

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, OCTOBER 5, 2010**

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 9:10 AM and the Pledge of Allegiance was recited

Roll Call was taken:

Lynn Attebery	Chairman	Present
Jim Austin	Vice-Chairman	Present
Carole Custer	Commissioner	Present
John Naylor	County Attorney	Present
Kris Lang	Deputy Clerk to the Board	Present

Also present was Allen Butler, Town of Silver Cliff Mayor; Nora Drenner, reporter for the Wet Mountain Tribune; John Piquette, Finance Officer; Dawna Hobby, Human Resource/Finance Manager; Ted Wiggin; Rex Stagg; David Cross; Guy Madden; Dale Mullen; Wes Taylor; Dale Mullen; and Ginny Holloway.

**AGENDA:**

Call meeting to order

Pledge of allegiance

Roll Call

Amend agenda

Audience introduction

Approval of minutes:

County Attorney Discussions:

- CR390 Hamilton
- Request for the county to vacate CR 190
- Colorado Department of Health Services
- Resolution for the Support of Preservation of Historic Resources
- Alvarado Creek Bridge
- Communication Right-Of-Way/Bureau of Land Management
- Request for the county to vacate Proctor Street
- Road and Bridge fuel disbursement to local entities.

Old Business:

- Silver West Airport Funding Discussion
- Wet Mountain Valley Waste Minimization Project Update
- Wetmore Project Update
- South Colony Basin in the San Isabel National Forest Discussion

Preliminary Budget Presentation – John Piquette

Upper Arkansas Waster Conservancy District Discussion – Wilbur Miller

Planning and Zoning Monthly Report

State National Insurance Program Coordinator – Cristina Martinez

Human Resource/Finance Monthly Report

Social Services Monthly Report

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

To accepted the posted agenda. The motion carried unanimously.

Commissioner Attebery stated that he did not have any updated information to share on the Wetmore Project. He presented a draft of the Television Broadcast Survey for publication in the Wet Mountain Tribune. Commissioner Custer revised the terminology on one of the questions. The Board agreed to forward the survey for publication.

Commissioner Austin proposed scheduling the Western Slope No-Fee Coalition Group and representatives from the US Forest Service at a public meeting to provide the community with information on the South Colony Basin Fee proposal.

John Piquette, Finance Officer presented the 2011 proposed preliminary budget to the BOCC. He reported the county was restricted under the 20.245 Tabor Mill Levy. He said the preliminary budget was in excess of \$5 million dollars and will require a reduction of \$421,000 to balance. He confirmed October 12, 13, and 14, 2010 as the budget hearing dates. Mr. Piquette clarified that additional reductions would be necessary if Amendments 60, 61 and Proposition 101 were approved by the voters on November 2, 2010.

Commissioner Attebery stated that the BOCC had requested that the Airport Board attend today's meeting.

Ted Wiggin, Acting Airport Board Chairman addressed the Board and submitted an \$8,000 amended budget. He said the airport is experiencing significant financial short fall due to unanticipated expenses. Mr. Wiggin referenced the additional expense of the new airport building and the upgrades necessary to the fuel system. He stated the airport would need \$12,812 immediately to pay their outstanding bills. He said that figure would increase to \$18,825 by the end of the year. Commissioner Custer referenced the concerns expressed by the finance officer, treasurer and finance manager at the last meeting. She said it was important to recognize the value of the airport. She remarked that without the airport the county would lose tax revenues on the airport hangers and houses in the airport area. David Cross remarked that a report from several years ago indicated that the airport brought in approximately \$30,000 in taxes. Commissioner Austin said it was difficult to identify the value of the airport to the county and asked the airport members for suggestions on how to track the benefits. Mr. Wiggin suggested that a sign in sheet or card keys would identify the visitors of the building but could not project the spending impact of those visitors in the county. He said the availability of the county vehicle at the airport allowed visitors to frequent the towns. Dawna Hobby, Finance Manger expressed concern that the vehicle was not covered under the county insurance. Dale Mullen stated the airport assets did not include registration or insurance certification and the vehicle should be covered under the insurance of the person using the vehicle. Commissioner Austin asked Ms. Hobby to investigate the insurance increase cost to have the vehicle covered. Mr. Mullen said the airport only had three sources of revenue this year: the rental space used by the National Park Service during the recent fire; grants; and subsidizing by the county. He said the airport will never be a profit center but always a cost center. Commissioner Attebery stated that the county has always subsidized the airport and normally that figure is approximately \$25,000 a year. He said this year that amount was closer to \$60,000 because of additional funding requests from the airport board throughout the year. He advised the airport board that once a budget is determined they cannot spend anymore than that amount without prior BOCC review and approval.

