

**PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING, DECEMBER 7, 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 9:05 AM. He asked for a moment of silence to honor and remember those who died during the Japanese attack on Pearl Harbor on December 7, 1941. The Pledge of Allegiance was recited by those present.

Roll Call was taken:

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

Also present was Commissioner Elect Butler, Joe Arbuckle, Bob Dreher, Lockett Pittman and Sue Pittman.

**AGENDA**

Call meeting to order  
Pledge of allegiance  
Roll Call  
Audience Introduction  
Amend agenda  
Approval of minutes  
Old Business:  
Wetmore Project update  
Wet Mountain Valley Waste Minimization Grant (WMVWMG) update  
South Colony Basin in the San Isabel National Forest continued discussion  
Low Attitude Tactical Navigation (LATN) update  
Upper Arkansas Water Conservancy District (UAWCD) update  
County Attorney Discussions:  
Redistricting following the census  
CR390 Hamilton  
CR190 vacation request  
2011 Budget Presentation – John Piquette  
West Custer County Library District Board Ratification  
UAWCD Director - Bob Senderhauf  
Planning and Zoning Report – Jackie Hobby  
Treasurer Report – Virginia Trujillo  
IT Report - Chuck Ippolito

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

**To accept the posted agenda. The motion carried unanimously.**

Commissioner Attebery and Commissioner Austin did not have any updates to report on the Wetmore project, WMVWMG project, LATN program, UAWCD and the South Colony Basin fee proposal.

Commissioner Custer joined the meeting at 9:10 AM.

Commissioner Attebery stated that the first BOCC meeting for January 2011 should be scheduled to provide the Administrative Assistant adequate time for publishing and posting. The Board agreed.

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

To designate January 11, 2011 as the first BOCC meeting in 2011 commencing at 9:00 AM in the commissioners boardroom.

Commissioner Attebery said on that date the Board will adjourn from their regular scheduled meeting and move into the courtroom for the swearing-in ceremony of the newly elected officials. The Board will reconvene into the commissioner's room with the newly elected commissioner.

The BOCC met with the County Attorney and the following topics were discussed:

- The District Court of Custer County, Colorado determined that CR 390 was part of the county road system. The county deeded a forty foot wide parcel of land, known as and referred to by District Court Case Number 02CV33 to Michael P. and Laura J. Halpin. The county attorney stated that the county would no longer be involved or have a vested interest in the dispute.
- The property owner requesting a vacation of CR 190 will submit the request in writing to the Planning and Zoning Department.
- Review the boundary lines for the commissioner's districts following the recent census. The Board agreed additional information would be necessary.

John Piquette, Finance Officer, presented the BOCC with the 2011 finalized budget. He stated the final budget is \$5,247,222.00. He said \$91,000 of reserve funding would be necessary to balance the budget. Mr. Piquette reported the break-down of the mill levy as follows: General Fund 10.995; Road and Bridge 5.000; Welfare 0.500; Insurance 1.500; Emergency Services 2.000; for a total of 20.245.

Commissioner Austin requested clarification regarding the Road and Bridge budget. He said the Road and Bridge Supervisor proposed several projects under the Department's reserves. Mr. Piquette commented that crushing gravel and the water truck would be applied to the 2010 budget and crushing gravel, the tandem and trailer would be applied to the 2011 budget. Commissioner Austin confirmed that FASTER funding was not included in the budget figures.

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

To approve the 2011 finalized budget and set the mill levy at 20.245. Commissioner Custer opposed the motion stating it was fool hardy to implement employee raises with an uncertain economy. The motion carried. Commissioner Custer did not sign the 2011 budget.

Joe Arbuckle, citizen asked what the percentage of the budget was allocated for employee compensation and benefits. Commissioner Custer responded approximately 3.2 million or 65% of the overall budget. She stated that the compensation for the elected officials is set by the state legislature, and does not change for the term of office for each elected official. She said the year she took office the state legislature increased the elected officials' compensation and that she agreed to give back a portion of her salary to the county, which she has. Dawna Hobby, Human Resource/Finance Manager commented that Commissioner Custer had not taken advantage of the county's medical insurance which resulted in an additional savings to the county. She said that given the funding Commissioner Custer obtained for the HHRC; she has paid for her term compensation as a commissioner.

