

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING, SEPTEMBER 13, 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 Joe Arbuckle, Gloria Gutierrez, John Henderson, Dale Mullen, Lockett Pitman, Sue Pitman and 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
Amend the June 30, 2011 Minutes
County Attorney
Business Tax Implementation (discussion)
CDOT Right of Way (discussion)
Airport Report
Model Traffic Code Public Hearing 10:00 A.M.
Liquor License, Change of Manager for St. Andrew's at Westcliffe
UAWCD (discussion)
Staff Reports
Treasurer
Planning and Zoning

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To accept the posted agenda. The motion carried unanimously.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To approve the minutes from August 24, 2011 as presented. The motion carried unanimously.

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

Commissioner Austin said that the Colorado Department of Transportation (CDOT) was starting to accept applications for off-system bridge rehabilitation and replacement projects. He commented that approximately 3.5 million dollars is out for bid. Commissioner Austin remarked that the bridge on highway #69 south between Hermit and Schoolfield Roads would meet CDOT's eligibility requirements for rehabilitation or replacement. He said the bike and buggy paths could also be incorporated with the project. Commissioner Austin mentioned that CDOT would contact the property owners along Highway 69 south regarding the right-of-way and easements for the project. He said that after the project was completed it would be turned over to the county. Commissioner Butler expressed concern regarding the county road and bridge department's responsibility for the maintenance of the paths.

Kris Lang, Deputy Clerk to the Board stated that the approved minutes from the June 30, 2011 BOCC meeting will need to be amended. She said that after listening to the audio recording from the meeting, the motion to accept the conclusions of the Water Assessment Committee (WAC) was not carried unanimously. Commissioner Austin made the motion, Commissioner Butler seconded the motion. Commissioner Attebery was oppose. The motion was carried.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To amend the minutes of the June 30, 2011 BOCC meeting to clarify that the motion to accept the conclusions of the WAC was not carried unanimously. The motion carried unanimously.

Commissioner Austin remarked that the Recovered Materials Purchase Agreement between the Angel of Shavano Recycling, LLC and Custer County Recycling still required corrections and revisions. Following a brief discussion the BOCC agreed to have the recycling coordinator contact the Angel of Shavano Recycling Facility and schedule a pick up of the existing baled cardboard at the property site.

Dale Mullen, Airport Authority Board (AAB) met with BOCC and presented the current 2011 Operational Analysis – Budget vs. Actual report. Bob Giacomelli presented the 2011 Aviation Fuel System Fuel Sales Analysis. Mr. Mullen expressed appreciation to Rex Stage for his time and effort in completing the graveled forty foot circle equipped with a wind sock to assist the pilots landing at the airport. He said that a notice for the vacant seat on the AAB has been published and that the letters of interest will be considered at the September 15, 2011 CCAAB meeting. Mr. Mullen reported that the last lot available at the airport to build a hanger has been leased. He remarked that most of the leases will expire in 2014 and that the AAB is considering revising the agreement to require that the lessee build a hanger on the leased lot within a determined time period. Commissioner Attebery expressed concern regarding the county's liability for the courtesy car used at the airport. He said that the county is currently on the title of the vehicle but that it could not be insured under the county's CTSI insurance coverage. Mr. Mullen responded that before a guest can use the vehicle, they are required to complete a form clarifying that they are completely insured. The Board agreed that the county's liability continued to be a concern. The BOCC asked the AAB to contact the local rural airports to review their policies and liability regarding an airport courtesy vehicle.

Commissioner Attebery closed the regular meeting at 10:00 AM and opened the Public Hearing.

PUBLIC HEARING
ORDINANCE 2011-1
Adopting the Traffic Code
10:00 AM

John Naylor, County Attorney said that the notice for the public hearing requirements have been met and completed. He said the subject matter of the Model Traffic Code relates primarily to the comprehensive traffic control regulations for the County. The purpose of the Ordinance and the Code adopted is to provide a system of traffic regulations consistent with the state law and generally conforming to similar regulations throughout the state and the nation.

