

MINUTES, FLOOD CONTROL DISTRICT BOARD

AUGUST 2, 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, August 2, 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. **RIPARIAN HABITAT MITIGATION PLAN**

Staff requests approval of a combination Onsite and Offsite Mitigation Proposal (Riparian Habitat Mitigation Plan and In-lieu Fee) for 1762 E. Sahuaro Blossom Place, located within Important Riparian Areas with underlying Xeroriparian Class B Habitat and Xeroriparian Class C Habitat. (District 1)

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

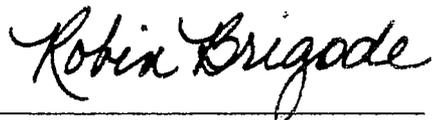
2. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 1:45 p.m.



CHAIRMAN

ATTEST:



CLERK

MINUTES, BOARD OF SUPERVISORS' MEETING

AUGUST 2, 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, August 2, 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. **INVOCATION**

The invocation was given by Pastor Tony Danielson, Tanque Verde Lutheran 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.

Supervisor Carroll expressed his appreciation to Kim Janes, Division Manager, Officer Montana and staff from the Pima County Animal Care Center, for participating in the bowling tournament to raise funds for the Pima Animal Care Foundation.

4. **PERSONAL POINT OF PRIVILEGE**

Supervisor Elías asked for a moment of silence to honor the life and recognize the recent passing of George "Jorge" Pettit, Aide to Councilwoman Karen Uhlich. He acknowledged that Mr. Pettit was admired and respected for his contributions and commitment to those less fortunate in the community.

5. **PRESENTATIONS/PROCLAMATIONS**

- A. Presentation of a proclamation to representatives from the Drexel Heights Fire District and Safe Kids Tucson, proclaiming the month of August 2011 to be:

“DROWNING IMPACT AWARENESS MONTH”

Supervisor Bronson presented the proclamation to Yomy Diaz, Safe Kids Tucson; Tracy Koslowski, Drexel Heights Fire District; Anne Marie Broswell, Rural Metro Fire Department; and Aaron Pacheco, Pima County Health Department.

Ms. Diaz expressed her appreciation to the Board and requested that the public continue to be diligent in implementing the ABC's of water safety for children to prevent any further loss of life this season.

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

- B. Presentation of a proclamation to Kathleen Nabours and Sharon Chadwick, members of the Tucson-Pima County Historical Commission, proclaiming the month of August 2011 and the day of August 20, 2011 to be:

“THE 236TH ANNIVERSARY OF THE CITY OF TUCSON”

Supervisor Elías presented the proclamation to Demion Clinco, member of the Tucson-Pima County Historical Commission, and invited everyone to the Flag Raising Ceremony and the many other events scheduled in August to celebrate the City of Tucson's birthday.

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

6. **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.

- A. The following speaker addressed the Board regarding the Sale of Posada del Sol:

John Karney, employee of Posada del Sol Healthcare Center

- B. He provided the following comments:

1. He was concerned about the reputation of the proposed buyer for Posada del Sol.
 2. He requested that the Board ensure that the integrity of the facility continue to be maintained in the future.
- B. The following speakers addressed the Board regarding the Green Valley Fire District (GVFD) Annexation:

Kevin Malaney, Firefighter with GVFD, resident of Sahaurita
Bill Katzel, Citizen's Advocate and Board Member of the GVFD
Kim Demarchi, Attorney for Rural Metro Fire Department (RMFD)
Syd Kyle, Community Manager of Rancho Resort, Sahaurita

They provided the following comments:

1. The people of Sahuarita have spoken loud and clear regarding their desire to be annexed into the GVFD.
2. Substantial information was given to Pima County legal counsel supporting RMFD's position that neither parts of A.R.S. Section 48-262 (A) (12) requiring either strict or substantial compliance were complied with in the validation process.
3. It is important for annexation rules to be clarified and followed in the petition process, because it is the only process that is required before the land can be added to a fire district and taxes imposed on the property owners.
4. The Board needed to make a determination on what standards must be complied with for this case, and for future annexation proponents as well. It was hoped that the Board would consider those standards before a validity decision was made at this meeting.
5. The petitions were validated on May 3, 2011 and that decision should be final.
6. Out of a group of 700 residents in Sahuarita, the majority favored keeping RMFD as their provider.

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Elias, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:25 a.m.

7. **RECONVENE**

The meeting reconvened at 10:25 a.m. All members were present.

8. **LITIGATION**

The Board of Supervisors on July 12, 2011, continued the following:

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding Susan Hankinson v. Pima County, U.S. District Case No. 4:10-CV-00023-TUC-FRZ.

