

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

Date: March 29, 2011

MICHAEL A. PASTOR
Chairman

JOHN F. NELSON
Clerk of the Board

TOMMIE C. MARTIN
Vice-Chairman

By: Marilyn Brewer
Deputy Clerk

SHIRLEY L. DAWSON
Member

Gila County Courthouse
Globe, Arizona

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

Item 1 – Call to Order – Pledge of Allegiance

The Gila County Board of Supervisors met in a work session at 10:00 a.m. this date in the Board of Supervisors hearing room. Don McDaniel led the Pledge of Allegiance.

Item 2 - Information/Discussion on Gila County's potential application for Arizona Public Service Company's Solar for Schools and Government program funding in coordination with PV Advanced Concepts. (Steve Stratton)

Steve Stratton, Public Works Division Director, introduced Tom Harris from PV Advanced Concepts (PVAC). Mr. Stratton stated that he and Bob Hickman, Facilities Director, have met with Mr. Harris and reviewed this solar program, and they felt like it was something worthy to bring to the Board for consideration. The program has to do with allowing parking structures to be built in various parking lots of County facilities with solar panels placed on the structures themselves at no cost to the County. Mr. Stratton then called on Mr. Harris to explain the program, which is in conjunction with Arizona Public Service (APS). He also stated that if the Board wishes to look at the next step, it would require the County to apply to APS for the program and then advertise a request for proposals. Mr. Harris explained that the APS fiscal and government program actually had its origins in 2009 and the situation at that time was that private industry could take advantage of tax advantages that the Internal Revenue Service allocated in terms of depreciation and investment tax

credits. Public institutions such as schools and government were unable to take advantage of those tax advantages and as a result were really unable to participate in the solar installation boom. APS was then directed to actually organize a school and government program at the end of 2009 in which they originally filed their response to that in April 2010. The program was recently approved by the Arizona Corporation Commission (ACC) in December 2010 and is just now being rolled out to schools and government. Mr. Harris then gave a PowerPoint presentation on this program. He stated that the program consists of a third party Power Purchase Agreement (PPA) with no up-front cost to the County. It consists of large utility incentives to install solar thereby reducing energy costs from the beginning and throughout the life of the contract. The government target is for low-population counties served by APS. It will be offered on a first come, first serve basis and since every county has at least some level of population they will be fully subscribed for each cycle. There are 2 cycles in the year; the first one closes on April 29, 2011, and the next one closes on August 31, 2011. It's a 3-year program, but it is front loaded for the first 2 years to ensure that APS has on line the capacity it needs by the end of the third year, so there is some sense of urgency to organize quickly. Supervisor Dawson inquired whether Salt River Project (SRP) is also involved. Mr. Harris replied that SRP is a unique institution in that it is not controlled by the ACC (Arizona Corporation Commission) and does not report to the ACC, so it sets its own agenda in terms of renewal energy programs. It has a program that consists of creating a fairly large solar field in the Casa Grande area and then selling the energy to schools to make it look like solar is local to the schools. In this program everything is local to the actual institution it's supporting. Supervisor Dawson inquired whether this is the same program that Tucson Electric is doing per their announcement that they are putting 50,000 feet of roof space on schools and government buildings. Mr. Harris stated that each utility has its own program, and he was not exactly sure what Tucson Electric was doing; however, it would not have a program that is as extensive as this one. Mr. Harris then presented a graph showing that Gila County's population is 52,199 (based on the 2009 census), so Gila County is the second lowest behind La Paz County. Supervisor Dawson inquired if the program was based on population. Mr. Harris replied that the criteria for the incentives are strictly based on population. Vice-Chairman Martin inquired if the solar program with the Payson School District was part of this same program. Mr. Harris stated that the Payson School District program dates back 2 years probably from the school program in 2009 and pre-dates this program; however, this new program is more extensive and more attractive. Mr. Harris explained that in a PPA the county allows a company to install solar power and agrees to buy the energy at rates significantly less than those charged by APS. The typical agreements are 15-20 years, but there are buyout options throughout and it may be a very attractive option to go into the contract for perhaps a 7-year period, and after the 7-year period all of the tax advantages have already been extracted from the program, so some companies would be motivated just to get out of the program, get a good purchase price

