

MINUTES, BOARD OF SUPERVISORS' MEETING

DECEMBER 1, 2009

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 1, 2009. 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 Dan Gutierrez of Drexel Heights 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. PRESENTATION/PROCLAMATION

Presentation of a proclamation extending Pima County's appreciation to John L. Sullivan, Rangelands Program Manager from the Natural Resources, Parks and Recreation Department.

The Chairman presented and read the proclamation to Mr. Sullivan who extended his appreciation to the Board.

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

... EXECUTIVE SESSION

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to convene to Executive Session at 9:20 a.m.

5. **RECONVENE**

The meeting reconvened at 9:40 a.m. All members were present.

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

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

7. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding the authorization to extend the agreement to toll the statute of limitations with respect to the claims of San Joaquin Investments, L.L.C., against Pima County that were originally approved by the Board of Supervisors on December 9, 2008.

Chris Straub, Chief Civil Deputy County Attorney, stated this was a request by San Joaquin Land Investments, L.L.C. to enter into a Supplemental Agreement to Toll and Extend Statute of Limitations for its claim against Pima County.

If approved, the Supplemental Agreement would allow San Joaquin an additional six months to file a lawsuit against Pima County for any claims that it has associated with the 2007 Comprehensive Plan Amendment related to property that it owns located near San Joaquin Road and Old Ajo Highway.

The Pima County Attorney's Office had no position on the case, but recommended that any motion to approve the Supplemental Agreement also authorize the Chairman to sign the agreement.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the agreement for six months and authorize the Chairman to execute the agreement.

8. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding approval of the tax appeal settlement recommendation for Bunch V. Pima County, Tax Parcel No. 219-27-004K, Arizona Tax Court Case No. ST2009-000293.

Chris Straub, Chief Civil Deputy County Attorney, reported that this case involved a valuation appeal by a property taxpayer for tax year 2009. The taxpayer purchased this property in June of 2009 for \$208,000.00. The proposed settlement reflected the current market conditions, sales price and would result in the decrease of the Full Cash Value from \$300,000.00 to \$248,000.00. The

Pima County Assessor and Attorney's Office recommended approval of the settlement.

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

9. LITIGATION

Pursuant to A.R.S. §38-431.03(A) (3) and (4), for legal advice and direction regarding the Honea Heights sewer rehabilitation settlement.

Chris Straub, Chief Civil Deputy County Attorney, advised that this case concerned a final settlement agreement with the Town of Marana and United Fire and Casualty Surety regarding the surety's claim against Pima County associated with work done on the Honea Heights Sewer Rehabilitation Project. The settlement amount was \$625,000.00. Pursuant to an Indemnity Agreement with Marana, all settlement funds would be paid by the Town of Marana. The Pima County Attorney's Office recommended approval of the proposed settlement.

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

10. CONSENT CALENDAR: For consideration and approval

A. CALL TO THE PUBLIC

The Chairman inquired whether anyone wished to be heard on any item listed on the Consent Calendar. Joe Sweeney appeared and was called out of order due to a failure to speak to a specific item on the Consent Calendar. He was advised by the Chairman that he could speak during the Call to the Public.

B. APPROVAL OF CONSENT CALENDAR

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 as presented.

CONSENT CALENDAR ITEMS ARE AS FOLLOWS:

1. CONTRACTS AND AWARDS

A. Clerk of the Board

1. RESOLUTION NO. 2009 - 305, approving an Intergovernmental Agreement with the Tanque Verde Valley Fire District, to provide digital imaging and micrographic services, revenue-per fee schedule (01-37-T-142514-1209)

B. Community Development and Neighborhood Conservation

2. RESOLUTION NO. 2009 - 306, approving an Intergovernmental Agreement with the Arizona Board of Regents, to provide for the Social Justice Education Project for the term 10/1/09 to 9/30/10, CDBG Grant Fund, contract amount \$10,000.00 (01-70-A-142529-1009)

C. Community Services, Employment and Training

3. To provide emergency assistance to eligible low-income households for the term 7/1/09 to 6/30/10, Community Services Block Grant Fund:

<u>Vendor</u>	<u>Contract Amt.</u>	<u>Contract No.</u>
Community Food Bank, Inc.	\$34,400.00	07-69-C-142505-0709
San Ignacio Yaqui Council, Inc.	\$52,391.00	07-69-S-142506-0709
El Rio Santa Cruz Neighborhood Health Center, Inc.	\$50,000.00	07-69-E-142507-0709
Arizona Housing and Prevention Services, Inc.	\$49,620.00	07-69-A-142508-0709
Catholic Community Services, Inc., d.b.a St. Elizabeth's Clinic	\$50,000.00	07-69-C-142509-0709

4. Interfaith Community Services, to provide emergency assistance to eligible low-income households for the term 7/1/09 to 6/30/10, American Recovery and Reinvestment Act Grant Fund, contract amount \$45,000.00 (07-69-I-142510-0709)
5. Wingspan, to provide emergency assistance to youth for the term 7/1/09 to 6/30/10, Community Services Block Grant Fund, contract amount \$49,116.00 (07-69-W-142511-0709)

D. Facilities Management

6. Keegan, Lindscott and Kenon, P.C., Amendment No. 4, to provide a Lease Agreement at 33 N. Stone, Suite 1100, amend contractual language and extend contract term to

1/31/13, contract amount \$619,634.96 revenue (04-13-K-139849-0194)

7. Menlo Park Neighborhood Association, to provide a Use Agreement for the grounds and guest house at 17 N. Linda Avenue, for rainwater harvesting and gardening projects, General Fund, contract amount \$240.00 (11-13-M-142501-1209)

E. Health Department

8. Three Points Fire District, Amendment No. 1, to provide secure storage for a Bio-Terrorism Preparedness Program trailer and extend contract term from 11/14/09 to 11/13/12, no cost (01-01-T-138733-1106)

F. Natural Resources, Parks and Recreation

9. Tucson Girls' Chorus Association, Inc., Amendment No. 1, to provide a Lease Agreement for the Berger House located at 4020 E. River Road, and extend contract term from 7/1/09 to 6/30/11, contract amount \$4,800.00 revenue (04-05-T-134993-0804)

G. Pima Health System

10. To provide nursing facility services and amend contractual language, PHCS Enterprise Fund, no cost:

<u>Vendor</u>	<u>Amend. No.</u>	<u>Contract No.</u>
Kindred Nursing Centers West, L.L.C., d.b.a. Villa Campana Health Care Center	9	18-15-K-137034-1005
Santa Rita Care Center, L.L.C., d.b.a. Santa Rita Nursing and Rehabilitation Center	8	18-15-S-137035-1005
Ensign Sabino, L.L.C., d.b.a. Sabino Canyon Rehabilitation and Care Center	5	18-15-E-137038-1005
Villa Maria Care Center, L.L.C.	7	18-15-V-137039-1005
SRVC – Rosa, L.L.C., d.b.a. Santa Rosa Care Center	11	18-15-S-137045-1005
Handmaker Jewish Services for the Aging	5	18-15-H-137063-1005

