

## MINUTES, LIBRARY DISTRICT BOARD

OCTOBER 20, 2009

The Pima County Library District Board met in its regular session at 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, October 20, 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 University of Arizona School of Information, Research and Library Science, Amendment No. 1, to provide graduate assistance and amend contractual language, no cost (01-66-A-140905-0608)

On consideration, it was moved by Chairman Elías, 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 12:45 p.m.

## MINUTES, BOARD OF SUPERVISORS' MEETING

OCTOBER 20, 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, October 20, 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.    **INVOCATION**

The invocation was given by Pastor Ted Soderholm of the Catalina Church of Midtown.

### 2.    **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

### 3.    **PAUSE 4 PAWS**

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

### ...   **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 9:25 a.m.

### 4.    **RECONVENE**

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

### 5.    **CALL TO THE PUBLIC (for Executive Session item only)**

The Chairman inquired whether anyone wished to be heard on any item listed under Executive Session. No one appeared.

### 6.    **LITIGATION**

Pursuant to A.R.S. §38-431.03(A)(3), for legal advice and direction regarding the Telecommunications Act and the regular agenda item regarding the proposed

adoption of Ordinance No. 2009-101 amending Zoning Code provisions related to communication towers.

This item was informational only, no Board action was taken.

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

A. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to address the Board.

Joe Sweeney addressed the Board regarding his opposition to the Humane Borders, Inc., water distribution services contract and other issues on immigrations.

PULLED FOR SEPARATE ACTION

B. **COUNTY ADMINISTRATOR**

2. Humane Borders, Inc., to provide water distribution services in remote areas of Pima County, General Fund, contract amount \$22,500.00 (11-30-H-142387-0709)

Supervisor Day stated she was concerned with the uncertainty of who was using the water stations and felt it should be made a legislative issue to contact the federal delegation to push for a comprehensive plan for border security including the use of Rescue Beacons.

It was thereupon moved by Chairman Elías, seconded by Supervisor Valadez and carried by a 4-1 roll call vote, Supervisor Day voting "Nay," to approve the contract.

B. **APPROVAL OF CONSENT CALENDAR**

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

**CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

1. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. RESOLUTION NO. 2009 - 265, approving an Intergovernmental Agreement with the City of Tucson, to provide for the Dunbar Spring Neighborhood Reinvestment

Project, 2004 Bond Fund, contract amount \$472,602.00 (01-70-T-142375-1009)

**B. County Administrator**

2. Humane Borders, Inc., (PULLED FOR SEPARATE ACTION)

**C. Environmental Quality**

3. Arizona Department of Environmental Quality, Amendment No. 5, to provide for the Clean Air Voluntary No-Drive Day Program and extend contract term to 6/30/10, ADEQ Grant Fund, contract amount \$134,125.00 revenue (02-51-A-136398-0805)
4. Arizona Department of Environmental Quality, Amendment No. 4, to provide for the Tucson Urban Haze Study and extend contract term to 6/30/10, ADEQ Grant Fund, contract amount \$40,000.00 revenue (02-51-A-140249-0704)

**D. Facilities Management**

5. Holualoa Pioneer, L.L.C., Amendment No. 2, to provide a lease agreement for the Pima County Graphic Design Print Shop and extend contract term to 10/31/12, General Fund, contract amount \$250,000.00 (04-13-O-129510-1101)

**E. Health Department**

6. Arizona Department of Health Services, Amendment No. 1, to provide breastfeeding peer counseling services and amend contractual language, ADHS Grant Fund, contract amount \$328,516.42 revenue (01-01-A-142170-0709)

**F. Pima Health System**

7. Devon Gables Health Care Center, Amendment No. 6, to provide long term care services including skilled nursing, amend contractual language and extend contract term to 10/31/10, PHCS Enterprise Fund, contract amount \$5,500,000.00 (18-15-D-137015-1005)
8. US Bioservices Corporation, Amendment No. 3, to provide prescription Synagis services, amend contractual language and extend contract term to 10/31/10, PHCS Enterprise Fund, no cost (18-15-U-138825-1106)

9. To provide assisted living services and amend contractual language, PHCS Enterprise Fund, no cost:

<u>Vendor</u>	<u>Amd No</u>	<u>Contract No.</u>
Angela's Assisted Living, L.L.C.	3	07-15-A-140108-0907
Paul & Juanita Hernandez, d.b.a. Ridgecrest II	3	07-15-H-140263-0907
Brea Tucson, L.L.C., d.b.a. The Court at Tucson	3	07-15-T-140569-1007
La Paloma Home for the Aging, L.L.C.	4	07-15-L-140212-0907

10. Supported Living Systems, Inc., Amendment No. 1, to provide behavioral health services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-S-140688-0408)

11. To provide homecare services and amend contractual language, PHCS Enterprise Fund, no cost:

<u>Vendor</u>	<u>Amd No.</u>	<u>Contract No.</u>
Creative Networks, L.L.C., d.b.a. Rescare Homecare	2	07-15-C-142062-0709
Accentcare at Home, Inc.	1	07-15-A-142109-0709
Sunrise Senior Living Management, Inc.	2	07-15-S-142114-0709

12. Arizona Oral & Maxillofacial Surgeons, P.L.L.C., to provide dental and oral surgery services, PHCS Enterprise Fund, contract amount \$330,000.00/2 year term (18-15-A-142381-1109)

**G. Procurement**

13. Amendment No. 1, to provide a job order contract for traffic signal, roadway intersection, paving and drainage improvements, amend contractual language and extend contract term to 9/21/10, RTA (70%), County HURF (20%), and 1997 HURF Bond Funds (10%), Transportation:

<u>Vendor</u>	<u>Contract Amount</u>	<u>Contract No.</u>
The Ashton Company, Inc.	\$846,492.00	26-04-A-141353-0908
KE&G Construction, Inc.	\$1,737,035.00	26-04-K-141354-0908
Southern Arizona Paving and Construction Co.	\$623,938.00	26-04-S-141360-0908
Granite Construction Company, Inc.	\$438,166.00	26-04-G-141362-0908

## Award

14. Highest Scoring Proposal: Award of Contract, Requisition No. 0901034, to Psomas (Headquarters: Los Angeles, CA) the respondent submitting the highest scoring proposal for design engineering services for the Alvernon Way at Valencia Road intersection improvements. The contract shall be for a 30-month period in an amount not to exceed \$433,104.00. The contract may be extended as required for project completion. The Board of Supervisors, at their regularly scheduled meeting on June 2, 2009, previously authorized the award of a 30-month contract not to exceed \$375,000.00. Subsequent scope and fee negotiations resulted in a final negotiated amount of \$433,104.00. Funding Source: RTA Fund. Administering Department: Transportation.

