

MINUTES, FLOOD CONTROL DISTRICT BOARD

DECEMBER 9, 2008

The Pima County Flood Control District Board met in its regular session in the regular meeting place of the Pima County Board of Supervisors (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 9, 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. **CONDEMNATION**

RESOLUTION NO. 2008 FC- 10, of the Board of Directors of the Pima County Flood Control District, authorizing the Pima County Attorney to condemn real property interests where necessary for the Paseo de las Iglesias Ecosystem Restoration Project in the Santa Cruz River Park, in Section 22, T14S, R13E, G&SRM. (District 5)

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008 FC- 10.

2. **I-10 AVRA VALLEY MINING AND DEVELOPMENT, L.L.C., DEVELOPMENT AGREEMENT**

RESOLUTION NO. 2008 FC- 11, of the Board of Directors of the Pima County Flood Control District relating to the closing of certain conveyances pursuant to the Development Agreement between Pima County, the Pima County Flood Control District and I-10 Avra Valley Mining and Development, L.L.C.

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 FC- 11.

3. **ADJOURNMENT**

MINUTES, BOARD OF SUPERVISORS' MEETING

DECEMBER 9, 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 9, 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 Deacon Charles Whalen of Our Mother of Sorrows Catholic Church.

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**

Presentation of the 2008 "Innovation in Sustainability Award of Excellence" received from the Association for Operations Management.

Joel Lohr, President of the Tucson Chapter of the Association for Operations Management (APICS), presented an Innovation in Sustainability Award of Excellence for 2008 in recognition of Pima County's interest in promoting green technologies, strategies and providing leadership to implement them.

Tedra Fox, Pima County Sustainability Manager, reported she worked with employees from 22 County departments on the Sustainable Action Plan for County Operations. The Board clearly articulated their vision of sustainability for County operations and the community at large and she expressed her appreciation for the direction and support from the Board throughout this collaborative effort.

... **EXECUTIVE SESSIONS**

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 Sessions at 9:20 a.m.

5. **RECONVENE**

The meeting reconvened at 9:40 a.m. All members were present.

6. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding approval of a tax appeal settlement recommendation for the following matters:

- A. O'Connell v. Pima County
Parcel Nos. 108-22-033D and 108-22-033E
Arizona Tax Court Case No. ST2008-000241

Chris Straub, Chief Civil Deputy County Attorney, stated this was a proposed settlement for a valuation appeal for tax year 2009 that would result in a decrease of the full cash value for Parcel No. 108-22-033D from \$801,939.00 to \$645,000.00. In addition, the full cash value of Parcel No. 108-22-033E would decrease from \$46,001.00 to \$38,716.00 with a legal class change from Class 2 to Class 3.

- B. Manganiello v. Pima County
Parcel No. 109-27-1250
Arizona Tax Court Case No. ST2008-000096

Chris Straub, Chief Civil Deputy County Attorney, stated this was a proposed settlement proposal of a valuation appeal for tax year 2009. The proposed settlement reflected the sale price of similar properties in the area that would result in a decrease of the full cash value from \$350,346.00 to \$325,000.00.

- C. Clark v. Pima County
Parcel No. 136-31-010C
Arizona Tax Court Case No. ST2008-000243

Chris Straub, Chief Civil Deputy County Attorney, stated this was a valuation appeal for property located in the FEMA Zone AE floodplain. The proposed settlement would result in a decrease of the full cash value from \$190,000.00 to \$140,000.00 for tax year 2009.

The County Attorney's Office and the Assessor recommended approval of the proposed settlements.

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

7. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding a request that Pima County waive a potential conflict of interest to allow Snell & Wilmer to represent SOLON America Corporation with respect to the review and negotiation of a power purchase agreement with Pima County.

Chris Straub, Chief Civil Deputy County Attorney, stated this was a request to waive a concurrent conflict of interest to allow the firm of Snell & Wilmer to represent SOLON America Corporation to review and negotiate a power purchase agreement with Pima County.

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

8. LITIGATION

Pursuant to A.R.S. § 38-431.03(A) (3) and (4), for legal advice and direction regarding authorization to enter into an agreement to toll the statute of limitations with respect to the claims of San Joaquin Investments, L.L.C., against Pima County.

Chris Straub, Chief Civil Deputy County Attorney, stated this was a request to enter into an agreement to toll the statute of limitations with respect to pending claims of San Joaquin Investments, L.L.C. against the County. The purpose of the requested tolling agreement was to provide San Joaquin and Pima County additional time in which to explore the possibility of reaching a settlement in lieu of litigation. If the Board enters into a tolling agreement, the County Attorney's Office suggested the time period not exceed one year.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the County Attorney's Office recommendation.

9. CONSENT CALENDAR

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

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Consent Calendar be approved as presented.

