

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, MAY 13, 2009**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COMMISSIONERS ROOM 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: March 30, 31; April 6, 7 and 15 of 2009
Old Business:
Zoning
Landfill employee additional responsibility
Scales
BOCC meetings scheduled in the courtroom for 2009
BOCC meetings - conduct/protocol
John Piquette/Dawna Hobby
- Finance
Debbie Livengood, Clerk and Recorder
- Transfer of Funds
Karen Crumbaker – CSU Extension Director
Economic Development Steering Committee
Tim Harris – CDOT
Angie Drumm – CDOT
Gilbert Ortiz - CDOT
Charter for the Custer County/County Wide Energy Saving Project
6:30 PM PUBLIC HEARING
Non-motorized path along highway 69

The meeting was called to order at 3:30 PM and the Pledge of Allegiance was recited.

MOTION by Commissioner Austin, seconded by Commissioner Attebery:

To accept the agenda as posted. Motion carried unanimously.

Jackie Hobby, Planning and Zoning Director met with the Board and reported that Bill Dodder had purchased two building and two septic permits that expired in May of 2008. She explained Mr. Dodder had encountered financial difficulties with previous contractors and was not able to complete the project. He is requesting financial relief on the permits to continue construction.

MOTION by Commissioner Austin, seconded by Commissioner Custer:

Authorizing Bill Dodder a one-time exception of a 50% financial relief for the permits to continue construction. Motion carried unanimously.

Ms. Hobby advised she received Complaint #090402 from the Colorado Department of Public Health and Environment Hazardous Materials and Waste Management Division concerning Green Leaf Forestry at 1500 Rosita Road, Westcliffe, CO. The complainant stated the facility has outhouses for restrooms that have not been maintained in more than a year and that other unsanitary conditions exist at the facility. Ms. Hobby reported she and Donna McDonnell, County Health Nurse inspected and confirmed the complaint. She stated the Zoning Office and the County Health Nurse recommend the installation of an approved septic system.

Commissioner Attebery reported Len Lankford of Green Leaf Forestry requested a vault system for the premise. At the BOCC meeting on May 5, 2009 BOCC the Board agreed to Mr. Lankford's request. Commissioner Attebery stated the vault system was approved prior to notification from the state and the county's inspection of this public facility. He stated the facility should be required to install an approved septic system.

MOTION by Commissioner Austin, seconded by Commissioner Custer:

Requiring that Green Leaf Forestry install an approved septic system within six months (November 2009). Motion carried unanimously.

Commissioner Attebery advised he had received written justification from Rusty Christensen, Custer County Landfill Supervisor for the pay increase of employee Jeff Banning. As of April 2009, Jeff Banning will no longer pick up trash from the county courthouse due to the county getting a trash dumpster. His new duty will be to clean the office at the county landfill. Since no one has ever been hired for this position I feel this more than makes up for his not picking up the trash at the courthouse.

Commissioner Attebery reported that as a result of Dawna Hobby's research it was determined that Custer County is one of the few if not the only county providing scales for the weighing of cattle and hay trucks. Commissioner Austin said he felt the county had an obligation to provide weight scales to the agricultural citizens and residents. Commissioner Custer asked for confirmation of who purchased and owns the scales. Commissioner Austin responded the scales were owned by the ranchers. Commissioner Custer asked for clarification that the county did not purchase, nor does it own the scales but allowed the ranchers to install them on county property. Commissioner Austin responded that he believed the statement was accurate. Commissioner Custer remarked that perhaps the time has come for the ranchers to take the scales back and proposed the BOCC invite the ranchers to a meeting for their input and discussion. Commissioner Austin said he did not support that proposal and proposed asking the HHRC Navigator to assist with the scales. He stated the extra revenue generated would help off-set the HHRC expenses.

