

## MINUTES, FLOOD CONTROL DISTRICT BOARD

JANUARY 13, 2009

The Pima County Flood Control District Board met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 W. Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, January 13, 2009. 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. **MITIGATION PLAN**

Staff requests approval of the Riparian Habitat Mitigation Plan for the Union Pacific Railroad impacting important riparian areas needed for the UPRR Pantano Railroad Line Change Project, which includes a financial contribution in the amount of \$99,020.00 to a Mitigation Bank. (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 plan.

### 2. **ADJOURNMENT**

# MINUTES, BOARD OF SUPERVISORS' MEETING

JANUARY 13, 2009

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 W. Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, January 13, 2009. 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.     **MOMENT OF SILENCE**

A moment of silence was observed to honor all servicepersons, especially those who sacrificed their lives.

2.     **INVOCATION**

The invocation was given by Congregation Leader Steve Shermett of Congregation Beth Sar Shalom.

3.     **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

4.     **PAUSE 4 PAWS**

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

5.     **POINT OF PERSONAL PRIVILEGE**

Supervisor Carroll expressed his admiration for the recently deceased Ralph Hoot Gibson, who was a Korean Conflict Veteran, Air Force Ace and member of the Thunderbirds.

Supervisor Day commended Sarah Smallhouse on being chosen the Tucson Chamber of Commerce Woman of the Year and Larry Hecker as Man of the Year.

6.     **EXECUTIVE SESSION**

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

7.     **RECONVENE**

The meeting reconvened at 9:55 a.m. All members were present.

8. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3), (4) and (7), for legal advice, direction and negotiations regarding the possible purchase of real property known as Tumamoc Hill at public auction, Public Auction Number 53-112516, currently scheduled for February 23, 2009.

Chris Straub, Chief Civil Deputy County Attorney, stated that the item concerned advice to the Board about the legal risks of assuming ownership of the Tumamoc property, which included an old landfill site. The State Land Department will be auctioning off the property on February 23, 2009. The County Attorney's Office requested direction regarding the auction, a proposed indemnity agreement with the City of Tucson and to proceed as discussed in executive session.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to direct Chuck Huckelberry, County Administrator, to write a letter to the City of Tucson expressing the County's concern regarding the title to the landfill.

9. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding appealing the State Board of Equalization's decisions dated December 4, 2008 for personal property (billboards) valuation for tax year 2008. The value at issue is approximately \$4.2 million.

Chris Straub, Chief Civil Deputy County Attorney, stated that this regarded appealing in the Arizona Tax Court the State Board of Equalization (SBOE) decisions dated December 4, 2008, that involved the personal property valuation of billboards owned by Clear Channel. The SBOE reduced the Full Cash Value to about \$1.3 million from the Assessor's valuation of \$4.3 million. The Assessor and County Attorney's Office recommended not appealing the 2008 decisions.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the recommendations to not appeal.

10. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction, regarding appealing the State Board of Equalization's decision dated December 18, 2008 regarding classification of real property, Parcel No. 133-37-07B.

Chris Straub, Chief Civil Deputy County Attorney, stated that this regarded an appeal in the Arizona Tax Court that involved the valuation of Parcel 133-37-07B, owned by Gegenheimer Properties, L.L.P. The Assessor's notice of \$3,208,180.00 value with a 15.3% assessment ratio was mailed prior to the settlement of tax year 2008 litigation which, by statute, would roll over for 2009. The SBOE reduced the full cash value to \$2,448,573.00, below the 2008 \$2,556,493.00 rollover value. The SBOE also reduced the assessment ratio to 10%. Instead of a mixed classification of 10 acres at Class 3 (10%) and 70.19 acres at Class 2 (16%), the SBOE changed the classification to all Class 3 at 10%. The County Attorney's Office and

Assessor recommended appealing to return to the rollover numbers of a mixed classification and 14.6% ratio.

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

11. **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 on the following matters:

Kaye and Emilie Neal

Parcel No. 304-82-4480

Arizona Tax Court Case No. ST2008-000466

Ismael and Kathern Villalobos

Parcel No. 221-27-0310

Arizona Tax Court Case No. ST2008-000393

Bruce and Earlene Dewey

Parcel No. 208-20-0390

Arizona Tax Court Case No. ST2008-000905

James Shiner

Parcel No. 109-04-2470

Arizona Tax Court Case No. ST2008-000405

Fitch v. Pima County

Parcel No. 304-69-4690

Arizona Tax Court Case No. ST2008-000432

Chris Straub, Chief Civil Deputy County Attorney, stated that this regarded proposed settlements of five tax appeals:

Parcel No. 304-82-4480 to decrease the full cash value from \$399,998.00 to \$355,000.00 for tax year 2009;

Parcel No. 221-27-0310 to decrease the full cash value from \$268,178.00 to \$255,100.00 for tax year 2008;

Parcel No. 208-20-0390 to decrease the full cash value from \$135,406.00 to \$92,500.00 for tax year 2008;

Parcel No. 109-04-2470 to decrease the full cash value from \$1,331,838.00 to \$973,743.00 for tax year 2008 and to decrease the full cash value from \$1,301,181.00 to \$973,743.00 for tax year 2009; and

Parcel No. 304-69-4690 to be reclassified as Class 3 (residential).

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

12. **CONSENT CALENDAR:**

The Chairman inquired whether anyone wished to be heard on any item listed for action on the Consent Calendar. No one appeared. On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to approve the Consent Calendar as presented.

**CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

1. **CONTRACTS AND AWARDS**

A. **Office of Court Appointed Counsel**

**Award**

1. Award of Contract, Requisition No. 0901254, in the total amount of \$300,000.00 to Daniel W. Anderson for court appointed attorney services on the Superior Court Felony Panel. The contract has the renewal option for a three-year period. Funding Source: General Fund. Administering Department: Office of Court Appointed Counsel.

B. **Pima Health System**

2. Holy Cross Hospital, Inc., Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,600,000.00 (18-15-H-137075-1005)
3. Arizona Health Care Cost Containment System (AHCCCS), Amendment No. 1, to provide acute care services and amend contractual language, PHCS Enterprise Fund, no cost (02-15-A-141668-1008)

C. **Procurement**

**Awards**

4. Award of Contract, Requisition No. 0900540, in the annual amount of \$2,802,750.00 to the highest ranked/most qualified respondent, A & K Transportation, Inc. (Headquarters: Tucson, AZ) for special needs transportation services. Contract is for a one-year term and includes four one-year renewal periods. Funding Source: General Fund. Administering Department: Transportation.
5. Award of Contract, Requisition No. 0900926, URS Corporation, (Headquarters: San Francisco, CA) the respondent submitting the highest scoring proposal for roadway planning and design engineering services for the La Cholla Boulevard: Magee Road to Tangerine Road Project. The contract shall be for a 30-month period for the Preliminary Planning and Engineering Phase (Stages I and II). The final negotiated contract amount for the Preliminary Planning and Engineering Phase shall not exceed \$2,300,000.00, unless amended by written agreement. Upon

satisfactory completion of the first phase, the contract may be amended by written agreement to include scope, fee and additional time to perform the Final Design (Stages III, IV and V) and Post Design Services. The contract may 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: HDR Engineering, Inc., and EPS Group, Inc. Funding Source: RTA \$1,800,000.00 (80%) and Impact Fee Fund \$500,000.00 (20%). Administering Department: Transportation.

**D. Real Property**

6. Therapeutic Riding of Tucson, Inc., Amendment No. 1, to provide a lease agreement for property located at 8920 and 9020 East Woodland Road and extend contract term to 12/3/33, annual contract amount \$10.00 (11-64-T-137245-1105)

**E. Recorder**

7. RESOLUTION NO. 2009-12, approving an Intergovernmental Agreement with the City of South Tucson, to provide election related services, revenue per fee schedule (01-31-S-141671-0209)
8. RESOLUTION NO. 2009-13, approving an Intergovernmental Agreement with the Town of Sahuarita, to provide election related services, revenue per fee schedule (01-31-S-141672-0209)

**F. Transportation**

9. RESOLUTION NO. 2009-14, approving an Intergovernmental Agreement with the Arizona Department of Transportation, to design and construct a traffic signal and the approaches at the intersection of Camino de Oeste and Ajo Highway, Impact Fee Fund, contract amount \$350,000.00 (01-04-A-141669-0109)
10. RESOLUTION NO. 2009-15, approving an Intergovernmental Agreement with the Regional Transportation Authority, to design and construct a 1.7 mile segment of the Pantano River Park, RTA Fund, contract amount: \$1,200,000.00 revenue (01-04-R-141670-0109)

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

**Flood Control District Advisory Committee**

Ratification of Town of Marana appointment of Carl Larson P.E., alternate, to replace Jennifer Christelman. No term expiration. (Jurisdictional recommendation)

**3. TREASURER'S OFFICE**

Certificates of Clearance pursuant to A.R.S. §42-19118.

