

MINUTES, FLOOD CONTROL DISTRICT BOARD

MARCH 3, 2009

The Pima County Flood Control District Board met in its regular session in the regular meeting place of the Pima County Board of Supervisors (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, March 3, 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.    **CONTRACT**

The Ashton Company, Inc., Amendment No. 2, to provide construction manager at-risk services for the Rillito River Linear Park: Alvernon Way to Craycroft Road Improvement Project and amend contractual language, Flood Control District Fund, contract amount \$285,357.42 (03-59-A-140400-1007)

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

2.    **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 11:55 a.m.

MINUTES, BOARD OF SUPERVISORS' MEETING

MARCH 3, 2009

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, March 3, 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.    **PERSONAL POINT OF PRIVILEGE**

Chairman Elías requested a moment of silence to honor Consuelo Aguilar, community activist, who recently passed away.

2.    **INVOCATION**

The invocation was given by Pastor Al Zamorano of Faith Tabernacle United Pentecostal Church.

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.    **PROCLAMATION**

Presentation of a proclamation to Sandy Fagan and Rick Rhey of the Southwest Fair Housing Council proclaiming the month of April 2009, to be:

“FAIR HOUSING MONTH IN PIMA COUNTY”

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

Supervisor Bronson read and presented the proclamation to Rick Rhey of the Southwest Fair Housing Council. Mr. Rick Rhey accepted the proclamation and expressed his gratitude to the County for their continued support.

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:55 a.m.

6. **RECONVENE**

The meeting reconvened at 10:10 a.m. All members were present.

7. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding a request that Pima County waive a concurrent conflict of interest to allow DeConcini McDonald Yetwin & Lacy to represent Denny Nolen, Corp., Denny Nolen and Terry Nolen in the matter of Pima County vs. Denny Nolen, Corp., et. al.

Chris Straub, Chief Civil Deputy County Attorney, stated this was a request for approval of a waiver of the conflict of interest to allow the firm of DeConcini McDonald Yetwin & Lacy to represent the Denny Nolan Corp. He stated waivers of the conflict of interest were entirely within the discretion of the Board of Supervisors'.

The following speakers addressed the Board:

- |                   |                   |
|-------------------|-------------------|
| 1. Barry DiSimone | 3. Glen Lyon      |
| 2. Michael Magras | 4. Lawrence Joyce |

The speakers provided the following comments:

- A. A request was made by the speakers to retain the conflict of interest;
- B. The speakers felt Ruby Star has been a blemish on Pima County for years because their rules were flaunted, permits ignored, regulations discarded and agreements with written requirements to construct an all-weather road were discarded by the developer;
- C. The law firm should be included as a defendant in the complaint;
- D. Ruby Star residents have to deal with a water system that is rife with problems every day;
- E. The Board was requested to work with the State Attorney General to take criminal action against the Denny Nolan Corp.;
- F. It was felt the law firm had a fiduciary responsibility to the public to make certain the CC&R's they drafted truly represented the subdivision status of the airpark;

- G. The Nolans' signed a consent order in January 2007, that indicated they would meet the Pima County requirements for a legal subdivision plat for Ruby Star Airpark that included a stipulation that they would not oppose the efforts of the governing bodies to bring judgment against them should they fail to meet the terms of the agreement;
- H. DeConcini McDonald Yetwin & Lacy represented the Nolans' when the agreement was put together and now that the Nolan's have failed to comply with the agreement, they have the responsibility to remove themselves from representing the Nolans' and, if they do not, that would be a clear indication that their firm has no respect for the statutes and Codes of the State and County;
- I. The Board was previously advised that a subdivision plat should be filed;
- J. Copies of liens placed by the law firm on lots at Ruby Star Airpark were presented to the Board for lots that were intended to be used by the County and State to be held in trust to offset the cost of completing the required improvements; and,
- K. If the Nolans' prevailed, a precedent would be set for other developers to flaunt laws, regulations, Codes to construct illegal subdivisions.

Mr. Straub stated the key to any waiver of conflict of interest is that the clients receive what is known as informed consent. In this case, the County Attorney's Office filed a lawsuit against the Nolans' and the Board needs to know whether any confidential information the law firm has would compromise the County's ability to proceed against the Nolans'.

