



MEMORANDUM

Date: October 22, 2013

To: The Honorable Ally Miller, Member
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Alleged Extortion in Development Services Permitting**

On October 9, 2013, you posted the following comments on your Facebook page (copy attached):

"Tonight we talked about the fact I have been hearing alot of complaints over the past few years from developers and real estate folks who allege they are being required to hire certain "consultants" for high fees to get their development plans approved in Pima County. If I heard it once, twice or maybe even 10 times I wouldn't think much of it....but folks I am hearing this from everyone and the roar is getting louder...I will tell you these so called lobbyists and "consultants" are now being closely watched.....If this is happening to YOU-I need to hear about it and pass on the information. Several people are coming forward and it is time to investigate to determine if these allegations have merit."

You also voiced many of these same complaints in your October 9 "Miller Time" radio interview with James T. Harris, with Mr. Harris making reference to extortion.

These are criminal allegations; and I urge you, if you have any evidence of such, to take your complaints with specifics to the Pima County Attorney.

As you know, the County Attorney is a separately elected official in Pima County and is not subject to the authority of either County Administration or the Board of Supervisors. My past experience with the County Attorney is that the Office exercises excellent, independent prosecutorial discretion, and I am sure they would do so in the future. Therefore, if you have any evidence of extortion or requiring "pay to play" relative to development activities in Pima County, you should take your specific complaints to the County Attorney.

In the area of land development, there is a natural tension between land developers and owners and regulating jurisdictions. Such is normal and appropriate. Notwithstanding, Development Services and the other County departments involved in the development approval process have worked closely with development stakeholders to streamline processes to the point where roughly 80 percent of all building permits are approved within five business days. This target has also been extended to other types of development approvals for both commercial and residential projects. Pima County has adopted a number of

The Honorable Supervisor Ally Miller
Re: Alleged Extortion in Development Services Permitting
October 22, 2013
Page 2

ordinances that guide County staff in their interaction with private landowners and developers regarding land use changes, as well as development of private property within Pima County. All of the fees, obligations and code requirements are clearly defined in the County Code and have been adopted by the Board of Supervisors in ordinances. These cannot be changed without direction from and a majority vote of the Board in a public hearing.

To assist you in understanding County Code and State law requirements and obligations for professional engineers and qualified consultants, attached is a summary of various references and requirements for those who provide detailed studies, analyses and/or reports to the County for review and approval for development-related projects. In many cases, these professional registrations and licensing are required by State law due to the public safety and liability involved.

I have also attached information compiled by the Development Services Department listing engineering and planning firms who have been retained to provide planning, design, engineering and related services to particular developments. The firms listed provided professional services for private development projects in the fiscal years listed and were the applicants for specific commercial development plans, development concept permits, paving and grading improvement plans or site construction permits. Please feel free to contact any of these firms to inquire as to whether the County required their particular firm to be employed to provide the services necessary to achieve or receive land use approvals from the County.

Your claims, staff believes, are unfounded and based on bad information, most likely from disgruntled developers unhappy with the enforcement of County Codes adopted by the Board of Supervisors. To imply criminal activity on the part of County employees in your allegations is unfair, unfounded and irresponsible. County employees enforce the rules, codes and requirements adopted by the Board of Supervisors and do not engage in unfair practices or procedures.

Again, if you have evidence of such, please present it to the independent County Attorney for evaluation and prosecution.

