

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, APRIL 7, 2009**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COMMISSIONERS BOARDROOM WITH THE FOLLOWING MEMBERS PRESENT:

Lynn Attebery	Chairman
Jim Austin	Vice-Chairman
Carole Custer	Commissioner
Kris Lang	Deputy Clerk to the Board

Also present was Nora Drenner reporter for the Wet Mountain Tribune and several community members.

AGENDA:

- Call meeting to order
- Pledge of allegiance
- Amend agenda
- Approval of Minutes
- County Attorney
- Clerk and Recorder, Debbie Livengood – Meeting Recording System
- Staff Reports
- Office of Emergency Management
- Planning and Zoning
- Treasurer
- Social Services
- CTSI George Tinker

The meeting was called to order at 9:00 AM and the Pledge of Allegiance was recited.

The BOCC met with County Attorney John Naylor and discussed the following items:

- RidgeviewTel Contract for Sugar Loaf Mountain a.k.a. TV Hill.
- Letter issued to Banner & Bower, Legal Representation for Robert Hamilton.
- Legal telephone consult during the technical assistance from DHS, TANF, and Childcare scheduled April 8 and 9 of 2009.
- BOCC Meeting Recording System

Clerk and Recorder, Debbie Livengood requested clarification from County Attorney, John Naylor of her job duty and responsibilities as secretary to the board and archiving the minutes for public access under Colorado Revised Statute. Mr. Naylor replied that the responsibility includes taking of the minutes, preparation of the minutes for board approval and retention of the approved and signed minutes in the official county minute book for public access. Ms. Livengood now has a deputy who is taking and preparing minutes under her direction, however she remains the responsible person for the minutes. Mr. Naylor stated the deputy will forward the approved and signed minutes to her for public retention. He clarified it is the BOCC who approves the written minutes for accuracy and they are responsible for the contents.

Ms. Livengood expressed concern if the recording system and recorded cd's are done away with the previous action only minutes would not be adequate for public information. Mr. Naylor responded the written and approved minutes by the board are the official document. He feels the only function of the recordings is a back-up for the preparation of the minutes. He did clarify that previous recordings would remain available to the public. Any BOCC determination on recording and retention of recordings would begin on the date determined and not affect any previous recordings or minutes. Mr. Naylor said he was not concerned that anything was being hidden from the public and the tapes are a good backup. He does not feel it is necessary to have both and that there is nothing legally wrong with getting rid of the recordings.

Lockett Pitman, citizen remarked that he felt the recordings were necessary and should be retained for 5-10 years since the prepared minutes can be an interpretation by the minute taker and the recordings would be available in the event of a discrepancy. County Attorney, John Naylor responded that the recordings themselves can be a matter of interpretation and advised the reviewed, approved and signed minutes by the BOCC are the official document.

Bob Dreher, citizen remarked that in his mind having the recordings available gives credibility in the eyes of the public and supported Lockett Pittman's proposal but felt a one year retention of the recordings was sufficient.

County Attorney, John Naylor stated that the Board is responsible and liable for the minutes they approve as well as the determination of the recordings. Ms. Livengood confirmed that her role and responsibility as BOCC secretary was to produce and provide the public with the documentation forwarded to her by the Board and that any related public inquiries or repercussion would be referred back to the BOCC. The Board and County Attorney were in agreement.

Commissioner Attebery asked Ms. Livengood how the recording system was initiated. She explained that for the past sixteen years she had attended and prepared the BOCC minutes and later assigned Deputy Clerk and Recorder, Kelley Camper to the responsibility. She said approximately two years ago it became very frustrating when the minutes started being returned from the Board with numerous edits and re-writes. She reported she approached the Board with this concern and questioned the purpose of having a deputy clerk spending the time to attend and prepare minutes if they were going to be re-written by the Board. As the result of a telephone conversation among herself, the Board and County Attorney, John Naylor it was decided the minutes would include action only minutes and the meetings would be recorded for public access for additional information. She stated this was how the tape recorder was initiated.

