BOARD OF SUPERVISORS MINUTES
GILA COUNTY, ARIZONA

Date: February 16, 2010

SHIRLEY L. DAWSON Chairman	**JOHN F. NELSON** 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, Interim County Manager/Clerk; 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. John Nelson led the Pledge of Allegiance and Reverend Marc Cadwell of Calvary Shadows Assembly of God Church in Globe delivered the invocation.

Item 2 - Information/Discussion/Action to approve the list of projects to be submitted to Congresswoman Ann Kirkpatrick for consideration of federal funding in FY 2011.

Steve Stratton, Public Works Division Director, stated that this is a preliminary list being submitted for placeholders in the federal funding for FY (fiscal year) 2011 and the Board, at a later date, will prioritize these projects. The 6 projects discussed and being presented for approval include the following: 1) infrastructure or sewer for the proposed Job Corps project and the East Globe area; 2) the 10 flood control devices design and National Environmental Policy Act (NEPA) studies; 3) the 512 Road; 4) the Houston-Mesa Road; 5) the Control Road; and 6) the Tonto Creek Bridge. Supervisor Pastor inquired if the City of Globe and the Town of Miami were going to submit a sewer infrastructure project for the Pinal Sanitary District and Cobre Valley Sanitary District. Mr. Stratton was not sure; however, the County is writing the Request for Proposals for that project and the first draft has been completed. Supervisor Pastor explained that this project is being handled by the City of Globe and Town of Miami, and the County has been requested to partner with those entities to provide guidance and information; however, he clarified it would not

be a County project although it will be for the two sanitary districts, which are located in the unincorporated areas of the County between Globe and Miami. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Martin, the Board unanimously approved the list of projects to be submitted to Congresswoman Ann Kirkpatrick for consideration of federal funding in FY 2011.

Item 3 – Information/Discussion/Action regarding proposed letter to Senators McCain and Kyl requesting their support of Senate Bill 3000 which extends the enhanced Medicaid federal medical assistance percentage (FMAP) -- which is currently scheduled to expire on December 31, 2010 -- through June 3, 2011.

Jacque Griffin, Assistant County Manager/Librarian, stated that the National Association of Counties has contacted all county boards of supervisors asking that each board request of its representatives in Washington, D.C. that they support Senate Bill 3000 in order to extend the enhanced Medicaid federal medical assistance percentage as it is set to expire on December 31, 2010. For Gila County this provides approximately $600,000 for the Arizona Health Care Cost Containment System/Arizona Long Term Care System programs. The letters are requesting that the Senators include the extension in the next American Recovery and Reinvestment Act stimulus funding for at least a 6-month extension in 2011. Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously approved the proposed letters to Senator McCain and Senator Kyl requesting their support of Senate Bill 3000, which extends the enhanced Medicaid federal medical assistance percentage--which is currently scheduled to expire on December 31, 2010--through June 3, 2011.

Item 4 – Information/Discussion/Action to ratify Supervisor Tommie Martin's signature as Chairman of the Enterprise Zone Commission on 3 separate Intergovernmental Agreements (IGA) between Gila County and the following entities: Town of Payson dated January 11, 2010; Town of Hayden dated December 8, 2009; and Town of Winkelman dated January 5, 2010. Each Agreement shall expire five years after the effective date of the Agreement unless renewed for consecutive five-year terms as authorized by A.R.S. §41-1524 (C).

