

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, JUNE 29, 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, Mike Bleinstein, and Sam DeNardo, Dawna Hobby and John Piquette and several community members.

AGENDA:

- Call meeting to order
- Pledge of allegiance
- Roll Call
- Amend agenda
- Audience introduction
- Approval of minutes

Old Business:

- Sam DeNardo, Auditor to discuss Airport Board transfer, TABOR reserve.
- John Piquette, Finance Officer Review of the School District correspondence To the School District requesting refund of the PILT monies.
- Approval of the Custer County Road and Bridge Traffic Signs, Traffic Markings & Retro-Reflective Policy.
- Approval of the Colorado Department of Public Health and Environment Emergency Preparedness and Response Contract #11FJA17868 with the Custer County Public Health Agency.
- Review and approval of the letter to the editor at the Wet Mountain Tribune regarding Community Support for Dark Skies.
- Discussion regarding the tree's on the county courthouse property.
- MOU Custer County and the Wetmore Community Center and Library Board
- Letter of support requested by the Wetmore Fire Department for grant application EMW-2010-FO-02716.
- Consideration for a Resolution for the support of Local Administration of Colorado's Human Services System and a Commitment to Excellence.

New Business:

- Terry Nimnich to present the RETAC Contract for review and approval.
- Jackie Hobby to request a street vacation.
- Thom LeDoux to present D.A. Term Limit Exemption
- Sharon McKinsey, UAACOG Regional Housing Development Director to present The Housing Rehabilitation Program Intergovernmental Agreement for review
- Airport Maintenance Issues and Discussion

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

To accept the posted agenda. The motion carried unanimously.

Sam DeNardo, representing Garren, Ross & DeNardo Inc. met with the BOCC and requested guidance regarding a transfer from the county general fund to the airport fund in the amount of \$24,666. He asked for confirmation on whether the transaction should be recorded as an operating transfer or a loan advance. The Board agreed it was presumed that the transfer was an advance and the airport would return the funds to the county general fund when feasible.

Mr. DeNardo proposed the TABOR funds be itemized under the specific entities instead of a lump sum in the county general fund. He asked the Board for a decision.

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

To amend the budget protocol for the calculation of the TABOR funds. The funds will be itemized under the individual entities in the county budget and each department will be notified that their budgets will reflect a hold back for TABOR.

Commissioner Attebery stated the Payment in Lieu of Taxes (PILT) agenda item is no longer deemed necessary.

Terry Nimnicht met with the Board and submitted the Southern Colorado Regional Emergency Trauma Advisory Council (RETAC) contract for funds disbursement – fiscal year 2010-2011. Mr. Nimnicht advised that \$13,000 would be designated for training purposes. Chuck Ippolito asked if some of those funds could be allocated for a computer system. Following a brief discussion the Board agreed there were more funding opportunities for capital assets and that the RETAC funds remain allocated for training.

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

To enter into the contract with Southern Colorado RETAC as presented. The motion carried unanimously.

Commissioner Attebery signed the contract as Chairman of the BOCC.

Commissioner Attebery stated the Custer County Public Health Agency has forwarded the Approved Task Order Contract – Waiver #154 with the Department of Public Health and Environment for the Boards review and approval. He stated the \$15,923 contract was a yearly on-going process and was a part of the Master Contract made on 1/23/07.

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

To approve and sign the Contract – Waiver #154 as presented. The motion carried unanimously.

Commissioner Attebery signed the contract as Chairman of the BOCC.

Commissioner Custer requested the approval of the Custer County Road and Bridge Traffic Signs, Traffic Markings and Retro-Reflective Policy be postponed until the BOCC meeting of July 7, 2010.

Commissioner Custer presented a correspondence issued to the Wet Mountain Tribune Editor regarding community support for the Dark Skies program for the Boards approval and signature. The BOCC signed the correspondence.

Jackie Hobby, citizen met with the BOCC and requested a vacation of Street St. in the unincorporated town site of Rosita, Colorado. She explained a portion of the platted, but never constructed city street known as Street St. was between Lots 358 and 359 that she and her husband own. She said no public or private property would be land-locked by the contemplated action.