Chris Straub, Chief Civil Deputy County Attorney, reported on this case of alleged age and sex discrimination arising out of a recruitment in June of 2009, for the position of Elections Compliance Officer in the Elections Department. He stated that the proposed settlement would consist of a full and final settlement of all claims against Pima County for a total cash payment of \$100,000.00 (\$50,000.00 to Susan Hankinson, plaintiff, and \$50,000.00 in attorney's fees) and included the plaintiff's placement, non-competitively and without probation, in the position of Elections Compliance Officer. The County Attorney's Office recommended approval of the settlement.

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

9. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding Perry and Claudine Begley v. Pima County, Pima County Superior Court Case No. C20112102.

Chris Straub, Chief Civil Deputy County Attorney, advised this case concerned an appeal of decisions by the Board of Adjustment and the Board of Supervisors whereby the Begleys were cited for parking a utility truck in front of their home. He said that because of recent legislation, the County Attorney's Office sought permission to stipulate a dismissal of the Superior Court Case under the terms discussed in Executive Session, and requested that the Board also dismiss Code Enforcement Citation Number P10CV00381.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to approve the County Attorney's recommendation.

10. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding a request by Waterfall, Economidis, Caldwell, Hanshaw & Villamana that Pima County waive a conflict of interest arising from the firm's representation of Trico Electric Cooperative, Inc. regarding its dispute with Pima County.

Chris Straub, Chief Civil Deputy County Attorney, confirmed that this case pertained to the request to waive a conflict of interest arising from the firm's representation of TRICO Electric Cooperative, Inc., regarding its dispute concerning the use of a Pima County right-of-way. Mr. Straub reminded the Board that waivers of conflict of interests were handled at the discretion of the Board.

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

11. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3), for legal advice regarding the Green Valley Fire District Annexation and the June 29, 2011 Superior Court Order in Case No. C20113736 remanding the matter to the Board of Supervisors for further consideration.

Chairman Valadez recused himself due to a potential conflict of interest and the dais was turned over to Vice Chair Bronson.

Chris Straub, Chief Civil Deputy County Attorney, reported that this concerned a challenge to the Green Valley Fire District's (GVFD) recent attempted annexation. He affirmed that at its May 3, 2011 meeting, the Board of Supervisors determined that there were significant signatures, both in number and in property valuation represented by those signing the petitions, to validate the petitions. The Pima County Superior Court then remanded this matter back to the Board of Supervisors to determine the sufficiency of the petitions through A.R.S. §48-262 (A) (12), but offered no guidance as to how it should be done.

Mr. Straub stated that the County Attorney's Office provided legal advice in Executive Session and that Chuck Huckelberry, County Administrator, offered his input in a memorandum to the Board dated August 1, 2011. He advised that since this meeting's agenda indicated that "public discussion and action may occur on the Executive Session items during the regularly scheduled meeting," the Board was authorized to speak and act on this issue.

Vice Chair Bronson asked the Board how they wished to proceed.

Supervisor Carroll stated that Mr. Huckelberry's memorandum addressed the four issues outlined in Kimberly A. Demarchi's (Lewis & Roca, L.L.P.) letter dated May 31, 2011. He said that although it was obvious that some errors had occurred in the petition process, he hoped that this matter could be resolved by accepting the petitions as valid and adopting Resolution No. 2011-130 in response to the Preliminary Injunction and Order dated June 29, 2011

On consideration, it was moved by Supervisor Carroll and seconded by Supervisor Day, to adopt Resolution No. 2011-130 and to accept the County Administrator's recommendation to accept the petitions as valid. No vote was taken at this time.

Supervisor Elías expressed concern over the taxation issue as it related to the affected people who have no recourse other than this petitioning process to voice their opinion. The petition process appeared to be flawed and was a bad precedent for the Board to set.

Vice Chair Bronson and Supervisor Elías inquired about the continuation of emergency services in the event of the failure of the district formation and the impending termination of the Intergovernmental Agreement (IGA) between Rural Metro Fire District (RMFD) and the Town of Sahaurita. Vice Chair Bronson asked what assurances were in place for residents of the area to receive continued fire protection. Simon Davis, Fire Chief, GVFD, responded that if a call came in from outside of Green Valley, GVFD would respond with units, if available, under their duty to act. Tom Berringer, Fire Chief, RMFD, stated that they had no intention of leaving after the expiration of the IGA.

Supervisor Day commented that even though things were not done perfectly, it was apparent to her that the majority of people in the area had indicated their support for this annexation through the signing of the petitions. She thought that the Board should be focusing on the ratification of the 50% plus one of residents which had been done.

