

MINUTES, BOARD OF SUPERVISORS' MEETING

NOVEMBER 4, 2008

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 W. Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, November 4, 2008. Upon Roll Call, those present and absent were as follows:

All Present: Richard Elías, Chairman
 Ramón Valadez, Vice Chairman
 Sharon Bronson, Member
 Ray Carroll, Member
 Ann Day, Member
 Lori Godoshian, Clerk

1. **INVOCATION**

The invocation was given by Pastor Joe Chan of Chinese Baptist 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.

4. **EXECUTIVE SESSIONS**

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

5. **RECONVENE**

The meeting reconvened at 9:55 a.m. All members were present.

6. **LITIGATION**

Staples, et. al., v. Canoa Ranch Golf Courses, L.L.C., Parcel Nos. 304-69-017A, 304-69-020A, 304-69-0220, 304-69-023A, 304-69-024A, 304-69-026A, 304-69-027A, 304-69-028A, 304-69-0330, 304-69-034B and 304-69-0360, Superior Court Case No. C20076854.

Chris Straub, Chief Civil Deputy County Attorney, stated this item was a lawsuit settlement regarding the classification of the golf course concerning the above-referenced parcels. Consolidated on the classification issue were 18 golf courses. After taxpayers won a motion for summary judgment, the Board voted not to appeal the decision. The settlement was a housekeeping mechanism to adjust the Limited Values for tax year 2008 only. All the Limited Values will decrease, as listed:

Parcel 304-69-	From	To
0360	\$74,437.00	\$66,160.00
034B	166,687.00	148,587.00
0330	72,535.00	64,402.00
028A	475.00	439.00
027A	104,395.00	91,763.00
026A	708.00	655.00
024A	66,882.00	59,176.00
023A	518.00	476.00
0220	2,852.00	2,637.00
020A	2,258.00	2,087.00
017A	246,395.00	218,492.00

The Pima County Attorney's Office and Assessor recommended settlement.

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

7. LITIGATION

Staples, et. al., v. Starr Pass Resort Developments, L.L.C., Parcel Nos. 116-27-504B and 116-27-7880, Arizona Tax Court Case Nos. TX2005-050393, TX2006-000358 and TX2007-000409.

Chris Straub, Chief Civil Deputy County Attorney, stated this case was a lawsuit currently pending involving classification of the golf course concerning the parcels noted above. Parcel 504B added a newly constructed parking garage in 2006.

Parcel 504B Tax Year		From	To
2006	Full Cash Value	\$2,060,741.00	\$2,585,673.00
	Limited Value	1,889,699.00	2,371,062.00
2007	Limited Value	2,078,669.00	2,097,664.00
2008	Limited Value	2,286,536.00	2,307,420.00

On Parcel 7880 there was no change in the Full Cash Value.

Parcel 7880 Tax Year		From	To
2006	Limited Value	\$264,037.00	\$317,066.00
2007	Limited Value	258,358.00	183,951.00
2008	Limited Value	274,838.00	206,673.00

The Pima County Attorney's Office and Assessor recommended settlement.

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

8. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3), for legal advice regarding Dr. Russ J. Andaloro's appeal of the Hearing Administrator's decision in Case No. P21-08-024.

This was an informational item only.

9. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding Friends of Madera Canyon v. Pima County Board of Adjustment No. 4, Pima County Superior Court No. C2008-4694.

Chris Straub, Chief Civil Deputy County Attorney, stated this case was an appeal from the Board of Adjustment No. 4's interpretation regarding a proposed conservation subdivision. The complaint's Count Two sought a judgment declaring that Pima County Development Services misapplied certain statutes and Ordinances. The County Attorney's Office recommended that the Board authorize the County to intervene in defense of the declaratory judgment action and proceed as discussed in Executive Session. The Board was asked if it wished to extend the conflict waiver to allow attorney Katharina Richter to represent Friends of Madera Canyon in the declaratory judgment claim against Pima County.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson and carried by a 4-1 vote, Supervisor Carroll voting, "Nay," to deny the conflict waiver and to accept the recommendation to intervene as discussed in Executive Session.

10. **CONSENT CALENDAR:**

The Chairman inquired whether anyone wished to be heard on any item listed for action on the Consent Calendar. No one appeared. On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the Consent Calendar, subject to the following:

PULLED FOR SEPARATE ACTION:

1. **CONTRACTS AND AWARDS**

J. **Procurement**

25. Increase in award for light vehicles to the following. Total contract amount \$2,000,000.00. Funding Source: Other Internal Service Fund. Administering Department: Fleet Services.

Contract	Vendor	Amount
B504944	Courtesy Chevrolet	\$1,500,000.00
B504947	Five Star Ford	\$ 500,000.00

Without objection, this item was removed.