## H. Sherriff

15. RESOLUTION NO. 2009 - 266, approving an Intergovernmental Agreement with the Arizona Department of Public Safety, to provide enhanced law enforcement services concerning the criminal activities of illegal immigration, human smuggling, and border related crimes, State Grant Fund, contract amount \$942,000.00 revenue (01-11-A-142382-0709)
16. Arizona Attorney General's Office/City of Tucson, Amendment No. 2, to provide support for the objectives of the Elder Abuse Task Force and extend contract term to 2/23/10, General Fund, contract amount one-third of program cost (01-11-A-138911-1206)

## 2. DIVISION OF ELECTIONS

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

<u>RESIGNATIONS</u>	<u>PRECINCT</u>	<u>PARTY</u>
Edwards, Nici	237	GRN
Ewoldt, David C.	244	GRN
<u>APPOINTMENTS</u>	<u>PRECINCT</u>	<u>PARTY</u>
Selberg, Gladys M.	061	DEM
Miller, George	089	DEM
Miller, Roslyn G.	089	DEM
Bengston, Peter Y.	260	DEM
Christ, James N.	336	DEM

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

A. Lance R. Hurst, American Legion Post 109, 15921 S. Houghton Rd., Vail, November 7, 2009.

B. Lance R. Hurst, American Legion Post 109, 15921 S. Houghton Rd., Vail, November 14, 2009.

4. **TREASURER'S OFFICE**

**Certificates of Clearance**

Pursuant to A.R.S. §42-19118, staff requests approval of the following:

Unsecured Mobile Homes: \$ 10,664.30

Business Personal Property: \$ 4,540.08

TOTAL Unsecured Personal Property: \$ 15,204.38

**REGIONAL WASTEWATER RECLAMATION**

5. **Public Announcement**

Pursuant to A.R.S. §49-391(C), a public comment period of 30 days must occur before any Pretreatment Consent Decree or Negotiated Settlement Agreement is made final. The Public Information Enforcement File for the following case(s) will be made available for public review or copies may be obtained for \$.35 per page at the Public Works Building, Regional Wastewater Reclamation Department's reception desk, 201 North Stone, 8th Floor, Tucson, Arizona, 85701. Comments will be taken for the next thirty days and written comments may be sent to Industrial Wastewater Control, 5025 W. Ina Road, Tucson, Arizona, 85743. If sufficient interest is expressed, a public hearing may be held by the Board of Supervisors. After the comment period, the Board of Supervisors will vote on acceptance of the following Settlement Agreement:

Golden China Restaurant, L.L.C., No. 2009-13. Proposed settlement amount is \$391.65.

6. **RATIFY AND/OR APPROVE**

Minutes: September 1, 2009

## REGULAR AGENDA/ADDENDUM ITEMS

### 8. COUNTY ADMINISTRATOR: QUARTERLY MANAGEMENT REPORT ON COLLECTIONS

Staff recommends acceptance of the Quarterly Management Report on Collections for the period ending June 30, 2009, and approval of the write-off request in the amount of \$150,996.00.

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

### 9. PROCUREMENT

The Board of Supervisors' on 9/1/09 and 10/06/09, continued the following:

Staff requests direction to proceed to the second step, Request for Proposal phase, of the Design Build Operate (DBO) project for the Regional Optimization Plan (ROMP) 32 MGD Water Reclamation Campus to replace the aging Roger Road Water Reclamation Facility.

Chuck Huckelberry, County Administrator, provided a report on the Water Reclamation Campus Project and the selection of the DBO Alternative. He recommended the following:

Approve proceeding with the Design Build Operate (DBO) process for implementation of the Water Reclamation Campus Project to replace the existing Roger Road WRF. The cost efficiencies and risk transfer associated with the DBO delivery method results in the conservative estimate that the DBO delivery method offers a life cycle savings on the order of \$30 to \$80 million over the life of the service agreement compared to a Design Bid Build (DBB) or a Construction Manger at Risk (CMAR) procurement on the order of \$20 to \$40 million as compared to a Design Build (DB) procurement with greater assurance of meeting regulatory requirements. Changing the project delivery method at this late stage would increase overall project costs and create a need to develop and issue a new solicitation with revised requirements, revised project implementation schedule and revised evaluation criteria that would imperil the County's ability to meet regulatory deadlines. This recommended action is conditioned upon the following:

- A. The Board will receive regular reports of the Request for Proposal process that is expected to extend through the fall of 2010.
- B. The initial term of the DBO contract will be determined after analysis of alternative cost proposals for contract terms of varying lengths including:
  1. 15-year term, with one 5-year renewal option;
  2. 10-year term, with two 5-year renewal options; and
  3. 5-year term, with three 5-year renewal options.
- C. Regional Wastewater Reclamation Department will engage in communications with staff to assure incorporation of County employee considerations in the Service Contract prior to presenting a DBO contract to the Board of Supervisors for approval.

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Chairman Elías indicated that speakers wished to address the Board on this item.

The following individuals spoke:

1. Roger Hilliard, County Employee and SEIU member
2. Ivy Schwartz, Board of Directors of the Tucson Mountains Association
3. David Mitchell, County Employee and SEIU member
4. Fred Bass, Flowing Wells Neighborhood Association and Community Coalition

They provided the following comments:

- A. The Board was urged to keep the Campus Project as a County run operation utilizing County employees.
- B. Running a wastewater facility is not a job-for-profit driven company.
- C. Concerns were expressed regarding fines and penalties that would be incurred if the project was delayed.
- D. The Board was urged to move forward on the project.
- E. When functional areas are privatized, it ultimately increases costs and affects the jobs of County workers.
- F. What the actual cost savings would be by utilizing the DBO process was questioned.

Supervisor Carroll asked if the County financing would be dependant on passage of a Bond Election.

