

MINUTES, FLOOD CONTROL DISTRICT BOARD

NOVEMBER 20, 2012

The Pima County Flood Control District Board 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, November 13, 2012. 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. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding Pima County v. Clyde Gilmore et al., Pima County Superior Court Case No. C20114605.

Chris Straub, Chief Civil Deputy County Attorney, stated the case involved a condemnation of a 1.38 acre portion of the defendants' property. He explained that the proposed settlement would result in additional condemnation of approximately 5.75 acres from the defendant for future flood control and linear park purposes. In addition, the defendants would receive 9.55 acres of adjacent Flood Control District property as well as a total of \$86,400.00 as compensation for all property interests acquired and any claimed damages to the remaining property. The Flood Control District would also receive a right of first refusal to purchase the remaining property if and when it becomes available for sale. The County Administrator and County Attorney's Office recommended the settlement.

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

2. CONTRACTS

- A. RESOLUTION NO. 2012 – FC6, approving a Purchase Agreement with The Rincon Institute for 8.9 acres of open space located at E. Speedway Blvd. and the Tanque Verde Wash, 2004 Bond Fund, contract amount not to exceed \$158,000.00 including closing costs (CT-PW-13000409)
- B. The Rincon Institute, Susan M. North and Susan M. North as Trustee, to provide a Consent, Transfer and Assignment of a Conservation Easement, no cost (CTN-PW-13000159)

- C. RESOLUTION NO. 2012 – FC7, approving a Purchase Agreement with Lois Kelly, Trustee of the Jack and Lois Kelly Revocable Trust of 1984, for 148 acres of open space, Tax Parcel Nos. 205-20-004D; 205-17-002D; 205-17-005L; 205-21-002F; 205-21-002E; 205-22-002A; 205-17-010K; 205-17-010J; 205-17-0080; and 205-17-007B, 2004 Bond Fund, contract amount not to exceed \$410,000.00 including closing costs (CT-PW-13000418)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to approve the contract and adopt Resolution Nos. 2012-FC6 and 2012-FC7.

3. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 10:57 a.m.



CHAIRMAN

ATTEST:



CLERK

MINUTES, BOARD OF SUPERVISORS' MEETING

NOVEMBER 20, 2012

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, November 20, 2012. 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 Reverend John Miller, Northwest Bible Church.

2. **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

3. **PERSONAL POINT OF PRIVILEGE**

Supervisor Elías offered holiday wishes to everyone. Chairman Valadez recognized District 1 Supervisor-Elect Ally Miller.

4. **PAUSE 4 PAWS**

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

5. **PRESENTATION/PROCLAMATION**

Presentation of a proclamation to Brandt Hazen, President, and Judy McDermott, CEO, Tucson Conquistadores, proclaiming November 20, 2012 to be:

“TUCSON CONQUISTADORES DAY”

Supervisor Valadez presented the proclamation and thanked the Conquistadores for their fundraising efforts for the youth of Pima County.

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

6. **PRESENTATION**

Presentation of Tucson Mountains Association 2012 Public Servant of the Year Award to Supervisor Sharon Bronson, for dedicated support for West Side Open Space and Preservation.

Dr. Ivy Schwartz, President of the Tucson Mountains Association presented Supervisor Bronson with the 2012 Public Servant of the Year Award. The Board took no action on this item.

... **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:17 a.m.

7. **RECONVENE**

The meeting reconvened at 9:38 a.m. All members were present.

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

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

9. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding Pima County v. Clyde Gilmore et al., Pima County Superior Court Case No. C20114605.

Chris Straub, Chief Civil Deputy County Attorney, stated the case involved a condemnation of a 1.38 acre portion of the defendants' property. He explained that the proposed settlement would result in additional condemnation of approximately 5.75 acres from the defendant for future flood control and linear park purposes. In addition, the defendants would receive 9.55 acres of adjacent Flood Control District property as well as a total of \$86,400.00 as compensation for all property interests acquired and any claimed damages to the remaining property. The Flood Control District would also receive a right of first refusal to purchase the remaining property if and when it becomes available for sale. The County Administrator and County Attorney's Office recommended the settlement.

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

10. **CONSENT CALENDAR**

A. **CALL TO THE PUBLIC (for Consent Calendar items only)**

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

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 in its entirety.

