

MINUTES, FLOOD CONTROL DISTRICT BOARD

JANUARY 18, 2011

The Pima County Flood Control District Board met in its regular session at the regular meeting place of the Pima County Board of Supervisors (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, January 18, 2011. 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.    **CONTRACT AND AWARD**

- A.    Dorothy Ruth Gendron, as Alternate Successor Trustee of the Henry J. Saunders III Trust, to provide an Acquisition Agreement for 15 acres of land located at 8989 North Hartman Lane, Tax Parcel No. 221-06-0270, for the Flood Prone Land Acquisition Program, Flood Control District Tax Levy Fund, contract amount not to exceed \$313,200.00 including closing costs (22-59-G-143663-0111)
  
- B.    Award of Contracts, Requisition No. 1101088 to Barnett & Shore Contractors, L.L.C. (Headquarters: Tucson, AZ), and C & W Sons Enterprises, Inc. (Headquarters: Litchfield Park, AZ) in the amount of \$250,000.00 each for job order contracts for demolition services. Contracts are for a one year term with the option to extend for four additional one year terms. Funding Source: Flood Control District and Various Department Funds. Administering Department: Regional Flood Control District.

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

2.    **ADJOURNMENT**

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



CHAIRMAN

ATTEST:



CLERK

## MINUTES, STADIUM DISTRICT BOARD

JANUARY 18, 2011

The Pima County Stadium District Board met in its regular session at the regular meeting place of the Pima County Board of Supervisors (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, January 18, 2011. 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. **CONTRACT**

ISS Facility Services, Amendment No. 6, to provide janitorial services for Outlying "B" Facilities, extend contract term to 11/30/11 and amend contractual language, General and Stadium District Funds, contract amount \$950,000.00 (11-13-S-139107-0207) Facilities Management

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

### 2. **TUCSON ELECTRIC PARK**

RESOLUTION NO. 2011- SD1, of the Pima County Stadium District Board of Directors, approving and authorizing the renaming of Tucson Electric Park to Kino Veterans Memorial Stadium.

On consideration it was moved by Supervisor Elías, seconded by Supervisor Bronson, and unanimously carried by a 5-0 vote, to adopt Resolution No. 2011- SD1.

### 3. **CONTRACT**

Pima County Sports and Tourism Authority (PCSTA), Amendment No. 3, to provide for PCSTA activities, authorize PCSTA to administer the Facilities Use Agreement with Tucson AAA Baseball, extend contract term to 10/31/11 and amend contractual language, no cost (01-71-P-141887-0708)

Michael Feder, Managing Member of Tucson AAA Baseball, L.L.C., addressed the Board and thanked them for their support.

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

4. **ADJOURNMENT**

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



---

CHAIRMAN

ATTEST:



---

CLERK

MINUTES, BOARD OF SUPERVISORS' MEETING

JANUARY 18, 2011

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, January 18, 2011. 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.    **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

2.    **PAUSE 4 PAWS**

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

3.    **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.

PULLED FOR DISCUSSION

1.    **CONTRACTS AND AWARDS**

G.    **Regional Wastewater Reclamation**

14.    Avra Gro Systems, Inc., Amendment No. 5, to provide for the Biosolids Management Program and amend contractual language, no cost (11-03-A-132995-0703)

Supervisor Elias questioned the use of biosolids on food crops and inquired if this amendment would change that requirement.

Jackson Jenkins, Co-Director of the Regional Wastewater Reclamation Department, stated this amendment clarified the contractual language regarding the timing of the application of the biosolids and would not change the current process.

