

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, APRIL 7, 2015**

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

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

Roll Call was taken:

Kit Shy	Chairman	Present
Lynn Attebery	Vice-Chairman	Present
Bob Kattnig	Commissioner	Present
Clint Smith	Attorney	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present: Dallas Anderson, Joe Arbuckle, Rick Ashwood, Shannon Byerly, Peggy Collins, Steve Cox, Bob Dreher, Anna Orgeron, and Paul Sage, reporter for the Sangre DeCristo Sentinel.

AGENDA:

Call meeting to order

Pledge of allegiance

Roll Call

Amend agenda

Approval of minutes:

Audience introduction

Public Comment

Commissioner Items

Attorney Items

- Draft CORA Policy Input

Executive Session

New/Old Business

District Attorney Supplemental Budget Request

Family Matters to Custer County Budget Request

- FIRST READING/Public Comment (10:00 AM)

Ordinance of Custer County, A Political Subdivision of the State of Colorado, Regulating the Staff Reports: VSO, Human Resource/Finance, Human Service, Planning and Zoning, Treasurer Road and Bridge

AMEND AGENDA

Commissioner Attebery said that due to timing restraints that he proposed the commission item topic of the agenda be addressed at the end of the BOCC meeting.

MOTION by Commissioner Attebery, seconded by Commissioner Shy:

To address the Commission Item topic of the agenda at the end of the meeting. Commissioner Kattnig expressed concern regarding the motion and said that members of the audience often join the meeting at the beginning to hear the commissioner items. Commissioner Shy said that the commissioner items will be addressed throughout the meeting as time allows. The motion carried unanimously.

APPROVAL OF MINUTES

None

PUBLIC COMMENTS

Commissioner Shy asked if there were any public comments. Joe Arbuckle commented that the County Master Plan is currently being reviewed and revised by the Planning and Zoning Director and the Planning Commission. He suggested that Zone 1 and Zone 2 be exempted from any Planned Unit Development (PUD) land use. He said that this restriction will help protect and preserve the water in the valley. Mr. Arbuckle said that he felt there was a counterdiction of intent in the current master plan related to water usage in the zones. Commissioner Kattnig said that the current Master Plan may be an ambiguous document and proposed that the Planning Commission schedule a public work shop or hearing to allow the citizens and property owners an opportunity to share their input regarding the issue. Commissioner Shy remarked for the record that the Master Plan is an advisory document.

COMMISSIONER ITEMS

Deferred at this time.

ATTORNEY ITEMS

Clint Smith, Attorney said that he has received some comments and suggestions from elected officials and department heads regarding the draft Colorado Open Records Act (CORA) policy that he is preparing on behalf of the county. Mr. Smith said that he will finalize the document and present it to the BOCC for approval.

EXECUTIVE SESSION

None at this time.

NEW/OLD BUSINESS

District Attorney Supplemental Budget Request

Commissioner Shy said that the 11th Judicial District Attorney, Tom LeDoux is requesting an additional \$41,250.00 to his 2015 budget. Commissioner Attebery said that the individual county share breakdown for the proposed supplemental budget is as follows: Fremont County \$22,445.00; Chaffee County \$8,944.00; Park County \$7,789.00 and Custer County \$2,070.00. He said that Fremont County and Park County were not in favor of the increase at this time. Commissioner Kattnig said that he carefully read and reviewed the associated e-mails regarding the issue. He commented that the BOCC were administrators of the county tax dollars and did not feel this request was in the best interest of Custer County at this time.

MOTION by Commissioner Kattnig, seconded by Commissioner Attebery:

To decline the 11th Judicial District Attorneys request for \$41,250.00 of additional funding for the budget year 2015. The motion carried unanimously.

Family Matters to Custer County Budget Request

Peggy Collins addressed the BOCC and asked about the \$210.00 donation she requested for the Family Matters to Custer County from the county at the March 31, 2015 BOCC meeting. Commissioner Shy said that further investigation of the RETAC budget revealed that the funds could not be allocated for the creation of a new organization. The BOCC agreed that the funding was not available in the county budget but offered to support the organization by offering notifications on the county website.

Veterans Service Office Report

Anna Orgeron, Veterans Service Officer presented the Custer County Veterans Service Officers Monthly Report and Certification of Pay for the month of March 2015 for the BOCC's review and approval. Commissioner Shy signed the correspondence as Chairman of the BOCC.

Commissioner Kattnig reported that the top three candidates for the Veterans Service Officer position were interviewed on April 1, 2015. He thanked Commissioner Shy for participating in the interviewing process on his behalf. He said that the candidate interview rankings are as follows: 1. Tim Schwartz; 2. Kim Frahm; 3. Rick Ferron. He expressed appreciation for all the candidates who expressed interest in the position.

