

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, SEPTEMBER 30, 2015**

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

Commissioner Kit Shy called the meeting to order at 9:00 AM and the Pledge of Allegiance was recited.

Roll Call was taken:

Kit Shy	Chairman	Present
Lynn Attebery	Vice Chair	Present
Bob Kattnig	Commissioner	Present
Clint Smith	Attorney	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present: Senator Crowder, DJ Head, Dave Wexel, Donna Hood, Jan Anderson, Sasha Henson, Ron Terry, Jack Canterbury, Dave Wexel, Wayne Ewing reporter for the Wet Mountain Tribune, Paul Sage, reporter for the Sangre DeCristo Sentinel

AGENDA

Call meeting to order  
Pledge of allegiance  
Roll Call  
Amend agenda  
Audience introduction  
Public Comment  
Approval of minutes  
Commissioner Items  
Attorney Items  
Executive Session  
New/Old Business  
Review vouchers and sign checks  
Upper Arkansas Recycling Program Agreement  
Loose Livestock discussion – J. Canterbury  
Coroner Statewide Mutual Aid Agreement – A. Nordyke  
Custer Emergency Services/EagleMed – C. Coleman

AMEND AGENDA

Commissioner Kattnig said he would like to add an agenda item appointing Marilyn Stodola to the Southern Colorado Economic Development District (SCEDD) member board.

PUBLIC COMMENT

Commissioner Shy asked if there were any public comments. Paul Sage thanked the BOCC and the county for their contribution and commitment to the new playground in the Town of Westcliffe. He commented that the road and bridge department has been working on Oak Creek Grade and he appreciates the road maintenance.

APPROVAL OF MINUTES

**MOTION by Commissioner Shy, seconded by Commissioner Kattnig:**

To approve the minutes from September 2 and 16, 2015 as presented. The motion carried unanimously.

COMMISSIONER ITEMS

Commissioner Kattnig said that he attended the following events: the Broadband Initiative through the Governor's Office, the Airport Advisory Board meeting, the Garden Club recognition meeting and the Custer County Soil Conservation meeting.

Commissioner Attebery said that to his knowledge the local television connection has been repaired. He remarked that in order to maintain all the usages of the tower it would require an upgrade. He said that the verbal estimate for the upgrade was approximately \$750.00 and asked for the topic to be added to the agenda for further discussion and review at the BOCC meeting on October 5, 2015. Commissioner Attebery said that the contract portion of the Department of Local Affairs (DOLA) grant funding was still in progress. He remarked that paperwork related to the funding is very involved and a complicated and lengthy process. Commissioner Attebery reported that he attended the Colorado Judicial Department Underfunded Facilities Commission training. He said that there was approximately \$2 million in grant funding available for courthouse improvement. He remarked that Custer County ranks among the top five counties in the state to receive the funding. He distributed an outline of the criteria related to the eligible counties, allowable uses and consideration of grant applications. He said that there was a limited time available for the completion and submission of the grant application. Commissioner Attebery said that he has been in communication with Deputy Halpin, Courthouse Security Officer, regarding the topic. He said that he was seeking approval and agreement from the BOCC to proceed with the project. The Board agreed to have the topic added to the October 5, 2015 BOCC agenda for further discussion and review. Senator Crowder said that county courthouses are often required to handle and process state business and that the state has recognized that courthouses and facilities in the rural counties are in need of financial assistance and support. He recommended that the BOCC apply for the available grant funding. Commissioner Attebery asked Senator Crowder for a letter of support for the project and the Senator agreed.

Commissioner Shy said that he recently returned from a trip to New York City and was able to visit and appreciate the historic icons that make us proud to be Americans. He said that he attended the Emergency Medical Services (EMS) event and thanked all the personnel for their dedication and support. He also participated in the workshop for the restoration of old documents hosted by Charlie French. He reported that the Town of Westcliffe will begin street improvements under a CDOT grant in the near future. He remarked that the Town of Silver Cliff continues to struggle with the marijuana issue and that the topic will most likely become a ballot issue. Commissioner Shy said that the BOCC attended a Planning Commission Joint Session to review the legal requirements and state statute regarding Joint Session Meetings. He said that the meeting was informative and that the Board recognizes and appreciates the opinions of the Planning Commission but that there may be changes in the future regarding the BOCC's attendance and participation during the process.

Senator Larry Crowder thanked the BOCC for the opportunity to join and participate in the meeting. He said that he was visiting the counties to hear and listen to any concerns, opinions and complaints at the state level.