11. Glendale Healthcare Associates, L.L.C., d.b.a. Desert Sky Health and Rehabilitation Center, Amendment No. 1, to provide nursing facility services, amend contractual language and extend contract term from 11/1/09 to 10/31/10, PHCS Enterprise Fund, no cost (18-15-G-142334-0809)
12. Haven Behavioral Services of Tucson, L.L.C., d.b.a. Sonora Behavior Health Hospital, Amendment No. 7, to provide psychiatric hospital services, amend contractual language and extend contract term to 12/31/10, PHCS Enterprise Fund, no cost (18-15-S-137218-0106)
13. Arizona Children's Health Care Corporation, d.b.a. Los Niños Home Medical Services, Amendment No. 3, to provide a ventilator lease and supplies, amend contractual language and extend contract term from 11/15/09 to 11/14/10, PHCS Enterprise Fund, contract amount \$100,000.00 (18-15-A-139095-1106)
14. Genesis OB/GYN, P.C., Amendment No. 4, to provide obstetrical and gynecological services, amend contractual language and extend contract term to 11/30/10, PHCS Enterprise Fund, contract amount \$200,000.00 (18-15-A-139253-1206)
15. Dependable Medical Equipment, Inc., Amendment No. 4, to provide durable medical equipment and medical supplies, amend contractual language and extend contract term to 12/31/10, PHCS Enterprise Fund, no cost (07-15-D-140581-0108)
16. United Seating and Mobility, L.L.C., Amendment No. 1, to provide customized durable medical equipment, amend contractual language and extend contract term to 12/31/10, PHCS Enterprise Fund, contract amount \$150,000.00 (07-15-U-141139-0708)

H. Procurement

17. HDR Engineering, Inc., Amendment No. 3, to provide roadway design engineering services for the La Cholla Boulevard: River Road to Ruthrauff Road Project and amend scope of work, Urban HURF Fund 48%; RTA Fund 52%, contract amount \$215,715.00 (16-04-H-139619-0607) Transportation.

Award

18. Low Bid: Award of Contract, Requisition No. 0902150, in the amount of \$2,559,280.00 to the lowest responsive bidder, A.R. Mays Construction, Inc. (Headquarters: Scottsdale, AZ) for the base bid including allowance, and all alternates for the renovation and expansion of the Murphy Wilmot Branch Library. The contract is for a fourteen month period and may be extended for project completion. Funding Source: 2004 Bond Fund. Administering Department: Facilities Management.

I. Public Works Administration

19. Tucson Pima Arts Council, to provide for the administration of the Pima County Public Arts Program, General, Capital Improvement, RTA and HURF Funds, contract amount \$129,600.00 (07-76-T-142513-1209)

J. Regional Wastewater Reclamation

20. RESOLUTION NO. 2009 - 307, approving an Intergovernmental Agreement with the Pascua Yaqui Indian Tribe, to provide transfer of ownership and responsibility of certain sewer facilities within the Pascua Yaqui Indian Reservation, no cost (01-03-P-142517-1209)

K. Sheriff

21. RESOLUTION NO. 2009 - 308, approving an Intergovernmental Agreement with the U.S. Department of Justice, to provide Community Oriented Policing Services (C.O.P.S.) technology, Federal Fund, contract amount \$200,000.00 revenue (01-11-J-142527-0309)
22. RESOLUTION NO. 2009 - 309, approving an Intergovernmental Agreement with the Office of National Drug Control Policy, to provide for the High Intensity Drug Trafficking Area Program (H.I.D.T.A.), Federal Grant Fund, contract amount \$2,003,262.00 revenue (01-11-O-142532-0109)

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

- A. Tina Lynn West, Ajo Council for the Fine Arts, 201 W. Esperanza, Ajo, November 28, 2009.
- B. John P. Kaster, VFW Post No. 10254, 10211 S. Sasabe Road, Tucson, November 28, 2009.
- C. Ruth Ann Dormanen, Catalina Crusaders, 16024 N. Oracle Road, Tucson, December 5, 2009.

REGIONAL WASTERWATER RECLAMATION

3. 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 cases will be made available for public review or copies may be obtained for \$.35 per page at the Public Works Building, Regional Wastewater Reclamation Department's reception desk, 201 North Stone, 8th Floor, Tucson, Arizona, 85701. Comments will be taken for the next thirty days and written comments may be sent to Industrial Wastewater Control, 5025 W. Ina Road, Tucson, Arizona, 85743. If sufficient interest is expressed, a public hearing may be held by the Board of Supervisors. After the comment period, the Board of Supervisors will vote on acceptance of the following Settlement Agreements:

- A. Discount Tire Co., Inc., No. 2009-17. Proposed settlement amount is \$1,000.00.
- B. Little Caesar Enterprises Inc., No. 2009-14. Proposed settlement amount is \$391.65.
- C. Smith's Food and Drug Center, Inc., d.b.a. Fry's Food and Drug Stores, No. C2009-16. Proposed settlement amount is \$1,668.56.

4. SPECIAL TAXING DISTRICTS

- A. Pursuant to A.R.S. §16-642(B), presentation of the certified copy of the official canvass for the November 10, 2009 Election conducted by the Flowing Wells Irrigation District.
- B. Pursuant to A.R.S. §16-642(B), presentation of the certified copy of the official canvass for the November 10, 2009 Election conducted by the Cortaro-Marana Irrigation District.

5. **RATIFY AND/OR APPROVE**

Minutes: October 6, 2009

Warrants: November, 2009

REGULAR AGENDA/ADDENDUM ITEMS

11. **COUNTY ADMINISTRATOR: Proposed Amendments to Personnel Policy 8-102 (A) (2) and (F) (3). Discussion/direction/action.**

This item was previously continued from regular meetings of 9/8/09 and 11/3/09. On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to continue this item to January 5, 2010.

The Chairman invited the speakers to come forward, but reminded them that Board action would not be taken due to the continuance:

The following speakers addressed the Board:

- A. Carlos Rodriguez, SEIU Representative, Pima County Department of Environmental Quality, Solid Waste
- B. John Olivas, Pima County Transportation, Traffic Engineering
- C. Dennis Downing, Pima County Animal Control
- D. Martin Montano, Pima County Transportation, Maintenance
- E. Connie Tuengel, Pima County Animal Control
- F. Mike Storie, Attorney at Law

They provided the following comments:

- 1. There are approximately 4,000 County employees who work overtime providing vital services to Pima County.
- 2. The policy change would not result in tremendous savings to the County but made a significant impact to staff morale; and, overtime hours help support families during times of no raises.
- 3. Their attorneys do not agree with the legal opinions of the County Attorney.
- 4. There was no legal opinion or justification for changing this policy. This was not a gift or perk. It was compensation earned by hardworking personnel in understaffed departments who are trying to maintain a high level of quality service in tough times.
- 5. It was suggested that everyone work together to find better ways to keep the budget under control rather than implement this change.

The Chairman invited the speakers to return on January 5, 2010, with additional comments.

