

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, NOVEMBER 8TH, 2006**

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

Dick Downey	Chairman
Kit Shy	Vice-chair
Dale Hoag	Commissioner
John Naylor	County Attorney
Ric Ferron	County Administrator
Debbie Livengood	Clerk to the Board

The meeting was called to order at 8:40pm.

Chris Haga, Jerry Pearl, and Tim Maupin, all representing the Round Mountain Water and Sanitation District, met with the Board in reference to access to a parcel of ground west of Highway 69 South of Westcliffe. The parcel is known as the "Gallery Parcel". There is a question about the old county road that used to border the Gallery Parcel and whether RMW&S District has access to the property. They were asking for guidance on how to pursue a guarantee that they have access. The Board discussed a vacation action for the old road and a letter be written to the adjoining property owners expressing the county's interest in the old county road right-of-way. It was agreed that RMW&S District would contract David Hall and determine his interest and the county will have their attorney research the issue.

Commissioner Shy made a motion seconded by Commissioner Hoag to go into executive session for an opinion from the county attorney on a legal issue, citing C.R.S. 6-402(4)(f)(I). Motion carried unanimously.

Commissioner Shy made a motion seconded by Commissioner Hoag to take a five-minute recess from executive session. Motion carried unanimously.

Commissioner Hoag made a motion seconded by Commissioner Shy to reconvene into executive session on the issue mention above. Motion carried unanimously.

Commissioner Shy made a motion seconded by Commissioner Hoag to reconvene into open session. Motion carried unanimously. No action was taken.

Mr. Jerry Gomez met with the Board concerning his septic system. He is concerned with the conflicting information that he had received from the zoning office when Linc Lippincott was the zoning director, and the new information he is receiving now under the supervision of Christy Kesselring. Mr. Gomez stated that he installed his septic system based on the information that Mr. Lippincott supplied him with. Eight months after the inspection was done, Mr. Gomez says he received a letter from Christy in the zoning office stating that he is not in compliance. He met with Christy and was told that

whatever information he was given by Linc, did not matter, he was not in compliance. Mr. Gomez then wrote a letter to the Board, receiving no response, he filed a complaint with the court and the case has since been dismissed. Mr. Gomez went on to say that the judge dismissed the case due to a letter that the Board had written and the judge had in his possession. The Board informed Mr. Gomez that no letter had been written, due to the fact the he filed the case in court before they could get a letter written to him.

Christy stated that the problem with Mr. Gomez's system is that it is a health issue. The septic and cistern are in the same hole and that is why Christy will not sign off on the system, or will she sign off if the system is not inspected, and as of right now it is totally covered up. Mr. Gomez again stated that Linc told him that he needed no perk test that it was not required. Linc never stated that a leach field was needed and he was not specific on not covering the system before an inspection was done.

After listening to the information that was presented to them by Mr. Gomez, the Board presented three resolutions to the problem. The first resolution would be that if the septic system and the cistern were removed from the same hole, the county would acknowledge that there is a septic system, but will not sign off on the system. The records in the assessor's office would be flagged and a document would be recorded in the clerk's office stating that "there is no certified inspection of the septic system" on this property. The second resolution would be to do a perk test and uncover just enough of the septic system so that Christy could inspect it. And the last resolution would be to do away with the leach field and install a vault system. By doing this, the county would be able to sign off on the system since it does not require a variance.

Commissioner Shy made a motion seconded by Commissioner Hoag to extend Mr. Gomez's septic permit for one year with the conditions attached that Mr. Gomez notify Christy within thirty days of today's date with a written plan on how he is going to bring his septic system into compliance. The plan must be agreeable by Mr. Gomez and the zoning office. This extension only includes one inspection by Christy. Motion carried unanimously.

Christy Kesselring reviewed the agenda for today's zoning meeting. Other items discussed were as follows:

1. The zoning office has completed sixty-two inspections in the month of October.
2. Discussed Dave and Brenda Roever and the mentoring facility for disabled vets that they will be opening. The commissioners and the county attorney agreed that a Special Use Permit was needed.
3. The county will continue to participate in the U.S. Geological Survey/U.S. Department of Interior in a joint funding agreement for the county water study. The new contract was signed.
4. Christy discussed a new permitting policy that the zoning office will follow in order to have permits processed in a timely matter. Also reviewed the policy that will be used for vacation and sick time in that office. The Board agreed with everything that was presented.

5. The question was asked if a PUD changes significantly, does the sketch process need to start from the beginning again. The section (11.8) in the regulations does not address sketch plans. According to the county attorney, the answer is “NO”.
6. Mr. and Mrs. Ziesler had purchased a building permit not realizing that their contractor had purchased a permit as well. Both permits are for Lot 4A Bull Domingo Ranch, Map 28. They are asking for a refund on one of the permits. The Board approved their request. A refund will be issued in the amount of \$230.40.

Steve Mitchell, Glen and Mattie Martin, Bill McDermott and Boyd Conwell, met with the Board with concerns about the EMS tower site. Each individual made a presentation to the Board.

- Mr. Mitchell feels that since the tower has been installed he has been injured by not being compensated by the county. He stated that he is not a “go to court kind of guy”, but feels that he needs to be compensated in some way to soften the blow. “ I have been damaged just as if someone had taken money right out of my bank account. What I really would like to have is the tower moved to another location”.
- Glen and Mattie Martin also stated they were upset. The tower is going to take away from our property values, not to mention our view. We would like to have it moved.
- Bill McDermott also said he was displeased. “Those of power never consulted the property owners before putting up the tower”. His view has been affected as well.
- Boyd Connell stated that he was very displeased with the commissioners. He could not believe that they would allow this to happen. The tower has taken away from his view, it has created noise pollution, it has effected the wildlife, it will cause electronic pollution (health issues), physical danger, danger of fire issues, traffic issues such as road damage, sign damage, and vegetation damage, not to mention that the property values will go down. His final statement to the Board was that if they allowed this tower to stay in place; it will only turn the zoning regulations of Custer County into a farce.

