

BOARD OF SUPERVISORS

GILA COUNTY, ARIZONA

Date: December 19, 2006

JOSÉ M. SANCHEZ

Chairman

TOMMIE C. MARTIN

Vice-Chairman

SHIRLEY L. DAWSON

Member

STEVEN L. BESICH

Clerk of the Board

By: Marilyn Brewer
Deputy Clerk

Gila County Courthouse
Globe, Arizona

PRESENT: Jose M. Sanchez, Chairman; Tommie C. Martin, Vice-Chairman; Shirley L. Dawson, Member; Steven L. Besich, County Manager/Clerk; Marian Sheppard, Chief Deputy Clerk; and, Bryan Chambers, Chief Deputy County Attorney.

The Gila County Board of Supervisors met in Regular Session at 10:00 a.m. this date. Steve Besich led the Pledge of Allegiance, and Reverend Dan Morton of the First Christian Church delivered the Invocation.

A presentation was given by Steve Stratton, Public Works Division Director, and Kathy Whitman of WestLand Resources, Inc. (WLR) with regard to the Clean Water Act and the 404 permitting process for Pinal, Pinto and Tonto Creeks and authorization for WLR to submit a 404 Permit Application to the Army Corps of Engineers (ACOE) for said creeks on Gila County's behalf. Mr. Stratton stated that a year and a half ago he requested permission from the Board to contract with WLR and since then WLR has been diligently working on this project. He requested that WLR present an update to the Board. He then called on Kathy Whitman, the principal of WLR, to give a PowerPoint presentation. Ms. Whitman stated that WLR has been working with the Gila County Public Works Division to get permitted for the repair of some flood control berms along several creeks within Gila County and the presentation would be a status report as to where they are in that process. The first section

of the PowerPoint presentation was entitled, “What Does the County Have Planned?” She stated that the County would like to repair or rebuild 10 flood control berms located along Pinal, Pinto, Tonto and Reno Creeks, as well as Wildcat Wash and 2 other unnamed washes, the locations of which were shown on a map along with photos. She also showed a schematic of the berm design. The next section was about the permits that are needed for these flood control berms. Ms. Whitman explained that essentially it is one giant permit called the Clean Water Act Section 404 Permit from the ACOE, which is overseen by the Environmental Protection Agency (EPA). Because it’s a federal permit, it also triggers compliance with the Endangered Species Act and the National Historic Preservation Act. In addition, some of these berms are located on Forest Service land, so it requires coordination with Forest Service personnel. The next section Ms. Whitman presented showed what the 404 Permit program covers, which includes all waters that are currently used. This permit is needed when dredged or fill material is going to be discharged into water known as the “waters of the United States.” The fill material discharges any additional pollutant in navigable water from any point source because it has the effect of replacing some portion of the water with dry land, which has the result of changing the bottom elevation of the creek. The permit is also needed for all waters which are currently used or were used in the past and were susceptible for use in interstate or foreign commerce and are subject to the ebb and flow of the tide; interstate waters including wetlands; all other waters such as lakes, rivers, streams, mudflats, potholes; and, tributaries of waters identified in all the waters. The waters became regulated because, even though these washes aren’t navigable, they are ultimately tributaries to navigable waters. She then explained what the Section 404 program does not cover. A permit is not required for the following reasons: 1) for only excavation, which is incidental fallback off of equipment; 2) a different permit is needed for discharged processed water or impacted storm water; or, 3) if regulated by the State of Arizona for disposition of waste such as mine waste. Ms. Whitman then explained the two types of Section 404 permits as follows: 1) a nationwide

permit, which is the streamlined version if one's activities are very limited and have minimal impacts or 2) an individual permit for activities that result in more of an adjustment and minimal impacts. She stated that with this project, the County is qualifying for an individual permit based on the following factors: the County has exceeded the thresholds of nationwide permits because there is more than a half acre of impacts; there are multiple sites that are impacting waters of the United States; there is the presence of special aquatic sites; there are some wetland areas at Punkin Center and Gisela; and, there are some special status species considerations. Ms. Whitman next explained what is needed to put the application together, which includes the following: 1) WLR had to do a jurisdictional delineation, which is to figure out exactly the core of jurisdiction. 2) Prepare the application form with a complete description of the project. 3) A number of other checks and boxes must be completed that include a 404 (b)(1) alternatives analysis that must demonstrate that the action selected is the least damaging practicable alternative and the least environmentally damaging, which is called LEDPA (least environmentally damaging practicable alternative). She explained that as the berms are put inside what is known as the ordinary high water mark, this causes impacts which have to be demonstrated to the ACOE that it's the least damaging option or the permit is discretionary and the ACOE doesn't have to issue one. 4) WLR also did extensive cultural resources and biological resource reports and investigations to support the application. 5) After the application is submitted, the ACOE prepares an environmental assessment with the help of the agent of the applicant, which is WLR. 6) ACOE then prepares a public notice. 7) WLR also has to get a Section 401 Water Quality Certification from the State of Arizona. The next section of the presentation explained the current status of the 404 permitting process. Ms. Whitman stated that to date the draft application package has been completed; the materials in the Board packet included the permit application; the 404 (b)(1) alternative analysis which is in draft form for approval by the Public Works Division; the jurisdictional delineation report has been completed; the biological evaluations have been