Virginia Trujillo, Treasurer met with the BOCC and gave a report for October and November of 2010. She said the beginning balance in October was \$3,227,841.54 and the ending balance was \$3,147,614.59. The beginning balance in November was \$3,147,614.59 and the ending balance was \$3,042,223.26.

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

To accept the October 2010 Custer County Treasurer's report as presented. The motion carried unanimously.

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

To accept the November 2010 Custer County Treasurer's report as presented. The motion carried unanimously.

Debbie Livengood, Clerk and Recorder joined the meeting. Ms. Trujillo and Ms. Livengood asked the County Attorney for guidance regarding the elected officials' surety bonds. House Bill 10-162 would allow counties to purchase crime insurance in lieu of surety bonds. Commissioner Custer suggested contacting Colorado Counties Inc. (CCI) for assistance. John Naylor, County Attorney recommended also contacting County Technical Services Inc. (CTSI). CTSI advised that as a member of the Colorado Counties Casualty and Property Pool (CAPP) the elected officials and the named insured have \$10 million in public officials' liability (E&O) coverage and \$150,000 in crime coverage.

Marty Frick, West Custer County Library District Director met with the Board and said that state law provides the BOCC the opportunity to ratify rather than appoint the Library District Board Members. She said there are two board members who 3-year terms are expiring on December 31, 2010; a third board member has moved from town. After a public notice, the Trustees interviewed several candidates. The two who are being nominated to replace the expiring terms are Doris Frizzel and Amy Bauer. The person being nominated for the last two years of the departing Trustee's term is Jim Gearhart.

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

To approve the appointment of the Library District Board Members as presented. The motion carried unanimously.

Ms. Frick thanked the County Attorney and the BOCC for their assistance and support during the recent library district boundary issues.

The BOCC recessed at 10:10 AM.

The BOCC reconvened at 10:30 AM

Bob Senderhauf, UAWCD representative met with the Board and stated that he has prepared a discussion outline to address and comment on the statements of opposition expressed towards the UAWCD during the recent BOCC meetings. Mr. Senderhauf said that communication was imperative. He reported on numerous public meetings, committees, conferences and presentations within the community that he attended and provided UAWCD updates to the public. In addition articles and brochures have been distributed throughout the community. The UACWD website is routinely updated to provide the public with current information. He stated that the monthly UAWCD Board Meetings are also open to the public.

Mr. Senderhauf reported that the UAWCD has spent a considerable amount of time and money defending the county's water rights when the State of Colorado proposed taking the rancher owned water rights. He said the UACWD was instrumental in resolving the issue when Lake DeWeese was dried up and that at any given time the UAWCD is involved in 50-60 cases to protect the citizens of Custer County. He remarked that water cases are time consuming and costly. Mr. Senderhauf commented that Lake County chose not to be a part and was never a part of the water district. He stated that the City of Aurora currently owns 75% of the water in Lake County. He stressed the importance of protecting and keeping the water in Custer County. He clarified that the state owns the water and the right to use the water is prioritized as first in use is first in right. Mr. Senderhauf referenced the correspondence issued by the UAWCD approving the filing of a motion for voluntary dismissal of cases 09CW85 and 09CW86 (Custer County Plan of Augmentation) with the Water Division 2 Court. He said in order to begin the collaborative process of refocusing efforts to achieve a blanket augmentation plan the District is seeking participation from the Custer County Board of Commissioners.

He urged the BOCC to respond to the correspondence and work with the UAWCD to provide a blanket augmentation plan. He asked the Board to consider rescinding the motion made at the October 5, 2010 BOCC meeting for dismissal of the plan. He commented that the UAWCD submitted the water plan prior to the new state rulings that went into effect in 2009 in an effort to secure public input and transparency in the water court. He said that the UAWCD has done the job they were selected to do. He asked for the support of the BOCC and the community.

Commissioner Attebery thanked Mr. Senderhauf for his efforts and support with the UAWCD. He stated that he stands by the position that the BOCC took at the October 5, 2010 meeting to withdraw from the water case. He acknowledged the referenced communications from the local representatives as a whole but said there was a lack of communication with specific regard to the water augmentation plan. He stated that the Board and community were never given the option to review the water augmentation plan prior to filing. He said that was more than likely the main source of the dissent and opposition. He also expressed concern over the terminology blank or umbrella referenced in the augmentation plan. Commissioner Attebery acknowledged receipt of the correspondence received from the UAWCD and proposed the Board respond.

