

The Board of Supervisors of Maricopa County, Arizona convened in Informal Session at 9:00 a.m., November 15, 2004 in the Board of Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, District 1;(entered late) Don Stapley, District 2, Max W. Wilson, District 4 (acting Chairman), and Mary Rose Wilcox, District 5. Absent: Andrew Kunasek, Chairman, District 3. Also present: Fran McCarroll, Clerk of the Board; Monica Farine, Minutes Coordinator; David Smith, County Administrator; and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: (aye-no-absent-abstain).

~ Supervisor Wilson was acting Chairman for this meeting ~

Chairman Wilson called the meeting to order.

PRESENTATION OF 2005 MARICOPA COUNTY BOARD OF SUPERVISORS PROPOSED LEGISLATIVE PACKAGE

Item: Presentation, and request for approval, of the proposed 2005 Board of Supervisors' legislative package. (C2005002M00) (ADM1650)

Diane Sikokis, Director, Government Relations
Christian Stumpf, Government Relations
Richard Bohan, Government Relations

Diane Sikokis, Director, Government Relations, said they have worked with County Administration and the Office of Management & Budget in the final preparation of the 2005 Maricopa County Board of Supervisors Proposed Legislative Package. She presented highlights of what the County will seek regarding the various legislative issues outlined below. [Clerk's Note – This is not an official part of the minutes. Agenda Item C2005002M00 was withdrawn in Agenda Central by the department. No electronic approval is available.]

THE FY 2005-06 BUDGET

The County will seek a Budget Agreement with the State that recognizes Maricopa County's significant financial and programmatic contribution to assisting with the State budget deficit over the past several years. Now that the State's fiscal situation has greatly improved, Maricopa County will seek offsetting relief for the \$32.3 million in mutually agreed-upon cost-shifts absorbed in FY 2003-04. Maricopa County will continue to pursue its "good government" philosophy of trading responsibility for funding programs that are managed by the State for funding of programs managed at the County level.

~ Supervisor Brock entered the meeting ~

JAIL DIVERSION FOR THE SERIOUSLY MENTALLY ILL

Pursue statutory changes to better facilitate the diversion of seriously mentally ill persons, who are deemed appropriate for diversion from jail.

REVISE STATUTES TO INCLUDE SPECIAL HEALTH CARE DISTRICT IN MULTI-FACILITY LICENSING

Currently A.R.S. § 36-422 (G) allows counties to operate hospital and health care facilities under a single license. Seek statutory clarification to permit the same application for a special health care district that operates a hospital. This will ensure that federal funding is protected for both the State and the District.

ESTABLISH 501(C)(3) FOUNDATION FOR ANIMAL CARE & CONTROL

Seek legislation authorizing Maricopa County Animal Care and Control to establish a designated 501(C)(3) Foundation for donations of tax-deductible gifts. Because AC&C does not have a formal designated foundation, groups or individuals, who desire to, often cannot donate directly to AC&C due to tax or legal restrictions.

Supervisor Brock inquired if there would be a separate Board for this foundation and Ms. Sikokis indicated the Board of Supervisors would preside. Supervisor Wilcox asked if there were any efforts to amend legislation regarding permanent dog tags. Ms. Sikokis explained that in discussions with Mr. Smith and others, it was felt the backlog of un-mailed licenses should be taken care of first to regain public confidence. When the dog licenses have all been mailed out, David Smith will work with the new Director regarding the idea of permanent dog tags.

AUTHORIZE JUSTICE OF THE PEACE COMPENSATION FOR SERVICE IN ANOTHER JURISDICTION

Amend A.R.S. § 22-125 to allow Justices of the Peace to serve in another JP jurisdiction in order to assist with the workload and receive appropriate judicial productivity credits and appropriate compensation for the service.

Supervisors Wilson and Wilcox agreed with compensation to a second Justice of the Peace for his assistance to the first stating it was a step in the right direction and will assist the consolidated courts.

AUTHORIZE THE COUNTY TO CHARGE NON-INDIGENT DEFENDANTS FOR COMPETENCY EVALUATION EXAMINATIONS

Currently, the County pays for all mental exams used in competency determinations regardless of the defendant's financial status. This change would allow the County to recover the cost of performing the exam, in cases where the defendant is not indigent and has retained private counsel.

Ms. Sikokis stated the county is paying \$300 for mental health exams for defendants who often have adequate resources and are not indigent. It is felt the taxpayer should no longer assume this cost. Supervisor Stapley requested the current mental health professional list be used with the county retaining authority and Supervisor Brock added this ensures use of qualified health professionals and eliminates stacking results.

ADDRESS IN STATUTE FEES FOR PRIVATE COUNSEL PROVIDING SERVICES TO INDIGENT DEFENDANTS

Currently, in many cases, a private attorney is hired by outside parties other than the indigent defendant, to represent that defendant. However, the defendant and attorney often subsequently seek to recover all costs for specialists such as expert witnesses, investigators, etc. from the County. Amend statutes to better assure that all fees paid for services will be at the same rate regardless of the individual providing the service. This will provide for better cost containment on behalf of taxpayers and provide for consistency of policies in dealing with indigent defendants.

Ms. Sikokis said they are seeking ways to serve justice and contain escalating costs for the public defender providing assistance to the indigent. Often, indigent defendants maintain private counsel leaving no resources for others. A cap is sought for enumeration of costs with a menu for allowable costs

paid by the county. Chairman Wilson said more work is needed to associate fees between paying and billing parties to see what insurance has paid.

REVISE PUBLIC AUCTION PROCESS REQUIREMENTS FOR COUNTY LEASES OF LESS THAN THREE YEARS

Amend A.R.S. § 11-256 to exempt County leases of three years or less from the public auction process. The public auction process for short-term leases places an administrative and fiscal burden upon the County and on the citizens seeking short-term leases on recently purchased County property. This would allow the County to lease back farmland and homes acquired for projects that are a necessary part of a County project that will not be immediately constructed. Allow an exemption for leases of up to a three-year period with an option to renew for no longer than one additional three-year period.

Ms. Sikokis said Maricopa County Department of Transportation (MCDOT) made a revision to public auction of land the county purchases for road projects. If a road project is not immediately started, whoever is on the land can continue living on or working the land until the project begins, allowing additions of three-year terms where necessary. Supervisor Stapley indicated this is a good concept that he would support.

Ms. Sikokis introduced the following two topics regarding legislative issues:

SUPPORT AND ASSIST WITH THE FOLLOWING LEGISLATIVE ISSUES:

- **FY 2005-06 FUNDING FOR IN-LIEU FEES FOR AIR QUALITY PROGRAM FUNDING;**

Work with other counties and the Legislature to ensure that funding programmed for dispersion to counties under A.R.S. § 49-551 (Air Quality Fund) is appropriately allocated to counties in the future. The Legislature has over the last several years "swept" these monies for state budget deficit purposes.

- **ANNEXATION**

Support anticipated proposal from the League of Arizona Cities and Towns to eliminate the current requirement that signatures must be obtained from owners of at least one-half of the value of real and personal property in the area to be annexed. The proposal would continue to maintain the current requirement that signatures must be obtained from 51% or more of all property owners in the area to be annexed.

- **CLARIFY JOB-ORDER CONTRACTING BONDING REQUIREMENTS**

Support amendment of A.R.S. § 34-608 pertaining to job order contracting bonding requirements. Proposal would allow contractors on County jobs to bond for the real cost of the project, rather than County engineer estimate.

- **ADDRESS ISSUE OF STANDARD SPEED FOR UNSIGNED DIRT ROADS**

If the County Supervisors Association (CSA) elects to include this issue in its package, work with CSA and other counties to possibly amend A.R.S. § 28-701 to establish a new standard for reasonable and prudent speed on dirt roads.

OTHER ANTICIPATED ISSUES AFFECTING COUNTIES:

- **UNFAVORABLE JUSTICE OF THE PEACE BILLS ANTICIPATED**

Bills may be expected that impose restriction on co-location of Justice Courts or significantly broaden Presiding JP Administrative Powers. The Board opposes any attempt to expand the powers and duties of the Presiding Justice of the Peace. Further, the Board opposes any attempt to put limits or restrictions on the County's plans for co-location of Justice of the Peace Courts.

- **APPOINTMENT OF GUARDIANS OR CONSERVATORS IN MENTAL HEALTH PROCEEDINGS**

Counties have serious concerns with a proposal adopted by the Arizona Judicial Council for inclusion in its legislative package that would broaden the Court's authority under A.R.S. § 36-540 to appoint Guardians or Conservators in Mental Health Proceedings, thereby greatly increasing costs to counties.

- **HURF PROTECTION**

Law enforcement agencies are said to be considering legislation that would decrease the Highway User Revenue Fund (HURF) percentage received by counties, diverting it for law enforcement purposes.

Supervisor Stapley asked who proposed the reduction in the County's share of the Highway User Revenue Fund (HURF). Ms. Sikokis responded that the County came very close to having a big portion of its HURF money go to the Department of Public Safety (DPS) for increased salary for their officers. The appropriation committee did this in an effort to balance their budget at the County's expense. Ms. Sikokis anticipates that issue will return along with other law enforcement agencies coming back for officer increases this way as well.