and then it would get its energy for free; however, that's not a requirement. The PPA company owns it and therefore they operate it, maintain it, and insure it and are the ones that have to do everything. In terms of the County having to get involved in solar, that's not the case. If something goes wrong, the County would simply call the PPA company, which is very motivated to keep the system up and running because that's how they make their money. There is a very positive relationship between making it work and the ownership. He stated that typically rates start at 10-15% below the utility rates and then escalation rates escalate between 0% and 3%. One of the things that the County would need to reflect on in this whole program is: "What is your expectation of APS rates going forward for the next 20 years?" This program will give the County guaranteed rates for 20 years. Historically rates have increased 4% a year over the last 20 years. Mr. Harris then explained the reasons this program would be good for Gila County, as follows: there are no upfront costs because it's owned by a third party; there would be a positive cash flow every year; it would provide certainty so there's no guess about what APS is going to do for utility rates; it helps stimulate the economy; there's opportunity for ongoing maintenance; it reduces dependence on phosphate fuels; and lastly the County would get covered parking for free. Mr. Stratton stated that the first proposal was to place the solar panels on the roofs of various County buildings; however, that was deemed not allowable because all of the roofs are now in good condition and don't leak, so the parking structure was the second option proposed by PVAC. Mr. Harris stated that he is proposing to put covered parking structures at the Globe Courthouse/Guerrero Complex, the Central Heights (Apache Avenue) building, the Public Works Complex, the Gila County Jail where the solar thermal could be used for hot water heating in the jail operations, the Payson Courthouse, Sheriff's Office and other sites as needed. Mr. Harris showed an aerial photo of the various sites proposed for solar structures explaining that they need to be constructed with a north/south alignment. He then reviewed the proposed system for each site. He stated that the County would not want to cover 100% of its usage, but rather design the system for 85% of its usage. He explained that if the County wanted to do other energy efficiency functions, it wouldn't want to over-generate the solar because the County only gets the wholesale rate, but would still be obligated to pay the solar provider at the full rate. The total of the project would be in the neighborhood of 800kW for just the sites noted. Other sites would add additional capacity. He then moved on to the basic economics usage versus demand. He explained that on an electric bill there are two parts. There's a usage charge, which is the amount of electricity actually used, and then there's a demand charge, which is the maximum electricity used for a 15-minute period in the whole month. Solar will definitely reduce all of the County's usage, the amount that it's designed for, but it can only eliminate a certain part of the demand. He presented a calculation showing that the avoided solar cost is about \$.115 and the net cost using a solar PPA is \$.085, so for each kW hour that the solar generates, there would be a savings to the County of \$.03 cents. Next Mr. Harris reviewed a data slide reflecting the