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. **CONTRACTS AND AWARDS**

A. **Community Development and Neighborhood Conservation**

1. RESOLUTION NO. 2008-283, approving an Intergovernmental Agreement with the Town of Sahuarita, to provide for a Workforce Housing Program, Federal Grant Fund, contract amount \$200,000.00 (01-70-S-141446-0109)

B. **Community Resources**

2. Flowing Wells School District, Amendment No. 1, to provide for after-school and summer elementary school-based recreation programs and extend contract term to 7/31/09, General Fund, contract amount \$43,375.00 (01-67-F-140177-0807)

3. Altar Valley Unified School District, Amendment No. 1, to provide for after-school and summer elementary school-based recreation programs and extend contract term to 7/31/09, General Fund, contract amount \$45,337.00 (01-67-A-140264-0807)

C. County Attorney

4. Gary W. DeLand, Amendment No. 1, to provide expert litigation and criminal justice services relating to Laya v. Pima County, Case No. CV06-458-TUC-DCB and amend contractual language, Risk Management Tort Fund, contract amount \$25,000.00 (29-02-D-139400-0107)

D. Facilities Management

5. City of Tucson Police Department, to provide a Lease Agreement for the Interagency Advocacy Center, at 2329 E. Ajo Way, contract amount \$189,900.00 revenue (04-13-T-141464-1008)

E. Finance

6. Squire, Sanders & Dempsey, L.L.P., Amendment No. 4, to provide bond counsel services, extend contract term to 11/14/09 and amend contractual language, no cost (07-09-S-135350-1104)

F. Health Department

7. RESOLUTION NO. 2008-284, approving an Intergovernmental Agreement with the Governor's Office of Highway Safety, to provide for the Occupant Protection Program, Federal Fund, contract amount \$240.00 revenue (01-01-G-141448-1108)
8. RESOLUTION NO. 2008-285, approving an Intergovernmental Agreement with the Northwest Fire District, to provide for storage space for the Bio-Terrorism Preparedness Program trailer, no cost (01-01-N-141468-1108)
9. Governor's Office for Children, Youth and Families, Division for Substance Abuse Policy, Amendment No. 3, to provide for the Anti-Meth Initiative and amend contractual language, no cost (01-01-G-137707-0106)
10. Governor's Office for Children, Youth and Families, Division for Substance Abuse Policy, Amendment No. 4, to provide for the Anti-Meth Initiative and extend contract term to 3/31/09, State Grant Fund, contract amount \$30,000.00 revenue (01-01-G-137707-0106)
11. Marana Unified School District, Amendment No. 2, to provide childhood immunization services and extend contract term to 12/4/09, no cost (01-01-M-138892-1206)
12. Arizona Board of Regents, University of Arizona, Amendment No. 2, to provide HIV/STD testing and counseling for youth and extend

contract term to 9/29/09, Federal Fund, contract amount \$50,000.00 revenue (02-01-A-139181-0906)

13. Animal Welfare Alliance of Southern Arizona, Inc. (AWASA), Amendment No. 2, to provide spay and neuter clinics in Pima County and extend contract term to 12/13/09, Health Fund, contract amount \$200,000.00 (07-01-A-140625-1207)
14. State University of New York, to provide internship opportunities for students studying dietetics, no cost (07-01-S-141451-1108)

G. Institutional Health

15. Arizona Health Care Cost Containment System (AHCCCS), Amendment No. 4, to provide inpatient hospital services to eligible inmates and extend contract term to 9/30/09, no cost (01-65-A-136012-1004)

H. Office of Court Appointed Counsel

16. Award of Contracts, for representation of indigent persons in Juvenile Court. Each contract terminates on June 30, 2010, has a compensation cap of \$150,000.00 and provides for an additional three year period. Funding Source: General Fund.

No.	Attorney	Amount
0900947	Bradley J. Armstrong	\$150,000.00
0900948	Geoffrey L. Ferlan	\$150,000.00

I. Pima Health System

17. Creative Networks, L.L.C., d.b.a. ResCare HomeCare, Amendment No. 10, to provide homecare services and amend contractual language, PHCS Enterprise Fund, contract amount \$500,000.00 (11-15-C-134425-0704)
18. Michael T. Mayo, D.D.S., P.C., Amendment No. 3, to provide dental services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-M-135156-1104)
19. DVA Renal Healthcare, Inc., Amendment No. 3, to provide dialysis services, extend contract term to 3/31/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-G-135983-0505)
20. Tucson Orthopaedic Institute, P.C., Amendment No. 2, to provide orthopedic and MRI services, extend contract term to 7/30/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-T-138314-0806)
21. Portable X-Ray of Arizona, L.L.C., Amendment No. 1, to provide mobile radiology/mobile electrocardiogram services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-P-138587-1106)

22. US Bioservices Corporation, Amendment No. 2, to provide prescription Synagis, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-U-138825-1106)
23. Arizona Consumer Direct Personal Care, L.L.C., Amendment No. 6, to provide home care services and amend contractual language, PHCS Enterprise Fund, no cost (07-15-A-139487-0407)
24. Hundred Palms Tucson, L.L.C., d.b.a. Hundred Palms Tucson, Amendment No. 1, to provide assisted living center services, extend contract term to 9/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$200,000.00 (18-15-H-140512-1007)

J. Procurement

25. Increase in award (PULLED FOR SEPARATE ACTION)
26. Award of direct-select contract, Requisition No. 0900829, in an amount not to exceed \$444,205.00 to Kittelson and Associates, Inc., (Corporate Headquarters: Portland, OR) to provide roadway design engineering services for the Ina Road at Oracle Road Intersection Improvements. Contract term will be for an 18 month period. Funding Source: Capital Improvement and RTA Funds. Administering Department: Transportation.

