

## MINUTES, STADIUM DISTRICT BOARD MINUTES

DECEMBER 2, 2008

The Pima County Stadium District Board met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 2, 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. **FINAL AGREEMENT WITH THE CHICAGO WHITE SOX**

Staff recommends:

- A. Approve the Sports Facilities Use Agreement with the Chicago White Sox, which allows the White Sox to terminate spring training early in consideration of a cash payment and a number of Club Covenants, including a penalty clause and financial payment to the County and District should the Arizona Diamondbacks fail to complete their facility use agreement term at Tucson Electric Park. (12-57-C-141616-1108)
- B. Pledge that there be no modifications for a 180-day period, nor any proposed activities associated with any sports venue that would conflict with the ability of the Pima County Sports and Tourism Authority to attract an additional professional sports venue to substitute for the Chicago White Sox during major league baseball spring training.
- C. Direct that staff plan and develop a youth tournament, softball and baseball complex on the Kino Sportspark property, using the proceeds from the White Sox settlement to construct said facilities.
- D. Appoint a youth and amateur Sports Tournament Facility Advisory Committee consisting of five members of the Pima County Sports and Tourism Authority appointed by the Chair of the Authority and five members of the community with interest in development and advancement of youth amateur sports in the areas of baseball and softball.
- E. Allocate up to \$300,000.00 of the White Sox settlement funds to the Pima County Sports and Tourism Authority over a two-year period, with funds to be budgeted with specific expenditures identified and submitted to the Board of Supervisors for budget approval, subject to at least a \$50,000.00 match to said funds from other sources.
- F. Ensure that all spring training facilities at Tucson Electric Park or Kino Sports Complex are made available, to the maximum extent possible when spring

training activities do not conflict, to youth and amateur sports activities related to baseball and softball.

- G. Direct the County Administrator to give notice to the Chicago White Sox of our desire to exercise the Club Payment Option in the Agreement.

Chuck Huckelberry, County Administrator, stated this was the final agreement with the Chicago White Sox that was discussed at a previous Board meeting with one exception. That exception was the addition of a penalty clause which would be invoked in the event the Arizona Diamondbacks chose to leave spring training at Tucson Electric Park before the end of their contract term which would occur in 2012. The penalty clause would be paid by the Chicago White Sox in the amount of \$250,000.00. Upon approval of the agreement, he requested the Board give him the authority to send a letter to the Chicago White Sox to indicate they chose the cash settlement option of the agreement.

Chairman Elías stated for clarity that in the event the Arizona Diamondbacks chose to leave Tucson, the agreement would require the White Sox to pay \$250,000.00 for each year their contractual obligations were not met.

Supervisor Valadez inquired whether there was a possibility of the Diamondbacks leaving spring training at Tucson Electric Park.

Mr. Huckelberry responded he spoke with the president of the Diamondbacks who indicated they have no intention of leaving spring training at Tucson Electric Park before the term of their existing lease, and they hoped to remain in Tucson as future events unfold. One of their concerns was what would happen if the Colorado Rockies decided to terminate their agreement with the City of Tucson before the end of their contract term. It was incumbent upon the Sports Authority to do whatever they can within the next 24 months to secure additional major league baseball spring training teams. The goal was have four teams in Tucson for spring training. The Sports Authority is actively pursuing some options at this point, but they would prefer those discussions not become public regarding exactly who they are talking with. The primary interest of the Sports Authority, at this time, would be that there are no changes to the six fields on the White Sox training facility which would give the greatest amount of flexibility in discussing the options to attract other teams to Tucson.

Supervisor Day asked what account would the five million dollar cash settlement go into and whether any portion of the settlement monies could be utilized to improve other parks in Tucson or pay off the stadium debt.

Mr. Huckelberry responded the cash settlement would be deposited in the Stadium District account for the primary purpose of attracting and retaining major league baseball spring training and for the development of a youth tournament facility. It was highly unlikely the funds would be used for other parks in Pima County and the only other option of utilizing any of the settlement monies was for a youth baseball/softball complex. Approximately 1.5 million dollars could be reserved to offset potential losses since the annual revenues from the Chicago White Sox spring training was \$500,000.00 a year.

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to approve the final agreement with the Chicago White Sox as recommended.

2. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 11:45 a.m.

MINUTES, ZONING ENFORCEMENT BOARD OF APPEALS  
DECEMBER 2, 2008

The Pima County Zoning Enforcement Board of Appeals met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 2, 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

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:20 a.m.

1. **RECONVENE**

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

2. **LITIGATION**

The Board of Supervisors' continued the following on 12/4/07, 12/18/07, 1/15/08 and 9/9/08:

A. Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P07ZV00234, Anthony A. Fuentes. The Board may also during the course of the hearing and upon motion, enter into executive session.

The Board of Supervisors' continued the following on 2/5/08, 5/6/08 and 6/3/08:

B. Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P07ZV00518, O'Neil Trust, Suzie M. O'Neil and Twyla M. Coleman. The Board may also during the course of the hearing and upon motion, enter into executive session.

