

**SPECIAL SESSION  
May 5, 2003**

The Board of Supervisors of Maricopa County, Arizona convened at 12:00 p.m. May 5, 2003, in the Board of Supervisors' Conference room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, Chairman; Andy Kunasek, Vice Chairman; Don Stapley, Max W. Wilson and Mary Rose Wilcox. Also present: Fran McCarroll, Clerk of the Board; Shirley Million, Administrative Coordinator; David Smith, County Administrative Officer; and Paul Golab, Deputy County Attorney.

**DISCUSSION OF RECOMMENDATIONS FROM CITIZEN'S TASK FORCE ON COUNTY HEALTH CARE SYSTEM AND GENERAL LEGISLATIVE UPDATE.**

Sandi Wilson, Deputy County Administrator  
Mark Hillard, Maricopa Integrated Health Systems  
Chris Keller, Chief Counsel, Division of County Counsel  
Diane Sikokis, Director, Government Relations  
Bill Sims, Outside Counsel  
Rory Hayes, Lobbyist  
Doug Cole, Lobbyist  
Lou Gorman, Division of County Counsel  
Ted Williams, Lobbyist on the Deed Restriction

Chris Keller said this meeting would cover information gleaned at a recent meeting held at the Governor's Office that covered the MIHS deed restriction and recent requests and changes in the proposed legislation for a Hospital District.

Lou Gorman discussed developments relating to the deed restriction reporting that the Governor's Office had clearly expressed their support of proposed legislation on the release of the deed restriction, saying that it limits the financial viability of the property and impacts various options affecting its future success. Mr. Gorman conveyed a sense of disappointment that certain knowledgeable and interested people he had suggested inviting were not present and he termed those in attendance as, "an eclectic group" of consumers and advocates of the behavioral health community. He asked Ted Williams and Mark Hillard to summarize their impressions of the discussion.

Mr. Williams said that the Governor's Office is clearly aware of the complications of the deed restriction. The Attorney General's office has pushed the issue of insuring that the deed restriction not be released unless there is some type of remuneration to the State in exchange. While the form of remuneration was not stated the County gave a lengthy explanation as to why there are no funds available for any kind of "payment." He indicated there was definitely a "tacit agreement" by most that the deed restriction needed to be removed or refashioned in order to facilitate capital improvement to the property. The Attorney General's office (representing the Trustee, who is the Director of DHS [Arizona Department of Health Services] rather than the State of Arizona), seemed to prefer tabling this issue until the Hospital District has become a reality. They felt it could be handled rapidly enough through the Courts at that time so as not to prove an impediment to the District's capital improvement plans.

Mark Hillard indicated that the most encouraging thing he'd heard was a random comment indicating support for transferring the deed restriction to the new Hospital District. He said the word "consideration" was heard "lots of different times" and he was left with the question "what is consideration?" He believed no one really knows the answer to that but many "ideas" were mentioned, most of which seemed to imply that consideration could add up to many millions of dollars. He said this would be short sighted because the "key to this deed restriction has been services." He believes that while behavioral health is the common designation, the implied meaning is much broader – to provide the acute care backup needed for the behavioral health patients. He said, "They really feel that the acute care service is the big

component of the deed restriction.” He reported that there was some discussion on financing and that the County needs to “get some answers on from bond counsel.” He believed that if the District would issue COPS (Certificates of Participation) the deed restriction might take a secondary position, subservient to COPS as the primary position, and “once the COPS were paid off then the restriction would revert back into the primary position.”

Chairman Brock asked, “What scenario does that impose on the County?”

Mr. Cole responded that if the bill is not approved and passed by the legislature or voted on favorably by the people the deed restriction is still there and eventually would result in the reversion of the property interests to the State.

Discussion ensued on the implications of the positive attitude displayed by the Governor’s Office towards lifting the restriction and the Attorney General’s preference to work with the Hospital District. It was decided to follow their lead and table this topic until a more appropriate time. However, at Mr. Keller’s suggested the County would explore “creative” means of an adequate compensation to propose to the State to counteract possible suggestions of a large cash payout.

Bill Sims said there are three issues between the deed restriction and the statute. First and foremost, many are asking for changes to the legislation and he is concerned that, “having now awakened the Behavioral Health Advocates, we could see changes over and above the Mission that has been so painfully fought out with the private sector.” Secondly, he believes the issue of consideration is a false issue and now is not the time to argue the question. Both of these argue for postponing discussion. Third, if the deed restriction could get transferred to the District, as they implied, he said that would be very helpful “if your long-term goal is to have no County-District ties.” He felt the County might want to push for this transfer and he felt now would be the time to do it.

Bill Sims, Rory Hayes and Doug Cole reported on the recent meeting held with leadership of both houses on the Hospital District. Mr. Sims said that the consensus they hear from both Houses is that they want the Board of Supervisors to be closely involved with the new District at least during the formative months. They are very concerned at having a newly elected board composed of unknowns making vital business and management decisions affecting the Health Care System that could have long term effects on the community. Leadership of both Houses respect the abilities and leadership of the County’s elected officials and administrative officers to act in the best interests of the State and indicated that they will not pass the legislation unless this safeguard is in it. They want the Supervisors to act as the District’s Board of Directors for the first year and elect a new board at the general election in 2004.

Ms. Hays said that the second “concern” the State asked for was that the \$50 million be reduced to a \$40 million tax cap and the County to be statutorily committed for at least \$5 million in service contracts with the District (\$40 million + \$5 million). It was felt this would provide a revenue stream for the District and would also provide a continuing relationship between the County and the District. She said that the State wants to be able to say that the County “is still involved to the tune of \$5 million.” Discussion ensued. She indicated that they also asked to add one word, “primary,” to the Mission Statement, as in “the primary mission of the District.” She said they agreed with one condition. The final wording in the broad Mission Statement will be, “Shall, as its primary, but not sole mission.” The State also asked that the authorization for the State to charge Upper Payment Levels (UPL) be removed. This was agreed to and, at this time, the Bill does not mention UPL. However, all lobbyists agreed that AHCCCS may negotiate it back in. Rory Hays said that at the State’s request, the Bill’s language has been refined to stipulate that the County cannot close the hospital before the election. If the election fails the hospital can then be

*MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK*

**SPECIAL SESSION**  
**May 5, 2003**

closed with a 12-month notice.

The Bill is considered to be fairly complete at this point. In response to a question from Supervisor Stapley it was determined that the Hospital Association has had all their concerns addressed. There was discussion on the timeline of events leading to legislative action and on favorable ballot/election dates.

**EXECUTIVE SESSION CALLED**

Pursuant to A.R.S. 38-431.03, motion was made by Supervisor Wilcox, seconded by Supervisor Wilson, and unanimously carried (5-0) to recess and reconvene in Executive Session to consult with counsel for legal advice pertaining to this agenda item.

\_\_\_\_\_  
Fulton Brock, Chairman of the Board

ATTEST:

\_\_\_\_\_  
Fran McCarroll, Clerk of the Board