

MARICOPA COUNTY FLOOD CONTROL DISTRICT BOARD OF DIRECTORS MINUTE BOOK

**INFORMAL
November 15, 2004**

The Board of Directors of the Flood Control District of Maricopa County, Arizona, convened in Informal Session at 9:00 a.m., November 15, 2004, in the Board of Supervisors' Conference Room, 301 West Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, District 1; 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 Administrative Officer and Paul Golab, Deputy County Attorney. Votes of the Members will be recorded as follows: (aye-no-absent-abstain)

~ Director Wilson was acting Chairman for this meeting ~

PRESENTATION OF THE 2005 PROPOSED LEGISLATIVE PACKAGE

PURSUE OMNIBUS BILL TO MAKE CLARIFYING REVISIONS TO THE STATUTES GOVERNING THE FLOOD CONTROL DISTRICT:

- (1) **Authorization to Implement Non-structural Flood Control Solution** – Amend A.R.S. § 48-3601 to allow the use of non-structural flood control solutions as part of the Flood Control District's overall strategies for flood reduction. These solutions may include acquisition of property, relocation of structures and restoring and preserving natural flood plains. The District seeks express power to use non-structural methods for flood control, although it has implied powers to use this method and it is becoming an industry norm.
- (2) **Authority to Set Criteria for Management of Flood-Related Erosion-Prone Areas** – Amend A.R.S. sections 48-3601, 3605, 3609, and 3609.01 to include specific language relating to flood-related erosion-prone areas. This language will align the Arizona Revised Statutes with the current Code of Federal Regulations (44 CFR 60.5). The Federal Code requires local jurisdictions to review development permits to ensure site alterations and improvements will be reasonably safe from flood-related erosion. The Flood Control District indicates that the current statutes do not impart sufficiently clear authority to address potential flood erosion damage at the time of permitting. It often becomes a cost later when the structures are damaged during floods.
- (3) **Amend Floodplain Statutes to Reflect Recent Court Opinions** – Amend A.R.S. § 48-3601, 3609, 3613, 3614, and 3615 in order to help clarify the ambiguities in current state statute dealing with floodplains that have been identified by the Superior Court and the Arizona Court of Appeals.

Ms. Sikokis said ambiguities in the court statute with regard to flood control provisions cause the County to engage in expensive litigation in Superior Court and the Court of Appeals with regard to issues of watercourses. Ms. Sikokis believes by clarifying statutory language, expensive litigation can be avoided. The effectiveness of the multi-jurisdictional, regional approach to solving these problems should continue to be pursued. The District plans to pursue less costly ways to deal with water than the classic "building structures" approach. The City of Phoenix in particular is already issuing permits recognizing flood hazard activities; and since they are already acting in accordance with these flood ideas, they should not present a challenge.

Motion was made by Director Wilcox, seconded by Director Brock and unanimously carried (4-0-1) to approve the 2005 Legislative Package.

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EXECUTIVE SESSION CALLED

Pursuant to A.R.S. 38-431.03, motion was made by Director Stapley, seconded by Director 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: -- ARS §38-431.03(A)(3) LEGAL ADVICE REGARDING PROPOSED TRANSFER OF FLOOD CONTROL DISTRICT POSITIONS

Legal advice regarding proposed transfer of Flood Control district positions to Public Works, and authorization for provision of work and services from Public Works to the District, as provided in A.R.S. Section 48-3603.

Elizabeth Yaquinto, Deputy County Attorney, Division of County Counsel
Mike Ellegood, Director of Public Works
Ken Proksa, Public Works Administrator

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