Kattnig, seconded by Commissioner Attebery:**

To approve the liquor license renewal for the San Isabel Hotel and Restaurant as presented by the Clerk and Recorder. The motion carried unanimously.

Ms. Livengood presented the BOCC with the 2014 Conservation Trust Report she submitted to the Department of Local Affairs. It has been approved. She also said that she has received a letter of approval from the Colorado Department of Transportation approving Ordinance 14-01, the Amendment of the Model Traffic Code.

The BOCC recessed at 10:15 AM.

The BOCC reconvened at 10:35 AM.

West Custer County Library District 2014 Annual Report/Custer County Then and Now

Amy Moulton, Director of the West Custer County Library District presented the 2014 Annual Report.

**MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:**

To accept the 2014 Annual Report of the West Custer County Library District as presented. The motion carried unanimously.

Ms. Moulton requested a \$400.00 donation from the county to reprint the Custer County Then and Now Pamphlets distributed to the citizens and tourists. The BOCC agreed that although the publication was a valuable and recognized literature for the area, the county did not have a budget line item for the expenditure. Commissioner Attebery suggested that Ms. Moulton contact the Custer County Tourism Board for assistance. Paul Sage said that he would work with Ms. Moulton to obtain the additional funds needed.

Family Matters Custer County Group

Peggy Collins and Monica Von Steinman addressed the BOCC and said that they were creating a Families Matter to Custer County 501©(3) organization. She said the purpose of the organization was to support the local families through activities, education and referrals to other organizations. Ms. Collins feels that by supporting our families we are building a stronger community. She said that they were requesting a \$210.00 donation to assist with the filing fee for the IRS, Articles of Incorporation, and the Charity Registration. The BOCC said that although they supported the group, the county did not have a budget line item for the expenditure. Chuck Ippolito remarked that he would investigate the RETAC Budget guidelines to determine if they could provide any monies. Gail Stoltzfus, Public Health Agency said she would check their budget for any possible funding. Commissioner Shy suggested that the Families Matter to Custer County group submit a financial request for the Conservation Trust Funds that are allocated during the 2016 Budget Hearings scheduled in October 2015.

Staff Meeting

The department heads, elected officials, and staff met with the BOCC for a staff meeting. Present were J.D. Henrich, Chuck Ippolito, Beverly Goertz, Jackie Hobby, Gail Stoltzfus, Virginia Trujillo, Christe Coleman, Rusty Christensen, Roger Squire, Dawna Hobby and Stacey Schoch.

The following topics were discussed:

Snow Closure Guidelines and Policy

Road and Bridge will advise the BOCC Chairman of road and weather conditions. The Chairman will make a determination or decision regarding county closures. Each Commissioner will contact the elected official or department head from their point of contact list. The elected official or department heads will then contact their staff. Christe Coleman will notify the news and radio stations. Chuck Ippolito will update the county website regarding any closures. The BOCC proposed that an employee compensation policy for snow closure be added to the 2010 Custer County Comprehensive Personnel Policy.

CORA Policy

Clint Smith prepared a draft county policy regarding the Colorado Open Records Act. The draft policy will be forwarded to all elected officials and department heads for review and suggestions.

The BOCC requested that any suggestions, changes or revisions regarding the draft CORA Policy be forwarded to Kris Lang prior to the April 7, 2015 BOCC meeting.

Veterans Service Office

The Veterans Service Office is being relocated to the Resource Center Annex. The veteran's office will be closed from April 1, 2015 through April 14, 2015 to allow for adequate time for the relocation and new set-up. A new Veterans Service Officer will be selected and appointed prior to the April 15, 2015 opening.

County Website

Road and Bridge expressed their appreciation to Chuck Ippolito for his work and effort on the R&B website.

Courthouse Parking Lot

Chuck Ippolito shared concern regarding the pot holes in the courthouse parking lot and the safety issue it presents.

Office of Emergency Management

Christe Coleman shared the dates of the OEM training for elected officials.

Virginia Trujillo, Treasurer address the BOCC and requested that the 7 active county tax liens (mineral rights) discussed at the February 27, 2015 BOCC meeting be removed from the tax roll.

**MOTION by Commissioner Attebery, seconded by Commissioner Shy:**

To extinguish the 7 tax certificates reviewed at the February 27, 2015 meeting and remove them from the tax roll. The motion carried unanimously.

Commissioner Shy asked if there was any more business to discuss. Hearing none, he adjourned the meeting at 12:20 PM

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Debbie Livengood, Clerk and Recorder  
Attest

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Christopher L. (Kit) Shy,  
Chairman

(Audio Recordings of the BOCC meetings are available for public review or purchase)