

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

Date: May 20, 2008

**JOSÉ M. SANCHEZ**  
Chairman

**STEVEN L. BESICH**  
Clerk of the Board

**TOMMIE C. MARTIN**  
Vice-Chairman

By: Marilyn Brewer  
Deputy Clerk

**SHIRLEY L. DAWSON**  
Member

Gila County Courthouse  
Globe, Arizona

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PRESENT: Jose M. Sanchez, Chairman; Tommie C. Martin (via video conference), Vice-Chairman; Shirley L. Dawson, Member; Steve Besich, County Manager/Clerk; Marilyn Brewer, Deputy Clerk; and, Bryan Chambers, Chief Deputy County Attorney.

**Item 1 – Call to Order – Pledge of Allegiance – Invocation**

The Gila County Board of Supervisors met in Regular Session at 10:00 a.m. this date. Steve Besich led the Pledge of Allegiance and Reverend Bill Marshall of the Miami Church of Christ delivered the Invocation.

**Item 2 - Presentation of information and discussion of the following:**

- A. ADEQ’s Small Community Environmental Protection Plan.**
- B. Asbestos in buildings and proper handling procedures.**
- C. ASARCO update.**

Brian Davidson, ADEQ (Arizona Department of Environmental Quality) Central Arizona Community Liaison, provided a PowerPoint presentation, a copy of which was given to the Board. Mr. Davidson began the presentation by explaining that ADEQ is the State regulating and permitting agency having jurisdiction over the air, water, waste and underground storage tanks in Arizona. He briefed the Board on ADEQ’s most recent plan known as the Small Community Environmental Protection Plan (SCEPP), which was developed in recognition of the limited financial, technical and administrative resources available to small communities for environmental compliance and to assist in preventing future environmental problems. He stated that ADEQ will make special penalty considerations for those small communities and special districts willing to work with ADEQ to achieve specific goals. Mr. Davidson reviewed the special penalty considerations and the eligibility requirements for participating in ADEQ’s Small Community Policy, which includes 2 types of violation penalty reduction plans available if adopted by those communities/districts. He concluded his presentation by advising that there

are no penalties for not using the Plan, but if a violation is found, then this alternative penalty plan would not apply and it would be business as usual. As ADEQ's Community Liaison, Mr. Davidson is meeting with all the small communities to present and market this new Plan. Mr. Davidson moved on to the second item he wished to discuss in regard to proper handling procedures for asbestos in buildings. He is doing an outreach program for all fire stations/districts and supplying them with brochures to help the fire fighters comply with asbestos issues and what they need to know about buildings that face destruction. These brochures have also been supplied to the County Manager and the Public Works Department. ADEQ also has an emergency response group that is available for support to all fire departments statewide if needed. Mr. Besich stated that he would supply Mr. Davidson with a list of all the fire districts and other special districts in Gila County. Mr. Davidson then called on Michael Fulton, ADEQ Deputy Director of Waste Programs Division, to update the Board on the work being done with ASARCO in Hayden and Winkelman. Mr. Fulton also provided a PowerPoint presentation. He stated that the ASARCO facility was initially scheduled to be listed on the National Priorities List for hazardous waste cleanup by the United States Environmental Protection Agency (EPA), but upon request by Arizona Governor Napolitano, ADEQ has been granted time to work with the EPA to complete a cleanup of ASARCO sites, which include the old and new smelters, concentrator and tailings. Currently, 99 sites in Hayden and 31 sites in Winkelman have been found to have soil contaminated with elevated levels of arsenic, lead or copper. Phase I of this project, which is nearly completed, included EPA remedial investigation samples, an agreement with ASARCO, and 24" of soil removal and replacement of the 15 sites with the highest contamination. He showed aerial photos of Hayden and Winkelman identifying the houses that are contaminated, the houses that are no longer subject to any further action and those sites that show concentrations in the soil, but it has not yet been determined what action will be taken. Mr. Fulton then called on Marty Powell, On-Scene Coordinator with the United States EPA, who has been overseeing the removal action in the Hayden/Winkelman area. Mr. Powell stated that the 15 parcels identified should be completed with the soil removal and replacement at the end of this week. Upon returning from a break, the EPA will then initiate restoration activities to return these properties to their original condition as agreed upon with the residents before starting the project. Chairman Sanchez inquired how the investigation of this project was first initiated. Mr. Powell explained that there has been a long history with the ASARCO mine and the investigation could have been initiated by a health department, the Center for Disease Control or the Agency for Toxic Substances and Disease Registry as all of those organizations look at the health of a community and historic concerns; whereas, the EPA looks at the environmental condition today and what can be done to minimize future risks. Apparently based upon some sampling performed, followed by various programs both with the State and EPA, is what has brought the project to this point today. Supervisor Dawson inquired about why there is a concern over a high content of copper in the soil when the location is at a copper mining area.

