

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

Date: January 29, 2013

**MICHAEL A. PASTOR**  
Chairman

**JOHN F. NELSON**  
Clerk of the Board

**TOMMIE C. MARTIN**  
Vice-Chairman

By: Marian Sheppard  
Chief Deputy Clerk

**JOHN D. MARCANTI**  
Member

Gila County Courthouse  
Globe, Arizona

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PRESENT: Michael A. Pastor, Chairman; Tommie C. Martin, Vice-Chairman; John D. Marcanti, Supervisor; Don McDaniel, Jr., County Manager; John Nelson, Deputy County Manager/Clerk; Marian Sheppard, Chief Deputy Clerk; and Bryan Chambers, Deputy Attorney Principal.

**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. Bryan Chambers led the Pledge of Allegiance.

**Item 2 – REGULAR AGENDA ITEMS:**

**A. Information/Discussion regarding the proposal submitted by MAXTRAX to design, construct and manage an automobile racetrack facility for the Industrial Development Authority of the County of Gila, Arizona at the Gila County Fairgrounds.**

Gerald (Gerry) Kohlbeck addressed this item on behalf of Fred Barcon, President of the Industrial Development Authority (IDA), who was unable to attend today's meeting. He informed the Board that Daisy Flores, counsel for the IDA, was present to address any questions or concerns of the Board of Supervisors. Mr. Kohlbeck advised that the purpose of this agenda item is to determine whether there is the possibility of establishing a long-term lease with Gila County for the use of a portion of the County Fairgrounds property to establish an automobile (car) racetrack. He explained that the lease with the County would be through the IDA and also through a non-profit organization, and back to the end user, which most likely would be MAXTRAX. Mr. Kohlbeck referred to a preliminary design of the proposed project of which he

provided a copy to each Board member. He advised that the most economical method to build this racetrack would be to build it upon the existing horse racetrack that is no longer being used and because the infrastructure is already in place. He then added that the other reason for addressing the Board today is to discuss with the Board if the County would like to participate by funding the concept phase of this project, either partially or fully, of which the estimated cost is \$47,500. Mr. Kohlbeck asked John McGinley, Managing Partner of MAXTRAX, LLC, to address the Board.

Mr. McGinley provided an overview of his professional experience operating car racetracks and of the project. The intent of this project is to build a car racetrack of which regional and national events would be held and a racetrack that would make the community, County and its citizens proud. Mr. McGinley advised that a preliminary review of the previous study, which is a study that was completed in August 2002 by Tetra Tech, Inc. and is known as the Gila County Fairgrounds Master Plan, and design materials have been generated. MAXTRAX has extensive experience in design, funding and racetrack management. MAXTRAX is interested in working with the IDA to bring this project to fruition. As for the funding for this project, MAXTRAX is proposing a phased approach as outlined in the project proposal letter to the IDA (letter was not dated.) Phase I – Concept Development is estimated to cost \$47,500 and it will take approximately 4-6 weeks to complete; Phase II – Racetrack Development is estimated to cost \$80,000 and it is anticipated that it will take 3 weeks for the design and 5 months for construction; and Phase III – Operations – Base Fee will cost \$40,000 for Mr. McGinley’s salary and 5% to MAXTRAX of the gross revenue. Mr. McGinley stated that this proposed racetrack would provide an economic boost to the community because people who will be attending or participating in the races would stay in the community for 2-3 days at a time. He emphasized that there would be some safety features that would be incorporated into the design of this racetrack to which Globe would be known as an innovator of short track car racing. He advised that there are currently 7 buildings residing on the property which could be utilized, so only a grandstand and concession stands would have to be built. Mr. McGinley emphasized that if MAXTRAX is chosen to design, develop and operate this facility, MAXTRAX would ensure that the local community would be involved.

Daisy Flores stated that in reviewing this proposal with the IDA, the intent of today’s meeting is to see whether the County is interested in going forward with this proposal or not. She advised that the IDA is looking at using the County Fairgrounds in a different way whereby the County would lease a portion of the Fairgrounds to a non-profit organization and the non-profit organization would obtain the funding and move forward to get a car racetrack established and then contract with a company such as MAXTRAX to run it.

Mr. McGinley advised that it is the intent of MAXTRAX to have an asphalt track versus a dirt track as it is more economical. He then answered all of the concerns of the Board members regarding mitigating dust, noise and lights.