Commissioner Attebery asked if there was anyone wishing to speak.

Sue Pitmann asked if the BOCC had read and agreed with the Model Traffic Code. The Board responded that they have reviewed the Model Traffic Code and supported the proposed Ordinance.

Deputy Mike Halpin explained that the Colorado Revised Statute (C.R.S) 42-8-109 (2) states that fifty percent of the fines go to the Colorado state treasurer, who deposits the funds to the state highway fund. The remaining fifty percent goes to the county treasurer. He said that under C.R.S. 30-15-402 (1) if the violation is charged as a county ordinance, the entire fine and base surcharge will go to the county in which the violation occurred.

Commissioner Attebery closed the public hearing at 10:25 AM and returned to the regular meeting.

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To adopt Ordinance 2011-1 as presented. The motion carried unanimously.

ORDINANCE NO 2011-1 FOR ADOPTING TRAFFIC CODE

TITLE: AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE COUNTY OF CUSTER COLORADO; ADOPTING BY REFERENCE THE 2010 EDITION OF THE "MODEL TRAFFIC CODE" REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CUSTER COLORADO:

Section 1. Adoption

Pursuant to parts 1 and 3 of article 16 of title 31 and part 4 of article 15 of title 30, C.R.S. there is hereby adopted by reference Articles 1 and 11, inclusive, of the 2010 edition of the "Model Traffic Code" promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the County. The purpose of this Ordinance and the Code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Clerk of the County of Custer Colorado, and may be inspected during regular business hours.

Section 2.

Deletions

The 2010 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections which are declared to be inapplicable to this municipality and are therefore expressly deleted. None.

Section 3. Addition or Modifications

The said adopted Code is subject to the following additions or modifications. None.

Section 4. Penalties

The following penalties, hereby set forth in full, shall apply to this ordinance:

- (a) It is unlawful for any person to violate any of the provisions adopted in this ordinance.
- (b) Every person convicted of any provision adopted in this ordinance shall be punished by a fine not exceeding One thousand dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

Section 5. Application

This ordinance shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or outside the corporate limits of this county, the use of which this county has jurisdiction and authority to regulate. The provisions of section 1401, 1401, 1413, and part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer, and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality or county.

Section 6. Validity

If any part of part of this ordinance are for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that ay one part or part be declared invalid.

Section 7. Repeal

Existing or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or part of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinances hereby repealed prior to the taking effect of this ordinance.

Section 8. Interpretation

This ordinance shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of the ordinance and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

Section 9. Certification

The County Clerk and Recorder shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS AFTER A PUBLIC HEARING AND SIGNED THIS 13TH DAY OF SEPTEMBER, 2011.

Commissioner Lynn Attebery, Chairman

ATTEST: Debbie Livengood, Clerk and Recorder

CERTIFICATION OF MODEL TRAFFIC CODE STATE OF COLORADO.

CERTIFICATION COUNTY OF CUSTER

We, the undersigned, do hereby certify that this Model Traffic Code is a true and accurate copy of the Code adopted by reference by the County of Custer, Colorado under Ordinance No. 2011-1 pursuant to and as provided by parts 1 and 2 of article 16 of title 31 or part 4 of article 15 title 30, C.R.S. Dated this 13th day of September, 2011.

Commissioner Lynn Attebery, Chairman

Attest: County of Custer, Debbie Livengood, County Clerk and Recorder

Tracey Garcia, Chris Haga and Jerry Lacy representing the Round Mountain Water Sanitation District and Bob Senderhauf, UAWCD Chairman joined the meeting.

Commissioner Austin said that the BOCC had previously agreed to keep an open dialog with the UAWCD. He said that he would like move forward with a continued dialog. He stated that he felt the Water Assessment Committee (WAC) should be included in the discussions. Joe Arbuckle reminded the BOCC that the Water Assessment Needs Committee had concluded that no new water augmentation plan was necessary in Custer County for at least ten years. He said that the WAC made a presentation to the BOCC outlining the conditions that were identified and that it must be a part of the dialog with UAWCD. Bob Senderhauf proposed that the BOCC prepare a letter of interest for a continued dialog to the UAWCD Board.