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

8. **CONSENT CALENDAR**

A. **CALL TO THE PUBLIC**

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

PULLED FOR DISCUSSION AND SEPARATE ACTION:

6. **REAL PROPERTY**

C. **Abandonment and Quit Claim Deed**

- 1. RESOLUTION NO. 2009- 30, of the Board of Supervisors providing for the vacation of a walkway in Country Club Estates, Pima County Abandonment No. A-06-13, within Section 36, T13S, R14E, G&SRM. (District 4)
- 2. Quit Claim Deed to Charles L. Townsdin, Jr. and Sandra J. Townsdin, Trustees, or their successors in trust, under the

Charles L. Townsdin, Jr. and Sandra J. Townsdin Living Trust,  
dated June 30, 1998, for the vacation of a walkway in Country  
Club Estates. No revenue. (District 4)

The following speaker addressed the Board:

Edgar King, representative of the Tucson Country Club Estates Homeowners  
Association

He provided the following comments:

- A. The homeowners association was in the process of working with the County and the Townsdins', but over the past two years the homeowners association denied the taking of the walkway by the Townsdins' twice;
- B. A request was made to remove or continue the abandonment and quit claim deed to allow the homeowners association to continue their work with the County and the Townsdins';
- C. The homeowners association wanted to keep a total of five pedestrian walkways open to everyone in the community and that included the walkway in the Townsdins' request;
- D. If the Board approved the abandonment and quit claim deed, the Townsdins' have the right to close it and that action was what the homeowners association was working so diligently to prevent; and,
- E. The homeowners association encountered difficulty in obtaining a legal description for property that goes into the Pantano Wash.

Chuck Huckelberry, County Administrator, stated the abandonment and quit claim deed were on the Consent Calendar because the applicant followed the statutory process that called for an application, the acceptance of fees, notice, advertising, setting a hearing, and the Board has the option to approve, deny, continue or modify the proposed action. In addition, he requested the Real Property Manager obtain confirmation regarding the exact purpose of the abandonment and quit claim request, but there was no clear confirmation from the applicant who is currently out of the country. He made the request to Real Property after receiving telephone calls from concerned neighbors.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day to deny Resolution No. 2009-30, for the abandonment and the quit claim deed. No vote was taken at this time.

Supervisor Bronson requested the motion be amended to include a refund of the fees less cost to the applicant. Supervisor Carroll as the maker of the motion and Supervisor Day as the second accepted the amendment.

Upon the vote being taken, the motion carried unanimously to approve the motion as amended.

PULLED FOR DISCUSSION AND SEPARATE ACTION:

1. **CONTRACT AND AWARD**

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

7. Interfaith Community Services, to provide emergency financial assistance and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$110,000.00; General Fund, contract amount \$7,000.00 (07-69-I-141764-0708)

The following speaker addressed the Board:

Joe Sweeney

He provided the following comments:

- A. The County should pursue 287G Funding; and,  
B. Comments were proffered regarding illegal aliens and gangs.

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

PULLED FOR DISCUSSION BY SUPERVISOR CARROLL:

1. **CONTRACT AND AWARD**

D. **Procurement**

22. TNI Partners, d.b.a., Tucson Newspapers, Amendment No. 5, to provide Countywide as-needed classified/retail advertising services, extend contract term to 4/5/10 and amend contractual language, no cost (11-26-P-136120-0405)

Supervisor Carroll inquired whether a modification of the contract would take place if the newspaper were to close their business.

Chuck Huckelberry, County Administrator, stated advertising requirements were accomplished through TNI Partners and in the event that the *Tucson Citizen* went out of business, the County's advertising would be carried out by *The Arizona Daily Star* and advertising costs would diminish. Approval of the amendment would secure rates for another year.

B. **APPROVAL OF CONSENT CALENDAR**

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

**CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

**1. CONTRACT AND AWARD**

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

1. Arizona Housing and Prevention Services, Inc., to provide emergency financial assistance, and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$80,000.00; General Fund, contract amount \$5,000.00 (07-69-A-141757-0708)
2. Primavera Foundation, to provide emergency financial assistance and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$86,000.00; General Fund, contract amount \$7,000.00 (07-69-P-141758-0708)
3. Chicanos Por La Causa, to provide emergency financial assistance and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$76,000.00; General Fund, contract amount \$6,000.00 (07-69-C-141759-0708)
4. Portable Practical Educational Preparation, Inc., to provide emergency financial assistance and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$57,000.00; General Fund, contract amount \$5,000.00 (07-69-P-141761-0708)
5. Tucson Urban League, to provide emergency financial assistance and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$63,000.00; General Fund, contract amount \$6,000.00 (07-69-T-141762-0708)
6. American Indian Association of Tucson, Inc., d.b.a. Tucson Indian Center, to provide emergency financial assistance and case management services, STCS/TANF and ADOH Grant Funds, contract amount \$54,000.00; General Fund, contract amount \$5,000.00 (07-69-A-141763-0708)
7. Interfaith Community Services (PULLED FOR DISCUSSION AND SEPARATE ACTION)