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

To approve the vacation of Street St. as presented. The motion carried unanimously.

The BOCC instructed the administrative assistant to prepare a resolution for the vacation of Street St. for their review and signature.

Thom LeDoux, District Attorney (DA) for the Eleventh Judicial District met with the BOCC and requested support from Custer County to petition the election ballot for the exemption of the DA term limits. He stated the BOCC from Fremont and Park Counties were in support of the petition. He said he has not obtained BOCC support from Chaffee County but is scheduled to meet with the Board in a few weeks. He remarked that approval from all four counties in the district would be required before the ballot could be petitioned. Mike Blitstein, citizen approached the Board and shared his concerns and disapproval of the proposed petition. Commissioner Attebery thanked Mr. Blitstein for his comments.

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

To approve the District Attorney’s request to petition the ballot for the term limit exemption. To adopt Resolution 08-10 allowing the ballot question which would waive term limitations for the office of the District Attorney. The motion carried unanimously.

The BOCC signed Resolution 08-10.

BOARD OF COUNTY COMMISSIONERS  
CUSTER COUNTY, STATE OF COLORADO

08-10

A RESOLUTION PROVIDING FOR THE SUBMISSION TO THE REGISTERED QUALIFIED ELECTORS OF CUSTER COUNTY, COLORADO, AND THE ELEVENTH JUDICIAL DISTRICT OF COLORADO (INCLUDING FREMONT, CHAFFEE, PARK AND CUSTER COUNTIES) OF A BALLOT QUESTION WHICH WOULD WAIVE TERM LIMITATIONS FOR THE OFFICE OF DISTRICT ATTORNEY IMPOSED IN ACCORDANCE WITH ARTICLE XVIII, SECTION 11 OF THE CONSTITUTION OF THE STATE OF COLORADO, SAID BALLOT QUESTION TO BE SUBMITTED AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2010; PRESCRIBING THE FORM OF BALLOT QUESTION FOR SUBMISSION AT SAID ELECTION; PROVIDING FOR CERTIFICATION OF THE ELECTION QUESTION TO THE COUNTY CLERK AND RECORDER; AND OTHERWISE PROVIDING FOR THE CONDUCT THEREOF.

WHEREAS, the District Attorney for the Eleventh Judicial District serves Fremont, Chaffee, Park and Custer Counties; and

WHEREAS, Article XVIII, Section 11, of the Constitution of the State of Colorado, provides that no elected officials of any county or political subdivision of the State of Colorado, shall serve more than two consecutive terms in office; and

WHEREAS, a District Attorney is an elected official subject to these same term limit restrictions; and

WHEREAS, Article XVIII, Section 11 of the Constitution of the State of Colorado further provides that the voters of the County may eliminate the limitations on terms of office imposed by this Section 11; and

WHEREAS, the following county officers in the Eleventh Judicial District have been exempted from term limits by a vote of the respective counties.

Fremont: Coroner and Surveyor – 1996

Fremont: Assessor, Clerk and Recorder, Commissioners, Sheriff and Treasurer – 2000

Chaffee: Assessor, Clerk and Recorder, Coroner, Sheriff and Treasurer – 1997

Park: Assessor, Clerk and Recorder, Coroner, Sheriff, Surveyor and Treasurer – 2000

Custer: Assessor, Clerk and Recorder, Coroner, Sheriff, Surveyor and Treasurer – 1996

WHEREAS, the position of District Attorney, like the other exempted offices, requires specialized education, training and experience.

WHEREAS, the electors of the Eleventh Judicial District may desire the option to retain certain elected officials in office to benefit from the skills, expertise and knowledge they possess; and

WHEREAS, the electors of the Eleventh Judicial District always retain the right to vote out of office an incumbent District Attorney, either at the next general election, or in a mid-term recall election.

WHEREAS, the District Attorney for the Eleventh Judicial District has not previously requested a term limit waiver ballot question.