MOTION by Commissioner Kattnig, seconded by Commissioner Shy:

To offer the position of the Veterans Service Officer to Tim Schwartz. The motion carried unanimously.

MOTION by Commissioner Katting, seconded by Commissioner Attebery:

To offer the position of VSO to the second ranking candidate if Tim Schwartz does not accept the appointment. The motion carried unanimously.

The BOCC recessed at 9:50 AM.

The BOCC reconvened at 10:00 AM.

- FIRST READING/Public Comment (10:00 AM)

Ordinance of Custer County, a Political Subdivision of the State of Colorado, Regulating the Operation and Use of Off-Highway Vehicles on the Public Roadways of Custer County

Clint Smith, Attorney read the Ordinance No. #15-01 an Ordinance of Custer County, a Political Subdivision of the State of Colorado, regulating the operation and use of off-highway vehicles on the public roadways of Custer County in its entirety as prepared.

Commissioner Shy asked if there were any public comments. Art Nordyke suggested a modification in the section, part one definition. Sheriff Byerly proposed a modification in the section, part three penalties. Mr. Smith proposed removing a paragraph in part four regarding the ordinance become effective thirty days after adoption. Mr. Smith remarked that he will revise the Ordinance as discussed and agreed. The revised Ordinance will be published in the Sangre DeCristo Sentinel on April 17, 2015 and also be available for public review in the Clerk and Recorder's office. The second reading and tentative adoption of the Ordinance is scheduled on April 30, 2015. The Ordinance will be effective on the date of adoption.

MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:

To approve and adopt Ordinance #15-01 on the first reading, April 7, 2015. The motion carried unanimously.

AN ORDINANCE OF CUSTER COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, REGULATING THE OPERATION AND USE OF OFF-HIGHWAY VEHICLES ON THE PUBLIC ROADWAYS OF CUSTER COUNTY

Ordinance No. 15-01

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, THAT:

Whereas, the Board of County Commissioners deems it is in the best interest of the citizens of Custer County and the general public that the operation and use of off-highway vehicles on the public roadways of Custer County be regulated as authorized by §33-14.5-110, C.R.S., and

Whereas, there has been full compliance with all statutory requirements concerning notice to the public of this proposed Ordinance and publication of said Ordinance, and the public has now been afforded full opportunity to be heard on this proposed Ordinance at a regular meeting of the Board of County

Commissioners; and

Whereas, more than 30 days have now passed since this Ordinance was approved by the Board of County Commissioners in accordance with the procedures prescribed in §30-15-404 through §30-15-407, C.R.S., **NOW THEREFORE**, this Ordinance is declared to be in full force and effect as of the date signed by the Chairman of the Board of County Commissioners and attested to by the County Clerk and Recorder below.

PART ONE: DEFINITIONS

1. “Off-highway vehicle” means any self-propelled vehicle that is designed to travel on wheels or rubber tracks in contact with the ground, designed primarily for use off of the public highways and public roadways, and generally and commonly used to transport persons for recreation purposes. “Off-highway vehicle” does not include the following:
 - a. Vehicles designed and used primarily for travel on, over, or in the water;
 - b. Snowmobiles;
 - c. Military vehicles;
 - d. Golf carts;
 - e. Vehicles designed and used to carry persons with disabilities; and
 - f. Vehicles designed and used specifically for agricultural, logging, or mining purposes.
2. “Public roadway” means the entire width between the boundary lines of every county road located within Custer County and publicly maintained by said county when any part thereof is open to the use of the public for purposes of vehicular travel. “Public roadway” does not include those portions of State Highways 67, 69, 78, 96 and 165 which are located in Custer County and which are maintained and regulated by the Colorado Department of Transportation, nor does it include the roads located within the town limits of the Town of Westcliffe and the Town of Silver Cliff.
3. “Safety belt system” means a system utilizing a lap belt, a shoulder belt, or any other belt or combination of belts installed by the manufacturer of an off-highway vehicle for the purpose of restraining the operator and passengers.

