

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, JUNE 30, 2011**

THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY MET IN REGULAR SESSION IN THE COURTROOM.

Commissioner Lynn Attebery called the meeting to order at 9:10 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
Debbie Livengood	Clerk to the Board	Present

Also present was: Dallas Anderson, Linda Anderson, Bob Senderhauf, Jerry Houl, Robin Schmutzler, Jeanne Schmutzler, Doug Cain, Joe Arbuckle, John Brandenburg, Dick Downey, Carol Allison, Bob Allison, Rock Canda, Terry Barragree, Robin Young, David Trujillo, Susan Pitman, Lockett Pitman, Charles Proctor, Alice Proctor, Tracey Garcia, Jerry Lacy, Fred Jobe, Christy Shy, Kit Shy, Jake Shy, Nora Drenner, Kimberly Stein, Kurt Jones, Mark Evert, Mike Hess, Dan Fox, Scott Lundstedt, Joe Cascarelli, Sherry Rorick, Lori Kastendieck, Mary Seifert, Twila Geroux, Tim Lorenson, Larry Weber, Carol Franta, Katherine Camper, Vic Barnes, Rod Coker, Carol Clemenson, Charles Poehlein, Hal Julsen, Paul Snyder, Jack Canterbury, Jean Canterbury, Judy Anderson, Dee Wilhite, and James Sperry.

AGENDA:

Call meeting to order

Pledge of allegiance

Roll Call

Amend agenda

Approval of minutes: June 14, 2011

Audience introduction

Public Comments

Old/New Business:

Review Vouchers and Sign Checks

Resolution #11-06 Declaring Local Disaster –Affirm

Resolution #11-07 Proctor Street Vacation Amendment

Custer County Drought Declaration – James Sperry NRCS

SECRETAC Contract 2011-2012 – Terry Nimmicht

Water Assessment Committee WAC (Presentation)

CSU Energy Coordinator Position Fremont/Custer Counties (Tentative)

Special Use Permit Refund Request – P&Z

County Percolation Technician Request – P&Z

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To amend the posted agenda to include signatures on the previously approved Frontier Pathways Grants.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve the minutes of June 14, 2011 with the spelling correction on page 6. The motion carried unanimously.

Commissioner Attebery asked if there were any public comments. Hearing none, he continued with the meeting.

County payroll and accounts payable were approved from the following funds:

County General	\$197,136.48
Road and Bridge	\$ 97,507.43
Emergency Services	\$ 12,842.31
Human Services	\$ 27,001.21
Capital Improvement	\$ 61,635.90
Airport Fund	\$ 848.68
Tourism Fund	\$ 3,855.52
Self Insurance	\$ 0
TOTAL	\$400,827.53

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To approve the June 2011 accounts payable. The motion carried unanimously.

Commissioner Austin and Commissioner Butler signed the Frontier Pathways Bus Tours on the Byway Grant in the amount of \$25,852 and the Frontier Pathways Byway Interpretive and Way-Finding Signage Initiation in the amount of \$58,458. The grants were approved on April 4, 2011. Commissioner Attebery had recused himself from the initial vote at the BOCC meeting of April 4, 2011 stating a conflict of interest since he was a Frontier Pathways Board Member. He did not sign the grant applications.

Jim Sperry representing the National Resources Conservation Service gave a Custer County Drought presentation. He reported that 75% of the county's hay crops have been lost as a result of the current drought conditions. Mr. Sperry asked the BOCC to approve a declaration of drought on behalf of the county. He said once this declaration was forwarded to the Governors Office, the county could be eligible for state assistance.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

To move forward with the drought disaster declaration process pending the review and approval of the County Attorney. The motion carried unanimously.

Terry Nimnicht met with the BOCC and presented the Southern Colorado Regional Emergency Trauma Advisory Councils (CRETAC) funding contract for the Boards approval. He stated that the contract was in the amount of \$13,000 for the 2011-2012 fiscal year.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve the CRETAC contract as presented. The motion carried unanimously.

Kurt Jones, Colorado State University Extension Agent for Chaffee and Park Counties met with the BOCC. He gave a summary on the creation of the Community Energy Coordinator position. He stated that Kimberly Stein had been hired to replace Karin Milisavljevich. Mr. Jones requested that Ms. Stein be entitled to utilize the office space in the Custer County Annex Resource Center that had been available to Ms. Milisavljevich.

MOTION by Commissioner Austin to provide the Community Energy Coordination the office space in the Annex Resource Center as requested. He suggested that CSU consider payment compensation to the county for usage of the space. The motion died from a lack of a second.

The following citizens in the audience express their opposition regarding the continuation of the Community Energy Coordinator (CEC) position in Custer County. Those speaking against the CEC position and program were: Mike Hess, Dan Fox, Joe Cascarelli, Judy Anderson, Fred Jobe, Jack Canterbury, Jean Canterbury, Twila Geroux, Sherry Rorick, Tim Lorensen, Kit Shy, Jake Shy and Jerry Hoel. Sheriff Fred Jobe asked if Custer County's participation was mandatory. Commissioner Attebery responded that it was not. Sheriff Jobe stated that the community has a lack of trust regarding the energy program and that since it was not a mandatory requirement he suggested that Custer County opt out of the energy program. Kimberly Stein and Robin Young spoke in favor of the energy program.

MOTION by Commissioner Butler, seconded by Commissioner Attebery:

To authorize the BOCC to opt-out of the CSU Energy Coordination program and position on behalf of Custer County. Commissioner Austin opposed. The motion carried.

The BOCC recessed at 11:00 AM.

The BOCC reconvened at 11:20 AM.