**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 Services, Employment and Training**

1. International Sonoran Desert Alliance, Amendment No. 1, to provide for the Ajo Curley School Building Improvements, extend contract term to 6/30/11 and amend contractual language, no cost (32-70-I-142621-1009)

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

2. RESOLUTION NO. 2011- 16, approving an Intergovernmental Agreement with Santa Cruz County, to provide administration services for the Green Workforce Investment Project for the term 1/1/10 to 3/31/13, U.S. Department of Labor Grant Fund, contract amount \$20,000.00 (01-69-S-143667-0110)
3. Pima Association of Governments (PAG), to provide youth work skill activities in the production of public artwork, PAG Fund, contract amount \$125,000.00 revenue/4 year term (07-69-P-143666-1210)

**C. Natural Resources, Parks and Recreation**

4. City of Tucson, Amendment No. 2, to provide for the Pantano River Park and amend scope of work, RTA Fund, contract amount \$1,201,175.00 (01-05-T-138306-0806)

**D. Office of Emergency Management and Homeland Security**

5. Arizona Department of Homeland Security, Amendment No. 1, to provide for the South Region Training and Exercise

Program for the term 10/1/10 to 9/30/11, no cost (02-01-A-142610-1009)

6. Arizona Department of Homeland Security, Amendment No. 1, to provide for emergency planning for the term 10/1/10 to 9/30/11, no cost (02-01-A-142611-1009)
7. Arizona Department of Homeland Security, Amendment No. 1, to provide for the Tucson Urban Area Security Initiative Training and Exercise Program, Federal and State Funds, contract amount \$105,000.00 decrease (02-79-A-143558-1010)

**E. Pima Health System**

8. Arizona Oral & Maxillofacial Surgeons, P.L.L.C., Amendment No. 1, to provide dental and oral surgery services and amend contractual language, no cost (18-15-A-142381-1109)
9. Haven Behavioral Services of Tucson, L.L.C., d.b.a. Sonora Behavioral Health Hospital, to provide psychiatric hospital services, PHCS Enterprise Fund, contract amount not to exceed \$2,000,000.00/2 year term (07-15-H-143665-0111)

**F. Procurement**

10. ISS Facility Services, Amendment No. 6, to provide janitorial services for Outlying "B" Facilities, extend contract term to 11/30/11 and amend contractual language, General and Stadium District Funds, contract amount \$950,000.00 (11-13-S-139107-0207) Facilities Management
11. A & K Transportation, Inc., d.b.a. Handicar, Amendment No. 4, to provide transportation services for special needs passengers and amend contractual language, no cost (11-04-A-141667-0209) Transportation

**Awards**

12. Award of Contracts, Requisition No. 1101088 to Barnett & Shore Contractors, L.L.C. (Headquarters: Tucson, AZ), and C & W Sons Enterprises, Inc. (Headquarters: Litchfield Park, AZ) in the amount of \$250,000.00 each for job order contracts for demolition services. Contracts are for a one

year term with the option to extend for four additional one year terms. Funding Source: Flood Control District and Various Department Funds. Administering Department: Regional Flood Control District.

13. Low Bid: Award of Contract, Requisition No. 1100806, in the amount of \$959,964.00 (Lump Sum Bid) to the lowest responsive bidder, The Ashton Company, Inc. (Headquarters: Tucson, AZ) for construction of the Ina Road Biological Nutrient Removal Activated Sludge Facility Process Air Improvements Project. Funding Source: Energy Efficiency and Conservation Block Grant-American Recovery and Reinvestment Act Fund, \$466,462.00; RWRD Obligations, \$493,502.00. Administering Department: Regional Wastewater Reclamation Department.

**G. Regional Wastewater Reclamation**

14. Avra Gro Systems, Inc., Amendment No. 5, (PULLED FOR DISCUSSION)
15. City of Tucson, Amendment No. 4, to provide for the Household Hazardous Waste Collection Program, RWRD Enterprise Fund, contract amount \$250,000.00 (01-03-T-135701-0205)

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

**Tucson-Pima County Metropolitan Energy Commission**

Appointment of Katherine Weingartner to replace Richard Michal. Term expiration: 11/30/12. (Commission Recommendation)

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

William Dean Woodruff, Knights of Columbus Council 12696, 300 N. Tanque Verde Loop Road, Tucson, January 29, 2011.

**FINANCE AND RISK MANAGEMENT**

**4. Duplicate Warrants – For Ratification**

Edward Diaz	\$	18.95
Arizona Rural Human Services Network	\$	1,448.94

## REGULAR AGENDA/ADDENDUM ITEMS

### 4. **DEVELOPMENT SERVICES: Final Plat with Assurances**

P1208-095, Sunset Mesa, Lots 1-25 and Common Areas A, B, C and D.  
(District 1)

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

### 5. **FRANCHISE/LICENSE/PERMIT: Liquor License**

10-49-9061, Randy D. Nations, Outback Steakhouse 0315, 2240 W. Ina Road, Tucson, 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 liquor license and forward the recommendation to the Arizona State Liquor Licenses and Control.

### 6. **DEVELOPMENT SERVICES: Zoning Code Text Amendment**

The Board of Supervisors on 12/14/10 continued the following:

Co8-10-05, CHARTER SCHOOLS, LIGHTING, FEES, GRADING STANDARDS, REZONING NOTIFICATIONS, CONDITIONAL USE TIME LIMITS, INACCURATE CITATIONS, ETC.

An Ordinance of the Pima County Board of Supervisors relating to Zoning; amending the Pima County Zoning Code, Title 18 by amending Chapters 18.01 (General Provisions), 18.07 (General Regulations and Exceptions), 18.09 (General Residential and Rural Zoning Provisions), 18.69 (Subdivision Standards) and 18.79 (Sign Standards) to delete specific fee amounts; amending Chapters 18.07 (General Regulations and Exceptions), 18.09 (General Residential and Rural Zoning Provisions), 18.13 (Rural Homestead Zone), 18.14 (Rural Residential Zone), 18.17 (Suburban Ranch Zone), 18.19 (SH Zone), 18.39 (General Commercial Standards), 18.43 (Local Business Zone), 18.45 (General Business Zone), 18.49 (Campus Park Industrial Zone), 18.61 (Hillside Development Overlay Zone), 18.63 (Historic Zone), 18.67 (Buffer Overlay), 18.75 (Off-Street Parking and Loading Standards), 18.81 (Grading Standards) to defer the lighting requirements to the County Outdoor Lighting Code requirements; amending Chapter 18.03 (General Definitions) to add a definition for a carport, to further describe a guest house and to revise the charter school definition; amending Chapter 18.07 to allow modification of the front yard setback thru the modification of setback requirements; amending Chapter 18.09 to add charter schools as an outright permitted use, to delete the reference to additional fees for

the secondary dwelling appeal; amending Chapters 18.12 (Institutional Reserve Zone), 18.13 and Chapter 18.17 to correct inaccurate citations; amending Chapters 18.37 (Multiple Use Zone) and 18.43 to add charter schools as an outright permitted use; amending Chapter 18.81 (Grading Standards) to revise the Type I permit requirement; amending Chapter 18.91 (Rezoning Procedures) to revise notification requirements to conform with State Statutes; amending Chapter 18.97 (Conditional Use Procedures) by revising time limits and time extensions. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners Holdridge and Smith were absent) to recommend APPROVAL. Staff recommends APPROVAL. (All Districts)

If approved, pass and adopt:

~~ORDINANCE NO. 2010 - 74~~

ORDINANCE NO. 2011 - 2

Chris Poirier, Assistant Planning Director, provided a brief report. He explained staff had contacted stakeholders to request their input, but had little success. He felt the lack of response could be due to their efforts coinciding with the holiday season. He said he had received one response from David Godlewski, Interim President of the Southern Arizona Home Builders Association, which stated they did not have any concerns with the amendment and appreciated the changes to the grading permit process.

Supervisor Bronson stated she had concerns with sections of this amendment and requested a continuance.

Without objection, this item was continued to the Board of Supervisors' Meeting of March 8, 2011.

