

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, NOVEMBER 18, 2008**

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

Kit Shy	Chairman
Dick Downey	Vice-Chairman
Carole Custer	Commissioner
Kris Lang	Deputy Clerk to the Board

Also present was Nora Drenner, reporter for the Wet Mountain Tribune and commissioner elect; Jim Austin and Lynn Attebery along with several community members.

AGENDA

8:30 AM Call meeting to order
Pledge of Allegiance
Request for authorization from the Office of the District Attorney to spend \$25,000 of the DA Fund Balance toward settlement of Civil Lawsuit in Cooperation with CTSI.
John Naylor – County Attorney
Telephone Request from Dale Christiansen regarding CR 341 Deeds for the Golden Arrow Valley Lots
Citizen request for submitting a noise ordinance request
Old Business:
Kathy Reis will remain on the UAACOG Recycling Board in 2009 representing the Town of Westcliffe.
Kathy Reis provided a written request to remain the County representative for UAACOG-Enterprise Zone and Loan Program for 2009.

9:30 AM Representatives for Club America - Grant Application

10:00 AM Christe Feldman – Office of Emergency Management Report

10:30 AM Karen Crumbaker –CSU Extension Director
Budget Amendment Request

10:45 AM Board Administrative Assistant Report

11:00 AM Jackie Hobby – Planning and Zoning Report
Adriane Miles requested copy of the BOCC Minutes this date with regards to the P&Z Report.

1:00 PM PUBLIC HEARING
Silver Cliff Affordable Housing Rentals
Upper Area Arkansas Council of Governments
Sharon McKinsey - UAACOG

2:30 PM Joint session with Planning Commission

The meeting was called to order at 8:35 AM and the Pledge of Allegiance was recited

Commissioner Downey presented a request from the Office of the District Attorney Molly Chilson, District Attorney. Eleventh Judicial District is requesting authorization to spend \$25,000 of the DA Fund Balance Toward Settlement of a Civil Lawsuit in Cooperation with Colorado Technical Service Inc., (CTSI). Commissioner Downey explained that written authorization was required from each Board of Commissioners in Chaffee County, Custer County, Fremont County and Park County.

MOTION by Commissioner Custer, seconded by Commissioner Downey:

To authorize Molly Chilson, District Attorney of Eleventh Judicial District to spend \$25,000 of the DA Fund Balance in reference to: Hutcheson v. Chilson, United States District Court, Denver, Case No. 08CV135. The motion carried unanimously.

The Board instructed administrative assistant, Kris Lang to immediately fax the signed authorization to Ms. Chilson.

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

- Completion of the Canda Property Easement
- County Road 341 Update
- Golden Arrow Valley Subdivision Resolutions and Deeds
- Custer County Weed Management and Implementation Plan

Action:

The Board signed the letters prepared for Mr. Roy L. Masinton of the Bureau of Land Management and concerned citizens Mr. Dennis and Mrs. Shirley Crow, Mr. Dale A. Christiansen and Mr. Charles and Mrs. Roberta Camper regarding County Road #341.

Action:

Resolutions adopted on November 6, 2008. County Attorney will prepare the related property deeds.

CUSTER COUNTY RESOLUTION

08-11

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CUSTER, STATE OF COLORADO.

WHEREAS, the Board of County Commissioners offered for sale to adjoining land owners By closed bid to the highest bidder a plot of land in the Golden Arrow Valley Subdivision, Westcliffe, Colorado; and

WHEREAS, said lot would not be needed for governmental purposes; and

WHEREAS, bids were received and were publicly opened on October 21, 2008, during a regular meeting of the Board of County Commissioners; and

WHEREAS, Rosella Haynes submitted a bid of \$300.00, which bid was the highest and best bid for said Lot 19, Block 1.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County, State of Colorado, that Christopher L. (Kit) Shy, Chairman of the Board, is hereby appointed Commissioner to convey in the name of and as the act and deed of said Custer County the following described property situate in Custer County, Colorado, to-wit:

to Rosella Haynes.

This Resolution is adopted with the understanding that all original lot lines be vacated into a composite parcel.

Dated at Westcliffe, Colorado, this 5th day of November 2008.

SIGNED:

CUSTER COUNTY BOARD OF COMMISSIONERS

Christopher L. (Kit) Shy

Chair

Attest:

Debbie Livengood

Clerk and Recorder

CUSTER COUNTY RESOLUTION

08-12

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CUSTER, STATE OF COLORADO.