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. RESOLUTION NO. 2008-311, approving an Intergovernmental Agreement with the Golder Ranch Fire District, to provide for the installation of five hydrants in the Catalina Area, CDBG Grant Fund, contract amount \$25,000.00 (01-70-G-141606-1008)
2. RESOLUTION NO. 2008-312, approving an Intergovernmental Agreement with the City of South Tucson, to provide management and implementation of the Community Development Block Grant Program, CDBG Grant Fund, contract amount \$395,000.00 (01-70-S-141607-1008)

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

3. Santa Cruz County, Amendment No. 3, to provide collaborative administration of the WIRED Program and amend scope of work, no cost (01-69-S-140387-0707)
4. Child and Family Resources, Inc., Amendment No. 1, to provide for the Challenger Summer Enrichment Camp and amend scope of work, no cost (11-69-C-140840-0508)
5. SER Jobs for Progress of Southern Arizona, Inc., Amendment No. 1, to provide workforce development services for the One Stop Program and amend contractual language, no cost (07-69-S-140979-0708)

C. **County Administrator**

6. RECON Consultants, Inc., Amendment No. 3, to provide biological consulting services for the Sonoran Desert Conservation Plan and extend contract term to 1/15/10, no cost (07-30-R-135528-0105)

D. **Pima Health System**

7. Direct Center for Independence, Inc., Amendment No. 7, to provide homecare services and amend contractual language, PHCS Enterprise Fund, contract amount \$100,000.00 (11-15-D-135739-0305)

8. Northwest Hospital, L.L.C., d.b.a. Northwest Medical Center, Amendment No. 11, to provide hospital services and amend contractual language, no cost (18-15-N-135763-0205)

E. Procurement

9. CBIZ Gordon, Zucarelli and Handley Benefits and Insurance Services, Inc., Amendment No. 4, to provide consulting for employee benefits and extend contract term to 12/15/09, no cost (07-43-C-135513-1204) Human Resources

Awards

10. Low Bid: Award of Contract for group A, B and C, Requisition No. 0900059, in the total annual amount of \$910,000.00 to E.F. Johnson Company (Headquarters: Irving, TX) to provide radio equipment and services. Contract is for a one-year term and includes four one-year renewal periods. Funding Source: Internal Service Fund. Administering Department: Information Technology.
11. Low Bid: Award of Contract, Requisition No. 0900668, in the amount of \$268,862.00 to the lowest responsive bidder, Granite Construction Company (Headquarters: Watsonville, CA) for the acquisition and installation of a pre-engineered, prefabricated, self-weathering welded steel truss bridge to span the Julian Wash at Thomas Jay Park. The contract is for a twelve-month period and may be extended for project completion. Funding Sources: 81% Kinder Morgan Mitigation Fund and 19% 1997 Bond Fund. Administering Department: Natural Resources, Parks and Recreation.
12. Amendment No. 1, of Award for B504940 to American Cadastre, L.L.C., to provide film and microfiche conversion to digital media and confidential information redaction and extend contract term to 6/30/09. Funding Source: Special Revenue Fund. Administering Department: Pima County Recorder.

F. Real Property

13. First American Title Insurance Company, as Trustee Under Trust Nos. 8621, 8622, 8623, 8624, and 8625, and Arizona Open Land Trust, Inc., to provide the following for the acquisition of the Sopori Ranch: Assignment of Buyer's Interest in Purchase Agreement; Grant of Access and Utility Easements; Right of First Refusal; Termination of Right of First Refusal; and a Ranch Management Agreement with Salero Dos, L.L.C., 2004 Open Space Bond Fund, contract amount not to exceed \$18,618,000.00 including closing costs (22-64-F-141611-1208)

G. Sheriff

14. RESOLUTION NO. 2008-313, approving an Intergovernmental Agreement with the Arizona Criminal Justice Commission, to provide for the DUI Abatement Grant Program, ACJC Grant Fund, contract amount \$60,000.00 revenue (01-11-A-141579-1208)
15. RESOLUTION NO. 2008-314, approving an Intergovernmental Agreement with the Arizona Criminal Justice Commission, to provide for the Arizona Alliance Planning Committee, H.I.D.T.A. Grant Fund, contract amount \$113,600.00 revenue (01-11-A-141580-1007)
16. RESOLUTION NO. 2008-315, approving an Intergovernmental Agreement with the Governor's Office of Highway Safety, to provide for overtime, employee related expenses and capital equipment to conduct DUI Task Force Enforcement Programs, Federal Grant Fund, contract amount \$128,937.80 revenue (01-11-G-141581-1008)
17. RESOLUTION NO. 2008-316, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide for the Urban Area Security Initiative, Federal Grant Fund, contract amount \$50,000.00 revenue (01-11-A-141603-1008)

2. RATIFICATION OF CONTRACT

Regional Wastewater Reclamation

Spirit Underground, L.L.C., to provide the construction of the Arcadia Sewer Project, WWM Enterprise Fund, contract amount \$406,720.10 (03-03-S-141588-1108)

3. SPECIAL TAXING DISTRICT

Pursuant to A.R.S. §16-642(B), presentation of the certified copy of the official canvass for the November 11, 2008 Election conducted by the Flowing Wells Irrigation District.

4. BOARD, COMMISSION AND/OR COMMITTEE

Animal Care Advisory Committee

Appointment of Lieutenant Ed Schlitz, City of Tucson Police Department, to fill the unexpired term of Sergeant Joe Puglia. Term expiration: 3/31/11. (Organizational recommendation)

5. **SPECIAL EVENT LIQUOR LICENSE APPROVED PURSUANT TO RESOLUTION NO. 2002-273**

Ruth Ann Dormanen, Catalina Crusaders Christmas Toy Drive, Player's Pub, 16024 N. Oracle Road, Tucson, December 13, 2008.