**7. DEVELOPMENT SERVICES: Type II Conditional Use Permit**

P21-10-017, CITY OF TUCSON – N. SANDERS ROAD

Request of FRV Tucson Solar, L.L.C., on behalf of the City of Tucson, for a conditional use permit for a solar farm (a.k.a. solar power plant) on property located at 9000 N. Sanders Road in the RH Zone. Chapter 18.97, in accordance with Section 18.13.030.B.35 of the Pima County Zoning Code, allows a solar farm as an "other conditional use which is similar in type, scale and intensity to other listed conditional uses," subject to a Type II Conditional Use Permit procedure. The Hearing Administrator recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 3)

Chairman Valadez stated two requests for continuance had been submitted for this item and asked the two parties to explain their requests.

Rick Westfall stated the community had gathered the signatures of 92 of the 100-110 property owners on a petition asking for a 90 day continuance because they felt there had not been a good faith attempt to address their concerns.

Kevin Kugler, RBF Consulting, on behalf of Shilpa Shah, Senior Manager, FRV Tucson Solar, L.L.C., said they had requested a continuance to allow them to evaluate the 16 recommendations outlined in the memorandum from the County Administrator.

Supervisor Bronson stated the conditions listed in the County Administrator's Memorandum were the same concerns the community had from the beginning of the project which still had not been addressed. She felt there had not been a good faith effort to work with the neighbors and requested the addition of a condition which would require graffiti cleanup.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elias and unanimously carried by a 5-0 vote, to continue this item to the Board of Supervisors' Meeting of April 19, 2011, and to direct staff to present it sooner, if possible.

**8. DEVELOPMENT SERVICES: Rezoning Ordinance**

ORDINANCE NO. 2011- 3, Co9-10-01, De Grazia Company, L.L.C. - Sabino Canyon Road Rezoning. Owners: J. De Grazia Company, L.L.C. (District 1)

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elias and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2011 – 3.

**9. TRANSPORTATION: Traffic Resolution**

RESOLUTION NO. 2011- 17, of the Pima County Board of Supervisors, permitting the temporary closure of Malacate Street in the Town of Ajo, Arizona, for the Desert Senita Community Health Fair on January 29, 2011. Staff recommends APPROVAL. (District 3)

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elias and unanimously carried by a 5-0 vote, to close the public hearing and adopt Resolution No. 2011 – 17.

10. **FINANCE AND RISK MANAGEMENT**

RESOLUTION NO. 2011- 18, authorizing the issuance and sale of Pima County Arizona Sewer Revenue Refunding Bonds; authorizing the execution and delivery of a bond indenture and a refunding agreement in connection with such bonds; providing for the payment of such bonds; providing for the terms, covenants and conditions concerning such bonds; confirming the sale of such bonds to the purchaser thereof; authorizing and directing the execution and delivery of a bond purchase agreement and other documents and the redemption or prepayment of outstanding bonds and obligations; authorizing the preparation and use of an official statement in connection with the sale of such bonds; appointing a bond trustee and a depository trustee for such bonds; and authorizing and directing actions relating to the issuance of such bonds and the refinancing of outstanding bonds and obligations and amendments to a Series 2010 Purchase Agreement and WIFA loan agreements.

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to adopt Resolution No. 2011 – 18.

11. **PROCUREMENT: Appeal of Procurement Director Decisions**

The Board of Supervisors on 12/14/10 and 1/11/11, continued the following to this date:

- A. Pursuant to Pima County Code Section 11.20.010(J), EPCOR United Water, L.L.C., represented by Warner Angle Hallam Jackson and Formanek, P.L.C., appeals the decision of the Procurement Director regarding Solicitation No. 0901346, Water Reclamation Facility Design-Build-Operate Project.

The Board of Supervisors on 1/11/11, continued the following to this date:

\*(Clerk's Note: Consideration of this item is to be consolidated with the above item A.)

- \*B Pursuant to Pima County Code Section 11.20.010(J), EPCOR United Water, L.L.C. (EPCOR), represented by Warner Angle Hallam Jackson and Formanek, P.L.C., appeals the decision of the Procurement Director to deny EPCOR's December 17, 2010 protest of the award to CH2M-Hill of the contract for the Water Reclamation Campus Design-Build-Operate Project, Solicitation 0901346, Pima County Contract No. 34-03-C-143624-1210.