Supervisor Marcanti expressed a concern as to the amount of money that has already been spent on the Master Plan; however, he did state that he is in favor of a car racetrack to improve the local area.

Vice-Chairman Martin advised that the proposed design places the car racetrack in to what she refers as the "hole," which is a lower portion, more of a canyon area at the Fairgrounds, and it is the current location of the go-cart racetrack. She feels today's conversation is about placing the car racetrack at the location of the former horse racetrack. Mr. McGinley replied that there are benefits to locating the car racetrack in the hole, but it doesn't matter which location is chosen. He added that if the car racetrack was placed in the hole, and in the future the state of Arizona once again allows horse racing to take place and it is reestablished in Globe, a bigger venue could be built. If horse racetrack racing is not reestablished, he believes it is more cost effective to build a car racetrack at the location of the horse racetrack. His approach is to try to find ways to utilize the money the County has already spent.

Chairman Pastor called upon the public for comments. A summary of the comments provided are as follows: Terry Wheeler, City of Globe Mayor and who lives to the west of the Fairgrounds, is in support of a car racetrack; however, he believes it would be best suited in the hole as opposed to building over the current location of the horse racetrack. He also believes that if this project is approved and moves forward, it should be under the purview of the Gila County Fair and Racing Commission and not Gila County. Janet Cline, Gila County Fair Committee Chairman, was in favor of a car racetrack when she was first approached about it; however, when she later learned that the car racetrack was going to be built at the current location of the horse racetrack, she became concerned. Her primary concerns are: 1) local community organizations such as the Lions Club, Globe Rotary, etc. which have their concession booths at the Fairgrounds; 2) the Fair Committee's current use of the grandstands and the infield, along with a contract in place for thousands of dollars for use of the grounds inside the horse racetrack; and 3) the proposal is about building an asphalt car racetrack and she is unsure if people would attend that type of race versus a race upon dirt. She then talked about the land being donated long ago and that the money generated from the horse races was used to build the Fairgrounds. She mentioned that over the years, the Fairgrounds are also utilized for the 4-H program and she is also concerned for all of the youth that use the Fairgrounds for various events/programs, such as the FFA (Future Farmers of America) program. Charles Brewer, Gila County

Rodeo Committee Chairman and who lives closest to the northern boundary of the horse racetrack, advised that he is former race car driver and he is not opposed to building a car racetrack in the hole; however, he has a concern for himself and that of his neighbors regarding the level of noise generated from car racing and also the lighting. William A. Byrne, a member of the IDA Board of Directors and of the Gila County Fair and Racing Commission, supports the car racetrack and he offered to work with MAXTRAX or any other organization that wants to promote a track; however, he does not support the car racetrack being built at the location of the horse racetrack as he believes it would not be in the best interests of the Fairgrounds. Sherron Lavin, Gila County Fair and Racing Commission Chairman, advised that she has served on committees/commissions for the Fairgrounds since the early 1970s and she feels strongly that because the Fairgrounds was built by the County and community, it needs to remain "whole." She stated that she supports a car racetrack 100%, but it needs to be located in the hole. Ms. Lavin added that she has been contacted by the Arizona Fair and Racing Commission to fill out a short questionnaire on whether Gila County would be interested in resuming horse racing should the state of Arizona allow it to resume. She emphasized that the Gila County Fair and Racing Commission fully intends to support the continuation of horse racing in the state as do many other Arizona counties that formerly held horse races. In viewing the proposed design, Ms. Lavin expressed a concern about the property taking over the area currently being used for the 4-H livestock barn and the shop area. She emphasized the importance of the need to define the exact area for the location of the proposed car racetrack so there is no infringement upon the land that is currently being used for the Fair, 4-H events, and other events for the youth. Dennis Gates, a local resident and a race car driver who has been racing since 1967, stated that it was his understanding that a dirt car racetrack was being considered, but he now understands it is going to be an asphalt car racetrack. He advised that in the past, he raced on asphalt tracks and if this track was built with asphalt he would need to buy a new car and purchase new tires every week he raced, whereas when he races on dirt tracks, his tires can last as long for 6-8 races or as long as 10-12 weeks.