Vice-Chairman Martin stated that this item is in regard to the Enterprise Zone that was established in the late 1990s. She stated that the submission of paperwork to renew the Enterprise Zone was due a year ago; however, it wasn't done until now. She feels the oversight occurred due to the number of new people involved in the Southern Gila County Economic Development Corporation (EDC), who weren't aware of this deadline and it simply "fell through the cracks." She stated that Ken Volz of the Northern Gila County EDC along with help from Bill Marshall of the Southern Gila County EDC have

worked on completing the IGAs and the Enterprise Zone has been reestablished without having to go through the process of setting up a new one. It was a last minute effort getting the process completed and that is the reason she is requesting ratification of her signature on these IGAs. She stated that the Enterprise Zone is based on Census figures so once the 2010 Census has been completed, the Board may want to review this issue in the future. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Martin, the Board unanimously ratified Supervisor Tommie Martin's signature as Chairman of the Enterprise Zone Commission on 3 separate Intergovernmental Agreements between Gila County and the following entities: Town of Payson dated January 11, 2010; Town of Hayden dated December 8, 2009; and Town of Winkelman dated January 5, 2010. Each Agreement shall expire five years after the effective date of the Agreement unless renewed for consecutive five-year terms as authorized by A.R.S. §41-1524 (C). Chairman Dawson thanked Ken Volz because it was a difficult process to reactivate and renew this Enterprise Zone. Vice-Chairman Martin stated that if the Board didn't mind, she would like to send thank-you letters to Mr. Volz and Mr. Marshall.

Item 5 – Information/Discussion/Action to accept or reject a Citizens Petition for Hermosa Vista to be designated as a Country Dirt Road. The beginning of the proposed road is the intersection of Hermosa Vista and Pinal Canyon Road, and the end of the proposed road is the east end of Hermosa Vista. The general course and direction of the proposed road is east-west.

Mr. Stratton stated this was the beginning of a process to accept or reject the Citizens Petition. He recommended that the Board accept the Petition in order to allow the County to look into it further. It is a road, not off of Russell Road, but off of one of the roads in the Bechtel Tract subdivision located in the Little Acres area. Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously accepted the Citizens Petition for Hermosa Vista to be designated as a Country Dirt Road with the beginning of the proposed road at the intersection of Hermosa Vista and Pinal Canyon Road and the end of the proposed road at the east end of Hermosa Vista with the direction of the proposed road as east-west.

Item 6 - Information/Discussion/Action to award Request for Sealed Bids No. 121509-1 for the Public Works Complex Underground Utilities Project.

Mr. Stratton stated this is the underground package for the new Public Works facilities, which is quite a configuration of multiple underground utilities including the septic, water lines, electric conduits, gas lines, cable conduit and Qwest phone lines. The County engineer estimated that the project would cost $550,000 and Mr. Stratton's estimate was $500,000. Twelve bids were received with the lowest bid of $274,655 being submitted by Spire Engineering, LLC. Mr. Stratton recommended that the bid be awarded to Spire Engineering,

LLC. He pointed out that Spire Engineering's bond is rated B+, but he was comfortable with the rating because of their performance on the Fairground entrance project. Spire Engineering, LLC, is also currently completing the Jess Hayes Road water line project for the City of Globe. This gave the company an advantage by already being here on a project so there were no mobilization costs. He stated that because the company very much wanted the project, they deducted an additional $5,000 at the last minute to ensure they were the lowest bidder. Mr. Stratton believes that Spire Engineering, LLC, will do a fine job and with the County's project management on site every day, he feels comfortable that the job will be done properly. Part of the job will include upgrading the Arizona Water Company lines in the roadway with an additional loop of their water lines, which has been difficult to coordinate. One more approval is required by the Arizona Corporation Commission. Mr. Stratton stated that he has not received a timeline for the project, but it is estimated to be 45-60 days. He also spoke with the owner of the company, Steve Arthur, to ensure they are comfortable with the bid. He stated that the lowest 3 bids were fairly close in the price, which made him believe this is a good bid. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Martin, the Board unanimously awarded the contract for Request for Sealed Bids No. 121509-1 for the Public Works Complex Underground Utilities Project to Spire Engineering, LLC, in the amount of $274,655.00. Mr. Stratton also noted for the record that this project would be paid for out of the bond money.

Item 7 – Information/Discussion/Action to award or reject Request for Sealed Bids No. 120109-1 for the purchase of one or more new, full size, 4 door SUV 4x4 special service vehicle(s) for the Gila County Fleet Management Department.

Chairman Dawson stated that she spoke with a former owner of a car dealership. This man advised her that at one time the County was careful about buying the best in used vehicles and he felt the County had a responsibility to stay on the alert for good used vehicles. Chairman Dawson also stated that the State forecast continues to be gloomy in the economy and the County's sales tax continues to decline, so as the Board looks at the purchase of new vehicles, she wants to be assured that purchasing these new vehicles is absolutely necessary in order to keep the fleet in operation. She stated that the County should also consider reducing the size of the fleet. Mr. Stratton stated that the County continues to look for used vehicles; however the federal government's 'Cash for Clunkers' program has driven the price of used vehicles up and many times with the incentives offered by the factories and dealers, especially for fleet vehicles and for government, it is better to purchase new vehicles. Most of these requested vehicles will be for the Sheriff's Office and since those vehicles rapidly accumulate a lot of miles, these new vehicles will replace those vehicles with excessive mileage. The older vehicles will be used in other places, and with the potential for high speed pursuit as well as the places these vehicles traverse, Mr. Stratton stated that he is more

comfortable purchasing new vehicles for the law enforcement agencies. These vehicles will be purchased with fleet funds, which generates its own monies charged for mileage and will not come from the general fund. Upon inquiry by Supervisor Pastor as to the number of vehicles that will be purchased, Mr. Stratton replied that he was going to request that all bids be rejected at this time because it has come to his attention that the specifications regarding the tow package was written in an unclear manner, which he did not feel was fair to the bidders. He requested permission to re-advertise the request for sealed bids with new specifications and recommended that the Board reject all bids at this time. Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously rejected all bids.

Item 8 – Information/Discussion/Action to approve Professional Services Contract No. 051809 between Gila County and US Imaging whereby on-site scanning services will be provided for the Recorder's Office and the Clerk of the Board in the amount of $64,478.70.

Mr. Stratton stated that this project has been in the process for quite some time. US Imaging will provide on-site scanning services of old records that are located in the Recorder's Office and Clerk of the Board of Supervisors' department. The quote for these two departments was combined in order to receive a better price. Upon motion by Supervisor Pastor, seconded by Vice-Chairman Martin, the Board unanimously approved Professional Services Contract No. 051809 with US Imaging whereby on-site scanning services will be provided for the Recorder's Office and the Clerk of the Board in the amount of $64,478.70.

Item 9 – Information/Discussion/Action to approve revisions to Board of Supervisors Policy – BOS-2-2005 "Policy for Procurement of Professional Services."

Jacque Griffin, Assistant County Manager/Librarian, stated that a revised Policy for Procurement of Professional Services has been presented to the Board. She reviewed the changes in the policy with the Board, which include the following: 1) the requirement of a dollar limit or a contract end date or both; 2) the requirement that contracts be limited to a maximum of 2 years with the option of 2 1-year renewals; 3) the requirement of an executive summary form of 1 page or less to accompany every professional services agreement with a copy of a summary form attached; and 4) an added clause for emergency procurement of professional services in the event of an emergency. Chairman Dawson questioned the example given for court reporters and inquired if those were the court reporters for the court system. Ms. Griffin deferred to Bryan Chambers, Chief Deputy County Attorney, as she did not write the initial policy; however, it was her understanding that this was simply given as an example in the event a court reporter was needed outside of the reasonable customary and normal court procedure such as the Board

perhaps utilizing the services of a court reporter. Mr. Chambers explained that under professional services, the policy is simply providing a list of services to distinguish between services that are professional services and those that are not. Professional services are not subject to going out to public bid; whereas, items that are not professional services that are above a certain dollar value are subject to going out for public bids. This list just gives people an idea of what are considered to be professional services as opposed to trying to govern any current employees who work for the County. This simply advises that if anyone goes out of the County and wants to hire a court reporter, not as an employee of the County, but to do court reporting services, this would fall under the professional services policy. He gave an example that if the Personnel Commission, which is ultimately paid for and funded by the Board of Supervisors, required the services of a court reporter for a Personnel Commission meeting, the professional services policy would have to be followed if approved by the Board. Supervisor Pastor inquired about "Procedures" on page 2 of the policy, paragraph A, 4th sentence, where it states: "exceed dollar limit or contract end date." He questioned if that should be "and/or" because it was written as "and/or" on page 5 where it states: "all professional service agreements must contain a not-to-exceed dollar limit and/or a contract end date." Supervisor Pastor believes those should match grammatically. Ms. Griffin inquired whether the Board had a preference of using "and" or "and/or." Mr. Chambers advised the Board that "and/or" would cover anything that might come up; however, it would be the preference of the Board. Supervisor Pastor also inquired about paragraph B on the bottom of page 2 where it states "the estimated fees not to exceed $50,000 shall use the following procedures." Supervisor Pastor stated that he would like the $50,000 lowered so there is more focus on cost containment. He understands the argument for leaving it at $50,000, but in the past year in reviewing the financials, he has noted a lot of $49,500 purchase orders, which gives him the impression that there is a bending of the rules and possibly a pattern of doing $49,000 purchase orders instead of going out for bids. Mr. Chambers advised that in regard to the $50,000 for professional services, there is no statutory requirement to go out for bids even if the professional services exceed $50,000. That is only a requirement for non-professional services. However, the Board could set its own policy by changing the way this policy is written, but statutorily there is no requirement for professional services to ever go out to bid. Mr. Stratton stated that many times the money is not the main factor; it's more about the qualifications of the people. As far as the $50,000, that amount actually helps Mr. Stratton's division because some of the prices that come in at $49,900 were originally prices of $50,000 up to $70,000. It gives his division a negotiating tool that is beneficial to the County. Supervisor Pastor also noted that on page 3, paragraph 1A, it states: "the scope of the work may be amended from time to time as circumstances may require or the need arises." He inquired whether this included change orders and questioned the manner in which the Board is notified of those changes. He stated that the Board approves a contract or a certain professional services fee and when a change

order is issued, he questioned whether there was a requirement in place to present that change order to the Board for review and approval. Mr. Stratton stated that the Board has ultimate approval on everything his division does. He stated, "As we get into projects sometimes we find additional work that needs to be performed. The Board sees the change orders every week in the financials as they are submitted and that is the typical way of handling change orders." He advised that if it is a large amount, someone will come and talk to the individual Board members and advise them of same. He stated that the Board could be copied on all change orders. Chairman Dawson stated that in the introduction to Section B, it states "with estimated fees not to exceed $50,000." She stated that in the contract there is a scope of work that might later be amended by change orders; however, it is her legal interpretation that the total cost should still be under $50,000. The definition of the work being done may change within that $50,000, but there would need to be another contract if the $50,000 was going to be exceeded. Mr. Stratton stated, "It could certainly be interpreted that way and if that's the Board's desire that additional contracts be done if the amount exceeds $50,000 that would be satisfactory to him." Chairman Dawson stated, "Well in my estimation that's what we are saying. You're not going to hire a hydrologist for $50,000 and present to the Board a definition of what that hydrologist is doing and then later add another x, y and z to the scope of work, which would add another $50,000. If you're going to change the amount that the person is going to be awarded, then I believe you have to bring it back to the Board." Mr. Stratton stated, "I understand that and I agree with you, but more specifically I believe what this is talking about and we'll go back to the underground utility project that was just awarded, if we had run into geotechnical problems that change the scope somewhat, and that's more what we are referring to and usually is smaller items, we like to have that flexibility to keep projects on time and on schedule, but fully understanding where you are going with this. I absolutely agree if there is a major change with an additional large scope, it should come back to the Board as a new contract." Chairman Dawson stated, "The whole purpose of trying to bring this procedure into focus was so we don't have people who were on a train with the County that was for eternity and just an extension and they were being paid substantially more than what the original understanding was." Mr. Stratton stated that is the reason it has been added into this policy that there be either a monetary amount or an ending point with each contract to try to help satisfy that concern of the Board. Chairman Dawson stated, "When the Board approves a contract with a professional that contract means something and we're sticking to it and if we are going to change it, it needs to be changed in a Board meeting with an amendment to the original contract." Vice-Chairman Martin stated that instead of having "and/or" in the contract, there should just be a contract date. The technology is available for contracts to be tracked and if there is an end date on the contract, the Board would know that every 2 or 3 years, someone in the County would look at them. She stated, "I can appreciate needing to change a contract as a project is going on. I also agree that if a change order doubles or triples, there needs to be a flag

there somehow for us to look at, but there also needs to be some kind of end date or something that somebody is looking at on a regular basis to see that they are still valid and fit within the less than $50,000, over $50,000 category …so that we have a handle on the contracts." Mr. Stratton stated, "John Nelson, Interim County Manager/Clerk, and I were just discussing this and if it would be suitable to the Board, once you award a contract and the amount changes--the bottom line changes with change orders that exceed 10%, which is a normal variance in construction, that we come back to the Board and inform them of the changes. If that suits the Board it would be acceptable to us; that if it exceeds 10% of the original contract, we would come back to the Board." Chairman Dawson stated that she did not have a problem with that arrangement. Ms. Griffin reviewed the new changes with the Board, which included: "When the bottom line exceeds or the change orders exceed the bottom line by 10%, it comes back to the Board for approval. Also we simply take out a dollar amount and have it say 'every contract has a dollar limit and an end date.' Take out the word 'or'." Vice-Chairman Martin stated that Ms. Griffin only heard that from her and not the Board. She did not want something that burdens the staff, but wanted something to ensure that somebody is looking at the dollar amounts of the contracts. She stated that if every contract had an end date, that would work for her. Mr. Stratton requested that he have some leeway if a construction project was going on because it would require an additional week to get the paperwork to the Board and he would not want to incur any penalties from the contractor, but it would certainly come to the Board as soon as possible. Vice-Chairman Martin stated that she just wanted to ensure that contracts are periodically reviewed. Supervisor Pastor stated that the reason this issue has come up is because nobody was reviewing the contracts and there were no time limits and no dollar amounts. He stated, "I just want to make sure that we have a procedure in place that the Board agrees with." Supervisor Pastor also noted to Mr. Chambers that he had marked page 111 (Board packet page) in the appendix, paragraph C, the hold harmless and indemnification clause. He stated that in this section in the original contract there were 2 paragraphs and now it looks like the 2 have been combined into 1 paragraph. One of the paragraphs was stated as Mr. Chambers wished it to read and the other paragraph originated from Public Works. He questioned whether Mr. Chambers was now satisfied with the combined paragraph as Mr. Chambers had expressed concerns about it in the original policy. Mr. Chambers replied that the combined paragraph seems to be more complete. He stated that one caveat when it comes to indemnification clauses is that "we have a very extensive one. We're going to be limited by law on indemnification clauses anyway even if we can twist one's arm into indemnifying just about anything. If we are negligent ourselves in whatever relationship we have with them, we're going to suffer liability in spite of what relationship we have with them. This clause would now seem to be a very complete one. I think as the County negotiates individual agreements with different organizations, this is likely to change. On page 110 where it says Contract Provisions in Appendix A, it says 'while the particulars of any

contractual document may differ, the following are contract terms, which should be contained in most contracts.' I think we will probably see the indemnification clause changing a little bit in individual contracts as we negotiate with the other parties." Chairman Dawson inquired about a motion to approve the revisions to this policy as presented. Ms. Griffin inquired if the Board would prefer to have the revisions added and returned to the Board for approval of the entire policy within a week or two. Ms. Griffin also clarified with the Board that it was her understanding that the new revisions collectively agreed to by the Board would include the following: 1) the $50,000 dollar amount will not change, but will remain as it is at $50,000. 2) the wording will be changed to state: "requiring a dollar limit and a contract end date or renewal date." 3) If change orders amount to more than 10% (of the contract amount) it must come back as an action item on the agenda for Board approval. There were also no changes to the emergency clause. It was the consensus of the Board to bring the policy back to the Board for approval with the new revisions. Upon motion by Vice-Chairman Martin, seconded by Supervisor Pastor, the Board unanimously tabled taking any action on Board of Supervisors Policy BOS-2-2005 "Policy for Procurement of Professional Services" for review of the revisions at a future meeting.

Item 10 - CONSENT AGENDA ACTION ITEMS:

A. Approval to authorize the advertisement of Call for Bids No.120109-2 for the purchase of one or more new, full size, 4 door SUV 4x4 special service vehicle(s) for the Gila County Fleet Management Department. (This bid packet was initially advertised as Call for Bids No. 120109-1; however, the specifications have since been revised.)

B. Approval of a request submitted by Lani Hall to use the Fairgrounds Exhibit Hall and Rodeo Arena for the Gila County 4-H Judging and Demonstration Field Day on August 7, 2010, with a request for a waiver of fees.

C. Approval of Amendment No. 1 to the 2009-2010 Independent Contractor Agreement dated July 20, 2009, that is between the Arizona Community Action Association and the Gila County Community Action Program for the Utility Repair, Replacement and Deposit Program (URRD). This amendment allocates an additional $40,000 to the Community Action Program to continue providing assistance to URRD eligible residents.

D. Approval of Amendment No. 1 to the 2009-2010 Salt River Project Weatherization Program dated July 20, 2009, that is between the Arizona Community Action Association and Gila County Housing Services. This amendment will increase the funding by $12,513 to provide additional weatherization services to eligible residents.

E. Approval of the January 2010 monthly departmental activity reports submitted by the Recorder and Globe Regional Justice of the Peace.

F. Approval of the personnel reports/actions for the week of February 16, 2010.

Departures from County Service:
1. Steven Besich – BOS – County Manager – 01/29/10 – General Fund – DOH 05/16/85 – Deceased

Hire to County Service:
2. Daniel Mikolay - Health and Community Services – Accountant – 02/22/10 – WIA Fund – Replacing Joann Zache

Temporary Hire to County Service:
3. Victoria McDaniel – Payson Justice Court – Temporary Clerk – 02/02/10 - General Fund

Departmental Transfer:
4. John Nelson – BOS – From Deputy County Manager – To Interim County Manager/Clerk of the Board – 02/02/10 – General Fund

End Probationary Period:
5. Terry Wollgast – Public Works/Automotive Equipment Maintenance – Vehicle and Equipment Mechanic Sr. – 02/15/10 – Public Works Fund

Position Review:
6. Lex Sheppard – Public Works Engineering – Construction Project Manager – 03/05/10 – Public Works Fund – Personal leave of absence without pay

SHERIFF'S PERSONNEL ACTION ITEMS

Departmental Transfer:
7. Colt Maxwell - Sheriff's Office – From Deputy Sheriff Recruit – To Deputy Sheriff – 02/01/10 - General Fund

End Probationary Period:
8. Sarah Haynie - Sheriff's Office – Administrative Clerk – 02/15/10 – General Fund

G. Approval of finance reports/demands/transfers for the week of February 16, 2010. (separate handout)

$397,497.62 was disbursed for County expenses by check numbers 224291 through 224292 and 224431 through 224606. **(An itemized list of disbursements is permanently on file in the Board of Supervisors' Office.)**

Upon motion by Supervisor Pastor, seconded by Vice-Chairman Martin, the Board unanimously approved consent agenda items 10A-10G.

Item 11 - 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 12 - 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 presented information on current events.

There being no further business to come before the Board of Supervisors, Chairman Dawson adjourned the meeting at 11:14 a.m.

APPROVED:

Shirley L. Dawson

Shirley L. Dawson, Chairman

ATTEST:

John F. Nelson, Interim County Manager/Clerk