

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, FEBRUARY 22, 2011**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COMMISSIONER'S BOARDROOM.

Commissioner Lynn Attebery called the meeting to order at 9:00 AM and the Pledge of Allegiance was recited

Roll Call was taken:

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

Also present was Nora Drenner, Reporter for the Wet Mountain; Joe Arbuckle, Lockett Pitman, Dave Trujillo, and Sheriff Jobe.

AGENDA:

Call meeting to order
Pledge of allegiance
Roll Call
Amend agenda
Audience introduction
Approval of minutes January 31, February 7, 2011.
Old Business/New Business
Lift Fire Ban – Sheriff Fred Jobe Resolution #11-01
County Attorney
Re: review of the liquor license sheriff investigation form
Staff Reports:
Planning and Zoning
Treasurer

Commissioner Attebery stated that the February 8, 2011 BOCC meeting was cancelled due to inclement weather and rescheduled for February 22, 2011. He said that legal counsel advised the BOCC that the agenda from the February 8, 2011 BOCC meeting could not be changed or revised for a rescheduled meeting. Commissioner Attebery stated following those guidelines the agenda was not amended and therefore did not require a motion from the BOCC.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To approve the minutes of January 31, 2011 and February 7, 2011 as presented. The motion carried unanimously.

Sheriff Fred Jobe met with the BOCC and in his capacity as the Fire Marshal recommended that the current fire ban in the unincorporated portion of the county be lifted. He said that the fire danger has been reduced as a result of the increased humidity and precipitation in the county. He said that the Fire Chief was in concurrence regarding the lifting of the open burn ban.

Commissioner Austin expressed concern regarding the requirement that the Fire Marshall receive approval from the BOCC to enforce or lift a fire ban. He said that the authority should be given to the Fire Marshal and Fire Chief. Sheriff Jobe responded that the enforcement and lifting of the fire bans have previously been approved with a BOCC resolution. Following a discussion with the BOCC and the County Attorney it was agreed that a resolution would not be necessary.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To lift the Fire Ban as recommended by the Sheriff/Fire Marshal and Fire Chief. To authorize the Sheriff/Fire Marshal and the Fire Chief to institute or lift a fire ban when deemed necessary. The motion carried unanimously.

Sheriff Jobe gave an update on the additional security cameras being installed at the sheriff's office. The new cameras will function conjunctively between the courthouse and the sheriff's office. He shared a safety concern with the placement of the recycling bins, the landing of the rescue helicopter and the additional traffic from the trailer park around the sheriff's office. The BOCC agreed to inspect those areas during the annual jail inspection on March 31, 2011. Sheriff Jobe gave the Board an update on the proposed Off Highway Vehicle (OHV) use within the town limits.

The BOCC discussed the format regarding a public comment period during the BOCC meetings with the county attorney and those present. The BOCC agreed to add general public comments to the agenda item at which time the citizens and public can address topics not on the agenda. Mr. Naylor clarified that the BOCC would not make any decisions or take any action during this time period. He said that any items requiring Board action would be placed on a future agenda.

Joe Arbuckle said that the Upper Arkansas Water Conservancy District (UAWCD) was not on the agenda; however that is why he was in attendance. He expressed concern regarding the previous correspondence between the UAWCD and the BOCC. He said that the UAWCD is functioning under the assumption that the BOCC is interested in pursuing a water augmentation plan. Mr. Arbuckle stated there was a serious miscommunication between the BOCC and the UAWCD. Commissioner Austin agreed. Commissioner Attebery said that the statements expressed by Mr. Arbuckle were duly noted for the record. He remarked that the BOCC would seek legal advice from the county attorney before taking the next step. John Naylor, County Attorney stated that the issue is whether the county needs a water augmentation plan. Commissioner Austin agreed and said the county needs to determine if a water problem exists in the county. Bob Senderhauf remarked that it was previously determined that a water augmentation plan was necessary. He recommended that the BOCC schedule a meeting with the UAWCD board members for discussion and clarification regarding the augmentation plan. Commissioner Butler said he was not certain that the BOCC should be involved in the issue. Lockett Pittman said the issue was initiated by previous BOCC members and felt that the current BOCC had a responsibility to follow-through with the process. Commissioner Attebery stated that the topic was not a published or posted agenda item for this meeting and therefore the BOCC could not take action or make any decisions on how to proceed. The Board agreed that the topic will be addressed at the March 1, 2011 BOCC meeting.

Jackie Hobby, Planning and Zoning (P&Z) Director met with the BOCC and County Attorney and the following issues were discussed:

- File 101-63-399 (appeal on the penalty portion of the permit fee approved)

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To authorize financial relief on the penalty portion of the permit fee violation. The Board agreed that the property owner did not intentionally or knowingly violate the zoning permit requirements. Commissioner Austin recuse himself from the vote. He stated a conflict of interest since the property owners are friends. The motion carried.

- File 101-15-150 (appeal on the penalty portion of the permit fee denied)

MOTION by Commissioner Butler, seconded by Commissioner Attebery:

To deny the appeal for relief on the penalty portion of the permit fee violation. The motion carried unanimously.

- File 100-89-263 (permit violation) The Board agreed to have the County Attorney prepare a complaint to be filed in county court. Commissioner Austin suggested the county attorney contact the legal counsel for the property owner prior to the filing.
- File
- File
- File 100-33-112 (permit violation resolved)
- File 100-30-221 (oversized sign violation resolved)
- File 100-29-850 (septic violation resolved)
- File 102-36-724 (permit violation resolved)
- File 100-33-519 (septic violation resolved)
- File 100-85-150 (permit violation resolution in process)

Ms. Hobby reviewed the agenda items for the BOCC Joint Session with the Planning Commission. The Board of Zoning Adjustment will hear a request for the creation of a undersized lot. The Planning Commission will hear a request for a variance subdivision waiver/re-plat.

Commissioner Austin said that Dark Skies will be installing hood/shields on the lights at the Road and Bridge Department in Westcliffe. He proposed that the BOCC meet with the Office of Emergency Management (OEM), Search and Rescue (SAR) and the Wet Mountain Valley Community Clinic (WMVCC) before making any decisions or commitments regarding the proposed medical heliport in the county.

Virginia Trujillo, Treasurer met with the BOCC and gave a report for the months of December 2010 and January 2011.

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To accept the treasurer's report for December 2010 and January 2011 as presented. The motion carried unanimously.

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To recess until the PC meeting. The motion carried unanimously.

The BOCC recessed at 12:45 PM.

The BOCC reconvened in the Joint Session with the Planning Commission at 1:50 PM.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve the recommendation of the Planning Commission to grant a Waiver of Senate Bill 35 for a road vacation, plat and re-plat. requested by the Thomas Healey Estate. The motion carried unanimously.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To adjourn the Joint Session with the Planning Commission. The motion carried unanimously.

The meeting was adjourned at 2:05 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery,
Chairman