completed, which included 2 seasons of surveys for the southwestern world flycatcher; the informal consultation has been completed with the U.S. Fish and Wildlife Service related to the bald eagle; the archeology investigation has been completed, which includes an extensive class 1 survey that means an archival research effort; and, a ground survey of all the berm locations. Ms. Whitman stated that what remains to be completed includes the submission of the permit application package after it has been reviewed by the County; assistance will be provided by WLR to the ACOE in the preparation of the environmental assessment; a mitigation plan needs to be agreed upon; the ACOE has to put out a public notice with assistance from WLR; a couple of supplemental archeological surveys need to be completed showing adjustments of the berm locations made in the past few weeks; WLR has to get a Section 401 Water Quality Certification from the State of Arizona; and, a storm water permit is needed because there is going to be more than one acre of disturbance to land. She stated that the result of all the work will be that the berms will be constructed using the concept that the County initially envisioned. The only restriction will be that 3 of the sites--Punkin Center, Punkin Reno, and Gisela--will have seasonal construction restrictions to avoid impacts to the nesting bald eagles, meaning that construction in those areas cannot take place from August 1st through November 30th. In conclusion, Ms. Whitman presented information in reference to the 2 cases, Rapanos and Carabell, that were heard by the U.S. Supreme Court involving the wetlands in Michigan. These cases dealt broadly with the ACOE's overall jurisdiction in the Clean Water Act. The cases have been remanded back to the lower courts to sort out; however, Justice Scalia's opinion was that he basically thought the ACOE has been incrementally overstepping its jurisdiction over a long period of time and there was strong language in the opinion that said perhaps dry washes should not be regulated by the ACOE, although that was not a majority opinion. She stated that there continues to be confusion in the regulated community as to the requirements and the ACOE was told to provide guidance by July or August; however, the guidance has not been forthcoming. She

believes it will be business as usual until Congress revises Section 404 of the Clean Water Act. Chairman Sanchez thanked Ms. Whitman for her presentation. He reviewed the list of the projected areas which include the Kilmer Store, Byrne site, Detheredge site, Holiday Hills site, and the Sullivan site all in the Pinal Creek project area; the Roosevelt and Wildcat sites in the Pinto Creek project area; and, Punkin Center, Punkin Reno site, and Gisela all in the Tonto Creek project area. He stated that there is a great concern among the residents in these areas who are impacted by the loss of private property at times when these dry washes flow through these project areas. Chairman Sanchez asked for questions or comments from the Board and then stated that although this was not a public hearing, he would allow those present with concerns to address the Board. Supervisor Dawson inquired about what Ms. Whitman referred to as “incidental fallback.” Ms. Whitman stated that the term came out of a number of lawsuits between the sand and gravel operations and the ACOE. The sand and gravel operations maintained that they are not regulated because all they do is excavate and so after a number of these lawsuits, this term “incidental fallback” became a term of art. Ms. Whitman stated, “It means you can be in a wash and run a front end loader or backhoe with a bucket and what is allowed without a permit is to scoop (or pluck) that material directly out of the ordinary high water mark of the wash and either stockpile the material out of the ACOE’s jurisdiction out of the ordinary high water mark or place it into a truck. The operator, as that bucket moves, is allowed to drop a little bit of dirt off the sides of the bucket back to where it was originally scooped from and that’s what is called ‘incidental fallback.’ If it’s more than incidental fallback the ACOE says that it is then called fill even though you are removing it from the same place.” She stated that where there is material that has migrated into a wash which creates an issue with the flow, scooping or plucking and having a little bit of spillage in getting it outside the ordinary high water mark is allowed under that ruling without a permit; however, a dozer cannot push the material or stockpile it inside the ordinary high water mark without obtaining a permit. Supervisor Dawson also inquired

about what is meant by the removal of foreign objects. Ms. Whitman stated that the removal of foreign objects is allowable. Supervisor Dawson inquired if this would include old tires. Ms. Whitman stated that the removal of old tires in the washes is allowed without a permit. Chairman Sanchez stated that when that tire is removed nothing incidental can go with it, and he questioned whether that fact remains. Ms. Whitman replied that it's okay to remove the tire with the dirt inside of the tire because it's not the wash material that is being removed; it's a foreign object and can be removed without a permit. Supervisor Dawson stated that was interesting to know because the folks in Wheatfields have been told that the County could not do that. Chairman Sanchez stated that was basically the understanding of the Board. Supervisor Dawson clarified that she was not just referring to small tires. Ms. Whitman said this would apply to the big equipment tires as well. The County would be allowed to drive into the wash and use a crane to pick up the tires, place them in a truck and drive out of the wash, all without a permit. Vice-Chairman Martin inquired if that would apply to the tires that have something growing up in the middle of them. Ms. Whitman stated that when there is the movement of vegetation that is a little different; those are functional characteristics of the wash, but she supposes that is a gray area. She stated that a tree or two growing out of the tires in the wash would not need a permit. Vice-Chairman Martin inquired if this 404 permit covers only those projects that have been laid out in this application. Ms. Whitman stated that was correct as the permit is specifically tied to those areas only. Vice-Chairman Martin stated that WLR had done a biological survey on birds, but wondered if the County would have any problem with fish or frogs or if there were any other biological surveys that the County would need to be concerned about. Ms. Whitman stated that WLR had dealt with all of the species that are listed on the endangered species list for all of the sites. Vice-Chairman Martin inquired as to the length of time the permit would be valid once the County constructs or repairs the dikes and whether the County would need to obtain a permit each time it needed to repair the same dikes. Ms. Whitman stated that once the County is permitted

