

INFORMAL SESSION  
October 29, 2007

The Board of Supervisors of Maricopa County Arizona, convened in Informal Session at 10:00 a.m., October 29, 2007, in the Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, Chairman, District 1; Andrew Kunasek, Vice Chairman, District 3; Don Stapley, District 2; Max W. Wilson, District 4 and Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board; Liz Evans, Minutes Coordinator; David Smith, County Manager and Victoria Mangiapane, Deputy County Attorney. Votes of the Members will be recorded as follows: aye-no-absent-abstain.

**1. DOWNTOWN COURT TOWER PROJECT**

Item: Presentation on the Downtown Court Tower Project. (ADM1100) (C7008021000)

Hon. Barbara Mundell, Presiding Judge, Superior Court  
Kenny W. Harris, County Engineer and Public Works Director  
James Foley, Acting Director, Facilities Management  
Jeff Hood, Facilities Management  
Melissa Farling, Gould Evans/DMJM

Presiding Judge Barbara Mundell opened the presentation by stating that there is a crisis at the courthouse. In 2007, so far, there have been 157,956 Superior Court and 379,498 Justice Court filings, yet there are only 95 Superior Court Judges, 56 Superior Court Commissioners and 23 Justices of the Peace. The majority of the filings are criminal, family, and juvenile. Judge Mundell said that while 111 process improvements have been enacted to save time and resources, there are no available courtrooms and judicial officers are sharing office space. Judge Mundell maintained that not building new courtrooms would have catastrophic fiscal consequences, as well as impacting families, children and victims. Judge Mundell urged the Board to proceed with the plans and funding for the Downtown Court Tower Project.

Supervisor Wilson asked why the Justice of the Peace courts are not utilized 24 hours a day, seven days a week. Judge Mundell asked Phil Knox, Chief Operating Officer for the Superior Court, to respond. Mr. Knox explained that night and Saturday courts are being offered in two locations, the Durango facility for juvenile and the Northeast facility for juvenile and family. Mr. Knox said that night court is held four days per week and all of the judges at those two locations are now participating in a rotation for Saturday court. Judge Mundell said that there are only certain cases that are conducive to night and Saturday court. She explained that other locations are currently operating 12 hours per day, but other alternatives are being considered.

Mr. Knox explained that a number of processes within the criminal court system are being reviewed and re-engineered to improve cycle time. He reported that felony case processing cycle time for 41 activities was reduced from 9403 to 3209 minutes, a total savings of 103 hours. Mr. Knox said they are still looking for ways to improve but have almost reached the saturation point.

Kenny Harris suggested the formation of an oversight committee for the Downtown Court Tower Project that has the authority to make decisions. Mr. Harris has drafted a Project Coordination Agreement for this team.

Jeff Hood stated that the project is still on track and is within its original size and scope. He said the building is scheduled for completion in the year 2011. Steve Blaylock from Facilities Management explained that his group had been charged with identifying logical milestones in the budget for the Court Tower Project. Mr. Blaylock reviewed the activities and expenditures for the Project throughout 2008.

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Supervisor Kunasek asked if trends were emerging with respect to construction costs, such as materials and labor. Mr. Blaylock replied that the increases in commercial construction costs have slowed down and are expected to level out next year at a rate of about a 7 – 8 percent increase. Supervisor Wilson asked about the escalating cost of steel. Mr. Harris responded by saying that one option might be to purchase the steel and store it. He also said that discussions need to take place with local suppliers to determine the most cost effective method for purchasing materials.

Supervisor Wilcox asked whether the project is progressing on target. Mr. Harris responded that the project was scheduled to be completed by June of 2011 but will more likely be sometime in the fall. He said that in light of the current economic situation, the time had come to make some decisions that could change the scope of the plan. Supervisor Wilcox commented that costs will continue to mount if the project is delayed.

Sandi Wilson, Deputy County Manager, gave an overview of the economic challenges ahead that will affect this project. Ms. Wilson reminded the Board that they have been funding capital improvement projects with cash and within the operating budget successfully for the last several years. However, the economy is uncertain right now. The Court Tower Project was built into the 2007-2008 budget and was funded from the cash fund balance from both the general and detention funds, and about \$30 million of operating money; \$10 million to run the building and \$20 million for debt associated with the building. Ms. Wilson said that the primary driver of the current fiscal condition is declining sales tax revenues. Though a decline in sales tax revenues was anticipated during the budget process, the final numbers may show a steeper decline than projected.