WHEREAS, the Board of County Commissioners has now been so requested to submit to the electors, voting in the next general election, a question to waive the term limit for the elected office of District Attorney; and

WHEREAS, the Board of County Commissioners believes that the electors of the Eleventh Judicial District should have the option to vote to waive the term limits of the elected officials if they so desire; and

WHEREAS, the proposal for the waiver of District Attorney term limits may be submitted at the election to be held on November 2, 2010; and

WHEREAS, such election shall be conducted by the Fremont, Chaffee, Park and Custer Counties' Clerk and Recorders in accord with the "Uniform Election Code", Articles 1 to 13, of Title 1, Colorado Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, STATE OF COLORADO:

Section 1. Certification of Question to Clerk and Recorder for Election. The following questions shall be presented at the General Election to be held on Tuesday, November, 2, 2010. That said election shall be held in accord with the provisions of Uniform Election Code.

Section 2. Form of Title and Ballot Question. At the general election, there shall be a submitted to a vote of the registered electors of the County the following question:

COUNTY REFERRED MEASURE, WAIVING TERM LIMITS FOR THE DISTRICT ATTORNEY.

"SHALL THE TERM LIMITS IMPOSED BY STATE LAW AND IN ARTICLE XVIII, SECTION 11(2), OF THE COLORADO CONSTITUTION ON THE OFFICE OF THE DISTRICT ATTORNEY OF THE ELEVENTH JUDICIAL DISTRICT, BE ELIMINATED SO AS TO PERMIT AN ELECTED OFFICEHOLDER IN THAT OFFICE TO SEEK AND, IF THE VOTERS OF THE ELEVENTH JUDICIAL DISTRICT CHOOSE TO RE-ELECT THAT PERSON TO ADDITIONAL TERMS IN OFFICE, TO SERVE SUCH TERMS."

Section 3. Certifying the Ballot. Pursuant to the provisions of the C.R.S. 1-5-203(3), the County Clerk, as the designated and coordinated Election Official, shall certify the ballot.

Section 4. Severability. If any part, section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

MOVED, READ AND ADOPTED by the Board of County Commissioners of Custer County, State of Colorado, at a regular meeting held on the 29<sup>th</sup> day of June, 2010.

COUNTY OF CUSTER, STATE OF COLORADO, by and Through Its BOARD OF COUNTY COMMISSIONERS

By: Lynn Attebery, Chairman      Jim Austin, Commissioner      Carole Custer, Commissioner  
Attest: Debbie Livengood, Clerk to the Board of County Commissioners.

Commissioner Custer made a motion. Commissioner Austin seconded the adoption of the foregoing resolution. The roll having been called, the vote was as follows:

Commission Attebery – Aye; Commissioner Austin – Aye; Commissioner Custer – Aye.

This Resolution passed by unanimous vote of the Board of County Commissioners of the County of Custer, State of Colorado.

Sharon McKinsey, Regional Housing Development Director, Upper Arkansas Area Council of Government (UAACOG) met with the Board and presented a Intergovernmental Agreement for the Community Development Block Grant Project; the Citizens Participation Plan (Attachment P), the Categorically Excluded Projects and the HUD Environmental Standards Checklist (Exhibit IV-B) and the Residential Anti-displacement and Relocation Assistance Plan for the Board's approval. She explained the agreement with Fremont County and Custer County apply to the State of Colorado, Department of Local Affairs, Division of Housing to request funds for the continued administration of the Single Family Owner Occupied (SFOO) Housing Rehabilitation Program. The purpose of the program is to help preserve stock in Custer County and benefit persons with low and moderate-income. Ms. McKinsey said the UAACOG is requesting that Custer County demonstrate support of the effort to preserve housing for low-to-moderate income families in the region, and suggested that the BOCC choose one of the options from the list. Commissioner Custer replied that she believed that the Custer County Affordable Housing Committee might be willing to consider supporting the SFOO program with a cash match from funds in their account. Commissioner Custer agreed to poll that committee and report back.

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

To approve the Intergovernmental Agreement and attachments as presented. The motion carried unanimously.

Commissioner Attebery signed the agreement and attachments as Chairman of the BOCC.