**B. Health**

8. RESOLUTION NO. 2009- 28, approving an Intergovernmental Agreement with the City of South Tucson, to provide for the State of Arizona Public Health Preparedness and Response for Bio-Terrorism through the transport and staging of Strategic National

Stockpile Assets, State Grant Fund, contract amount \$50,000.00  
(01-01-S-141776-0309)

9. Town of Sahuarita, Amendment No. 1, to provide animal control services and extend contract term to 6/30/10, revenue based on services (01-01-S-138428-0906)

**C. Pima Health System**

10. Arizona Community Physicians, P.C., Amendment No. 5, to provide primary care physician, specialty, O/B GYN, flu vaccine administration and sleep studies services and extend contract term to 3/31/10, PHCS Enterprise Fund, no cost (18-15-A-135580-0405)
11. El Rio Health Center, Inc., Amendment No. 9, to provide primary care physician, specialty, OB, and dental services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,000,000.00 (18-15-E-135703-0405)
12. Smith's Food and Drug Centers, Inc., d.b.a. Fry's Food and Drug Stores, Amendment No. 3, to provide prescription pharmacy and medical supply services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-S-135704-0405)
13. Premier Surgery Center of Tucson, L.P., d.b.a. Premier Surgery Center of Tucson, Amendment No. 4, to provide surgery services, extend contract term to 2/28/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-H-135710-0305)
14. American Associated Druggists, d.b.a. United Drugs, Amendment No. 3, to provide prescription pharmacy and medical supply services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-A-135722-0405)
15. Tomar, L.L.C., d.b.a. Tom's Pharmacy, Amendment No. 3, to provide prescription pharmacy and medical supply services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-T-135723-0405)
16. Northwest Tucson Surgery Center, L.P., Amendment No. 3, to provide ambulatory surgery center services, extend contract term to 2/28/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-N-136169-0605)

17. El Dorado Surgery Center, L.P., d.b.a. Tucson Surgery Center, Amendment No. 3, to provide ambulatory surgery center services, extend contract term to 2/28/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-E-136170-0605)
18. Tucson Heart Group, P.L.C., Amendment No. 4, to provide cardiology services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-T-137416-0406)
19. Southwest Heart Group, L.L.C., Amendment No. 3, to provide cardiovascular medicine services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-S-137910-0406)
20. Arizona Pediatric Surgery, Ltd., Amendment No. 2, to provide pediatric surgery services, extend contract term to 3/31/10 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-A-138007-0406)
21. Arizona Medical Services, P.C., Amendment No. 1, to provide primary care physician services, extend contract term to 1/31/10 and amend contractual language, PHCS Enterprise Fund, contract amount \$50,000.00 (18-15-A-139594-0207)

**D. Procurement**

22. TNI Partners, d.b.a., Tucson Newspapers, Amendment No. 5 (PULLED FOR DISCUSSION)

**E. Real Property**

23. City of Tucson, to provide an Exchange Agreement for public right-of-way for the construction of the Joint Justice and Municipal Court Complex in exchange for right-of-way needed for streetcar service through the Theresa Lee Health Center parking lot; Quit Claim Deed from Pima County to the City of Tucson; Quit Claim Deed from the City of Tucson to Pima County; Ingress/Egress from Pima County to Chicanos Por La Causa, Inc.; Ingress/Egress from Pima County to 71-75 E. Alameda, L.L.C.; and Declaration of Public Utility Easement by Pima County, 2004 Bond Fund, contract amount \$3,000.00; \$58,000.00 revenue (24-13-T-141753-0309) Facilities Management