Ms. Wilson remarked that because the budget is experiencing some challenges, the Court Tower Project parameters may need to be revised. Ms. Wilson clarified that she is not suggesting that the project be canceled, but is concerned about how it should be funded considering the current economic situation. Ms. Wilson proposed the following suggestions:

- Defer the project until a decision can be made as part of the FY 2008-09 budget process
- Use only cash presently available and proceed with the planning
- Consider bonding for the non-cash funded portion of the project
- Consider reducing or downsizing the project scope
- Reallocate cash from other projects
- Consider less costly design options

Supervisor Stapley emphasized that he does not want to defer the project, but is willing to consider other options. Mr. Smith said that preparation work for the building, such as relocating Sheriff's office functions and demolishing the Madison Street Parking Garage and 1<sup>st</sup> Avenue Jail, needs to be done regardless of what decision is made about the Court Tower. He suggested that those activities could continue while assessing the state of the economy and determining whether to proceed. Supervisor Stapley stated that while he would prefer that the building be funded with cash, he wants to consider all options, including financing. Supervisor Wilcox expressed concern about the impact of delaying the project and indicated a desire to proceed. Chairman Brock also expressed a desire to proceed and said that he was uncomfortable with downsizing the project.

## **2. 2008 LEGISLATIVE PACKET**

Item: Presentation and request for approval of the proposed 2008 Board of Supervisors' legislative package. (C2008032M00) (ADM1650)

Diane Sikokis, Director, Government Relations

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Richard Bohan, Legislative Liaison, Government Relations  
Mary Reiss, Federal Relations and Grants Analyst, Government Relations

Ms. Sikokis presented an overview of the 2008 legislative leadership. She said that 9 veteran legislators, many who have been supportive of County causes, will be leaving the legislature after the 2008 session. She added that a number of others may leave to run for congressional seats, so it is critical to broaden the field of legislators supportive of County interests and issues.

Ms. Sikokis stated that the predominant issue during the next legislative session will be the state budget deficit. The current revenue shortfall is between \$525 and \$675 million dollars. In addition, two other major agencies, AHCCCS and the State Facilities Board, are projecting a \$130 million shortfall. Ms. Sikokis said the deficit could be close to \$1 billion by year end if revenues do not improve.

Ms. Sikokis asserted that transportation will be a major issue next year. Other areas of interest or concern to Maricopa County are possible changes to the current law regarding fire protection of County islands, the State Trust Land reform compromise and the protection of state-shared revenues.

Mr. Bohan reviewed the proposed legislative priorities. He said that some general issues are securing transportation dollars, exploring alternatives to mandated health care contributions and relief from expenditure limitations. Specific County proposals involve streamlining the processes for the sale of Flood Control land to State and County entities, for leasing County land or buildings if the space to be leased is less than 25 percent of the total building space and for issuing public utility easements. Other County proposals involve notification to the County of annexation completion, regaining the authority to inspect "non-potentially hazardous" foods and the disposal of waste tires within 12 months of collection.

Mr. Bohan also mentioned a proposal that would authorize the County to create a regulatory program to enforce the Clean Water Act's storm water quality provisions. Supervisor Kunsasek asked whether the County was required to become the regulatory body for the Act. Mr. Bohan replied that it is required by federal statute. Ms. Sikokis said that the Board would be given a briefing on the issue shortly.

Mary Reiss updated the Board on issues at the federal level. She said there has been an ideological debate in Congress all session long regarding appropriations and that the County's five requests seeking \$10,045,500 in funding for FY 2008 are dependent on the outcome of that debate. Ms. Reiss listed other federal issues of interest to the County, as follows:

- Reauthorization of the No Child Left Behind/McKinney-Vento Act
- SCAAP Funding
- I-10 Improvements
- Dam Rehabilitation and Repair Act – HR3224
- Clean Water Restoration Act
- Arizona Meth Project Funding
- Air Quality
- Public Safety Employer/Employee Act – HR980

Supervisor Wilson requested specific information regarding the sections of I-10 that are expected to be funded for improvements. Chairman Brock commented that the highway user funds awarded to Arizona has been less than commensurate with other states. He asked that more focus be placed on the issue in the dialogue with lobbyists at the federal level. Supervisor Wilcox requested that the Board be given regular updates on federal issues.

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Ms. Sikokis stated that the Board's approval would allow them to move forward to seek sponsors. Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (5-0) to approve the 2008 Board of Supervisors' legislative package.

### 2008 LEGISLATIVE PACKAGE

#### **Board of Supervisors / County Manager Priority Issues:**

- Maricopa County is at its constitutional expenditure limitation, due to increasing demands for criminal justice services and our taxpayer-friendly practice of pay-as-you-go capital financing. Demands on the County to take on additional new mandated programs in air quality and storm water management add to the problem. Maricopa County must seek legislative remedies to these issues.
- Seek State financial participation in the Arizona Meth Project.
- Work with Legislature, Governor and interested stakeholders/coalitions to help identify additional sources of transportation funding for acceleration of highway construction and maintenance.

