

# MINUTES, ZONING ENFORCEMENT BOARD OF APPEALS

NOVEMBER 9, 2010

The Pima County Zoning Enforcement Board of Appeals 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, November 9, 2010. Upon roll call, those present and absent were as follows:

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

Absent:                    Sharon Bronson, Vice Chair

## 1. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P09CV00138-1 and 2, Bonnie Martinez-Hatley and Robert Martinez. The Board may also, during the course of the hearing and upon motion, enter into executive session.

At the recommendation of Chris Straub, Chief Civil Deputy County Attorney, this executive session item was removed from the agenda on November 9, 2010.

## 2. **APPEAL OF HEARING OFFICER'S DECISION**

### P09CV00138-1 and 2, Bonnie Martinez-Hatley and Robert Martinez

In accordance with the Pima County Zoning Code Section 18.95.030C, Bonnie Martinez-Hatley and Robert Martinez, appeal the decision of the Hearing Officer in the following Case No. P09CV00138-1, regarding a violation to Zoning Code Section 18.14.020.A.7, excessive number of livestock; and, Case No. P09CV00138-2, regarding violations to Zoning Code Section 18.01.030.E.1, structures without permits (animal corrals/goat pens, goat houses, round pen, animal shade and adjoined sheds over 200 square feet), on property located at 11970 W. Archer Drive, Tucson, AZ. (District 3)

Without objection, this item was continued to the Board of Supervisors' Meeting of November 16, 2010.

3. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 10:15 a.m.

MINUTES, BOARD OF SUPERVISORS' MEETING

NOVEMBER 9, 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, November 9, 2010. Upon roll call, those present and absent were as follows:

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

Absent:                 Sharon Bronson, Vice Chair

1.    **INVOCATION**

The invocation was given by Pastor Raven Gaston, Catalina United Methodist Church.

2.    **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

3.    **PAUSE 4 PAWS**

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

4.    **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. No one appeared.

REMOVED FOR SEPARATE ACTION

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

A.    Khosrow Zadeh, Applebee's, 2230 W. Ina Road, Tucson, November 11, 2010.

Without objection, this item was removed from the agenda.

PULLED FOR DISCUSSION BY SUPERVISOR CARROLL

1. **CONTRACTS AND AWARDS**

E. **Health Department**

5. Arizona Family Planning Council, Amendment No. 1, to provide family planning services and amend contractual language, Arizona Family Planning Council Fund, contract amount \$36,178.00 revenue (02-01-A-142703-0110)

Supervisor Carroll requested information regarding this amendment.

Chuck Huckelberry, County Administrator, stated information would be provided that explained the scope of this amendment.

B. **APPROVAL OF CONSENT CALENDAR**

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to approve the Consent Calendar as amended.

**CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

1. **CONTRACTS AND AWARDS**

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

1. To provide employment and training services under the Federal Community Based Job Training (CBJT) Program for the term 7/1/10 to 3/31/11, U.S. Department of Labor Fund:

<u>Vendor</u>	<u>Amount</u>	<u>Contract No.</u>
Yuma Private Industry Council	\$345,440.60	07-69-C-143439-0710
Cochise County Workforce Development, Inc., d.b.a. Cochise Private Industry Council	\$453,891.00	07-69-C-143440-0710

B. **County Attorney**

2. Demand Construction Services, Inc., Amendment No. 5, to provide expert witness services in the matter of Seaboard Surety Co. v. Pima County and amend contractual language, RWRD Enterprise Fund, contract amount \$25,000.00 (31-02-D-141537-0708)

**C. Finance and Risk Management**

3. Hawkins, Delafield and Wood, L.L.P., Amendment No. 3, to provide arbitrage rebate compliance services, extend contract term to 6/30/11 and amend contractual language, General Obligation and Sewer Revenue Bond Interest Funds, contract amount \$50,000.00 (07-09-H-141090-0708)

**D. Forensic Science Center**

4. RESOLUTION NO. 2010 - 271, approving an Intergovernmental Agreement with Pinal County, to provide medical examiner services, General Fund, contract amount \$635,000.00 estimated revenue/5 year term (01-48-P-143425-1110)

**E. Health Department**

5. Arizona Family Planning Council, Amendment No. 1, (PULLED FOR DISCUSSION)

**F. Kino Sports Complex**

6. Marana Unified School District, Amendment No. 3, to provide after-school and summer elementary school based recreation programs and amend contractual language for the term 8/1/10 to 7/31/11, General Fund, contract amount \$50,000.00 (01-57-M-140444-0807)