Commissioner Shy expressed concern regarding the legalization of marijuana under Colorado Amendment 64 and the affects that amendment is presenting for the counties in opposition. He said that although the BOCC adopted an ordinance in 2013 prohibiting the operation, manufacturing, testing or retail marijuana stores within the unincorporated boundaries of Custer County it has not had any effect on the illegal growing operations. The situation requires that the county expend additional resources to research and investigate the illegal operations. Resources that a small rural county such as Custer County does not have. Senator Crowder said that he would like to see the state provide some financial relief for local enforcement in rural areas forced with deal with this type of situation. Commissioner Attebery expressed concern that the illegal activities are also creating an increased work load for the local District Attorney (DA) and the DA budget. He felt that the state should re-evaluate the current compensation figures of the District Attorney vs the Public Defenders and their offices and

bring those figures more in line and balance with each other. Senator Crowder said that he would like to see the state supplement the local DA's budget. Commissioner Kattnig asked if there were any revisions or relief being considered under the current labor requirement. Senator Crowder responded not at this time. Senator Crowder said that Governor Hickenlooper announced a plan to spend more than \$100 million over the next four years to make Colorado the best state of biking in the country and that he felt Custer County could feel a positive impact from the project. He said that the healthcare issue continues to be a topic of conversation and review. The BOCC thanked the Senator for joining and participating in the meeting.

#### ATTORNEY ITEMS

Clint Smith, Attorney, said that he researched the topic of e-mail communication between the Planning Commission members being a possible violation of the Colorado Open Meetings Law. He said that the issue was addressed by the Colorado Court of Appeals in 2012 and held that the exchange of e-mails between members of a commission was part of the deliberative process and was not a formal action and did not violate the Colorado Open Meetings Law guidelines. Attorney Smith said he has not received any communication from Eric Jacobs of the Colorado Department of Public Health and Environment (CDPHE) regarding the closure of the landfill. He reported that his research regarding the building currently being used by search and rescue revealed that over \$60,000.00 was donated to the county by Dick and Audrey Stoermer for the facility. The building is owned by the county and there are no restrictions or obligations for the use of the building. Commissioner Shy said that the topic is scheduled for further discussion and review at the October 20, 2015 BOCC meeting.

#### EXECUTIVE SESSION

None at this time.

#### NEW/OLD BUSINESS

Commissioner Shy addressed the request from Sheriff Byerly dated September 29, 2015 regarding the purchase of a replacement vehicle for the loss of the 2004 Dodge truck that was recently wrecked. The BOCC agreed that the topic would be discussed and reviewed during the Sheriff/Detention/Dispatch budget hearing scheduled for October 13, 2015.

Commissioner Shy said that Sangre DeCristo Electric is requesting an easement from the county on the landfill property. He requested that the topic be added to the agenda for the October 5, 2015 BOCC meeting for discussion and review.

Commissioner Kattnig said that there was a county representation vacancy on the Southern Colorado Economic Development District board and he proposed that the BOCC appoint Marilyn Stodola. He said that Ms. Stodola is a member of the Custer County Economic Development Corporation and well qualified to represent the county. Ms. Stodola has expressed an interest in the appointment. Commissioner Shy said that the BOCC would require a letter of interest from Ms. Stodola. Commissioner Kattnig said that he will obtain a letter of interest from Ms. Stodola before the next scheduled BOCC meeting and requested that the topic be added to the October 5, 2015 BOCC agenda. Commissioner Attebery expressed concern that before an individual is appointed that the vacancy should be made available to the public. He said that there would only be one meeting left for 2015 and suggested that the BOCC wait and make an appointment when the official appointments are made in January of 2016.

Payroll and Accounts Payable

County payroll and accounts payable were approved from the following funds:

County General	\$188,092.69
Road and Bridge	\$174,833.94
Emergency Services	\$ 21,762.41
Human Services	\$ 26,239.68
SI	\$ 0
Capital Improvement	\$ 3,739.41
Airport Fund	\$ 8,495.98
Tourism	\$ 4,015.00
CTF	\$ 651.63
Total	\$427,830.74

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

To approve the September 2015 payroll and accounts payable. The motion carried unanimously.

Upper Arkansas Recycling Program Agreement

Commissioner Shy said that the BOCC has received the 2016 agreement for Custer County’s participation with the Upper Arkansas Recycling program for approval. He said that the agreement remained the same and the expenditure will be the same as 2014 and 2015.

**MOTION by Commissioner Kattnig, seconded by Commissioner Shy:**

To approve the 2016 agreement for Custer County’s participation in the Upper Arkansas Recycling program as presented. The motion carried unanimously.