**2. DIVISION OF ELECTIONS**

Pursuant to A.R.S. §16-821B, approval of Precinct Committeemen appointments:

| <u>APPOINTMENTS</u>    | <u>PRECINCT</u> | <u>PARTY</u> |
|------------------------|-----------------|--------------|
| Metz, Gerald           | 010             | REP          |
| Mitchell, Alan         | 039             | REP          |
| Turner, Diana K.       | 056             | DEM          |
| Munoz, Carlos          | 067             | REP          |
| George, Tabitha        | 088             | REP          |
| Miller, Janet          | 088             | REP          |
| DeMarino, Lawrence     | 125             | REP          |
| O'Hanley, James N.     | 129             | REP          |
| Harris, Deyoe R.       | 154             | DEM          |
| Edwards III, Samuel T. | 158             | REP          |
| McClung, Ruth C.       | 165             | REP          |
| Bang-Simon, Kristi A.  | 170             | DEM          |
| Ruhl, Christopher W.   | 180             | REP          |
| Luongo, Vincent        | 184             | REP          |
| Beeman, Jacob L.       | 223             | DEM          |
| Larson, Suzanne M.     | 233             | REP          |
| Daniel, Dave           | 274             | REP          |
| Moore, Lisa D.         | 281             | DEM          |
| Garcia, Eleazar        | 290             | DEM          |
| Smith, Valerie A.      | 365             | DEM          |
| Buono, Randy M.        | 395             | REP          |
| Romero, Raul           | 395             | REP          |
| Stolsek, Wesley C.     | 412             | DEM          |

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

**Animal Care Advisory Committee**

Appointment of Jennifer Becker, Foundation for Animals in Risk, to fill the unexpired term of Maureen Hickey. Term expiration: 3/31/11. (Committee recommendation)

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

- A. Joseph E. Martinez, VFW Post No. 3578, 1764 N. Second Ave, Ajo, February 28, 2009.
- B. David Richter, Arizona Chapter of the American Parkinson Disease Association, 4280 N. Campbell Ave., Tucson, March 28, 2009.

5. **RECORDER**

Pursuant to Resolution No. 1993-200, ratification of the Document Storage and Retrieval Fund for the months of October, November, and December, 2008, and January, 2009.

6. **REAL PROPERTY**

A. **Condemnation**

RESOLUTION NO. 2009- 29 , of the Board of Supervisors, authorizing the Pima County Attorney to condemn for real property or real property interests, where necessary, for the La Cholla Boulevard: Ruthrauff Road to River Road Improvement Project, located in Sections 15, 16, 21 and 22, T13S, R13E, G&SRM. (District 3)

B. **License Agreement**

License Agreement with Western Area Power Administration to allow the Santa Cruz Interceptor Phase 2 sewer line to cross the existing easement for the Tucson-Apache 115-kV Transmission Line on Tax Parcel Nos. 115-16-024A and 115-16-025A in Section 3, T14S, R13E, G&SRM. (District 5)

C. **Abandonment and Quit Claim Deed**

1. RESOLUTION NO. 2009- 30 (PULLED FOR DISCUSSION AND SEPARATE ACTION)
2. Quit Claim Deed to Charles L. Townsdin, Jr. and Sandra J. Townsdin (PULLED FOR DISCUSSION AND SEPARATE ACTION)

D. **Sale of Sewer Easement**

Sale of Sewer Easement to Town of Marana to provide sewer line service to the Silverbell Cortaro District Park, located in Section 35, T12S, R12E, G&SRM, RWRD Fund. \$8,400.00 revenue. (District 3)

7. **RATIFY AND/OR APPROVE**

Minutes: January 6, 2009

Warrants: February, 2009

**REGULAR AGENDA AND ADDENDUM ITEMS**

9. **COUNTY ADMINISTRATOR: CLASSIFICATION AND COMPENSATION**

The Division of Elections requests the creation of a new classification to be allocated as follows:

| <u>CLASS CODE</u> | <u>CLASS TITLE</u>        | <u>GRADE/RANGE</u>     | <u>EEO, O/T CODE</u> |
|-------------------|---------------------------|------------------------|----------------------|
| 1593              | Elections Unit Supervisor | 45 (\$40,665-\$59,173) | 6, NE*               |

\*NE = Non-Exempt, Paid Overtime

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

10. **PROCUREMENT: AWARD**

The Board of Supervisors' on 2/17/09, continued the following:

Award of Contract to Sundt/Kiewit Joint Venture, for construction manager at-risk (CMAR) services for the Roger Road Wastewater Treatment Plant to Ina Road Water Pollution Control Facility Plant Interconnect Project. The Guaranteed Maximum Price (GMP) is \$25,197,276.00. Funding Source: 2004 Sewer Revenue Bond. Administering Department: Regional Wastewater Reclamation Department.