**G. Pima Health System**

7. US Bioservices Corporation, Amendment No. 4, to provide prescription Synagis services, amend contractual language and extend contract term to 10/31/11, no cost (18-15-U-138825-1106)
8. Easter Seals Blake Foundation, Amendment No. 6, to provide habilitative residential services, behavioral health management and counseling and amend contractual language, PHCS Enterprise Fund, contract amount \$600,000.00 (18-15-B-139072-0207)
9. Fox Infusion, Inc., Amendment No. 5, to provide home infusion therapy services, amend contractual language and extend contract term to 11/30/11, PHCS Enterprise Fund, contract amount \$525,000.00 (18-15-F-140460-1107)
10. ToeDr1, L.L.C., d.b.a. Martin Barry Rosenthal, D.P.M., Amendment No. 3, to provide podiatry services and assignment of contract from M. Barry Rosenthal, D.P.M., no cost (18-15-R-140723-0308)

11. University Physicians Healthcare, Amendment No. 2, to provide primary care physician and specialty services, amend contractual language and extend contract term to 10/31/11, no cost (18-15-U-141533-1108)
12. To provide skilled/non-skilled homecare services and amend contractual language, no cost:

<u>Vendor</u>	<u>Amend. No.</u>	<u>Contract No.</u>
Nursefinders, Inc.	5	18-15-N-142079-0709
NurseCore Management Services, L.L.C., d.b.a. NurseCore	6	07-15-N-142113-0709
Caregiver Connection of Arizona. L.L.C., d.b.a. Aristocare Home Health Services	4	07-15-C-142116-0709
Caregiver Connection of Arizona. L.L.C., d.b.a. Aristocare Home Health Services	3	07-15-C-142120-0709
Bayada Nurses, Inc.	5	07-15-B-142128-0709
Bayada Nurses, Inc.	5	07-15-B-142129-0709
Gentiva Health Services (U.S.A.), Inc., and Gentiva Certified Healthcare Corp., d.b.a. Gentiva Health Services	3	07-15-G-142147-0709

13. Amendment No. 3, to provide nursing facility services, amend contractual language and extend contract term to 10/31/11, no cost:

<u>Vendor</u>	<u>Contract No.</u>
Senior Living Options, L.L.C., d.b.a. Palm Valley Rehabilitation and Care Center	18-15-S-142277-0809
Glendale Healthcare Associates, L.L.C., d.b.a. Desert Sky Health and Rehabilitation Center	18-15-G-142334-0809

14. To provide nursing facility services, PHCS Enterprise Fund:

<u>Vendor</u>	<u>Amount</u>	<u>Contract No.</u>
Handmaker Jewish Services for the Aging Villa Maria Care Center, L.L.C.	\$ 1,000,000.00	18-15-H-143416-1110
Manor Care of Tucson, L.L.C., d.b.a. Manorcare Health Services (Tucson) No. 498	\$ 3,500,000.00	18-15-V-143417-1110
Devon Gables Health Care Center, Inc.	\$ 4,500,000.00	18-15-M-143418-1110
Avalon Care Center – Tucson, L.L.C., d.b.a. La Colina Health Care Center	\$12,000,000.00	18-15-D-143419-1110
SRVC – Rosa. L.L.C., d.b.a. Santa Rosa Care Center	\$ 8,000,000.00	18-15-A-143420-1110
Ensign Sabino. L.L.C., d.b.a. Sabino Canyon Rehabilitation and Care Center	\$ 7,000,000.00	18-15-S-143421-1110
Presidio Health Associates, L.L.C., d.b.a. Catalina Healthcare Center	\$ 3,500,000.00	18-15-E-143422-1110
Quince Holdings, L.L.C., d.b.a. Pueblo Springs Rehabilitation Center	\$ 3,500,000.00	07-15-P-143441-1110
	\$ 4,000,000.00	18-15-Q-143466-1110

15. Community Provider of Enrichment Services, Inc., d.b.a. CPES/Counseling and Consulting Services, to provide behavioral health services for the term 10/15/10 to 10/14/11, PHCS Enterprise Fund, contract amount \$750,000.00 (07-15-C-143444-1010)

**H. Procurement**

16. AMEC, Amendment No. 4, to provide design services for the Southeast Park Shooting Range Phase II Improvement Project, amend scope of work and extend contract term to 2/15/12, 2004 Bond Fund, contract amount \$134,986.00 (07-64-A-141778-0209) Public Works Administration

**I. Sheriff**

17. RESOLUTION NO. 2010 - 272, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide for Pima County Wireless Integrated Network Interoperable P25 Radio Subscriber Equipment, Federal Grant Fund, contract amount \$50,000.00 revenue (01-11-A-143449-1010)
18. RESOLUTION NO. 2010 - 273, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide for Pima County Regional Bomb Squad Enhancement Training and Equipment, Federal Grant Fund, contract amount \$75,000.00 revenue (01-11-A-143450-1010)
19. RESOLUTION NO. 2010 - 274, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide for Rapid Response Team sustainment, Federal Grant Fund, contract amount \$100,000.00 revenue (01-11-A-143451-1010)
20. RESOLUTION NO. 2010 - 275, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide for Pima County Wireless Integrated Network Interoperable P25 Radio Subscriber Equipment, Federal Grant Fund, contract amount \$900,000.00 revenue (01-11-A-143452-1010)
21. RESOLUTION NO. 2010 - 276, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide for the Tucson Urban Area Security Initiative Regional Emergency Operations Center Equipment Initiative, Federal Grant Fund, contract amount \$33,666.00 revenue (01-11-A-143453-1010)



6. **RATIFY AND/OR APPROVE**

Minutes: September 14, 20108.

**REGULAR AGENDA/ADDENDUM ITEMS**

5. **COUNTY ADMINISTRATOR: City of Tucson/Pima County Action Plan for Water Sustainability**

Staff recommends acceptance of the City of Tucson/Pima County Action Plan for Water Sustainability and direction to move forward with implementation of the action items.

Chuck Huckelberry, County Administrator, provided a report on the Action Plan and its development as an ongoing regional process.

The Board expressed concerns that the action items were vague and questioned the costs of the plan, the funding, and the public outreach efforts.

Mr. Huckelberry explained that the general terms made the plan more flexible for future development and that as these action items progressed, more specific information would be provided. He stated public participation had included stakeholder reviews, presentations to citizen oversight committees and a three week public comment period. He said that the Pima Association of Governments (PAG) had formed a taskforce to broaden regional engagement. He assured the Board that as more definitive plans were developed, there would be more opportunities for public comment.

The following speakers addressed the Board:

- A. Jessica Whyde, Southern Arizona Home Builders Association (SAHBA)
- B. Michael Toney

They provided the following comments:

1. SAHBA supported these efforts to ensure proper management of regional water resources.
2. SAHBA endorsed working with Tucson Regional Economic Opportunities, Inc., (TREO) to advance the public/private collaboration in aligning water resource policies with economic goals.
3. SAHBA requested that they be involved in the planning and implementation of action items regarding new development and that the Board consider delaying the implementation of items that would result in additional costs for developers or builders.
4. Concern was expressed regarding low water levels in Lake Mead and Lake Powell and Arizona's future water supply.

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to accept the Action Plan and direct staff to implement the action items as listed in the report.

**6. DEVELOPMENT SERVICES: Final Plat with Assurances**

P1207-111, VP Commerce Center, Lots 1-99 and Common Areas A, B and C. (District 4)

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to approve the final plat with assurances.

**7. FRANCHISE/LICENSE/PERMIT: Liquor License**

10-31-9043, Kim Kenneth Kwiatkowski, Circle K Store No. 0592, 2080 W. Ruthrauff Road, Tucson, Series 9, Liquor Store, New License.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to close the public hearing, approve the liquor license and forward the recommendation to the Arizona State Liquor Licenses and Control.

**8. FRANCHISES/LICENSES/PERMITS: Extension of Premises/Patio Permits**

A. Daniel Dominic Scordato, Vivace Restaurant, 4310 N. Campbell Avenue, Tucson, Temporary Extension of Premises for December 22, 2010.

B. Heidi Marietta Rogers, Firelite Lounge and Cafe, 2413 W. Wetmore Road, Tucson, Temporary Extension of Premises for November 25, December 18 and 23, 2010 and January 1, 2011.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to close the public hearings, approve the permits and forward the recommendations to the Arizona State Liquor Licenses and Control.

**9. DEVELOPMENT SERVICES: Appeal of Hearing Administrator's Decision**

The Board of Supervisors on August 3, 2010 and September 14, 2010, continued the following:

P21-09-036, PIMA COUNTY RIGHT-OF-WAY – W. SAGE ST.

In accordance with Pima County Zoning Code Section 18.97, New Cingular Wireless, represented by Lake and Cobb, P.L.C., appeal the decision of the Hearing Administrator in Case No. P21-09-036, for a Type I Conditional Use Permit for a communication tower/utility pole replacement in the right-of-way located at 1715 W. Sage St. in the SR zone. Chapter 18.97, in accordance with Section 18.07.030H.2.e.7 of the Pima County Zoning Code, allows a communication tower/utility pole replacement meeting certain

conditions as a Type I Conditional Use in the SR zone. The Hearing Administrator **DENIED** the request for the proposed communication tower. (District 1)

Without objection, this item was continued to the Board of Supervisors' Meeting of January 11, 2011.

10. **TRANSPORTATION: Road Abandonment**

RESOLUTION NO. 2010 - 278, of the Board of Supervisors, abandoning a County highway within the incorporated limits of the City of Tucson, all those roads within Sections 19, 20, 29 and 30, of T14S, R14E, for the Pueblo Gardens Neighborhood Association 1997 Bond Improvement Project. (District 2)

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

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to close the public hearing and adopt Resolution No. 2010-278.