Commissioner Attebery asked if there was anyone in the audience who wished to speak. Sue Pitman representing Sustainable Ways clarified that the group has no position on a water augmentation plan. John Henderson, Attorney at Law spoke in favor of a water augmentation plan. Bob Allison spoke in opposition of the water augmentation plan. Joe Arbuckle spoke in favor of having the WAC give the UAWCD Board a presentation of their findings and that the provisions of the WAC need to be addressed. Vic Barnes endorsed Commissioner Austin and Mr. Arbuckle's statement of having the WAC provide the UAWCD Board with a presentation. Lockett Pitman suggested that any discussion between the BOCC and the UAWCD Board be open to the public and that the UAWCD Board concentrates and addresses the concerns of the BOCC.

Commissioner Austin asked Bob Senderhauf, Chairman of the UAWCD to present a request for the WAC to make a presentation to the UAWCD Board for their approval. Commissioner Butler agreed. Following a discussion the BOCC and the UAWCD Chairman agreed to tentatively schedule a continued dialog session on October 27, 2011 at the UAWCD facility in Salida, Colorado.

The BOCC recessed at 11:00 AM.
11:20 AM.

The BOCC reconvened at

Debbie Livengood, Clerk and Recorder addressed the BOCC and presented a complete application from St. Andrews at Westcliffe, Colorado requesting a change in manager as part of their liquor license. Ms. Livengood said that the background check did not present any concerns. She said that the new manager will be Jay R. Premo.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To approve the change of manager on the liquor license for St. Andrews at Westcliffe as presented. The motion carried unanimously.

Virginia Trujillo, Treasurer met with the BOCC and gave a report. She stated that the beginning balance on August 1, 2011 was \$3,426,996.07 and the ending balance on August 31, 2011 was \$3,084,006.18. She remarked that a transfer had been necessary to pay the bills in August 2011.

MOTION by Commissioner Attebery, seconded by Commissioner Butler:

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

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

File 101-10-450 ISDS Dry Cabin Variance – approved.

MOTION by Commissioner Butler, seconded by Commissioner Austin:

To approve an ISDS for One (1) Dry Cabin for One (1) Year. The motion carried unanimously.

Special Events Permit (SEP) Fee Waiver request from Bike with Pike – approved.

Ms. Hobby expressed concern that the Bike with Pike SEP application was submitted to the Planning and Zoning (P&Z) Office the day prior to the event. She said that the P&Z Office requires that SEP applications be submitted at least 30 days prior to an event for review and processing.

MOTION by Commissioner Austin, seconded by Commissioner Butler:

To waive the SEP fee for the Bike with Pike Event that was held on September 10, 2011 with a caveat that the sponsors be informed that future SEP applications must be submitted to the Planning and Zoning Office at least 30 days prior to the event. The motion carried unanimously.

File 102-36-679 Cemetery request – will require a Special Use Permit (SUP) and a Plat.

File 100-33-784 Zoning Permit expired – owners purchased a new zoning permit.

File 100-07-401 Zoning Permit - voided and cancelled.

File 100-32-999 Septic Violation – in review.

Road name change request in the Simonson Meadow area in Custer/Pueblo counties – in review.

The Planning Commission will review the 1041 regulations.

Silver West Airport Lot #22 will not require a setback variance.

The BOCC, the County Attorney and the Planning Zoning Director briefly discussed suggestions and options to established a identification mechanism for tracking businesses within Custer County. The Board agreed the topic would continue to be reviewed under old business at a future date.

John Naylor, County Attorney remarked that an independent engineer was hired for the review of several engineered services provided to residents of the county.

Commissioner Attebery remarked that the Road and Bridge Department is preparing a rental contract for the outside entities requesting the use of the county tractor.

MOTION by Commissioner Attebery, seconded by Commissioner Austin:

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 12:30 PM

Debbie Livengood, Clerk and Recorder
Attest

Lynn Attebery
Chairman