Mike Storie appeared before the Board and stated after communicating with Chris Straub, Chief Civil Deputy County Attorney, everyone agreed that Pima County should maintain this policy. He appreciated that this matter was going to be continued, but he felt there was not a need for him to return.

Mr. Straub clarified that he and Mr. Storie had discovered a specific statute that enabled law enforcement to have their overtime hours computed on the basis of including paid leave. However, the Board still needed to debate the policy issue of non-law enforcement personnel at the January 5, 2010 Meeting.

12. **COUNTY ADMINISTRATOR: Proposed Revision to Board of Supervisors' Policy No. C2.7, Weapons Prohibition in County Buildings and Vehicles.**

Chuck Huckelberry, County Administrator, provided a staff report on the potential need for revision of this policy. Supervisors Day, Valadez and Carroll asked questions, expressed concerns and requested more input and clarification on the policy. When the Chairman asked for legal advice, Chris Straub responded that he would need some additional time for further review.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to continue this item and direct the County Administrator to bring the matter back within the next 120 days when appropriate.

13. **INDUSTRIAL DEVELOPMENT AUTHORITY**

- A. RESOLUTION NO. 2009 - 310, 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 not to exceed \$20,000,000.00 Taxable Water Revenue Bonds (Global Water Resources, L.L.C., Westside Utilities Project) Series 2009 and declaring an emergency.
- B. RESOLUTION NO. 2009 - 311, 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 not to exceed \$60,000,000.00 Revenue Bonds (Tucson Medical Center) in one or more series from time to time and declaring an emergency.
- C. RESOLUTION NO. 2009 - 312, of the Board of Supervisors of Pima County, Arizona, approving the proceedings of the Industrial Development Authority of the County of Pima and the Single Family Mortgage Revenue

Bond Program of 2009 of the Industrial Development Authority of the County of Pima; approving standards and requirements related thereto; approving a general plan related thereto; approving program documents; and authorizing and approving the issuance of not to exceed \$50,000,000.00 the Industrial Development Authority of the County of Pima Single Family Mortgage Revenue Bonds, Series 2009 in one or more series or issues; and declaring an emergency.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to adopt Resolution Nos. 2009-310, 311, and 312.

14. **PIMA HEALTH SYSTEM**

Staff requests direction to provide written notice to Arizona Department of Health Services to terminate delegation of the licensing of the Adult Foster Care Homes effective February 1, 2010, and direction to take any and all necessary actions to implement this change in the current delegation agreement.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to approve the request and direct staff to continue to monitor and report to the Board to ensure consistency of care.

15. **TRANSPORTATION: Acceptance of Project/Roadway for Maintenance**

Co12-75-17B, San Joaquin Estates, Lots 208-212,226,229-235,250-255 and 268-287. Developer: SB Double J Investment Company. (District 3)

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

16. **FRANCHISE/LICENSE/PERMIT: Extension of Premises/Patio Permit**

David James Williamson, Canoa Ranch Golf Club, 5800 S. Camino del Sol, Green Valley, Permanent Extension.

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

17. **DEVELOPMENT SERVICES: Specific Plan Rezoning**

Co23-08-03, SENDERO PASS SPECIFIC PLAN (REZONING)

Request of Tucson 738/Montecito Communities, represented by The Planning Center, for a rezoning of approximately 837 acres from RH (Rural Homestead) to SP (Specific Plans, Sendero Pass Specific Plan) on property located south of the intersection of Ajo Highway and W. Valencia Road in Sections 13 and 14, T15S, R11E. The proposed specific plan (rezoning) conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 4–2 (Commissioners Gungle and Poulos voted NAY, Commissioners Cook, Creasy-Klein, Membrilla and Smith were absent) to recommend APPROVAL of the specific plan per the staff recommendation. Staff recommends APPROVAL of the specific plan subject to the standard and special conditions as revised in the staff report and further revised at the Planning and Zoning Commission hearing. (District 3)

IF THE DECISION IS MADE TO APPROVE THE SPECIFIC PLAN, THE FOLLOWING REQUIREMENTS SHOULD BE MADE CONDITIONS OF APPROVAL:

Standard and Special Conditions:

1. Not more than 60 days after the Board of Supervisors approves the Specific Plan, the owner(s) / developer(s) shall submit to the Planning Director the specific plan document, including any necessary revisions of the specific plan document reflecting the final actions of the Board of Supervisors, and the specific plan text and exhibits in an electronic and written format acceptable to the Planning Division.
2. Submittal of a development plan, or acceptable site development plan, if determined necessary by the appropriate County agencies.
3. Recording of a covenant holding Pima County harmless in the event of flooding.
4. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
5. Provision of development related assurances as required by the appropriate agencies.
6. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department, Document Services.
7. There shall be no subdividing or lot splitting without the written approval of the Board of Supervisors.
8. In the event of a conflict between two or more requirements in this specific plan, or conflicts between the requirements of this specific plan and another Pima County regulation not listed in Section 18.90.050B3, the more restrictive requirement shall apply.
9. This specific plan shall adhere to all applicable Pima County regulations that are not explicitly addressed within this specific plan. The specific plan's design standards shall be interpreted to implement the specific plan or relevant Pima County regulations.
10. Prior to the issuance of any permits, this specific plan is subject to the approval of a Master Subdivision Block Plat for the entire site. The subdivision block plat shall make all dedications (including roads, sewer, drainage, trails and open space), unless otherwise specified in a development agreement, and the plat shall identify all necessary improvements and provide a design and construction phasing plan. Upon submittal of the block plat, the studies, reports, information required by these specific plan conditions and the specific plan document itself, shall be provided for review and approval of the applicable Pima County department or departments. Subsequent site development requires submittal of subdivision plats or development plans prepared in accordance with the subdivision block plat.
11. No building permits shall be issued until all applicable specific plan requirements for or affecting the site are satisfied and the Planning Director issues a Certificate of Rezoning Compliance.
12. Transportation Department requirements:
 - A. The property owner/developer(s) shall dedicate 200 feet full right-of-way, or 100 feet half right-of-way as applicable, for Valencia Road as designated by the Major Streets and Scenic Routes Plan. The alignment of Valencia Road shall require approval by the Department of Transportation and shall be coordinated with adjacent development.
 - B. The property owner/developer(s) shall dedicate 150 feet right-of-way, or 75 feet half right-of-way as applicable, for Los Reales Road and 120 feet right-of-way, or 60 feet half right-of-way

as applicable, for Airline Road per recommended Major Streets and Scenic Routes Plan amendment per the Southwest Infrastructure Plan.