11. **TRANSPORTATION: Temporary Road Closure**

RESOLUTION NO. 2010 - 279, of the Pima County Board of Supervisors, permitting the temporary closure of West Plaza Street in the Town of Ajo, Arizona, for a street fair on November 13, 2010. Staff recommends APPROVAL. (District 3)

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

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to close the public hearing and adopt Resolution No. 2010-279.

12. **COUNTY ADMINISTRATOR**

A. **Amended and Restated Swan Southlands Specific Plan Development Agreement**

RESOLUTION NO. 2010 - 280, of the Pima County Board of Supervisors, approving and authorizing the execution of the first amended and restated Swan Southlands Specific Plan Development Agreement with South Wilmot Land Investors, L.L.C.

B. **Development Agreement with Corrections Corporation of America**

RESOLUTION NO. 2010 - 281, of the Pima County Board of Supervisors, approving and authorizing the execution of a Development Agreement with CCA Properties of Arizona, L.L.C.

Supervisor Elías stated he had many concerns with these Development Agreements. He inquired about the planned drainage and sewer improvements, environmental impacts to the area, and the water supply to the proposed private prison. He asked if the proposed Development Plans would come back to the Board.

Carmine DeBonis, Development Services Director, stated the drainage improvements on the site would require approval of the Regional Flood Control District. He said the Development Plans would not be presented to the Board of Supervisors again but the Engineering Plan would have to be reviewed and approved for compliance with the Floodplain Ordinance and other adopted engineering standards.

The following speaker addressed the Board:

Jay Hollis, CCA Properties of Arizona, L.L.C.

He provided the following comments:

1. Development of Wilmot Road required a culvert to be built.
2. CCA did not have a site plan and were not sure to what extent the wash in the area would be disturbed when the drainage improvements were built.
3. CCA had worked with County staff to understand the mitigation process for the Pineapple Cactus in the area and the associated costs.
4. The initial plan was for a 5,000 bed prison but it could be scaled back to 3,000 beds.
5. When it was constructed and available, the prison sewage system would tie directly into the Swan Southlands Development Sewage Plant. Until then, it would tie into the Wilmot Road sewage line.

Supervisor Elías stated he was uncomfortable that there were no definitive answers about this development, and he had serious concerns regarding private prisons, public safety and what prisons actually provide to the community.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and carried by a 3-1 vote, Supervisor Bronson absent and Supervisor Elías voting "Nay," to adopt Resolution Nos. 2010-280 and 281.

13. **CONTRACT: Economic Development and Tourism**

The Board of Supervisors on November 2, 2010, continued the following:

Metropolitan Tucson Convention and Visitors Bureau, to provide for the promotion of tourism, business travel, film production, youth, amateur, semi-professional and

professional sports development and marketing for the term 7/1/10 to 6/30/11, General Fund, contract amount \$2,565,463.00 (11-71-M-143410-0710)

Supervisors Carroll and Day agreed that approval of this contract should be delayed so that Jonathan Walker, President and CEO of the Metropolitan Tucson Convention and Visitors Bureau (MTCVB), could be present to respond to Board questions.

Supervisor Carroll said he agreed with the contract performance requirements recommended by the County Administrator. He stated that the contract should be revised to include a requirement for the conduct of a performance audit subject to review and approval by the County, which would compare the effectiveness of the various activities of the MTCVB in attracting tourism to the region; that the performance audit be overseen by a committee appointed by the County, consisting of County staff, the chief executive officer of each major resort in the unincorporated area of Pima County and one representative each from the Arizona-Sonora Desert Museum and the Pima Air and Space Museum; and that the performance audit include an independently compiled satisfaction survey to measure how well MTCVB met the expectations of its client benefactors.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and carried by a 4-0 vote, to continue this item to the Board of Supervisors' Meeting of November 16, 2010, to request that the President and CEO of the MTCVB be present to answer questions, and that a performance audit be included in the contract as recommended by the County Administrator and restated by Supervisor Carroll.

14. **CONTRACT: Procurement**

AECOM Technology Services, Inc., Amendment No. 4, to provide architectural and engineering design services for the Pima County Superior Court 8th Floor Relocation and Remodel Project and amend contractual language, 1997 Bond Fund, contract amount \$541,599.00 (15-13-A-141923-0409) Facilities Management

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to approve the contract.

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

**Board of Adjustment, District 5**

Reappointment of Roger Wolf. Term expiration: 8/31/13.

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Day and carried by a 4-0 vote, to approve the reappointment.

16. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

Michael Toney addressed the Board about the Supreme Court hearings regarding dog fighting, Rio Nuevo reports and other community issues.

17. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 10:15 a.m.