PART TWO: VIOLATIONS

1. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless the operator of the off-highway vehicle is at least 16 years of age and has in his or her possession a valid motor vehicle driver’s license or operator’s license.
2. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless the operator of the off-highway vehicle is insured to the minimum level required by the State of Colorado for the operation of automobiles.
3. No off-high way vehicle shall be operated at any time on any public roadway within Custer County unless the vehicle is properly registered and numbered with the Colorado Division of Parks and Wildlife in accordance with the provisions of §33-14.5-102, C.R.S., and the validation decal issued by the division shall be affixed to the off-highway vehicle in the manner prescribed by the division.
4. No off-highway vehicle shall be operated at any time on any public roadway within Custer County while towing a sled, toboggan or other similar device intended to be used for recreational purposes. A utility trailer may be towed if it is attached to the off-highway vehicle by a rigid bar and is equipped with a red reflector attached to the rear of said trailer. Transporting passengers or occupants in a trailer towed by an off-highway vehicle is prohibited.
Transporting passengers or occupants in a trailer towed by an off-highway vehicle is prohibited.

5. No off-highway vehicle shall be operated at any time on any public roadway within Custer County unless it is equipped with the following:
 - a. At least one lighted head lamp and one lighted tail lamp, each having the minimum candlepower prescribed by regulation of the Colorado Division of Parks and Wildlife;
 - b. Brakes and a muffler and spark arrester which conform to the standards prescribed by regulation of the Colorado Division of Parks and Wildlife.
6. No off-highway vehicle shall be operated at any time on any public roadway within Custer County between the hours of 10:00 p.m. and 5:00 a.m.
7. No off-highway vehicle shall be operated at any time on any public roadway within Custer County for the purpose of plowing snow or for modifying the grade or drainage of said public roadway.
8. No off-highway vehicle shall be operated at any time on any public roadway within Custer County with more occupants or passengers than intended by the manufacturer's design.
9. If an off-highway vehicle is equipped with a safety belt system by the manufacturer of said vehicle, every driver and every passenger of a vehicle so equipped shall wear a fastened safety belt at all times while the off-highway vehicle is being operated on any public roadway within Custer County.
10. The operator of an off-highway vehicle on the public roadways of Custer County shall also comply with all traffic ordinances of Custer County regulating the operation of motor vehicles on said roadways within the county.
11. This Ordinance shall be enforced by law enforcement officers and peace officers duly sworn and authorized to enforce laws and ordinances in Custer County, as well as by any person or persons designated by the Board of County Commissioners as special county enforcement officers.

PART THREE: PENALTIES

1. Any person who violates paragraphs (1) through (9) of Part Two shall be guilty of a class 2 petty offense and upon conviction for a first violation thereof shall be punished by a fine of \$50.
2. A subsequent violation of paragraphs (1) through (9) of Part Two by the same person shall also be a class 2 petty offense, but upon conviction for a second offense the violator shall be punished by a fine of \$150.
3. A person who violates paragraphs (1) through (9) of Part Two for a third time or more shall, upon conviction, be punished by a fine of \$300 for each such violation and no portion of such fine may be waived or suspended by the sentencing judge.
4. The penalty assessment procedure set forth in §16-2-201, C.R.S., shall be followed for any violation of paragraphs (1) through (9) of Part Two of this Ordinance. The penalty assessment notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge in the county court for Custer County at a specified date and time, and any other matter reasonably adapted to the effectuation of this Ordinance. A duplicate copy shall be sent to the clerk of the county court.
5. A person who is charged with and convicted of violating a traffic ordinance as set forth in paragraph 10 of Part Two shall be punished with a fine as specified in the fine schedule set forth

in §42-4-1701 and §42-4-1703, C.R.S., and §42-4-1708 to 42-4-1718, C.R.S., except that the fine or penalty for a violation charged and the surcharge thereon if authorized by county ordinance shall be paid to the County Treasurer.

6. If the person given a penalty assessment notice chooses to acknowledge his guilt, he may pay the specified fine in person or by mail to the County Treasurer within 20 days from the date of issuance of the penalty assessment notice. If he chooses not to acknowledge his guilt, he shall appear in county court as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he is found guilty. Customary court costs may be assessed against him in addition to the fine.
7. All revenues received by the County Treasurer for fines imposed and collected pursuant to this ordinance shall be allocated as follows: 80% to the county sheriff; 20% to the county road and bridge department. For the first year this ordinance is in effect, the county sheriff shall allocate and set aside not less than 20% of any such revenues received from fines collected pursuant to this ordinance for the purpose of informing and educating the public regarding the existence of this ordinance and explaining what operations of an off-highway vehicle are allowed and what operations are not allowed on the public roadways of this county.

Effective Date: This Ordinance shall be effective immediately following adoption on second reading and shall apply to off-highway vehicle violations occurring or committed on or after said date.

INTRODUCED, READ AND ADOPTED ON FIRST READING ON THE 7th DAY OF APRIL, 2015, AND ORDERED PUBLISHED IN THE SANGRE DE CRISTO SENTINEL.

