

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, DECEMBER 15, 2009**

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

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
Carole Custer	Commissioner	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present was Nora Drenner reporter for the Wet Mountain Tribune and numerous community members.

**AGENDA:**

- Call meeting to order
- Pledge of allegiance
- Roll Call
- Amend agenda
- Approval of minutes
- County Extension Agent
- Knoth, Bill (over-height)
- Old Business:
- Reports:
- Emergency Management – Christe Feldmann
- GEO Weatherization Program
- Hew Hallock, Stacy Proctor, Doug Karl

12:30 PM

- Work Session
- Economic (Community) Development
- Wet Mountain Fire District – Roger Camper

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

To accept the posted agenda. The motion carried unanimously.

Commissioner Attebery referenced a letter received by the County Attorney, John Naylor from Donald Belveal, legal representation for Bill and Pam Knoth. The letter is dated December 10, 2009 and specifies that Mr. Knoth’s position is that the action required by the county is strictly administrative and that the county does not have the discretion to refuse to take the required action. Mr. Knoth requested that the matter be put on the BOCC agenda for December 15, 2009 in an attempt to resolve the issue prior to the end of the year.

Bill Knoth addressed the Board and said construction for an addition to the existing house at 66500 State Highway 69 began in 2005 and that he and his wife moved into the home in 2006. Mr. Knoth gave an outline of the events dating back to 2003 when the previous Planning and Zoning Director, Linc Lippincott signed off on the architectural plans.

Mr. Knoth said that Mr. Lippincott had informed him that the height of the new construction would be okay as long as it did not exceed the height of the existing structure. Mr. Knoth stated the new addition to the existing home meets that requirement. He remarked that they have been living in the house for over two years and are now is receiving non-compliance notifications. He said he felt these notifications were generated from the original complaint by Arthur Von Boennighausen regarding the over-height and proceeded to read a portion of Mr.Arthur Von Boennighausen's complaint. Mr. Knoth expressed concern over the numerous negative rumors being circulated throughout the county. He remarked that it was unfortunate the situation required legal representation but felt it was his only recourse since previous attempts of ratification had failed.

Jackie Hobby, Planning and Zoning (P&Z) Director reported the P&Z Department had received a written complaint regarding an over-height and that under the zoning regulations she was required to investigate the complaint. She stated a survey revealed the residence was over-height and that Bill and Pam Knoth were notified of the findings and asked to apply for an over-height variance which they subsequently declined stating the architectural plans with the over-height had already been approved by the previous Planning and Zoning Director. She said that during her initial investigation she discovered the zoning permit on the residence and barn were not closed out and a compliance inspection had not been done. Ms. Hobby expressed concern that the proper zoning procedures were not followed and quoted several requirements of the zoning resolution. She stated there was additional concerns regarding the expenses the county has incurred to date as a direct result of the situation. Mr. Knoth said the issue was not about an over height variance but rather the interpretation of the height and the approval of the previous Planning and Zoning Director. He remarked that the interim zoning director, Christy Kesselring had contacted him regarding the final inspection and that he had given his permission to do the inspection and to the best of his knowledge the inspection was completed and all the required paperwork had been signed off.

Commissioner Attebery asked if there was anyone in the audience who wished to speak.

Kristi Geroux clarified that she was in attendance as a citizen and not a county employee. She remarked that Mr. Knoth has interacted with three zoning directors in an effort to resolve the situation. She said Mr. Knoth acted according to the architectural plans approved by Mr. Lippincott and that she felt the file should be closed.

Hal Julsen, adjacent property owner expressed concern that Mr. Knoth has not followed the proper zoning process. He said the Board of Zoning Adjustment (BZA) and the general public have not been notified and informed of the matter and given an opportunity to express their opinions. He proposed the issue be referred to the BZA for review.

Ron Thomason stated he felt that Mr. Knoth has acted accordingly and if the county issue was financial, he would make a monetary contribution to resolve the matter.

