

## MINUTES, FLOOD CONTROL DISTRICT BOARD

OCTOBER 14, 2008

The Pima County Flood Control District Board met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 W. Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, October 14, 2008. Upon roll call, those present and absent were as follows:

|              |                                    |
|--------------|------------------------------------|
| All Present: | Richard Elías, Chairman            |
|              | Ramón Valadez, Vice Chairman       |
|              | Sharon Bronson, Member             |
|              | Ray Carroll, Member (arrived 9:10) |
|              | Ann Day, Member                    |
|              | Lori Godoshian, Clerk              |

### 1. EXECUTIVE SESSION

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:15 a.m.

### 2. RECONVENE

The meeting reconvened at 9:35 a.m. All members were present.

### 3. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3), for legal advice regarding the appeal by Jeff and Allyson Miller of the Chief Engineer's decision regarding the Floodplain Use Permit No. 07-051RP for property located at 9987 N. Camino de Oeste.

This was an informational item only.

### 4. APPEAL OF CHIEF ENGINEER'S DECISION

The Board, on RM 9/16/08, continued this item.

Pursuant to Pima County Code, Section 16.56.050, Jeff and Allyson Miller appeal the decision of the Chief Engineer regarding the Floodplain Use Permit No. 07-051RP for property located at 9987 N. Camino de Oeste. (District 1)

Suzanne Shields, Regional Flood Control District Director, stated the third party appeal was of the Riparian Habitat Mitigation Plan (RHMP) for Kitty Wayne's property. The Millers appealed for Native Plant Preservation Ordinance (NPPO) enforcement and challenged the District's interpretation of RHMP guidelines. The 2007 Plan became invalid. The 2008 Plan was revoked. As of last week, Flood Control received some new drawings but no application. The RHMP must still be reviewed and addressed. It was unknown what other changes, storage areas and buildings might exist or occur or where.

Chairman Elías asked Ms. Shields why replacing 1 acre with 1 acre (1 to 1) was not required. She replied that plant type and density were considered, as 1 to 1 was uncommon, sometimes unfeasible. Criteria were how many trees and shrubs, the acre's habitat value and that value's replacement. Supervisor Bronson stated guidelines clearly required 1 to 1 and asked about legality. Ms. Shields stated the guidelines were administrative guidelines and not legally binding. Supervisor Day asked her to explain what legally binding rules were used. She replied that the property was already disturbed. Chuck Huckelberry, County Administrator, stated that once the property was cleared, it meant making the best of the situation. Chairman Elías stated the property continued to be disturbed even after the owner was told to stop. The owner was continually non-responsive.

Paul Loucks, attorney for the appellants, stated a new RHMP was submitted only last week. The Millers challenged the revoked Plan due to fear that approval would recur. The original 2003 construction had a recognized NPPO set-aside of the western half, 1.3 acres. She graded the whole area and left no vegetation. Flood Control did not enforce the set-aside. The Board-adopted mitigation guidelines included number of plants and area site and size. Flood Control contended total vegetative volume was the only metric considered for approval. Guidelines clearly specified 1 to 1 and carried the Board's authority and force of law. The revoked and new plans referred to a 300% vegetation increase. Its spacing was an issue. Maintenance was required for only five years. He verified for Supervisor Bronson the guidelines required contiguity with off-site habitats. The on-site must be in one continuous stream. Neither existed. No horses should be on the mitigation area. The Code itself stated the Code and guidelines applied to all RHMPs. The one legal alternative was if the site could not be preserved or restored, then the owner paid money to the bank that Pima County had established to restore other areas. Supervisor Carroll asked if the Millers supported doing so. Mr. Loucks stated not currently, first it must be shown there was no reasonable alternative. He requested Flood Control implement the guidelines.

The Chairman inquired whether anyone wished to be heard.

The following speakers addressed the Board:

1. Jeff Miller, appellant
2. Larry Schubart, representative of Kitty Wayne

Comments included the following:

- A. Aerial maps from 2005 and 2008 (one week after Flood Control's inspection) demonstrated the drastic negative change to the property.
- B. Buildings, corrals and an arena were added plus extensive grading across the site. Permanently destroyed was 70% of the regulated riparian habitat.
- C. The issue was tied to the Sonoran Desert Conservation Plan. The Board was asked to reaffirm support by directing Flood Control to enforce 1 to 1 mitigation to avoid destruction of the area and wildlife with additional negative results.
- D. The total mitigation area was 2.07 acres.
- E. A promise was made that buildings will be consistent with Board of Adjustment decisions.
- F. Ms. Wayne was unaware of the existing NPPO and committed to cooperation.

Supervisor Day asked Mr. Schubart why grading continued after orders to cease. He denied Ms. Wayne did so. She also received contradictory instructions. Chairman Elías noted that many people successfully completed the mitigation process.

