

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

Date: October 25, 2016

MICHAEL A. PASTOR

Chairman

MARIAN E. SHEPPARD

Clerk of the Board

TOMMIE C. MARTIN

Vice-Chairman

By: Laurie J. Kline
Deputy Clerk

JOHN D. MARCANTI

Member

Gila County Courthouse
Globe, Arizona

PRESENT: Michael A. Pastor, Chairman; Tommie C. Martin, Vice-Chairman (via ITV); John D. Marcanti, Member; Don E. McDaniel, Jr., County Manager; Jefferson R. Dalton, Deputy Gila County Attorney, Civil Bureau Chief; Marian E. Sheppard, Clerk of the Board; and, Laurie J. Kline, Deputy Clerk.

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. Steve Sanders led the Pledge of Allegiance.

Item 2 – REGULAR AGENDA ITEMS:

A. Information/Discussion to receive a presentation from the Cobre Valley Regional Aquatic Center Committee Chair, Evelyn Vargas, regarding a proposal to establish a regional aquatic center in southern Gila County.

Evelyn Vargas advised that she is the Chairman of the Cobre Valley Regional Aquatic Center Committee (CVRACC) and she proceeded to list the other members, as follows: Bryan Seppala (Vice Chair), Sherry Dorathy (Secretary/Treasurer), Chris Collopy, Stan Gibson, Joe Heatherly, Jerry Jennex, John Marcanti, Tory Satter and Terry Wheeler. She stated that Mr. Seppala and she would take turns presenting information to the Board.

Mr. Seppala advised that the City of Globe (City) closed its pool several years ago due to structural issues and the high cost of repairs. At present, the only pool in operation in southern Gila County is owned and run by the Town of Miami; however, it is aged and also in need of costly repairs. The City of Globe formed a task force in 2014 to determine the public's interest in having an aquatic center in southern Gila County. Breckenridge Group with Ballard*King

& Associates was hired by the City of Globe to conduct a site analysis, market analysis and produce a program development document. Gila County and Resolution Copper also contributed money to this study. By June 2015, the task force became the CVRACC and new associates became part of the CVRACC with more regional representation. Mr. Seppala reviewed the sites initially proposed for the aquatic center which was narrowed down to two possible sites: Site A is located on Highway 60 and Main Street and it is owned by the McSpadden family; and, Site B is located on Highway 60 and Russell Road and it is owned by BHP Billiton. Both the McSpaddens and BHP Billiton have agreed to donate land for this venture; however, the McSpaddens do have some contingencies attached to their offer.

Ms. Vargas talked about the economic benefits to be derived from having an aquatic center. She reviewed the results of the 2015 Community Health Needs Assessment that was conducted by the Gila County Health Department and the Cobre Valley Regional Medical Center, which showed a need for increased physical activity in children and adults in Gila County.

Mr. Seppala reviewed a slide presentation containing statistical information regarding the two proposed sites for the aquatic center, and the strengths and weaknesses of each site. It was noted that Site A had only enough land to provide for the aquatic center whereas Site B had ample land to add other types of recreational facilities. A potential Master Plan was shown of Site B to include the following: parks and recreation, community center, youth athletics, adult athletics, walking/biking trails, Cobre Valley Regional Aquatic Center, Boys and Girls Club, special events, Little League/Pinal Mountain football, and the Pinal Creek Trail. Possible funding sources could be from grants, forming a special taxing district, admissions, membership passes and events. The Board members commented favorably regarding Site B and they briefly discussed options to reduce the costs associated with the build and operations. Chairman Pastor thanked Ms. Vargas and Mr. Seppala for the presentation.

B. Information/Discussion/Action to suspend user fees at the Gila County Fairgrounds located in Globe, AZ, with the exception of the RV Park user fees.

