

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, JUNE 14, 2011**

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

Also present was Ron Bredehoft, Gloria Gutierrez, Chris Haga, Bob Senderhauf and Nora Drenner, Wet Mountain Tribune Reporter.

AGENDA:

- Call meeting to order
- Pledge of allegiance
- Roll Call
- Amend agenda
- Approval of minutes: May 31 and June 1, 2011
- Audience introduction
- Public Comment
- County Attorney
- Resolution - Model Traffic Code
- Resolution - Proctor Street Vacation
- 2010 Census review and discussion
- Old Business
- Extension Advisory Board appointment
- MOU Colorado Works Program/Colorado Child Care Assistance Program
- Custer County Silver West Airport Report – Dale Mullen
- Treasurer Report – Virginia Trujillo
- Planning and Zoning Report – Jackie Hobby
- MOU Emergency Assistance, Slash Landfill Day – Christe Feldmann
- OHV-ATV Discussion – Sheriff Jobe

Commissioner Attebery stated that representatives from the Colorado State Forest Service and the Custer County Sheriff will be joining the meeting to report on the Duckett Fire. He asked that this topic be added to the amended agenda.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To accept the posted agenda with the amendment. The motion carried unanimously.

MOTION by Commissioner Austin, seconded by Commissioner Attebery:

To approve the BOCC minutes of May 31, and June 1, 2011 as presented. The motion carried unanimously.

Commissioner Attebery asked if there were any public comments. Ron Bredehoft addressed the Board and expressed concern regarding the engineer-designed septic system at 1429 County Road 130. Mr. Bredehoft stated that the system was designed by a Colorado registered engineer and failed within ten months of installation. He said that the engineers name was included on the list of registered state engineers distributed by the Planning and Zoning department. He feels that the County and especially the Planning and Zoning department had a responsibility to inform and protect a property owner from this type of situation during the review and inspection of the permit process. John Naylor, County Attorney responded that the county does not have any jurisdiction or authority over a state registered engineer. He recommended that Mr. Bredehoft file a complaint with the State Licensing Board. The Board agreed to continue the discussion with the Planning and Zoning Director during her report later this morning and welcomed Mr. Bredehoft to attend and participate.

Gloria Gutierrez, Regional Representative for U.S. Senator Mark. E. Udall's office said that the Senator is continuing to meet with citizens regarding the wildfires and the bark beetle problem in the rural counties. Ms. Gutierrez commented that the Senator's office will continue to keep the rural counties aware of any federal funding grant opportunities.

Bob Senderhauf addressed the Board and said he was in attendance at the request of Commissioner Austin to provide clarification regarding a comment that was made at the May 5, 2011 Round Mountain Water Sanitation District (RMWSD) meeting. He said that the comment he supposedly made was that he had support letters from the BOCC to be reappointed to the Upper Arkansas Water Conservancy District Board. He said that he felt the comment was taken out of content and that it was not specifically the Custer County BOCC but from the BOCC members of the Upper Arkansas Water Conservancy District. Mr. Senderhauf submitted a copy of RMWSD minutes and an audio transcription from the May 5, 2011 meeting as confirmation. Mr. Senderhauf also submitted a copy of a letter dated January 12, 2011 from Paul Snyder to the UAWCD Board of Directors addressing inaccuracies in UAWCD minutes of October 14, 2010 regarding his role in opposition to the two proposed water augmentation plans for Custer County. Mr. Senderhauf reported that the UAWCD Board addressed the correspondence and that no action was taken. He said that Commissioner Austin's concern was a part of a public record from the June 1, 2011 BOCC minutes. He requested that his response and clarification be included in the June 14, 2011 BOCC minutes. Mr. Senderhauf announced that he was unanimously appointed as the Chairman of the UAWCD Board. Commissioner Butler congratulated Mr. Senderhauf and thanked him for all his hard work. Commissioner Attebery and Chris Haga RMWSD Board member agreed. Commissioner Austin congratulated Mr. Senderhauf and recognized his consistent support and defense of the Upper Arkansas Basin.

Deputy Mike Halpin joined the meeting to provide the County Attorney with the requested clarification regarding the Model Traffic Code. Mr. Naylor stated that he will prepare a Resolution for the Model Traffic Code for the Boards review at the July 12, 2011 BOCC meeting.

Custer County Sheriff Fred Jobe, Fremont County Sheriff Jim Beicker, Fremont County Commissioner Ed Norden and Colorado State Forest Service (CSFS) representatives Mike Harvey and John Grieve joined the meeting to discuss the Duckett Wildfire burning in both Custer and Fremont Counties. Mr. Harvey said that the fire was discovered on public land west of the Hillside area. He said approximately 1200 acres have burned and that the wildfire was at zero containment. Mr. Grieve stated that a Rocky Mountain Type Two Management Team took command of the wildfire this morning. He added that the source of the fire is undetermined at this time.