Paul Wenke said that Mr. Knoth had acted upon the approval he received from the previous Planning and Zoning Director. Mr. Wenke said the stipulation that the roof line not exceed the existing structure made eminent sense. He expressed concern regarding the monitoring and supervision of the Planning and Zoning Office and Director.

John Watson remarked that Mr. Knoth's property was a physical and financial asset to the county. He recognized that the over-height and the final compliance inspection were separate issues but felt the entire process was mishandled by both parties and suggested the file be closed.

Chris Derick stated he was in support of Bill and Pam Knoth and asked the county to close the file.

Paul Snyder said the plans submitted by Bill and Pam Knoth and approved by the previous Planning and Zoning Director matched what was constructed and that the county should close the file.

The Board thanked everyone in the audience for their comments.

Commissioner Attebery expressed concern over the money spent by the county on this issue. He said one of the things about the money that the county spent is the fact that the county incurred these costs and spent this money to get us to the point we are at now. He said he would like to recover some of those costs but did not feel the county was in a position to do this.

Commissioner Austin said he agreed with the advice of legal counsel to close out the file under the estoppel clause.

Commissioner Custer said she agreed with legal counsel regarding the over-height issue under the estoppel clause. She remarked that mistakes had been made by all those involved. She expressed concern that the county zoning regulations had not been followed for the closeout of the permit. She asked Ms. Hobby and Mr. Knoth to work together to achieve this result.

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

The BOCC acting on the advice of the County Attorney would exclude the height issue in closing out zoning permit 100-67-353. The motion carried unanimously.

The BOCC recessed at 10:05 AM.

The BOCC reconvened at 10:15 AM.

Mary Gompf and Leona Draper of the Custer County Extension Advisory Council addressed the Board and referenced the letter the council sent to the BOCC on December 4, 2009 asking the county to consider the vast benefits of having a Colorado State University (CSU) Extension Agent. The CSU Agent would be able to tap into the vast resources available to all CSU employees and have access to training and support of the entire extension organization. Ms. Draper said it was very important to continue with a viable 4-H program for the youth of Custer County.

Commissioner Custer responded that she did not want to put the extension program or 4-H program in jeopardy. She said a county hired extension agent could still contract with CSU to provide 4-H services to the community. Commissioner Custer said she would still prefer that a full time county extension agent be hired and funded by the county instead of a CSU funded part-time shared agent. Commissioner Austin said he was in favor and support of a shared extension agent position with Huerfano County. Commissioner Attebery said he would be willing to work with CSU and Huerfano County to get an extension agent who would be shared regionally. The Board agreed.

**Commissioner Attebery made a motion, seconded by Commissioner Austin to go into Executive Session. The motion carried unanimously. Commissioner Attebery cited C.R.S. 24-6-402 (4) the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest. The BOCC went into Executive Session at 10:41 AM.**

Those present were: Commissioner Attebery, Commissioner Austin, Commissioner Custer, Kris Lang Administrative Assistant and Bob Senderhauf Custer County Realty.

**Commissioner Attebery made a motion, seconded by Commissioner Austin to go back into regular session. The motion carried unanimously.**

The BOCC came out of Executive Session at 11:15 AM. No matters were adopted and no actions or decisions were made.

Christe Feldmann, Office of Emergency Management met with the BOCC and gave a report. She said the Community Emergency Response Team (CERT) course was combined with the First Responder Course. She reported the participants received forty (40) hours of emergency medical instruction as well as training in fire, search and rescue, terrorism, preparedness, disaster psychology and disaster organization. Ms. Feldman stated that CERT will be combining with the Medical Reserve Corps (MRC) for a disaster scenario on January 16, 2010. She remarked that the Pre-Disaster Mitigation (PDM) draft plan will be reviewed at the Central Emergency Services meeting scheduled on January 12, 2010. She advised that the State Office of Homeland Security Site inspection had been completed and the priority for the 2010 Homeland Security Grant funds would continue to be communication projects. Ms. Feldman reported the total funds received from 2004 to date was \$686,146.32. She presented the revised Colorado Wireless Interoperability Network (CWIN) Intergovernmental Agreement/Lease for the BOCC Chairman signature. She stated the County Attorney has reviewed and approved the agreement as presented. Commissioner Attebery signed the agreement and gave the original back to Ms. Feldman for submission.

