

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, MAY 27, 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 9:00 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
Kris Lang	Deputy Clerk to the Board	Present

Also present was Nora Drenner reporter for the Wet Mountain Tribune and several community members.

**AGENDA:**

Call meeting to order  
Pledge of allegiance  
Roll Call  
Amend agenda  
Audience introduction  
Approval of minutes April 29, April 30 and April 29 Work Session May 5, 2010.

Old Business

- Approval of the Emergency Management Performance Grant (EMPG) Local Emergency Management Support (LEMS) continuation #10EM0L15
- K.E.R. Auction Contract for the Wetmore Project
- Contract for Wetmore Project Demolition
- Hanssen Haus Resource Center availability and accessibility
- Public Hearing scheduled on June 8, 2010, 10:00 AM  
Resolution #05-10 amending Custer County Zoning Map
- Reschedule BOCC Meeting from August 17 to August 18, 2010 at 12 PM at the San Isabel Restaurant
- 2010 Election Calendar – July 23, 2010 deadline for a political subdivision to take formal action to participate in the General Election.
- Status of the NEED grant (Ennovate)

New Business:

- Review of the Berg Hill Greenleaf & Ruscitti LLP agreement of representation before the Equal Employment Opportunity Commission.
- Haz Mat Awareness Class June 29 and 30, 2010
- Gilbert Ortiz – Colorado Department of Transportation (CDOT) Report and Presentation
- Debbie Livengood – Clerk and Recorder Report
- Virginia Trujillo – Treasurer  
Discussion regarding the distribution of the 2010 Payment In Lieu of Tax Fund (PILT)
- 211 Report – Elizabeth French

Work Session:

- Review of the Conservation Trust Fund Guidelines
- Discussion on the Federal Emergency Management/Flood Map
- High Country Recycling discussion on the Resources Economic Opportunity Fund Grant

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

To accept the posted agenda. The motion carried unanimously.

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

To approve the minutes of April 29, April 29 Work Session, April 30 and May 5, 2010 as presented. The motion carried unanimously.

Kirk Ruzanski, K.E.R. Auction met with the BOCC. He stated he had reviewed the auction contract with the revisions submitted from the County Attorney, John Naylor and agreed with the contents. Mr. Ruzanski signed the auction contract.

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

To approve and sign the auction contract with KER Auctioneers as presented. The motion carried unanimously.

Mr. Ruzanski was given the demolition guideline contract for the awarded salvage rights contractor.

Commissioner Attebery stated for the record that the auction is scheduled on June 19, 2010 starting at 10:00 AM at the Wetmore Project property site located at the intersection of State Highway 96 and State Highway 67 in Wetmore, Colorado.

Commissioner Custer stated that Donna McDonnall, County Public Health Nurse had prepared an outline of safety health precautions for entrance into the building at the Wetmore Project property site. She presented Mr. Ruzanski with a copy of the correspondence.

Representatives from the Colorado Department of Transportation (CDOT) met with the BOCC and gave a presentation. Those in attendance were: Gilbert Ortiz, Sr., CDOT Commissioner representing District 10. Tim Harris, Regional Transportation Director; Sasan Delshade, Traffic Engineer; Charles Bennett, Senior Foreman; Angie Drumm, Local Government Liason; and Lisa Streisfeld, Environmental Manager.

Tim Harris outlined the 2010 CDOT Region 2 County Project Priority Programming Process. He distributed copies of the CDOT policy and outline regarding federal and state funding. Mr. Harris stated the federal revenue sources were approximately 34% of the CDOT fiscal year 2011 budget and state revenue sources are approximately 50% of the CDOT fiscal year 2011 budget. The CDOT representatives present gave a summary of the upcoming local projects that included improvements of Highway 69 south and Highway 96. They reported the bridge replacement project on Highway 69 south over Antelope Creek is scheduled for the year 2012.

Commissioner Custer reported on the safety issue at the Custer County Preschool and Kids Club facility at 118 Jerry Court, Westcliffe and outlined the proposed raised safe egress underneath Highway #69 to provide a safe route from the facility to Main Street and the main School campus.

Commissioner Austin reported on the safety issue in front of the Custer County School District complex at 709 Main Street around 4:00 PM when the students are crossing the street. He said parent vehicles are parked for student pickup and school buses are leaving the premises causing a safety hazard.

Commissioner Attebery shared a concern expressed by the Dark Skies regarding the lack of a protective shield on street light recently installed by CDOT in the Wetmore area.