The Board agreed a decision would be more appropriate after the appeal. Supervisor Day asked the departments to coordinate together the mitigation's completion.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to continue indefinitely and leave the hearing open.

5. **ADJOURNMENT**

The meeting was adjourned at 10:35 a.m.

## MINUTES, LIBRARY DISTRICT BOARD

OCTOBER 14, 2008

The Pima County Library District Board met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 W. Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, October 14, 2008. Upon roll call, those present and absent were as follows:

|              |                                    |
|--------------|------------------------------------|
| All Present: | Richard Elías, Chairman            |
|              | Ramón Valadez, Vice Chairman       |
|              | Sharon Bronson, Member             |
|              | Ray Carroll, Member (arrived 9:10) |
|              | Ann Day, Member                    |
|              | Lori Godoshian, Clerk              |

### 1. **WARRANTY DEED**

Warranty Deed from Pima County to the **Pima County Library District**, to convey Tax Parcel Nos. 226-27-0200 and 226-27-019J for the Continental Ranch Library. (District 3)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the warranty deed.

### 2. **ADJOURNMENT**

The meeting was adjourned at 10:35 a.m.

## MINUTES, BOARD OF SUPERVISORS' MEETING

OCTOBER 14, 2008

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 W. Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, October 14, 2008. Upon Roll Call, those present and absent were as follows:

All Present:       Richard Elías, Chairman  
                          Ramón Valadez, Vice Chairman  
                          Sharon Bronson, Member  
                          Ray Carroll, Member  
                          Ann Day, Member  
                          Lori Godoshian, Clerk

1.     **INVOCATION**

The invocation was given by Father Anthony Mosconas of Ft. Huachuca and Davis-Monthan Air Force Base.

2.     **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

3.     **PAUSE 4 PAWS**

The Pima County Animal Care Center showcased an animal available for adoption.

4.     **PRESENTATION/PROCLAMATION**

Presentation of a proclamation to Rafael M. Vega and Verónica Soto, Co-chairs of the Tucson Committee proclaiming October 15, 2008, to be:

“National Latino AIDS Awareness Day”

Supervisor Valadez made the presentation to Mr. Vega and Ms. Soto. Mr. Vega expressed their appreciation and invited everyone to attend the October 15 event.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the presentation/proclamation.

5.     **CONSENT CALENDAR:** For consideration and approval

The Chairman inquired whether anyone wished to be heard on any item listed for action on the Consent Calendar. On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the Consent Calendar, subject to the following:

PULLED FOR SEPARATE ACTION

1. **CONTRACTS AND AWARDS**

D. **Procurement**

**Award**

13. Highest Scoring Proposals: Award of Contracts, Requisition No. 0803206, in the combined total amount of \$1,575,000.00 to the highest ranked/ most qualified respondents, for as-needed refuse and recycling collection management services for Pima County facilities as follows: Friedman Recycling (Headquarters: Phoenix, AZ) for recycling collection in the amount of \$180,000.00 and City of Tucson Environmental Services (Headquarters: Tucson, AZ) for refuse collection in the amount of \$1,395,000.00. Contracts will be for a three year period, with the option to renew for two one-year periods. The award includes the authority for the Procurement Department to reallocate the award amounts between the two contracts considering actual usage and anticipated requirements without further action by the Board of Supervisors provided that the revised sum of the two contracts does not exceed the original combined total award amount. Funding Source: General Fund. Administering Department: Facilities Management.

Without objection, this item was removed from the agenda.

**CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

1. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. Ajo Ambulance, Inc., to provide for the completion of a new ambulance building, CDBG Grant Fund, contract amount \$48,750.39 (32-70-A-141387-1008)

B. **Office of Court Appointed Counsel**

**Awards**

2. Award of Contracts, for representation of indigent persons in guardianship proceedings under A.R.S. Title 14, Chapter 5. The contracts will be for a three-year period for the amounts listed below. Total contract amount is \$55,000.00. Funding Source: General Fund.

| No.     | Attorney           | Amount      |
|---------|--------------------|-------------|
| 0900873 | Jeremy V. Wisot    | \$ 5,000.00 |
| 0900877 | James P. F. Egbert | \$50,000.00 |

3. Award of Contract, Requisition No. 0900878, in the total amount of \$180,000.00 to Corey Kline (Headquarters: Tucson, AZ) for paralegal services. This contract is for a three-year period and provides for one renewal for an additional three-year period. Funding Source: General Fund.