Chris Straub, Chief Civil Deputy County Attorney, advised the Board these items were informational only.

3. **APPEAL OF HEARING OFFICER'S DECISION**

The Board of Supervisors' continued the following on 12/4/07, 12/18/07, 1/15/08 and 9/9/08:

P07ZV00234 – Anthony A. Fuentes

In accordance with the Pima County Code 18.95.030.D, Anthony A. Fuentes, through his legal counsel, William Wissler, hereby appeals the decision of the Hearing Officer in Case No. P07ZV00234, regarding violations of the Pima County Zoning Code Section 18.01.030.E, pertaining to a cargo container not in conformance with permit requirements and not a permitted accessory use in the SR Zone on property located at 10000 E. Catalina Highway. (District 4)

Rick Bruster, Land Unit Supervisor, stated this property was now in compliance and the citations dismissed.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to dismiss the citations as this property was now in compliance.

4. **APPEAL OF HEARING OFFICER'S DECISION**

The Board of Supervisors' continued the following on 2/5/08, 5/6/08 and 6/3/08:

Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P07ZV00518, O'Neil Trust, Suzie M. O'Neil and Twyla M. Coleman. The Board may also during the course of the hearing and upon motion, enter into executive session.

Rick Bruster, Land Unit Supervisor, stated two citations were issued in this matter. The first citation was for a fence that was constructed without a permit and the second citation issued for an attached patio cover that did not meet side yard setbacks. The citations were heard by the Hearing Officer who found in favor of Pima County. Fines were imposed and time was given to allow the property owner to come into compliance. A permit was obtained for the fence making the property owner in compliance on the Citation No. 1. Staff recommended that the \$750.00 fine imposed by the Hearing Officer be forgiven.

Citation No. 2 was for an attached patio cover that does not meet side yard setbacks. A recent inspection revealed the patio cover remained in violation, no variance was obtained or applied for. The existing patio cover appears to be at or within a few inches of the side property line and water run-off from that patio cover drains into the adjacent property. Staff recommended the Hearing Officer's decision be upheld.

Twyla Coleman, property owner, stated her mother was the property owner but she has passed away. She was the trustee and property owner now, but she was

advised she would have to obtain a variance for the patio cover which she indicated a hearing would be conducted in January 2009.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the case for P07ZV00518-1, Citation No. 1 because compliance was achieved, and continue P07ZV00518-2, Citation No. 2 for three months to the Board of Supervisors' Meeting of February 3, 2009, to allow time for the variance hearing to take place and a determination made whether a variance was achieved.

5. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 11:45 a.m.

# MINUTES, BOARD OF SUPERVISORS' MEETING

DECEMBER 2, 2008

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 2, 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 Rabbi Thomas Lochheim of Congregation Or Chadash.

## 2.    **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

## 3.    **PERSONAL POINT OF PRIVILEGE**

Chairman Elías presented a gift to visiting dignitary, the Honorable Mayor Jung Yoon-yul of Ulleung County, Korea.

The Honorable Mayor Jung Yoon-yul expressed his gratitude for the gift and provided information regarding his homeland.

## 4.    **PAUSE 4 PAWS**

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

## ...   **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:20 a.m.

## 5.    **RECONVENE**

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

6. **LITIGATION**

Pursuant to A.R.S. § 38-431.03(A) (3), for legal advice regarding the appeal of P21-08-028, Islamic Center Tucson – E. River Road.

Chris Straub, Chief Civil Deputy County Attorney, stated this item was informational only.

7. **CONSENT CALENDAR**

A. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard on any item listed for action on the Consent Calendar.

The following speakers addressed the Board:

1. Diana Lancaster
2. David Davis, President of the La Canada/Magee Neighborhood Association
3. Eric M. Thornton

The following items were addressed by speakers:

1. **CONTRACTS AND AWARDS**

E. **Procurement**

13. HDR Engineering, Inc., Amendment No. 5, to provide project management and roadway design engineering services for the La Canada Drive: Ina Road to Calle Concordia Project and amend scope of work, RTA Tax Revenue Fund, contract amount \$265,434.00 (16-04-H-139265-0207) Transportation

F. **Transportation**

17. Braaksma Design, Inc., to provide artist services for the La Canada Drive: Ina Road to Calle Concordia Roadway Project, HURF Bond (16%), RTA (59%) and Urban HURF (24%) Funds, contract amount: \$250,000.00 (07-04-B-141556-1208)

4. **REAL PROPERTY**

A. **Condemnation**

RESOLUTION NO. 2008-305, of the Pima County Board of Supervisors, authorizing the Pima County Attorney to condemn for real property or real property interests where necessary for the La Canada: Ina Road to Calle Concordia Project in Sections 22, 23, 26, 27, 34 and 35 of T12S, R13E and Sections 2 and 3, T13S, R13E, G&SRM. (District 1)

The speakers provided the following comments

- A. The neighbors are extremely concerned regarding the impact of the road widening on their quality of life;
- B. Petitions were submitted previously to request sound and screening walls to provide a safety barrier from high speed traffic once the road is widened;
- C. The speakers did not understand how condemnation could be voted on when some of the homeowners were not presented with acquisition proposals nor have they been approached with information;
- D. A request was made to defer approval of the condemnation until issues are resolved;
- E. Several petitions were submitted with no response or feedback from the County to any of the petition signers; and,
- F. Many homeowners are upset due to the lack of communication between Pima County and the homeowners.