Commissioner Custer responded that the HHRC staff had a full schedule providing the services she was hired to provide to our veterans and the community and that it was not appropriate to add the weighing of the scales to her assigned duties. She stated operation of the scales was never a duty on the job description for the Resource Navigator. She asked how much revenue the scales generated? Dawna Hobby, Finance Manager responded if the scales were operated by an existing county employee rather than an on-call individual there would be a profit. Ms. Hobby stated the county would remain liable for the utilities and insurance of the weight scales since it was installed and operated on county property. She remarked that the maintenance and repairs of the scales would need to be a consideration. Commissioner Custer commented that she understood the concern and suggested that maintenance and repair could be an in-kind service contribution provided by the county.

Commissioner Attebery stated he supported Commissioner Austin's proposal to revise the weight scale fees as presented.

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

Effective June 1, 2009 the weight scale fees will be \$5.00 for loads under 40,000 lbs and \$10.00 for loads over 40,000. Commissioner Custer abstained stating she would like the Board to discuss the scale operation options with the ranchers. Motion carried.

Karen Crumbaker, CSU Director presented the BOCC with a list of additional duties and responsibilities that Beverly Goetz, Office Manager would assume during the absence of a full-time Director/Extension Agent in Custer County along with a suggested pay increase to cover the additional duties: 1. \$250 per month additional salary to conduct all the 4-H programming responsibilities. 2. Authorization to hire part-time help as needed. 3. Travel budget access for 4-H camps and conferences. 4. Administer the Radon Grant. 5. Administer the 2009 USFS Grant. 6. Provide support to the CSU Native Plant Master Program. 7. Provide weekly reports to the National Agricultural Statistic Service. 8. Provide resource materials to community members. Commissioner Custer asked Beverly Goetz to estimate the number of extra hours these additional duties would require and report back to the Board. Commissioner Custer wanted to ensure that Ms. Goetz was appropriately compensated for the extra time and responsibilities during the interim period and was not convinced that \$250 per month was adequate.

Ms. Crumbaker advised that CSU is proposing an interim or acting Director. Joel Plath of CSU has suggested sharing the Director from Fremont County for a percentage of his salary. Commissioner Custer requested that Ms. Crumbaker and Ms. Goetz comprise a list of responsibilities the interim Director could provide to support Custer County. Ms. Crumbaker reported the Master Garden Club maintains the high and dry garden in the front of the court house and the Garden Club focuses on the weeding, gardening and flower planting. She requested clarification on the protocol for watering. Commissioner Austin responded that Darin Redmond is responsible for the lawn and garden maintenance and suggested he be advised of what requires watering and how often. Ms. Crumbaker submitted estimates for a drip irrigation system and a sprinkler system to be filed for future references. She reported mulch for the courthouse front lawn has been purchased under the extension budget.

Ms. Crumbaker asked if the county could fund Economic Development in the future. Commissioner Attebery responded the line item would be reviewed in the 2010 budget. Commissioner Custer stated Economic Development is a CSU priority and that they allocate funds for the program. She suggested contacting the Economic Development unit within the University structure and request information on how CSU supports other counties with Economic Development so that the Board could look at the options available prior to making a decision.

Debbie Livengood, Clerk and Recorder requested a transfer of \$38,139.00 from the County General Fund to the Airport Board Authority Fund.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To approve the transfer as requested. Motion carried unanimously.

John Piquette, Finance Officer and Dawna Hobby, Finance Manager met with the Board and reported the Audit Findings and Corrective Action Plans. Mr. Piquette outlined 2007-2 supporting documentation for expenditures; 2007-3 netting revenue and expenditures; 2007-4 consistency in reporting expenditures; 2007-5 records for grants; 2007-6 cash payment for compensation. Mr. Piquette advised all the correction action has been completed and a confirmation report will be faxed to Charissa Hammer by May 15, 2009. He reported the county budget is 11% down and encouraged monitored expenditures.

