

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, MARCH 18, 2009**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN  
REGULAR SESSION 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 February 26 and 27, 2009  
March 2, 3 and 10, 2009  
Old Business  
Resolution #09-02 UAACOG  
Resolution #09-03 Fire Ban (Ratification)  
Proclamation Earth Day  
Road and Bridge Radio  
Round Mountain Water Sanitation District  
- Introduction and Direction  
Sheriff Jobe - Budget  
WORK SESSION  
Rusty Christensen - Landfill Report  
- Landfill Structure Possibilities  
Custer County Personnel Policy Review

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

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

To accept the agenda as posted. Motion carried unanimously.

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

To approve the minutes from February 26, 27; March 2, 3, and 10 of 2009 as amended.  
Motion carried unanimously.

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

To post the notations (minutes) on the county web page from Governor Bill Ritter's visit  
to Westcliffe on March 14, 2009. Motion carried unanimously.

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

**To approve Resolution 09-02 Upper Arkansas Area Council of Governments Community Block Grant Project in Silver Cliff. Motion carried unanimously.**

CUSTER COUNTY RESOLUTION #09-02

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO REGARDING THE UPPER ARKANSAS AREA COUNCIL OF GOVERNMENT (UAACOG) COMMUNITY BLOCK GRANT PROJECT IN SILVER CLIFF.

WHEREAS, the Custer County Board of County Commissioners is authorized and empowered to govern the affairs of Custer County, Colorado; and

WHEREAS, Custer County has agreed to serve as grantee for the Silver Cliff Properties LP project; and

WHEREAS, one of the non-profit purposes for which UAACOG has been established is to promote the development of affordable housing throughout the State of Colorado; and

NOW, THEREFORE, BE IT RESOLVED, that the staff of UAACOG be empowered to complete the application process to the Colorado Division of Housing to acquire permanent financing of \$238,000 for the Silver Cliff project; and take any further actions necessary in furtherance of the program.

Adopted this 18<sup>th</sup> day of March, A.D. 2009

Lynn Attebery, Chairman

Jim Austin, Vice-Chairman

Carole J. Custer, Ph.D., Commissioner

Debbie Livengood, Clerk and Recorder (Attest)

Sue Pitman invited the Board to attend the April 18, 2009 Earth Day festivities and requested Chairman, Commissioner Attebery read the Proclamation in its entirety at the celebration. The Board signed the Earth Day Proclamation.

Custer County Colorado

PROCLAMATION

A PROCLAMATION to make it publicly known that the Custer County Board of County Commissioners support the importance of Earth Day, and proclaim April 18<sup>th</sup> through April 22<sup>nd</sup> 2009 as Earth Days in Custer County Colorado. As elected officials of this great County it is our responsibility to support and sustain historic preservation, protect our environment and be conscientious stewards of our agricultural lands and open space.

BE IT KNOWN THAT, A sound environmental policy is the foundation of a healthy society and a robust economy; and

BE IT KNOWN THAT, County organizers will be celebrating Earth Day with community events on April 18, 2009 to engage our citizens and visitors in supporting our dream of a self sustaining community that promotes locally grown food, take full advantage of the use of renewable energy and encourages reuse and recycling, and

BE IT KNOWN THAT, we foster and encourage energy efficiency in all that we do and promote environmentally-sound business practices and acknowledge our collective responsibility for environmental education and stewardship; and

AS ELECTED OFFICIALS we, the Custer County Board of County Commissioners reaffirm our commitment to the principles of Earth Day. In recognition of Earth Day 2009, and with the vision of protecting and enhancing the long-term health of our rural environment, economy and community, we support Earth Day by:

1. Continuing our quest to find a balance in all county operations, facilities, services and programs to be fiscally responsible with the ways we expend resources and conserve energy use, while maintaining quality county services.
2. Encouraging all citizens of our county and our neighbors to join us in celebrating Earth Day by participation in the activities and events to learn more.
3. Promoting partnerships that support the vision of our long term sustainability by demonstrating our commitment to supporting locally grown food, more use of renewable energy sources and a renew, reuse, recycle policy.

