

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, MARCH 9, 2010**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COMMISSIONER'S 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	Absent
John Naylor	County Attorney	Absent
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  
Roll Call  
Amend agenda  
Approval of minutes: February 16, February 16 work session, February 18 workshop.  
County Attorney in attendance  
Transfer from Conservation Trust to County General – Debbie Livengood  
West Custer County Library District Annual Report - Marty Frick  
Medical Marijuana discussion by Michael Higdon  
Old Business:  
Wetmore Project update/discussion  
Cancel BOCC meeting 3/30/10  
Custer County Veterans Cemetery Donation  
Energy Coordinator position applications  
Staff Reports:  
Treasurer Report  
Planning and Zoning

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

To accept the posted agenda. The motion carried.

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

To approve the minutes from the February 16 BOCC meeting, February 16 Work Session and February 18, Work Shop as presented. The motion carried.

John Naylor, County Attorney joined the meeting at 9:08 AM.

Commissioner Austin reported that the Town of Westcliffe has pledged \$300 for the promotion of the Custer County Veteran's Cemetery and will match a \$200 contribution from Custer County and the Town of Silver Cliff.

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

To donate \$200 for the promotion of the Custer County Veteran's Cemetery. The funds will be taken from the miscellaneous line item of the Commissioner's 2010 budget. The motion carried.

Commissioner Attebery stated that there were no specific agenda items for the March 30, 2010 BOCC meeting and suggested cancelling the meeting for that date. Commissioner Austin agreed and remarked that any emergency agenda items could be heard at the March 31, 2010 BOCC meeting.

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

To cancel the BOCC meeting scheduled on March 30, 2010. The motion carried.

Dave Trujillo, Road and Bridge Supervisor met with the BOCC and the County Attorney. He reported a recent survey completed at the request of a new property owner revealed a county encroachment of CR 378 in the San Isabel area. He said that he wanted to inform the BOCC and County Attorney of the situation. He displayed maps and plots for identification and review. He explained that the existing CR 378 was bordered by mature trees, huge rocks and boulders. He said it would be extremely difficult if not impossible to realign the road. Mr. Trujillo said that the county road has been in existence and in use since the 1950's. John Naylor, County Attorney will review the legal status of adverse use by the county.

Commissioner Attebery said that Black Hills Energy is in the preliminary stages of designing a new over-head power line feeder on CR 255 to tie into the existing power lines within the Silver Cliff town limits. He said that Warren Heifner, Black Hills Energy Estimator had requested that the BOCC prepare correspondence confirming the CR 255 right of way. Mr. Naylor stated that the county has an easement on the surface of the road but does not have any control or jurisdiction under the surface of the road. Mr. Naylor recommended that Black Hills Energy contact the property owners for approval or permission for the installation of over-head power line feeders. The Board agreed to prepare correspondence notifying Mr. Heifner of the County Attorney's advice.

Marty Frick, Director of the West Custer County Library District, presented the BOCC with the Library's 2009 Annual Report. She reported that the general circulation has increased by 40%; internet usage increased 12%; viewing of the library website increased 25% and circulation of children's books is up 4%. Ms. Frick introduced Norma Jandro and stated that Ms. Jandro runs the children's programs and creates artistic displays throughout the library. She reported that foundation funds would be used to start a twenty to thirty year old newspaper archival project. She reported the library district has elected not to proceed with the Ennovate energy audit. She said the free of charge energy audit completed by Black Hills Energy revealed the need for weatherization upgrades.

Michael Higdon, citizen of the county approached the Board and presented a packet of information on medical marijuana for their review. He said it was his goal to help educate the BOCC on the health issues in support of medical marijuana. He said he planned to address the Town of Silver Cliff and the Town of Westcliffe Trustees on the subject

Commissioner Attebery said that the BOCC is awaiting the decision of the Legislature regarding medical marijuana. Commissioner Austin said that the county was a member of Colorado Counties Incorporated (CCI) and that the organization is closely monitoring the topic.