<b>Name on Assessor's Record</b>	<b>Reference No.</b>	<b>Tax Year</b>
A Touch of Sicily	04012165320	2004
Abacus Technologies	05012175020	2005
Abstractions	06012176692	2006
Abstractions	07012176692	2007
Aero California	04012104900	2004
Aero California	05012104900	2005
Amazing Video & Redemption	04012120165	2004
Anderson, Shirlean S.	06011129466	2006
Anderson, Shirlean S.	07011129466	2007
Antigua Designs	04012170202	2004
Arizona Auto & Bike Repair Ctr.	05012175512	2005
Arlington Investments, Inc.	07011151753	2007
Atchison, Donald C.	07011150099	2007
Aulds, Jimmie or Maria T.	07881500022	2007
Aviles, Jesus	07011152957	2007
Baez, Maria	07011158600	2007
Barajas, Sochil J.	06011189907	2006
Barajas, Sochil J.	07011189907	2007
Barrios, Arthur	07011125698	2007
Beauvais Chiropractic	07012191568	2007
Bedrock Custom Pool Interior & Tile	06012120868	2006
Benson, Kevin or Alice	07011128173	2007
Big Dawg	06011132883	2006
Big Dawg	07011132883	2007
Bishop, Mike	07011138825	2007
Boggie, Tracy	06011145337	2006
Boggie, Tracy	07011145337	2007
Boggs, Gary	06011141172	2006
Boggs, Gary	07011141172	2007
Bounce Around	05012176096	2005
Brockelsby-Bright, Sheri L.	07011154378	2007
Brown, Alan A.	06011142581	2006
Brown, Alan A.	07011142581	2007
Burke, John or Sandra	06011190563	2006
Burke, John or Sandra	07011190563	2007
Cambron, Jennifer	07011162280	2007
Capitol Vail	06012177064	2006
Capitol Vail	07012177064	2007
Carstensen, Gary or Dee	04011172215	2004
Carter, Linda	06011161662	2006
Carter, Linda	07011161662	2007
Case, Raymond G. or Garza, Carolina	06011189562	2006
Case, Raymond G. or Garza, Carolina	07011189562	2007
Checchi, Edmund J.	06011158442	2006
Checchi, Edmund J.	07011158442	2007
Clark, Jessie M.	07011143321	2007
Collins, Maria	03011154471	2003
Collins, Maria	04011154471	2004
Collins, Maria	05011154471	2005
Collins, Maria	06011154471	2006
Collins, Maria	07011154471	2007
Complete Bug & Rail	05012177235	2005
Coronado, Robert	07011144531	2007

Criglar, Gregory R.	06011148833	2006
Criglar, Gregory R.	07011148833	2007
Cundiff, Crystal	07011164323	2007
Dean's Nail & Hair Professional	03012023505	2003
Dean's Nail & Hair Professional	04012023505	2004
Dial, Lawrence or Barbara	06011155759	2006
Dial, Lawrence or Barbara	07011155759	2007
El Tepeyac	05012175716	2005
E-Max Promotions	05012174424	2005
Enriquez, Felix or Dora M.	07011161225	2007
Fanestra Practice	05012165786	2005
Fashion Furniture & More	04012120353	2004
Ford David Castelo Ins	06012183101	2006
Fuse Mobile Inc.	07012192884	2007
Fuse Mobile Inc.	07012192691	2007
Fuse Mobile Inc.	07012192692	2007
Gibbons, Lizabeth	07011190288	2007
Global Mobile	05012178419	2005
Goff, Elvis	07011136169	2007
Greathouse Distributing Inc.	03012097409	2003
Greathouse Distributing Inc.	04012097409	2004
Harrigan, Harold W.	07011128986	2007
Herbaugh, Robert Erwin	05011156719	2005
Hernandez, Joe	04012021451	2004
Hughes, Cynthia	07011132323	2007
Humbertos	05012174983	2005
International Auto Service	05012175727	2005
International Car Trade	04012170427	2004
Itip, L.L.C.	07011146805	2007
Jacobo, Ismael	07011136856	2007
Johnson, John	07011156386	2007
Jorgensen Productions	04012063991	2004
Jorgensen Productions	05012063991	2005
Kanpai Japanese Restaurant	03012078603	2003
La Catedral Bakery	04012112560	2004
La Dulceria Mi Pequena Alexandra	05012175615	2005
Lamb's Mobile Auto	04012165896	2004
Lamb's Mobile Auto	05012165896	2005
Lentine, James M. or Tina L.	06011182201	2006
Lentine, James M. or Tina L.	07011182201	2007
Long Family, L.P.	07011126163	2007
Lozano, Juan	06011127565	2006
Lozano, Juan	07011127565	2007
Lujan, Jesus A.	07011153711	2007
Martinez, Alejandro Diaz	05011137336	2005
Martinez, Alejandro Diaz	06011137336	2006
Martinez, Alejandro Diaz	07011137336	2007
Martinez, Francisco R.	07011148298	2007
Martinez, Gilberto or Ignacio	06011190255	2006
Martinez, Gilberto or Ignacio	07011190255	2007
Moran, Patrick	03011147678	2003
Moran, Patrick	04011147678	2004
Moran, Patrick	05011147678	2005
Moran, Patrick	06011147678	2006

Nunez, Carlos	07011131508	2007
Olson, Oscar M.	03011147988	2003
Olson, Oscar M.	04011147988	2004
Olson, Oscar M.	05011147988	2005
Olson, Oscar M.	06011147988	2006
Olson, Oscar M.	07011147988	2007
Osburn, Teresa J.	05011135422	2005
Osburn, Teresa J.	06011135422	2006
Osburn, Teresa J.	07011135422	2007
P M H Office Partners, L.P.	06011136622	2006
P M H Office Partners, L.P.	07011136622	2007
Palmer, Eugene Theodore	07011157851	2007
Paredes, Maria or Perez, Jorge J.	03011133055	2003
Paredes, Maria or Perez, Jorge J.	04011133055	2004
Paredes, Maria or Perez, Jorge J.	05011133055	2005
Paredes, Maria or Perez, Jorge J.	06011133055	2006
Paredes, Maria or Perez, Jorge J.	07011133055	2007
Prince Manor Properties, L.L.C.	06011125955	2006
Prince Manor Properties, L.L.C.	07011125955	2007
Quest Community Church	07012184509	2007
Raikes Collectibles	03012084007	2003
Raikes Collectibles	04012084007	2004
Raikes Collectibles	05012084007	2005
Raikes Collectibles	06012084007	2006
Raikes Collectibles	07012084007	2007
Red Star Collectables	04012166548	2004
Reyes, Andres or Lomeli, Andrea	04011172543	2004
Reyes, Andres or Lomeli, Andrea	05011172543	2005
Reyes, Andres or Lomeli, Andrea	06011172543	2006
Reyes, Andres or Lomeli, Andrea	07011172543	2007
Riley, Michael D.	07011158410	2007
Roberts, Jay	06011133984	2006
Robinson, Peter T.	05011152195	2005
Robinson, Peter T.	06011152195	2006
Robinson, Peter T.	07011152195	2007
Ruff Enterprises	07012190871	2007
Sagaz Upholstery Shop	04012170523	2004
Santa Ana Villa Assisted Living	04012113269	2004
Santa Ana Villa Assisted Living	05012113269	2005
Scheeringa, David	07011190440	2007
Scott Woodrow or Heath Michele	06011150228	2006
Scott Woodrow or Heath Michele	07011150228	2007
Shoults, George	06011148988	2006
Shoults, George	07011148988	2007
Skyline Ridge, L.L.C.	06011182151	2006
Skyline Ridge, L.L.C.	07011182151	2007
Sleepy Hollow Trailer Ranch	06011190519	2006
Sleepy Hollow Trailer Ranch	07011190519	2007
Southwest Baptist Mission	06011128973	2006
Southwest Baptist Mission	07011128973	2007
Spencer, Roy or Jacoby, Linda	07011145371	2007
Star Auto Detail	03012120341	2003
Star Auto Detail	04012120341	2004
Star Auto Detail	05012120341	2005

Star Auto Detail	06012120341	2006
Starr Distribution Services	07012120587	2007
Stott, Paul or Millie	06011126693	2006
Stott, Paul or Millie	07011126693	2007
Taco Centro	07012194721	2007
Taylor, Thomas	07011147953	2007
Tucson Bearing Co.	05012174217	2005
Vaaco Distributor	05012175385	2005
Valencia, Raul	07011127026	2007
Valentine, Patrick	06011126975	2006
Valentine, Patrick	07011126975	2007
Vasquez, Olga	06011182450	2006
Vasquez, Olga	07011182450	2007
Villagas, Victor Gonzalo	06011161475	2006
Villagas, Victor Gonzalo	07011161475	2007
Wallick Properties SW L.L.C.	05012174908	2005
Weber Gold Recycling	05012174769	2005
Yang, Marshall Gayhart	07011148749	2007

**4. RATIFY AND/OR APPROVE**

Minutes: December 2, 2008

**REGULAR AGENDA/ADDENDUM ITEMS**

**13. COUNTY ADMINISTRATOR**

**A. Classification and Compensation**

The Consolidated Justice Court requests the creation of three (3) new Position Control Numbers to be allocated as follows, JCEF Funds:

CLASS CODE	CLASS TITLE	GRADE/RANGE	EEO, O/T CODE
9001	Administration 2 Courts (1)	L4(\$27,729-\$55,979)	NP*
5393	Litigation Support Level 2 (Courts 2)	L2(\$16,893-\$42,930)	PT**

\*NP = (Not Paid Overtime) Exempt; \*\*PT = (Paid Overtime) Non Exempt

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

**B. Revision to Merit System Rules and Personnel Policies**

Staff requests approval of the following revision:

Personnel Policy 7-119 – Rules of Conduct

Section X is proposed to address an employee’s conduct on and off duty. It reads as recommended by the Merit System Commission after discussions regarding its applicability and a review regarding how other jurisdictions address this matter. The proposal reads as follows: “Whether on or off duty, an employee shall conduct himself or herself in a manner that will not bring discredit or embarrassment to the County.”

