

## State Tax Initiatives Could Cause “Voter Approved Recession”

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### 2011 Legislative Forms

Don't forget to turn in your 2011 Legislative forms to CCI by Friday, July 2, 2010.

This is your chance to participate in and shape CCI's Legislative agenda for 2011. Please submit forms to Gini Pingnot at [gpingenot@ccionline.org](mailto:gpingenot@ccionline.org) by Friday, July 2nd.

On November 2, 2010, voters across the state will have their say on three initiatives that will dramatically effect the operation of the state and local governments in Colorado. Henry Sobanet, former head of the Office of State Planning and Budgeting under the Owens Administration, and Rick Reiter, a campaign consultant, joined commissioners at CCI's Summer Conference to share their preliminary analysis of impacts of the three initiatives and an update on the campaign against the measures.

Mr. Sobanet began by touting the long tradition of local decision making that Colorado voters have enjoyed over the years. Decisions to tax and expand services are locally made and reflect the priorities and desires of communities throughout the state. If Proposition 101 and Amendments 60 & 61 pass in November, local decisions will become null and void.

While this argument will certainly appeal to some voters, Mr. Sobanet also cited the fiscal impact of the measures to the public and private sector along with preliminary estimates on job losses. To date, Mr. Sobanet's analysis indicates that these measures could result in a current-year equivalent impact of \$4.2 billion. While these impacts would occur over time, this figure represents the potential full impact of the measures. He explained that while this revenue loss will have an immediate impact on the public sector, it will also impact the private sector which in many cases relies heavily on governmental contracts for business. Construction companies, private correctional services, and a variety of vendors will all be impacted. Finally, Mr. Sobanet stated that his early estimates indicate job losses of 50,000 or more. Collectively, these measures are tantamount to a “voter approved recession.”

Based on early polling, Mr. Reiter explained that statewide voters do not care for Proposition 101 and Amendment 60 once they are explained. Forty percent of voters view these two measures as too complicated and riddled with tricky shenanigans.

Amendment 61, however, is a different story. Amendment 61 prohibits the state from using any sort of public financing whatsoever. Under Amendment 61, the state will no longer be able to use revenue bonds to build roads, revenue anticipation notes to help schools with their cash flow needs while they wait for property tax revenues to trickle in, or lease purchase agreements. And, while Amendment 61 does not prohibit local governments from using these types of public financing, local governments must secure voter approval prior to doing so. Amendment 61 also requires a 10 year maturity date for all borrowings and a decline in tax rates equal to the average annual repayment of the borrowing once it has been repaid.

Mr. Reiter explained that voters, both nationally and in Colorado, feel that government is spending too much money and is living beyond its resources. Voters are also not making a distinction between public financing and deficit spending. Given these two sentiments and the brevity of Amendment 61's ballot language, the public's approval rating of this measure is currently above 50%.

Before closing, Mr. Reiter said that conservative unaffiliated and moderate republican voters seem to like these measures the most. With this in mind, the campaign's message has to be center-right in its orientation. Mr. Reiter stated that commissioners are in the best position to argue against these measures in their respective communities. He suggested using local infrastructure – hospitals, community centers, roads and bridges – and how these local assets will be impacted, as a way to illustrate the negative ramifications of voting *yes* on these measures.

## CCI Summer Conference Begins with Healthcare Update

NACo President-elect (and Tarrant County, Texas, Judge) B. Glen Whitley kicked off CCI's 2010 Summer Conference in Vail on June 2. Judge Whitley welcomed the county delegates and, in a speech that was liberally sprinkled with his trademark southern humor, praised county commissioners for giving back to their communities. Judge Whitley's mission during his term as NACo President will be to raise public awareness of the services and programs that counties - which Whitley refers to as "that forgotten level of government" - provide for their citizens. These services are crucially important, especially considering that 80% of the counties in the U.S. are rural in nature. Whitley suggested that commissioners conduct presentations to various civic and citizen's groups and pushed for the creation of school curricula that could be taught in government and/or civics classes.

Whitley complimented CCI, noting that the county commissioners from Colorado are more active in NACo than from any other state, and that commissioner involvement is really what makes NACo work. In talking about the value of NACo membership, Whitley invoked his father, who used to say that "you only get out of something what you put in." Whitley also invited the attendees to register for the upcoming NACo Annual Conference in Reno, Nevada, on July 16 - 20. This annual conference is a great way to learn about new ideas and approaches that can save counties money.



Eagle County Commissioner Sara Fisher welcomes her fellow commissioners to her county.



NACo President-elect Glen Whitley, CCI Executive Director Chip Taylor and CCI President & Washington County Commissioner David Foy take a moment to pose for the camera after the opening session of the CCI Summer Conference.

Judge Whitley was followed by Lorez Meinhold, Senior Health Policy Analyst for Governor Bill Ritter, who provided some state perspective on the recent health care reform efforts. Meinhold praised counties for their work on the issue of health

care delivery, noting that "we would not be as far along as a state without you." Thanks in part to the work done by local governments and the current administration, Colorado is better positioned than most states to make the most out of the national reforms, according to Meinhold. Continued collaboration and cooperation between local, state and federal agencies will be essential to the implementation of the proposed reforms.

Meinhold laid out the four key areas of reform:

- Protecting consumers, improving affordability and holding insurers accountable;
- Containing costs for public and private programs to ensure fiscal sustainability;
- Cracking down on waste, fraud and abuse in Medicare and Medicaid; and
- Expanding coverage to those who are currently uninsured.

There are currently 700,000 uninsured citizens in the state of Colorado. Under the plan, 500,000 of these uninsured will gain some level of coverage. Additionally, the Colorado Healthcare Affordability Act (passed in 2009) began providing coverage on May 1 of this year to pregnant women and children.

Meinhold touched on some key provisions that could affect local governments. First among these is the availability of federal funding for the 138 federally-qualified community health centers throughout Colorado. The reform also targets better coverage of mental health and substance abuse treatment, a perennial issue at the local level. Meinhold also pointed out that counties are employers (in addition to being health care providers) and this reform is designed to keep health care costs from spiraling out of control.

Finally, she noted continued need to address a shortage of primary care providers in rural areas. The Governor's Office is concerned about this issue and is considering several solutions, including forgiving school loans for nurses who commit to providing services in rural areas.