CHH/mjk

Attachments

c: The Honorable Chairman and Members, Pima County Board of Supervisors
The Honorable Barbara LaWall, Pima County Attorney
John Bernal, Deputy County Administrator for Public Works
Nanette Slusser, Assistant County Administrator for Public Works Policy
Carmine DeBonis, Jr., Director, Development Services

f Supervisor Ally Miller, Pima County District 1

 **Supervisor Ally Miller, Pim..** Timeline Recent

 contact the AG's office and express your outrage.
Like · Reply · October 11 at 7:52am

 **John White** Tucson looking just like Detroit !
Like · Reply · October 11 at 8:08am

 **Supervisor Ally Miller, Pima County District 1**
October 9

Tonight we talked about the fact I have been hearing alot of complaints over the past few years from developers and real estate folks who allege they are being required to hire certain "consultants" for high fees to get their development plans approved in Pima County. If I heard it once, twice or maybe even 10 times I wouldn't think much of it....but folks I am hearing this from everyone and the roar is getting louder...I will tell you these so called lobbyists and "consultants" are now being closely watched.....If this is happening to YOU-I need to hear about it and pass on the information. Several people are coming forward and it is time to investigate to determine if these allegations have merit.

Zoning Code – Grading Standards

18.81.020 Applicability and exemptions.

- A. Scope:
1. All development projects shall require a Type 1 or Type 2 grading permit, except as exempted in subsection D of this section. In general, small private grading operations do not require a grading permit; major grading for custom home development requires a Type 1 permit, and general grading for larger development projects requires a Type 2 permit.
- C. Type 2 (grading plan) permit applicability: A Type 2 grading permit is required for:
1. Residential development which requires a subdivision plat or development plan.
 2. Nonresidential development which requires a subdivision plat or development plan.
 3. Stockpiling of more than fifty thousand cubic yards of material.

18.81.060 Submittals and procedures: Type 2 (grading plan).

- A. Scope: A Type 2 application for a grading permit requires a completed grading permit application, grading plan, grading statement and soils report. Where applicable and not otherwise submitted, drainage improvement plans shall be required also.
- D. Soils report:
1. The report shall contain all geotechnical engineering information and recommendations applicable to the project, in accordance with the Grading Design Manual, and shall be sealed by the soils engineer prior to submittal.
 2. The civil engineer or qualified registrant responsible for preparing the grading plan shall incorporate all report recommendations into the plan and statement.
 3. Approved report recommendations shall become conditions of the grading permit.
 4. The civil engineer or soils engineer of the developer shall be required to provide written certification to the building official that the foundation sub-base requirements have been met.
- E. Documents preparation:
1. Documents shall be prepared in accordance with the Grading Design Manual.
 2. Information shall conform with rezoning conditions (when applicable) and shall be consistent with the rezoning site analysis (refer to Section 18.91.030F, Rezoning Procedures) and other applicable regulations.
 3. Grading plan preparation: The plan shall be prepared by, or under the direction of, a civil engineer or qualified registrant (who may consult with, or submit information in conjunction with, a landscape architect or other qualified person with expert knowledge of the subject).

International Building Code and Related Technical Board of Registration

Professional Registration is required for building projects as follows:

As required by the International Building Code (IBC):

- Not required when code allowable empirical (prescriptive) methodologies are utilized (IBC 107.1)
- Required when any non-empirical (engineered designed) methodologies are utilized (IBC 107.1)
- Required for the validation of any field conditions defined by Chapter 17 of the IBC (Special Inspections and Tests)

As required by the AZ Board of Technical Registration (see attached SOP for guidance)

Nonregistrant allowable work per Statutes and BTR Rules:

- A nonregistrant who designs, alters or adds to a detached single family dwelling. [A.R.S §32-144(3)]
- A nonregistrant who designs a one or two story building or structure in which the square footage of the floor area measured to the outside surface of the exterior walls does not exceed three thousand square feet, that is not intended for occupancy by more than twenty persons on a continuous basis and in which the maximum span of any structural member does not exceed twenty feet unless a greater span is achieved by the use of wood or steel roof or floor trusses or lintels approved by an engineer registered by the board. [A.R.S §32-144(4)]
- A nonregistrant who designs a water or wastewater treatment plant, or extensions, additions, modifications or revisions, or extensions to water distribution or collection systems, if the total cost of such construction does not exceed twelve thousand five hundred dollars. [A.R.S §32-144(6)]