Mr. Huckleberry stated the financing was being reviewed, and there was a plan to move forward with a revenue bond issue in November of 2010, because some of the financing mechanisms available to local government regarding revenue and revenue generating enterprises had changed. He said the State infrastructure group known as W.I.F.A. was issuing long term debt to the County and had indicated they may not need to have a bond authorization in order to issue the debt.

Supervisor Carroll inquired about the lifecycle of the DBO contract.

Mr. Huckelberry responded that the contract was fixed to not to exceed 20 years and would have to be converted, renegotiated or go to another proposal to operate after the 20 year period. He felt the primary constraint was that the investment instruments would lose their tax exemption status if it went beyond 20 years.

Supervisor Carroll asked how the new site would work within the publicly run system and, if the private system would ever have to subsidize the public system, or if the public system would ever have to subsidize the private system.

Chuck Huckelberry explained the County would have a very discrete cost in operating the new facility. He stated the only thing the County would pay for would be the treatment cost per unit and a service fee, and these costs would be in the three proposals and part of the competitive process.

Supervisor Carroll asked for clarification on the total cost of ROMP and how many County employees were currently at the Roger Road site. He also asked why all of the wastewater facilities were not going to be run this way.

Michael Gritzuk, Regional Wastewater Reclamation Director, responded that the overall budget for ROMP was not to exceed \$720,000,000.00. The design and construction costs were \$240,000,000.00. The remaining \$480,000,000.00, would include upgrading and expanding the Ina Road Facility, the construction of a new laboratory, a new power plant and the plant interconnect line between the Roger Road and Ina Road facilities. The decommissioning and demolition of the old Roger Road plant was also included. He stated there were 54 active employees at the Roger Road site, with six vacancies, for a total of 60 positions. He felt that any reduction in workforce for the Roger Road site would easily be absorbed into the County's other 11 treatment facilities and conveyance systems.

Mr. Huckleberry stated that this was a unique situation replacing a minor component of the operation and should not be viewed as any trend, philosophy or anything else in the future. The only other item being discussed as a DBO was the power plant which was similar to running a power substation which would employ approximately five staff members.

Supervisor Valadez inquired what was going to happen with the employees represented by SEIU, and what assurances could be required to continue that representation even in the private sector. He asked if any of the employees would be forced to go to work for the vendor and, if it could be guaranteed, regardless of whether an employee chose to go with the provider or stay with the County, that their benefits would not be affected.

Mr. Huckelberry replied going to work for the vendor would be entirely by choice. He said the vendor would need approximately 20 of these employees and the remaining 34 would be absorbed into the other treatment plants. He stated there could be a condition added to the contract which would require the vendor to comply with any labor agreement the County had in force. Further, the Board could specify how many employees would make that transition, that those employees would not have their salary or compensation reduced and that they would keep the full benefit package they had with the County.

Supervisor Valadez inquired why the DBO was considered a better approach in terms of financial risk. He cited the examples of the expansion of the Ina Road Treatment Plant and a similar experience in Maricopa County that went considerably over estimated costs in terms of both construction time and costs.

Mr. Huckelberry explained the biggest risk was not meeting the compliance requirements of ADEQ. One was entering into a design process to have the improvements built. The other timeline was for actually constructing the improvements and having them operating in a certain time frame. It was the department's belief after going through ROMP, that the DBO process guaranteed compliance within the time frame with the least of amount of risk. He added the County did have an obligation to monitor the implementation and, if the Board approved it, they would have various steps to intervene if it was not going the way they directed.

Mr. Huckleberry further explained there had been three experiences that went considerably over estimated costs in terms of construction time and cost. The two expansion projects were in Green Valley and at Ina Road which were accomplished under the classical Design Bid Build scenario and, in both cases, the contractor went bankrupt. He said the Design Bid Build carried the greatest risk associated with the contractor following through or having financial difficulties during implementation. He stated there had not been any of those types of experiences with Construction Manager at Risk or Design Build. The other adverse experience, he noted, was Randolph which had a lot of cost overruns, unanticipated new treatment and new treatment technology that was implemented. He said the outcome was fine, but the cost was underestimated. He stated that they had planned this project for two years with ROMP, and these very detailed cost proposals and analytical designs would minimize the risk of unforeseen costs coming out much the way they did at Randolph.

Supervisor Valadez requested figures for the cost estimate, length of construction that it was estimated and the final numbers for both.

Mr. Gritzuck stated the Phoenix experience was a Construction Manager at Risk expansion project to their Regional Wastewater Treatment Facility which handled over two hundred million gallons per day. On one particular expansion called the UP01 Program, the original contract was for \$105,000,000.00 with a guaranteed maximum construction period of 30 months. As the project proceeded, there were problems with scheduling and construction quality which lead the City of Phoenix to terminate the contract. Phoenix then had to re-bid the project and negotiate another construction period and contractor. The final price of that contract was \$232,000,000.00 and a total construction period of 60 months.

Supervisor Valadez asked if there would be additional costs associated with construction of this project and, if so, who would bear the costs.

Chuck Huckelberry stated it would be the selected DBO operator unless it was an unforeseen condition.

Supervisor Valadez asked what the subsequent steps were if they choose to go forward.

Chuck Huckelberry said the Board would be accepting the proposals of the three highest qualified respondents to the RFP and asking them to provide a very detailed proposal. Upon receipt, County staff would evaluate each of the proposals in detail and then recommend a firm to the Board. He said it was important that all of the conditions be very specific so these proposals could be written with them included and the financial impacts could be calculated into the proposals. He stated the proposals would be received and would come back to the Board for final contract award in 2010, and the facility had to be under construction by 2011 and fully functional by January of 2015.

Supervisor Valadez said he wanted to make sure that the scrutiny, apart from our technical staff, was as high as possible for the design, construction and permitting phases.

Chuck Huckelberry stated there would be more scrutiny given to this process on a continuous basis than there was typically in a Design Bid Build.

Supervisor Valadez asked what kind of flexibility the County had in the term of the contract and if it would be an issue.

Chuck Huckelberry explained this proposal was originally written to have a 15 year operating agreement with one 5-year renewal option. But due to some of the Boards concerns, it had been expanded to include a 5 year term with three 5-year renewal options and a 10 year term with two 5-year renewal options. The terms would be at the Boards discretion, but there was a theory that pricing could be different depending on which option was taken.

