

**PRONGHORN RANCH COMMUNITY FACILITIES DISTRICT  
REQUEST FOR BOARD ACTION**

**Date: January 17, 2013**

**SUBJECT:** Proposed Adoption of Successor-in-Interest Standby Contribution Charge

**SUBMITTING DEPARTMENT:** Management

**PREPARED BY:** Larry Tarkowski, District Manager

**AGENDA LOCATION:** Comments/Communications , Consent , Work/Study ,  
New Business , Public Hearing , Second Reading

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**ATTACHMENTS:** Resolution No. 28 with attached a) District Map

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**SUMMARY/BACKGROUND:** On July 12, 2012, the PRCFD Board held a hearing prior to adopting a final budget for FY 2012-2013. In the course of that hearing, Board members and staff discussed with the residents in attendance the challenges facing payment of the 2002 and 2004 PRCFD Bonds. The challenges were (a) reductions in property values, (b) lack of a single owner/developer for the remaining undeveloped (but platted) lots (and related non-payment of Standby Contributions or O&M Contributions), and (c) the need in recent years to draw upon the \$700,000.00 bond deposit (in increasing amounts) to make bond debt service payments (only about \$250,000.00 remaining).

To resolve the first problem, staff had proposed increasing the tax rate to approximately \$4.80 per \$100.00 secondary assessed valuation. This was an effort to keep actual collection amounts from falling as assessed values dropped. But, staff acknowledged it wasn't sure how to address the second and third problems. Of particular concern was the fact that Pronghorn Ranch had continued to have housing starts when neither Quailwood Meadows nor StoneRidge did, and staff didn't want to take actions that might stop that. Board members and staff committed to the residents that they would try to find a solution to those problems during the coming fiscal year (and enlisted the residents' help as well).

On August 14, 2012 (in response to a query from the PRCFD Manager), the PRCFD Treasurer reported that total draws to-date from the deposit have been \$449,529.63. He also reported that O&M Contributions which have not been paid as requested (not yet including FY2012-13) total \$48,600.00. That total is \$498,129.63. With 266 lots currently platted (but not developed) that comes to \$1,872.67 per lot. The Treasurer anticipates that there will be sufficient ad valorem tax revenues to make the January 15, 2013 bond debt service payment without any need for a Standby Contribution or a draw against the deposit. Unfortunately, even with the tax rate increase back in July, the Treasurer estimates that either a Standby Contribution or a draw from the deposit of approximately \$125,000.00 will be needed to make the July 15, 2013 bond debt service payment.

Unlike Quailwood Meadows and StoneRidge, there is no single owner of undeveloped lots in Pronghorn Ranch. And, at least one of the largest Pronghorn Ranch owners has not historically been a "developer". Therefore, contrary to the solutions being pursued in Quailwood Meadows and StoneRidge (which have focused on assignments of development and bond documents to the new developers and separate arrangements with those developers), PRCFD staff has focused on concepts that would push Standby Contributions down to the level of persons actually applying for individual building permits. Feedback from potential purchasers of the undeveloped Pronghorn Ranch lots has indicated that this might be the best way to raise revenues without closing off the purchase of lots and the building of new housing units.

Therefore, Resolution No. 28 proposes that Brown Family, Western Communities, Antelope Village, and/or PV VII (or their successors-in-interest) who own currently-platted (or subsequently-platted) lots in Pronghorn Ranch for no application has yet been made for a building permit shall (upon application to the Town) pay to PRCFD a “Successor-in-Interest Standby Contribution Charge”. This Charge would be established each year as part of the PRCFD budget process, and would apply to each lot (or, in the case of multi-family housing, each dwelling unit). It would be calculated as follows:

- a. Determine total amounts drawn from the Deposits as of May 1
- b. Add total amounts of unpaid O&M Contributions as of May 1
- c. Subtract total payments of Successor-in-Interest Standby-Contribution Charges received as of May 1
- d. Subtract any Standby Contributions actually received under the Contribution Agreements after the date of this Resolution
- e. Subtract any O&M Contributions actually received under the Financing Agreements after the date of this Resolution
- f. Divide by 266 (regardless of the number of undeveloped, platted lots actually remaining at any given time)

Revenues from this Charge would be deposited into the Bond Tax Account on a quarterly basis in order to reduce the amount -

(1) the bond Trustee may request as a Standby Contribution from Brown Family, Western Communities, Antelope Village, PV VII, or any of their respective successors-in-interest,

(2) of any draw the Trustee may find necessary on the remainder of the deposit, and/or

(3) of ad valorem taxes required to be levied by the PRCFD Board on real and personal property within Pronghorn Ranch.

The application of the Charge (as calculated anew each fiscal year) would continue until all bonds had been paid in full (2029 unless extended by refinancing). The PRCFD Treasurer would be directed to balance the budget proposals each year so that a reasonable deposit amount would remain for as long as possible (but the deposit would ultimately be used up by the time bonds were paid off), and so that tax rates could be kept as low as reasonably possible (in light of revenues produced by the Charge). [Note: this proposal focuses on the need to make bond debt service payments. Therefore, non-payment of the O&M Contribution is being added to the calculation. But, no provision is being made for any part of the revenues from the Charge to be paid to the Town for O&M purposes. Of course, any O&M Contributions actually made by successors-in-interest under the applicable agreements will be passed on to the Town. However, payment of this Successor-in-Interest Standby-Contribution Charge will only reduce the need for ad valorem tax revenues to pay bonds. It will not assist with the Town’s operation and maintenance costs for the infrastructure financed by the 2002 and 2004 Bonds.]

As a legal matter, the revenues from this Charge would be placed in the bond accounts so as to reduce the need for Standby Contributions, but nothing about this proposal formally changes the requirement for Brown Family, Western Communities, Antelope Village, PV VII (or any of their successors-in-interest) to either make Standby Contributions or O&M Contributions (or to complete other performances under the bond documents). Therefore, this proposal would not require approval by the bond Trustee (Wells Fargo) or by the bondholders. And, nothing about this proposal removes the obligation of PRCFD to apply ad valorem tax rates during the budget process (in light of all other revenues available) to make sure bond debt service payments are made every six months.

Finally, although this is a PRCFD Charge, PRCFD has an IGA with the Town for the Town to carry out all administrative, financial and legal activities of PRCFD. Therefore, the Town will be applying the Charge as a pre-requisite of issuing a Town building permit, but it will not be a Town Charge. To the extent the Town faces any liability for cooperating and coordinating with PRCFD in this regard, PRCFD is agreeing to indemnify the Town (to the extent legally permitted).

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**OPTIONS ANALYSIS:** N/A

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**ACTION OPTION:** N/A

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**RECOMMENDATION:** N/A

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**FISCAL ANALYSIS:** The proposed Charge is intended to decrease the need for another draw on the deposit (which would otherwise be expected to occur for the July 15, 2013 (and subsequent) bond debt service payments). Without the proposed Charge (\$1,872.67 in FY 2012-2013 and subject to modification as part of later budget processes), it is believed the current deposit may be close to depletion after the bond debt service payment due July 15, 2014 (despite likely increases in the tax rate during the budget process in FY 2013-2014 and FY 2014-2015).

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**REVIEWED BY:**

District Treasurer \_\_\_\_\_

District Clerk \_\_\_\_\_

District Counsel \_\_\_\_\_

District Manager \_\_\_\_\_

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**BOARD ACTION:**

Approved  Denied  Tabled/Deferred  Assigned to \_\_\_\_\_