Commissioner Attebery asked Ms. Livengood if she had a preference regarding the recordings. She responded she did not unless the written minute reverted back to basic statements of motions and actions in which case the recordings should remain for clarification

The Board asked the County Attorney for advice. Mr. Naylor responded that executive session recordings are retained for 90 days. The Board agreed retaining recordings of executive sessions and regular sessions for 90 days was appropriate, but will check with the Planning and Zoning Department on their policy regarding recordings before making a final decision.

Ms. Lang, BOCC Administrative Assistant requested confirmation regarding the public request and duplication of recordings prior to the approval of the minutes. Commissioner Attebery responded recordings should not be distributed until the minutes are approved.

Lockett Pitman, citizen advised that the C4 Concerned Citizens of Custer County issued a formal request and recommendation to the BOCC to record their meetings to insure that accurate records are maintained of the proceedings and decisions.

Commissioner Austin said it had been brought to his attention that the March 17, 2009 minutes from the BOCC Joint Meeting with the Wetmore Library Board just listed topics without any explanation or clarification of the discussion. Following advice from the County Attorney the BOCC determined when the Board attends a meeting hosted by another entity that BOCC minutes were not required. The Board could reference the topics discussed at their regular scheduled BOCC meeting, stating for the record that no decisions had been made.

Christe Feldman, Office of Emergency Management met with the BOCC and gave her report. She gave an update on the progress with the Bureau Land Management (BLM) Grant. She advised the Defensible Space and Custer County Wildfire Protection Plan Training is scheduled for April 28, 2009 and will be open to the public with a special invitation to the foresters from John Greive. Ms. Feldman stated the Emergency Management Plan Grant (EMPG) was ready for the BOCC Chairman signature. She presented County Attorney John Naylor with a copy of the grant application for review.

MOTION by Commissioner Attebery, seconded by Commissioner Custer:

To sign the 2009 EMPG/LEMS – Project Award Number 9EM09L15 following the review and approval of the County Attorney. Motion carried unanimously.

Ms. Feldman gave an update on the Homeland Security and Safety Grant. She requested \$28,000 of reimbursable funds from the county general fund to complete the grant process. Commissioner Attebery stated the Board would need to review the county general fund account with the Finance Manager, Finance Director and Treasurer before making a commitment. Ms. Feldman advised the National Incident Management System (NIMS) courses were scheduled on April 22 and 23 of 2009.

The BOCC recessed at 10:40 AM.

The BOCC reconvened at 11:00 AM.

Jackie Hobby, Planning and Zoning Director presented the Sub-Division regulations to the Board and County Attorney.

MOTION by Commissioner Attebery, seconded by Commissioner Custer:

Acknowledging the Planning and Zoning Director turned-over the Sub-Division Regulations dated 2009, March draft to the BOCC and County Attorney for legal review. Motion carried unanimously.

Ms. Jackie Hobby, Planning and Zoning Department (P&ZD) Director met with the BOCC to give her monthly report. Ms. Hobby distributed copies of a notice stating that Governor Ritter signed the carbon monoxide bill and that this legislation requires that carbon monoxide detectors must be placed in dwellings when the property either goes up for sale or has major remodeling that would include a building permit on or after July 1, 2009. Ms. Hobby advised this requirement will be added to the zoning building permits.

Ms. Hobby stated that the P&ZD has received complaints that Janet Flick residing on CR 271 was housing numerous dogs on the property. Ms. Flick had been denied a Special Use Permit (SUP) to operate a public boarding facility, dog day care, grooming business and summer vacation camp for residents and dogs in November of 2005. The P&ZD will follow-up after the inspection from the Colorado Department of Agriculture.

