

MINUTES, BOARD OF SUPERVISORS' MEETING

FEBRUARY 2, 2010

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, February 2, 2010. Upon roll call, those present and absent were as follows:

All Present: Ramón Valadez, Chairman
 Sharon Bronson, Vice Chair
 Ray Carroll, Member
 Ann Day, Member
 Richard Elías, Member
 Lori Godoshian, Clerk

1. **INVOCATION**

The invocation was given by Pastor David Stertzbach of Bethel Baptist Church.

2. **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

3. **PAUSE 4 PAWS**

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

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:10 a.m.

4. **RECONVENE**

The meeting reconvened at 9:45 a.m. All members were present.

5. **CALL TO THE PUBLIC (for Executive Session items 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) and (4), for legal advice and direction regarding New Cingular Wireless PCS, L.L.C. vs. Pima County Board of Supervisors, U.S. District Court Case No. 10-CV-00028.

Chris Straub, Chief Civil Deputy County Attorney, reported that New Cingular claimed the Board had violated the Telecommunications Act of 1996 when it denied the application for a Conditional Use Permit to place a communication tower at the Cottonwood de Tucson Facility located on West Sweetwater Drive. The Pima County Attorney's Office sought authorization to defend the action. New Cingular requested that the County discuss settlement and agree that all terms of the settlement negotiations be admissible in the course of litigation. The Pima County Attorney's Office recommended that the Board authorize the defense of the lawsuit but had no recommendation concerning settlement negotiations.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to direct the County Attorney's Office to defend the lawsuit and not enter into any settlement negotiations at this time.

7. LITIGATION

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

- A. Bellon v. Pima County
Tax Parcel No. 224-43-062D
Arizona Tax Court Case No. ST2009-000754

Chris Straub, Chief Civil Deputy County Attorney, stated this was a proposed settlement that involved a valuation appeal for tax year 2009. The proposed settlement would decrease the full cash value of the property from \$947,164.00 to \$810,000.00. The Pima County Assessor and Attorney's Office recommended approval of the settlement.

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

- B. Carrigan v. Pima County
Tax Parcel No. 222-02-089B
Arizona Tax Court Case No. ST2009-000508

Chris Straub, Chief Civil Deputy County Attorney, explained this was a proposed settlement that involved a valuation appeal for tax year 2010. The proposed settlement would decrease the full cash value of the property from \$489,902.00 to \$320,000.00. The Pima County Assessor and Attorney's Office recommended approval of the settlement.

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

- C. Jurasek v. Pima County
Tax Parcel No. 129-11-109B
Arizona Tax Court Case No. ST2009-000477

Chris Straub, Chief Civil Deputy County Attorney, reported this was a proposed settlement that involved a valuation appeal for tax years 2009 and 2010. The proposed settlement would dismiss the 2009 tax appeal and decrease the full cash value of the property from \$184,000.00 to \$140,000.00 for the 2010 tax year. The Pima County Assessor and Attorney's Office recommended approval of the settlement.

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

8. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3), for legal advice regarding the following land use related items on the Regular Agenda:

- A. Co14-09-01, Silverbell Road, Happy Valley Road and Santa Rita Road Major Streets and Scenic Routes Plan Amendment.
- B. P21-09-023, Pima County Right-Of-Way – W. Ironwood Hill Dr., appeal of decision of Hearing Administrator of a Type I Conditional Use Permit.
- C. P21-09-033, Wosicki – E. Interstate 10; a Type III Conditional Use Permit.

Chris Straub, Chief Civil Deputy County Attorney, stated these items were informational only, no Board action was required.

9. **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:

1. **CONTRACT AND AWARD**

E. **Information Technology**

- 7. Comcast of Arizona, Inc., Amendment No. 1, to provide a non-exclusive license agreement for cable television service in unincorporated Pima County, extend contract term from 12/15/09 to 12/14/14 and amend contractual language, General Fund, contract amount \$9,220,000.00 revenue (12-14-J-141198-0798)

Don Weaver addressed the Board regarding his support of the contract.

PULLED FOR DISCUSSION BY SUPERVISOR DAY:

1. **CONTRACT AND AWARD**

C. **Economic Development and Tourism**

5. Tucson Regional Economic Opportunities, Inc., Amendment No. 4, to provide for economic development activities for the term 7/1/09 to 6/30/10 and amend contractual language, General Fund, contract amount \$436,590.00 (11-71-T-137167-0705)

Supervisor Day indicated that the contract had been signed more than a week before the Arizona Supreme Court handed down its ruling in the Turken v. Gordon case that focused on the gift clause. She questioned if the item needed to be continued so that the contract could be written in more specific terms of services so there would be more accountability from Tucson Regional Economic Opportunities, Inc.

Chris Straub, Chief Civil Deputy County Attorney, stated he had discussed the matter with his colleague, Regina Nassen, who was familiar with the gift clause issue and had written an amicus brief on behalf of the Board in the Turken v. Gordon case. He reported that it was Ms. Nassen's opinion, that not withstanding the recent decision and at a minimum, the contract appeared to comply with the new decision.

Supervisor Day opined that she felt it would be appropriate that in the future contract language was more specific regarding the services provided for more accountability on where the County tax dollars were being spent.

B. **APPROVAL OF CONSENT CALENDAR**

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

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. Town of Sahuarita, Amendment No. 1, to provide for implementation of the Sahuarita Workforce Housing Program and extend contract term from 1/1/10 to 12/31/10, no cost (01-70-S-141446-0109)

B. County Attorney

2. RESOLUTION NO. 2010 - 23, approving an Intergovernmental Agreement with La Paz County, to provide legal services for Title 36 Involuntary Commitment Proceedings for the term 1/1/10 to 12/31/19, La Paz County Fund, contract amount - revenue based on services (01-02-L-142683-0110)
3. Deconcini, McDonald, Yetwin and Lacey, P.C., Amendment No. 2, to provide legal representation services regarding legal obligations of the Treasurer with respect to retention or destruction of ballots from the May 16, 2006 Special Election and extend contract term to 7/6/12, General Fund, contract amount \$30,000.00 (17-02-D-141119-0708)
4. Encore Discovery Solutions, Amendment No. 2, to provide OCR document imaging for Maricopa County Superior Court Case No. CV2008-009136, Seaboard Surety Company v. Pima County et. al. and extend contract term from 9/24/09 to 9/23/10, RWRD Enterprise Fund, contract amount \$20,000.00 (29-02-E-141908-0908)

C. Economic Development and Tourism

5. Tucson Regional Economic Opportunities, Inc., Amendment No. 4, (PULLED FOR DISCUSSION)

D. Health

6. RESOLUTION NO. 2010 - 24, approving an Intergovernmental Agreement with the Tucson Unified School District, to provide dental screening, referral and sealant placement services, no cost (01-01-T-142688-0210)