Hew Hallock, Douglas Karl, and Stacey Proctor from the Governor's Energy Office (GEO) and Ted Ortiviz, Director of the Pueblo County Department of Housing and Human Services (PCDHHS) met with the Board and presented an overview on the current weatherization program. Also present was: Laura Lockhart, Rhonda Post, Lorraine Silva, Tyler and Kim Stein and Larry Weber. Mr. Karl reported that the 2009/2010 production budget for Custer County was approximately \$36,684.88 or nine (9) individual production units. He said that nine (9) applications have been approved with seven (7) still being processed. Lorraine Silva, Resource Navigator/ Weatherization Coordinator; Laura Lockhart and Ronda Post of Social Services expressed concern over the lack of communication their departments were experiencing with the PCDHHS and GEO offices. Commissioner Custer stated that Custer County had submitted fourteen (14) applications without response until this meeting and feels the county is not receiving the proper communication, notification or service they are entitled to. Mr. Ortiviz apologized for any lack of communication and notification regarding approved or denied applications. He said his office could not share the specifics of any application due to the confidentiality requirement. Ms. Proctor agreed that the GEO was held under the same confidentiality. She said the GEO and PCDHHS will make every effort to establish a communicative rapport with Custer County in the future. Mr. Hallock stated the number of projects approved for each county were determined through a state-wide formula based on population and poverty level. He advised the program runs from July to June and encouraged counties to continue to accept applications so those on the waiting list will be given priority for the next cycle. Mr. Hallock said this process would confirm the need for additional weatherization funding.

Commissioner Custer asked if there was a fact sheet of weatherization criteria guidelines, protocols and priorities available for review. Mr. Karl responded he would forward those guidelines to her. Commissioner Custer closed by saying she felt that when citizens make an effort to submit an application for a weatherization project they deserve proper communication and notification regarding the status.

The BOCC recessed from the Regular Meeting at 12:30 PM.  
The BOCC reconvened into the Work Session at 12:45 PM.  
The BOCC recessed from the Work Session at 1:55 PM.  
The BOCC reconvened into the Regular Session at 2:00 PM.

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

To sign a letter of recognition and thanks to Dark Skies commending them for the outstanding service they provided during the installation of the new lights at the Custer County Courthouse. The motion carried unanimously.

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

To approve Resolution #09-10, 09-11, 09-12, 09-13, 09-14 as submitted by the County Finance Officer, John Piquette. The motion carried unanimously.

RESOLUTION 09-10

A Resolution appropriating additional sums of money to defray expenses in excess of amounts budgeted for Custer County.

Whereas, Custer County has received unanticipated revenues and expenses due to unforeseen circumstances during the 2009, year,

And Whereas, the additional revenue was received from sources other than the property tax mill levy,

REVENUE SOURCE

10.33.33405 HOMELAND SECURITY GRANT \$101,386.47

10.36.35300 AFFORDABLE HOUSING GRANT \$237,000.00

Now, Therefore be it resolved by the Custer County Commissioners of Custer County, Colorado; that the 2009 appropriation for the GENERAL FUND is hereby increased by \$338,386.47 for the purpose of covering increased expenditures as follows:

Account No. 10.44112.317 HOMELAND SECURITY \$101,386.47

Account No. 10.48500.510 AFFORDABLE HOUSEING \$237,000.00

Adopted this 15<sup>th</sup> day of December A.D. 2009

Attest: Commissioner Lynn Attebery, Commissioner Jim Austin, Commissioner Carole J. Custer, Ph.D.

RESOLUTION 09-11

A Resolution appropriating additional sums of money to defray expenses in excess of amounts budgeted for Custer County.