Chuck Huckelberry, County Administrator, explained that this appeal arose out of the Board's decision in December to award a contract for the

Water Reclamation Campus on Roger Road. United Water, L.L.C. (EPCOR) had filed an appeal and were in attendance to give the basis of their appeal. He indicated both the technical staff of the Regional Wastewater Reclamation Department (RWRD), as well as others, had reviewed some of the basis of the technical portion of the appeal and would be available to briefly answer any of the Board's questions after the EPCOR presentation.

Chris R. Baniszewski, Attorney for EPCOR, introduced himself and thanked the Board for the opportunity to speak. He felt there seemed to be a little bit of a disconnect as to what the Board's proper role was at this stage. According to the information suggested by the Procurement Department, the Board's review at this point was very limited and they had very little discretion in resolving the matter. He indicated that A.R.S. §34-603(f)(9) specifically stated that the agent, which was in this case the Board, shall award the contract to the responsive, responsible proposer that had the highest score. The committee had a lot of discretion on scoring the proposals, and the Board could not go back and rescore them. However, before they ever got to the issue of score, the proposal had to be deemed responsive. He stated the facts determined whether a proposal was responsive or not responsive and, if the facts showed that CH2M Hill (CH2) proposal was not responsive, it was an abuse of discretion or arbitrary and capricious decision for the committee or the Board not to reject it.

Mr. Baniszewski explained that EPCOR had asked Dr. James L. Barnard, one of the pioneers in biological nutrient removal processes and the inventor of the 5-stage Bardenpho process, to review CH2's proposal. Dr. Barnard concluded that the CH2 process was not a 5-stage Bardenpho process. This meant that according to the RFP, CH2 had to show that its process was currently in use and has been in the United States for at least 5 years. He felt that CH2 did not do this and, in fact, could not do that because its process has not been used anywhere in the world for this type of treatment facility.

Mr. Baniszewski stated his second point was as configured and proposed, CH2's process would result in chemical phosphorus removal and according to the Request for Proposals (RFP), was prohibited. In addition, there was no specific analysis from the Procurement Department that showed CH2's process was a 5-stage Bardenpho process which could have been an oversight, a human mistake or a lack of understanding by the committee members. He felt this may also be true to the chemical phosphorus removal issue too.

In concluding, Mr. Baniszewski felt the facts demonstrated that CH2's proposal was not responsive and had to be rejected. He felt that not to

reject the CH2 proposal would be a clear abuse of discretion. He asked the Board to reject CH2's proposal and award the contract to EPCOR.

Michael Gritzuk, Co-Director of the Regional Wastewater Reclamation Department, provided the following response:

Reflecting back on the detailed, lengthy and multi-step review process used by the County to recommend the winning proposal; Pima County was surprised of the bid protest submitted by EPCOR claiming that the selection process was arbitrary and capricious. He would have to say that the selection process carefully followed the process described in the Request for Proposal; the selection process was methodical, objective, meticulous and anything but arbitrary and capricious. He emphasized that the selection and award of the Water Reclamation Campus Project to CH2 by the County was appropriate and in the best interest of the ratepayers of Pima County.

#### Background Information on County's Position

In 2005, the Regional Wastewater Reclamation Department (RWRD) completed negotiations with Arizona Department of Environmental Quality (ADEQ) on their requirement to significantly reduce nitrogen and ammonia concentrations in the effluents that are discharged to the Santa Cruz River. The requirements stated that the department must award a contract for construction by January 30, 2011, a few days from this date, and the Board did award that contract to CH2 so Pima County met that requirement that's in the discharge permit. Also the permit required that the upgraded facility be operational and producing effluent with non-toxic nitrogen levels by January 30, 2015. The contract with CH2 requires them to have this facility completed by August 2014, and in full compliance with the discharge permit requirements. Non-compliance may result in stiff penalties imposed by ADEQ. To meet their requirements, the ROMP Study recommended decommissioning of the Roger Road facility and in its place build the Water Reclamation Campus. After an exhaustive evaluation of alternative project delivery methods, the Design-Build-Operate (DBO) procurement method was recommended for implementation of the project, and the Board approved the recommendation.

A multi-disciplined team was assembled by the County to develop the RFP requirements and review the comprehensive submissions from the competing DBO companies. The team that was formed included Pima County Engineering, Operations and Maintenance personnel, procurement, financial and legal staff, so it was multi-disciplined that way. In addition, a consultant team of experts was assembled to support the County team. CH2 and EPCOR prepared and submitted technical proposals and supplemental materials to the County for review and comment in accordance with the specific requirements of the RFP. Also, the DBO companies reviewed and commented on the draft Service Contract that defined the requirements and obligations of the project.

A series of detailed meetings were held between the County Project Team and the DBO companies to discuss their design concepts and project approach, to explain/review/comment on the requirements and provisions within the Service Contract and to identify issues that needed to be addressed before the submission of the final technical and price proposals.

The final proposal consisted of both a technical and price proposal. Subcommittees were formed to review the final technical proposals and provide

input to the Selection Committee. The subcommittees included County staff and consultant team members, in a group of approximately 30 individuals, who provided input to the Selection Committee. These disciplines included: engineering, operations, maintenance, procurement, financial and legal.

After very careful review of the technical proposals and a series of internal Subcommittee Meetings, each Selection Committee member individually scored the technical proposals and submitted their scores to the County's Procurement Department.

The price proposal was not opened until the scoring of the final technical proposal was final and submitted. The submitted cost information was opened by the Procurement Department and was entered into a computer model for computation of the net present value for life cycle costs. The price proposal with the lowest net present value for life cycle costs, received the highest score. To put that in different terms, on a life cycle basis, the lowest price received the highest score for the price proposal. The points for the other price proposal were adjusted downward in accordance with that established formula.

Upon completion of the scoring process described above, the DBO Company with the maximum total score, including the technical and cost scores, was recommended to the Board of Supervisors for contract award. The company with the highest total score and therefore recommended for contract award was CH2.

#### Bid Protest

Mr. Gritzuk further stated that following the award recommendation, EPCOR decided to submit a bid protest. The Procurement Department determined that EPCOR had not stated a valid basis for protest and dismissed the protest. EPCOR is now appealing again.

In their first allegation, EPCOR claims that CH2 proposes a unit called Dissolved Air Flotation for primary treatment and that is not included in the design provided in the ROMP Report, thereby requiring CH2 to provide additional information that it failed to provide. Because of the presence of that Dissolved Air Flotation unit, EPCOR claims that CH2 had to meet the RFP "demonstrated experience" test for alternatives to the 5-stage Bardenpho process. EPCOR's argument, however, is countered by the following provisions, which confirm that CH2 technical proposal was responsive to the requirements of the RFP:

1. The preliminary/conceptual design provided in the ROMP Report was not mandated by the draft service contract or the RFP. The RFP specifically advised the proposers that the preliminary conceptual ROMP design was but one alternative that the County may consider for the project. The County did not specifically require that because we wanted the proposers to provide any innovation that they may want to, to improve what we had specified.
2. The CH2 proposal included a 5-stage Bardenpho process. CH2 did not therefore need to satisfy the "demonstrated experience" test for alternatives to the 5-stage Bardenpho process.
3. The RFP specifically stated that the selection and combination of unit treatment processes, with the exception of processes explicitly non-

allowable and defined in the RFP, were at the sole discretion of the proposer.

4. The Dissolved Air Flotation unit was not listed as a process not acceptable.
5. CH2 has designed the Bardenpho process at the Ina Road facility which we are currently constructing and that is a 5-stage Bardenpho process. Pima County is comfortable with that work which is under construction and we are comfortable that that process will biologically remove phosphorous without any introduction of chemicals.

In their second allegation, EPCOR claims that CH2's proposed treatment processes will result in chemical phosphorus removal being the primary removal method which is listed in the RFP as a non-allowable treatment process and that is correct, it is not allowable. In their final technical proposal, CH2 stated and demonstrated that the RFP requirement of 1 mg per liter of total phosphorus in the plant effluent using biological methods is easily achieved by their proposed design. CH2 has modeled the process to prove that it can work biologically and our consultants have also investigated this with other investigative methods. They have advised us that what is proposed by CH2 for phosphorus removal can be achieved biologically without the use of chemicals.

