

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, MAY 1, 2012**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COURTROOM

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
Allen Butler	Commissioner	Present
John Naylor	County Attorney	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present was: Cal Leslie, Bob Senderhauf and Nora Drenner reporter for the Wet Mountain Tribune.

**AGENDA**

Call meeting to order  
Pledge of allegiance  
Roll Call  
Amend agenda (FCC Letter of Support and Airport Transfer)  
Audience introduction  
Approval of minutes  
Public Comment  
County Attorney  
- County Building Policy/Soliciting/Election/Petition  
New/Old Business  
Custer County Resource Center Annex  
Letter of Support for KWMV Radio Station to the FCC  
Airport Authority Board  
Airport Transfer Request from the County General Fund  
Resource Center Discussion – Sheriff Jobe  
Treasurer Report R/S for May 16, 2012  
Planning and Zoning Report

Commissioner Attebery stated that the Treasurer Report would be postponed until May 16, 2012.

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

To accept the posted agenda. The motion carried unanimously.

Commissioner Attebery asked if there were any public comments. Bob Senderhauf said that currently the Road and Bridge Department is experiencing a shortage regarding available water for work on the county roads. He outlined the process for the county to purchase supplemental water from the Upper Arkansas Water Conservancy District (UAWCD) to assist the road and bridge department. The BOCC thanked Mr. Senderhauf for the information and agreed the issue would be discussed and reviewed with the Road and Bridge Supervisor.

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

- County Building Policy/Soliciting/Election Petition (not applicable at this time).
- Legal Description of the land for the Park n-Ride (in review).

- LARCAN Contract (in review).
- Custer County mapping to be removed from the FEMA website (correspondence will be issued).
- The County Attorney will send correspondence to the property owner regarding the easement needed for Sangre DeCristo Electric to bring power to the landfill.

Commissioner Austin reported that Tezak Heavy Equipment Co. Inc. of Canon City was awarded the bid from CDOT for the Highway 69S Project and Bridge Replacement. The project budget is approximately five million dollars. He said that CDOT estimates the project will begin the first or second week of June. He remarked that he was the primary contact person for the CDOT project and that a secondary contact was required. Following a brief discussion the BOCC agreed that the secondary contact should be Dave Trujillo, Road and Bridge Supervisor. Commissioner Austin said he would like to address some of the misinformation associated with the project. He said that in 2009 the project started out as a path for buggies and or pull outs along a portion of Highway 69S. He commented that as a result of opposition expressed from the ranches along the route and several citizens, the project was quickly revised for the widening of the shoulders along Highway 69S from Hermit Lane to Schoofield Road. Commissioner Austin said he would like to specifically respond to comments that the public was not adequately informed or made aware of the project. He said that the project is referenced in the official BOCC minutes dating back to 2009. He said the topic was also discussed at the Summit Meeting in 2010 and 2011. He commented that until recently the project did not have any opposition. Commissioner Austin remarked that CDOT has allocated \$50,000.00 for a traffic study of the Intersection of SH69 and SH 96 in the town of Westcliffe.

Commissioner Butler reported that Christy Culp, Department of Local Affairs, Regional Director toured the Custer County Resource Center Annex. He said that Ms. Culp did not have any issues or concerns regarding the use of the facility under the Community Development Block Grant #08-001 regulations and requirements.

Annette Cross, David Cross, Bob Jolley, Monty Lee, Cheryl Leonard and Dale Mullen joined the meeting.

Dale Mullen met with the BOCC and presented copies of the Custer County Silver West Airport Fuel System and Analysis and the Operational Analysis for February, March and April of 2012. Mr. Mullen gave a report on Annual Fly In, open house, pancake breakfast, VIP presentation and static display planned for May 12, 2012 at the Silver West/Custer County Airport. Mr. Mullen stated that the Airport Authority Board is requesting the transfer of \$17,188.00 from the General Fund to the Airport Fund. He said that the transfer was necessary to cover the anticipated expenditures and the aviation fuel purchase prior to the Annual Fly In and open house scheduled for May 12, 2012. He reminded the BOCC that the monies have already been approved as part of the 2012 budget.

**MOTION by Commissioner Austin:**

To approve the transfer request. The motion died due to the lack of a second.

Commissioner Attebery expressed concern that the airport budget line item currently showed an available fund balance of approximately \$16,000.00. He said that he felt a \$17,188.00 transfer was not necessary at this time. He said that although specific amounts are approved and allocated during the budgeting process; all county departments are asked to exercise expenditure restraint in an effort to keep a viable county general budget fund balance. He asked the same of the Airport Authority Board (AAB). Mr. Mull said that the Chief Financial Officer had recommended that the Airport Fund maintain a \$12,000.00 available balance at all times. He stated that the transfer is necessary to meet those guidelines. He reminded the Board that the AAB is not governed nor does it fall under the purview of the BOCC. He said that although the AAB appreciates the county funding allocated to the airport each year, the BOCC should not micro-manage the operation. Commissioner Austin agreed and said that the funds were already approved by the BOCC. He said that the AAB was justified in the transfer request.