6. **FINANCE AND RISK MANAGEMENT**

Duplicate Warrants – For Ratification

Allen, Brenne Elisabeth	\$364.06
Allen, Brenne Elisabeth	\$96.74

7. **RECORDER**

Pursuant to Resolution No. 1993-200, ratification of the Document Storage and Retrieval Fund for the month of April, 2008.

8. **REAL PROPERTY**

Abandonment and Right of Way Dedication

RESOLUTION NO. 2008- 317 , of the Pima County Board of Supervisors, providing for the vacation of a portion of Hardy Drive located between Richey Boulevard and Dodge Boulevard, Pima County Road Abandonment No. A-07-10 and Right-of-Way Dedication, within Section 28, T13S, R14E, G&SRM. (District 2)

9. **RATIFY AND/OR APPROVE**

Minutes: October 14, 2008
November 18, 2008, Zoning Enforcement Board of Appeals

REGULAR AGENDA/ADDENDUM ITEMS

10. **ASSESSOR: REQUEST FOR REDEMPTION OF TAX EXEMPTIONS**

Pursuant to A.R.S. §42-11153(B), the Pima County Assessor has received 308 applications for Redemption of the Waivers of Tax Exemptions for the year 2008. The Assessor has determined that all of the applications qualify for exemption under the applicable statutes and requests the Board of Supervisors redeem the Waivers of Tax Exemptions.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to redeem the waivers of Tax Exemptions as presented.

11. **DIVISION OF ELECTIONS**

Pursuant to A.R.S. §19-209(B)2, order to call a Special Recall Election for the Marana Domestic Water Improvement District Board to be held on May 19, 2009.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to call the Special Recall Election.

12. **HEALTH DEPARTMENT**

RESOLUTION NO. 2008- 318, 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 \$2,600.00.

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- 318.

13. **INDUSTRIAL DEVELOPMENT AUTHORITY**

RESOLUTION NO. 2008- 319, of the Board of Supervisors of Pima County, Arizona, approving the proceedings of the Industrial Development Authority of the County of Pima regarding the issuance of its Revenue and Refinancing Bond (Presidio School Project, Series 2008) in an aggregate principal amount not to exceed \$3,000,000.00 and declaring an emergency.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008- 319, and declare an emergency.

14. **FRANCHISES/LICENSES/PERMIT: LIQUOR LICENSES**

A. 08-39-8961, Spencer Barry Brock, Coyote Pause Café, 2740 S. Kinney Road, Tucson, Series 12, Restaurant License, New License.

B. 08-40-8962, Kelly Paul Vaughn, QuickTrip No. 1482, SWC Valencia and Camino de la Tierra, Tucson, Series 10, Beer and Wine Store License, New License.

C. 08-41-8963, Thomas Adams Miller, Elkhorn Ranch, 27000 W. Elkhorn Ranch Road, Tucson, Series 7, Beer and Wine Bar License, Person Transfer.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearings, approve the requests and forward the recommendations to the State Liquor Control Board. In addition, the Clerk's Note was removed for Elkhorn Ranch, 08-41-8963.

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

ORDINANCE NO. 2008-115, of the Board of Supervisors of Pima County, Arizona, amending Ordinance No. 1986-130, as amended by Ordinance Nos. 1989-157, 2003-31, 2005-60 and 2008-71, to change the membership of the Regional Wastewater Reclamation Advisory Committee to include the Directors of the City of Tucson Water Department and the Pima County Regional Wastewater Reclamation Department as non-voting members.

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2008-115.

16. **JUSTICE AND LAW ENFORCEMENT**

ORDINANCE NO. 2008-116, of the Board of Supervisors of Pima County, Arizona, amending Pima County Ordinance No. 2007-40 by establishing a fee for the cost of processing photo radar citations in the Pima County Consolidated Justice Court.

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 Ordinance No. 2008-116.

17. **DEVELOPMENT SERVICES: APPEAL OF HEARING OFFICER DECISION**

The Board of Supervisors' on November 18, 2008, continued the following:

P21-08-025, PC ROW – 6628 N. CALLE PADRE FELIPE

In accordance with Pima County Zoning Code Section 18.97.030.F(6), Dee Chandler, Judy Hunt, Eric Weiss, Fernando Maldonado, David Delmonico, Steve Rice and Sondra Klock appeal the decision of the Hearing Administrator in Case No. P21-08-025, to allow a Type I Conditional Use Permit for an antenna co-location and equipment area in the right-of-way located at 6628 N. Calle Padre Felipe in the CR-1 zone. Chapter 18.97, in accordance with Sections 18.07.030H2d4 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 SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 1)

“Standard Conditions (per the Pima County Zoning Code)

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.”

Jim Portner, Hearing Administrator, stated it was his understanding that both the applicant and the appellant have come to an accommodation. He asked the parties to address the Board regarding their agreement.