Supervisor Day asked if the DBO company would be responsible for any fines or penalties associated with the failure of regulatory compliance. She was concerned about it not being a good time for such a large expenditure.

Chuck Huckelberry responded yes and stated the chosen company would be responsible for any fines or penalties associated with the failure of regulatory compliance.

Chairman Elías expressed his concerns about approving the DBO process. He felt although there had been excellent work and thought put into this project, there were larger issues to think about such as the futures of our families and our most precious natural resource, water. He felt there needed to be direct accountability when it came to public health and public safety functions. He voiced his pride in the County employees who spoke about public welfare and public good, not their own jobs or benefits, and he also stated his concern about a private vendor who would not be motivated by those things but only by profit. He stated the County could still meet the January 2015 deadline for this facility with a DB option. He felt staff could find a good way to fund the project with a good return on the investment and provide full accountability into the future.

On consideration, it was moved by Chairman Elías, to deny the request and ask staff to come back to the Board with a Design Build (DB) option and delay this decision so the Board could make their decision with a fair comparison of the two options. The motion died due to a lack of a second.

Mr. Huckelberry explained it could be indicated in the contract that those Pima County employees who transitioned into the new entity would serve, for example: no probationary period, their salary and benefit would not be diminished and that they could be terminated for cause after a certain period. He also added that Pima County Personnel Policies could be written in.

It was therefore moved by Supervisor Valadez, seconded by Supervisor Bronson and carried by 3-2 roll call vote, Chairman Elías and Supervisor Carroll voting “Nay,” to direct staff to proceed as recommended with the following caveats:

- A. Direct the vendor to adopt Pima County Personnel Policies;
- B. 75% (at a minimum) of the vendor’s workforce contain existing Pima County employees;
- C. The vendor exercise, at least, the same agreement with the labor organization, SEIU, as Pima County has;
- D. Pima County employees, whether they choose to go with the vendor or stay with the County, not have their benefits or pay reduced in anyway;
- E. There will be no probationary period for Pima County employees who go with the vendor;
- F. Staff is directed to explore possibilities and combinations of a contract term which begins with the initial term of 5 years;
- G. Scrutiny and accountability be maximized in all phases of the DBO contracts;
- H. The Regional Wastewater Reclamation Department provide regular updates to the Board of Supervisors and the public; and,
- I. Maximize the accountability of the vendor by looking at all possibilities, particularly “termination for cause.”

10. **REAL PROPERTY**

The Board of Supervisors’ on 10/06/09, continued the following:

Release of Public Ingress/Egress Easement

Leadstar, L.L.C., representing the Gates Pass Condominium Project, requests the release of an unneeded 25-foot public ingress/egress easement as reserved in Docket 8450 at Page 1623 and dedicated in Docket 8516 at Page 591 and Docket 9233 at Page 676, Section 15, T15S, R13E, G&SRM. No revenue. (District 5)

Peggy Row representing Leadstar, L.L.C. addressed the Board and provided the following comments:

- A. This was the third time this item had been on the agenda and asked the Board to approve the release.
- B. 92% of the neighbors affected by the easement were in support.
- C. The property owner to the west has legal access from Anklam Road.
- D. The Gatespass subdivision owner would be improving the intersection of Anklam Road and Speedway as one of the rezoning conditions.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to continue this item to the Board of Supervisors' Meeting of November 17, 2009.

**11. FINANCE AND RISK MANAGEMENT: CERTIFICATES OF PARTICIPATION**

RESOLUTION NO. 2009 – 267, of the Board of Supervisors of Pima County, Arizona, relating to lease-purchase financing for capital projects for the County; authorizing the execution and delivery of supplemental lease-purchase agreements and supplemental trust agreements or amendments thereto and other necessary agreements, instruments and documents in connection with amending and extending certain current obligations and financing additional capital project costs; approving the execution and delivery of Certificates of Participation; authorizing other actions and matters in connection therewith; and declaring an emergency.

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías to approve the Certificates of Participation including Resolution No. 2009-267. No vote was taken at this time.

Supervisor Carroll asked for clarification regarding the information included in the report of indebtedness submitted to the State, and if voter approval was necessary for the current request.

Chuck Huckelberry, County Administrator, replied HURF and Sewer Revenue Bonds were included in that report. He indicated all indebtedness in the County related to General Obligation, Highway User Revenue and Sewer Revenue Bonds which included WIFA Bonds, Certificates of Participation and Lease Purchase Agreements.

He explained these Certificates were for the complete replacement of the County's financial management system and voter approval was not needed, but it had to be approved by the Board before contractually obligating to the Certificates of Participation. He added Certificates of Participation were short term debt with a life of between 3 to 15 years and these would be paid in 5 to 6 years.

Supervisor Day stated it was her understanding these Certificates would be paid for by the departments using PimaCore over the next 10 years.

Mr. Huckelberry replied these departments would be assessed administrative fees and charges and there would also be savings through the administrative consolidation. He said these components would be combined to pay back the indebtedness, but ultimately how long that would take depended on how much they borrowed.

Supervisor Day said she was looking forward to new technological infrastructure. She requested a report which would look at the County's overall debt situation over the last 5 to 10 years that included not just the Bonds but Certificates of Participation, Stadium District Bonds, WIFA Loans, GO Bonds, Lease Purchase Agreements and all other debt instruments used. She asked that it than be compared it to the other counties in Arizona, and show the repayment forecast over the next few years.

Mr. Huckelberry replied that information was contained in the Annual Comprehensive Financial Report and they would provide it as often as she liked.

Supervisor Carroll asked if the Certificates of Participation were listed on the report of indebtedness and requested all of the other debt, including the Certificates of Participation, be included in the new report.

Tom Burke, Finance Director, stated the Certificates of Participation were not on that report, but there was another report on Lease Purchases which he would provide to the Board.

Mr. Carroll asked what collateral was being used for these Certificates of Participation. He felt he could not support this item until he knew all the other debts the County had.

Mr. Burke stated the collateral for this issuance would be the Legal Services Building, Public Works Building and Public Works Garage.

