

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

**MONDAY, AUGUST 26, 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
Visitors:	Joe DeLuca, Travis Clark, Chuck Tomkiewicz, Deborah & Reginald Westphal, Dave Ward, Jerry & Susan Smith, Ruby Taylor, Vernie Martz, Robert Mishata, John Leck, Martin Howard, Brian McCabe(Mtn. Mail)

**APPROVAL OF MINUTES:**

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

**NEW BUSINESS:**

**Appointment/Reappointment to CML's Policy Committee**

**MOTION: Mayor Pro-tem Scanga made a motion to reappoint Town Administrator L'Estrange to the CML Policy Committee; seconded by Trustee Massey. Motion carried unanimously.**

**Outside Town Limits Water Service Request**

Mr. Chuck Tomiewicz stated his request to the town is for a ¾" residential water tap as outlined in his letter of request(as follows).

*Warren C. Tomkiewicz ("Chuck") and Karen A. Fortier  
926 F Street, Salida, CO 81201  
719-221-2040*

*Re: Request for Outside Water Tap*

*Karen and I are requesting the Town of Poncha Springs provide a ¾" water tap for a 20-acre property we're attempting to purchase between the Little River Ranch II subdivision and the South Arkansas River (please see attached legal description). The property is zoned "R", Rural.*

*Our current closing date to purchase the property is 15 September, and we intend to immediately begin construction on a small single family home and one accessory dwelling. We will use the remaining acreage for personal agricultural purposes. We have no intention of subdividing at this time.*

*With this property comes half ownership of a Domestic well that is shared with the adjoining property to the west. We had the well tested for quality and volume and the results are excellent. We will use this well*

*to provide water for our home, livestock and irrigation.*

*We have explored all known options for providing water to the small accessory dwelling we intend to build, including the following.*

*1. The shared Domestic well is limited by law to supplying water to no more than three dwellings. On 17 July 2013 we approached the co-owner of the Domestic well to ask if they would be willing to amend the existing well agreement to allow us to construct two dwellings to be supplied by the well. They refused.*

*2. On 9 July 2013 I contacted the Upper Arkansas Water Conservancy District and spoke with Linda Foster about purchasing well augmentation certificates to provide water to the accessory dwelling. I was told that in no way can a Domestic well be augmented.*

*3. On approximately 12 July 2013 I called water commissioner Bruce Smith, and asked if there was a way that I could drill another well on the property to provide water to the accessory dwelling. He informed me that there could be only one well on the 35 acre parcel that the Domestic well serves. If another well were drilled, the Domestic status of the existing well would be revoked, and both wells would become Household Use Only wells (with no provision for outside irrigation or livestock use). I asked him if there was any other way I could get water for the accessory dwelling, and he indicated he could not think of any way.*

*As we have no other option to procure water for this dwelling, and it is an important part of the plan we have for the property, we respectfully request that you approve a ¾" tap from the Town of Poncha Springs water system to provide water for this accessory dwelling.*

*Thank you for your consideration.*

*Chuck Tomkiewicz and Karen Fortier*

The Board discussed the pros and cons of the request. Mayor Pro-tem Scanga suggested Tomkiewicz revisit the request with Terry Scanga, UAWCD General Manager, noting there may be some other options that can be looked into with UAWCD.

Tomkiewicz agreed and will follow up with the Board if there is still a need for the request for water service from the town, at that time the town can look into options.

## **OLD BUSINESS:**

### **Continuation of Work on the LUC**

Joe DeLuca, Crabtree Group, provided Recreational Vehicle Parks, Manufactured & Modular Home Park, Annexation chapters of the new Land Use Code for Board review and comment. He noted the Floodplain Ordinance was provided in the Board packets. DeLuca asked the Board to review all the documents and provide comments for the next Planning Commission meeting LUC discussion. Administrator L'Estrange stated the Floodplain Ordinance is mandated, noting the state has volunteered to proof the Town's ordinance before it is adopted. L'Estrange will email the ordinance. Fred Klein requested a copy of the ordinance.

-Recreational Vehicle Park – no suggestions for change at this time

-Manufactured & Modular Home Park – suggestion; to include "Park Models"

-Annexation – the water requirement for annexation was discussed, noting this may need to be updated.

### **A. Discussion of Resort Zone Boundary**

Administrator L'Estrange reported:

*The recommendation from your P&Z meeting was to look at moving the boundary for the Urban Resort*

*south to the Little Arkansas River and allowing the north side property to revert to T3 – Sub – Urban so that it would match what is proposed along Chipeta Ave. I've had several citizens contact me about further modification of the Urban Resort boundary. It has been suggested the line be drawn between the Klein/ Farrow property south to Pinyon Drive and everything south of Pinyon would be Urban Resort. All the residential lots to the west of that proposed boundary would become T3. Under that scenario the Urban Resort zone would shrink to the point where it might not be viable to have it as a separate zone district. Joe and I have talked a little about this issue and we can discuss it during the meeting.*

DeLuca stated town residents had expressed dissatisfaction with the Resort Zone due to noise that affects bordering residential zones. DeLuca stated the Town needs to implement a cutoff time for noise and implement in all zones/uses. He noted this is implemented in other towns/cities and has a track record of working.

Reginald Westphal asked for the definition of Resort. DeLuca stated the definition needs to be developed and added to the code. Dave Ward asked if ag zoning was/will be included in the new code. DeLuca stated yes small farm/large farm have been given definitions in the new code. Fred Klein stated he would like sustainability in the definitions. DeLuca stated density, especially high density with mixed use equals sustainability, noting minimizing sprawl is key to sustainability. Klein stated what he is struck with is the radical departure from the existing zone to the proposed Resort Zone. He went on to say there is a lot to consider including old growth trees and the riparian area, suggesting south of Pinyon Lane for the Resort Zone. Administrator L'Estrange stated the Board had considered T4 Zoning for this area with resort use by warrant. He noted change is evolutionary, it does not happen overnight. DeLuca agreed stating this is the reason for long term planning. Susan Smith asked if Poncha Springs is working on specific economic development projects. The discussion continued with the Board making the following motion.

**MOTION: Trustee Kroschel made a motion to locate the Resort Zone south of the Little River; seconded by Trustee Slaughter. Motion carried.**

### **Discussions on Administrative Approval of Sketch Plans**

Administrator L'Estrange reported:

*When this item came up at the last meeting it got a somewhat hurried look. Everyone needs to take a studied look at Article 7 Subdivision to make sure we are all on the same page regarding intent and the provisions for Major and Minor Subdivisions. That being said I have no problem with the Sketch Plan becoming Administrative criteria. I can say that because I've had experience on both sides of the application process and one less step in front of Boards/Commissions can be helpful to potential developers.*

The Board consensus was the Sketch Plan will be administrative criteria.

### **ADMINISTRATOR'S REPORT:**

#### **Letter of Complaint Regarding Excessive Sound**

Administrator L'Estrange reported:

*This letter was brought into Town Hall and requested that it be brought up at the next meeting. I have talked to the owner of the Business in question and he had originally agreed to stop the music at 10:00. He told me that last weekend they had turned the speakers toward the Highway to mitigate the noise level. While the Westphal's are rightfully upset, the business in the commercial zone has some rights as well. One person's anti-social behavior is another's evening of enjoyment. I will speak to the Pub owner again before your meeting.*

A letter of response from Pub & Grub owner, Robert Mishata, was provided.

Trustee Kroschel stated Mr. Mishata has property rights as a business owner, noting he(Mishata) has taken some steps to mitigate the noise by turning the speakers toward the highway. Kroschel spoke in favor of a respectable trade-off between the two parties. Mr. Reginald Westphal stated his concern and dislike for the loud karaoke music, noting the neighborhood has been negatively affected by it. He stated he had surveyed the neighborhood and they do not like the loud music. Mayor Pro-tem Scanga stated the Pub & Grub has been in business for several years, noting Mr. Westphal has some responsibility in knowing what is in the neighborhood when purchasing property. Scanga spoke in favor of compromise between the complainant and the bar owner. Mr. Mishata stated he has taken steps to minimize the sound. Mayor Furton stated he will pay a visit to the Pub & Grub to determine what type of compromise can be reached within State statute.

### **Fire/EMS Authority Update**

Administrator L'Estrange reported:

*This topic was discussed at the July 27, 2013 Joint Meeting of the Municipalities and the County. The consensus was for the Oversight Comment to keep working developing the consolidation of emergency services under a single emergency response authority. It will take some expert legal advice for the directive IGA development and that cost is estimated at \$100,000 to be shared by all the entities involved. Using the formula developed for the original study Poncha Springs portion would be \$3,600.00 with the other five participants paying more. I need to get a feel from the Board if that could be put into next year's budget consideration.*

The Board agreed to include the cost in the 2014 Budget.

### **Update on UAS Testing Issues/Potential**

Administrator L'Estrange reported:

*We are continuing to have meetings with representatives of the Colorado Team representing the Unmanned Aircraft Systems to learn where the current UAS project is, and what could be the "next steps" for consideration of being a possible test site range. Colorado is still in the running for one of the six test sites to be determined before the end of the year. We are including a draft of discussion questions developed by the CCEDC to help you understand what the issues' are at stake for our area.*

### **CML District 13 Meeting**

Administrator L'Estrange reported:

*The yearly District 13 meeting for CML will be in Salida on September 26, 2013. We are giving you plenty of advance notice so that we can have a good representation at the meeting we can cover the cost from my training budget. Just let Diana know and we'll get you signed up.*

### **Caution Regarding Council Activities**

Administrator L'Estrange reported:

*It has been brought to my attention that a potential re-development matter may try and be brought to Trustees on an individual basis. If you are contacted individually you should decline talking about any issues and direct that party to come into Town Hall and go through the proper protocol. Even an innocent comment could jeopardize the project in the future if challenged.*

## **Update on Appraisal of the Friend Ranch Property**

Administrator L'Estrange reported:

*Tuesday July 9, 2013 I met with Brian Stafford who wanted some time to update the statues of the appraisal of the Friend Ranch property. I asked Greg to join us to answer historical questions. I explained that the water case had been settled and we got 216 acre feet of water through the settlement. I was pretty emphatic that the Town on owned the water and while there had been a share-back agreement in the past, that was void. We would expect as a starting point for any new developer repayment to the Town of legal fees and other costs incurred by the Town since the demise of FR/Ben Tree. Brian said that he understood our position and would include things we had told him in his report to the Bank.*

Public Works Director Smith informed the Board that he had gone over the 75 pre water change case taps that were outlined in the agreement, noting now the water court case is finalized these 75 taps are no longer available. Smith went on to say he gave the appraiser information on the water rights as they exist today for municipal use. He noted he feels the appraiser is on board with all the information provided regarding the water.

Administrator L'Estrange stated he had informed the appraiser of other costs associated with the Friend Ranch property that would effect a developer getting through the door to begin working with the town on developing the property.

Attorney Redmiles stated claims have been dropped between TOMAR and the Bank and the appeals process will follow.

## **BOSH Global Scores Update**

Administrator L'Estrange reported:

*These are the people I reported to you a few months ago regarding economic development to the area. This is the company working under the University of Colorado on the integration of UAV's into the general aviation air space. Colorado is still in the running for one of the six test sites the group has been cut to 26 states. Although we don't control an airport we are closer to Harriet Alexander than Salida. This activity could produce some viable jobs for our area.*

## **Concerns at South Park Parking Area**

Administrator L'Estrange reported:

*We have gotten concerns about people expanding the parking areas down by the picnic area near the new bridge located on the highway side of South Park. We have gone there several times to disrupt fire rings, etc. It seems people may be trying to get further back into the woods to avoid detection and doing overnight camping even though signs are posted that prohibits that activity. We could place some large rocks or tree trunks at strategic locations to try and stop encroachment. It is such a great spot I would be hesitant to cut off all access to the picnic area.*

The Board agreed boulders and/or portions of trees should be used to mark off a designated parking lot and deter motor vehicles encroaching into other areas. Staff will follow up.

## **ATTORNEY'S REPORT:**

Attorney Redmiles reported there has been a request to extend deadlines for judgments in the TOMAR case. He stated he thinks it will all settle out the appeals process will take place to determine ownership.

Attorney Redmiles asked if the Board would consider paying tuition for a Sales & Use Tax Seminar for him to attend, he noted no hourly charge and no lodging costs would be incurred by the town. The Board

agreed to pay the \$350 tuition. Mayor Furton asked Attorney Redmiles to provide the information to Clerk Heeney to see if it would be beneficial for her to attend.

**PLANNING & ZONING:**

August 12, 2013 minutes included in the packets.

**MAINTENANCE & UTILITIES:**

PW Director Smith reported:

*The 285/50 intersection continues towards finalization of plans with CDOT. I have been in conversation with CDOT's region 5 utilities engineer regarding the water main extension across Hwy 50 in the project area. He said we could have the project contractor include the work in the scope of work for the project, have the bid numbers by the contractor included in the project bid proposals and that it could save us issues and money by approaching it this way. He felt an initial estimate of \$15000 for the work, not including the tie-in to our system could be expected. We would pay for the work as it is completed, and pay the contractor directly. Aaron felt it was a good idea to get this done. We would need to budget some funds for this in the 2014 budget. I need to get back to the CDOT engineer so I need Board direction.*

The consensus of the Board was staff should follow up on the project and look for possible grant funds as this is the best opportunity the town will have to get the water main across the highway.

*We discussed the sewer dump station for the Welcome Center and I explained that we could have the unit installed with a monthly fee due to manage the credit card payments. With initial projections of costs and usage, it appears the Town could make about \$5000 per year from the service based on a \$10.00 dump fee. This money would probably cover the maintenance supplies needed to keep the Center self-funding. Aaron felt we should try and move forward with the contract etc. and budget for the installation costs in 2014 and it will help make the Welcome Center self-sufficient in the future. I will have this as an agenda item at the Aug 26<sup>th</sup> meeting for further discussion.*

The consensus of the Board was to follow up on the proposal to determine if it is financially feasible and the Board can look at it during the 2014 budget process.

**FINANCE:**

**MOTION: Trustee Wilson made a motion to pay July bills; seconded by Trustee Slaughter. Motion carried unanimously.**

**OTHER:**

Attorney Redmiles reported mountain bikers have been riding through the cemetery. He noted a fence has been cut. PW Director Smith will follow up.

With no further business the Board meeting adjourned at 9:00 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