K. Real Property

27. Homeowner Association of Finisterra, Inc., to provide a License for right-of-way encroachment at Craycroft Road and Finisterra Drive, contract amount \$9,125.00 revenue (12-04-H-141418-1108) Transportation

L. Regional Wastewater Reclamation

28. Fidelity National Title Agency Trust No. 602296, to provide a Connection Fee Credit Agreement, no cost (11-03-F-141449-1108)

M. Sheriff

29. RESOLUTION NO. 2008-286, approving an Intergovernmental Agreement with the Arizona Department of Public Safety, to provide for 75% of one assigned employee salary and benefits and 100% of their overtime for participation in the Arizona Vehicle Theft Task Force, State Grant Fund, contract amount \$68,907.75 revenue (01-11-A-141471-1108)
30. United States Department of Agriculture, Forest Service, Coronado National Forest, Amendment No. 5, to provide law enforcement services, Federal Fund, contract amount \$31,300.00 revenue (01-11-U-136728-0805)

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

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

Appointment of Roberto Bedoya to replace Lydia Grijalva. No term expiration. (District 5)

B. **Design Review Committee**

Appointment of D'Laine Steinbrenner, Homeowner Association representative, to replace William Ford. Term expiration: 12/31/11. (Staff recommendation)

C. **Metropolitan Education Commission**

Reappointment of Dr. Kent Barrabee. Term expiration: 2/16/11. (Commission recommendation)

D. **Pima County Election Integrity Commission**

Appointment of Paul Eckerstrom, Democratic Party representative. Term expiration: 11/30/10. (Pima County Democratic Party)

E. **Workforce Investment Board**

Appointment of Carl Rosborough, representing Business, to fill the unexpired term of Joe Altamirano. Term expiration: 9/30/09.

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

A. Lance Richard Hurst, American Legion Post 109, 15921 S. Houghton Road, Vail, November 9, 2008.

B. Lance Richard Hurst, American Legion Post 109, 15921 S. Houghton Road, Vail, November 15, 2008.

C. Kim Kimbriel, Angel Charities for Children, La Encantada, 2905 East Skyline Drive, Tucson, November 7, 2008.

D. Lori Banzhaf, TMC Foundation Gala Night, La Paloma Resort, 3800 E. Sunrise Drive, Tucson, November 5, 2008.

4. **REAL PROPERTY**

Deed of Conservation Easement and Grant of Access Easement

Deed of Conservation Easement and Grant of Access Easement from DAZ9-Ina Overlook, L.L.C., for a portion of the Badger Hole Ranch archaeological site located in Section 31, T12S, R13E, G&SRM. No cost. (District 1)

5. **RATIFY AND/OR APPROVE**

Minutes: September 9, 2008
September 16, 2008

Warrants: October, 2008

REGULAR AGENDA/ADDENDUM ITEMS

11. BOARD OF SUPERVISORS

Naming of a room at the Murphy-Wilmot Library in honor of Betty Holpert. (District 4)

John Byrnes, Library Foundation President, thanked the Board and provided a presentation of Betty Holpert's decades of service to the libraries before and after her retirement. He stated she was one of Tucson's living treasures. Betty Holpert expressed her appreciation.

Supervisor Carroll noted a special Library Foundation fundraiser to be held on November 13 at the home of Paul Alexander and Kathy Lindsey. The son of Wilmot Library's original architect will display the revised plans for the new library.

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

12. COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION

RESOLUTION NO. 2008-287, authorizing Pima County to support the application of the Arizona District Assemblies of God for a grant from the 12% local revenue sharing contribution of the Pascua Yaqui Tribe in the amount of \$118,500.00 to administer the Higher Ground After School Program.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-287.

13. FORENSIC SCIENCE: MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding with the 355th Fighter Wing, Davis-Monthan AFB, Pima County, Arizona, to clarify responsibilities and expectations in the investigation of the death of military personnel within the boundaries of Pima County.

On consideration, it was moved by Supervisor Valadez seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the Memorandum of Understanding.

14. INDUSTRIAL DEVELOPMENT AUTHORITY

RESOLUTION NO. 2008-288, of the Board of Supervisors of Pima County, Arizona, approving the proceedings of the Industrial Development Authority of the County of Pima, regarding the issuance of its Education Revenue and Refunding Bonds (Challenger Basic School, Inc. Project), Series 2008 in an aggregate principal amount not to exceed \$3,000,000.00 and declaring an emergency.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-288.

15. **PROCUREMENT**

A. **APPEAL OF PROCUREMENT DIRECTOR'S DECISION**

Pursuant to Pima County Code Section 11.20.010(J), MBI Occupational Healthcare appeals the decision of the Procurement Director regarding Solicitation No. 0900004, Occupational Medical Services.

George Widugris, Procurement Director, stated that five bidders responded to a Request for Proposal (RFP) for occupational medical services. The Evaluation Committee chose the firms as noted on the agenda. MBI protested not being chosen due to unfair evaluation. MBI requested the outcome be rejected, a new RFP be issued and a different Evaluation Committee be used. The Procurement Department and the Deputy County Attorney reviewed the solicitation documents and protest. The findings were verified.

Peter Akmajian, MBI's representative, stated that MBI should have been accepted. He added that MBI's submittal had provided responses for each item. Several scores should have been higher. MBI has performed occupational medicine and prescreening physicals for the County since July. Mr. Widugris stated that although MBI's staffing met minimum requirements, the evaluation included how well MBI met requirements compared to other bidders. Mr. Akmajian opined that favoritism was shown to Pima County-based businesses. He stated that MBI had physicians and staff who may be based in Maricopa County but assigned to Pima County.

Supervisor Day stated that MBI's protest letter referred to physicians not in the submittal and, therefore, not evaluated. Mr. Widugris concurred. He added that MBI was attempting to enhance the presentation with changes made since the submittal's evaluation. Supervisor Day commented that the notification letter stated that it was undefined how MBI's Phoenix physicians would serve the Tucson facility. One doctor was referenced only in the minimum qualifications section. Another doctor's history demonstrated bare minimum experience.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Day and carried by a 4-0 vote, Supervisor Carroll not present for the vote, to deny the appeal.

B. **AWARD**

The Board, on October 21, 2008, continued this item.

Award of Contracts, Requisition No. 0900004, for occupational medical services to the highest ranked/most qualified respondents in the cumulative annual amount of \$728,000.00 as listed below: Contracts are for a one-year term and include four one-year renewal periods. The award includes the authority for the Procurement Department to reallocate the award amounts among the contracts considering actual usage and anticipated requirements without further action by the Board of Supervisors provided that the sum of the revised contract amounts do not exceed the sum of the contract award amounts. Funding Source: Self Insurance Trust Fund. Administering Department: Finance and Risk Management.

(Headquarters: Tucson, AZ)	Annual Amount
Group A: Workers Compensation Medical Services	
Sunnyside Medcenter, P.C.	\$120,000.00
Tucson Occupational Medicine	120,000.00
Well America, Inc.	120,000.00
Group B: Occupational Medical Services	
Sunnyside Medcenter, P.C.	\$100,000.00
Tucson Occupational Medicine	100,000.00
Well America, Inc.	100,000.00
Group C: AZ Post Physical Examination Services	
Tucson Occupational Medicine	\$ 34,000.00
Sunnyside Medcenter, P.C.	34,000.00

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and carried by a 4-0 vote, Supervisor Carroll not present for the vote, to approve the award.

- C. In the event an award is not made for Requisition No. 0900004, staff requests approval to extend the contract terms to 1/31/09 for the following:

Vendor	Contract No.
Scott Krasner, M.S., P.C. d.b.a. Tucson Occupational Medicine	07-52-T-133105-0703
MBI Occupational Healthcare	07-52-1333137-0703

The Board took no action, as this item was moot.

16. REGIONAL WASTEWATER RECLAMATION

A. CONTRACT

The Board, on October 7, 2008, continued this item.

Arizona Board of Regents, University of Arizona, Water Quality Center, Amendment No. 2, to provide an Industry/University Cooperative Research Center Membership Agreement relating to research on biosolids reuse on mine tailings and agricultural farms, extend contract term to 12/31/09 and amend contractual language, Regional Wastewater Enterprise Fund, contract amount \$107,221.70 (01-03-A-139664-0707)

Without objection, this item was removed.

B. PRETREATMENT SETTLEMENT AGREEMENT

Staff recommends approval of the following proposed Pretreatment Settlement Agreement, RWRD System Development Fund.

Rodolfo Pinal d.b.a. Rodolfo's Taco Shop, No. 2008-02. Proposed settlement amount is \$500.00.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and carried by a 4-0 vote, Supervisor Carroll not present for the vote, to approve the agreement.

17. **FRANCHISES/LICENSES/PERMITS: AGENT CHANGE/ACQUISITION OF CONTROL/RESTRUCTURE**

08-04-0109, Robert Ladd Hall, United Sports Arizona, 4300 E. Los Reales Road, Tucson.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and carried by a 4-0 vote, Supervisor Carroll not present for the vote, to close the public hearing, to approve the request and forward the recommendation to the State Liquor Control Board.

18. **FRANCHISES/LICENSES/PERMITS: EXTENSION OF PREMISES/PATIO PERMITS**

- A. Michael Raymond Gill, Montgomery's Grill and Saloon, 13190 E. Colossal Cave Road, No. 190, Vail, Temporary Extension of Premises for November 22 and
- B. Albert S. Hall, Jr., Acacia at St. Philips, 4340 N. Campbell Avenue, No. 103, Tucson, Temporary Extension of Premises for December 9, 2008.
- C. Scott A. Busse, Territorial, 3727 S. Palo Verde Road, Tucson, Temporary Extension of Premises for November 22, 2008.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and carried by a 4-0 vote, Supervisor Carroll not present for the vote, to close the public hearing, to approve the requests and forward the recommendation to the State Liquor Control Board.

19. **DEVELOPMENT SERVICES: CONDITIONAL USE PERMIT**

The Board, on September 9, 2008, continued this item.

P21-08-027, LEONETTI-S. GARRISON HILLS DR.

John and Susan Leonetti (Physical Resource Engineering, Inc., applicant) on property located at 19000 S. Garrison Hills Dr., in the RH zone, requests a Conditional Use Permit for Auto Storage. Chapter 18.97, in accordance with 18.13.030B35 of the Pima County Zoning Code, allows Auto Storage as another conditional use which is similar in type, scale and intensity to other listed conditional uses. Auto Storage is a Type II Conditional Use in RH. The Hearing Administrator recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 3)

Standard Conditions

Per the Chief Zoning Inspector, auto storage is subject to the same Zoning Code requirements as a contractor's yard, specifically:

1. The use will have a minimum setback of 100' from all property lines.
2. The auto storage yard will be completely enclosed by a screening a minimum of six feet in height.
3. Access shall be onto a paved public road with "collector" classification or higher.
4. The parking and driveways will be maintained to minimize the generation of dust.

Note: Any relief from these above Zoning Code requirements as sought by the owner/applicant shall be appropriately secured by way of a variance application or other available administrative means. Approval of this Conditional Use Permit shall not be construed as approval of any structures or elements of this use that do not meet the above requirements.

Special Conditions

1. The facility shall be limited to the square footage as shown on the submitted preliminary Development Plan (i.e. 7,608 SF). Any expansion of this area by more than 10% shall be subject to a new conditional use permit application, public notice, public hearing, etc.

2. The gate for the auto storage enclosure shall face toward the interior of the property (i.e. toward the existing residence) rather than toward adjacent properties.
3. The auto storage area shall be a gravel parking surface.
4. The auto storage area shall be screened, at a minimum, by the screening method as shown on the submitted preliminary development plan accompanying this CUP application.

Jim Portner, Hearing Administrator, stated that there were four letters of objection and one in support at the time of the Hearing Administrator's original public hearing. Two adjacent neighbors spoke in support. Afterward additional letters in opposition were received. Subsequently, the Board meeting was continued to allow additional communication between the applicant and neighbors in order to resolve issues. The applicant sent letters to each neighbor. Three additional objection letters were received. The applicant will be submitting additional support letters today.

Supervisor Bronson stated an original issue was the permit's compliance with the CC&R's. Mr. Portner responded that he had no additional information on that issue.

John Leonetti, applicant, stated that most of the 41 neighbors lived out of state. Therefore, a letter was mailed to each neighbor in deference to the time factor. He provided a copy to the Board. Of the 17 additional support letters submitted, one was from a neighbor formerly in opposition. Copies were provided to the Board. He stated that his attorney did not consider the CC&R's violated. In reply to Supervisor Bronson, Mr. Portner verbally provided the special conditions. Mr. Leonetti verified all conditions would be met. He added that he had already been in compliance with most of the special conditions for four years.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve the permit, subject to standard and special conditions.

20. **DEVELOPMENT SERVICES: MODIFICATION (NON-SUBSTANTIAL CHANGE) OF REZONING CONDITIONS**

The Board, on September 16, 2008, continued this item.

Co23-97-01, VAIL VALLEY RANCH SPECIFIC PLAN

Request of Fidelity National Title TR 60273, represented by Rick Engineering Company, for a modification (non-substantial change) of the Vail Valley Ranch Specific Plan to reduce the front setbacks for architectural projections, porches and livable space of residences to ten feet on Lots 1-320 of the Four Seasons—Phase 1 Subdivision Plat, Bk. 63, Pg. 10 (P1205-019) and Tax Parcel Nos. 305-05-072A, 305-05-072B, 305-05-073A, 305-05-074A, 305-05-076D, 305-05-107A, 305-73-3450, 305-73-3460 (equivalent to Lots 321-526 of the Four Seasons—Phase 2 Subdivision Plat (P1206-132—under County review). The request, if approved, would not reduce the required front setback for garages. The subject site is designated Medium Density Residential (MDR) by the Vail Valley Ranch Specific Plan. The MDR designation requires a minimum front building setback of 20 feet, or 10 feet with side or rear entry driveways. The subject site is approximately 129 acres and is located in the north central portion of the Vail Valley Ranch Specific Plan (commonly referred to as Rancho del Lago). Vail Valley Ranch Specific Plan, which in its entirety is approximately 1,600 acres in size, was originally rezoned from RH (Rural Homestead), GR-1 (Rural Residential) and CB-2 (General Business) to SP (Specific

Plan) on September 12, 1989 and is located approximately 1 1/4 miles north of Interstate 10 and Colossal Cave Road, on the north and south sides of Colossal Cave Road and on the north and south sides of Mary Ann Cleveland Way, north of Union Pacific Railroad. Staff recommends APPROVAL. (District 4)

Staff recommends that the development standard be modified as follows (from pg. F-4 of the Vail Valley Specific Plan):

- IV. Development Area Designations
 - B. Medium Density Residential (MDR)
 - 2. General Development Standards:
 - e. Individual Lot:
 - Minimum Front Setback Building for front entry garages/ carports: 10 feet; or 10 feet for garages with side or rear entry driveways;
 - Minimum front setback for Architectural Projections, Porches, and Livable Space of Residences: 10 feet;
 - Total Combined Sideyard Building Setback: 10 feet;
 - Minimum Rear Building Setback: 10 feet or 0 feet with rear entry garage.

Chris Poirer, Development Services Manager, stated that if the item was approved, front yard setbacks would be reduced from 20 feet to 10 feet. Whether approved or denied, any front-entry garages must still have a setback of 20 feet from front yards. Currently, a developer was allowed a setback of 10 feet for model homes with side-entry garages. At the previous hearing, a neighbor expressed traffic, aesthetic and resident density concerns. Approval would offer additional design flexibility for future homes.

Chuck Martin, Rick Engineering's representative, stated that following the previous Board meeting he reviewed Wingview Subdivision's (Wingview) requirements. He discovered that the subdivision had a front setback of zero feet. He attended Wingview's HOA meeting last week to discuss the specific plan modification. A compromise was reached affecting lots north and south of Via Del Lago Road. Since all the lots backed up to Wingview, Wingview should be minimally impacted. The decision by the HOA's Board of Directors would allow competitiveness and flexibility in the market.

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:

L. William Smith, Wingview Subdivision HOA Vice-president

Comments included the following:

- A. A compromise resulted from last week's meeting between Mr. Martin and the Wingview Subdivision HOA. Adjacent subdivisions were invited but did not attend.
- B. All lots south of Via Del Lago Road, about 75, would maintain a setback of 20 feet. Those lots were adjacent to the golf course.
- C. All lots north of Via Del Lago Road would have a setback of 10 feet.
- D. Copies of the HOA's written decision were provided to the Board.

- E. Wingview Subdivision had been fully built-out with a zero setback lot line. All the houses were a minimum of 20 feet back. Most were 25 feet.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve the modification with the change that front setbacks north of Via Del Lago Road be reduced from 20 feet to 10 feet but front setbacks south of Via Del Lago Road remain at 20 feet.

21. **DEVELOPMENT SERVICES: PLAT NOTE WAIVER/MODIFICATION**

The Board, on September 16, 2008, continued this item.

P1205-019, FOUR SEASONS–PHASE 1 SUBDIVISION

Request of Fidelity National Title TR 60273, represented by Rick Engineering Company, for a plat note modification to reduce the front setbacks for architectural projections, porches and livable space of residences to ten feet for Lots 1-320 of the Four Seasons–Phase 1 Subdivision Plat (Bk. 63, Pg. 10). Subdivision Plat Permitting Note 2 requires a minimum individual lot setback of 20 feet. The subject site is approximately 107 acres and is located in the north central portion of the Vail Valley Ranch Specific Plan (commonly referred to as Rancho del Lago) northwest of Colossal Cave Road and on the west side of Mary Ann Cleveland Way. Staff recommends APPROVAL. (District 4)

Staff recommends that the plat note be modified as follows:

Permitting Note #2

Development Standards for MDR:

Individual Lot setbacks: Front

20 feet for front entry garages/carports

10 feet with side or rear entry garage

10 feet for architectural projections, porches, and livable space of residences.

Chris Poirer, Development Services Manager, stated that if the item was approved, front yard setbacks would be reduced from 20 feet to 10 feet. Whether approved or denied, any front-entry garages must still have a setback of 20 feet from front yards. Currently, a developer was allowed a setback of 10 feet for model homes with side-entry garages. At the previous hearing a neighbor expressed traffic, aesthetic and resident density concerns. Approval would offer additional design flexibility for future homes.

Chuck Martin, Rick Engineering's representative, stated that following the previous Board meeting, he reviewed Wingview Subdivision's (Wingview) requirements. He discovered that the subdivision had a front setback of zero feet. He attended Wingview's HOA meeting last week to discuss the specific plan modification. A compromise was reached affecting lots north and south of Via Del Lago Road. Since all the lots backed up to Wingview, Wingview should be minimally impacted. The decision by the HOA's Board of Directors would allow competitiveness and flexibility in the market.

The Chairman inquired whether anyone wished to be heard.

The following speaker addressed the Board:

L. William Smith, Wingview Subdivision HOA Vice-president

Comments included the following:

- A. A compromise resulted from last week's meeting between Mr. Martin and the Wingview Subdivision HOA. Adjacent subdivisions were invited but did not attend.
- B. All lots south of Via Del Lago Road, about 75, would maintain a setback of 20 feet. Those lots were adjacent to the golf course.
- C. All lots north of Via Del Lago Road would have a setback of 10 feet.
- D. Copies of the HOA's written decision was provided to the Board.
- E. Wingview Subdivision had been fully built-out with a zero setback lot line. All the houses were a minimum of 20 feet back. Most were 25 feet.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve the modification with the change that front setbacks north of Via Del Lago Road be reduced from 20 feet to 10 feet but front setbacks south of Via Del Lago Road remain at 20 feet.

22. DEVELOPMENT SERVICES: APPEAL OF HEARING ADMINISTRATOR'S DECISION

P21-08-024 PIMA COUNTY RIGHT-OF-WAY-6803 NORTH CASAS ADOBES DRIVE

In accordance with Pima County Zoning Code Section 18.97.030F(6), Dr. Russ J. Andaloro appeals the decision of the Hearing Administrator in Case No. P21-08-026, to allow a Type I Conditional Use Permit for an antenna co-location and equipment area in the right-of-way at 6803 N. Casas Adobes Dr. in the CR-1 zone. Chapter 18.97, in accordance with Sections 18.07.030H2D4 of the Pima County Zoning Code, allows an antenna co-location and equipment area as a Type I Conditional Use in the CR-1 zone. The Hearing Administrator recommends APPROVAL, subject to conditions. (District 1)

1. The number of antennae (i.e. two), the location of antennae (i.e. 20 feet off the ground as measured to the center of the antennae), and the antennae type (i.e. flush-mounted) shall be in conformance with that depicted on the Site Plan/Development Plan.
2. The above-ground equipment cabinet shall be located at least 25 feet north of the subject utility pole and offset from the westerly edge of pavement by at least 13 feet.
3. The antennae shall be painted a shade of brown to match that of the existing pole.
4. The equipment cabinet shall be painted almond or some other similar shade to match the color of the earth in the immediate area.
5. If permission can be given by the PCDOT in connection with the License Agreement, landscaping shall be planted along all four sides of the equipment cabinet to screen it as best as possible, while still allowing for access for maintenance purposes.

Michael Marks, Acting Hearing Administrator, stated that the request was for above-ground equipment to accompany a co-located communication antenna. The site was in a County right-of-way. He had been called in to substitute for the original Hearing Administrator at the second hearing. The six or seven speakers in opposition represented all of the dozen neighbors who attended. Objections included that the antenna and equipment cabinet would be a safety hazard; there was a lack of demonstrated need; the application was incomplete; the installation would be inappropriate in the historic neighborhood; the proposal was speculative and the applicant was untrustworthy. The petitioner spoke and rebutted objections. The case

was taken under advisement. The petition was upheld, and the request was approved. Subsequently, a request for an appeal was filed.

Joe Malone, Next G Networks, applicant, acknowledged that subcontractors had entered a neighbor's property inadvertently. He offered an apology. The pole was on the public right-of-way. He denied that neighbors were told the applicant would do anything no matter what neighbors did or said. Next G did not take a holier-than-thou attitude. This project was not a new tower or pole. It was a co-location of equipment. Next G was carrier-neutral. The Telecommunications Act was irrelevant. Next G met all County Codes and had been issued a Certificate of Convenience and Necessity from the Arizona Corporation Commission. The other option was to put up a new pole. That would be more expensive and less aesthetically desirable. The application was for the equipment cabinet only. He verified that landscaping would be performed.

In response to Chairman Elías, Mr. Malone stated that the site could be moved 25 or 50 feet. However, that would be a major impact on existing and future locations of other sites. The site was part of a network system for coverage and capacity. There were 35 access nodes existing in the County.

In response to Supervisor Day, Mr. Marks stated that when he was brought into the case, it was subsequent to the continuance from the original hearing with Mr. Portner. Mr. Portner requested a memo from the Department of Transportation regarding safety. The resultant memo stated that there were two accidents at that intersection during the last 17 years. It was necessary to rely upon reported accidents. The Department of Transportation did not say that the pole was unsafe.

In response to Chairman Elías, Priscilla Cornelia, Department of Transportation Director, stated she did not know of this case since Ben Goff, Deputy Director, had been involved with it. Chris Straub, Chief Civil Deputy County Attorney, stated that the Telecommunications Act covered this item and allowed limited preemption. He added that Proposition 207 had some language that basically stated the analysis of property values being rezoned did not relate to the neighboring properties. After reviewing relevant paperwork, Ms. Cornelia verified that there had been only two reported accidents according to their records. It was recommended that the equipment cabinet be moved about 25 feet away from the T-intersection. An existing sign warned of a hazard.

The Chairman inquired whether anyone wished to be heard.

The following speakers addressed the Board:

1. Russ J. Andaloro
2. John Peters
3. Michael Toney
4. Kimberly Di Lorenzo

Comments included the following:

- A. A copy of the statement from a neighbor who lived about five feet from the pole was provided to the Board.
- B. An incomplete and inaccurate report was given to Ben Goff, Department of Transportation Deputy Director, the night before the hearing.