The Board of County Commissioners for Custer County, State of Colorado

Christopher L. (Kit) Shy, Chairman

Debbie Livengood, County Clerk and Recorder

ADOPTED ON SECOND AND FINAL READING ON THE 30th DAY OF APRIL, 2015, AND ORDERED PUBLISHED BY REFERENCE TO TITLE ONLY IN THE SANGRE DE CRISTO SENTINEL.

The Board of County Commissioners for Custer County, State of Colorado

Human Resource/Finance Report

Dawna Hobby, Human Resource/Finance Manager met with the BOCC and gave a report. She said that the Colorado Employee Benefits Trust (CEBT) medical insurance plan for the county employees is up for renewal in July 2015. Ms. Hobby said that currently CEBT remains the best option for the county and the employees. She recommended that the BOCC renew the current insurance plan and coverage for six months. She said that there is no penalty involved with a six month renewal compared to a year renewal. Ms. Hobby said that the health care industry was constantly changing and that in another six months other comparable options could present themselves. She remarked that currently the county pays out over \$590,000.00 a year for employee insurance premiums. She also commented that the additional benefit for the employees paying their portion of the insurance premiums with pre-taxed dollars will be eliminated in the future. Commissioner Kattnig said that he felt the county should renew the CEBT medical insurance for six months and asked Ms. Hobby to get additional bids in January 2016. He remarked for the record that the lowest dollar premiums are not always the best option and that the complete benefit package should be carefully reviewed. He thanked Ms. Hobby for her consistent dedication to securing the best insurance coverage option for the employees and the county.

MOTION by Commissioner Shy, seconded by Commissioner Attebery:

To authorize the Chairman to sign the six month renewal with CEBT for employee medical insurance based on the findings and recommendations of Ms. Hobby. The motion carried unanimously.

Human Services Report

Laura Lockhart, Human Services Director met with the BOCC and gave a report. She presented the Expenditures & Unexpended Balances; the State Allocations; the Energy Outreach Colorado Expenditures and the TEFAP County Allocation for February 2015. She reviewed the child welfare allocation committee staffing survey results received from the state.

Planning and Zoning Report

Jackie Hobby, Planning and Zoning Director met with the BOCC and the following issues were discussed.

File #	102-36-135	Septic Violation (in review and process)
File #	100-40-900	Property Encroachment (in review and process)
File #	100-71-301	Building Permit 18 month extension requested (twelve month extension granted)

MOTION by Commissioner Attebery, seconded by Commissioner Kattnig:

To grant a twelve month extension on the building permit for File: 100-71-301 from today's date. Commissioner Kattnig said that the current permit expired on May 28, 2015 and proposed that the twelve month extension become effective as of that date.

MOTION by Commissioner Kattnig, seconded by Commissioner Shy:

To grant a twelve month extension on the building permit for File 100-71-301 beginning May 28, 2015. The motion carried unanimously.

Commissioner Kattnig said that according to Roberts's Rules of Order the original motion would need to be rescinded. Commissioner Shy responded that the motion had been amended and did not require rescinding. Attorney Smith said that the amended motion was sufficient. Commissioner Shy stated that the motion stands as read and approved.

Commissioner Kattnig expressed concern regarding the submission of any future Special Use Permit (SUP) applications for a dog kennel and suggested that a county moratorium be considered. He recommended that the zoning regulations specifically address the topic. Ms. Hobby made a notation and said that the zoning regulations would be reviewed and revised in the fall of 2015. Commissioner Kattnig said that Mr. Arbuckle had shared a concern with the County Master Plan earlier in the meeting and proposed that PUD's be restricted in Zone 1 and Zone 2. Ms. Hobby made a notation and said that she will share the concern with the Planning Commission.

Road and Bridge/Landfill Report

Rusty Christensen, Road and Bridge Supervisor, and Roger Squire, Assistant Supervisor in Westcliffe met with the BOCC and gave a report. The work completed in March 2015 included the plowing of snow, the grading of numerous roads, the hauling of water and gravel, the cleaning of culverts and ditches, and the cleaning and repair of cattle guards. The work planned for April 2015 will include but not be limited to the plowing of snow, the grading of roads, the hauling of water and gravel and the cleaning of ditches. Mr. Christensen said that the department was in the process of obtaining asphalt bids. Mr. Squire said that bids to build cattle guards are also in process. Mr. Christensen inquired about having identification name cards processed for the road and bridge personnel. Commissioner Attebery said that specific identification cards could be obtained from the Office of Emergency Management Director, Christe Coleman. Mr. Christensen asked for the guidelines on obtaining a credit card for the road and bridge department. He said that in certain instances it can be difficult to wait until the end of the month for reimbursements.