Ms. Hobby reported that the P&ZD had 298 open zoning permit from 2000-2009. Although the majority were closed out; 25 remain open and letters have been sent to the land owners that still have open permits. One permit was a barn for Shirley Lloyd residing on CR 160. During a compliance inspection it was noted that the total square footage was almost double the permitted size. Ms. Lloyd had explained that she encountered a series of problems during construction and requested she be allowed to pay the fees of the size difference at the original cost. Following a brief discussion with the BOCC and County Attorney it was agreed that Ms. Lloyd pay the footage difference at the original fee by June 1, 2009 or the full fee payments after that date.

Ms. Hobby reported that further inspections of the 63 open septic permits required signatures revealed engineer signatures were required. 104 ISDS variances were approved with 10 structures being reviewed. Following a discussion with the BOCC it was determine that all trip charges would be \$75.00. She will revise the permit fee schedule for accessory buildings and present it to the BOCC for approval.

Ms. Hobby outlined proposed protocols for the P&ZD. She stated these measures will provide accurate and up to date records and increase collectable fees. Commissioner Austin thanked Ms. Hobby for her work in bringing her department records up to date.

Virginia Trujillo, County Treasurer and Trustee met with the BOCC and provided her monthly report. Beginning balance on February 29, 2009 was \$4,333,639.49 and ending balance on March 31, 2009 was \$2,478,627.04. The Board addressed the issue of county general pass-thru monies for the Office of Emergency Management Grant and Ms. Trujillo responded this was a routine procedure.

Kit Shy, County Surveyor addressed the BOCC and requested a letter of support for his application to the Bureau of Land Management Regional Advisory Council (BLM/RAC).

MOTION by Commissioner Austin, seconded by Commissioner Attebery:

To issue a letter supporting Kit Shy, County Surveyor for an appointment to the BLM/RAC. Motion carried unanimously.

Laura Lockhart, Social Services Director met with the BOCC and provided her monthly report for January and February. She reported that the state has approved the purchase of freezers and refrigerator for assistance of distributed perishable food. She stated that the equipment is scheduled for delivery in the next five to seven days. Commissioner Attebery stated that an estimate for the required additional electrical work will be forthcoming. Ms. Lockhart reported the request for food stamps throughout the state has increased by 12.2%. She stated that the Custer County Department of Social Service Colorado Works Policy #27 has been revised to include the utilization of Segregated Funding based on statue when the need arises.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To approve and sign the Custer County Department of Social Services Colorado Works Policy #27. Motion carried unanimously.

CUSTER COUNTY DEPARTMENT OF SOCIAL SERVICES
COLORADO WORKS POLICIES

WHEREAS, the Custer County Board of Commissioners acting in their capacity as the Custer County Board of Social Services do hereby approve the established policies for the Colorado Works Program and will amend and revise the established policy as needed:

Lynn Attebery, Chairman Board of County Commissioners

Jim Austin, Member Board of County Commissioners

Carole J. Custer, Ph.D., Member Board of County Commissioners

MOTION BY Commissioner Attebery, seconded by Commissioner Custer:

To recessed for lunch. Motion carried unanimously.

The BOCC recessed for lunch at 12:25 PM.

The BOCC reconvened at 1:30 PM at the Hanssen Haus Resource Center (HHRC).

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To provide copies of the letter issued by County Attorney, John Naylor to Banner & Bower PC regarding Custer County – Hamilton to Mike Halpin and his Attorney, Pete Michaelson. Motion carried unanimously.

George W. Tinker, Colorado Technical Services, Inc. (CTSI) Senior Loss Prevention Specialist met with the BOCC and Human Resource/Finance Director, Dawna Hobby and provided a yearly report. He presented an index of the CTSI Loss Prevention Film Library; a schedule of the Loss Prevention Training Classes and County Loss Summaries by Division, Department, Accident and Workman's Compensation Pool. Mr. Tinker gave a report on his preliminary inspection of the HHRC. He acknowledged that the facility is in the process of renovation but noted the following as not being up to code: exterior grounds and public access to the facility and the interior electrical system.

MOTION by Commissioner Austin, seconded by Commissioner Attebery:

To adjourn the meeting. Motion carried unanimously.

The meeting was adjourned at 2:45 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery
Chair