

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, AUGUST 24, 2011**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION AT THE SAN ISABEL RESTAURANT/LODGE IN SAN ISABEL, COLORADO.

Commissioner Lynn Attebery called the meeting to order at 12:00 PM and the Pledge of Allegiance was recited.

Roll Call was taken:

Lynn Attebery	Chairman	Present
Jim Austin	Vice-Chairman	Present
Allen Butler	Commissioner	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present was: Charles Bogel, Jim Carthel, Kevin Day, Misty DeSalvo, Gloria Gutierrez, Dave Harmon, Larry Haynes, Jackie Hobby, Doug Rickman, Dave Trujillo and Robin Young.

AGENDA:

Call meeting to order

Pledge of allegiance

Roll Call

Amend agenda

Approval of minutes: 7/29/11, 8/1/11, 8/2/11, 8/8/11

Audience introduction

Public Comment

Old/New Business

Chaffee Connect Broadband Initiative – Robin Young

Recycling Center correspondence request for funding

Angel of Shavano Recycling Agreement

USFS (report) - Carl Bauer

County Road #370, 377, 378 (discussion)

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To accept the posted agenda. The motion carried unanimously.

Commissioner Austin expressed concern regarding the Boards approval of the minutes from the Special Meeting on August 8, 2011. He remarked that the minutes did not include the specific statements made by Don Banner, Attorney at Law and Legal Representation for Robert Hamilton. He said that in the event of any legal conflict those statements should be part of the minutes. Commissioner Austin reported that a separate verbatim transcription has been prepared and recommended that it be included as part of the record.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To approve the minutes of July 29, August 1, August 2, and August 8, of 2011 as presented. The transcription will be retained as part of the record for the August 8, 2011 BOCC meeting. The motion carried unanimously.

Commissioner Attebery asked if there were any public comments. Jim Carthel expressed concern regarding the lot line inconsistencies and discrepancies along with the county roads in the San Isabel area. Doug Rickman and Dave Harmon agreed. Commissioner Attebery responded that discussion regarding the county roads was a scheduled agenda item and that Jackie Hobby, the Planning and Zoning Director would address the lot lines later in the meeting.

Gloria Gutierrez, Regional Representative for Senator Mark Udall’s office reported that the Senator’s office has completed a resolution of appreciation to the fire fighters for their efforts during the recent wildfires in the county. She said the office has prepared a letter of support for the grant application being submitted by the Wet Mountain Fire Protection District.

Charles Bogel, Chairman of the Custer County Veterans Cemetery Committee reported that the committee is actively campaigning with the Veterans Headquarters in Washington, D.C. and the Colorado Governors Bottom Up Economic Development program. He said the purpose of the campaigning is to secure a state veterans cemetery site in Custer County.

MOTION by Commissioner Butler, seconded by Commissioner Austin:
To adopt Resolution #11-11 as presented. The motion carried unanimously.

**CUSTER COUNTY RESOLUTION
RESOLUTION NO. 11-11**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO TO LIFT THE OPEN BURNING BAN IN THE UNINCORPORATED PORTIONS OF THE COUNTY.

WHEREAS, the Sheriff and Fire Chief throughout the County have advised the Board of County Commissioners of Custer County that the weather conditions and recent rainfall have mitigated the threat of fire in forests and grasslands of Custer County; and,

WHEREAS, the Board of County Commissioners finds that, based upon competent evidence, the danger of wild fires within Custer County has sufficiently subsided and a fire danger emergency does not now exist within the unincorporated area of Custer County; NOW

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO, that the Custer County Sheriff/Fire Warden reinstated the fire Ban beginning August 17, 2011.

1. Resolution #11-04, barring open fires is hereby rescinded and replaced by this resolution now before us.
2. Open fires in rural areas will be permitted from this date until such time as future conditions may again require an open fire ban.
3. Any persons engaging in open burning shall notify the Custer County Sheriff at 783-2270 or the Wet Mountain Fire Protection District at 783-9245 prior to any open burning.

CUSTER COUNTY BOARD OF COMMISSIONERS

RESOLVED, ADOPTED AND SIGNED THIS 24th DAY OF AUGUST, 2011, AT CUSTER COUNTY, COLORADO.

SIGNED:

CUSTER COUNTY BOARD OF COMMISSIONERS:

Lynn Attebery

Jim Austin

Allen Butler

Chairman

Vice-Chair

Commissioner

Debbie Livengood, Clerk and Recorder

Attest

MOTION by Commissioner Austin, seconded by Commissioner Attebery:
To adopt Resolution #11-12 as presented. The motion carried unanimously.