The BOCC responded that hand written checks for voucher reimbursements can be processed during the month when needed. Mr. Christensen remarked that the road and bridge shops are being inspected and audited for LED lighting. He said that the road and bridge department has received a bid on two (2) MAC trucks for \$338,882.00 and requested authorization to proceed with the purchase.

MOTION by Commissioner Attebery, seconded by Commissioner Kattvig:

To proceed with the proposal as presented to purchase the two (2) trucks with a caveat that the payment terms with Bruckner Truck Sales will be negotiated by the county finance department. The motion carried unanimously.

Commissioner Attebery reported that the floor drain violation in the Wetmore road and bridge shop has been addressed and brought to code. He said that the project has been approved by the Colorado Department of Public Health and Environment.

Rusty Christensen, Landfill/Recycling Manager reported that the county landfill has received a verbal extension of time for the construction of a well at the landfill site from the Colorado Department of Public Health and Environment. Commissioner Kattvig recommended that the extension should be obtained in writing and filed for future references. Mr. Christensen said that cardboard and metal recycling returns are down.

Treasurer Report

Virginia Trujillo, Treasurer met with the BOCC and gave a report. The beginning balance in county general fund on March 1, 2015 was \$4,686,660.85 and the ending balance on March 31, 2015 was \$3,964,268.68.

MOTION by Commissioner Attebery, seconded by Commissioner Kattvig:

To accept the Treasurers Report for March 2015 as presented. The motion carried unanimously.

Ms. Trujillo presented the Public Trustee Report for the first quarter of 2015 for the Boards review.

Ms. Trujillo expressed concern regarding the credit card processing fees that the county is absorbing for the aeronautic fuel being sold at the airport. Commissioner Kattvig said that the processing fee will be added to the selling cost of the fuel in the future. He remarked that the BOCC has approved the Airport Advisory Boards (AAB) request to purchase 2000 gallons of fuel before the end of the June 2015. He said that a transfer of funds from the County General Fund to the Airport Budget Fund would be required. Ms. Trujillo said that she is able to transfer the funding after she receives or is notified of the approved transfer by the BOCC. Commissioner Kattvig will advise the AAB of the process and requested that the transfer be placed on the April 22, 2015 BOCC meeting agenda for approval. Commissioner Attebery said that he is consistently asked by the public on how many individuals use the airport. He said to date he has not been able to acquire those numbers and suggested that the AAB review the security surveillance recordings at the airport to help determine the amount of usage at the airport facility.

COMMISSIONER ITEMS

Commissioner Kattvig said that BOCC discussed the concerns expressed by the fair board members regarding individuals sleeping overnight in the livestock barn areas during the Custer County Fair Days. He asked that the BOCC pass a formal motion regarding the issue.

MOTION by Commissioner Kattnig, seconded by Commissioner Shy:

To approve the recommendation of the county's insurance carrier Colorado Technical Services Inc. (CTSI) and not allow any individuals to sleep overnight inside the livestock barns at the fairgrounds property. Overnight accommodations are restricted to the designated camping areas outside the livestock barns. The motion carried unanimously.

The BOCC will prepare a correspondence in this regard and forward it to the Fair Board and the CSU Extension Agent.

Commissioner Kattnig proposed that VALI Assisted Living be allowed to lease and use the county courtesy vehicle to transport residents for in-town or in-county appointments. He remarked that the compacted size of the vehicle would allow the driver easier maneuvering and parking options. Commissioner Attebery and Commissioner Shy said that although they understood the concept of the request there were several fundamental issues that would need to be addressed and worked out and that a decision could not be made at this time. Commissioner Shy suggested that topic be added to the agenda of the April 22, 2015 BOCC meeting for further discussion. Commissioner Kattnig disclosed for the record that since his mother was a resident of VALI Assisted Living he would not participate in the final decision making.

Commissioner Attebery shared concern regarding the request from the extension office to grow potatoes on the courthouse property. He remarked that the community garden area would be a better fit. The BOCC agreed that the county would need more specific information regarding the size and type of excavation of the area being utilized to grow potatoes. The specific area houses underground utilities and a large size satellite dish.

MOTION by Commissioner Kattnig, seconded by Commissioner Shy:

To request specific information from the Extension Agent regarding the size of the area requested for growing the potatoes and the type of excavation anticipated. This information is necessary to protect and preserve the underground utilities. The motion carried unanimously.

Commissioner Shy asked if there was any more business to discuss. Hearing none, he adjourned the 2:25 PM.

Debbie Livengood, Clerk and Recorder
Attest

Christopher L. (Kit) Shy,
Chairman

(Audio Recordings of the BOCC meetings are available for public review or purchase)