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:

1. Brian Johnson, SEIU member

2. Carolyn Trowbridge, Arizona affiliate of ACLU representative
3. Michael Elsner, State affiliation of ACLU representative

Comments included the following:

- A. Existing County rules already cover the topic.
- B. The ACLU's Arizona affiliate informed the Board by letter that the revision was likely unconstitutional and infringed on rights.
- C. The ACLU's State affiliate informed the Board by fax that the revision was a first amendment issue.
- D. The ACLU's State affiliate would not hesitate to file applicable lawsuits.
- E. The revision would be construed as a threat, leading to fear to participate in unpopular and/or political activities.
- F. The revision would be unenforceable.
- G. The revision's purpose was vague.
- H. The upcoming Martin Luther King, Jr. holiday was in honor of a person who publicly participated in an unpopular and political activity.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and carried by a 4-1 vote, Supervisor Day voting "Aye," to deny the revision.

14. **FLEET SERVICES: ANNUAL VEHICLE EXEMPTIONS**

Pursuant to A.R.S. §38-538.03, staff requests the Board of Supervisors authorize the annual vehicle exemptions for 2009.

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

15. **DEVELOPMENT SERVICES: REZONING**

Co9-07-18, VAIL UPRR NORTH II, L.L.C.– ROCKET ROAD ALIGNMENT REZONING Request of Vail UPRR II, L.L.C., represented by The Planning Center, for a rezoning of approximately 43.90 acres from RH (Rural Homestead) to CR-5 (Multiple Residence), on property located on the north side of the Rocket Road alignment, approximately 2,000 feet west of Mary Ann Cleveland Way. The proposed rezoning conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Smith, Spendiarian and Hewitt were absent) to recommend APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 4)

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 lots without the written approval of the Board of Supervisors.
7. Transportation conditions:

- A. Written certification from the City of Tucson stating satisfactory compliance with all its requirements shall be submitted to the Pima County Development Review Section prior to the approval of the final plat.
  - B. The property owner(s)/developers(s) shall provide paved, legal access to the site, from Mary Ann Cleveland Way (or other existing paved roadway).
  - C. Provision of access to adjacent properties should be provided to allow vehicular, pedestrian and bicycle access. Onsite turnaround(s) may be required until such time through connections are provided.
  - D. Urban street standards shall apply for offsite improvements between the site and Mary Ann Cleveland (or other existing paved roadway).
  - E. The final plat shall show and label the location of Desert Village Parkway and label as a grade separated overpass.
8. Flood Control conditions:
- A.. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. A drainage report conforming to the Flood Control District Technical Policies in effect at the time of platting shall be submitted during the platting process for Flood Control District to determine 100-year water surface elevations for all lots, building envelopes where appropriate and to analyze detention /retention requirements. Channel and drainage design shall be addressed and a meeting prior to submittal is recommended.
  - C. The property owner(s)/developer(s) shall provide all necessary on-site and off-site drainage related improvements that are needed as a result of the proposed development of the subject property. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District. All drainage improvements associated with Vista del Lago upstream of this project including but not limited to detention basins and channels shall be completed prior to issuance of grading permits.
  - D. All-weather access shall be provided to all lots to meet concurrency requirements.
  - E. A riparian mitigation plan shall be required for development in designated riparian areas.
  - F. The property owner(s)/developer(s) shall dedicate right-of-way or easements for drainage and riparian preservation purposes to the Flood Control District/the Homeowners Association, as determined necessary during the development plan/subdivision plat review.
  - G. A Maintenance Plan that identifies the responsibilities and funding of private drainage improvements shall be submitted with the tentative plat.
9. Wastewater Management conditions:
- A. The property owner(s)/developers(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
  - B. The property owner(s)/developers(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the Pima County Regional Wastewater Reclamation Department.
10. Environmental Quality condition:  
As a condition of approval, the property owner(s)/developers(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.
11. Cultural Resources conditions:
- A. Prior to ground modifying activities, an on-the-ground archaeological and historic resources survey shall be conducted on the subject property, and submitted to Pima County for review.
  - B. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted to Pima County at the time of, or prior to, the submittal of any tentative plan or development plan. All work shall be conducted by an archaeologist permitted by the Arizona State Museum, or a registered architect, as appropriate.
  - C. Following rezoning approval, any subsequent development requiring a Type II grading permit will be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.
12. Natural Resources, Parks and Recreation conditions:
- A. The property owner(s)/developers(s) shall dedicate a "Public Non-Motorized Trail Easement" to Pima County along the southern border of the project. The easement shall contain a minimum 20-foot flat area as measured from the rear of the lots (161-203) toward the railroad.
  - B. The property owner(s)/developers(s) shall install native landscaping in the 20-foot level area in such a way as to accommodate a meandering eight-foot decomposed granite trail.
  - C. The property owner(s)/developers(s) shall construct recreation features as required for two acres of parkland.
  - D. The recreation areas shall be completed when 75% of the assurances are released.

13. Environmental Planning conditions:
  - A. The site shall be inspected for the presence of the western burrowing owl by a qualified resource specialist. A report which contains survey results and dates shall be provided to Pima County immediately upon completion of the inspection. This report must be received prior to approval of a development plan or tentative plat. If any western burrowing owls are found to be present on the project site, a copy of the report shall be sent to the Arizona Game and Fish Department's Heritage Data Management System.
  - B. Unless Development Services is provided with information from the US Fish and Wildlife Service which indicates a site survey is not necessary, the site shall be surveyed for Pima pineapple cactus. The survey shall be conducted by an entity qualified to perform biological surveys. Surveys shall be done according to the most recent protocol approved by the US Fish and Wildlife Service. A report containing the results of these surveys and copies of any data collected shall be provided to Development Services. The date of the survey should not exceed one year prior to the submittal of any subsequent rezoning. If Pima pineapple cactus are found to be present on the project site, a copy of the report shall also be sent to the Arizona Game and Fish Department's Heritage Data Management System.
  - C. 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 the current and 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.
  - D. The following shall be incorporated into the recorded Private Subdivision Covenants, Conditions, and Restrictions (CC&Rs) that govern the Homeowners' Associations (HOAs) and the actions of private property owners within the Subdivision:
    - 1) Maintenance of Common Area by Association: The HOA shall be responsible for the removal of buffelgrass from Common Areas.
    - 2) Maintenance of Lots by Owners: Lot Owners shall keep private lots free of buffelgrass.
14. Noise abatement conditions:
  - A. Residences in the first row of lots adjacent to the 50-foot setback along the Union Pacific Railroad right-of-way shall be built to have an exterior building envelope sound Transmission Class such that the interior noise levels that are due to exterior noise shall not exceed 45 dBA.
  - B. ~~Walls constructed along the 50-foot setback boundary from the southwest property line (adjacent to the Union Pacific right-of-way) shall be at least six feet in height.~~  
A wall of at least six feet in height shall be constructed along the 50-foot setback along the southwest property line (adjacent to the Union Pacific right-of-way) per the Sound and Vibration Mitigation Plan contained on pages 56, 57 and 58 of the approved Site Analysis. Breaks in the wall shall be designed to avoid direct transmission of railroad sound into adjacent lots through the installation of staggered walls or by increasing the height of the walls on the sides of the lots adjacent to the location of the wall breaks.
  - C. Residences on those lots adjacent to the 50-foot setback along the southwest property line (adjacent to the Union Pacific right-of-way) shall be set back a minimum of ~~40~~ **70** feet from ~~the rear lot line~~ **the Union Pacific right-of-way**
15. The property owner(s)/developers(s) shall execute and record a document acceptable to the Pima County Community Development and Neighborhood Conservation Department indicating that the owner/developer 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.
16. In the event the subject property is annexed, the property owner(s)/developers(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.
17. The property owner shall execute and record the following disclaimer regarding Proposition 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 to 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(l)."
18. Adherence to the preliminary development plan as approved at public hearing.

In response to Supervisor Carroll, Tom Hudson, Zoning Administrator, verified that edits were made to Condition 14, B and C.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the hearing and approve the rezoning subject to standard and special conditions, with Condition No. 14, B and C amended.