Allen Butler, Dave Cross, Annette Cross, Dale Mullen, Art Nordyke, Glen Scott, Wes Taylor, and Ted Wiggin joined the meeting. Dale Mullen, Custer County Airport Authority Board Volunteer introduced himself and outlined his aviation background, licenses, ratings and experience. He gave a slide presentation on the non-budgeted required maintenance of the aviation fuel system at the Silver West Airport in Custer County, Colorado. Mr. Mullen said that under grant compliance when an airport accepts funds from the Airport Improvement Program (AIP), the airport sponsor/owner agrees to certain obligations, such as proper maintenance of the airport, equipment, etc. and for keeping the airport open and operating for public use. He stated that during an inspection he had observed several maintenance and safety issues regarding the aviation fuel system. Mr. Mullen outlined those issues and the repairs and revisions proposed.

He ended the presentation stating the CCAAB needs and requests approximately \$8,000 for the appropriate maintenance and reports for the aviation fuel system. He distributed a quote from Complete Aviation Fuel Systems itemizing the maintenance/repair work recommended for operational and safety compliance.

The BOCC thanked Mr. Mullen and the Airport Board for bringing this to their attention and agreed with the findings. They expressed concern regarding the \$8000 non-budgeted request. The Board will review the county budget with the financial officer. Commissioner Custer suggested the Airport Board submit an amended 2010 budget for the non-budgeted required maintenance expenses.

Commissioner Attebery reported that earlier in the meeting Sam DeNardo, the county auditor met with the BOCC and requested confirmation on a transfer from the county general fund to the airport fund in the amount of \$24,666. The Boards position was that the funds were a loan and that the airport would pay back those funds when feasible. The Airport Board agreed but expressed concern since they did not have the funds available and did not expect them to become available in the near future.

Commissioner Custer reported that Colorado Counties Incorporated (CCI) and their Health and Human Services Steering Committee have been unwaveringly in support of locally administered human services system in every county in Colorado, and they have requested that every Board of County Commissioners consider the adoption of a county resolution reiterating that fact. Commissioner Attebery stated that the draft resolution prepared by the CCI has been reviewed by our County Attorney. The County Attorney approved the resolution and commented that the resolution limited the county's commitment to support of the effort.

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

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

The BOCC signed the resolution.

CUSTER COUNTY RESOLUTION  
RESOLUTION # 10-10

A Resolution for the Support of Local Administration of Colorado's Human Services System and a Commitment to Excellence.

WHEREAS, the Governor's Child Welfare Action Committee (CWAC) established by Executive Order B 006 08 on April 16, 2008, examined the child welfare system over the course of eighteen months and developed thirty-five recommendations to improve the safety of vulnerable children in Colorado; and

WHEREAS, Custer County supported the creation of the Governor's CWAC and endorsed twenty-seven of the twenty-nine recommendations that originated from it; and

WHEREAS, many recommendations from the Governor's CWAC have already been implementing including the Child Welfare Training Academy and the Differential Response Pilot; and

WHEREAS, National data from the United States Department of Human Services shows that the rate of child fatalities due to abuse or neglect per 100,000 children is slightly higher for state administered systems than county administered systems; and

WHEREAS, in Colorado the percent of child fatalities with prior county involvement has declined over a seven year period from 56% to 24%; and

WHEREAS, one of the Governor's CWAC recommendations was to structurally reorganize the delivery of human services in the state, not just the child welfare system; and

WHEREAS, this recommendation, despite the work and focus of the Governor’s CWAC on child welfare, implicated all of human services including, but not limited to, food stamps, child care, and Temporary Assistance to Needy Families (TANF); and

WHEREAS, Colorado Counties Inc.’s (CCI) Health and Human Services Policy Statement states that CCI supports and “advocates local administration of social services system in order to maximize the flexibility and responsiveness of the system to local needs, while ensuring efficient management and local control”; and

WHEREAS, CCI’s bylaws state our opposition to any movement that has as its objective centralization of government in large units to the detriment of Colorado’s residents;

NOW, THEREFORE, BE IT RESOLVED that Custer County reaffirms its commitment to excellence in the provision of human services and child welfare.

BE IT FURTHER RESOLVED that Custer County is committed to continuous quality improvement.

BE IT FURTHER RESOLVED that Custer County is committed to enhancing the accountability of both state and local governments’ management.