Priscilla Cornelio, Transportation Director, stated condemnation was part of the regular process for right-of-way acquisition on any roadway or public works project. There have been numerous public meetings to disclose the plans for the road widening and one-on-one meetings with property owners. This condemnation does not mean the department would file proceedings but approval of the request would begin the acquisition process for all types of acquisitions whether they are for temporary construction easements, drainage easements or whether right-of-way was needed for the roadway.

Christina Biggs, Real Property Services Manager, concurred that condemnation was the standard procedure for acquisitions and it was not being considered at this time but was procedural to begin the process.

Chuck Huckelberry, County Administrator, directed the Department of Transportation to prepare a written response to all of the petitioners, and also be directed to every property owner living along La Canada both north and south of Ina Road. That would provide a clear understanding of the position of the Department of Transportation.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to continue Consent Calendar items 1. E-13, Procurement, 1. F-17, Transportation and 4A, Real Property, – Condemnation, to the Board of Supervisors' Meeting of January 6, 2009.

**REMOVED FOR SEPARATE ACTION:**

**1. CONTRACT AND AWARD**

**Award**

16. Highest Scoring Proposals: Award of Contracts Requisition No. 0900466, URS Corporation (Corporate Headquarters San Francisco, CA) and PSOMAS (Corporate Headquarters Los Angeles, CA) for quality and constructability review services for plans, specifications, and construction cost estimates for Transportation Capital Improvement projects. The term of each contract will be for a period of one-year with the option to renew for two additional one-year terms. Contract amounts shall not exceed \$300,000.00 each. Funding Source: Transportation Special Revenue Fund. Administering Department: Transportation.

Without objection, this item was removed from the Consent Calendar.

## **B. APPROVAL OF CONSENT CALENDAR**

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, that the Consent Calendar be approved as amended:

### **CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

#### **1. CONTRACTS AND AWARDS**

##### **A. Community Resources**

1. Sunnyside School District, Amendment No. 1, to provide before/after school and summer recreation program for elementary school-age children and extend contract term to 7/31/09, General Fund, contract amount \$90,000.00 (01-67-S-140424-0807)

##### **B. Community Services, Employment and Training**

2. John Laswick, Amendment No. 2, to provide technical expertise in the development of grant applications, extend contract term to 9/30/09 and amend contractual language, State Equalization Grant Fund, contract amount \$15,000.00 (07-69-L-138986-1006)
3. DK Advocates, Inc., Amendment No. 1, to provide workforce development services for the One Stop Program and amend contractual language, no cost (07-69-D-140975-0708)
4. Tucson Urban League, Inc., Amendment No. 1, to provide workforce development services for the One Stop Program and amend contractual language, no cost (07-69-T-140976-0708)

5. A Road to Learning, L. L. C., Amendment No. 1, to provide workforce development services, after-school education and amend contractual language, WIA Grant Fund, contract amount \$4,346.00 decrease (07-69-A-141226-0908)
6. Goodwill Industries of Southern Arizona, Inc., Amendment No. 1, to provide employer outreach services and correct contract term from 10/1/08 - 9/30/09 to 9/1/08 - 8/31/09, no cost (07-69-G-141333-1008)
7. Literacy Volunteers of Tucson, Inc., to provide workforce development and volunteer coordinator services, WIA Grant Fund, contract amount \$20,000.00; General Fund, contract amount \$4,000.00 (07-69-L-141571-0109)

**C. Institutional Health**

8. Conmed, Inc., Amendment No. 1, to provide healthcare services for inmates, psychological evaluations for Sheriff Deputies and Correction Officers and amend contractual language, no cost (07-65-C-141126-0808)

**D. Pima Health System**

9. Kindred Hospitals West, L.L.C., d.b.a. Kindred Hospital of Tucson, Amendment No. 7, to provide hospital services, extend contract term to 3/31/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-K-133895-0304)
10. Urological Associates of Southern Arizona, P.C., Amendment No. 5, to provide urology services, extend contract term to 8/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$100,000.00 (18-15-U-134983-0904)
11. L. Hunter Nash, D.D.S., P.C., Amendment No. 2, to provide dental services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-N-138661-1106)
12. Alvernon Optical, Inc., Amendment No. 1, to provide vision care services and amend contractual language, PHCS Enterprise Fund, contract amount \$50,000.00 (18-15-A-139632-0707)