Mr. Harvey said that due to the number and intensity of the fires in Colorado this year the Colorado Emergency Fire Fund has been exhausted. He said the CSFS was able to secure Emergency Fire Funding from the Governors Office under an Assumption of Duty (AOD). He stated that this funding was not to exceed \$500,000. Mr. Harvey presented the AOD CSFS #168 form for approval of the BOCC and County Sheriff. He stated that the Fremont County BOCC and Sheriff have signed a similar form. The AOS states that CSFS is responsible for costs incurred for out of county resources, not to exceed \$500,000. He clarified that the \$500,000 is the amount for the total wildfire and not individual county compensations. Mr. Grieve said that the AOD will also require documentation of the county contributions. Following a brief discussion the BOCC agreed to include but not be limited to the operation and repair cost of county owned equipment; salary-overtime-benefits of the county employees involved in the wildfire; the evacuation and sheltering of the displaced home owners and visitors; the services provided by public health; the MRC; the sheriff's posse; and the GIS mapping. Commissioner Attebery signed the document as Chairman of the BOCC along with Sheriff Fred Jobe. Fremont County Commissioner Norden stated that Custer and Fremont Counties have no choice but to agree and accept the proposal as presented. He stated for the record that the representatives of both counties were experiencing strong reservations with the agreement. Mr. Harvey asked if either county could commit to a cash contribution. The representatives present unanimously agreed that due to budget shortfalls, no cash contributions were available.

The BOCC recessed at 10:50 AM.

The BOCC reconvened at 11:10 AM.

Christe Feldmann, Office of Emergency Management (OEM) Director met with the BOCC and gave a report. She presented the Intra-Agency Agreement for Mutual Aid between Chaffee, Custer, Fremont, Lake and Park Counties and the City of Salida for the Boards approval. John Naylor, County Attorney confirmed that he had reviewed the document.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To approve the Intra-Agency Agreement for Mutual Aid between Chaffee, Custer, Fremont, Lake and Park Counties and the City of Salida for Emergency Management as presented. The motion carried unanimously.

Commissioner Austin asked Ms. Feldman to contact Huerfano County for possible inclusion in the agreement.

Rusty Christensen, Landfill Manager joined the meeting and the discussion regarding the proposed slash days at the county landfill. Ms. Feldman requested the county landfill offer two free/slash days as part of the Community Wildfire Protection Plan (CWPP) and the Bureau of Land Management (BLM) fire mitigation agreement. She suggested September 21 and 24, 2011. Ms. Feldmann stated that the landfill would receive reimbursement under the grant funding. Mr. Christensen agreed to the proposed dates and stated the landfill facility will prepare separate trash disposal calculations for the slash days and submit the figure for reimbursement.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve the two free/slash days at the landfill as proposed with a caveat that the definite dates of the event will be agreed on by the OEM Director and Landfill Manager. The reimbursement from OEM will have a capped figure to be determined at a later date. The motion carried unanimously.

Dale Mullen and Bill Giacomelli, Custer County Airport Authority Board (CCAAB) met with the BOCC and gave a report. Mr. Mullen presented the current 2011 Aviation Fuel and Operation Analysis. He thanked the County and the Treasurer Office for instituting the electronic fund transaction payment procedure for the aviation fuel sold at the Custer County Airport. Mr. Mullen stated there was a seat open on the Airport Authority Board. Mr. Giacomelli explained that the current sale of aviation fuel was low due to the inclement flying weather Custer County has been experiencing.

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

- File: 100-51-400 Special Use Permit has been pulled by the applicant. Consideration for a partial refund of the application fee will be reviewed and addressed at the June 30, 2100 BOCC meeting.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To approve the subdivision waiver for File 100-67-950 as presented. The motion carried unanimously.

- File: 100-41-950 Un-permitted structure resolved.
- File: 101-20-602 Un-permitted structure notification issued.
- File: 102-26-310 Septic System failure discussion.

Ms. Hobby referenced File: 102-26-310 and stated that an engineered septic system was required due to the ground water table. She said that on September 16, 2009 the engineer approved the installation of the septic to his specifications at that time. She commented that Custer County Planning and Zoning does not assume any responsibility for an engineered septic system and does not have any authority over a Colorado State Registered Engineer. Mr. Bredehoft said that the County had the responsibility to protect the homeowner by reviewing and assessing the data and designs as part of the permit process. He asked the BOCC to take some form of action against the responsible septic engineer contractor. The County Attorney stated that the County is not responsible to check or approve an engineer designed septic system. He said that registered septic engineers are under State jurisdiction and not County. He encouraged Mr. Bredehoft to file a complaint with the State Licensing Board.

Ms. Hobby presented a correspondence from Mr. Finney of Finney Drilling and Excavating requesting the BOCC grant him the title of County Percolation Technician. She said that a County authorized Percolation Technician is an individual who has met the criteria as outlined for individual sewage disposal systems and has been approved by the Board of County Commissioners acting as the Custer County Board of Health. Following a brief discussion the Board agreed to have Ms. Hobby obtain additional information and procedural methods from Finney Drilling and Excavating. The topic will be re-addressed at the June 30, 2011 BOCC meeting.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve Resolution #11-05 as presented. The motion carried unanimously.