E. Information Technology

7. Comcast of Arizona, Inc., Amendment No. 1, (PULLED FOR DISCUSSION)

F. Pima Health System

8. United Community Health Center - Maria Auxiliadora, Inc., Amendment No. 7, to provide physician, dental, social worker, counselor services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-U-135696-0305)

9. El Rio Health Center, Inc., Amendment No. 10, to provide primary care physician, specialty, obstetrical, dental services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-E-135703-0405)
10. To provide long term care services including skilled nursing and amend contractual language, PHCS Enterprise Fund, no cost:

<u>VENDOR</u>	<u>AMENDMENT</u>	<u>CONTRACT NO.</u>
Devon Gables Health Care Center	8	18-15-D-137015-1005
Life Care Centers of America, Inc., d.b.a. La Canada Care Center	6	18-15-L-137033-1005
Life Care Centers of America, Inc., d.b.a. Mountain View Care Center	5	18-15-L-137037-1005
Ensign Sabino, L.L.C., d.b.a. Sabino Canyon Rehabilitation and Care Center	6	18-15-E-137038-1005
Life Care Centers of America, Inc., d.b.a. Life Care Center of Tucson	5	18-15-L-137040-1005
SRCV-Rosa, L.L.C., d.b.a. Santa Rosa Care Center	12	18-15-S-137045-1005
Avalon Care Center-Tucson, L.L.C., d.b.a. La Colina Health Care Center	6	18-15-A-137067-1005
Park Waverly Healthcare, L.L.C., d.b.a. Park Avenue Health and Rehabilitation	9	18-15-P-137077-1005

11. Mariposa Community Health Center, Inc., Amendment No. 10, to provide primary care physician, dental, radiology, OB/GYN, transportation, pharmacy services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-M-137143-1005)
12. Tucson Heart Group, P.L.C., Amendment No. 5, to provide cardiology services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-T-137416-0406)
13. Carondelet St. Mary's-Northwest L.L.C., d.b.a. Carondelet Foothills Surgery Center, Amendment No. 3, to provide ambulatory surgery center services, extend contract term to 1/31/11 and amend contractual language, PHCS Enterprise Fund, contract amount \$50,000.00 (18-15-C-137706-0206)
14. Southwest Heart Group, L.L.C., Amendment No. 4, to provide cardiovascular medicine services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-S-137910-0406)

15. Ajo Community Health Center, d.b.a. Desert Senita Community Health Center, Amendment No. 5, to provide primary care physician, dental, family planning extension services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-A-138810-1106)
16. Catalina Ear, Nose and Throat, P.C., Amendment No. 2, to provide ear, nose, throat, dermatology and dermatopathology services, extend contract term to 1/31/11 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-C-138978-0207)
17. Palo Verde Homecare, L.L.C., d.b.a. Tucson House Calls, Amendment No. 6, to provide primary care physician services, extend contract term to 1/31/11 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-T-138998-0207)
18. Easter Seals Blake Foundation, Amendment No. 5, to provide habilitative residential, behavioral health management, counseling services, extend contract term to 1/31/11 and amend contractual language, PHCS Enterprise Fund, contract amount \$500,000.00 (18-15-B-139072-0207)
19. Agave Surgical Associates, P.C., Amendment No. 2, to provide general and vascular surgery services, extend contract term to 1/31/11 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-A-139074-0207)
20. Arizona Inpatient Medicine Associates, L.L.C., Amendment No. 3, to provide hospitalist rounding services, extend contract term to 1/31/11 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-A-139078-0107)
21. Tucson Pulmonology, P.C., Amendment No. 2, to provide pulmonology services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-T-139375-0507)
22. Heart Care of Southern Arizona, P.C., d.b.a. Desert Cardiology of Tucson, Amendment No. 3, to provide cardiology services and amend contractual language, PHCS Enterprise Fund, no cost (18-15-H-140334-0907)
23. Dependable Medical Equipment, Inc., Amendment No. 5, to provide durable medical equipment, medical supplies, administrative supportive services and amend contractual language, PHCS Enterprise Fund, no cost (07-15-D-140581-0108)

24. LifeCare Solutions, Inc., Amendment No. 3, to provide durable medical equipment, supplies and amend contractual language, PHCS Enterprise Fund, no cost (07-15-L-140580-0108)
25. To provide nursing facility services and amend contractual language, PHCS Enterprise Fund, no cost:

<u>VENDOR</u>	<u>AMENDMENT</u>	<u>CONTRACT NO.</u>
Senior Living Options, L.L.C., d.b.a. Palm Valley Rehabilitation and Care Center	2	18-15-S-142277-0809
Glendale Healthcare Associates, L.L.C. , d.b.a. Desert Sky Health and Rehabilitation Center	2	18-15-G-142334-0809
Santa Rita Care Center, L.L.C., d.b.a. Santa Rita Nursing and Rehabilitation Center	9	18-15-S-137035-1005
SLO Ridgecrest L.L.C., d.b.a. Ridgecrest Healthcare	5	18-15-S-139267-0307

G. Procurement

26. Durazo Construction Corp., Amendment No. 4, to provide a job order contract for park development services, extend contract term to 2/5/11 and amend contractual language, no cost (26-05-D-139371-0207) Natural Resources, Parks and Recreation
27. AECOM USA, Inc., Amendment No. 2, to provide roadway design engineering services for the Magee Road/Cortaro Road: Thornydale Road to Oracle Road Project and amend contractual language, RTA Fund, contract amount \$55,615.00 (16-04-D-139958-0807) Transportation

Awards

28. Low Bid: Award of Contract, Requisition No. 1000945, in the amount of \$350,000.00 to each of the lowest responsive bidders, La Causa Construction, L.L.C. (Headquarters: Tucson, AZ) and Woodstock Builders, Inc. (Headquarters: Tucson, AZ) for as-needed low income mobile home weatherization services. The contract is for a one year term and includes four one-year renewal periods. Funding Source: American Recovery and Reinvestment Act – Weatherization. Administering Department: Community Development and Neighborhood Conservation.
29. Direct Select Award of Contract, Requisition No. 1001206, in an amount not to exceed \$17,930.00 to AECOM, Inc. (Headquarters: Los Angeles, CA) to complete engineering

services begun under Qualified Consultants List (QCL) Contract No. 25-04-D-138363-0706 for the Continental Middle School Enhancement Project. As a result of an unanticipated need for additional services, the value of the QCL contract approached the \$250,000.00 limit established in Board Policy D29.1 and was allowed to expire at the end of December, 2009. AECOM requires an additional \$17,930.00 to complete the design and provide other post-design services. A.R.S. §34-103 and Policy D29.1 provide authority for direct selection. Funding Sources: RTA and Urban HURF (12.6%) Funds. Administering Department: Transportation.

H. Sheriff

- 30. RESOLUTION NO. 2010 - 25, approving an Intergovernmental Agreement with the State of Arizona - Department of Public Safety, to provide for the enhancement of law enforcement services concerning the criminal activities of illegal immigration, human smuggling and border related crimes, for the term 7/1/09 to 6/30/10, State Grant Fund, contract amount \$942,000.00 revenue (01-11-A-142691-0210)
- 31. RESOLUTION NO. 2010 - 26, approving an Intergovernmental Agreement with the Town of Marana, to provide video-court hearing services for municipal prisoners, for the term 12/1/09 to 11/30/10, General Fund, contract amount \$10,000.00 estimated revenue (01-11-M-142693-1209)

I. Transportation

- 32. Regional Transportation Authority, Amendment No. 1, to provide design and construction for the Valencia Road: Ajo Highway to Mark Road Project, extend contract term to 12/31/12 and amend contractual language, RTA Fund, contract amount \$2,000,000.00 revenue (01-04-R-139818-0807)

2. BOARD OF SUPERVISORS

Approval of the revised Board of Supervisors' Meeting Schedule for the period February through May, 2010.

3. 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>
Downing, LaVancha	089	DEM
McClure, Stephen J.	089	DEM

<u>APPOINTMENTS</u>	<u>PRECINCT</u>	<u>PARTY</u>
Kayser, Ralph H.	012	REP
Downing, LaVancha	074	DEM
McClure, Stephen J.	074	DEM
Pearson, Walter L.	283	DEM
Sweeney, Lorine R.	283	REP
Hartung, Kevin W.	286	REP
Osburn, Richard M.	314	DEM
Roberts, Christine M.	321	DEM
Romero-Wagner, Alex B.	334	DEM
Friedericy, Joyce J.	385	REP

4. **FINANCE AND RISK MANAGEMENT**

Duplicate Warrants – For Ratification

Bjorgum, Anna	\$ 92.92
Lucio-Lyons, Toni	\$ 445.23
Sunrise Trucking	\$ 497.96
Belmar, Robert and Connie	\$ 91.15

5. **PROCUREMENT**

Quarterly Contracts Report – 4th Quarter, 2009

Pursuant to Pima County Code, Section 11.08.010, staff submits the quarterly report on contracts awarded from October 1, 2009 through December 31, 2009.

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

A. **Board of Adjustment, District 1**

Appointment of Lisa Suarez to replace Vicki Cox Golder. Term expiration: 2/28/13. (District 1)

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

Appointment of Edward Grijalva to fill the unexpired term of Mollie Hunter; and Margaret Higgins to fill the unexpired term of Koreen Johannessen. Term expirations: 9/30/11. (Commission Recommendations)

C. **City/County Water and Wastewater Study Oversight Committee**

Request that the Joint City/County Water and Wastewater Study Oversight Committee be disbanded.

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

- A. Alan E. Foster, V.F.W. Post 5990, 15850 W. El Tiro Road, Marana, January 23, 2010.
- B. Michelle Lynn Garmon, St. Thomas the Apostle Preschool, 5150 N. Valley View Road, Tucson, February 6, 2010.

8. **REGIONAL WASTEWATER RECLAMATION**

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:

Toma Ventana, L.L.C., d.b.a. El Charro Café, Case No. 2009-24. Proposed settlement is in accordance with the Industrial Wastewater Enforcement Plan.

9. **CORRECTION FOR THE RECORD**

BOARD, COMMISSION AND/OR COMMITTEE (Approved by the Board of Supervisors on January 12, 2010.)

Pima County Housing Commission

Appointment of Jessica Whyde, representing Southern Arizona Homebuilders Association, to replace Ed Taczanowsky. ~~No term expiration~~
Term expiration: 1/31/13. (County Administrator)

10. **RATIFY AND/OR APPROVE**

Minutes: December 8, 2009

Warrants: January, 2010

REGULAR AGENDA/ADDENDUM ITEMS

10. BOARD OF SUPERVISORS

Presentation by Tim Escobedo and/or Celestino Fernandez to highlight the annual Mariachi Conference to be held in April and request that Pima County designate an official witness for the local event in an attempt to break its own “~~Guinness Guinness~~ Guinness World Record” for assembling the most Mariachi bands in one location. (District 5)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to designate Supervisor Elías as the official witness of Pima County.

11. COUNTY ADMINISTRATOR: QUARTERLY MANAGEMENT REPORT ON COLLECTIONS

Staff recommends acceptance of the Quarterly Management Report on Collections for the period ending September 30, 2009, and approval of the write-off request in the amount of \$7,527.00.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to accept the report and approve the write-off request.

12. INDUSTRIAL DEVELOPMENT AUTHORITY

A. RESOLUTION NO. 2010 - 27, of the Board of Supervisors of Pima County, Arizona, approving the proceedings of the Industrial Development Authority of the County of Pima regarding the issuance of its Education Facility Revenue Bonds (Flagstaff Arts and Leadership Academy Project), Series 2010 in an aggregate principal amount not to exceed \$5,000,000.00 and declaring an emergency.

B. RESOLUTION NO. 2010 - 28, of the Board of Supervisors of Pima County, Arizona, approving the proceedings of the Industrial Development Authority of the County of Pima regarding the issuance of its Education Facility Revenue Bonds (Caurus Academy Project), Series 2010 in an aggregate principal amount not to exceed \$5,000,000.00 and declaring an emergency.

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to adopt Resolution No's. 2010 - 27 and 28.

13. REAL PROPERTY: RELEASE OF PUBLIC INGRESS/EGRESS EASEMENT

The Board of Supervisors' on 10/6/09, 10/20/09, 11/17/09 and 12/15/09, continued the following:

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)

Without objection, this item was removed from the agenda.

14. **REAL PROPERTY: TITLE INSURANCE POLICY**

RESOLUTION NO. 2010 - 29, approving and authorizing the expenditure of an amount not to exceed \$5,000.00 for title insurance premium and escrow fees in connection with recordation of the State Land Patent for the Valencia site parcel. (District 5)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to adopt Resolution No. 2010 - 29.

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

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

Longhorn Cattle Company, L.L.C., d.b.a. Longhorn Steakburger, Case No. 2009-21. Proposed settlement amount is \$476.13.

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

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

The Board of Supervisors' on 1/19/10, continued the following:

09-39-9010, Douglas Baldwin Stewart, Ciones Italiano, 13190 E. Colossal Cave Road, No. 160, Tucson ~~Vail~~, Series 12, Restaurant, New License.

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

17. **FRANCHISES/LICENSES/PERMITS: LIQUOR LICENSES**

A. 09-40-9011, Louie Lazos, Stagecoach Grill and Cantina, 5200 S. Palo Verde, Tucson, Series 6, Bar, New License.

- B. 09-41-9012, Nicholas Carl Guttilla, 7 Eleven No. 17426H, 4661 E. Skyline Drive, Tucson, Series 10, Beer and Wine Store, New License.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to close the public hearings, approve the applications for liquor licenses and forward the recommendations to the Arizona State Liquor Licenses and Control.

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

Ricardo Quintela, Mad Cow Bar, 2660 W. Ruthrauff Road, Tucson, Temporary Extension of Premises for March 2, 20 and 22, 2010.

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

19. **DEVELOPMENT SERVICES: MAJOR STREETS AND SCENIC ROUTES PLAN AMENDMENT**

The Board of Supervisors' on 12/15/09, continued the following:

Co14-09-01, SILVERBELL ROAD, HAPPY VALLEY ROAD and SANTA RITA ROAD MAJOR STREETS AND SCENIC ROUTES PLAN AMENDMENT

Request from Pima County to amend the Pima County Major Streets and Scenic Routes Plan to designate Scenic Routes the portion of Silverbell Road west of Trico Road in Sections 16, 17, 19, 20, 21, 22 and 27, T11S, R10E; Sections 18, 19, 20, 21, 24, 25, 26, 27 and 28, T11S, R09E; Sections 09, 10, 13, 14, 15, 16, 17, 20, 29, 31, 32 and 33, T11S, R8E; Sections 04, 05, 08, 09, 10, 13, 14 and 15, T12S, R8E; designate Scenic Routes the portion of Happy Valley Road west of the Pima/Cochise County Boundary in Sections 01, 02, 11, 14, 15, 22, 23, 25, 26 and 36, T15S, R18E; and Section 01, T16S, R18E; designate Scenic Routes the portion of Santa Rita Road south of Sahuarita Road in Sections 19, 20, 27, 28, 29, 34 and 35, T17S, R14E; Sections 01, 02 and 12, T18S, R14E; Sections 07, 17, 18, 20, 21 and 22, T18S, R15E. On motion, the Planning and Zoning Commission voted 5-3 (Commissioners Spendiarian, Smith and Membrila voted NAY; Commissioner Ritchey abstained; Commissioner Matter was absent) to recommend APPROVAL WITH A MODIFICATION. Staff recommends APPROVAL WITH A MODIFICATION. (Districts 2, 3 and 4)

If approved, pass and adopt:

ORDINANCE NO. 2009 - 117

"Modification

Clarify that individual lots not connected to a subdivision plat are exempt from underground utility lines."

Chris Poirier, Assistant Planning Director, explained that staff had contacted both the affected Cochise County Supervisor and the Transportation Director who offered no comments regarding Happy Valley Road. Additionally, since the continuance date, concerns were raised regarding the history of Silverbell Road, as it related to right-of-way status and alignment. Pima County Transportation Department has reviewed those issues and determined that both the right-of-way status and alignment were accurate, as presented.

Supervisor Bronson requested clarification from the County Administrator on the alignment issue concerning Silverbell Road.

Chuck Huckelberry, County Administrator, stated that the issue was raised by the owners of ASARCO. He reported that he met with Silverbell officials, discussed the historical issues related to Silverbell Road and provided the finding from the recent review. Mr. Huckelberry summarized the findings to the Board. His recommendation, if the Board chose to make Silverbell Road a scenic route, was that it be done on the reallocated portions of Silverbell Road, from 1992/1993, and that it should not interfere with the operations of ASARCO at the Silverbell Mine.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías, to approve Co14-09-01 with the caveat regarding Silverbell Road, exempting the portions of Silverbell Road that were reallocated in 1992/1993, with the understanding that the discussions between Pima County and ASARCO were not finished and, if necessary, it be brought back before the Board for amendment after conclusion of the discussions. No vote was taken at this time.

Supervisor Carroll inquired if a friendly amendment to the motion would be accepted to delete all references to Happy Valley Road and direct staff to amend the legal description to exclude all references to Happy Valley Road. The amendment was not accepted.

The following speakers addressed the Board:

- A. Nancy Johannismeyer, Senior Environmental Engineer at Silverbell Mining
- B. Mahlon Mackenzie
- C. Clarke Richards
- D. Rich Donnelly
- E. Jane Scholer
- F. Robert Coping
- G. Cindy Coping
- H. Kathy Minehan

They provided the following comments:

1. Opposition was expressed concerning Silverbell Road as a scenic route designation.
2. A request was made to remove Silverbell Road from the proposed designation or exclude Silverbell Road that runs through the mining property as it was believed that approximately eight miles of the proposed scenic route was believed to be a private road running through the mining property.

3. The appropriateness of designating the structure of Silverbell Road that runs through mine property was questioned.
4. Opposition was expressed concerning Happy Valley Road as a scenic route designation.
5. Neighbors and landowners of Happy Valley Road were adamantly against the designation of Happy Valley Road as a scenic route and requested the Board exclude it from the designation.
6. They felt, to designate Happy Valley Road as a scenic route, it would have a negative impact on the landowners in the area and create an influx of travelers on the road who otherwise would not travel down the road.
7. Land values would decrease.
8. The County would have to maintain the road on a regular basis.
9. Concern was expressed for public safety.
10. Questions were raised concerning whether the proper procedures for abandonment and establishment of Silverbell Road had been followed.

Supervisor Bronson questioned the impact of the increase in traffic on roads that had previously been designated as scenic routes.

Mr. Poirier responded that most of the major roads in Pima County were designated as scenic routes. He stated that they were not signed accordingly and many people were not aware of the designation.

Supervisor Carroll asked if a substitute motion could be brought before the Board excluding Happy Valley Road. Chris Straub, Chief Civil Deputy County Attorney, advised that since the hearing was still open to the public for comments, any motions at this point were premature and should be made once the public hearing had concluded.

Supervisor Bronson withdrew her motion.

Supervisor Elias inquired about land valuation data related to scenic route designations.

Mr. Huckelberry reported that the data showed a positive effect to land values in urban areas with scenic route designations.

Supervisor Day asked for an explanation concerning the County's reason for including Happy Valley Road in the scenic route designation.

Mr. Huckelberry responded that a series of routes were examined for possible inclusion, and the Department of Transportation segregated them into two groups. What was pursued was the first group that contained Happy Valley Road as well as Santa Rita and Silverbell Roads. Their designations were based on the fact that a significant amount of the property was in areas that were scenic from a natural prospective. They were viewed as entry roads into major Federal Reserve lands.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to close the public hearing, approve Co14-09-01 with staff's recommendation of a modification, exclude Happy Valley Road from the scenic route designation and exempt portions of Silverbell Road that were reallocated in 1992/1993 with the alignment, and adopt Ordinance No. 2009 - 117.

20. **DEVELOPMENT SERVICES: APPEAL OF HEARING ADMINISTRATOR'S DECISION**

P21-09-023, PIMA COUNTY RIGHT-OF-WAY – W. IRONWOOD HILL DR.

In accordance with Pima County Zoning Code Chapter 18.97, Michael Brown, Pastor Gil Garcia, Marylou Garcia, Frank Lopez and Connie Lopez, appeal the decision of the Hearing Administrator in Case No. P21-09-023, to allow a Type I Conditional Use Permit for a communication tower/utility pole replacement and an on-the-ground equipment area in the right-of-way located at 2941 W. Ironwood Hill Drive in the CR-2 zone. Chapter 18.97, in accordance with Section 18.07.030H2.e.7 (previously Section 18.07.030H2.d.4) of the Pima County Zoning Code, allows a communication tower/utility pole replacement and an on-the-ground equipment area as a Type I Conditional Use in the CR-2 zone. The Hearing Administrator APPROVED THE REQUEST SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 5)

“Standard Conditions (per the Pima County Zoning Code)

1. The new pole replaces the existing pole.
2. The new pole is no further than 6' from the existing pole and is within the same alignment.
3. The new pole is no higher than sixteen feet beyond the height of the existing pole.
4. The antennas are flush-mounted.
5. The diameter of the replacement pole does not exceed the diameter of the existing pole by more than 60 percent or 14 inches, whichever is greater.
6. The installation includes a new equipment area.

Special Conditions

1. The new pole (or pole-extension) shall match color of the other existing utility poles in the area. If a metal pole is used, it shall be of the “rusted” variety or shall be painted brown so as to match the nearby wooden poles.
2. The antenna panels and associated support arms shall be painted to match the color of the pole.
3. The cabling necessary to serve the antennae shall either be run through the interior of the pole or shall be hidden within a cable tray that is painted to match the color of the pole.
4. The enclosing screenwall surrounding the new equipment area shall be of masonry construction and be painted to match the color, material, and texture of the nearest existing wall. The gates associated with the new equipment area shall be painted to match the wall of the enclosure.”

Tom Hudson, Zoning Administrator, provided a staff report and stated that after the filing of the appeal, there was a meeting between staff, the appellants, and the applicant where all agreed that there should be additional time to have further discussion to negotiate a solution. Those discussions were not successful.

Chad Blunt, representing AT&T, stated they wanted to work with the neighborhood. He said that a meeting was held with Judge Brown and Pastor Garcia in which objectives had been set and no compromises offered. He reported that AT&T was going to go back and talk with architects to see what could be done to address the aesthetic issues. He explained that they were on this site because Tucson Electric Power (TEP) had limited available sites and, about a year ago, they tried to get the cooperation of the church for a communication tower in the shape of a monopalm but that was unsuccessful.

The following speakers addressed the Board:

- A. Judge Michael J. Brown
- B. Edward Fong
- C. Edie Schmitz, President of Painted Hills Ranch Homeowners Association
- D. Pastor Gilbert Garcia, Pastor of Sun Life Chapel
- E. Nancy Patania Brown

They provided the following comments:

1. A formal objection to the placement of the cell tower immediately adjacent to the sanctuary of the church had been signed by the Pastor and Board members of the church, and 51 people had signed petitions against the installation of the cell phone tower.
2. The objection of the cell phone tower included the height and size of the proposed tower, the proposed location in front of a sanctuary and the aesthetics of the proposed communication tower.
3. They are not opposed to the cell phone tower being installed but would like a different location.
4. They felt there were other sites that could accommodate the cell phone tower that are a reasonable distance from the suggested placement.
5. Concern was expressed for public safety since it would be placed in the right-of-way on Ironwood Drive.
6. There is no parking for the proposed facility and the church will not allow AT&T access to their parking lot to service the equipment facility.
7. They have been willing to cooperate with the cell phone tower representatives and they have gotten no where with the applicant.
8. Proper notice had not been given about the proposed tower.
9. The properties values in Painted Hills Ranch would definitely be affected by a 71 foot tower, and the tower would obstruct the incredible views that homeowners paid for when they purchased their property.
10. Compromises have been offered regarding lowering the tower, moving up to the Painted Hills area where there is vacant land and that the box be buried.
11. A viable alternative for the cell phone tower location would be the Lutheran Church which had an agreement with Verizon that was now not going to be used. The Pastor indicated they would be delighted to have another tower.
12. They felt they were not in a position to deal with AT&T representatives in good faith.

Supervisor Day inquired about the tower height increase from 55 feet to 71 feet.

Mr. Blunt responded that they could not find a vertical structure that would give them 55 feet in this area. The extra height was needed to meet requirements.

Supervisor Day asked staff if they agreed that they would have to go 16 feet higher.

Mr. Hudson responded that the Code allowed an extension up to 16 feet. He stated that whatever was the minimum that was necessary for clearance would be acceptable.

Supervisor Elías asked if AT&T had looked at the alternative site that the speakers had mentioned.

Mr. Blunt stated other people had been rejected and his engineers had said no. He explained that there was spotty coverage in the area and, if the cell phone tower was allowed to be built, they would be able to provide the coverage that customers wanted. He stated that at the end of December 2009, AT&T had over 2,600 subscribers that lived in that zip code and 65% had data plans which this site would allow. Most cell phone carriers were also pushing data plans as that was where the market is headed. Mr. Blunt also stated that this was the only pole in the area that TEP would approve.

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing and deny the conditional use permit based on the fact that there were other sites in the area that had not been examined; there is a lack of parking needed for future service which creates a safety hazard along Ironwood Hills Road, and that the proposed cell phone tower would create a visual blight that is significantly different than any other kind of feature in the area.

21. **DEVELOPMENT SERVICES: REZONING CLOSURE/REZONING TIME EXTENSION**

Co9-99-17, ALI, ET. AL. – ORACLE ROAD REZONING

- A. Proposal to close Co9-99-17, a rezoning from SH (Suburban Homestead) to CB-1 (GZ-1) (Local Business) (Urban Gateway Overlay Zone-1) of 1.3 acres located on the east side of Oracle Road, approximately 300 feet south of Lupine Place. The rezoning was conditionally approved in 1999 and expired on October 12, 2009. Staff recommends AGAINST CLOSURE. (District 1)
- B. Request of CAPT Properties, L.L.C., represented by Anselmo Alleva, for a five-year time extension for the above-referenced rezoning from SH (Suburban Homestead) to CB-1 (GZ-1) (Local Business) (Urban Gateway Overlay Zone-1). The subject site is 1.3 acres and was rezoned in 1999. The rezoning expired on October 12, 2009. The site is located on the east side of Oracle Road, approximately 300 feet south of Lupine Place. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH MODIFIED 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 of Transportation, Real Property Division.