**E. Procurement**

13. HDR Engineering, Inc., Amendment No. 5 (REMOVED FOR SEPARATE ACTION)

**Awards**

- 14. Award of Contract for Requisition No. 0900157 to DMJM H&N, Inc., d.b.a. DMJM Design (Aecom Services, Inc., d.b.a. Aecom Design) (Corporate Headquarters: Los Angeles, CA) for architectural and engineering design services for the Pima County Superior Court, 8th Floor Relocation and Remodel Project. Tier one services for programming and preliminary design are estimated not to exceed \$120,000.00. Tier two services for the balance of the project through construction administration will be negotiated based on the outcome of tier one services. The initial contract will be for a twelve-month period to be extended as required for project completion. In the event a fee agreement cannot be reached with the highest ranked firm, request authorization to negotiate with the next highest ranked firms in the following order: The Durrant Group (Corporate Headquarters: Dubuque, IA) and DLR Group (Corporate Headquarters: Phoenix, AZ). Funding Source: 1997 Bond Fund. Administering Department: Facilities Management.
  
- 15. Increase in award for light vehicles to the following. Total increase amount \$1,045,608.00. The amendment shall decrease the number of renewal periods to 2 one-year periods. Funding Source: Other Internal Service Fund. Administering Department: Fleet Services.

<u>Contract</u>	<u>Vendor</u>	<u>Amount</u>
B504944	Courtesy Chevrolet	\$492,498.00
B504947	Five Star Ford	\$187,020.00
B504951	Longo Toyota	\$366,090.00

- 16. Highest Scoring Proposals: Award of Contracts Requisition No. 0900466 (REMOVED FOR SEPARATE ACTION)

**F. Transportation**

- 17. Braaksma Design, Inc. (REMOVED FOR SEPARATE ACTION)

**2. BOARDS, COMMISSIONS AND/OR COMMITTEES**

**A. Cable Renewal Committee**

Staff requests the Temporary Cable Renewal Committee and all present appointed member terms be extended to June 30, 2009.

**B. Metropolitan Education Commission**

Appointment of Patricia Wiedhopf, at-large member to fill the

unexpired term of Xavier Manrique. Term expiration: 12/31/09.  
(Commission recommendations)

**C. Pima County/Tucson Commission on Addiction, Prevention and Treatment**

Reappointments of W. Mark Clark and Don Jorgensen. Term expirations: 11/30/09; Mauricio Lopez, Sr., Marisela Mariscal, Lupe Rodriguez, David B. Salafsky, Roy Tullgren and Bill Burnett. Term expirations: 11/30/10. (Commission recommendations)

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

- A. Ronald J. Gill, Knights of Columbus, Corpus Christi Catholic Church, 300 N. Tanque Verde Loop, Tucson, December 17, 2008.
- B. Clarence D. Klinefelter, VFW Post 3578, 1764 N. 2nd Avenue, Ajo, December 6, 2008.

**4. REAL PROPERTY**

**A. Condemnation**

RESOLUTION NO. 2008-305 (REMOVED FOR SEPARATE ACTION)

**B. Sales Agreement, Warranty Deed and Affidavit of Disclosure**

Sales Agreement, Warranty Deed and Affidavit of Disclosure to Casas Adobes Plaza, L.L.C., and Casas Adobes Ventures, L.L.C., for the sale of surplus property known as Park-n-Ride, Tax Parcel No. 102-04-0760 located at 7131 North Via Ponte, revenue of ~~\$356,000.00~~ **\$311,000.00**. (District 1)

**C. Quit Claim Deed**

Quit Claim Deed to First American Title, Trustee under Trust No. 4546, for the conversion of a segment of an existing sewer line from public to private use, located on Ponticello Boulevard in Section 8, T12S, R13E, G&SRBM. No cost. (District 1)

**5. RATIFY AND/OR APPROVE**

Minutes: October 7, 2008

Warrants: November, 2008

**REGULAR AGENDA/ADDENDUM ITEMS**

**8. FINANCE AND RISK MANAGEMENT**

Staff requests the adoption of the revision to Board of Supervisors Policy No. D 22.7, Capitalization Policy for Capital Assets.

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

**9. HEALTH DEPARTMENT**

RESOLUTION NO. 2008- 306, of the Pima County Board of Supervisors, accepting the Arizona Emergency Response Commission award for the support of the Pima County Office of Emergency Management in the amount of \$1,500.00.

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- 306 .

**10. DEVELOPMENT SERVICES: FINAL PLATS WITH ASSURANCES**

- A. P1207-054, Vista Del Lago, Lots 1 – 123 and Common Areas A and B. (District 4)
- B. P1206-022, Molino Canyon Estates, Lots 1 – 9 and Common Area A. (District 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the final plats with assurances.