Electrical registrant required for the following (BTR R4-30-302):

- A registrant shall prepare and submit drawings and specifications for a new electrical system or an addition or modification to an existing electrical system provided the service and associated electrical feeders exceeds 600 amperes 120/240 volts, single phase or 225 amperes 120/208 volts, three phase and the fault current exceeds 10,000 amperes.
- Electrical installations in hospitals or other buildings with surgical operating rooms regulated by Article 517 of the National Electrical code (1990 edition) incorporated herein by reference and on file with the Office of the Secretary of State.
- Electrical installations in locations classified as hazardous in Article 500 of the National Electrical Code (1990 edition) incorporated herein by reference and on file with the Office of the Secretary of State.
- Electrical installations in locations classified as hazardous in Article 500 of the National Electrical Code (1990 edition) with the exception of gasoline dispensing or repair garages.
- A registrant shall design an alarm or signaling system that is required for life safety or code compliance.

DOT Subdivision and Development Street Standards

3.1.2.1. Determining the need for a TIS

A TIS prepared by a registered Professional Engineer is required for any subdivision or commercial development which generates 100 or more gross trips during the morning or afternoon peak hour of the generator. Table 3.2 shows the thresholds that would trigger the need for a TIS for some of the most common uses. For uses not included in the table, the number of trips generated shall be calculated using the latest edition of Trip Generation4, from the Institute of Transportation Engineers.

RFCD Floodplain Ordinances

The reference below is used for every Commercial Development and Subdivision project, and occasionally for single lot development:

16.16.050 Undelineated areas—Landowner responsibility.

In those areas where the regulatory floodplain and erosion hazard areas are not delineated pursuant to Sections 16.16.020 and 16.16.030 of this chapter, and upon request for a county permit, the property owner is responsible for:

C. The chief engineer may require the land owner to establish the regulatory floodplain and floodway limits through a hydrologic and hydraulic study prepared and sealed by an Arizona registered civil engineer.

This reference is used when applicant cannot or does not desire to use the prescriptive standards encouraging site planning which considers the flood hazards:

16.20.020 Permit—Information requirements.

Where special circumstances necessitate more detailed information, the applicant shall furnish any or all of the following, as is deemed necessary by the chief engineer, for the evaluation of the effects of the proposed use upon flood flows, riparian habitat, erosion, and other factors necessary in order to render a decision on the suitability of the proposed use:

5. An engineering study prepared by an Arizona registered civil engineer outlining the effects the development will have on the flow of water through the area being developed and the surrounding areas. This study will be for the purpose of evaluating possible flood hazards and shall, where necessary, include consideration of the effects of the development on flood heights, water velocities, direction of flow, sedimentation and/or erosion, volume of flows, channel shape and size, type of channel banks and other items that may be pertinent, and the resultant effects on structures, land, banks, etc., for the adjacent regulatory floodplain and the surrounding area;

Whenever an engineer is involved in the design of flood protection, this reference is used:

16.20.040 Permit—Specific conditions authorized.

B. Examples of conditions that may be imposed include, but are not limited to, the following:

6. The submittal of "as-built" plans, prepared by an Arizona registered civil engineer, that demonstrate that improvements were constructed in conformance with this title;

In order to establish an erosion hazard setback or provide an alternative safe setback (applies to any watercourse with discharge over 100 cfs, only major watercourse is shown as example):

16.28.020 Setbacks near major watercourses.

For major watercourses with base flood peak discharges of two thousand cfs or greater, the following building setbacks shall be required where approved bank protection is not provided:

A. Along the following major natural watercourses, where no unusual conditions exist, a minimum (default) building setback shall be provided at the time of the development, unless an alternative setback is determined by an engineering analysis, prepared by an Arizona registered civil engineer, based on ADWR standards or other applicable engineering methods, which establishes acceptable safe limits for the development and is approved by the chief engineer

Again, the approach the District uses is to avoid the time and expense of retaining an civil engineer if an applicant can and/or is willing to meet certain prescriptive requirements, these criteria are established in Technical Policies, approved for use by the Chief Engineer. These can be found here: <http://rfcd.pima.gov/rules/index.cfm#techpolicies>

Technical Policies 3, 6, and 14 are good examples of how, with good site planning a permit can be approved and conditions provided without an engineer.