16. **DEVELOPMENT SERVICES**

A. **REZONING CLOSURE**

Co9-97-53, ALI, ET. AL. – ORACLE ROAD REZONING

Request of Assunta Ali, et. al., represented by Frank Thomson of Frank Thomson & Associates, L.L.C., for closure of a rezoning from GR-1 (GZ) (Rural Residential) (Gateway Overlay) to CB-1 (GZ) (Local Business) (Gateway Overlay) of 3.40 acres located on the east side of Oracle Road, approximately 600 feet south of Mainsail Boulevard. The subject site was rezoned in 1998 and expired in 2008. Staff recommends AGAINST CLOSURE. (District 1)

B. **REZONING TIME EXTENSION**

Co9-97-53, ALI, ET. AL. – ORACLE ROAD REZONING

Request of Assunta Ali, et. al., represented by Frank Thomson of Frank Thomson & Associates, L.L.C., for a five-year time extension for a rezoning from GR-1 (GZ) (Rural Residential) (Gateway Overlay) to CB-1 (GZ) (Local Business) (Gateway Overlay) of 3.40 acres located on the east side of Oracle Road, approximately 600 feet south of Mainsail Boulevard. The subject site was rezoned in 1998 and expired in 2008. Staff recommends APPROVAL FOR A FIVE-YEAR TIME EXTENSION WITH ADDITIONAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS. (District 1)

Completion of the following requirements by **June 16, 2013**

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. Recording a covenant to the effect that there will be no further subdividing or lot splitting of residential lots without the written approval of the Board of Supervisors.
6. Prior to the preparation of development related covenants and any required dedication, a title report evidencing ownership of the property shall be submitted to the Development Services Department, Document Services Section.
7. Transportation conditions:
  - A. ~~One (1) access point to Oracle Road shall be allowed. The access point shall be shared with the adjacent properties to the north and the south. There shall be provisions made for future internal site access and traffic circulation with adjacent properties to the north and the south. Shared access with the property to the north and south shall be provided. Maintenance and access agreement shall be provided to staff for review and approval prior to approval of the Development Plan.~~
  - B. ~~The location and design of access to the subject property from the Tucson-Florence Highway (Oracle Road) shall need written approval by the Arizona Department of Transportation prior to any plan approvals from Pima County. Elimination of direct access unless modification request is approved per Subdivision and Development Street Standards Chapter 9.~~
  - C. A written certification from the Arizona Department of Transportation stating satisfactory compliance of with all of the requirements for access to the Tucson-Florence Highway (Oracle Road) shall need to be submitted to the Pima County Department of Transportation Development Services Department prior to the issuance of a certificate of occupancy approval of a Development Plan and/or Subdivision Plat.
  - D. The property owner(s)/developer(s) shall provide offsite improvements determined necessary by Arizona Department of Transportation.
8. Flood Control conditions:
  - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. The property owner(s) shall grant flowage easements for drainage purposes, as determined necessary by the Flood Control District during the plan review process.
  - C. The property owner(s) shall provide all necessary drainage related improvements created by the proposed development both on-site and off-site of the subject property. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.

9. Wastewater Management conditions:
  - A. The property owner(s)/developer(s) ~~must~~ shall 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.
  - B. On-site sewers shall be owned, operated and maintained on a private basis.
10. The proposed project shall be reviewed by the Pima County Design Review Committee pursuant to Comprehensive Plan Special Area Policy S-5 Oracle Corridor/Northern Gateway.
11. ~~Prior to ground modification activities by the property owner(s)/ developer(s), an on-the-ground archaeological and historic sites survey and appropriate mitigation measures shall be conducted on the subject property, and submitted to Pima County for review. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted to Pima County at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.~~ All work shall be conducted by an archaeologist permitted by the Arizona State Museum, or a registered architect, as appropriate. Following rezoning approval, any subsequent development requiring a Type II grading permit shall be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.
12. Environmental Planning conditions:
  - A. Plants to be used for landscaping and revegetation shall be drought tolerant native species which are compatible with native vegetation endemic to the project area. Revegetated areas shall establish multiple height layers of vegetation that create a ground cover layer, a shrub mid-story layer, and a canopy layer. Under no circumstances shall the following exotic plant species be planted anywhere on the site:
 

Fountain grass ( <i>Pennisetum setaceum</i> )	Buffelgrass ( <i>Pennisetum ciliare</i> )
Johnson grass ( <i>Sorghum halapense</i> )	Giant reed ( <i>Arundo donax</i> )
Common crabgrass ( <i>Digitaria sanguinalis</i> )	Pampas grass ( <i>Cortaderia selloana</i> )
Red brome ( <i>Bromus rubens</i> )	Mediterranean grass ( <i>Schismus</i> spp.)
Tree of heaven ( <i>Ailanthus altissima</i> )	African sumac ( <i>Rhus lancea</i> )
Russian olive ( <i>Eleagnus angustifolia</i> )	Salt cedar/Tamarisk ( <i>Tamarix pertandra</i> & <i>T. ramosissima</i> )
Bermuda grass ( <i>Cynodon dactylon</i> ) excluding sod hybrid Bermuda	
Lovegrasses ( <i>Eragrostis</i> spp.) excluding Plains lovegrass ( <i>Eragrostis intermedia</i> )	
  - B. Should the Board approve the 5-year time extension 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 owner(s) of the property within the rezoning site and Pima County may enforce this rezoning condition against the current and any future property owner(s). 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.
13. Building heights are limited to 24 feet and one story.
14. Adherence to the preliminary development plan as approved at public hearing, except that the south 110 feet of the site, commencing from the south boundary northward, shall remain as natural area with allowance of an access drive within this area toward the Oracle Road frontage. Slopes exterior to the developed area shall be revegetated with drought tolerant native species which are compatible with native vegetation endemic to the project area.
15. Unless the U.S. Fish & Wildlife Service provides information to the contrary, the site shall be surveyed for the presence/absence of the cactus ferruginous pygmy-owl by an entity qualified to perform biological surveys and who possesses a valid permit from the U.S. Fish & Wildlife Service to perform such surveys. Surveys shall be done according to the most current protocol approved by the U.S. Fish & Wildlife Service. Or, heavy construction activity shall occur only between August 1 and January 31 of any given calendar year. If surveys are performed, results of these surveys and copies of any data collected shall be provided to the Development Services Department.

Tom Hudson, Zoning Administrator, stated that staff recommended against the closure and for the 5 year time extension. If the closure is denied, then the time extension can be considered. The rezoning was conditionally approved in June 1998. The approved preliminary development plan identified the site use as a fast food restaurant with a drive-through. Closure would cause a reversion to GR-1, which would not conform to the comprehensive plan designation, a multi-use functional corridor. The original developer did not proceed due to economic conditions and corporate restructuring. The current economic situation caused further delay. The site was outside the Conservation Lands System. All concurrency criteria were met. No public comments were received.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the hearings, deny the closure and

approve the 5 year time extension with additional and modified standard and special conditions.

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

Co7-08-08, CORTARO FARMS LAND AND CATTLE, L.L.C. AND PIOTROWSKI HOLDINGS, L.L.C. – W. CORTARO FARMS ROAD PLAN AMENDMENT

Request of Cortaro Land and Cattle, L.L.C. and Piotrowski Holdings, L.L.C., to amend the Pima County Comprehensive Plan from Low Intensity Urban 0.3 (LIU-0.3) to Multifunctional Corridor (MFC) for approximately 17.1 acres located on the south side of W. Cortaro Farms Road and east of the N. Camino de Oeste alignment, in Section 30, T12S, R13E, in the Northwest Subregion. On motion, the Planning and Zoning Commission voted 6-1 (Commissioner Holdridge voted NAY; Commissioners Smith, Spendiarian and Hewitt were absent) to recommend MODIFIED APPROVAL to Medium Intensity Urban (MIU) subject to Rezoning Policies. Staff recommends MODIFIED APPROVAL to Medium Intensity Urban (MIU) subject to Rezoning Policies. (District 1)

1. A letter of intent to serve from a water service provider shall be submitted as part of any subsequent rezoning application. If the letter of intent to serve is from a water service provider other than Tucson Water, the applicant will provide documentation as to why Tucson Water is not able to provide service.
2. Compliance with the Conservation Lands System will be achieved to the greatest extent possible. On-site mitigation may occur anywhere on the site and will include open space on the north, east, and south portions of the property, with a minimum width of 125 feet open space on the east and south.
3. Future rezoning will be restricted to TR Transitional Zone

Sherry Ruther, Environmental Planning Manager, stated that the site was partially within the Conservation Lands System. Four speakers addressed the Planning and Zoning Commission. Five people spoke at a County public meeting. Twelve written comments, mostly in opposition, were received.

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:

Todd Thorpe

Comments included the following:

Support was expressed for the development as proposed so far.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the hearing and approve as modified subject to Rezoning Policies.

18. **DEVELOPMENT SERVICES: ZONING CODE TEXT AMENDMENT**

Co8-07-04, CLUSTER SUBDIVISION PROCEDURES

An ordinance of the Board of Supervisors of Pima County, Arizona; relating to zoning; amending the Pima County Code by adding to Section 18.09.040 for proposed cluster subdivisions; a revised process to appeal Design Review Committee cluster decisions; revised notice procedures; and revised review procedures and timeframes. On motion, the Planning and Zoning Commission voted 6-0 (Commissioners Smith, Spendiarian, Cook and Hewitt were absent) to recommend MODIFIED APPROVAL OF THE STAFF RECOMMENDATIONS. Staff recommends APPROVAL. (All Districts)

If approved, pass and adopt:

ORDINANCE NO. 2009-3

Arlan Colton, Planning Official, stated that the Board remanded this item last year back to the Planning and Zoning Commission (Commission) for further consideration. The Board and Commission received outside legal opinions. The Commission heard and considered the request and information regarding three items: making the changes retroactive; notifying the three closest homeowners associations regardless of distance for cluster projects in larger lot zones and allowing anyone to appeal the Design Review Committee's (DRC) decision. The Commission reaffirmed its previous recommendation with one change, i.e., to require advertising the DRC hearing. If the Board approved the item, then the Board should change unadvertised to advertised on page four in the Ordinance.