Commissioner Shy said that the county incurs a fee for the recycling and processing of tires and asked Senator Crowder to check into the possibility of those funds being redirected back to the county coffers. Senator Crowder said he would investigate the situation. Commissioner Attebery said that Beth Lenz, Recycling Coordinator attended a SWANA meeting and learned that CDPHE has funding available to compensate a county employee for ten hours per month to handle the recycling tire processing. He said that Custer County is a good participant in the recycling process. The BOCC expressed thanks and appreciation to Beth Lenz for all her dedication and support with the recycling program.

Dave Wexel expressed concern regarding the accumulation of tires being stored on private property off Highway 96 at the 6 to 7 mile marker.

Loose Livestock discussion – J. Canterbury

Jack Canterbury addressed the BOCC and expressed concern regarding loose livestock in the county. He said that Custer County used to be a ranching community but is now more of a retirement and second home community. He said that the Colorado livestock and fence out laws originally issued to protect the ranchers were no longer appropriate and that an open range did not fit the current times and function for the county. He said that he expressed his concern to the brand inspector without success. Senator Crowder remarked that the state brand inspector has the authority to revise the law but does not have the manpower or financing to proceed. Mr. Canterbury said that Sheriff Byerly was willing to assist with the situation but needed an enforceable ordinance before he could act. He asked the BOCC to consider adopting an ordinance that would require livestock and cattle to be fenced in for specific acreages. Jean Canterbury said that they were not questioning the right to ranch law but were opposed to subdivisions and subdivided areas being irresponsible regarding their livestock.

The BOCC said that they understood the concern but questioned whether they had the authority to override a state law. Attorney Smith will research the topic and advise the Board at the October 5, 2015 BOCC meeting.

The BOCC recessed at 10:20 AM.

The BOCC reconvened at 10:38 AM.

Custer Emergency Services/Eagle Med – C. Coleman

Christe Coleman, Office of Emergency Management Director, met with the BOCC and said she was presenting the Custer Emergency Services recommendation regarding the service plan contract with Eagle Med. She said that the representative from the sheriff's office and the emergency medical services were not in support of the program. The representatives from the fire department, hospital district, road and bridge, and office of emergency management were in favor of the program. The representative from the public health agency was not in attendance but would have supported the program. Search and Rescue, the Town of Westcliffe and the Town of Silver Cliff abstained, stating that they required additional information before they could present it to their individual boards. The BOCC expressed concern that some of the key players and entities were not in support of the program at this time. Jen Anderson, Sasha Henson, and Ron Terry from EMS were in the audience and said that they were not in support of the proposal. Flight for Life representative DJ Head asked that the BOCC thoroughly consider and review the option before making a commitment. He said that Eagle Med is a franchise and a membership program and that a signed contract would create an obligation on behalf of the county. Mr. Head remarked that Flight for Life has been providing air ambulance service to the county for a number of years and does not require a signed agreement or contract. The BOCC said that Eagle Net offered individual and independent memberships to the citizens and residents and that could be an option for those interested in the service. Ms. Coleman shared concern that it would create confusion for 911 dispatch to determine which of the air ambulance services to contact not knowing who is a participant of the Eagle Med program and who is not. She said that if the patient is a member of the Eagle Med program and Flight for Life is contacted and if the flight results in an additional charge, the patient will be not be pleased. The EMS personnel in attendance said that they will request the closest and most appropriate flight service that will meet the needs of the patient they are attending and treating. Their priority is patient care and cannot be involved in a questionable membership status. Commissioner Attebery said that he supported the opinions of the EMS personnel who were not in favor of the program. Commissioner Shy remarked that the funding for the program has not been adequately discussed and that he would not make any financial commitment on behalf of the county. Commissioner Attebery agreed. The BOCC agreed to accept the recommendation report as presented.

**MOTION by Commissioner Shy, seconded by Commissioner Kattvig:**

To instruct Ms. Coleman to have Eagle Med provide a proposal of cost and services on a county wide basis. The proposal is not to specifically specify Custer County as the participating party in the paperwork. The motion carried unanimously.

Attorney Smith reiterated that the request is for an offer of services, not a contract or a financial commitment.

Coroner Statewide Mutual Aid Agreement – A. Nordyke

Art Nordyke, Coroner, presented the BOCC with a Mutual Aid Agreement for coroner services through the Colorado Coroners Association on behalf of all Colorado counties in the event of overwhelming mass fatalities or the temporary disruption of coroner services. Mr. Nordyke said he support the contents of the agreement. Attorney Smith said that he reviewed the agreement and felt it was in the best interest of the county to proceed.

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

To authorize the Chairman of the BOCC to sign the agreement as presented. The motion carried unanimously.

Commissioner Shy asked if there was any more business to discuss. Hearing none, he adjourned the meeting at 11:45 AM.

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Kelley Camper, Clerk and Recorder  
Attest

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Christopher L. (Kit) Shy,  
Chairman