Pima County Wastewater Requirements

Pima County Code

13.20.030 Construction or modification of public sanitary sewerage facilities.

Acceptance by the department, or its delegated representative, that the plans and specifications for the proposed construction or installation, signed by a licensed professional engineer, are in compliance with department standards and specifications as well as the general and specific department conditions for the project;

ADEQ – Sewer Plans

R18-9-E301. 4.01 General Permit: Sewage Collection Systems

7. Design documents, including plans, specifications, drawings, reports, and calculations that are signed, dated, and sealed by an Arizona-registered professional engineer. The designer shall use good engineering judgment by following engineering standards of practice, and rely on appropriate engineering methods, calculations, and guidance.

Frequency of Applicants for Development Plans/Development Concept Permits and Paving & Grading Improvement/Site Construction Permits by Fiscal Year

Applicant Name	FY09/10	FY10/11	FY11/12	FY12/13	Total Projects	Rank by Volume Frequency
JEFF STANLEY ENGINEERING	7	9	13	5	34	1
THE WLB GROUP	2	5	15	5	27	2
BAKER & ASSOCIATES	2	9	8	5	24	3
RICK ENGINEERING	7	10	4		21	4
CYPRESS CIVIL DEVELOPMENT		3	9	8	20	5
DOWL HKM	3	6	4	5	18	6
GREG CARLSON ENGINEERING	3	8	2		13	7
ORACLE ENGINEERING	1	3	6	2	12	8
EEC	5	4		2	11	9
A23 STUDIOS	3		5	2	10	10
STAR CONSULTING	1	4	1	3	9	11
GREINER ENGINEERING	3		4		7	12T
BRUCE CALL		2	3	2	7	12T
PRESIDIO ENGINEERING		1	2	2	5	14
ACORN ASSOCIATES		1	3		4	15
PSOMAS	1	1	1		3	16T
DESIGN RESULTS, LLC			1	2	3	16T
LEADSTAR ENGINEERING	3				3	16T
MJM CONSULTING			3		3	16T
RMJR ENGINEERING & DEVELOPMENT COMPANY, LLC	1	1	1		3	16T
STICKLEY DESIGN GROUP ARCHITECTS	1		2		3	16T
APEX DEVELOPMENT CONSULTANTS, PC				3	3	16T
CORONADO ENGINEERING	1			1	2	22T
STANTEC CONSULTING				2	2	22T
JOHN A EVANS & ASSOCIATES	1	1			2	22T
WOOD PATEL & ASSOCIATES, INC	1		1		2	22T
THE LYLE COMPANY	2				2	22T
DAVID E SHAMBACH, ARCHITECTS, INC		1	1		2	22T
EPS GROUP		1	1		2	22T
MANUEL ROJO, ARCHITECT				2	2	22T
MORRISON MAIERLE, INC		2			2	22T
AMERICAN PACIFIC ENGINEERING	2				2	22T
CARHUFF & CUEVA ARCHITECTS				2	2	22T
CDG ARCHITECTS		2			2	22T
CIVIL DESIGN & ENGINEERING, INC			2		2	22T
FIRST SOLAR ELECTRIC, LLC			2		2	22T
FSP SOLAR ONE LLC			2		2	22T
OPTIMUS CIVIL DESIGN GROUP			1	1	2	22T

