

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, AUGUST 4, 2009**

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

Lynn Attebery	Chairman	Present
Jim Austin	Vice-Chairman	Present
Carole Custer	Commissioner	Present
Kris Lang	Deputy Clerk to the Board	Present

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
- County Attorney – John Naylor
- Old Business:
  - Dave Robbins
  - Board of Equalization Hearing
  - Bob Tobin - Custer County Kids Club
  - Schedule No. 10107200
  - Kristi Geroux – Victim Advocate Fund Grant
  - Jackie Hobby – Planning and Zoning Report

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

Commissioner Attebery closed the Regular Session and opened the Board of Equalization (BOE) Hearing Schedule No. 10107200.

Commissioner Attebery closed the BOE Hearing and returned to Regular Session.

Bob Tobin, Custer County Kids Club (CCKC) Advisory Board met with the BOCC and presented the CCKC minutes from 3/12/09, 5/6/09, 6/15/09, 6/25/09 and 7/23/09. He stated the CCKC Advisory Board is directly accountable to the BOCC and requested clarification and confirmation on the responsibilities and direction the CCKC Advisory Board. Commissioner Austin requested confirmation on the number of members for the Advisory Boards. Commissioner Custer stated there were 11 members on the CCKC Advisory Board and 13 volunteer members on the Custer County Youth Club (CCYC) Advisory Board. She remarked the Advisory Boards were researching options for acquiring the 501(c)(3) statuses. Commissioner Attebery requested the CCKC provide a detailed spread sheet with the monthly reports and deposits. Mr. Tobin requested confirmation that expenditures up to \$500 could be approved by the CCKC Advisory Board. Commissioner Attebery stated that the CCKC account must have the funds available prior to any expenditure spending. Commissioner Austin agreed.

Commissioner Attebery presented the Custer County Treasurer monthly report for July 2009. The beginning balance was \$3,038,246.90 and the ending balance was \$2,988,479.04.

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

To accept the Custer County Treasurer report as presented. Motion carried unanimously.

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

- The CCKC Advisory Board was acknowledged as an Advisory Board to the BOCC.
- The BOCC Administrative Assistant will be excused from the end of the month meeting while the Board members are signing checks and vouchers. The audio recorder will remain on during this time and be reviewed by the Administrative Assistant prior to the preparation of the BOCC meeting minutes.
- Confirmation of correspondence issued to Dwight Brother on July 28, 2009 regarding the fence encroachment on CR 129.
- Confirmation of correspondence issued to Robert Hamilton's legal counsel on July 27, 2009 regarding the temporary buildings on CR 390.
- Confirmation of correspondence issued to Bill Knoth on July 15, 2009 regarding an over-height variance. Commissioner Austin stated for the record that Mr. Knoth had contacted him to discuss the situation. He said that he informed Mr. Knoth as a member of the BOCC he could not and would not discuss the matter.
- Summons/Complaint correspondence to Brigido Vargas regarding non-permitted zoning issues is being prepared.
- Confirmation that the correspondence received from Lois Mitchell is being reviewed at CTSI.
- Confirmation that the correspondence received from O.W. (Bill) Colgate was forwarded to the Road and Bridge Supervisor.
- The Ridgeview Tel Equipment Placement and Lease Agreement has been reviewed and approved by the County Attorney for the BOCC signature. Commissioner Attebery signed the contract as presented. (Original in the BOCC Administrative Assistant file/faxed to Ridgeview Tel).

