

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, APRIL 30, 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, Sheriff Byerly and Paul Sage, reporter for the Sangre DeCristo Sentinel.

AGENDA

Call meeting to order
Pledge of allegiance
Roll Call
Amend agenda
Audience introduction
Approval of minutes: April 22, 2015
Public Comment
Commissioner Items
Attorney Items
- Agreement with VALI Assisted Living for use of the County Courtesy Vehicle
- Colorado Open Records Act Policy
Executive Session
New/Old Business
Review Vouchers and Sign Checks
Resource Center Annex – R. Mitchell
SECOND READING/PUBLIC HEARING/ADOPTION (10:00 AM)
Ordinance of Custer County, a Political Subdivision of the State of Colorado,
Regulating the Operation and Use of Off-Highway Vehicles on the Public Roadways of Custer County

AMEND AGENDA

None

APPROVAL OF MINUTES

MOTION by Commissioner Kattnig, seconded by Commissioner Attebery:

To approve and accept the minutes of April 22, 2015 as presented. The motion carried unanimously.

PUBLIC COMMENTS

Commissioner Shy asked if there were any public comments. Sheriff Byerly said that the CAD System in the Dispatch Office has been integrated and that the personnel are being trained. He said that he anticipated the system would go live on May 7, 2015.

Sheriff Byerly said that Sheriff Office (SO) has received forty-six 800MHz radios with batteries. He said that the radios would need to be programmed. The SO will keep twelve of the radios and the remaining units will be distributed by the Office of Emergency Management (OEM). Sheriff Byerly reported that all the law enforcement vehicles are equipped with safety cages.

Paul Sage remarked that over fifty teens participated in the after prom events. He commented that the community's dedication and donations made this event a success.

Commissioner Attebery addressed Sheriff Byerly regarding the maintenance of the lawn and exterior areas around the SO. He said in the past, the SO has been responsible for those services. He remarked that those services could be assumed and provided by the courthouse maintenance personnel. Sheriff Byerly agreed with the proposal and a method of compensation for the services will be determined at a later date.

COMMISSIONER ITEMS

Commissioner Kattnig said he attended a two day Water Forum in Pueblo, CO. He remarked that water continues to be a serious problem and concern throughout the state.

ATTORNEY ITEMS

Clint Smith, Attorney said that he was working on the County Open Burn Policy and the County Weed Management Plan.

Agreement with VALI Assisted Living for use of the County Courtesy Vehicle

Attorney Smith presented the Agreement between the Board of County Commissioners for Custer County and VALI Assisted Living, Inc. for use of a 2001 Ford van that is owned by Custer County for the Boards approval.

MOTION by Commissioner Kattnig, seconded by Commissioner Shy:

To approve the Agreement as presented and authorize the Chairman to sign the correspondence with a caveat that VALI will be responsible for the insurance and maintenance of the vehicle. The motion carried unanimously.

Attorney Smith stated that the agreement shall remain in effect until December 31, 2015 and that the BOCC shall review this agreement as an agenda item at its regularly scheduled meeting on December 8, 2015, and makes a decision at that time whether this agreement should be continued for another year.

Commissioner Attebery proposed that the vehicle be inspected and assessed by the Mechanic at the Road and Bridge Department prior to VALI taking possession of the vehicle.

Commissioner Kattnig will obtain the appropriate signature from the VALI Assisted Living Board of Directors on the agreement and the originals will be maintained in the county clerk's vault.

Colorado Open Records Act (CORA) Custer County Policy

Attorney Smith presented the Custer County Policy and Procedures for Compliance with the Colorado Open Records Act and Electronic Mail Policy for the Board's approval. He also presented a Custer County Public Record Request Form that will need to be completed by a person or persons requesting public records.

MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:

To adopt the Custer County CORA Policy and Request Form as presented. The motion carried unanimously.

EXECUTIVE SESSION

None at this time.

