

MINUTES, BOARD OF SUPERVISORS' MEETING

DECEMBER 20, 2011

The Pima County Board of Supervisors met in regular session at their regular meeting place in the Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 20, 2011. Upon roll call, those present and absent were as follows:

Present: Ramón Valadez, Chairman
 Sharon Bronson, Vice Chair
 Ray Carroll, Member
 Ann Day, Member
 Richard Elías, Member
 Robin Brigode, Clerk

1. **INVOCATION**

The invocation was given by Pastor Craig Coulter, Oro Valley Church of the Nazarene.

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. **CALL TO THE PUBLIC** (for Executive Session items only)

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

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:07 a.m.

5. **RECONVENE**

The meeting reconvened at 9:36 a.m. All members were present.

6. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding a request by the law firm of DeConcini, McDonald, Yetwin and Lacy, P.C., that Pima County waive a concurrent conflict of interest to allow attorney Barry M. Corey to represent the Pima County Merit System Commission in the County's appeal of a decision by the Merit Commission in the Bennett matter.

Chris Straub, Chief Civil Deputy County Attorney, reported this was a request by Barry Corey of the law firm of Deconcini, McDonald, Yetwin and Lacy, P.C., that Pima County waive a concurrent conflict of interest to allow Mr. Cory to represent the Pima County Merit System Commission in the County's Superior Court Appeal of a decision by the Merit Commission in the Bennett matter. As with all waivers of conflict, the Board has complete discretion as to whether or not to waive the same. In this case, a waiver should not be construed as a waiver of the County's position that the Commission has no standing whatsoever to participate in the Bennett matter other than as a nominal party.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and carried by a 4-0 vote, Supervisor Elías voting "Nay," to deny the request to waive the conflict of interest.

7. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding a proposed settlement in Pima County v. Arizona La Cholla, L.L.C., et al, Pima County Superior Court Case No. C20108312.

Chris Straub, Chief Civil Deputy County Attorney, explained that Pima County was condemning right-of-way, a drainage easement and a slope easement as part of the Cortaro Farms/Magee Road: Thornydale Road to Oracle Road Project. The parties participated in mediation and reached a proposed settlement, subject to approval by the Board of Supervisors. Under the terms of the proposed settlement, as compensation for the property interests acquired, Pima County would pay \$475,000.00 plus statutory interest to defendants, convey surplus right-of-way to Arizona La Cholla, L.L.C., and make available 20,000 cubic yards of fill material to Arizona La Cholla. L.L.C., along with other terms and conditions. The County Administrator and the County Attorney's Office recommended approval of the proposed settlement.

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

8. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding alternative dispute resolution options in Dos Picos Land Limited Partnership v. Pima County, Maricopa County Superior Court Case No. CV2010-098366.

Chris Straub, Chief Civil Deputy County Attorney, reported that Dos Picos alleged it was entitled to compensation based on the County's designation of Level One Peaks and Ridges in Ordinance No. 2005-63. The Court has requested the parties' preference regarding mandatory alternative dispute resolution. The County Attorney's Office requested direction on whether to participate in the Court's Mandatory Settlement Conference Program or to agree to private mediation with the plaintiff.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to proceed with the Mandatory Settlement Conference Program.

9. **CONSENT CALENDAR**

A. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard on any item listed for action on the Consent Calendar. No one appeared.

PULLED FOR SEPARATE ACTION

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

A. **Environmental Quality Advisory Committee**

Appointment of Linda Hanson to replace Allan H. MacDonald, Public Interest. Term expiration: 12/31/14. (District 4)

Supervisor Elías questioned the appointment as this was typically non-political and appointment recommendations were presented by the Committee.

On consideration, it was moved by Supervisor Carroll, and seconded by Supervisor Bronson, to continue the item to the Board of Supervisor's meeting of January 17, 2012. No vote was taken at this time. Supervisor Elías asked that the item be removed from the agenda. Supervisor Carroll withdrew his motion.

It was thereupon moved by Supervisor Carroll, seconded by Supervisor Bronson and carried by a 5-0 vote, to remove the appointment from the agenda.

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, to approve the Consent Calendar as amended.

