

**REGULAR MEETING  
PONCHA SPRINGS BOARD OF TRUSTEES  
330 BURNETT AVE., PONCHA SPRINGS, CO**

**MONDAY, JANUARY 14, 2013 - 6:30 p.m.**

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

Mayor:	Richard Furton
Mayor Pro-tem:	Ben Scanga
Trustees Present:	Aaron Kroschel, Galen Angelo, Ron Slaughter, Rebecca Massey, Darryl Wilson
Town Attorney:	Brad Redmiles
Town Administrator:	Jerry L'Estrange
Public Works Director:	Greg Smith
Clerk/Treasurer:	Diana Heeney
Town Planner:	Dee Miller
Visitors:	Erwin Verhoeven, Joe Stone (Mtn Mail)

**APPROVAL OF MINUTES:**

**MOTION: Mayor Pro-tem Scanga made a motion to approve December 10, 2012 Board meeting minutes; seconded by Trustee Slaughter. Motion carried unanimously.**

**OLD BUSINESS:**

**Discussion of Town of Poncha Springs Storage Requirements Report**

Information provided in the packets. Administrator L'Estrange reported:

This report relates back to our discussion regarding the storage agreement negotiations with the UAWCD for water in the upper lakes vessels. We were going to wait for the results of this report before making any decisions on the contract renewal. For those of you familiar with these types of reports you may breeze through the document with no problem. For others the described scenarios may be more difficult to follow but the "conclusions and recommendations" starting on page 14 give an excellent summary for you to review.

**5.0 CONCLUSIONS AND RECOMMENDATIONS**

Excluding demands at Friend Ranch, we estimate that the Town will require approximately 173.0 acre-feet of storage capacity on the mainstem Arkansas River and approximately 22.8 acre-feet of storage capacity in the South Arkansas River Basin to satisfy its projected demands over the next 30 years with irrigation restrictions. Without irrigation restrictions during drought periods, the storage requirements increase to approximately 299.5 acre-feet on the mainstem Arkansas River and approximately 39.4 acre-feet in the South Arkansas River Basin.

Including build-out of Friend Ranch Phase 1 and limited irrigation of the golf course, we estimate that the Town will require approximately 218.3 acre-feet of storage capacity on the mainstem Arkansas River and approximately 44.0 acre-feet of storage capacity in the South Arkansas River Basin to satisfy its projected demands over the next 30 years with irrigation restrictions. Without irrigation restrictions during drought periods, the storage requirements increase to approximately 337.6 acre-feet on the mainstem Arkansas River and approximately 60.3 acre-feet in the South Arkansas River Basin.

Including build-out of 350 residential units at Friend Ranch without a golf course, we estimate that the Town will require approximately 200.3 acre-feet of storage capacity on the mainstem Arkansas River and approximately 46.9 acre-feet of storage capacity in the South

Arkansas River Basin to satisfy its projected demands over the next 30 years with irrigation restrictions. Without irrigation restrictions during drought periods, the storage requirements increase to approximately 340.1 acre-feet on the mainstem Arkansas River and approximately 75.1 acre-feet in the South Arkansas River Basin.

### **5.1 Sufficiency of Mainstem Arkansas River Storage**

On the mainstem Arkansas River, the Town has a Fry-Ark account in which its Fry-Ark allocation is stored. The Town has also applied for 200 acre-feet of long-term "Excess Capacity" storage in the Fry-Ark facilities, which would allow the Town's other water supplies to be stored on the mainstem Arkansas River. We project that the Town will have sufficient storage capacity on the mainstem Arkansas River over the next 30 years (with and without Friend Ranch), even if there are no irrigation restrictions.

### **5.2 Sufficiency of South Arkansas River Basin Storage**

Within the South Arkansas River Basin, the storage capacity of Friend Ranch Reservoir (excluding flood storage) is approximately 70.5 acre-feet. We understand that 30.0 acrefeet of this capacity is the Town's oversize account, 7.5 acre-feet is the developer reserve account, and 33.0 acre-feet is the account dedicated for use of the Friend Ranch water rights. Water stored in the Town's oversize account is separate from use of the Friend Ranch water rights and is not available to the Friend Ranch development.

Of the 33.0 acre-feet dedicated for use of the Friend Ranch water rights, we understand that 11.0 acre-feet ( $1/3 \times 33.0$  acre-feet) are allocated to the Town's use of the Friend Ranch water rights outside Friend Ranch, with the remaining 22.0 acre-feet ( $2/3 \times 33.0$  acre-feet) allocated to support the Friend Ranch development. Accordingly, approximately 41.0 acrefeet (30.0 acre-feet + 11.0 acre-feet) of storage capacity are available for the Town's use outside Friend Ranch. The remaining 29.5 acre-feet are available to support the Friend Ranch development.

We project that the Town will have sufficient capacity in Friend Ranch Reservoir to satisfy the year 2042 demands outside Friend Ranch, even if there are no irrigation restrictions. We also project that the total capacity of Friend Ranch Reservoir is sufficient to meet the Town's year 2042 demands including Friend Ranch Phase 1 and limited golf-course irrigation, even if there are no irrigation restrictions. The total capacity of Friend Ranch Reservoir is also sufficient to meet the Town's year 2042 demands including 350 Friend Ranch residential units (and no golf course), if there are irrigation restrictions. If there are no irrigation restrictions, we project that there is insufficient storage capacity in Friend Ranch Reservoir to satisfy the Town's year 2042 demands with 350 Friend Ranch residential units. In summary, we project that the Town will not require storage capacity in the UAWCD Reservoirs within the next 30 years, if the Town places irrigation restrictions during drought periods. The Town may require a small amount of storage capacity in the UAWCD Reservoirs within the next 30 years, if the Town chooses not to place irrigation restrictions and Friend Ranch is developed to include greater residential lots (and no golf course).

Town of Poncha Springs Storage Requirements

Page 16

### **5.3 UAWCD Contract Renewal**

While we project that the Town will not require storage capacity in the UAWCD Reservoirs to meet its year 2042 demands with irrigation restrictions, the Town should consider the following benefits of maintaining a storage contract with UAWCD:

1. A small amount of capacity in the UAWCD Reservoirs would provide additional contingency storage to protect against the possibility that future storage requirements will be significantly greater than we have projected.
2. The UAWCD Reservoirs provide redundancy for the Town's stored augmentation supplies. In the event of structural or operational problems at Friend Ranch Reservoir, the Town's ability to comply with its augmentation plans (and avoid curtailment of its wells) could be in jeopardy without water stored in the UAWCD Reservoirs.
3. Maintaining a storage contract may give developers of Friend Ranch or future annexations the flexibility to reimburse the Town in lieu of developing additional onsite

storage.

4. Maintaining a storage contract may allow the Town and Salida to more easily trade water to facilitate Salida's replacement of the Town's bypass flows.

5. Subject to legal review and concurrence by Steve Monson, maintaining a storage contract may avoid the need to amend the Town's augmentation plan decree in Case No. 82CW104. This decree states that the Town shall exchange Fry-Ark water to storage in the UAWCD Reservoirs. Without a storage contract, the Division Engineer or other water users could claim that the Town needs to amend this augmentation plan to include storage in Friend Ranch Reservoir. The Town may also be required to amend the Case No. 82CW104 decree to include Friend Ranch Reservoir as an alternate point of storage for the senior exchange right decreed in the case. Such amendments would likely require significant legal and engineering costs, and some of the objectors could assert that the favorable terms in this older decree may not be approved under modern standards.

#### **5.4 Irrigation Restrictions**

Our analysis confirms that the Town's long-term storage requirements can be greatly reduced with lawn irrigation restrictions during drought years. Most cities and towns do not have water supplies that can provide a full municipal water supply during extreme drought periods without lawn irrigation restrictions. The substantial costs for water rights, reservoirs, and other facilities to cover an extreme drought period typically preclude such full water supply. As a policy matter, the Town could reasonably choose whether or not the reduced storage requirements justify a commitment to future irrigation restrictions.

Town of Poncha Springs Storage Requirements

Page 17

#### **5.5 Direct Diversion to Friend Ranch Reservoir**

We recommend that the Town pursue construction of the direct diversion take-out from the South Arkansas River to Friend Ranch Reservoir. The direct diversion take-out would provide a preferred method of delivering water to Friend Ranch Reservoir from the South Arkansas River, where there are greater physical flows than the tributary streams, no instream flow water rights, and no ditch losses. This take-out would allow the Town to exchange water from the mainstem Arkansas River to Friend Ranch Reservoir on a more frequent basis than we have simulated in our analysis, reducing the Town's long-term storage needs in the South Arkansas River Basin.

#### **5.6 Future Updates**

Due to the uncertainties listed in Section 4.5, we recommend that supplemental calculations be made from time to time to provide confirmation of the Town's long-term storage requirements.

Mayor Furton spoke in favor of a shorter term agreement, 5 years as opposed to 20 years. Administrator L'Estrange stated the town had requested a one year extension on the current agreement but UAWCD was not agreeable to this. He went on to say the Town's decree was/is based on high altitude storage noting it is undetermined if the Friend Ranch Reservoir storage will serve the Town's needs over time. L'Estrange stated administrative and rehabilitation costs are associated with the UAWCD storage, noting the Town and UAWCD both have budgetary concerns to address when considering the agreement. Mayor Furton asked how the Town's 1982 augmentation plan would be affected if the Town does not sign an agreement with UAWCD. L'Estrange said the State has not expressed any concerns. Mayor Furton stated there could be other entities that would object. Mayor Pro-tem Scanga stated if the Town were to rely on the Friend Ranch Reservoir there could come a time when the FR Reservoir would require maintenance and have to be drawn down, leaving the Town without adequate storage. He spoke in favor of decreased storage with UAWCD(possibly one half of current). Mayor Pro-tem Scanga stated the UAWCD costs are a known and if the Town should choose to give up this storage it could open up the Town's decrees to objectors, the cost for this is an unknown. Scanga spoke in favor of the Board making a decision based on the information they have. Trustee Kroschel spoke against making a decision without hearing from Town

Water Attorney Monson. Administrator L'Estrange stated the policy regulations are the point of contention, noting Monson is advocating for the Town. Trustee Angelo stated he would like to have more information on the policy regulations, ie how the UAWCD will handle senior rights versus need. Trustee Slaughter stated he agreed the Town should not take the risk of opening up the 1982 decree to objectors by not coming to an agreement with UAWCD. After further discussion the Board agreed to schedule a meeting with UAWCD to discuss the agreement language to clarify senior rights versus need. Staff will follow up.

## **NEW BUSINESS:**

### **Resolution #2013-1, Establishing Posting Places**

**MOTION: Trustee Slaughter made a motion to approve Resolution #2013-1, Establishing Posting Places, seconded by Mayor Pro-tem Scanga. Motion carried.**

Mayor Furton requested a posting kiosk be installed at Town Hall. Staff will follow up.

### **Material Regarding Amendment 64 Regulating Marijuana**

Attorney Redmiles informed the Board that municipalities will need to opt whether to adopt 1) a prohibition or 2) local restrictions on the time, place, manner and number of retail marijuana operations in their jurisdictions before July 1, 2013.

Mayor Furton asked if the Town were to allow, how would they (the Town) enforce. Trustees Kroschel & Wilson spoke in favor of prohibition.

**MOTION: Trustee Kroschel made a motion to adopt prohibition by drafting/approving an Ordinance; seconded by Trustee Wilson. Motion carried with Mayor Pro-tem Scanga dissenting.**

### **Re-appointment of Planning Commissioner Steve Rust**

Mayor Furton re-appointed Steve Rust to the Planning Commission.

## **ADMINISTRATOR'S REPORT:**

### **Discussion of Water Management Issues**

Administrator L'Estrange reported:

*During a series of background conversations some ideas regarding the administration/control of Poncha Springs' water utility were discussed. As reported to me, not first hand, a Salida Council person offered to take over our water system including the administration similar to the Sewer agreement. On January 4, 2013 the Mayor came into my office and we talked about what could have been the motivation for the offer and I told him that I would talk to Salida's Administrator to see if there was any factual background. The Mayor seemed pretty adamant that he didn't want Salida taking over our water but if a special water district could be set up that neither entity owned maybe we should look at that prospect. I was told to look at the possibility of a Water District formation.*

*I contacted the Salida Administrator about the situation. She said there had been no conversations at any official level. We had talked about a similar backdrop conversation over a year ago and had just let the matter drop. They had no interest in forming a water district. The rumor about them having to sell some*

*of their water rights was unfounded but if we needed something just let her know and we could talk. During my career I have been involved with the potential formation of three special districts and the dissolution of one. This is an intense process requiring a lot of Staff time and legal expense. Being potentially multiply juristically involvement the cost would be greatly escalated. A district forms another layer of government with its own governing board and taxing power and is established through a vote of the people and can only be dissolved by another vote. We have included a couple of pages from CRS giving guide lines on special districts. My experience leads me to advise you to be very careful about allowing special districts inside your Town boundaries. If the Council directs us to do so we will further investigate the process.*

Trustee Angelo asked if the Town wanted to do this wouldn't we go to UAWCD. Trustee Kroschel stated he believes a Special District would lead to higher user fees. Mayor Furton stated if a Special District were to be formed he would think it would involve the County, Salida, and Poncha. The Board agreed not to pursue the matter any further.

### **Poncha Springs Hwy 40/85 Intersection Update**

Administrator L'Estrange reported:

*On December 12, 2012 we met with CDOT regarding the 285/50 Intersection FIR Submittal Discussion, Items and Issues. We spent the better part of the day going through a 14 point agenda covering all aspects of the project. We will have a public meeting as soon as possible to explain the results. These discussions are in accordance with our signed agreement with CDOT regarding this project. As you remember certain elements were to be further reviewed at this stage thus the public meeting.*

Administrator L'Estrange informed the Board staff and CDOT are working towards a meeting date, noting this will include a Public Hearing as well. Staff is waiting to hear from CDOT regarding the meeting date.

### **January 17-18, 2013 Board Retreat Update**

Information provided in the packets. Planner Miller passed out a meal selection list asking Board members to select what restaurant/café they would like, with majority ruling. She went on to say DOLA and Joe DeLuca, Crabtree Group, would present. Miller encouraged all to attend to provide for a productive outcome for the retreat/planning session.

### **Receiver's Intent to Withdraw from Friend Ranch**

Administrator L'Estrange reported:

*On January 8, 2013 we received notice from Cordes & Company who had been appointed by the District Court to preserve and protect the Collateral at the described "Bent Tree"/ "Friend Ranch" property. Included are the first few pages describing why they are seeking to withdraw. Basically it is due to fact that First Citizens Bank would not be advancing \$4,208.68 to pay for the general liability insurance policy and Cordes did not get paid for their fourth quarter work. Our concern is also the lack of general liability on the property. Although we are not the owners we do have an interest through easements regarding the reservoir. Greg and I are working on a strategy to minimize any possible conceived liability where the Town would have responsibility. We have a call in to CIRSA for their suggestions that could help us out.*

PW Director Smith informed the Board CIRSA has responded with information to limit the Town's liability in the matter. The Board agreed the Town should follow CIRSA's advice to minimize liability issues.

### **Xcel Energy Substation Expansion**

Administrator L'Estrange reported:

*Chaffee County has sent us a packet requesting comments regarding a Zoning Map Amendment and a Special Land Use Permit submitted by Xcel Energy. They plan to expand their 115 kV substation with a 230 kV transformer and related equipment to the west of the existing substation. The purpose of this expansion is to accommodate the newly constructed solar resources in the San Luis Valley and integrate them into the overall electric grid. This packet is quite lengthy and so we didn't reproduce it for the packet. A copy is available for your review here at the office or you can contact Dee with your questions. Staff is doing a thorough review regarding the Town's concerns.*

Planner Miller suggested the Town ask for an upgraded fence, other than the 8' chain link with barbwire on the top. She stated possible it could be a brick/concrete façade that would improve the site line as this is the west entrance to Poncha. Miller stated the kilowatts would increase from 115 to 230. Trustee Kroschel ask if the lines would be higher due to the increased width at the bottom of the lines. Miller stated she would have to look into this. The Board agreed to comment on the project. Staff will follow up.

#### **Agenda Items for the January 29, 2013 Joint Meeting – Steam Plant – 6 p.m.**

Administrator L'Estrange ask for agenda items for the joint meeting, noting at this time the Fire Study Report and the County Building Department are on the agenda. L'Estrange asked Board members to let staff know if they will attend.

#### **ATTORNEY'S REPORT:**

Attorney Redmiles he sent the completed Land Use Code Update Contract to Planner Miller.

#### **PLANNING & ZONING:**

##### **January 8, 2013 minutes**

Planner Miller provided the Board with a copy of the P&Z minutes. She informed the Board on February 28<sup>th</sup> a business stakeholder meeting would be held, Joe DeLuca, Crabtree Group, presenting as part of Land Use Code Update process. Miller stated the Business License renewal forms will be passed out at this meeting to those attending. She went on to say if there is enough interest a Business Expo will be scheduled. Miller informed the Board Wendell Pryor, CCEDC, has been working with the State on the Town's retail/industrial park lots and information will be posted on the State's website.

#### **MAINTENANCE & UTILITIES:**

##### **January 9, 2013 meeting report**

Included in the packets.

PW Director Smith reported:

January 28, 2013 meeting for final review on CR 120 Trail Design at CDOT's CR 120 facility. Smith stated through this process it has been determined that the grant monies and cash matches are not adequate to fully complete the trail. He went on to say options are being looked into. Mayor Furton asked if Smith has met with Department of Corrections regarding this project. Smith stated he will meet with them on Wednesday.

PW Director Smith reported Chaffee County Fire Protection District will pay for materials and labor to re-roof the old firehouse and he(Smith) will oversee the project.

**PERSONNEL:**

January 14, 2013 meeting – 6:00 p.m.

**EXECUTIVE SESSION:**

**MOTION: Mayor Furton made a motion to adjourn to executive session for a conference with the Town Attorney for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. §24-6-402(4)(e) regarding: the Friend Ranch/TOMAR case; to include the Mayor & Board, Town Attorney and Town Administrator; seconded by Trustee Slaughter. Motion carried unanimously.**

The regular Board meeting adjourned at 8:01 p.m.

The Executive Session convened at 8:06 p.m.

The Executive Session adjourned at 8:21 p.m.

The regular Board meeting reconvened 8:21 p.m.

With no further business the Board meeting adjourned at 8:21 p.m.

Respectfully Submitted:

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Diana K. Heeney  
Clerk/Treasurer

Approved As To Form and Content:

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Richard Furton, Mayor

Attest:

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Jerry L'Estrange  
Town Administrator