WHEREAS, the Board of County Commissioners offered for sale to adjoining land owners by closed bid to the highest bidder a plot of land in the Golden Arrow Valley Subdivision, Westcliffe, Colorado; and

WHEREAS, said lot would not be needed for governmental purposes; and

WHEREAS, bids were received and were publicly opened on October 21, 2008, during a regular meeting of the Board of County Commissioners; and

WHEREAS, Marla J. Birney submitted a bid of \$400.00, which bid was the highest and best bid for said Lot 2, Block 8.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County, State of Colorado, that Christopher L. (Kit) Shy, Chairman of the Board, is hereby appointed Commissioner to convey in the name of and as the act and deed of said Custer County the following described property situate in Custer County, Colorado, to-wit: to Marla J. Birney.

This Resolution is adopted with the understanding that all original lot lines be vacated into a composite parcel.

Dated at Westcliffe, Colorado, this 5th day of November 2008.

SIGNED:

CUSTER COUNTY BOARD OF COMMISSIONERS

Christopher L. (Kit) Shy

Chairman

Attest:

Debbie Livengood

Clerk and Recorder

CUSTER COUNTY RESOLUTION

08-13

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CUSTER, STATE OF COLORADO.

WHEREAS, the Board of County Commissioners offered for sale to adjoining land downers by closed bid to the highest bidder a plot of land in the Golden Arrow Valley Subdivision, Westcliffe, Colorado; and

WHEREAS, said lot would not be needed for governmental purposes; and

WHEREAS, bids were received and were publicly opened on October 21, 2008, during a regular meeting of the Board of County Commissioners; and

WHEREAS, Rickey D. Morrison submitted the following bids:

\$2062.10 for said Lot 12A Block 9

\$ 402.10 for said Lot 14 Block 9

\$2302.10 for said Lot 7A Block 8

\$3212.10 for said Lot 14A Block 10

\$ 301.10 for said Lot 15 Block 11

\$3212.10 for said Lot 4A Block 10

The bids were the highest and best bid for the said Lots with \$1000.00 bonus.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County, State of Colorado, that Christopher L. (Kit) Shy, Chairman of the Board, is hereby appointed Commissioner to convey in the name of and as the act and deed of said Custer County the following described property situate in Custer County, Colorado, to-wit: to Rickey D. Morrison.

This Resolution is adopted with the understanding that all original lot lines be vacated into a composite parcel.

Dated at Westcliffe, Colorado, this 5th day of November 2008.

SIGNED:

CUSTER COUNTY BOARD OF COMMISSIONERS

Christopher L. (Kit) Shy

Chairman

Attest:

Debbie Livengood

Clerk and Recorder

Commissioner Shy requested advice from the County Attorney regarding Round Mountain Water and the role of the Board of County Commissioners (BOCC). He said several citizens have approached him with inquiries regarding the BOCC authority. County Attorney, John Naylor responded the BOCC would not be required to intercede unless the Round Mountain Water Board dissolved without replacement within the specific time allotted by the statute or if the situation proposed a public interruption of water and or sewer services. Commissioner Custer asked reporter Nora Drenner if she could please put together an article for the Wet. Mountain Tribune educating and informing the public that Round Mountain Water is a separate entity and not under the direction or jurisdiction of the Board of County Commissioners.

Kris Lang stated property owner Carlen Graumann had requested information from the BOCC regarding the submission and initiation of a Custer county noise ordinance. Following a brief discussion the Board instructed Ms. Lang to contact Ms. Graumann and provide her with resources primarily Colorado Counties Inc. and Colorado Revised Statute. Kris Lang reported that Westcliffe Town Clerk, Kathy Reis submitted an e-mail request for consideration to represent the County on the UAACOG-Enterprise Zone Loan program in 2009. Following a brief discussion the Board accepted Ms. Reis request as a letter of intent to be added to the January 13, 2009 agenda. Ms. Lang reported the business cards and stationary for the commissioners elect have been ordered from Crestone Graphics. She requested clarification and confirmation of her official title for her business cards. Following a brief discussion with Clerk and Recorder, Debbie Livengood and the County Attorney, the Board determined the title would be Administrative Assistant.

Debbie Livengood, Clerk and Recorder gave the Board an update on lodging taxes. She has been in contact with the Department of Revenue and stated she can now run individual reports for sales tax and lodging taxes. She explained the Clerk and Recorder's office has the authority to contact businesses and owners, however if they do not respond to the contact, the information will be forwarded to the Department of Revenue for collection. Ms. Livengood advised the lodging tax collected for the month of November was \$7200.