CUSTER COUNTY RESOLUTION #11-05

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO CONFIRMING THE VACATION OF THE SOUTH RIGHT-OF-WAY ON COUNTY ROAD 323 TO THE SOUTH RIGHT-OF-WAY LINE OF THE VACATED 1ST STREET IN THE ABANDONED TOWN OF ROSITA, COLORADO.

WHEREAS, Custer County is a political sub-division of the State of Colorado; and,
WHEREAS, Colorado Revised Statutes (CRS) grant certain powers to Colorado Counties; and,
WHEREAS, CRS 43-2-303 specifically grants Boards of County Commissioners the authority to vacate all rights, titles, and or interests, of a county to any roadway in any unincorporated portion of the county; and,

WHEREAS, Custer County has identified that the Custer County Commissioners vacated 2nd and 1st Street in the town of Rosita to the east line of Proctor Street on August 2, 1989.

WHEREAS, Custer County has enacted this Resolution to confirm the Custer County Commissioners previous action of August 2, 1989.

THEREFORE BE IT RESOLVED, that we are reaffirming the vacation of the south right-of-way on County Road 323 to the south right-of-way line of the vacated 1st Street.

BE IT FURTHER RESOLVED, that in Accordance with the Provisions of CRS 43-1-202.7 this Resolution before us will be recorded with the Custer County Clerk and Recorder.

RESOLVED, ADOPTED AND SIGNED ON THIS 14th DAY OF JUNE, 2011 AT WESTCLIFFE COLORADO.

CUSTER COUNTY BOARD OF COMMISSIONERS

Lynn Attebery, Chairman

Jim Austin, Vice Chair

Allen Butler, Commissioner

Debbie Livengood, Clerk and Recorder Attest

MOTION by Commissioner Austin, seconded by Commissioner Attebery:

To appoint Donna Hood to the CSU Extension Advisory Committee as requested. The motion carried unanimously.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To approve the Extension Agreement, Memorandum of Understanding between the State of Colorado Department of Human Services and the Board of Colorado County Commissioners as submitted by Human Service Direction, Laura Lockhart. The motion carried unanimously.

Commissioner Butler advised that the Town of Silver Cliff is prepared to complete the sale contract and take possession of the county water truck. He said the Board of Trustees are aware this will occur after the completion of the county's currently scheduled mag-chloride applications.

John Naylor, County Attorney stated as the representative for the BOCC he will contact Donald J. Banner, Attorney at Law regarding the concern expressed with the Deed of County issued to Mike and Laura Halpin; Resolution #14-10.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To adjourn from the Regular Session of the BOCC meeting and reconvened in the Joint Session with the Planning Commission. The motion carried unanimously.

The BOCC meeting was adjourned at 12:50 PM.

The BOCC reconvened in Joint Session with the Planning Commission at 1:05 PM.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To accept the recommendation of the Planning Commission to approve the property line adjustment and replat for Rod Coker of Horn Creek Conference Grounds. The motion carried unanimously.

The BOCC adjourned from the Joint Session with the Planning Commission at 3:20 PM.
The BOCC reconvened back into the Regular Session of the BOCC meeting at 3:30 PM

Chuck Ippolito, IT/GIS Director and Debbie Livengood, Clerk and Recorder joined the meeting to discuss the 2010 Census agenda item. Mr. Ippolito said there were some miscalculations with the 2010 Census figures he received for Custer County. Ms. Livengood said that a list of the registered voters was reviewed and calculated to obtain a more accurate total. John Naylor, County Attorney stated that Colorado State Statute CRS 30-10-306(4) requires that after each federal census of the United States, each district shall be established, revised, or altered to assure that such district shall be as nearly equal in population as possible. Mr. Naylor said that the statistics indicate a population revision of less than 90 individuals for the entire county.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

Following the review of the 2010 Census statistics the BOCC has determined that redistricting within Custer County is not required. The motion carried unanimously.

Virginia Trujillo, Treasurer met with the BOCC and gave a report. The starting balance on May 1, 2011 was \$3,936,942.32 and the ending balance on May 31, 2011 was \$3,165,473.83. Ms. Trujillo reported that collections were down slightly from a year ago.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To accept the Treasurer Report for May 2011 as presented. The motion carried unanimously.

Commissioner Austin requested that a recent issue involving the Sheriffs Office and the Road and Bridge Department regarding the Duckett Wildfire be scheduled for discussion at the June 30, 2011 BOCC meeting.

Commissioner Austin requested that the new CSU Energy Coordinator be granted office space and a key to the Resource Center. Commissioner Attebery said that at the BOCC meeting on March 9, 2010 the Board motioned to allow the Fremont County BOCC to over-see the Energy Coordination position, applications and project on behalf of Custer County. He said that to his knowledge the Fremont County BOCC has not met with the CSU representatives regarding the continuation of the program. Commissioner Butler agreed and said that any decisions regarding access to the Resource Center at this time would be premature. The Board agreed to tentatively add the topic to the agenda of the next BOCC meeting. This agenda item is dependent on the support of the Fremont County BOCC.

Mr. Naylor recommended that the BOCC review all the available county policies and make any necessary revisions. He suggested that the revised and approved policies be maintained in one central file within the courthouse for reference and accessibility.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 4:10 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery,
Chairman