NEW/OLD BUSINESS

Resource Center Annex

Ruth Mitchell thanked the BOCC and the County for usage of the Resource Center Annex for the Care and Share Program. She said that the county's assistance and support has had a measureable impact in the community. She remarked that the transition of the Care and Share Program from the Resource Center Annex facility is near completion. She presented the BOCC with the past Care and Share Commodities Agency Agreements for 2011, 2012, and 2015. Ms. Mitchell requested additional time for removal of the items in the Resource Center Annex Garage. The BOCC agreed to extend that time limit to July 1, 2015. Commissioner Attebery said that the county maintenance personnel has requested that the remaining items in the garage be moved to one side of the building in an effort to provide space for county maintenance equipment.

Payroll and Accounts Payable

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

County General	\$186,654.73
Road and Bridge	\$ 98,011.51
Emergency Services	\$ 23,832.32
Human Services	\$ 26,709.66
Capital Improvement	\$ 1,871.42
Airport Fund	\$ 11,530.22
Tourism	\$ 4,769.70
Self-Insurance	\$ 5,712.00
Total	\$359,091.56

MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:

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

Commissioner Kattnig commented that the voucher for the legal services related to the land dispute in April 2015 was \$8,838.00 and that he anticipated the cost will be reduced significantly in the future.

Second Reading/Public Hearing/Adoption of Ordinance 15-01 Regulating the Operation and Usage of Off-Highway Vehicles on the Public Roadways of Custer County.

Commissioner Shy said that Ordinance 15-01 would be read into the record for a second time as published beginning at 10:00 AM. Clint Smith, Attorney read Ordinance 15-01 in its entirety. Commissioner Shy asked the audience if there were any had any public comments or questions regarding the Ordinance regulating the operation and use of off-highway vehicles on the public roadways of Custer County.

Hearing none, he continued with the meeting.

MOTION by Commissioner Shy, seconded by Commissioner Kattnig:

To adopt Ordinance 15-01 on the second and final reading on the 30th day of April, 2015. The Ordinance is effective immediately and ordered published by reference to title only in the Sangre DeCristo Sentinel. The motion carried unanimously.

The citizens and residents in the audience thanked the BOCC for their support of the Ordinance. The Board thanked everyone for their time, effort, assistance and determination regarding the OHV Ordinance. Sheriff Byerly encouraged everyone to be observant of the OHV riders in the community.

He said that safety is the priority regarding OHV riders and riding. He encouraged the public to assist the Sheriff Office (SO) with the monitoring of the OHV usage and report any violators to the SO. He commented that tickets can be issued on behalf of the reporting party. Sheriff Byerly proposed that the OHV signage be placed at the appropriate and jurisdictional locations within the county. Commissioner Attebery said that there was a program through the Colorado Parks and Wild Life that may available to assist with the cost of signage for OHV usage. Sheriff Byerly will research and follow-up. The Board instructed Ms. Lang to notify law enforcement and the BOCC of the adjoining counties regarding the adoption of the ordinance, as well as the state patrol, bureau of land management, the forest service and Colorado Counties Incorporated. The Ordinance will be recorded in the Clerk and Records office and also available for review on the Custer County website.

AN ORDINANCE OF CUSTER COUNTY, A POLITICAL SUBDIVISION OF THE OF THE STATE OF COLORADO, REGULATING THE OPERATION AND USE OF OFF-HIGHWAY VEHICLES ON THE PUBLIC ROADWAYS OF CUSTER COUNTY

Ordinance No. 15-01

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, THAT:

Whereas, the Board of County Commissioners deems it is in the best interest of the citizens of Custer County and the general public that the operation and use of off-highway vehicles on the public roadways of Custer County be regulated as authorized by §33-14.5-110, C.R.S., and

Whereas, there has been full compliance with all statutory requirements concerning notice to the public of this proposed Ordinance and publication of said Ordinance, and the public has now been afforded full opportunity to be heard on this proposed Ordinance at a regular meeting of the Board of County Commissioners; and

Whereas, more than 30 days have now passed since this Ordinance was approved by the Board of County Commissioners in accordance with the procedures prescribed in §30-15-404 through §30-15-407, C.R.S.,

NOW THEREFORE, this Ordinance is declared to be in full force and effect as of the date signed by the Chairman of the Board of County Commissioners and attested to by the County Clerk and Recorder below.