- **UNRESOLVED MILITARY AIR FORCE BASE PROTECTION/PRIVATE PROPERTY RIGHTS ISSUES**

Particularly with regard to last session's HB2141, dealing with Luke Air Force Auxiliary Airfield #1.

- **POSSIBILITY OF LEGISLATURE ADDRESSING STATE TRUST LAND REFORM**

Arizona Center for Law in the Public Interest has filed a lawsuit against the State Land Department and the State of Arizona for failure to require payment for state trust land easements. Counties should carefully follow development in this case.

Richard Bohan, Government Relations, spoke regarding the County roadway study. MCDOT led the effort with all other counties to review County roadway needs. The State land trust reform initiatives were addressed for the need in proposing some concepts for the County. Supervisor Stapley said he hoped the legislature would be open to those and refer them to the voters.

- **IMPLEMENTATION ISSUES REGARDING FIRE PROTECTION FOR COUNTY ISLANDS**

Last session's HB2056 may potentially need amendment.

- **STRUCTURAL PEST CONTROL COMMISSION**

Counties, cities, school districts and other political subdivisions will seek to address the issue of the Commission inappropriately applying the same regulatory oversight to political subdivisions as is placed on the private pest control industry.

- **In addition, counties should closely monitor implementation of successful 2004 General Election Propositions, many of which have a direct impact on them.**

Motion was made by Supervisor Wilcox, seconded by Supervisor Brock, and unanimously carried (4-0-1) to approve the 2005 Maricopa County Board of Supervisors Legislative Package. (ADM 1650)

RESOLUTION - MAP REGARDING FLIGHT OPERATIONS AT GILA BEND AUXILIARY AIR FIELD

Item: Board of Supervisors' resolution acknowledging the map depicting flight operations at the Gila Bend Auxiliary Air Field for inclusion in HB2140. (ADM1650) (ADM681)

Supervisor Stapley stated he did not want to interfere with Luke's operations, but he did want assurance private land would not be impacted by this resolution, especially in light of HB2140. Supervisor Wilcox indicated that she had contacted Gila Bend and they didn't feel there were any related issues. Supervisor Wilson requested Matthew Holm from Planning and Development to address this matter who advised this is similar to protective measures taken previously with other fields. He said there is less impact on private land, because there is less private land in this area. Supervisor Stapley recognized this as a resolution, which reinforces what State law already does.

Motion was made by Supervisor Wilcox, seconded by Supervisor Brock, and unanimously carried (4-0-1) to approve the following resolution acknowledging the map depicting flight operations at the Gila Bend Auxiliary Air Field for inclusion in HB 2140. (ADM1650) (ADM681)

**RESOLUTION OF ACTION
MARICOPA COUNTY BOARD OF SUPERVISORS**

MARICOPA COUNTY, ARIZONA

**Resolution acknowledging the map depicting flight operations
at the Gila Bend Auxiliary Air Field for inclusion into HB 2140.**

BE IT RESOLVED by the Maricopa County Board of Supervisors as follows:

WHEREAS, Maricopa County recognizes the important role that Luke Air Force Base plays in training pilots in defense of our nation, and the social and economic benefits that Luke Air Force Base provides to Arizona and Maricopa County in particular; and

WHEREAS, Maricopa County recognizes that the Gila Bend Auxiliary Airfield is vital to the continuing effective operation of Luke Air Force Base; and

WHEREAS, Maricopa County has and will continue to work closely with Luke Air Force Base and other stakeholders to identify and implement reasonable and effective measures that protect current and future operations and the Gila Bend Auxiliary Airfield; and

WHEREAS, Maricopa County recognizes that an important part of minimizing impacts to the Gila Bend Auxiliary Airfield was passage of HB 2140, which identifies measures to help ensure compatible planning and development around the Gila Bend Auxiliary Airfield; and

WHEREAS, Maricopa County is aware that after discussions among major stakeholders, an agreed upon map was finalized; and

WHEREAS, Maricopa County understands that using the foundation of the Gila Bend JLUS, a map which depicts a 90% departure turn to the northwest and a 10% departure to the northeast, the APZs for both departures, an APZ for the approach to Rwy 35, and a vicinity box as depicted in the JLUS map with the exception that the northern boundary is dropped one section line south.

NOW, THEREFORE BE IT RESOLVED that this resolution, which acknowledges the map depicting flight operations at the Gila Bend Auxiliary Air Field for inclusion into HB 2140, is hereby approved this 15th day of November 2004.

/s/ Max Wilson, Acting Chairman of the Board

Attest:

/s/ Fran McCarroll, Clerk of the Board

EXECUTIVE SESSION CALLED

Pursuant to A.R.S. 38-431.03, motion was made by Supervisor Stapley, seconded by Supervisor Wilcox, and unanimously carried (4-0-1) to recess and reconvene in Executive Session in the Sullivan Conference Room to consider items listed on the Executive Agenda dated November 15, 2004 as follows:

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION -- ARS §38-431.03(A)(3) AND (A)(4)

1. Compromise Cases – Barbara Caldwell, Outside Counsel

Lydia Bahne	Rodney Kaiser
Janetta Blair	Brandy Kerry
Richard Cistone	Jonathan Holomon
Deborah Cook	Cassandra Miller
Robert Cook	Justin Nadeau
Gary Guinn	Brandy Stewart

2. Write-Off Cases – Barbara Caldwell, Outside Counsel

Armando Arreola	Richard Millslagle
Adam Olivas Carrasco	Stephen Joseph Pirozak
Harvey Charles Dault	Joseph L Salinas

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

3. Tucson Woman’s Clinic v. Eden et al.

Richard Romley, Maricopa County Attorney

Paul Ahler, Chief Deputy County Attorney
Nik Nikas, Outside Counsel
Christopher Keller, Chief Counsel, Division of County Counsel

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) and (A)(4)

4. **Legal Advice regarding Proposition 200**
Richard Romley, Maricopa County Attorney
Christopher C. Keller, Chief, Division of County Counsel
Bruce P. White, Deputy County Attorney

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) and (A)(4)

5. **OAo-MIHS Health Claims Processing Contract Update
Maricopa County v. OAo Technology Solutions**
Chris Keller, Chief Counsel, Division of County Counsel
Sandi Wilson, Deputy County Administrator
Ted Shaw, CEO, MIHS
Phyllis Biedess, MIHS
Diane Golat, MIHS
David Tierney, Outside Counsel

**LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT DISCUSSIONS
CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION – ARS §38-431.03(A)(3) and (A)(4)**

6. **Settlement Agreement between former MIHS Human Resources Manager
and Maricopa County.**
Lucy Hall, Vice-President, Human Resources, MIHS
David Smith, County Administrative Officer
Elizabeth Yaquinto, Deputy County Attorney, Division of County Counsel

LEGAL ADVICE; -- ARS §38-431.03(A)(3)

7. **Legal Advice regarding organizational restructuring and provision of work and services by
Public Works to Flood Control District pursuant to A.R.S. Section 48-3603.**
Mike Ellegood, Director of Public Works
Ken Proksa, Public Works Administrator
Elizabeth Yaquinto, Deputy County Attorney, Division of County Counsel

**LEGAL ADVICE; CONTRACTS SUBJECT TO NEGOTIATION; PURCHASE, – ARS §38-431.03(A)(3) and
(A)(4)**

8. **Legal Advice and Intergovernmental Agreements, HB 2056 (Laws 2004 Ch 158), Fire
Services to County Islands.**
Tom Manos, Chief Financial Officer
Jill Kennedy, Deputy County Attorney, Division of County Counsel
Richard Bohan, Government Relations

**RECORDS OR INFORMATION EXEMPT BY LAW FROM PUBLIC INSPECTION; LEGAL ADVICE --
ARS §38-431.03(A)(2) AND (A)(3)**

9. Maricopa Integrated Health System Physician Credentialing

Christopher Keller, Chief Counsel, Division of County Counsel
Louis Gorman, Deputy County Attorney, Division of County Counsel
James Kennedy, M.D., Maricopa Integrated Health System, Director of Medical Affairs
Ed Fenstermacher, M.D., Maricopa Integrated Health System, HP Medical Director
William Ellert, M.D., President, Maricopa Integrated Health System Medical Staff
Stephanie Davee, Director, Medical Staff Services

LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; – ARS §38-431.03(A)(3) and (A)(4)

10. Rigby Water Company, Sunrise Water Company & West End Water Company v. Maricopa County TX 2003-000397 and West End Water Company Application for Renewal of Franchise Agreement.

David Schweikert, Deputy Treasurer
David Browning, manager of Tax Services
William Riske, Deputy County Attorney
Kevin Costello, Deputy County Attorney

**PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER
TO AVOID OR RESOLVE LITIGATION – ARS §38-431.03(A)(4)**

11. Notice of Claim regarding wage issue.

Clarisse McCormick, Deputy County Attorney

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.

Max Wilson, Acting Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board