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. Habitat for Humanity, Amendment No. 3, to provide for the Neighborhood Stabilization Program 2 Redevelopment Project and amend contractual language, Federal NSP2 HUD Fund, contract amount \$120,000.00 (CT-CD-13000342)
2. Southern Arizona Land Trust, Inc., Amendment No. 2, to provide for the Neighborhood Stabilization Program 2 Consortium Funding Agreement and amend contractual language, HUD Federal Fund, contract amount \$345,000.00 (CT-CD-12000347)
3. Tohono O'odham Nation, to provide the sub recipient, Clinica Amistad, medical supplies, services and operational support, Indian Gaming Revenue Fund, contract amount \$43,440.00 revenue (CTN-CD-13000133)
4. Tohono O'odham Nation, to provide the sub recipient, Flowing Wells Unified School District No. 8, the Payless Shoe Cards Program, Indian Gaming Revenue Fund, contract amount \$3,000.00 revenue (CTN-CD-13000134)
5. Tohono O'odham Nation, to provide the sub recipient, Avra Valley Fire District, a fire truck, Indian Gaming Revenue Fund, contract amount \$259,947.30 revenue (CTN-CD-13000135)

6. Tohono O'odham Nation, to provide the sub recipient, Elephant Head Volunteer Fire Department, operational funding expenses, Indian Gaming Revenue Fund, contract amount \$8,095.00 revenue (CTN-CD-13000136)
7. Tohono O'odham Nation, to provide sub recipient American Lung Association, the Asthma Management Program, Indian Gaming Revenue Fund, contract amount \$50,000.00 revenue (CTN-CD-13000142)
8. Tohono O'odham Nation, to provide the sub recipient, Southern Arizona Children's Advocacy Center, advocate and operational expenses, Indian Gaming Revenue Fund, contract amount \$15,000.00 revenue (CTN-CD-13000143)
9. Tohono O'odham Nation, to provide the sub recipient, USA Youth Sports, capital improvements, Indian Gaming Revenue Fund, contract amount \$49,544.00 revenue (CTN-CD-13000144)
10. Tohono O'odham Nation, to provide the sub recipient, St. Lukes in the Desert, Inc., room air conditioning and heating units, Indian Gaming Revenue Fund, contract amount \$54,400.00 revenue (CTN-CD-13000145)
11. Tohono O'odham Nation, to provide the sub recipient Southern Arizona Community Sports, Inc., the Southern Arizona Indoor Sports Center, Indian Gaming Revenue Fund, contract amount \$50,000.00 revenue (CTN-CD-13000146)
12. Tohono O'odham Nation, to provide the sub recipient, GAP Ministries, the Backpack-2- School Program, Indian Gaming Revenue Fund, contract amount \$5,000.00 revenue (CTN-CD-13000147)
13. Tohono O'odham Nation, to provide the sub recipient, International Sonoran Desert Alliance, the GED and Jobs Program, Indian Gaming Revenue Fund, contract amount \$15,300.00 revenue (CTN-CD-13000148)

B. County Attorney

14. Eller Executive Education, to provide a Leadership Development Program, Special Revenue Fund, contract amount \$60,000.00 (CT-PCA-13000381)

C. **Health Department**

15. Pima Council on Aging, Amendment No. 1, to provide direct health services and supportive counseling and amend contractual language, no cost (CTN-HD-13000045)

D. **Information Technology**

16. Alltel Communications Southwest Holdings, Inc., d.b.a. Verizon Wireless, Amendment No. 8, to provide a Non-Exclusive Right-of-Way Use License and amend contractual language, no cost (CTN-IT-CMS140044)

E. **Institutional Health**

17. Arizona Health Care Cost Containment System (AHCCCS), Amendment No. 1, to provide for the Hospital Graduate Medical Education Program, amend contractual language and extend contract term to 11/30/12, General Fund, contract amount \$22,636.49 (CT-IH-13000124)
18. Arizona Health Care Cost Containment System (AHCCCS), Amendment No. 1, to provide for the Hospital Graduate Medical Education Program, amend contractual language and extend contract term to 11/30/12, General Fund, contract amount \$439,050.23 decrease (CT-IH-13000125)

F. **Procurement**

Awards

19. Limited Competition: Award of Contract, Requisition No. 130000000000000055, Granite Construction Company (Headquarters: Tucson, AZ), for overburden material in the annual amount of \$450,000.00. The award amount is for \$2,250,000.00 for a five year term. Funding Source: General Fund. Administering Department: PDEQ/Solid Waste.
20. Low Bid: Award of Contract, Requisition No. 66922 in the amount of \$339,300.00 to the lowest responsive bidder, 4-L Construction, Inc., (Headquarters: Tucson, AZ) for the Pima County Mission Road Complex Building 24 Remodel. The contract is for an eight (8) month period and may be extended for project completion. Funding Source: Fleet Services Special Revenue Fund. Administering Department: Facilities Management.

G. Sheriff

21. Arizona Department of Homeland Security, Amendment No. 1, to provide a Subgrantee Agreement and extend contract term to 11/30/12, no cost (CTN-SD-12000375)

2. JUSTICE COURTS: JUDGE PRO TEMPORE

Appointment of John Peck as Judge Pro Tempore for the period July 1, 2012 through June 30, 2013.

3. FINANCE AND RISK MANAGEMENT: DUPLICATE WARRANTS – FOR RATIFICATION

Paul Jablonka	\$	140.00
Foothills Hotel Investors, L.L.C.	\$	163.65
Grace F. Gartner	\$	241.44
Gabriel Noperi	\$	9.35
Rhyme Wilson	\$	195.00
Susan Dodd	\$	140.00
George Edward Schlager	\$	15.58
Merrijo Ann Smith	\$	22.25
Claude Niragira	\$	670.00
Tina Liao	\$	100.00
Enrique Carrillo	\$	174.52
The State of Arizona	\$	72.00
Vernon D. Van Oosterhout	\$	140.00
City of Tucson	\$	51,817.61
Chicanos Por la Causa	\$	16,262.12
Barbara Lapczynski	\$	140.00
Bernadette Sousa Medrano Wall	\$	64.05
DataLink Software Consultants	\$	7,080.00
Cheryl T. Rogers	\$	75.00
Stephen Bleich	\$	140.00
Wood Stock Builders, Inc.	\$	10,111.82
Aadland Graves & Associates, Inc.	\$	1,000.00

4. TREASURER'S OFFICE: DUPLICATE WARRANTS – FOR RATIFICATION

Kirsti P. Crawley \$83.32

5. 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, 3035 W. El Camino del Cerro, Tucson, Arizona 85745-9750. 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:

Ole Mexican Grill, Case No. C2012-19. The proposed settlement of completion of a supplemental environmental project (SEP), attendance at pollution school, and acquisition of a permit is in accordance with the Industrial Wastewater Enforcement Response Plan.

6. RATIFY AND/OR APPROVE

Minutes: October 2, 2012
 October 9, 2012

REGULAR AGENDA/ADDENDUM ITEMS

11. COUNTY ADMINISTRATOR: REVISIONS TO MERIT SYSTEM RULES AND PERSONNEL POLICIES

Staff requests approval of the recommended revisions to the following Merit System Rules and Personnel Policies effective November 26, 2012:

- A. Merit System Rule 1 – Definitions.
- B. Merit System Rule 3 – Merit System Commission.
- C. Merit System Rule 7.1 - Certification and Appointment.
- D. Merit System Rule 10.1 – Probation.
- E. Merit System Rule 11 – Terminations.
- F. Merit System Rule 12 – Disciplinary Actions, Administrative Suspension and Special Observation Period.
- G. Merit System Rule 13.3 – Grievance System.
- H. Merit System Rule 14 – Merit System Commission Appeals.
- I. Merit System Rule 15 – Employee Performance Appraisal.
- J. Personnel Policy 8-104 C.2 – Attendance.
- K. Personnel Policy 8-108 – Leaves of Absence without Pay.
- L. Personnel Policy 8-118 G.5 – Personnel Records.
- M. Personnel Policy 8-122 - Group Insurance.
- N. Personnel Policy 8-123 – Termination.

The following individual addressed the Board:

- Jim March

His comment was:

- The county needed a better definition of the word layoff in the Merit System Rules and Personnel Policies.

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

12. COUNTY ADMINISTRATOR

Request of the Election Integrity Commission to sort early ballots by precinct for audit. Discussion/Action.

Martin Willett, Chief Deputy County Administrator, briefed the Board and explained the County Administrator recommended denial of the request to sort early ballots for the General Election.

The following speakers addressed the Board:

- Michael Duniho
- William Beard
- Billy Lolos
- Arlene Leaf
- Mary DeCamp
- Benny White
- Jim March
- Francine Shacter
- Barney Brenner
- David Croteau

They provided the following comments:

- The elections graphic scanning pilot project was endorsed.
- The clarity of election law was questioned.
- Protection of the integrity of the vote was questioned.
- The Audit Law was endorsed and a request was made to hand count ballots.
- The electoral process and condition of poll workers was addressed and a request to reform the process was made.
- Only the state has the legal authority to authorize the ballots be recounted per a recent lawsuit and the ruling of Judge Warner.
- The Elections Department procedures and processes were questioned.
- The replacement and/or repair of the current counting machines would not be cost effective.
- Constitutional rights and the right to vote should be unquestionable.

Supervisor Carroll questioned if the graphical scanning program would be feasible and how soon could it be implemented. Brad Nelson, Elections Director, explained that the Secretary of State had to implement the program.

Barney Brenner volunteered to be a part of a committee to ensure the implementation of the pilot program.

Chairman Valadez questioned whether the ballots became public record in the graphical scanning program. Mr. Nelson explained that Florida was currently using graphical scanning and once the election canvass has been concluded, the ballots become public record. However, in the State of Arizona, the ballots were not deemed public record.