Joe Arbuckle stated that the Water Assessment Committee was formed on March 1, 2011 and chaired by Commissioner Allen Butler. The charter mission of the committee was to determine if a water augmentation plan of any type sponsored by the Upper Arkansas Water Conservancy District, is needed and is in the best interest of Custer County. Mr. Arbuckle reported that their mission had been accomplished and that the analysis, findings and recommendations were presented in a public forum on June 25, 2011. He said the final conclusion was that there is no immediate need for any new water augmentation in the county. The WAC members and participants present in the audience agreed with the conclusion. Commissioner Butler, WAC Chairman requested that a correspondence in support of the conclusion from a WAC member unable to attend be entered into the record. The BOCC thanked the members and participants of the WAC for their contribution of time to the committee.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To move forward with the recommendations of the Water Assessment Committee(WAC) as follows:

- (1) The BOCC should become more involved and proactive in reference to water issues.
- (2) Convene with a new WAC as needed in two to five years.
- (3) Continue to support the USGS Hydrology Study.
- (4) The BOCC should write a letter of request to the Division 2 Water Commissioner for notification when augmentation subdivisions reach 80% of their decreed maximum.
- (5) To move forward to investigate the 1041 power for water use to see if it is needed or not.
- (6) The BOCC should keep an open dialog with the UAWCD in reference to new potential augmentation plans with county conditions approved prior to the filing of the plan.

Commissioner Attebery was opposed stating that he would like to see the recommendations from WAC taken under advisement rather than a motion to move forward. He expressed concern over the 1041 powers and felt the topic required review and investigation. The motion carried.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To accept the conclusions of the WAC as presented:

- (1) That no water problem exists today requiring further water augmentation.
- (2) The projected growth for the next ten years is 63-99 new household with minimal impact.

The motion carried unanimously.

Commissioner Austin said that he would like a committee established to investigate the 1041 powers related to water.

The BOCC recessed at 12:30 PM.

The BOCC reconvened at 12:50 PM.

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

MOTION by Commissioner Butler, seconded by Commissioner Attebery:

Not to approve a refund for the Special Use Permit – File: 100-51-400.

The BOCC asked Ms. Hobby to do more research and provide them with more information regarding the requirements of a County Percolation Technician.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To adopt Resolution #11-07 as presented. The motion carried unanimously.

CUSTER COUNTY RESOLUTION
RESOLUTION No. #11-07

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, COLORADO AMENDING RESOLUTION #11-05. RESOLUTION #11-07 PROVIDES DETAILED AND EXPANDED DESCRIPTIONS CONFIRMING THE VACATION OF PROCTOR STREET STARTING AT 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 30th 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 Attebery, seconded by Commissioner Austin:

To affirm the adoption of Resolution #11-05 dated June 20, 2011 as recorded. The motion carried unanimously.

DISASTER DECLARATION
RESOLUTION DECLARING LOCAL DISASTER

WHEREAS, the Custer County Emergency Manager and/or Public Health Directory has advised the Board of the County Commissioners of Custer County (“the Board”) of a disaster (as that term is defined in Part 21 of Article 32 of Title 14, C.R.S.) currently present in the unincorporated area of Custer County, to wit, the occurrence or imminent threat of widespread or severe damage, injury or loss

of life or property resulting from wild land fire requiring emergency action to avert danger or damage, which occurred on 6/12/11 through the duration of the wild land fire, herein referred to as the Duckett Fire; and

WHEREAS, the cost and magnitude of responding to the Duckett Fire on 6/12/11 through the recovery from the impact of the Duckett Fire is far in excess of the county's available resources; and

WHEREAS, the Emergency Manager has recommended that the Board declare a local disaster; and

WHEREAS, it would be appropriate and in the interests of the public health and safety, and would further protect property, for the Board to implement said recommendations; and

WHEREAS, pursuant to C.R.S. 24-32-2109 and the emergency management and operations plans and resolutions of Custer County, Colorado the Board is authorized to declare a local disaster.

NOW THEREFORE, BE IT RESOLVED THAT:

1. That the Board hereby declares that there is a local disaster in the unincorporated area of Custer County, to wit, the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from wild land fire requiring emergency action to avert danger or damage.
2. The effect of this declaration of disaster shall be to activate the response and recovery aspects of any and all applicable local and inter-jurisdictional disaster emergency plans and to authorize the furnishing of aid and assistance under such plans.

BE IT FURTHER RESOLVED that the principal executive officers of all other cities and towns in Custer County affected by said disaster are urged to proclaim similar declarations and to cooperate with Custer County as necessary to cope with this incident.

BE IT FURTHER RESOLVED that this resolution shall be effective upon the onset date of the Duckett Fire 6/12/11, and shall remain in effect for the duration of the Duckett Fire, not to exceed seven days thereafter except by or with the consent of a majority of the members of the Board. True copies will be filed promptly with the Colorado Division of Emergency Management and the Custer County Clerk and Recorder, and shall be promptly distributed to the appropriate representatives of the news media.

SIGNED AND EFFECTIVE at Westcliffe, Colorado, Custer County this 20th day of June, 2011.

Custer County Board of Commissioners

Lynn Attebery, Chairman

Debbie Livengood, Clerk and Recorder, Attest

Commissioner Attebery read the Stage II Fire Restrictions within the Pike and San Isabel National Forests Comanche and Cimarron National Grasslands into the record.

Commissioner Austin said that he would like to have a policy that would address the guidelines to be followed by the road and bridge department during emergency situations with the fire department, the sheriff's department, or any other emergency response agency.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 1:30 PM.

Debbie Livengood, Clerk and Recorder

Lynn Attebery, Chairman