Vice Chair Bronson advised that she was struggling with the issue of "substantial compliance." Although she believed GVFD had acted in good faith, she could not support the motion for approval because failure to not follow the letter of the law resulted in too many collective and non-compliance issues.

Supervisor Carroll commented on the reputation and excellent service history of the GVFD and re-emphasized that acceptance of the petitions and adoption of Resolution No. 2011-130 would return the compliance issues back to the Court.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and carried by a 2 to 2 vote, Supervisors Bronson and Elías voting "Nay," Chairman Valadez recusing himself from the vote due to a potential Conflict of Interest, to accept the recommendations of County Administrator's Memorandum dated August 1, 2011, to validate the petitions annexing the North Sahuarita Block into the Green Valley Fire District and to pass (proposed) Resolution No. 2011-130.

12. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3), for discussion and consultation regarding the ethical responsibility of the Pima County Attorney's Office to safeguard "confidential" information relating to its representation of the County and the extent to which this impacts the office's general discussion of legal issues with other public attorneys in Arizona. A limited waiver is sought to facilitate consistency in the application of law by similarly-situated public entities.

Chris Straub, Chief Civil Deputy County Attorney, offered that this was a request by the County Attorney's Office that the Board provide a limited waiver of confidentiality (not privilege) for purposes of discussing and sharing materials about legal issues of common interest with other public attorneys. He explained

this limited waiver would facilitate a consistent approach in the application of laws by this and other public entities.

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

13. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3) (4) and (7), for legal advice and direction, regarding the sale or lease of Posada Del Sol Health Care Center.

Chris Straub, Chief Civil Deputy County Attorney, stated that this item pertained to legal advice and direction to staff pertaining to the sale of Posada del Sol.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, for staff to proceed as discussed in Executive Session.

14. CONSENT CALENDAR: For consideration and approval

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.

B. APPROVAL OF THE CONSENT CALENDAR

It was thereupon moved by Supervisor Elías, seconded by Supervisor Bronson and carried by a 4-1 vote, Supervisor Carroll voting "Nay," to approve the Consent Calendar as amended.

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. CONTRACTS AND AWARDS

A. County Attorney

1. Frank W. Frey, Attorney at Law, Amendment No. 6, to provide legal services for the defense of workers compensation claims and extend contract term from 5/28/11 to 5/27/13, Risk Management Tort Fund, contract amount \$100,000.00 (17-02-F-134942-0604)
2. Bingham McCutchen, L.L.P., Amendment No. 1, to provide legal representation and advice regarding landfills and amend contractual language, Self Insurance Trust Fund, contract amount \$55,000.00. (17-02-M-143674-0111)

B. Health Department

3. Arizona Early Childhood Development and Health Board (First Things First), Amendment No. 2, to provide for the Arizona Health Child Care Health Consultation System (CCHC) for the term 7/1/11 to 6/30/12, State Grant Fund, contract amount \$296,870.00 revenue (02-01-A-141918-0309)
4. Arizona Early Childhood Development and Health Board (First Things First), Amendment No. 4, to provide for health consultation services by Child Care Health Consultation System (CCHC) to regulated child care providers (centers and homes) enrolled in Quality First, for the term 7/1/11 to 6/30/12, State Grant Fund, contract amount \$1,010,727.00 revenue (02-01-A-142244-0709)
5. Pima Council on Aging, to provide direct health services and supportive counseling for the term 7/1/11 to 6/30/12, Pima Council on Aging Grant Fund, contract amount \$22,922.00 revenue (CTN-HD-12-000007)

C. Pima Health Systems

6. To provide assisted living/homecare services, extend contract term from 7/1/11 to 9/30/11 and amend contractual language, no cost:

<u>VENDOR</u>	<u>AMEND. NO.</u>	<u>CONTRACT NO.</u>
Nardy-Tossou, L.L.C., d.b.a. Adobe Adult Care Home	6	07-15-A-140116-0907
Santo Nino Adult Care Home, L.L.C.	5	07-15-S-140203-0907
Nursefinders, Inc.,	6	18-15-N-142079-0709
MGA Home Healthcare, L.L.C.	5	18-15-M-142080-0709
MGA Assisted Care Home, L.L.C.	6	18-15-M- 142080- 142084 0709

7. University Medical Center Corporation, Amendment No. 2, to provide primary care physician services and extend contract term to 8/31/12, no cost (18-15-U-142331-0909)
8. United States Department of Veteran Affairs (VA), Amendment No. 3, to provide skilled nursing facility services for the term 2/17/11 to 2/17/12, no cost (18-15-U-141735-0209)

