

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

Date: February 28, 2012

TOMMIE C. MARTIN
Chairman

JOHN F. NELSON
Clerk of the Board

SHIRLEY L. DAWSON
Vice-Chairman

By: Marilyn Brewer
Deputy Clerk

MICHAEL A. PASTOR
Member

Gila County Courthouse
Globe, Arizona

PRESENT: Tommie C. Martin, Chairman; Shirley L. Dawson, Vice-Chairman; Michael A. Pastor, Supervisor; Don McDaniel, Jr., County Manager; Marilyn Brewer, 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 and special meeting at 10:25 a.m. (due to technical issues) this date in the Board of Supervisors hearing room. Berthan DeNero led the Pledge of Allegiance.

2. Work Session Item - Information/Discussion regarding Staff Projects Work Plan for 2012 and recap for 2011 accomplishments.

Don McDaniel, County Manager, provided the Board with a recap of the accomplishments for 2011, the highlights of which included the following: 1) the Finance Department is now current on its audits up to 2011 and also provides monthly financial updates; 2) three new policies are now in place, which include a procurement policy for contracting, the banking policy and the authorized positions policy; 3) an employee positions list has been established and is now being adopted as part of the budget and cannot be changed without authorization by the Board; 4) the strategic plan is in place and is being used in conjunction with the staff performance plans; 5) a new approach for performance plans and appraisals has been undertaken; 6) there are now written open and competitive recruiting and hiring practices; 6) clarification of reporting relationships between employees has been completed; 7) the Boards, Commissions and Committees (BC&C) report continues to be updated, and the County Manager has assigned responsibility to any division/department head who has staff overseeing a particular BC&C to ensure that the appropriate people are on the committee and that their actions are done in accordance with the law, etc.; and 8) the new website will be ready for review by the middle of March 2012. Mr. McDaniel then reviewed the Staff Projects Work Plan for

2012, which includes the following: 1) the strategic plan will be tied to and implemented with the performance plans and department heads have been advised about their responsibilities as it relates to the strategic plan, and it will be tied to their performance; 2) performance appraisals for all employees will again be conducted in June and every year thereafter; 3) the possibility of some sort of performance pay increase is being reviewed but will depend on the availability of funds; 4) the Merit System Rules and Policies update will continue; 5) work has begun on a Countywide policy manual; 6) the Finance Department is working on written policies for capitalization for fixed assets, travel and related expense reimbursement, credit cards, and the way grants are accepted and administered; 7) the Human Resources Department will clarify many of its procedures/policies by putting them in writing including payroll reporting and particularly a conflict of interest policy that will be distributed to all employees in the form of a questionnaire; 8) the Facilities Security Committee will continue working on securing the buildings and developing policies for same; 9) the budget process will be initiated beginning in April and will include the elected officials and department heads reviewing all authorized positions to determine whether or not their operation could actually run more effectively and more efficiently with fewer people so that any savings could be used for salary increases; 10) due to the formation of the new Arizona Commerce Authority, which was previously the Arizona Department of Commerce, and its new project known as the Arizona Alignment Project, the County will be reviewing its workforce investment areas and look at forming new relationships with other counties and forming workforce investment areas that are different than the one the County currently has with Pinal County; 11) item 10 could also lead to meetings with other counties in regard to economic development and other types of opportunities such as transportation planning, water planning or any of those other issues that are typically considered regional issues; 12) there will be a review of an economic development proposal known as "Vision 20/20, The Foundation for Retention and Expansion of Commerce" in Gila County; 13) follow up continues on the details for the sale of the Gila Community College property in Payson; 14) staff is working on ways to make Gila County more customer service directed and how to improve the organization on a regular basis, which will include staff workshops; 15) an employee merit award system is being reviewed whereby an employee could receive financial enumeration for suggesting cost-cutting measures for Gila County; 16) the whole issue of information management including the dissemination of information to the public is being reviewed, which includes the County website; 17) the Community Services Division and the Health and Emergency Services Division are writing reports on ways of reorganizing those large divisions; 18) the Public Works Division is working on an updated facilities master plan as well as a roadway improvement schedule and maintenance schedule; 19) work continues from the Community Development Division on the Uniform Building Code; and 20) the Elections Department is putting together some information about elections for the upcoming General Election. Supervisor Pastor stated that he thought this plan would move the

County in a positive direction and make the County more transparent and also more accountable to the taxpayers, so he was pleased with the plan. Vice-Chairman Dawson stated that she appreciated having this report and requested that instead of it being an annual report, she would like to have a semi-annual report so the Board is more aware of what is happening. Chairman Martin also thanked Mr. McDaniel for the report. No action was taken by the Board.

