

The Board of Supervisors of Maricopa County, Arizona convened in Informal Session at 9:00 a.m., May 17, 2004 in the Board of Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Andrew Kunasek, Chairman, District 3; Fulton Brock, District 1; Don Stapley, District 2, and Max W. Wilson, District 4. Absent: Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Administrative Officer; and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: (aye-no-absent-abstain).

PRESENTATION REGARDING NEW VOTING PRECINCTS AND NEW BOUNDARY LINES

Helen Purcell, County Recorder, and Karen Osborne, Elections Director, explained the reasoning behind requesting a conditional approval for voting precincts and new precinct boundary lines, which are necessary to implement state legislative lines for this fall's elections at this time. They said that the April decision handed down by Superior Court Judge Fields has been challenged and the matter is now in the Court of Appeals. Debate over the precincts and boundary lines approved by Judge Fields sparked a debate from many who feel that he injected his personal political views into the process. Ms. Purcell said there is no way to know when the Court of Appeals will rule and she assumes it will be sent to the Supreme Court for the ultimate decision. Whichever court prevails, the department must be prepared to implement the decision quickly, and approving these conditional lines would help- to give them that ability. Ms. Osborne observed that the military vote is in peril, "not in getting the ballots overseas but in getting the votes back from overseas to be counted on time." She said that there is a great deal of interest in military ranks to be able to vote in this year's presidential election. She added that every day the court's decision is delayed improves the chance that mistakes will be made at some level of the election process.

Discussion ensued on whether approving this item would lend the Board's support to Judge Field's controversial decision when members believe that a mistake was made by the Court so were very reluctant to support it in any manner. Ms. Osborne said that the jeopardy is that "if we do not put these in place we do not have a way to conduct the election" Ms. Osborne continued that their main concern is the timing, "We are concerned that we have now gone past the time when we can implement this and do it in a fully responsible manner." She said that if the Superior Court decision is found to be in error they are prepared to conduct the election using the lines approved in 2003.

Supervisor Wilson said he had been informed that the judge had said, "If you don't draw these lines by a certain date I'm going to draw the lines for you.' That gets into an area where I think judges are making law rather than interpreting law." He said he was not comfortable supporting this and did not want anyone to think he was in favor of it if he voted for it, but he didn't want to deter overseas balloting for the military.

Chairman Kunasek said he felt the Board had no choice but to approve it because not to do so could possibly risk the election and Arizona is in a pivotal position nationally in this election. He questioned the action of the Arizona Independent Redistricting Commission (IRC) as being "the first step in separating this process from the people, and you see where it's taken us. It's taken us to a system where more and more of these decisions will be made from the bench." He added that the growing cry to remove judges from the merit process was understandable and showed the dismay felt by many that "we have given up so much of our ability to self-govern."

Motion was made by Supervisor Stapley, seconded by Supervisor Brock and unanimously carried (4-0-1) to approve conditional establishment of new voting precincts and new precinct boundary lines which are necessary to implement state legislative lines adopted in April 2004 by the Arizona Independent Redistricting Commission (IRC), all as shown on the maps on file with the Clerk of the Board of Supervisors and accompanying legal descriptions, incorporated herein by reference. This action by the Board of Supervisors shall become effective for the 2004 elections only if the April 2004 IRC legislative district lines are precleared by the U. S. Department of Justice or federal court and are used for the 2004 state legislative elections, and only if the county voting precinct changes described herein are precleared. (C21040150) (ADM1706)

PRESENTATION REGARDING TAX-DEEDED LAND SALE POLICIES AND PROCEDURES

Kevin Costello, Deputy County Attorney, Division of County Counsel
Fran McCarroll, Clerk of the Board of Supervisors

Ms. McCarroll reported on a resolution drawn by members of the committee who have been working for several months to determine methods of holding a tax-deeded land sale. It has been 12 years since the last list of parcels was forwarded by the Treasurer for such a sale, which consists of properties where the taxes have not been paid for five years. When these have not been redeemed within the statutory period they are deeded over to the State of Arizona. The Treasurer's Office publishes and posts the list according to statute to et a Treasurer's Deed on the properties and these deeds are then offered to the public at auction. She recommended June 21st as a date for the sale.

Mr. Costello explained the conditions set forth in the resolution. He said that the parcels will be sold "as is and with no warranty." There will be an entry fee of \$100 that is refundable in order to get "serious bidders." Sealed bids will be opened the day of the sale and there may be bids from the audience.

Chairman Kunasek asked if the whole Board would be expected to be present at the sale. Mr. Costello said it was so envisioned because once the winning bidder is determined the Board would need to act to accept or reject that bid. He added that the Board is not obligated to sell any of the properties. A deposit will be required from the successful bidder and all sales must be in cash, or other forms of secured money such as a cashier's check. There will be no minimum bid on the properties. Discussion ensued on selling land without a warranty of some kind but it was determined proper to do so in this instance, although it was decided that the title search conducted by the Treasurer could be made available to the buyer. Supervisor Stapley said that many parcels are long an narrow "remnants" and asked if adjacent property owners will be notified of their availability. Ms. McCarroll replied that addresses for the mailing had been obtained.

Several Supervisors did not wish to attend the auction and an alternative plan that would preclude having all five Supervisors present at the sale was discussed, as was who could properly be named as their designee. Ms. McCarroll suggested making several changes to the resolution in accordance with the discussion, and bringing it to the Board for a vote at their next meeting, which would be May 19. The Board was in agreement with this. (ADM656)

PRESENTATION AND UPDATE REGARDING THE WEST NILE VIRUS AND THE COUNTY'S CURRENT STATE OF READINESS

Dr. Jonathan Weisbuch, Chief Health Services Officer
Al Brown, Director, Environmental Services
John Townsend, Vector Control Program Manager, Environmental Services

Al Brown narrated a power point presentation to give an update on the West Nile Virus and to illustrate the County's readiness in relationship to previous outbreaks of the virus since it's initial appearance in the United States in 1999. He tied this to their request to hire additional temporary staff this summer.

Mr. Brown explained that humans "are an incidental host since the disease circulates in the causal environment between birds and mosquitoes, with an occasional spillover to human and equine populations through bites from a virus-carrying mosquito." Colorado, South Dakota and Nebraska were the hardest-hit states in 2003. While there were some case in Arizona in 2003 it is expected to be worse locally in 2004, and he explained the spikes in the infection rates when the virus "hits" a region. The first yea the virus appears in an area, birds don't develop a high level of the virus in their blood and the impact is less. The second year there is enough concentration in the blood of the bird population to cause some disease in humans, horses and other animals. The next year it subsides but does not go away. He said this might be due to "bird die-off" since some species of birds are more easily susceptible to the disease (crows, jays, ravens and magpies). While chickens may get the virus it is not transferable to humans who consume the meat from an infected chicken, as the virus must be injected into the blood (mosquito bites) to become active. Chick flocks are being monitored in the County. Mosquitoes are the carriers of both the West Nile and more serious Encephalitis Viruses. Birds aware the victims and have the highest mortality rate. Other animals, including humans, may become infected from mosquito bites.

The key to controlling the virus is to get rid of mosquito breeding areas. The Environmental Services Department will increase their control efforts this season, and re seeking additional funding to increase staff through October, when the disease usually subsides. Citizen volunteers are also vital in the elimination process in several ways that include spotting and eliminating standing water on their property and in other places that may not be as well monitored (such as vacant houses with near-empty "green" swimming pools). Residents are also asked to be aware and vigilant in closing doors and observing children during evening to dawn hours when mosquitoes are most active. A special species of fish that feeds on mosquito larvae is available at no cost from the Environmental Health Services Department and residents are encouraged to obtain and use these fish in their ponds and decorative pools. Residents can contact John Townsend, Vector Control Program Manager at Environmental Services, or the Environmental Services website for more information. The public is also encouraged to contact the department and/or send in dead birds they find to aid in monitoring the disease this year. Information will be disseminated to the public through TV spots and handouts to increase public awareness.

Dr. Weisbuch said the disease is not usually severe in humans, unless it progresses to encephalitis (inflammation of the brain), and most people do not even realize that they have been infected. A small percentage of those infected may experience fever, aches, neck pain and headaches, which should be treated symptomatically. Of those exposed to the virus it is believed that only 10-15% will develop noticeable symptoms and 2-3% would get sick enough to require hospitalization. He said the symptoms of the disease have become so common in society that it is difficult to know what percentage could be attributed to West Nile.

Mr. Brown said the County already does more than 22,000 site inspections a year and acquiring temporary staff will allow an additional 2,500 inspections during the active season. He said the pesticide treatment in Maricopa County would increase by an additional 215,000 acres with the requested increase in staffing, going from the current 125,000 acres to 375,000 acres being treated yearly. He explained that Maricopa County already has one of the most efficient mosquito control programs in the country with a current cost of 60 cents per acre and e expects the use of the requested temporary employees to decrease that cost to 48 cents per acre.

In accordance with ARS §42-17106, motion was made by Supervisor Stapley, seconded by Supervisor Wilson, and unanimously carried (4-0-11) to approve the transfer of \$29,539 (annualized cost \$147,694) from General Government (Department 470), General Fund General Contingency (100-4711) to Environmental Services (Department 880) General Fund (Fund 100) to allow the Environmental Services Department to hire temporary staff to increase the number of acres sprayed to combat the West Nile Virus. This action will require appropriation adjustments reducing the General Government, General Fund expenditure appropriation by \$29,539 and increasing the Environmental Services, General Fund appropriation by \$29,539 for a net countywide impact of zero. (C88040458) (ADM2150)

PUBLIC HEARING – FIREWORKS DISPLAY

Chairman Kunasek called for a public hearing on this matter. No protests having been received and no speakers coming forth at the Chairman's call, pursuant to A.R.S. §36-1603, motion was made by Supervisor Stapley, seconded by Supervisor Brock, and unanimously carried (5-0) to approve an application filed by Randy Reyman, AnyPyro, for a fireworks display permit to be held on May 22, 2004, and July 3, 2004, at 41130 North Freedom Way, Anthem, Arizona. (This item continued from meeting of May 5, 2004.) (ADM665)

EXECUTIVE SESSION CALLED

Pursuant to A.R.S. 38-431.03, motion was made by Supervisor Wilcox, seconded by Supervisor Brock, and unanimously carried (5-0) to recess and reconvene in Executive Session to consider items listed on the Executive Agenda dated May 17, 2004, as follows.

1. **Compromise Cases** – Gale Day, Juan Felix, Kristen Jones, Anait Kirakosian, Rodolfo Perez, Alex Sifuentes, Edye Singer, Debra G. Statland, Angel Thibodeaux.
Barbara Caldwell, Outside Counsel
2. **Write-Off Cases** – Steve Fitch, Frederick Lee.
Barbara Caldwell, Outside Counsel

LEGAL ADVICE; SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION -- A.R.S. §38-431.03(A)(3) AND (4)

3. **Maricopa County Treasurer v. Arizona Department of Revenue, et al**
Case No. CV 2002-022559
Doug Todd, Maricopa County Treasurer
April Theis, Deputy County Attorney, Division of County Counsel
Richard W. Garnett, Deputy County Attorney, Division of County Counsel

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO NEGOTIATION; PURCHASE, SALE OR LEASE OF REAL PROPERTY -- A.R.S. §38-431.03(A)(3), (4) AND (7)

4. **Human Services Campus**
Tom Manos, Chief Financial Officer
Dennis Lindsey, Real Estate
Terry Eckhardt, Deputy County Attorney, Division of County Counsel
Richard Garnett, Deputy County Attorney, Division of County Counsel

PENDING OR CONTEMPLATED LITIGATION -- ARS §38-431.03(A)(4)

5. **Planning and Development Code Enforcement**
Joy Rich, Chief Regional Development Services Officer
Terry Eckhardt, Deputy County Attorney, Division of County Counsel
Kathryn McCormick, Deputy County Attorney, Division of County Counsel
6. **Maricopa County v. Lori Bridwell**
Maricopa County Superior Court No. CV 2000-019300
Maria R. Brandon, Deputy County Attorney, Division of County Counsel

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO NEGOTIATION; SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION -- A.R.S. §38-431.03(A)(3) AND (4)

7. **Legal advice and discussion regarding Severance Agreements for former MIHS CEO and CFO**
Christopher Keller, Division Chief, Division of County Counsel
Elizabeth Yaquinto, Deputy County Attorney, Division of County Counsel
David Smith, County Administrative Officer
Sandi Wilson, Deputy County Administrator
Tom Manos, Maricopa County Chief Financial Officer/Transition Team Leader

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION -- A.R.S. §38-431.03(A)(3) AND (4)

8. **Mesa General Hospital Medical Center v. Maricopa County and related cases (Nos. CV 1998-001664)**
Air Evac Services, Inc. v. Maricopa County No. LC2003-000173-001-DT
Christopher C. Keller, Division Chief, Division of County Counsel
Sandi Wilson, Deputy County Administrator
Shawn Nau, Director, Health Care Mandates
Jan Ringgenberg, Health Care Mandates
Donald W. Bivens, Attorney, Meyer Hendricks & Bivens
Michael Ross, Attorney, Meyer Hendricks & Bivens
Kym Nichols, Paralegal, Meyer Hendricks & Bivens
Bruce P. White, Deputy County Attorney, Division of County Counsel

FLOOD CONTROL DISTRICT

SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION -- A.R.S. §38-431.03(A)(4)

- F-1. **CV2001-006897 Flood Control District of Maricopa County v. GTI Capital Holdings, LLC dba Rockland Materials**
Case Nos. 2-03-bk-07923-SSC through 2-03-bk-07924-SSC, in re: GTI Capital Holdings, LLC and G.H. Goodman Investment Companies, LLC
Tim Phillips, Acting Chief Engineer and General Manager
Julie Lemmon, General Counsel

Patricia Barfield, Special Counsel
Phillip Rudd, Special Counsel

STADIUM DISTRICT

**RECORDS OR INFORMATION EXEMPT BY LAW FROM PUBLIC DISCLOSURE; LEGAL ADVICE;
CONTRACTS SUBJECT TO NEGOTIATION -- A.R.S. §38-431.03(A)(2)(3) AND (4)**

S-1. Serial 03206-RFP, Booking Manager Services, Bank One Ballpark

Bill Scalzo, Director, Stadium District
Julie Schweigert, Chief Financial Officer, Stadium District
Wes Baysinger, Director, Materials Management
Steve Dahle, Materials Management
Bill Sims, Moyes, Storey, outside legal counsel
Paul Golab, Deputy County Attorney, Division of County Counsel

BOARD OF SUPERVISORS

**LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO
NEGOTIATION – ARS §38-431.03(A)(3) and (A)(4)**

9. OAO-MIHS Health Claims Processing Contract

Chris Keller, Chief Counsel, Division of County Counsel
Sandi Wilson, Deputy County Administrator
Tom Manos, Chief Financial Officer
Jack Hess, FRG Consultants
James Chisolm, Health Plans CFO
Rich Dymalski, Chief Information Office
Bill Sims, Esq., Outside Counsel
David Tierney, Outside Counsel

MEETING ADJOURNED

At the conclusion of discussion on the matters listed above, and there being no further business to come before the Board, the meeting was adjourned.

Andrew Kunasek, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board