**11. FRANCHISE/LICENSE/PERMIT: LIQUOR LICENSE**

08-38-8960, Michael Joseph Basha, Bashas’ No. 71, 6900 E. Sunrise Drive, Tucson, Series 9, Liquor Store License, Location Transfer.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing, approve the request and forward the recommendation to the State Liquor Control Board.

**12. DEVELOPMENT SERVICES: APPEAL OF HEARING ADMINISTRATOR’S DECISION**

P21-08-028, ISLAMIC CENTER TUCSON – E. RIVER ROAD

In accordance with Pima County Zoning Code Section 18.97.030.F(6), Louise Kligman, M.S.W., Evan Kligman, M.D., Francine Shacter, Patricia Coit and Albert Coit appeal the decision of the Hearing Administrator in Case No. P21-08-028, to

amend Special Condition Nos. 1, 2 and 3 for the existing Type I Conditional Use Permit, and change the property configuration for the Charter School at 2800 E. River Road. Chapter 18.97, in accordance with Sections 18.09.020A.1.g of the Pima County Zoning Code, allows a Charter School as a Type I Conditional Use in the SR zone. The Hearing Administrator recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 1)

**"Hearing Administrator's Decision**

This application for a Type I conditional use permit to operate a charter school, on property zoned SR, is hereby approved by the Hearing Administrator. This approval is subject to the Standard Code Requirements outlined below, as well as the supplemental Special Conditions crafted by the hearing administrator. Conditions of approval are as follows:

**Standard Conditions & Code Requirements**

1. Minimum site area: five acres in all zoning districts except in TR and MU zoning districts, in which the minimum site area is one acre.
2. Maximum student population: 55 students per acre.
3. Maximum site coverage: 30% of the site.
4. Minimum setback for playgrounds or athletic fields: 100 feet from all property lines.
5. Screening and buffering: Bufferyard "D" along all property lines.
6. All driveways shall be dust proofed.
7. All outdoor lighting used in conjunction with the school use shall be located and directed to eliminate light trespass on adjacent streets and residential properties.
8. All lighting for outdoor recreational areas shall cease no later than 10:00 p.m.
9. As required by state statute, A.R.S. 15-189.01, an application for a charter school shall receive final determination from the county within 90 days of the beginning of the process.
10. Must have an approved Development Plan.

**Special Conditions**

1. This conditional use permit approval for a charter school recognizes that 6,180 square feet of building area has been built to date in accordance with Pima County Development Plan No. P1206-165. An additional enclosed building square footage of no more than 1,200 square feet is hereby approved. Any such expansion would be subject to a formal Development Plan revision or amendment. Any future expansion of the enclosed building area by more than the additional 1,200 square feet herein granted shall be subject to a new conditional use permit application, public notice, and associated public hearing.
2. Any building expansion in accordance with Special Condition #1 shall, together with the required Development Plan revision or amendment, be accompanied by a formal Traffic Impact Assessment (TIA) report which shall accompany the Development Plan submittal and which shall specifically examine the peak-hour turning movements into and out of the expanded charter school and which shall assume a total school population in accordance with Special Condition #5 below. In the event that (upon reviewing the TIA in conjunction with the Development Plan revision or amendment) the Pima County Department of Transportation (PCDOT) determines that turning-movement volumes and/or maneuvers to and from the school pose undue traffic-safety hazards on River Road, the owner/developer shall be responsible for whatever physical site or traffic improvements are determined necessary by PCDOT to mitigate and adequately address the identified safety hazards.
3. Any building expansion in accordance with Special Condition #1 above shall be accomplished with the use of permanent, site-built buildings and not through the use of modular buildings or other factory-built structures.
4. The modified project boundary, as submitted with this conditional use permit application, is hereby accepted and approved by the Hearing Administrator.
5. The approval of the project boundary notwithstanding, the total number of students allowed on the property shall be determined by the amount of usable acres within the property boundary, not by the number of gross acres. In that nearly 50,000 square feet of the property is now comprised of either soil-cement bank protection or resides in the actual Rillito River wash bottom, the total student population for the charter school is hereby set at a maximum of two hundred ten (210) students.
6. Standard hours of operation for the charter school, including student drop-off and pick-up, shall be limited to 6:00 AM to 6:00 PM, Monday through Friday. Evening activities (e.g. parent-teacher meetings, evening classes, and open houses) shall be allowed, subject to their being held indoors and being completed no later than 10:00 PM."

Jim Portner, Hearing Administrator, stated a Conditional Use Permit was originally issued for a private and charter school approximately two years ago. The school requested an increase in student enrollment and expansion that would include the use of modular classrooms. The decision of the Hearing Administrator was to approve the request subject to special conditions that would address the concerns that were heard at the public hearing. The request to increase student enrollment to 275 students was not accepted and maximum student population was set at 210. The use of modular buildings to accomplish the expansion was not permitted and any expansion was limited to 1,200 square feet through the use of permanent on-site buildings that would require a Development Plan revision. He provided a short outline of the conditions that would be required, some of which included that at the time a revision was submitted the school would have to submit a full Traffic Impact Assessment Report that would be reviewed by the Pima County Department of Transportation. If it was found that additional safety or traffic improvements were necessary, those improvements would be done at the sole expense of the owner/developer. The Hearing Administrator decision was ultimately appealed based upon safety, school zone, traffic and ingress/egress issues.

