# MEMORANDUM

Date: February 3, 2012

To: Chairman and Members
Pima County Bond Advisory Committee

From: C.H. Huckelberry
County Administrator

Re: **Joint Justice/Municipal Courts Complex Financing**

The February 3, 2012 edition of the *Arizona Daily Star* contained the attached article regarding the advancement of House Bill 2656. The Town of Marana's Attorney cited the Joint Justice/Municipal Courts Complex (JJMCC) as an example of the need for this ill-conceived legislation.

Normally, minute financing details associated with a project as complex as the JJMCC are not provided to the Bond Advisory Committee (BAC); however, given the misstatements by the Marana Town Attorney, I am providing you with a recent internal memorandum detailing a structure for financing the JJMCC project. As you can see, the County will be adding $9.8 million to the JJMCC financing from our General Fund, which is the same amount authorized by the BAC to complete Superior Court courtrooms.

Between remaining bonds and the County General Fund payment, $35.8 million is available to construct the JJMCC Phase One improvements of $48 million, leaving the City of Tucson and Pima County to finance the balance. I have outlined a method for this financing in the attached internal memorandum.

The same will be done for the tenant improvements to finish the JJMCC project, if necessary.

CHH/mjk

Attachments

c: The Honorable Chairman and Members, Pima County Board of Supervisors
The Honorable Sarah Simmons, Presiding Judge, Superior Court
The Honorable Keith Bee, Presiding Judge, Pima County Justice Courts
The Honorable Antonio Riojas, Presiding Magistrate, Tucson City Court
Tom Burke, Director, Finance and Risk Management
Reid Spaulding, Director, Facilities Management
Nicole Fyffe, Executive Assistant to the County Administrator

Panel approves special committee to rein in Huckelberry's authority

# Pima bond oversight advances in House

**Howard Fischer Capitol Media Services | Posted: Friday, February 3, 2012 12:00 am**

PHOENIX - Saying the Pima County administrator needs to be restrained, a House panel voted Thursday to create a special committee to oversee county bond elections.

The party-line vote in the Republican-controlled Committee on Technology and Infrastructure came after a plea from Marana Town Attorney Frank Cassidy, who said the county has created a "culture of intimidation."

He said part of that is because County Administrator Chuck Huckelberry proposes bond elections with more than 100 individual projects - and sub-projects within them - to a point where advisory committee members are so overwhelmed that they defer to Huckelberry's recommendations of what gets funded and what does not.

HB 2656, sponsored by Rep. Terri Proud, R-Tucson, would require Pima County - and only Pima County - to establish a bond oversight committee with veto power over what projects get put on the ballot and any changes in how already-approved bond money is spent.

Proud said the special legislation is justified.

"Southern Arizona is really no stranger to corruption," she said, citing the failed Rio Nuevo revitalization project. And Proud said Pima County has more bond debt than even the far larger Maricopa County.

Proud also made it clear she believes the blame lies with Huckelberry.

"For too long we've had one man control everything," she said. "And I think that needs to stop."

Proud's bill would do more than simply create an oversight panel. It would give the county and each of its five cities one vote.

County lobbyist Mike Racy said that would allow representatives of just three communities, with as little as 6.5 percent of total county population, to block anything until they could get what they want.

"Our concern is just how grossly inequitable one vote per jurisdiction would be," he said.

Proud said she sees nothing wrong with that, contending that's the way it works at the Legislature.

"I represent a larger district than someone else may represent," she said.

However, under federal law, all legislative districts are required to have roughly the same population. That is why new district lines are redrawn after every census, to adjust for population changes and keep them the same size.

Cassidy, however, said the weighted voting system is justified - and far better than what exists now.

"This is simply an opportunity to provide more transparency to the process and to give real feedback in the nature of an actual, meaningful vote to those communities affected by it," he said.

He said each supervisor gets to name three members to the current advisory committee, with three named by the county administrator, each of the two tribes getting one member and each incorporated city naming one member.

That, he said, dilutes the ability of affected communities to make their needs known. By contrast, Cassidy said, each community getting one-sixth of the power on the committee ensures "a meaningful and binding, realistic piece of feedback" on the process.

Cassidy conceded Racy's point that Proud's legislation would let any three communities, no matter how small, effectively hold up the process and block public votes on multimillion-dollar bond projects for the entire county, or any change in funding priorities. But he said that's not necessarily a bad thing because it would produce "the happy result of our taxes finally going down."

While this new oversight panel would have veto power over new bond projects, the main argument of proponents is that it is designed to prevent shifting of priorities after voters approve the borrowing.

Cassidy told lawmakers a prime example involves $22 million approved as part of a 2004 bond to build a joint city-county courthouse. He said Huckelberry instead shifted some of the money to remodel one floor of the Superior Court Building.

Huckelberry called that "a good story until you tell the other side of it."

He said the court project ran into unexpected delays and an extra $18 million in costs when it unearthed an old cemetery with 1,500 bodies that had to be relocated.

While the project was on hold, Huckelberry said, the county bond advisory committee agreed to spend $9.8 million to remodel the existing court, on the condition the county repay the money for the new courthouse from regular tax dollars, which has been done.

He said the fund shift went through multiple public hearings "and it was always intended as a stopgap measure for court overcrowding."

While all the Republicans on the House panel supported Proud's legislation, Rep. Carl Seel, R-Phoenix, said he is less than comfortable with giving the county's smallest communities an equal vote with not only Tucson but with the Board of Supervisors, which represents the 36 percent of the population living in unincorporated areas. Seel said he may propose a change when the measure goes to the full House.