Commissioner Austin excused himself from the meeting for a previous scheduled appointment with Tim Harris, Angie Drumm and Gilbert Ortiz Sr. of CDOT to tour highway 69 south for the proposed Amish buggy and bike path and turn-outs.

The BOCC recessed at 4:40 PM.

The BOCC reconvened at 5:10 PM.

Commissioner Attebery stated the BOCC meetings scheduled in the court room would remain as scheduled.

Tim Harris, CDOT Regional Transportation Director introduced Angie Drumm, Local Government Liaison and Gilbert Ortiz Sr., Transportation Commission to those present. He distributed CDOT 101 handouts and outlined the mission; vision; values; transportation planning; sources of funding and assets; transportation commission; engineering regions; projects; gas tax vs. gas prices; inflation adjusted budget 1983-2008; bridges and roads; shovel ready projects and the American Recovery & Reinvestment Act. Mr. Harris asked if anyone had questions and comments. The following items were discussed: closure of the north and southbound rest stops on highway 125 near Castle Rock due to vandalism and criminal activity; CTSI's estimated of a 15% decrease in Highway User Tax Funds (HUTF), Mr. Harris remarked he did not anticipate that high of a decrease; pull-outs on highway 69; signs or flags on the Amish buggies and bikes; deer and elk signs on the highways; second light in the Wetmore area; re-striping the highway and creation of a turn lane on Schoolfield and highway 69; evaluating speed limits; installation of crosswalks across from Family Dollar and Pizza Madness in Silver Cliff; asphalt surface inconsistency on highway 69.

Joyce Ziesler, Tim Kelling and Robin Young met with the Board regarding the time frame made as part of the motion for the Charter for the Custer County Wide Energy Savings Project at the BOCC meeting on May 5, 2009. Following a discussion it was agreed the core-team would move forward with the Ennovate Corporation and that the Charter would be signed as revised.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To approve and sign the charter agreement as outlined on the revised paperwork in front of the BOCC to engage the project management team to move forward with the no cost preliminary Ennovate Corporation assessment.; specifically noting the charter agreement can be terminated at anytime by either party. Motion carried unanimously.

MOTION by Commissioner Austin, seconded by Commissioner Custer:

To approve and sign the Facility Owners Memorandum of Understanding for the Governors Energy Office Energy Performance Contracting Program pending the approval of the County Attorney. Motion carried unanimously.

Commissioner Attebery closed the regular session and opened the Public Hearing.

PUBLIC HEARING

Non-motorized path along Highway 69 south

Commissioner Attebery advised the location of the Public Hearing was changed from the court room to the commissioners room due to the jury trial in process. He reported the community trail system was designed in 2000-2002 as part of a Great Outdoors Colorado (GOCO) grant. He explained there were a number of proposed trails along highway 69 south, Lake Dewese Road, Hermit Road to the mountains and from the school to the parks. The 1.5 mile completed park-to-park trail from Westcliffe to Silver Cliff was phase one under the project. Commissioner Attebery advised the scheduled Public Hearing is for comments regarding the path along highway 69 south.

Commissioner Austin explained the concept of the path for non-motorized vehicles along highway 69 south regained attention because of the Amish buggies traveling on the highway. He said the reality was that a path project has been on the books for sometime. He proposed working in conjunction with GOCO to construct a trail for a walking, jogging, biking, horse and buggy travel.

Commissioner Attebery asked if there was anyone in the audience who wished to speak.

Robert and Jerome Degree stated they were against constructing the proposed trail on their private land. They advised that CDOT currently has a 100-foot right-of-way along state highway 69 and the trail could be built on the right-of-way. They recognized the safety issues but suggested CDOT widen and extend the shoulders of the highway and reduced the traveling speed. The Degrees supported the proposed pull outs and hoped in the future they could be incorporated with the widening of the highway. They inquired regarding the maintenance responsibility of the proposed path. Commissioner Austin responded the Amish community has agreed to help build and maintain the path along with a co-op maintenance fund.