# Commissioners Learn More About HB10-1284

In the wake of recent legislation concerning medical marijuana, commissioners heard analyses of the process and the new laws from Rep. Tom Massey (R, Poncha Springs), Eagle County Attorney Bryan Treu and land use attorney, Josh Marks. First, Rep. Massey, prime House sponsor of HB10-1284, the law that placed regulations on the medical marijuana industry, gave an overview of the challenges and landmines faced during the session. Ultimately the bill passed with strong language that allows county commissioners a wide degree of latitude and flexibility when determining what local regulations to place upon the medical marijuana industry. The new law increases the rules for patients receiving medical marijuana cards and establishes guidelines and regulations for oversight on the state and local level. Rep. Massey thanked CCI and CML for their efforts in getting HB10-1284 passed.

Treu and Marks spoke to the specific new authorities and powers counties have under this new legislation. The medical marijuana industry will be regulated under a system that resemble limited gaming and alcohol store regulations in Colorado. There will be a twofold application process, on the local level and on the state level. The local regulations have two options: ban dispensaries outright, either through a vote of the people or through the governing body of the local government or local governments may establish a licensing authority to manage the dispensaries within the county boundaries. In addition to these options, there is additional zoning authority for local governments that allows flexibility in determining

where to place the dispensaries in unincorporated areas within the county.

Commissioners asked several follow up questions, many having to do with anticipated legal actions the counties would face. Marks spoke of some of the challenges they could face. In HB10-1284, there is a provision that allows counties to forgo public hearings during the license application process.

The language is intended to allow cities or counties with many existing dispensaries the ability to approve licenses quickly, especially if there had been previous public comments or hearings. If counties choose not to hold public hearings for new dispensaries they could open themselves up to due process challenges, Marks warned. Additionally, the vested rights principle could be asserted in court if a county decides to ban dispensaries that are already in existence within their boundaries. Related to this idea is that a takings claim may be made, as well, if a dispensary is already in existence and a ban is established. Finally, the authorization statute in Colorado states that if the business is a lawful use, then it cannot be taken away and some dispensaries may try to use this against the counties.



Representative Tom Massey listens to a question during the Medical Marijuana session.

# Summer Conference District Meetings

## Eastern District

Congratulations Lincoln County Commissioner Gary Beedy and Elbert County Commissioner John Shipper! Commissioner Beedy and Commissioner Shipper were elected by their peers to serve another year as the CCI Eastern District President and Vice President, respectively. CCI thanks you



Sedgwick County Commissioner Jim Beck looks over his notes and Elbert County Commissioner Hope Goetz listens during the Eastern District meeting.

for your service last year as leaders of the CCI Eastern District and we are looking forward to your continued leadership roles this year. Thank you!

JoAnn Powell, Northern Region Extension Director, joined commissioners at CCI's Eastern District meeting to discuss a number of changes currently underway at CSU Extension. Ms. Powell highlighted the staffing changes that occurred

in mid April. These changes eliminated four reporting layers and raised the visibility of CSU Extension by having Dr. Lou Swanson, Extension Director, report directly to CSU President Tony Frank. In addition to staffing changes, CSU Extension is striving to better align county and regional needs with CSU's resources. To that end, Ms. Powell explained that by September 2010, CSU Extension will meet with county commissioners to learn about what the needs are in counties, to share the Extension's vision for the future and its current budget, and to discuss and get feedback on the Extension's initial approach to regionalization.

Commissioners were also joined by Dave Akers, Program Manager for the Water Quality Control Division at the Department of Public Health and Environment. Mr. Akers updated commissioners on the latest conversations to revise the current septic tank (also known as 'Individual Sewage Disposal System' (ISDS) or 'Onsite Wastewater System' (OWS) rules. Over the last 10 months, stakeholders have been developing recommendations in a variety of different areas. While the recommendations are not yet final, they are certainly be-

gining to take shape. For example, on the topic of training and certification, many seem to support granting the Water Quality Control Commission or the Waste and Wastewater Facilities Operator Certification Board the authority to adopt regulations to implement a risk-based, tiered training and certification program that would establish practitioner qualifications, provide for training, certification exams and continuing training requirements. On the topic of OWS maintenance, many stakeholders seem to support allowing local health departments to implement a state program that would require system inspection when titles are transferred.

Commissioners were uniformly concerned about who has and has not been participating in the stakeholder meetings. Specifically, commissioners noted that homeowners have not been at the table over the last 10 months of discussion, yet they are likely to see their system costs increase as a result of new regulations. Similarly, industry professionals have been at the table, which has created a perception that the revisions are being driven largely by a desire for additional profits. Additionally, commissioners asked why the existing rules need to be changed in the first place. They questioned what – if anything – is ‘broken’ about the existing rules.

Elbert County Commissioner and Eastern District Vice President John Shipper engaged his peers in a ‘round robin’ on law enforcement expenditures. Commissioners talked about their current law enforcement budget and staffing situations, whether or not any cuts had been made, county jail capacity, and variations in service delivery occurring in Eastern Colorado. The meeting concluded with a quick conversation about requesting Cooperating Agency Status to better ensure coordination between federal, state and local governments on resource and land management issues.

## Front Range

The meeting was preceded by lunch, and called to order by President Cindy Domenico, Boulder, at 12:30 p.m. The commissioners, staff and guests introduced themselves. President Domenico explained the Front Range District’s practice of rotating the members into leadership positions.

Vice President Dennis McCloskey, City and County of Broomfield, then took the roll. Jefferson was the only county absent, but Commissioner Hartman arrived shortly.

The district moved to the election of officers, with the prior explanation of rotation, with the result that Dennis McCloskey, Broomfield, was elected President, and Carol Boigon, Denver, was elected Vice President.

Commissioner Domenico described the Salary Commission Survey and asked that members fill out and return their surveys.



Weld County Commissioner Barbara Kirkmeyer makes a point during the Front Range District meeting.

Commissioner Domenico introduced Kathay Rennels, Director, CSU Economic Development, Outreach and Strategic Partnerships. Former Larimer Commissioner Rennels then handed out information on the CSU Extension restructuring.

Rennels explained that the Extension program is diligently working to provide quicker responses and better assistance to meet county needs. CSU extension is committed to creating greater community involvement in these assistance efforts.

Rennels stated that she took this job to make economic development and assistance work.