The following speakers addressed the Board:

1. Dee Chandler
2. Rick Sopha, NextG representative

They provided the following comments:

- A. The neighborhood was opposed to the antenna location but now have come to an agreement; and,
- B. The agreement was briefly outlined by both Ms. Chandler and Mr. Sopha as follows:
 1. The antenna and conduit going up the pole would also be painted brown;
 2. The size of the equipment box would be no larger than 20 inches deep, 32 inches wide and 50 inches high and would be placed as close to the back of the telephone pole as possible;
 3. The equipment box is to be painted green with the planting of foliage to conceal the box;
 4. The antenna would be small and painted brown to match the telephone pole; and,
 5. The equipment box would never be larger even if other carriers wanted to co-locate.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing, deny the appeal, uphold the Hearing Administrator’s decision and approve P21-08-025, subject to standard and special conditions and the additional conditions agreed upon by the neighborhood and Next G Networks.

18. DEVELOPMENT SERVICES: REZONING

Co9-08-17, VIA LATIGO 5651, L.L.C. – LAS LOMITAS ROAD REZONING

Request of Via Latigo 5651, L.L.C., represented by Perry Whitthorne of Indevco Partners, Inc., for a rezoning of approximately 3.31 acres from SR (Suburban Ranch) to CR-1 (Single Residence), on property located on the western terminus of Las Lomitas Road approximately 1,300 feet north of Oracle Jaynes Station Road and approximately 1,900 feet east of La Cholla Boulevard. The proposed rezoning

conforms to the Pima County Comprehensive Plan Co7-00-20. On motion, the Planning and Zoning Commission voted 5-2 (Commissioners Gungle and Membrilla voting Nay; Commissioners Polulos, Hewitt and Smith were absent) to recommend APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 1)

"IF THE DECISION IS MADE TO APPROVE THE REZONING, THE FOLLOWING STANDARD AND SPECIAL REQUIREMENTS SHOULD BE CONSIDERED:

Completion of the following requirements within five years from the date the rezoning request is approved by the Board of Supervisors:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s) shall dedicate 30 feet right-of-way for Las Lomas Road along the north property boundary.
 - B. The property owner(s) shall dedicate a turnaround on Las Lomas Road, at or near proposed driveway to the site, in accordance with Subdivision and Development Street Standards Details 3.3, 3.4, 3.5 or 3.6.
 - C. If access is proposed via Las Lomas Road, the property owner(s) shall construct Las Lomas Road from its terminus at Calle Tiburon to the site driveway, including the turnaround area.
 - D. The property owner(s) shall construct a turnaround for emergency or large vehicles at the terminus of Via Latigo.
8. Flood Control conditions:
 - A. The property owner(s)/developer(s) shall submit to the Regional Flood Control District a plot plan showing all required information, including the 500 year floodplain delineation. Upon review of the plot plan, the Floodplain Management Division will determine if grading and building permits may be issued or if a more detailed hydrologic and hydraulic study will be required to determine the impact of the improvements on neighboring properties.
 - B. All-weather access to the facility shall be required.
9. Wastewater Management conditions:

The owner/developer must secure approval from the Pima County Department of Environmental Quality to use on-site wastewater treatment facilities within the rezoning area at the time a tentative plat, development plan or request for a building permit is submitted for review.
10. Environmental Quality Conditions:
 - A. All proposed residential lots must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.
 - B. The owner(s)/developer(s) shall demonstrate that the existing on-site wastewater disposal system, and 100 percent reserve disposal area, can be contained within the proposed property boundaries, while meeting all required setbacks. This demonstration shall be made prior to issuance of the Certificate of Compliance.
 - C. The owner(s)/developer(s) shall demonstrate that the existing on-site disposal system is in good repair and functioning properly. This demonstration shall be made through the use of the Pima County Report of Inspection and recertification process. This demonstration shall be made prior to issuance of the Certificate of Compliance.
 - D. The owner(s)/developer(s) shall demonstrate that the lot new, as proposed, can accommodate a home site, and a primary and reserve on-site wastewater disposal area, while meeting all required setbacks. The size of the primary and reserve areas shall be determined by on-site soil evaluations and/or percolation testing and shall be designed to accommodate a hypothetical four (4) bedroom home, unless the applicant requests limiting

the size of the proposed new residence. This demonstration shall be made prior to issuance of the Certificate of Compliance.

11. The owner(s)/developer(s) shall execute and record a document acceptable to the Pima County Department of Community Services indicating that the owner(s)/developer(s) shall contribute to the affordable housing trust fund as adopted by the Pima County Board of Supervisors on December 13, 2005, before a certificate of compliance is issued.
12. In the event the subject property is annexed, the property owner(s)/developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
13. The property owner shall execute and record the following disclaimer regarding Prop 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."
14. The owner(s)/developer(s) shall adhere to the sketch plan as approved at public hearing limiting the site to two parcels; one dwelling unit per parcel.
15. The new dwelling unit shall be limited to one story only.
16. The use of the dwelling units on the property shall be limited to single family residences or assisted living homes only.
17. Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition."