- C. A building setback of 130 feet shall be provided on Valencia Road, 105 feet shall be provided on Los Reales Road and 90 feet on Airline Road shall be provided (half right-of-way plus 30 feet that is measured from the centerline of the right-of-way/roadway). For high intensity/mixed uses and commercial development along the portions of Valencia Road, Los Reales Road and Airline Road, a reduction of setbacks to 10 feet may be allowed as approved by the Department of Transportation. The applicant will need to demonstrate prior to tentative plat/development plan approval that the roadway network will function with the reduction. If adjacent development is not of a high intensity then the reduction shall not be allowed.
- D. The property owner/developer(s) shall provide onsite and offsite improvements to Valencia Road, Los Reales Road and Airline Road as determined necessary by the Department of Transportation. Construction of Los Reales Road and Airline Road are the responsibility of the property owner/developer(s) and the property owner/developer(s) may be eligible to receive impact fee credits after construction is completed. Los Reales Road construction includes the north half ultimate cross section of a 4 lane divided or 5 lane desert parkway/urban major collector. Airline Road construction includes the full cross section of a 4 lane divided or 5 lane desert parkway/urban major collector. Improvements to Valencia Road could include, but may not be limited to, additional pavement for travel, turn or multi-use lanes, outside curb and sidewalks. This condition may be clarified or amended pursuant to a Board of Supervisors approved Development Agreement between Pima County and the owner/developer(s).
- ~~E. Access shall be minimized on Ajo Highway, Valencia Road, Los Reales Road and Airline Road (Off Site East Road). Ajo Highway access is subject to Arizona Department of Transportation approval. Access on Valencia Road shall be located approximately midway between East Road and the north property boundary, with only right in right out allowed; shall be located approximately midway between East Road and Airline Road, with only right in right out and opposite East Road on Valencia Road, unless otherwise allowed by Department of Transportation during the review of platting, development plan or Traffic Impact Study. Access on Airline Road shall be located a minimum of 600 feet south of Valencia Road. Access on Los Reales Road is limited to one access per Block or as otherwise allowed by Department of Transportation. If the RT area within Blocks 2, 4 and 5 is developed at the higher density per the Alternative Land Use Matrix, the owner/developer shall provide roadway connection between the western end of West Road shall have to Los Reales Road or Ajo Highway, or both Los Reales Road and Ajo Highway (functional classification to be determined during platting phase).~~
- E. Access shall be minimized on Ajo Highway, Valencia Road, Los Reales Road and Airline Road (Off Site East Road). Ajo Highway access is subject to Arizona Department of Transportation approval. Access on Valencia Road shall be located approximately midway between East Road and the north property boundary, with only right in right out allowed; shall be located approximately midway between East Road and Airline Road, with only right in right out and opposite East Road on Valencia Road, unless otherwise allowed by Department of Transportation during the review of platting, development plan or Traffic Impact Study. Access on Airline Road shall be located a minimum of 600 feet south of Valencia Road. Access on Los Reales Road is limited to one access per Block or as otherwise allowed by Department of Transportation. If the RT area within Blocks 2, 4 and 5 is developed at the higher density per the Alternative Land Use Matrix, the owner/developer shall provide roadway connection between the western end of West Road to Los Reales Road or Ajo Highway, or both Los Reales Road and Ajo Highway (functional classification to be determined during platting phase).
- F. Provision of a detailed and up to date Traffic Impact Study shall be submitted with the master block plat and shall be updated as determined necessary by Department of Transportation throughout the development of the specific plan.
- G. The property owner/developer shall prepare a transit study to be reviewed and approved by the Tucson Department of Transportation Transit Services, or other appropriate agency, to determine the feasibility and/or necessity of a Park & Ride facility within the Specific Plan area near Ajo Highway and Valencia Road. Owner/developer shall provide the required facility as determined necessary by the study.
- H. Each block shall be designed to establish coordinated pedestrian, bicycle and transit oriented connections within the specific plan and plan for future connections beyond the limits of the specific plan.

- I. All weather wash crossings for the trails shall occur at the four main wash crossings as approved by Department of Transportation and Regional Flood Control District, or other means of trail circulation shall be established (such as trails along the both sides (parallel to) of said washes or sidewalks/trails within roadway cross section within 300 feet along length of said washes). All weather wash crossings are preferred.
 - J. Written certification from Arizona Department of Transportation, stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to approval of a Master Block Plat.
 - K. The property owner(s) shall provide offsite improvements to Ajo Highway as determined necessary by Arizona Department of Transportation.
13. Regional Flood Control District requirements:
- A. All weather wash crossings for the trails shall occur at the four main wash crossings as approved by Department of Transportation and Regional Flood Control District, or other means of trail circulation shall be established (such as trails along the both sides (parallel to) of said washes or sidewalks/trails within roadway cross section within 300 feet along length of said washes). All weather wash crossings are preferred.
 - B. Drainage improvements required to remove the developable portions of the site from the FEMA floodplain will be identified in a drainage report to be finalized with the Master Block Plat. Approval of the Drainage Report and CLOMR shall be required prior to recordation of the block plat and approval of the Certificate of Compliance. Approval by RFCD and submittal to FEMA of the LOMR is required prior to issuance of any residential and commercial building permits.
 - C. Drainage corridors identified in the Specific Plan are to be enhanced to provide riparian habitat connectivity across the site as well as recreational and aesthetic amenity to the residents. A riparian mitigation plan is required and shall be submitted for approval with the Master Block Plat and be approved prior to issuance of the Certificate of Compliance and commencement of development including any grading in order to ensure sustainability principles identified by the County and Specific Plan are implemented.
 - D. Drainage improvements shall be designed in coordination with Ajo Highway and neighboring developments.
 - E. Due to the proposed land use intensities and severe flood and erosion hazards, flood control improvements shall be constructed with concrete, gunite, soil cement, or other structural methods. Earthen channels shall not be allowed. Drainage corridors left in a natural state with bank protection will be allowed, subject to the review and approval by the Regional Flood Control Department.
 - F. Design and location of detention basins to be located within the flight paths to Ryan Airfield shall be subject to approval by Tucson Airport Authority.
14. Wastewater Reclamation Department requirements:
- A. The owner / developer shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner / developer to that effect.
 - B. The owner / developer shall obtain written documentation from the PCRWRD that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner / developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
 - C. The owner / developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner / developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
 - E. The owner / developer shall design and construct the off-site and on-site sewers to accommodate flow-through from any properties adjacent and up-gradient to the rezoning area

- that do not have adequate access to Pima County's public sewer system, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
- F. The owner / developer shall also design and construct any necessary off-site sewers to accommodate the anticipated wastewater flow from any properties down-gradient from the rezoning area that can reasonably be served by those sewers, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
 - G. The owner / developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
 - H. The owner / developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
15. Natural Resources, Parks and Recreation Department requirements:
 - A. The approximate forty-acre park and all associated required recreation elements shall be constructed prior to the release of assurances for 75% or 2,625 lots, which is based on 3,500 target number in Sendero Pass.
 - B. Prior to release of assurances for lots above 75% of the total lots within each district, recreation elements and trails shall be built as conceptually shown on Exhibit III.G.
 - C. The 10-foot shared-use path within the residential collector road shall be constructed by the developer and maintained by the Master Homeowners Association.
 - D. The Master Homeowners Association shall maintain all shared-use paths, wash paths, inter-block paths and associated landscaping throughout the development.
 - E. Final determination of recreation areas and elements required shall be determined with a Recreation Area Plan (RAP), which shall be submitted and approved prior to the approval of the tentative plat. A RAP shall be submitted for each district. Each district shall meet the recreation requirements as stated in Section 18.69.090 and the Recreation Area Design Manual.
 - F. A Recreation Area Plan (RAP) shall be submitted with the Tentative Master Block Plat. The RAP shall show the alignment of the trails within the open space as shown on Exhibit III-G. The RAP shall include the park and show the required recreation elements.
 16. Cultural Resources requirement: In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State Laws ARS 41-865 and/or ARS 41-844 require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that appropriate arrangements can be made for the repatriation and reburial of the remains by cultural groups who claim cultural or religious affinity to them. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
 17. In the event the subject property is annexed, the owner(s) / developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
 18. The property owner shall execute and record the following disclaimer regarding Prop 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."
 19. Adherence to the specific plan document as approved at the Board of Supervisor's public hearing.
 20. Tucson Airport Authority requirements:

- A. The master developer or current property owner shall execute and establish the avigation easement and disclosure dedication for the entire 837 acres prior to approval of the Master Block Plat in cooperation with the Tucson Airport Authority. The developers shall include disclosure statements regarding Ryan Airfield in all sales contracts, public reports, and the recorded covenants. The specific language for inclusion in the disclosure shall be coordinated with the Tucson Airport Authority.
 - B. The specific plan does not supercede the requirements of Ch.18.57 (Airport Environs and Facilities). Ch.18.57 takes precedence over all that is proposed by the specific plan. Any development of the Sendero Pass Specific Plan shall be consistent with the Airport Environs and Facilities Zone, as the Zone is ratified at the time of submittal of each tentative plat or development plan; nothing in the Specific Plan Development Regulations shall be construed, further interpreted or assumed to modify or affect the Airport Environs and Facilities Zone.
21. At a minimum, the majority of infrastructure and transportation costs shall be self-funded by the developer, including but not limited to impact fees. A development agreement to address, at minimum, infrastructure commitments, phasing, and funding may be developed and approved by the Board of Supervisors prior to submittal of a Master Block Plat. No permits shall be issued until the revisions to the Pima County development impact fee program are adopted by the Board of Supervisors.
 22. Any proposal or action which would result in a significant deviation from the objective of providing or reserving the necessary acreage for commercial services within ¼ - ½ mile of all residential development (as stated in the specific plan) or the general dispersal of commercial services to serve the residential development of the specific plan, would be considered a "Substantial Modification" of the specific plan requiring public hearings before the Planning and Zoning Commission and the Board of Supervisors per Section 18.90.080.
 23. Prior to the issuance of a certificate of occupancy for any structure taller than 39 feet, the developer shall provide written certification to the Planning Director that the development has an active contract with an emergency services provider capable of providing adequate fire services for the subject structure.
 24. If required by the Three Points Fire District (District), the developer shall provide a fire station site within the project that is compatible with adjacent land use and acceptable to the developer and the District and to be shown on the applicable subdivision plat or development plan. The developer shall provide for the transfer of that property to the District.
 - ~~25. The Mixed Use area cannot be satisfied by, or comprised of, only one housing type; more than one type of residential dwelling type is required in addition to the commercial uses.~~
 25. The Mixed Use areas, defined as Area 1 (Blocks 16, 17, 18) and Area 2 (Block 31), cannot be satisfied by, or comprised of, only one housing type; more than one residential dwelling type is required in each area in addition to the commercial uses.

Arlan Colton, Planning Official, reported that the property was located south of Ajo Highway and Valencia Road across from Ryan Field Road and within the Southwest Infrastructure Plan area. He advised that staff had received comments and participation from the Arizona State Land Department (the major property owner), Tucson Airport Authority (TAA) and Kitt Peak National Observatory. Staff recommended approval subject to special and standard conditions and requested two additional changes to be made to Condition Nos. 12.E and 25. He acknowledged that the applicant was in agreement with the changes.

In addition, Mr. Colton informed the Board that approval of this Specific Plan Rezoning request would also require approval, by separate motion and vote, of proposed amendments to five Chapters of Title 18 of the Pima County Zoning Code. Those revisions pertained to Chapters 18.72, 18.73, 18.75, 18.77 and 18.79 (for this project only) were approved by the Design Review Committee and Planning and Zoning Commission.

The Chairman inquired about the water provider for this project. Mr. Colton

responded that the current provider was Diablo Water Company which did not have a renewable water supply.

Chairman Elías stated that he had a problem approving projects that do not have a renewable water supplier and creating situations later on due to the lack of this critical natural resource. Supervisor Day shared his concern and wondered why they were moving forward without a designated renewable water supply. Mr. Colton stated that this was clearly the policy of the Board, but most zoning and land use cases were in the same situation.

Chuck Huckelberry, County Administrator, reported that this subject was going to be addressed at the joint City/County meeting and hopefully result in a policy revision that would direct water to designated growth areas including the Southwest Infrastructure Plan.

Supervisor Bronson stated that she respected her colleagues concerns about the water issues and asked if the water issue could not be resolved, what kind of flexibility the Board would have in dealing with land use planning that has already been approved.

Mr. Colton responded that specific plans do not have a time limit unless one is included because it usually takes 20-25 years to build-out.

Supervisor Bronson asked about the recommended change to the Native Plant Ordinance from a 2 to 1 to a 1 to 1 ratio. Sherry Ruther, Environmental Manager, explained that Specific Plans provide for the unique opportunity to tailor make regulatory requirements that have bearing on the proposed development. She stated that balance is important in an area where they have identified sustainability for development. In this particular area, it was appropriate in staff's opinion to balance the resources with the development on the site. The lesser mitigation standard still maintained a sense of place and preserved the character of the vegetation communities in the area.

The following speakers addressed the Board:

- A. Jordan Feld, Planning Director, Tucson Airport Authority
- B. Elizabeth Alvarez, Kitt Peak National Observatory
- C. Mike Grassinger, The Planning Center, Applicant's Representative
- D. Joe Gwerder, Montecito Communities, Applicant

They provided the following comments:

1. The Tucson Airport Authority (TAA) supported the development which met their three primary interests – safety, compatibility and economic development.

2. Provisions in compliance with current updates to TAA's Master Plan have been included in the project.
3. Future key economic development of this property will act as a catalyst for sustainability and attracting technical and other high paying employers.
4. Kitt Peak's issues and concerns were addressed in the process and staff did a great job including those responses at the Planning and Zoning Commission hearing.
5. Kitt Peak preferred not having industrial and high density usage in this area; however, acknowledged that future development was inevitable, and they recognized the need for a concerted effort to minimize the impact of more light.
6. Ensuring that light mitigation is successful will require working with and educating the developer and future residents.
7. It is hoped that a policy shift by the City will allow water to be directed to the development.
8. This project has the same water provider as Pomegranate Farms with the same type of development and issues relative to the location of a renewable water source.
9. Checks and balances in the subdivision plat process provide that, without an assured water supply system, they can go no further.
10. This is a high quality and appropriate development for the area which will generate considerable revenue for the County and help with the roads in the area.

Supervisor Bronson asked if the client would be willing to meet with Kitt Peak's representative on the Lighting Code Committee as they develop their lighting plans. Mike Grassinger responded that they would and hoped to develop and incorporate lighting design standards for this project that will be state of the art.

Supervisor Day asked if funding was available for this project. The applicant responded that funding for this project was comprised of a unique arrangement whereby all private investor debt has been changed to equity to facilitate more time to work out the issues and not have to come back for revisions and amendments. He reported that they believed there was an opportunity to begin working with builders in 2011 and commence selling the properties in 2012. He felt the project had a unique design, was economically friendly and would result in a final product that Pima County could be proud of. He also stated that he had been working closely with Metro Water and the City of Tucson and believed there would be a renewable source for this project through a CAP allocation.

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

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and carried by a 4-1 vote, Chairman Elías voting "Nay," to approve Co23-08-03, subject to standard and special conditions as revised by staff, further revised

by the Planning and Zoning Commission, and to include the changes to Condition Nos. 12.E. and 25, as read into the record by Arlan Colton.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day, and carried by a 4-1 vote, Chairman Elías voting “Nay,” to amend Chapter 18.72 - Native Plant Preservation pursuant to the staff report and the Planning and Zoning Commission recommendations related to case Co23-08-03.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day, and carried by a 4-1 vote, Chairman Elías voting “Nay,” to amend Chapter 18.73 – Landscaping Buffering and Screening Standards pursuant to the staff report and the Planning and Zoning Commission recommendations related to case Co23-08-03.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and carried by a 4-1 vote, Chairman Elías voting “Nay,” to amend Chapter 18.75 - Off Street Parking and Loading Standards pursuant to the staff report and the Planning and Zoning Commission recommendations related to case Co23-08-03.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day, and carried by a 4-1 vote, Chairman Elías voting “Nay,” to amend Chapter 18.77 – Roadway Frontage Standards pursuant to the staff report and the Planning and Zoning Commission recommendations related to case Co23-08-03.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll, and carried unanimously by a 5-0 vote, to deny the request to amend Chapter 18.79 – Sign Code Standards as it related to case Co23-08-03.

18. DEVELOPMENT SERVICES: Appeal of Hearing Administrator’s Decision

P21-09-022, PC ROW-WEST SPEEDWAY BOULEVARD

In accordance with Pima County Zoning Code Section 18.97, Fiore Iannacone appeals the decision of the Hearing Administrator in Case No. P21-09-022, to allow a Type I Conditional Use Permit for a communication tower/utility pole replacement and associated on-the- ground equipment area, in the Pima County right-of-way at 4453 W. Speedway Boulevard in the CR-2 zone. Chapter 18.97, in accordance with Sections 18.07.030H2.d.5 of the Pima County Zoning Code, allows a communication tower/utility pole replacement and associated on-the-ground equipment area, meeting certain conditions as a Type I Conditional Use in the CR-2 zone. The Hearing Administrator APPROVED THE REQUEST SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 5)

Standard Conditions (per the Pima County Zoning Code)

1. The new pole replaces the existing pole.
2. The new pole is no further than 6’ from the existing pole and is within the same alignment.
3. The new pole is no higher than sixteen feet beyond the height of the existing pole.

4. The antennas are flush-mounted.
5. The diameter of the replacement pole does not exceed the diameter of the existing pole by more than 60 percent or 14 inches, whichever is greater.
6. The installation includes a new equipment area.

Special Conditions

1. The new pole shall match color of the other existing utility poles in the area.
2. The antenna panels and associated support arms shall be painted to match the color of the pole. Any cabling necessary to serve the antennae shall either be run through the interior of the pole, or shall be hidden within a cable tray that is painted to match the pole color.
3. The equipment area shall be placed as far to the west as possible (without encroaching into the existing regulatory floodplain), in general conformance with the revised sketch as submitted into the record by the applicant at the 14 October, 2009 public hearing.
4. Access to the equipment area shall be via the same established access route as that used by Pima County for its facilities within the same right-of-way (i.e. access shall be off of Circulo Zagala rather than off of Speedway Boulevard).
5. The enclosing screenwall surrounding the new equipment area shall be painted and textured to match the entry monuments of the Colonial Trails subdivision. The gates associated with the new equipment area shall be painted to match, to the greatest extent possible, the color of the walled enclosure.

Jim Portner, Hearing Administrator, provided a staff report on the request to allow a Type 1 Conditional Use Permit for a communication tower/utility pole replacement and associated on-the-ground equipment area in the Pima County right-of-way at 4453 W. Speedway Boulevard in the CR-2 zone. He reported that there were two public hearings on this case. At the first one, questions were raised by some of the surrounding neighbors specifically members of the Colonial Trails Subdivision Homeowners Association (HOA). That hearing was continued and the applicant was instructed to meet with members of the subdivision to further discuss the particulars of the application. They met, came back and a second public hearing was scheduled. After hearing that testimony, the public hearing was closed and the hearing administrator approved the request. That decision was issued and appealed within the 30 day statutory appeal period, and the issue was now before the Board of Supervisors with the applicant and appellants in the audience.

The following speakers addressed the Board:

- A. Kay White, resident, Colonia Trails Subdivision
- B. Fiore Iannacone, President, Colonia Trails Subdivision HOA

They provided the following comments:

1. There was no demonstrated need for additional cell phone service in this area.
2. There would be serious site visibility issues exiting from Colonia Trails Subdivision onto Speedway with the proposed structures.
3. The site does not have a legal parking space on private property and the Department of Transportation would not allow parking in the right-of-way.
4. Speedway is a scenic route and the utility pole would be highly visible and unsightly due to its location within a couple of feet of the road.

5. The neighbors stated that other sites in the area would be more suitable for the use.

Chad Blunt, representing the Applicant, AT&T and New Cingular Wireless PCS, L.L.C. responded to the issues:

- A. AT&T had numerous conversations with local residents and had tried to address the issues.
- B. Plans meeting the safety triangle requirements were being prepared for submittal to Pima County, and he believed the plan would resolve safety issues.
- C. They believed they could locate other legal parking adjacent to the property.
- D. There were existing trees in the right-of-way that Pima County would not allow to be removed.
- E. They worked with the residents to relocate the site further west towards the wash and away from the access point.
- F. RF engineers had selected this site for the pole.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson, and unanimously carried by a 5-0 vote, to close the public hearing and grant the appeal of the Hearing Administrator's decision, reverse the approval of the Type I Conditional Use Permit, and deny Chad Blunt's application (on behalf of New Cingular and AT&T) for a communication tower/utility pole replacement in the right-of-way at the address 4453 W. Speedway Boulevard.

19. **DEVELOPMENT SERVICES: Conditional Use Permit**

P21-09-030, NORTHWEST FIRE DISTRICT – WEST ORANGE GROVE ROAD
Request of FM Group, (Jaime Weiss, applicant), on behalf of Northwest Fire District (property owners), on property at 1520 W. Orange Grove Road, in a CR-1 zone, for a Conditional Use Permit for a communication tower and associated on-the-ground equipment area. Chapter 18.97, in accordance with Section 18.07.030H.2.d of the Pima County Zoning Code, allows a communication tower as a Type III Conditional Use in the CR-1 zone. On motion, the Planning and Zoning Commission voted 6-0 (Commissioners Smith, Cook, Creasy-Klein and Membrilla were absent) to recommend APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. The Hearing Administrator recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS.
(District 1)

Standard Conditions

1. Obtaining an approved Development Plan.
2. Adherence to all requirements of Section 18.07.030.H and Section 18.07.040.A.4 (General Regulations and Exceptions) of the Pima County Zoning Code.