After everyone had a chance to express their concerns, the Board addressed their issues. The Commissioner’s informed those present that the county has planned for many years to update the existing tower so that it would be compatible to the 800 mgh radios. There was already a tower in existence at that site. We are trying to improve communications for our EMS services that are essential to our county, plus the county already had an easement from Mary Jagow on this piece of property. Commissioner Downey also made the statement that if the county has torn up anything, such as roads or signs, they will have the Road and Bridge Department fix it. The Board asked Mr. Conwell to notify the Road & Bridge supervisor of any damage caused by the construction of the tower. Mr. Mitchell also asked about the color of the building. He said he was representing Mary Jagow with this question. She is not at all pleased with the color. The Board explained that the under-sheriff has been in touch with Mary concerning the color. Also

in question was the removal of the pre-existing structure. Commissioner Downey informed them that when the construction of the tower is complete, the material from the old structure would be removed. The last question asked by Mr. Mitchell was concerning the power lines. He was told that the new power lines would be underground, however, the budget did not allow for the old power lines to be buried.

The Board adjourned for lunch.

The Board reconvened at 1:00pm in a joint meeting with the Board of Zoning Adjustment and Planning Commission.

The Board adjourned from the joint meeting with the Board of Zoning Adjustment and Planning Commission.

The Board reconvened into their regularly scheduled meeting.

Commissioner Hoag made a motion seconded by Commissioner Shy to adopt resolution 06-05. Motion carried unanimously.

**CUSTER COUNTY RESOLUTION
RESOLUTION NO. 06-05**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO TO VACATE AND ABANDON A PORTION OF QUARTZ STREET IN THE UNINCORPORATED TOWNSITE OF ROSITA, COLORADO

WHEREAS, Custer County is a political sub-division of the State of Colorado; and,

WHEREAS, Colorado Revised Statutes (CRS) grant certain powers to Colorado Counties; and,

WHEREAS, CRS 43-2-303 specifically grants Boards of County Commissioners the authority to vacate all rights, titles, or interests, of a county to any roadway in any unincorporated portion of the county; and,

WHEREAS, Custer County has identified the following street as no longer required for public use in Custer County:

A. A portion of a platted, but never constructed, city-street of Quartz Street in the dis-incorporated town-site of Rosita, Colorado; westerly, approximately 50 feet (+/-) from the platted intersection of Proctor and Quartz Streets to the eastern boundary of Lot 28, Rosita Townsite; and,

WHEREAS, no public or private property will be land-locked by the contemplated action; NOW,

THEREFORE BE IT RESOLVED, that in accordance with the provisions of CRS 43-2-303, Custer County hereby vacates all right, title, or interest in the above described county street or road; AND,

BE IT FURTHER RESOLVED, that in accordance with the provisions of CRS 43-1-202.7, this resolution before us will be recorded with the Custer County Clerk and Recorder.

RESOLVED, ADOPTED AN SIGNED THIS 8th DAY OF NOVEMBER 2006, AT WESTCLIFFE, COLORADO.

CUSTER COUNTY COMMISSIONERS

RICHARD L. DOWNEY
CHAIRMAN

DEBBIE L. LIVENGOOD
CLERK AND RECORDER

County Treasurer, Doris Porth, met with the Board to give her monthly report. It was approved. The HUTF Fund is much higher then it was in 2004 and 2005, and sales tax is up \$53,960.00 from this time last year.

Commissioner Shy made a motion seconded by Commissioner Hoag to cancel certificate number 970179. This certificate is currently held by the county and is a 1/5 interest into the Aetna Lode. Motion carried unanimously.

Commissioner Shy made a motion seconded by Commissioner Hoag to have the treasurer assign certificate number 980232 to Dorothy Cusack. This certificate is for 1/5 interest to the Atena Lode. She owns 4/5 interests in the Aetna Lode. Motion carried unanimously.

Commissioner Hoag made a motion seconded by Commissioner Shy to have the county treasurer issue two checks from the Search and Rescue Fund in the amount of \$10,000.00, each made payable to Colorado Mountain Bank, so they can invest these funds into CD's. Fred Jobe and Virginia Trujillo will be listed on the account as co-signers. The CD's will also be issued in both names of Custer County Search and Rescue and Custer County Treasurer. Motion carried unanimously.

The Board discussed the issue of the gate Mr. Brothers has put across County Road 129 with the county attorney. On August 5th, 2002, the Board gave Mr. Brothers permission to install a gate on his property at an agreeable point with the Road & Bridge Supervisor with the conditions that it stay unlocked at all time. At the time this permission was given, Mr. Brothers had letters from the property owners association stating that there were no objections. Gary Havens, who was the Road & Bridge Supervisor at the time, also commented that he did not see a problem with a gate over such a small portion (approx. 1/10 mile) of the road.

Since that meeting in 2002, there is a property owner who not only uses the road, but would like to have snow removal as well to the previous end of maintenance point on County Road 129. It is the feeling of the Board that since this is a county road and there are people who are using the road, the gate needs to be taken down.

Commissioner Shy made a motion seconded by Commissioner Hoag to rescind the motion made on August 5th, 2002 that granted permission for Mr. Brothers to place a gate across County Rd. 129. If Mr. Brothers does not remove the gate within 20 days, the Board will have the Road & Bridge Department remove it. Motion carried unanimously.

Being no further business, the Board adjourned at 3:45pm.