At the conclusion of the public comments, Vice-Chairman Martin addressed the issue of the ownership of the land stating that Mr. and Mrs. Kendrick Holder did not give the land to the Fairgrounds, but rather they gave up a section of their grazing permit upon BLM (Bureau of Land Management) land. She asked Mitchell (Mick) Holder, who is the son of Mr. and Mrs. Kendrick Holder, to clarify this issue. Mitchell Holder stated, "That property was a state grazing lease with a 10-year turnover. It was in the early stages of the 10-year lease when Kendrick surrendered it after conversations with Bill Boice, Bill Bohme and other people with the idea that it would be used for building a (horse) racetrack and eventually the Fairgrounds. That's why he was so

incensed when they put the prison out there. That's not the agreement that was made and he voluntarily surrendered, and it wasn't just one section. He felt they violated the agreement they made. Time moves on and changes come about, and agriculture isn't as strong in our community as it was as is nothing else, but there's no reason to slap people, who went before us, in the face and change it to a single use just because it's currently popular. We all enjoy racing and always have in this community, but it doesn't need to abdicate those 4-H programs. Those buildings, the monies comes from various sources and I think you're going to run into a legal situation if you don't be real careful on where you're converting money that has been granted by several different sources and several different governmental entities and private money to a single use, especially held by an out of town lease holder. Even though technically he didn't give up fee land, he gave up the value...If he was here, he would be incensed again. Thank you."

Vice-Chairman Martin stated, "Having looked at the Fairgrounds Agreement with the state, it is my understanding that we can't give up the Fair part to do anything else. Whatever we're talking about here would be in addition to what we are already doing out there; otherwise, we are not allowed. They could jerk the (unfinished.) So, in my mind we're not talking either/or. We're talking about something that has to work with everything else (at the Fairgrounds)...The third thing is when you all talk about whatever it is the County does out there, they put a quarter of a million dollars into that Fairgrounds every year. Now I realize I'm not taking away one minute about what else people have done and built. Fair and racing has, in fact, the horse racing did begin to build that. I just have looked at our budget for the last 8 years and know how much money goes into that Fairgrounds, so we are talking a partnership here, whatever else we do. There's a substantial amount of money that the County puts into the Fairgrounds and I think we get a \$10,000 return from all of the activities out there. One of the things I'm looking at it, if we can make this work, is there a way to have some activities out there that actually help pay the way? Okay? Pay the freight because those dollars are taxpayer dollars, they're not some other dollars. If there's some way to supplement that or even take it over, you bet I'm interested, but not to do it instead of what we do out there and not to do it in a way which negatively impacts what is going on out there, but a way to make this a win-win for everybody, particularly the County."

Mr. Byrne commented that he believes it is feasible to run the Fairgrounds more economically than as has been done in the past. He proposed expanding the Fairgrounds area so that it has a multi-functional purpose to include horse racing on the existing horse racetrack, and to build a car racetrack and other motor sports types of activities in the hole.

Mr. McGinley expressed his appreciation for all of today's comments and he reiterated that MAXTRAX wants to work in concert with those involved in running the Fairgrounds. He stated, "Having it (the car racetrack built) in the bottom of the hill is the best place; the only difference is the cost...If we can do it in the bottom of the hill and we can find the money; let's do it in the bottom of the hill." He stated that if the bottom of the hill (hole) was used for the car racetrack, it would require moving a lot of dirt and he suggested that maybe the local copper mines could help in that endeavor. Vice-Chairman Martin advised that it is her inclination to go with a dirt track. Mr. McGinley replied that if a dirt track would be built, it requires using tens of thousands of gallons of water each weekend, plus the cost of diesel fuel to run the water trucks. Vice-Chairman Martin added that there may be an opportunity for the mines to move the dirt as possibly a part of one of its employee training programs.

Supervisor Marcanti advised that it was the Board of Supervisors that approved the expenditure to create the Master Plan and that some of the recommendations have been implemented, such as the RV park. He reiterated the need to carefully review the Master Plan before moving forward as it addresses some of the issues which were raised today such as the design of the Fairgrounds; drawings and drainage.

Chairman Pastor stated that he has participated in discussions with Fred Barcon, IDA President, on this issue over the past 1½ years; he previously served on the IDA Board; he has talked with Mr. Gates many times on this same issue over the last 5-6 years since they first met; and he has also talked about a car racetrack to many other local racers and citizens over the years. He stated, "There's no doubt in my mind that a (car) racetrack is a good economic driver for the community. I, too, have trouble with it being on top." He then asked Steve Stratton, Public Works Division Director, to address the Master Plan drawing on the overhead screen. Mr. Stratton reviewed the Master Plan that was previously adopted by the Board of Supervisors. He stated that several items contained within the Master Plan have been built, such as the RV park and roping arena. Mr. Stratton stated that a grant was awarded to the County to build the RV park, and as part of that agreement the County must operate it for 20 years.