There was discussion from commissioners about the MOU between CSU and counties, and discussion of the efforts underway to meet with all the counties by September 17<sup>th</sup>.

The next item, was Commissioner Susan Beckman describing the Child Welfare Action Committee issues now being acted upon by the Governor. Beckman believes that there is the need for the CCI Board to react by approving support and resources for CCI’s HHS to fight back. There was a discussion about the fact that data only recently released by CDHS seem to indicate that the counties had little actual or direct involvement in the vast majority of the child fatalities that drove the original CWAC. Beckman urges that the commissioners support this request of the CCI Board.

CCI President David Foy, Executive Director Chip Taylor, and General Counsel, Tom Lyons, joined the meeting and discussed the statutory requirements of the conduct of business by a non-profit organization. It was agreed that there would be a discussion of the concerns separate from the actual Business Meeting.

The next presentation on Forest Health, was presented by Gail Beh, the Front Range Roundtable facilitator. She included her handout in the District meeting packet and members were referred to these documents. She discussed the importance of forest health to all counties, forested or not, including the wild-fire risks to water supply, air quality and related fire impacts.

Her group is working to provide information and data to counties to aid in their local efforts. These resources are available from the Front Range Roundtable group.

At the conclusion of this discussion Douglas County Commissioner and Board Member Jack Hilbert awarded certifi-

icates of appreciation to Commissioner Domenico for her service as President and to Councilman McCloskey for his service as Vice President this past year.

The meeting then turned to updates from each of the counties, concerning issues they are dealing with and local interests among their constituents. Jobs creation is of significant concern among a number of the counties and there are economic development efforts going on in several areas. There is also great concern about the initiatives and several of the counties are looking at adopting their 2011 budget in two forms, depending upon whether the initiatives pass or not, so that they are prepared.

The members were reminded of the August 13<sup>th</sup> Front Range District meeting in Weld County before this meeting was adjourned.

## Mountain District

Congratulations to Commissioners Nancy Stuart (Grand County) and Sara Fisher (Eagle County), who were elected President and Vice President, respectively, of the CCI Mountain District during the meeting on June 2 in Vail. Commissioner Stuart had previously served as Vice President, and replaces outgoing District President Jim Ignatius (Teller County).

Commissioners from the Mountain District heard a presentation on the state's economic climate and employment outlook from Alexandra Hall of the Colorado Department of Labor and Employment. Colorado lost approximately 150,000 jobs during the recent economic downturn, and is lagging the nation in job recovery. The credit freeze has had a large impact on small businesses in the state, which often relies on this lending to make payroll. Hall believes that the worst of the job losses are behind us, and expects that an improvement in consumer confidence will help buoy the state's economy. The challenges ahead include a high debt load (which will be a drag on growth), a risk of deflation in some areas and the fact that while the credit freeze has thawed somewhat, banks are still not lending at 2007 levels. Hall thinks that while the economy is improving, a return to a robust state is still 3-5 years away.

Custer County Commissioner Carole Custer listens to a presentation during the Mountain District meeting.

Susan Kirkpatrick, Executive Director of the Department of Local Affairs (DoLA), provided an overview of the programs and services which DoLA provides to counties. DoLA has been working to "knock down the silos" and establish more

cooperation between the state agencies and local governments. Kirkpatrick hailed the recent construction of an interchange on I-70 near Parachute as an example of how effective collaboration among government partners can address community needs. This sorely needed interchange was made possible by funding from Garfield County, DoLA and the Colorado Department of Transportation. Kirkpatrick pointed out that DoLA awarded over \$260 million in grants last year to communities throughout the state, and that amount was leveraged by \$616 million in local funds. These statewide project investments directly generated 8,300 new jobs. Kirkpatrick also announced that after a budget-induced moratorium, the Department will be conducting a round of the Energy and Mineral Impact Grant Program this August, with another grant application round coming later this fall.

Ralph Topper, a hydrologist with the Colorado Geological Survey, discussed the connection between stormwater management and water supply. In mountain counties, groundwater supplies rely on infiltration of precipitation into fractured bedrock to supply wells and baseflow to waterways. The addition of impervious surfaces (sidewalks, roads, parking lots, etc.) from new development prevents the absorption/infiltration of these stormwaters and can create flashflood dangers and impact both water quality and quantity. The use of best management practices in a county's land use planning can mitigate these impacts. Development standards that either require or encourage native landscaping, permeable pavement surfaces, and sustainable flow control can help ensure that rain and snowfall are recharging underground wells and aquifers, instead of running off and creating more problems for a county and its downstream neighbors. Topper praised Clear Creek County as a leader in the adoption of conservation design and filtration practices in the county's land use code.

The commissioners heard an update from Lou Swanson, Director of the CSU Extension Office, on CSU's efforts to bolster the Extension Program. Commissioner Jim Ignatius also provided an update on the status of the Local Government Limited Gaming Impact Program.

The next Mountain District Meeting will be in Chaffee County on Friday, August 20.

## DOLA Conducting Customer Service Survey

On June 28 the Colorado Department of Local Affairs, Division of Local Government is pleased to begin conducting a customer service survey.

The survey is located at <https://dola.colorado.gov/dlg-survey> and will be available until July 30, 2010. All data will be confidential.

If you have questions please contact Kimberly Hernandez at 303.866.2184.



Costilla County Commissioner Crestina Martinez and Baca County Commissioner Spike Ausmus listen to a presentation during the Southern District meeting.

## Southern District

In the beginning of the first Southern District meeting of 2010, CSU Extension agent, Joel Plath, spoke to the Commissioners about the plans to update and expand the Extension's business model. The outreach efforts of past CSU Extension officers fell short of county commissioners' expectations. The new plans include working with county commissioners to align the needs of the counties with University's resources and to improve integration and cooperation to better serve counties. The Extension is planning to develop new regional areas to focus agent resources on the counties. There will be ongoing conversations with the Extension throughout the year as the plans continue to unfold.

Commissioner Sam Pace, Saguache County and Commissioner Crestina Martinez, Costilla County, presented an update on the ongoing conversations at the state level concerning Health and Human Services (HHS) centralization. Colorado counties continue to oppose the idea of administration efforts to centralize more HHS programs under the state umbrella. Commissioner Martinez told the group about county efforts to get letters, resolutions and public meetings set up to help educate administration officials and the general public.