Jack Canterbury, citizen shared concerns about the correspondence he received from the County Attorney on behalf of the BOCC regarding the gate on CR 139. He stated for the record that Linda Geuntch a member of the Sierra Mojada South Property Owners Association Board of Directors was also in attendance. Ms. Guentch stated that CR 139 was a non-maintained road. She reported that during the snow removal efforts in the past the fence on CR 139 had been knocked down. She said instead of repairing the fence which she believed would be knocked down during future snow removal procedures a written agreement with property owner Rock Canda had been reached to install a gate. The gate would be remain up during the summer cattle running season and removed during the winter. John Naylor, County Attorney remarked that a gate installation appeared to be a reasonable and agreeable solution. He advised the county may grant the right to install a gate on a maintained or non-maintained county road. He stated the county required a written agreement on file to this effect. Commissioner Austin reported that the Road and Bridge Department recommended the gate be removed and replaced with a cattle guard. Commissioner Custer stated that she would like to see all the parties involved meet, discuss options, and come to an agreement. Commissioner Attebery agreed. He stated the county would require supporting written documentation that all the parties involved were included in the decision making process; i.e. Sierra Mojada Property Owners Association, Road and Bridge Department, the Water Commissioner and Residents accessing the road.

Mr. Canterbury requested clarification on the required documentation and inquired if the documentation would require a notary. Commissioner Attebery replied that a simple written letter of agreement from each party involved would be sufficient and not require the services of a notary. He said he would like to see the issue resolved in a timely manner and extended the assistance of the BOCC if needed. Mr. Canterbury expressed concern that the letter issued noted the Candas' and the Olemans' as objectors when in fact they were not. Commissioner Attebery responded that was an unfortunate error on the part of the BOCC. Following a brief discussion the Board agreed the gate would remain until the situation was mutually resolved.

Kristi Geroux, Sheriff Department Administration and liaison for the Victim Assistance Program met with the BOCC and requested signatures on the Victim Assistance and Law Enforcement (VALE) Grant Application. She stated the amount of the grant will be \$11,663.20 and provided a project concept/design, service information, evaluation, constitutional amendment, crime victim compensation, budget summary/financial information and funding history for review. Ms. Geroux explained the grant application included a funding request of partial medical insurance premiums for the project director and office administrator. She stated if these funds are not awarded as part of the grant they would not be made available since the director and administrator do not meet the county requirements for medical insurance coverage. Commissioner Custer said the county auditors may require review of a contract and suggested Ms. Geroux complete a contract for the services. Ms. Geroux stated the second portion is a law enforcement request for \$1,040.00 to purchase replacement batteries. Commissioner Custer stated for future reference when the BOCC appointed her Grant Administrator it was agreed she would review any grants that the county would be negotiating.

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

To approve the VALE grant application in the amount of \$11,663.20 with a caveat that if the grant did not award partial funding of the medical insurance premium requested for the director and office administrator the funds would not be made available by the county. In addition the grant funding is 100% and does not require a county match or in-kind services. Secondly to approve the \$1,040.00 law enforcement request to purchase replacement and back-up batteries. Commissioner Custer stated she could not vote on the grant application until she had the opportunity to review the specifics of the grant. She suggested postponing the vote until she can review the pages submitted.

The BOCC recessed at 10:20 AM.

The BOCC reconvened at 10:40 AM.

Commissioner Custer stated she had reviewed the VALE grant application and as the Grant Administrator offered to sign paperwork. She offered her assistance in preparing a format for writing measurable goals and objectives. She said this information would be useful in future grant applications. Commissioner Attebery stated as Chairman of the BOCC he would sign the VALE grant application. Motion carried. (Original VALE grant application for \$11,663.20 in the Sheriff's Department/Copy retained in the BOCC Administrative Assistant files).

Jackie Hobby, Planning and Zoning (P&Z) Director met with the BOCC and gave a monthly report. She said that Scott Hunt is requesting variance permission to use an incinerating composting toilet on his property. Mr. Hunt frequents the property on a part time basis and has a 280 sq. ft. structure without water or electricity hook-up.

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

To allow the use of a composting toilet for the existing 280 sq. ft. size structure. Motion carried unanimously.

Ms. Hobby reported that Richard Ansell's zoning permit expired on July 6, 2009 and he is requesting a six month extension. Mr. Ansell has approximately 50% of the framing completed on the 3444 sq. ft. dwelling. She stated she has been restricted from inspections since the property is within an access coded locked gate community.