Whereas, Custer County has received unanticipated revenues and expenses due to unforeseen circumstances during the 2009, year,

And Whereas, the additional revenue was received from sources other than the property tax mill levy,

REVENUE SOURCE

20.36.36400 OTHER FINANCING – CMB \$134,800.00

Now, Therefore be it resolved by the Custer County Commissioners of Custer County, Colorado; that the 2009 appropriation for the ROAD AND BRIDGE FUND is hereby increased by \$134,800.00 for the purpose of covering increased expenditures as follows:

Account No. 20.43040.222 DEBT SRVICE \$134,800.00

Adopted this 15<sup>th</sup> day of December A.D. 2009

Attest: Commissioner Lynn Attebery, Commissioner Jim Austin, Commissioner Carole J. Custer, Ph.D.

RESOLUTION 09-12

A Resolution appropriating additional sums of money to defray expenses in excess of amounts budgeted for Custer County.

Whereas, Custer County has received unanticipated revenues and expenses due to unforeseen circumstances during the 2009, year,

And Whereas, the additional revenue was received from sources other than the property tax mill levy,

REVENUE SOURCE

FUND BALANCE \$9,856.00

Now, Therefore be it resolved by the Custer County Commissioners of Custer County, Colorado; that the 2009 appropriation for the SELF INSURANCE FUND is hereby increased by \$134,800.00 for the purpose of covering increased expenditures as follows:

Account No. 40.40600.308 UNEMPLOYMENT \$9,856.00

Adopted this 15<sup>th</sup> day of December A.D. 2009

Attest: Commissioner Lynn Attebery, Commissioner Jim Austin, and Commissioner Carole J. Custer, Ph.D.

RESOLUTION 09-13

A Resolution appropriating additional sums of money to defray expenses in excess of amounts budgeted for Custer County.

Whereas, Custer County has received unanticipated revenues and expenses due to unforeseen circumstances during the 2009, year,

And Whereas, the additional revenue was received from sources other than the property tax mill levy,

REVENUE SOURCE

FUND BALANCE \$10,000.00

TANF GRANT \$ 8,810.60

Now, Therefore be it resolved by the Custer County Commissioners of Custer County, Colorado; that the 2009 appropriation for the CAPITAL IMPROVEMENT FUND is hereby increased by \$18,810.60 for the purpose of covering increased expenditures as follows:

Account No. 50.40600.913 COMMODITY BLDG. \$ 8,810.60

50.44180.913 GIS PROGRAM \$10,000.00

Adopted this 15<sup>th</sup> day of December A.D. 2009

Attest: Commissioner Lynn Attebery, Commissioner Jim Austin, Commissioner Carole J. Custer, PhD

RESOLUTION 09-14

A Resolution appropriating additional sums of money to defray expenses in excess of amounts budgeted for Custer County.

Whereas, Custer County has received unanticipated revenues and expenses due to unforeseen circumstances during the 2009, year,

And Whereas, the additional revenue was received from sources other than the property tax mill levy,

REVENUE SOURCE

70.33.33422 TANF GRANT \$230,000.00

Now, Therefore be it resolved by the Custer County Commissioners of Custer County, Colorado; that the 2009 appropriation for the WELFARE FUND is hereby increased by \$230,000.00 for the purpose of covering increased expenditures as follows:

Account No. 70.45022.600 COLORADO WORKS \$230,000.00

Adopted this 15<sup>th</sup> day of December A.D. 2009

Attest: Commissioner Lynn Attebery, Commissioner Jim Austin, Commissioner Carole J. Custer, Ph.D.

Roger Camper, Wet Mountain Fire Protection District (WMFPD) presented the Board with a map outlining the area of the 176 property owners in the Hillside area in Fremont County who have petitioned for annexation into the WMFPD. He said the property owners have agreed to be taxed as part of the WMFPD. He reported that the WMFPD is already functioning as mutual aide with Fremont County in these areas. Following a brief discussion the Board asked Mr. Camper to obtain additional and detailed information to include the response times from the Fremont County Emergency Medical Services (EMS); Fire Department and Sheriff's Office.