mathematics of the savings, which showed a 1-year savings of \$72,420 per year increasing to \$285,248 by the 20th year. He explained the timeline of the project and stated that right now at the end of March, it would be very timely and helpful if the Board approved the application for an incentive to APS. After the incentive is awarded, it would become very clear what the economics were of these projects and there would later be a request to actually approve a commitment to execute a letter of intent for the project. The application is due at the end of April and approval from APS should be received approximately 2 weeks after applying. This would be followed by the selection of a vendor; however, an RFP (Request for Proposals) would have already been issued during the April time frame. Then the Board would enter into a Credit Purchase Agreement with APS and the developer would also need to have an interconnection agreement with APS, which is a fairly straight forward process. Finalization of the actual capacity of the system would be done followed by the installation of the parking structures. The whole project at most is a 12-month period, which cannot be compressed. Mr. Harris concluded his presentation by stating PVA Concepts will be acting as a consultant to the County; however, he will be paid by the company that is actually selected for the bid. If there is no project, then he would not be paid. Mr. Harris stated that he believes that this is a strong program and he is willing to put his time and energy into it under the belief that the program will come to fruition. He stated that PVA Concepts will assist the County in a feasibility study, submitting an application to APS, the RFP process, the final system design and acceptance. Vice-Chairman Martin inquired about the locations and any future construction ideas about the proposed areas for these parking structures. She also questioned whether the County would have to move any of the structures, and if so, if there were any costs to the County; whether the County would have to guarantee a certain date and/or provide a certain square footage for a certain period of time; and the length of time the structures would need to be in place for the County to meet its obligation per this agreement and then could move them. Mr. Stratton stated that there are 2 proposed structures that would need to be discussed if the Board approved this program. One would be building a parking structure on the County-owned 4 Amigos property as there haven't been any plans made for that property and the Board might want to discuss it before putting something there. Another one would be that a portion of one of the structures behind the Courthouse potentially could create a conflict. The other proposed sites would be fine. Mr. Harris stated that the program is a long-term commitment; however, the County would have buyout options explicitly stated in the contract. Also the systems are somewhat portable so if a parking structure needed to be moved, they are steel structures that could be moved; however, there would be a cost associated with it. The interest of the PPA company is to sell power so if it took 2-3 weeks to move a structure to a new parking location, then the company would likely want to be reimbursed, but at the same time they would like to maintain a very positive relationship with the project so there would be some sort of a discussion process. Vice-Chairman Martin also noted that the County owns and operates

a landfill in Star Valley, which possibly could be used as an alternative location for power generation without the covered parking. Chairman Pastor inquired whether Vice-Chairman Martin was referring to ground mount structures at the landfill. Vice-Chairman Martin stated that the cap of the landfill couldn't be pierced; however, a pad could be poured on top of it and go up from there. Mr. Stratton stated that the site certainly would lend itself to somewhat of a solar farm, but the facilities the County has at that particular location wouldn't use that much electricity so he didn't think it would qualify for this particular program. This particular program is to power the County's own facilities and cannot be used to sell excess power back onto the grid. Vice-Chairman Martin inquired whether the County could partner with the Town of Star Valley and provide the Town with electricity to which Mr. Stratton replied that would be a possibility. Supervisor Dawson referred back to the 4 Amigos property and noted that the drawings show that the structures would stay over in the corner away from any potential new building and inquired if there were a certain number of spaces required for feasibility in erecting a parking structure. Mr. Stratton stated that he would like to see the structure repositioned a little bit to leave some space for some potential future building that wouldn't impact the structure, but it would actually enhance a new building in the future if that parking structure was there. It would also provide a barrier to the County's juvenile detention home, which is needed. Mr. Stratton stated that the proposed first tier on the south side against the building is fine; however, the easterly portion of the second one on the south side is where he could see a potential problem and that would probably only shorten the structure by approximately 30 to 40 feet. Mr. Harris stated that the sites shown today were only for concept at this time, but he would get with Mr. Hickman to work out the details and also when the project goes out for an RFP, the contractors are very inventive and could come back with a lot of other suggestions and they would work very closely with County staff. Supervisor Dawson inquired if there were no objections from the Board could the County go ahead and proceed with the program? Mr. Stratton stated that understanding this is work session and the Board cannot vote, he believed that his staff could prepare an RFP administratively and bring it to the Board prior to the end of April for approval. Vice-Chairman Martin requested that "long-term agreement" be explained and that the shortest term of the agreement be explained. Mr. Harris explained that there are buyout options which start at year 7, 10, 15 and 20 years. Vice-Chairman Martin inquired as to the percentage for a buyout at 7 years. Mr. Harris replied that a buyout at 7 years would be on the order of 50%-60%. Vice-Chairman Martin inquired as to the County's total cost to buy it out at 50% in 7 years or whether there would be a square foot cost, in general. Mr. Harris stated that just for working discussions only it is \$5/watt. If the County had 1000 watts that would be a \$5 million project, so \$5 million at half would be \$2.5 million at approximately 7 years. Mr. Harris stated that these deals are very highly structured financially and if the County says this is the way it wanted to structure this program, then the people who he is working with are very knowledgeable and could adapt the financing to the County's needs. Mr.