3. Work Session Item - Information/Discussion regarding the proposed revisions made to the Gila County Merit System Rules and Policies handbook.

Chairman Martin suggested that the Board review the substantive revisions regarding the proposed Gila County Merit System Rules and Policies handbook; however, Supervisor Pastor stated that he had spent the last week going through the changes and had several pages of questions he would like to address, which was agreed to by the Board. Berthan DeNero, Human Resources (HR) Director, provided the Board with an outline of the 26 policies and reminded the Board that the handbook is only a draft and are just recommendations. She advised that she had now met with each of the elected officials and their deputies as requested by the Board and reviewed the proposed recommendations. Supervisor Pastor stated that since this handbook is going to affect how the Board wants its employees to represent the County and what their rules will be, he requested that an employee team be put together to review it and have their questions answered before it is adopted by the Board. Chairman Martin agreed stating that she would rather take the time to do it right then to take the time to do it over as she did not feel an urgency to do this overnight and if the Board needed to take the time, it should be available to the employees if they want to have input. She also recommended that the proposed draft be placed on the Intranet for all employees to review because this will be affecting a lot of employees and “it may not have the effect they think to start with...and any employee who has a question needs to ask it and have time to get an answer.” Vice-Chairman Dawson said that would be fine with her. Supervisor Pastor inquired if the highlighted items were additions to the draft. Ms. DeNero clarified that those were recommended changes that she specifically wanted to review with the County Manager, which has been done. She also advised that there is a newer draft that will be available for the upcoming March 6th Board meeting based on the County Manager’s response to the highlighted areas. Don McDaniel, County Manager, further clarified that the draft being reviewed by the Board today is not the latest draft referred to by Ms. DeNero and after today’s discussion, it will clearly not go on the March 6th agenda. Vice-Chairman Dawson also requested that this item not be in the March 6th agenda as she would be in Washington, D.C. Supervisor Pastor began his questions with the following:

1) Definitions, number 1.35 on page 3, “Eligible: An employee who has been laid off and is ~~person who has attained a passing score on an examination for a specific class and/or~~ has qualified to be placed on a registry for certification.” He inquired whether this applied to all employees because in another section he read that this was just for classified employees. Ms. DeNero replied that this had to do with when there has been a layoff or reduction in force, the HR Department creates a registry and those laid-off employees are eligible if a position becomes open. Supervisor Pastor stated that further in the document it referred to only County-funded employees and not grant-funded employees and he questioned if that was correct. Ms. DeNero stated that she would have to review Supervisor Pastor’s question and provide an answer at a later time.

2) Definitions, number 1.42 on page 4, “Full-Time: An employee who works 30 hours or more per week.” Supervisor Pastor stated that this was discussed at the last work session; however, he was still unclear on it because if a 30-hour employee worked 37 hours, he/she would question why they are not entitled to 7 hours of overtime when they are classified as a full-time employee. Ms. DeNero explained that an employee would only be entitled to overtime for any hours worked in a week over 40 hours. Supervisor Pastor stated that he would want to take something like that to arbitration because the County is classifying a 30-hour employee as full time; however, later in the draft a full time employee is described as a 40-hour employee, so there is no consistency. He suggested changing the classification. Bryan Chambers, Chief Deputy County Attorney, recommended that a footnote be placed in that Definition stating “for overtime refer to section XX.”

3) Definitions, number 1.67 on page 6, “Register: An official list of Eligibles placed in order of seniority for a particular class or group of classes, ~~placed in order of excellence according to results of the examination,~~ which shall be used by the Appointing Authority for selection for appointments to positions in ~~the~~ County ~~Classified~~ service who were separated by layoff.” Supervisor Pastor questioned the wording “for a particular class or group of classes” and inquired if this meant just seniority in the job title, in the job classification, or is it seniority within the County structure because there are several employees who have worked in several departments and their County seniority might be 10 years, but their classification in whatever class they are in at the time may only be 4 years, so is seniority based on County time, classification time or job time? Ms. DeNero stated that it would depend on the situation and why the register was created. If it was being based on seniority of date of hire going back in terms of County service or if the register was created just for a particular department in a class(es) of positions, then it would be based on class. Supervisor Pastor questioned if an employee was being laid off in one department, would HR look at other registers or does HR look at other openings because Ms. DeNero was indicating that there’s a register for each department or each classification, so could that person be reassigned or moved to another position in another department? Ms. DeNero stated that first and foremost an employee would have to meet the minimum qualifications so the answer to that broad question would be “no.” Chairman Martin stated that it