At the conclusion of the discussion Chairman Pastor reiterated that building a car racetrack is a good idea, but not at the current location of the horse racetrack. He commented that local racers are not excited to have an asphalt track, so there needs to be future discussions between local citizens and MAXTRAX. He stated that he would like for the Board the Supervisors to encourage the IDA to look at all options and to include conversations with the Gila County Fair and Racing Commission and County staff. He also advised that a future discussion should take place during a Board work session.

**B. Information/Discussion on a draft Curfew Ordinance for future Board of Supervisors approval.**

John Nelson, Deputy County Manager/Clerk, advised that the issue of adopting a curfew ordinance for any person under the age of 18 was brought to his attention on May 21, 2012, by Sherry Rice. Ms. Rice attended a Town Hall meeting regarding underage drinking and her opinion after attending that meeting was that there is a lot of community support for a curfew ordinance to be adopted for unincorporated areas within Gila County that would be similar to ordinances that are in place at the City of Globe and the Town of Payson. The curfew would be from 10 p.m. to 6 a.m. seven days a week. Mr. Nelson noted that he previously requested that the Chief Deputy Clerk of the Board survey other counties and it was discovered that 6 other Arizona counties have similar types of ordinances in place. As a result of that survey, a draft curfew ordinance has been created for the Board's review. Mr. Nelson mentioned that other curfew ordinances which have been reviewed are very punishment-oriented and that this proposed ordinance includes a leaner approach as far as consequences for not complying with the curfew. The proposed penalties for non-compliance are as follows: 1<sup>st</sup> offense - perform not more than 10 hours of community service; 2<sup>nd</sup> offense - perform not more than 20 hours of community service and pay a fine not to exceed \$100; 3<sup>rd</sup> offense - perform not more than 20 hours of community service and pay a fine not to exceed more than \$300; and 4) an adult found in violation of the ordinance shall be guilty of a petty offense punishable by a fine of not more than \$300. Mr. Nelson advised that the Sheriff did not have an opportunity to review this draft ordinance; however, he did speak with the Sheriff. The Sheriff did seem supportive of the ordinance for his deputies to use it as a tool to get minors off the streets when they should be home.

Vice-Chairman Martin commented that she didn't like the idea of taking over parents' responsibilities; however, she said if there was none in place for some minors, this may be an option to "parent otherwise." She agreed with the leaner approach of performing community service.

Supervisor Marcanti stated that he is totally against this proposed ordinance. He referred to a 9:30 p.m. curfew that was put in place by the City of Globe in the 1960s and he feels this responsibility should be with the cities and towns, not the County as there are enough rules and regulations already in place. His biggest concern if the ordinance were to be adopted is to determine the agency that would be responsible for enforcing the ordinance.

Ms. Rice stated that she became aware that there is a big problem in Gila County with minors drinking and taking illegal drugs, especially during the

weekends. Her intent for proposing this ordinance is to give “some teeth” to the Sheriff’s deputies because at present a deputy cannot do more than ask for a minor’s identification and ask what they are doing. She is hoping this ordinance can help the deputies, among other things. She would like the penalties to be more stringent because the agencies that participate in providing community service need to receive a benefit and it should serve a purpose for both the providing agency and the offender. She recommended 20 hours of community service for the first offense. Ms. Rice mentioned that she also spoke to Mr. Nelson about adding addressing emergency medical in the ordinance. She stated, “Gila County leads in so many things we don’t want, such as teen pregnancy. Please take a hard look, especially those who are leaning against it.”

Chairman Pastor advised that Ms. Rice submitted 35 letters in support of this proposed ordinance and he asked the Chief Deputy Clerk of the Board to circulate them after the meeting to Board members to which she agreed. Mr. Nelson offered to circulate the proposed ordinance to the elected officials and the public and then present those comments/suggestions to the Board of Supervisors at a future Board meeting. Don McDaniel, County Manager, stated that plan of action would be taken as suggested by Mr. Nelson unless the Board objected, of which there was no objection given by any Board member.