Commissioner Custer said the airport was an asset to the county and that the county needs to be supportive. She reminded everyone that the airport was a crucial element in the county's proposal for the National Veterans Cemetery in Custer County. John Piquette, Finance Officer stated the transfer would need to be an operational transfer from the county general fund to the airport fund. He said since the airport had no means of paying back the funds it could not be categorized or coded as a loan.

**MOTION BY Commissioner Austin, seconded by Commissioner Custer:**

To approve the operational transfer of \$18,845.00 from the county general fund to the airport fund. The motion carried unanimously.

Wilbur Miller, Hal Julsen, Paul Synder, Bob Allison, Lockett Pitman, Sue Pitman and Joe Arbuckle joined the meeting.

Wilbur Miller addressed the Board and said he would like the county to drop out of the Upper Arkansas Water Conservancy District (UAWCD). He stated that he felt the UAWCD was making his life as a rancher more difficult and would harm other local ranchers. Commissioner Custer said the short answer was that under state statute the county is required to be a part of UAWCD. Bob Allison asked if it was necessary for the county to participate or if there were any other options. Sue Pitman said Leadville had requested and was granted exclusion from the UAWCD. Hal Julsen said he did not feel the UAWCD was a good neighbor. He said the UAWCD needs to be in regular communications with the county especially regarding the proposed water augmentation plan.

Commissioner Custer excused herself at 10:15 AM for another commitment.

Joe Arbuckle asked if the county is required to participate in the UAWCD and if so, does Custer County have to support everything proposed by the UAWCD. He said the current customer client relationship was unacceptable and proposed that the BOCC prepare a correspondence addressing the unsatisfactory issues. Mr. Arbuckle asked whether the BOCC had ever formally requested exclusion from the UAWCD. County Attorney, John Naylor said that once the Conservancy District was formed exclusion was not possible. Mr. Naylor said the UAWCD was organized in 1979 and Custer County joined in 1983. The UAWCD proposed a blanket water augmentation plan in 1993. Mr. Naylor referenced a correspondence dated in 1993 confirming that the BOCC did not support the plan. He said at this time the only thing the county could do is file an objection in water court to open the lines of communication. Commissioner Austin said the county hired legal counsel representation and filed a statement of opposition to have a voice in water court. Lockett Pitman asked what direction the county had given the water attorney. Commissioner Austin responded that the purpose of legal representation was to protect the county's interest in the proposed plan. Paul Snyder said he felt the UAWCD rushed the proposed plan to avoid the new rulings that went into effect in 2009. He explained under the new rules and regulations, UAWCD would be required to release details to the public. He reported that the Widefield/Security Water and Sanitation District had filed a motion in water court seeking a dismissal of the plan. He urged the BOCC to join in that motion for dismissal.

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

To advise the legal counsel representing Custer County in the UAWCD proposed water augmentation plan to join the motion for dismissal. The motion carried.

Jackie Hobby, Planning and Zoning Director met with the BOCC and the County Attorney.

The following items were discussed.