Tom Hudson, Zoning Administrator, stated the purpose of the rezoning was to create a second lot for an assisted living home. The property met all concurrency requirements, it lies outside the Conservation Lands System and is in compliance with the Comprehensive Plan. Staff received four letters of support and one anonymous letter in opposition. One neighbor, Mercer Johnson, addressed the Planning and Zoning Commission to express concerns regarding access to the proposed assisted living home and the desire to not have the access off Via Latigo but off of Las Lomitas. Another concern Mr. Johnson had was how water would be supplied to the assisted living home and it was requested the facility not be connected to a community well in the area, but the applicants have indicated they will not be able to be connected nor served by Metropolitan Water. Mr. Johnson expressed concerns related to Via Latigo regarding maintenance and repair of the roadway but it was his understanding that the applicant agreed to improvements of Via Latigo. He suggested the addition of Condition Nos. 18 and 19 be added as part of the rezoning approval and those conditions read as follows:

- "18. Access to the assisted living home shall be from Las Lomitas.
19. Water for the assisted living home shall be provided by the Metropolitan Water District."

Andrew Briefer, property owner, stated he met and talked with Mr. Johnson, and he stated for the record he was willing to do road improvements to Via Latigo within the next 90 days to make the road better at its entry along Sunset Drive and up to Mr. Johnson's driveway.

Mercer Johnson, neighbor, and Perry Whitthorne, applicant were both present to answer questions.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearing, approve Co9-08-17, subject to standard and special conditions and additional conditions Nos. 18 and 19.

19. **DEVELOPMENT SERVICES: COMPREHENSIVE PLAN AMENDMENT**

Co7-08-01, FLOWING WELLS NEIGHBORHOOD ASSOCIATION AND COMMUNITY COALITION – N. HIGHWAY DRIVE AREA PLAN AMENDMENT

Request of the Flowing Wells Neighborhood Association and Community Coalition and Pima County Development Services Department, to amend the Pima County Comprehensive Plan from Resource Transition (RT), Medium/High Intensity Urban (MHIU), Neighborhood Activity Center (NAC), Multifunctional Corridor (MFC), Urban Industrial (I), and Heavy Industrial (HI) to Urban Industrial (I) and Heavy Industrial (HI) for approximately 449 acres located on the east and west sides of N. Highway Drive and the east and west sides of N. Sullinger Avenue and the east and west sides of N. Camino de la Tierra, south of the Rillito River and north of the W. Sweetwater Drive alignment and W. Gardner Lane, in Sections 8, 16, 17, 20, and 21, T13S, R13E, in the Northwest Subregion. On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Poulos, Hewitt and Smith were absent) to recommend APPROVAL SUBJECT TO SPECIAL AREA POLICIES. Staff recommends APPROVAL SUBJECT TO SPECIAL AREA POLICIES. (District 3)

“Staff recommended that existing Urban Industrial and Heavy Industrial plan designations remain unchanged, and that those other areas within the plan amendment that are not one of those two plan designations be amended to Urban Industrial, with the entire mapped plan amendment area, including those plan designations that remain unchanged, subject to the following Special Area Policies:

1. An Infill Incentive District may be implemented for the entire mapped plan amendment area.
2. For the entire mapped plan amendment area, existing MU (Multiple Use Zone) zoning conforms with the Urban Industrial and Heavy Industrial Land Use Intensity Categories.”

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 approve Co7-08-01, subject to special area policies.

20. **DEVELOPMENT SERVICES: COMPREHENSIVE PLAN AMENDMENTS**

A. Co7-08-12, MISSION PEAKS 4000, L.L.C. AND RUBY STAR RANCH, L.L.C. – S. MISSION ROAD/MISSION PEAKS 1 2008 MAJOR PLAN AMENDMENT

Request of Mission Peaks 4000, L.L.C. and Ruby Star Ranch, L.L.C., represented by Mission Peaks 4000, L.L.C., to amend the Pima County Comprehensive Plan from Low Intensity Rural (LIR) and Resource Productive (RP) to Medium Intensity Urban (MIU), Medium/High Intensity Urban (MHIU), Community Activity Center (CAC), Neighborhood Activity Center (NAC), and Resource Transition (RT) for approximately 4,216 acres

located east and west of S. Mission Road, north of the intersection with W. Twin Buttes Road, and west of S. Mission Road, south of the intersection with W. Twin Buttes Road, in Sections 24, 25, 26, 27, 34, 35, and 36, T17S, R12E; Sections 19, 20, 21 and 30, T17S, R13E, and Sections 1 and 2, T18S, R12E, in the Upper Santa Cruz Subregion. On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Smith, Poulos and Hewitt were absent) to recommend DENIAL. Staff recommends APPROVAL SUBJECT TO REZONING POLICIES. (Districts 3 and 4)

- B. Co7-08-13, ARIZONA STATE LAND DEPARTMENT – W. HELMET PEAK ROAD/ MISSION PEAKS 2 2008 MAJOR PLAN AMENDMENT
Request of the Arizona State Land Department, represented by Mission Peaks 4000 L.L.C., to amend the Pima County Comprehensive Plan from Resource Productive (RP) to Medium Intensity Urban (MIU), Medium/High Intensity Urban (MHIU), and Neighborhood Activity Center (NAC) for approximately 632 acres located on the south side of W. Helmet Peak Road one mile west of S. La Canada Drive, in Section 16, T17S, R13E, in the Upper Santa Cruz Subregion. On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Smith, Poulos and Hewitt were absent) to recommend DENIAL. Staff recommends APPROVAL SUBJECT TO REZONING POLICIES. (District 4)

Without objection, the Comprehensive Plan Amendments for Co7-08-12 and Co7-08-13 were withdrawn.