Further, the service contract signed by both the County and CH2 states that chemical phosphorus removal as the primary method to achieve an effluent concentration of 1 mg per liter total phosphorus is prohibited. CH2 proposed a process that can reasonably be expected to achieve biological phosphorus removal.

In conclusion, Mr. Gritzuk stressed that the selection process carried forth by the County was carefully followed and that they carefully followed the procedures prescribed in the RFP. The selection process was methodical, objective and meticulous. The selection and award of the Water Reclamation Campus Project to CH2 by the County was appropriate and in the best interest of the ratepayers of Pima County.

Supervisor Bronson inquired if both companies in the final bid process proposed biological process designs that incorporated the anoxic and aerobic zones which by current acceptable standards constituted a 5-stage Bardenpro process.

Mr. Gritzuk confirmed they had.

Supervisor Carroll inquired if the all of the claims made by the appellant had been reviewed closely.

George Widugiris, Procurement Director, explained the Procurement Department had monitored every step of this detailed and complex procurement process and evaluation. He said their award recommendation was based upon a sound determination that CH2 was responsive to the RFP and was in compliance with Title 34 and the Procurement Rules. He stated the decision was neither arbitrary nor capricious. Mr. Widugiris indicated that he along with the Deputy County

Administrator for Public Works, the Director of Regional Wastewater Reclamation Department, staff and consultants had determined the proposals submitted by CH2 had met the requirements of the RFP and was the most cost effective and best value for Pima County.

Chairman Valadez asked if there was a substantial difference in the product out of either process.

Mr. Grizuk stated both processes would achieve the same effluent quality.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to uphold the Procurement Director's decision in the matter identified as item A and deny the appeal.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to uphold the Procurement Director's decision in the matter identified as item B and deny the appeal.

**12. CONTRACTS: Economic Development and Tourism**

- A. Pima County Sports and Tourism Authority (PCSTA), Amendment No. 3, to provide for PCSTA activities, authorize PCSTA to administer the facilities use agreement with Tucson AAA Baseball, extend contract term to 10/31/11 and amend contractual language, no cost (01-71-P-141887-0708)
- B. MC Motor Sports Park, Inc., to provide for the administration and operation of the Pima Motor Sports Park, for a 15 year term, no cost (11-71-M-143688-0111)

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

**13. CONTRACT: Natural Resources, Parks and Recreation**

Marana Health Center, Inc., to provide a Lease Agreement for property located at 1660 W. Ruthrauff Road for the Flowing Wells Medical and Dental Clinic, contract amount \$24,000.00/5 year term-revenue (04-05-M-143693-0111)

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

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

A. **Pima County Board of Health**

Reappointment of Vincent A. Fulginiti, M.D. and Bradley G. Brumm, D.D.S. Term expirations: 6/30/15. (District 1)

B. **Library Advisory Board**

Appointment of Clarisa Barcelo to fill the unexpired term of Marty Moreno. Term expiration: 6/30/13. (District 2)

C. **Outside Agency Review Committee**

Appointment of Mary Soltero to replace Michael Lundin. No term expiration. (District 2)

D. **Planning and Zoning Commission**

Appointment of Vicki Cox Golder to fill the unexpired term of M. Jo Smith. Term expiration: 6/19/13. (District 1)

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

15. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

Gary Bahr addressed the Board regarding the lack of staff communications skills at the Pima Animal Control Center.

Michael Toney spoke regarding semi-automatic weapons and Arizona's gun control laws.

Joe Sweeney talked about illegal aliens.

Robert Reus addressed concerns regarding the negative rhetoric in the press and from public officials and spoke in support of Sheriff Dupnick.

16. **ADJOURNMENT**

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



---

CHAIRMAN

ATTEST:



---

CLERK