there is a maintenance exemption or maintenance nationwide permit. She stated that the current problem is that these berms were not previously permitted so they are not allowed to be maintained under the maintenance provision. Vice-Chairman Martin inquired if the berms are completely breached or washed away, can that be called maintenance in order to replace them? Ms. Whitman stated that it would be maintenance as long as the County was returning the berms to the same function for which they were originally designed. Steve Besich, County Manager/Clerk, stated that if the County doesn't need a permit to remove these haulage truck tires, once the County removes them it has created a disturbance, so what kind of mitigation or remediation is required if the County does remove the tires? Ms. Whitman stated that the ACOE only regulates fill or putting fill into the wash so the County would be outside the ACOE's mitigation provisions because the County wouldn't be inside the ACOE's jurisdiction for a permit. She stated that the only other things that could apply would be if the County had a wash ordinance or if there was some other local provision for wash mitigation such as those that are in place in Pima and Maricopa Counties. Chairman Sanchez inquired as to the source of funding for the repair of these berms. Ms. Whitman referred the question to Mr. Stratton, who stated that the County could create flood control districts or things of that nature to fund the repairs. He stated that Diana Jones, Public Works Division Grants Administrator, is also researching whether the County could qualify for any type of mitigation grants and other possible avenues for funding as this will be a multi-million dollar project. Vice-Chairman Martin inquired if this permit covers all work that the County needs to be dealing with or are there other areas such as in Tonto Creek that need to be dealt with and haven't been at this time? Mr. Stratton stated that there is a potential for other sites. He stated that Ms. Whitman had referred to additional archeological review of 3 sites and that is because the County has extended those berms recently to cover more residential areas, specifically the Roosevelt Estates area. Mr. Stratton stated, "This will allow the County to go back up Wildcat Wash so the water from

Wildcat Wash cannot get behind the dike and breach it as has happened in the past and to also turn the Wildcat Wash so that it's not hitting the Pinto Creek perpendicular, but at an angle so it would siphon out rather than back up the water." He stated that Ms. Whitman would have had everything completed on those sites, but the County actually changed those plans about 3 weeks ago. Vice-Chairman Martin inquired if there are sites in Tonto Creek at Tonto Basin that are not in this permitting process that still need to be added. Mr. Stratton stated that there are other sites that could be identified. Supervisor Dawson inquired about a clear definition of a "dry wash." Ms. Whitman explained that essentially a dry or federal wash is presumed to mean a drainage that flows in response to precipitation only; it doesn't have any sub-irrigated flow or shallow groundwater flow that surfaces and goes to ground and surfaces again, which would be an intermittent stream, but a dry or federal wash means those in an immediate response to precipitation. Chairman Sanchez then opened the meeting for brief comments or concerns from the public. William A. Byrne, a resident of Wheatfields and co-owner of a mobile home park located along Pinal Creek, inquired of Ms. Whitman if she could foresee any stumbling blocks or other concerns to keep this permit from being granted. Ms. Whitman stated that she didn't foresee any problems as the ACOE has been very cooperative when she met with them several months ago. She stated that WLR just has to follow the required process and that one thing that could have been a hurdle was dealing with the U.S. Fish and Wildlife Service with regard to the active bald eagle nests; however, that process went very smoothly with the seasonal restrictions. She stated that the only remaining hurdle is demonstrating to the ACOE that the action selected is the least damaging alternative because the ACOE would prefer that the berms are placed outside the ordinary high water mark and the levies built outside the wash. Ms. Whitman stated that she believes that would not be a practical alternative to put all of the berms outside the channels, but that is a determination that has to be made and that the court has to agree with; otherwise, she believes the permit will go through rather quickly. Mr. Byrne also inquired in regard to the archeological sites or

EPA studies that may arise. He used Tonto Creek as an example and inquired if that could delay the whole process and affect the work to be done on the other creeks. Ms. Whitman stated that she didn't foresee that happening as the ACOE is on board with the concept as a whole. Mr. Stratton stated that when they met with the ACOE they were very cooperative. He stated, "Everything the WLR and the County are doing is along the path of least resistance by the ACOE, so I didn't foresee a lot of problems from this point forward." Chairman Sanchez inquired about the location of the ACOE with which Ms. Whitman is working. Ms. Whitman stated that the County is located within the Los Angeles District; however, the regulatory branch is the Phoenix office and the project engineer she is working with is located in Phoenix. Chairman Sanchez inquired as to the date the ACOE would visit the project sites. Ms. Whitman stated that the ACOE never comes out in the field anymore because of staffing limitations. She advised that the ACOE has consultants that they like to work with. The ACOE also work off aerial photos and they also like to have the material packaged in a particular way, with which her company will comply. Ted Thayer, a resident of Wheatfields, also addressed the Board. He stated that the Byrnes family had contacted him out of concern for the coming winter. He stated that this is expected to be an El Nino year that is supposed to have 60% more storms and be 50% wetter than normal. He stated that the deterioration of the creeks over the past 13 years has been "heavy duty" and one of the reasons that property has been lost is because the County hasn't been allowed to maintain the creeks. He inquired if he understood correctly from Ms. Whitman that the County or a resident with a skip loader could go into the creek and pick up a load and go over to the edge of the ordinary high water mark, not the flood mark nor the 100 or 50-year flood plain, but the ordinary high water mark and dump the load on the other side. Ms. Whitman stated that the concept of where the ordinary high water mark is in a federal system is something that is not very precise and is done by field characteristics. She stated, "It's not based on any particular engineered storm size or probability of a storm. It's based on the stream channel