Upon the vote being taken, the motion carried by a 4-1 vote, Supervisor Carroll voting "Nay," to approve the Certificates of Participation and adopt Resolution No. 2009-267.

**12. FINANCE AND RISK MANAGEMENT: BOARD OF SUPERVISORS POLICY**

Staff requests approval of Board of Supervisors Policy D 22.9, Cost Recovery for Credit Card and Debit Card Processing.

Without objection, this item was removed from the agenda.

**13. TRANSPORTATION: WAIVERS OF DEVELOPMENT IMPACT FEES**

A. Pursuant to Pima County Code Section 19.03.070, Louis and Cyrilla Boisvert request a waiver of the Roadway Development Impact Fee for

property located at 17301 E. Yucca Ash Farm Road, Sonoita, in the Mountain View Impact Fee Benefit Area. (District 4)

- B. Pursuant to Pima County Code Section 19.03.070, Mark and Virginia Blosser request a waiver of the Roadway Development Impact Fee for property located at 28420 Rain Valley Road, Elgin, in the Mountain View Impact Fee Benefit Area. (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 waivers.

14. **REGIONAL WASTEWATER RECLAMATION: PRETREATMENT SETTLEMENT AGREEMENT**

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

Le Rendezvous Restaurant, No. 2009-07. Proposed settlement amount is \$530.54.

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

15. **FRANCHISES/LICENSES/PERMITS: LIQUOR LICENSE**

09-23-8993, Randy D. Nations, Valencia Chevron, 5000 E. Valencia Road, Tucson, Series 10, Beer and Wine Store License, New License.

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

16. **FRANCHISES/LICENSES/PERMITS: FIREWORKS PERMIT**

Troy Finley, Tucson Country Club, 2950 N. Camino Principal, Tucson, November 8, 2009 at 9:00 p.m.

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

17. **FRANCHISES/LICENSES/PERMITS: EXTENSION OF PREMISES/PATIO PERMIT**

Amy S. Nations, Fleming's Prime Steakhouse, 6360 N. Campbell Avenue, Tucson, Permanent Extension.

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

18. **DEVELOPMENT SERVICES: REZONING**

Co9-09-04, GOEKE – NOYES STREET EASEMENT REZONING

Request of Jon and Karen Goeke, for a rezoning of approximately 5.01 acres from RH (Rural Homestead) to GR-1 (Rural Residential), on property located on the south side of the Noyes Street easement, approximately 3/4 mile east of Wilmot Road. The proposed rezoning conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 6-0 (Commissioner Holdridge abstained; Commissioners Gungle, Cook and Membrila were absent) to recommend APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 4)

"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 condition:  
All driveways or easements serving more than one dwelling unit shall be paved or chip sealed within the rezoning boundary within one year of the final inspection for the dwelling.
8. Flood Control conditions:
  - A. A Floodplain Use Permit is required for any future development, and engineering may be required to determine erosion hazard setbacks and base flood elevations.
  - B. A covenant shall be recorded indicating all-weather access and emergency services may not be available during times of flooding and holding Pima County harmless in the event of flooding.
9. Wastewater Reclamation conditions:
  - A. The property 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 / developer to that effect.
  - B. The owner / developer must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal systems within the rezoning area at the time a tentative plat, development plan or request for building permit is submitted for review.
10. Environmental Quality condition
  - A. All proposed residential lots must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.

- B. As a condition of rezoning, the applicant shall demonstrate that the new lots, as proposed, can accommodate a home site, and a primary and reserve on-site wastewater disposal area, while meeting all required setbacks. The size of the primary and reserve areas shall be determined by on-site soil evaluations and/or percolation testing and shall be designed to accommodate a hypothetical four (4) bedroom home, unless the applicant requests limiting the size of the proposed new residence. This demonstration shall be made prior to issuance of the Certificate of Compliance.
  - C. As a condition of rezoning, the applicant shall demonstrate that the existing on-site wastewater disposal system, and 100 percent reserved disposal area, can be contained within the proposed property boundaries while meeting all required setbacks. This demonstration shall be made prior to issuance of the Certificate of Compliance.
  - D. The existing road and/or proposed easement to the properties shall be improved to meet the paving specifications defined by, or equivalent to those of, the planning department and/or highway department of the jurisdictional agency.
11. Cultural Resources conditions:
- A. 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. Compliance may include a requirement for an on-the-ground archaeological and historic resources survey to be conducted on the subject property according to County requirements and submitted to Pima County for review prior to ground modifying activities.
12. 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.
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 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(I)."
15. Adherence to the sketch plan as approved at public hearing.

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 public hearing and approve the rezoning subject to standard and special conditions.

**19. DEVELOPMENT SERVICES: REZONING TIME EXTENSION**

Co9-04-14, FAITH COMMUNITY CHURCH, INC. – SAN JOAQUIN AVENUE REZONING

Request of Title Security Agency of Arizona, TR 1073, represented by Vincent Catalano, for a five-year time extension of a rezoning from SR (Suburban Ranch) to CR-3 (Single Residence) (2.70 acres) and SR (R) (Restricted) (1.76 acres) located on the west side of San Joaquin Avenue, approximately 660 feet south of Orange Grove Road. The subject site was rezoned in 2004. The rezoning will expire on November 16, 2009. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH ORIGINAL, MODIFIED AND ADDITIONAL STANDARD AND SPECIAL CONDITIONS. (District 1)

"IF THE DECISION IS MADE TO APPROVE THE TIME EXTENSION, THE FOLLOWING STANDARD AND SPECIAL CONDITIONS SHOULD BE CONSIDERED:"