D. Procurement

9. DPR Construction, Inc., Change Order No. 20, to provide construction of the Psychiatric Hospital and Crisis Response

Center and amend contractual language, 2004 and 2006 Bond Funds, contract amount \$157,369.00 (03-13-D-142271-0709) Facilities Management

Awards

10. Most Qualified: Award of Contract, Requisition No. 1101780, to the highest ranked/most qualified respondent, Qwest Communications (Headquarters: Denver, CO) in the amount of \$1,843,871.00 for a Voice over Internet Protocol (VoIP) Communications System. The term of the contract is five years and includes five one-year renewal periods. The award includes the authority for the Procurement Department to approve renewals without further action by the Board of Supervisors provided that the renewal amount does not exceed \$1,843,871.00. Funding Source: IT Communications Capital Projects Fund. Administering Department: Information Technology.
11. Award of Contract, Procurement No. 7495, to Staples Contract & Commercial, Inc. (Headquarters: Framingham, MA) in the amount of \$8,000,000.00 for county-wide office supplies. The term of the contract is four years. Funding Source: Various Funds. Administering Department: Procurement.

E. Real Property

12. Sycamore Springs Homeowners Association, Inc., to provide a License Agreement for encroachment on the right-of-way of Sahuarita Road with an existing entrance monument, contract amount \$4,000.00/25 year term revenue (CT-TR-12-000228)

F. Sheriff

13. RESOLUTION NO. 2011 - 124, approving an Intergovernmental Agreement with the Town of Oro Valley, to provide for the incarceration of municipal prisoners for the term 7/1/11 to 6/30/12, contract amount \$166,183.00 estimated revenue (CTN-SD-12-000012)
14. Pima Community College District, Amendment No. 2, to provide for the implementation and administration of the Adult Basic Education Program at the Adult Detention Center for the term 7/1/11 to 6/30/12, Inmate Welfare Fund, contract amount \$139,360.00 (CT-SD-12-000280)

15. Town of Sahuarita, Amendment No. 1, to provide public safety dispatch services for the term 6/30/11 to 6/30/12, contract amount \$146,000.00 revenue (CTN-SD-12-000016)

2. ELECTIONS DEPARTMENT

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

<u>RESIGNATIONS</u>	<u>PRECINCT</u>	<u>PARTY</u>
Michelle Quinn	116	REP
Gregory J. Krino	189	REP
Janay Burns	219	REP
Bruce R. Weber	323	REP
Harry Laughman	337	REP
Victoria Cashion	392	REP
Robert Woodworth	344	REP

<u>APPOINTMENTS</u>	<u>PRECINCT</u>	<u>PARTY</u>
Maria L. Valdez	036	DEM
Gloria Clancy	314	DEM
Cheryl E. Zemont	011	REP
Vera Shury	012	REP
Susan Lefler	053	REP
Joan E. Oesterle	056	REP
Gregory S. Walters	087	REP
Joan E. Laidlaw	180	REP
Erin O. Simpson	193	REP
Steven-L. Nygren	198	REP
Joyce Smith	222	REP
John R. Macko	254	REP
Barbara Z. Flynn	359	REP
Shirley M. Lamonna	359	REP
Nancy H. Wildblood	360	REP
Lynn H. Wildblood	360	REP
Marilyn G. Lawson	360	REP
George Slentz	373	REP
John Carter	377	REP
Jeff D. Miller	379	REP
Erik J. Sorensen	408	REP
Richard R. Ringler	085	DEM
Tod Zelickson	388	DEM
Lynne W. Hubert	096	REP
Thomas J. Krieger	214	REP
Mark A. Lawrence	336	REP
Glenda K. McCormick	341	REP
Debra L. Allen	341	REP
Delmas E. Dawley	362	REP
Ann Marie Marsh	366	REP
Kimberly A. Adair	366	REP
David F. Miller	366	REP
Merritt S. McGlothlin	384	REP
Mary L. Hurley	393	REP
Billy J. Motley	417	REP
Cathy C. Motley	417	REP

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

A. **Board of Adjustment, District 2**

1. Appointment of Richard Kessler to replace Page Isham. Term expiration: 6/30/15.
2. Reappointment of Victor Soltero. Term expiration: 6/30/14.

B. **Canoa Ranch Community Trust/Oversight Committee**

Appointment of Bill Mortimer. No term expiration. (Staff recommendation)

C. **Library Advisory Board**

Reappointment of Maureen Lueck. Term expiration: 6/30/15. (District 2)

D. **Pima Vocational High School Advisory Board**

Reappointments of Albert Garcia, Arnold Palacios and Mary Fellows. Term expirations: 7/31/14. (Committee recommendations)

E. **Pima County Housing Commission**

Appointment of David Godleski, representing Southern Arizona Homebuilder's Association, to fill the unexpired term of Jessica Whyde. Term expiration: 1/31/13. (County Administrator recommendation)

F. **Pima County Cooperative Extension Board**

1. Appointment of Paul Ellis to replace Roger Watson. Term expiration: 6/30/12. (Committee recommendation)
2. Reappointments: Lloyd Gabriel, Maria **Marie** Hirsch, Micaela K. McGibbon, Patrick Pacheco, and Barbara Stockwell, Alternate - Term expirations: 6/30/12; and Nancy Armstrong, Rick Frey, Alternate, and Marion Hannon, Alternate - Term expirations: 6/30/13. (Committee recommendations)

G. **County Attorney Investigators Local Retirement Board**

Appointment of Jennifer Barrera, Elected Representative, to fill the unexpired term of Kenneth R. Janes. Term expiration: 10/1/13. (Committee recommendation)

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

- A. Brian Adam Sturgeon, Northwest Firefighters Union, 7401 N. La Cholla Boulevard, Tucson, October 22, 2011.
- B. Pedro Pacheco, Knights of Columbus, Council No. 8077, 8650 N. Shannon Road, Tucson, July 23, 2011.
- C. William Dean Woodruff, Corpus Christi Catholic Church, 300 N. Tanque Verde Loop Drive, Tucson, August 13, 2011.
- D. Shari Renee Ordog, American Liver Foundation, Loews Ventana Canyon Resort and Spa, 7000 N. Resort Drive, Tucson, September 22, 2011.

5. **FINANCE AND RISK MANAGEMENT**

Duplicate Warrants – For Ratification

Arizona Bin Stock	\$ 27.53
Mildred Elias	\$150.00
Christopher Staring	\$499.80
Ashley Valdez	\$100.00
Charles Harrington	\$457.98
Jessica Sandahl	\$ 24.30

6. **PROCUREMENT**

Quarterly Contracts Report – 2nd Quarter, 2011

Pursuant to Pima County Code, Section 11.08.010, staff submits the quarterly report on contracts awarded from April 1, 2011 through June 30, 2011.

7. **RECORDER**

Pursuant to Resolution No. 1993-200, ratification of the Document Storage and Retrieval Fund for the month of May, 2011.

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:

China Star Super Buffet, Case No. C2011-04, proposed settlement amount is \$1,148.72.

9. CORRECTION FOR THE RECORD

The following item was approved by the Board of Supervisors on July 12, 2011. This is a correction of the Resolution number.

RESOLUTION NO. 2011 - ~~117~~, **123** of the Board of Supervisors, providing for the establishment of Spica Drive, a County highway situated within a portion of the southwest quarter of Section 24, T14S, R11E, G&SRM, Pima County, Arizona.

10. RATIFY AND/OR APPROVE

Minutes: June 7, 2011
June 30, 2011

Warrants: July, 2011

REGULAR AGENDA/ADDENDUM ITEMS

15. BOARD, COMMISSION, AND/OR COMMITTEE: Small Business Commission

Presentation of the 2011 Small Business Commission's Annual Report

Thomas Ward, Chairman of the Small Business Commission, recognized commission members in the audience. He reported on the past year's achievements and outlined future goals for the commission. He also advised that they would be bringing recommendations back to the Board in the fall to help educate the State Legislators on issues as they relate to small businesses in the procurement category.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to accept the report as presented.

16. COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION

A. Staff requested approval of the following Resolutions:

1. RESOLUTION NO. 2011 – 125, of the Board of Supervisors, redesignating Ajo as a Colonia in unincorporated Pima County and authorizing the Community Development and Neighborhood Conservation Department to apply for funds from the FY 2010/2011 Community Development Block Grant Program Colonias Set-Aside from the Arizona Department of Housing.
 2. RESOLUTION NO. 2011 – 126, of the Board of Supervisors, redesignating the South Nogales Highway Area as a Colonia in unincorporated Pima County and authorizing the Community Development and Neighborhood Conservation Department to apply for funds from the FY 2010/2011 Community Development Block Grant Program Colonias Set-Aside from the Arizona Department of Housing.
 3. RESOLUTION NO. 2011 – 127, of the Board of Supervisors, redesignating Rillito as a Colonia in unincorporated Pima County and authorizing the Community Development and Neighborhood Conservation Department to apply for funds from the FY 2010/2011 Community Development Block Grant Program Colonias Set-Aside from the Arizona Department of Housing.
 4. RESOLUTION NO. 2011 – 128, of the Board of Supervisors, redesignating Three Points as a Colonia in unincorporated Pima County and authorizing the Community Development and Neighborhood Conservation Department to apply for funds from the FY 2010/2011 Community Development Block Grant Program Colonias Set-Aside from the Arizona Department of Housing.
- B. Staff requested approval of the following specific projects for each Colonia:
1. Resolution No. 2011-125: Ajo Colonia – Home repair project for owner-occupied residents.
 2. Resolution No. 2011-126: South Nogales Highway Area – Home repair project for owner-occupied residents.
 3. Resolution No. 2011-127: Rillito – Water system improvements to the Rillito Water Users Association for the Community of Rillito.
 4. Resolution No. 2011-128: Three Points – Water system improvements to the High Chaparral Water Co-op located in the Three Points area.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to approve Resolution Nos. 2011-125 through 128, along with specific projects as listed.

17. **PROCUREMENT: Award**

Low Bid: Award of Contract, Requisition No. 1103210, to the lowest responsive bidder, Sundt Construction, Inc. (Corporate Headquarters: Tucson, AZ) in the amount of \$14,584,994.20 for the Base Bid plus Allowances 1 and 2, for the Pima Emergency Communications and Operations Center. The contract is for a fifteen month period and may be extended for project completion. Funding Source: 2004 Bond Fund. Administering Department: Facilities Management.

Chuck Huckelberry, County Administrator, presented an overview of the selection, planning and design process on the property located at 3434 E. 22nd Street designated for the Pima County Emergency Communications and Operations Center (PECOC). He spoke of the concerns by the Julia Keene, Neighborhood Homeowners Association and the Modern Architecture Preservation Project (MAPP). He assured the Board that they would continue to work with these groups and address their concerns.

Mr. Huckelberry explained the necessity of the tower to support the Pima County Wireless Integrated Network (PCWIN) public safety radio system and radio systems deployed by the Radio Amateur Civil Emergency Services (RACES), an organization which provides emergency radio communication services for the Office of Emergency Management and Homeland Security during times of natural, technological and terrorism hazards. He also addressed some of the significant operational and financial consequences of delays on this award and summarized by stating that although other alternatives had been seriously considered, the recommendations presented to the Board would provide for the optimal association, function and reliability of the facility to serve as Public Safety/Communication and Emergency Operations Center. He recommended that the contract be awarded to Sundt Construction, Inc., as recommended.

Board members expressed the difficulty of balancing the needs of the first responders with the concerns of the neighborhood and historical community representatives. Supervisor Elías and Chairman Valadez spoke of their concern about the insensitivity and failure to meet with the adjacent homeowners and other members of the community, in a more timely manner, to resolve or minimize problems.

John Moffatt, Strategic Planning Manager, responded to the Board's questions pertaining to the location and dates of the various public information meetings and clarified that the City of Tucson owned the tower.

Chairman Valadez asked about the implementation of Option B for the neighborhood. Mr. Moffat responded that anything could be done at the Board's will, however, Option B was not desirable due to potential security issues, functionality of adjacent activities, parking and cost effectiveness.

The following speakers addressed the Board:

- A. Demion Clinco, member of the Tucson-Pima County Historical Commission and Arizona State Advisor to the National Trust for Historic Preservation
- B. R. Brookes Jeffrey, Director of the Drachmann Institute and Vice President of MAPP
- C. Patrick Quinn, Deputy Chief of the Tucson Fire Department and Director of Tucson Homeland Security/Office of Emergency Management
- D. Mark Mayer, Co-Chair of the Julia Keene Neighborhood Association
- E. Douglas Chappell, Fire Chief of the Drexel Heights Fire District (DHFD)
- F. Dick Bays, Member of the Davis-Monthan Military Relations Committee
- G. Michael Toney, Citizen

They provided the following comments:

- 1. Pima County had been an incredible leader in historic preservation but failed to have adequate community and historical outreach on this project.
- 2. This building was an example of midcentury modern architecture. This type of architecture was now becoming a vital part of community re-developments throughout the country and needed to be protected.
- 3. In order for the Pima County Historical Commission to do their job, it was critical for them to become involved earlier in the process as was done successfully on the Wilmot Library.
- 4. Although there was a substantial failure to communicate adequately on this project, it should not be delayed as the first responders need the ability and equipment to communicate with each other during emergencies.
- 5. Time was of the essence to move the project forward due to the fact that it was not a matter of if, but when there would be a disaster in the community.
- 6. This process should be continued so other options could be considered and revisions incorporated to make it more compatible with the neighborhood and preserve the important architectural characteristics of the building.
- 7. Postpone this award for a few weeks to have the Davis Monthan's Community Relations Committee meet and discuss the potential accident zone.

Supervisor Carroll asked Linda Mayro, Pima County's Cultural Resource Manager, for her opinion on the historical mitigation of the site. Ms. Mayro explained her involvement with the staff from the MAPP, Cultural Resources and Historic Preservation Office, and the Arizona State Preservation Office. She stated that staff's efforts to meet cultural resource requirements and mitigate the impacts of the building improvements resulted in the preparation of historical documentation that would eventually be included in the National Register of Historic Properties.

On consideration, it was moved by Chairman Valadez not to award the contract until they could further pursue Option B. The motion died for lack of a second.

It was then moved by Supervisor Day and seconded by Supervisor Bronson to approve the award. No vote was taken at this time.

Supervisor Day stated that although she understood all of the concerns, this was a critical public safety bond project. She said significant time and effort had gone into the planning and design of this facility, the timetable was very tight, and the Board had a fiduciary responsibility to the voters to complete and deliver this project within cost and time constraints.

Supervisors Bronson and Carroll agreed that a postponement would not accomplish anything significantly different, and it was important to award this contract due to the time constraints. They also emphasized that they wanted to ensure that all parties would continue to communicate with the affected neighborhood and other special interest groups to mitigate their concerns.

Supervisor Elías agreed that supporting the award was important but felt that the neighborhood should have had more time to review and digest the information.

A substitute motion was made by Supervisor Elías, seconded by Chairman Valadez, to postpone the award for two weeks. Upon the vote being taken, the motion failed by a 2-3 vote, Supervisors Bronson, Day and Carroll voting "Nay."

The original motion to approve the award as recommended carried by a 3-2 vote, Supervisor Elías and Chairman Valadez voting "Nay."

18. REGIONAL WASTEWATER RECLAMATION: Pretreatment Settlement Agreement

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

Fox Restaurant Concepts, L.L.C., d.b.a. Zinburger, Case No. C2011-11. The proposed settlement provides for performance of a Supplemental Environmental Project (SEP) by installing a 1,000 gallon hydromechanical grease interceptor (HGI) within six months of the execution of this agreement, to defer a financial penalty of \$6,000.00, in accordance with the Industrial Wastewater Enforcement Response Plan.

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

19. TRANSPORTATION: Acceptance of Project/Roadway for Maintenance

Spica Drive, between Constellation Way and Milky Way Drive, a portion of San Joaquin Estates, T14S, R11E, Section 24, Book 28, Page 5. (District 3)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to accept the project/roadway for maintenance.

20. **BOARD OF SUPERVISORS: Proposed Helmet Peak Fire District Impact Statement**

- A. Pursuant to A.R.S. §48-261.A.4, hold a public hearing on the Impact Statement for the proposed Helmet Peak Fire District (HPFD).
- B. If the Board of Supervisors determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall approve the District Impact Statement and authorize the persons proposing the district to circulate petitions.

--or--

Deny (If denied, a subsequent request for a similar district may be refiled with the Board of Supervisors after six months from the date of such denial.)

The Chairman inquired whether anyone wished to be heard.

The following speakers addressed the Board:

- A. Joe Moody, Resident
- B. Demine Peterson, HPFD Employee
- C. Wally Carnes, HPFD Volunteer

They provided the following comments:

- 1. The annexation was not wanted due to lengthy response time that would not save their property.
- 2. Approving this matter would increase taxes.
- 3. The Impact Statement should be approved to allow HPFD to move forward and ultimately have the ability to provide better service with better equipment.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing, and determine that the public health, comfort, convenience, necessity or welfare would be promoted, approve the District Impact Statement and authorize the persons proposing the district to circulate petitions.

21. **FRANCHISES/LICENSES/PERMITS: Liquor Licenses**

- A. 11-16-9077, Cathy Jo Reece, The Challenge at Santa Rita, 16461 S. Houghton Road, Corona, Series 6, Bar, Person Transfer.
- B. 11-17-9078, Roger Kenneth Burton, Giant No. 625, 2075 W. Ruthrauff Road, Tucson, Series 10, New License.

- C. 11-18-9079, Roger Kenneth Burton, Giant No. 624, 6855 E. Sunrise Drive, Tucson, Series 10, New License.

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

It was thereupon moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearings, approve the liquor licenses and forward the recommendations to the Arizona State Liquor Licenses and Control.

22. FORENSIC SCIENCE: Fee Schedule

ORDINANCE NO. 2011 – 50, of the Pima County Board of Supervisors, relating to Forensic Science fees, repealing the current fee schedule and adopting a new fee schedule.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day, and unanimously carried by a 5-0 vote, to close the public hearing and approve Ordinance No. 2011-50.

23. TRANSPORTATION: Traffic Ordinance

ORDINANCE NO. 2011 – 51, of the Board of Supervisors, establishing prima facie reasonable speed limits on Old Nogales Highway in Pima County, Arizona. Staff recommends APPROVAL. (Districts 2 and 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve Ordinance No. 2011-51.

24. COUNTY ADMINISTRATOR: Quarterly Management Report on Collections

Staff recommends acceptance of the Quarterly Management Report on Collections for the period ending March 31, 2011, and approval of the write-off request in the amount of \$106,818.60.

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.

25. SUPERIOR COURT: Classification and Compensation

Superior Court requests approval of the salary adjustments for two court reporters as follows:

<u>PCN</u>	<u>Effective Date</u>	<u>New Rate</u>
003108	7/17/2011	\$26.9586
003099	4/8/2012	\$26.9586

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

26. PROCUREMENT: Appeal of Procurement Director's Decision

Pursuant to Pima County Code Section 11.20.010(J), Sellers & Sons Inc., appeals the decision of the Procurement Director regarding Solicitation No. 1103015 – Sports/Security Lighting and Installation Services.

George Widugiris, Pima County Procurement Director, advised that the protest appeal before them pertained to a bid solicitation by Sellers & Sons, Inc. for a job order contract for sports and/or security lighting and installation. He explained that the issue involved the submittal of a proposal without a signature. The appellant, a provider of these services in the past, contended that failure to sign a proposal that otherwise met all of the requirements of the solicitation did not render a proposal non-responsive and that their proposal should be included in the competition.

Mr. Widugiris stated that Procurement's interpretation of the applicable Procurement Rule provided that an unsigned submission was non-responsive and could not be accepted. He explained that the rejection was a standard practice that was typically applied to unsigned bids or proposals that contained expressed commitments. After carefully weighing whether or not the unsigned submission could be accepted, and because there was not specific authority granted to Procurement in the Procurement Code to substantiate such action, they ultimately concluded that the correct and conservative approach would be to reject the submission as non-responsive.

Michael Sellers, appellant, appeared before the Board and confirmed that this was a simple mistake and hoped that because it was not a price base bid and did not require a bid bond, that the submission would be accepted.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to grant the appeal and move forward with the RFP process.

27. CONTRACTS: Health Department

- A. RESOLUTION NO. 2011 - 129, approving and authorizing the execution of an Intergovernmental Agreement with the City of Tucson, to provide animal care enforcement services for the term 7/1/11 to 6/30/13, contract amount ~~\$3,800,000.00~~ **\$6,000,000.00** estimated revenue (CTN-HD-12-000031)
- B. State of Arizona, Department of Corrections, Amendment No. 2, to provide inmate labor pool services for the Pima Animal Care Center and extend contract term to 8/31/12, General Fund, contract amount \$25,000.00 (CT-HD-12-000619)

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 – 129 and approve the contracts.

28. BOARD, COMMISSION AND/OR COMMITTEES

Pima County/Tucson Women's Commission

Reappointment of Nena Ashton. Term expiration: 12/31/12. (District 4)

Pima County Housing Commission

Appointment of Ray Clarke to fill the unexpired term of Brad Smith. Term expiration: 12/31/12. (District 4)

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

29. REAL PROPERTY: Award of Purchase Contract

Consent by the Board of Supervisors for the Award of Purchase Contract for the sale of Posada del Sol Health Care Center located at 2250 N. Craycroft Road, Tax Parcel Nos. 121-05-0140, 0150, 016A, 017F and 017J, to Hunter Properties Investments, L.L.C., in the amount of \$7,800,000.00. The term of the sale is cash with a \$500,000.00 deposit received as earnest money.

Without objection, this item was continued to the Board of Supervisors' Meeting scheduled for August 15, 2011.

30. REAL PROPERTY: Partial Revocation of Restrictions and Covenants Running With the Land

Staff recommends approval of the request of Casa International, Inc., an Arizona Corporation, for the release of the lot splitting provision stated in the Declaration of Restrictions and Covenants Running with the Land recorded October 17, 1985 in Docket 7641 at Page 899. (District 1)

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

31. CALL TO THE PUBLIC

The Chairman inquired whether anyone wished to be heard.

Sheldon Gutman spoke to the Board regarding the need for more emphasis on baseball versus soccer in the community, the potential of major league spring training coming to Marana and the possibility of a new stadium on Tangerine Road.

Michael Toney addressed the Board regarding environmental issues pertaining to Rosemont Mine and the problems with the Federal Government.

32. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 1:45 p.m.



CHAIRMAN

ATTEST:



CLERK