Commissioner Butler expressed his dissatisfaction with the demeanor expressed by AAB Chairman regarding the airport transfer request brought before the BOCC. He stated that he would approve the transfer but reminded the AAB that they must function within the remaining budget allotted until the end of the year and that he would not approve any additional funding requests.

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

To approve the transfer of \$17,188.00 from the County General Fund to the Airport Fund. Commissioner Attebery oppose the motion. The motion carried.

Commissioner Austin asked the AAB to discuss and review options that would educate the public on the economic benefits the airport brings to the community. David Cross said that during the upcoming budget hearings he would like the BOCC to keep in mind that the property taxes paid to the county on the residences and hangers at the airport exceeds the supplemental funding provided by the county.

Sheriff Jobe and Deputy Halpin addressed the BOCC and requested approval to use the Custer County Resource Center Annex. Sheriff Jobe said the Sheriff's Office (SO) would like to use the main/front room for patrol meetings and seminars. He said that the SO in conjunction with the Human Services Department would like to equip and setup the south west office to use for audio and video interviews. The BOCC approved and agreed with the requests.

Jackie Hobby, Planning and Zoning Director met with the BOCC and the County Attorney and the following topics were discussed:

- File: 100-23-300 Septic Permit Violation (resolved)
- File: 100-36-735 Septic Permit Violation (in review)
- File: 102-36-830 Non-Permitted Underground Container (refer to the Planning Commission)
- File: 100-16-602 Non-Permitted Structures Violation (notification issued)
- File: 101-82-700 Special Use Permit Violation (notification issued).
- File: 101-12-661 Zoning, Septic and Variance Violation (notification issued).

Ms. Hobby said that a Board of Zoning Adjustment Alternate Member will need to be appointed. She presented the BOCC with a letter of interest from Ken Lankford.

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

To appoint Ken Lankford as a Board of Zoning Adjustment alternate member. The motion carried unanimously.

Ms. Hobby said that on September 28, 1977 Custer County withdrew the FEMA flood maps. She reported that these maps are located on the FEMA website and are not recognized or approved by Custer County. Ms. Hobby requested that John Naylor, County Attorney issue a correspondence to FEMA addressing the removal of these maps. The BOCC agreed.

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

To approve the April 18, 2012 minutes as presented. The motion carried unanimously.

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

To sign the letter for KWMV Radio Station supporting the proposed rule-making change to create a new class of LPDM station in referenced areas to operate at a maximum power level of 250 watts. The motion carried unanimously.

John Naylor, County Attorney said that the BOCC will go into an Executive Session at 2:15 PM to seek legal advice from Josh A. Marks of Berg Hill, Greenleaf, & Ruscitti LLP.

Mr. Naylor said that Commissioner Austin has recused himself from any discussion regarding File: 100-52-100 and would not have to be in attendance.

The BOCC recessed at 12:00 PM.

The BOCC reconvened at 2:10 PM.

**Commissioner Attebery made a motion, seconded by Commissioner Butler to go into Executive Session.**

**The motion carried.** Commissioner Attebery cited. C.R.S. 24-6-402(b). Conferences with an attorney for local public body for the purpose of receiving legal advice on specific legal questions. The BOCC went into Executive Session at 2:15 PM. Those present were: Commissioner Attebery, Commissioner Butler, County Attorney John Naylor, Planning and Zoning Director, Jackie Hobby, Deputy Clerk to the Board, Kris Lang and telephone conference with Josh Marks, Attorney at Law.

Commissioner Attebery made a motion, seconded by Commissioner Butler to go back into Regular Session. The motion carried.

The BOCC came out of Executive Session at 3:05 PM. No matters were adopted and no actions or decisions were made.

John Naylor, County Attorney said that the BOCC was back in Regular Session and asked the Board if they wished to take any action.

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

To move forward with legal representation from Berg Hill, Greenleaf, & Ruscitti LLP regarding File: 100-52-100, Thomas and Theresa Davis. Mr. Marks will reply to the correspondence sent to Ms. Hobby from the Law Office of Peter F. Michaelson, P.C. dated April 13, 2012. The motion carried.

Commissioner Attebery, Chairman signed the Berg Hill, Greenleaf & Ruscitti, LLP engagement letter regarding the Thomas and Theresa Davis Special Use Permit matter.

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

To move forward with legal representation from Berg Hill, Greenleaf, & Ruscitti LLP. regarding File: 100-89-263 Las Mojadas LLC, Custer County District Court Case No. 12CV23. The motion carried.

Commissioner Attebery, Chairman signed the Berg Hill, Greenleaf & Ruscitti, LLP engagement letter to defend Custer County in the matter of Las Mojadas, LLC. v. Custer County, filed in Custer County District Court as Case No. 12CV23.

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

To adjourn the meeting. The motion carried.

The meeting was adjourned at 3:15 PM.

\_\_\_\_\_  
Debbie Livengood, Clerk and Recorder  
Attest

\_\_\_\_\_  
Lynn Attebery,  
Chairman