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

The BOCC would prepare a reply correspondence to the UAWCD that would include the input of each board member. The completed correspondence will be reviewed and approved by the County Attorney prior to the final preparation and submission to the UAWCD.

Commissioner Custer proposed that the county consider entering into a memorandum of understanding or memorandum of agreement with UAWCD regarding the augmentation plan. She said the public was in need of further education on the water augmentation plan process. The water forum being scheduled for our community and public by the Conservation District in 2011 will offer additional information to help understand the project and process. Commissioner Custer stated that the county needs to work together with the UAWCD to protect the communities' water rights and is saddened that the Board chose to support the dismissal of the water augmentation filing.

Commissioner Austin thanked Mr. Senderhauf for his comments. He said in listening to the discussion it was clear that Mr. Senderhauf supported the UAWCD. He said he was not certain that an advocate for the UAWCD would have the county's interest as a priority. He said he hoped that was not the case. Commissioner Austin stated that he stood by the motion made at the October 5, 2010 BOCC meeting. He said he was comfortable and confident with the representation provided by Duncan, Ostrander & Dingess, P.C.

Commissioner Custer stated that since the county was no longer in the fight with UAWCD or the Water Division 2 Court, there would be no further need for telephone conferences, memorandums and motion requests from Duncan, Ostrander & Dingess, P.C. She expressed concern regarding the invoices already incurred and pending for their services. The Board agreed that any future communications with Duncan, Ostrander & Dingess, P.C. would be initiated by the County Attorney.

Commissioner Attebery asked for comments from the audience. Joe Arbuckle, citizen said he supports having the county withdrawal from the UAWCD. He said that the Conservation District is scheduling a water forum in January 2011 and one of the topics he would like discussed is what problems if any would the county face if they elected to withdraw. Mr. Arbuckle suggested that the BOCC postpone making any binding agreements with the UAWCD until the completion of several public water forums. He said that the reply correspondence sent to the UAWCD should address the Boards displeasure regarding the filing of the water augmentation plan. Lockett Pitmann, citizen asked how quickly the BOCC would prepare a response to the correspondence from UAWCD. Commissioner Attebery agreed to prepare correspondence before the BOCC meeting of December 29, 2010.

Mr. Senderhauf thanked the BOCC for allowing him the opportunity to make the presentation. He clarified that he was not a developer and that he supports the county. He stated that the county's interest was his first priority with regards to water issues.

Jackie Hobby, Planning and Zoning Director met with the BOCC and gave a report. She requested the status on the USGS fees in the 2011 budget. Commissioner Attebery responded that the funding for the USGS studies was included in the approved 2011 budget. The following topics were discussed:

- File 101-48-853 Individual Disposal System variance approved.
- File 100-33-519 Rental and Septic System being reviewed.
- File 100-89-253 Un-permitted containers four (4) since 2008 will be invoiced.
- File 101-27-950 Un-permitted structure notification issued.
- File 101-84-280 Un-permitted structure notification issued.

Chuck Ippolito, Information Technology met with the BOCC and provided a presentation on the progress of the county road mapping, the graphic information system program, satellite imagery and topography mapping. He said the information can be distributed on the internet free of charge and that he was currently obtaining quotes for the processing of hard copies. Mr. Ippolito reported that he has been working with the sheriffs department to setup a public alerts system that would be accessible by the public.

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

To recess and reconvene in the Joint Session with the Planning Commissioner at 1 PM in the court room. The motion carried unanimously.

The BOCC reconvened at 1:16 PM in Joint Session with the Planning Commission. Commissioner Attebery, Commissioner Austin, Commissioner Custer and County Attorney, John Naylor were present.

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

To accept the recommendation of the Planning Commission to approve the Special User Permit for Sangre De Cristo Electric Association Sub-Station. The motion carried unanimously.

Commissioner Austin left the meeting at 3:30 PM.

The BOCC Joint Session with the Planning Commission was adjourned at 4:08 PM.

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Debbie Livengood, Clerk and Recorder  
Attest

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Lynn Attebery  
Chairman