**C. Information/Discussion regarding the proposed revisions made to the Gila County Merit System Rules and Policies handbook.**

Berthan DeNero, Human Resources (H.R.) Director, provided a history of the actions taken to date with regard to updating the Gila County Merit System Rules and Policies handbook, which was last revised in 2002. Approximately 1 to 1½ years ago the H.R. staff began reviewing the handbook. It was also reviewed by a representative of the Arizona Counties Insurance Pool of which Gila County is a member. The H.R. staff also researched various professional H.R. association websites and Arizona laws, and had conversations with other Arizona counties’ H.R. directors about rules and policies. The handbook was then revised and presented to the Gila County Administration Team, Management Team and it was reviewed one-on-one with the elected officials who were in office at that time. It has not yet been presented to the newly elected officials. Ms. DeNero stated that Bryan Chambers, Deputy Attorney Principal, was a significant contributor in this endeavor as he provided more than 70 comments of which 95% were incorporated into the revised handbook. These proposed revisions were presented to the Board of Supervisors about a year ago, and Ms. DeNero advised that there has been only one major change made since that time. The major change is to Rule 9 – Computing and Communication Technology Use and Ethics as that section has been

completely deleted from the handbook, and a new policy with accompanying procedures has been drafted as part of the Countywide Policy Manual. That proposed policy has not yet been presented to the Board of Supervisors for review and approval. Vice-Chairman Martin advised that she would like more time to review the revisions and the general consensus was that would be a good idea. Chairman Pastor directed the County Manager to coordinate with Ms. DeNero in scheduling some work sessions with other elected officials and to also schedule departmental employee meetings in order to obtain as much input as possible because this handbook affects all County employees and public officials. Chairman Pastor commented to Joe Heatherly, Finance Director, that this same process should take place with his proposed policy that is listed as agenda item 2D (following this item.)

**D. Information/Discussion on a Travel and Related Expenses Policy for inclusion in the Countywide Policy Manual.**

Mr. McDaniel advised that this is one more policy being proposed to be added to the Countywide Policy Manual of which there are currently 13-14 adopted policies. He stated that this proposed policy has generated a lot of discussion and there may be more work to be done on it, but it was felt that this would be a good time to present it to the Board in a work session so it can be further discussed.

Mr. Heatherly agreed that it is imperative that all proposed policies are carefully reviewed and he stated "We need to take the time to do it right." He stated that if countywide policies adopted by the Board of Supervisors were to be researched, this policy would probably not be found as Board adopted policy. He assumes that someone from the Finance Department or the H.R. Department established this countywide policy on March 16, 1999; however, it appears it did not go before the Board of Supervisors to be officially adopted and it is due for an "overhaul." He believes there are a lot of good procedures outlined in the current policy; however, he has learned that many County departments and elected offices have their own policies and procedures for travel and related expenses. His goal is to have consistency throughout the County in order to meet the approval of the auditors. He stated, "The only thing we are consistent is that we are inconsistent, so that is one of the things the auditors write us up about." Mr. Heatherly advised that he formed a task force about 1½ years ago comprised of Kendall Rhyne, Chief Probation Officer; Daisy Flores, County Attorney; Michael O'Driscoll, Health and Emergency Services Director; and himself. They met once a month for six months. Travel policies and procedures for Pima, Pinal and Yuma Counties were also reviewed. The major areas addressed in writing this policy were: 1) authorization or pre-approval of travel; 2) defining "travel"; 3) when paying for meals would be applicable; 4) the allowance for meals; 5) use of personal vehicles for travel; 6)

County credit cards; and 7) cash advances. Mr. Heatherly then proceeded to review all of the proposed changes for the above listed areas. He answered specific questions and concerns of Board members. Vice-Chairman Martin stated that she would like the elected officials to have an opportunity to review this proposed policy. Mr. McDaniel replied that this policy is now ready to be discussed with elected officials and others, so he will proceed in scheduling meetings.

**Item 3 – 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(H), action taken as a result of public comment will be limited to responding to criticism made by those who have addressed the Board of Supervisors, may ask staff to review the matter or may ask that a matter be put on a future agenda for further discussion and decision at a future date.**

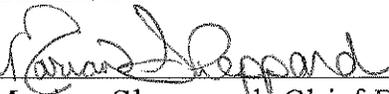
There were no requests to speak from the public.

There being no further business to come before the Board of Supervisors, Chairman Pastor adjourned the meeting at 12:08 p.m.

**APPROVED:**

  
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Michael A. Pastor, Chairman

**ATTEST:**

  
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Marian Sheppard, Chief Deputy Clerk