Mr. Powell stated that he's not a toxicologist and could not speak to that issue directly, but he believed "it's too much of a good thing." Supervisor Dawson also questioned the reason only one side of Winkelman is identified as high contamination and if it was possible that someone had hauled in matter that could have caused the contamination in that area. Mr. Powell stated that was a possibility; however, in reviewing the analytical data from a big picture, it is clear that the elevated levels are closest to the sources such as the concentrator and stacks' wind direction. He stated that while there may be anomalies, ASARCO is not disputing the noted areas and is taking a big picture approach of remediating the community as a whole and not trying to dissect it piece by piece. In reviewing the map, Mr. Besich questioned of Mr. Powell if he could explain the reason this relatively small area in land size shows a checker board look whereby one parcel of land is marked as contaminated, but the parcels next to it aren't marked. Mr. Powell stated that in Phase I, letters were sent out and door-to-door efforts were made advising parcel owners that they could participate in the soil sampling; however, it was volunteer and only one-third of the owners granted permission. He further advised that in Hayden there were approximately 100 parcels sampled out of 300, thereby eliminating two-thirds of the community immediately. Mr. Powell advised that it is EPA's interest that they have 100% inclusion in the upcoming phase of this investigation and cleanup. As an engineer managing this project, Mr. Powell stated, "I find it frustrating and, even that said, we should be able to move from one property to another and make sense of the operation and certainly have it more efficient and less costly on this second phase." The 15 parcels that were identified were those containing the most elevated levels of contamination and the EPA felt it imperative that action be initiated promptly. Mr. Besich stated that his concern, and he believes the Board would concur, is that since the EPA is there in Hayden/Winkelman working on this project, he feels that the project should be completely done, rather than having the EPA leave and something else is found at a later time and the whole process is started over again with the possibility of listing it as a Superfund site. He inquired if that was a primary consideration of this remediation program. Mr. Powell stated that he doesn't believe that should be a large concern today. The remedial program is going to be the long-term study and will be an in-depth investigation on media other than soil and yards and including the air. Water and soil in yards have been completed. Supervisor Dawson inquired where the removed soil is being taken and where ASARCO is getting the new soil. Mr. Powell stated that the contaminated soil being removed is being placed on the ASARCO facility to be used as clean cover for its landfill. The new soil is coming from the ASARCO property known as the Robinson Ranch. Mr. Fulton then continued with his PowerPoint presentation stating that Phase I is coming to an end and it is everyone's intent that any further removals will be ongoing in a manner so there is minimal disruption to the communities. In Phase II, the EPA, ADEQ, the Department of Justice and ASARCO have signed a new Settlement Agreement for future environmental actions, which calls for the investigation and cleanup at ASARCO'S expense; short-term actions to replace soil in additional yards; long-term soil investigation and cleanup in both towns