needs to be made clear that it's not an arbitrary conversation and it's up to somebody's discretion that it's either one or it's the other. Supervisor Pastor then gave the example that if an employee worked at the landfill and could operate all the equipment and was going to be laid off, would he be eligible to be considered to move into an open entry-level position in the Roads Department because he could operate the same equipment and has 13 years seniority with the County? Ms. DeNero stated that HR would not automatically jump to the conclusion that a person was qualified right away even for entry-level positions. Supervisor Pastor stated that he was not saying to automatically be put in a position; however, would an employee be considered? Mr. McDaniel stated that the basic question is the skills to do clerical work in one department of the County are similar to the skills to do clerical work in another, so all those years not depending on the department would make you perhaps eligible. Supervisor Dawson stated, "I don't know that we got there because they are saying that they are eligible to apply. Well so is anybody on earth. So what does my 13 years at the landfill give me in an opening? You're going to have a layoff and my job's gone; what does that do for me in other positions in Gila County?" Mr. McDaniel stated, "Position wise, if it was because of a reorganization or a layoff in a given department, then and only in that department basically that's where it would end. It wouldn't give you any leg up necessarily automatically, but it would from a practical point of view; it would give you a clear leg up. You've been in the organization, you know the equipment, people know your work habits, they know who you are, by the way that can be good and bad, so there is a leg up because you're on the inside looking out rather than the outside looking in. So there is a leg up, but unless there is a countywide reduction in force or layoff that would require HR to look at all those issues and say 'look we're having some reduction in this area, but we have some need over here,' then in fact you could make as a part of the reorganization plan, you could make decisions to take people out of one given department and move them to another given department with the same skill set, but it would have to be a countywide layoff to effect that, not just departmental, because it doesn't open up the whole County to do that. We don't have that responsibility." Supervisor Pastor then inquired if an employee who has been working for the County for a few years got laid off, for example for lack of funding, would HR go outside the County and hire somebody else for another open secretary position or would HR first look at those employees that the County had to let go for lack of funding? Mr. McDaniel stated that's one of the major things that was talked about earlier, about being open and competitive and moving in that direction. He stated, "While we have talked about that in the past, I'm not sure we've always done it that way and we are moving to where every position is open and competitive. So, yes, there have been situations where perhaps people in the organization with some more skills to the department that's hiring have been overlooked for various reasons, so all I can do is probably affirm what you say has happened in the past and convince you that we're not going to do that in the future." Supervisor Pastor replied, "That's what I'm getting at is do our employees who have similar skills,

if other positions open up, have that opportunity to move to that position?” Ms. DeNero replied in the affirmative, provided the employee meets the minimum qualifications. Supervisor Pastor stated that it was his understanding that this hadn’t existed in the past and he questioned who determines the minimum qualifications. Ms. DeNero replied that this has been an area of contention; however, the job descriptions created by Public Sector list the minimum qualifications and that is what is used. Supervisor Pastor stated he understands there was a lot of headache over that whole mess that went on years ago, to which Vice-Chairman Dawson disagreed. She stated that the previous Hay Study allowed for the change in job descriptions in order to secure higher pay for individuals; however, for the market study salary survey that was conducted for Gila County by Public Sector Personnel Consultants that is not true. She wanted employees to let the Board know if they were aware of any verbiage being manipulated in job descriptions. Ms. DeNero assured the Board that job descriptions were not being manipulated; however, a few have been changed minimally to fit a job due to technology changes, job changes or a needs change. Supervisor Pastor inquired if job descriptions are changed, how people are being notified. Ms. DeNero replied that she changes the effective date of the job description itself and there have only been 2-3 in the past 5 years. Supervisor Pastor stated that his earlier comment about the Public Sector study being a mess was because it was a plan that was adopted and then it just got stopped in the middle of the whole process and it didn’t continue because there were some concerns about it, but that was before he was elected into office. Chairman Martin stated that was because Public Sector had some ownership change, direction change and “who the County started out with isn’t who it wound up with” and she, too, had heard a few complaints from employees. Mr. McDaniel stated, “I believe that during the conclusion of Public Sector’s work that once the body of employees and manager in Gila County determined what the ground rules were as established by Public Sector for determining what positions were named, given certain titles and certain pay grades, that there was some manipulation particularly at the top by some of those grades that were finally adopted by Public Sector and the Board. I believe that the grumbling that you continue to hear about a little bit—you may not have heard—I have heard personally, it’s back to that. It’s not that something is still going on and that there’s manipulation. It’s that there was a certain group of people who were reconsidered near the end of their process here and got into positions because everybody figured out here’s how you get more pay. You say ‘Oh, they are in charge of a budget or they supervise X number of people, oh, they do certain things,’ so they changed job descriptions to get that done for a handful of people and I don’t know what that means, 20 or more or less, but somewhere in the neighborhood, and that there are still people who remember that and I don’t have any way of knowing if this is true. I’m telling you what I’ve heard from people, from employees, and they are still harboring that. Those people are still up there, so to speak, and yet in their minds, they don’t belong up there because they took the end of the study and manipulated it.” Supervisor Pastor stated, “That’s kind of what I get all the