- 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, Document Services.
6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
  7. Flood Control conditions:
    - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
    - B. A drainage study is required to determine the 100-year floodplain or Base Flood Elevation, and Erosion Hazard Ordinance setback for all lots and the need for structural improvements.
    - 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.
    - D. The site drainage shall be in conformance with the Riverside Terrace Basin Management Plan.
    - E. A buffer area shall be established along the northwest side of the development, at the time of platting or development plan processing, to ensure the re-establishment of the natural drainage pattern, as shown on the proposed site plan.
  8. Wastewater ~~Management~~ Reclamation condition:  
The property owner shall connect to the public sewer system at the location and in the manner specified by Wastewater ~~Management~~ Reclamation at the time of review of the tentative plat, development plan or request for building permits.
  9. Cultural Resources and Historic Preservation condition:  
Prior to ground modifying activities, an on-the-ground archaeological and historic sites survey shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted at the time of, or prior to, the submittal of any tentative ~~plan plat~~ or development plan. 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.
  10. Adherence to the sketch plan approved at public hearing (Exhibit "B").
  11. Natural Resources, Parks and Recreation Department conditions:  
Since the preliminary development plan does not provide for the required recreation area, the developer shall pay in-lieu fees of \$1,500.00 per unit for off-site residential recreation areas.
  12. Unless Development Services is provided with information from the U.S. Fish & Wildlife Service which indicates a site survey is not necessary, 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, as an alternative to contacting the U.S. Fish & Wildlife Service, heavy construction activity shall occur only between August 1 and January 31 of any given calendar year. If, however, surveys are performed, results of these surveys and copies of any data collected shall be provided to Development Services.
  13. Under no circumstances shall the following exotic plant species be planted anywhere on the site:
    - Fountain grass (*Pennisetum setaceum*)
    - Buffelgrass (*Pennisetum ciliare*)
    - Johnson grass (*Sorghum halapense*)
    - Giant reed (*Arundo donax*)
    - Common crabgrass (*Digitaria sanguinalis*)
    - Pampas grass (*Cortaderia selloana*)
    - Red brome (*Bromus rubens*)
    - Mediterranean grass (*Schismus* spp.)
    - Tree of heaven (*Ailanthus altissima*)
    - African sumac (*Rhus lancea*)
    - Russian olive (*Eleagnus angustifolia*)
    - Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
    - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
    - Lovegrasses (*Eragrostis* spp.) excluding Plains lovegrass (*Eragrostis intermedia*)
    - African rue (*Peganum harmala*)
    - Icelandic plant (*Mesembryanthemum crystallinum*)
    - Arabian Grass (*Schismus arabicus*)
    - Natal Grass (*Melinis repens* (*Rhynchelythrum repens*))
  14. Future development shall be precluded in the Natural Area in the SR portion of the rezoning area as depicted on the sketch plan. The sketch plan reflects the maximum allowed extent of the cul-de-sac in the SR area. Any structure(s) that the Drainage Report finds to be necessary shall be exempt from this restriction.
  15. 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(I)."
  16. The owner/developer shall execute and record a document acceptable to the Pima County Department of Community Services 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.

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 carried by a 4-0 vote, Supervisor Carroll was not present for the vote, to close the public hearing and approve the request for a five-year time extension with original, modified and additional standard and special conditions.

20. **DEVELOPMENT SERVICES: REZONING TIME EXTENSION**

Co9-04-16, ST. PHILLIPS FOOTHILLS L.L.C., – CAMPBELL AVENUE REZONING

Request of Campbell Foothills Investors, L.P., for a five-year time extension of a rezoning from CR-1 (Single Residence) of approximately 7.02 acres to CR-4 (Mixed-Dwelling Type) (4.13 acres) and CR-4 (Mixed-Dwelling Type) (Restricted) (2.89 acres) located on the east side of Campbell Avenue, approximately 1/4 mile north of River Road. The subject site was rezoned in 2005 and will expire in 2010. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH ADDITIONAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS. (District 1)

**STAFF RECOMMENDATION**

Staff recommends APPROVAL of a five-year time extension for approximately 4.13 acres to CR-4 (Mixed-Dwelling Type) and approximately 2.89 acres to CR-4 (Mixed-Dwelling Type) (Restricted) with additional and modified standard and special conditions.

If the decision is made to approve the time extension, the following standard and special conditions should be considered:

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 beyond the sixteen lots shown on the Preliminary Development Plan without the written approval of the Board of Supervisors.
7. Transportation conditions:
  - A. A Traffic Impact Analysis (TIA) shall be provided by the property owner(s) for this rezoning for review and approval by the Department of Transportation, prior to the first development plan or tentative plat submittal. The results of the approved TIA shall be used to establish required transportation improvements, and phasing of said improvements, to the area roadway system. The property owner(s) shall be responsible for construction of improvements as required by the Department of Transportation to meet concurrency requirements.
  - B. Provision of improvements to Campbell Avenue, including but not limited to, widening of pavement to provide left or right turn lanes, or a continuous left-turn lane.
  - C. The property owner shall dedicate 45 feet right-of-way for Campbell Avenue.
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 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.
  - C. All weather access shall be provided to all lots to meet concurrency requirements.
  - D. A drainage study shall be submitted for review and approval that addresses the impacts of development to the federally mapped floodplain and local drainage area at the time of platting. This study should also determine erosion setback hazard areas and in particular the western portion of the rezoning site.
9. Wastewater Management condition:

~~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 permits.~~

- A. The owner / developer 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 owner / developer shall obtain written documentation from the PCRWRD 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.
- C. The owner / developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
10. Environmental Quality conditions:  
 A. The subject parcel(s) shall connect to the public sewer.  
 B. The existing road to serve the parcel(s) shall be improved to meet paving specifications defined by, or equivalent to those of, the planning department and/or highway department of the jurisdictional agency.
11. Cultural Resources and Historic Preservation condition:  
 Prior to ground modifying activities, an on-the-ground archaeological and historic sites survey shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted 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. 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 condition:  
 The developer shall provide a "Public Non-Motorized Trail Easement and Public Utility Easement" over the Campbell Wash, coinciding with the Flood Plain boundaries, for the Campbell/Camino Real Trail #182.
13. Adherence to the preliminary development plan as approved at public hearing.
14. There shall be a maximum of 16 dwelling units in the rezoning area.
15. Building heights are limited to 24' unless the Board of Supervisors provides specific written authorization to exceed 24'.
16. Unless Development Services is provided with information from the U.S. Fish & Wildlife Service which indicates a site survey is not necessary, 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. If surveys are performed, results of these surveys and copies of any data collected shall be provided to Development Services.
17. Under no circumstances shall the following exotic plant species be planted anywhere on the site:  
 Fountain grass (*Pennisetum setaceum*)  
 Buffelgrass (*Pennisetum ciliare*)  
 Johnson grass (*Sorghum halapense*)  
 Giant reed (*Arundo donax*)  
 Common crabgrass (*Digitaria sanguinalis*)  
 Pampas grass (*Cortaderia selloana*)  
 Red brome (*Bromus rubens*)  
 Mediterranean grass (*Schismus spp.*)  
 Tree of heaven (*Ailanthus altissima*)  
 African sumac (*Rhus lancea*)  
 Russian olive (*Eleagnus angustifolia*)  
 Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)  
 Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda  
 Lovegrasses (*Eragrostis spp.*) excluding Plains lovegrass (*Eragrostis intermedia*)  
 African rue (*Peganum harmala*)  
 Iceplant (*Mesembryanthemem crystallinum*)  
 Arabian Grass (*Schisums arabicus*)  
 Natal Grass (*Melinis repens* (=Rhynchelythrum repens))
18. In the event the subject property is annexed into the City of Tucson, 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.
19. 95% of the Campbell Wash shall remain undisturbed.
20. 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(I)."

