

COUNTY LINES

COLORADO COUNTIES, INC

CCI on Tour

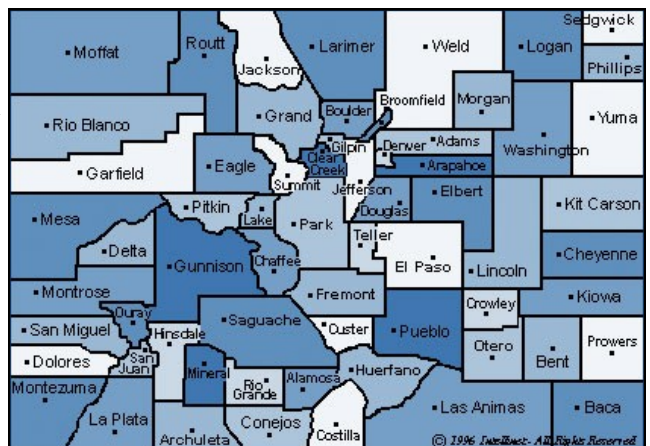
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August is always a heavy travel month for CCI staff and this year was heavier than most. As has become our custom, the legislative staff attended district meetings around the state with great meetings in the counties of Montrose, Huerfano, Weld, Phillips and Chaffee. There was outstanding turnout among commissioners and each host county provided wonderful spaces in which to meet and confer. Of particular note this year, commissioners had the opportunity to tour the brand new Phillips County multipurpose events, child care, and education center at the Eastern District meeting and the Mountain District attendees got to enjoy the great outdoors on Commissioner Frank Holman's south Chaffee County ranch. This edition of County Lines includes summaries of the discussions and presentations made at each of these meetings.

In addition to the district meetings, CCI staff has also been touring the state with our colleagues at the Municipal League, Special District Association, and Association of School Boards to talk about Amendments 60 and 61 and Proposition 101. These meetings were designed to bring local elected officials together to discuss the contents of these ballot measures and to facilitate intergovernmental conversations about the potential impacts of each if they are approved in November. The meetings took place in Las Animas, Alamosa, Otero, Garfield, Weld, and Morgan counties. Similar events took place in Douglas and Fremont counties. In each case, the meeting rooms were packed with officials from each type of local government, as well as local media and members of the public. In some cases, proponents of the measures attended and had an opportunity to present their views. We received lots of feedback about the benefits of these discussions and each of the local associations has received requests to make presentations to additional groups in the coming weeks.

Finally, throughout the summer CCI has been continuing our visits to individual counties to make sure that we are staying in touch with all commissioners (even those who do not come to Denver very often) and the counties you represent. Between July of 2009 and the end of this coming October, someone from CCI will have visited 53 of Colorado's 64 counties. We hope that commissioners find these visits beneficial. It is certainly beneficial for the CCI staff to have a first-hand appreciation of the similarities and differences among the counties we represent. If we have not been to your county recently, expect to see us soon!



Legislative Committee Meeting

Friday, October 1, 2010

10 a.m.

CCI

August District Meetings

Eastern District

This year's CCI Eastern District Meeting was held at the new Event Center in Phillips County. This new facility is an undisputed asset to the community. It houses a preschool, the family resource center, CSU Extension and has space for fair exhibitors and much more. The new center was funded largely by grants, another point of pride for the community.



The Eastern District meeting was held at the Phillips County Event Center.

As in years past, the Eastern District meeting was well attended. The Eastern District President and Vice President, Lincoln County Commissioner Gary Beedy and Elbert County Commissioner John Shipper, respectively, started the meeting with a round of introductions. Following introductions, CCI staff highlighted a handful of new laws of interest to counties. There was also a lively discussion about possible legislation CCI might offer in 2011.

Following lunch, a series of topics were discussed by the commissioners. Logan County shared its request for a waiver to the Colorado Oil and Gas Conservation Commission's (COGCC) Rule 804. Rule 804 requires oil and gas production facilities that are observable from the highway to be painted with uniform, non-contrasting, non-reflective color tones that are slightly darker than the surrounding landscape. Logan County's request is pending. Cheyenne County, however, reported that the COGCC has granted their county a waiver.

The Sedgwick County Commissioners led a discussion about wind rights. Evidently, some people are attempting to sever their wind rights from their real property. Doing so would preclude future buyers of the land from putting up a windmill if they did not also own the wind rights to the land. This idea also creates concerns from a taxing and assessing standpoint. Last year, *HB10-1158 Clarify Wind Rights*, would have clarified several aspects of the ownership and right to use wind that blows across real property. Ultimately the bill was postponed indefinitely. Commissioners asked that CCI explore whether or not other western states allow for severed wind rights and see if someone could speak about this topic at the Eastern District Meeting at CCI's Winter Conference.

Elbert County Commissioner John Shipper updated commissioners on their county's struggle with its 911 authority. In 1992, the Elbert County Commissioners serving at that time passed a resolution authorizing the existing Elbert County 911

Authority to disband and form a new authority. Under the new authority, the 911 revenue was moved to an account outside of the county's control and the commissioners were delegated a minority voice. The current commissioners are researching the legality of this change.

The commissioners heard a presentation by former Douglas County Commissioner Melanie Worley regarding the impact of A60, A61, and Prop 101 on Colorado's transportation system. Ms. Worley walked through a recent report by MOVE Colorado that itemizes the impact of the three measures on local transit, airports, roads and bridges across Colorado and much more. Commissioners explained that they have not been hearing much from their constituents about the three measures. In many counties, however, articles have appeared in the local paper urging opposition and local leaders are expressing their concerns on the local radio stations.

Front Range District

The Front Range district meeting had record attendance this year with thirty-six commissioners, councilmembers and staff present. The meeting was held for the first time in Weld County at their Southwest Services Complex.

The district first heard an update on human services. Continued urgent concern about CBMS not working and falling farther and farther behind was discussed. They also learned that the web accessible application process is not advanced enough to proceed at this time.

SB08-177 took the bulk of county reserves just before the recession hit and now counties are scrambling to make ends meet due to a high demand for services. The short sightedness of the state not to plan for downturns is wrecking havoc on human service budgeting. Efforts are being made to rescind the bill and allow counties to build human services reserves once again. Commissioners and social services directors are pushing for data driven decision making rather than ad hoc decisions.

As with other districts the Front Range selected five commissioners to attend the September 16th meeting at CCI to discuss the improvement of county-CSU Extension partnership and budgeting.

The district then heard from Rich Homann, the Fire Division Supervisor, Colorado State Forest Service (CSFS), who outlined the process for accessing the Emergency Fire Fund. He informed commissioners that a 1989 "Agreement for Cooperative Wildfire Protection" signed by all counties was out dated and CSFS would soon send out updated agreements to counties. Also, CSFS will update an outdated county "Intergovernmental Agreement for Participation in the Colorado Emergency Fire Fund."

The meeting concluded with updates from each county. Medical marijuana updates from the counties, echoed themes raised in other district meetings and discussed in more depth on page 6. Sales taxes were noted by two counties, along with evidence of a very slow recovery in collections. Public safety was noted: one county opened a new jail and another is in the process of expanding their justice center, while another reported a multi-jurisdictional crime lab agreement between two counties and three municipalities. Finally, one county reported they have moved to the e-verify system for subcontractors' and vendors' employees to assure employees are legally in the country. There was discussion of varying county practices with respect to subdivision road maintenance. U. S. Highway 36 received a seed grant for improvements about which multiple jurisdictions have been lobbying USDOT for years. Finally, Weld County is celebrating its 150th Anniversary as a county.

Mountain District

Mountain District President Nancy Stuart (Grand County) presided over the CCI Mountain District Meeting on August 20 in Chaffee County. The meeting was held outdoors this year at Chaffee County Commissioner Frank Holman's ranch a few miles outside of Salida.

Following a legislative briefing by CCI staff, commissioners engaged in a roundtable discussion on local regulation of medical marijuana. Of the 11 counties represented at the meeting, six have enacted a temporary moratorium. (For a more expansive breakdown of the emerging medical marijuana issues raised at this and other district meetings, please see "Medical Marijuana Dialogue Continues to Evolve" on page 6).

Melanie Worley of Move Colorado made a presentation to the commissioners regarding the potential transportation impacts of ballot measures A 60, A 61 and Prop 101. If all three measures were to pass in November, the state Department of Transportation would experience an overall budget reduction of almost 28% due to a reduction of \$296 million annually in HUTF monies. It is estimated that cities and counties would lose \$110 million annually. Commissioners and staff are encouraged to contact Melanie Worley at mworley2@msn.com for more in-



Clear Creek County Commissioner Kevin O'Malley and Gilpin County Commissioners Jeanne Nicholson and Buddy Schmalz catch up prior to the Mountain District meeting.

formation.

Total job loss at the local and state level is expected to top 5,800 jobs. County commissioners shared their local efforts to educate the voters about the impacts of these ballot measures. CCI, CML, the Special District Association and the Colorado Association of School Boards are sponsoring a series of elected official forums around the state to foster discussion and the sharing of information among different local governments on the impacts of A 60, A 61 and Prop 101. The Bell Policy Center is also preparing customized breakdowns for each interested county that details the exact local impact of these ballot measures.

Rich Homann, Fire Division Supervisor for the Colorado State Forest Service, gave an update on the state's Emergency Fire Fund (EFF). Established in 1967, the EFF provides financial assistance to participating counties in the event of a wildland fire. Each participating county must contribute \$1 million annually to the fund, and EFF dollars are expended as needed until the fund is exhausted. If the fund is exhausted during the fire season, the Governor has the ability – through executive order – to utilize state general fund dollars to replenish the fund. The State Forest Service is in the process of drawing up new cooperative agreements this fall for consideration by participating counties.

The commissioners also heard an update from Lou Swanson, Director of the CSU Extension Office, on CSU's continued efforts to bolster the Cooperative Extension Program. Swanson enlisted several commissioners to represent the district at a meeting to be held at CCI on September 16. This meeting will include discussion of the Extension Program's historic funding structure, regionalization efforts and possible partnering alignments that might be necessary to protect the funding structure.

The next Mountain District Meeting will be held during the CCI Winter Conference in Colorado Springs (November 29 – December 2).

Southern District

CCI staff travelled to Walsenburg this August to meet with the Southern District counties. Commissioners from thirteen of the fifteen district counties attended the meeting. The group of forty five commissioners heard updates on county related legislation passed during the 2010 general assembly session. The commissioners were very interested in the legislation concerning the regulation of medical marijuana. Counties offered a variety of questions, concerns and raised some new issues surrounding this new industry (for more information about this topic see the medical marijuana article on page 6).

The legislative staff and commissioners also discussed the proposed 2011 legislative issues. Conversations about the counties' ability to control invasive prairie dog populations, 35 acre subdivision laws, and health and human services issues helped everyone understand better how these proposals would affect coun-

ties in the San Luis valley and southeastern parts of the state.

After lunch, the commissioners settled into county discussions concerning a wide variety of topics. Commissioners heard the latest update on securing transmission lines and renewable solar and wind energy throughout the region. Alamosa gave a thorough report on the status of the solar projects they have in the Valley and Prowers County spoke about collaboration between southeastern counties to try and establish a funding mechanism for transmission lines.

The meeting included updates from the Colorado State Extension office and an invitation to attend the listening and input meeting at CCI on September 16th. The Colorado State Forest Service concluded the meeting with a conversation about the Emergency Fire Fund and a request to commissioners to update the fire agreements between the Forest Service and the individual counties.

CCI would like to thank the Huerfano county commissioners for the wonderful hospitality and the southern district counties for helping make this district meeting one of the best in recent memory.

August District Meeting Attendance Grows

Year	# of Counties in Attendance	# of Commissioners in Attendance
2002	42	84
2003	49	88
2004	49	92
2005	53	97
2006	53	91
2007	55	97
2008	51	88
2009	58	113
2010	59	108

Since CCI began conducting legislative district meetings in 2002 there has been a 71% growth in county attendance and 78% growth of commissioner attendance.

Western District

The district meeting was held in the Montrose County Fairgrounds, Friendship Hall. Forty-seven attendees is the largest August Western District meeting in the nine years since CCI has kept attendance records.

The morning was devoted to the review of 2010 legislation that impacts counties and 2011 proposed county issues that might turn into legislation.

The Western District surveyed its members as a way for commissioners in this disparate district to communicate with one another on issues of importance to commissioners. Here is an edited summary; a full report is available upon request to CCI. There were two questions:

What action is your county taking to educate citizens about amendments 60 & 61 and proposition 101?

Information dissemination led all actions used consisting of websites, newspaper articles and handouts. *Budgetary impact analysis* for the county; some counties provided the impact for special districts. *Outreach* to other local governments in the county—joint meetings and collaborating on impact analysis. *Public information forums* are held mostly in collaboration with local civic organizations and local governments. *County opposition resolutions* are passed by most counties. *Citizen groups* formed in counties to oppose the initiatives.

What action is your county taking in case one or more of the initiatives passed?

Developing multiple budgets is by far the most frequently used strategies to prepare for one or more issues passing. Other strategies are: *wait and see*; *comply and cut*; *cut now and hold off expenses and hiring this year*; and *working with staff and electeds to plan potential cuts*.

CSU Extension regional director Nathan Moreng outlined its reorganization and described the purpose of the commissioner-CSU Extension meeting September 16th at CCI's office from 10:00 a.m. to 2:00 p.m. The agenda is to make extension's funding structure more transparent, to reconfirm the new regionalization structure and to discuss the revitalized partnership between CSU and counties as the economic downturn turns around. Six commissioners volunteered to be at the meeting and three more committed to being on the telephone.

Rich Homann, CSU's Colorado State Forest Service (CSFS) Fire Division Supervisor of the Emergency Fire Fund, described how to access the fund. He informed commissioners that a 1989 "Agreement for Cooperative Wildfire Protection" signed by all counties was woefully out dated and that CSFS

would be sending updated agreements to counties soon. Also, CSFS will update the outdated county “Intergovernmental Agreement for Participation in the Colorado Emergency Fire Fund.”

Wild and Scenic River Designation that is being undertaken by CWCB was of great interest to commissioners. Commissioner Acquafresca (Mesa) described the process used by counties that are impacted by the Colorado River. He had great praise for the process that included all factions interested in and affected by the river. Other counties also described their ongoing experience in the designation process.

Commissioner Channell (Gunnison) gave an update about the Child Welfare Action Committee – II (CWAC-II). Commissioner Channell said the committee had voted down the CDHS centralization recommendation from CWAC – I. The committee is still working on the possibility of the centralized call center. Counties are not in favor of it but they are not the only entities on the committee.

Commissioner Channell went on to update about the Ag Classification committee. He said some committee members are trying to undertake too much. Commissioners tend to want something accomplishable rather than a long term battle. The focus should be on the residential footprint valuation rather than the entire property.

HB 1365 “Coordinate Utility Plan to Reduce Air Emissions” was a discussion by northwest counties particularly that they want to be included in the rule making process. The purpose is to include the socio-economic impacts of the transition to gasification from coal, as well as the pollution caused by the entire process of gas development and utilization. The Colorado Department of Public Health and Environment is specifically excluding those issues from discussion.

Next Western District Survey Questions: “What is your county doing to reduce energy demand by the county?” and “What is your county doing to reduce the county’s carbon emissions?” The survey will go out in the fall for a report at the winter district meeting.



The Western District meeting was held at the Montrose County Event Center.

Junior Livestock Sale



CCI Executive Director Chip Taylor, Garfield County Commissioner Tresi Houpt, El Paso County Commissioner Dennis Hisey, Douglas County Commissioner Jack Hilbert, Gilpin County Commissioner Jeanne Nicholson, Arapahoe County Commissioner Frank Weddig and Washington County Commissioner David Foy gathered in Pueblo for their annual budget meeting.

As part of their annual budget workshop, the CCI Board of Directors gathered in Pueblo for the Junior Livestock Sale on August 31st. This annual sale, held at the Colorado State Fair, supports young people involved in 4H and Future Farmers of America (FFA). With the generous contributions of counties from across the state, CCI was able to purchase goats from Alamosa, Douglas and Morgan counties. These donations assist and support the young people involved in Colorado’s agricultural business and heritage. This year the Junior Livestock sale raised \$360,300.00.



The Board met again on September 1st to review and discuss the proposed CCI budget and dues schedule for 2011. With careful consideration of existing resources, the Board will recommend a balanced budget and will forward additional information on the recommended budget and dues to counties within the next week. The Board will formally present the budget at the business meeting at CCI’s winter conference on Tuesday, November 30th.

Commissioners (from left to right) Hisey, Foy, Hilbert & Houpt all attended the Junior Livestock sale.

Medical Marijuana Dialogue Continues to Evolve

The topic of regulating the burgeoning medical marijuana industry was a feature of district meetings around the state. Under HB10-1284, each county has the ability to allow or prohibit dispensaries, grow operations and infused product manufacturing centers in the unincorporated areas of the county. A prohibition on these businesses can be accomplished through BOCC action (usually via resolution) or a ballot measure approved by the voters. The act also allows counties to create a local licensing authority to exercise oversight of these businesses. Many counties have enacted a temporary moratorium on these businesses until they have a better handle on the issues. Others are revising their zoning to prohibit these operations in residential areas.

A number of additional issues but few firm answers have come to light during the district meetings including but not limited to:

Taxation—The State Attorney General (AG) has ruled that medical marijuana is a tangible personal property and as such is subject to state and local sales tax. The AG further opined that medical marijuana is **not** eligible for a prescription medicine or agricultural tax exemption. If a county has an existing sales and use tax, medical marijuana sales would be a taxable transaction. A number of counties have indicated they are going to the ballot this fall to request a sales and use tax on medical marijuana. Counties are cautioned, however, that they cannot set a tax rate on medical marijuana that is different than the local sales tax rate (if one exists).

Water Usage—A number of commissioners voiced concerns about water usage in these grow operations – especially ones in residential settings. Crop growers in general are not allowed to utilize residential well permits to grow commercial crops. Whose job is it to police this water usage, though? This is an evolving discussion and one that CCI will be following closely.

Fire Hazard and Safety Issues—There are a number of safety issues that have come to light as more and more of these operations open. In some instances, the extensive use of grow lights is creating an additional fire hazard. The need for secure fencing to prevent marijuana plant theft is becoming more and more of an issue. Some counties are addressing these safety concerns through mitigation requirements and other stipulations in the special use permitting process. State rules are expected to further clarify this issue.

Demand Versus Supply—There is growing concern amongst some local governments about the amount and potency of medical marijuana to be lawfully grown. By some estimates, there is the potential for **four times** as much marijuana being grown as could be utilized by all the medical marijuana card-carriers in the state, begging the question, where does the ex-

cess marijuana go? The issue also calls into question the long-term viability of these businesses.

Banks' Unwillingness to Hold Money—A large number of banks are refusing to establish bank accounts for medical marijuana operations, afraid that they might be targeted by federal prosecutors for doing business with marijuana distributors. As a result, many dispensaries are unable to deposit money and subsequently are stuck holding large amounts of cash on-site. This reality is a growing concern for law enforcement officials. Appeals have been made by members of Congress to Treasury Secretary Timothy Geithner, asking him to clarify that banks will not be subject to federal prosecution for doing business with an industry that is still illegal under federal law.

Assessing Property Used for Growing Medical Marijuana—A number of counties have inquired of the Division of Property Tax (DPT) about how to assess properties that have grow operations on them. Guidance provided by DPT indicates that these properties are **not** to be classified as agricultural in most cases, and accordingly, the personal property used to grow medical marijuana *may be* subject to personal property tax. Additionally, assessors may be able to classify these properties as 'mixed use.' (e.g., if medical marijuana is grown in someone's house, the residential part of the home is classified and valued as residential but the square footage of the house used for the commercial production of marijuana can be classified and valued as commercial).

Takings Issues—A few counties have received threats of takings litigation if the voters place a prohibition on dispensaries, grow operations and infused-product manufacturing and the county subsequently moves to close existing operations. There is existing case law that seems to bolster county authority to retroactively regulate businesses, but until an actual lawsuit is brought the issue will remain largely unresolved.

The state Department of Regulatory Agencies has begun the rule-making process involved with designing the state-mandated licensing program for these businesses. CCI staff is part of the rule-making work group and will provide periodic updates to members. The state licensing program must be in place by July 1, 2011.

CCI has established a page on the CCI website dedicated to the issue of medical marijuana. It can be found under the "Library" tab and features draft resolutions and ballot language from several jurisdictions, a fact sheet on HB10-1284, and a table showing what action different counties are taking regarding to regulating medical marijuana.

For more information, please contact Eric Bergman at 303.861.4076 or ebergman@ccionline.org.

Agricultural Classification Task Force

The Agricultural Classification Task Force, a task force created by a CCI initiated bill, has held three meetings to date. The task force consists of nine members. Four of the nine members represent agricultural interests and include Alan Foutz, President of the Farm Bureau, Tim Canterbury, President of the Cattleman's Association, Kent Pepler, President of the Rocky Mountain Farmers Union, and Gene Pielan, owner of Gulley Greenhouse. Arapahoe County Commissioner Frank Weddig and Gunnison County Commissioner Hap Channell are the two commissioner members on the task force. Two county assessors also serve on the task force and they are Ken Hood, Otero County Assessor, and Brad Hughes, Montrose County Assessor. The ninth member and chair of the task force is JoAnn Groff, Colorado's Property Tax Administrator.

Over the course of these last three meetings, the task force members have been narrowing their focus. To help them do this, the meetings have included presentations from the Division of Property Taxation about the current law, presentations from the assessors about the problems that exist, discussion by all task force members regarding their perspective of the discussion, and public feedback and comment.

To date, the task force has agreed to explore the idea of valuing a portion of farm or ranch land that is not integral to the operation of the farm or ranch as residential. Under current

law, the land directly under a farmer/rancher's house – along with all the home's other buildings and/or improvements - is assessed and valued as agricultural. There is a growing recognition that this land and land that may be associated with the home's garage, driveway and/or yard is not agricultural in nature. The task force is exploring ideas of creating a litmus test that will help determine whether or not the land is or is not integral to the operation of the farm or ranch. If the land is integral, then it would continue to receive an agricultural classification. If not, it would be assessed and valued as residential.

The task force is scheduled to meet again on Thursday, September 23rd from 12:30 – 4:30 p.m. at Colorado Counties, Inc. At that time, the Division of Property Taxation will share their analysis depicting what this suggested approach might mean for the tax bill of various farms and ranches. Additionally, they will model what – if any – impact this statutory change might have on the Gallagher Amendment. The agricultural community has been diligent about reminding the task force to consider any unintended consequences that might result from changing the statutes. The Division's analysis was requested in response to this concern.

All of the task force's agendas, presentation material, meeting minutes and handouts can be found on the 'Announcement' page of CCI's website (www.ccionline.org).

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County of Los Angeles Awards National Office Supplies Contract for U.S. Communities Program

(Walnut Creek, CA) August 31, 2010 - Los Angeles County (CA) has awarded a new office supplies contract to Independent Stationers Inc. (is.group), a cooperative network of independent and locally owned office supplies dealers, supported by United Stationers Inc., a leading wholesale distributor of business products.

The contract will be administered by the U.S. Communities Government Purchasing Alliance (U.S. Communities), a national government purchasing cooperative, and made available to public agencies across the country. It will replace County of Los Angeles's existing office supplies contract, which will expire on December 31, 2010.

In addition to offering the same convenience, selection, service and support as the existing County of Los Angeles contract, U.S. Communities program participants will be able to purchase through community based businesses with lower prices than currently available. The contract is fixed-price to facilitate transparency and public agency pricing audits. World class eCommerce capabilities including enterprise resource planning (ERP) integration, electronic billing and payment options, national distribution, next day delivery and no minimum order limits will continue as well.

"By Independent Stationers, Inc. offering lower transparent pricing, local service and continued ease of use, this contract will greatly benefit our program participants," said Steve Hamill, General Manager of U.S. Communities. "The County of Los Angeles conducted a very thorough bid process and we're very pleased with the result."

is.group, founded in 1977, is a leading global organization providing sales, marketing support and purchasing power for the community based independent office products dealer. Collectively, its members produce \$2.5 billion in end-user sales, and are supported by United Stationers Inc. for operational infrastructure and IT expertise.

"Our national network of community based independent dealers offer public agencies local service and support coupled with national distribution efficiencies," said Mike Gentile, President and CEO of is.group. "We are pleased to become a supplier in the U.S. Communities program."

As a lead public agency in the U.S. Communities program, County of Los Angeles prepared and issued the competitive, national solicitation, which included a vendor protest period after the Intent to Award was announced. The solicitation included language allowing all states, local government agencies and nonprofit organizations to purchase through the contract as part of the U.S. Communities program.

U.S. Communities Government Purchasing Alliance ("U.S. Communities") is a nonprofit government entity that assists local and state government agencies, school districts (K-12), higher education, and nonprofits in reducing the cost of purchased goods by offering managed access to competitively solicited contracts between suppliers and lead public agencies. U.S. Communities was designed in cooperation with an Advisory Board of local and state government purchasing officials and is jointly sponsored by the Association of School Business Officials International (ASBO), the National Association of Counties (NACO), the National Institute of Governmental Purchasing (NIGP), the National League of Cities (NLC), and the United States Conference of Mayors (USCM). Total aggregate purchases in 2009 exceeded \$1.4 billion, with \$214 million in estimated savings to public agencies that year alone.

<http://www.uscommunities.org/isg/>

CCI Winter Conference
Monday, November 29—December 1, 2010
El Paso County

Go to www.ccionline.org beginning Wednesday, September 22nd to register for the CCI Winter Conference and to see a tentative agenda.