Without objection, this item was continued to the Board of Supervisors' Meeting of 3/10/09.

11. **PROCUREMENT: CONTRACT**

The Board of Supervisors' on 2/17/09, continued the following:

Sundt/Kiewit Joint Venture "CMAR," Amendment No. 1, to provide for construction manager at-risk services for the Roger Road Wastewater Treatment Plant to Ina Road Water Pollution Control Facility Plant Interconnect and amend contractual language, 2004 Bond Fund, no cost (03-03-S-140790-0408) Regional Wastewater Reclamation Department

Without objection, this item was continued to the Board of Supervisors' Meeting of 3/10/09.

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

P1206-002, Arcadia, Lots 1 through 40. (District 1)

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

13. **REGIONAL WASTEWATER RECLAMATION DEPARTMENT: PRETREATMENT SETTLEMENT AGREEMENT**

Staff recommends approval of the following proposed Pretreatment Settlement Agreement, RWRD Enterprise Fund:

Cracker Barrel Old Country Store, Inc., d.b.a. Cracker Barrel Old Country Store No. 344, Case No. 2008-13. Proposed settlement amount is \$1,229.35.

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

14. **BOARD OF SUPERVISORS: PIMA COUNTY CODE TEXT AMENDMENT**

ORDINANCE NO. 2009-15, relating to Public Peace, Morals and Welfare; Underage Drinking; amending Pima County Code Title 9 by adding Chapter 9.70, Permitting or Encouraging Underage Drinking.

Chairman Elías stated this was a Social Host Ordinance that would levy fines and charges for individuals who host parties where underage drinking was allowed to take place. Approval of the ordinance would also place Pima County in line with an Ordinance the City of Tucson has in place for two years.

The Chairman inquired whether anyone wished to be heard.

The following individuals addressed the Board:

1. Joan McNamara;
2. Ellie Towne, Flowing Wells Neighborhood Association and Community Coalition;
3. Lieutenant Tom Early, Tucson Police Department;
4. Chuck Palm, member of the Pima County Commission on Addiction, Prevention and Treatment;
5. Roy Tullgren, Executive Director/Pastor of Gospel Rescue Mission, member of the Pima County Commission on Addiction, Prevention and Treatment and member of the Meth Free Alliance;
6. Lori Oien, volunteer with the Task Force to Reduce Underage Drinking, the Southern Arizona DUI Task Force and President of the Bear Canyon Neighborhood Association;
7. Amy Bass, Coordinator for the Community Prevention Coalition;
8. Carl Bedford, Chairman of the Pima County Commission on Addiction, Prevention and Treatment and Co-Chair for the Task Force for the Prevention of Underage Drinking; and,
9. Christina Valdez, Mothers Against Drunk Driving

They provided the following comments:

- A. The speakers unanimously supported approval of the Social Host Ordinance and they represented many groups that included social service agencies, ministries, behavioral health organizations, businesses, coalitions, government and law enforcement agencies;
- B. The Social Host Ordinance would be a tool for law enforcement that would fill the gap between Title 4, Enforcement Regulations and other City Ordinances to more effectively deal with underage drinking;

- C. Organizations and community members came together in a collaborative effort to raise public awareness through outreach, education and activities to develop environmental strategies to prevent underage drinking;
- D. Adults who allow underage individuals to drink need to be held accountable; and,
- E. The proposed ordinance could save young lives and prevent the pain of loss for families.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2009-15.

15. **DEVELOPMENT SERVICES: REZONING**

Co9-06-46, CUMMINGS - ORACLE ROAD REZONING

Request of Scott Cummings, represented by The Planning Center, for a **rezoning of approximately 2.25 acres from GR-1 (GZ)(Rural Residential) (Gateway Overlay Zone) to CB-2 (GZ) (General Business) (Gateway Overlay Zone)**, on property located on the west side of Oracle Road, approximately 275 feet south of Mainsail Boulevard in Catalina. The proposed rezoning conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 9-0 to recommend APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 1)

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

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

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation conditions:
  - A. Written certification from Arizona Department of Transportation, stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to approval of a Development Plan and Subdivision Plat.
  - B. The property owner(s) shall provide offsite improvements determined necessary by Arizona Department of Transportation.
  - C. Shared access with the property to the south shall be provided and shall be located in the front portion of the site.
  - D. Provide onsite vehicular and pedestrian circulation that meets staff approval during the Development Plan or Subdivision Plat review phase.
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 shall comply with detention/retention conditions and restrictions, or provide an in-lieu fee, as stated in the Floodplain Management Ordinance since the property lies within a balanced basin.