The following speakers addressed the Board:

1. Louise Kligman
2. Francine Shacter
3. Wayne Rutchman
4. Robert Lane
5. Sonya McKinney

They provided the following comments:

- A. The main concerns related to traffic and safety issues;
- B. The low gate at the school was believed to be insufficient for safety reasons;
- C. Children do not walk to the school, they arrive by car which adds to the traffic;
- D. Gratitude was expressed that the use of modular buildings was denied because they would detract from the neighborhood;
- E. Safety was an important factor in the decision making process to expand the school;
- F. The school worked with County staff in the Conditional Use Permit process and designed the geometry of the parking lot ingress/egress from River Road to meet or exceed the County development standards; and,
- G. Letters of opposition were submitted from Hacienda del Sol business owners who want the developer to stay within the original requirements of the Conditional Use Permit.

Supervisor Day stated a traffic study was conducted even though it was not a requirement and she felt the concerns of the neighbors were addressed by the conditions imposed at the hearing.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and carried by a 4-1 vote, Chairman Elías voting “Nay,” to close the public hearing, deny the appeal and uphold the Hearing Administrator’s decision to approve P21-08-028 subject to standard and special conditions.

**13. DEVELOPMENT SERVICES: CONDITIONAL USE PERMIT**

P21-08-060, VALENCIA 13 L.L.C. – W. VALENCIA ROAD  
Valencia 13 L.L.C., represented by Michael Marks

Without objection, this item was continued to the Board of Supervisors’ Meeting of December 16, 2008.

**14. DEVELOPMENT SERVICES: REZONING ORDINANCES**

- A. ORDINANCE NO. 2008- 112 , Co9-05-24, Catalano, et. al. – Mona Lisa Road Rezoning. Owner: Vincent and Donna Catalano and Stephen and Jennifer Nunn. (District 1)
- B. ORDINANCE NO. 2008- 113 , Co9-07-33, 4D Properties – Orange Grove Road Rezoning. Owner: 4D Properties. (District 1)
- C. ORDINANCE NO. 2008- 114 , Co9-07-27, Noseck/Davis – Camino Dorotea Rezoning. Owner: Ronald, Denise and Raymond Noseck and Michael Davis. (District 4)

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearings and adopt Ordinance Nos. 2008- 112 , 113 and 114 .

**15. DEVELOPMENT SERVICES: REZONING RESOLUTIONS**

- A. RESOLUTION NO. 2008- 307 , Co9-01-45, Casas Adobes Baptist Church - La Cholla Boulevard Rezoning No. 3. Owners: Casas Adobes Baptist Church and Sierra Bravo Properties, L.L.C. (District 1)
- B. RESOLUTION NO. 2008- 308 , Co9-78-91, Hall - Bear Canyon Road Rezoning. Owners: David and Judith De La Ossa. (District 4)

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearings and adopt Resolution Nos. 2008- 307 and 308 .

16. **DEVELOPMENT SERVICES: STREET NAME CHANGE**

Present

Proposed

Markou Ranch Place  
(District 4)

Mesquite Thicket Court

The Chairman inquired whether anyone wished to be heard.

Carolie Addison addressed the Board and gave a short history of the Tanque Verde Valley area.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing and approve the street name change.

17. **TRANSPORTATION: PIMA COUNTY CODE TEXT AMENDMENT**

The Board of Supervisors' on 8/5/08, 9/9/08, and 11/4/08, continued the following:

ORDINANCE NO. 2008-72, of the Pima County Board of Supervisors, establishing regulations for the use of the Public Right-of-Way within the unincorporated areas of Pima County, Arizona, by adding chapter 10.50.

Chuck Huckelberry, County Administrator, stated this item has been on the Board's agenda numerous times and continued in an attempt to meet the concerns of the utility companies that participated in discussions with staff. The more recent continuances dealt with the issue of invasive species that was successfully handled and reflected appropriately in the final ordinance. He recommended the Board adopt the ordinance but said concerns continue to be expressed.

The following speakers addressed the Board:

1. Charles Emerson, representative of Trico Electric;
2. Larry Lucero, Government Relations Liaison for Tucson Electric Power;
3. Marc Jerdon, Senior Legal Counsel for Unisource Synergy and Tucson Electric Power; and,
4. Sandra Carolina, Senior Legal Counsel for Southwest Gas.