Stratton inquired whether the buyout is based on the initial investment or the wattage at that point and not in the future dollars. Mr. Harris stated, "Yes, technically because it is a capital lease structure, there are statements about it having to be sold at fair market value; however, these prices are an indicator of what PPA believes will be the fair market value." Vice-Chairman Martin inquired if at the end of 20 years it would then be owned by the County and there would be no buyout cost? Mr. Harris stated that the buyout option at the end of 20 years is approximately 1% or something of that nature. Vice-Chairman Martin inquired if there was an advantage for the County to buy out early? Mr. Harris stated, "Only if you've got a lot of money." Vice-Chairman Martin stated, "That's an economic decision and the County would need to look at the situation at that point and say do we want to invest \$2.5 million to buy this system, make sure that our energy is now free and what kind of return would we get over the next 15 years?" Mr. Stratton stated that he believes part of the selection of a PPA, if the County does this program, would be based on the buyout prices in 7, 10, 15 & 20 years and the initial investment, and the option that would be most lucrative to the County. Vice-Chairman Martin also added that the cost savings to the County would also be considered. Mr. Stratton agreed and stated that those are questions that could be answered in the review process of the RFPs. Mr. Harris advised that it would be clearly stated in the RFP what the buyout costs would be and any other information the Board needed. Vice-Chairman Martin inquired if the Board directed staff to start the RFP process, whether that would obligate the County in any way. Mr. Stratton replied that it would not obligate the County. The RFP would be going to APS for its approval of putting out an RFP for PPAs to look at the County's system. He stated that the time of obligation would be if the Board accepted an agreement with a PPA to actually put in structures. Vice-Chairman Martin stated, "So today if we just instructed staff to proceed with an RFP that keeps us in the ballpark, but doesn't obligate us?" Bryan Chambers, Chief Deputy County Attorney, stated that he had a question of Mr. Harris. He inquired if this would be an RFP that the County would have to issue requesting proposals to build this here or is this actually an RFP that APS would end up issuing?" Mr. Harris stated that there are 2 key relationships. The first relationship is the one between the County and the PPA provider; the second relationship is between the County and APS. The relationship between the County and APS is on the Credit Purchase Agreement, which states that APS will commit itself to incentives for every kilowatt hour of energy produced. The second agreement is the Power Purchase Agreement (PPA) and that's between the County and the PPA provider. So the RFP will be issued by the County directed to PPA providers, and then simultaneously there will be a request for incentives into the APS system. If those incentives are granted, then the project becomes viable from a PPA perspective and then the County can finalize and make commitments with the PPA company. Mr. Chambers stated, "If this Board was disposed to actually issue an RFP and they were able to do it within this coming month of April would that fit within the timelines as far as getting the RFP issued that would enable this project to go as you stated?" Mr. Harris

replied that technically there is not a requirement to even have an RFP issued ahead of requesting the incentive; however, in order to get the information about these projects to properly apply for these incentives, the correct path is to issue an RFP and get information from that. Mr. Chambers referred back to his initial question and inquired, “If this Board does issue an RFP at its next Board meeting where they actually will take action or the one following that provided that it’s in April, will that still enable the Board to move forward on this if they decide to do so?” Mr. Harris replied in the affirmative. Mr. Chambers then stated that typically in RFPs that the County issues, there is always a provision in the RFP that provides that the Board may decide not to issue a contract to any responder to the RFP. The Board always reserves that right. He inquired if the Board would be able to reject all bids in this process if they get proposals back and they are not happy with any of them? Mr. Harris stated that the Board would have that option as that is a normal business practice. Mr. Harris stated that every RFP he’s ever seen has said that some or all or none of these projects will actually be constructed based on response, so there is no obligation. Mr. Chambers stated that no Board action could be taken today; however, staff could come back to the Board with a proposed RFP and then the Board would decide whether or not to take action. Mr. Stratton stated that he would have the appropriate agenda item ready for a meeting in April. No action was taken by the Board.