21. **DEVELOPMENT SERVICES: PLAT NOTE MODIFICATION**

P1201-158, SABINO HIGHLANDS - PLAT NOTE MODIFICATION FOR LOT 5

Request of Robert D. Corrigan, represented by Design Solutions, for a plat note modification to allow an exchange of natural open space on Lot 5. The property is 43,147 square feet, zoned CR-1 (Single Residence) and is located on the west side of Sabino Highlands Place, approximately three-quarters of a mile north of Snyder Road. Staff recommends APPROVAL WITH CONDITIONS. (District 4)

“Should the Board decide to approve this request, staff recommends the following Permitting Notes to be added to the Plat:

1. Department of Environmental Quality condition:
The property owner(s) must connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit. On-site wastewater disposal shall not be allowed.
2. Subdivision Review conditions:
 - A. The proposed NOS in the northeastern corner shall be extended south to include the saguaros shown on the site plant inventory.
 - B. A landscape/native plant preservation plan shall be submitted for approval by County staff within 90 days of approval of the waiver, which shall be scanned into the Department's electronic P1201-158 subdivision files as an addendum to the originally approved Native Plant Protection Plan and Landscape Plans.”

Tom Hudson, Zoning Administrator, stated approval of this request would allow the exchange of natural open space on Lot 5 to relocate the driveway from the south

side of the lot to the north side. The proposed access avoids existing large vegetation and Saguaro cacti and would increase the natural open space by approximately 3,700 square feet. The continuity of the natural open space across lots is not appreciably affected by the request and staff recommended approval with conditions. Staff received two requests for information from neighboring property owners but no opposition was received.

The following speakers addressed the Board:

1. Jim Pitts, Design Solutions
2. Bob Corrigan, property owner.

They provided the following comments:

- A. A request was made that the Board consider the protection of additional Saguaros as part of the Native Plant Preservation Plan; and,
- B. The Saguaro's are scattered throughout the lot and in the midst of them is a fairly large space that could be developed in the future for a guest house.

Mr. Hudson stated it would be acceptable to protect the Saguaros in the Native Plant Preservation Plan.

Chairman Elías inquired whether that was the best way.

Chris Poirier, Special Project Manager, stated that was a suitable way of handling it for the sake of the dedication of natural area, but it would not preclude them from also including it as natural open space to satisfy Native Plant Preservation.

Supervisor Carroll inquired whether the applicant would be required to come back if there was ever a plan to construct a guest house regardless of the decision rendered this date.

Mr. Poirier responded the natural area was required to be recorded in perpetuity.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve P1201-158 for a Plat Note Modification for Lot 5 with conditions as outlined in the staff report.

22. **DEVELOPMENT SERVICES: REZONING RESOLUTIONS**

- A. RESOLUTION NO. 2008- 320 , Co9-01-36, Heartwood Homes L.L.C. – Camino Del Fierro No. 3 Rezoning. Owners: Heartwood Homes, L.L.C. (District 1)
- B. RESOLUTION NO. 2008- 321 , Co9-02-24, Fidelity National Title Agency Trust 10,930, et. al. – Kolb Road Rezoning. Owners: Lewis I-10/Kolb, L.L.P. (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 Valadez and unanimously carried by a 5-0 vote, to close the public hearings and adopt Resolution Nos. 2008- 320 and 321.

23. DEVELOPMENT SERVICES: STREET NAME CHANGE

Present	Proposed
5th Avenue, Ruby–Arivaca Road and Fraguita Road (District 3)	Ruby Road

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

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

24. TRANSPORTATION: ENVIRONMENTAL AND MITIGATION REPORT

Staff recommends approval of the Environmental Assessment and Mitigation Report for La Cholla Boulevard: Ruthrauff Road to River Road. (Districts 1 and 3)

Chuck Huckelberry, County Administrator, stated staff recommended approval of Alternative E, but the Community Advisory Committee (CAC) recommended Alternative D which was more expensive. He met with Transportation Director Priscilla Cornelio, and Deputy County Administrator John Bernal, to merge the two recommendations and the primary difference of the two alternatives was that Alternative D would require the acquisition of private, residential occupied property adjacent to the project segment. He provided a memorandum dated December 8, 2008, that contained Alternative D as recommended by the CAC as follows:

“ALTERNATIVE D:

The CAC recommends this particular alternative. Although PCDOT has revised the Alternative D cross-section to narrow all lanes, this reduction will not meet the PCRDM standard.

The CAC stands by the need to build this Alternative as previously proposed. Alternative D requires the acquisition of properties on both the east and west side of La Cholla Boulevard. In support of this recommendation, the CAC believes the benefits of Alternative D include, but are not limited to:

I. SAFETY:

1. Alternative D allows plenty of room for all the travel lanes to be the correct 12-ft and 13-ft widths as per the PCRDM standard, not the minimum.
2. The CAC continues to urge that PCDOT and the RTA ensure that the proposed sidewalks meet the PCDOT standard width of 5 or 6-ft in relation to the curb as per the PCRDM standard. These sidewalks are used by school children walking to two nearby schools, Flowing Wells Jr. High School and Centennial Elementary School. In addition to school children, there is a new Wal-Mart Store at Ruthrauff and La Cholla and many neighborhood residents walk to the store every day. Alternative D allows for adequate room to make the sidewalks 6-ft wide.