Commissioners discussed issues that the counties are interested in for discussion at future District meetings, as well as information on issues discussed last year. Huerfano County spoke about the ongoing issue concerning Colorado Water Conservation Board (CWCB) notification process. While the CWCB still moves forward on proposed protections on seasonal streams in the county, their notification process for future hearings and public outreach has improved over the last year. Other counties echoed that CWCB has been better about notifying local governments about future water decisions.

Managing prairie dogs in rural Colorado continues to be an issue. The City of Boulder came to Prowers County to see if they would "repatriate" a colony of prairie dogs that were in the way of a planned development in Boulder. Prowers declined the financial offer and the Commissioners spoke about the law allowing county commissioners to approve any plan for moving prairie dogs into the county and the challenges of

managing this annoying animal.

Conejos County updated the group on their ongoing efforts to stop a railroad from offloading low grade hazardous material in the county. The railroad claims a preemption that allows them to transfer the hazardous waste from their rail cars to trucks which travel on to a Utah storage site. Conejos claims that the process is subject to the county's land use regulations and worries that prior safety issues, including a derailment on the rail line, portends possible accidents in the future.

Generally, rural counties discovered that the Census process was difficult to implement this year. The census is important to all areas of the state-rural areas rely on accurate numbers from the census as a gauge of the health of the county. Commissioners related stories of census workers having outdated maps, limited access to rural areas of the counties, lack of knowledge about the populations served and confusion about where to go to get replacement forms.

In conclusion, Andy Karsian, CCI, gave an update on a variety of legislative issues affecting rural counties. Issues included, conveyance inspections for specific smaller elevators in the counties, tax increment financing, and medical marijuana regulations.

## Western District

Montrose County Commissioner Gary Ellis and La Plata County Commissioner Wally White were reelected as President and Vice President of the Western District.

CSU Extension Regional Director Nathan Moreng, outlined the reorganization of the Extension and announced that there will be a meeting probably in early September with county commissioners to discuss the reorganization and the future of Extension funding. CSU will either send out invitations to see who wants to participate and/or the August District meeting will select people to attend the meeting.

A budget survey was completed by 15 of 16 Western District counties. A summary of results can be found on page 10. Commissioners were impressed with several of the results:

- Budget teams who reviewed budget requests, budget change requests and reviewed weekly or monthly expenditures, filling vacant positions, and unanticipated expenses received the most discussion.
- Preparing multiple budgets in case revenue initiatives pass.
- Employee and public involvement proved vital for them to understand the county's fiscal predicament and they both provided insight and suggestions to reduce expenditures.
- Planning and prioritizing what are essential government services proved to be extraordinary to counties. Several counties are utilizing "budgeting for results"

methodology; some found it difficult to use in cut-back times.

- Personnel wages and benefits were a common way to manage the budget. Since counties reported that personnel costs ranged from 35% to 60% of their budget, it was an obvious place to look for reductions. Many counties froze or cut wages, reduced hours, cut benefits, did not refill positions or retrained personnel and moved them to other departments.
- Reward employees in other ways that acknowledged their importance to the county’s operation such as commissioners and administrators thanking employees personally, establishing a cash award program for employees that recommend the best fiscal saving ideas.
- Counties are behind the recovery curve by at least two years because of the delay in property valuations. When the recovery arrives employees will see wages higher in private industry sooner than in the public sector. Commissioners expressed concern that that is the time counties will lose valued employees.

New survey questions were established: (1) what action is your county taking to educate constituencies about the revenue initiatives 60, 61 and 101? And (2) what action is your county taking in case one or more of these initiatives passes? The results are to be discussed at the August District meeting.

Western District meeting size was discussed again. The District reconfirmed its consensus not to recommend splitting the District. However, there is an interest in having smaller discussion groups within the other District meetings. The consensus was to have one large meeting at the summer conference and two meetings which emphasize smaller interest group discussions at the August District meeting and winter conference. The president, vice president and CCI staff are directed to survey members to identify these breakout topics.

## CCI 101: All You Ever Wanted to Know about CCI & NACo



At this session, commissioners heard presentations by NACo Director of Membership and Marketing, Andrew Goldschmidt and CCI Executive Director, Chip Taylor. Mr. Goldschmidt complimented Colorado’s county commissioners for their extensive involvement with the national association noting that there are only six Colorado counties that are not members of NACo. He then reviewed what he termed the “value proposition” of NACo membership. In addition to being the only organization representing counties at the federal level, NACo can help cut through the staff-level paper jam, which can happen when individual letters, requests and documents are sent to members of Congress. Mr. Goldschmidt also noted the value of NACo conferences, workshops and webinars; the opportunities for networking with county officials from the entire country; the benefits of cooperative purchasing through U.S. Communities; and the NACo prescription drug discount card, which offers prescription drug discounts to all county residents. He also reviewed the wide variety of information that NACo makes available through the website ([www.naco.org](http://www.naco.org)), including research publications that are available free to members, weekly County News and e-News updates, technical assistance and training, research on model ordinances and resolutions, and a clearinghouse of grants that are available to counties.

As CCI’s new Executive Director, Mr. Taylor’s review of CCI began with an invitation to have a larger discussion about CCI’s structure and operations throughout the course of the year. His remarks included a general review of the purposes for which CCI exists, which include cultivating knowledge about and interest in county government and facilitating discussion of and united action toward solution of county problems. Although Mr. Taylor also touched on the role of the board of directors, the full membership, the steering committees, the legislative committee and the regionally-based districts, his comments were driven largely by questions from member commissioners. These included a discussion of the unique nature of the Public Lands Steering Committee, which has a dues assessment that is separate from CCI dues and sends a delegation of eight commissioners to three NACo conferences each year.

Commissioners also asked about the election of board representatives and the selection of the secretary and treasurer of the organization by a caucus composed of counties with over 50,000 population. Another question concerned the nature of CCI’s policy statement, which provides general guidance to staff and others about the county commissioners’ perspective on various legislative issues, but which does not prevent steering committees from taking whatever position they feel is appropriate on individual legislative proposals introduced during sessions of the General Assembly. Mr. Taylor noted future initiatives to enhance commissioners’ opportunities to participate in policy discussions, as well as CCI’s capacity for collection and analysis of county information and data. At the conclusion of the session, he also acknowledged commissioner requests for more information on bills with significant county impacts, alerts on pending legislative action and opportunities for personal participation when the legislature is in session.

# Annual CCI Summer Conference Photo Highlights



Weld County Commissioner Dave Long, Delta County Social Services Director Chuck Lemoine and Delta County Commissioner Bruce Hovde take a break outside to enjoy the mountain air in between sessions.



Elbert County Commissioners John Shipper and Del Schwab prepare for the opening session of conference.



Gilpin County Commissioner Buddy Schmalz, Clear Creek County Commissioner Harry Dale and Custer County Commissioner Jim Austin catch up on the day's sessions prior to dinner.



Teller County Commissioner Bob Campbell and Alamosa County Commissioner George Wilkinson smile for the camera before dinner.



Douglas County Commissioner Jack Hilbert, Routt County Commissioner Doug Monger and Conejos County Commissioner John Sandoval (all CCI board members) sit together prior to the opening session.



Otero County Commissioner Keith Goodwin practices his basket balancing skills after winning the Morgan County basket.



Elbert County Commissioner Hope Goetz celebrates winning the Washington County basket.



Lincoln County Commissioner Gary Beedy also won a basket.



Pueblo County Commissioner Anthony Nuñez was all smiles after winning a basket at the conference dinner.



El Paso County Commissioner Sallie Clark won a basket from Kit Carson County.



Phillips County Commissioner Susan Roll Walters and Washington County Commissioner Lea Ann Laybourn catch up prior to a session.



Gilpin County Commissioner Jeanne Nicholson won a basket from Fremont County.



Thank you to all of the counties who participated in the basket drawing this year. We received over 40 baskets.

# Anticipated Revenue Shortfall Survey Summary

The Western District decided to have a virtual conversation between meetings. To facilitate that discussion and to enrich the District meeting discussion the District developed two questions. Fifteen of the Districts' sixteen counties responded. Below is a brief summary of the survey results. The complete results are available from CCI by emailing [msmith@ccionline.org](mailto:msmith@ccionline.org) or by calling Michael Smith at 303-861-4076.

## **QUESTION # 1: In Anticipation of future revenue shortfalls due to property valuation and reduced sales tax, what three or four specific steps has your county taken?**

**Personnel** actions taken are categorized in four major areas.

1. Wages & Benefits topped the list. Commissioners reviewed all employee compensation including overtime, less expensive benefits packages, eliminated COLAs, merit or bonus increases, typically froze wages, some even reduced wages by 5% or 10%.
2. Vacancy Review and Approval was a common BOCC action or decisions to freeze vacancies.
3. Hiring Freeze & Transfers of employees from departments with reduced activity as well as restructuring departments or merged them to obtain greater efficiencies with less personnel
4. Furlough Programs were utilized in several counties.

**Budgeting and budget reviews** as you would imagine matched the frequency of comments of personnel.

1. Budget Analysis topped the list of actions taken. Some counties hired analysts to assist them in their revenue projections, one asked The Bell Policy Center to analyze the impacts of amendments 60, 61 and proposition 101. Several counties indicated they were implementing the "budgeting for results" methodology. All counties indicated they exercised stringent examination of expenses.
2. Budget Processes were conservative in approach in virtually all counties. Most indicated that they have been very cautious in their expenditures over the past two years, some began the 2011 budget process in January 2010.
3. Reviews of budgets were updated by some weekly by others monthly, all red flagged areas of concern.
4. Capital Expenditures in most counties were completely eliminated, deferred of capital equipment and major purchases were put on the back burner.

**Program reviews** were the next most frequently mentioned action BOCC's took.

1. Planning Processes were used by most counties by creating "strategic business plans" for all county departments or implementing performance management software and "managing for results; most examined their departments to improve efficiencies.
2. Employee Involvement was viewed as essential for those counties that broadly involved employees; they held onsite meetings; provided employee suggestion processes to recommend county savings programs.

**Fund balances and reserves** were the next area mentioned for BOCC's action.

1. Begin Early and stick to your goals, one county started 12 years ago other counties indicated they began three or five years ago in earnest.
2. Build Reserves over time is the only solution. Some counties have six months reserves for their "rainy day fund."

## **QUESTION # 2: What lessons have you learned from your process?**

**Budgeting & Budget Reviews** is what most commissioners said they learned to most.

1. Monitoring Improves Budget Management by commissioners and staff.
2. Small Rural Counties Already Have Tight Budgets and there isn't a whole lot to cut from the budget but what they may have to cut is already prioritized. Most small counties say there's no more "fat" just muscle and bone.
3. Budget Teams are the most valuable tool they could have.
4. Budget Intricacies Matter, a detailed budget process that includes budget to actual variance reports and the importance of distinguishing between on-going and one-time revenue and the importance of aligning the two, educate the employees and citizens about that difference.
5. Budget Planning Matters—developed two entirely different budgets for 2011 in anticipation of property valuations and initiatives passing.

**Importance of Planning & Clear Decision Making** plan early, set goals and establish processes that will hold over time. Work proactively two to five years ahead to project revenues and expenditures. BOCC discussions were important regarding the purpose of government and its services. Commissioners said there is no substitute for the hard work of detailed planning and obtaining good data for decision making.

**Departmental, Employee & Public Involvement** –involve employees, communicate with them regularly and include them in the process; when staff is well informed during the budgetary process, changes that need to be made are met with less resistance. Acknowledging employees in these hard times is vital because they end up having to wear multiple hats, cross train and do more with less.

## Emergency Fire Fund

With the beginning of the fire season Rich Homann, Fire Division Supervisor, Colorado State Forest Service (CSFS), provided commissioners with a “how-to access the Emergency Fire Fund (EFF)” presentation; an announcement that the CSFS will be updating their “County Cooperative Fire Protection Agreements” with all counties; and a reminder to commissioners of the 2009 statutory requirement to develop a Community Wildfire Protection Plan, if it is determined there are fire hazard areas in your county.

The EFF was established in 1967. Between 2004-2008 there were 21 qualifying fires costing \$12 million—the EFF paid \$3.6 million and the state paid \$12.4 million. The point he made was that counties benefited from the EFF. Participation in the fund is by choice, it is not mandated.

The EFF oversight committee is composed of three commissioners (Tom Gray, Thomas Davidson and Jim Ignatius), three sheriffs, two fire chiefs and the state forester. The CSFS administers EFF and charges no administrative fee. Processes and procedures are contained in the EFF Agreement with county commissioners, sheriffs and CSFS.