CUSTER COUNTY RESOLUTION
RESOLUTION NO. 11-11

WHEREAS, the Board of County Commissioners at a regular meeting held on the 29th day of December 2010 accepted the recommendation of the Planning Commission to approve a Special Use Permit for Sangre de Cristo Electric Association for the installation of a sub-station on a two acre parcel adjacent to the Custer County Landfill; and

WHEREAS, in discussions with Sangre de Cristo Electric Association and the county, it has been agreed that the installation of a sub-station on county property adjacent to the landfill would be a benefit to the county and allow the county to obtain electric service at the landfill and the sub-station will provide an advantage to the Sangre de Cristo Electric Association to better serve their customers; and

WHEREAS, the county feels it is appropriate to convey a two acre parcel to the Sangre de Cristo Electric Association so that they can construct their sub-station on a parcel, more particularly described in Exhibit A attached hereto;

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Custer County, State of Colorado that Lynn Attebery, Chairman of this Board is here by appointed Commissioner to convey in the name of and as the act and deed of said County the real property described herein.

Dated at Westcliffe, Colorado this 9th day of August, 2011

BOARD OF COUNTY COMMISSIONERS

Lynn Attebery, Chairman

ATTEST

Custer County Clerk and Recorder

This copy is a certified copy of the proceedings held before the Board of County Commissioners of Custer County, Colorado on December 29, 2010.

Custer County Clerk and Recorder

EXHIBIT A

A PARCEL OF LAND IN U.S. GOVERNMENT LOT NO. 4 (AKA THE NORTHWEST ¼ OF THE NORTHWEST ¼) OF SECTION 2, TOWNSHIP 23 SOUTH, RANGE 72 WEST OF THE 6TH P.M., CUSTER COUNTY, COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID U.S. GOVERNMENT LOT NO. 4 IN SECTION 2, DESCRIBED AS BEING MONUMENTED WITH A ¾" REBAR WITH AN ALUMINUM CAP BY COLORADO P.L.S. NO. 19883. THENCE ON AN ASSUMED BEARING OF S. 89 15'55" E ON THE NORTH LINE THEREOF, FOR A DISTANCE OF 1360.62' TO THE NORTHEAST CORNER THEREOF, DESCRIBED AS BEING MONUMENTED WITH A ¾" REBAR WITH A 2.5" ALUMINUM CAP BY COLORADO P.L.S. NO 19883. THENCE S 03 00'45" W, ON THE EAST LINE THEREOF, FOR A DISTANCE OF 586.79' TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND, THENCE ON THE FOLLOWING 5 COURSES:

- 1) S 03 00'45" W A DISTANCE OF 213.36';
- 2) N 66 22'28" W A DISTANCE OF 475.86';
- 3) N 24 24'54" E A DISTANCE OF 199.71' TO INTERSECT THE SOUTHERLY RIGHT OF WAY LINE FOR CUSTER COUNTY ROAD NO. 320. THE NEXT 2 COURSES SHALL BE ON SAID SOUTHERLY RIGHT OF WAY LINE;
- 4) S 66 20'27" E A DISTANCE OF 183.09';
- 5) S 66 24'11" E A DISTANCE OF 214.90' TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND CONTAINING 2.00 ACRES MORE OR LESS.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To approve the Deed of County as presented. The motion carried unanimously.

DEED OF COUNTY

THIS DEED by and between Custer County in the State of Colorado, by Lynn Attebery, Commissioner duly appointed by the County Commissioners of Custer County to convey the herein described property and to affix to the conveyance thereof the seal of said County, herein called "grantor" and Sangre de Cristo Electric Association, whose address is 29780 North U.S. Highway 24, Buena Vista, Colorado 81211, herein called the "grantee"; WITNESSETH THAT WHEREAS, the Board of County Commissioners of said Custer county did duly adopt the following resolution and order which was entered of record among the proceedings of said Board, to-wit: BE IT RESOLVED AND ORDERED, by the Board of County Commissioners of Custer County, in the State of Colorado, that Lynn Attebery, Chairman of this Board, is hereby appointed Commissioner to sell and convey, in the name of and as the act and deed of said Custer County, the following described real estate situated in Custer County, Colorado; to-wit: See attached Exhibit A. NOW, THEREFORE, pursuant to and in accordance with said resolution and order and for a valuable consideration, the grantor hereby conveys to the grantee the following described property situate in the County of Custer and State of Colorado, to-wit: See attached Exhibit A. With all its appurtenances. Signed this 24th day of August 2011. Custer County, State of Colorado. Lynn Attebery, Commissioner to sell and convey said real estate. The foregoing instrument was acknowledged before me this 24th day of August, 2011, by Lynn Attebery, as commissioner to sell and convey the real estate described in the foregoing Deed and to affix to the conveyance thereof the seal of Custer County, State of Colorado, duly appointed by the Board of Commissioners of said Custer County. Witness my hand an official seal: Debbie Livengood, County Clerk, Custer County, Colorado. State of Colorado County of Custer I, Debbie Livengood, County Clerk of Custer County, State of Colorado, hereby certify that the resolution and order recited in the foregoing deed was duly adopted by the Board of County Commissioners of Custer County, Colorado, at a regular meeting of said Board on the 29th day of December, 2010, and was duly entered of record among the proceedings of said Board. Witness my hand an official seal: Debbie Livengood, County Clerk, Custer County, Colorado.