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

To extent the deadline until November 1, 2009 with the condition that the P&Z Director be allowed entrance to complete the inspection in a timely manner. Motion carried unanimously.

Ms. Hobby reported that Timothy Van Ripen has applied for an ISDS Variance for a 384 sq. ft dwelling. Mr. Van Ripen occasionally uses the property and is requesting a variance for a chemical toilet.

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

To grant an ISDS variance with the condition Mr. Van Ripen provide the P&Z Department a written description of the method used for waste disposal. Motion carried unanimously.

Ms. Hobby reported that Robert Hamilton has not removed or permitted the four temporary buildings at 1054 CR 390 as of August 3, 2009. She said the letter issued to Mr. Hamilton on July 9, 2009 referenced the Custer County Zoning Resolution, Section 12.3, requiring correction within thirty (30) calendar days with a deadline of August 8, 2009. Following a brief discussion the BOCC agreed the temporary buildings must be removed or permitted at the post construction fee at the close of August 8, 2009. The BOCC requested the County Attorney prepare a summons after that date to be delivered by the Sheriff's Department.

Ms. Hobby stated letters were issued on August 4, 2009 to William Mallory, Silver Cliff Ranch regarding the approved septic system and to Jeff Marek Silver Cliff Heights regarding a non-permitted construction.

Ms. Hobby asked to purchase a telephone recording system for the P&Z Department to provide verification and confirmation of conversations and complaints. At the start of the conversation callers will be advised that the conversation may be recorded. She stated that the funds were available in the P&Z budget and the system would have security value in the office. Commissioner Attebery stated when necessary the same security procedure should be initiated during physical walk-in interactions with the P&Z staff. The BOCC agreed.

The BOCC recessed the Court Room at 12:05 PM.

The BOCC reconvened in the Boardroom at 12:15 PM.

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

To go into Executive Session citing C.R.S. 24-6-402 (4) (b) a conference with the county attorney with the local public body for the purposes of receiving legal advice on specific legal questions. Motion carried unanimously.

Approved 8/31/09

The BOCC went into Executive Session at 12:18 PM, and those present were Commissioner Attebery; Commissioner Austin; Commissioner Custer; County Attorney, John Naylor; P&Z Director, Jackie Hobby and Deputy Clerk, Kris Lang. The County Attorney advised the purpose of the session was to seek advice of the attorney and under that basis this would be privileged communication and would not require recording.

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

To go back into Regular Session. Motion carried unanimously.

The BOCC went back into Regular Session at 12:46 PM.

Commissioner Attebery attested that as the Chairperson of the Custer County Board of Commissioners he confirmed that the discussion remained on-topic and that no matters were adopted and no actions or decisions were made.

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

Requesting the County Attorney, John Naylor contact Josh Marks of Berg, Hill Greenleaf & Ruscitti, L.L.P. for review and consultation of the county standings on a particular issue. Motion carried unanimously.

Commissioner Attebery reported the P&Z Department was reviewing definitions of trash, junk and rubbish and investigating the possibilities of proposing a rubbish/junk resolution. He advised any existing problems and situations would be grandfathered in and not be addressed by the proposed resolution.

Commissioner Custer stated that Diverse Datum was applying for a federal grant to bring additional high speed internet services to the community. She presented a letter of support for the BOCC's review and signatures. Commissioner Attebery responded that the usage and licensure of the tower was being reviewed and verified. He said several issues need to be resolved before the BOCC can issue a letter of support. Commissioner Austin agreed.

Debbie Livengood, Clerk and Recorder requested use of court room or the BOCC chambers to schedule a democratic meeting. The BOCC agreed to Ms. Livengood's request.

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

To adjourn the meeting. Motion carried unanimously.

The meeting was adjourned at 1:15 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chair