They provided the following comments:

- A. Adoption of the proposed ordinance would cause an increase in Trico Electric rates;
- B. The new restrictions would be burdensome;
- C. Current franchises with Pima County have worked well in the past and the County has a legal obligation to work with the various utilities;

- D. One of the issues addressed early in this process was the problem of overruns of public improvement projects, and it was suggested that communication and project management was the key to solving those issues;
- E. The County was not equipped to provide urban services;
- F. TEP has a Utility Planning and Coordination Committee that currently works with the City of Tucson to resolve issues that has been very successful;
- G. The larger utilities believe the issues Pima County has were with the smaller utilities so that was where the focus should be placed because one size does not fit all;
- H. The utilities are governed by State and Federal laws and the utilities believed that adoption of the ordinance would preempt those entities;
- I. When work on the ordinance began, the utilities submitted their comments by mail, email and faxes over the years;
- J. The Ninth Circuit Court set forth in Olympic Pipeline v. City of Seattle that states are preempted from imposing additional safety requirements on utilities because the statutes already provide a process where state entities can provide additional regulation, but there was no indication that was followed or that the County had authority from the Federal Government to impose additional regulations;
- K. In addition to the legal concerns, Southwest Gas had issues regarding the withholding of permits if certain costs are not paid in full and that action could potentially shut their business down;
- L. Southwest Gas expressed concern with the proposed regulations dealing with the County having unilateral authority to make determinations regarding safety and other issues; and,
- M. Southwest Gas requested the ordinance be continued to allow more input into the process.

Chairman Elías asked why Southwest Gas was not afforded the opportunity to have a face-to-face discussion.

Priscilla Cornelio, Transportation Director, responded staff had at least 12 or 14 meetings to this point and three of those meetings were with representatives of Southwest Gas. There was one meeting that did not take place because a request was made to have Pima County Attorney's meet with Southwest Gas attorney's separately.

Supervisor Day inquired whether the ordinance was consistent with State statute.

Chris Straub, Chief Civil Deputy County Attorney, stated if any challenges arose regarding the validity of the ordinance the courts always interprets the ordinance in a manner that would give it constitutional affect under the existing State statute. If an issue arose regarding a utility, the County Attorney's Office would provide legal advice and if a policy issue caused an impact, that issue would come to the Board of Supervisors' for a decision.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2008-72.

**18. TRANSPORTATION: TRAFFIC RESOLUTION**

RESOLUTION NO. 2008-309, of the Pima County Board of Supervisors, permitting the temporary closure of Esperanza Avenue, Lomita Avenue, and Plaza Street in the Town of Ajo, for the Ajo Rotary Club Christmas Eve Street Parade on December 24, 2008.

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and adopt Resolution No. 2008-309.

**19. BOARD OF SUPERVISORS**

RESOLUTION NO. 2008-310, of the Pima County Board of Supervisors, in support of Congressman Raúl M. Grijalva's nomination for United States Secretary of the Department of the Interior. (Districts 2 and 3)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-310.

**20. BOARD OF SUPERVISORS: RILLITO RACE TRACK FEES WAIVER**

Miracles, Inc., of Arizona and Toys for Tots, non-profit organizations, request Board of Supervisors' approval of a waiver of fees totaling \$550.00 for use of the Rillito Race Track on Sunday, December 7, for an all-day event (10:00 a.m. to 6:00 p.m.) in conjunction with the U.S. Marine Corps to collect holiday toys for needy children. (District 5)

Sergeant Lawrence Allen, addressed the Board to request approval of the waiver of fees that would allow them to have an area for the collection of toys for needy children.

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

**21. COUNTY ADMINISTRATOR**

Staff requests the adoption of the revision to Board of Supervisors Policy No. C 3.17, Protection of Cultural Resources.

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

## 22. **FINAL AGREEMENT WITH THE CHICAGO WHITE SOX**

Staff recommends:

1. Approve the Sports Facilities Use Agreement with the Chicago White Sox, which allows the White Sox to terminate spring training early in consideration of a cash payment and a number of Club Covenants, including a penalty clause and financial payment to the County and District should the Arizona Diamondbacks fail to complete their facility use agreement term at Tucson Electric Park. (12-57-C-141616-1108)
2. Pledge that there be no modifications for a 180-day period, nor any proposed activities associated with any sports venue that would conflict with the ability of the Pima County Sports and Tourism Authority to attract an additional professional sports venue to substitute for the Chicago White Sox during major league baseball spring training.
3. Direct that staff plan and develop a youth tournament, softball and baseball complex on the Kino Sportspark property, using the proceeds from the White Sox settlement to construct said facilities.
4. Appoint a youth and amateur Sports Tournament Facility Advisory Committee consisting of five members of the Pima County Sports and Tourism Authority appointed by the Chair of the Authority and five members of the community with interest in development and advancement of youth amateur sports in the areas of baseball and softball.
5. Allocate up to \$300,000.00 of the White Sox settlement funds to the Pima County Sports and Tourism Authority over a two-year period, with funds to be budgeted with specific expenditures identified and submitted to the Board of Supervisors for budget approval, subject to at least a \$50,000.00 match to said funds from other sources.
6. Ensure that all spring training facilities at Tucson Electric Park or Kino Sports Complex are made available, to the maximum extent possible when spring training activities do not conflict, to youth and amateur sports activities related to baseball and softball.
7. Direct the County Administrator to give notice to the Chicago White Sox of our desire to exercise the Club Payment Option in the Agreement.