time.” Chairman Martin stated, “I’m sure that, in fact, we did breach in a case or two inadvertently and advertently both and I think this is a step towards trying to make it right for everybody, which is also why I’m listening to Supervisor Pastor saying, ‘Let’s take the time it takes to go through this.’” Chairman Martin stated that the Board could have as many work sessions as needed because she had reviewed it, but was certainly not ready for a Board decision.

4) Definitions, number 1.82 on page 7, “Unclassified: A position in the County service which has been designated as unclassified by ARS 11-352 or resolution by the Board of Supervisors ~~because of the nature of its appointment and/or responsibilities which is exempt~~ is not covered by these policies ~~from the provisions of these policies~~ unless otherwise specified.” Supervisor Pastor also noted that included in this conversation is Policy 2—Declaration of Personnel Policy, number 2.8 on page 9, “Exemptions: These policies ~~rules~~ shall apply to all classified positions in the County service. Unclassified positions are not covered by these policies ~~rules~~ unless otherwise specified. Unclassified positions include but are not limited to:

- A. County Administrator (Manager);
- B. Deputy County Administrator (Manager);
- C. Assistant County Administrator (Manager);
- D. Chief Deputy to Elected Officials;
- E. Department Directors;
- F. Deputy Directors, not to exceed three in each department;
- G. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director
- H. Clerk of the Board of Supervisors;
- I. Elected Officials;
- J. Administrative Assistants to Directors/Elected Officials;
- K. Executive secretaries;
- L. Undersheriff;
- M. Deputy County Attorney;
- N. Probationary and temporary employees.”

(Note: Yellow highlighted H-N are unclassified positions proposed to be added.) Supervisor Pastor stated that this policy references ARS 11-352, which states that these changes as noted in Policy 2, number 2.8 on page 9, items H-N highlighted above will be done by a resolution of the Board of Supervisors. ARS 11-352 states the following:

11-352. Adoption of limited county employee merit system by resolution; removal of certain administrative positions by resolution

A. Any county may by resolution of the board adopt a limited county employee merit system for all county appointive officers and employees. Elected officers shall not be included in such a merit system.

B. Any county may by resolution of the board remove certain administrative positions from the county employee merit system. The positions that may be removed from the county employee merit system are:

1. County manager.

2. *Deputy county manager.*
 3. *Assistant county manager.*
 4. *Chief deputies to elected officials.*
 5. *Department directors.*
 6. *Deputy directors, not to exceed three in each department.*
 7. *One position in each department that reports directly to the director or deputy director as designated by the director and deputy director.*
 8. *An administrative position declared exempt after August 8, 1985. The number of positions declared exempt under this paragraph shall not exceed ten per cent of the total number of county appointive officers and employees.*
- C. Any employee who was included as a covered employee in the county employee merit system at the time the employee assumed the employee's present position and whose position becomes exempt under subsection B may elect to remain included under the merit system, but if terminated the employee must be afforded the opportunity to accept another vacant position within the merit system for which the employee is qualified.*