Item 3 - Information/Discussion regarding Planning and Zoning Department Case No. ZOA-11-01, the adoption of Ordinance No. 11-01, which amends the Gila County Planning and Zoning Ordinance by adding language regarding the use of medical marijuana.

Bob Gould, Community Development Division Director, stated that the Planning and Zoning (P&Z) Commission had a discussion at its regularly scheduled meeting this month to consider the remanding of this Ordinance by the Board to the P & Z Commission for further review. The P & Z Commission has now made a motion that it wants to continue with its initial recommendation. Mr. Gould stated that the final rules from the Arizona Department of Health Services (ADHS) regarding medical marijuana came out yesterday and he is still reviewing those. One of the rulings is that April 14th is going to be the date when applications can be submitted for the qualified patients and June 1st will be the date that applications will be accepted for dispensaries. He stated that ADHS had previously created what are known as community health analysis areas. Gila County is actually part of 4 different tribes; however, in reality it’s just two—the White Mountain Indian Tribe and the San Carlos Indian Tribe, which won’t interact with the County. Of the 2 community health analysis areas, one will run from Roosevelt to Strawberry and the other runs from Roosevelt to the Hayden and Winkelman areas. Mr. Gould stated that the one thing that he is most concerned about in the process is that the actual issuing of a dispensary registration is going to be done on a lottery-type format. The ADHS is going to take all of the applications that are

equal in ranking for a specific community health area and they are going to toss them in a hat and have some fanfare and just draw out the winning one. However, the reason that he is concerned is the location issue. It was ideally hoped to be able to cover the maximum percentage of the Gila County population so the County wouldn't have to be concerned about the caregiver growth and the qualified patient growth. However, based upon the system that ADHS is going to be actually implementing, the County could end up having a dispensary in Strawberry, which it is known that an applicant is applying for one in Strawberry, and there could be one in Hayden & Winkelman. That would mean that all of the areas encompassing Globe, Miami, Wheatfields, Claypool, Tonto Basin and everything south of Rye and Gisela would be open for home growth. Mr. Gould stated that hopefully it won't turn out like that, but it is a concern with the overall process. ADHS will issue all qualified patients registration cards first, which means that every single person that gets issued a card up front is going to be qualified to either have a caregiver growth or a qualified patient growth. There won't be any consideration of dispensaries until sometime in June, so people will be able to grow their own marijuana; however, it will be listed on a patient's card whether they accept marijuana through their own growth efforts or through a qualified caregiver. He stated that right now how the Ordinance reads is that the County will limit dispensaries and cultivation for dispensaries in M1 zoning. The County is restricted on the number of lots that are available, but they can still rezone. One of the complaints received out of Strawberry at the last P & Z Commission meeting was from a couple of people who were looking at that M1 lot in Strawberry and they were concerned about the location being in residential areas. He noted that there are also quite a few M1 lots in the Globe-Miami area. The Ordinance also requires that dispensaries and cultivation must go through a conditional use permit (CUP) process with the required 1500-foot area notification. Also included in the Ordinance are fees, which will be adopted by the Board at its next meeting. All of the initial fees in the Ordinance had to be removed because under ARS 11-251.13 any new fees must be posted on the County's website for 60 days prior to the Board considering the approval of those fees. Mr. Gould stated that qualified patients will also be required to go through a CUP process and will also require the 1500-foot notification area as well. Caregivers will be required to pay a \$5,000 fee; qualified patients will pay a \$1,000 fee. Mr. Gould stated that at the last P & Z Commission meeting, he told the members that he expected that requirement to be challenged. The Board of Supervisors will need to talk to its attorney about the issue because there is nowhere in the regulations where it delegates that authority to Mr. Gould or the P & Z Commission. Mr. Gould believes that regulations can be added to the Ordinance stating the land use activities that are illegal. He stated that in reviewing all of the application process for the qualified patient and the caregiver, there's nothing in there stating that ADHS will be asking the qualified patient or the caregiver to give them information on zoning or where they are located. That was another concern that Mr. Gould expressed to the P & Z Commission. Mr. Gould also