PART ONE: DEFINITIONS

1. “Off-highway vehicle” means any self-propelled vehicle that is designed to travel on wheels or rubber tracks in contact with the ground, designed primarily for use off of the public highways and public roadways, and generally and commonly used to transport persons for recreation purposes. “Off-highway vehicle” does not include the following:
 - a. Vehicles designed and used primarily for travel on, over, or in the water;
 - b. Snowmobiles;
 - c. Military vehicles;

- d. Golf carts;
 - e. Vehicles designed and used to carry persons with disabilities; and
 - f. Vehicles designed and used specifically for agricultural, logging, or mining purposes.
2. "Public roadway" means the entire width between the boundary lines of every county road located within Custer County and publicly maintained by said county when any part thereof is open to the use of the public for purposes of vehicular travel. "Public roadway" does not include those portions of State Highways 67, 69, 78, 96 and 165 which are located in Custer County and which are maintained and regulated by the Colorado Department of Transportation, nor does it include the roads located within the town limits of the Town of Westcliffe and the Town of Silver Cliff.
 3. "Safety belt system" means a system utilizing a lap belt, a shoulder belt, or any other belt or combination of belts installed by the manufacturer of an off-highway vehicle for the purpose of restraining the operator and passengers.

PART TWO: VIOLATIONS

1. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless the operator of the off-highway vehicle is at least 16 years of age and has in his or her possession a valid motor vehicle driver's license or operator's license.
2. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless the operator of the off-highway vehicle is insured to the minimum level required by the State of Colorado for the operation of automobiles.
3. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless the vehicle is properly registered and numbered with the Colorado Division of Parks and Wildlife in accordance with the provisions of §33-14.5-102, C.R.S., and the validation decal issued by the division shall be affixed to the off-highway vehicle in the manner prescribed by the division.
4. No off-highway vehicle shall be operated at any time on any public roadway within Custer County while towing a sled, toboggan or other similar device intended to be used for recreational purposes. A utility trailer may be towed if it is attached to the off-highway vehicle by a rigid bar and is equipped with a red reflector attached to the rear of said trailer. Transporting passengers or occupants in a trailer towed by an off-highway vehicle is prohibited.
5. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless it is equipped with the following:
 - a. At least one lighted head lamp and one lighted tail lamp, each having the minimum candlepower prescribed by regulation of the Colorado Division of Parks and Wildlife;
 - b. Brakes and a muffler and spark arrester which conform to the standards prescribed by regulation of the Colorado Division of Parks and Wildlife.
6. No off-highway vehicle shall be operated at any time on any public roadway within Custer County between the hours of 10:00 p.m. and 5:00 a.m.
7. No off-highway vehicle shall be operated at any time on any public roadway within Custer County for the purpose of plowing snow or for modifying the grade or drainage of said public roadway.
8. No off-highway vehicle shall be operated at any time on any public roadway within Custer County with more occupants or passengers than intended by the manufacturer's design.
9. If an off-highway vehicle is equipped with a safety belt system by the manufacturer of said vehicle, every driver and every passenger of a vehicle so equipped shall wear a fastened safety belt at all

- times while the off-highway vehicle is being operated on any public roadway within Custer County.
10. The operator of an off-highway vehicle on the public roadways of Custer County shall also comply with all traffic ordinances of Custer County regulating the operation of motor vehicles on said roadways within the county.
 11. This Ordinance shall be enforced by law enforcement officers and peace officers duly sworn and authorized to enforce laws and ordinances in Custer County, as well as by any person or persons designated by the Board of County Commissioners as special county enforcement officers.