Ms. DeNero stated that her copy did not have “by resolution of the Board of Supervisors” in that definition. Chairman Martin stated that the Board’s proposed draft for Definition 1.82 states, “Unclassified: A position in the County service which has been designated as unclassified by ARS 11-352 or resolution by the Board of Supervisors is not covered by these policies unless otherwise specified.” It was determined that the confusion was due to the fact that the Board was referring to a different draft from the one Ms. DeNero was reviewing, which was the most current draft that the Board did not yet have. Supervisor Pastor again stated for clarification that Definition 1.82, “Unclassified,” references ARS 11-352, and the unclassified positions that Ms. DeNero was proposing to be added to Policy 2, number 2.8, “Exemptions,” (the unclassified positions highlighted as items H-N above) according to ARS 11-352, it states that they should be done by a resolution of the Board and he questioned why Ms. DeNero was adding these positions that have not been adopted by the Board. He asked, “Wouldn’t that have to be done by Board action?” Mr. McDaniel stated that it would have to be done by resolution, but noted that this was just a draft proposal. Supervisor Pastor then inquired about item F in Policy 2.8, (F. Deputy Directors, not to exceed three in each department) and he asked if Gila County has any departments that have 3 deputy directors. Ms. DeNero replied that the Health and Emergency Services Division has 3. Supervisor Pastor then moved to Policy 2.8 G (G. One position in each department that reports directly to the director or deputy director as designated by the director and deputy director) and inquired if that is in addition to all the other positions listed above. Ms. DeNero replied in the affirmative stating that there could be 3 deputy directors plus 1 more that could be unclassified in the same department, as well as an executive secretary. Supervisor Pastor then moved to item H, the proposed addition of Clerk of the Board of Supervisors, and stated that he thought the Deputy County Manager was also the Clerk of the Board of Supervisors (BOS). He noted that there was another employee, who had the title of Clerk of the BOS,

so he questioned which employee was unclassified. Mr. McDaniel noted that the other person was the Chief Deputy Clerk of the BOS. Supervisor Pastor noted that the Chief Deputy Clerk of the BOS was not included in the list. Ms. DeNero stated that was correct as the Deputy County Manager/Clerk position was unclassified, but the Chief Deputy Clerk position was classified. Supervisor Pastor then addressed item J, Administrative Assistants to Directors/Elected Officials, and questioned if those positions were “at will” employees, because he was unclear about “at will,” “classified” and “unclassified,” and “exempt” and “non-exempt.” He understood that the positions listed in A-N (highlighted above) were unclassified positions, which meant that they are exempt from the Merit System Policies. Ms. DeNero explained that to say “exempt” muddies the water because there are exceptions. Mr. Chambers stated that he would explain that when an employee is exempt, they are either covered by FLSA (Fair Labor Standards Act) or not, which refers to an employee either being exempt from overtime and minimum wage laws or not, by concept. Exempt employees are salaried employees and non-exempt, or hourly employees, get overtime. With “classified” and “unclassified,” the unclassified positions are those that are listed in Policy 2.8, items A-N above. They are typically managerial-type positions and are not covered by many of the rules in the Merit System; not all, but many of them. Ms. DeNero added that the key difference is that unclassified positions are not privy to due process, meaning they are not privy to written warnings or due process and are not a protected position. Mr. Chambers stated that employees in unclassified positions don’t have any personnel rights with the Personnel Commission, so if he was laid off from the County Attorney’s Office for whatever reason, he could not go to the Personnel Commission and complain about his layoff being unfair. He then explained that as far as “at will” employees, the County’s policy is that all employees are an “at will” employee by Arizona state statute, which means that “at will” employment allows either party to end the employment relationship with or without cause and that applies to both classified and unclassified. Ms. DeNero added that this means that an employee can quit “at will” and can also be terminated “at will” as long as it is not illegal. Supervisor Pastor stated that he did not think that classified employees realize what “at will” means. Mr. Chambers also noted that by state statute, unclassified positions are limited to 10% of the positions in the County. Supervisor Pastor moved back to the unclassified position as listed in item H, Clerk of the BOS, and the position of Chief Deputy Clerk of the Board because he wanted more clarification. Ms. DeNero referred to Chief Deputies in item D; however, Mr. Chambers corrected her stating that item D specifically refers to Chief Deputies for elected officials and the Clerk of the Board is not an elected official. Supervisor Pastor reiterated that the Chief Deputy Clerk of the BOS then is a classified position and could be let go at will, to which Ms. DeNero agreed, adding “as long as it’s not illegal.” Supervisor Pastor was still unsure about “at will” employees. Mr. Chambers reiterated that all employees are “at will.” Supervisor Pastor stated that he thinks there is a general consensus in the County that employees don’t

know if they are “classified” or “unclassified”, “at will” and “exempt” or “non-exempt.” Chairman Martin stated that if this is true, it’s a good time at the beginning of this process to start putting information on the Intranet so some internal education can be done as this process is being reviewed instead of waiting until the end because if there is confusion amongst the employees, the Board is doing a disservice by not educating them during the process. Mr. McDaniel added that the Merit System Policies can be viewed as a protection for the majority of the employees of the County rather than some sort of onerous set of rules for them. It really is for their protection and gives them some structure and appeal rights if things are done properly.