expressed concerned about any liability issues with the notice and requirements. Mr. Gould reviewed with the Board a previous example he had given at its last meeting citing how many notices his department would have to send out, which would be almost 400 notices, as well as advertising a notification in the newspaper for a typical lot in a rural area. Mr. Gould reiterated that the Board would have to address this issue with its attorney, as he was concerned about liability issues if anything negative happens on that due to the fact that this is the only place where the Ordinance requires that kind of notification. Chairman Pastor called on Don Ascoli, Chairman of the P & Z Commission. Mr. Ascoli stated that the P & Z Commission reviewed the Ordinance at its last meeting and it was strongly felt that because of this change in the dynamics of the neighborhoods, there would be additional costs to the County so that was part of the reasoning behind the fee structure to cover what they anticipate to be additional costs to the County because of surveillance, police efforts, etc. He stated that after the Board reviewed it and stated some concerns, the P & Z Commission still felt this was the proper approach to take. Chairman Pastor then called on Mickie Nye, a member of the P & Z Commission. Mr. Nye stated that at the last P & Z Commission hearing some questions were raised and he's not sure those individuals received answers to those questions. He stated that the P & Z Commission doesn't know and hasn't been given any advice as to whether or not the sale of marijuana in a dispensary would be a taxable item or a non-taxable item. Also, there were 2 gentlemen from Strawberry who made a presentation to the P & Z Commission about wanting to have a facility in Strawberry. They indicated that they were going to sell marijuana for about \$400 per ounce, but they expected it to be sold actually by the gram. When asked about the initial amount of annual sales that was projected in their business plan, they indicated it would be approximately \$1.3 million. They also had some concerns about the Ordinance that had been drafted pertaining to the hours and about the 1500-foot requirement. Mr. Nye stated that he believes the P & Z Commission doesn't want these dispensaries near schools, bus stops or churches, so some requirements were included to protect children and the neighborhoods. He stated that there are going to be expenses incurred by the County and noted that the Board was provided with a white paper indicating the issues around these types of facilities. He stated that there is no mechanism in place for the County to assess anything in regard to the costs that are going to be assumed for having these dispensaries in our areas. In the documents received from ADHS, it states that if a dispensary is allowed to be located in the Globe community, the applicant is required to reside in the area for 3 years and at the end of 3 years they can move and then there will be a lottery process to have other people bring dispensaries wherever they want. He stated that the P & Z Commission is trying to get the Ordinance right the first time. The P & Z Commission knows that the fees are expensive, but these caregivers are going to make a lot of money and they felt that this is the only place the County can assess any fees on projected expenses. Supervisor Dawson stated that at the Board's last discussion on this, she was concerned

about the fees, which she has reviewed and contemplated a neighborhood marijuana farm. She believes that the County is right in assessing a fee and that the notifications are really an important part of the process. She stated, "Who knows where Arizona is headed. This is a really difficult step towards legalized marijuana and I cannot imagine how law enforcement is going to be able to reasonably be able to handle this in the broad areas that we have it, and the hard work they have done in finding the farms in our County and where they are located and now to say they have a right to be raising it. At least maybe they will be registered because I think everybody has said that marijuana is a gateway drug and we go from there into worse things."

Chairman Pastor stated that he never thought the Board would be sitting here making decisions on medical marijuana in the state of Arizona. Travis

Williams, a member of the P & Z Commission, inquired whether Mr. Gould provided the Board with a copy of the police reports and summaries. Mr. Gould stated that he had not done so. Mr. Williams stated that he had reviewed them quite extensively and they contain a lot of eye-opening information that's based on real life experiences. He recommended that the Board and everyone review them. Mr. Williams further stated that in his

opinion there will definitely be additional County expenses involved due to enforcement. Mr. Williams agreed with Mr. Nye that this is the only point in time that the County is going to be able to get any type of financial support for enforcing these laws and he felt that it should be seriously considered by the Board. Vice-Chairman Martin stated that she wished there was more of an

effort across the board for consistency. She stated, "The state just came out with its recommendations and rules and the County hasn't even had time to digest that." Vice-Chairman Martin stated that in this County, she was not aware of any effort to sit down and discuss this with the City of Globe and