Funds are self assessed with an annual target of \$1 million. The assessment formula is based on timbered acres and taxable property. The current balance is \$1.3 million.

To access EFF:

- Request must come from the county sheriff assisted by CSFS district forester—the request must be accompanied by (1) an EFF analysis form and (2) the EFF funding request form,
- CSFS assesses the request and makes a determination of eligibility and
- CSFS assigns a line officer to the fire and obtains the “delegations of authority.”

### County Cooperative Fire Protection Agreements

Mr. Homann announced that CSFS will be updating their “County Cooperative Fire Protection Agreements” signed between each county and the CSFS many years ago. Many if not most agreements are out of date. These agreements are by choice. CSFS will be contacting the county sheriff and BOCC to rewrite the agreements.

### Community Wildfire Protection Plan

Mr. Homann reminded commissioners that a bill passed in the 2009 General Assembly requires counties:

“Not later than January 1, 2011, the board of county commissioners of each county, with the assistance of the state forester, shall determine whether there are fire hazard areas within the unincorporated portion of the county;” and

“Not later than one hundred eighty days after determining there are fire hazard areas within the unincorporated portion of a county, the board of county commissioners, in collaboration with the representatives of the organizations or entities enumerated in section 23-31-312 (3), C.R.S., that established the guidelines and criteria, shall prepare a Community Wildfire Protection Plan (CWPP) for the purpose of addressing wildfires in fire hazard areas within the unincorporated portion of the county.”

He recommended “tabletop exercises” that include all relevant stakeholders to determine fire hazards and develop the CWPP.

The recommendation from the meeting by commissioners present is to make this detailed information about the EFF, as well as how to develop a CWPP to the CCI districts at their next meeting. Those districts wanting the brief presentation or sample of how a tabletop exercise would operate should contact Michael Smith at CCI at 303-861-4076 or [msmith@ccionline.org](mailto:msmith@ccionline.org) to get it on their district agenda.

## CCI Summer Conference Business Meeting

CCI President David Foy welcomed commissioners to the CCI Business meeting. However, before calling the meeting to order he asked CCI Health & Human Services Chair Susan Beckman to make a presentation on the Governor's Child Welfare Action Committee (CWAC) recommendations. While a pressing issue of concern to counties, the issue did not meet the notice requirements for inclusion on the business meeting agenda as outlined in the CCI Bylaws and could not be included in the official business meeting discussions. Commissioner Beckman updated commissioners on the progress of the 29 recommendations made by the CWAC, two of which remain a concern; a centralized call center (#14) and a state administered system (#29). Commissioner Beckman reported that an Executive Order issued in May indicated that an implementation plan for a new state run system would be ready by September. The majority of counties have voiced their opposition to a state run system indicating that local county run systems are more efficient, serve constituents better and cost less. Commissioner Beckman prepared a resolution for counties to consider that emphasizes and encourages county run systems. The resolution is available by contacting Gini Pingenot at CCI. In addition, the CCI Health & Human Services Steering Committee requested that the CCI Board authorize allocating resources to develop strategies for educational literature, independent oversight and media to combat misleading information. While there was some concern expressed about CCI serving as a media resource for all counties, commissioners generally and informally indicated their support for a county coordinated effort regarding a state run social services system. President Foy reminded the membership that CCI is officially on record in opposition to recommendations #14 and #29. (As of May 17, the CWAC has decided to pursue only recommendation #14 on a centralized call center.)

As the official Business Meeting was called to order, President Foy recognized the 2009-2010 district officers and announced new district leadership for 2010-2011. (See update on page 15.)

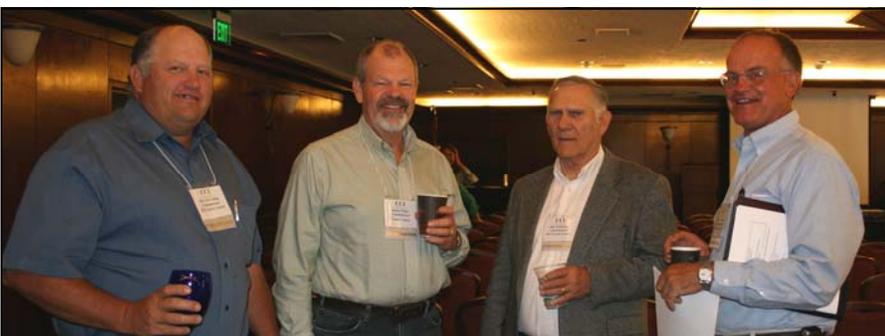
Weld County Commissioner Sean Conway offered a resolution regarding proposed amendments to rules and regulations for regulatory floodplains in Colorado by the Department of Natural Resources (DNR) Colorado Water Conservation Board. Commissioner Conway indicated that the amendments proposed by DNR would increase the expansion of flood plain rules in critical areas from 100 years to 500 years and would impact new facilities as well as existing facilities. The resolution was endorsed by a vote of the membership present.

Yuma County Commissioner Trent Bushner initiated discussion on his proposal to require a super majority on CCI legislative voting. Commissioners offered the following pro and con comments on the proposal:

- Caution should be used in requiring a super majority vote as it lets the minority rule.
- A super majority vote requirement has the potential to be divisive along party lines and split CCI.
- A super majority vote requirement increases credibility with legislators because it allows lobbyists to convey a true majority.
- A super majority lets CCI spend its resources on issues that have more than simple majority support.

As this proposal requires a change to CCI bylaws, it must go before the bylaws committee, comprised of district presidents and vice presidents, to propose language to be considered at the CCI winter conference business meeting. There was a roll call vote on the motion to send the issue to the CCI bylaws committee for consideration and the motion passed on a very slim margin.

President Foy reported that the CCI Board has tentatively agreed to commit \$10,000 of non-county dues toward the opposition to Proposition 101 and Initiatives 61 & 61 campaign. While the Board is within its authority to commit funds based on the membership's official opposition position, comments from membership were solicited. No opposition was expressed regarding the CCI Board's decision to make a \$10,000 contribution of non-county dues to the opposition to Proposition 101 and Initiatives 60 & 61 campaign.



Kit Carson Commissioner Dave Hornung, Yuma County Commissioner Robin Wiley, Kit Carson County Commissioner Jim Whitmore and Morgan County Commissioner Tony Carlson discuss agenda items prior to the CCI business meeting.

Commissioner Art Goodtimes presented a proposed change to the National Association of Counties (NACo) public lands platform regarding counties as gateway communities to federal public lands. The proposed platform change serves as a background piece outlining the importance of gateway communities. The proposed change passed unanimously.

## Unfunded Mandates

The issue of placing state (or federal) mandates on local governments without adequate compensation to offset the costs of carrying out those mandates is a constant concern of local elected officials and staff and one of the primary reasons CCI's members vote to oppose certain bills. The recent CCI Conference provided an excellent forum for the discussion of this important issue.

Sam Mamet, Executive Director of the Colorado Municipal League (CML), provided some historical background on the issue, as well as a municipal perspective. Mamet summed up unfunded mandates as "what you get when the Law of Good Intentions meets the Law of Unintended Consequences." He pointed out that there was actually legislation adopted in 1981 and revised several times over the years (the provisions currently reside in state statute under CRS 29-1-304.5) that basically prohibits the legislature from placing unfunded mandates on local governments. However, the passage of TABOR in 1992 and two subsequent state Supreme Court decisions (involving Weld and Mesa counties) have narrowed the scope of the statute and somewhat clouded the issue. Mamet called on CCI and CML to continue working together to elevate the dialogue with the General Assembly on this important issue.

Commissioner Cindy Domenico (Boulder County), chair of the Metro Area County Commissioners (MACC), provided a briefing on the number one unfunded mandate that Front Range counties are dealing with: the treatment of mentally ill inmates in county jails. Studies have shown that mentally ill inmates have a 60% recidivism rate and the treatment of these inmates amounts to a \$32 million unfunded mandate for county governments.

County Attorney Kathryn Schroeder (Arapahoe County) briefed commissioners and staff on Arapahoe County's ongoing debate with the State Attorney General and Secretary of State over compliance with HB09-1186, which requires that county clerks allow mail-in ballots to be dropped off at any county polling place. This provision would have cost Arapahoe County between \$80,000 and \$100,000 (the cost coming from having to purchase secure storage boxes for more than 180 polling places around the county). Under a provision in CRS 29-1-304.5, if no funding is provided when a state mandate is issued, a local government may consider the new mandate "optional." Arapahoe County has invoked this statutory provision, and is refusing to comply with the requirements in the legislation until adequate funding is provided by the state.

## Renewable Energy

This session updated commissioners on the ongoing efforts of Colorado to develop a comprehensive renewable energy strategy. Presenters included Xcel Energy, Tri-State, Public Utilities Commission and the Western Governors Association. Robin Kittel, the Regulatory Administrator for Xcel Energy, began by giving an overview of where Colorado is now with renewable energy development. Colorado is busy developing renewable energy resources, such as solar fields or wind farms, but the pace of connecting the facilities to the grid with transmission lines lags. Facility development is taking about two years from application to building, plus transmission line approval and completion is taking four to six years, leaving a significant gap between resource generation and the transmission of that resource to the grid.

Ron Steinbach, a Senior Manager at Tri-State, gave an overview of Tri-State's renewable energy efforts and a summary of some upcoming projects, like the High Plains Express, which would be a renewable energy super-highway delivering the resource all around the West. He also elaborated on the complexity of building transmission lines using the example of when a new line was built between Lincoln and El Paso counties, the resulting increase in electricity overwhelmed the existing transmission line between Wray and Burlington, so that line had to be replaced and upgraded, as well.

Matt Baker, a Public Utilities Commissioner, spoke about the goals the Public Utilities Commission (PUC) has for increasing the market for renewable energy. One goal is to support a rate design that reflects a more accurate cost of energy, including a tiered cost structure for consumers. Additionally, the PUC is looking to revise transmission line planning rules to include more flexibility for using additional biofuels such as beetle-kill wood or geothermal resources.

The final speaker, Rich Halvey, Energy Program Director for the Western Governors Association, emphasized that in order to facilitate and expedite transmission line development in the state, there should be a variety of policy changes. One is the need for a comprehensive plan detailing where transmission lines will be built. This will allow developers, the state and local governments to plan accordingly and do work upfront to facilitate the stakeholder and approval process. Also, there could be a state siting process that could ease some bureaucratic hurdles currently in place. Finally, Colorado needs to resolve the transmission line issue soon or the Federal Energy Regulatory Commission (FERC) may come to the state and begin instituting their requirements in the name of national interests. All panelists agreed the FERC would further slow down the process and decrease the amount of local control in siting transmission lines.

# Water & Land Use



Based on multiple requests from CCI’s members, CCI offered a concurrent session at this year’s summer conference on water and land use development. Dick Wolfe, Colorado’s State Water Engineer, and Gerry Dahl, Attorney with Murray, Dahl, Kuechenmeister and Renaud LLP, fielded questions from commissioners on issues ranging from county authority to require water for specific development applications, to the impact of HB08-1141 *Require Sufficient Water Supply*.

Douglas County Commissioner Steve Boand and Fremont County Commissioner Ed Norden co-moderated the session and set the tone for the discussion to follow by reminding attendees that the State Engineer’s Office is required to issue opinions, when requested, regarding material injury and adequacy for water supply plans for subdivisions. ‘Adequate’, which was defined by HB08-1141 and can be found in CRS 29-20-302, “means a water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability.” [emphasis added]

Mr. Dahl explained that, under HB08-1141, counties have a tremendous amount of authority pertaining to water and subdivision developments. The key elements of HB 1141 include:

1. A local government shall not approve a development permit unless it determines that the applicant has “satisfactorily demonstrated that the proposed water supply will be adequate.”
2. This determination is made by the local government in its sole discretion.
3. The local government is required to make this determination only once during the development permit approval process, unless the water demands or supply are “materially changed”.
4. The local government has the discretion to determine the stage in the development permit approval process when it makes the determination; thus the local government could make the determination at pre-application, sketch plan, preliminary plan, final plan or plat, building permit or certificate of occupancy.



El Paso County Commissioner Jim Bensberg gets ready for the next CCI session.

Many Commissioners asked about their regulatory authority as it pertains to 35 acre lots. Attendees explained that they rarely know about wells drilled on 35 acre parcels. Mr. Wolfe explained that the State Engineer’s Office assumes that on these parcels, there is no injury to others. This presumed exemption, however, can be challenged. Commissioners noted, however, that applications for wells on 35 acres are not noticed to the public. Ideas were then offered about how counties could address this lack of notice.