BE IT FURTHER RESOLVED that Custer County reaffirms its support for a locally-administered human services system.

RESOLVED, ADOPTED AND SIGNED THIS 29<sup>th</sup> DAY OF June, 2010 AT CUSTER COUNTY COLORADO.

Lynn Attebery, Chairman

Jim Austin, Vice Chair

Carole J. Custer, Ph.D., Commissioner

Attest: Debbie Livengood, Clerk and Recorder

Commissioner Custer presented a revision of the Memorandum of Understanding between Custer County and the Wetmore Community Center and Library Board accepted at the BOCC meeting on June 16, 2010.

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

**To accept the revised MOU as presented. The motion carried unanimously.**

Commissioner Custer read the accepted MOU into the record.

MEMORANDUM OF UNDERSTANDING  
BETWEEN CUSTER COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS,  
THE WETMORE COMMUNITY CENTER BOARD AND  
THE WETMORE COMMUNITY LIBRARY BOARD

WHEREAS, the Custer County Government owns and is responsible for maintaining the building and property at 93 CR 393 in Wetmore, Colorado known as the Wetmore Community Center;

WHEREAS, the Custer County Board of County Commissioners (BOCC) is the administrative governing body for the county;

WHEREAS, the BOCC desires to strengthen and clarify the roles of all parties to this Memorandum of Understanding (MOU) to work cooperatively in developing building administration protocols;

WHEREAS, services and programs provided at the Wetmore Community Center Building are of benefit to Custer County, its residents and visitors;

WHEREAS, the BOCC authorizes the appointed members of the Wetmore Community Center Board to administer the programs and activities of the Wetmore Community Center within the annual BOCC approved budget authorized by the BOCC;

WHEREAS, the BOCC authorizes the appointed members of the Wetmore Community Library Board to administer the programs and activities of the Library within the annual BOCC approved budget authorized by the BOCC;

THEREFORE, through this MOU, all parties agree that the BOCC is to be informed by the appropriate Wetmore Board regarding any repairs; remodeling; or renovation to be undertaken and/or any changes in Board membership as well as any removal of county owned property in their part of the building.

**Signed this 29<sup>th</sup> Day of July 2010 by the following MOU partners**

Lynn E. Attebery, BOCC Chair, Jim Austin, BOCC Vice Chair, Carole J. Custer, Ph.D., BOCC Member,  
Alden Gray, Wetmore Community Center Board Chair, Dee West, Wetmore Community Library Board Chair,  
Attested By Debbie Livengood, Clerk and Recorder Date County Seal Here

Commissioner Custer said the Wetmore Volunteer Fire Department (WVFD) has applied for Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant in the amount of \$21,077 for protective gear and a thermal imaging camera. The WVFD has requested a letter of support from the BOCC for the grant application.

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

To prepare and sign a letter of support for the FEMA grants application as requested by the WVFD. The motion carried unanimously.

Commissioner Austin reported that a private individual has offered to remove the two (2) compromised trees on the south end of the county courthouse frontage property for \$65. Commissioner Attebery confirmed that the two trees are on county property. Commissioner Austin said the lawn area of the courthouse required aeration. He said the rental fee for an aerator would be \$50. He remarked that once the aerator has been rented it could also be utilized at the Sheriff's Office and the Hanssen Haus Resource Center. Commissioner Attebery agreed that the entire courthouse should be aerated. The labor portion of the project will be provided by the grounds and maintenance personnel.

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

To approve the removal of the two (2) compromised trees on the south end front lawn of the county courthouse for \$65 and to rent an aerator to treat the courthouse campus in the amount of \$50. The motion carried unanimously.

Commissioner Custer confirmed that the majority of the Custer County Affordable Housing Committee members have agreed to commit \$100 cash per unit rehab'd with a maximum amount of \$2,000 as part of the Housing Rehabilitation Program. The BOCC agreed to prepare and sign correspondence to Sharon McKinsey, Regional Housing Director at the Upper Arkansas Area Council of Governments notifying her of the commitment.

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

To adjourn the meeting. The motion carried unanimously.

The meeting was adjourned at 12:30 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery,  
Chairman