Steve Sanders, Public Works Division Director, stated that in 2011, the Facilities Department of Public Works took over management of the Gila County Fairgrounds. Public Works has continued to use policies and procedures that were already in place for the operations of the Fairgrounds. Mr. Sanders advised that a Use Agreement was developed for three levels of events. They are described as follows:

Event Level 1 – An event for which the majority of these conditions are anticipated:

- Event activity will occur in a single day rental period.
- Event activity will bring in fewer than 300 people total attendance.
- No admission or entry fees will be charged.
- Event is not open to the public.
- No food will be sold.
- Alcohol will NOT be allowed on premises.
- There may or may not be live entertainment.
- Minimal use of Gila County staff and equipment.

Event Level 2 – An event for which the majority of these conditions are anticipated and/or is open to the public:

- Event activity will occur over a single or multiple day rental period.
- Event activity will bring in 300 to 850 people total attendance.
- Admission or entry fees may or may not be charged.
- Event is open to the public. (Security with Gila County Sheriff's Office is REQUIRED.) Food may be sold.
- Alcohol will NOT be allowed on premises.
- Merchandise may or may not be sold.
- There may or may not be live entertainment.
- Moderate use of Gila County staff and equipment.

Event Level 3 – An event for which the majority of these conditions are anticipated and/or alcohol will be allowed on premises and may be sold or served:

- Event activity will occur over a single or multiple day rental period.
- Event activity will bring in 850 or more people total attendance.
- Admission or entry fees may or may not be charged.
- Food may or may not be sold.
- Alcohol may be allowed on premises. (Security with Gila County Sheriff's Office is REQUIRED.)
- Merchandise may or may not be sold.
- There will be live entertainment or is considered to be a high risk event. This includes fairs, rodeos, equestrian events, Monster Truck shows, thrill shows, a circus or a carnival, and other types of live entertainment or high risk events.
- Extensive use of Gila County staff and equipment.

Staff feels that the various event levels fit County needs and provide guidance for events that can run the gamut of a small private wedding to a circus.

Mr. Sanders added that Public Works has also begun an inventory of assets at the Fairgrounds to determine ownership. Over time many clubs, organizations, committees, etc. have purchased equipment for use at the Fairgrounds, donated equipment, or left equipment at the Fairgrounds after use and in anticipation of future use. Once an inventory is developed, Public Works staff will be meeting with different groups to identify/resolve ownership and decide

upon the best way to move forward with determining which assets can be used by others during events at the Fairgrounds.

Also under review are the use fees for events held at the Fairgrounds. Public Works staff is currently reviewing fees set by other government agencies. Based on the research conducted thus far, some agencies don't charge fees associated with events while other agencies have a multitude of fees depending on the requirements of the user. The current fee schedule for the Fairgrounds was in place when the Facilities Department took over management of the Fairgrounds. Research seems to indicate that the fee schedule was implemented by staff rather than the Board of Supervisors because, to date, records of a Board adopted fee schedule has not been found. The current fees are as follows:

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| Exhibit Hall | \$350.00 first day, each additional day \$250.00 |
| Commercial Hall | \$200.00 first day, each additional day \$100.00 |
| ATV Grounds | \$75.00 per day, \$300.00 per week (5 days) |
| Rodeo Arena | First Day - \$1,200.00 + set-up charges, \$150.00 each additional day |
| Grandstand Area | First Day - \$500.00, \$150.00 each additional day |
| Livestock Shed A (60x120) | \$150.00 per day |
| Livestock Shed B (80x120) | \$150.00 per day |
| Livestock Shed C (30x120) | \$150.00 per day |
| Horse Stall(s) (per Stall) | \$10.00 per day |
| Car Track &/or Motor Cross | \$150.00 per day |

The above fee schedule items are the only items that staff is looking to temporarily suspend pending the review and reestablishment of appropriate usage fees.

The RV Park has a user fee of \$15.00 per day and it is based on the honor system. A kiosk is located at the park and users are expected to pay as they stay. At this time, the Board is not being asked to suspend the user fees for the RV Park.