21. The owner/developer shall execute and record a document acceptable to the Pima County Department of Community Services 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 issue

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 4-0 vote, Supervisor Carroll was not present for the vote, to close the public hearing and approve the request for a five-year time extension with additional and modified standard and special conditions.

21. **DEVELOPMENT SERVICES: MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITION**

Co9-92-07, HARDY-THORNYDALE ASSOCIATES - THORNYDALE ROAD REZONING

Request of Pacific Income Properties, L.L.C., for a modification (substantial change) of Rezoning Condition No.12 of Ordinance No. 1992-112 which states, "Uses shall be restricted to TR uses except apartments." The applicant requests to allow CB-1 (Local Business) uses except for the following list of uses normally allowed in the CB-1 Zone; auto mechanical repair; auto parking lot; automobile lubrication and oil change operation; automobile tires, batteries and accessories installation in conjunction with a department store; billiard or poolhall; feed store; fix-it shop, small appliances; frozen food locker; garage for public storage; gasoline service station; hotel; laundromat; mechanical and electronic games arcade; pet grooming; pet shop; religious rescue mission or temporary revival; station, bus or stage; taxicab stand; theater; tire store; trailer rental; upholstery shop and supplies; water, telephone or electrical receiving or distribution station; wholesale of oil; and trailer, manufactured or mobile home for caretaker. The subject site is 4.87 acres zoned CB-1 and is located at the southeast corner of the intersection of Thornydale Road and Hardy Road. Reference case: P1200-014. On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Gungle, Cook and Membrila were absent) to recommend APPROVAL OF MODIFICATION TO REZONING CONDITION NO. 12. Staff recommends APPROVAL OF MODIFICATION TO REZONING CONDITION NO. 12. (District 1)

Staff recommends APPROVAL of the request modify rezoning condition #12 as follows:

12. Uses shall be restricted to TR uses except apartments. Prohibited uses shall include Apartments; Auto mechanical repair; Auto parking lot; Automobile lubrication and oil change operation; Automobile tires, batteries, and accessories installation in conjunction with a department store; Billiard or poolhall; Feed store; Fix-it shop, small appliances; Frozen food locker; Garage for public storage; Gasoline service station; Hotel; Laundromat; Mechanical and electronic games arcade; Motel; Pet grooming; Pet shop, Religious rescue mission or temporary revival; Station, Bus or stage; Taxicab stand; Theater; Tire store; Trailer rental; Upholstery shop and supplies; Water, telephone or electrical receiving or distribution station; Wholesale of oil; and Trailer, manufactured or mobile home for caretaker.

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 and approve the request for a modification of rezoning condition no. 12.

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

Co8-09-04, COMMUNICATION TOWERS CODE TEXT AMENDMENT

An ordinance of the Pima County Board of Supervisors relating to zoning; amending the Pima County Zoning Code by amending Title 18, Chapter 18.03 (General Definitions) to amend the definitions of communication tower and communication tower equipment vault and add definitions for communication tower equipment, community character and visually sensitive area; and to amend Chapter 18.07 (General Regulations and Exceptions) to revise the purposes, applicability, development standards and procedures for communication towers and appurtenances located within public rights-of-way and on private property. On motion, the Planning and Zoning Commission voted 10-0 to recommend APPROVAL. Staff recommends APPROVAL. (All Districts)

If approved, pass and adopt:

ORDINANCE NO. 2009 – 101

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:

1. Brian Johnson

He provided the following comments:

- A. He suggested that a County-wide comprehensive map of all cell towers/heights be compiled.
- B. He recommended citing a preference that cell towers be placed on governmental buildings.
- C. He felt that the applicants and/or their representatives were not always forthcoming in the information they provide and questioned the checks and balances in the system.

Supervisor Bronson read the language Mr. Johnson wanted put into the code:

“To encourage the location of communication towers in residential areas owned by governmental entities that provide emergency and safety services to the community with a requirement to show substantial evidence that such a location is technically not feasible before locating on privately owned property.”

Arlan Colton, Planning Official, explained the language could not be used exactly that way because the implication would be the government entity would want to have it there, and the County does not have authority over other jurisdictions.

Tom Hudson, Zoning Administrator, stated if the language was changed on paragraph H.1.d to read: "to encourage location of communication towers in commercial and industrial zones, on government property and in areas of compatible uses" it would accomplish what Mr. Johnson had in mind.

Supervisor Bronson asked if the part that said "with a requirement to show substantial evidence that such a location is technically not feasible" would require a reversion to the Planning and Zoning Commission because it would be a substantial change.

Chris Straub, Chief Civil Deputy County Attorney, replied yes.

Supervisor Bronson acknowledged it was being required that the applicant get an Radio Frequency (RF) Engineer to show the issue of coverage in the ordinance, but that information was from an engineer who was hired by the applicant. She felt that this did not provide the checks and balances needed to ensure the accuracy of the information. She asked staff to consider some language amending the ordinance, at a later date, to allow neighborhoods or those who are noticed for a communication tower the ability to hire their own RF Engineer and should that engineer's information conflict with the applicant's RF Engineer, the cost for hiring the engineer born by the party appealing would be reimbursed by the applicant. She directed staff to come up with a fee schedule that ensured appropriate cost recovery in the instance of communication towers and bring it back to the Board for approval.

Supervisor Day thanked staff for doing an excellent job of reworking this code to put first those who are most effected by these cellular towers and requiring public hearings, mitigation and stealth design on cell towers.