5) Policy 3, number 3.4 on page 11, Personnel Commission, Supervisor Pastor inquired why item A was being removed from this policy. This is in reference to constituting the resignation of a Commissioner for “A. Absence from three (3) consecutive quarterly meetings.” Ms. DeNero stated that they no longer have consecutive quarterly meetings, but rather meet as needed.

6) Policy 4—Discrimination in Employment, numbers 4.4—Retaliation, and 4.6—Sexual Harassment on pages 13-14. Supervisor Pastor stated that Retaliation is discussed in number 4.4 under the general heading about Reporting a Complaint and it’s a lot wordier and then he questioned why it is repeated again in number 4.6 under the specific title of Sexual Harassment and is not as lengthy? Mr. Chambers stated that when reviewing the policies there were instances where Ms. DeNero had taken out redundancies and it was decided to put them back in because these particular items provide notice to the employees of not just their rights to hearings, but also where the rights end. He felt there was no harm in listing them twice in an area as important as Sexual Harassment and Discrimination. He stated, “We certainly would want to put all supervisors on notice that they wouldn’t want to do anything that’s going to look like retaliation, particularly in this area.” He stated that the County Attorney’s Office is certainly in favor of some redundancy in areas like this so that it’s absolutely clear on what’s acceptable and what’s not acceptable. Supervisor Pastor inquired if item 4.5, “Reporting of a Complaint” refers just to discrimination complaints and sexual harassment complaints or did this cover all complaints because he couldn’t find anywhere else where specific complaints were covered? Chairman Martin stated that this just says “Complaints or Reports of Sexual Harassment.” Supervisor Pastor replied that it is under the Policy for Discrimination so he was looking for something on progressive discipline as he is a strong believer in same. Chairman Martin inquired if Supervisor Pastor thought it needed to be a separate category so an employee could go straight to “how to report a complaint of any kind?” Mr. Chambers stated that the intention is for reporting sexual harassment and there may be a need to clarify it to make sure it’s very clear that it’s just for sexual harassment. Supervisor Pastor suggested that it state “or reports of sexual harassment.” Mr. Chambers stated that he had not thought of that. He also mentioned that if the Board looked at the idea of having a separate vehicle for complaints, it would get into a lot of sticky issues that way, especially in County government where you have a lot of different elected officials where an

employee could be unhappy with their supervisor and how would the elected official feel if an employee could automatically go beyond the elected official and go somewhere else to file a complaint. Supervisor Pastor stated that is addressed later on under disciplinary procedures and reasons for being disciplined in Policy 21.2 on page 66 where 33 items are listed and specifically number 7 where it's based on people not getting along and it is grounds for termination. He questioned if that is where general complaints would fall. Mr. Chambers stated that there is a grievance procedure in some things that might be called complaints and can be addressed there. It's limited and the second one states what it covers and doesn't cover and then there is also the disciplinary section, which is limited as well. If Supervisor Pastor was talking about complaints in general, that is not what is meant in Policy 4.4-4.6. Chairman Martin stated that it needs to say "Discrimination Complaints" or it needs to be clarified more, to which Ms. DeNero agreed. Supervisor Pastor moved back to number 4.5, which is about sexual harassment, and stated that in item B, it states: "After investigation, the Human Resources Director will issue a written finding. If a basis is found for the complaint, the Human Resources Director shall make recommendations of disciplinary action up to and including termination of the offending party in accordance with the provisions of Gila County Merit System Rules and Policies" and questioned if this item was just for discrimination and sexual harassment. Chairman Martin stated that was correct. Supervisor Pastor then continued to number 4.5, item C, and noted where it states, "If no basis is found for the complaint, the complaining employee shall be notified in writing." He questioned the reason that only the complaining employee is notified that no basis was found for the complaint and why the person who the complaint was filed against was not given a written notification as well that no basis was found for the complaint. Ms. DeNero stated that both would be notified. Supervisor Pastor then questioned why the policy stated that only the complaining party would be notified. Chairman Martin stated that it should say "all parties shall be notified." Mr. Chambers stated that there were 2 concepts that the Board should keep in mind. He stated, "This defines what has to happen. The complaining party has to be notified so if some disciplinary action happened against the complaining party and they went to the Personnel Commission to contest that, they might be able to use, based upon this policy, the fact, let's say they weren't notified, they could say, 'well I made this complaint; I was never notified of the result; that was in violation of the policy so Personnel Board, you should have me reinstated or do away with the suspension I have.' So that's how I see this would work in that type of situation. Now practically speaking, when something like this happens, Ms. DeNero is going to notify both parties. The management is also going to be aware of Ms. DeNero's determination in most of these situations, but there may not be a need to actually include that in the policy itself that all of that is going to happen because, say the appointing authority, I mean if they don't get notified what would be the purpose of saying "the establishment of the appointing authority shall be notified?" Here there's no appeal process for the appointing authority

to complain about it so I think as far as the non-complaining party not receiving notice, we may not necessarily need to have that as far as things that might happen further on down the line as far as issues in front of the Personnel Commission. As I'm talking through this, I'm wondering if I may be talking myself out of that." Chairman Martin stated if someone was complaining about her and the complaining party knew there was no valid complaint, but she didn't, she would want to know if there was a valid complaint or not. Mr. Chambers stated that both might be in front of the Personnel Commission and stated that he had just talked himself out of his other comments. Supervisor Pastor stated that if there is a complaint, both parties need to be notified that there was no valid complaint. He stated that a further point is when talking about whether there are grounds for an investigation or not, the complaining party and the party being complained about should be notified that there wasn't sufficient evidence to warrant an investigation. Ms. DeNero stated that typically where there is a complaint that is illegal activity, there will be an investigation. Vice-Chairman Dawson stated that when an investigation is concluded, who knows what the conclusion of the investigation was? Chairman Martin inquired whether she would know or be sitting there wondering. Ms. DeNero stated that she would let both parties know. Chairman Martin stated that it would be up to Ms. DeNero to let the parties know. If wouldn't be up to her; however, she would have the right to know if that was a valid complaint or not against her and at what point would she know? Supervisor Pastor, "Or do you leave me hanging out there and saying 'well, there's nothing valid there, so we're going to go ahead and move on,' and the person says, 'Well, wait a minute, whatever happened to that complaint?'" Supervisor Dawson stated that "Especially, even though this is all confidential, with the way things get taken care of locally, I think the person who is found not guilty has a right to some notice from us that they were found not guilty in the event that it's being spread about." Mr. McDaniel stated that another consideration is that it's a process and there are kind of markers along the way that you don't always get to the point where a person is found not guilty. Chairman Martin stated that she would want to know if it was dropped, too, because she doesn't like a hammer hanging over her head. Mr. McDaniel stated that a decision Ms. DeNero can make may be a decision that the complainant is going to push further so it's not like it's over now. That does not mean it's dropped or over with, but rather that HR is just at a point in the process. Chairman Martin noted that HR would have at least notified her that it was to that point in the process. Mr. McDaniel clarified that he was not speaking about a notification, but rather it is a process that is sometimes never officially concluded. Chairman Martin reiterated that the parties should know where HR is in the process, which Supervisor Pastor stated that was also what he was saying. Mr. McDaniel stated that if the Board is discussing what to put in the policy, he didn't think there was any argument that the wording needs to be changed to include "notification to all of the parties." Ms. DeNero stated, "Also you have to keep in mind the integrity of the investigation. Depending on the complexity of the issue, it's not automatic in any of these things and during

investigations there is confidentiality and no, you're not going to get a status update. It's still under investigation." Supervisor Pastor stated, "That's an update." Ms. DeNero stated, "I'm letting people know you won't get an update. It's an investigation; it's ongoing. Can you make an opinion today? No, and even to the public where there's a public records request, it's still under investigation and no, those types of things, they are not public." Chairman Martin stated that knowing that is important. Supervisor Pastor stated that he was not saying it has to come to a decision, but if it's an ongoing investigation, say so. Give the person the opportunity of knowing the HR Department is still reviewing the complaint.