Robin Young, Colorado State University Extension Agent presented the Custer County Broadband Initiative. She said that the purpose of the presentation was to obtain BOCC support and approval to undertake and participate with Region 13 to evaluate bringing cost effective, very high speed broadband internet service to Custer County. Charles Bogel said the passage of the American Recovery and Reinvestment Act (ARRA) has created a new sense of urgency around spurring board band deployment and adoption. He said given Colorado's ongoing broadband initiative our county is well positioned to make the most of this opportunity. He encouraged the BOCC to support a feasibility funding study. Mr. Bogel gave special thanks to Dale Mullen for his efforts and support of the broadband initiative.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To move forward with the preparation of a feasibility study and participate with Region 13 to evaluate bringing cost effective, high speed broadband internet service to Custer County. The motion carried unanimously.

Misty DeSalvo, Realty Specialist/Water Rights Coordinator for the Pike and San Isabel National Forest introduced herself to those present. She said that Paul Crespin and Carl Bauer of the U.S. Forest Service were attending a leadership team meeting and would not be present.

Ms. DeSalvo said for the first time Lake Isabel is being regulated in accordance with the Colorado Water Law. She stated that in October 2010 the forest service was ordered by the State Engineer's Office to make up the evaporative loss from storing the water, estimated at 50 acre-feet annually. She remarked that this year gauges are being checked daily and water released from the dam gate regularly. She said we've never had to operate the lake like this before, but now we have to bypass all inflows so we are not storing out of priority. Ms. DeSalvo reported that the forest service was able to lease water in some years, it could not find any this year. The water released from the lake will be adjusted to whatever flows are coming into the lake. Some water also has been released to satisfy downstream water rights. As a result, the lake level will continue to drop as water evaporates.

Commissioner Attebery remarked that County Road #370, #377 and #378 are in the San Isabel area of the county. He said that from time to time the status of these roads have been a cause of concern. Dave Trujillo, Road and Bridge Supervisor reported that his research did not provide any definite documentation on the specific ownership on portions of the roads being discussed. He remarked that every year the same concerns are expressed and he did not feel the county, more specifically the road and bridge departments should be involved in civil disagreements or actions among the property owners in the area. He outlined the general specifications for the Custer County Roads and the Custer County's Snow Removal Procedures. He explained that the county cannot make any improvements outside the eighteen foot easement. He said that his main concern is the 1.48 miles that the county is responsible for. Larry Haynes and Kevin Day, of the Wetmore Road and Bridge Department said they were in attendance to obtain clarification regarding their responsibility for the road maintenance. The Board agreed to continue with the road maintenance and snow plowing as previously provided.

Jackie Hobby, Planning and Zoning Director asked that the property owners in the San Isabel area to exercise understanding and patience regarding the lot line discrepancies. She said that she understood the concerns. She remarked that the corrections and revisions for the inaccurate property lines will be a tedious and lengthy process. She said that it is a federal offense to move or remove any surveyor pins from properties. Ms. Hobby said the planning and zoning department will work cooperatively with all adjoining property owners to correct and resolve any lot line discrepancies. She reminded those present that the mapping of the area was done many years ago without the aide of today's technology and accuracy.

Commissioner Attebery asked if the San Isabel residents would be interested in adding another BOCC meeting in the area each year. Those present were in favor of the addition.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To schedule two BOCC meetings for the San Isabel area in the year 2012. The motion carried unanimously.

Commissioner Attebery said the courthouse custodian will be leaving on August 31, 2011. The BOCC signed correspondence prepared in recognition for the years of service.

Commissioner Attebery advised that the Recovered Materials Purchase Agreement between the Custer County Recycling Center and Angel of Shavano Recycling, LLC still required several revisions before the BOCC would approve and sign the agreement.

Commissioner Austin said that the Recycling Committee has asked that the BOCC to prepare a letter requesting funding from the Sangre de Cristo Electric Association to complete the stucco on the recycling building. He said an approximate \$1200.00 was needed. Commissioner Attebery said that he did not support the preparation of a funding request on county letterhead and signed by the BOCC. Commissioner Butler agreed.

Commissioner Austin proposed that the BOCC prepare a letter to High Country Recycling supporting them in their endeavor to secure funding for the completion of the recycling building.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve a correspondence issued to High Country Recycling supporting their efforts to secure additional funding for the completion of the recycling building. The motion carried unanimously.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 1:55 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery
Chairman