characteristics.” She believes that the ACOE would take as their jurisdiction, in Pinal Creek for example, the whole sandy wash bottom. She stated, “...otherwise, Mr. Thayer’s concept of what you can do is correct; you can scoop and remove and take and put it outside the ordinary high water mark.” Mr. Stratton added for clarification that the material for the berms that the County is proposing is imported material and the reason is because it’s easier to get the permit process through the ACOE. He stated that if what Mr. Thayer is saying is to take the material in the wash to build the berm, that is a completely different action that would require more work on the County’s part to get the permit through the ACOE and it would be more like a dredge. Chairman Sanchez stated, “The Board has received some information this morning on things the County can do, possibly working with some of our partners without having to get a permit.” He stated the information presented today could answer some of these immediate concerns of the residents. Chairman Sanchez called on Velma Hodson of Roosevelt, who inquired if Campaign Creek is included on the list. Mr. Stratton stated that Campaign Creek was not included; however, Wildcat Wash and Pinto Creek adjacent to the Roosevelt Estates were included. Mr. Stratton thanked Ms. Whitman, her crew and Jay Spehar of Phelps Dodge Miami Mining, Inc. for enlightening the County about WLR. He stated that Forest Service personnel were notified last week and they seemed very cooperative with the County regarding the Roosevelt and Payson areas. He recommended that the Board approve this application contingent upon the County Attorney’s review and approval. Vice-Chairman Martin made the motion to accept the presentation by WLR with regard to the Clean Water Act and the 404 permitting process for the Pinal, Pinto and Tonto Creeks and authorized WLR to submit the 404 Permit Application to the ACOE for said creeks on behalf of Gila County. Chairman Sanchez added that the motion would need to include that the Permit Application is contingent upon review and approval by the County Attorney. Mr. Chambers, Chief Deputy County Attorney, stated that he was able to review the Permit Application this morning and if the Board decides to approve

the Application, the County Attorney's Office doesn't have any legal reservations for taking that action. The motion was seconded by Supervisor Dawson and unanimously approved by the Board. Vice-Chairman Martin inquired as to the time the County would receive this Permit. Ms. Whitman stated that optimistically she's hoping that within 6 months from the submittal, which would be by no later than the first of the year, the permit would be received.

A PowerPoint presentation was given by Margie Chapman, Community Development Division Building Safety Assistant Senior, entitled "Changing Communities with Changing Times" – Code enforcement update. She introduced two of the other Building Code Enforcement Department (BCED) staff, Bill Hanna and Patsy Clayton, and then gave a brief overview of the progress of the code enforcement program. She provided an explanation of the various types of code violations and showed photographs of violations that have been handled by the BCED during the past few months. She gave samples of the various violations which include litter, garbage, inoperable vehicles including boats, campers and cars, abandoned vehicles and abandoned and dilapidated homes which create safety hazards. She advised that BCED encounters many abandoned vehicles within the County. Ms. Chapman stated that when the Building Code Ordinance first went into effect, the BCED received 15-20 complaints per day, with people believing the Ordinance would immediately eliminate the violations. In responding to the complaints, Ms. Chapman and other departmental staff explain that there is a process that is followed which allows a person a period time in which to clean up their property, remove a vehicle, etc. before a hearing is held. She stated that the process is working and there have been many favorable results. She showed the Board more photos of past violations that have been successfully brought into compliance. She showed a chart of the various departments throughout the County that all play a vital role in the enforcing the Code working as a group rather than each department working independently. She also thanked the Board for the support each Board member has given to the BCED. She

also expressed appreciation to other groups such as the Boy Scouts, 4-H, the Homeowners' Associations and volunteers in the community for assistance in helping the County with Code enforcement and helping the older people who are in need of assistance. Mr. Hanna stated that he is the Clerk of the Hearing Officer for the County and he presented a brief overview of the department's accomplishments. He stated that from August 1st to December 11th, the period this department has been in place, the office has received 166 zoning complaints, 120 complaints of building without permits and 4 wastewater complaints. In that same period 112 zoning complaints were resolved and closed; 94 building without permits were resolved and closed; and, all 4 of the wastewater complaints were closed. Some of the complaints above were a mixture of old and new complaints that were closed, but averages out to 1 complaint closed per day, every day including holidays. This has all been accomplished without the expense of having a hearing. He stated that the first hearing is scheduled for January 12, 2007, in the old Justice Court in Payson and the BCED staff is expecting a good result. Mr. Hanna stated that looking forward, it is felt that there is a need to involve the community more and help explain about the zoning complaints and violations and what can be done, so the department created an informational pamphlet, a copy of which was presented to the Board. He advised that the BCED staff would like the community and community organizations to be involved with the Code enforcement because "it is the enforcement of community standards; not the arbitrary forcing of standards upon the community." Supervisor Dawson stated that the Arizona Silver Belt and the Copper Country Newspaper have both done articles on the great steps that have been taken in the Globe-Miami area. She stated that the BCED is "like having a parent in a home and the importance of knowing that somebody has to be responsible to someone has really helped our community." Supervisor Dawson stated that she appreciates the BCED staff as she believes their efforts are "contagious and will continue to grow." Vice-Chairman Martin stated that she appreciates this presentation, which provides the Board with information about this new program. Chairman

Sanchez also complimented the efforts of the BCED staff and he stated that during next year's budget process, he is going to ask the Board for some consideration in "assisting the folks out there that want to do some cleaning up, but need some help in getting some of those tasks accomplished." He also advised that a group in Tonto Basin is interested in hearing this presentation. Mr. Besich stated that he believes everyone is impressed with the approach being taken by the County to clean up properties and he commended Ms. Chapman, Mr. Hanna and Ms. Clayton for their efforts and thanked them for the presentation. Ms. Chapman also explained that the BCED staff is willing to listen to the person filing the complaint as well as the person receiving the complaint. She has found that many times by just listening and talking to both parties a consensus is reached to be in compliance. She stated, "It's like babysitting because they have to be constantly called, have letters written to them and reassure them that it can be done." She stated that the BCED is careful to handle each issue in a positive manner; otherwise, people get defensive and won't cooperate. Ms. Chapman also stated that she has been successful in finding volunteers who will remove old vehicles and mobile homes for free because it can be very expensive to remove those items. Chairman Sanchez stated that the Board received a lot of "flack" when this was first proposed as a junk ordinance; however, this Code compliance program is very successful. Ms. Chapman also thanked Robert (Bob) Gould, Community Development Division Director, for giving the team the freedom to develop this program.