Town of Payson to see if there couldn't be some consistency within Gila County, much less county to county. She recommended that conversations be held within the County across jurisdictions and with the Sheriff's Office and the local police departments. She believes it is unknown whether the County will even have any jurisdiction on some of these requirements and whether the County needs to have a CUP. She also questioned if the County needed a price, whether it would have the right price. She personally felt like this

needed more conversation between all of the parties before the Board takes an action. She stated, "I don't feel like any of us have a clue as to what's coming at us, much less what's the appropriate way to address it. I guess if we do something here we can always change it. The unintended consequences of our actions boggle my mind sometimes." Supervisor Dawson stated that her

comment would be along the lines of the unintentional actions of the voters of the state of Arizona. She stated, "This thing is going to go into effect and I appreciate the fact that P & Z has not just had one brief meeting, but has really hashed through this and it's a starting point; it gives us some guidelines. I totally agree with the idea of bringing everyone together and I think of our

meeting the other day where we talked about how we need to try to bring these cities and the tribe and everybody together again and see if we can discuss a

multitude of issues and certainly medical marijuana is one that will affect every corner of Gila County. So getting that meeting set up is important, but I don't want to put a burden on our County management or anything as the most important thing for them right now is getting this budget reined in and figure out what the state is going to do to us. And at the same time we have to proceed and move forward. I feel comfortable with what the Commission has come back to us with; that they reconsidered after we suggested. Certainly there will be revisions in the future no doubt. When you're talking about this big a drug cartel business starting out, there will be lawsuits and whether we will be the place where they decide to hit or the state, these people that distribute this drug will be looking for all the freedom that they can possibly have. So we need to have our guidelines in place and if we are told we are wrong, then we'll amend them." Vice-Chairman Martin noted 2 items in the Ordinance that needed to be corrected. On page 9, Conditional Use Permit, the word "conditional" was spelled incorrectly and there needed to be a period after the first "marijuana" word and the establishment of a cultivation. Vice-Chairman Martin stated, "Other than those corrections, this is as good a place to start as any as long as everyone realizes we're just starting." Chairman Pastor stated, "I think the biggest problem with this whole medical marijuana issue is that nobody has any idea where we are going. We have to have some sort of Ordinance to start off with and that's what we're doing. I'm sure it's going to be challenged...We do know that it's a good starting place and open enough to realize that we may have to review this several times in the future." Vice-Chairman Martin stated, "I will take on the responsibility of seeing to it that we, as a County, will address this together with our communities." Chairman Pastor thanked the members of the P & Z Commission for their hard work on the preparation of this Ordinance. He then inquired whether Mr. Chambers had any additional comments. Mr. Chambers recommended that as far as the cost portion for the permits, anticipating that the Board is going to review this at a future meeting where they can take action, it would be a good idea to have some data presented so that the Board can make findings. As an example, the average mail order that would have to go out for the CUP and the cost to send it to 400 residences, if that's the average number of people that would have to be notified. He stated, "I think that would help in the event this is challenged if those findings are made prior to the Ordinance being adopted." He further advised that once ADHS actually issues licenses for dispensaries, if the County doesn't have some ordinance in effect at that point, then it could run the risk of having these entities that get the licenses grandfathered in before an Ordinance is adopted. He stated that the County could have a perfect Ordinance that is enacted afterwards and it wouldn't apply to anyone that gets a license before that point. He also agreed with a lot of the comments that have been made and that once the ordinance was adopted, it could be revised, as it is still unknown exactly what is going to happen. He stated, "It would not be unexpected for the Board to expect to have this come back even after adopting what's been proposed in order to consider legal challenges whether they occur in Gila County or they might also occur somewhere else