**C. Pima Health System**

4. Arizona Health Care Cost Containment System (AHCCCS), Amendment No. 8, to provide long term care services and amend contractual language, PHCS Enterprise Fund, contract amount revenue based on services (18-15-A-138594-1006)
5. Specialist in Dermatology, P.L.L.C., Amendment No. 1, to provide dermatology services, extend contract term to 9/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$150,000.00 (18-15-S-138809-1006)
6. La Paloma Home for the Aging, L.L.C., d.b.a. La Paloma Home for the Aging, Amendment No. 2, to provide assisted living home services and amend contractual language, no cost (07-15-L-140212-0907)
7. Catalina Village Assisted Living, L.P., Amendment No. 2, to provide assisted living center services, extend contract term to 9/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,300,000.00 (18-15-C-140510-1007)
8. Devon Gables Health Care Center, Inc., Amendment No. 1, to provide assisted living center services, extend contract term to 9/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$250,000.00 (18-15-D-140511-1007)
9. The Oasis Assisted Living Center, L.L.C., d.b.a. The Oasis at El Corral Assisted Living Center, Amendment No. 1, to provide assisted living center services, extend contract term to 9/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$350,000.00 (18-15-O-140515-1007)
10. Villa Maria Care Center, L.L.C., Amendment No. 1, to provide assisted living center services, extend contract term to 9/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$400,000.00 (18-15-V-140516-1007)

**D. Procurement**

11. HDR Engineering, Inc., Amendment No. 4, to provide project management and roadway design engineering services for the La Canada: River Road to Ina Road Project and amend contractual language, RTA Fund, contract amount \$51,777.00 (16-04-H-139002-1106) Transportation
12. HDR Engineering, Inc., Amendment No. 4, to provide project management and roadway design engineering services for the La Canada Drive: Ina Road to Calle Concordia Project and amend contractual language, RTA Fund, contract amount \$137,912.00 (16-04-H-139265-0207) Transportation

## **Awards**

13. Requisition No. 0803131 (PULLED FOR SEPARATE ACTION)
14. Highest Scoring Proposals: Award of Contracts, Requisition No. 0803206, in the combined total amount of \$1,575,000.00 to the highest ranked/ most qualified respondents, for as-needed refuse and recycling collection management services for Pima County facilities as follows: Friedman Recycling (Headquarters: Phoenix, AZ) for recycling collection in the amount of \$180,000.00 and City of Tucson Environmental Services (Headquarters: Tucson, AZ) for refuse collection in the amount of \$1,395,000.00. Contracts will be for a three year period, with the option to renew for two one-year periods. The award includes the authority for the Procurement Department to reallocate the award amounts between the two contracts considering actual usage and anticipated requirements without further action by the Board of Supervisors provided that the revised sum of the two contracts does not exceed the original combined total award amount. Funding Source: General Fund. Administering Department: Facilities Management.

### **E. Real Property**

15. Long Realty Company, to provide a six-month exclusive right to sell agreement for surplus property located at 7100 W. El Camino del Cerro, a portion of Tax Parcel No. 214-38-001A, (07-05-L-141361-1008) Natural Resources, Parks and Recreation

### **F. Sheriff**

16. Phoenix Police Department, Amendment No. 3, to provide for participation in the Arizona Southwest Border Alliance, H.I.D.T.A. XV Grant Fund, contract amount \$320.43 (01-11-P-136431-1004)

### **G. Transportation**

17. RESOLUTION NO. 2008-270, approving an Intergovernmental Agreement with the Arizona Department of Transportation, to provide a break in access control and encroachment permit for a roadway project at the westside I-19 and Canoa Ranch Interchange and clarify long term maintenance responsibilities, no cost (01-04-A-140992-1008)

## **2. SPECIAL EVENT LIQUOR LICENSES APPROVED PURSUANT TO RESOLUTION NO. 2002-273**

- A. Erika Grasse, TMC Foundation, La Encantada, 2905 E. Skyline, Tucson, October 11, 2008.
- B. Jill Rodriguez, El Rio Foundation, La Paloma Resort, 3800 E. Sunrise, Tucson, October 29, 2008.

- C. James Andrew Mack, Community Performing Arts Center Foundation, 1250 W. Continental Rd., Green Valley, November 1, 2008.
- D. Louis N. Buckelew, VFW Post 10254 Ladies Auxiliary, Buckelew Farms, 17000 W. Ajo Way, Tucson, October 23, 2008.
- E. Louis N. Buckelew, VFW Post 10254 Ladies Auxiliary, Buckelew Farms, 17000 W. Ajo Way, Tucson, October 31, 2008.
- F. Sylvia D. Bracamonte, Big Brothers Big Sisters of Tucson, Beaudry RV Resort, 3200 E. Irvington Rd., Tucson, October 11 and 12, 2008.