At 11:06 a.m. a public hearing was held to adopt Resolution No. 06-12-02 to approve Planning and Zoning Department Case No. CPA-06-1, which amends Gila County's Comprehensive Plan (Plan) for the purpose of accommodating Planning and Zoning Department Case No. Z-06-07. If approved, Figure 2L of the Plan would be amended. He stated that at present the Plan designates this area of land for residential dwelling units of 2 to 3.5 dwelling units per acre. Mr. Gould stated that he is requesting to change that designation to a mixed use to allow a combination of both residential and

commercial uses on this property. The property is located on Bixby Road in Wheatfields off of Highway 188 where the railroad tracks cross the highway. The property is almost completely surrounded by property owned by Phelps Dodge Miami Inc. There are 5 parcels of land or about 13.3 acres. There is land by Highway 188 that is already zoned C-3 and land directly on the other side of the highway that is zoned for industrial development so what is being proposed is very compatible with this area. On November 16, 2006, the Planning and Zoning Commission recommended the Board's approval of this amendment request. At this time Chairman Sanchez called for public comment; none was offered. Chairman Sanchez closed the public hearing and asked for a motion. Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously adopted Resolution No. 06-12-02. **(Copies of the Staff Report and Resolution are permanently on file in the Board of Supervisors' Office.)**

At 11:09 a.m. a public hearing was held to adopt Resolution No. 06-12-03 to approve Planning and Zoning Department Case No. Z-06-07, a rezoning request submitted by J & B Trucking to rezone tax parcel number 205-03-008A, B and E from R1 (Residence One) to C3 (Commercial Three). Mr. Gould stated that this is a continuation of the previous agenda item, which is a request to rezone 3 of the 5 parcels from R1 to C3 to allow the Gore family to establish their trucking business on the property. Mr. Gould stated that on November 16, 2006, the Planning and Zoning Commission considered the zoning request and recommended the Board's approval. At this time Chairman Sanchez called for public comment; none was offered. Chairman Sanchez closed the public hearing and asked for a motion. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously adopted Resolution No. 06-12-03. **(Copies of the Staff Report and Resolution are permanently on file in the Board of Supervisors' Office.)**

At 11:12 a.m. a public hearing was held to adopt Resolution No. 06-12-04 to approve Planning and Zoning Department Case No. Z0A-06-01, amending Section 104.3.C of the Gila County Zoning Ordinance, which applies to Trailer

Districts. Mr. Gould stated that this is a simple amendment. The Planning and Zoning Commission has been reviewing all development for mobile home parks and recreational vehicle parks, not subdivisions, and are requesting the amendment because it is their opinion that the County's development standards are more than adequate for allowing the applicant to have an administrative review with the staff and expedite the process at the same time instead of requiring a Commission review. There was also a minor amendment included that changes the initiation time, once approved, from 24 months to 12 months with one 12-month extension. Mr. Gould stated that the Planning and Zoning Commission recommended the Board's approval of this amendment request. At this time Chairman Sanchez called for public comment; none was offered. Chairman Sanchez closed the public hearing and asked for a motion. Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously adopted Resolution No. 06-12-04. **(Copies of the Staff Report and Resolution are permanently on file in the Board of Supervisors' Office.)**

At 11:14 a.m. a public hearing was held to adopt Resolution No. 06-12-05 to approve Planning and Zoning Department Case No. Z0A-06-02 amending several areas of the Gila County Minor Land Division Ordinance. Mr. Gould stated that basically there were changes made in Section 11-809 over the past couple of years and his department is just bringing the County code into line with those changes. Some of the changes in the Ordinance include language to ensure that utility easements are made and provided to each and every one of the lots; that specific standards are used when conducting surveys; and, that the applicants provide assurance that not only is there legal access, but that there is also physical access that is traversable by a two-wheeled vehicle. He stated that often his department sees maps that come in with "neat little roads going across" and they are impossible to create as they go up cliffs and other similar situations. There will also be a requirement to stamp on the Minor Land Division that there is physical access to the property. Language is also included stating that the Minor Land Division can be disapproved if it is based

upon not providing utility or physical access to the property. The last change is that the application fee will be \$500 with a charge of \$50 per lot or parcel. Mr. Gould stated that on November 16, 2006, the Planning and Zoning Commission recommended the Board's approval of this amendment request to the Minor Land Division Ordinance. At this time Chairman Sanchez called for public comment; none was offered. Chairman Sanchez closed the public hearing and asked for a motion. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously adopted Resolution No. 06-12-05. **(Copies of the Staff Report and Resolution are permanently on file in the Board of Supervisors' Office.)**

Malissa Buzan, Community Services Division Housing Services Program Manager, requested the authorization of the Housing Department to submit a Water Quality Improvement Grant Phase III Application in the amount of \$758,000 to the Arizona Department of Environmental Quality (ADEQ) to replace cesspools, pit privies and failing septic systems around the Tonto and Christopher Creek area. She stated that the ADEQ has established a total maximum daily load (TMDL) in the Tonto and Christopher Creek areas. This grant will help lessen the problem with e-coli and nitrate pollutants in these areas by replacing the failing septic systems. It will improve the health and safety of the surface water in both creeks and help to protect the groundwater. The County has received 2 prior grants for the same purpose. She stated that on a recent site visit made by ADEQ to these areas, they recommended that this grant will be for those areas within 200 feet of the Tonto and Christopher Creeks. The County still has many sites on the list that are discharging directly into the creeks. Ms. Buzan stated that this request is for more money than was previously applied for in the other two grants in order to step up the cleanup efforts. She also advised that more residents are coming forward and asking for assistance as they realize there are issues, but they were previously hesitant for fear of getting in trouble with the County or the State and because of the high cost of replacing these pit privies. She requested that the Board approve this application. Upon motion by Supervisor Dawson, seconded by

Vice-Chairman Martin, the Board unanimously authorized the submission of a Water Quality Improvement Grant Phase III Application in the amount of \$758,000. Vice-Chairman Martin recommended publishing an article in the newspaper advising the public of the information Ms. Buzan presented. Ms. Buzan stated that she would place an article in the newspaper. Bill Taylor of KQSS Radio inquired if e-coli bacteria were found in the water. Ms. Buzan stated that ADEQ has a maximum daily load level and it was found at certain times of the year to slightly exceed that level; however, ADEQ has chosen to not publicize that information. She stated, "That is the purpose of these grants to help the County fix the issue. In 5 years, from the date of the first grant, ADEQ will retest and at that time the results will become official." Vice-Chairman Martin stated that during the summer time when the human load is there, there is also the elk and deer load contamination and she wasn't sure if Ms. Buzan was talking about this wildlife contamination as well. Ms. Buzan stated that as the pollutants are lowered, there are still the deer, elk and animal populations in the area so the pollutants can only be lowered to a point. Mr. Besich stated that the County has been meeting with ADEQ on this issue and that the County is primarily trying to avoid getting to the point where a group is formed such as was done with the Oak Creek Group in Sedona because the water quality became so bad that there were days that people actually couldn't get into the water. He stated that the County's goal is to do whatever is possible within the County's limits to get these issues resolved.

Dixie Mundy, Elections Director, requested a review of the recall petition verification and approval of the Order for a Special Recall Election of the Pine-Strawberry Fire District (PSFD). She stated that on July 19, 2006, an application for a recall serial number was filed in the Elections Office. At that time, the application was accepted, the number of signatures was determined, and the deadline for submitting petitions was determined. She stated, "For this particular office and this particular cycle, a minimum of 175 signatures were required to authorize the Board of Supervisors (BOS) to consider an Order for a recall election. The deadline for the submission of petitions was

November 16, 2006. The number of signatures that were initially submitted by the applicant was 203.” Ms. Mundy stated that in her capacity as the receiving officer, she did the initial review of the petitions and removed 5 signatures on the grounds that the signer had inserted only a mailing address, which is a post office box, rather than a residence address. Under the Arizona Revised Statutes that is not allowed, so of the 203 originally submitted signatures, 198 were determined to be eligible for verification by the Recorder’s Office. The Recorder’s Office determined that 176 signatures were found to be qualified, which was 1 more than the minimum requirement of 175. She stated that before submitting an Order to the BOS, the person subject to recall is notified within 48 hours of the petition verification. She stated that Ross Gooder is the board member subject for recall and he was notified by phone message and by certified mail that signature petitions had been filed to determine his recall. Ms. Mundy advised that Mr. Gooder chose not to resign and he also chose to submit a statement of defense, so both the grounds for recall and Mr. Gooder’s statement of defense will appear on the ballot. She stated that once the election is called and an election date set, candidate packets are then made available with the County Elections Office for any persons who choose to run against Mr. Gooder for the remainder of his term, which expires November 30, 2008. She stated that if the Board chooses to adopt the Order, the recall election will be held on May 15, 2007. Ms. Mundy stated that all persons running for the office will appear on the ballot and the candidate receiving the highest number of votes will be the person to complete the term. If Mr. Gooder receives the highest number of votes, he is not recalled. If one of the other candidates receives the highest number, then Mr. Gooder is recalled and that successful candidate will complete the term. Supervisor Dawson inquired about the cost of the recall election and the party responsible for paying the costs. Ms. Mundy was not sure of the exact cost for holding the election, which will be conducted by mail; however, the County will conduct the election and within 60 days after the election, the PSFD will receive an invoice from the County for the total cost. The PSFD will then reimburse the County for the

cost of the election. She stated that the person initiating the recall, the applicant, does not pay for the recall; however, if a second recall effort begins within a certain period of time, then the initial recall election must first be paid by those persons wanting the second recall, which has never happened in Gila County. Vice-Chairman Martin inquired if there would be at least one site at a library to take the ballots or if there would be a full election board. Ms. Mundy stated that the Arizona Revised Statutes require that for a vote-by-mail election there must be a ballot replacement site within that jurisdiction, which will be the Isabelle Hunt Library and will be advertised as such. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously approved the Order for a Special Recall Election of the Pine-Strawberry Fire District. Chairman Sanchez questioned that this item is listed on the agenda as a Special Recall Election of the Pine-Strawberry Fire District; however, it leads him to believe that the entire board is being recalled rather than one person on the board. Ms. Mundy stated that perhaps the Order should be for "a member of the governing board of the Pine-Strawberry Fire District." Chairman Sanchez stated that it should be correctly stated that way. Ms. Mundy agreed.

Steve Besich requested the approval of the following documents, which pertain to the County's facilities planning process: A) An Agreement for Services with The Strategic Issues Management Group, Inc. to provide public outreach services at a cost not to exceed \$49,999 for the period December 15, 2006, through June 15, 2007. B) A Contract/Proposal with Gila Management, LLC to provide design concept advice and planning assistance at an estimated cost of \$20,520 plus direct expenses. He stated that these 2 Agreements are the last items to be completed for the Gila County Citizens' Facilities Planning Committee. He wanted to note that the if the work is completed and the Board calls for an election prior to the term of service as listed in the Agreements above (June 15, 2007), the County may not be paying these 2 companies for services through June 15, 2007, but would terminate the companies the day the Board calls for the election. He stated that at least half of the Citizens'

Committee has been appointed; however, the County has not received any other nominations from the cities, towns or reservations as requested. Mr. Besich stated that Vice-Chairman Martin met with the Mayor of the Town of Payson, who will possibly submit a name for nomination on behalf of the Town of Payson. Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously approved the following: A) an Agreement for Services with The Strategic Issues Management Group at a cost not to exceed \$49,999 and B) a Contract/Proposal with Gila Management, LLC at an estimated cost of \$20,520 plus direct expenses.