- File 101-93-889 Red Rock Ranch – septic violation.
- File 100-37-161 Pioneer West Home – signage violation

Christina Martinez, State National Insurance Program Coordinator and Christe Feldmann, Office of Emergency Management Director met with the BOCC. Ms. Feldman stated that this discussion would be a continuation from the August 2010 meeting regarding the National Flood Insurance Program (NFIP) and Federal Emergency Management Agency (FEMA) mapping. She reported that the Town of Westcliffe and the Town of Silver Cliff have building codes and that both towns were interested in the project. Ms. Feldman said that even though Custer County did not have an enforceable building code, there were 12 other counties in the state that did not have building codes but participated in NFIP. She reported that she was not able to contact these counties for the specifics on how the program was managed. Ms. Martinez said she had previously provided an overview of NFIP and that it could be administered without an international building code through building (zoning) permits and septic applications. She said engineered inspections and stamped approvals would be required. She stated that FEMA mapping cannot begin until Custer County enrolls in NFIP.

Commissioner Custer joined the meeting at 11:45 AM.

Ms. Martinez said the approximate cost of the FEMA mapping was \$300,000 and she outlined the coverage as 80% federal; 10% state; and 10% local match. Commissioner Custer stated she supported the project and that this would allow the citizens the option to protect themselves with flood insurance. Following a brief discussion the Board agreed to postpone any decision until after the elections pending the outcome of Amendment 60, 61 and Proposition 101. Ms. Feldmann proposed the scheduling of a public work shop to provide the community with additional information.

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

To approve the scheduling of a public work shop to provide the community with information on the NFIP and FEMA mapping. The motion carried unanimously.

Christe Feldmann, Office of Emergency Management Director will coordinate and schedule the public work shop.

Dawna Hobby, Human Resource/Finance Manager met with the BOCC and gave a report. She said that Colorado Technical Services Inc. (CTSI) advised her that the county vehicle used at the airport was not covered under the county insurance. She said that CTSI further notified her that a county employee would be required at the airport facility to check in and check out the vehicle before it could be added under the county umbrella liability coverage. Ms. Hobby stated the budget hearings were scheduled for October 12, 13 and 14, 2010. She said the NACO discounted prescription plan information has been made available to the public and can also be accessed on the county website.

The BOCC met with Laura Lockhart, Department of Social Services (DSS) Director in her office to review and approve the DSS monthly service report.

The BOCC recessed at 12:25 PM.

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

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

To approve the recommendation of the Planning Commission for a Plat/Replat and a Subdivision Waiver on Lot 3, Silver Cliff Heights, Filing 10. The motion carried unanimously.

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

To approve the recommendation of the Planning Commission for a Subdivision Wavier on Parcel 2, Conner Ranch Parcels. The motion carried unanimously.

The BOCC recessed from the Joint Session with the Planning Commission at 1:57 PM.

The BOCC reconvened to the Commissioners Boardroom at 2:05 PM

The BOCC met with the County Attorney and the following was discussed:

- The resolution of the Board of County Commissioners of Custer County supporting the Preservation of Historic Resources was not approved and signed.
- The vacation of CR 190 was forwarded to the Planning and Zoning Department.
- The county attorney will prepare correspondence regarding the bridge over Alvarado Creek.
- The Communication Right-Of-Way/Bureau of Land Management will be an on-going discussion.
- The Road and Bridge fuel disbursements to local entities will be an on-going discussion.

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

To adopt Resolution 14-10 as presented. The motion carried unanimously.

RESOLUTION 14-10

WHEREAS, the Board of County Commissioners at a regular meeting held on the 5<sup>th</sup> day of October, 2010, reviewed the issue concerning County Road 390 between the Halpins' and Hamilton; and

WHEREAS, the County has been drawn into the issue concerning County Road 390 which the District Court of Custer County, Colorado in Case No. 02CV33 found that County Road 390 was part of the County Road system which provides access to NE<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 14, Township 21 South, Range 69 West of the 6<sup>th</sup> P.M.; and

WHEREAS, the County feels it is appropriate to convey by County Deed a 40 foot wide parcel for access to the NE<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 14, Township 21 South, Range 69 West of the 6<sup>th</sup> P.M. being more particularly described as follows:

A parcel of land located in the SW<sup>1</sup>/<sub>4</sub>, SE <sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> of Section 14, Township 21 South, Range 69 West of the 6<sup>th</sup> P.M., Custer County, Colorado, being that portion which lies Southeasterly 40 feet and is parallel and perpendicular to the following Northwesterly line:

Beginning at a point on the West line of said SW <sup>1</sup>/<sub>4</sub> of SE <sup>1</sup>/<sub>4</sub> that is North 00°16'56" West, 477.49 feet from the SW corner thereof; thence North 64°33'46" East, 319.04 feet; thence North 29°53'11", East 95.78 feet, thence North 46°36'21" East, 286.91 feet; thence North 51°54'01" East 386.85 feet; thence North 47°52'31" East, 223.29 feet; thence North 87°55'56" East, 327.11 feet; thence North 46°25'33" East 35.84 feet to a point on the South line of said NE<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 14, Township 21, South, Range 69 West of the 6<sup>th</sup> P.M., Custer County, Colorado, said line to lengthen or shorten as is necessary to provide access to and connect the Property with County Road 390;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Custer County, State of Colorado that Lynn Attebery, Chairman of this Board is hereby appointed Commissioner to convey in the name of and as the act and deed of said County the real property described herein.

Dated at Westcliffe, Colorado, this 5<sup>th</sup> day of October 2010.  
Board of County Commissioners, Lynn Attebery, Chairman  
Attest: Debbie Livengood, Custer County Clerk and Recorder

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

To adopt Resolution 12-10 and Resolution 13-10 as presented. The motion carried unanimously.

CUSTER COUNTY RESOLUTION  
RESOLUTION NO. 12-10

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO CONFIRMING A VACATION OF THE ALLEY BETWEEN LOTS 30 AND 73 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, 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 2<sup>nd</sup> and 1<sup>st</sup> Street in the town of Rosita to the east line of Proctor Street on August 2, 1989.

WHEREAS, no public or private property will be land-locked by the contemplated action;  
NOW,

THEREFORE BE IT RESOLVED, that in Accordance with the provisions of CRS 43-2-303; Custer County hereby vacates all rights, title, or interest in the above described alley between Lots 30 and 73.

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 5th day of October 2010.

AT WESTCLIFFE, COLORADO.

CUSTER COUNTY BOARD OF COMMISSIONERS

Lynn Attebery, Chairman

Jim Austin, Vice Chair

Carole J. Custer, Ph.D., Commissioner

Debbie Livengood, Clerk and Recorder Attest

CUSTER COUNTY RESOLUTION  
RESOLUTION NO. 13-10

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO CONFIRMING A VACATION OF A PORTION OF PROCTOR STREET BETWEEN LOTS 81 AND 82 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, 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 2<sup>nd</sup> and 1<sup>st</sup> Street in the town of Rosita to the east line of Proctor Street on August 2, 1989.

WHEREAS, no public or private property will be land-locked by the contemplated action;  
NOW,

Approved 11/8/10

THEREFORE BE IT RESOLVED, that in Accordance with the provisions of CRS 43-2-303; Custer County hereby vacates all rights, title, or interest in the above portion of Proctor Street between Lots 81 and 82.

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 5<sup>th</sup> day of October 2010.

AT WESTCLIFFE, COLORADO.

CUSTER COUNTY BOARD OF COMMISSIONERS

Lynn Attebery, Chairman

Jim Austin, Vice Chair

Carole J. Custer, Ph.D., Commissioner

Debbie Livengood, Clerk and Recorder Attest

Commissioner Custer reported on the status of the selection process for the Colorado State University (CSU) Extension Agent position opening for Custer County. She said that the CSU review committee had narrowed the field of eligible applicants to six. References are being checked, and a plan to interview the candidates was in the process of being finalized. The final candidates will be introduced to the community during an informal evening get together and will be interviewed by a selected group of local individuals involved in our county extension programs during the last week of October 2010.

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

**To adjourn the meeting. The motion carried unanimously.**

The meeting was adjourned at 2:50 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery,  
Chairman