

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, DECEMBER 4, 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	Absent
Allen Butler	Commissioner	Present
John Naylor	County Attorney	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present was: Nora Drenner, reporter for the Wet Mountain Tribune.

AGENDA

Call meeting to order
Pledge of allegiance
Roll Call
Amend agenda
Approval of minutes:
Audience introduction
Public Comment
County Attorney
Old/New Business
Landfill Report – Rusty Christensen
Adoption of the 2013 County Budget 2013 – J. Piquette, Finance Officer
Airport Authority
OEM
Planning and Zoning

Commissioner Attebery asked if there was anyone wishing to speak. Hearing none, he continued with the meeting.

John Naylor, County Attorney said that he has reviewed the correspondence regarding the request of Tom LeDoux, District Attorney to negotiate his salary for the term. Mr. Naylor stated that he supported the findings of Brenda Jackson, Fremont County Attorney regarding the case of Tisdell v. Board of County Commissioners, 621 P.2d 1357 (Colo. 1980) referencing Article X11, Section 11 of the Colorado Constitution which states: “No law shall extend the term of any elected public officer after his election or appointment nor shall the salary of any elected public officer be increased or decreased during the term of office for which he was elected.” Mr. Naylor said that the prohibition against modifying an elected public officer’s salary during his/her term of office is intended to deter the appropriate body from influencing a public officer by threat or promise of a salary change, and to discourage the officer from seeking increased compensation.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To adhere to the Article X11, Section 11 which states: “no law shall extend the term of any elected public officer after his election or appointment nor shall the salary of any elected public officer be increased or decreased during the term of office for which he was elected”. The motion carried.

John Naylor, County Attorney reviewed the proposed Resolution that would define Stage 1, 2 and 3 Fire Restrictions. Following the review of the Fire Warden's notations and a brief discussion the Board agreed to adopt the Resolution with the appropriate revisions.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To adopt Resolution 12-08 as revised. The motion carried.

CUSTER COUNTY RESOLUTION

No. # 12-08

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO IDENTIFYING THE RESTRICTIONS UNDER A STAGE 1, 2, AND 3 FIRE BAN IN THE UNINCORPORATED PORTIONS OF THE COUNTY.

WHEREAS, this Board has certain authorities under the provisions of CRS Section 30-15-401 and has adopted Ordinance #2002-1 pursuant to that statute relevant to the enforcement and lifting of open fires in the unincorporated area of the County; and

WHEREAS, the Sheriff of Custer County is empowered under the provisions of CRS Sections 30-10-512 and 30-10-513 to act as Fire Warden of the County; and

WHEREAS, Federal Authorities may impose fire restrictions, on all public lands in Custer County

WHEREAS, the Fire Warden will notify the Board of County Commissioners of Custer County in writing that a Stage 1, 2, and 3 Fire Ban has been issued within the unincorporated area of Custer County; and

WHEREAS, the Sheriff's Department can issue citations to any person who violates Custer County Ordinance 2002-1 (CRS Section 30-15-402)

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO, that the following acts are prohibited under Fire Ban Stage 1, 2, and

STAGE ONE FIRE BAN

PROHIBITED ACTIVITIES:

1. All agricultural burning including but not limited to weeds, brush or grass;
2. Building, maintenance, attending or using a fire, campfire, coal or wood burning stove, fireplace, any type of charcoal or wood fuel, cooking, or open fire of any type in an undeveloped area. Use of coal or wood-burning stove or fireplace in a private resident in an undeveloped area is allowed only if the flue pipe, chimney, or other exhaust structure is equipment with a property installed NFPA-approved spark arrestor such as a chimney cap.

Notes:

- a. Campfires contained in constructed, permanent fire pits or fire grates within a developed recreation area are allowed;
- b. Grills using propane and other bottled fuels are allowed only in areas free of flammable vegetation and other flammable materials, and must be used in a manner which present no fire danger to the surrounding area;
- c. No fire or grill shall be left unattended, and shall have an adequate water supply and/or fire extinguishers on sites.
- d. All burning of trash, refuse and other debris.
- e. Smoking; except within an enclosed vehicle, building, or outdoor smoking area that is hard-surfaced, barren or otherwise cleared of flammable vegetation and material. Discarding of cigarette butts in a receptacle not designed for disposal or cigarette butts, or at any location, or from any vehicle is expressly prohibited.
3. Using any explosives materials, to include: fireworks, solid fuel rockets, blasting caps or any incendiary device which may result in the ignition of flammable materials;

4. Outdoor welding, grinding or use of any type of torch in any area which presents the possibility of igniting vegetation or other combustible material; and there must be an adequate water supply and/or fire extinguisher or other appropriate fire suppression on site;
5. Operating any outdoor equipment or machinery in an undeveloped area with an internal combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either:
 - a. US Dept. of Agriculture, Forest Service Standard 5100-1a; or
 - b. Appropriate Society of Automotive engineers (SAE) recommended practice J335(b) and J350(a);
6. Use of fireworks, including permissible fireworks as defined in 12-28-101, C.R.S., however in no instance shall the use be prohibited until the suspension of the same.

Special Circumstance Permit:

During a fire ban, a special circumstance permit may be requested. Based upon weather and environmental conditions at that time, the Sheriff/Fire Warden in consonance with the Fire Chiefs, may issue a one time, period limited permit for an open burn. The Sheriffs Office will approve and maintain the necessary records regarding the special circumstances permits. The records will specify the time of the requested burn and the permit recipient will notify the Sheriff's Department when the burn is started and when it is completed.

STAGE TWO FIRE BAN

PROHIBITED ACTIVITIES:

1. All Restriction contained in Stage One, listed herein, and including the following additional restrictions:
 - a. Building, maintaining, attending or using a fire, campfire, coal or wood burning stove, any type of charcoal or wood fueled cooking, or open fire of any type at any location.
 - b. Grills using propane and other bottled fuels are allowed only in areas free of flammable vegetation and other flammable materials, and must be used in a manner which present no fire danger to the surrounding area;
 - c. No grill shall be left unattended, and shall have an adequate water supply and/or fire extinguisher on site.
 - d. Use of a coal or wood-burning stove or fireplace in a private residence is allowed only if the flue pipe, chimney, or other exhaust structure is equipped with a properly installed NFPA- approved spark arrestor such as a chimney cap.
 - e. Off road use of parking or motorized vehicle in an area which presents the possibility of sparks or exhausts heat igniting surrounding flammable vegetation.

STAGE THREE AREA CLOSURE:

Stage III fire restrictions involve closure of public lands. Evaluation guidelines are reviewed to determine threshold levels that substantiate the need for closures. Examples include: Emergency fire closures (closing an area to entry or use) have an extreme impact on the public and fire agencies, and are discouraged except under the most severe conditions. Closures are not justified by fire danger alone, but should be driven by the potential for risk to life and safety due to extreme fire danger alone, but should be driven by the potential for risk to life and safety due to extreme fire behavior, high potential for human-caused fires, severe shortages of resources, and numerous large fires within the state.

Examples include:

1. Potential loss of life due to explosive fire conditions;
2. Potential for extreme or blowup fire behavior;
3. Stage 1 or Stage 2 restrictions are ineffective in reducing the number of human- caused fires;
4. Resources across the geographic area are at a critical shortage level;
5. Proximity to substantial population centers;
6. The extent of wild land urban interface

RESOLVED, ADOPTED AND SIGNED THIS 4th DAY OF DECEMBER, 2012.

CUSTER COUNTY BOARD OF COMMISSIONERS

Lynn Attebery

Chairman

Debbie Livengood, Clerk and Recorder (Attest)

Jim Austin

Vice-Chairman

Allen Butler

Commissioner

Rusty Christensen, Landfill Manager met with the BOCC and gave a report. He is in communication with the Colorado Department of Public Health and Environment (CDPHE) regarding the old Westcliffe Landfill. He said that the CDPHE is requesting additional information and clarification on the correspondence issued by AG Engineering and Environmental Service on behalf of the county. Mr. Christensen said that the CDPHE has agreed to extend the time line for completion of the project.

John Piquette, County Finance Officer presented the BOCC with the 2013 finalized budget. He stated the final estimated figures for 2013 are a revenue of \$5,433,200.00 and estimated expenditures of \$5,346,522.00. Mr. Piquette said that the 2013 mill levy was 20.245. He gave the breakdown of the mill levy as follows: General Fund 10.245; R&B Fund 5.000; Insurance Fund 1.500; EMS Fund 2.000; Welfare Fund 1.500; for a total of 20.245.

MOTION by Commissioner Butler, seconded by Commissioner Attebery:

To approve the 2013 County Budget and the Mill Levies as presented. The motion carried.

Mr. Piquette stated that a copy of the 2013 county budget will be retained in the Clerk and Recorder's Office for review. He said that although Commissioner Austin was absent this date, he has signed the 2013 county budget. Commissioner Attebery and Commissioner Butler signed the 2013 budget as presented.

Commissioner Attebery commented that the BOCC has received a written report from the Custer County Public Health Agency for the month of November 2012.

Virginia Trujillo, Treasurer met with the BOCC and gave a report. The beginning balance on November 1, 2012 was \$3,030,746.16 and the ending balance on November 30, 2012 was \$3,004,332.35.

MOTION by Commissioner Butler, seconded by Commissioner Attebery:

To accept the County Treasurer report for November as presented. The motion carried.

Dale Mullen, Airport Authority Board (AAB) Chairman met with the BOCC and gave a report. He presented the Board with the November 15, 2012 AAB Meeting Agenda; the 2012 Aviation Fuel System Sales Analysis, the Airport Expenditures and Operation Analysis for November 2012. He said that the AAB has selected the AAB Board Members for 2013 and presented the letters of interest and a revised CCF AAB Organization Chart for 2013. The members listed are: Shane Dean with a term expiration of December 2015, Wes Taylor with a term expiration of December 2016, Jill Rowland with a term expiration of December 2016, Robert Jolley's term expires December 2015 and Dale Mullen's term expires in December 2013. Mr. Mullen requested that the BOCC make those appointments at the December 28, 2012 meeting. Commissioner Attebery and Commissioner Butler expressed concern that all the 2013 appointments are made after the new Board officially takes office on January 8, 2013. Mr. Mullen shared concern that the AAB would not have a full seated Board after December 31, 2012. He asked if the BOCC had made any decisions or determinations following the Public Hearing of November 30, 2012 regarding the suggested workshop. The Board responded that the topic was under consideration. Mr. Mullen presented a revised AAB Assets report. Bob Jolley gave an update and presented a photograph on the airport security fence project. He presented a photograph of the fuel system and said that the maintenance and repairs are completed. Also present were Bob Giacomelli and Wes Taylor.

The BOCC recessed at 10:00 AM.

The BOCC reconvened at 10:10 AM.

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

- The Board of Zoning Adjustment (BZA) members not participating in a county site tour will not be prohibited from voting on the issue.
- The setback variance request before the BZA has been postponed until February 2013.
- The BOCC will review the fee adjustments requests on the Custer County Planning and Zoning Fee Schedule. The fee schedule will be approved in January 2013.
- Confirmation that Special Use Permits (SUP) are attached to the land and not to the property owner.

Christe Feldmann, Office of Emergency Management Director met with the BOCC and gave a report. She said that she is working on a Mutual Aid Agreement with Fremont County and a large incident protocol for local and regional responses. She is developing a local and regional training and exercise plan for communications in 2013. Ms. Feldmann is researching grant assistance for the repair of the Wetmore fire truck and the erosion control problem resulting from the Wetmore Fire. She is also working on the Fire Management Assistance Grant Application.

Commissioner Attebery stated that the Board agreed to start the process to terminate the authority of the Custer County Airport Board at the November 13, 2012 BOCC meeting. He said that the process was started with a Public Notice and Public Hearing that was held on November 30, 2012. He asked the County Attorney for advice to how to proceed. Mr. Naylor said the next step is whatever the BOCC deemed necessary.

The BOCC recessed at 11:15 AM.

The BOCC reconvened at 11:25AM

Dawna Hobby, Human Resource Finance Director asked for clarification of the County Surveyor position after January 8, 2013 when Commissioner Elect Shy takes office. John Naylor, County Attorney advised that the county had ninety-days to appoint a county surveyor to fill the interium until the next scheduled election. Following a brief discussion the Board agreed the appointed position would offer the salary as set by state statue without benefits.

MOTION by Commissioner Butler, seconded by Commissioner Attebery:

To adjourn the meeting. The motion carried.

The meeting was adjourned at 12:15 PM.

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery
Chairman