Mr. Besich requested the appointment of a County Supervisors Association (CSA) Legislative Policy Committee (LPC) member for the legislative year 2007. He stated that annually the CSA requests that each County Board of Supervisors appoint or reaffirm its existing member to the LPC. Chairman Sanchez stated that the current member to the LPC for Gila County is Supervisor Dawson, who does an outstanding job. Upon motion by Chairman Sanchez, seconded by Vice-Chairman Martin, the Board unanimously appointed Supervisor Dawson as the County Supervisors Association LPC member for the legislative year 2007. Supervisor Dawson stated that she would be happy to serve in this position. Chairman Sanchez and the Board briefly discussed the work that is accomplished by the LPC and some of the areas in which the LPC has worked for the betterment of Gila County.

Marian Sheppard, Chief Deputy Clerk, requested the award of Call for Bids No. 110106-01, an annual contract for all advertising, publications and printing to be done or made by all departments within Gila County government for the period January 1, 2007, through December 31, 2007. She advised of the statutory requirement whereby the County is required to solicit bids for this contract on an annual basis. She stated that the Call for Bids was issued and 2 newspapers responded, namely, the Arizona Silver Belt and the Payson Roundup. Ms. Sheppard noted for the Board that the information in the Board's packet included the bid specifications, public notice of the Call for Bids and all of the paperwork that was submitted by both newspapers for the

Board's review. She read aloud a section of the bid specifications which states that the Gila County Board of Supervisors will accept the lowest bid based on the total cost of the sample minutes and not the lowest per column rate indicated as column width varies by newspapers. She read aloud another section which states that the contract shall be made with the lowest and best bidder. Ms. Sheppard read the bids which were submitted, as follows: 1) the Payson Roundup at \$2.50 per column inch and the total cost of the sample minutes as provided in the bid specifications would cost the County \$187.45 and 2) the Arizona Silver Belt at a rate of \$2.58 per column inch and the total cost of the sample minutes as provided in the bid specifications would cost the County \$110.53 with a revised increase of that cost to \$112.90. Ms. Sheppard explained the reason the Arizona Silver Belt's bid was revised to \$112.90. She advised that the bid packets were sent by mail to each newspaper. As such, each newspaper was required to replicate the sample minutes in order to provide a cost per column inch and a total cost to publish the sample minutes one time in the newspaper. During the opening of the bids, it was noticed that one paragraph containing 80 words was omitted from the Arizona Silver Belt's sample minutes. Ms. Sheppard advised that had the bid specifications been sent electronically, as is the manner in which most all of the newspaper publications are submitted to the newspaper by County departments, the omission of the 80 words would not have occurred. She further advised that after the bids were opened, she met with Bryan Chambers, Chief Deputy County Attorney, to determine whether the bid from the Arizona Silver Belt could be accepted. Mr. Chambers advised that the omission of the 80 words was an error, which would not have occurred if the Call for Bids packet was sent electronically. His recommendation was to calculate the total number of words in the sample minutes, determine the cost per word, and add the total cost for the 80 words to the amount submitted by the newspaper. Ms. Sheppard reiterated that the revised total cost for the Arizona Silver Belt to publish the sample minutes was \$112.90. Chairman Sanchez inquired if there were any questions from the Board. The Board had no questions. Upon

motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously awarded Call for Bids No. 110106-01 for all advertising, publications and printing for Gila County to the Arizona Silver Belt.

Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously approved Consent Agenda item numbers 13A-G, as follows:

- A. Approval of Amendment Nos. 2 and 3 to Contract No. HG561131 between the Arizona Department of Health Services and the Gila County Health Department, which apply to the County's Teen Pregnancy Prevention/Teen Maze Program.
- B. Adoption of Resolution No. 06-12-01, which authorizes the submission of a State Lake Improvement Fund Grant Application to the Arizona State Parks Board (ASPB) regarding the Talkalai Lake Project. (Administrative item: On 12/12/06 the Board authorized the submission of the grant application.) **(A copy of the Resolution is permanently on file in the Board of Supervisors' Office.)**
- C. Approval of a Product Service Agreement with Troy Group Inc. to provide service and preventive maintenance for the period January 12, 2008, through January 11, 2010, at a total cost of \$4,020 on a Troy Secure MICR Printer that is being used by the Finance Department.
- D. Authorization for the Chairman to sign a FY 2007 Per Capita Grant for Local Health Work Signature Page in order for the Health Department to receive \$10,200 in grant funds from Arizona Department of Health Services.
- E. Approval of the November 2006 monthly departmental activity reports submitted by the Globe Regional Justice of the Peace and the Payson Regional Constable.
- F. Approval of personnel reports/actions for the week of December 18, 2006, as follows:
 - Departure from County Service:
 - 1. Career & Employment Specialist – Community Services – 12-08-06 – Grant Fund

- Joanna Ramos – Hire 06-12-06 – Failure to complete probationary period
2. Building Maintenance Technician Senior – Facilities Management – 12-08-06 – Internal Services Fund – Marco Lopez – Hire 01-10-05 – Resigned for other employment
 3. Clerk – Globe Justice Court – 12-04-06 – Cost of Prosecution Fund - Monique Perez – Temporary position
 4. Mobile Crew Worker – GEST – 12-01-06 – Grant Fund - Chris Davis – Temporary position

