

**0020PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
SPECIAL MEETING, AUGUST 8, 2011**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN SPECIAL 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 Donald Banner, Banner & Bower, P.C. Attorney at Law, Deputy Mike Halpin, and Nora Drenner, Wet Mountain Tribune Reporter.

**AGENDA:**

Call meeting to order

Pledge of allegiance

Roll Call

The BOCC will seek legal advice from the County Attorney. (possible executive session)

Mail Ballot Election – Debbie Livengood.

The BOCC agreed to remain in open session.

Mr. Donald J. Banner, Attorney at Law representing Robert S. Hamilton addressed the BOCC and stated that there were several inconsistencies and errors in the legal documents related to the Hamilton/Halpin litigation.

- The Decree of the District Court, Custer County, Colorado Case No.02-CV-33 Plaintiff: Michael P. Halpin and Laura J. Halpin - Defendant: Robert S. Hamilton, Jr., d/b/a R.S. Hamilton Ranches.
- The Deed between Custer County in the State of Colorado and Michael P. Halpin and Laura J. Halpin.
- Resolution No. #14-10 conveying the County Deed.

Mr. Banner stated that the findings and order of the District Court Case. No. 02-CV-33 contained property and land boundary line errors. He said that the Deed and Resolution issued by the county violates the Colorado State Statutes and the Colorado Constitution that would prohibit the county from deeding a gift to a public county employee. Mr. Banner remarked that he will meet with Pete Michaelson, Attorney at Law representing Mike and Laura Halpin to further discuss and review these concerns. He presented maps, surveys and diagrams of the road and easement in question for BOCC and County Attorney’s review. He said that it would be in the best interest of all parties involved to agree on an amicable resolution and offered several suggestions. John Naylor, County Attorney said the BOCC will take the matter under advisement.

Deputy Halpin commented for the record that he felt Mr. Banner's actions and accusations towards him in a public meeting was inappropriate

Debbie Livengood, Clerk and Recorder addressed the BOCC and presented a Resolution to authorize the Clerk and Recorder to conduct the coordinated election in November, 2011 as a mail ballot election.

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

To adopt Resolution #11-10 as presented. The motion carried unanimously.  
RESOLUTION #11-10

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF CUSTER, STATE OF COLORADO

A RESOLUTION TO AUTHORIZE THE CUSTER COUNTY CLERK AND RECORDER TO CONDUCT THE COORDINATED ELECTION TO BE HELD ON NOVEMBER 1, 2011 AS A MAIL BALLOT ELECTION IN ACCORDANCE WITH C.R.S. 7.5, TITLE 1.

WHEREAS, the General Assembly has found, determined and declared that self-Government by election is more legitimate and better accepted as voter participation increases; and

WHEREAS, The General Assembly has further found, determined and declared that Mail Ballot Elections are cost-efficient and have not resulted in increased fraud; and

WHEREAS, BY ENACTMENT OF Article 7. of Title 1 of Colorado Revised Statutes, the General Assembly concluded that it is appropriate to provide for Mail Ballot Elections under specified circumstances, and under the supervision of the Secretary of State, subject to rules promulgated by the Secretary of State; and

WHEREAS, the Colorado Statutes require that where Political subdivision boundaries overlap, the Custer County Clerk and Recorder shall be the Coordinated Election Official and shall conduct the election on behalf of all Political Subdivisions; and

WHEREAS, Article X, Section 20 of the Constitution of the State of Colorado permits the ballot issues of various entities to be consolidated at Specified Election, which election may also be conducted by Mail Ballot; and

WHEREAS, the Custer County Board of County Commissioners finds it to be in the best interested of the citizens of Custer County that the various District and Political Subdivisions in the County be permitted to conduct the Election set for November 1, 2011 by Mail Ballot;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County, Colorado that the Coordinated Election set for November 1, 2011 shall be conducted by Mail Ballot.

Adopted this 2<sup>nd</sup> day of August 2011 at Westcliffe, Colorado.

Board of County Commissioners

Lynn Attebery, Chairman

Debbie Livengood, Clerk and Recorder Attest

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

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 9:50 AM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman