

**BOARD OF SUPERVISORS MINUTES
GILA COUNTY, ARIZONA**

Date: January 26, 2010

SHIRLEY L. DAWSON
Chairman

STEVEN L. BESICH
Clerk of the Board

TOMMIE C. MARTIN
Vice-Chairman

By: Marilyn Brewer
Deputy Clerk

MICHAEL A. PASTOR
Member

Gila County Courthouse
Globe, Arizona

PRESENT: Shirley L. Dawson, Chairman; Tommie C. Martin, Vice-Chairman (via video conferencing); Michael A. Pastor, Supervisor; John Nelson, Deputy County Manager; Marian Sheppard, Chief Deputy Clerk; and Bryan Chambers, Chief Deputy County Attorney.

Item 1 – Call to Order – Pledge of Allegiance – Invocation

The Gila County Board of Supervisors met in Regular Session at 10:00 a.m. this date in the Board of Supervisors hearing room. Mike Pastor led the Pledge of Allegiance and Reverend Anthony Garrisi of the First Baptist Church in Payson delivered the invocation.

Chairman Dawson requested that Matt Bolinger, Director/Epidemiologist of Gila County Emergency Management and Health Preparedness, provide the Board with an update on the emergency situations caused throughout the County by the extreme weather conditions. Mr. Bolinger provided an update regarding the County's response to the flooding and snow issues that caused extended power outages, required staff to provide supplies to the residents stranded on the east side of Tonto Creek and build a make-shift crossing at Mackey's Camp. Emergency shelters were set up at Tonto Basin, San Carlos and Payson. Nurses were sent out to provide health welfare checks. He stated that 1,200 sand bags were prefilled by the County and provided free of charge to residents. Ten subdivisions were evacuated on the east side of Tonto Creek and pre-evacuation notices were conducted by the Globe Fire Department. He stated that the State will be conducting a fly-over of the damaged areas today and tomorrow the State and FEMA (Federal Emergency Management Agency) will be in the Gisela and Tonto Basin areas to conduct preliminary damage assessments. Another team will arrive on February 4-5, 2010, to review agency infrastructure. Mr. Bolinger told the Board, "You would be proud of what the employees did here in Gila County, including the Public Works Division, Emergency Management, the Sheriff's Office, the Community Development

Division, and the Community Services and Health Division. The fire departments and law enforcement in the cities/towns also provided assistance.” Each Board member thanked Mr. Bolinger and the staff from the various divisions and departments for their cooperation in a job well done throughout the County. John Nelson, Deputy County Manager, requested that Jacque Griffin, Assistant County Manager/Librarian, be excused from the meeting to allow her to continue returning phone calls pertaining to various weather-related situations.

Item 2 - Presentation of the Officer of the Quarter 2009 awards to Globe Police Department’s Detective Chris Williams and Sargeant Jim Durnan by County Attorney Daisy Flores.

County Attorney Daisy Flores stated that she wanted to recognize 2 employees today instead of 1 because they are both part of a great team and it is really the team effort that makes both of these officers outstanding. Sargeant Jim Durnan and Detective Chris Williams have been with the Globe Police Department for quite some time in the Investigative Unit, which deals with crime, drugs and murder cases. This Unit also works closely with Ms. Flores’ Office. As an example, she cited 2 significant cases that were solved and justice was carried out primarily because of the diligent efforts of these officers. Also present to recognize these officers were Globe Police Chief Dan Melvin, Lieutenant Lee Kinnard and Detective Williams father, Jack Williams. On behalf of the Board, Chairman Dawson thanked these officers for their dedicated service to the community.

Item 3 – Information/Discussion/Action to adopt Resolution No. 10-01-04 which authorizes the Sheriff’s Office to submit a Fiscal Year 2010 Law Enforcement and Boating Safety Fund Grant Application in the amount of \$270,503.20 to Arizona State Parks.

Claudia DalMolin, Chief Administrative Officer for the Sheriff’s Office, stated that these funds will be used for 4 boating deputies and their employee-related benefits. Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously adopted Resolution No. 10-01-04, which authorizes the Sheriff’s Office to submit a Fiscal Year 2010 Law Enforcement and Boating Safety Fund Grant Application in the amount of \$270,503.20 to Arizona State Parks. **(A copy of the Resolution is permanently on file in the Board of Supervisors’ Office.)**

Item 4 – Information/Discussion/Action to authorize the advertisement of Request for Sealed Bids No. 110309-1 for the construction of the new Public Works Complex Roads/Shop Building, Globe, Arizona.

Shannon Boyer, Executive Administrative Assistant, speaking on behalf of Steve Stratton, Public Works Division Director, stated that agenda item

numbers 4 and 5 are somewhat related in that they both pertain to buildings that will be constructed on the new site near the hospital. The Public Works Shop Building will require special equipment that not all contractors are able to provide, which is the reason for splitting the bids. Request for Sealed Bids No. 110309-1 will be advertised tomorrow and again on February 3, 2010. Bid deadlines are March 26, 2010, and bids will be awarded shortly thereafter. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Martin, the Board unanimously authorized the advertisement of Request for Sealed Bids No. 110309-1 for the construction of the new Public Works Complex Roads/Shop Building, Globe, Arizona.

Item 5 – Information/Discussion/Action to authorize the advertisement of Request for Sealed Bids No. 110109-1 for the construction of the new Public Works Complex Administration Building and the Facilities Building, Globe, Arizona.

See discussion under agenda item number 4 above. Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously authorized the advertisement of Request for Sealed Bids No. 110109-1 for the construction of the new Public Works Complex Administration Building and the Facilities Building, Globe, Arizona.

Item 6 - Information/Discussion/Action to allocate \$50,000 of Gila County's Secure Rural Schools Funds (Forest Fees) to Roads, and to determine the distribution ratio for Gila County School Districts of the remaining funds (\$1,987,119.96)

John Nelson, Deputy County Manager, provided the Board with some background history on the forest fees by stating that for a number of years Gila County has received forest fees, which amounted to \$300,000 to \$350,000 per year. These funds were distributed to the County School Superintendent's Office and also to all of the school districts within Gila County based on the percentage of public lands in each of the school districts. However, last year the U.S. Congress voted to fully fund the forest fees through the Secure Rural Schools & Communities Self-Determination Act and the amount went up significantly to over \$2 million. Last year it was decided to hold a meeting with all the school superintendents in order to come up with a plan on how to fairly distribute these forest fees. The 3 criteria used to divide the fees included the following: 1) every school district would receive some base funds; 2) the amount of public land with forest acreage in each school district must be counted in the allocation; and 3) a percentage would be based on the average daily membership (ADM) of each school district. The final formula used for the distribution of forest fees last year was that 10% of the funds would be allocated to every school district as a base; 35% would be based on forest acreage in each school district; and 65% would be based on ADM student enrollment. This year the forest fees are down approximately 10% from last

year so every district will get less funding. Mr. Nelson stated that Linda O'Dell, County School Superintendent, would now present her recommendations for this year to the Board. Dr. O'Dell noted that the correct formula for last year was a 10% base; 25% (not 35%) was based on forest acreage and 65% was based on ADM. She had provided her written recommendations to everyone involved including the Board. Dr. O'Dell explained that she had not spent an adequate amount of time in meeting with the school superintendents because she had a good sense from the meetings last year as to where the individual school districts stood and then received subsequent information and documentation that came to her from other school districts after the fact. She was also aware of the concerns and differences of opinion that had not been accurately reflected last year. Dr. O'Dell stated that she began her proposed recommendations by using last year's formula and then deducted the 10.7% decrease in funding for this year and used the 95% allocation for schools and 5% for roads, which last year that 5% was approximately \$120,000. Dr. O'Dell then explained the entire process she used to rearrange the percentages and amounts to arrive at her current recommendations for this year of allocating between 2% to 3% for roads in a flat amount of \$50,000 (instead of the 5% used last year), \$200,000 for the School Superintendent's Office, which was the same as last year, and the remainder of the forest fees would be divided among the school districts beginning with a 10% base, 30% based on forest acreage and 60% based on ADM. Dr. O'Dell stated that she understands there might be a concern with her office receiving the same amount as last year; however, she is open to the possibility that her office may need to affect a decrease along with the school districts. She noted that also factored into the AMD was the fact that some schools showed increased enrollment while others showed a decrease. The ADM figures used were taken from the 100th-day reports, which were the same reports that were used last year except with the 2009 figures (instead of 2008) as reported on the Arizona Department of Education website. In summary, Dr. O'Dell stated that her proposed recommendation to the Board was as follows: that approximately 2.45% of \$2,037,120, in the amount of a flat \$50,000, be allocated to roads; that approximately 97.55%, or \$1,987,120, be allocated to school districts; and that \$200,000 be allocated to the County School Superintendent's Office to continue its general activities. Chairman Dawson inquired of Dr. O'Dell how the \$200,000 fees were used in her office last year. Dr. O'Dell stated that she had requested a list from each school district as to how their forest fees were spent last year, a copy of which was provided to the Board; however that report did not include the Payson School District and the Globe School District figures. Included in that report was a list of what the County School Superintendent's Office expended totaling \$83,000, plus outstanding expenditures, some of which have not been invoiced or paid yet, which include \$30,000 for reinstatement of the School Resource Officer for Pine, Tonto Basin and Young; \$4,000 for pre-scholastic aptitude tests for some of the sophomore students in the San Carlos and Miami School Districts; and \$30,000 for support services for grant writing, totaling approximately \$147,000 to \$150,000. Dr. O'Dell also stated that her

recommendations are intended to help the smaller districts that have the most forest acreage with little or no impact to the larger districts, given the overall decrease, if approved by the Board. As a final statement, Dr. O'Dell stated, "I was elected as County School Superintendent and in that capacity I believe it is my obligation to look after and consider the best interests of all the districts and students in our County and my recommendation does, I believe, reflect my efforts to meet that obligation despite the fact that it is different from what you saw last year." Several school administrators/superintendents were present at the meeting and wished to speak. Chairman Dawson called on Casey O'Brien, Superintendent of Schools for Payson School District, followed by Barbara Underwood, Vice-Chairman of the Payson School District Governing Board, who were both in favor of Mr. Nelson's proposal, which had just been received, over the one presented by Dr. O'Dell. Linda Chaney, Superintendent of the Young School District, requested a few moments to review Mr. Nelson's proposal. Mr. Nelson then explained his recommendations. Mr. Nelson stated that he held meetings with Dr. O'Dell and after receiving her proposal he had a few concerns so he prepared a few recommendations that might improve the formula for the Board's consideration. Mr. Nelson stated that there are basically 2 changes that he and Dr. O'Dell reviewed. He noted that when a formula is changed if a school district loses money, it usually has problems. There are 2 school districts that would lose money under Dr. O'Dell's proposed formula change and those are the Globe School District and the Hayden-Winkelman School District. The first proposal is to hold those two school districts harmless so they would not lose money. The second proposal is that the School Superintendent's Office allocation did not reflect a reduction as the school districts did, which was probably unfair, so a prorated amount of \$16,500 was deducted from the \$200,000 for the School Superintendent's Office allocation reducing it to \$183,500 and the \$16,500 was added back into the school districts' allocation. Chairman Dawson stated that she was surprised that there wasn't a reduction in the School Superintendent's budget and had expressed her concern to Mr. Nelson that she would not vote in favor of the proposal from the School Superintendent. Another concern expressed by Chairman Dawson was the fact that Dr. O'Dell did not meet with the school superintendents to allow them to have input into the proposals. Chairman Dawson stated to Dr. O'Dell, "It's not fun to have contention, but sometimes that's what your job involves and input is always important and I believe that every school district has a right to speak." She noted that 2 school superintendents came to the County in the bad weather to plead their cases because school districts are in dire need of funds because their budgets have been slashed by the State. She stated, "We need to support them as much as we can." Chairman Dawson again called on Linda Chaney, who spoke in favor of Mr. Nelson's recommendations. Mr. Nelson stated that these forest fees must be distributed between roads and schools and if the federal government determines that the law has been skirted and too little was paid to one area, they will deduct that amount from next year's PILT (Payment in Lieu of Taxes) funds. Mr. Nelson stated that he believes he can convince the federal

government that \$50,000 for roads is an adequate allocation; however, if the federal government disagrees and deducts that amount from next year's PILT funds, he will be back before the Board asking for reconsideration. Chairman Dawson called on Linda Teague, Business Manager for the Miami School District, and John Ketchem, Superintendent of Tonto Basin School District, who both supported Mr. Nelson's proposal, although Mr. Ketchem was disappointed that the smaller school districts with more forest acreage didn't receive a larger allocation. Chairman Dawson stated that she received 2 other forms that were filled out which were in favor of Mr. Nelson's proposal; however, those individuals did not wish to speak. Dr. Richard Wilde, Superintendent of the San Carlos School District, stated that the San Carlos School District appreciates all of the efforts being made and that District will adjust to whatever funds the County can provide. In the future, Dr. Wilde requested that all of the school superintendents meet with the County School Superintendent so the details may be hashed out at their level and then, as a united body, a confirmed recommendation would be presented to the Board. He encouraged the Board to make that a requirement going into next year. Chairman Dawson stated that she would pass that request on to the administration. Dr. O'Dell stated that she appreciated all of the comments from the school superintendents and administrators and she felt she had a good understanding of all the issues; however, that perhaps was an oversight on her part not to hold a meeting with them. Dr. O'Dell stated "I did not relish the contentious atmosphere in which the decision was made last year and so that was me backing off from really trying to do that. I do understand the concerns and I will follow the recommendation of the Board as you have obviously stated, even informally, to ensure that does not happen again." She agreed that Mr. Nelson's idea was excellent as a compromise position. Mr. Nelson reminded everyone that next year forest fees will be cut again so every school district should plan on its fees being reduced; however, he was unsure whether or not the formula would change for next year. Vice-Chairman Martin stated that while she did not like the way the figures were arrived at, she supported reducing the roads amount to \$50,000 this time because it allows the school districts to receive additional funds. Supervisor Pastor thanked the superintendents who contacted him as it gave him insight into their perspective. He agreed that Mr. Nelson's recommendation was an equitable solution and hoped that next year it would be resolved in an easier manner. Vice-Chairman Martin made a motion to allocate 2.45% of Gila County's Secure Rural Schools Funds (Forest Fees) to roads, 97.55% to schools and that the disbursements are made according to the recommendations by John Nelson. Mr. Nelson stated that he was going to be discussing this with the federal government later on and requested that the motion allocate direct dollars, which would be easier to discuss when it's in the permanent record. Vice-Chairman Martin then changed her motion to allocate 2.45%, which represents \$50,000 for roads, and 97.55%, which represents \$1,987,120 for the Gila County School Districts, and that the disbursements are made according to the recommendations by John Nelson. The motion was seconded

by Supervisor Pastor and passed unanimously by the Board. **(A copy of the adopted proposal is permanently on file in the Board of Supervisors' Office.)**

Item 7 - Update on activities regarding the Census 2010 Gila County Complete Count Committee.

Chairman Dawson tabled this item as Ms. Griffin was dismissed earlier to attend to other County business.

Item 8 – Information/Discussion/Action to consider a waiver of possible conflict of interest pursuant to Rule of Professional Conduct ER 1.7 between the Gila County Attorney’s Office and the Gila County Board of Supervisors. If approved, the waiver would waive any possible conflict caused by litigation involving the County Attorney in her personal capacity and the Globe Unified School District and the board members of the Globe Unified School District, two of which are County employees. Pursuant to A.R.S. §38-431.03 (A)(3), the Board may vote to go into executive session to receive legal advice from its counsel.

The Board did not vote to go into executive session, but addressed this item in regular session. County Attorney Daisy Flores also did not have a problem with the matter being addressed in regular session. Vice-Chairman Martin advised that she would not be voting on this matter as she has a conflict of interest. Ms. Flores stated that the conflict and purpose for this discussion is described in the agenda item. She also noted that the Board should have received the Waiver of Possible Conflict of Interest. Ms. Flores advised that it is common for attorneys to go through this procedure if one has multiple clients or if one’s interest might diverge from the interest of its client. Ms. Flores advised that she and her husband filed a Notice of Claim with the Globe Unified School District (GUSD) in November 2009. Ms. Flores stated that she notified Steve Besich, County Manager/Clerk, shortly thereafter because there are 2 members of the Governing Board for the GUSD who are also County managers and she wanted to ensure, through Mr. Besich, that the County was aware of a potential conflict should those County managers, under his authority, come to her office for legal advice. Ms. Flores stated, “I want to be clear that there is not going to be any later false accusations against my office or staff by anyone that we are somehow giving them poor advice or giving them some other type of information.” Ms. Flores stated that Mr. Besich, through e-mail, waived any conflict at that time and she thought that was sufficient. Later, on the same date, the Arizona Silver Belt newspaper reported about a lawsuit that was filed against Ms. Flores and her husband in a personal capacity and subsequently the same day Ms. Flores and her husband were served the papers for the lawsuit. The service of the lawsuit changed the situation, so Ms. Flores felt the need to come before the Board for open discussion and to have the conflict waived. Ms. Flores explained that she is

personally joined to the lawsuit simply because she is married to her husband, who is an employee of the GUSD. However, in her professional capacity, her office does represent the Board of Supervisors and all those acting under the authority of the Board, which includes the 2 County employees who are also members of the Governing Board of the GUSD. These 2 employees in representing their departments seek legal advice, contract review, etc., from Ms. Flores' office and are acting under the authority of the Board. Ms. Flores wanted to ensure that the Board has dealt with this issue; is aware that there is a pending lawsuit where she and her husband, in their personal capacity, are named as defendants; the 2 County employees could be potential witnesses in the case or potential defendants in time and enjoined in the lawsuit; and that she and her husband have filed a Notice of Claim against the GUSD, which has not been filed as a lawsuit, but in which the 2 County employees could also be defendants in an action there. Ms. Flores advised that everything has been reviewed in her office. She stated, "As an attorney, we are obligated under Arizona Rules of Professional Conduct, Ethical Rule 1.7 (ER1.7)—Conflict of Interest: Current Clients—to determine if there is a personal conflict such as this, that the lawyer reasonably believes she will be able to provide competent and diligent representation to each affected client, which in this case, the Board is the affected client." Ms. Flores stated, "Mr. Chambers and I both believe we will still be able to provide competent and diligent representation to the Board. The representation is not prohibited by law and the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal. And that is not the case. We believe we have met the obligations required by the Ethical Rule 1.7." Ms Flores stated that ER1.7 requires a signed notification in writing by the Board Chairman on behalf of the Board and she has provided that Waiver of Possible Conflict of Interest. Ms. Flores also stated that the manner in which her office will interact with the 2 specific employees will be discussed specifically with Mr. Besich or Mr. Nelson. She stated, "The primary thing is I do not and I will not have anybody making false accusations against my office or my employees that we are doing anything inappropriate and that is why it is here before you to make the decision." Ms. Flores advised that she could not offer any advice on this item to the Board and she had advised Mr. Nelson that whether or not Vice-Chairman Martin has a conflict in this matter was purely up to her as Ms. Flores' office could not offer advice on that matter either. Chairman Dawson stated that there has never been a question of Ms. Flores' ethical stand and she has handled the representation of Gila County in a competent, ethical and diligent manner and expects that will continue in this matter. Supervisor Pastor agreed and stated that Ms. Flores and her staff know what their responsibilities are and he has no concern that there would be a conflict of interest because the lawsuit deals specifically with her personal life. Ms. Flores thanked the Board and stated that this is purely something that needs to be done legally and presented to the Board. Upon motion by Supervisor Pastor, seconded by Chairman Dawson, the Board, by a 2-0 vote, approved a Waiver of Conflict of Interest pursuant to