Paul Buckles, citizen stated he was in support of bicycling along highway 69 south. He expressed concerns with bikers and horses using the same trail. Mr. Buckles stated he was more interested in having CDOT bring highway 69 up to code with expanded and extended shoulders. He said he was in favor of a bicycle trail but against a shared trail.

Chris Haga, citizen asked if the path was going to be subsidized with GOCO funds or CDOT funds. Commissioner Austin responded that the original path for walking, jogging and biking was proposed under GOCO and the non-motorized path could be submitted to CDOT. He explained that would require federal funding and that process is lengthy.

Kit Shy, County Surveyor advised the first step would be to formally contact the property owners and request the easement sign off. He remarked the Amish travel along Colfax Avenue and asked if any additional pull outs on Colfax Avenue had been considered. He explained that CDOT has already made provisions for widening highway 69 and referenced the expanded and extended shoulders constructed with the recent bridge work on the highway.

Sherry Rorick, citizen stated she did not feel the trail was a priority and that no county funds matching or not should be used to construct it. She felt bicyclists had other options in the county. Ms. Rorick recognized the safety concern for the Amish traveling the highway and suggested additional flags and signage on the highway as well as on the Amish buggies, horses and bicycles.

Carolyn Degree, citizen agreed that bicyclists have other options and places to ride in the county. She said she understood the safety concern with the Amish buggies on the highways. She stated other communities and states with a greater Amish population don't provide special trails or roads.

Jenise Degree-Cook, citizen stated she is against the trail and does not feel her relatives should have to donate their land to the project.

Bob Tobin, citizen remarked that speed is not the only concern on highway 69. He stated the dips in the highway create visual obstructions. He stated if CDOT is not able to widen the highway at this time, the pull-outs are a good first choice to allow slower moving vehicles the opportunity to pull off the road.

Commissioner Attebery closed the public hearing and returned to Regular Session.

Commissioner Attebery advised that the input and comments of the Public Hearing would be forwarded to CDOT. He stated there would be no formal action on the proposal and the comments will be taken under advisements for possible future action.

Commissioner Austin thanked Kit Shy for his observation regarding pull-outs on Colfax Avenue. He acknowledged Robert and Jerome Degree's opposition to the project.

Commissioner Custer thanked everyone for attending and reaffirmed that CDOT has worked amicably with the BOCC in the past and she felt confident the positive rapport would continue.

Approved 6/29/09

Commissioner Austin addressed Commissioner Custer stating he preferred his wording on the BOCC minutes not be edited in the future. Commissioner Custer agreed.

MOTION by Commissioner Austin, seconded by Commissioner Attebery:

To approve the BOCC minutes of March 30, 31, April 6, 7, 15, 2009. Commissioner Custer abstained stating a portion of the contents in the minutes were about her. Motion carried.

Commissioner Custer reported she has been in communication with Colorado Technical Services Inc. (CTSI) regarding in-depth-in-service training on the standard protocol to be followed in conducting our BOCC meetings. She requested authorization to schedule the training. Commissioner Austin responded that he was satisfied with the protocol the chair person followed while conducting the BOCC meetings and did not support the proposed CTSI training. He commented that he welcomed questions and input from the department heads, elected officials and staff. He recommended CTSI be involved in the creation of an ethics policy. Commissioner Attebery said he was offended by the proposal and reported the County Attorney and the majority of the public have expressed positive opinions regarding the conduct and protocol of the BOCC meetings. He stated that CTSI does not run the county. The county is run by the BOCC with legal advice from the County Attorney.

Commissioner Custer proposed asking Cynthia Barnes, CTSI to assist with an ethics policy along with the county personnel policy scheduled at the June 29, 2009 workshop and the Board agreed.

MOTION by Commissioner Custer, seconded by Commissioner Austin:

To adjourn the meeting. Motion carried unanimously.

The meeting was adjourned at 7:41 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery
Chair