3. Bicyclists currently ride on the two-lane paved road or on the dirt shoulder of La Cholla Boulevard. The Committee believes that since bike lanes are part of the improvement plan, they should be built consistent with the ones installed north of River Road in the La Cholla Road to Omar Road widening project. Further, according to the *Pima County Roadway Design Manual*:

On curbed roadways, 6 feet are to be added to the typical width of outside travel lanes to accommodate bicycles." *Pima County Roadway Design Manual*, chapter 2, p. 2- 15.

Alternative D allows plenty of room for the 6-ft wide bike paths.

4. Alternative D allows room to adequately plan for bus pullout stops along the corridor from Ruthrauff to River Road. The Committee believes, consistent with advertisements in support of the RTA election, pullout bus stops should be designed into roadway improvement projects. Pullout bus stops allow for the efficient and safe flow of traffic and increased safety for bus passengers.
5. Alternative D allows for additional crosswalks to the public transportation bus stops for both existing north and southbound bus traffic on La Cholla Boulevard. These crosswalks should be clearly marked. In addition, the CAC understands that current conditions do not warrant the installation of a very expensive HAWK Light at the Jay Avenue intersection. However, the CAC believes that the infrastructure for a future HAWK light should be considered and installed. (Conduit, etc.)
6. The medians at the intersection of Ruthrauff and La Cholla should contain a pedestrian median "refuge" to ensure all pedestrians are able to cross the road safely.

II. FUNCTION:

1. Alternative D allows the bridge to remain in its present alignment therefore reconstruction of the storm drains will not be required.
2. Alternative D allows for wider, safer travel lanes, bike paths and sidewalks to remain consistent with the widening project of La Cholla Boulevard north, River to Omar Road. The width of the travel lanes would be consistent with safe and efficient flow of traffic, bicycles and pedestrians as proven by the existing design of other road improvement projects including the La Cholla widening project, River to Omar Roads; Wetmore Road widening project between Fairview and Romero Roads, and the Wetmore/Ruthrauff widening project between Romero and La Cholla Boulevard.
3. It is in the CAC's view that by using the specifications of the PCRDM standard not minimum, that this roadway will be to its optimum function. This is tested design and was adopted by PCDOT for good reason.

III. RIGHT-OF-WAY:

1. Alternative D proposes the purchase of 19 properties which front La Cholla Boulevard thereby eliminating any right-of-way questions and diminishing substantially any potential lawsuits these residents may have regarding right-of-way issues.
2. Alternative D allows Tucson Water access to service their well as stated in the EAMR prepared by PCDOT.
3. Alternative D prevents the necessity of the one-way access roads proposed by PCDOT and the RTA.
4. Alternative D allows for room to build, if warranted, 10-ft masonry walls for noise abatement in the surrounding neighborhoods.
5. Alternative D leaves the existing business properties intact, reducing the impact upon said businesses and the neighborhood customers that regularly use them.
6. According to the EAMR, Alternative D has the least adverse affects upon the neighborhood, utilities and businesses, with the exception of displacing some 19 residential homes. The CAC believes that most of the people who live in those homes would prefer to move rather than live by a six lane arterial roadway with noise levels above acceptable standards, significantly reduced air quality and one-way access roads which are difficult and dangerous to negotiate in order to get to their homes.
7. By acquiring the first row of residences along both sides of La Cholla Boulevard under this Alternative, traffic noise would be buffered by distance to the remainder of the residences including those north of Jay Avenue on the eastside of La Cholla Boulevard. Noise walls would still be possible for those residences.

8. Alternative D maintains the existing alignment of the roadway, consistent with La Cholla Boulevard north of River Road and in compliance with the PCRDM standard not minimum. Maintaining the existing alignment and eliminating right-of-way issues prevents the roadway from approaching two old landfills. This will alleviate the County's liability concerning environmental remediation on those properties saving the County money and time on this project.
9. Neither the former gas station on the northwest corner of Ruthrauff and La Cholla nor the Circle K gas station would be impacted by this Alternative. By not acquiring the property where the fuel stations existed, the County would not be responsible for soil remediation caused by any leakage of the underground fuel tanks.
10. Alternative D leaves enough room to maintain the proper median width to provide a pedestrian "refuge" at the intersections.

IV. AESTHETICS:

1. Alternative D allows additional room along the roadway, in the medians and perhaps on the sound barrier walls for artwork and landscaping. Artwork and improved landscaping would greatly enhance the appearance of the roadway and the surrounding neighborhood and potentially increase property values resulting in additional property tax revenue to the County.
2. By using Alternative D, PCDOT and the RTA could keep the roadway project consistent with the road improvement project on La Cholla Boulevard north of River Road and the Wetmore widening project, Romero to La Cholla Boulevard.
3. The Flowing Wells Neighborhood Association and Community Coalition has worked tirelessly to reverse disintegration of the community life in the Flowing Wells area. These volunteers have made such dramatic changes that the neighborhood association last year won an All America Cities award from the National Civic League, only the 4th time in 58 years this prestigious award was given to a neighborhood effort rather than an incorporated city or town or county across the United States.