Supervisor Bronson asked staff to request that Pima Association of Governments (PAG) draw-up the map regionally, not just for unincorporated Pima County.

Supervisor Day felt drawing up this map would be very hard and expensive to do when the applicants were already asked to bring in a map of the area .

Arlan Colton stated drawing-up this map was a complex issue and there were issues to keeping this map current and updated, but they would work with Mr. Bernal and the management committee from PAG to see what they could do relative to mapping regionally existing towers. He said this document would be broader, basically informational and would probably not be used for the processing of a Conditional Use Permit because they would have already received this information from the applicant.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2008- 101, amending the language in H1.d on page 5, to include "government property." Further, direct staff to develop map(s) on all locations of

cell phone towers and develop a fee schedule for Conditional Use Permits and bring the schedule back to the Board for approval.

**23. COUNTY ADMINISTRATOR**

The Board of Supervisors' on 9/8/09 continued the following:

Proposed amendments to Personnel Policy 8-102 (A) (2) and (F) (3). Discussion/direction/action.

Without objection, this item was continued to the Board of Supervisors' Meeting of November 3, 2009.

**24. FINANCE AND RISK MANAGEMENT: OPERATING TRANSFER**

Pursuant to Board of Supervisors Policy D22.8, staff requests approval of the operating transfer in the amount of \$296,963.00 of CJEF/RICO Funds to the Capital Projects Fund needed for the Sheriff Detention Facility jail roofing and HVAC replacement.

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

**25. CONTRACTS**

**A. COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION**

Sunnyside Pointe Development, L.L.C., to provide for the design and construction of the Sunnyside Pointe Phase I Project and Performance Deed of Trust, 2004 Bond Fund, contract amount \$1,464,218.00 (03-70-S-142397-0909)

**B. INFORMATION TECHNOLOGY**

Tower Development Corporation, to provide an Easement Agreement for wireless communication facilities on property located at 7770 N. Shannon Road, General Fund, contract amount \$120,000.00 revenue (11-14-T-142407-1009)

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

**26. AWARD: PROCUREMENT**

The Board of Supervisors' on 10/13/09, continued the following:

Low Bid: Award of Contract, Requisition No.902420, in the amount of \$13,199,885.00 to the lowest responsive bidder, KE&G Construction, Inc.,

(Headquarters: Tucson, AZ) for the construction of the La Cañada Drive: Ina Road to Calle Concordia Project. The contract term is forty-two months with the ability to extend for project completion. Construction is to be complete within 440 working days from Notice to Proceed. The Department of Transportation requests that the Procurement Director's Change Order authority be increased to up to \$500,000.00 per change order, not to exceed a cumulative total of \$1.5 million. Funding Source: 1997 HURF Bond Fund (2%); HURF Fund 12.6% (20%); RTA Fund (70%); CDO Impact Fee Fund (8%). Administering Department: Transportation.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez to approve the award. No vote was taken at this time.

Supervisor Day stated there was a need for additional walls at three to six locations in this project. She indicated that the Regional Transportation Authority (RTA) Subcommittee voted unanimously that any cost savings on the bid should be allocated for additional mitigation at three of these locations, but this vote was later overturned after noise studies from the County's Transportation Department determined the walls were not warranted. She stated the RTA was providing 70% of the funding and the County was providing the remaining 30%. She asked if any of the County savings could be applied to additional mitigation on these three properties.

Chuck Huckelberry, County Administrator, responded not at this time. He explained there was an additional segment of La Canada being built and constructed from Ina to River Roads, and only when that project was contracted, would they know if there was any surplus. He said the RTA Board was very specific that RTA funds not to be used for any additional noise walls and that any savings in RTA funding would be returned.

Supervisor Day asked if there were any savings at the end of the year, if some of those funds could be used to mitigate the three properties.

Mr. Huckelberry stated there were other transportation improvements throughout Pima County, and it would be the Board's decision as to how to allocate any surplus HURF funds.

Supervisor Valadez expressed his concern in terms of low bid contracts. He offered a friendly amendment that staff be directed to develop a new Board Policy stating a complete audit would be required if there was to be a Change Order on low bid contracts.

Supervisor Bronson accepted the friendly amendment.

Upon the vote being taken, the motion was unanimously carried by a 5-0 vote, to approve the award and direct staff to bring back a new Board Policy as discussed.

**27. AWARD: PROCUREMENT**

Low Bid: Award of Contract, Requisition No. 1000024, in the amount of \$235,267.34 to the lowest bidder, A&S Paving, Inc., (Headquarters: Tucson, AZ) for the construction of the Hohokam Middle School Bicycle and Pedestrian Improvement Project. The contract term is nine months with the ability to extend the term for contract completion. Construction is to be complete within 60 working days from Notice to Proceed. Funding Source: American Recovery and Reinvestment Act Fund. Administering Department: Transportation.

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

**28. CONTRACTS: TRANSPORTATION**

- A. RESOLUTION NO. 2009 – 268, of the Board of Supervisors, approving an Intergovernmental Agreement with the Regional Transportation Authority, to provide rural public transportation service improvements, RTA Fund, contract amount \$61,000.00 revenue (01-04-R-142404-1009)
- B. RESOLUTION NO. 2009 – 269, of the Board of Supervisors, approving an Intergovernmental Agreement with the Regional Transportation Authority, to provide expanded fixed rural public transportation services between Ajo and Tucson, RTA Fund, contract amount \$4,111.00 revenue (01-04-R-142405-0709)
- C. RESOLUTION NO. 2009 – 270, of the Board of Supervisors, approving an Intergovernmental Agreement with the Regional Transportation Authority, to provide for the Special Needs Program and expand the existing paratransit service area boundaries, RTA Fund, contract amount \$1,095,458.00 revenue (01-04-R-142406-0709)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the contracts and Resolution Nos. 2009-268, 269 and 270.

**29. BOARD, COMMISSION AND/OR COMMITTEE: CONSERVATION ACQUISITION COMMISSION**

Appointment of Corey Smith to fill the unexpired term of Wanda Shattuck. Term expiration: 4/30/12. (District 1)

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

**30. CALL TO THE PUBLIC**

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

31. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 12:45 p.m.