6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. Only one (1) access point to Oracle Road shall be allowed. The property owner(s) shall provide for internal traffic circulation and shared site access with the adjacent properties to the north and south.
 - B. The location and design of access to the subject property from the Tucson-Florence Highway (Oracle Road) shall need written approval by the Arizona Department of Transportation (ADOT) prior to any plan approvals from Pima County.
 - C. A written certification from ADOT stating satisfactory compliance of all its requirements for access to the Tucson-Florence Highway (Oracle Road) shall need to be submitted to Pima County prior to final building inspection.
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. A riparian mitigation plan shall be required for development in designated riparian areas.
9. ~~Wastewater Management Reclamation~~ Wastewater Management Reclamation condition:
The property owner must connect to the public sewer system at the location and in the manner specified by ~~Wastewater Management Reclamation~~ Wastewater Management Reclamation unless a waiver is received from the Pima County Department of Environmental Quality to allow use of a private on-site sewage disposal system.
10. If during construction, materials that may be human remains and associated burial items are discovered, ground disturbing activities in the vicinity of the site ~~will~~ shall cease, the discovery site ~~will~~ shall be secured, and the Arizona State Museum ~~will~~ shall be immediately notified.
11. The proposed project shall be reviewed and approved by the Pima County Design Review Committee pursuant to Comprehensive Plan Special Area Policy ~~2-07 S-5~~, Oracle ~~Road~~ Corridor, Northern Gateway.
12. Building heights are restricted to 24 feet and two stories.
13. Adherence to the preliminary development plan as approved at public hearing. Uses are restricted to nonresidential CB-1 uses.
14. The property ~~owner(s)~~ shall connect to public sewer system at the location and in the manner specified by ~~Wastewater-Management Reclamation~~ Reclamation at the time of review of the tentative plat, development plan or request for building permit.
15. Prior to grading, fencing shall be placed to delineate the wash area to be conserved.
16. All work shall be within the area as shown on the rezoning applications.
17. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities shall cease in the immediate vicinity of the discovery. State laws ARS § 41-865 and ARS § 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains shall be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
18. Under no circumstances shall the following exotic plant species be planted anywhere on the site:
 - Fountain grass (*Pennisetum setaceum*)
 - Buffel grass (*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 (*Elaeagnus angustifolia*)
 - Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
 - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
 - Love grasses (*Eragrostis spp.*) excluding Plains love grass (*EragrostisIntermedia*)
 - African rue (*Peganum harmala*)
 - Iceplant (*Mesembryanthemem crystallinum*)
 - Arabian Grass (*Schisums arabicus*)

- Natal Grass (Melinis repens (=Rhynchelythrum repens))
19. The owner / developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system, or obtain authorization from the Pima County Department of Environmental Quality to utilize on site sewage disposal systems within the rezoning area.
 20. The owner / developer shall construe no action by Pima County as a commitment of capacity in Pima County's public sewer system to serve any new development within the rezoning area, until Pima County executes an agreement with owner / developer to that effect.
 21. The owner / developer shall obtain written documentation from the Pima County Wastewater ~~Management~~ Reclamation Department that treatment and conveyance capacity for the proposed new development within the rezoning area is available, 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 Wastewater ~~Management~~ Reclamation Department.
 22. At the time a tentative plat, development plan or request for building permit is submitted for review, the property owner shall either:
 - a) Propose that all new development within the rezoning area will be connected to Pima County's public sewer system; or
 - b) Demonstrate that connecting all or portions of the rezoning area to the public sewer system is impractical, and that the soils in all or portions of the rezoning area are suitable for the use of on-site sewage disposal systems.
 23. If all new development within the rezoning area will be connected to Pima County's public sewer system, the owner / developer shall complete the construction of all necessary public and/or private sewerage facilities as required by the applicable regulations, including the Clean Water Act and those promulgated by ADEQ, and all applicable agreements with Pima County, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for new development within the rezoning area.
 24. 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 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)."

Tom Hudson, Zoning Administrator, provided a staff report. He indicated that no public comments had been received regarding the time extension request.

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, accept staff's recommendation against closure and approve the request for a five-year time extension with modified standard and special conditions.

22. **DEVELOPMENT SERVICES: REZONING CLOSURE/REZONING TIME EXTENSION**

Co9-99-18, ALI – ORACLE ROAD REZONING

- A. Proposal to close Co9-99-18, a rezoning from SH (Suburban Homestead) to CB-1 (GZ-1) (Local Business) (Urban Gateway Overlay Zone-1) of 2.34 acres located on the east side of Oracle Road, approximately 800 feet south of Lupine Place. The rezoning was conditionally approved in 1999 and expired on October 12, 2009. Staff recommends AGAINST CLOSURE. (District 1)

- B. Request of CAPT Properties, L.L.C., represented by Anselmo Alleva, for a five-year time extension for the above-referenced rezoning from SH (Suburban Homestead) to CB-1 (GZ-1) (Local Business) (Urban Gateway Overlay Zone-1). The subject site is 2.34 acres and was rezoned in 1999. The rezoning expired on October 12, 2009. The site is located on the east side of Oracle Road, approximately 800 feet south of Lupine Place. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH MODIFIED 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 of Transportation, Real Property Division.
6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. Only one (1) access point to Oracle Road shall be allowed. The property owner(s) shall provide for internal traffic circulation and shared site access with the adjacent properties to the north and south.
 - B. The location and design of access to the subject property from the Tucson-Florence Highway (Oracle Road) shall need written approval by the Arizona Department of Transportation (ADOT) prior to any plan approvals from Pima County.
 - C. A written certification from ADOT stating satisfactory compliance of all its requirements for access to the Tucson-Florence Highway (Oracle Road) shall need to be submitted to Pima County prior to final building inspection.
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. A riparian mitigation plan shall be required for development in designated riparian areas.
9. Wastewater Management Reclamation condition:

The property owner must connect to the public sewer system at the location and in the manner specified by Wastewater Management Reclamation unless a waiver is received from the Pima County Department of Environmental Quality to allow use of a private on-site sewage disposal system.
10. If during construction, materials that may be human remains and associated burial items are discovered, ground disturbing activities in the vicinity of the site ~~will~~ shall cease, the discovery site ~~will~~ shall be secured, and the Arizona State Museum ~~will~~ shall be immediately notified.
11. The proposed project shall be reviewed and approved by the Pima County Design Review Committee pursuant to Comprehensive Plan Special Area Policy ~~2-07~~ S-5, Oracle Road Corridor, Northern Gateway.
12. Building heights are restricted to 24 feet and two stories.
13. Adherence to the preliminary development plan as approved at public hearing. Uses are restricted to nonresidential CB-1 uses.
14. The access driveway to Oracle Road shall be located as far away as possible from the Lazy A Mobile Home Park (Tax Code 222-21-0640) located on the west side of Oracle Road.
15. The property owner(s) shall connect to 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 permit.
16. Prior to grading, fencing shall be placed to delineate the wash area to be conserved.
17. All work shall be within the area as shown on the rezoning applications.

18. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities shall cease in the immediate vicinity of the discovery. State laws ARS § 41-865 and ARS § 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains shall be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
19. Under no circumstances shall the following exotic plant species be planted anywhere on the site:
 - Fountain grass (*Pennisetum setaceum*)
 - Buffel grass (*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 (*Elaeagnus angustifolia*)
 - Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
 - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
 - Love grasses (*Eragrostis spp.*) excluding Plains love grass (*EragrostisIntermedia*)
 - African rue (*Peganum harmala*)
 - Iceplant (*Mesembryanthemem crystallinum*)
 - Arabian Grass (*Schisums arabicus*)
 - Natal Grass (*Melinis repens* (=Rhynchelythrum repens))
20. The owner / developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system, or obtain authorization from the Pima County Department of Environmental Quality to utilize on site sewage disposal systems within the rezoning area.
21. The owner / developer shall construe no action by Pima County as a commitment of capacity in Pima County's public sewer system to serve any new development within the rezoning area, until Pima County executes an agreement with owner / developer to that effect.
22. The owner / developer shall obtain written documentation from the Pima County Wastewater ~~Management~~ Reclamation Department that treatment and conveyance capacity for the proposed new development within the rezoning area is available, 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 Wastewater ~~Management~~ Reclamation Department.
23. At the time a tentative plat, development plan or request for building permit is submitted for review, the property owner shall either:
 - a) Propose that all new development within the rezoning area will be connected to Pima County's public sewer system; or
 - b) Demonstrate that connecting all or portions of the rezoning area to the public sewer system is impractical, and that the soils in all or portions of the rezoning area are suitable for the use of on-site sewage disposal systems.
24. If all new development within the rezoning area will be connected to Pima County's public sewer system, the owner / developer shall complete the construction of all necessary public and/or private sewerage facilities as required by the applicable regulations, including the Clean Water Act and those promulgated by ADEQ, and all applicable agreements with Pima County, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for new development within the rezoning area.
25. 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 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)."

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, accept staff's recommendation against closure and approve the request for a five-year time extension with modified standard and special conditions.

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

P21-09-033, WOSICKI – E. INTERSTATE - 10

Request of T-Mobile, (c/o Declan Murphy, applicant), on behalf of David Wosicki (property owner), on property at 22700 E. Interstate - 10, in the RH zone, for a Conditional Use Permit for a communication tower and associated on-the-ground equipment area. The property in question is a former Titan Missile installation site that has since been physically removed and the property accordingly cleared. The proposed tower height is one hundred ninety feet (190') and is of "lattice" construction. Chapter 18.97, of the Pima County Zoning Code, allows this use in the RH zone, subject to a Type III Conditional Use Permit. On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Matter, Creasy-Klein and Cook were absent) to recommend APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. The Hearing Administrator recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 4)

Jim Portner, Hearing Administrator, provided a staff report. He indicated that there had been no public comment concerning this case.

Supervisor Carroll asked for clarification on the height issue.

DeClan Murphy, representative of T-Mobile, explained that T-Mobile had been trying to address the gap in coverage in the Vail area for many years. The initial goal was to try to locate an existing structure that would accommodate their site, but they were unsuccessful. The alternative was to find a location suitable for a new facility that would be set back from I-10, not close to existing homes or future homes and would have minimal environmental impact. He believed they had accomplished all of those goals with the proposed application and stated that T-Mobile was able to negotiate a lease with the property owner. In addition, he commented that T-Mobile understood there were other carriers that were having difficulties in this area, with gaps in coverage, therefore the proposed tower was designed to accommodate additional carriers.

Supervisor Bronson also stated the 190 feet tower height was an issue.

Mr. Murphy requested he be allowed to come back at a later date and bring the T-Mobile engineers to discuss the height issues.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to continue this item to the Board of Supervisors' Meeting of February 9, 2010.

24. **DEVELOPMENT SERVICES: REZONING ORDINANCE**

ORDINANCE NO. 2010 - 6, Co9-08-23, Canoa Northwest Homeowners Association – Camino Del Sol Rezoning. Owner: CNSI Holdings, L.L.C. (District 4)

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2010 - 6.

25. **TRANSPORTATION: TRAFFIC ORDINANCE**

ORDINANCE NO. 2010 - 7, of the Pima County Board of Supervisors, regulating parking of vehicles on the east and west sides of Sabino Canyon Park **Parkway** in Pima County, Arizona. Staff recommends APPROVAL. (District 4)

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2010 - 7, as amended.

26. **COUNTY ADMINISTRATOR: BOND ADVISORY COMMITTEE REQUEST FOR BOARD OF SUPERVISORS DIRECTION REGARDING A POSSIBLE NOVEMBER 2010 BOND ELECTION**

Staff requests that direction be provided to the Bond Advisory Committee regarding a future general obligation bond election date.

Chuck Huckelberry, County Administrator, provided the Board with a report. He stated that the Bond Advisory Committee had been meeting diligently over the past year, hearing requests from County departments, agencies, as well as members of the public regarding what could be included in a future bond election. The discussion started with an initial request of about \$3.3 billion for infrastructure and other improvements within the County that they believed to be the top priorities of the community. He stated that the committee had been able to narrow that down to about \$1.3 billion. He explained that the committee has come to the point where if there would be a bond election in November 2010, their work needed to continue at a relatively rapid pace in order to develop a program and package of improvements to offer the voters in November 2010. He commented that there had been a great deal of discussion about the economic indicators in the community for an election in 2010.

Larry Hecker, Chairman of the Bond Advisory Committee, stated the committee had been meeting in an effort to come up with a comprehensive, regionally balanced, fiscally responsible and financially sustainable package of bond projects to present to the Board. He said there were tremendous unmet needs throughout the County

for cultural, recreational community facilities, open space, habitat protection and infrastructure improvements and that the committee was willing to work as hard and as fast as the Board would like.

Supervisor Carroll inquired about the bonding and financing of the Wastewater Capital Program and asked if the Bond Advisory Committee would be commenting or have a hearing regarding the issue.