9. Wastewater Reclamation conditions:
  - A. The owner(s)/developer(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(s)/developer(s) to that effect.
  - B. The owner(s)/developer(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(s)/developer(s) 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.
  - C. The owner(s)/developer(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
10. Environmental Quality condition:
  - A. As a condition of approval, the property owner 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. Environmental Planning condition:
  - A. ~~Under no circumstances shall the following exotic plant species be planted anywhere within Common Areas 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 spp.</i> ) |
| Tree of heaven ( <i>Ailanthus altissima</i> )  | African sumac ( <i>Rhus lancea</i> )         |
| Russian olive ( <i>Eleagnus angustifolia</i> )   |  |
| Salt cedar/Tamarisk ( <i>Tamarix portandra</i> & <i>T. ramosissima</i> )                           |  |
| Bermuda grass ( <i>Cynodon dactylon</i> ) excluding sod hybrid Bermuda                             |  |
| Lovegrasses ( <i>Eragrostis spp.</i> ) excluding Plains lovegrass ( <i>Eragrostis intermedia</i> ) |  |
| African rue ( <i>Peganum harmala</i> )   |  |
| Iceplant ( <i>Mesembryanthemum crystallinum</i> )  |  |
| Arabian Grass ( <i>Schismus arabicus</i> )   |  |
| Natal Grass ( <i>Melinis repens</i> (= <i>Rhynchelythrum repens</i> ))                             |  |

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.
13. In the event the subject property is annexed, the property owner 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.
14. The property owner shall execute and record the following disclaimer regarding Prop 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights

Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner 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).”

15. Adherence to the preliminary development plan as approved at public hearing.”

Tom Hudson, Zoning Administrator, stated approval of the request would allow the development of a restaurant and retail use. He stated for the record that there was a typographical error in the description of the rezoning where a line was left out that referred to the size of the property which reads as follows:

Request of Scott Cummings, represented by The Planning Center, for a **rezoning of approximately 2.25 acres from GR-1 (GZ)(Rural Residential) (Gateway Overlay Zone) to CB-2 (GZ) (General Business) (Gateway Overlay Zone)**

The property met all concurrency requirements, conforms to the Comprehensive Plan and the property lies outside the Conservation Lands System. Staff received no public comment and no one addressed the Planning and Zoning Commission public hearing. The property is located within the Gateway Overlay Zone and would require a review by the Design Review Committee. Staff identified concerns regarding the site design, particularly as it related to the pedestrian and vehicular circulation patterns throughout the site and these concerns would be addressed by the Design Review Committee and the Development Plan review. The applicant was advised that these reviews might result in modifications required to be made to the proposed site design and layout. The Planning and Zoning Commission and staff recommended approval with conditions.

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

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing, approve Co9-06-46 and for the record, the Design Review Committee would specifically review the issues raised by staff on site design as it relates to the Gateway Overlay Zone.

16. **TRANSPORTATION: ROAD ESTABLISHMENT AND INTERGOVERNMENTAL AGREEMENT**

- A. RESOLUTION NO. 2009-31, of the Pima County Board of Supervisors, establishing a County highway within the incorporated limits of the City of Tucson for the Barrio Centro Neighborhood Association Project. (District 2)
- B. RESOLUTION NO. 2009-32, of the Pima County Board of Supervisors, approving an Intergovernmental Agreement with the City of Tucson, to provide for the Barrio Centro Neighborhood Improvement Project in accordance with Pima County Neighborhood Transportation Safety Reinvestment Program for the design and installation of median islands, a traffic circle and entrance monuments, HURF Grant and 1997 Bond Funds, contract amount \$29,147.00 (01-70-T-141777-0309) Community Development and Neighborhood Conservation

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearings and adopt Resolution Nos. 2009- 31 and 32.