The Chairman inquired whether anyone wished to be heard.

The following speakers addressed the Board:

1. Roger Carpenter, Gates Pass Area Neighborhood Association
2. Katharina Richter, Friends of Madera Canyon
3. David Godlewski, SAHBA's government liaison

Comments included the following:

- A. Anyone who might be affected by DRC decisions should be able to appeal.
- B. It was difficult to determine development information in rural areas.
- C. Opposition was expressed for changing the appeal process.
- D. Residents and organizations to be notified should extend beyond adjacent neighbors. Some of those affected were not within 1,000 feet.
- E. Support was expressed for retroactive approval.
- F. The Board of Adjustment and DRC appeal processes should be the same.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the hearing, approve the amendment, change unadvertised to advertised on page four or the Ordinance and adopt Ordinance No. 2009-3.

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

P21-08-039, MENDOZA – W. TETAKUSIM ROAD

Request of Rodolfo & Otilia Mendoza, represented by Manuel Amado, on property located at 4361 W. Tetakusim Rd., in the GR-1 zone, for a conditional use permit for a contractor's yard. Chapter 18.97 in accordance with Sections 18.14.030.B.12 of the Pima County Zoning Code allows a contractor's yard as a Type II Conditional Use in the GR-1 zone. The Hearing Administrator recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 5)

**Standard Conditions**

1. Minimum setback: one hundred feet from any property line.
2. Yard to be completely enclosed by screening a minimum of six feet in height.
3. Access be onto a paved public road with "collector" classification or higher.
4. Receive an approved Development Plan.

**Special Conditions**

1. The contractor's yard is limited to the area (4,800 SF) as shown on the submitted Site Plan. Any expansion of this area by more than 10% shall require a new conditional use permit application, public notice, and public hearing process.

2. Use of the contractor's yard is limited to the parking/storage of commercial vehicles and related business equipment. No other on-going industrial activities or work (e.g. manufacturing or the loading/unloading of materials, etc.) shall occur on the property.
3. Screening of the contractor's yard shall occur on all four sides of the enclosure and shall be accomplished with a minimum 6' tall chain-link fence with screening slats.

Jim Portner, Hearing Administrator, stated that there were no speakers at the public meeting or written comments. The special conditions limited the area to 4,800 square feet for only storage use. It was to be surrounded by opaque screens at least six feet high. The site is on the applicant's residence of five acres.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the hearing and approve the permit, subject to standard and special conditions.

## 20. **DEVELOPMENT SERVICES: CONDITIONAL USE PERMIT**

### P21-08-068, VISTA COMPANIES, L.L.C. – W. SAHUARITA ROAD

Request of Vista Companies, on property located at 2052 W. Sahuarita Rd., in the RH zone, for a conditional use permit for a feed store. Chapter 18.97 in accordance with Sections 18.13.030.B.5 of the Pima County Zoning Code allows a feed store as a Type II Conditional Use in the RH zone. The Hearing Administrator recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 4)

#### **Standard Conditions**

1. Access be onto a paved public road with "collector" classification or higher.
2. Receive an approved Development Plan.

#### **Special Conditions**

1. This conditional use is for a feed store only. No other commercial or retail-trade uses are authorized by this approval.
2. The feed store use shall be limited to the improvements as shown on the Development Plan submitted with this application. Any expansion of enclosed building area by more than 10% shall require a new conditional use permit application, public notice, and public hearing process.
3. All physical improvements (including buildings, parking areas, driveways, etc.) associated with this use shall be set back a minimum of one hundred twenty feet (120') from the property's north boundary.
4. Business hours shall be limited to 8:00 AM to 5:00 PM, seven days a week.
5. All vehicular access to and from the site shall be limited to Sahuarita Road and shall occur via the single point of access as shown on the submitted Development Plan.
6. No parking lot light standards shall be permitted. Only night-time security lighting shall be allowed. All security lighting fixtures shall be in accordance with the Pima County Outdoor Lighting Code (OLC) and shall be shielded so as to permit no light trespass onto adjacent properties.

Jim Portner, Hearing Administrator, stated that there was one speaker in opposition at the hearing who stated that only residential use should be allowed. There was one general letter of objection. Two letters in opposition were received citing retail traffic, pay stores, property values and signage. Special conditions addressed concerns expressed at the hearing and attempted to safeguard surrounding properties.

In response to Supervisor Carroll, Mr. Portner verified the physical address was 2062 W. Sahuarita Road, about 1.5 miles west of Houghton Road.

Darryl Barnes, applicant, clarified that the physical address was in relation to the Corona de Tucson area of east and west locations, rather than to Stone Ave.

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:  
Kathryn Porter

Comments included the following:  
Approval would commercialize a residential neighborhood.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the hearing and approve the permit, subject to standard and special conditions.

21. **DEVELOPMENT SERVICES: REZONING ORDINANCES**

- A. ORDINANCE NO. 2009-4, Co9-07-26, Lawyers Title of AZ, TR 7992-T – Magee Road No. 2 Rezoning. Owner: Magee Como Development Assoc., L.L.C. (District 1)
- B. ORDINANCE NO. 2009-5, Co9-08-15, Ina Business Center L.L.C. – Camino de la Tierra No. 3 Rezoning. Owner: Ina Business Center, L.L.C. (District 1)
- C. ORDINANCE NO. 2009-6, Co9-08-13, Smithson – Pinto Lane Rezoning. Owner: Ted and Peggy Smithson. (District 1)

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the hearing and adopt Ordinance Nos. 2009-4 through 6.

22. **REGIONAL WASTEWATER RECLAMATION: PIMA COUNTY CODE TEXT AMENDMENT**

ORDINANCE NO. 2009-7, of the Pima County Board of Supervisors relating to wastewater; amending Pima County Code, Title 13, Chapter 24, Sanitary Sewer User Fees.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the hearing and adopt Ordinance No. 2009-7.

23. **BOARD OF SUPERVISORS**

Expansion of electronic transmission of office and public documents and communication and reduction of paper copies of same to promote conservation and reduce costs. Discussion/Action. (District 3)

Supervisor Bronson recommended that the Board forego hard copy agenda/addendum packets in favor of electronic distribution to support the Board's Sustainable Action Plan's Waste Reduction effort. Supervisor Valadez suggested that staff be directed to provide a report in 6 to 12 months calculating the savings of not providing hard copies.

On consideration, it was moved by Supervisor Bronson and seconded by Supervisor Valadez that the Board receive agenda/addendum material only as

electronic documents effective with the February 3, 2009, Board Meeting. In addition, direct Chuck Huckelberry, County Administrator, and staff to review the daily paper transactions from staff to the Board to attempt to provide electronic versions and to accomplish the change over the next three months.

Supervisor Carroll offered a friendly amendment that supervisors have an option to receive only electronic documents. He preferred to have hard copies available. Supervisor Bronson rejected the friendly amendment and stated the Board needed to take the lead in sustainability.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the Board receiving agenda/addendum material only as electronic documents effective with the February 3, 2009, Board Meeting. In addition, direct Chuck Huckelberry, County Administrator, and staff to review the daily paper transactions from staff to the Board to attempt to provide electronic versions, to accomplish the change over the next three months and to direct staff to provide a report in 6 to 12 months that reviewed the savings of doing so.

24. **COUNTY ADMINISTRATOR**

A. **PIMA COUNTY HOUSING COMMISSION RECOMMENDATION**

Staff recommends approval of the following Pima County Housing Commission recommendations and authorization to prepare project contracts for the following:

1. Ghost Ranch Lodge Apartments Phase 1 (District 3): Approval of an additional \$623,636.00 for a total of \$1,100,000.00 in County Affordable Housing Bond Funds.
2. Esperanza en Escalante Housing for Veterans (District 2): Approval of \$1,178,000.00 in County Affordable Housing Bond Funds.
3. Honea Heights Redevelopment Project (District 3): Approval of \$600,000.00 in County Affordable Housing Bond Funds.
4. Pima County Foreclosure Prevention Program: Approval of \$1,500,000.00 in County Affordable Housing Bond Funds to leverage Federal and private contributions.
5. Sunnyside Pointe Phase I (District 2): Approval of \$1,464,218.00 in County Affordable Housing Bond Funds.
6. Given that one or more of the project areas may be in an area subject to flooding, it would be appropriate to require that the receiving entity certify to the County that the property is not in any local, national or federal floodprone area as may be officially recognized by the Federal Emergency Management Agency or any other floodplain authority.

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:  
Betty Slaybaugh, Director of Development, Esperanza en Escalante

Comments included the following:

- A. Appreciation was expressed to the Board for providing funds.
- B. The community greatly needed the assistance.

In response to Supervisor Day, Scott Gillette, Ghost Ranch Lodge's representative, verified that the project was still viable. The fire affected only buildings already destined to be demolished. Other buildings will be refurbished and rehabilitated.