Commissioner Downey questioned the County's liability regarding the pending Horn Creek bond issue and County Attorney, John Naylor responded the County does not have any liability in this regard.

Steve Willman and Bob Tobin representing Club America submitted informational packets on behalf of Custer 2020 dba Club America WMV in an effort to retain Club America as a community asset. Documentation included: recent history of the property and operation, history of Custer 2020, Board of Directors of Custer 2020, lease, feasibility, cash flow projection, yearly income and expense estimate, Club American WMV organization, list of volunteers, property description, inventory of personal property, description of programs, lifeguard program, brochure and insurance coverage. Mr. Willman advised Club America is seeking a DOLA grant for acquisition of the facility and requested letters of support from the BOCC. He said they are actively pursuing additional members and thanked the Board for authorizing the enclosure of the Club America brochures and survey with the county employee pay checks referencing wellness insurance coverage. He reported they were meeting with the Wet Mountain Valley Clinic to request a public entity title acceptance as required by DOLA. Commissioner Custer requested a copy of an executive summary of the grant to review so that would enable the Board could prepare an appropriate letter of support.

The Board recessed at 9:50AM.

The Board reconvened at 10:05 AM.

Christe Feldman, Office of Emergency Management met with the BOCC and gave her monthly report. She reported on Public Safety Interoperable Communications, Community Emergency Response Team/Training, Bureau of Land Management Fire Mitigation Grant, Emergency Management Program Grant, Pre-Disaster Mitigation Plan and the Homeland Security Grant. Ms. Feldman presented the Emergency Management Performance Grant Program Planned Activities.

Citizen, Roberta Camper addressed the Board with concerns regarding the cattle grazing and the opening of County Road #341. She requested that the first gate south of State Highway 96 remain installed. Following a brief discussion the Board agreed to let that gate remain as long as there is no lock on the gate at any time and instructed administrative assistant, Kris Lang to prepare revised correspondence to Roy Masinton, Bureau of Land Management in this regard with copies forwarded to Mr. Dennis and Mrs. Shirley Crow, Mr. Dale A. Christiansen and Mr. Charles and Mrs. Roberta Camper.

MOTION by Commissioner Shy, seconded by Commissioner Downey:

The letter prepared on November 5, 2008 from the Custer County Attorney be revised to state that the first gate south of State Highway 96 on CR 341 can remain but the lock be removed and that BLM will be responsible for the appropriate signage. Motion carried unanimously.

Karen Crumbaker, CSU Extension Director requested that the Board re-appropriate the \$500 in the Extension communication line item that was removed from the 2009 budget. She explained this reduction would mean that the monthly newsletters would only be published every other month and expressed concerns that upcoming 4-H and other Extension activities could not be reported in a timely manner.

MOTION by Commissioner Custer, seconded by Commissioner Downey:

To amend the Extension Office budget to include \$500 for the publication of a monthly newsletter. Each newsletter will include a reference to accessing the website for the most current calendar information. Motion carried unanimously.

Jackie Hobby, Planning and Zoning Office Director gave the BOCC her monthly report. She distributed copies of the Humbolt Peak paperwork completed by Mr. Snyder. She distributed a copy of the zoning permit application for a dwelling or structure intended for human habitation submitted by Matt Miles. She explained that Mr. Miles purchased the property at 54343 Highway #69 and there is a discrepancy regarding the zone boundary lines. Zone 4 allows five acre parcels and Zone 1 allows eighty acre parcels and there is no legal description available and no way to identify the zone boundary lines. The sketch plan of the proposed parcel reflects a portion of the SW Quarter of Section 4. Following a lengthy discussion with Planning and Zoning Director, Jackie Hobby, County Attorney John Naylor and Real Estate representative Bob Senderhauf the Board instructed Ms. Hobby to contact Mr. Miles for a clarification of a specific description of acreage submitted on the building permit. Commissioner Shy suggested Ms. Hobby address the Planning Commission on the zoning boundary lines in this regard.

Ms. Hobby requested clarification on participation of the County in the 211 program. Following a brief discussion the Board determined that Ms. French's participation during planning and zoning work hours would need to be approved by Ms. Hobby and the 2-1-1 duties should not interfere with the functions of the P&Z office. Ms. French would continue to receive the \$100 monthly compensation for being the County 2-1-1 Representative previously authorized, however reimbursed meetings, mileage and lodging from the commissioner's budget would be reviewed and authorized by the BOCC on a case by case basis.