Commissioners then asked a series of questions regarding their liability when a certificate of occupancy is issued for homes with cisterns and then later it is no longer possible to buy water, whether or not cabins and seasonal homes should be treated differently when determining whether or not there is an adequate water supply, and whether or not a county should require proof of a producing well or just a well permit prior to issuing a certificate of occupancy.

## 2010 Sumer Conference Sponsors

CCI would like to thank the following sponsors for their generosity at our recent conference.

- CCOERA
- CIGNA HealthCare
- MOTOROLA, Inc.
- Nationwide Retirement Solutions
- Short Elliott Hendrickson, Inc. (SEH)
- Tri-State Generation & Transmission Association

# Colorado Water Conservation Board Changes Its Mind on 500 Year Flood Plain Regulations

For over a year the Colorado Water Conservation Board (CWCB) has been examining implementing rules that would increase the flood plain maps for watersheds to represent a 500 year flood event, rather than the 100 year flood event the rules currently require. At a public input meeting in Pueblo, the CWCB said that Colorado was not yet ready for the administrative and fiscal impacts that would occur if the 500 year flood plain regulations were to go into effect in 2011. The upcoming rules will recommend local governments begin planning for eventual 500 year flood plain regulations, but the language will not require local governments to implement the larger designation.

CCI, at the recent summer conference business meeting, passed a resolution asking CWCB to put off implementing a 500 year flood plain designation (see pg.12). Additionally, CML, schools, and a variety of other industries all expressed concern about their ability to comply with the proposed rules. A 500 year flood plan would have increased costs for local governments on new flood plain mapping, revised development planning, and construction costs associated with flood proofing structures within the expanded flood plain area.

While the 500 year flood plan will be postponed, there are still rules that the CWCB will promulgate. CWCB will continue to accept public input on the revised rules. A short summary of those rules are listed below.

- Rule #3: a state agency must have local government permits if the agency wishes to build in a flood plain
- Rule #5: clarifies that lands removed by LOMR-F will remain in floodplain for certain circumstances
- Rule #6: specifically defines critical facilities in floodplains and allows local government discretion and flexibility for designation only applies to new structures; additions to structures and structures with substantial changes will be held to new standards for flood-proofing or elevation two feet above the 100 year floodplain mark
- Rule #7: develops criteria for better floodplain mapping, including examination of residual risk from levees
- Rule#8: decreases the floodway to a half foot instead of one foot. Existing structures, plans and maps are not affected
- Rule #9: clarifies oversight criteria for dams, irrigation facilities and similar structures
- Rule #10: specifies new federal criteria concerning the use of levees as floodplain management
- Rule #11: clarifies existing law that even if local government is not part of the national flood insurance program they must still comply with floodplain rules and requires one foot minimum freeboard for new and substantially changed structures within the 100 year floodplain

For a more comprehensive list of the proposed rules and for dates on public hearings, please visit the CWCB website ([www.cwcb.state.co.us](http://www.cwcb.state.co.us)), or contact CCI.

## Steering Committee Meetings—July 9, 2010

CCI's steering committees will meet in a consolidated, single-day meeting on July 9 at 9 a.m., to begin the process of developing CCI's legislative agenda for 2011. At this meeting, counties that have submitted legislative issues will be given an opportunity to describe their concern and proposed solution and get feedback from other counties and from CCI staff. No votes will be taken as these meetings are intended to give members and staff a better understanding of the issues, along with a sense of whether other counties have similar concerns or potential solutions (legislative or otherwise).

The consolidated schedule will cover General Government; Tourism, Resorts and Economic Development; Tax and Finance; and Transportation and Telecommunications in the 9 a.m. to Noon time period. From 12:30 p.m. to 3:30 p.m., the group will discuss issues related to Health and Human Services; Agriculture, Wildlife and Rural Affairs; Land Use and Natural Resources; and Public Lands. Because CCI does not have a clear picture of how many issues will be raised in any one steering committee, no preset start and finish time has been established for individual steering committees. Please note that CCI is using a new teleconferencing service which will allow you to participate in all or any portion of the meeting(s) using only one number, rather than having to dial different numbers for each steering committee. Further information will be included with the agenda to be distributed July 6.

Let CCI know if you have questions and don't forget to get your legislative forms to CCI by July 2!

## AVAILABILITY of FUNDS

### Energy Impact Assistance Fund (EIAF) Grant Program

The Department of Local Affairs (DOLA) and Energy Impact Advisory Committee are committed to the transparency of the grant and loan program. DOLA in partnership with the Advisory Committee publishes the amount of grant funds available for each funding cycle with application deadlines. The projections for State Fiscal Year 2011 are that approximately \$76 million will be available for Tier I and II grant and loan applications.

Revenues to the EIAF fund are derived from a portion of the state severance tax proceeds and federal mineral lease (FML) royalties. **Revenues to the fund are highly variable, and the fund balance fluctuates dramatically from year to year, due to such factors as production levels and commodity prices.** The Energy Impact Advisory Committee annually reviews the status of funds, revenue projections and awards made, and provide recommendations to the Executive Director to establish the funds available for the following year's grant program.

Applications received for the August 1, 2009 cycle were suspended in October 2009 and held for consideration when funds became available in 2010. The funding decisions for the suspended applications will be made during August, 2010, with the following amounts budgeted for this purpose.

After budgeting for suspended applications, estimates are that approximately \$52,524,000 will remain for the grant and loan program. The deadlines for application submittals for state fiscal year 2011 are August 1, and December 1, with funding allocated as follows:

Tier I - 20% of the fund for awards of up to \$200,000.

Tier II – 80% of the fund for awards of greater than \$200,000 - \$2 million

Tier I and II grant applications are accepted each cycle.

For further information, contact Tony Hernandez at (303) 866-4988 or [tony.hernandez@state.co.us](mailto:tony.hernandez@state.co.us).

## Special HHS Meetings

Don't miss the next two special Health & Human Services steering committee planning meetings.

**Friday, July 23—9 a.m. to 2 p.m.**

**Friday, August 6—9 a.m. to 2 p.m.**

Both meetings are at CCI and teleconferencing will be available.