The BOCC thanked the CDOT representatives for their presentation and participation in the meeting. The Board extended an invitation to a CDOT representative to attend the BOCC Meeting scheduled in Wetmore on June 16, 2010. The meeting would include discussion on the street light protective shield concern expressed by Dark Skies and options for a turn lane off Highway #96 into the Wetmore Community Building property.

The BOCC recessed at 10:20 AM.

The BOCC reconvened at 10:40 AM.

Christe Feldmann, Office of Emergency Management presented the Emergency Management Performance Grant (EMPG) Local Emergency Management Support (LEMS) continuation #10EM0L15 to the BOCC for review and approval.

Commissioner Custer asked Ms. Feldmann if the grant had been reviewed and approved by the County Attorney. Ms. Feldmann responded that this was a continuation grant and that the original grant application had been reviewed by the County Attorney. Commissioner Custer expressed concern that the grant application referenced a budget of \$50,000 and yet the grant request was for \$25,000 and did not reference the additional \$25,000 required as the county match.

**MOTION by Commissioner Custer to approve the Grant Application #10EM0L15 for \$25,000 pending the review of the County Attorney. The motion is also contingent with a notation on the grant application that the county is responsible for the additional \$25,000 to meet the \$50,000 budget figure. Commissioner Austin seconded the motion. The motion carried unanimously.**

Commissioner Austin expressed concern that during the absence of the Resource Navigator accessibility to the Hanssen Haus Resource Center (HHRC) for a scheduled meeting was unavailable. Following a brief discussion it was determined that the other county personnel in possession of a key were also not available on that particular date. The Board agreed to ask the Clerk and Recorder (C&R) whether a key to the entrance of the HHRC could be retained in the C&R department.

Commissioner Custer reported that the temporary ramp to the HHRC requires resurfacing and needs more work. She said ADA accessible ramps are necessary at the front and back door of the facility.

Commissioner Custer stated that some of the fencing stored in the HHRC garage will be used to provide a safe play area at the HHRC facility. She said the School District and the Custer County Kids Club would like to negotiate an agreement with the county for the use of the remaining fencing. The Board agreed with the proposal.

Commissioner Attebery presented a letter of appreciation addressed to Earl and Gayle Crouch of Carpet Direct for the donation of the ceramic tiles that will be installed in the main hallways on the first floor of the county courthouse for the Boards signature. Commissioner Custer reviewed and amended the correspondence to provide more clarity.

**MOTION by Commissioner Custer to sign the letter to Carpet Direct with the amendments, seconded by Commissioner Attebery. The motion carried unanimously.**

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

To reschedule the BOCC Meeting being held at the San Isabel Lodge from Tuesday, August 17 to Wednesday August 18, 2010 starting at 12:00 PM. The motion carried unanimously.

Commissioner Attebery reported he had received an e-mail from Brittany Prudum, Grant Associate with the Governor's Energy Office stating that Custer County had not been selected for the American Recovery and Reinvestment Act New Energy Economic Development (NEED) Funds. Commissioner Custer said it was disappointing and proposed that the BOCC contact the Governor to share the county's concerns. Commissioner Austin said he would like to research what projects did get funded. Commissioner Custer said she would e-mail the Governors Energy Office for confirmation of what projects were funded at what level of government.

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

Approving that Commissioner Custer research the distribution of the NEEDS Funds and present her findings to the BOCC at a future date. The motion carried unanimously.

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

To approve and sign the Berg Hill Greenleaf & Ruscitti LLP agreement of representation before the Equal Employment Opportunity Commission as presented. The motion carried unanimously.

Commissioner Custer said that the Board should give consideration to deferring the cost of the legal representation to the department involved. She stated the legal fees should be reflected in the department's budget and not the County General Fund.

The meeting was adjourned at 10:30 AM.

The work session started at 12:30 PM and was completed at 2:20 PM.

The meeting was reconvened at 2:25 PM.

Debbie Livengood, Clerk and Recorder addressed the Board and requested direction regarding the administrative penalty fee issue on Special Mobile Machinery (SMM). She explained the topic had been discussed with Charles Ahart, SMM Enforcement Officer for Fremont County in the October 2008 BOCC meeting and with John Naylor, County Attorney in the October 2009 BOCC meeting. Ms. Livengood requested that the BOCC make a specific determination to enforce or waive the \$500 SMM administrative penalty fee. Following brief discussion the Board agreed not to enforce the administrative penalty fees.

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

That the responsibility for enforcing the SMM licensing fees remain with the state and not be enforceable at the county level. The motion carried unanimously.

Ms. Livengood requested the motion be more specific to clarify that it is the penalty fee that is not being enforced and not the SMM licensing fee. Commissioner Custer said she would remove her motion and give the Clerk and Recorder an opportunity to prepare specific wording for the Boards review. Commissioner Attebery rescinded his second of the motion. The BOCC will make the specific motion at the BOCC meeting scheduled on May 28, 2010.