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Applicant Name	FY09/10	FY10/11	FY11/12	FY12/13	Total Projects	Rank by Volume Frequency
RBF CONSULTING		1	1		2	22T
RECURRENT ENERGY		2			2	22T
ROBERT PAGE, ARCHITECT			2		2	22T
SLATER HANIFAN GROUP, INC			2		2	22T
PHYSICAL RESOURCE ENGINEERING	1				1	42T
T & T ENGINEERING	1				1	42T
SOUTHWESTERN CONSULTING ENGINEERS				1	1	42T
LITTLEJOHN ENGINEERING				1	1	42T
WESTLAND RESOURCES				1	1	42T
OPW ENGINEERING	1				1	42T
THE ARCHITECTURE COMPANY		1			1	42T
ARCHITECTURAL DESIGN GROUP		1			1	42T
CRAIG A. HUNT, P.E.	1				1	42T
KIMLEY-HORN & ASSOCIATES		1			1	42T
A C TSANG ENGINEERING	1				1	42T
INA BUSINESS CENTER, LLC	1				1	42T
BRECKENRIDGE GROUP		1			1	42T
CATHERINE A. REX, ARCHITECT		1			1	42T
ESQUEMA ARCHITECTURE			1		1	42T
GDA SOUTHWEST, LLC	1				1	42T
R S ENGINEERING		1			1	42T
RON STAUB ASSOCIATES, LLC			1		1	42T
SWAIM ASSOCIATES LTD		1			1	42T
THE FINN ASSOCIATES		1			1	42T
ADVENTURE DOG RANCH		1			1	42T
ARROYO ENGINEERING				1	1	42T
BECHTEL COMMUNICATIONS	1				1	42T
BRIGHT, RICK LANE	1				1	42T
CADMAN DESIGN	1				1	42T
CARHUFF, PHILIP ANDREW	1				1	42T
CASTLES DESIGN GROUP				1	1	42T
CATALINA COUNCIL, BSA			1		1	42T
CH2M HILL ENGINEERS		1			1	42T
CHIAPPONE, EDWARD H.	1				1	42T
COOK DAVID	1				1	42T
DOC JUSTIN ENTERPRISES, INC				1	1	42T
ETW GROUP INC		1			1	42T
FM GROUP INC	1				1	42T

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Applicant Name	FY09/10	FY10/11	FY11/12	FY12/13	Total Projects	Rank by Volume Frequency
GEORGE FELTOVIC CIVIL ENGINEERING	1				1	42T
GRANITE CONSTRUCTION		1			1	42T
HENRY S FEDERICO				1	1	42T
HP COMMUNICATIONS	1				1	42T
JAMES L CUNNINGHAM, P.E.	1				1	42T
JIM PORTNER				1	1	42T
JOHN ELDO BROWN ARCHITECT/PLANNER, INC.	1				1	42T
JONAS BENSON	1				1	42T
KBP ARCHITECTURE, LLC		1			1	42T
LARRY WILSON ARCHITECTURE	1				1	42T
LAWRENCE WILSON ARCHITECT	1				1	42T
LITTLETOWN ENGINEERING				1	1	42T
NRG AVRA VALLEY SOLAR			1		1	42T
PATHANGAY ARCHITECTS		1			1	42T
PETRICK KEVIN BLAKE	1				1	42T
RANCHO MARIA VINEYARD		1			1	42T
RBC-2 PROJECT DEVELOPMENT		1			1	42T
REA LAND & CONSULTING	1				1	42T
REFINED DESIGN H	1				1	42T
RGM ENGINEERING CONSULTANTS, INC	1				1	42T
ROBERT D WOODDELL			1		1	42T
ROBINS BODIE	1				1	42T
SCOTT GEYER				1	1	42T
SDG ARCHITECTURE LLC	1				1	42T
STUBBS & SCHUBART	1				1	42T
THOMAS MCGREW			1		1	42T
UTOPIA DESIGN STUDIOS				1	1	42T
VICTOR GARCIA				1	1	42T
WAYNE L. CLARK III		1			1	42T
WEBER TARA	1				1	42T
WESTERLAND SERVICES LLC	1				1	42T
WILBERT GROVE				1	1	42T