7) Supervisor Pastor also noted that he was going to bring notifying employees up again under Policy 9 on page 24, "Computing and Communication Technology Use and Ethics," and whether the employees will be notified that their computer is being monitored. He stated, "I understand the confidentiality of a lot of this, but there are avenues to let people know they are being monitored on their computer system, and it was checked out and no concerns were found. Ms. DeNero replied, "It's not your computer and don't be doing anything on it that you shouldn't be doing, so don't worry about it." Supervisor Pastor stated he understood that, but he further questioned, "Doesn't an employee have the right to know they will be monitored?" Ms. DeNero replied, "No, you will be monitored on your computer. It's Gila County's equipment and you don't have a right to privacy with them." Supervisor Pastor stated that these are things that need to be answered because there's a yellow highlighted area that says: "Approval from an Elected Official, Appointing Authority or Gila County Human Resources is required before any such retrieval or review may occur." Ms. DeNero stated that she understood what Supervisor Pastor was referencing; however, "Employees still don't have the right on Gila County equipment...Expect it. Act as if you are being monitored." Ms. DeNero also noted that she had added the word "authorized" because her personal equipment has County information on it and she believes that she does not have a right to privacy because she chose to put the County information on it. Supervisor Pastor inquired how she keeps her personal equipment secure. He inquired, "If you lost it, what is your liability for losing it with all that County material on there?" Ms. DeNero replied, "Well it's not County material. It's very limited, like the Merit System Policies." Supervisor Pastor replied that there are hackers out there that could get a hold of something like that and get all the way into the system. Ms. DeNero replied that she could not get into the system. Darryl Griffin, Information Technology Director, stated that it's on the outside of the County's network, so none of the County's internal information could be transferred to a junk drive, but it's Ms. DeNero's responsibility to secure that information and secure a password on her equipment. He further explained that Ms. DeNero is considered to be in the DMZ zone, which is outside of the County's network, but she would still have access to the County's e-mail and some of those other resources by utilizing her equipment.

8) Supervisor Pastor moved on to Policy 8, Employment of Relatives, number 8.3 on page 23, which states: “Additionally, it shall be the County policy that no person who is related by marriage or consanguinity within the third degree to another within the County service shall supervise or be supervised by that person.” Ms. DeNero advised that she has a chart that is used for determining consanguinity within the third degree. Supervisor Pastor stated that he looked at a similar chart and suggested that the chart be included with the policy so people can understand it. Ms. DeNero stated that she could add it as an appendix at the end of the handbook.

9) Policy 4, number 4.9 on page 16, Supervisor Pastor stated that he forgot an item on this policy and noted that number 4.9 references number 4.5 C, D & E, but in Policy 4.5, the items are actually numbered A, B & C (not C, D & E) so number 4.9 should be corrected.

10) Policy 10 on page 29, Alcohol and Controlled Substances, Supervisor Pastor inquired how HR keeps track of prescription drugs that employees are taking in the event a random drug test comes back positive. Ms. DeNero replied that the procedure has changed, so if a test comes back positive, then at that point the employee has to prove they have a prescription and must provide the name of the doctor who prescribed the medication for verification. This information must be provided to the company that conducted the drug test, not to HR, because the positive test would not have been provided to the employer yet.

11) Policy 10.5, Required Tests, 10.6 A. 1., Testing Procedures—Pre-Employment Testing and 10.6 A. 2., Post Accident/Incident Testing, Chairman Martin stated that the references are to “post-incident accidents.” However, in Policy 10.6 A. 2, it states: “When any County employee is involved in an accident/incident” and HR has scratched out “while operating a County vehicle” and other things were plugged in, but there are not any parameters of what is meant. When “while operating a County vehicle” was removed, it removed the context of the content and needs to be added back in. That concluded the discussion and no action was taken by the Board.

At 12:23 p.m. Chairman Martin recessed the meeting for lunch and noted that the meeting would be reconvened at 2:00 p.m. to address agenda item number 4.

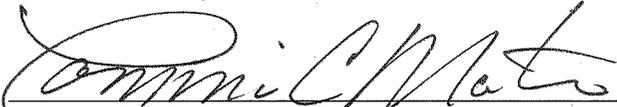
4. Special Meeting Item - Information/Discussion/Action to conduct a personnel evaluation on the Gila County Manager. Pursuant to A.R.S. § 38-431.03(A)(1), the Board may vote to go into executive session to conduct the evaluation.

At 2:03 p.m., Chairman Martin reconvened the meeting and addressed agenda item 4. She entertained a motion to go into executive session to address this agenda item. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board convened into executive session at 2:04 p.m.

Chairman Martin reconvened the special meeting at 3:30 p.m. Upon motion by Vice-Chairman Dawson, seconded by Supervisor Pastor, the Board unanimously approved the motion for the Board to thank Mr. McDaniel for his leadership as County Manager.

There being no further business to come before the Board of Supervisors, Chairman Martin adjourned the meeting at 3:31 p.m.

APPROVED:



Tommie C. Martin, Chairman

ATTEST:



Marian Sheppard, Chief Deputy Clerk