Chuck Huckelberry, County Administrator, stated this was the final agreement with the Chicago White Sox that was discussed at a previous Board meeting with one exception. That exception was the addition of a penalty clause which would be invoked in the event the Arizona Diamondbacks chose to leave spring training at Tucson Electric Park before the end of their contract term which would occur in

2012. The penalty clause would be paid by the Chicago White Sox in the amount of \$250,000.00. Upon approval of the agreement, he requested the Board give him the authority to send a letter to the Chicago White Sox to indicate they chose the cash settlement option of the agreement.

Chairman Elías stated for clarity that in the event the Arizona Diamondbacks chose to leave Tucson, the agreement would require the White Sox to pay \$250,000.00 for each year their contractual obligations were not met.

Supervisor Valadez inquired whether there was a possibility of the Diamondbacks leaving spring training at Tucson Electric Park.

Mr. Huckelberry responded he spoke with the president of the Diamondbacks who indicated they have no intention of leaving spring training at Tucson Electric Park before the term of their existing lease, and they hoped to remain in Tucson as future events unfold. One of their concerns was what would happen if the Colorado Rockies decided to terminate their agreement with the City of Tucson before the end of their contract term. It was incumbent upon the Sports Authority to do whatever they can within the next 24 months to secure additional major league baseball spring training teams. The goal was have four teams in Tucson for spring training. The Sports Authority is actively pursuing some options at this point, but they would prefer those discussions not become public regarding exactly who they are talking with. The primary interest of the Sports Authority, at this time, would be that there are no changes to the six fields on the White Sox training facility which would give the greatest amount of flexibility in discussing the options to attract other teams to Tucson.

Supervisor Day asked what account would the five million dollar cash settlement go into and whether any portion of the settlement monies could be utilized to improve other parks in Tucson or pay off the stadium debt.

Mr. Huckelberry responded the cash settlement would be deposited in the Stadium District account for the primary purpose of attracting and retaining major league baseball spring training and for the development of a youth tournament facility. It was highly unlikely the funds would be used for other parks in Pima County and the only other option of utilizing any of the settlement monies was for a youth baseball/softball complex. Approximately 1.5 million dollars could be reserved to offset potential losses since the annual revenues from the Chicago White Sox spring training was \$500,000.00 a year.

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to approve the final agreement with the Chicago White Sox as recommended.

**23. DEVELOPMENT SERVICES: SUBSTITUTE ASSURANCE AGREEMENTS**

A. P1200-184, Star Valley, Blocks 1, 3, 9, 19, 21 and 25. (District 3)

B. P1200-184, Star Valley, Blocks 5 and 6. (District 3)

C. P1200-184, Star Valley, Blocks 11, 12 16 and 17. (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 substitute assurance agreements.

24. **BOARD, COMMISSION AND/OR COMMITTEE**

**Pima County/Tucson Women's Commission**

Ratification of Appointment

Malia Uhatafe to replace Samantha Paz. Term expiration: 11/19/10. (Commission recommendation)

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

25. **CONTRACTS: REAL PROPERTY**

Amendment No. 1, to provide title and escrow services, extend contract term to 12/1/09 and amend contractual language, General Fund, contract amount \$50,000.00 each, for the following:

<u>Vender</u>	<u>Contract Number</u>
Lawyers Title Agency of Arizona, L.L.C.	07-64-L-140413-1207
Fidelity National Title Agency, Inc.	07-64-F-140411-1207
Stewart Title and Trust of Tucson	07-64-S-140414-1207

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

26. **FRANCHISE/LICENSE/PERMIT: WINE FESTIVAL LICENSE/WINE FAIR LICENSE**

Robert K. Johnson, d.b.a. Colibri Vineyard and Winery, St. Phillips Plaza, L.L.C., 4280 N. Campbell Avenue, Tucson, Sunday, December 7, 14 and 21, 2008, from 10:00 am to 1:00 p.m.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve the request.

27. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

David Godlewski, Government Liaison for SAHBA, addressed the Board regarding the challenges faced by SAHBA in the future and the decisions that will be faced by the Board of Supervisors'. In addition, he expressed his gratitude to the Board of Supervisors' and Chuck Huckelberry, County Administrator, for their leadership, hard work and commitment to the people of Pima County.

Joe Sweeney stated he felt Mexico should participate in immigration issues at all levels due to the impact to Pima County. He also read part of a memorandum regarding immigration enforcement activities.

28. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 11:45 a.m.