Arizona Rule of Professional Conduct ER 1.7 between the Gila County Attorney's Office and the Gila County Board of Supervisors. Vice-Chairman Martin abstained from voting because of a conflict of interest.

Item 9 - CONSENT AGENDA ACTION ITEMS:

A. Approval of a Special Event Liquor License Application submitted by the Lions Club of Globe, Arizona, Inc. to serve liquor at the Sheriff's Reserve Dance on February 13, 2010.

B. Approval of the December 2009 monthly departmental activity report submitted by the Clerk of the Superior Court.

C. Approval of the personnel reports/actions for the week of January 26, 2010.

Departures from County Service:

1. Anthony Goss - Health and Community Services – Weatherization Assistance Technician – 01/12/10 – Housing Fund – DOH 08/03/09 – Temporary position

End Probationary Period:

2. Cynthia Bach – Public Fiduciary – Fiduciary Services Specialist I – 02/01/10 - General Fund

SHERIFF'S PERSONNEL ACTION ITEMS

Departures from County Service:

3. Ruben Mariscal - Sheriff's Office – Detention Officer – 01/11/10 – General Fund – DOH 01/07/08 – Resignation

Hire to County Service:

4. Maria Salcido-Hjelle - Sheriff's Office – 911 Dispatcher – 02/01/10 - General Fund – Replacing Patricia Dodd

Departmental Transfers:

5. David Hornung - Sheriff's Office – From Deputy Sheriff – To Deputy Sheriff Sgt. LEBSF - 01/18/10 – From General Fund – To Sheriff LEBSF Program Fund
6. Virgilio Dodd - Sheriff's Office – From Deputy Sheriff – To Deputy Sheriff Sgt. - 01/18/10 – General Fund
7. John France - Sheriff's Office – From Deputy Sheriff Sgt. LEBSF – To Deputy Sheriff Sgt. – 01/18/10 – From LEBSF Program Fund – To General Fund

D. Approval of finance reports/demands/transfers for the week of January 26, 2010. (separate handout)

\$2,054,025.47 was disbursed for County expenses by check numbers 223961 through 223997 and 224001 through 224133. **(An itemized list of**

disbursements is permanently on file in the Board of Supervisors' Office.)

Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously approved consent agenda items 9A-9D.

Item 10 - CALL TO THE PUBLIC: Call to the Public is held for public benefit to allow individuals to address issue(s) within the Board's jurisdiction. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to criticism, or scheduling the matter for further discussion and decision at a future date.

There were no requests to speak from the public.

Item 11 - At any time during this meeting pursuant to A.R.S. §38-31.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.

Each Board member and Mr. Nelson, speaking on behalf of Steve Besich, who is ill, presented information on current events.

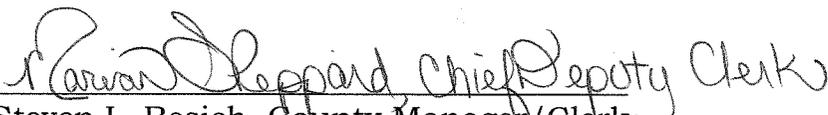
There being no further business to come before the Board of Supervisors, Chairman Dawson adjourned the meeting at 11:39 a.m.

APPROVED:



Shirley L. Dawson, Chairman

ATTEST:


for Steven L. Besich, County Manager/Clerk