Mr. Huckelberry responded that the matter had been transmitted to the committee. He explained that the committee had previously recommended a revenue bond election to occur in November 2010, and have since learned that a revenue bond election would not be necessary because the improvements could be made with a debt structure similar to a bond at about the same interest rate with the driver on the interest rate being your credit worthiness as opposed to authorization by the voters. He said that the matter would be discussed with the committee at a future meeting.

Supervisor Carroll inquired if it affected the committee in anyway to have this other portion of debt on these types of borrowing systems.

Mr. Huckelberry responded no. He explained that it was a stand alone, utility obligation based on the strength of the revenue base and had absolutely no impact on the bond rating of the County. He stated they were most concerned about the general obligation bond rating which is property tax accorded.

Supervisor Carroll asked if the ROMP project was still under the direction of design, build, operate for the new facilities and would it dovetail in with that type of a program.

Mr. Huckelberry replied that only a portion of ROMP was under the design, build, operate option. The improvements, with regard to Ina Road and the modification of the treatment process and discharge, were under a construction manager option with a more traditional design, delivery project methodology.

Supervisor Day inquired if the County Administrator was going to go back to the Bond Advisory Committee and have them look at the various debt instruments to pay for this huge billion dollar investment in our wastewater system. She knew that they approved the bond for \$560 million, but the County Administrator was now saying that it was not necessary due to the different debt instrument being used. She noted that this was the largest single debt issue ever done since 1865, when the County was established. She thought they would be transparent and that the voters needed to be better educated concerning this matter. She stated the Bond Advisory Committee should review the various debt instruments available if the County did not go with the revenue bond.

Mr. Huckelberry indicated that he intended to take this matter to the Bond Advisory Committee. He had told the committee he would bring back a report to them as to whether or not they should pursue a revenue bond issue, as they had originally authorized, or if there were alternatives.

Supervisor Bronson remarked that there was some concern from the Wastewater Reclamation Advisory Committee about the terms of the debt instrument; whether it should be 15 years or 30 years. She asked if the Board could get a comparative analysis between a 15 year and a 30 year life on the debt instrument.

Mr. Huckelberry stated that they would perform the analysis, as requested, and indicated it was going to be very significant.

Supervisor Elías stated this was not a question of choice. The County would either pay the cost to make the improvements to the wastewater system or else the regulators would come in and take over the wastewater system which would add additional administrative charges to the project. He noted it was important that the public understood. He felt it was about public health and the future and, it was his opinion, that the Board needed to move forward with the bond election in 2010 and added that as the Board continued to delay the bond election further, the capital needs would continue to grow. He stated that the bond package had already been reduced significantly and things were being left on the table. He observed that in the last 12 years there had been a growth in the conservation ethic which has become the most popular issue among people who reside in Pima County. He felt it was about being good to the people who have spent their lives and invested their tax dollars in Tucson and the five jurisdictions.

Supervisor Carroll asked if there could not be a subcommittee made up from the Bond Advisory Committee that could take a look at the County's current debt service.

Mr. Hecker stated that the committee was required by the Truth and Bonding Ordinance to meet at least twice a year to review the bond packages which included a detailed analysis of the outstanding bonds. He informed the Board that their meeting would be held in March and at that time they would ask Mr. Huckelberry for a more in depth discussion of the outstanding bonds.

Supervisor Day stated she would like to see the committee specifically look at the total costs associated with the various financing approaches and look at other options available in different loans and grants.

Chairman Valadez thanked the Bond Advisory Committee for their time and effort that had been put into the bond package. He explained that although the Board was in support of the bond package, success was based on putting it before the voters at the right time and most of the Board felt that the right time was not in 2010.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and carried by a 4-1 vote, Supervisor Elías voting "Nay," to direct the Bond Advisory Committee to continue meeting, as required by the Truth and Bonding Ordinance, but not at the frequency they had been because there would not be a bond package before the voters in 2010.

27. **CONTRACT AND AWARD: COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION**

GRL Apartments, L.P., to provide for the development of the Ghost Ranch Lodge Apartments, Phase I for the term 1/1/10 to 12/31/12, 2004 and execution of the Performance Deed of Trust, General Obligation Bond Fund, contract amount not to exceed \$1,100,000.00 (03-70-G-142717-0110)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and carried by a 4-0 vote, Supervisor Elías not present for the vote, to approve the contract.

28. **CONTRACTS AND AWARDS: COMMUNITY SERVICES, EMPLOYMENT AND TRAINING**

A. Portable Practical Education Preparation, Inc., to provide basic education opportunities for the term 1/1/10 to 5/31/10, U.S. Department of Labor and Arizona Department of Economic Security Funds, contract amount \$36,312.00; General Fund, contract amount \$4,000.00 (07-69-P-142713-0110)

B. Cochise Private Industry Council, to provide workforce development services in green job industries for the term 7/1/09 to 6/30/10, U.S. Department of Labor Fund, contract amount \$68,726.00 (07-69-C-142723-0709)

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

29. **CONTRACT AND AWARD: PROCUREMENT - AWARD**

Award of Contract, Requisition No. 1000882, to Jacobs Engineering Group, Inc., (Headquarters: Pasadena, CA) the respondent submitting the highest scoring proposal for the ROMP Water Reclamation Campus Central Laboratory Complex Site Civil Engineering Project. The total cost for this project shall not exceed \$1,000,000.00. In the event that a fee agreement cannot be reached with the highest ranked firm, request authorization to negotiate with the next highest ranked firms on the final-list in the following order: Stantec Consulting, Inc., Kimley-Horn and Associates, Inc., until a contract is executed. Funding Source: Capital Fund Sewer Revenue Obligation. Administering Department: Regional Wastewater Reclamation.

Without objection, this item was continued to the Board of Supervisors' Meeting of February 9, 2010.

30. **SHERIFF**

RESOLUTION NO. 2010 - 31, of the Board of Supervisors authorizing the Pima County Sheriff to require prisoners under his charge who are capable of hard labor to be employed on the public streets, highways or other public works where they will not compete with free labor.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to adopt Resolution No. 2010 - 31.

31. **BOARD, COMMISSION AND/OR COMMITTEE: OUTSIDE AGENCY CITIZENS REVIEW COMMITTEE**

Appointment of Rosalva Bullock to replace Doris Williams. No term expiration. (District 5)

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

32. **OFFICE OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY: RATIFICATION OF RESOLUTION**

RESOLUTION NO. 2010 - 30, of the Pima County Board of Supervisors, in support of the Emergency Declaration of the Tohono O'Odham Nation. (District 3)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to ratify and adopt Resolution No. 2010 - 30.

33. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

Miguel Garcia addressed the Board concerning property issues.

34. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 12:55 p.m.