- C. Independent attorneys should review the situation.
- D. Respect was not shown to a neighbor by the applicant or original Hearing Administrator.
- E. The applicant's employees entered a neighbor's property without permission.
- F. The applicant's workers told neighbors that the item would be approved no matter what they protested.
- G. The pole has been hit numerous times by vehicles.
- H. The rezoning would diminish property values.
- I. The right-of-way and T-intersection created a safety concern even if the box were to be moved.
- J. The signs were being changed to indicate it was a hazardous area.
- K. The signs with double-arrows indicating a hazardous location required a transportation engineer's opinion. This was done after a traffic study.
- L. There was sufficient service already. A neighbor who lived 150 feet away from the site used a cell phone for all services including the Internet.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and carried by a 4-1 vote, Chairman Elías voting "Nay," to close the public hearing and deny the appeal.

23. DEVELOPMENT SERVICES: REZONING ORDINANCES

- A. ORDINANCE NO. 2008-104, Co9-08-02, Hinkle–Clayton Road Rezoning. Owner: Jerrol Jay Hinkle. (District 3)
- B. ORDINANCE NO. 2008-105, Co9-08-10, Black Horse Advisors, L.L.C.–Hawser Road Rezoning (Zoning Plan Plat). Owner: Black Horse Advisors, L.L.C. (District 1)

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearings and adopt Ordinance Nos. 2008-104 and 105.

24. TRANSPORTATION: PIMA COUNTY CODE TEXT AMENDMENT

The Board, on August 5, and September 9, 2008, continued this item.

ORDINANCE NO. 2008-72, of the Pima County Board of Supervisors, establishing regulations for the use of the Public Right-of-Way within the unincorporated areas of Pima County, Arizona, by adding chapter 10.50.

Without objection, this item was continued to December 2, 2008.

25. TRANSPORTATION: WAIVER OF DEVELOPMENT IMPACT FEE

Pursuant to Pima County Code Section 19.03.070, Kenneth Paul requests a waiver of the Roadway Development Impact Fee for property located at 16050 E. Hilton Ranch Road, Vail, in the Mountain View Impact Fee Benefit Area. (District 4)

Kenneth Paul, applicant, stated that loans were impossible because he was building an earth-sheltered home that was off-grid, i.e., completely solar. This situation made

money issues more critical than usual. The location had no County or public services at all. Hilton Ranch Road has been used and maintained by residents. It would not be maintained by the County. He would benefit in no way from the impact fee. His home's location would have no impact on County roads. He paid 16 percent property tax per year since purchasing the property in the early 1990s. The only sensible access was via Sonoita State Highway and I-10, a federal interstate. Sahuarita Mountain Road would be an alternate route if a person wanted to add 10 to 15 miles to the trip and travel slower on a single-lane winding road. It would make no sense for contractors or visitors. He spent months dealing with the County on complying with all documentation and requirements because the County had not previously handled this type of construction. He added that the County's Green Project was of immense assistance to him.

In response to Supervisor Bronson, Priscilla Cornelia, Department of Transportation Director, stated that the Board had the ability to waive the impact fees. Staff could not do so. Supervisor Bronson stated that it sounded as though Mr. Paul's location would have no impact on County roads. Ms. Cornelia stated that perhaps visitors would use a County road. Mr. Paul and Chairman Elías agreed that the closest County road was about 10 miles from Mr. Paul's home. Chuck Huckelberry, County Administrator, confirmed for Supervisor Valadez that waivers and reductions had been approved in previous situations.

On consideration, it was moved by Supervisor Carroll to reduce the fee by 25%. The motion died for lack of a second.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to reduce the fee by 75%.

26. TRANSPORTATION: TRAFFIC RESOLUTION

RESOLUTION NO. 2008-289, of the Pima County Board of Supervisors, permitting the temporary closure of Plaza Street in the Town of Ajo for the Ajo Chamber of Commerce Street Fair on November 15, 2008.

The Chairman inquired whether anyone wished to be heard. No one appeared. On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-289.

27. PROCUREMENT: CONTRACT

R.S. Engineering, Inc., Amendment No. 1, to provide design engineering services for the Tanque Verde Road: Catalina Highway to Houghton Road Project, extend contract term to 5/31/09 and amend scope of work, 1997 HURF Revenue Bond Fund, contract amount \$99,381.00 (16-64-R-140497-1207)

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

28. **CALL TO THE PUBLIC**

Dale Roose thanked the Board for attending to an ADA access problem he raised at a past meeting. He then stated that ADA parking was frequently at far ends of parking lots. He suggested such parking should be near building entrances.

Susan McMahan stated La Canada construction's residential area critically needed sound mitigation and that a residential area in no way needed a major interchange.

Diana Lancaster represented herself and other residents about La Canada construction regarding the need for walls to buffer noise and protect children.

Lisa Josker stated the road-widening was a good project, but La Canada construction's residential area had 18-wheeler traffic day and night. A continuous wall was needed for noise buffering and safety. A car veered off the road into her yard.

David Davis, Neighborhood Association President, expressed frustration in attempts to work with the Department of Transportation about the La Canada construction and to find a consistent way to work with the County.

Michael Toney spoke about the role of banks.

Tim Blowers stated that Sahuarita Ranch had many lawsuits against it and was possibly on its way out.

29. **ADJOURNMENT**

The meeting adjourned at 12:30 p.m.