The Board asked Ms. Livengood whether an extra key to the HHRC could be stored in the Clerk and Records Office. Commissioner Custer said that the HHRC Facilities Manager would provide those offices having the keys to the HHRC with a calendar of events along with the names of individuals and agencies scheduled to use the HHRC. That way, when the HHRC is locked, the county offices having keys would know who is scheduled to use the HHRC.

The Board said that the District Attorney is seeking a term limit exemption as a ballot question for the upcoming election. Ms. Livengood confirmed that the deadline date is July 23, 2010 for a political subdivision to take formal action to participate in the General Election.

Virginia Trujillo, County Treasurer met with the BOCC and gave a report on the Payment in Lieu of Taxes (PILT) fund. She expressed frustration regarding the uncertainties regarding the funding from the Colorado Department of Local Affairs. She reported that she has been in contact with the School District and that they understand the County would require the return of the \$61,779.48 PILT payment. Ms. Trujillo stated the School District was prepared to refund the money before the beginning of their July 1, 2010 budget cycle. Commissioner Custer stated that the BOCC needs to have a complete paper trail for transparency including verification in writing from the appropriate federal and state authorities that the county must request that monies already disbursed to the school district in good faith be returned to the county treasury.

Elizabeth French met with the Board and gave a 211 Report. She explained that 211 is an easy to remember telephone number that connects people with important community services and volunteer opportunities. She said that although the 211 Advisory Council had dissolved she still had valuable information from her input into the tapestry and volunteered to keep that information updated. Jackie Hobby, Planning and Zoning Director and Ms. French's Supervisor joined the meeting. Commissioner Custer asked Ms. Hobby if she would support having Ms. French continue updating the 211 information. Ms. Hobby responded that the 211 information is beneficial to the county and agreed that Ms. French should continue with the process as a secondary function in the office as long as all P&Z matters were completed. She further stated that all P&Z issues would take priority. Following a brief discussion the Board agreed that hard copies of the information would be made available at the Westcliffe and Wetmore Libraries, the Clinic, the HHRC and the Social Service Department. Additionally, the information will be available on the county website.

Commissioner Austin stated that Duncan, Ostrander & Dingess, P.C. are the Attorneys representing the Board of County Commissioners of Custer County, Colorado concerning the application for water rights of the Upper Arkansas Water Conservancy District (UAWCD). He reported that the Attorneys for Widefield Water & Sanitation District and the Attorneys for the City of Fountain have approved the motion to vacate the trial and modify the case management order concerning the application for change of water rights by the City of Fountain and the Widefield Water and Sanitation District.

Commissioner Austin said on the advice of John M. Dingess, Attorney, the BOCC had accepted the motion. He said due to the time constraints the BOCC accepted the motion on May 24, 2010 and that he was reporting the motion as a matter of record in the BOCC meeting of May 27, 2010. Commissioner Custer stated that Ralph (Terry) Scanga, General Manager of the UAWCD had provided the BOCC with a copy of the filing.

Commissioner Attebery stated that a Public Hearing was scheduled on June 8, 2010 at 10:00 AM to adopt Resolution #05 – 10 amending the Custer County Zoning Map. He said the Public Hearing was scheduled during the BOCC meeting of June 8, 2010 in the Commissioners Boardroom. Commissioner Attebery commented that the Public Hearing has been published and posted as required.

Commissioner Attebery stated that the Board would not be in attendance at the Haz Mat Awareness classes on June 29 and 30, 2010 due to a conflict with scheduled BOCC meetings.

**MOTION by Commissioner Austin, seconded by Commissioner Attebery:**  
**To adjourn the meeting. The motion carried unanimously.**

The meeting was adjourned at 3:25 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman

BOARD OF CUSTER COUNTY COMMISSIONERS WORK SESSION

May 27, 2010

12:40 PM

Commissioners Board Room

Present: Commissioner Attebery  
Commissioner Austin  
Commissioner Custer  
Kris Lang, Deputy Clerk to the Board  
Allen Butler, Mayor Town of Silver Cliff  
Nora Drenner, Reporter for the Wet Mountain Tribune  
Citizens: Robin Young, Christe Veltrie, Mike Liebman and via  
telephone conference Joanie Liebman

TOPIC:

Review of the Conservation Trust Fund Guidelines

Commissioner Attebery said that the Conservation Trust Fund is lottery dollars that are divided among counties based on population. The funds can be used for the acquisition, development and maintenance of new conservation sites or for capital improvements for recreational purposes on any public site.

