

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, APRIL 3, 2012**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COURTROOM

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
Debbie Livengood	Clerk to the Board	Present

Also present was: Nora Drenner reporter for the Wet Mountain Tribune.

**AGENDA**

Call meeting to order

Pledge of allegiance

Roll Call

Amend agenda

Approval of minutes

Audience introduction

Public Comment

County Attorney

- Westcliffe Landfill/statute of limitations

- Lodging Tax for non-profit organizations

**Staff Reports**

Airport Authority – Dale Mullen

Treasurer – Virginia Trujillo

Planning and Zoning – Jackie Hobby

Commissioner Attebery stated that the Treasurer Report would be postponed until April 18, 2012.

Commissioner Attebery asked if there were any public comments. Hearing none, he continued with the meeting.

**MOTION by Commissioner Attebery, seconded by Commissioner Austin:**

To approve the minutes of March 12, 2012 as presented. The motion carried unanimously.

Commissioner Attebery said that the minutes of March 13, 2012 required discussion. Commissioner Austin said that he forwarded the draft minutes to Doug Cain a citizen that was in attendance at the meeting. He said the purpose was to obtain specific clarification on the verbiage of the citizen. Debbie Livengood stated that the minutes are prepared by the Deputy Clerk to the Board and subsequently forwarded to the Clerk and the Board for editing and review. She shared concern that the draft minutes had been shared, reviewed and edited by the public prior to the BOCC approval.

John Naylor, County Attorney agreed and said that since Ms. Livengood signs off on the minutes, she has responsibility and ownership of the documents. He said it was more of a procedural issue than a content issue and that the draft or unapproved minutes should not be shared outside the BOCC.

Commissioner Attebery said that the Clerk and Deputy Clerk to the BOCC agreed to correct the minutes for accuracy and proposed approval of the minutes with the removal of Doug Cain's name as supporting the water augmentation plan.

**MOTION by Commissioner Attebery, seconded by Commissioner Butler:**

**To approve the March 13, 2012 as amended. The motion carried unanimously**

Following a discussion the BOCC, County Attorney, and the Clerk and Recorder agreed that the audio recording would not be transcribed verbatim. The audio recording would remain on file indefinitely and that the minutes would provide a brief summary of the meeting along with action minutes.

The BOCC met with the County Attorney and the following topics were discussed:

- The Colorado State Statute revealed that the monitoring of the old Westcliffe landfill sight did not fall under any statute of limitations. The county will need to drill the appropriate wells, per the well monitoring requirements and regulations.
- C.R.S. 39-26-102 states that the lodging tax will apply to any person or entity furnishing a room or providing any accommodations. Non-profit organizations are not exempt from lodging taxes.
- The American Society of Composers, Authors and Publisher (ASCAP) is an American not-for-profit performance-rights organization that protects its members' musical copyrights. The only music played by the county is the recent music on hold telephone feature. The Clerk to the Board will contact the telephone service contractor regarding the requirement of a license. The county attorney will respond to the ASCAP application.
- Liberty Preservation Resolution for Nullification of the National Defense Authorization Act – no update or decision at this time.

Cheryl Leonard, Airport Authority Assistant, Secretary/Treasurer joined the meeting. Commissioner Austin stated that the Airport Authority Board cancelled due to inclement weather.

Ms. Livengood shared concern regarding soliciting and petitioning in the courthouse. She said that during the election time period the rules and regulations are specific prohibiting any type of soliciting or petitioning within one hundred feet of any election site. She reported that several individuals have approached her and expressed concern regarding recent election petitions being circulated in the court house. Ms. Livengood said that the Colorado Revised Statute does not address the issue. She said that she spoke with the Secretary of the State and it was suggested that the individual counties establish a specific policy to address and or regulate soliciting and petitioning in the county buildings or facilities. The BOCC agreed to add the topic to the May 1, 2012 BOCC meeting.

Bob Senderhauf, Upper Arkansas Water Conservancy District (UAWCD) Chairman thanked the BOCC for their recent correspondence to the UAWCD. He said he would like the BOCC to specify and clarify what type of education and communication is needed. Commissioner Attebery said that the topic was not on the agenda and asked the BOCC and the County Attorney for input. County Attorney Naylor said that the Board could hear and review public comments. He reminded the BOCC that no decisions or actions could be taken. Commissioner Attebery and Commissioner Butler agreed. Commissioner Austin said that augmentation is a contentious topic in the county and that before the issue is discussed or addressed it should be published and posted for public notification.

Mr. Senderhauf shared frustration and concern. He referenced the correspondence signed by the BOCC. He said that the UAWCD has provided education and water study results to the public in the past. Commissioner Attebery said the two of the main concerns expressed by the public is water leaving the community and clarification regarding the storage of water. He said that additional public education is necessary. Commissioner Butler agreed.

Commissioner Austin shared his concern that the recommendations of the Water Assessment Committee (WAC) were not included in the correspondence sent by the BOCC. He reported that retired USGS Geologist Doug Cain who participated on the WAC has agreed to meet UAWCD Engineer Ivan Walter to discuss and confirm the areas of Custer County that can be augmented and the areas that cannot be augmented. Commissioner Austin felt it was imperative that the BOCC review the findings.

Jackie Hobby, Planning and Zoning Director met with the BOCC and the following topics were discussed:

- File 100-23-300 Privy Violation (pending)
- File 101-42-555 Payment Plan Violation (resolved)
- Custer County Planning and Zoning Fee Schedule
- Colorado State Septic Regulation Update
- Gas and Oil Fracking is regulated under the P&Z Special Use Permit (SUP) Process
- P&Z Research Fees

The BOCC recessed at 11:40 AM.

The BOCC reconvened at 11:50 AM.

Commissioner Butler gave an update on the Custer County Resource Center Annex. He said that March 30, 2012 was the last scheduled work day for the resource navigator and that the appropriate keys have been returned. Commissioner Attebery said that an access key to the facility can be obtained in the dispatch/sheriffs office. Dawna Hobby, Human Resource/Finance Manager said the building was purchased with grant funding from the Department of Local Affairs (DOLA) and expressed concern regarding the county's compliance issue. She suggested that the BOCC review the county's guidelines and commitments to the grant before making any decisions on the usage of the facility. The BOCC agreed to contact the DOLA to clarify and confirm any county obligations. Ms. Hobby said as options are considered she would like to clarify that state statute mandates that every county in Colorado provide a local veterans service office. She remarked that organizations such as the American Legion or Veterans of Foreign War are separate non-mandated entities. She said that the county receives a \$200.00 per month reimbursement from the state for the services. The Board agreed to add the Resource Center Annex topic on the future agendas under new/old business to ensure public notification

**MOTION by Commissioner Austin, seconded by Commissioner Butler:**

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 12:30 PM.

---

Debbie Livengood, Clerk and Recorder  
Attest

---

Lynn Attebery,  
Chairman