and ASARCO property; and, air contamination investigation. The Settlement Agreement is binding to ASARCO through bankruptcy to a new buyer; cleanup of additional residences will be funded regardless of the bankruptcy outcome; violations of the Settlement Agreement will trigger penalties; and, there will be a community involvement plan. He briefed the Board on some of the short-term actions in Phase II. Mr. Fulton concluded his presentation by stating that the EPA and ADEQ cannot proceed immediately with additional cleanup and action until permission is received from the bankruptcy court to expend additional funds out of the estate. A motion is currently before the bankruptcy court, but during this waiting period the creditors to the ASARCO bankruptcy can submit comments with the comment period running through June 4, 2008. He passed out information to the Board on where comments may be submitted. Mr. Besich stated that within the next week the bankruptcy court is going to hear proposals from potential buyers of the ASARCO property. Each Board member thanked Messrs. Davidson, Fulton and Powell for their presentations. **(A copy of the complete presentation is available in the Board of Supervisors' Office.)**

**Item 3 – Information/Discussion/Action to authorize the advertisement of Request for Bids No. 020108-1 for the Old State Route 188 Reconstruction Project.**

Steve Stratton, Public Works Division Director, stated that this project is near the water treatment plant and it deals with a drainage problem that has caused problems with the water treatment plant and on the road. This particular contract work will correct the drainage problem and also straighten out the road. The Pinal Creek Group is a partner with the County on this project and will pay 50% of the total cost, which is just under \$450,000. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously authorized the advertisement of Request for Bids No. 020108-1.

**Item 4 – Information/Discussion/Action to authorize the advertisement of Request for Bids No. 050708-1 for the Gila County Fairgrounds Entrance Road Phase I and Gateway Enhancement Project, Globe, Arizona.**

Mr. Stratton stated that the County is bringing to fruition a lot of hard work and this is the culmination of 2 projects being brought together. One project is the traffic enhancement portion or the gateway and the other is the entrance road, which does not qualify for grant funds. Both projects will be bid as one project with one contractor to eliminate one contractor from holding up another, whereby the County could receive back charges. Grants will pay for \$310,000 of the project and the road portion is \$232,000 for a total project cost of \$542,000, which is based on the engineer's estimate. The County has taken into consideration the schedule of the Fairgrounds and is anticipating that the construction will commence the first part of July. Included in the contract are some very heavy liquidated damages of \$750/day if the contractor does not complete the project on time. Mr. Stratton then read a portion of a letter he

received from Bob Gasser, who is over the enhancement portion of the project. Upon motion by Supervisor Dawson, seconded by Chairman Sanchez, the Board unanimously authorized the advertisement of request for Bids No. 050708-1.

Mr. Besich requested that the Board skip agenda item 5 at this time and move on to agenda items 6 and 7 before returning back to agenda item 5, a scheduled executive session.

**Item 6 - CONSENT AGENDA ACTION ITEMS:**

- A. Approval of a Fireworks Display Application submitted by Fireworks Productions of Arizona on behalf of Globe High School to conduct a fireworks display at Globe High School during graduation ceremonies on May 22, 2008.**
- B. Approval of an Agreement for Election Operational Services between Gila County and the Town of Miami to provide election services to the Town for its May 20, 2008, Town Council runoff election.**
- C. Approval to revise Public Works Policy No. DPW05-04 – Fleet Policy in order to revise the Procedures, Scope of Services Available and Motor Pool Rental Rate sections of the Policy.**
- D. Approval of an Amendment to the 2007-2008 Energy Assistance Program Intake Agency Agreement between the Arizona Community Action Association Home Energy Assistance Fund and Gila County Community Action Program to provide \$2,600 of additional funds that will be used solely for the purposes of serving Tribal members living on the Gila County portion of the San Carlos Apache Reservation.**
- E. Approval of the May 6, 2008, BOS meeting minutes.**
- F. Approval of the April 2008 monthly departmental activity reports submitted by the Globe Regional Justice of the Peace and the Payson Regional Constable.**
- G. Approval of personnel reports/actions for the week of May 20, 2008.**

Departure from County Service:

- 1. Administrative Clerk Senior – Public Works/Facilities Management – 04-24-08 – Facilities Management Fund – Lynette Van Hassel - DOH 04-14-08 – Failure to complete probationary period

Hire to County Service:

- 2. Administrative Clerk – Health and Community Services/Emergency Management – 05-19-08 – Bio Terrorism Program Fund – Brenda Christene Kell

3. Deputy Attorney Principal – County Attorney – 05-12-08 – General Fund – Kirk Smith – Replaces Ramai Jarles Alvarez

Temporary Hire to County Service:

4. Accounting Clerk – Purchasing – 05-27-08 – General Fund – Andria Johnson

End Probationary Period:

5. Court Services Supervisor – Clerk of Superior Court – 05-12-08 – General Fund – Lana Dever
6. Records Clerk – Recorder – 05-26-08 – General Fund – Tambra Armenta

Position Review:

7. Reclassification – From Deputy Probation Officer 1 To Deputy Probation Officer 2 – Probation – Adult Intensive Probation Supervision Fund – 05-12-08 – Edward Reyes
8. Fund code change – HIV Case Manager – Health and Community Services – 05-05-08 – From HIV Consortium Fund (50%) – HIV Fund (50%) Fund – To HIV Consortium Fund (90%) – HIV Fund (10%) Malinda Williams

**H. Approval of a payment for services in the amount of \$404 to Fly-A-Way Travel.**

**I. Approval of the finance reports which lists disbursements that will be issued during the week of May 20, 2008. (separate handout)**

\$1,817,113.15 was disbursed for County expenses by check numbers 208443 through 208648. **(An itemized list of disbursements is permanently on file in the Board of Supervisors' Office.)**

Upon motion by Vice-Chairman Martin, seconded Chairman Sanchez, the Board approved Consent Agenda action items 6A-6I by a 2-0 vote. Supervisor Dawson abstained from voting because of a conflict of interest on item 6H.

**Item 7 - At any time during this meeting pursuant to A.R.S. §38-31.02(K), members of the Board of Supervisors and the Chief Administrator may present a brief summary of current events. No action may be taken on issues presented.**

Each Board member and Mr. Besich presented information on current events.

At this time the Board returned back to agenda item 5.

**Item 5 - Information/Discussion/Action to ~~approve a modification to the County Attorney's Office to consider Town of Star Valley v. Payson Water Company, County of Gila, et al, CV2008-155.~~ Pursuant to A.R.S. §38-431.03(A)(3) and (A)(4), the Board may vote to go into executive session to**

**receive legal advice from its attorney and to instruct its attorney regarding the Board's position on resolving the litigation.**

Chairman Sanchez advised that per a request from the Mr. Chambers, Chief Deputy County Attorney, the wording on this agenda item was changed with a portion of the sentence being struck in order for the item to make sense. (Note the stricken part of the agenda item above). Supervisor Dawson made the motion to go into executive session for legal advice. The motion was seconded by Vice-Chairman Martin and unanimously passed. Mr. Chambers requested that the motion be amended to include "that the Board may also give direction to its attorney in executive session as to how to proceed in the lawsuit, per ARS 38-431.03 (A)(3)." Supervisor Dawson amended her motion to include: "to receive legal advice from the County Attorney and to instruct the attorney regarding the Board's position on resolving the litigation." The amended motion was seconded by Vice-Chairman Martin and unanimously passed. The Board convened into Executive Session at 11:37 a.m.

At 11:56 a.m., Chairman Sanchez reconvened into the regular session.

Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously instructed the County Attorney to respond as directed with regard to the case of the Town of Star Valley v. Payson Water Company, County of Gila, et al, CV2008-155.

There being no further business to come before the Board of Supervisors, Chairman Sanchez adjourned the meeting at 11:57 a.m.

**APPROVED:**

  
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Jose M. Sanchez, Chairman

**ATTEST:**

  
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Steven L. Besich, County Manager/Clerk