PART THREE: PENALTIES

1. Any person who violates paragraphs (1) through (9) of Part Two shall be guilty of a class 2 petty offense and upon conviction for a first violation thereof shall be punished by a fine of \$50.
2. A subsequent violation of paragraphs (1) through (9) of Part Two by the same person shall also be a class 2 petty offense, but upon conviction for a second offense the violator shall be punished by a fine of \$150.
3. A person who violates paragraphs (1) through (9) of Part Two for a third time or more shall, upon conviction, be punished by a fine of \$300 for each such violation and no portion of such fine may be waived or suspended by the sentencing judge.
4. The penalty assessment procedure set forth in §16-2-201, C.R.S., shall be followed for any violation of paragraphs (1) through (9) of Part Two of this Ordinance. The penalty assessment notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge in the county court for Custer County at a specified date and time, and any other matter reasonably adapted to the effectuation of this Ordinance. A duplicate copy shall be sent to the clerk of the county court.
5. A person who is charged with and convicted of violating a traffic ordinance as set forth in paragraph 10 of Part Two shall be punished with a fine as specified in the fine schedule set forth in §42-4-1701 and §42-4-1703, C.R.S., and §42-4-1708 to 42-4-1718, C.R.S., except that the fine or penalty for a violation charged and the surcharge thereon if authorized by county ordinance shall be paid to the County Treasurer.
6. If the person given a penalty assessment notice chooses to acknowledge his guilt, he may pay the specified fine in person or by mail to the County Treasurer within 20 days from the date of issuance of the penalty assessment notice. If he chooses not to acknowledge his guilt, he shall appear in county court as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he is found guilty. Customary court costs may be assessed against him in addition to the fine.
7. All revenues received by the County Treasurer for fines imposed and collected pursuant to this ordinance shall be allocated as follows: 80% to the county sheriff; 20% to the county road and bridge department. For the first year this ordinance is in effect, the county sheriff shall allocate and set aside not less than 20% of any such revenues received from fines collected pursuant to this ordinance for the purpose of informing and educating the public regarding the existence of this ordinance and explaining what operations of an off-highway vehicle are allowed and what operations are not allowed on the public roadways of this county.

PART FOUR

Effective Date: This Ordinance shall be effective immediately following adoption on second reading and shall apply to off-Highway vehicle violations occurring or committed on or after said date.

INTRODUCED, READ AND ADOPTED ON FIRST READING ON THE 7th DAY OF APRIL, 2015, AND ORDERED PUBLISHED IN THE SANGRE DE CRISTO SENTINEL.

The Board of County Commissioners for Custer County, State of Colorado

Christopher L. (Kit) Shy, Chairman

ATTEST: Debbie Livengood, County Clerk and Recorder

ADOPTED ON SECOND AND FINAL READING ON THE 30th DAY OF APRIL, 2015, AND ORDERED PUBLISHED BY REFERENCE TO TITLE ONLY IN THE SANGRE DE CRISTO SENTINEL.

The Board of County Commissioners for Custer County, State of Colorado

Christopher L. (Kit) Shy, Chairman

ATTEST: Debbie Livengood, County Clerk and Recorder

The BOCC recessed at 10:30 AM.

The BOCC reconvened at 10:40 AM.

Peggy Collins, founder of Family Matters to Custer County addressed the BOCC and gave an update. She said that she is currently enlisting the restaurants in the towns to provide peanut butter and jelly sandwiches to our children in need. She said that vouchers will be distributed at the school. Those vouchers will enable a child or student to visit a participating restaurant for a sandwich free of charge. Commissioner Attebery encouraged Ms. Collins to contact the Work Force Youth Program with UAACOG for possible financial assistance and work placement with the program. Commissioner Kattnig will research the option.

Commissioner Kattnig asked for the status on the District Attorneys (DA) recent request for a supplemental budget increase from the four participating counties in the Eleventh Judicial District. Commissioner Shy said that the request was approved by one participating county and that the other three counties declined the budget increase request for the remainder of 2015. The DA's request may be included and considered in the 2016 budget hearings.

Commissioner Shy said that Gary Lawson had passed away and asked for a moment of silence.

Commissioner Shy asked if there was any more business to discuss. Hearing none, he adjourned the meeting at 11:05 AM.

Debbie Livengood, Clerk and Recorder
Attest

Christopher L. (Kit) Shy,
Chairman

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