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. CONTRACTS AND AWARDS

A. County Attorney

1. Slosser, Struse, Fickbohm, Marvel and Fletcher, P.L.C., Amendment No. 1, to provide legal representation of the Public Fiduciary in a claim by Ginger Rodgers Rappeport and amend contractual language, Risk Management Tort Fund, contract amount \$50,000.00 (CT-FN-12001410)

B. Forensic Science Center

2. RESOLUTION NO. 2011 - 203, approving an Intergovernmental Agreement with Pinal County, to provide medical examiner services, contract amount \$1,868,158.00 revenue (CTN-FSC-12000397)

C. Health Department

3. Arizona Department of Health Services, Amendment No. 7, to provide for the Tuberculosis Control Program, extend contract term to 12/31/12 and amend contractual language, Federal Fund, contract amount \$83,338.00 revenue (CTN-HD-CMS140692)
4. AWASA, Inc., Amendment No. 2, to provide spay and neuter services, extend contract term to 12/13/12 and amend contractual language, Health Fund, contract amount \$220,000.00 (CT-HD-12000834)

D. Procurement

Award

5. Amendment of Award: Dell, MA-B507372-BC, to provide computer equipment, peripherals and related services and increase contract amount by \$1,192,500.00. Funding Source:

E. Regional Wastewater Reclamation

- 6. RESOLUTION NO. 2011 - 204, approving an Intergovernmental Agreement with Pascua Yaqui Tribe, to provide for interim sewer services to the Tribe's Hotel Resort Complex, contract amount \$919,179.00 revenue (CTN-WW-12000407)
- 7. Fairfield "Canoa Ranch," L.L.C., to provide for the construction of improvements and sanitary sewer services for Blocks 1 through 29 and 36, no cost (CTN-WW-12000402)

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>
James P. Hannley	037	DEM
Kent E. Coach	328	DEM
Diana L. Froehlich	058	REP
James H. Kelley	296	REP

<u>APPOINTMENTS</u>	<u>PRECINCT</u>	<u>PARTY</u>
Sharon A. McCormick	182	DEM
Philip S. Friedland	314	DEM
Linda C. Zupi	006	REP

3. BOARDS, COMMISSIONS AND/OR COMMITTEES

A. Environmental Quality Advisory Committee

(PULLED FOR SEPARATE ACTION)

B. Public Safety Retirement Board

Appointment of Sgt. Patrick McGhee to replace Randall Nice. Term expiration: 12/31/15. (Committee recommendation)

FINANCE AND RISK MANAGEMENT

4. Duplicate Warrants – For Ratification

Home Builders, L.L.C. \$1,971.00

Shawn Degan	\$ 78.00
EZ Messenger	\$ 350.00
Zenecom, Inc.	\$ 89.95
Kids View Communications Corp.	\$3,950.00
Richard Lougee	\$6,825.00
Kids View Communications Corp.	\$1,605.00

5. REAL PROPERTY

- A. RESOLUTION NO. 2011 - 205, of the Pima County Board of Supervisors, providing for the vacation of a portion of unnamed public road right-of-way, as Pima County Road Abandonment No. A-11-11 within Section 12, T13S, R13E, G&SRM. (District 1)
- B. Quit Claim Deed to John W. Mallo, a married man, as his sole and separate property. No revenue. (District 1)

6. SPECIAL TAXING DISTRICT

Pursuant to A.R.S. §16-642(B), presentation of the certified copy of the official canvass for the November 15, 2011 Election conducted by the Flowing Wells Irrigation District.

7. RATIFY AND/OR APPROVE

Minutes: November 1, 2011
November 8, 2011

REGULAR AGENDA/ADDENDUM ITEMS

10. COUNTY ADMINISTRATOR

RESOLUTION NO. 2011 - 206, of the Board of Supervisors, relating to cost shifts and revenue reductions by the State of Arizona.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to adopt Resolution No. 2011 - 206.

11. ELECTIONS DEPARTMENT

The Board of Supervisors on 12/6/11 continued the following:

Staff recommends establishment of the Consolidated Election Precincts and Polling Places for the February 28, 2012 Presidential Preference Election

Brad Nelson, Elections Director, provided a background report on the regulations and statutory requirements for the Presidential Preference Election. He further explained that two plans were being presented for consideration. In summary, Plan

A would designate 131 polling places for 240 election precincts and establish All Mail Ballot voting in an additional 177 precincts; Plan B would designate 190 polling places for 407 precincts and establish All Mail Ballot voting in 10 precincts. He reported that Plan B would cost Pima County an additional \$125,000.00 that would not be reimbursed by the State.

The following speakers addressed the Board:

- Carolyn Cox, Chairman of the Pima County Republican Party
- Benny White

They provided the following comments:

- Concern was expressed that Plan A could cause voter confusion and disenfranchise many voters.
- The Pima County Republican Party supported Plan B.
- Mixing All Mail Ballot precincts with regular voting precincts would require voter education.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day, and unanimously carried by a 5-0 vote, to approve Plan B as presented by Brad Nelson, Elections Director, which would designate 190 polling places for 407 precincts and would establish All Mail Ballot voting in 10 precincts; and additionally direct the creation of a stakeholder group, to include all political parties and minority organizations, to make long term recommendations regarding this process.

12. **INDUSTRIAL DEVELOPMENT AUTHORITY**

- A. RESOLUTION NO. 2011 - 207, of the Board of Supervisors, approving the proceedings of the Industrial Development Authority of the County of Pima regarding the issuance of its Revenue Bonds (La Frontera Project), Series 2012 in an aggregate principal amount not to exceed \$8,000,000.00 and declaring an emergency.
- B. RESOLUTION NO. 2011 - 208, of the Board of Supervisors, approving the proceedings of the Industrial Development Authority of the County of Pima regarding the issuance of its Education Revenue Bonds (BASIS Tucson North Project), Series 2012 in an amount not to exceed \$10,000,000.00 and declaring an emergency.
- C. RESOLUTION NO. 2011 - 209, of the Board of Supervisors, approving the proceedings of the Industrial Development Authority of the County of Pima regarding the issuance of its Revenue Bonds (EMPACT-SPC Project), Series 2012 in an aggregate principal amount not to exceed \$3,250,000.00 and declaring an emergency.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor

Elías and unanimously carried by a 5-0 vote, to adopt Resolution Nos. 2011 - 207, 208 and 209.

13. **COUNTY ADMINISTRATOR: QUARTERLY MANAGEMENT REPORT ON COLLECTIONS**

Staff recommends acceptance of the Quarterly Management Report on Collections for the period ending September 30, 2011 and approval of the write-off requests in the amount of \$93,433.00

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

14. **COUNTY ADMINISTRATOR: JOINT JUSTICE/MUNICIPAL COURT COMPLEX**

Award of a Guaranteed Maximum Price (GMP) contract in the amount of \$48,252,587.00 for Phase 1 construction of the Joint Justice/Municipal Court Complex (JJMCC) to Sundt Construction Company. Discussion/Direction/Action.

Chuck Huckelberry, County Administrator, briefed the Board and offered three alternatives for consideration. Alternative One would place the project on hold until a possible future bond election; Alternative Two would request Sundt Construction Company to continue the GMP contract terms/amounts for 90 days which would require a cost escalator of possibly \$1 million for Phase One; and Alternative Three would move forward with the JJMCC shell, physical plant and limited site improvements under the terms of the GMP contract with Sundt using the Property Tax Stabilization Fund, after the bond proceeds have been expended, with the hope that the City of Tucson would come to an agreement with the County regarding their fair share participation in the GMP contract and future tenant improvements, as well as operating and maintenance costs. He further explained that Alternate Three would achieve between \$6 and \$9 million in construction cost savings, avoid wasting \$650,000.00 in GMP and architect/engineer fees and reduce County Justice Court rent costs by approximately \$3.4 million in the future. The project would employ 154 subcontractors and suppliers with overall employment of 703 fulltime equivalents.

Supervisor Day questioned what would happen if the City of Tucson backed out and did not participate in this project. She wanted to move forward as the voters had intended. She asked if use of the Property Stabilization Fund would result in an increase for next year's tax rate as the County would still be experiencing a weak net assessed value.

Mr. Huckelberry responded that a contingency plan had been developed with the Court Committee that would ensure the building would be fully utilized by the County. He stated that approval of the use of the Property Stabilization fund would not necessitate a tax rate increase.

The following speakers addressed the Board:

- Dan Sullivan
- Ally Miller
- Keith Van Heyningen
- Judge Salle Sims

They provided the following comments:

- The following were read from the support letter of Lawrence Hecker:
 - This proposal makes good fiscal sense and will provide substantial other benefits; including, in no particular order, the following:
 - There will be a substantial cost savings to the taxpayers under the proposed Sundt contract.
 - There will be a substantial cost savings to the taxpayers by proceeding with a substantial part of the building now while construction costs remain low.
 - Downtown is undergoing a major resurgence. Moving forward on this project now will eliminate an eye-sore at one of the major gateways to downtown.
 - The construction will provide well paying jobs and an immediate economic stimulus.
 - The important project will be closer to completion when additional funds become available.
 - Additional and much needed parking will be available to visitors to downtown.
- Fictional accounts regarding the Bond Committee have been circulating in City Council Wards. A City of Tucson representative was present, participated and supported the action of the Committee at their meetings
- The threat of construction price increases were just a scare tactic, especially in this market.
- The Sundt contract negotiations and timelines were questioned.
- The project should be put on hold until the City of Tucson has committed.
- Too much time has elapsed between voter approval and the start of this project.
- The project costs were high for each identified phase.
- The Court supports moving forward with the project and an assurance was given that all space would be utilized.