In response to Supervisor Carroll, Chuck Huckelberry, County Administrator, stated that the program was County-wide. Chairman Elías added that it was important to look at areas that were greatly impacted by the foreclosure crisis, typically lower-income communities. Supervisor Carroll stated that foreclosures were up all over Pima County. Supervisor Day inquired how foreclosed properties would be turned around. Chairman Elías replied that generally some rehabilitation would be required as well as a financing mechanism to create affordability. In reply to Supervisor Carroll, Frank Thompson, Housing Commission, confirmed that the program was County-wide. Historically, areas of need were targeted.

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

## **B. ELECTION INTEGRITY COMMISSION**

Request from the Election Integrity Commission regarding requested modification of the Pima County Legislative Agenda related to various election statutes.

Recommendations were as follows:

### **DEFINITIONS:**

**"OUTCOME"**: THE RESULTS OF AN ELECTION INCLUDING THE WINNERS AND LOSERS BUT NOT INCLUDING THE VOTE COUNTS.

**"CONSISTENT OUTCOMES"**: HAVING THE SAME OUTCOME BUT NOT NECESSARILY THE SAME VOTE COUNTS.

**"INCONSISTENT OUTCOMES"**: RESULTS FOR WHICH OUTCOMES ARE NOT CONSISTENT.

### **16-445. Filing of computer election programs with secretary of state; RETENTION OF ELECTION COMPUTER AUDIT LOGS AND DIRECTORY LISTINGS.**

- A. For any state, county, school district, special district, city or town election, including primary elections, utilizing vote tabulating devices as provided in this article, there shall be filed with the secretary of state at least ten days before the date of the election a copy of each computer program for each election. The secretary of state shall hold all computer program software filed pursuant to this section in escrow for three years. The secretary of state shall securely destroy the software filed pursuant to this section on the expiration of the three year period.
- B. A copy of any subsequent revision of the computer program shall be filed in the same manner within forty-eight hours following the revision.
- C. Any tape or disc used in the programming or operation of a vote tabulating device upon which votes are counted and any tape used in compiling vote totals shall be kept under lock and seal, and if there is a retally of votes, the officer entrusted with the tapes or discs shall

submit his affidavit stating that they are the tapes or discs, or both, used in the election and have not been altered.

- D. THE SECRETARY OF STATE OR OFFICER IN CHARGE OF ELECTIONS, AS APPLICABLE, SHALL PRODUCE AND RETAIN CENTRAL COUNT COMPUTER AUDIT LOGS AND DIRECTORY LISTINGS IMMEDIATELY BEFORE OFFICIAL ELECTION BALLOT COUNTING BEGINS AND AGAIN AFTER THE LAST BALLOT IS TABULATED. EACH COUNTY ELECTION OFFICIAL SHALL SUBMIT AN ELECTRONIC COPY OF THESE RECORDS TO THE SECRETARY OF STATE FOR RETENTION AND DESTRUCTION PURSUANT TO PARAGRAPH A.
- E. All materials submitted to the secretary of state shall be used by the secretary of state or attorney general to preclude fraud or any unlawful act under the laws of this title and title 19 and, EXCEPT FOR THOSE MATERIALS REQUIRED BY SECTION D, shall not be disclosed or used for any other purpose.

**16-449. TESTING OF ELECTION equipment and programs; notice; procedures manual**

- A. REQUIRED LOGIC AND ACCURACY TESTING BY SECRETARY OF STATE. Within the period of time before the election day prescribed by the secretary of state in the instructions and procedures manual adopted pursuant to section 16-452, the board of supervisors or other election officer in charge, or for an election involving state or federal candidates, the secretary of state, shall have the automatic tabulating equipment and programs tested to ascertain that the equipment and programs will correctly count the votes cast for all offices and on all measures AND SHALL VERIFY THAT ALL SOFTWARE AND FIRMWARE USED IN THE EQUIPMENT AND SYSTEM ARE VERSIONS CERTIFIED FOR USE BY THE SECRETARY OF STATE. Public notice of the time and place of the test shall be given at least forty-eight hours prior thereto by publication once in one or more daily or weekly newspapers published in the town, city or village using such equipment, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be observed by at least two election inspectors, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment and programs to reject such votes.
- B. CORRECTION OF DETECTED ERRORS. If any error is detected, the cause therefore shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment and programs are approved. A copy of a revised program shall be filed with the secretary of state within forty-eight hours after the revision is made. If the error was created by automatic tabulating equipment malfunction, a report shall be filed with the secretary of state within forty-eight hours after the correction is made, stating the cause and the corrective action taken. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above. After the completion of the count, the programs used and the ballots shall be sealed, retained and disposed of as provided for paper ballots.
- C. PROCEDURES MANUAL. Electronic ballot tabulating systems shall be tested for logic and accuracy within seven days before their use for early balloting pursuant to the instructions and procedures manual for electronic voting systems that is adopted by the secretary of state as prescribed by section 16-452. The instructions and procedures manual shall include procedures for the handling of ballots, the electronic scanning of ballots and any other matters necessary to ensure the maximum degree of correctness, impartiality and uniformity in the administration of an electronic ballot tabulating system.
- D. POLITICAL PARTY LOGIC AND ACCURACY TESTING. EACH PARTY ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT IN PRIMARY, GENERAL AND PRESIDENTIAL PREFERENCE ELECTIONS MAY CONDUCT THEIR OWN TESTING USING BALLOTS MARKED BY THE PARTY REPRESENTATIVES. A POLITICAL PARTY THAT CHOOSES TO CONDUCT ITS OWN TESTING SHALL HAVE THE COUNTY PARTY CHAIRPERSON NOTIFY, IN WRITING, THE COUNTY OFFICER IN CHARGE OF ELECTIONS, NOT LATER THAN THIRTY DAYS BEFORE THE ELECTION, THE NAMES OF THE PARTY REPRESENTATIVES WHO WILL CONDUCT THE TESTING. THE COUNTY OFFICER IN CHARGE OF ELECTIONS MAY REFUSE, OR REMOVE FOR CAUSE, THE DESIGNEE OF THE PARTY CHAIR AND SHALL NOTIFY THE PARTY

CHAIR OF THE REFUSAL AS SOON AS IS PRACTICABLE SO THAT THE PARTY CAN DESIGNATE AN ALTERNATE.

1. TEST DECK. EACH PARTY ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT THAT CHOOSES TO CONDUCT ITS OWN TESTING SHALL RECEIVE ONE TEST DECK OF BALLOTS. A TEST DECK SHALL, AS SELECTED AND REQUESTED BY THE PARTY REPRESENTATIVE, CONSIST OF NOT MORE THAN TWO BALLOTS FROM EVERY PRECINCT AND, IN ADDITION, UP TO TEN BALLOTS PER PRECINCT FROM UP TO TEN PERCENT OF THE PRECINCTS OR SEVENTY-FIVE PRECINCTS, WHICHEVER IS LESS, IN THAT COUNTY. AT LEAST FOUR PRECINCTS ARE SUBJECT TO TESTING IF THERE ARE LESS THAN FORTY PRECINCTS IN THE JURISDICTION. PRECINCTS TO BE TESTED SHALL BE SELECTED BY THE PARTY REPRESENTATIVES. BALLOTS THAT ARE USED AS PART OF A TEST DECK SHALL BE DISTINGUISHABLE FROM ALL OTHER TYPES OF BALLOTS BY INCLUDING THE WORD "TEST" OR A SIMILAR LABEL IN A CONSPICUOUS PLACE ON THE BALLOT.
2. ELECTION EQUIPMENT TO BE TESTED. POLITICAL PARTY REPRESENTATIVES MAY USE THEIR TEST BALLOTS TO TEST THE PAPER-FED OPTICAL SCAN MACHINES, INCLUDING THE CENTRAL COUNT SCANNERS, OR THE DIRECT RECORDING ELECTRONIC VOTING SYSTEMS, OR BOTH. THE SAME BALLOT MAY BE USED TO TEST BOTH DEVICES. FOR TESTING THE DIRECT RECORDING SYSTEMS, THE TEST BALLOT SHALL SERVE AS A TEMPLATE FOR MANUAL ENTRY OF BALLOT VOTE SELECTIONS.
3. PRIMARY OR PRESIDENTIAL PREFERENCE ELECTIONS. IN THE CASE OF A PRIMARY ELECTION OR PRESIDENTIAL PREFERENCE ELECTION, A POLITICAL PARTY MAY ONLY TEST BALLOTS FROM ITS PARTY.
4. MARKING AND CUSTODY OF TEST BALLOTS. ALL BALLOTS REQUESTED BY THE PARTY REPRESENTATIVES SHALL REMAIN IN THE CUSTODY OF THE ELECTION OFFICIALS AND SHALL BE RETURNED TO THE OFFICER IN CHARGE OF THE ELECTION UPON COMPLETION OF THE TEST. ALL MARKING AND TESTING OF BALLOTS BY PARTY REPRESENTATIVES SHALL OCCUR AT THE ELECTION DEPARTMENT.
5. POST-ELECTION TESTING. THE ENTIRE TEST MAY BE REPEATED USING THE SAME TEST DECK AFTER THE LAST OFFICIAL BALLOT IS TABULATED, BUT BEFORE THE CANVASS IS APPROVED.
6. SCHEDULING AND COMPLETION OF TESTING. TESTING BY THE PARTY REPRESENTATIVES SHALL BE COMPLETED ON A SCHEDULE AGREED ON BY THE PARTY REPRESENTATIVES AND THE OFFICER IN CHARGE OF ELECTIONS. IF A SCHEDULE CANNOT BE AGREED ON, TESTING SHALL BE COMPLETED BEFORE THE SECRETARY OF STATE'S LOGIC AND ACCURACY TEST. THE ELECTION SCHEDULE, INCLUDING THE LOGIC AND ACCURACY TESTING, SHALL NOT BE MODIFIED TO ACCOMMODATE PARTY TESTING.