MOTION by Commissioner Attebery, seconded by Commissioner Custer:  
To adjourn the meeting. The motion carried unanimously.

The meeting as adjourned at 2:35 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman

BOARD OF CUSTER COUNTY COMMISSIONERS WORK SESSION  
December 15, 2009 12:30 PM  
Commissioners Board Room

Present: Commissioner Attebery  
Commissioner Austin  
Commission Custer  
Kris Lang, Deputy Clerk to the Board

Also Present: Nora Drenner, Reporter for the Wet Mountain Tribune; Angie Arterburn, Charles Bogle, Joe Cascarelli, Jan Lee; Mike and Joanie Liebman; Lockett Pitman; Kim and Tyler Stein; Lance Villers, Bob Weisenbach and Robin Young.

ECONOMIC (COMMUNITY) DEVELOPMENT

Angie Arterburn gave a brief description of the Custer County Community Economic Development Committee (CCCEDC). She explained since 2005 the CCCEDE operated under the direction of the extension agent along with the Steering Committee and various individuals and business owners from the community. Ms. Arterburn said the committee is facing challenges without the support of local leadership from an extension agent. She said in order to continue they are asking the county to take ownership and presented a CCCEDC budget request for 2010 to include: \$2,500 for members to attend conferences, \$1,000 to promote the veterans cemetery, \$3,000 to promote the buy local campaign; \$500 for paper supplies and \$30,000 for a part time economic development position. She reminded the Board that except for an extension agent all the members were volunteers. Ms. Arterburn remarked that the CCCEDC is requesting direction and guidance from the BOCC. Ms. Arterburn suggested that the Economic (Community) Development Steering Committee attend and participate in the Summit Meetings scheduled with Custer County and the Towns of Silver Cliff and Westcliffe in an effort to keep the lines of communication open among all entities.

Kim Stein said she felt the CCCEDC has lost direction and continuity without the support of a local extension agent. Commissioner Attebery responded that the BOCC is continuing to communicate with CSU and neighboring counties to place an extension agent in Custer County. He remarked that during these difficult economic times the county budget has been streamlined and although he would like the county to be able to financially supplement the CCCEDC he did not feel it could be accomplished at this time.

Tyler Stein said any development should have sustainable growth and suggested the county consider formalizing a definition of sustainability. Tyler and Kim Stein commented they were still in support of adopting an energy star program for the county.

Jan Lee said she felt any development or growth in the county should be sustainable.

Joe Cascarelli said there were people in the community who do not want or support any type of development. He said he felt that the CCCEDC was in need of a revision, update or confirmation on the direction the BOCC would like the committee to focus on.



Lance Villers said he felt the school district was in support of the CCCEDC but that they were experiencing their own financial limitations and are presently focusing on obtaining funding for an alternate high school.

Joanie Liebman suggested a systematic approach regarding the direction of the CCCEDC through a public input survey.

Lockett Pitman said he felt the CCCEDC should obtain direction from the BOCC but the committee itself should make the decisions necessary to achieve the goal.

Bob Weisenbach said he felt tourism provided an economic benefit to the county.

Charles Bogle gave an update on the proposed site for the National Cemetery in Southern Colorado. Mr. Bogle outlined the positive economic impact a Custer County Veterans Cemetery would have on the community and county. He requested funding to prepare and support a promotional package for the goal.

Robin Young said the CCCEDC had no direction or vision at this time and expressed concern over the Boards lack of interaction and guidance.

The Board said they supported the CCCEDC and would interact and participate in the scheduled meetings.

Commissioner Attebery remarked that he felt reducing the number of CCCEDC members would expedite the decision process and help the committee stay focused.

The Community Action Plan (CAP) for the Custer County Community Economic Development Committee was reviewed:

- Business and Community Development
- Human Resources
- Natural Resources
- Tourism and Marketing
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Commissioner Attebery said that although no decisions are made during a work session, the CCCEDC would be added as an agenda item at the next regular scheduled BOCC meeting. The BOCC thanked everyone for participating in the work session.

The Work Session concluded at 1:55 PM

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman