

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

MONDAY, MAY 13, 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
Town Attorney:	Brad Redmiles
Town Administrator:	Jerry L'Estrange
Public Works Director:	Greg Smith
Clerk/Treasurer:	Diana Heeney
Town Planner:	Dee Miller
Visitors:	DOLA: Bill Gray, Regional Assistant – South Central and Southeast Region Andy Hill, Director of Smart Growth Anne Miller, Czar of Smart Growth Steve Rust, Bruce Davidson, Colleen Perschbacher, Katy Grether

ADDITIONS, DELETIONS, OR CORRECTIONS TO AGENDA:

Administrator L'Estrange stated Hutchinson Homestead representatives would give an update.

APPROVAL OF MINUTES:

MOTION: Trustee Slaughter made a motion to approve April 22, 2013 Board meeting minutes; seconded by Trustee Kroschel. Motion carried unanimously.

NEW BUSINESS:

DOLA Land Use Code Enforcement Presentation

Bill Gray, Andy Hill and Anne Miller, DOLA, presented on Land Use Enforcement. Bill Gray gave a power point presentation .

“Enforcing Zoning and Land Use Controls” talking points: develop land use to protect land owner interests, clearly define what can be built and how, uses, districts, setbacks, ensure code is not a road block, make code enforcement equal by being well defined, make the code easy for land user to use, make sure code is clear and understandable, if code enforcement is necessary have a well laid out process, be pro-active not re-active, use staff as first resource for code enforcement as they are involved on a daily basis, appoint staff person to process code enforcement through development of a report form, make sure the complaint is legitimate, treat people like people – be respectful, follow your process and document in the event the violation has to go to municipal court.

Mr. Gray informed the Board DOLA has resources to help with land use code development and enforcement, noting it would be beneficial to look at what other small towns are doing. Ms. Hill suggested using the town's consultant to develop the language. Planner Miller stated the charrettes will provide the avenue to develop the language and enforcement for the land use code.

Mayor Furton – spoke in favor of a land use document that works and is accepted.

Trustee Angelo – stated intricate problems will develop from the new code as it will be more in-depth, the town does not have the teeth to enforce, maybe we shouldn't make rules we can't enforce.

Trustee Slaughter – spoke in favor of maintaining a code that looks to the health, safety and welfare of the citizens, noting the town has to come up with ways to deal with enforcement.

Trustee Angelo – noted funding for enforcement has been a long time issue for the town.

Planner Miller – it's not that it can't be done it is that the Board needs to make a decision how they would like to do it, because other small municipalities do code enforcement. Some of them contract out, some bring a judge in to sit for maybe two hours a month to hear any issues that have gone to that extreme so they can get a ruling. So the need is for you guys to make a determination on the policies that you want and how you want it handled.

Mayor Furton – yes, we need to look into this matter. How best can we do it, if we do it. There are small towns that do not have land use codes, they were built without it and they work. We have decided we are going to update the land use code and there is no sense in doing it unless you can enforce it.

Trustee Kroschel – stated it is a matter of growing pains, we need to get it all figured out.

Mr. Gray – you need community buy in so they understand what the town is trying to do, get them behind the purpose.

The Board agreed to work through developing the language and look into enforcement at the charrettes with staff to follow up with DOLA for needed resources.

OLD BUSINESS:

Resolution #2013-3, To Enter Into an Intergovernmental Agreement with Chaffee County Whereby the Chaffee County Building Department Will Serve As The Town's Building Official and Appeals Board

Attorney Redmiles asked the Board to look at paragraph one “Chaffee County shall not be responsible for pursuing violations of the Town's Building Code. Such shall be the Town's responsibility. The Building Official may, at the Town's request, investigate violations of the Town's Building Code and turn over the results of such investigation to the Town for follow-up.”

He asked if this is not what the town is asking the county to do. Trustee Kroschel gave the example when entities are adopting codes i.e. IBC, NEC, etc, if the County adopts “the code” with their amendments and when it comes to Poncha Springs, Poncha does not mirror what the County adopts, but adopts the code with other language or amendments, then the County is not going to pursue violations of the code the town has adopted. Board discussion followed with the consensus to add

“Where there are substantive differences between the Town's Building Code and Chaffee County's Building code,” for clarification per Attorney Redmiles advice.

1. The Chaffee County Building Department shall serve as the Building Official for the Town and shall perform all duties required of such official, and shall be charged with the responsibility of receiving applications under the Town's Building Code, reviewing construction documents and issuing permits for the erection, and alteration of buildings and structures pursuant to the Town's Building Code and performing related inspections. The Building Official will not perform zoning services and will not serve as zoning officer for the Town. Where there are substantive differences between the Town's Building Code and Chaffee County's Building code, Chaffee County shall not be responsible for pursuing violations of the Town's Building Code. Such shall be the Town's responsibility. The

Building Official may, at the Town's request, investigate violations of the Town's Building Code and turn over the results of such investigation to the Town for follow-up.

MOTION: Trustee Slaughter made a motion to adopt Resolution #2013-3, as amended; seconded by Trustee Massey. Motion carried with Trustee Kroschel abstaining due to a conflict of interest.

Ordinance Regarding the Composition of the P&Z Commission

Attorney Redmiles informed the Board that the Board could change the composition of the Planning Commission by ordinance if the Board wants to serve as the PC. He went on to say the number of members and who is going to be the members, designate alternate members, terms of members, process for filling vacancies, and how the commission will function will need to be determined and included. Redmiles stated he can draft an ordinance for this.

Mayor Furton stated Jim Richardson has resigned as alternate. Planner Miller stated Jen Davisson and Steve Rust are both Planning Commissioners that have not resigned.

Steve Rust – Planning Commission Chair – asked for the motivation and reason for dismantling of the existing Planning Commission. Mayor Furton stated the Board would like to move the Land Use Code update forward and with the resignation of commissioner(s) and the alternate(s) not wanting to move up creates a time concern of moving the land use code update forward. He stated at this time he doesn't know of anyone else interested in serving on the Planning Commission. Steve Rust stated they are out there somewhere. Mayor Furton stated time is the biggest concern especially when considering new commissioners coming on and time to bring them up to speed on the Land Use Code update project. Trustee Kroschel stated with the Land Use Code update in progress and not having a functional Planning Commission due to resignations and Commissioners having other commitments the Board discussed options at last week's work session. He went on to say there are going to be a lot of extra meetings and research and it is critical to move the project forward with no intent to change the makeup of the Planning Commission permanently, only to move the update forward with members that have the background and understanding of the code. Trustee Kroschel stated it is not the intent to dismiss the existing commissioners, asking that they attend the meetings and planning sessions and provide their input, please stay involved. He stated it would be difficult to have new Commissioners and get them up to speed on the project at this time, noting it is important to get the update completed in as timely manner as possible. Trustee Kroschel stated it is not the Board's intent to make the current setup a permanent one. Mayor Furton agreed stating if anyone knows of interested persons, certainly have them come to the meetings in preparation for changes in the makeup of the PC in the future, once the code update is completed. Steve Rust, Planning Commissioner Chair, stated it looks like a self-serving power grab. The board agreed to have Attorney Redmiles draft an ordinance setting up the Board of Trustees as the Planning Commission with one Planning commission meeting each month on the 2nd Monday and one Board meeting each month on the 4th Monday, in the event there is an emergency a Board meeting will be scheduled to deal with the issue. Mayor Pro-tem Scanga stated the board does not want to lose the knowledge of the current Commissioners, encouraging them to stay involved in the code update process. Mayor Furton stated the Board does not want to get stuck in the mud on the code update with all the extra meetings and work and the two Commissioners getting discouraged, encouraging Rust to knock on some doors to get interested persons for the Planning Commission. Rust stated on the surface it looks like people chipping away, because it is a constant battle to get more people involved for input and participation and with making this change an ordinance it looks like the Board is trying to go backwards by taking people out of the process rather than get people into the process. Trustee Slaughter stated no, that is not the intent. Mayor Furton stated he does not think anyone on this Board would make this choice if they thought they could put a Planning Commission together with enough experience to get the code updated. Rust stated that helps a lot to understand the reasoning. Trustee Kroschel stated lack of Planning Commissioners could not have happened at a worse time, noting the Board's interest is to complete the code update. Trustee Slaughter

asked to move the Planning commission meeting to the Mondays instead of Tuesdays. The Board agreed the Planning Commission meeting would be held the 2nd Monday of each month. Administrator L'Estrange stated if this is the route you(Board) are taking there are some logistic issues regarding scheduled meetings that need to be looked at. The Board agreed to cancel the May 21st meeting, but keep all the other Land Use Code planning sessions and charrettes as scheduled. Staff will follow up with Attorney Redmiles on the ordinance for the next Board meeting agenda.

OTHER:

Hutchinson Homestead Update

Katy Grether and Colleen Perschbacher informed the Board that renovation of the homestead house has been completed as well as some of the farmstead out buildings. Ms. Grether stated there will be a Grand Opening for the newly constructed Visitor's Center on June 1, 2013, inviting the Board and requesting a speaker to represent the town. Ms. Grether and Ms. Perschbacher thanked the Board/Town for all the support over the years to renovate this amazing piece of history. Mayor Furton asked PW Director Smith to represent the town as speaker at the Grand Opening on June 1, 2013.

ADMINISTRATOR'S REPORT:

Update Geothermal 1041 Regulations

Administrator L'Estrange reported:

On May 7, 2013 I attended the Chaffee County Commissioners meeting to discuss the Draft Guidelines and Regulations for the Use of Geothermal Resources for Commercial Production of Electricity. Their Attorney who developed the documents presented the guidelines used in development and implementation of the 1041 regulations. My concern was regarding possible overreaching during the implementation process. Because Poncha owns some of the land over the possible resource. I think it behooves us to have input to the development of the regulations. For example much of the testing we have already done in the area South of Town would require a 1041 permit under the proposed regulations.

Administrator L'Estrange stated he would continue to attend the meetings and keep the Board up to date on the development of the 1041 regulations.

Update on RAMP Pre-application

Administrator L'Estrange reported:

We have some feedback from CDOT regarding our RAMP application although very general. As you can see there were 18 applications from our region. I still think we have a good chance to be considered and we may have better information by meeting time.

Administrator L'Estrange had no additional information on the RAMP application at meeting time.

CML Spring Outreach Meeting

Administrator L'Estrange reported:

CML has changed its format this year making the Outreach meeting a luncheon affair making it more difficult for Board members to attend. We just need a number to turn in for registration for the Canon City meeting.

Upcoming Action 22 Event

The Town belongs to Action 22 and we have voiced our concerns about legislation that could be helpful/harmful to the Southern Colorado area. We strongly voiced opposition to SB-252 Increasing

Renewable Energy Standards for Colorado Rural Electric Cooperatives. Not because we are against renewable energy but such an increase would affect our area with much higher utility rates in some of the poorer areas of the State. We are asking the Governor to veto this legislation. We are very interested in the HB-1288 Uniform Tax Base for the whole State. This would help tremendously if the national legislation passes to create sales tax on internet sales. Poncha would see a great boost in our sales tax revenues. Like all organizations Action 22 is struggling to stay afloat, the Bridge BBQ is their large fund raiser. I bought four tickets last year to represent the town, Cathy and I attended and had a nice time. It does allow you to meet with other elected officials and find out what is going on in Southern Colorado.

Atmos Energy Rate Increase Notice

Administrator L'Estrange reported:

Atmos has sent me the enclosed notice of a proposed rate increase, we have no say in this action but it does affect our citizens.

Xcel Substation Upgrade Information

Administrator L'Estrange stated staff met with Xcel representatives regarding creating a new access at the site know on the Town's Plan as 6C, noting this will be a test of the town's newly adopted Access Control Plan and the ability to modify it through CDOT. He went on to say discussion regarding the town proposed shielding of the substation led to some alternate ideas; i.e. slats in fence, a pathway along the site. The Board suggested an entry way sign and evergreen trees. Staff stated they would go out to other entities to see if matching funding for Xcel's monies could be acquired to allow for an improved shielding. The Board agreed additional funding might benefit the proposed shielding project.

May 18, 2013 Clean-up day, Yard Sale, Arbor Day

Administrator L'Estrange stated this is just a reminder for the annual event, encouraging participation if possible.

ATTORNEY'S REPORT:

Attorney Redmiles reported the Mayor had appointed the Mayor Pro-tem and this should have been done by a Board motion.

MOTION: Mayor Furton made a motion to appoint Ben Scanga as Mayor Pro-tem; seconded by Trustee Massey. Motion carried.

Attorney Redmiles stated the Town needs to appoint the Attorney, Administrator and Clerk/Treasurer on an annual basis, noting this had been overlooked.

MOTION: Trustee Slaughter made a motion to appoint Diana Heeney as Clerk/Treasurer; seconded by Mayor Pro-tem Scanga. Motion carried unanimously.

MOTION: Mayor Pro-tem Scanga made a motion to appoint Jerry L'Estrange as Town Administrator; seconded by Trustee Slaughter; Motion carried unanimously.

MOTION: Trustee Slaughter made a motion to appoint Brad Redmiles as the Town Attorney; seconded by Trustee Massey. Motion carried unanimously.

MOTION: Trustee Slaughter made a motion to approve Mayor Furton to swear in Clerk/Treasurer Heeney.

Mayor Furton swore in Clerk/Treasurer Heeney.

Clerk/Treasurer Heeney swore in Administrator L'Estrange and Attorney Redmiles.

MAINTENANCE & UTILITIES:

PW Director Smith informed the Board of a water leak at Monarch Mobile Home Park in the meter pit, noting the town is responsible for the meter and meter pits. He went on to say the owner, Dick Fortune, has asked for the \$1160.00 to be adjusted to an average usage bill. Smith stated the average 3-year amount is \$695.30 which would be an adjustment of \$464.70.

MOTION: Trustee Slaughter made a motion to approve the \$464.70 adjustment for the Monarch Mobile Home Park; seconded by Trustee Massey. Motion carried unanimously.

OTHER:

Proclaiming May 18, 2013 Arbor Day

Mayor Furton read the proclamation proclaiming May 18, 2013 as Arbor Day for the Town of Poncha Springs.

With no further business the Board meeting adjourned at 8:30 p.m.

Respectfully Submitted:

Diana K. Heeney
Clerk/Treasurer

Approved As To Form and Content:

Richard Furton
Mayor

Attest:

Jerry L'Estrange
Town Administrator