The roadway widening project north of River Road is aesthetically pleasing. These aesthetics should continue through the Flowing Wells neighborhood, consistent with the Flowing Wells Neighborhood Association and Community Coalition revitalization efforts.

V. BUDGET AND SCHEDULE:

1. Alternative D has the least impact on above ground utilities, saving the budget from the expense of moving all utilities.
2. By reducing the likelihood of potential lawsuits for inverse condemnation and right-of-way issues, Alternative D would allow the prompt efficient scheduling of the project.
3. This alternative substantially reduces the liability potential to Pima County for roadway design defects.
4. Alternative D, according to the EAMR, would cost approximately 2.6 million more than Alternative E."

He suggested that if the Board approved Alternative D that they do so with the following modifications, also contained in his December 8, 2008, memorandum:

- "A. Concur with the Community Advisory Committee regarding the implementation of Alternative D but retain the 11-foot travel lanes and other features in the DOT recommended design. Eleven foot travel lanes have proven to be no less safe than 12, and in fact evidence regarding Kolb Road suggests that 11-foot travel lanes allowing additional space for bicyclists has probably enhanced overall roadway safety. In this alternative we would recommend that the frontage road and accompanying noise walls be eliminated, resulting in a savings of in excess of \$300,000.
- B. It is also recommended the County acquire or seek to acquire the properties identified in Alternative D. It should be noted that previous cost estimates associated with right-of-way acquisition may have decreased due to current market conditions. The County is prohibited from paying anything in excess of fair market value. It is likely that fair market value for many of these properties has been reduced based on current economic conditions.
- C. The option to relocate should be each individual owner's decision. The County will not force relocation of any individual property owner in the proposed relocation area. If a property owner chooses to relocate he will be appropriately compensated at fair market value plus relocation costs. If the owner declines to relocate, staff will work individually with each property owner to assure reasonable and

appropriate access to La Cholla Boulevard, which may, in some cases, require improvements to parallel alleys serving the properties in question.

- D. If the County acquires blocks of properties adjacent to La Cholla Boulevard, we will work with appropriate community and neighborhood representatives to re-market these properties for economic development to increase tax generating potential and jobs for the Flowing Wells area.”

The following speakers addressed the Board:

- 1. Ellie Towne, CAC member;
- 2. Timothy Barrett;
- 3. Fred Bass, CAC member; and,
- 4. Charlene Franzen.

They provided the following comments:

- A. The CAC concurred with Alternative D and the modifications as recommended by the County Administrator;
- B. A request was made to continue allowing a left turn to go north on La Cholla Boulevard rather than placing a median at the intersection causing drivers to make a right turn going south to make a u-turn to go north again as they exit WalMart; and,
- C. Once the road widening was completed, the La Cholla Boulevard corridor would be a good place to develop businesses.

Dean Papajohn, Transportation Project Manager, stated the access to go north on La Cholla Boulevard was a challenging corner for development. The WalMart is not huge store, the lot is fairly small with entries very close to the intersection and in an ideal world they would like to push median openings away from the intersection to improve safety. The project team would continue to review this and it would be brought to the attention of the traffic engineers to see if anything different could be done in terms of configuration.

Ms. Towne expressed her appreciation, but she thought this roadway project was known in advance and that WalMart should have been required to move their driveway a little further south. She stated she just wanted to be able to have people go north coming out of that parking lot.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve Alternative D as modified.

25. **COUNTY ADMINISTRATOR: I-10 AVRA VALLEY MINING AND DEVELOPMENT, L.L.C., DEVELOPMENT AGREEMENT**

RESOLUTION NO. 2008- 322, of the Pima County Board of Supervisors relating to the closing of certain conveyances pursuant to the Development Agreement between Pima County, the Pima County Flood Control District and I-10 Avra Valley Mining and Development, L.L.C.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-322.

26. **COMMUNITY SERVICES, EMPLOYMENT AND TRAINING: CONTRACT**

Tucson Youth Development, Inc., Amendment No. 1, to provide workforce development services and amend scope of work, no cost (07-69-T-140977-0708)

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

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

A. **Corrections Officer Retirement Board**

Reappointment of Keith Bagwell. Term expiration: 12/31/12. (District 5)

B. **County Attorney Investigators Local Retirement Board**

Reappointment of Keith Bagwell. Term expiration: 12/31/12. (District 5)

C. **Housing Commission**

Reappointments of Ken Anderson and Frank Thomson. Term expirations: 12/31/12. (District 2)

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

Appointment of Pam Moseley to replace Kaitlin Meadows. Term expiration: 12/31/12. (District 3)

E. **Public Safety Retirement Board**

Reappointment of Keith Bagwell. Term expiration: 12/31/12. (District 5)

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

28. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

Dale Roose addressed the Board regarding walkability. He offered some suggestions regarding how Tucson and the County could achieve a walkable community.

Michael Toney commented about mining in Davidson Canyon and other community issues.

29. **ADJOURNMENT**