Adopted this 18<sup>th</sup> day of March, AD 2009.

Lynn Attebery, Chairman

Jim Austin, Vice Chairman

Carole J. Custer, Ph.D., Commissioner

Debbie Livengood, Clerk and Recorder (Attest)

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

To request additional background, curriculum vitae from John B. Cordova, District 2 Board of Pueblo County Commissioner prior to issuing a letter of support for an appointment to the Transportation Board District 10. Kris Lang will contact Mr. Cordova in this regard and also invite him to attend a BOCC meeting. Motion carried unanimously.

The BOCC recessed at 9:20 AM.

The BOCC reconvened at 9:30 AM.

Commissioner Austin advised that the Fire Ban Resolution #09-03 was approved at a special meeting on March 10, 2009 in the interest and safety of our citizens. He said that the fire ban resulted from discussion and agreements with the Sheriff and Fire Chief resulting from the recent fires in the area and dry conditions. Commissioner Attebery reported following a discussion with County Attorney, John Naylor an amendment would be added to the Resolution referencing the violation – penalty CRS Section 30-15-402 of Custer County Ordinance No. 2002-1 authorizing the Sheriff's department to issue citations for violations.

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

To approve the amendment to the Fire Ban Resolution #09-03. Motion carried unanimously.

Commissioner Austin gave a brief report on the Office of Emergency Management (OEM) meeting he attended. He said the OEM was in support of the Road and Bridge Department having an 800 radio for disaster communication. Commissioner Custer stated that both the Westcliffe and Wetmore Road and Bridge Departments should have a disaster communication radio. The Board will ask Supervisor, Dave Trujillo to review his budget for the purchase of the emergency radios.

Jerry Lacy, Round Mountain Water Sanitation District Board Member introduced Manager, Tracey Garcia and Operator in Responsible Charge, Wayne Jones to the BOCC. Ms. Garcia outlined the direction and vision for Round Mountain Water Sanitation District and focused on a community open-door policy.

Commissioner Austin gave a brief report on the BOCC meeting with the Wetmore Library Board to discuss their interest and participation regarding a proposed new library building in the Wetmore area. He advised the CDOT enhancement funds for beautification discussed at the meeting were limited to renovations and not brick and mortar for the new proposed library building. Commissioner Austin reported other resource avenues will be investigated and reviewed.

The following elected officials and department heads joined the meeting: Mike Halpin, J.D. Henrich, Dawna Hobby, Jackie Hobby, Chuck Ippolito, Debbie Livengood, Laura Lockhart, John Piquette, Dave Trujillo and Virginia Trujillo. Also present were: Joe Arbuckle, Allen Butler, Jerry Lacy, Tom Millikan and Lockett Pitman.

Sheriff Fred Jobe addressed the Board. He said that Ken Custer was hired into his department several years ago as a detention officer and that Ken Custer through his own efforts and expense acquired his deputy training and accreditation. The Sheriff said in 2007 Commissioner Custer applied for a grant that would create a School Resource Office (SRO) position. He feels the position was being created for her son Ken Custer. Sheriff Jobe stated that when he inquired at the school district he was told they did not want a SRO on premise. When he told Commissioner Custer that the school did not want a SRO she responded that they will. The Sheriff said that Commissioner Custer told him that the SRO starting pay would have to be higher than Ken's present salary because the grant position did not allow for regular increases. He said not only could he not believe what he heard but that it would have created wage conflicts within his department. Sheriff Jobe stated he was happy when the grant did not get approved since he felt like he was caught between a Commissioner who wanted the program and a School District that did not.