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Bronson, and carried by a 4-1 vote, Supervisor Carroll voting “Nay,” to approve Alternative 3 which would award the Phase 1 GMP contract to Sundt Construction Company in the amount of \$48,252,587.00 with financing from remaining General Obligation Bond Funds associated with the bond question in the estimated amount of \$26 million and the use of the Property Tax Stabilization Fund for the balance estimated to be \$22 million; and to require the City of Tucson to repay the Property Tax Stabilization Fund their fair and reasonable share with interest commensurate with typical and traditional lease/purchase financing that could occur on the open market in mid 2012.

15. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. City of Tucson, Amendment No. 2, to provide for the Dunbar Spring Neighborhood Reinvestment Project and extend contract term to 12/31/12, no cost (CT-CD-12000481)

B. **Health Department**

2. Community Food Bank, Amendment No. 1, to provide for the expansion of the Healthy Food Access Program and amend contractual language, HHS/CDC and ARRA 2009 Funds, contract amount \$284,550.00 (CT-HD-12000748)
3. YMCA of Southern Arizona, Amendment No. 2, to provide for the Worksite Wellness and Team Coordination Program and amend contractual language, HHS/CDC and ARRA 2009 Funds, contract amount \$123,424.00 (CT-HD-12000770)

C. **Institutional Health**

4. RESOLUTION NO. 2011 - 210, approving an Intergovernmental Agreement with Mohave County, to provide for restoration to competency services, contract amount \$20,000.00 revenue/dependent on utilization (CTN-IH-12000428)

D. **Medical and Health Services**

5. Evercare of Arizona, Inc., Amendment No. 1, to provide for the reimbursement of services for Arizona Long Term Care members in residence at Posada del Sol and assignment to Foothills Rehabilitation Center, L.L.C., no cost (CTN-PH-12000193)
6. Stat-Med, Inc., Amendment No. 3, to provide specialized durable medical equipment and assignment to Foothills Rehabilitation Center, L.L.C., no cost (CT-PH-CMS142733)
7. Southwest Catholic Health Network, d.b.a. Mercy Care Plan, Amendment No. 1, to provide for the reimbursement of services for Arizona Long Term Care members in residence at Posada del Sol and assignments to Foothills Rehabilitation Center, L.L.C., no cost (CTN-PH-12000194)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to approve the contracts and adopt Resolution No. 2011 - 210.

16. **CONTRACTS AND AWARDS**

A. **Procurement – Awards**

1. Amendment of Award: Silicon Alley Group, Inc., MA-PO-12000180, Amendment No. 1, to provide Information Technology consulting services and increase contract amount in the amount of \$475,000.00. Funding Source: General Fund. Administering Department: Information Technology.
2. Amendment of Award: SA Technologies, MA-PO-B504117-BC, Amendment No. 7, to provide Information Technology consulting services and increase contract amount in the amount of \$425,000.00. Funding Source: General Fund. Administering Department: Information Technology.
3. Direct Select: Award of Contract, Requisition No. 12000690, in the amount of \$140,000.00 to Infor Global Solutions, Inc., (Headquarters: Michigan, IL) for mainframe payroll system support. Contract is for a one year term. Funding Source: General Fund. Administering Department: Information Technology.

B. **Real Property**

4. Mt. Clemens Tucson, L.L.C., to provide a Purchase Agreement for the acquisition of 125 acres of vacant land, Tax Parcel Nos. 141-21-0260, 141-25-0150 and 141-25-0140, 2004 Bond Fund, contract amount \$1,639,000.00 including closing costs (CT-PW-12001806)
5. SCCREI Ranch, L.L.C., BCCREI Ranch, L.L.C., RCCREI Ranch, L.L.C., CFCREI Ranch, L.L.C., CMCMCC Holdings, L.L.C., BDCMCC Holdings, L.L.C., RKCMCC Holdings, L.L.C., CCFMCC Holdings, L.L.C., KEMF-MCC L.L.C., and Marley Cattle Company, L.L.P., to provide the First Amendment to Purchase and Option Agreement for Marley Ranch, and Partial Release of Memorandum of Phase 2 and Phase 3 Options; Partial Release of Easements; Partial Release of Covenant; Modification of Memorandum of Phase 2 and Phase 3 Options, no cost (CTN-PW-12000441)

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

17. **BOARD, COMMISSION AND/OR COMMITTEE: BOARD OF ADJUSTMENT, DISTRICT 1**

Reappointment of Charles Geoffrion. Term expiration: 11/18/15.

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

18. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

- Geri Ottoboni, addressed the Board regarding granting Raytheon tax relief.
- Keith Van Heyningen spoke regarding the Rosemont Mine and the area's need for industry.

19. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 10:56 a.m.



CHAIRMAN

ATTEST:



CLERK