

**REGULAR MEETING
OF THE
PONCHA SPRINGS BOARD OF TRUSTEES**

330 BURNETT AVE., PONCHA SPRINGS, COLORADO

MONDAY, APRIL 12, 2010 - 6:30 p.m.

The meeting was called to order at 6:30 p.m. by Mayor Thonhoff, who asked for a roll call.
Those present:

Mayor:	Mark Thonhoff
Mayor Pro-tem:	Aaron Kroschel
Trustees:	Rick Roberts, Galen Angelo, Ruby Taylor, Ron Slaughter, Darrell Donahoo
New Elected Trustees:	Galen Angelo, Ron Slaughter, Darrell Donahoo, Bret Collyer
Town Attorney:	Brad Redmiles
Town Administrator:	Jerry L'Estrange
Public Works Director:	Greg Smith
Clerk/Treasurer:	Diana Heeney
Town Planner:	Absent
Visitors:	Colleen Perschbacher, Doug Kline, Marlin Minor, Ann Thomas, Katy Grether, John Perschbacher, Pat Alderton, Audrey Gilpin (Mtn. Mail)

ADDITIONS, DELETIONS, OR CORRECTION TO AGENDA:

Administrator L'Estrange stated additional information for the executive session on water rights legal advice had been provided to Board members.

APPROVAL OF MINUTES:

Motion: Trustee Slaughter made a motion to approve March 22, 2010 Board minutes and March 29, 2010 and April 5, 2010 Special Board meeting minutes; seconded by Trustee Donahoo. Motion carried unanimously.

OLD BUSINESS:

County Building Permit Extensions, Resolution #2010-5, Adopting Amendments to the Chaffee County Building Codes Regarding the Expiration of Building Permits

MOTION: Mayor Pro-tem Kroschel made a motion to adopt Resolution #2010-5, Adopting Amendments to the Chaffee County Building Codes Regarding the Expiration of Building Permits; seconded by Trustee Taylor. Motion carried.

Update on Hutchinson Homestead

Ms. Katy Grether informed the Board that a parking area to the West of the existing structures, which requires a new access, is next on the list to be completed. She stated a grant will be applied for, noting in-kind services will be ask for from the town. Ms. Grether stated the proposed upgrades will hopefully stimulate economic development in the area. PW Director Smith referred to his memo, stating Board guidance is needed on SPOT's request for in-kind service to move a feeder ditch, which would move the ditch out of the parking area of the proposed Visitor Center site. Mayor Thonhoff ask if the ditch is located on the Town owned parcel. Ms. Grether replied yes. Trustee Taylor ask if a legal agreement would be needed. PW Director Smith stated he does not think so. Mayor Thonhoff ask if the ditch belongs to the Hutchinson Ranch. PW Director Smith stated yes. Mayor Thonhoff ask if the request is for the man power and equipment to move the feeder ditch. Mayor Pro-tem Kroschel ask if an easement will be needed or if there is one in place. PW Director Smith stated it is a feeder ditch that runs through the Hutchinson pasture. Ms. Colleen Perschbacher stated the request is to move the north/south feeder ditch out of the proposed parking area so the water returns to the main ditch. Mayor Pro-tem Kroschel suggested something in writing would be beneficial for the town. Ms. Perschbacher stated the feeder ditch was re-routed when the work on the building site area was done, due to the need to dry up the area, with the same need now, to provide a dry area for the proposed Visitor Center parking area. She went on to say the proposed Visitor Center is five to six years out at this time. Mayor Pro-tem Kroschel ask if the request is for approximately a day's work with town staff and the backhoe. PW Director Smith stated yes. Trustee Roberts suggested a release of liability be in place regarding this work. Ms. Perschbcher and Ms. Grether agreed this could be done. Attorney Redmiles ask if SPOT's attorney has seen the "Operating Agreement for the Hutchinson Ranch and Homestead Site", going on to say Poncha Springs needs to review the agreement, as they are affected by it, due to ownership of the Hutchinson Homestead. The Board agreed to the request of using town staff and equipment to move the feeder ditch, requesting a release of liability. Ms. Grether stated she will keep the town updated on the progress of the Hutchinson Homestead projects and grant applications, thanking the Board for their time and support.

NEW BUSINESS:

Trustee Taylor Presented with Plaque

Mayor Thonhoff presented out going Trustee Taylor with a plaque for her service to the town starting in 1993. Mayor Thonhoff stated this was when he had hair and Trustee Taylor's hair was jet black, noting Ms. Taylor was a great asset to the town, serving when/where needed. He thanked Ms. Taylor for all her time and effort.

2010 Election – Swear in Elected Officials

Mayor Thonhoff stated one hundred and forty ballots were cast, noting this as an exceptional turn out. He went on to say 203 permanent mail voters received a mail ballot, with 109 voted and returned, and 31 walk-in voters. The results: Ron Slaughter – 96 votes, Darryl Wilson – 65 votes, Steven E. Rust – 67 votes, Galen Angelo – 83 votes, Darrell Donahoo – 72 votes, Bret M. Collyer – 80 votes, Aaron Kroschel – 91 votes, and Robert Fowler – 42 votes. Ron Slaughter,

Galen Angelo, and Aaron Kroschel with serve the four year terms and Darrell Donahoo and Bret M. Collyer will serve the two year terms. Clerk Heeney swore in the newly elected officials.

Appoint Mayor Pro-tem

MOTION: Mayor Thonhoff made a motion to appoint Aaron Kroschel as Mayor Pro-tem, seconded by Trustee Slaughter. Motion carried, with Kroschel abstaining.

Recycling Proposal

PW Director Smith informed the Board that Mr. Mickey Barry had approached him about the possibility of having a town recycling site in the industrial park, noting this would mean relocating the recycling bins from their current location. He went on to say Mr. Barry suggested creating a complete fenced recycling service area, noting currently the recycling is in different location. PW Director Smith stated the town would continue to honor their recycling agreement with UAACOG. The Board discussed the pros and cons of the suggested recycling site, Trustee Collyer noted Well #3's contact chamber is in this area and also ask if the proposed site would obstruct the fairground's access on the east side of this location. Mayor Pro-tem Kroschel suggested a contract might be needed to ensure that the town would have the service in the event that the current owner goes out of business. Smith stated Mr. Barry has offered to work with the town to develop a full service recycling site. Trustee Roberts spoke in favor of the full service site, noting it would be similar to what Salida offers. The Board agreed it would take some time to inform the residents if the proposed site does come to fruition, suggesting it be in the newsletter and a map to the new site placed at the current site. The Board agreed the proposed central recycling site would be beneficial to the town and instructed PW Director Smith to follow up.

ADMINISTRATOR'S REPORT:

County Wide Sales Tax Update

Administrator L'Estrange informed the Board that work continues on the proposed county wide sales tax, noting the next joint meeting will be held on April 27, 2010 at the First Street Café in Salida. He ask Board members to let him know if they would attend.

Sewer Agreement Exhibits Progress

Administrator L'Estrange informed the Board that staff has their assignments and are working on the various exhibits. He stated he and Clerk Heeney met with Salida regarding the billing process and the financial aspects of the changeover.

Clean-up Day/Yard Sale and Arbor Day – May 22, 2010

Administrator L'Estrange stated the events are coming together with Waste Management providing a free dumpster and the county providing free dumping, Crossroads Church will serve the free lunch again, the Arbor Day tree planting and a free tree trimming workshop offered by Colorado State Forest Service.

Update on Trail Signs

Administrator L'Estrange informed the Board that \$2,000 was budgeted for trail signs, the funds coming from the conservation trust account, noting the signs are in and ready to be installed by the PW Crew.

Visitor Center Update

Administrator L'Estrange informed the Board that the project is moving forward, noting PW Director Smith has been meeting with the grant agencies regarding advertising for proposals.

Wellness Program

Administrator L'Estrange informed the Board that Ms. Dee Miller came across a program from LiveWell Chaffee County offering mini-grants for worksite wellness initiatives. He noted the town might be able to collaborate with other parties to meet the guidelines of 10 employees, if so there could be possible grant funding of \$1,000. The Board discussed the pros and cons of the program, agreeing Ms. Miller could explore the options to see if the town could qualify for any funding.

ATTORNEY'S REPORT:

Attorney Redmiles stated he had reviewed Salida's stipulation easement agreement. He stated he could meet with Trustee Collyer to bring him up to speed on the town's legal issues. Attorney Redmiles stated he would report further in executive session.

PLANNING & ZONING:

April 5, 2010 Meeting Minutes

Include in the packets.

MAINTENANCE & UTILITIES:

April 7, 2010 Meeting Report

Provided in the packets. PW Director Smith noted pictures of a sewer line repair were included in the packets, stating the PW Crew, Wendel and Brian, worked on the repair, taking about four hours and approximately \$50 in materials. Administrator L'Estrange stated the clay pipe was in better shape than he expected for being in the ground for approximately 30 years, noting there was a deflection at a bell, causing the infiltration. He went on to say several sections of pipe were uncovered to make sure the repair was made in the correct spot.

Tree Removal Update

PW Director Smith reported the hazard trees were removed and the wood is available to anyone that wants it. He went on to say the DOC crew would come in for the final clean up.

Tree Program

PW Director Smith informed the Board that the 2010 tree program is moving forward, noting it is a first come first serve basis for trees. He went on to say the town will pay half the total cost of a tree, up to a maximum of \$75, for the trees purchased through the program, noting as in the past the PW Crew will pass out stakes to those purchasing a tree, the tree will be delivered and planted by town staff. Administrator L'Estrange stated the town encourages residents to plant the trees street side.

OTHER BUSINESS

Tree City USA Designation

Mayor Thonhoff informed the Board that the town has been designated as a "Tree City USA."

Touber Building grand Opening

Mayor Thonhoff stated an invitation to the Touber Building grand opening was received/provided for the Board and staff.

Executive Session Items

Ms. Pat Alderton requested that the Board have the personnel matter regarding her unemployment case discussed in open session, as is her right, and not in executive session. She provided a letter from her attorney requesting the same. Attorney Redmiles advised to keep the unemployment case item in executive session, stating it is based on legal advice. Ms. Alderton stated the personnel section trumps all other sections regarding executive session matters. Mayor Thonhoff stated as of Friday there were two items for executive session, 1).a personnel matter and 2) legal advice on Ms. Alderton's unemployment case. Administrator L'Estrange stated he believed the Mayor was correct regarding the two items for the executive session, one being a personnel matter and the other legal advice on the unemployment case. Mayor Thonhoff stated on the original agenda the personnel matter was scheduled, and does not pertain to Ms. Alderton, and the legal advice matter which pertains to Ms. Alderton's unemployment case, he stated the personnel matter and the legal advice are two separate matters. Ms. Alderton stated that the executive session items on the agenda were posted on the web site and on the Board agenda provided. Mayor Thonhoff stated as of Friday when the agenda was completed the personnel matter was placed on the agenda, not pertaining to the unemployment case, but another personnel matter, and the legal advice placed on the agenda pertaining to Ms. Alderton's unemployment case. Attorney Redmiles stated he will give legal advice to the Board on the unemployment case. Mayor Thonhoff stated the legal advice on the unemployment case would remain in executive session. Mayor Thonhoff stated the personnel matter on the agenda does not pertain to Ms. Alderton, stating the legal advice pertains to Ms. Alderton's unemployment case.

Citizen Input – Doug Kline, 507 Ouray Ave.

Mr. Doug Kline congratulated the newly elected trustees, stating he knows it is a tough job. He went on to say he has some concerns, one being transparency on the Board's part, asking why there have been so many executive session matters. He stated he thinks the public should be

involved in most matters. Mayor Thonhoff stated the Board has been working through the Salida sewer agreement, noting the negotiation strategy was scheduled in executive session, noting it has taken some time to come to an agreement acceptable to both entities. Mr. Kline ask why the negotiations had to be done in executive sessions. Attorney Redmiles stated Salida had brought suit against Poncha Springs, therefore negotiations took place in executive sessions. Mr. Kline stated the town must be getting sued a lot. Mr. Kline stated he understands that the Mayor lives in Saguache not Poncha Springs, stating he read in the paper that the Board wanted the Mayor to stay on, asking how the Mayor can live in Saguache and not Poncha Springs. Attorney Redmiles stated there is case law regarding this matter, stating the Mayor was a resident when he was elected. Mayor Thonhoff agreed he had to live in Poncha Springs to run for office, going on to say he understands the statutes are different once elected, stating he was elected to fill the four year term, which is up in 2012. Mayor Thonhoff stated a set of circumstances arose and he talked to current legal council and was advised he could continue to serve. He went on to say the former administrator had scheduled for extended sick leave, the 2010 budget needed to be completed, and then the former administrator resigned, and the Salida sewer agreement was in process. He stated with all this he decided to stick it out to see things through. Mayor Thonhoff stated he relied on the towns current legal council when making the decision to continue to exercise his mayoral duties, going on to say the minute he knows he will not come back to Poncha Springs he will resign. Mr. Kline repeatedly stated he did not understand why the town has to have a mayor who does not reside in the town. Mayor Thonhoff stated he is relying on the legal advice he has received. Attorney Redmiles stated Thonhoff performs his duties as mayor and is temporarily out of town. Mayor Pro-tem Kroschel stated Thonhoff has not missed a beat. Mr. Kline stated his concern is that the Mayor does not live in town and reiterated his position on Board transparency in regards to the number of executive sessions the Board conducts. Mr. Kline stated the article in the paper stated the board had ask the Mayor to stay on. Mayor Thonhoff stated there was not a vote of any sort on this, noting the article was not correct. Trustee Slaughter stated he had worked as a reporter and at times the paper is not always right. Thonhoff stated the article was not complete and was not completely accurate, noting he is coming back. Mr. Kline stated he was making a point on the matter, asking if Mayor Thonhoff voted in the April 6th election. Mayor Thonhoff stated he did not vote. Attorney Redmiles stated Mr. Kline had asked the question and it was answered in regards to the Mayor not residing in Poncha Springs. Mr. Kline stated he would follow up on the matter to fully understand the parameters of the situation.

Salida Pipeline Re-vegetation

Ms. Ann Thomas ask if the Salida hot water line trenching area would be re-vegetated. Out going Trustee Taylor stated this would be a question for the Salida council. PW Director Smith stated he was uncertain what will be required, agreeing with Ms. Taylor, Salida should address the matter.

EXECUTIVE SESSION:

Mayor Thonhoff made a motion to adjourn to executive session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. §24-6-402 (4) (b);

- 1. Pat Alderton's Unemployment Case**
- 2. Town Water Rights**

to include Town Attorney, Mayor, Mayor Pro-tem and Trustees, Town Administrator, and PW Director; and for discussion of a personnel matter under C.R.S. §24-6-402(4)(f)(I) personnel matters except if the employee who is subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting; to include Town Attorney, Mayor, Mayor Pro-tem and Trustees, and Town Administrator; seconded by Mayor Pro-tem Kroschel. Motion carried unanimously.

The regular Board meeting was adjourned at 8:15 p.m.

The Executive Session convened at 8:19 p.m.

The Executive Session adjourned at 9:13 p.m.

The Regular Board meeting reconvened at 9:13 p.m.

The Board directed Administrator L'Estrange to contact Felt, Monson, Culichia, Town Water Attorneys, and act on their recommendation to re-refer the town's Friend Ranch application to the Water Judge.

With no further business the regular board meeting was adjourned at 9:14 p.m.

Respectfully Submitted:

/s/ _____
Diana K. Heeney, CMC
Clerk/Treasurer

Approved As To Form and Content:

/s/ _____
Mark F. Thonhoff, Mayor

Attest:

/s/ _____
Jerry L'Estrange
Town Administrator