He said in 2008 Commissioner Custer approached him regarding a grant and he felt it would result in a created position for her son Ken Custer. Sheriff Jobe said he again checked with the school district and they did not want a SRO and reminded Commissioner Custer of that fact. He remarked that was the last he heard until Ken Custer resigned from his position as detention officer earlier this year to assume the position of Youth (Bobcat) Middle School Director. He feels it was wrong to designate Ken Custer and Micki Campbell as Youth (Bobcat) Club Directors without going through the open bidding process. He also said that Commissioner Custer hiring her son is a form of nepotism. He further stated he was aware that Ken Custer was interested in keeping his deputy credentials active and questioned the law enforcement role in the youth club and the TANF criteria. He repeated that the school district does not want a law enforcement officer on premise and that any law enforcement must be under the Sheriff's jurisdiction.

Commissioner Custer responded that the Youth (Bobcat) Club Director job description did not include or make any references to law enforcement. Sheriff Jobe said the paperwork in his possession did reference law enforcement and Commissioner Custer presented the Youth Club Director job description to the Sheriff and those present.

Sheriff Jobe questioned why Commissioner Custer and Ken Custer had designated offices inside the Hanssen Haus Resource Center. He stated no previous or present commissioners ever had or have an office and feel this is also a conflict and use of political patronage.

He reported he had reviewed the State of Colorado TANF Plan dated 1/1/09 and feels some of the programs expenditures do not met the criteria required and expressed concern if the expenditures already incurred are not covered under TANF funds, the county and county departments will have to absorb the cost and that would negatively affect the county budget. The Sheriff said he has always been able to work fairly with the previous commissioners but expressed concern that Commissioner Custer's actions are border-line criminal and is filing a request for an investigation into the matter.

Sheriff Jobe stated he spoke with the County Health Nurse where the TANF funds were originally going to be passed-thru and she was not comfortable with the programs and requested the funds be diverted through another means. He spoke with the county auditor and reported the auditor expressed concerns over the handling of TANF funds. He contacted the District Attorney and the State of Colorado TANF Board. The Sheriff stated he had written statements from employees in his department verifying that Ken Custer was quoted as saying his mother got a grant and created this job for him and that his mother was going to have the Sheriff work him in the sheriffs department this summer to keep his law enforcement status active followed with an implication that if the Sheriff's department did not agree to the arrangement the departments budget might be the subject of a review.

Sheriff Jobe stated the starting salaries for the program directors is a disparity when compared to the existing county employee wages and Commissioner Custer responded the salaries were in line with other directors in the regional school district. She explained the Youth Club directorship was only a six to nine month probationary contract and that is why Ken Custer and Micki Campbell were assigned the positions. Following the probationary period the Youth Club would have to prove worthwhile before there could be any contract extensions. She stated since the TANF funds are start-up funds the Kids Club and Youth Club would have to prove to be self-sufficient. She hoped that once the programs proved to be worthwhile that the school district may help support them with a portion of the Payment in Lieu of Taxes (PILT) funds allocated to them. Commissioner Custer referenced the personnel policy that had allowed employees to transfer from one department to another without the open bidding process as well as additional compensations for additional responsibilities. She agreed to offer the Youth Club directors positions open to the public for bid.

Commissioner Custer asked Social Service Director, Laura Lockhart to explain the distribution of Temporary Assistance to Needy Families (TANF) funds. Ms. Lockhart explained that the county TANF funds were in a reserve and that she was able to keep \$100,000 of that reserve and that funds above that would be returned to the federal government. She stated there was approximately \$300,000 in the TANF reserve account at this time. Ms. Lockhart stated she felt the Kids Club expenditures were probably TANF related since it was serving families and children although she had not seen any expenditure break-downs. She expressed concern regarding the TANF criteria of the Youth Club.

Commissioner Custer advised a tele-conference has been scheduled with herself, Laura Lockhart and Kevin Richards from the State of Colorado TANF funds on March 19, 2009 to review the criteria of the program expenditures.

Commissioner Attebery remarked this was an important first step.

Commissioner Attebery and Commissioner Austin agreed the source of conflict is the hiring of Ken Custer for the Youth (Bobcat) Club Middle School Director without offering the position for open bid. They stated the programs starting salaries were out of range with the existing county wages.