Supervisor Day stated that it was too late for this election cycle and that Pima County should move forward and ensure the integrity of future elections. She stated the Secretary of State had called for a complete overhaul of the election system and Pima County would have to work within the new guidelines that the state implements.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to decline the request, approve the following recommendations from the Elections Integrity Commission and further to direct staff to work with the Secretary of State's Office on the election process:

- A. For the long run, the Commission seriously look at all alternatives whether it be sorting, scanning of the ballots, and everything else that comes up, beginning at the December meeting, to improve the process by next Election.
- B. Call up on the Board of Supervisor to ask the Secretary of State to expedite better auditing, including the experiment we proposed, so we can stop waiting and have this situation come up again.

13. **COUNTY ADMINISTRATOR**

Establishment of the Canoa Ranch Historic/Architectural Review Committee.

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

14. **CONTRACTS**

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

Arizona Department of Economic Security, Amendment No. 6, to provide homeless assistance/eviction prevention services to low-income, extend

term to 6/30/15 and amend contractual language, contract amount \$215,635.00 revenue (CTN-CS-CMS143044)

B. Facilities Management

1. RESOLUTION NO. 2012 – 108, approving and authorizing the termination of a contract with D.L. Withers Construction, L.C. (CT-FM-13000229)
2. Southern Arizona Community Sports, Inc., to provide an Operating Agreement for construction, maintenance, repair and operation of Curtis Park Community Center, General Fund, contract amount \$2,872,488.00; and contract amount \$625,000.00 revenue/10 year term (CT-FM-13000435)

C. Real Property

1. The Rincon Institute, Susan M. North and Susan M. North as Trustee, to provide a Consent, Transfer and Assignment of a Conservation Easement, no cost (CTN-PW-13000159)
2. RESOLUTION NO. 2012 - 109, approving an Exchange Agreement, Special Warranty Deed, Assignment and Assumption of Grazing Lease, and Performance of Deed of Trust with Oracle Ridge Mining, L.L.C., for the acquisition of open space, General Fund, contract amount not to exceed \$6,000.00 including closing costs (CT-PW-13000416)

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 Nos. 2012-108 and 2012-109.

15. SHERIFF'S DEPARTMENT

Staff requests permission to donate a surplus 1999 GMC ¾ Ton Cargo Van, VIN No. 1GTGG25R9X1062725, to the Yuma County Sheriff's Office for their HIDTA initiative.

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

16. FRANCHISES/LICENSES/PERMITS: LIQUOR LICENSES

- A. 12-36-9133, Rudolph Munoz Garcia, Stagecoach Bar and Grill, 277 W. Duval Road, Green Valley, Series 6, Bar, Person Transfer and Location Transfer.

- B. 12-38-9135, Raynu Michael Fernando, Oasis at Wild Horse Ranch, 6801 N. Camino Verde, Tucson, Series 6, Bar, Person Transfer.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearings, approve the licenses subject to the Sheriff's Reports and forward the recommendations to the Arizona Department of Liquor Licenses and Control.

17. **FRANCHISE/LICENSE/PERMIT: LIQUOR LICENSE**

12-37-9134, John Wesley Little, Quik Mart, 6363 N. La Cholla Boulevard, Tucson, Series 10, Beer and Wine Store, New License.

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

18. **HEALTH DEPARTMENT: PIMA COUNTY CODE TEXT AMENDMENT**

ORDINANCE NO. 2012 - 67, of the Board of Supervisors of Pima County, Arizona, relating to immunization; amending Section 8.12.030 to provide for third party billing.

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 close the public hearing and adopt Ordinance No. 2012 - 67.

19. **TRANSPORTATION: TRAFFIC ORDINANCE**

ORDINANCE NO. 2012 - 68, of the Board of Supervisors, regulating U-Turns of vehicles at the intersection of Paseo Sonoyta/Via Zarzosa and Sunrise Drive in Pima County. Staff recommends APPROVAL. (District 1)

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

On consideration, it was moved by Supervisor Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2012 - 68.

20. **TRANSPORTATION: TRAFFIC ORDINANCE**

ORDINANCE NO. 2012 - 69, of the Board of Supervisors, establishing prima

facie reasonable speed limits for motor vehicles on Sabino Canyon Road in Pima County. Staff recommends APPROVAL. (Districts 1 and 4)

Without objection, this item was continued to the Board of Supervisors' Meeting of December 4, 2012.

21. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

David Croteau spoke about the Sheriff's recent SWAT activities.

Jim March spoke about ballots being released as public records.

Barney Brenner spoke about elections graphic scanning.

Christopher Cole addressed the Board stating he felt his vote no longer counted.

22. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 10:57 a.m.



CHAIRMAN

ATTEST:



CLERK