Special Conditions

1. The tower height shall be no more than sixty-five feet (65').

2. The proposed tower will be painted with a matte finish (i.e. non-reflective) color.
3. The wall enclosing the equipment area will match the material and color, to the greatest extent possible, of the existing/adjacent fire-station building.

Jim Portner, Hearing Administrator, reported that the actual site of this tower was Station No. 30 of the Northwest Fire District located on west Orange Grove Road. The proposed communication tower and equipment area would be located behind the existing building adjacent to the rear parking lot. The proposed tower height is 65 feet. In addition to the proposed wireless antennae, the tower would also have micro-wave and omni antennae used by the Fire District to support its communication needs.

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

On consideration, it was moved by Supervisor Day, seconded by Supervisor Carroll and carried by a 4-1 vote, Supervisor Elías voting “Nay,” to close the public hearing and approve the request subject to standard and special conditions.

20. **DEVELOPMENT SERVICES: Conditional Use Permit**

P21-09-021, COTTONWOOD DE TUCSON INC. – WEST SWEETWATER DRIVE

Request of Cingular Wireless P.C.S., L.L.C., (Chad Blunt, applicant), on behalf of Cottonwood De Tucson, Inc. (property owners), on property at 4110 W. Sweetwater Drive, in a SR zone, for a Conditional Use Permit for a communication tower and associated on-the-ground equipment area. Chapter 18.97, in accordance with Section 18.07.030H.2.d of the Pima County Zoning Code, allows a communication tower as a Type III Conditional Use in the SR zone. On motion, the Planning and Zoning Commission voted 4-2 (Commissioners Spendiarian and Richey voted NAY; Commissioners Smith, Cook, Creasy-Klein and Membrila were absent) to recommend DENIAL. The Hearing Administrator recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 3)

Standard Conditions

1. Obtaining an approved Development Plan.
2. Adherence to all requirements of Section 18.07.030.H and Section 18.07.040.A.4 (General Regulations and Exceptions) of the Pima County Zoning Code.

Special Conditions

1. The proposed monopole shall utilize the “monopalm” palm-tree camouflage design.
2. The eight-foot (8’) masonry wall enclosing the on-the-ground equipment area shall be stucco’d and painted a color to match the existing nearby storage building.
3. The gates of the equipment enclosure shall be painted to match the color of the wall.

Jim Portner, Hearing Administrator, reported that this was a request for a Type III Communications Tower and on the ground equipment area. It is located in a SR zone on west Sweetwater Drive. There were several Planning and Zoning

Commission hearings on this matter. Due to the opposition, the applicant was instructed to meet with the residents of the Tucson Mountain Homeowners Association, which they did. After hearing public testimony at the second public hearing, the Planning and Zoning Commission voted 4-2 to recommend denial of the request based on neighborhood opposition, lack of apparent voice coverage need and aesthetics of the pole. The Hearing Administrator recommended approval subject to standard and special conditions.

The following speakers addressed the Board:

- A. Elizabeth Kelley, resident
- B. Alan Tonelson, resident
- C. Ed Verburg, resident
- D. Marie Calkins, resident
- E. Susan Barstow, resident
- F. Kristen Bitgood, resident
- G. Judith Meyer, President of Tucson Mountain Homeowners Association

They provided the following comments:

1. This issue had come before Robins Elementary School, the neighborhood school, and the residents of the community numerous times. They did not want additional towers in that area and do not want this issue to come back again.
2. There could be potential health risks to children if the tower was located too close to the school.
3. The Board should consider the preferences of the people who reside in this area and their advisory committee.
4. This was a public cost vs. convenience issue, and there are always other sites.
5. The applicant had not established a clear need for this tower and there was good cell service in this area already.
6. The Mono Palm negatively impacts the natural environment. It looked metallic and does not fit in aesthetically with the natural palms and eucalyptus in the area.
7. Help them preserve what was left of the natural desert area.
8. The mission of the Tucson Mountain Homeowners Association was to protect the scenic beauty of the Tucson Mountains and foothills and improve the quality of life for those who live on the west side.
9. The Board was asked to deny the Conditional Use Permit first on aesthetics grounds and second on lack of need.

Chad Blunt, representing the Applicant, AT&T and New Cingular Wireless PCS, L.L.C. responded to the issues:

- A. He met with the Tucson Mountain Homeowners Association representatives near the site.
- B. In an effort to compromise with the homeowners, the height of the tower was reduced from 65 feet to 55 feet.
- C. Their research showed that coverage was needed and that a gap in coverage did exist.
- D. He felt that they had tried to resolve some of the issues, but he did not feel that they could reach a reasonable compromise on others.

A written statement prepared by Hans Huth and a petition with 51 resident signatures opposing the tower were submitted to the Board.

Chris Straub, Chief Civil Deputy County Attorney, asked for additional dialog and information on the issue of denial based on aesthetics grounds. In response, Mr. Verburg, resident, discussed his knowledge of a similar situation in another state where the request to deny towers was upheld by the Courts based on aesthetics.

Supervisor Bronson stated that since Sweetwater was a designated scenic route, this further contributed to the aesthetics issue and could have some potential negative affects on property value.

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and unanimously carried by a 5-0 to close the public hearing, deny the applicant's request for a Conditional Use Permit, and direct staff to prepare a decision that was supported by substantial evidence that was tied to the Pima County Code.

21. DEVELOPMENT SERVICES: Rezoning Resolution

RESOLUTION NO. 2009 - 313, Co9-01-39, Hardin, et. al. – Oracle Road Rezoning. Owners: Oracle Road Auto Plaza, L.L.C. (District 1)

Without objection, this item was continued to the Board of Supervisors' Meeting of January 5, 2010.

22. TRANSPORTATION: Right-of-Way Permit Fee Schedule

ORDINANCE NO. 2009 - 111, of the Board of Supervisors, relating to public rights-of-way; amending Ordinance No. 1998-76 by establishing a new fee schedule for the issuance of Right-of-Way Permits; and repealing all previously adopted Right-of-Way Permit Fee Schedules. (All Districts)

Chuck Huckelberry, County Administrator, stated this was a proposed fee schedule increase for right-of-way use permit fees and that the fees had not been increased in approximately eight years.