Hire to County Service:

5. Building Safety Assistant – Community Development – 12-11-06 – General Fund - Jim Berry – Replaces Patsy Clayton
6. Deputy Probation Officer 1 – Probation – 12-26-06 – Juvenile Standard Fund - Kimberly Bittner – Replaces Shannon Ramirez
7. Deputy Probation Officer 1 – Probation – 12-26-06 – A.I.P.S. Fund Susan Aneas – Replaces Jay Boyer
8. Custodian Lead – Facilities Management – 12-19-06 – Internal Services Fund - Rhonda Wood – Replaces Rita Dibble
9. Administrative Clerk Senior – Superior Court – 12-11-06 – Court Improvement/CASA Funds – Josie Castillo – Part time position replacing Charlotte Farr
10. Bailiff – Superior Court – 12-18-06 – General Fund - James Cox – Replaces Angela Torres

Departmental Transfer:

11. Risk Management Planner to Rural Addressing Assistant – Emergency Management to Rural Addressing – 10-01-06 – Homeland Security fund to Rural Addressing Fund – Sarah White
12. Road Maintenance Worker to Road Maintenance/Equipment Operator – Consolidated Roads – 12-19-06 – Road Fund – Arthur Alvarado

End Probationary Period:

13. I.T. Admin. & Support Technician – G.C.I.T. – 12-25-06 – Computer Services Fund – Tyler Solberg

14. Clerk of Hearing Officer – Community Development – 12-25-06 – General Fund - William Hannah
15. Deputy Attorney – County Attorney – 12-11-06 – General Fund - Pascal Brown
16. Deputy Attorney – County Attorney – 12-25-06 – General Fund - Lacy Hakim
17. Victim Witness Advocate – County Attorney – 12-25-06 – General/Crime Victim Assistance Funds – Lizabeth Fetterman
18. Teen Court Secretary – Probation – 12-25-06 – Juvenile Probation Service Fees Fund – Dominique Woods
19. Deputy Probation Officer 1 – Probation – 12-11-06 – Adult Probation Service Fees – Armand Cassanova
20. Deputy Probation Officer 1 – Probation – 11-27-06 – A.I.P.S. Fund Raymond Dion
21. Juvenile Detention Officer Trainee – Probation – 11-13-06 – General Fund - Adam Mancha
22. Administrative Clerk Specialist – Administrative Services – 12-25-06 – General Fund – Jo Nelle Greenwalt
23. Animal Regulations Enforcement Officer – Rabies Control – 12-11-06 – Rabies Control Fund – Forrest Miller

Position Review:

24. Fund Code Change – Risk Management Analyst – Emergency Management – 07-01-06 – General/Homeland Security Funds to General Fund – Debra Williams
25. Statutory Increase – Justice of the Peace – Payson Regional Justice Court – 12-25-06 – General Fund – Dorothy Little
26. Reclassification – Solid Waste Operations Worker Senior to Acting Supervisor – Solid Waste Management – 12-18-06 – Enterprise Fund – Walter Dean Wiley – Acting Supervisor in the absence of Wallace Pottle, Operations Supervisor
27. Salary Adjustment – Deputy Probation Officer 1 – Probation – 09-20-06

- Juvenile Standard Fund – Jolene Stever – To correct salary to Grade 35 Step 2 in accordance with PSPC implementation plan
- 28. Salary Adjustment – Juvenile Detention Officer Trainee – Probation – 09-18-06 – General Fund – Mellie Marin – To correct salary to Grade 21 Step 1 in accordance with PSPC implementation plan
- 29. Reclassification – Acting Roads/Shops Manager to Region Public Works Manager – Consolidated Roads – 12-19-06 – Road Fund – Alfred Brent Cline – replaces Kenneth Hicks

Request Permission to Post:

- 30. Career & Employment Specialist – Community Services – Position vacated by Joanna Ramos
- 31. Administrative Clerk – Administrative Services – Position vacated by Janeen Harmon
- 32. Building Maintenance Technician Senior – Facilities & Land Management – Position vacated by Marco Lopez

SHERIFF’S PERSONNEL ACTION ITEMS:

Departmental Transfer:

- 33. Deputy Sheriff Sgt. To Deputy Sheriff Lt. – Globe S.O. – 12-25-06 – General Fund – Michael Johnson – Replaces Chad Langley
- 34. Deputy Sheriff Sgt. – Globe S.O. – 12-25-06 – Task Force Fund - Dennis Buller – Replaces Keith Thompson
- 35. Deputy Sheriff to Deputy Sheriff Sgt. – Payson S.O. – 12-25-06 – General Fund - John France – Replaces Danny Alexander

End Probationary Period:

- 36. Deputy Sheriff – Globe S.O. – 12-11-06 – General Fund - Amy-Noel Bagwell

G. Approval of the finance reports/demands/transfers for the week of December 18, 2006, (separate handout) as follows:

\$1,016,342.92 was disbursed for County expenses by voucher numbers X154298 through X154399, and X396486 through X396799. The hand-issued warrants listing is as follows: voucher number X396192 in the

amount of \$3,200.48; voucher number X396479 in the amount of \$59,110.00; voucher number X152495 in the amount of \$150.00; and voucher number X154296 in the amount of \$150.00. **(An itemized list of vouchers is permanently on file with the Board of Supervisors.)**

At this time each Board member and the Chief Administrator were presented the opportunity to give a brief summary of current events as allowed by A.R.S. §38-431.02(K). No action was taken by the Board.

There being no further business to come before the Board of Supervisors, Chairman Sanchez adjourned the meeting at 12:09 p.m.

Jose M. Sanchez, Chairman

ATTEST:

Steven L. Besich, County Manager/Clerk