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# MEMORANDUM

Date: February 2, 2012

To: Tom Burke, Director
Finance and Risk Management

Reid Spaulding, Director
Facilities Management

From: C.H. Huckelberry
County Administrator

Re: **Financing of the Joint Justice/Municipal Courts Complex Shell and Tenant Improvements**

There are a number of financial details to ensure that completion of Joint Justice/Municipal Courts Complex (JJMCC) is appropriately financed and the General Fund reimbursed for advancing the amount necessary to complete shell construction, as well as potentially the entire tenant improvement cost for the facility. I understand a monthly payment schedule has been provided by Sundt Construction Company based on a start date of February 1, 2012.

A number of decisions need to be made and actions taken, including the following:

1. When the available County bonds have been exhausted for this project, the advancement of the County General Fund amount should begin accruing interest charges, similar to what is often referred to as capitalized interest, which is the interest charged during construction and before occupancy and repayment of a debt begins. The amount of capitalized interest should be charged to both the County portion of the building and that which may be occupied by the City of Tucson. The primary agency responsible for repayment of the County portion of the General Fund building cost advancement will be the Consolidated Justice Courts. An appropriate repayment schedule should be developed for the share of Justice Court fund advancement and budgeted in the annual budget approved by the County for Justice Courts beginning in Fiscal Year (FY) 2013/14. The same division of capitalized interest should occur for the City portion of funds being advanced.

2. It is unlikely there will be a County bond issue in either 2012 or 2013, making completion of the building less likely to be reimbursed by a future bond authorization. Hence, both County Justice Courts and the City should be prepared to finance the full additional cost necessary to complete Phase One shell construction, which is under contract with Sundt, as well as a future contract amount of approximately $25 million

for tenant improvements. Appropriate cost and repayment should be divided in proportion to each agency's occupation of the building, which is approximately 42 percent Pima County and 58 percent City of Tucson.

3. There will be certain additional charges over and above the present contract with Sundt that also need to be taken into account and repaid, including the potential undergrounding of overhead electrical facilities along Toole Avenue. These additional costs, and any other additional costs, must be appropriately accounted for and become part of the total project cost paid proportionately by each occupying jurisdiction.

4. An appropriate loan interest charge and annual percentage rate should be developed by Finance using contemporary borrowing costs anticipated in 2013 for the appropriate credit rating of each jurisdiction. For simplicity purposes, the interest rates, based on differing credit ratings, should be averaged to reflect an average cost of borrowing.

5. Based on what I understand to be an appropriate cautionary agreement, it appears that for the first phase of project cost, remaining available bonds will be $26.0 million, plus approximately $9.8 million of bonds previously authorized and used for Superior Court courtroom expansion and adult probation relocation. The County will pay the $9.8 million directly to the funding account for the JJMCC project. This also assumes the County will not transfer $4.4 million to finance public safety interoperable communication improvements at the City's Thomas Price Service Center[1]. Hence, $35.8 million is now available to finance the present JJMCC contract. Of the $12.2 million net cost remaining for Phase One improvements, Pima County is responsible for $5.1 million and the City of Tucson $7.1 million.

6. I will leave it to the Finance Director to determine how these financial arrangements are accounted for in the budget and whether the $22.6 million advance to the capital program is viewed as a loan that becomes due to the General Fund and repaid in proportion by each jurisdiction and whether the tenant improvements that will follow should be repaid in the same manner with the County advancing all costs to be repaid

[1] The County repayment of the $9.8 million of bond funds previously authorized and advanced for Superior Court expansion means that to be consistent, the County will not authorize an advance of $4.4 million in bond funding to finance public safety interoperable communication improvements at the Thomas Price Service Center. The City must decide whether they wish to finance Thomas Price Service Center separately or have the County continue to fund these improvements through the Pima County Interoperable Communications Network (PCWIN) bond project, which would add $4.4 million to their share of the financing of the JJMCC Phase One improvements. This then provides uniformity and consistency with regard to bond funding; i.e., the County does not use any JJMCC bond funds for Superior Court, which was not contained in the bond question, and the County does not advance funding for the City of Tucson Price Service Center, which was also not included in the PCWIN bond question.

by the City with the cumulative cost being divided between Pima County and the City of Tucson at 42 percent County, 58 percent City with the 42 percent County share being financed by an appropriate annual repayment as scheduled in the annual Justice Court operating budget.

7. The City of Tucson is currently negotiating with the County through Facilities Management Director Reid Spaulding regarding certain basic elements associated with the JJMCC building construction. A number of parameters are fixed and not subject to negotiation. These are: a) the architectural programming associated with the building and divided functionality between City and County operations over the last several years; b) any advance from the County General Fund must be repaid with interest as discussed previously in this memorandum by the City of Tucson and the Justice Court annual budget of the County; and c) the size and design of the parking garage and its ownership are not open to further discussion or negotiation.

Since construction of the JJMCC began this month, it is appropriate to develop plans for advancing County funds to complete shell Phase One and appropriate repayment schedules for these advances for both City and County jurisdictions, as well as the possibility that the tenant improvements will also need to be advanced. If a bond election continues to be delayed beyond 2013, it is unlikely any of the advanced funds for project completion can be repaid with a future bond authorization.

CHH/mjk

c: Richard Miranda, City Manager, City of Tucson