

**SPECIAL STUDY SESSION  
June 19, 2002**

The Board of Supervisors of Maricopa County, Arizona convened at 9:00 a.m., June 19, 2002, in the Sullivan Conference Room, Tenth Floor, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman; Fulton Brock, Vice Chairman (entered late); Andy Kunasek, Max W. Wilson, and Mary Rose Wilcox. Also present: Fran McCarroll, Clerk of the Board; Alma Hernandez, Administrative Coordinator; David Smith, County Administrative Officer; and Paul Golab, Deputy County Attorney.

**DISCUSSION: JAIL TAX EXTENSION BILL**

Item: Jail Tax Extension Bill (ADM 414-004)

Chairman Stapley opened the special study session by remarking that members of the Board were interested in discussing a sales tax ballot initiative as authorized by the State Legislature.

Diane Sikokis, director of Maricopa County Government Relations, explained briefly that House Bill 2313, which was passed by the State Legislature and becomes effective August 22, 2002, allows the Board of Supervisors to proceed with a general election ballot initiative on a jail sales tax.

A timetable, drafted by Karen Osborne, Elections Department Director, was provided to the board members for their review. The timetable outlines the actions that need to take place should a decision be made to move forward with an initiative this year.

Ms. Sikokis advised the Board of other issues that should also be considered during this decision-making process, which included:

- Budget and fiscal problems faced by the State of Arizona
- Other referenda or initiatives expected to be on the 2002 general election ballot (i.e., tobacco tax increase, State Legislator's salary increase, gaming related issues, medical use of marijuana, and perhaps a stadium-related issue).

Another issue to keep in mind is that the voters have already passed a jail sales tax in 1998 and the jail is not yet completed. The question before the Board is whether to ask the voters to approve a 20-year sales tax for jail operational costs, and if so, which would be the most advantageous year to do so: 2002, 2004, 2006 and/or 2008.

Presuming the Board called for an election in 2002 and the measure did not pass, Chairman Stapley questioned whether it was correct to assume that the issue could be placed on the ballot again in the election cycles of 2004, 2006 and/or 2008. Ms. Sikokis responded that, legally, this was correct.

**~ Supervisor Brock entered the meeting ~**

Supervisor Wilcox commented she had requested that the Board study this issue for a number of reasons. She explained that, initially, she believed the County could wait until 2004 to call for an election, but since the adoption of the County budget, and in light of the State's budgetary problems, she feels time is of the essence. Supervisor Wilcox expressed the need to proceed in 2002, citing the following factors that she considered:

- A recent poll and crime issue analysis done by *The Arizona Republic*,

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- The success of the last jail sales tax initiative in 1998 and support that may still exist,
- Crime being a prominent issue on people's minds,
- The near completion of the jail.

Supervisor Wilcox further elaborated that since the jail construction is near completion, staffing the jails must now be a priority to assure that a criminal's punishment can be enforced. Even with the large number of issues on the 2002 ballot, Maricopa County should proceed with the jail sales tax initiative since subsequent election cycles may not improve. Also, budgets might not improve either, therefore, the County should attempt to secure its financial stability by asking for this operating tax now.

Chairman Stapley recognized those attending the meeting, including Helen Purcell, the Maricopa County Recorder, and Karen Osborne, the Elections Department Director. Chairman Stapley mentioned that he had spoken briefly with Maricopa County Sheriff Joe Arpaio to discuss this issue, and although the Sheriff could not attend, his chief deputy, Dave Hendershott, is attending on his behalf.

Doug Cole, a lobbyist for Maricopa County, explained that the Board needed to consider several issues regarding the decision to place the question of a jail sales tax on the ballot. Mr. Cole explained that the County cannot expend monies to promote the issue or influence the election. However, a third party could organize and raise funds to inform and influence voters. Mr. Cole further explained that a third party advocate is permitted to solicit corporate funds for an initiative campaign. Another consideration is the possibility that the legislature may change the recently passed law in the next session depending on changing circumstances and continuing budget woes.

Chairman Stapley stated that his overriding concerns are asking the voters to continue the sales tax for another 20 years, and competing with a transportation sales tax that could be on the ballot in 2004. In addition, the community college bond election may also be a factor, but as Mr. Cole explained, the community college district has scheduling flexibility for their ballot issue. The County is limited to the general elections of 2002, 2004, 2006 or 2008, for this issue.

Chairman Stapley asked whether it were possible to request of the legislature to schedule this issue on an odd year. Mr. Cole and John Kaites, a Maricopa County lobbyist, concurred this would be doubtful since a number of legislative members had insisted that this issue be scheduled during the general election cycle.

Supervisor Wilcox, responding to Mr. Cole's comment about legislative action, stated this was another reason that the issue should move forward. Next year's budget could be greatly impacted because of the state's off-balance budget; therefore, to secure the future of jail operations and lessen the threat of further cuts by the legislature, the County must make the decision to act this year. Supervisor Wilcox stated that she would be interested in any research or poll results available regarding this issue. Also, a request should be made to *The Arizona Republic* for their crime poll results. Supervisor Wilcox also suggested that since the Citizen's Jail Committee had laid the groundwork for the 1998 election, they may have valuable insights about a jail sales tax for operation and maintenance.

Citing the success of the 1998 jail tax initiative by a 20% margin, Chairman Stapley stated that Maricopa County currently has the momentum.

Chairman Stapley invited Chief Deputy Hendershott to share any questions or comments that Sheriff Arpaio may wish to relay. Chief Deputy Hendershott stated that the Sheriff's only question was whether recent comments by gubernatorial candidates about not raising taxes would impact this issue. Supervisor Brock

responded that since this is a local issue, rather than statewide, the issue should not be a factor in the gubernatorial race.

Supervisor Brock concurred with Supervisor Wilcox that an opinion poll should be considered quickly. He also argued that although the map showing the results of the previous initiative depicts a high level of support countywide, it does not demarcate densities, and the areas with the greatest support appear to be the less populated regions of the County.

Mr. Cole continued by explaining that the Board should also consider the effect of placing this issue on the 2004 ballot which is the same election as most County officers.

Mr. Kaites was invited to provide his input on the issue and stated that to attempt a 2002 initiative would require that a third party entity would have to organize and raise approximately \$300,000 within one and one-half months to run an effective early ballot campaign. The target number of early ballots is 400,000. If an attempt is made in 2002 and is rejected at the ballot, there would be an opportunity to regroup and move forward in a different manner for the 2004 or a later election.

Chairman Stapley observed that the risk might be worth taking to call the election now, allowing a third party sufficient time to organize and raise funds.

Mr. Cole mentioned that, although highly unlikely, a citizen could file an application for a referendum on HB 2313, since the law does not take effect until August 22, 2002. However, that challenge would require the garnering of 51,000 signatures.

Supervisor Kunasek asked whether the board had the authority to call an election for an issue that has not been enacted into law. Jill Kennedy, Deputy County Attorney, answered that precedence was set during the 1998 initiative process and, therefore, legally possible now.

Supervisor Kunasek discussed the actual bill passed by the legislature and exactly how much taxing authority is allowed. He suggested that there should be some extensive studies to determine the amount needed for operation and maintenance of the jails. The County may not need to set the rate at the maximum limit. A lesser tax rate request would show the voters that Maricopa County is fiscally responsible.

Mr. Cole agreed that Maricopa County has a good reputation for being fiscally responsible and recommended that the tax rate request should be based on actual need.

Mr. Kaites concurred that a request for a lower than the maximum tax rate could be more acceptable to the public.

Mr. Cole left the meeting at this time.

Marcus Dell'Artino, another lobbyist, outlined his opinion on this issue.

- An opinion poll is essential, but it is agreed that the top three issues for the County continue to be education, crime and healthcare.
- A possible bond issue for healthcare in 2003 could have an effect on the jail sales tax, or vice versa. The County needs to prioritize these issues.
- The current state of the economy is not conducive to pursuing a tax issue.

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- Indian gaming issues will dominate the 2002 election and the County's message could easily be lost.
- The current mindset of the electorate may be that a jail tax has already been passed in 1998, property taxes would have recently been paid, and they may not understand why another jail tax would be needed four years later.
- The issue is not one that can be easily explained, and this could be an advantage to the opposition.
- There will be opposition, albeit probably unorganized.

Mr. Dell'Artino recommended that the vote be called in 2004 allowing 2 additional years in which to educate the electorate about the importance of a jail sales tax.

Considering that Maricopa County was recently awarded the top grade in the nation for good governance, Chairman Stapley questioned whether that award would have a more favorable impact in 2002 rather than 2004. Mr. Dell'Artino answered that it could work to the County's advantage in the minds of some people; however, it could also work against the County.

Discussion ensued about the pros and cons of waiting until the 2004 general election when Board members would be more focused on their own election campaigns.

Chief Hendershott interjected that the Maricopa County Sheriff's Office's (MCSO) informal public opinion poll reveals that the public, in general, is supportive of jails. Sufficient funds for operational costs are needed in order to hire detention officers and maintain jails, and currently MCSO has a poor officer to inmate ratio. The national average ratio is 1:3, while Maricopa County's average is 1:9, and it has been rumored that the detention officers' union could sue Maricopa County because of this. For these reasons, MCSO supports an effort to proceed in the 2002 general election.

Mr. Dell'Artino restated his concern about the lack of time to educate the public, and stated that the success of the 1998 initiative was due, in part, to a jail crisis and a healthy economy. He concurred that having Sheriff Arpaio's support was essential for a successful outcome.

There was discussion about what amount of tax should be requested. Sandi Wilson, Deputy County Administrator, explained that the projected amount to operate the jails and juvenile facilities is \$85 million. That amount presupposes an increase in the jail per diem to the cities and towns. The actual amount needed is closer to \$100 million, and currently only \$20 million has been set aside. However, the uncertainty at the State level and Health Care System concerns make the situation difficult to forecast. Because of these uncertainties, a reduction in the tax amount would be risky.

Supervisor Wilson voiced his opposition to a reduction since it is a long range tax and inflation could impact the amount over a period of time. If the amount were reduced, the County could conceivably begin with a shortfall.

Input was requested from Jack LaSota, another Maricopa County lobbyist, who expressed his support of a 2002 ballot initiative. The major reason for this recommendation is that the transportation tax issue is expected to be on the ballot in 2004 and could endanger the jail sales tax should they be on the same ballot.

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Helen Purcell, Maricopa County Recorder, commented that the Elections Department is accustomed to and capable of handling an election within a short timeframe. Maricopa County has always attempted to plan ahead and must now be prepared to have operational funds when the jails are completed. The County's revenue has been tremendously reduced by the State this year; therefore it is imperative to secure the future of the jails. Mrs. Purcell also noted that, from her experience, voters normally make decisions about issues in a very short timeframe.

Chief Hendershott reiterated that the officer ratio issue is a timely concern that is also easily understood by the general public.

Ms. Osborne's final remarks were that the number of issues on this year's ballot should not be a determining factor because there will always be numerous issues in any election. She also reported that the State Attorney General has submitted this new law for pre-clearance to the Department of Justice. She reminded the Board that a third party, not the County, must be the driving force behind this effort.

Rory Hayes, a lobbyist for Maricopa County, asked legal counsel to clarify whether the Board members could, as individuals, support this initiative by speaking on the issue and interacting with the third party entity. Paul Golab, Deputy County Attorney confirmed that members of the Board may exercise their First Amendment rights and, as individuals, express their support of the issue. However, they may not use county resources, such as their offices, Maricopa County buildings or phones to campaign for the issue.

Ms. Hayes also voiced her concern that it may be difficult for any group to coordinate an education effort in the short time before the elections

David Smith, County Administrative Officer, was invited to express his views. He stated that, initially, he favored a 2004 general election initiative, but since reviewing the public safety public opinion poll and follow up article in *The Arizona Republic* in the last two days, his opinion has changed. The issue of public safety is high on people's minds, and given the State's budget crisis, there is concern that budgetary problems could negatively affect public safety efforts.

In response to the need for polling information, Mr. Smith stated that the newspaper article was clear in defining the public's opinion. The emphasis of a poll initiated by a third party entity would be more helpful if it concentrated on gauging the public's willingness to financially support public safety issues, at what cost, and for what length of time.

Mr. Smith mentioned two additional benefits of calling for the vote this year:

- If defeated, the issue could be resurrected in a different form at a later date, and
- Internally, knowing that funds can be anticipated would facilitate budget forecasting and planning.

Chairman Stapley expressed his opinion and stated that he prefers a 2002 effort because this small window of opportunity may not present itself again in the future. He suggested that the third party leadership needs to have a chance to organize and gauge the mood of the public. Chairman Stapley requested final remarks and opinions from the Board members.

Supervisor Brock requested clarification on when the window of opportunity would close, to which Ms. Kennedy responded that the bill allows for an election to be called until 2009. However, since the initiative

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can only be included on general election ballots on even years, the last possible year would be 2008. Chairman Stapley interjected that 2008 would be much too late to address the issue.

Supervisor Brock opined that it would make most sense to place the measure on the ballot in 2002.

Supervisor Kunasek stated that he is inclined to support an initiative in 2002.

Supervisor Wilson commented that recent national events have taught us to be proactive. It makes no sense to open jails without operational funds, therefore, he supports an initiative effort in the 2002 election.

Supervisor Wilcox expressed feeling strongly about needing financial security for budget forecasting and concern about what the State Legislature will mandate in the future, therefore, she would favor a 2002 initiative effort.

Chairman Stapley thanked those who attended and offered information on this very important issue.

**MEETING ADJOURNED**

There being no further business to come before the Board, the meeting was adjourned.

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Don Stapley, Chairman of the  
Board

ATTEST:

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Fran McCarroll, Clerk of the Board