**16-602. Removal of ballots from ballot boxes; disposition of ballots folded together or excessive ballots; designated margin; hand counts; vote count verification committee**

- A. The ballots cast in the election shall first be removed from the ballot box and counted without being opened, except as may be necessary to ascertain that the number of ballots cast corresponds with the number of names on the poll lists. For any primary or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.
- B. If two or more ballots are found folded together appearing as a single ballot, they shall be laid aside until the count of the ballots is completed. If it then appears by comparison of the count with the number of names on the poll lists that the ballots thus folded together were cast by one elector, they shall be destroyed. If the ballots in the box are still found to exceed in number the names on the poll lists, the ballots, except those destroyed, shall be replaced in the box, and one of the judges, without looking in the box, shall draw therefrom, one at a time, and destroy unopened, a number of ballots equal to the excess, and the election board shall record on the poll lists the number of ballots so destroyed and shall then sign the poll list.

- C. For each countywide primary, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at A SECURE FACILITY SUBJECT TO THE VIDEO RECORDING REQUIREMENT OF SECTION 16-621C. THE HAND COUNT SHALL BE CONDUCTED in the following order:
1. SELECTION OF PRECINCTS. At least two percent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection G of this section.
  2. SELECTION OF RACES. The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:
    - (a) For a general election, one statewide ballot measure, unless there are no measures on the ballot.
    - (b) One contested statewide race for statewide office.
    - (c) One contested race for federal office, either United States Senate or United States House of Representatives. If the United States House of Representatives race is selected, EACH PRECINCT TO BE COUNTED SHALL DETERMINE THE CONGRESSIONAL DISTRICT, THUS the names of the candidates may vary among the sampled precincts.
    - (d) One contested race for state legislative office, either state house of representatives or state senate. In either case, EACH PRECINCT TO BE COUNTED SHALL DETERMINE THE LEGISLATIVE DISTRICT, THUS the names of the candidates may vary among the sampled precincts.
    - (e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.
    - (f) If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.
  3. For the presidential preference election, select by lot two percent of the polling places designated and used pursuant to section 16-248 and perform the hand count of those ballots. THIS HAND COUNT SHALL BE CONDUCTED FOR ALL CANDIDATES REGARDLESS OF POLITICAL AFFILIATION.
  4. For the purposes of this section, a write-in candidacy in a race does not constitute a contested race.
  5. In elections in which there are candidates for president, the presidential race shall be added to the four categories of hand counted races.
  6. Each county chairman of a political party that is entitled to continued representation on the state ballot or the chairman's designee shall select by lot the individual races to be hand counted pursuant to this section.
  7. The county chairman of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge

of elections. For each precinct that is to be audited, the county chairmen shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political party, the recorder or officer in charge of elections, with the approval of at least two county party chairpersons in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party chairman shall approve only those substitute electors who are provided by the county chairman's political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the Tuesday preceding the election. If the total number of board workers provided by all parties is less than four times the number of precincts to be audited, the recorder or officer in charge of elections shall notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding the election. The hand count shall not proceed unless the political parties provide the recorder or officer in charge of elections, in writing, a sufficient number of persons by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons, pursuant to this paragraph, arrive to perform the hand count. The recorder or officer in charge of elections may prohibit persons from participating in the hand count if they are taking actions to disrupt the count or are unable to perform the duties as assigned. For the hand count to proceed, no more than seventy-five percent of the persons performing the hand count shall be from the same political party.

8. If a political party is not represented by a designated chairperson within a county, the state chairperson for that political party, or a person designated by the state chairperson, may perform the actions required by the county chairperson as specified in this section.
- D. **ABSOLUTE DIFFERENCES BETWEEN MANUAL AND ELECTRONIC COUNTS SHALL BE COMPUTED FOR EACH SELECTED RACE. WHEN CONGRESSIONAL OR LEGISLATIVE RACES ARE HAND COUNTED, ABSOLUTE DIFFERENCES SHALL BE COMPUTED SEPARATELY FOR EACH DISTRICT.** If the randomly selected races result in a difference in any race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the results of the electronic tabulation constitute the official count for that race. If the randomly selected races result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, a second hand count of those same ballots and races shall be performed. If the second hand count results in a difference in any race that is less than the designated margin when compared to the electronic tabulation for those same ballots, the electronic tabulation constitutes the official count for that race. If the second hand count results in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation for those same ballots, the hand count shall be expanded to include a total of twice the original number of randomly selected precincts. **THE EXPANDED HAND COUNT RESULTS SHALL INCLUDE THE RESULTS FROM THE ORIGINAL HAND COUNT TOGETHER WITH THE RESULTS FROM THE ADDITIONAL PRECINCTS.** Those additional precincts shall be selected by lot without the use of a computer.
  - E. In any expanded count of randomly selected precincts, if the randomly selected precinct hand counts result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, the final hand count shall be extended to include the entire jurisdiction for that race. If the jurisdictional boundary for that race would include any portion of more than one county, the final hand count shall not be extended into the precincts of that race that are outside of the county that is conducting the expanded hand count. If the expanded hand count results in a difference in that race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the electronic tabulation constitutes the official count for that race.
  - F. If a final hand count is performed for an entire jurisdiction for a race, the final hand count shall be repeated for that race until **TWO DIFFERENT HAND COUNTS OBTAIN BOTH A**

CONSISTENT OUTCOME AND THE SAME VOTE COUNTS TO WITHIN THE DESIGNATED MARGINS SPECIFIED BY THE VOTE COUNT VERIFICATION COMMITTEE. THE FINAL hand count constitutes the official count for that race.

- G. DURING the electronic tabulation of early ballots and at one or more times selected by the CHAIRMEN of the political parties entitled to continued representation on the ballot or the CHAIRMEN'S designees, the chairmen or the chairmen's designees shall randomly select one or more batches of early ballots TO BE tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered AFTER TABULATION by the county recorder or officer in charge of elections along with their unofficial tally reports for a post-election manual audit. A BATCH SHALL NOT EXCEED 400 BALLOTS. ALTERNATIVELY, THE ELECTION OFFICIAL MAY CHOOSE TO SORT THE EARLY BALLOTS BY PRECINCT AND HAND COUNT THE SAME PRECINCTS SELECTED PURSUANT TO SUBSECTION C OF THIS SECTION. IF THE BATCH METHOD IS SELECTED, THE FOLLOWING SUBSECTIONS APPLY.
1. NUMBER OF BALLOTS FOR HAND COUNT. The chairmen or the chairmen's designees shall randomly select from those sequestered early ballots a number equal to AT LEAST TWO percent of the total number of early ballots cast or AT LEAST TEN thousand early ballots, whichever is less.
  2. EARLY BALLOT AUDIT DISCREPANCIES. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection C of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to OR GREATER THAN THE NUMBER USED IN THE FIRST HAND COUNT, to be randomly selected from the batch or batches of sequestered early ballots. THE EXPANDED AUDIT SHALL INCLUDE THE BALLOTS USED IN THE ORIGINAL HAND COUNT TOGETHER WITH THE ADDITIONAL BALLOTS. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin, THE FINAL EARLY BALLOT HAND COUNT SHALL BE EXTENDED TO INCLUDE THE ENTIRE JURISDICTION FOR THAT RACE. IF THE JURISDICTIONAL BOUNDARY FOR THAT RACE WOULD INCLUDE ANY PORTION OF MORE THAN ONE COUNTY, THE FINAL HAND COUNT SHALL NOT BE EXTENDED INTO THE PRECINCTS OF THAT RACE THAT ARE OUTSIDE OF THE COUNTY THAT IS CONDUCTING THE EXPANDED HAND COUNT. IF THE EXPANDED HAND COUNT RESULTS IN A DIFFERENCE IN THAT RACE THAT IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION OF THOSE SAME BALLOTS, THE ELECTRONIC TABULATION CONSTITUTES THE OFFICIAL COUNT FOR THAT RACE.
- H. During any hand count of early ballots, the county officer in charge of elections and election board workers shall attempt to determine the intent of the voter in casting the ballot.
- I. Notwithstanding any other law, the county officer in charge of elections shall retain custody of the ballots for purposes of performing any required hand counts and the officer shall provide for security for those ballots.
- J. The hand counting OF BALLOTS prescribed by this section shall begin within twenty-four hours after the UNOFFICIAL EARLY AND POLLING VOTE TOTALS FROM ALL PRECINCTS HAVE BEEN MADE PUBLIC and shall be completed before the canvassing of the election for that county. THE SELECTION OF RACES AND PRECINCTS SHALL TAKE PLACE IMMEDIATELY PRIOR TO THE HAND COUNT. The results of those hand counts shall be provided to the secretary of state, who shall make those results publicly available on the secretary of state's web site. THE REPORTED RESULTS SHALL INCLUDE THE HAND COUNTS AND ELECTRONIC COUNTS FOR BOTH POLLING AND EARLY BALLOTS FOR EACH PRECINCT OR BATCH AND FOR EACH CANDIDATE OR ISSUE.
- K. For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer

software. The special master shall have expertise in software engineering and shall not be affiliated with an election software vendor nor with a candidate and shall sign and be bound by a nondisclosure agreement regarding the source code itself, and shall issue a public report to the court and to the secretary of state regarding the special master's findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

- L. The vote count verification committee is established in the office of the secretary of state and all of the following apply:
  - 1. At least thirty days before the 2006 primary election, the secretary of state shall appoint seven persons to the committee, no more than three of whom are members of the same political party.
  - 2. Members of the committee shall have expertise in any two or more of the areas of advanced mathematics, statistics, random selection methods, systems operations or voting systems.
  - 3. A person is not eligible to be a committee member if that person has been affiliated with or received any income in the preceding five years from any person or entity that provides election equipment or services in this state.
  - 4. The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall make that information publicly available on the secretary of state's web site.
  - 5. Members of the vote count verification committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. The committee is a public body and its meetings are subject to title 38, chapter 3, article 3.1 and its reports and records are subject to title 39, chapter 1.