#### **Furtherance of Maricopa County's Fiscal Freedom Policy:**

- Exchange state TB grants for reduction in AHCCCS payments.  
Approximate \$630,000 exchange
- Exchange county assistance fund dollars for reduction in AHCCCS payments.  
Approximate \$250,000 exchange

#### **Secondary Issues**

- **Sale of Flood Control District Land** – A.R.S. Section 48-3603, Subsection I allows a County flood control district to sell property to certain political subdivisions without being required to publish notice of the sale in the newspaper. The entities included under the definition of "political subdivision" are "any incorporated city or town, school district, charter school, community college or university." This definition does not include the state or counties.

Changing the law to include the state and county agencies would enable the Flood Control District to sell land, without the delay and cost of newspaper publication, to all public agencies that need the property for public projects such as roadways, bridges, etc. These agencies need properties for public projects and should not have to experience the added delay of publication.

- **Seek Amendment to Leasing Statutes** - A.R.S. Section 11-256 requires the County to lease county land or buildings at a public auction. The time needed to prepare for and conduct a public auction for this purpose may take 60 to 90 days. Experience has shown that many of the leasing interests for County property do not want to wait for the auction process and move on to other non-County properties that are available. Changing the law to allow Counties to proceed in a more streamlined manner would expedite the process and assist many County agencies in being able to lease property more expediently and efficiently. The proposal would seek an exemption from the auction process when the amount of space to be leased is less than 25% of the total building space. The present requirement to obtain fair market value, at least 90% of the appraised value, would not be changed.

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- **Notice to Counties Upon Completion of Annexations –**  
Current law does not appear to contain any requirement for cities and towns to officially notify a county when an annexation has been completed. As a result, it is not uncommon for a county to have issued building and construction permits and performed inspections after the annexation has become final, because the county and city at that point both still believe they have jurisdiction. Another problem is confusion over who has jurisdiction over traffic signals after a city annexation has become final (because the county has not been notified of the annexation). In addition, the County Clerk has large backlog of petitions and public hearing notices but no knowledge if an annexation was adopted or withdrawn.  
  
This legislation would require cities and towns to serve notice to the county when all requirements for annexation have been met.
- **Issue Easements to Public Utilities without Public Auction -** It is proposed that the law be changed to allow a County to issue a public utility easement on any County property without going to auction. Utility easements benefit the citizens and the taxpayers and are public projects. Utility companies should not have to go to auction for public projects. Citizens will be able to receive their utility services faster than currently experienced.  
  
A.R.S. Section 11-251, Paragraph 9 contains language prescribing the sale of land at public auction. It is proposed language be added to allow issuing easements to utility companies on County land at market value, but without having to go to an auction. This should streamline the utility companies' project delivery time.
- **Revise Statutes Governing the Inspection of Non-Potentially Hazardous Foods -** Amend the powers of the Director of Health Services to allow regulation of "non-potentially hazardous foods." A provision removing the director's authority over this category of food was added in 2006, in SB1554. Since that time, food-borne illness outbreaks across the country (lettuce, spinach, chili, etc.) related to "non-potentially hazardous foods" reemphasizes the need for inspection and recall ability over this category. The county staff is working closely with the Arizona Dept. of Health Services in order to reach this goal. The proposal would reinsert state and county authority over this area. Maricopa County has met with ADHS and they are willing to move forward collaboratively on the issue.
- **Waste Tire Disposal –** Currently, the ADEQ permits waste tire disposal sites. According to statute, those sites are not meant to merely store waste tires in perpetuity, but rather be collection sites until recycling or other proper disposal methods are used. There are sites existing within Maricopa County that have stored thousands of tires where it has become clear that the private company has no intention of recycling or properly disposing of them. Maricopa County has approached ADEQ about these potentially dangerous conditions (such as the potential of West Nile Virus, catching on fire, etc.) and there is the potential to work together to strengthen the state's ability to require proper disposal.
- **Storm Water Quality –** The federal Clean Water Act requires state and local governments to regulate and permit storm water discharge that is released into the waters of the United States. Currently, Maricopa County is working on a permit with the State DEQ and may soon be a regulating agency for the program. In order to meet the financial burdens of this mandated regulation, the County may require the payment of appropriate fees from those being regulated

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for cost recovery. Counties will need statutory changes in order to implement the program in a fiscally responsible manner.

**3. REGIONAL SCHOOL DISTRICT #509 VOUCHERS/WARRANTS**

The Board of Supervisors, pursuant to its authority granted in A.R.S. §15-1001, will consider for approval vouchers presented by the County School Superintendent of Maricopa County to draw warrants on the County Treasurer against Maricopa County Regional School District #509 School District funds for necessary expenses against the school district and obligations incurred for value received in services (except for payroll vouchers) as shown in the Vouchers. (ADM3814-003)

The Board of Supervisors may consider ratifying any Maricopa County Regional School District #509 vouchers and/or warrants (except for payroll vouchers) approved in accordance with the procedures of A.R.S. §15-321 since the last meeting of the Board of Supervisors. The Board of Supervisors may hear staff reports on the vouchers and warrants being considered. The Vouchers are on file in the Maricopa County's Clerk of the Board's office and are retained in accordance with ASLAPR approved retention schedule. (ADM3814-003)

No vouchers were presented for approval or ratification and no staff updates on regional schools operations and finances were given to the Board of Supervisors at this meeting. (ADM3814-005)

**EXECUTIVE SESSION**

Motion was made by Supervisor Stapley, seconded by Supervisor Kunasek, and unanimously carried (5-0) to recess and reconvene in Executive Session in the Tom Sullivan Conference Room to consider items listed on the Executive Agenda, pursuant to listed statutory authority, as follows.

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

**E-1. Compromise Cases –** Barbara Caldwell, Outside Counsel  
Augustine, Jerome

**PERSONNEL MATTERS – PROMOTION, DEMOTION, SALARY, ETC. – ARS §38-431.03(A)(1)**

**E-2. Chief Deputy Clerk of the Court, Salary Consideration**  
Michael Jeanes, Clerk of the Court  
Sandi Wilson, Deputy County Manager  
Shawn Nau, Director, General Government

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

**E-3. Nick Tarr v. Maricopa County, et al**  
Peter Crowley, Risk Manager  
David Hendershott, Chief Deputy, Sheriff's Office  
Brian Kaven, Outside Counsel

**This case was not heard at this meeting.**

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK**

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**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)**

**E-4. Maricopa County v. Briarwood Country Club**

Neil Yockey, Manager, Trip Reduction Program  
Brad Hartsock, Supervisor, Trip Reduction Program  
Otis Smith, Deputy County Attorney

**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)**

**E-5. Phoenix New Times, LLC v County of Maricopa, No. 07-CV-1903 PHX RCB**

Georgia Staton, Outside Counsel  
Laurence Tinsley, Jr., Deputy County Attorney  
Phil McDonnell, Chief Deputy, County Attorney's Office  
Lisa Keegan, Assistant County Manager

**LEGAL ADVICE; ARS §38-431.03(A)(3)**

**E-6. Restated Document of Trust Coverage for Outside Attorneys**

Peter Crowley, Risk Manager  
Chris Keller, Chief Counsel  
Wes Baysinger, Materials Manager

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

**E-7. Maricopa County v. Blendu**

Peter Crowley, Risk Manager  
Rebecca Salisbury, Deputy County Attorney, **did not attend**

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

**E-8. Pearl and Terry Wilson and the Estate of Phillip Wilson v. MCSO, Joseph Arpaio, et al, CV  
04CIV 2873 PHX DG C**

Peter Crowley, Risk Manager  
Ted Howard, Claims Manager, Risk Management, **did not attend**  
Laurence Tinsley, Jr., Deputy County Attorney  
Jack MacIntyr, Sheriff's Office

**LEGAL ADVICE; CONTRACTS SUBJECT TO NEGOTIATION; PURCHASE, SALE OR LEASE OF  
REAL PROPERTY – ARS §38-431.03(A)(3), (A)(4) and (A)(7)**

**E-9. Gilbert Landfill**

Dennis Lindsey, Real Estate Manager  
William Thornton, Director, Solid Waste  
Rita Neill, Risk Management  
Kevin Costello, Deputy County Attorney

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK**

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Joy Rich, Assistant County Manager,  
Brian Hushek, Deputy Budget Director

**LEGAL ADVICE; PURCHASE, SALE OR LEASE OF REAL PROPERTY – ARS §38-431.03(A)(3) AND (A)(7)**

**E-10. Proposed Sale of County Real Property**

Dennis Lindsey, Real Estate Manager  
William Thornton, Director, Solid Waste  
Rita Neill, Risk Manager  
Brian Hushek, Deputy Budget Director  
Kevin Costello, Deputy County Attorney

**LEGAL ADVICE; ARS §38-431.03(A)(3)**

**E-11. Procedure for Sale of Tax Deeded Land Not Sold at Auction**

Nelle Carlsmith, Treasurer's Office  
Dennis Wikfors, Clerk of the Board's Office, **did not attend**  
Kevin Costello, Deputy County Attorney  
Fran McCarroll, Clerk of the Board

**MEETING ADJOURNED**

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

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Fulton Brock, Chairman of the Board

ATTEST:

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Fran McCarroll, Clerk of the Board