Mr. Sanders stated that until a fee schedule is presented to the Board for adoption, he is requesting that the Board suspend charging the current user fees for the Fairgrounds (excluding the RV Park user fees). He advised that Jeff Dalton, Gila County Deputy County Attorney, Civil Bureau Chief, has expressed concern that suspending the user fees violates the gift clause and he supports charging flat fees. Chairman Pastor called on Mr. Dalton to speak about his concerns. Mr. Dalton stated, "The Superior Court says you have to have something coming back in consideration, which is not grossly disproportional for what is given. It doesn't have to be an exact value. It just has to be something in the ball park, so it's doesn't fall in this category of being grossly disproportional or way out of line would be another way to look at it....If

these fees were never authorized, the Board may retroactively approve them so they are legitimate historically. We are looking at a situation where a value has been established and used, to nothing being given....Rather than suspend it [the fees] temporarily, people would have to pay "X" so there is something coming in and that may satisfy the gift clause which says you can't just give it or grossly disproportional. It's got to be in the ball park so there is some number of something that is coming in to be in the ball park of the value. That would be a way of satisfying that gift clause."

Don McDaniel, County Manager, added that the County Attorney's Office and the Clerk of the Board's office have been unable to establish that any official action was taken by the Board with regard to these fees. He added that fact is important because there is no requirement that the County charge fees. He stated, "That facility, who knows how many years it was used before there were fees, and who knows whether or not any fees have been charged since then. Frankly, the Board has waived fees on a regular basis. Without having fees already being adopted, the staff's suggestion that they be suspended is somewhat of a courtesy to the Board and the public to allow the Board to take an action that would officially suspend those fees you never really established. I don't see it as any kind of conflict with anything." Mr. McDaniel added that governmental entities throughout the U.S., Arizona and this County regularly provide facilities free of charge, such as libraries and parks. He added that the costs to provide facilities and or services are never fully recovered by the governmental entity and he referred to the services provided by the Health Department and Community Services Division. Mr. McDaniel mentioned that the County Managers and Clerks of the Board regularly communicate with one another on issues such as this and he has never heard of a requirement that fees must be charged. Mr. McDaniel respectfully disagreed with the Deputy County Attorney that this is an issue. He stated that staff's position is that the fees could be suspended and added that whether or not the fees are presented to the Board in the future is another story; however, he does believe that they will be presented to the Board in the future and he feels certain they will be more in line with the uses.

Chairman Pastor commented that the County does not charge a fee when the Board hearing room is used. Mr. Dalton replied that the gift clause only applies to private parties. Vice-Chairman Martin stated that she views the Fairgrounds facility as being a community service and feels that it is good to use it in that way. She doesn't feel that the County should charge a fee to use the Fairgrounds facility. Supervisor Marcanti disagreed and stated that he feels that the County should continue to charge fees; however, if the Board decides to suspend the user fees, the length of time to suspend the fees should be stated in the motion.

Chairman Pastor stated that he never understood why the County has Fairground user fees but waives them all the time. He feels that if the Board

suspends the fees, it should apply to everyone. Mr. Dalton added that the arguments provided, although persuasive, are not legal arguments; he is giving the Board what the law states and his interpretation of the law. Chairman Pastor inquired if staff should maybe seek the opinion of the Arizona Attorney General's Office as to clarification of the gift clause. Mr. McDaniel advised that if the Board seeks an appeal to the Attorney General's Office the question would need to refer specifically to charging fees at the Fairgrounds. Upon motion by Vice-Chairman Martin, seconded by Chairman Pastor, the Board suspended user fees at the Gila County Fairgrounds located in Globe, Arizona, with the exception of the RV Park user fees until such time as staff comes back to the Board with a recommendation with regard to user fees. Supervisor Marcanti voted against the motion; therefore, the motion passed with a 2 to 1 vote.

C. Information/Discussion regarding the adoption of a resolution to establish regulations and provide procedures for the issuance of utility franchises.