Virginia Trujillo stated she did not feel it was fair for Commissioner Custer to hire her son. She commented that she would have liked to hire her daughter for her department but was not able due to conflict and nepotism. She said the starting salaries were out of range with current county wages and that Commissioner Custer was proceeding and acting on her own without county knowledge.

J.D. Henrich commented that he has heard comments and been asked questions by the public regarding the hiring of Ken Custer. He said the public isn't happy with and doesn't trust government as it is and this action is creating a negative opinion of local government. Mr. Henrich said he does not disagree with the programs but does disagree with the process followed to date.

Debbie Livengood expressed concern that if the TANF funds did not cover the programs expenditures, the expenses have to come out of the county budget and county departments.

Chuck Ippolito remarked that the Kids Club, Youth Club and Hanssen Haus Resource Center have been purchasing computers, network plans and web-sites without advice or review by his department and yet he is expected to maintain the systems. He said the Kids Club purchased their own website when they could have linked onto the county website free of charge. He also said he was call to the Hanssen Haus Resource Center by Ken Custer to work on his personal computer.

Jackie Hobby shared concern over the program director salaries. She asked how many kids were enrolled in the Kids Club and Commissioner Custer replied the Kids Club had officially opened their doors early this week.

Dawna Hobby inquired if TANF funds could use used to assist needy families to enroll their kids in the Kids Club and Laura Lockhart responded yes if they meet the criteria qualify for TANF funds.

Joe Arbuckle said he was concerned that the taxpayer would foot the bill if these programs expenditures did not qualify for TANF funds and for that reason felt the situation should be acted on immediately.

Commissioner Austin apologized to Sheriff Jobe and everyone involved regarding any possible legal issues.

Commissioner Attebery expressed concern regarding the situation stated the Youth (Bobcat) Club would be acted on immediately.

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

To suspend the operations of the Youth (Bobcat) Club until legal consult from the County Attorney could be obtained. Motion carried unanimously.

The BOCC recessed at 11:30 AM.

The BOCC reconvened at 12:00 PM

The monthly Sheriff reports for February 2009 were accepted.

Commissioner Attebery gave an update on the installation of the two (2) donated stair chairs and reported the installation by a licensed installer would average \$4500 each. One stair-chair installation is proposed for the courthouse from the main floor to the upper level. The other stair-chair installation is proposed from the main floor to the lower level of the Wetmore community building. Commissioner Custer said she would investigate options with the State of Colorado Department of Human Services of the TANF funds to see if the installations meet the criteria under the American Disability Act. She reported The Wetmore community building would need an exterior designed stair-chair for installation on the outside stairway from the main floor to the upper floor library. She proposed the 2010 GOCO in-kind services for the Wetmore community building include the building of an enclosure over the outside stairway.

Rusty Christensen, Landfill Manager met with the BOCC and gave his monthly report. He submitted an application for the Solid Waste Association of Northern America (SWANA) training. The enrollment fee for SWANA is a covered line item on the landfill budget.

Rob Blessing, Sustainable Ways gave a presentation outlining the tire bale construction for the proposed building at the landfill. He distributed copies of the Recycling Incentives for Purchasing and Using Recycle Waste Tire Products in Public Projects from the State of Colorado Department of Local Affairs. Following a brief discussion which included the BOCC, Rusty Christensen and Rob Blessing it was determined the next step would be to identify a specific location for the building at the landfill facility.

The BOCC reviewed and discussed the county grievance guidelines of the personnel manual, draft and revisions and determined the 2000 personnel manual is the policy in place at this time and any grievances filed must adhere to those guidelines. The Road and Bridge Supervisor will be notified in this regard.

The BOCC signed a letter of support for the 11th Judicial District Juvenile Diversion Grant.

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

To adjourn the meeting. Motion carried unanimously.

The meeting was adjourned at 3:10 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chair