Commissioner Austin said that Senate Bill 10-98 allows counties to use a portion of the funds from the Conservation Trust Fund to assist in the control of noxious weeds.

Commissioner Custer read Senate Bill 10-98 into the record.

The purpose of Senate Bill 10- 98, enacted in 2010, is to provide the means whereby grant moneys will be made available to conservation districts, county and municipal governments, and other special districts to the end that these governmental bodies will have secure funding sources to develop, administer, and maintain soil conservation and noxious weed control programs. In the area of the conservation of natural resources in particular, the grant moneys made available by Senate Bill 10-98 will enable conservation districts to leverage funding for projects that will address small acreage management, the protection of rangeland and wildlife habitat, improvements in water delivery systems and water quality, forest health, energy conservation, and reduction of soil erosion. With respect to both the conservation of natural resources and noxious weed control, the secure annual funding sources made available may assist these conservation districts, county and municipal governments, and other special districts in hiring employees, purchasing needed equipment, providing moneys to leverage the grant programs made possible by Senate Bill 10-98, and, in the specific area of noxious weed control, allowing for the development and administration of cooperative weed management areas throughout the state. The general assembly further intends that Senate Bill 10-98 shall be liberally construed to secure these objectives.

Robin Young said that the SB 10-98 was for projects and not salary or operations. The projects could be on public as well as private lands as long as the public as a whole benefited from the projects. Ms. Young outlined the current projects of the Conservation District: Camp Rocky sponsorship; sponsor teacher's education; snow and wind breaks along county roads; small acreage management; water forum workshops and revitalize the Custer County rural handbook.

TOPIC:

Discussion on the Federal Emergency Management Agency (FEMA)/National Insurance Flood Program (NIFP).

Commissioner Attebery said FEMA/NIFP had been discussed at the work session of April 29, 2010. He asked if the Board or members of the audience had any further input or questions. All present agreed the next step would be to communicate with Bob Squire, Town of Westcliffe Manager for a status update on existing flood mapping and proposed direction.

TOPIC:

High Country Recycling discussion on the Recycling Resources Economic Opportunity Fund Grant Program.

Commissioner Austin said that the Recycling Resource Economic Opportunity Fund Grant Application for \$63,482 has been approved and that funding is expected on July 1, 2010. He said a preliminary meeting was held on May 19, 2010 to work on the design and plans for the facility. He announced the next project meeting was scheduled on June 9, 2010. He explained the proposed facility will be a metal framed building with cardboard bale walls followed by a stucco finish. He said that Rusty Christensen, Landfill Manager has been involved in every aspect of the construction and that the proposed building layout was designed by Mr. Christensen. Commissioner Austin stated that a report on the progress of the project should be included with the monthly landfill report to the BOCC. He reported a group of volunteers have prepared a business survey that will be personally distributed to gain information and input on recycling participation. He said the administrators of the grant are Christy Veltrie, Jim Austin and Joanie Liebman. He acknowledged the time and effort Joanie Liebman spent on the preparation of the grant application. He remarked that John Piquette and Dawna Hobby would provide financial over-sight. He said that Mike Liebman would spearhead the construction of the project along with Roland Williams and Jim Bradburn. Commissioner Austin stated during his discussions and conversations with Colorado Technical Services Inc. (CTSI) there did not appear to be any insurance coverage issues regarding the project. He addressed the questions and concerns expressed with using county funds for the project. He said even though the county benefits out-weigh the contribution, the cash match will be met with the collected recycling tip fees. Additional in-kind services will be provided by the volunteers on the project. The project will extend the life of the landfill equipment by providing storage space inside the building. He said the recycling project will also protect and extend the life of the landfill itself.

Joanie Liebman said there were many benefits to recycling and felt certain with public education and participation the project would have a life long positive affect on the county. She said it was her hope that the business surveys would provide useful information and input for the project. She remarked that due to emission concerns a generator would not be used as part of the recycling project.

Christe Veltrie said the project will provide benefits to the county as well as the landfill facility. She remarked the proposed building could be the first phase of a recycling facility with future expansion.

Commissioner Attebery said that he was in favor of the project. He expressed concerns regarding the construction of a county building on county property. He stated the BOCC would need to review the blue prints and specifications for the building. He said the building would need to meet the local, state and federal guidelines. He stated the first priority was the storage and protection of county landfill equipment. Commissioner Attebery said there were several questions and concerns regarding personnel wages for the operation of the facility that would require clarification and confirmation.

Commissioner Custer said that she supported recycling in the county.

The work session was completed at 2:20 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman