

Commissioners Meeting
February 10, 2009

The regular meeting of the Landfill Committee was held on Tuesday, February 10, 2009 in the Commissioners meeting room at the Courthouse. Committee members present were Chairman Frank Holman, Commissioner Tim Glenn, Commissioner Dennis Giese, Director of Finance Dan Short and Landfill Manger Shannon Wilcox. Others present were Director of General Administration Robert Christiansen and Deputy County Clerk Merrilou Cicerelli.

Chairman Holman opened the Landfill Committee Meeting at 9:03 a.m.

Landfill Manager Wilcox gave his monthly report. He stated that they had started using the grinder at the landfill and had ground 230 tons of wood. The grounded dirty wood would be mixed with ground dirt and used as a cover for the landfill. The clean wood would be used as a final cover at the landfill.

Commissioner Glenn stated that he had talked with the BLM concerning the shooting range that was built on the BLM land. He stated the land was not the best land at the landfill site and that there should not be a problem.

Director of Finance Short reported that there was a dirt deficit on the north side of the landfill. A study was being done at this time.

County Bookkeeper Becky Venes presented the Committee the Landfill Statistics Report for January 2009.

Commissioner Giese made a motion to accept the Landfill Statistics for January 2009. Chairman Holman seconded the motion. On the question, the motion carried 5 - 0.

Mickey Berry, Angel of Shavano Recycling, presented his monthly report on recycling in the county.

Chairman Holman closed the Landfill Committee meeting at 9:25 a.m.

The regular meeting of the Board of County Commissioners was held on Tuesday February 10, 2009 in the Commissioners meeting room at the Courthouse. Board members present were Chairman Frank Holman, Commissioner Tim Glenn and Commissioner Dennis Giese. Others present were Director of General Administration Robert Christiansen, Director of Finance Dan Short, County Development Services Director Don Reimer, County Planner Kim Antonucci, County Attorney Jenny Davis and Deputy County Clerk Merrilou Cicerelli.

Following the Pledge of Allegiance, Chairman Holman called the meeting to order at 9:32 a.m.

Chairman Holman asked Deputy County Clerk Cicerelli for verification regarding the distribution of the Board of Commissioners' Agendas. Deputy County Clerk Cicerelli stated that the agendas were properly distributed.

The Board was presented the minutes of the January 20, 2009 Board of Commissioners meeting for approval.

Commissioner Giese made a motion to approve the January 20, 2009 Board of Commissioners meeting minutes. Chairman Holman seconded the motion. On the question, the motion carried 3 - 0.

Chairman Holman asked for public comment on any item that was not on the agenda.

Frank McMurry, Nathrop, stated that he had questions about the agenda regarding all of the items on the agenda that were asking the County for matching funds on grants. He felt that in this day and age when there were major problems with the roads and the economy being weak, the Board should be more cautious with their spending of taxpayers' money.

Karin Adams, County Road 140, Salida, agreed stating that it seemed that there was a large list of land trusts. She wanted to know if the County was going to grant them all some of the Conservation Trust Funds that the County had in reserve.

Commissioner Glenn stated that the donations that were being requested would be coming from the Conservation Trust Fund. He stated that the County had built up a good reserve of these funds in the past and they had save a large sum to be used for special projects.

Commissioner Giese stated that if these items were coming out of the general fund that would be different.

Commissioner Glenn explained the reason the Board of Commissioners had helped the Land Trust get started. The main thing to understand was that the Board had always been very mindful with the County's funding.

The first item on the agenda was discussion and potential action regarding water/ditch issues and Friends Ranch Development.

County Water Counsel Steve Bushong and Karen Henderson, Legal Advisor, attended the meeting via telephone.

Commissioner Glenn gave some background of what the County was doing in this matter. He stated that the Board was very conscious of the agricultural land in the County being able to survive. The agricultural water was being used for drinking water, green fields and beautiful vistas throughout the valley. The Board opted to look at this because at first, the Friends Ranch came to the County and they were encouraged to go through Poncha Springs for annexation. Through that process, the Developer was able to work things out with Poncha Springs and the County was very pleased about that. The Board supports Friends Ranch but not at the expense of agriculture and they were very clear about that. That was why the County opted to monitor this process with their own legal water counsel. They were working on this project and looking out for the agriculture in the County. He did not think that the County was singling out and perhaps looking at four different families that they were representing. They were representing the interest of agriculture County wide.

Chairman Holman stated that the Board was not here to interfere in the Friend Ranch or the ranchers business. The Board was only here to help if they could to resolve this issue in a reasonable manner.

Commissioner Giese stated that he thought the biggest issue here was that as a County they should be an agent to find common ground that the agricultural interests were protected. Friends Ranch still could move forward and the Town of Poncha Springs would be able to achieve their ultimate goal.

Counsel Bushong stated that he would agree that everyone should be on the same page. The County was supportive of Friends Ranch Development but wanted to see it proceed in a way that did not impact agricultural interests much like the Town of Poncha Springs desired. For the County to be sure that the development was proceeding without affecting agricultural interests, they needed to have some additional information. The Board needed to see some plans for what the utility trench would look like, what the mitigation proposal was the other agreements with all the different ditch owners or have reasonable proposals with all the ditch owners. He stated that the bigger picture what was the mitigation plan was to prevent injury if it was necessary to pump the ground water and lower it in order to build part of Friends Ranch Development. He asked if that ground water fed the irrigation ditches, what would the mitigation plan be. He thought for the County to know that in fact that the agricultural interests were being protected, the Board needed that information. The County would like to do an independent review to be comfortable with the fact that the development was proceeding without impacting agricultural interests.

Richard Chick, Friends Ranch Developer, stated that he would like to know where the Board was going with this.

Chairman Holman asked Developer Chick if he had plans for the Board to review. He asked what plan the developer had to mitigate the issues that the ditch owners had.

Developer Chick stated that he wanted to address some of the items that Commissioner Glenn had referred to. He stated that in the very beginning, they had set out to work in cooperation with the County. He thought that good heads had prevailed and they had received good advice from the County and a had good working relationship with the Town of Poncha Springs. One of the issues that he wanted to bring up was when they made that decision over two and one half years ago, he had a deposit with the County of \$50,000 including the application fee. He asked at that time for a refund of the \$50,000 and was told that all of the money had been spent, which was a surprise to him because of the short time that had passed. He had asked the County to give him an accounting of the monies. He had been assured at the time that they would get that accounting. He had made three requests and had not seen any accounting as of yet. He stated " you wonder why I am bringing this up at this time". It was because the County has an attorney on the phone, who knows that attorneys are not free and the County still has their \$50,000. He was wondering if their \$50,000 being spent on this, or what was it being spent on. He would really like that issue to be addressed. He has been working quite well with the Town of Poncha Springs and has spent a lot of time with the ditch owners trying to iron out ditch agreements with them for where their ditches came through his property. He stated that he had been marginally successful. He had one ditch agreement signed and another that had been tailored for another major ditch that he felt was completely ready to sign but they had not received that one back. He stated that a couple of other ditches owners just stated they were not interested. They wanted to rely on the law that provided them access and that was fine with him. Then what happened he had actually started construction of something that crosses their ditch although not major. They were constructing public water and sewer lines that would go under their ditches. These were all public improvements. They were moving forward with vast improvements in the area. He had signed over a half million dollars in checks that would go right back into the system. He was not asking for favors. Now he had realized that when they started they did and had made apologies to two ditch owners that had been overlooked in their original plan because they were further to the east, but he had now talked to those people and had received from each of the ditch owners their requests. Most of the requests were reasonable. Some of them were a good fit and he felt they could be worked out. He had meetings scheduled for that afternoon. He had meetings with someone from the Ouray Ditch, the Hill Sprague Ditch, the Newby Bowring and the Lowland Ditch. So it was not as if they were "blowing this off". He had come up with something that he felt would completely isolate the ditches. In most cases with the exception of one or maybe two, they would not be touching their conduit, which was already across the railroad bridge. They would be tunneling underneath it and then compacting a clay-like material to avoid any sort of seepage down into the ditches. He was

doing what he thought was reasonable. His question was why was he there, he was trying to get things done, making an honest effort. All of the improvements were being done within the Poncha Springs City Limits and this just seemed like another layer to make things more difficult. He did not feel that was necessary. He stated that his engineer was present and willing to answer any questions about how they were going to go about getting this done and hopefully that would help the Board as well. If the Board felt that layer was necessary, his biggest concern was that ties things up to the timing phases. If he would get all of his ditch agreements signed and the County then says that they have to review the plans and review the ditch agreements to make sure that the ranchers can help themselves, they need another layer of government to help them, then what happens. He currently had a group of eight people sitting home waiting, while the County goes to their next meeting and decides on whether these ditch agreements look good. He felt that the ranchers can protect themselves and they had an opportunity to work with them. Another layer seemed to him that could cause delay and just a lot of difficulty. He felt if the County got involved again, it would just cause hard feelings and hardship in already hard times.

Commissioner Giese stated that he understood that Developer Chick had one agreement already signed and that he was meeting with the other ditch owners in the near future to get agreements. He had looked at their requests and was very close to having an agreement with all of the ditch owners concerning their concerns with their loss of water or mitigating that.

Developer Chick stated that the agreements that he was working on now were going to be specific agreements to allow them to create a utility trench under neither those ditches. They did not have anything signed nor any agreements yet. He had received some specific demands and most of those were okay. He stated that there were some things that had been taken from other ditch agreements that frankly were unnecessary and did not belong in the specific agreement that had been talked about with the utility crossings. He was asking the Board to just give him what he felt he already had, which was to let him and the ditch owner figure this out. He felt that if the County "meddled" in it would only prolong the thing and create hardship for the development.

Commissioner Glenn commented that Developer Chick was correct in requesting an accounting of the \$50,000. He was hopeful that he had received that accounting, but apparently, it had not been received. He assured Developer Chick that none of that \$50,000 was going to this part of what was happening now and if there was any left, none of that would go to it.

Developer Chick stated that he felt that the clock stopped ticking when the project was taken to Poncha Springs.

Chairman Holman commented that the Board was not here to interfere with his business. He had received a number of calls and the Board needed to respond,

so that was what they were doing. He hoped that everything could keep moving. If he could get all of the agreements, then the County would be out of it.

Counsel Bushong stated that if the Developer could get agreements with each ditch owner that might be impacted by the utilities trench, he did not think the County would not need to be involved. He did not think that the County's job was to help the ditch owners out in that since, if the ditch owners think that there was a reasonable agreement that protects the ditch as intended that would be fine. Part of what the County had thought was if the developer thought that he had made reasonable proposals, which had not been accepted, the County wanted to take a look at those proposals and make sure that they also felt that they were reasonable. He stated the concerns were the trenches crossing the ditch, which there would be trespassing issues and more importantly you dig a deep trench and that would cause problems with the ground water that currently helps fill the ditches. If all of that was being addressed, there should be no problem.

Poncha Springs Administrator Pat Alderton stated that the County's concerns had been the same as Poncha Springs'. The only difference was that the County had not been in this process for a while. Poncha Springs had been working with this for the past two and one half years. She stated it puts the Town down that the County thinks that they were not capable of trying to do the same thing. She suggested that if the County truly did have an interest that one of the Board of Commissioners sit in on the meetings, because that would be the only way that the Board would know that the Developer was making a reasonable offer. Then the County would know the things that the Town of Poncha Springs already knows.

Chairman Holman asked if the ditch owners had a representative.

Andrew Richardson, 9800 County Road 161, representing the Hills Sprague Ditch, stated that he had concerns about the Hill Sprague Ditch. He had called to speak with Poncha Springs Administrator Pat Alderton and she had never returned his calls. He was meeting with Developer Chick later in the day at the ditch to go over some of his concerns. His request was simple. They wanted to see a drawing of how the developer would be laying the pipes. He wanted specifics on how far under the ditch and culvert the utilities trenches would be. He stated that they were concerned because their ditch ran parallel along the railroad grade and along where the developer was laying pipe. He was afraid that would draw his water down just like a French Drain. The ditches in the area were not lined. They were afraid if there was a lower underwater ditch, it might draw water out of their ditch.

Bryant Payne, Newby Bowring Ditch, stated that he was really concerned about the utilities being placed at an eight or nine foot depth. Yesterday he found out they would lose the lens by his ditch if the ditch was disturbed. He stated that if they were getting him in a predicament that he would lose his water. It was very

scary. He was trying his best to look out for his own interest and water rights. If the rights were disturbed, he wanted to be reimbursed for it. He felt that they should put clay back into the trench.

Larry Hughes, representing the Ouray Ditch, stated that speaking for the majority of the people on the Ouray Ditch, they wished the Friends Ranch no harm, what so ever. They think that it was a good development, which would be good for the County. He stated that they all had the same concern. The Ouray Ditch was one of the ditches that Developer Chick admitted that he neglected to contact. He stated that the machines were running when they had found out what was happening. They had talked with Poncha Springs Administrator Pat Alderton and had some conversation with Developer Chick. He felt that his concern was that there was going to be some injury, so what would be the consequences of injury after the fact. He stated they liked the idea of the development and would be meeting with the Developer later in the day. He stated that there had been some injuries to his ditch rights already.

Dean Roberts, Burnett Ditch, provided pictures of the ditches in the area. His main concern was that everything was done after the fact. He stated that the Burnett Ditch ran along the railroad right of way. His main concern was that this project had been handled the same way this whole thing had been handled, everything was after the fact. There had not been a geological survey done on this thing before they started. He could not find any drawings how the thing was to be dug. All he had received was a materials list and that it was going to be back-filled with one inch in smaller gravel, up to two feet above the line. He stated all this would be was a great big French Drain down the valley. He hired a hydrologist, which he should not have had done as it should have already been handled by the developer. He had already been injured on other ditches. He stated that the Champ Seep had been injured. Glenna Corporon was in the process of the sale of her ranch next to him. There was a ditch that was a tributary to the Spring Brook, and the Champ was a tributary. One comment was made that since the one ditch was not registered, it would be filled in. He stated that he had the agreement between Mabel Champ and Adison Jay in 1906 when that ditch was dug and he was in the process of buying on it now. It should be finalized very shortly. He stated that it would carry four tenths of a foot of water and that was measured in December. He stated that Johnny Scanga and he both have filed on this ditch. He said it was critical to the Spring Brook and this whole project was critical to the Spring Brook, as all these things were interconnected. They had been told by Poncha Springs that they get it, but they did not get it. He stated there was no hydrology survey because he had to go out and get hydrologist to find out where the ground lens were and what was going to happen whenever they opened up the ground. He stated that the lens up through Hoover to the Lowland Ditch was at about three foot. If you bust through that, you would be taking out groundwater. He had an agreement with Developer Chick as far as the utilities going across his property and an agreement with him on the Burnett Ditch on the Friends Ranch, but there was no agreement between

Developer Chick and himself on protecting the Burnett Ditch up to the project. He stated that the ground lens needed to be located and they needed to be repaired after the utility lines go through. He had no problem with putting in utility lines. He hoped Friends Ranch Development made a million dollars and all become rich. He just wanted them to leave his water alone. That was all he was after. He wanted some of this stuff done ahead of time so that they know what they were doing. He stated that the hydrologist was finishing that day and the developer was more than welcome to work with the hydrologist to find out where the lens were at and make sure that stuff was repaired after they go through that. The Burnett was spilling off onto the railroad right a way and all the developer had stated was as going to do was move the bank over and go on. There needed to be some protection for the ditch through there. He did not feel it should fall on him, since that ditch had been there since 1866. He had heard the comment that they had the right to drain their land, but they did not have the right to injure the decreed seep water. Not only that the Spring Brook was down over the hill from all of this and it runs year around. The Champ Seep was a tributary of the Spring Brook. The ditch that he was registering was under the name of J Champ Seepage named after owners who signed the agreement when it was dug. He stated that the Spring Brook was the tributary of the Scanga Seep, which was used by all the people in the wintertime for stock water. The ditch that he filed on with the Champ, Johnny Scanga used to water his cows last winter. Mr. Scanga would need to verify for sure, but he was under the opinion that it was between a half and three quarters of a foot of water, because it ran across his field all winter long. The water ran down to the Spring Brook and he did not think now that he could water a cow this winter. There needed to be more done and they needed to bring a hydrologist on board to fix the problems. This was not just his problem but also all of the people. He told Commissioner Glenn that he bet the water was going to end up at his place too.

Richard Furton, owner of Newby Bowring Ditch, stated that he did not have problems with the ditch crossing, but he somewhat agreed with the rest of the fellows about digging this very deep ditch and setting the pipeline in gravel. He did believe that it would probably end up as some sort of French Drain that would drain off the seep water if the upper lens would be disturbed. He was not a hydrologist but he thought that possibly it looked like there was going to be a problem. He stated if there was, hen certainly there would be a solution. They need to find it and work around it and fix it.

Town Administrator Alderton stated that Poncha Springs' Public Works person had contacted the hydrologist yesterday. She stated that it would be great if when Mr. Roberts received his report, he would share that information with Poncha Springs. The conversation between these two was that the lens that Mr. Roberts had been concerned about actually was twenty foot deep. Therefore, it really was not a concern. Poncha Springs was trying to be a part of this and trying to solve the same problems. They had been trying to do the same things that the people here had been trying to solve.

Larry Desmond, Furtura Engineering, Friends Ranch Development, stated that he used to work at the State Engineering Office and had been dealing with water rights, seepage and ground water since his master's thesis many years ago. The plans for the water and sewer utilities show that the pipes would be bedded in the material that was specs of Poncha Springs. Poncha Springs required cut offs on a spacing that was basically inspected and decided by the experts as they go for the exact reason of stopping seepage along the utilities.

Mr. Roberts stated that Engineer Desmond's expert needed to go to his own expert.

Engineer Desmond stated that in addition they had other solutions that would be part of talking with each ditch owner. He stated that basically the idea was to remove the trench from the seepage flow. The idea of that was to take a fine gravel and enhance the collar of Poncha Springs to stop water from going through. One of their solutions was to wrap the pipes with a squeegee material then wrap it in a plastic and basically remove it from the seepage flow. This would be the same basic idea that they would be talking about because to wrap the trench in plastic so that water could not get into the gravel in the first place. This was a simple solution that enhances what Poncha Springs already requires. The Poncha Springs requirement was to cut off seepage. These solutions had been contemplated since the first plans were turned into Poncha Springs as it had all been part of the process.

Commissioner Giese asked if Engineer Desmond was saying that this utility trench was going to be wrapped in plastic the whole eight or nine feet.

Engineer Desmond stated that not the whole eight or nine feet, as there was a lot of native ground. The trench is dug, the squeegee or sandy gravel is put down, the pipe is placed on top of it, more squeegee or sandy gravel is placed around it, then backfill with native dirt compacted up to the top of the surface. In general, native ground was at about 85% density. When it is put back, it is at 95%. Therefore, the native material above the pipe flows less water than does the native. If the pipe and its gravel are wrapped in the plastic, there is no water crossing it. It takes it out the flow grid. Another solution would be to use clay, which they had been doing already, as part of the pricing contract. Where they parallel one of the ditches, the idea had always been to do something to reduce the seepage. Developer Chick and he had talked a few years ago about it. They wanted to line the ditches with bentonite. All of these ditches were sand and gravel bottom ditches and bentonite would wash right out. He stated that what Mr. Robert called Spring Brook was actually a seep ditch by water rights. Its elevation was the same as the river. He stated that if you look at a cross section from Highway 50 south and cut a section and looked at the water level between the Spring Brook, also called the seep, and the river, they would be almost the same elevation. The water flow in general down the valley is under the two

percent grade. Everything takes the water from the river and puts it out into the flood plain. The ditches permit Hills Sprague, Newby Bowring and every other ditch to take water from the river and put it out on the flood plain. Some places the bottom of the ditch is underneath the ground water and some places it was above it. Where it was above it, it leaks out into the ground water table. The biggest thing in the whole valley was the two percent grade downriver. The elevation and the groundwater was set by the hydrologic flowing all of that water.

Mr. Roberts stated that the Board needed to table this until his hydrologist's report is completed and presented to the Town and the County. He had asked the hydrologist to come to the meeting, but the hydrologist had some additional tests that he had to run today. None of this was an unfixable problem.

Larry Hughes stated that he had questions about the wrapping of pipes and the gravel that would be used for Engineer Desmond.

Engineer Desmond stated that was part of the interaction with each of the ditches. If that was what they wanted, that would be what they put in. It would not be the whole length of the easement, but it would only be adjacent to the Poncha Springs cut off collars.

Mr. Hughes asked Developer Chick if was there not a possibility of an easement that would butt up to U.S. Highway 50.

Developer Chick stated that there had been a technical problem with that idea because they could not serve much ground from there since it was a high spot. Utilities are placed at the lowest point.

Counsel Bushong commented that the only thing he would add was with respect to the utility trench, it seemed to be two issues that were interrelated. He asked what the design of the plan was, the agreements and the mitigation plan. He also asked whether or not there were agreements or would there be agreements or reasonable proposals from agreements with the ditch owners. He thought progress was being made with respect to the agreements. In respect to the design plan and mitigation, he had heard more today than he had previously. Whether it was actually functional and would prevent injury, that it would be hard to say based on the conversation heard today. He thought to the extent that you could compact the utility trench in a way that it was less permeable that might in effect mitigate any injury, but he could not quite tell. It sounded to him that it still might be laying these pipes on top of gravel and then compacting on top, which might have what could amount to a French Drain underneath. He stated that those were the kinds of things that needed to be discussed. From the County's perspective, it would be good to have this type of dialog. He realized that the developer did not want to be slowed down on this, but if there was a way for the developer's expert or engineer or hydrologist to meet with the ditch owners' hydrologist, maybe they could work out a plan here in short order so they could

enter into an agreement. Then the developer could get going on his utility trench. He felt from the County's perspective, the Board just wanted to make sure that this was proceeding in a way that it would not affect the agricultural interests. If there was a way the Board could help facilitate or mediate, that would be great. The primary concern of the Board should be to make sure to proceed in an orderly fashion in a way that protects the agricultural interests in the valley to the extent that these hydrologists together to work out a plan. He stated that would make the County's job easier.

Develop Chick stated that what he just heard was quite reasonable. He thought that was just what he was going to do. He stated that they would continue with their meetings. By pursuing reasonable agreements, they would be having options that they would be presenting to the ditch owners. He was a ditch owner himself and he understood. It was not as if they were blind in the issue. Engineer Desmond was extremely experienced in the exact field that had talked about. He had no problem with the County being privy to this information. What he was worried about was he did not want another layer of government that would delay things, as long as he could work things out with the respective ditch owners.

Chairman Holman stated that he did have one question regarding the crushed gravel that would be bedding the pipe. He asked if it was it necessary.

Engineer Desmond stated that there were utilities transfers all over the state on agricultural lands. This pipe bedding was standard all over the state. The utilities were being done exactly to Poncha Springs Town Specifications. He stated that if anyone felt that they had been insensitive, it was because this was a standard thing they do as part of the design. They had done it thousands of times. This was not a new science, but it was just standard specifications. Wrapping the squeegee in additional plastic and or clay was in addition to the standard and the standard already works.

Chairman Holman stated that he had spoken with a contractor who had buried quite a bit of pipe and he did not use gravel. His concern was that by putting the gravel around the pipe, it created a conduit. By putting something else instead of gravel, then they would probably get away from that issue.

Developer Chick stated that he would talk with Poncha Springs and if they would accommodate that, but the standard in the state was squeegee material and that was pretty much the standard specification.

County Development Services Director Reimer stated that the standard gravel that was being used was a 3/8 minus.

Commissioner Giese felt the issue was that the Board were not experts in what needed to be or not. The basic issue that needed to be talked about was the Board's level of concern regarding the developer, the engineer and the ditch

owners needing to come to an agreement that they feel comfortable with that the ditches would not be ruined or the utilities crossings of the ditch. What he had heard so far was that for the most part for the ditch crossings, there seemed to be some agreement amongst most of them. The level of concern was the whole utility trench being a French Drain, which was the issue that needed to be solved. As a Commissioner, he would be concerned about those issues between the developer and landowners being resolved and all the Board would have to hear was "yes, we have resolved the issues and everyone was happy about it." He stated that it was not up to him to decide whether you should put gravel, clay or whatever, but you need to make sure that there was no injury or that the agreements had been completed.

Poncha Springs Administrator Alderton stated that Poncha Springs had an engineering company that was overseeing this construction, as well as the Town's engineering tester that was doing the testing for the construction. Therefore, there is oversight on the construction.

Dana Roberts, Poncha Springs, had a question for Larry Desmond, which was if he was a certified hydrologist.

Engineer Desmond stated that he was a professional engineer, doing hydrology work since 1975.

Denae Roberts stated that she had contacted Mike Smith who had told her that laying the pipe in gravel, the way that the ground moves all the time and everything, he thought it would be a concern that the gravel was going to rub a hole into pipe. Her well was less than 100 feet from that sewer pipe. She was just wondering if someone should come look at that. She stated that the ground water and peoples' wells could be affected by this if the sewer pipe should ever leak.

Mr. Furton stated that he felt if they were going to take land out of agricultural land develop it, then there would be nothing better to do with it than make it a golf course. He did not want the land injured. He felt if everyone sat down at the same table, the problems could be worked out. He asked that the Board please keep one eye open.

Chairman Holman stated that there had been a suggestion that a member of the Board attend these meetings.

Commissioner Glenn stated that he did not have a problem with a commissioner attending the meetings. He felt that everyone was trying to work out a solution and he appreciated that. He stated unfortunately, sitting on the Board for six years, he had seen where sometimes it just comes to a point where two parties cannot work out an agreement. He was afraid that if the Board left this venue now and just told everyone to go and work it out, he thought that everyone would

be back here within the next three months. What the County needed to do, in his mind, was to give the developer a clear direction on what it would take to address the Board's concerns and whether it was engineering of pipes or whether it was how they bed the pipe, he did not know because he was not an engineer or hydrologist, but to see a plan and then to have the Board have someone that the Board pay for to review that plan to say "this would work". He stated then if the Board was satisfied, not necessarily the ditch owner, then that would be all that the Board could ask.

Commissioner Giese stated that if the Developer came up with a plan that was already agreeable with the ditch owners, the Board would not need to review it. He did not feel that the County needed to add another layer of government, if in fact the developer, Poncha Springs and the ditch owners get into agreement on the two issues about the ditch crossings and the utility and how the mitigation would work.

Chairman Holman stated he felt that the Board needed to give this a chance to work. He encouraged Engineer Desmond to meet with the hydrologist that Mr. Roberts had engaged. He stated that rather than the Board asking for a plan at this time, if the parties could come to an agreement in the next day or two, then the Board would not need to review anything. He asked Commissioner Giese to attend the meetings today with the developer and the ditch owners.

Commissioner Giese stated that he could not attend the meetings as he was leaving town to tend to his mother who was hospitalized.

Commissioner Glenn commented that he thought the purpose of what he had proposed was not to delay but to expedite. He stated that if after these meetings, every ditch company comes in with an agreement, "halleluia", but that was not going to happen. He stated that was why he said that he thought Poncha Springs had been asking the County, "What do you want?" and the developer was asking the same thing of the County. He was just saying that here was what they were going to need to be satisfied. He stated that he was not saying that he was not 100% for letting the process work, but he had seen too many processes fall apart. If the Board did not give the Town and the developer some clear direction of what it was that the Board wanted and in the event that the process did not work, then the Board was going to be back here three weeks from now hashing the same things over. He stated that was just from his experience on working with developers who were trying to get ditch crossings agreements signed with the agricultural community. He was not saying that if the Board stated that perhaps they would like to review the plan, he was not saying that they have to have it immediately and he was not saying they had to spend money to review it, he was just saying that might be an avenue that might satisfy the County. Perhaps he would like to hear Attorney Bushong's thoughts on what his take was coming from this discussion on what may be a few points of interest that would satisfy the County's concerns.

Counsel Bushong stated that he was sitting on the edge of his chair waiting for a chance to jump in. He felt there were two things that would satisfy the County's interest. First would be agreement between the developer and the ditch owners. He thought if those agreements were accomplished, he did not think the County would need to look over anybody's shoulder. If the ditch owners and the developer could enter into an agreement that satisfied the ditch owners, he felt that was great. However, if the County could help facilitate that in any way, it should. If in fact that did not happen, the other plan would be to look at the design plans and mitigations plan and do an independent analysis on its own to be comfortable that in fact what the developer was proposing was protective of the ditch owners whether or not the ditch owners agree. He saw this as neither or a proposition. He asked if they could help facilitate in anyway for these agreements between the ditch owner and developer to get their experts together to try to work out a solution that would be great. If that did not happen then he thought to protect the County's interest, the County was going to want to take an independent review of the plans themselves to see if they were acceptable and then again they could step out of the process. If not, the County could make some constructive proposals and have it checked out on by their own.

Chairman Holman asked for any more comments. There were none.

Commissioner Glenn made a motion that the Board encourage both parties to get the ditch agreements signed and to get those issues resolved and offer the County's assistance in any type of mitigation, whether it might be through the Right to Ranch Panel or another opportunity or whatever, because we really want to get this done. The second part of the motion was to ask the Friends Ranch Development to provide the County with the plans of what it was going to look like and how they were going to address the utility trench and at which time, the County may determine that they need to have an independent engineer or hydrologist review those plans for adequacy and if either of those two things happen then he thought the County's interest in this specific part of the issue is addressed. Commissioner Giese seconded the motion, adding that he agreed that the Board must give Poncha Springs and the developer direction and to the ditch owner so that everyone understands where the Board stood on the issue.

Under discussion, Commissioner Giese commented that basically what he did not hear was that the agreements with the ditch owners over the two issues were the crossing of their ditches with utilities and that they have to mitigate a type of damage plan to the drainage or to the seepage ditches because of construction and or the utilities line.

Commissioner Glenn stated that was correct but did not want to make the County's involvement absolutely binding that there be a ditch crossing agreement with each ranching entity. Because that just might not happen and he did not want the County to be at that point in time still involved on behalf of one entity, as

he did not feel that was appropriate. What he would like to see was that they see what was being proposed in the ditch crossing agreements again so that they could have an independent engineer or hydrologist examine the adequacy of those as well. Then they might say in the minds of the County Commissioners, through their representative, that this was adequate and would protect this interest. So he would add to his motion was the ability to review the plans, ability to review the ditch crossing agreements, if they could not be consummated with the owners of the ditch.

Counsel Bushong stated if he understood correctly, what Commissioner Glenn was proposing was:

- A. The County tried to facilitate agreement with the ditch owners on the ditch crossings, mitigation plans and the like, and if those agreements were made that would be great and resolves the County's issues.
- B. If the agreements were not reached, then the County would like to see the proposals, the plans and the like, so they could do an independent review to see if their interests were protected that way.

Commissioner Glenn stated that would take care of the ditch crossings and then the plans for the entire utilities trench. He stated that those were the only two issues the Board had.

Commissioner Giese accepted the addition to Commissioner Glenn's motion.

Chairman Holman stated that the Board had a motion and a second and called for the vote. On the question, the motion carried 3 - 0.

Commissioner Glenn stated he felt that the Board should direct Counsel Bushong to clarify all of this in a letter to be sent to Poncha Springs, Friend Ranch, the ditch owners and the County.

Counsel Bushong stated that he would be glad to do that. He asked County Attorney Davis to have the individual ditch owners give her their addresses.

Chairman Holman recessed the meeting at 10:58 a.m.

Chairman Holman reconvened the meeting at 11:05 a.m.

The Board was presented a request for consider application from Lawrence W. and Kathryn V. Banning for a boundary line adjustment for mining claim parcels located within Section 15, Township 14 South, Range 78 West, 6th N.M.P.M., Chaffee County, Colorado, approximately 1.5 miles northeast of Johnson Village, also known as 28585 County Road 304, in the Recreational Zone.

County Planner Antonucci presented the staff report on the request.

Chairman Holman asked for public comments on the request. There were none.

Chairman Holman closed the public hearing at 11:10 a.m.

Commissioner Glenn made a motion to approve a boundary line adjustment for Lawrence W. and Kathryn V. Banning on mining claim parcels. Commissioner Giese seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented a request from the City of Salida for financial support for a GOCO Grant for the purchase of 34 acres from Everett Land and Cattle to be used for a trail system.

Dara McDonald, City of Salida Planner, gave an overview of the request.

Commissioner Glenn asked how they could be assured the land would be kept from future development. He asked for an agreement between the City of Salida and the County be written, stating that the land be used for only this purpose.

Chairman Holman stated that he did have a suggestion for Planner McDonald which was that she encouraged reconciliation between the City and Poncha Springs about the water line between the two cities.

Commissioner Giese asked if the Board wanted to be giving out monies at \$10,000 at a time, or did they want to save these monies for a larger project sometime in the future.

County Attorney Davis stated that along those lines, the Board had been working with Marty Zeller who put together the criteria for projects that would be valuable as a whole to the County.

Director of Finance Short stated that they had approximately \$300,000 fund balance.

Tom Purvis, 444 West 3rd Street, Salida, stated that the \$10,000 that the County gives would come back to them many times over. He stated the land stays dry almost yearlong and would be used in many ways. They would be building a trail system that would be world class.

Donna Rhodes, SPOT (Salida Parks and Open Trails) Representative, stated that this would be a great asset to the County.

Commissioner Glenn made a motion to give \$10,000 from the Conservation Trust Funds to Salida toward a grant to purchase the Everett Land and Cattle property for a trail system and open space on Tenderfoot Mountain with an agreement with the City of Salida that states what the property was going to be

used for and if it was not used for that purpose somewhere down the road, then it would be recognized that the County had some ownership of the land purchased. Commissioner Giese seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented a request from the Town of Buena Vista for a contribution for a cash match of the recently awarded GOCO Grant to fund the completion of Phase 2 of the Buena Vista River Park.

Commissioner Giese made a motion to approve \$11,500 from the Conservation Trust Funds to Buena Vista for the cash match of the recently awarded GOCO Grant to fund the completion of Phase 2 of the Buena Vista River Park. Commissioner Glenn seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented the recommendations from the Chaffee County Visitors Bureau Grant/Sponsorship Committee.