**16-663. Recount of votes; method**

- A. The superior court to which the facts requiring a recount are certified shall forthwith make and enter an order requiring a recount of the votes cast for such office, measure or proposal. The recount shall be conducted in accordance with the laws pertaining to contests of elections.
- B. When the court orders a recount of votes which were cast and tabulated on electronic voting equipment, such recount shall be pursuant to section 16-664. On completion of the recount, and for legislative, statewide and federal candidate races only, the county chairmen of the political parties entitled to continued representation on the ballot or the chairman's designee shall select at random without the use of a computer five percent of the precincts for the recounted race for a hand count OF VOTES WHICH WERE CAST AND TABULATED ON ELECTRONIC VOTING EQUIPMENT. IN ADDITION, FIVE PERCENT OF THE EARLY BALLOTS FOR THE RECOUNTED RACE, SELECTED RANDOMLY, SHALL BE HAND COUNTED USING THE BATCH METHOD ESTABLISHED IN SECTION 16-602, SUBSECTION G. THE TOTALS FOR EARLY BALLOTS AND PRECINCT BALLOTS SHALL BE RECORDED SEPARATELY BUT SHALL BE COMBINED WHEN CALCULATING THE FINAL DIFFERENCE BETWEEN THE ELECTRONIC TABULATION AND THE HAND COUNT. If the hand count results in a difference that is equal to or greater than the designated margin for that race, the procedure established in section 16-602, subsections D, E, F and G applies.

**16-664. Recount of votes by automatic tabulating system**

- A. In the event of a court-ordered recount of votes that were cast and tabulated on electronic voting equipment for a state primary, state general or state special election, the secretary of state shall order the ballots recounted on an automatic tabulating system to be furnished and programmed under the supervision of the secretary of state. In the event of a court-ordered recount for elections other than for the office of supervisor, the secretary of state may designate the county board of supervisors to perform the duties assigned to the secretary of state.
- B. If the office of secretary of state is contested, the governor shall order the ballots recounted on an automatic tabulating system to be furnished and programmed under the supervision of the governor.

- C. The programs to be used in the recount of votes pursuant to this section shall differ from the programs prescribed by section 16-445 and used in the initial tabulation of the votes.
- D. IF THE RECOUNTED RACE RESULTS IN AN INCONSISTENT OUTCOME AND THE MARGIN OF THE RECOUNT IS STILL WITHIN THE LIMITS SET FORTH BY SECTION 16-661, THEN THE OUTCOME OF THE RACE SHALL BE DETERMINED USING ONE OF THE FOLLOWING METHODS, AS SELECTED BY THE OFFICIAL IN CHARGE OF THE ELECTION AND HAVING INFORMED PARTY REPRESENTATIVES:
  - 1. THE ELECTRONIC COUNT OF ALL BALLOTS SHALL BE REPEATED UNTIL TWO COUNTS OBTAIN CONSISTENT OUTCOMES AND THE VOTE COUNT DIFFERENCES FOR THOSE TWO COUNTS ARE WITHIN THE MARGINS SPECIFIED IN SECTION 16-661. WHEN MORE THAN ONE COUNTING DEVICE IS AVAILABLE, BALLOTS SHALL BE DISTRIBUTED AMONG THE DEVICES SO THAT THEY ARE COUNTED ON DIFFERENT DEVICES FOR EACH RECOUNT. ONCE A CONSISTENT OUTCOME IS OBTAINED, THE FINAL COUNT SHALL CONSTITUTE THE OFFICIAL COUNT FOR THAT RACE, OR
  - 2. ALL BALLOTS SHALL BE HAND COUNTED USING A VOTER INTENT CRITERIA AS SPECIFIED IN 16-602H. THE HAND COUNT SHALL CONSTITUTE THE OFFICIAL COUNT FOR THAT RACE.

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:

- 1. Charles Geoffrion, Chair, Election Integrity Commission
- 2. Tom Ryan, Member, Election Integrity Commission

Comments included the following:

- A. Appreciation was expressed for the Board having created the Commission.
- B. Bipartisan collaboration resulted in the language submitted to the Board to enhance and clarify election procedures.
- C. Talking points will be sent out to the Board.
- D. The State legislature will probably edit the proposed legislation.

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

25. **COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION**

The Pima County Neighborhood Reinvestment Oversight Committee recommends approval of the following Neighborhood Reinvestment Project and authorization for staff to negotiate a future Intergovernmental Agreement, if applicable:

<b>Neighborhood</b>	<b>Project</b>	<b>Estimated Budget</b>
Dunbar Spring Neighborhood	Traffic Improvements and Water Harvesting	\$489,291.00 (less mobilization)

Chuck Huckelberry, County Administrator, stated that the project was primarily traffic improvements and water harvesting. The mobilization was \$12,000.00 on one project and \$3,000.00 on the other. About a third of the project was for public art features which did not appear to need mobilization. A hydrologic study was required to facilitate water harvesting. He had no data regarding comparison to other projects. Supervisor Bronson requested a report or analysis of investment projects to ascertain further cost savings. Chairman Elías concurred.

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

26. **PROCUREMENT**

A. **APPEAL OF PROCUREMENT DIRECTOR'S DECISION**

The Board, on January 6, 2009, continued this item.

Pursuant to Pima County Code Section 11.20.010(J), 4-L Construction, Inc., appeals the decision of the Procurement Director regarding Solicitation No. 0900800, Rose Neighborhood Pedestrian Bridge over the Rodeo Wash.

B. **AWARD OF CONTRACT**

The Board, on December 16, 2008, and January 6, 2009, continued this item.

Low Bid: Award of Contract, Requisition No. 900800, in the amount of \$215,280.00 to the lowest responsive bidder, The Ashton Company, Inc., (Headquarters: Tucson, AZ), for the Rose Neighborhood pedestrian bridge over Rodeo Wash. The apparent low bidder, 4-L Construction, Inc. was deemed non-responsive for failure to meet the 1% MBE goal set for this project, and their submitted Request for Waiver was denied. The contract term is six months with the ability to extend the term for contract completion. Funding Source: 2004 Bond Fund. Administering Department: Transportation.

George Widugris, Procurement Director, stated that 4-L Construction, Inc. (4-L) requested a waiver of the 1% MWBE goal after 4-L's bid was determined as not meeting the goal. The request did not meet Code waiver requirements.

Scott McDonald, attorney representing 4-L, stated that of the three concrete companies on procurement's list of eight firms, only Mira Concrete was interested. 4-L obtained Mira's bid shortly before the deadline, but Mira did not want the entire job. Segmenting concreting would risk the overall quality. Procurement told 4-L that 4-L should have advertised. Mr. McDonald stated that advertising was irrelevant when the Code stated only firms listed were eligible.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to deny the appeal and uphold the Procurement Director's decision.

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

A. **TUCSON-PIMA COUNTY HISTORICAL COMMISSION**

1. Reappointment of Sybil Needham and Norma Niblett. Term expirations: 12/31/12. (District 1)
2. Reappointment of Kathleen ~~Neighbors~~ **Nabours** and Sandee Brooke. Term expirations: 12/31/12. (District 5)

B. **PIMA COUNTY EMPLOYEE MERIT SYSTEM COMMISSION AND LAW ENFORCEMENT COUNCIL**

Reappointment of Georgia Brousseau, Democrat. Term expiration: 12/31/12. (District 2)

**C. NEIGHBORHOOD REINVESTMENT OVERSIGHT COMMITTEE**

1. Reappointment of Al Skorupski. Term expiration: 12/31/12. (District 1)
2. Reappointment of Felipe Lundin. Term expiration: 12/31/12. (District 2)
3. Reappointment of Elvia Lopez. Term expiration: 12/31/12. (District 5)

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

**28. CALL TO THE PUBLIC**

Dale Roose spoke about creating mixed mode traffic, radar, on-street parking, roads that would encourage slower driving and places for human interaction.

**29. ADJOURNMENT**