**3. REAL PROPERTY**

**A. Partial Release of Bill of Sale and Right-of-Way Agreement for Sewer Facilities**

Partial Release of Bill of Sale and Right-of-Way Agreement for sewer facilities to the DeConcini Family Trust for a portion of a sewer easement in Tax Parcel No. 119-01-065B, recorded in Docket 3460 at Page 299. No cost. (District 2)

**B. Warranty Deed**

Warranty Deed from **Pima County** to the Pima County Library District to convey Tax Parcel Nos. 226-27-0200 and 226-27-019J for the Continental Ranch Library. (District 3)

**REGULAR AGENDA/ADDENDUM ITEMS**

**6. COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION**

RESOLUTION NO. 2008-271, authorizing Pima County to support Planned Parenthood Arizona's application for a grant from the 12% local revenue-sharing contribution of the Pascua Yaqui Tribe in the amount of \$30,000.00 to administer the Generation S.E.E. (Sexuality Education for Everyone) Program, an abstinence-based, community-based, medically accurate sexuality education curriculum for students ages nine to eighteen.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-271.

**7. DEVELOPMENT SERVICES: APPEAL OF HEARING ADMINISTRATOR'S DECISION**

The Board, on RM 9/9/08, continued this item.

P21-08-026, PC ROW – 1301 E. ORANGE GROVE RD.

In accordance with Pima County Zoning Code Section 18.97.030F(6), Ernest and Marsha Cohen appeal the decision of the Hearing Administrator in Case No. P21-08-026, to allow a Type I Conditional Use Permit for an antenna co-location and equipment area in the right-of-way at 1301 E. Orange Grove Rd. in the CR-1 zone. Chapter 18.97, in accordance with Sections 18.07.030H(2)d.4 of the Pima County Zoning Code, allows an antenna co-location and equipment area as a Type I

Conditional Use in the CR-1 zone. The Hearing Administrator recommends APPROVAL. (District 1)

**Standard Conditions**

1. The antennas are flush-mounted (i.e., within 18" of the pole).
2. It does not increase the height of the existing pole by more than sixteen feet.
3. The installation includes a new or expanded equipment area.

**Special Conditions**

1. No increase in the height or size of the existing pole is allowed.
2. The antenna panels and associated support arms shall be painted to, as best as possible, match the color of the existing pole on which they are mounted.
3. Any exterior cabling required to service the antennae will be placed within a cable tray so as to conceal it, and the tray will be painted to match the antennae.
4. The on-the-ground equipment cabinet will also be painted to match the antennae.

**Additional Conditions**

5. The applicant agreed that to the extent feasible, without regard to costs, the applicant would use the procedure of boring rather than the procedure of trenching in the applicable wash. This procedure would involve avoidance of damage to the wash and to the native vegetation.
6. The applicant agreed that wherever its work came in contact with native vegetation, it would "take every effort to avoid damaging" such vegetation and in the event that any damage were to occur despite such care, it would replace such vegetation.
7. The applicant agreed that if at any time in the future there were to be grounding of poles in the community, the applicant would bear all costs of grounding its equipment and would not oppose any efforts by the community to seek such grounding.

Jim Portner, Hearing Administrator, stated that a mutually satisfactory resolution was reached due to on-site meetings, resulting in three additional conditions.

On consideration, it was moved by Supervisor Day, seconded by Chairman Elías and unanimously carried by a 5-0 vote, to deny the appeal and uphold the Hearing Administrator's decision including standard and special conditions and three additional conditions.

8. **DEVELOPMENT SERVICES: FINAL PLAT WITH ASSURANCES**

P1204-009, Brown/Ajo Industrial, Lots 1-12. (District 2)

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and unanimously carried by a 5-0 vote, to approve P1204-009.

9. **HEALTH DEPARTMENT**

RESOLUTION NO. 2008-272, of the Pima County Board of Supervisors, accepting the State of Arizona, Department of Homeland Security grants totaling \$57,077.00 for the support of the Pima County Office of Emergency Management.

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-272.

10. **FRANCHISE/LICENSE/PERMIT: FIREWORKS PERMIT**

Troy Finley, Tucson Country Club, 2950 N. Camino Principal, Tucson, October 19, 2008 at 8:00 p.m.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearing and approve the permit.

11. **ASSIGNMENT OF RESOLUTION NUMBER**

On October 7, 2008, the Board of Supervisors' approved the following contract:

RESOLUTION NO. 2008-273, authorizing acceptance of the grant from the Arizona Criminal Justice Commission, to provide for staff assigned to the Pima County/Tucson Metro Narcotics Alliance, H.I.D.T.A. Grant Fund, contract amount \$160,767.00 revenue (02-02-A-141331-1007) County Attorney

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-273.

12. **CALL TO THE PUBLIC**

Dale Roose requested that ADA violations at the Eastside Early Voting Site be corrected so that the disabled will be able to vote.

13. **ADJOURNMENT**

The meeting adjourned at 10:35 a.m.