Commissioner Giese made a motion to accept the recommendations from the Chaffee County Visitors Bureau Grant Sponsorship Committee as follows:

- \$2500 Art Walk
- \$2500 FibArk
- \$2500 Trans Rockies
- \$2500 Adventure Extremes
- \$2500 Collegiate Peaks Music Festival
- \$2500 Paddle Fest
- \$1500 Triathlon
- \$1000 Salida Riverside Fine Arts Festival
- \$1000 Salida Mountain Music Series
- \$ 500 Art Works Articipation

Commissioner Glenn seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented a request for reconsideration of Geotourism Chaffee County Visitors Bureau Grant.

Commissioner Giese stated that this request was from Ms Lee Hart at a work session a few weeks ago. She had asked for reconsideration of the Geotourism Grant through Chaffee County Visitors Bureau Grant Committee. This was one of the 16 requests that had been denied by the Chaffee County Visitors Bureau. He felt that there were issues with the request for Geotourism concerning state statues, violation of an employee being given grant funds within 6 months of prior employment with the Chaffee County Visitors Bureau.

Commissioner Giese made a motion to reconsider the Geotourism Grant. Commissioner Glenn seconded the motion. On the question, the motion was denied by the vote of 0 - 3.

The Board was presented for acknowledgement the monthly report from the County Treasurer for January 2009.

Commissioner Glenn gave a summary of the County Treasurer's report for the month of January 2009.

Commissioner Glenn made a motion to acknowledge the January 2009 County Treasurer's Report. Commissioner Giese seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented for acknowledgement the monthly report from the County Clerk for January 2009.

Commissioner Glenn gave a summary of the County Clerk's report for the month of January 2009.

Commissioner Glenn made a motion to acknowledge the January 2009 County Clerk's report. Commissioner Giese seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented a request to appoint of a regular member to the Board of Adjustment.

County Development Services Director Reimer stated that the Board needed to appoint a regular member to the Board of Adjustment to fill the vacancy left by Peggy Witty. He stated that they had received only one letter of interest which was from Robert Karls, who had been an alternate on the Board of Adjustment. The Board of Adjustment recommended the appointment of Mr. Karls.

Attorney Davis presented the Board draft the resolution, filling vacancy on the Board of Adjustment.

Commissioner Giese made a motion to approve Resolution 2009-12, appointing Robert Karls to the Board of Adjustment. Commissioner Glenn seconded the motion. On the question, the motion carried 3 - 0.

The next agenda item was discussion regarding the City/County Community Services Complex project.

Director of General Administration Christiansen gave the Board an update on the following:

- ❖ Consider approval of bid for General Contracting Services for City/County Community Services Complex.

His recommendation to the Board would be to make a motion to award the bid with some type of language stating the bid was not to exceed the price quoted in the bid of \$2,140,106 and contingent on the City of Salida also approving the bid at their regular meeting on February 17, 2009.

Commissioner Glenn made a motion to accept the bid from DSI, not to exceed \$2,140,106 contingent on a signed demolition agreement for the interim term to finalist a contract, conditional on both the demolition agreement and contract that was contingent on the City of Salida also approving the bid at their regular meeting on February 17, 2009. Commissioner Giese seconded the motion. On the question, the motion carried 3 - 0.

- ❖ Consider Ennovate Performance Contract

Director of General Administration Christiansen gave an overview of the proposed performance contract from Ennovate for the HVAC and external units. He stated there would be a cost of \$4,600.20 per year for the first three years insurance of repair and of the system. Training would be provided for maintenance. If the County facilitated payment, there would be cost saving in the project. They would cover the general insurance for installation. The total cost of the contact would be \$1,086,821.

Commissioner Glenn made a motion to approve the contract not to exceed \$1,086,821 contingent on the approval of the City of Salida, allowing County Attorney Davis time to look the contract over and authorize the Chairman to sign the contract. Commissioner Giese seconded the motion. On the question, the motion carried 3 - 0.

The Board was presented the Consent Agenda for approval. The items listed were:

- ❖ Letter of engagement from George Baum and Company to act as Investment Banker or Underwriter for proposed lease purchase or certificate of participation issue of Chaffee County.
- ❖ Code of Ethics Guidelines for presentation services volunteers.
- ❖ Approve stipulation by the Board of Equalization in a Board of Assessment and Appeals case.
- ❖ Approve letter regarding three kiosks for the Collegiate Peaks Scenic Byway to be located at existing tourist centers.
- ❖ Report from the County Veterans Service Officer for the month of January 2009.
- ❖ Pay bills.

Commissioner Giese made a motion to approve the consent agenda as presented. Commissioner Glenn seconded the motion. On the question, the motion carried 3 - 0.

County Development Services Director Reimer presented the Board with the new meeting dates for the Nestle Water application. He would notify them later on the date for the Board of Commissioners special meeting. He stated that the Planning Commission would be the first week in March.

Being no further business before the Board of Commissioners, Chairman Holman closed the February 10, 2009 Board of Commissioners meeting at 12:17 p.m.

Attest:

Joyce M. Reno
Chaffee County Clerk