Mr. McDaniel advised that this proposed resolution would establish a set of written procedures with regard to utility franchises that are granted by the Board of Supervisors (Board), to include providers of electric, gas, telephone or water, or wastewater removal. He stated that the Clerk of the Board and the Deputy County Attorney have been working on this resolution for quite some time and that today's meeting does not require any Board action. He informed the Board that Arizona Revised Statute (A.R.S.) §40-283 allows the Board the authority to grant franchises for providers of service in unincorporated areas of Gila County.

Mr. McDaniel briefly reviewed each section of the resolution. Highlights of his comments and proposed changes are as follows:

Section 4 – Application for Franchise: This section requires the Board to give public notice of its intention to grant a franchise; however, Mr. McDaniel clarified that a public hearing is not required.

Section 7 – Construction of a New System: This section covers more than constructing a new system, so the title should be changed to “Construction, Expansion or Improvement of a System.”

Section 14 – Annexation: This section contains language that states there are circumstances whereby the application could be approved administratively. The Board of Supervisors grants all franchises; therefore, any such annexation applications should also be approved by the Board. Mr. McDaniel will work with staff on revising this section to remove administrative approval.

Section 18 – Rights Reserved to the County: Mr. McDaniel suggested revising this section as it is important that the County should work with the grantee in a manner similar to the initial approval process. He will work with staff on revising this section.

Section 19 – Effect Upon Existing Franchises: Mr. McDaniel wants to revise this section to include language that all grantees of a franchise will be provided an opportunity to comment on any significant proposed changes to the resolution. Vice-Chairman Martin asked whether or not there will be a requirement to notify grantees of changes to which Mr. McDaniel replied that this section indicates notification will be given to grantees; however, it does not specifically require the County to provide notification. Vice-Chairman Martin added that in addition to adding language requiring the County to notify grantees of changes to the resolution, grantees should be required to acknowledge those changes in writing. Mr. McDaniel stated that further modifications will be made to this resolution and they will be presented to the Board.

Jefferson Dalton, Deputy Gila County Attorney, Civil Bureau Chief, stated that if the Board could make unilateral changes to this resolution once adopted by the Board, it would not be considered a contract. Mr. McDaniel interjected that any time the Board grants a franchise, it should be considered a contract. Based on that statement, Mr. Dalton advised that any franchise must then contain clauses in the franchise that address immigration, cancellation of the franchise due to a conflict of interest, and the new boycott of Israel clause. Mr. McDaniel reiterated that every franchise should be considered a contract and the added language as recommended by Mr. Dalton would not be included in this document, but rather it would be included in the actual franchise document.

Chairman Pastor thanked Mr. McDaniel for the information and moved to the next agenda item.

Item 3 – CALL TO THE PUBLIC: Call to the Public is held for public benefit to allow individuals to address the Board of Supervisors on any issue within the jurisdiction of the Board of Supervisors. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(H), at the conclusion of an open call to the public, individual members of the Board of Supervisors may respond to criticism made by those who have addressed the Board, may ask staff to review a matter or may ask that a matter be put on a future agenda for further discussion and decision at a future date.

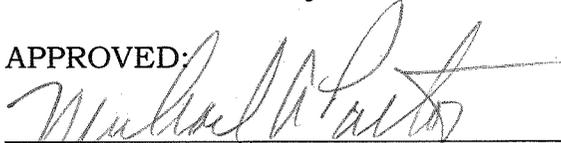
There were no requests to speak from the public.

Item 4 - At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the County Manager may present a brief summary of current events. No action may be taken on information presented.

Each Board member presented information on current events. Mr. McDaniel did not provide any comments.

There being no further business to come before the Board of Supervisors, Chairman Pastor adjourned the meeting at 11:35 a.m.

APPROVED:



Michael A. Pastor, Chairman

ATTEST:



Marian Sheppard, Clerk of the Board