and the rulings might affect what is done in Gila County.” Vice-Chairman Martin noted that on page 23 of the Ordinance under “Special Uses” number 1A, it states, “Medical marijuana dispensaries for medical marijuana offsite cultivation locations shall not be located within 35 miles of any other medical marijuana dispensaries.” She questioned whether that number should be 25 miles. Mr. Gould stated that 35 miles was correct. He explained that the 25-mile rule was an ADHS rule for qualified patients as far as growing marijuana at their home; the 35-mile rule was a Gila County rule because of wanting that maximum separation to be assured of at least having dispensaries separated enough apart from each other to cover a maximum portion of the County. Supervisor Dawson mentioned some articles she read recently regarding the legalization of marijuana and one in particular was about the school districts dealing with employees such as bus drivers who legally supposedly can be under the influence in operating a school bus. She also questioned the County’s heavy equipment operators and deputies being under the influence while working. She believes that numerous problems will continue to arise. Mr. Nye stated that he didn’t think anyone wanted to prevent somebody who is legally authorized to have marijuana to solve a cancer issue or for other medical reasons or comfort or quality of life, but it was his opinion that if they are going to grow it in Gila County they are either going to do it the County’s way or not grow it in Gila County. Vice-Chairman Martin and Chairman Pastor thanked the P & Z Commission for the work and thought they have put in to this endeavor. No action was taken by the Board.

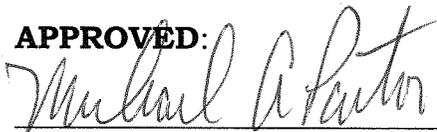
Item 4 - Information/Discussion on the Arizona Open Meeting Law.

Mr. Chambers briefly reviewed the Arizona Open Meeting Law with the Board, which he noted he recently presented to the newly formed Gila County Redistricting Committee at its initial meeting, in which some Board members were in attendance, and inquired if the Board had any questions. Supervisor Dawson stated that she believes this law was passed for a specific purpose that has been taken to such an extreme as to what elected officials can do, particularly when it comes to attending social public functions. Mr. Chambers explained that the County has an unwritten policy as do most public bodies in the state of posting a public notice whenever it is known that a majority of a board is going to be together at any function. He stated, “The thought behind that is it alerts the public that we know that a majority is together.” However, by way of the notice, it’s not going to make the function a public meeting open to the public because there is no agenda and there will be no discussion of any County business. It doesn’t create necessarily the right of the public to be there. Mr. Chambers stated that the only caution that he would give is that the Board members have to be very careful when they attend the same social gathering because what any member of a public body holds in common with other members of a public body is the business of that body. It is advisable not to have any discussion about work issues. The other item Mr. Chambers briefly addressed was the public’s understanding of the Open Meeting Law.

Mr. Chambers explained that his experience has been that a lot of people kind of understand the essence of it, but once you start getting into the nitty-gritty it gets a little bit more complicated. Oftentimes people will suggest that there was an Open Meeting Law violation, which many times are unfounded simply because they don't totally understand the Law. He stated that because there is not a perfect understanding in the public very often there are allegations made that the meeting has been violated and public bodies end up having to respond to those allegations. He believes that happens as a result of the public's incomplete understanding; however, the public bodies can respond and not every time someone alleges an Open Meeting Law violation is it concluded that there is one. Mr. Chambers then provided examples of ways to avoid violating or the appearance of violating the Open Meeting Law such as Board members not being able to email each other, driving to outside meetings together, etc. Also discussed was attending outside meetings such as County Supervisors Association (CSA) meetings or Central Association of Governments (CAAG) meetings where the Board votes on various issues. Mr. Chambers advised that when the Board attends those meetings, the members are essentially meeting as members of CSA/CAAG; it is not acting as the Board of Supervisors so it is not an official action of Gila County. The final issue discussed was regarding County press releases, which should be issued individually by Board members rather than by the Board if no official previous action has been taken by the Board.

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

APPROVED:



Michael A. Pastor, Chairman

ATTEST:



Marian Sheppard, Chief Deputy Clerk