Ms. Hobby advised that Ted Lively took the homeowner test and passed to install his vault system at their property in San Isabel and is now requesting inspection. Mr. Lively resides out of state and is requesting the inspection be completed without him being present. Following a brief discussion the Board approved Ms. Hobby to inspect the vault with the Mr. Lively through phone communication during the inspection. She advised Lawrence M. & Gladys A. Broll Trust have postponed their variance request for a special use permit pending review and investigation of the Wakefield Hills subdivision covenants. She forwarded a letter received from the Law Offices of Belveal Eigel & Rumans, LLC representing Bill and Pamm Knoth to County Attorney, John Naylor and reported zoning non-compliance letters were issued to Jake and Fannie Yoder, John and Marci Wommack and Kenneth Green and Annie Moran, and Fred Schmidt.

Ms. Hobby reported 12 septic permits and 19 zoning permits were issued during the month of October, 2008.

The BOCC requested a list of the licensed septic contractors for their review and records.

Ms. Hobby advised the cost of the geological well survey for next year is \$7,170 and said that Ken Watts from U.S. Geological Survey will make a presentation to the Board at a later date. The Board agreed to sign the USGS contract.

MOTION by Commissioner Downey, seconded by Commissioner Custer:
Recess for lunch. Motion carried unanimously.

The BOCC recessed for lunch at 12:00 PM. The BOCC reconvened at 1:00 PM.

Commissioner Shy closed regular session and opened the Public Hearing.

PUBLIC HEARING
SILVER CLIFF AFFORDABLE HOUSING RENTAL
NOVEMBER 18, 2008 1:00 PM

Sharon McKinsey, UAACG Regional Housing Development Director presented the Silver Cliff Affordable Housing Rental Project. She advised the project would include sixteen (16) affordable rental units located in Silver Cliff, Lots 1-16. The buildings will be of modular construction with eight (8) three-bedroom single family homes and four duplexes (one and two bedroom). She introduced Bill Simpson and Maryann Webb and Mr. Simpson stated that the reason for this public hearing is that it is a requirement as part of the application process to receive funds. He provided a detailed explanation outlining the projects time table, type of building materials to be used, the appropriate inspections required along with plan, occupancy rate, covenants, restrictions and a financial and investor report.

Several community members were present and expressed concerns regarding the costs, maintenance and occupancy of the project.

Commissioner Shy asked if the project provided budget allowances for roads, crushed gravel and sidewalks. Mr. Simpson responded the road and sidewalk plans were in agreement with the Town of Silver Cliff regulations.

Commissioner Custer inquired whether Section 8 Housing was a requirement for occupancy. Mr. Simpson responded that it was not. She asked Mr. Simpson to outline for the audience the guidelines for monitoring the project and what protocol would be in place regarding any illegal activity conducted in the rental units. Mr. Simpson explained that all applicants would be required to participate in appropriate background checks and that the project would provide an on site manager to monitor and maintain the housing project. The renters not complying with the rules would be evicted.

Commissioner Shy closed the Public Hearing and returned to regular session.

Commissioner Custer made a motion, seconded by Commissioner Shy, to go into Executive Session. Motion carried unanimously. Commissioner Shy cited C.R.S. 24-6-402 (4) (f) regarding an on-going personnel matter. Motion carried unanimously.

The BOCC went into Executive Session at 1:50 PM. Those present were Commissioner Shy, Commissioner Downey, Commissioner Custer, County Attorney John Naylor, Commissioner Elect, Jim Austin, Administrative Assistant Kris Lang and tele-conference with the County Technical Service, Inc., Human Resource Representative Cynthia Barnes.

Commissioner Shy made a motion, seconded by Commissioner Downey, to go back into regular session. Motion carried unanimously.

The BOCC came out of Executive Session at 2:35 PM. No decisions were made.

The BOCC recessed at 2:40 PM.

The BOCC reconvened at 3:55 PM.

Sharon McKinsey, UAACOG Regional Housing Director reviewed the grant application and attachments. She stated the grant application was in the amount of \$238,000. She explained HUD allocates CDBG grant dollars to the State of Colorado and the State distributes the funds. Ms. McKinsey requested BOCC approval to continue with the grant application.

MOTION by Commissioner Downey, seconded by Commissioner Custer:
Authorizing Sharon McKinsey to proceed with the grant application process pending review approval of the County Attorney, John Naylor. Motion carried unanimously.

Commissioner Shy instructed Administrative Assistant, Kris Lang to prepare a letter of authorization for Sharon McKinsey in this regard.

MOTION by Commissioner Custer, seconded by Commissioner Downey:
To adjourn the meeting. Motion carried unanimously.

The meeting was adjourned at 4:20 PM.