The following speakers addressed the Board:

- A. Russell Jones, Attorney for TRICO
- B. Mark Jergan, Senior Attorney for Unisource and Tucson Electric Power

They provided the following comments:

1. TRICO and TEP share similar concerns.
2. According to the Constitution and Arizona Revised Statutes, public service corporations who acquired franchises from Pima County should not be charged for working within the right-of-way.
3. There should be a distinction in charging for overhead facilities within the right-of-way versus those that are located in the ground.
4. There appear to be two key issues – legal and application.
5. Legally, the application process for acquiring a franchise separated utilities companies from the public.
6. Regarding application, Pima County could not inspect electric poles. They were built according to standards governed by National Electric Safety Codes and the Arizona Corporation Commission.
7. Trenching on or off pavement in County right-of-way could not be assessed the same way as working on overhead utility poles.
8. Pima County lacked the legal authority to impose utility inspection fees on utilities.
9. Pima County lacked a modern comprehensive franchise with utilities that would provide more opportunities to regulate utility activity in roadways.
10. Table the item until the utilities and staff could sit down and update the fee schedule by using modern costs and determining together what charges could be made on a more rational basis other than lineal footage and meter charges.

Supervisor Day asked if more time was needed or if there was a legal argument.

Ben Goff, Deputy Director of Transportation, reported staff had met with members of the regulatory companies. They discussed what was appropriate and necessary to cover the costs incurred to permit, monitor and inspect what happens in the public road right-of-way.

Supervisor Bronson inquired whether there were representatives present from the utilities other than the electric companies. Mr. Goff responded that the other utility representatives were not present because he believed they were reasonably satisfied with the process.

Hal Gilbreath, Deputy County Attorney, stated that the application of an administrative fee for issuance of a permit had been upheld by Arizona Courts for many years; however, the fee did need to directly relate to the costs the County incurred to provide the services.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to close the public hearing and adopt Ordinance No. 2009-111.

23. **TRANSPORTATION: Traffic Ordinances**

- A. ORDINANCE NO. 2009 - 112, of the Board of Supervisors, regulating parking of vehicles on the east and west side of Campbell Avenue from the City of Tucson limit, approximately 180-feet north of River Road to the south leg of Table Mountain Drive, in Pima County, Arizona. Staff recommends APPROVAL. (District 1)
- B. ORDINANCE NO. 2009 - 113, of the Board of Supervisors, regulating parking on the east and west side of Campbell Avenue from the south leg of Table Mountain Drive to the north leg of Table Mountain Drive, in Pima County, Arizona. Staff recommends APPROVAL. (District 1)
- C. ORDINANCE NO. 2009 - 114, of the Board of Supervisors, regulating parking on the east and west side of Campbell Avenue from the north leg of Table Mountain Drive to Ina Road, in Pima County, Arizona. Staff recommends APPROVAL. (District 1)
- D. ORDINANCE NO. 2009 - 115, of the Board of Supervisors, regulating parking on the north and south side of Manzanita Avenue from Placita Cielito Lindo to Campbell Avenue in front of Manzanita Elementary School, in Pima County, Arizona. Staff recommends APPROVAL. (District 1)
- E. ORDINANCE NO. 2009 - 116, of the Board of Supervisors, regulating traffic at the intersection of Bowman Road and Pinto Lane, in Pima County, Arizona. Staff recommends APPROVAL. (District 1)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearings and adopt Ordinance Nos. 2009-112, 113, 114, 115, and 116.

24. **BOARD OF SUPERVISORS**

RESOLUTION NO. 2009 - 314, of the Board of Supervisors, recognizing the passing of Father Leo McCarthy, whose contributions to Salpointe Catholic High School and the lives of its students, as a past principal and in other capacities were significant, meaningful and appreciated. (District 5)

On consideration it was moved by Chairman Elías, seconded by Supervisor Bronson and carried unanimously by a 5-0 vote, to approve Resolution No. 2009-314.

The following individuals appeared to thank the Board of Supervisors on behalf of the school board, administration, students and volunteers of Salpointe High School and accept the Resolution honoring the late Father Leo McCarthy: Kay Sullivan - Interim Head of School, Peter Lacovara - Chairman of the Board, Jeff Nordensson - Board Member, and Mike Slania - Board Member.

25. **COUNTY ADMINISTRATOR: Purchase of the Coronado Hotel**

Discussion/direction/action regarding the purchase of the Coronado Hotel for use as affordable housing for low-income elderly and disabled individuals in the Downtown area.

Chuck Huckelberry, County Administrator, offered a report on the background for the request. He recommended direction be given to purchase the building at or near the offered price using County housing bonds based on an affirmative recommendation by the Pima County Housing Commission, and to enter into an appropriate agreement with the City of Tucson or an acceptable nonprofit entity to continue to manage the property; invest in property rehabilitation, and maintain its use as affordable housing for low-income elderly and disabled individuals in the Downtown area.

Chairman Elías stated this appeared to be an excellent buy and a continued effort to maintain affordable housing for low income elderly and disabled individuals.

On consideration, it was moved by Chairman Elías and seconded by Supervisor Valadez to approve the County Administrator's recommendation. No vote was taken at this time.

Supervisor Day stated that although she understands the need to maintain low income housing, she felt that this purchase was moving too fast and expressed a number of concerns regarding rehabilitation costs.

Chairman Elías explained that the Downtown Development Corporation (DDC) extended the original deadline for bid submittals to December 10, 2009, once they became aware of the County's interest in purchasing the property. The cost of the property, cooperation from the City of Tucson, and the availability of funds to cover the costs of acquisition and rehabilitation makes this a good deal.

Supervisor Day responded that the Pima County Housing Commission had not yet considered this matter and that there was not enough information to make a decision.

Mr. Huckelberry responded that the Affordable Housing Commission would conduct an emergency meeting that afternoon and hopefully have a favorable

recommendation. With respect to rehabilitation, he reported that the Facilities Management Department had conducted a preliminary review of the building. It was anticipated that the rehabilitation would not be funded through Pima County and that the County would not be actively managing the property.

The following speakers addressed the Board:

- A. George Pettit, Council Aide, City Council Member, Karin Uhlich, Ward III
- B. Miguel Ortega, Chief of Staff, City Council Member Karen Uhlich, Ward III

They provided the following comments:

1. The City Council voted unanimously to support this purchase.
2. The City was committed to working things out with the County on this project.
3. This would make a wonderful statement to the community, as a whole, on the importance of both agencies to provide and maintain affordable housing.

A substitute motion was made by Supervisor Day to postpone this item until more information could be obtained. The motion died for lack of a second. Upon a roll call vote, the original motion carried by a 4-1 vote, Supervisor Day voting "Nay," to approve the recommendations.

The County Administrator was directed to provide additional information for the December 8, 2009, Board of Supervisors' Meeting.

26. **COUNTY ADMINISTRATOR: Naming of the Forensic Anthropology Laboratory**

Staff requests approval to name the Pima County Forensic Science Center Anthropology Laboratory as the "Walter H. Birkby Forensic Anthropology Laboratory."

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

27. **PROCUREMENT: Contracts and Awards**

Institutional Health

Arizona Health Care Cost Containment System, Amendment No. 5, to provide for the payment of claims for inpatient hospital services to inmates and extend contract term from 10/1/09 to 9/30/10, General Fund, contract amount \$250,000.00 (01-65-A-136012-1004)

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

28. **CALL TO THE PUBLIC**

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

29. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 1:30 p.m.