**17. TRANSPORTATION: TRAFFIC ORDINANCE**

ORDINANCE NO. 2009- 16, of the Board of Supervisors, regulating parking of vehicles on both sides of River Road in Pima County, Arizona. Staff recommends APPROVAL. (District 1)

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2009- 16.

**18. TRANSPORTATION: TRAFFIC RESOLUTION**

RESOLUTION NO. 2009- 33, of the Board of Supervisors, permitting the temporary closure of McCain Loop Road during the Tucson Bicycle Classic on March 6, 2009. Staff recommends APPROVAL. (District 3)

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and adopt Resolution No. 2009- 33.

**19. ENVIRONMENTAL ASSESSMENT AND MITIGATION REPORT**

Staff recommends approval of the Environmental Assessment and Mitigation Report for Tanque Verde Road Improvements: Catalina Highway to Houghton Road. (District 4)

Priscilla Cornelio, Transportation Director, provided a report. It was her understanding there were still concerns regarding the median width and the proposed right turn only off of Bonanza. It was the intention of staff to continue to work with the citizens as the Transportation Department goes into final design to address issues and concerns.

The following speakers addressed the Board:

1. Missy Ortiz accompanied by Colonel Peggy Carson, area residents;
2. Lori Oien, President of Bear Canyon Neighborhood Association; and,
3. Ron Robinette, member of the Citizens Advisory Committee.

They provided the following comments:

- A. Area residents did not feel a concrete median was warranted due to the economy and the fact there have been no accidents at the intersection of Bonanza and Tanque Verde;

- B. More traffic would enter the neighborhood due to the proposed construction of a memorial for Tucson Police Officer, Eric Hite, who was killed in the line of duty;
- C. A concrete median would hamper or impede turns into area businesses;
- D. When studies were conducted, no feedback was ever provided to area residents nor were all residents advised of public meetings; and,
- E. The Citizens Advisory Committee was in support of the proposed project.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve the Environmental Assessment and Mitigation Report for Tanque Verde Road improvements.

20. **BOARD OF SUPERVISORS**

Presentation by the Hope Fest Committee to the Board of Supervisors in appreciation of their support and efforts surrounding Hope Fest 2008. (District 2)

Lisa Chastain, Director of Hope Network, expressed her gratitude to the Board of Supervisors' for their support and efforts surrounding Hope Fest 2008, a program that provides health and dental care to those who are less fortunate.

21. **BOARD OF SUPERVISORS**

RESOLUTION NO. 2009- 34, of the Board of Supervisors requesting Arizona State University's Administration to retain the institution's School of Social Work Tucson Component. (District 5)

The following individuals addressed the Board:

- 1. Mark Clark
- 2. Scott Shackelford
- 3. Ann Nichols
- 4. Dr. Dalton McClelland, M.D.

They provided the following comments:

- A. Support was expressed to retain the Tucson component of the Arizona State University School of Social Work;
- B. The President of Arizona State University announced plans earlier in the year to terminate the Tucson component of this program due to State budget cuts;
- C. Termination of the program would lead to a significant impairment of the health and human service infrastructure in Southeastern Arizona if that graduate training was terminated;
- D. Many of the current students would be unable to complete the program if the Tucson component was terminated because many of them work and would be unable to travel to Phoenix;

- E. Without this component, there are no other schools locally that offer degree programs in social work;
- F. Arizona State University has not provided information that they would save money by terminating the Tucson component of the social work program; and,
- G. It was essential that a social work program be retained in the community because social workers are an important part of the infrastructure of the health care system.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to adopt Resolution No. 2009- 34.

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

**Metropolitan Education Commission**

Appointment of Chris Walden Jones, Arizona Education Association, Grades 5-9, to fill the unexpired term of Betina Martinez. Term expiration: 2/20/11; and Dr. Peri Jude Radevic, Disabled Community Representative, to replace Cathy Hunt. Term expiration: 12/31/11. (Commission recommendation)

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

23. **PROCLAMATION**

Proclaiming March 8, 2009 to be:

“JEWISH-MUSLIM PEACEWALK DAY IN PIMA COUNTY”

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

24. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

Bill Katzel addressed the Board regarding the proposed sewer rate increases. He felt other measures should be considered in these tough economic times.

Michael Toney addressed the Board regarding community issues.

25. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 11:55 a.m.