Debbie Livengood, Clerk and Recorder addressed the Board and requested the following transfers: Transfer \$3607.86 from the Conservation Trust Fund to the County General Fund. Transfer \$2,878.17 from the Conversation Trust Fund to the County General to balance a missed transfer in 2005. Transfer \$500.00 from the County General Fund to the Conservation Trust fund to balance a transfer from an ineligible expense in 2005. Transfer \$455.20 of interest from the County General Fund to the Conservation Trust Fund.

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

To approve and authorize the transfers as presented. The motion carried.

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

- The personnel policy is scheduled for the final review by the County Attorney and Human Resource Manager on March 9, 2010.
- The Colorado Department of Transportation (CDOT) is considering posting no jake brakes signs in the Wetmore area.
- The Colorado State Statute 42-4-1801 regarding the abandoned vehicles on the Wetmore Project property allows the county to dispose of the abandoned vehicles on public land after 48 hours.
- Wetmore Project - a release disclaimer will be posted on the premises during any auctions or bidding process. The entity that receives the county bid to remove and dispose of the building will be required to sign a disclaimer releasing the county from any and all liability during the demolition process.
- As the result of a safety concern expressed by a private citizen, those present determined that Phantom Road is a privately owned road. Therefore, the county does not have jurisdiction or control over Phantom Road or any other privately owned roads in the county.
- The BOCC meeting agenda items published and posted to be more specific when possible.

Commissioner Austin stated that he still supported having Custer County take over the deed for the Club America facility. Commissioner Attebery stated that since the facility was within the Town of Silver Cliff city limits he supported having the Town of Silver Cliff take over the deed. Duane Robey, citizen spoke in favor of having Custer County assume the deed to the Club America facility. Steve Willman, Custer 2020 Board of Directors President expressed concern that any entity holding the deed to the facility might change the present successful direction of the Board of Directors. He stated that the Board of Directors have a lot of time and financial investments in the project. Allen Butler, Mayor of Silver Cliff, reported that legal consult for the Town of Silver Cliff advised the Trustee's that a detailed signed agreement between the Town of Silver Cliff and the Custer 2020 Board would be required prior to taking over the deed. He said the Board of Trustee's were reviewing the proposal.

Nora Drenner, Town of Silver Cliff Trustee, stated that legal consult did advise the town trustee's that even in the most detailed agreement there would be some liability to the town. She expressed concern regarding that liability.

The BOCC recessed at 10:50 AM.

The BOCC reconvened at 11:05 AM.

Jackie Hobby, Planning and Zoning Director met with the Board and gave a report. She presented the 2010 Custer County Permit summary sheet. She explained that the summary sheet was revised to identify the number of permits for new dwellings; pre-existing; new additions; pre-existing; new residential; existing residential; septic systems; ISDS variances and home occupancies. Ms. Hobby said that Paul Zeller is requesting that the county vacate a road in Tract 6 Conquistador Filing 1. Following a brief discussion the BOCC agreed that the vacation request should follow the Planning Commission process. Ms. Hobby reported that following a conference with the Planning Commission Director it was agreed that at this time the Flick Kennels will not be required to apply for a Special Use Permit (SUP). A permit will be required if the property would change from a breeding kennel. Ms. Hobby announced that the Planning Commission meeting agenda item for March 9, 2010 was a re-plat for Pines Village. She said the Planning Commission agenda item for April 6, 2010 was a request for a SUP by RDH (Painted View Ranch); and the County Surveyor will present a survey of the boundary lines between the zones.

Virginia Trujillo, County Treasurer met with the BOCC and gave a report for February 2010. The beginning balance was \$2,901,847.68 and the ending balance was \$3,461,710.49. She commented that the 2010 property taxes collected to date were approximately 24% and that figure was reflected of the property taxes collected last year at this time.

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

To accept the February 2010 Monthly Report of the Custer County Treasurer as submitted. The motion carried.

Commissioner Austin addressed the energy coordinator position applications agenda item. He said that the Board had previously attended a meeting in Fremont County regarding this issue and agreed to have the Fremont County BOCC over-see the process on behalf of Custer County. He remarked that Tommy Covington the acting interim CSU Extension Agent for Custer County was actively involved in the process.

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

To allow the Fremont County BOCC to over-see the energy coordinator position, applications and project on behalf of Custer County. The motion carried.

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

To adjourn the meeting. The motion carried.

The meeting was adjourned at 12:30 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman