

MINUTES, ZONING ENFORCEMENT BOARD OF APPEALS

NOVEMBER 18, 2008

The Pima County Zoning Enforcement Board of Appeals met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, November 18, 2008. Upon roll call, those present and absent were as follows:

All Present:               Richard Elías, Chairman  
                                  Ramón Valadez, Vice Chairman  
                                  Sharon Bronson, Member  
                                  Ray Carroll, Member  
                                  Ann Day, Member  
                                  Lori Godoshian, Clerk

1.     **LITIGATION**

The Board of Supervisors on 10/5/04, 11/2/04 and 11/21/06, continued the following:

Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P04ZV00151, 1 and 2, Debra Morrow. The Board may also during the course of the hearing and upon motion, enter into executive session.

Without objection, this item was continued to the Board of Supervisors' Meeting of May 19, 2009.

2.     **APPEAL OF HEARING OFFICER'S DECISION**

The Board of Supervisors on 10/5/04, 11/2/04 and 11/21/06, continued the following:

P04ZV00151 - 1 AND 2, Debra Morrow

In accordance with the Pima County Zoning Code Section 18.95.30.D, Debra Morrow appeals the decision of the Hearing Officer in Case Nos. P04ZV00151 - 1 and 2, regarding violations of Sections 18.19.010 and 19.18.020, business without a permit and Section 18.01.030.E, structures without permits, on property located at 2150 N. Rosser Road, Ajo, AZ. (District 3)

Without objection, this item was continued to the Board of Supervisors' Meeting of May 19, 2009.

3. **LITIGATION**

The Board of Supervisors' on 9/16/08, continued the following:

- A. Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P08ZV00186, Phillip and Paula Delaney. The Board may also during the course of the hearing and upon motion, enter into executive session.
- B. Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding the appeal of the decision of the Hearing Officer in Case No. P08ZV00250– 1 and 2, James Hessler. The Board may also during the course of the hearing and upon motion, enter into executive session.

The above items were informational only.

4. **RECONVENE**

The meeting reconvened at 10:00 a.m. All members were present.

5. **APPEAL OF HEARING OFFICER'S DECISION**

The Board of Supervisors on 9/16/08, continued the following:

P08ZV00186, Phillip and Paula Delaney

In accordance with the Pima County Code 18.95.030.D, Phillip and Paula Delaney appeal the decision of the Hearing Officer in Case No. P08ZV00186, regarding a violation of the Pima County Zoning Code Section 18.17.020, storage containers not a permitted use in SR zone, on property located at 11111 N. Shannon Rd. (District 1)

Rick Bruster, Land Use Unit Supervisor, stated a complaint was received regarding the presence of cargo containers which was confirmed by an initial inspection and citations were issued. A hearing was held in June 2008, and the Hearing Officer found in favor of Pima County. A fine of \$750.00 was imposed with \$50.00 due immediately and \$700.00 suspended for 30 days pending removal of the cargo containers. The decision was appealed on July 10, 2008. Staff recommended the Board uphold the Hearing Officer's decision.

David McEvoy, attorney representing Phillip and Paula Delaney, stated the containers are utilized as tack facilities which he felt was a permitted use under the applicable SR zone as an accessory use. The definition of an accessory use in the Zoning Code was a use customarily incidental and subordinate to the principal use of a lot or building located upon the same lot or building site. His clients currently have permitted horse corrals on the property and the containers are utilized as active tack facilities on a regular basis. The Chief Zoning Inspector referred to two cases at the hearing in which cargo containers were deemed not a permitted use but one of those cases specifically indicated the containers were used as storage sheds and/or fallout

shelters and the other case did not specify the use, but it was presumed they were utilized for storage purposes. His clients own the property, but they do not reside on the property as yet. It is their intention to build a home on the property and live there which would be done when they had the finances to do so. The containers are necessary to protect the integrity of the tack and protect it from vandalism and theft which a wooden building could not effectively do since this is a rural area and no one yet resides on the property. In addition, his clients intend to place a metal door on the front of the containers and install windows with security bars and within five years or less, they intend to construct their home and reside on the property. When his clients begin their residential use of the property, they intend to replace the current containers with a barn facility so the containers are a temporary situation.

Supervisor Day inquired whether the containers could be moved so that an adjacent neighbor does not have to look right at the containers when looking out the window.

Mr. McEvoy stated his client previously offered to move the containers and would agree to move them in addition to planting trees and other vegetation to shield the neighbors viewshed. The containers were not previously moved to prevent additional disturbance to vegetation, but they are willing to move them as a condition to retain their use for the protection of their tack.

Regina Nassen, Civil Deputy County Attorney, stated cargo containers were not a permitted use whether they were hidden or not, even as a temporary use.

Supervisor Day inquired whether they would be allowed to remain on the property if they were modified to resemble a Tuff Shed.

Tom Hudson, Zoning Administrator, stated it was the Chief Zoning Inspector's interpretation that cargo containers are not structures. The Zoning Code defined a structure as anything constructed or erected that required location on the ground or attachment to something on the ground. The containers are not structures, therefore, they would not be allowed under the Code which has been previously upheld in the past by the Board of Adjustment. He suggested that if the applicant wanted to have a temporary use, they should go to the Board of Adjustment and request a variance to keep the containers but even a temporary use would be limited to nine months.

Mr. McEvoy stated he was not present at the hearing but his partner indicated the appellant was given a choice regarding whether they wanted to go to the Board of Adjustment or come before the Board of Supervisors'. He felt the focus should be on whether the containers would be considered an accessory use and was incidental and subordinate to its principal use as an active tack facility. The appellant has agreed to place windows on the side of the unit with security bars and a metal door in the front so it does not look like a cargo container.

Arlan Colton, Planning Official, stated he felt this was a decision that should be made by the Board of Adjustment because if the Board decided to approve the appeal, it would set a precedent and cargo containers could be placed everywhere. There currently was no provision in the Code to allow for a five year temporary use.

Supervisor Day asked why the appellant came to the Board of Supervisors' rather than go to the Board of Adjustment.

Phillip Delaney, appellant, stated he was not at the hearing but his wife informed him that the choice was presented at the hearing to go before the Board of Supervisors' or to the Board of Adjustment. He stated mature trees and other landscape vegetation was intended to be used to shield the viewshed. He was willing to move the containers and would modify them so they would resemble a Tuff Shed but, if their use was not going to be allowed until he could construct his home, he was not willing to expend money to modify the containers.

Chairman Elías inquired whether the containers would be removed from the property once the home was constructed.

Mr. Delaney responded yes because it was also their intention to construct a barn facility with a tack room, but the barn would not be constructed until his home was built and he resided on the property.

Mr. Colton stated there were two ways to look at the Code which was changed in May and became effective in June. The cargo containers would remain cargo containers whether or not the proposed modifications were done because according to the Code, a cargo container was always considered to be a cargo container. The containers existed on the property prior to the change in the Code but, if the Board approved the appeal, that action would be saying these were not cargo containers but would be considered to be a structure.

Supervisor Day stated since the containers were already there they should be a grandfathered use.

The following speaker addressed the Board.

1. Clifford Nystrom

He provided the following comments:

- A. He was opposed to having the cargo containers remain on the property because they are not an allowed use; and,
- B. If the neighbors had known that this was not an allowed use when the cargo containers were originally placed on the property, they would have filed a complaint.

On consideration, it was moved by Supervisor Day, seconded by Chairman Elías to send the appeal to the Board of Adjustment for definition and interpretation. No vote was taken at this time.

Supervisor Carroll stated if the appeal was sent to the Board of Adjustment that was a guaranteed failure. This was a grandfathered use, and he did not mind reviewing this

matter on an annual basis to retain the temporary use. He did not believe they should be sent into a part of the decision making process that they were informed they did not have to participate in. The Board should allow for flexibility indicating that as long as the containers were going to be removed once their home was constructed, it would be appropriate to leave the containers on a temporary basis with the proposed modifications.

Chairman Elías stated he felt the advice proffered by Mr. Colton was appropriate and that the matter should be referred to the Board of Adjustment for definition and interpretation. He seconded the motion, and he supported the motion before the Board.

Mr. McEvoy stated the appellants were given the option to come to the Board of Supervisors' or go to the Board of Adjustment, and they chose to come to the Board which he felt was appropriate. The containers are an accessory use and they have agreed to plant trees, vegetation and to modify the containers so they do not look like cargo containers as a condition to keep them on the property. He did not believe that allowing the containers to remain on the property would set a precedent for the County as a whole but sending the appeal to the Board of Adjustment was a disservice to his clients since they have agreed to conditions to retain them.

Mr. Hudson pointed out that if the decision from the Board of Adjustment was appealed it would not come back to the Board but would go to Superior Court.

Supervisor Day withdrew her motion at this time. She said when the Board has dealt with cargo containers previously, they were usually eyesores because they were usually dilapidated with junk around them. These containers were very well kept and in good condition.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Carroll to close the hearing, deny the Hearing Officer's decision, waive the fine and allow the cargo containers to remain on the property with the conditions that the containers are moved in 30 days out of the neighbors viewshed, the containers are modified to look more like a shed, trees are planted until the property owners constructed and resided in their home on the property. A roll call vote was requested. Upon the roll call vote being taken, the motion carried by a 4-1 vote, Chairman Elías voting "Nay."

## 6. **APPEAL OF HEARING OFFICER'S DECISION**

### P08ZV00250– 1 and 2, James Hessler

In accordance with the Pima County Code 18.95.030.D, James Hessler appeals the decision of the Hearing Officer in Case No. P08ZV00250– 1 and 2, regarding violations of the Pima County Zoning Code Section 18.81.080.C1, failure to obtain a grading permit and Section 18.72.060.A1, removing native plants without an approved plant preservation plan, on property located at 231 N. Vail View Rd. (District 4)

Rick Bruster, Land Use Unit Supervisor, stated a complaint was received regarding grading that occurred on the property. An initial inspection took place on May 7, 2008, that confirmed there was grading in violation of the Code and a stop work order was issued. On May 9, 2008, citations were issued for failure to obtain a grading permit and moving native plants without a Native Plant Preservation Plan. On July 17, 2008, a hearing was held and the Hearing Officer found in favor of Pima County on both violations. An appeal was filed on August 1, 2008, with several continuances to this action. Staff recommended the Hearing Officer decision be upheld.

The following speakers addressed the Board:

1. Gerry Hessler
2. James Hessler

They provided the following comments:

- A. Attempts were made to obtain a grading permit but staff on the first floor of the Public Works Building informed him permits were not required if the grading area was under 14,000 square feet;
- B. The basement spoils were considered similar to septic or utility trenching spoils which would be moved off and moved back in as much as it could be and the remaining soil would be spread around;
- C. Discussions occurred with Fran Distillio, Grading Inspector, who was informed of the urgency to continue the project from a financial perspective and the need to continue before monsoon season;
- D. Mr. Distillio advised Mr. Hessler to provide a site plan proposal and, when it was presented, he was informed changes were required;
- E. The proposed changes were made at which time he was advised he needed to obtain approval from Flood Control and the Native Plant Preservation Program;
- F. There are no protected species or plants and at no point in time was Mr. Hessler ever advised there was an exception option and there was a discrepancy in the interpretation of what the spoils were;
- G. Miscommunication occurred regarding what was and was not required or expected; and,
- H. A pamphlet was provided that was not available on the counter nor was it offered once inquiries were made regarding grading requirements and those pamphlets are still not on the counter.

Supervisor Bronson asked why those pamphlets were not on the counters when inquiries were made regarding requirements and what remedy was expected.

Mr. Bruster responded he could not answer the question regarding pamphlets, but Mr. Hessler would need to submit a plan and go through normal channels.

Mr. Hessler stated he had already graded, but the citations and violations prevented him from completing his project. He stated he was willing to do whatever was necessary in order to complete his project.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the hearing, forgive the fine and give the appellant 90 days to February 17, 2009, to come into compliance.

7. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 3:12 p.m.

MINUTES, BOARD OF SUPERVISORS' MEETING

NOVEMBER 18, 2008

The Pima County Board of Supervisors met in regular session in its regular meeting place at Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, November 18, 2008. Upon roll call, those present and absent were as follows:

All Present:           Richard Elías, Chairman  
                              Ramón Valadez, Vice Chairman  
                              Sharon Bronson, Member  
                              Ray Carroll, Member  
                              Ann Day, Member  
                              Lori Godoshian, Clerk

1     **INVOCATION**

The invocation was given by Pastor Kevin Prahar of Park Avenue Christian Church.

2.    **PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

. . .   **EXECUTIVE SESSION**

On consideration, it was moved by Supervisor Valadez, seconded by Chairman Elías and unanimously carried by a 5-0 vote, that the Board convene to Executive Session at 9:25 a.m.

3.    **RECONVENE**

The meeting reconvened at 10:00 a.m. All members were present.

4.    **LITIGATION**

Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding T-Mobile v. Pima County, District Court Case No. 04:08-CV-00292-RCC.

Regina Nassen, Civil Deputy County Attorney, stated this was a proposed settlement in which T-Mobile claimed that Pima County violated the Federal Telecommunications Act by failing to approve a Conditional Use Permit for a cell antenna site located near Sandario Road and Picture Rocks Road. The Board may accept the settlement and direct that the Conditional Use Permit be placed on the December 2, 2008, agenda for approval, or direct the County Attorney's Office to proceed with settlement negotiations as discussed in executive session.

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and unanimously carried by a 5-0 vote, to direct the County Attorney's Office to proceed as discussed in executive session and, if appropriate, to place the item on the agenda for December 2, 2008.

5. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding a tax appeal settlement recommendation for Lin, et. al., v. Pima County, Tax Parcel No. 136-32-7210, Arizona Tax Court Case No. ST2008-000146.

Regina Nassen, Civil Deputy County Attorney, stated this was a proposed settlement for a valuation appeal for tax years 2008 and 2009. The proposed settlement would result in a decrease of the full cash value from \$386,958.00 to \$340,000.00 for tax year 2008, and the full cash value would decrease from \$368,125.00 to \$340,000.00 for tax year 2009. The Assessor and the County Attorney's Office recommended approval of the proposed settlement.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the recommendation.

6. **LITIGATION**

Pursuant to A.R.S. §38-431.03(A)(3) and (4), for legal advice and direction regarding a tax appeal settlement recommendation for the following matters:

Patel v. Pima County, Tax Parcel No. 114-66-0680, Arizona Tax Court Case No. ST2008-000197.

Regina Nassen, Civil Deputy County Attorney, stated this was a proposed settlement of a valuation appeal that would result in a decrease of the full cash value from \$238,637.00 to \$139,125.00 for tax year 2008. The Assessor and the County Attorney's Office recommended settlement.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the recommendation.

Singer, et. al. v. Pima County, Tax Parcel No. 114-04-6600, Arizona Tax Court Case No. ST2008-000206.

Regina Nassen, Civil Deputy County Attorney, stated this was a proposed settlement of a valuation appeal that would result in a decrease of the full cash value from \$432,973.00 to \$259,200.00 for tax year 2008. The Assessor and County Attorney's Office recommended approval.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the recommendation.

Wood, et. al. v. Pima County, Tax Parcel No. 219-28-004M, Arizona Tax Court Case No. ST2008-000186.

Regina Nassen, Civil Deputy County Attorney, stated this was a proposed settlement that would result in a decrease of the full cash value from \$300,000.00 to \$250,000.00 for tax year 2008 and from \$317,122.00 to \$250,000.00 for tax year 2009. The Assessor and County Attorney's Office recommended approval.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the recommendation.

**7. CONSENT CALENDAR**

The Chairman inquired whether anyone wished to be heard on any item listed for action on the Consent Calendar. No one appeared

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, that the Consent Calendar be approved as presented.

THE FOLLOWING WAS PULLED FOR DISCUSSION:

**1. CONTRACTS AND AWARDS**

**C. County Administrator**

8. Racy Associates, Inc., Amendment No. 1, to provide public lobbyist for State Legislative representation services and extend contract term to 12/1/10, Various Department Funds, contract amount \$140,000.00 (07-30-R-138848-1106)
9. Arthur A. Chapa, Amendment No. 1, to provide public lobbyist for State Legislative representation services and extend contract term to 12/1/10, Various Department Funds, contract amount \$105,000.00 (07-30-C-138849-1106)

Supervisor Carroll requested the lobbyists meet with the Elections Integrity Commission as soon as possible regarding proposed legislative recommendations important to Pima County.

**CONSENT CALENDAR ITEMS ARE AS FOLLOWS:**

**1. CONTRACTS AND AWARDS**

**A. Community Development and Neighborhood Conservation**

1. RESOLUTION NO. 2008-290, approving an Intergovernmental Agreement with the University of Arizona, Board of Regents, to

provide the Social Justice Education Project, CDBG Grant Fund, contract amount \$10,000.00 (01-70-A-141492-1008)

2. RESOLUTION NO. 2008-291, approving an Intergovernmental Agreement with the Drexel Heights Fire District, to provide the Family Safety Program in the Valencia West Target Area, CDBG Grant Fund, contract amount \$15,000.00 (01-70-D-141493-1008)
3. RESOLUTION NO. 2008-292, approving an Intergovernmental Agreement with the U.S. Environmental Protection Agency, to provide the Brownfields Assessment Cooperative Agreement to conduct community wide assessments at potential brownfields sites, Federal EPA Grant Fund, contract amount \$200,000.00 revenue (01-70-U-141498-0908)
4. RESOLUTION NO. 2008-293, approving an Intergovernmental Agreement with the Why Fire District, to provide for the purchase of Fire Safety Equipment for the Why Area, CDBG Grant Fund, contract amount \$10,000.00 (01-70-W-141527-1008)

**B. Community Services, Employment and Training**

5. SER-Jobs for Progress for Southern Arizona, Inc., Amendment No. 3, to provide basic education and English as a second language for adults, dislocated workers and youth and amend contractual language, WIA Grant Fund, contract amount \$219,213.00 (07-69-S-139738-0707)
6. Arizona Department of Housing, Amendment No. 1, to provide administration of an Eviction/Emergency and Homeless Housing Assistance Program and amend contractual language, Arizona Department of Housing Grant Fund, contract amount \$57,850.00 revenue (01-69-A-140968-0708)
7. SER Jobs For Progress, Inc., Amendment No. 1, to provide workforce development services to youth and adults for after school basic education and amend contractual language, WIA Grant Fund, contract amount \$15,172.00 decrease (07-69-S-141225-0808)

**C. County Administrator**

8. Racy Associates, Inc., Amendment No. 1 (PULLED FOR DISCUSSION)

9. Arthur A. Chapa, Amendment No. 1 (PULLED FOR DISCUSSION)

**D. County Attorney**

10. Demand Construction Services, Inc., to provide expert witness services in the matter of Seaboard Surety Company v. Pima County, et. al., RWRD Enterprise Fund, contract amount \$100,000.00 (31-02-D-141537-0708)

**E. Environmental Quality**

11. RESOLUTION NO. 2008-294, approving an Intergovernmental Agreement with the City of Tucson, to provide County recycling operations under the City of Tucson's Recycling Contract, Solid Waste Special Revenue Fund, contract amount determined by the service level (01-51-T-141515-1108)

**F. Health Department**

12. Cynthia Chillock, L.L.C., Amendment No. 5, to provide for Registered Dental Hygienist under the Dental Sealant Program, extend contract term to 12/31/09 and amend contractual language, Dental Sealant Grant Fund, contract amount \$15,000.00 (07-01-C-138436-0806)
13. Rincon Valley Fire District, Amendment No. 1, to provide for administering childhood immunization services and extend contract term to 11/12/09, no cost (01-01-R-140372-1107)

**G. Pima Health System**

14. University Physicians Healthcare, Amendment No. 10, to provide for hospital services, extend contract term to 4/30/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$16,000,000.00 (18-15-U-134476-0604)
15. Arizona Oral and Maxillofacial Surgeons, P.L.L.C., Amendment No. 5, to provide dental and oral surgery services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$300,000.00 (18-15-A-135072-1004)
16. Devon Gables Health Care Center, Amendment No. 5, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$12,000,000.00 (18-15-D-137015-1005)

17. Manor Care of Tucson, L.L.C., d.b.a. Manorcare Health Services (Tucson) No. 498, Amendment No. 6, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$3,000,000.00 (18-15-M-137016-1005)
18. Presidio Health Associates, L.L.C., d.b.a. Catalina Healthcare Center, Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$3,000,000.00 (18-15-P-137017-1005)
19. Life Care Centers of America, Inc., d.b.a. La Canada Care Center, Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$2,500,000.00 (18-15-L-137033-1005)
20. Kindred Nursing Centers West, L.L.C., d.b.a. Villa Campana Health Care Center, Amendment No. 7, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$4,500,000.00 (18-15-K-137034-1005)
21. Santa Rita Care Center, L.L.C., d.b.a. Santa Rita Nursing and Rehabilitation Center, Amendment No. 5, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,300,000.00 (18-15-S-137035-1005)
22. Kindred Nursing Centers West, L.L.C., d.b.a. Desert Life Rehabilitation and Care Center, Amendment No. 7, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$6,000,000.00 (18-15-K-137036-1005)
23. Life Care Centers of America, Inc., d.b.a. Mountain View Care Center, Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$2,500,000.00 (18-15-L-137037-1005)
24. Ensign Sabino, L.L.C., d.b.a. Sabino Canyon Rehabilitation and Care Center, Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$2,300,000.00 (18-15-E-137038-1005)

25. Villa Maria Care Center, L.L.C., Amendment No. 5, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,500,000.00 (18-15-V-137039-1005)
26. Life Care Centers of America, Inc., d.b.a. Life Care Center of Tucson, Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$3,000,000.00 (18-15-L-137040-1005)
27. SRCV-Rosa, L.L.C., d.b.a. Santa Rosa Care Center, Amendment No. 8, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$4,500,000.00 (18-15-S-137045-1005)
28. Kindred Nursing Centers West, L.L.C., d.b.a. Valley Health Care and Rehabilitation Center, Amendment No. 5, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$3,000,000.00 (18-15-K-137062-1005)
29. Handmaker Jewish Services for the Aging, Amendment No. 3, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,000,000.00 (18-15-H-137063-1005)
30. Avalon Care Center-Tucson, L.L.C., d.b.a. La Colina Health Care Center, Amendment No. 4, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$600,000.00 (18-15-A-137067-1005)
31. Park Waverly Healthcare, L.L.C., d.b.a. Waverly Park Health Care Center, Amendment No. 4, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$2,000,000.00 (18-15-P-~~437707~~ **137077**-1005)
32. Frank J. Laudonio, M.D., P.C., Amendment No. 2, to provide OB/GYN and family planning extension services, extend contract term to 11/30/09 and amend contractual language, PHCS Enterprise Fund, no cost (18-15-L-138977-1206)
33. Genesis OB/GYN, P.C., Amendment No. 3, to provide OB/GYN services and extend contract term to 11/30/09, PHCS Enterprise Fund, no cost (18-15-A-139253-1206)

34. SLO Ridgecrest, L.L.C., d.b.a. Ridgecrest Healthcare, Amendment No. 2, to provide nursing facility services, extend contract term to 10/31/09 and amend contractual language, PHCS Enterprise Fund, contract amount \$1,300,000.00 (18-15-S-139267-0307)
35. University Physicians Healthcare, to provide primary care physician, radiology, pathology/ laboratory, OB/GYN and specialty services, PHCS Enterprise Fund, contract amount \$10,000,000.00 (18-15-U-141533-1108)
36. SSI Group, Inc., to provide electronic data interchange services, PHCS Enterprise Fund, contract amount \$250,000.00 (07-15-S-141536-0708)

#### H. Procurement

37. Poster Frost Associates, Inc., Amendment No. 2, to provide professional planning services for the Historic Fort Lowell Park Master and Restoration Plan and amend scope of work, 2004 Bond Fund, contract amount \$11,500.00 (07-73-P-140842-0408) Public Works, Cultural Resources
38. Low Bid: Award of Contract, Requisition No. 0900598, in the amount of \$1,258,050.00 to the lowest responsive bidder, Sellers and Sons, Inc. (Headquarters: Avondale, AZ) for lighting improvements at the Pima County Sports Park Facility and Brandi Fenton Memorial Park. The contract is for a nine-month period and may be extended for project completion. Funding Source: 2004 General Obligation Bond Fund. Administering Department: Natural Resources, Parks and Recreation.
39. Award of Contract for Requisition No. 0803131 to EMA Inc. (Headquarters: St. Paul, MN), the highest-ranked respondent for the SCADA System Design, Programming and Integration Services for the Regional Optimization Master Plan. This agreement shall be awarded in Phases. Phase 1 is for a SCADA Master Plan for all PCRWRD treatment and conveyance assets, and SCADA system design, programming and implementation services for the Ina Road WRF Interim Biosolids Project in the amount of \$1,650,000.00. PCRWRD intends to amend this agreement for future phases of SCADA design, programming and implementation services associated with the Ina Road Upgrade and Expansion Project, the Water Reclamation Campus Project, the conveyance system, and all Sub-regional Treatment Facilities. All future phases are expected to be completed by August, 2014 and the total cost

for services provided under this agreement shall not exceed \$14,000,000. In the event a fee agreement cannot be reached with the highest ranked firm, request authorization to negotiate with the next highest ranked firms in the following order: Red Oak Consulting and CH2M Hill, Inc. Funding Source: 2004 Bond Fund, \$5,186.00; and SDF Funds, \$1,644,814.00. Administering Department: Regional Wastewater Reclamation.

I. **Sheriff**

40. RESOLUTION NO. 2008-295, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide a Subgrantee Agreement for administering the State Homeland Security Grant Program, Federal Grant Fund, contract amount \$194,000.00 revenue (01-11-A-141496-1008)
41. RESOLUTION NO. 2008-296, approving an Intergovernmental Agreement with the Arizona Department of Homeland Security, to provide a Subgrantee Agreement for administering the Law Enforcement Terrorism Prevention Program, Federal Grant Fund, contract amount \$424,800.00 revenue (01-11-A-141497-1008)

2. **BOARD OF SUPERVISORS**

Approval of the Board of Supervisors' Meeting Schedule for the period January through May, 2009.

3. **BOARDS, COMMISSIONS AND/OR COMMITTEES**

A. **Pima County, Arizona Municipal Property Corporation**

Reappointments of Bernardt Wm. Collins, Cecilia Cruz, Frank Y. Valenzuela, Stanley Lehman and Virginia L. Yrun. Term expirations: November 19, 2009. (Corporation recommendations)

B. **Tucson-Pima County Metropolitan Energy Commission**

Reappointments of Tina E. Cook, Erika Roush, Hyman Kaplan, Melissa M. Miller, Joel V. Wagner, Earl J. Jacobson, Farhad Moghimi and Richard J. Michal. Term expirations: 11/30/10. (Committee recommendations)

4. **SPECIAL EVENT LIQUOR LICENSES APPROVED PURSUANT TO RESOLUTION NO. 2002-273**

- A. Colleen George Walech, Casa de Esperanza, 780 S. Park Centre Avenue, Green Valley, ~~May 17, 2009~~ March 29, 2009.

- B. Kristine J. Howard, Ara Parseghian Medical Research Foundation, Westin La Paloma, 3660 E. Sunrise Drive, Tucson, April 17, 2009.
- C. Kristine J. Howard, Ara Parseghian Medical Research Foundation, Westin La Paloma, 3660 E. Sunrise Drive, Tucson, April 18, 2009.

**5. REAL PROPERTY**

**A. Right of Way Agreement**

Renewal of a right-of-way agreement from the Arizona State Land Department for access to a monitoring well on Rita Road in the amount of \$3,020.00, Special Revenue Fund, located in Section 3, T16S, R15E, G&SRM. (District 4)

**B. Abandonment and Quit Claim Deed**

- 1. RESOLUTION NO. 2008-297, of the Pima County Board of Supervisors, providing for the vacation and abandonment by exchange of a portion of Camino Aurelia, located between Houghton Road and Melpomene Way, in Section 25, T17S, R15E, G&SRM, Abandonment No. A-07-11. (District 4)
- 2. Quit Claim Deed to Fidelity National Title Agency, Inc., an Arizona Corporation as Trustee under Trust No. 60,238, for a portion of Camino Aurelia. No revenue. (District 4)

**6. TREASURER'S OFFICE**

**Annual Certification: Fill-The-Gap**

Staff requests approval of the annual certification, as directed by A.R.S. §41-2421, that the five (5) percent set-aside "Fill-the-Gap" Funds in the amount of \$995,464.20 be transferred to the Local Courts Assistance Fund for supplemental aid to the Superior Court and Justice Court for processing of criminal cases.

**REGULAR AGENDA/ADDENDUM ITEMS**

**8. BOARD OF SUPERVISORS**

Presentation by Bill Carnegie, Community Food Bank Chief Executive, updating food bank activities and related issues. (District 5)

Bill Carnegie, Community Food Bank Chief Executive, provided an update regarding the Community Food Bank. Due to the current economic trends, the need for increased distribution of food boxes to individuals and families has

increased and the food bank is faced with operation changes. Food boxes would be provided once a month that would affect the distribution of a second or third food box in one month to some individuals and families. The City of Tucson Parks and Recreation Department previously used their employees to distribute food boxes, but budget constraints forced the City to stop that practice and has led to a need for more volunteers. He stated that the Community Food Bank in partnership with United Way Food Stamp Outreach are working together to get those eligible individuals and families to apply for and use food stamps. The local food bank and every non-profit across the United States are having a hard time in providing basic needs to their communities.

Chairman Elías urged the public and other jurisdictions to do what they could to help the Community Food Bank either by volunteering or donating food.

9. **COUNTY ADMINISTRATOR: RECOMMENDED STATE LEGISLATIVE AGENDA FOR 2009**

RESOLUTION NO. 2008- 298 , of the Board of Supervisors, adopting a Pima County Legislative Program for 2009.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008-298.

10. **COUNTY ADMINISTRATOR: QUARTERLY MANAGEMENT REPORT ON COLLECTIONS**

Staff recommends the Board accept the Quarterly Management Report on Collections for the period ending June 30, 2008, and approve the write-off request in the amount of \$34,838.00.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to accept the Quarterly Management Report on Collections.

11. **COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION**

A. The Pima County Neighborhood Reinvestment Oversight Committee recommends approval of the following Neighborhood Reinvestment Project and authorization for staff to negotiate a future Intergovernmental Agreement:

<u>District</u>	<u>Neighborhood</u>	<u>Project</u>	<u>Estimated Budget</u>
2	Elvira	Street Lights	\$448,140.00

B. RESOLUTION NO. 2008- 299 , authorizing Pima County to support the application of the Educational Enrichment Foundation for a grant from the 12% local revenue sharing contribution of the Pascua Yaqui Tribe in the amount of \$61,000.00 to administer the Focus on the Future Scholarship Program.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to approve the above items.

**12. DIVISION OF ELECTIONS**

Pursuant to A.R.S. §16-642, canvass of the November 4, 2008 General Election, Tucson Unified School District No. 1, Flowing Wells School District No. 8, Catalina Foothills School District No. 16, Altar Valley School District No. 51, Empire School District No. 37 and the Sonoita/Elgin Fire District Election results.

Chuck Huckelberry, County Administrator, stated the canvass for the General Election of November 4, 2007, was in order and he requested the Board approve the canvass.

The following speakers addressed the Board:

1. Mickey Duniho
2. Benny White
3. Vince Rabago

The speakers provided the following comments:

- A. Improvement was still needed to be made to the election process, but a good working relationship was established between the parties and Pima County;
- B. Congratulations were extended to Pima County and all those involved for making the General Election process run smoothly; and,
- C. Congratulations were extended to the incumbent Board members who successfully regained their Board seats.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a 5-0 vote, to approve the canvass as presented.

(CLERK'S NOTE: See attached Election Summary Report.)

**13. FIRE DISTRICT: GREEN VALLEY FIRE DISTRICT**

Pursuant to A.R.S. §48-262.A.12, validation of the petitions presented from the Green Valley Fire District for the proposed Camino de la Canoa Annexation. (District 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the validation of petitions.

**14. TRANSPORTATION: ACCEPTANCE OF PROJECTS/ROADWAYS FOR MAINTENANCE**

- A. P1205-135, Riverside Crossing III, Lots 1-122 and Common Areas A-D. Developer: A. F. Sterling. (District 1)

- B. P1200-026, Offsite Improvements on Via Rancho del Lago, to serve Rancho del Lago, Station 91+16 to 139+38, Block 21-27 and 33. Developer: Vail Valley Joint Venture, an Arizona General Partnership, c/o The Estes Company. (District 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the above items.

**15. FRANCHISE/LICENSE/PERMIT: FIREWORKS PERMIT**

Alan Raso, Westward Look Resort, 245 E. Ina Road, Tucson, December 31, 2008 at midnight.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve the request.

**16. FRANCHISES/LICENSES/PERMITS: LIQUOR LICENSES**

- A. 08-36-8958, Purvi G. Patel, Beverage Corner, 6250 N. Oracle Road, Suite 132, Tucson, Series 9, Liquor Store License, Person Transfer.
- B. 08-37-8959, Purvi G. Patel, Beverage Corner, 6250 N. Oracle Road, Suite 132, Tucson, Series 7, Beer and Wine Bar License, On-sale Beer and Wine, Person Transfer.

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearings and approve the liquor license requests and forward the recommendations to the State Liquor Control Board.

**17. COUNTY ADMINISTRATOR: BOND ORDINANCE AMENDMENTS**

- A. ORDINANCE NO. 2008-106, of the Board of Supervisors of Pima County, Arizona, relating to the General Obligation and Sewer Revenue Bond Projects amending Ordinance No. 2004-18, Bond Implementation Plan, May 18, 2004 Special Election (as amended by Ordinance No. 2005-92, Ordinance No. 2006-21, Ordinance No. 2006-84, Ordinance No. 2007-33, Ordinance No. 2007-95 and Ordinance No. 2008-25) for the purpose of amending the scope of certain projects, amending implementation periods for certain bond projects, and authorizing the use of additional other funds to finance certain projects.
- B. ORDINANCE NO. 2008-107, of the Board of Supervisors of Pima County, Arizona, relating to the General Obligation and Sewer Revenue Bond

Projects amending Ordinance No. 1997-35, Bond Implementation Plan, May 20, 1997 Special Election (as amended by Ordinance No. 1998-58, Ordinance No. 2001-111, Ordinance No. 2004-15, Ordinance No. 2005-91, Ordinance No. 2006-19, Ordinance No. 2006-82, Ordinance No. 2007-32, Ordinance No. 2007-94 and Ordinance No. 2008-24) for the purpose of amending the scope of certain projects, amending implementation periods for certain bond projects, and authorizing the use of additional other funds to finance certain projects.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearings and adopt Ordinance Nos. 2008-106, and 107.

Supervisor Carroll requested a report that listed projects from 1997 through 2004 be provided to the Board for comparison year-to-year regarding performance, the original scope and the new scope if it was changed and the projected completion schedule.

**18. DEVELOPMENT SERVICES: SPECIFIC PLAN REZONING**

Co23-08-01, SOUTH KOLB ROAD SPECIFIC PLAN (FIRST AMENDMENT)

Request of Lucky Levin Railroad, L.L.C. and Valencia Kolb Properties, L.L.C., represented by The Planning Center, to rezone approximately 83.4 acres from RH (AE) (Rural Homestead, Airport Environs and Facilities), SR (AE) (Suburban Ranch, Airport Environs and Facilities), and CI-1 (Light Industrial/Warehousing Zone) to SP (AE) (Specific Plans, South Kolb Road Specific Plan-Co23-88-1, Airport Environs and Facilities), adopted as Ordinance No. 1988-182 and amended by Resolution No. 2006-331, located east of South Kolb Road and on the north and south sides of West Valencia Road. The request lies within and conforms to the Pima County Comprehensive Plan, Co7-00-20. The request site lies within the Pima County Comprehensive Plan Davis-Monthan Air Force Base Special Area Policies High Noise area (Noise Control District –NCD A, NCD B) and a portion of the site lies within the Pima County Comprehensive Plan Davis-Monthan Air Force Base Special Area Policies Approach-Departure Corridor 2 (ADC 2). On motion, the Planning and Zoning Commission voted 7-0 (Commissioners Poulos, Hewitt and Smith were absent) to recommend APPROVAL WITH REVISED CONDITIONS. Staff recommends APPROVAL WITH REVISED CONDITIONS. (District 4)

“IF THE DECISION IS MADE TO APPROVE THE SPECIFIC PLAN, THE FOLLOWING REQUIREMENTS SHOULD BE MADE CONDITIONS OF APPROVAL:

1. Not more than 60 days after the Board of Supervisors approves the Specific Plan, the owner(s)/developer(s) shall submit to the Planning Director the specific plan document, including any necessary revisions of the specific plan document reflecting the final actions of the Board of Supervisors, and the specific plan text and exhibits in an electronic format acceptable to the Planning Division.
2. Submittal of a development plan, or acceptable site development plan, if determined necessary by the appropriate County agencies.
3. Recording of a covenant holding Pima County harmless in the event of flooding.
4. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
5. Provision of development related assurances as required by the appropriate agencies.

6. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Department of Transportation, Real Property Division.
7. There shall be no subdividing or lot splitting without the written approval of the Board of Supervisors.
8. In the event of a conflict between two or more requirements in this specific plan, or conflicts between the requirements of this specific plan and another Pima County regulation not listed in Section 18.90.050B3, the more restrictive requirement shall apply.
9. This specific plan shall adhere to all applicable Pima County regulations that are not explicitly addressed within this specific plan. The specific plan's design guidelines shall be interpreted to implement the specific plan or relevant Pima County regulations.
10. Prior to the issuance of any permits, this specific plan amendment site is subject to the approval of ~~a Tentative Subdivision Block Plat and approval of the applicable one of two Final Subdivision Block Plats, the Subdivision Review Committee.~~
  - A. ~~Subdivision Block Plat:~~ The subdivision block plats shall ~~make all~~ reference all dedications (including roads, sewer, drainage, trails and open space), unless otherwise specified in a development agreement, and the plats shall identify all necessary improvements. Upon submittal of the block plats, the studies, reports, information required by these specific plan conditions and the specific plan document itself, shall be provided for review and approval of the applicable Pima County department or departments. Subsequent site development requires submittal of development plans/site development plans prepared in accordance with the subdivision block plats.
  - B. ~~Development Plans/Site Development Plans:~~ The plans shall identify all necessary improvements. Upon submittal of the development plans, the studies, reports, information required by these specific plan conditions and the specific plan document itself, shall be provided for review and approval of the applicable Pima County department or departments. Subsequent site development shall require amendment of the applicable development plan/site development plan.
11. No building permits shall be issued until all applicable specific plan requirements for or affecting the site are satisfied and the Planning Director issues a Certificate of Rezoning Compliance.
12. Regional Flood Control District requirements:
  - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. The property owner(s) shall obtain a Floodplain Use Permit for any development on the subject property.
  - C. A drainage study shall be submitted for review and approval, which addresses the impacts of development to the federally mapped floodplain and local area drainage.
  - D. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
  - E. All-weather access shall be provided to all lots to meet concurrency requirements.
  - F. A riparian mitigation plan shall be required for development in designated riparian areas.
  - G. The annual improvements implementation and maintenance report, is to be submitted to PCRFC. This report shall include information pertaining to the status of floodplain changes and improvements, riparian mitigation and maintenance.
13. Wastewater Reclamation Department requirements:
  - A. The owner/developer shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
  - B. The owner/developer shall obtain written documentation from the PCRWRD that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
  - C. The owner/developer must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal systems within the rezoning area allowing on-site sewage disposal systems at the time a tentative plat, development plan or request for building permit is submitted for review.
  - D. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.

- E. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
  - F. The owner/developer shall design and construct the off-site and on-site sewers to accommodate flow-through from any properties adjacent and up-gradient to the rezoning area that do not have adequate access to Pima County's public sewer system, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
  - G. The owner/developer shall also design and construct any necessary off-site sewers to accommodate the anticipated wastewater flow from any properties down-gradient from the rezoning area that can reasonably be served by those sewers, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
  - H. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
  - I. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
14. Department of Environmental Quality requirement: If on-site wastewater disposal is proposed, and public sewer is within 200 feet of the property line, a request for waiver of connection to public sewer requirements shall be made and must be approved prior to the issuance of the Construction Authorization Certificate.
15. Cultural Resources requirements:
- A. As documented in the cultural resources survey reports submitted by Westland Resources, Inc., proposed development in the Amendment area of 83.4 acres will have no impact on any known cultural resources; therefore, no mitigative actions are necessary. There are known cultural resources, however, located within the area defined in the existing South Kolb Road Specific Plan. Therefore, a cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted to Pima County at the time of, or prior to, the submittal of any tentative plan or development plan. Following rezoning approval, any subsequent development requiring a Type II grading permit will be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.
  - B. In the event that cultural resources are revealed during ground-disturbing activities, all construction shall cease, and consultation shall be initiated with ASM to assess the potential significance of any unearthed materials (ARS §41-841). If human skeletal remains or funerary objects are discovered, ASM will be contacted immediately (ARS §41-865 & §41-844).
16. In the event the subject property is annexed, the owner(s)/developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
17. The property owner shall execute and record the following disclaimer regarding Prop 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."
18. Adherence to the specific plan document as approved at the Board of Supervisor's public hearing.
19. Compliance with the Joint Land Use Study (JLUS) use restrictions and development standards as stated in the Pima County Comprehensive Plan Special Area Policies S-24, S-26, S-27 (Policies and Land Use Intensity Legend). For the purposes of this condition, "compatible uses" mean permitted uses. In the case of conflicting regulations, the most restrictive shall apply. Compliance with Ch. 18.57 is also required.
20. Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County

may enforce this rezoning condition against the current and any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.

21. Prior to the issuance of a certificate of occupancy for any structure taller than the maximum height allowed by the zoning code for the equivalent zone, the developer shall provide written certification to the Planning Director that the development has an active contract with an emergency services provider capable of providing adequate fire services for the subject structure."

Arlan Colton, Planning Official, stated approval of this request would add 83.4 acres onto the existing Specific Plan in the Airport Environs Overlay District. No residential land uses were proposed by the amendment so the request was consistent with the Specific Plan and airport constraints, the Comprehensive Plan designation of military airport and the policies of the Joint Land Use Study conducted for Davis-Monthan Air Force Base. The property lies outside the Conservation Lands System. Davis-Monthan Air Force Base reviewed the request and expressed their support for the rezoning that would include a limitation to the 62-foot building height covered in the Plan with the exception of the increased maximum building height proposed by the applicant with no variations from the standard Zoning Code requirements. The development standards are comparable to the existing Specific Plan. The Planning and Zoning Commission recommended modified approval of the Specific Plan subject to changes covered in the October 28, 2008, memorandum that dealt with a 62-foot maximum building height, the addition of Condition No. 21 that would revise Condition 10 and minor corrections and revisions to the Specific Plan document. In addition, Condition No. 20 which dealt with buffelgrass was revised by the Planning and Zoning Commission contained in a memorandum dated November 10, 2008. Staff and the Planning and Zoning Commission recommended approval subject to the proposed modifications.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve Co23-08-01 subject to revised conditions.

## 19. **DEVELOPMENT SERVICES: REZONING**

### Co9-08-07, CRISANTES INVESTMENTS, L.L.C. – ORACLE ROAD No. 2 REZONING

Request of Crisantes Investments, L.L.C., represented by Corrales Engineering, for a rezoning of 0.73 acres from GR-1 (GZ) (Rural Residential, Gateway Overlay Zone) to CB-2 (GZ) (General Business, Gateway Overlay Zone) on property located at the southeast corner of Oracle Road and Tortolita Street in Catalina. The proposed rezoning conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 6-0 (Commissioners Gungle, Membrilla, Smith and Matter were absent) to recommend APPROVAL TO CB-1 (GZ) WITH STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL TO CB-1 (GZ) WITH STANDARD AND SPECIAL CONDITIONS. (District 1)

"IF THE DECISION IS MADE TO APPROVE THE REZONING, THE FOLLOWING STANDARD AND SPECIAL REQUIREMENTS SHOULD BE CONSIDERED:

Completion of the following requirements within five years from the date the rezoning request is approved by the Board of Supervisors:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation conditions:
  - A. Written certification from Arizona Department of Transportation (ADOT), stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to approval of a Development Plan and Subdivision Plat.
  - B. The property owner(s)/developer(s) shall provide offsite improvements to Oracle Road as determined necessary by Arizona Department of Transportation and offsite improvements to Tortolita Road as determined necessary by Pima County Department of Transportation.
  - C. Shared vehicular access with the property to the south is recommended and shall be located towards Oracle Road frontage of the site.
  - D. Provide onsite vehicular and pedestrian circulation that meets staff approval during the Development Plan or Subdivision Plat review phase.
8. Environmental Quality condition:

The property owner must connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit. On-site wastewater disposal shall not be allowed.
9. Flood Control condition:

The property owner shall comply with detention/retention conditions and restrictions, or provide an in-lieu fee, as stated in the Floodplain Management Ordinance since the property lies within a balanced basin.
10. Wastewater Management conditions:
  - A. The owner(s)/developer(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner(s)/ developer(s) to that effect.
  - B. The owner(s)/developer(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner(s)/developer(s) shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the Pima County Wastewater Management Department.
  - C. The owner(s)/developer(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Wastewater Management Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
  - D. The owner(s)/developer(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, as determined necessary at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
  - E. The owner(s)/developer(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
11. The owner(s)/developer(s) shall execute and record a document acceptable to the Pima County Department of Community Services indicating that the owner/developer shall contribute to the affordable housing trust fund as adopted by the Pima County Board of Supervisors on December 13, 2005, before a certificate of compliance is issued.

12. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
13. The property owner shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."
14. Landscaping shall utilize drought tolerant native plant species which are compatible with native vegetation endemic to the project area. Under no circumstances shall the following plant species be planted anywhere on the site, and, if found, shall be removed from the site:
 

Ailanthus altissima	Tree of Heaven
Alhagi pseudalhagi	Camelthorn
Arundo donax	Giant reed
Brassica tournefortii	Sahara mustard
Bromus rubens	Red brome
Bromus tectorum	Cheatgrass
Centaurea melitensis	Malta starthistle
Centaurea solstitialis	Yellow starthistle
Cortaderia spp.	Pampas grass
Cynodon dactylon	Bermuda grass (excluding sod hybrid)
Digitaria spp.	Crabgrass
Elaeagnus angustifolia	Russian olive
Eragrostis spp.	Lovegrass (excluding E. intermedia, plains lovegrass)
Melinis repens	Natal grass
Mesembryanthemum spp.	Iceplant
Peganum harmala	African rue
Pennisetum ciliare	Buffelgrass
Pennisetum setaceum	Fountain grass
Rhus lancea	African sumac
Salsola spp.	Russian thistle
Schismus arabicus	Arabian grass
Schismus barbatus	Mediterranean grass
Sorghum halepense	Johnson grass
Tamarix spp.	Tamarisk
15. The developer(s)/owner(s) of the parcel will need to complete "An Application for Permit to Use State Right-of-Way" before commencing any work in ADOT right-of-way.
16. The owner(s)/developer(s) shall adhere to the preliminary development plan as approved at public hearing."

Tom Hudson, Zoning Administrator, stated concurrency requirements were met and the site lies outside the Conservation Lands System. Staff and the Planning and Zoning Commission recommended approval of CB-1 rather than CB-2 zoning based upon the fact that the original request contained a car wash use which would require CB-2 zoning. The car wash use was eliminated. Staff received no public comments and no one appeared at the Planning and Zoning Commission hearing.

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve Co9-08-07 for CB-1 zoning, Gateway Overlay Zone subject to standard and special conditions.

## 20. DEVELOPMENT SERVICES

### Rezoning Closure

A. Co9-03-05, BENCHMARK MORTGAGE FUND L.P., ET. AL. – IRVINGTON ROAD REZONING

Proposal to close a portion of a rezoning from SH (Suburban Homestead) to CB-1 (Local Business) of approximately 0.40 acres located on the west side of Mission Road, approximately 250 feet south of Irvington Road. The rezoning was approved in 2003 and expired in 2008. Staff recommends APPROVAL TO THE PROPOSED CLOSURE FOR A PORTION OF THE REZONING SITE. (District 5)

### Rezoning Time Extension

B. Co9-03-05, BENCHMARK MORTGAGE FUND L.P., ET. AL. – IRVINGTON ROAD REZONING

Request of Benchmark Mortgage LP, represented by Michael Marks of MJM Consulting, Inc., for a five-year time extension for a portion of a rezoning from SH (Suburban Homestead) to CB-1 (Local Business) of approximately 2.78 acres located on the southwest corner of Irvington and Mission Roads. The subject site was rezoned in 2003 and expired in 2008. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH ADDITIONAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS. (District 5)

"IF THE DECISION IS MADE TO APPROVE THE TIME EXTENSION, THE FOLLOWING ADDITIONAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS SHOULD BE CONSIDERED:

Completion of the following requirements by August 11, 2013.

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. Recording a covenant to the effect that there will be no further subdividing or lot splitting of residential lots without the written approval of the Board of Supervisors.
6. Prior to the preparation of development related covenants and any required dedication, a title report evidencing ownership of the property shall be submitted to the Development Services Department, Document Services Section.
7. Transportation conditions:
  - A. ~~A Traffic Impact Analysis (TIA) shall be provided by the property owner(s) for this rezoning for review and approval by the Department of Transportation, prior to the first development plan or tentative plat submittal. The results of the approved TIA shall be used to establish required transportation improvements to the area roadway system. The property owner(s) shall be responsible for construction of all required improvements.~~
  - B.A. Only One point of access shall be allowed on Mission Road which and shall be a common, shared driveway at the south property line require Department of Transportation approval.
  - C.B. ~~Two points of access shall be allowed on Irvington Road. One shall be a common, shared driveway at the west property line and the other shall require Department of Transportation approval.~~
  - D.C. The property owner(s) shall dedicate to Pima County tax code parcel 137-11-473B for Mission Road right-of-way. The property owner(s)/developer(s) shall construct, at no cost to Pima County, improvements on Irvington and Mission Roads as required by the Traffic Impact Study. These improvements may include, but not limited to, additional pavement for travel or turn lanes, sidewalks and, curbing.

8. Flood Control conditions:
  - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. The property owner(s) shall comply with the detention/retention conditions as stated in the Floodplain Management Ordinance.
  - C. The property owner(s) shall provide all necessary on-site and off-site drainage related improvements that are needed as a result of the proposed development of the subject property. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.
  - D. The property owner(s) shall contact the Flood Control District to determine whether a Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) may be applied for due to the impact of the federally mapped floodplain (FEMA) on the proposed development.
  - E. A riparian mitigation plan shall be required for development in designated riparian areas.
9. Regional Wastewater Management Reclamation conditions:
  - ~~A. The property owner(s) shall connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit. The connection to the sewer shall be made at a manhole.~~
  - A. The owner(s)/developer(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner(s)/developer(s) to that effect.
  - B. The owner(s)/developer(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner(s)/developer(s) shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at the owner(s)/developer(s) sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed PCRWRD.
  - C. The owner(s)/developer(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD. In its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
10. Cultural Resources and Historic Preservation condition:  
Prior to ground modifying activities, an on-the-ground archaeological and historic sites survey shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted at the time of, or prior to, the submittal of any tentative plat or development plan. All work shall be conducted by an archaeologist permitted by the Arizona State Museum, or a registered architect, as appropriate. Following rezoning approval, any subsequent development requiring a Type II grading permit will be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.
11. Environmental Quality condition:  
The property owner(s)/developer(s) shall connect to the public sewer system at the location and in the manner specified by Regional Wastewater Reclamation at the time of review of the tentative plat, development plan or request for building permit. On-site wastewater disposal shall not be allowed.
12. Environment Planning conditions:
  - A. On the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owner(s)/developer(s) of property within the rezoning site and Pima County may enforce this rezoning condition against any future property owner(s)/developers. Prior to issuance of the Certificate of Compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.
  - B. The site shall be inspected for the presence of Western burrowing owl by a qualified resource specialist. A report which contains survey results and dates shall be provided to Pima County immediately upon completion of the inspection. This report shall be received prior to approval of a development plan or tentative plat. If any Western burrowing owls are found to be present on the project site, a copy of the report shall be sent to the Arizona Game and Fish Department's Heritage Data Management System.

4413. Adherence to the preliminary development plan as approved at public hearing August 11, 2003. Retail and office uses shall be permitted. A maximum of one lot shall be permitted.
14. In the event the subject property is annexed, the owner(s)/developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
15. The property owner(s)/developer(s) shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, Chapter 8, Article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(l)."

Tom Hudson, Zoning Administrator, stated the first item was a proposal to close a portion of the rezoning request and a rezoning time extension for the remaining portion. The rezoning was conditionally approved August 11, 2003, as part of a larger site to allow retail and office uses. The owner of the south 20 feet or approximately .4 acres of the rezoning site does not wish to have the property considered for a time extension so staff recommended approval of the closure for that portion. The owners of the northern portion of the rezoning site consisting of approximately 2.78 acres requested a five year time extension and, if approved, the extension would create a new expiration date of August 11, 2013. In the request letter, the applicant cited the economic slowdown as the reason development has not taken place. Staff recommended approval of the time extension for the northern portion and closure of the southern .4 acre site. The site met all concurrency requirements including a small area of riparian habitat on the northwest corner that would require a mitigation plan for development. The applicant requested a modification of Condition No. 8E as follows:

8. Flood Control conditions:  
 E. A riparian mitigation plan shall be required for development in designated riparian areas, to the extent that is required by the Code.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve the rezoning closure for Co9-03-05 for the southern 20 feet or .4 acre portion of the rezoning.

It was thereupon moved by Chairman Elías, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve a five year rezoning time extension for the northern portion consisting of approximately 2.78 acres subject to modified standard and special conditions that would include the wording change to Condition No. 8E and a new closure date of .August 11, 2013.

**21. DEVELOPMENT SERVICES: COMPREHENSIVE PLAN AMENDMENT**

Co7-08-02, MONUMENT WEST ESTATES, L.L.C. - N. SANDARIO ROAD PLAN AMENDMENT

Request of Monument West Estates, L.L.C., represented by CPE Consultants, L.L.C., to amend the Pima County Comprehensive Plan from Resource Transition

(RT) to Medium Intensity Rural (MIR) for approximately 53.3 acres located at the southeast corner of N. Sandario Road and W. Orange Grove Road, in Section 10, T13S, R11E, in the Tucson Mountains/Avra Valley Subregion. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners Gungle and Membrilla were absent) to recommend MODIFIED APPROVAL SUBJECT TO REZONING POLICIES. Staff recommends MODIFIED APPROVAL SUBJECT TO A REZONING POLICY. (District 3)

“On motion, the Planning and Zoning Commission voted to recommend MODIFIED APPROVAL, subject to the following Rezoning Policies:

1. Notwithstanding the Resource Transition (RT) designation, a rezoning application to the Suburban Ranch Estate (SR-2) zone is allowed.
2. Compliance with the Conservation Lands System will be achieved with a minimum set-aside of 66⅔ percent natural undisturbed open space clearly delineated on the site plan and designed to create a continuous wildlife corridor.
3. A Master Drainage Report shall be submitted during the platting and/or development plan processes for the Flood Control District to identify local floodplains, 100-year water surface elevations, erosion hazard setbacks and to analyze detention/retention requirements and building envelopes, as well as the need for phasing and financing of on and off-site improvements, the maintenance and restoration of components of the wash system including riparian mitigation, and the use of low impact design drainage techniques.”

Sherry Ruther, Environmental Planning Manager, stated this was a request to amend approximately 53.3 acres from Resource Transition (RT) to Medium Intensity Rural (MIR) for property that lies within the Conservation Lands System. The Planning and Zoning Commission recommended modified approval to retain the Resource Transition and allow SR-2 zoning with rezoning policies that would address the nature of CLS, natural open space configuration and the requirement for the submittal of a Master Drainage Report. Staff also recommended modified approval with rezoning policies.

Supervisor Bronson inquired whether the staff recommendation and the Planning and Zoning Commission recommendations were identical.

Ms. Ruther responded they are identical in the sense that approval would retain the current land use designation as RT but allow SR-2 zoning. One individual addressed the Planning and Zoning Commission with no objection, three comment forms were submitted as opposed to the amendment and two comment forms and petition sheets representing 26 individuals and 24 areas properties were submitted in support.

Supervisor Bronson inquired whether the applicant concurred with the recommendations provided by the Planning and Zoning Commission. Ms. Ruther responded yes.

The Chairman inquired whether anyone wished to address the Board in opposition. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve Co7-08-02 with modified approval subject to rezoning policies.

## 22. DEVELOPMENT SERVICES: COMPREHENSIVE PLAN AMENDMENT

### Co7-08-03, SISTERS OF IMMACULATE HEART OF MARY - N. SABINO CANYON ROAD PLAN AMENDMENT

Request of Sisters of Immaculate Heart of Mary, represented by The Planning Center, to amend the Pima County Comprehensive Plan from Low Intensity Urban 0.5 (LIU-0.5) to Neighborhood Activity Center (NAC) for approximately 43 acres located on the east side of N. Sabino Canyon Road, approximately 1/4 mile north of E. River Road, in Section 29, T13S, R15E, in the Catalina Foothills Subregion. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners Gungle and Membrila were absent) to recommend MODIFIED APPROVAL. Staff recommends MODIFIED APPROVAL. (District 1)

"Staff recommends MODIFIED APPROVAL for Medium Intensity Urban (MIU), rather than Neighborhood Activity Center (NAC) as originally requested, for a Continuous Care Retirement Community subject to the following Rezoning Policies:

1. Use of the property is restricted to a Continuing Care Retirement Community (CCRC) only.
2. Along the north, west and south boundaries of the amendment site, new development shall be limited to single-story residential for the first 150'.
3. Inside of the 150-foot single-story residential setback described above, an internal project core is established. Notwithstanding the zoning districts and allowable residential density range allowed under the Medium Intensity Urban (MIU) land use intensity category, within the internal project core rezoning to CB-1 Local Business Zone, or establishment of similar commercial use and development standards within Specific Plan-defined land use categories, shall be deemed in conformance with the Comprehensive Plan.
4. Within the internal project core, commercial uses are further restricted to Continuing Care Residential Community accessory uses for the enjoyment of community residents and guests only.
5. Within the internal project core, CB-1 zoning or equivalent Specific Plan land use categories may allow maximum building heights up to 39 feet.
6. The Specific Plan process is preferred for implementation of this plan amendment.
7. Any rezoning or Specific Plan shall include the eastern portion of the property not included in the comprehensive plan amendment area, with conditions limiting additional development to protect cultural resources, steep slopes and viewsheds, and to preserve natural open space.
8. A letter of intent to serve from a water service provider shall be submitted as part of any subsequent rezoning application. If the letter of intent to serve is from a water service provider that does not have access to a renewable and potable water supply, the applicant will provide documentation as to why a water service provider with access to a renewable and potable water source is not able to provide service.
9. No person shall construe any action by Pima County as a commitment to provide sewer service to any new development within the plan amendment area until Pima County executes an agreement with the owner/developer to that effect. By accepting this plan amendment, the owner/developer acknowledges that adequate treatment and/or conveyance capacity in the downstream public sewerage system is not available to accommodate new development in the plan amendment area at the time of plan amendment approval, and new development within the plan amendment area will need to be postponed until adequate treatment and/or conveyance capacity becomes available."

Sherry Ruther, Environmental Planning Manager, stated this property lies outside the Conservation Lands System. The Planning and Zoning Commission and staff recommended modified approval subject to rezoning policies. Eight individuals addressed the Planning and Zoning Commission, and staff received approximately 48 written comments with most comments opposed to the Comprehensive Plan Amendment.

The following speakers addressed the Board:

1. Sister Alice Martinez
2. Michael J. Harris
3. Alma Harding

The speakers provided the following comments:

- A. Support was expressed to retain as much open space as possible and because the proposed use was conducive to the quiet serene and prayerful lifestyle of the convent;
- B. The proposed use would allow the Sisters to care for their elderly Sisters within the convent walls by making the convent age appropriate and allow them to remain on the convent grounds;
- C. Opposition was expressed due to concerns related to public safety, the lack of planning on infrastructure needs, a substantial increase of traffic on an already dangerous roadway, concerns about the ability of the wastewater system to handle increased waste and impacts to the medical emergency needs of the area; and,
- D. It was suggested that fair Impact Fees be imposed on the proposed project.

Supervisor Day stated the developer thus far had made approximately five revisions to accommodate the concerns of the adjacent neighborhoods and St. Albans Episcopal Church. The Sisters agreed not to place any buildings on the slopes or hills to protect the ridges as open space in perpetuity and the architecture would match the existing chapel and convent. A traffic study would be conducted related to increased traffic so attempts are being made to address the needs of the community.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson to approve the Comprehensive Plan Amendment for Co7-08-03 subject to modified approval and rezoning policies and that this plan be implemented through the Specific Plan and Development Plan process. No vote was taken at this time.

Chairman Elías commented there would be a Specific Plan hearing which would provide more details of the proposed project and it would be during this hearing process that concerns about traffic, building height, number of units, water and sewer issues would be addressed.

Upon the vote being taken, the motion carried unanimously by a 5-0 vote.

## 23. **DEVELOPMENT SERVICES: COMPREHENSIVE PLAN AMENDMENT**

### Co7-08-05, GOEKE – E. NOYES STREET PLAN AMENDMENT

Request of Jon and Karen Goeke, to amend the Pima County Comprehensive Plan from Low Intensity Rural (LIR) to Medium Intensity Rural (MIR) for approximately 5 acres located on the south side of E. Noyes Street, approximately 330 feet west of S. Langley Avenue, in Section 7, T17S, R15E, in the Rincon Southeast/Santa Rita Subregion. On motion, the Planning and Zoning Commission voted 4-2 (Commissioners Spendiarian and Randall voting NAY, Commissioners Gungle and Membrila were absent) to recommend MODIFIED APPROVAL WITH CONDITIONS. Staff recommends MODIFIED APPROVAL. (District 4)

"The rezoning policy as recommended by Staff and the Commission is as follows:

Notwithstanding the requirements of the Low Intensity Rural (LIR) land use intensity category, a rezoning to GR-1, for a total of three (3) lots on five (5) acres, would be deemed in conformance with the Comprehensive Plan."

Sherry Ruther, Environmental Planning Manager, stated this property lies outside the Conservation Lands System. Staff and the Planning and Zoning Commission recommended modified approval with a rezoning policy to retain the Low Intensity Rural designation and allow GR-1 rezoning with a maximum of three lots on five acres. No one addressed the Planning and Zoning Commission at the hearing, but staff received approximately 17 written comments with eight letters of support and nine with concerns primarily regarding dust and road conditions.

The following speaker addressed the Board:

1. Marigold Love

She provided the following comments:

- A. The chief concern was dust and roadway conditions;
- B. The Planning and Zoning Commission recommended all driveways and easements be paved or chipsealed to a paved roadway but this requirement would relieve only a portion of neighborhood problems and would place an unfair burden on the first neighbor who could potentially be prevented from rezoning a portion of their property; and,
- C. A challenge was made to Pima County to bring its expertise and creativity to bear on a more beneficial solution for the entire Avis Acres area.

On consideration, it was moved by Supervisor Carroll, seconded by Supervisor Day and unanimously carried by a 5-0 vote, to close the public hearing and approve with modified approval for Co7-08-05 subject to the rezoning policy.

#### 24. **DEVELOPMENT SERVICES: COMPREHENSIVE PLAN AMENDMENTS**

- A. Co7-08-06, TITLE GUARANTY AGENCY OF ARIZONA TR T-1312 - W. VALENCIA ROAD PLAN AMENDMENT  
Request of Title Guaranty Agency of Arizona TR T-1312, represented by Gordon T. Alley, III
- B. Co7-08-07, STATE OF ARIZONA - W. VALENCIA ROAD PLAN AMENDMENT  
Request of the State of Arizona, represented by Projects International
- C. Co7-08-10, TITLE SECURITY AGENCY OF ARIZONA TR 913 - W. VALENCIA ROAD PLAN AMENDMENT  
Request of Title Security Agency of Arizona, Trust 913, represented by The WLB Group, Inc.

Arlan Colton, Planning Official, stated these three cases are at or near the intersection of Valencia and South Wade Roads within the Southwest Infrastructure Plan area. Co7-08-06 is in from the southwest corner with existing commercial right at the corner located behind the commercial area with a request for a Community Activity Center (CAC) on 25.76 acres. Co7-08-07 is at the southeast corner and is part of a larger State of Arizona Land Department tract of land with the Comprehensive Plan Amendment requesting Neighborhood Activity Center (NAC). Co7-08-10 is at the northwest corner and is part of a larger development of residential further to the northwest and the Comprehensive Plan Amendment requested Neighborhood Activity Center. The Planning and Zoning Commission recommended denial of all three Comprehensive Plan Amendments indicating the requests are premature. Staff recommended approval of Co7-08-06 recognizing there was probably a need for one of the corners to entertain a commercial development but there was difficulty choosing which request to approve. Co7-08-06 was chosen because there was already a large piece of existing commercial at that corner, the property lies outside the Conservation Lands System, but the property does lie within the Southwest Infrastructure Plan area. There has been written communication and dialogue with Kitt Peak and the applicants and the requests are for three corners. Six members of the public addressed the Planning and Zoning Commission, staff received a total of eight written comments and a petition was received from 23 individuals and the Star Valley Homeowners Association for approval of the request for Co7-08-06, Title Guaranty Agency of Arizona TR T-1312.

The following speakers addressed the Board:

1. Elizabeth Alvarez, representing Kitt Peak National Observatory
2. Barbara Sosna
3. Diane Elliott.

They provided the following comments:

- A. Pima County has the only Federally-funded Research and Development Center in the State of Arizona;
- B. The observatory and other external sources of income brings in over 250 million dollars a year in economic return to the State of Arizona, most of it in Southern Arizona;
- C. The observatory requested that when Comprehensive Plan Amendments, rezonings or any type of development plans that will bring in more lighting be deferred until the Outdoor Lighting Code Committee has a chance to complete their work in February and comes back with a more directed plan for what would occur in these critical areas that might affect the observatory;
- D. Nearby residents concurred with the Planning and Zoning recommendation to continue these items to allow time for the developers to address water flow issues and the negative impact to wildlife, vegetation and neighborhood concerns;
- E. Well planned commercial development would improve home sales and values;
- F. Residents do not want to see a strip mall corridor like Oracle Road;

- G. One of the developers was abrasive and indicated if the desired amendment was not achieved that they would develop whatever the current zoning would allow.

Gordon T. Alley, III, representing Title Guaranty of Arizona TR T-1312, stated he did his best to present the facts to area residents as they relate to the rezoning that was currently in place. He valued the neighbors participation and comments but added it was not his position to construct apartments on the site. The Southwest Corridor was one of the fastest growing areas in Pima County leading to a need for goods and services by way of commercial development. He stated the general character of the area was high and medium density development so commercial development at Valencia and Wade Roads would create efficient planning for the region that may help reduce vehicular trips to further locations. There was a commitment for a grocery store at this location that would take over the majority of the CB-1 9.5 acre parcel, but there was a need for additional CB-1 zoning to satisfy some of the additional uses that would be required to support the store. He would like to see transitional mixed use development that would transition in high density commercial in the front and transition down to a medical office retail use in the rear. He envisioned an office park but there currently are no designs as yet. He talked with Ms. Alvarez of Kitt Peak who provided some innovative ideas, and he offered assurances he would do his best to eliminate the concerns of the neighbors as it related to lighting and the Dark Skies Ordinance. He went door-to-door in the Star Valley Community, explained the plans and obtained support from those who felt there was a need for such amenities.

Supervisor Bronson expressed appreciation for the work that went into the Comprehensive Plan Amendment process and the comments provided by Ms. Alvarez, but she did not see a need for two grocery stores in this area. In addition, she did not want to see this area become a strip mall corridor and felt the recommendations provided by the Planning and Zoning Commission were appropriate. She stated she would request these Comprehensive Plan Amendment requests be continued due to the merit and recommendation of the Planning and Zoning Commission to allow the applicants time to work with staff and area residents to come up with a better mixed use plan than what was presented. It was hoped that during this time the SWIP financing mechanism would be in place to deal with infrastructure improvements.

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and unanimously carried by a 5-0 vote, to continue the Comprehensive Plan Amendments for Co7-08-06, Co7-08-07 and Co7-08-10 to the Board of Supervisors' Meeting of March 10, 2009.

27. **DEVELOPMENT SERVICES: APPEAL OF HEARING ADMINISTRATOR'S DECISION**

P21-08-025, PC ROW – 6628 N. CALLE PADRE FELIPE

Without objection, this item was continued to the Board of Supervisors' Meeting of December 9, 2008.

28. **DEVELOPMENT SERVICES: APPEAL OF HEARING ADMINISTRATOR'S DECISION**

P21-08-044, PC ROW – 4798 N. PONTATOC ROAD

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to continue this item to the Board of Supervisors' Meeting of January 6, 2009.

29. **DEVELOPMENT SERVICES: CONDITIONAL USE PERMIT**

P21-08-058, THREE POINTS FIRE DISTRICT – W. CAMINO LUCIDO

Commscapes, applicant, on property located at 11777 W. Camino Lucido, in the RH zone, requests a Conditional Use Permit for a communication tower. Chapter 18.97, in accordance with Section 18.07.030.H.2.d of the Pima County Zoning Code, allows a communication tower as a Type III Conditional Use in the RH zone. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners Gungle and Membrila were absent) to recommend APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. The Hearing Administrator recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 3)

"It was therefore the recommendation of the Hearing Administrator that the Planning & Zoning Commission recommend APPROVAL of this Type III conditional use permit for a new **communications tower, together with a new on-the-ground equipment shelter** subject only to the following Standard Conditions:

1. Obtaining an approved Development Plan.
2. Adherence to all requirements of Section 18.07.030.H and Section 18.07.040.A.4 (General Regulations and Exceptions) of the Pima County Zoning Code."

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve P21-08-058, subject to standard and special conditions.

30. **DEVELOPMENT SERVICES: CONDITIONAL USE PERMIT**

P21-08-067, PIMA COUNTY – N. SHANNON ROAD

The Lyle Company, applicant, on property located at 7770 N. Shannon Rd., in the SR zone, requests a Conditional Use Permit for a communication tower. Chapter 18.97, in accordance with Section 18.07.030.H.2.d of the Pima County Zoning Code, allows a communication tower as a Type III Conditional Use in the SR zone. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners Gungle and Membrila were absent) to recommend APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. The Hearing Administrator recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 1)

"The Standard Conditions recommended by the Hearing Administrator, and affirmed by the Planning & Zoning Commission, are as follows:

1. Obtaining an approved Development Plan.

- 2 Adherence to all requirements of Section 18.07.030.H and Section 18.07.040.A.4 (General Regulations and Exceptions) of the Pima County Zoning Code.

The Special Conditions recommended by the Hearing Administrator, and affirmed by the Planning & Zoning Commission, are as follows:

1. The proposed monopole shall utilize the "palm tree" camouflage design as indicated in the applicant's submittal materials.
2. The decorative wall surrounding the monopole and equipment area shall be stucco'd and painted to match the existing nearby walls of the YMCA/County Community Center."

Jim Portner, Hearing Administrator, stated this was a request for a Conditional Use Permit for a communication tower and an on the ground equipment enclosure. The tower would be placed on Pima County owned property at the Northwest YMCA and the Pima County Community Center. The tower would be located at the southern end of the developed portion of the complex. The tower would be a 65-foot tall pole resembling a palm tree with an equipment enclosure at the south end of the complex in the same vicinity as the pole. No one addressed the Planning and Zoning Commission, but staff received phone calls from three individuals, two of whom voiced verbal opposition and one call was for information. The Planning and Zoning Commission and the Hearing Administrator recommended approval subject to standard and special conditions.

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and approve P21-08-067 subject to standard and special conditions.

### 31. **DEVELOPMENT SERVICES: PLAT NOTE WAIVER/MODIFICATION**

Co12-77-29, Green Valley Desert Hills No. 2 Subdivision Plat – Plat Note Modification for Lot 476 and Common Area C Cluster Development Option  
Request of Green Valley Desert Hills No. 2, Inc., represented by Gilbert and Norlane Moss

Without objection, this item was continued to the Board of Supervisors' Meeting of February 17, 2009.

### 32. **DEVELOPMENT SERVICES: REZONING ORDINANCES**

- A. ORDINANCE NO. 2008-108, Co9-07-32, Diagnault/ Tilley – Violet Avenue Rezoning. Owners: Daniel Diagnault and Scott Tilley. (District 3)
- B. ORDINANCE NO. 2008-109, Co9-08-03, Fidelity National Title Trust 30218 – Ventana Heights Place Rezoning. Owner: Fidelity National Title Trust 30218. (District 1)
- C. ORDINANCE NO. 2008-110, Co9-08-06, Beecroft – Noyes Street Easement Rezoning. Owners: Jay and Ann Beecroft. (District 4)

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearings and adopt Ordinance Nos. 2008-108, 109, and 110.

33. **DEVELOPMENT SERVICES: REZONING RESOLUTION**

RESOLUTION NO. 2008-300, Co9-92-26, Collins - Colossal Cave Road No. 2 Rezoning. Owner: Circle K Stores, Inc. (District 4)

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to close the public hearing and adopt Resolution No. 2008-300.

34. **DEVELOPMENT SERVICES: STREET NAME CHANGE**

Present

Proposed

Co14-08-005, Unnamed easement/  
access roadway. (District 1)

Cimarron Vista Court

The Chairman inquired whether anyone wished to be heard. No one appeared.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Valadez and unanimously carried by a 5-0 vote, to approve the street name change.

35. **TRANSPORTATION: ENVIRONMENTAL ASSESSMENT AND MITIGATION REPORT**

Staff recommends approval of the Environmental Assessment and Mitigation Report for the Sunrise Drive: Craycroft Road to Kolb Road Project.

The following speakers addressed the Board:

1. Hurd Baruch, member of the Citizen Advisory Committee (CAC)
2. Fred Ronstadt, Executive Director of Utility Contractors Association
3. Mike Lombardi, CAC member
4. Valerie Samoy

The speakers provided the following comments:

- A. Gratitude was expressed regarding the ease in dealing with County staff and individuals involved in the project;
- B. It was felt there was no need to build out the intersection at this time because there was not enough traffic to justify having an intersection with four lanes;

- C. Due to budget constraints, the local residents only asked for a sidewalk from that intersection to Ventana Vista Elementary School due to the dangers posed to children who walk to school in that area;
- D. Drainage issues would be addressed upon approval of the Environmental Assessment and Mitigation Report (EAMR), the street would be torn up anyway so why not go ahead and fix the intersection;
- E. A minority opinion was proffered with a request to postpone a decision on the EAMR due to a lack of sufficient funding;
- F. Support was expressed for approval because all the corners are commercially developed and it is dangerous pulling in or out of one corner to another and it is dangerous just crossing the road; and,
- G. There are many safety issues with this area which the proposed improvements would address.

Priscilla Cornelio, Transportation Director, stated this project was scaled back to fit the budget with the assistance of the Citizen Advisory Committee. A number of safety improvements were made on the roadway that currently operates at the “D” level of service with the performance of the roadway being graded from A to F. By making the proposed improvements the roadway would operate at “C” level for the next 20 years.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez and carried by a 3-1 vote, Chairman Elías voting “Nay” and Supervisor Bronson not present for the vote, to approve the above item.

**36. TRANSPORTATION: TRAFFIC ORDINANCE**

ORDINANCE NO. 2008- 111, of the Board of Supervisors, establishing prima facie reasonable speed limits on Los Reales Road in Pima County, Arizona. Staff recommends APPROVAL. (District Nos. 2, 3, 4 and 5)

On consideration, it was moved by Chairman Elías, seconded by Supervisor Valadez and carried by a 4-0 vote, Supervisor Bronson not present for the vote, to adopt Ordinance No. 2008- 111.

**37. COUNTY ADMINISTRATOR: CHICAGO WHITE SOX SPRING TRAINING CONTRACT**

Review and direction regarding the proposed amendment to the Chicago White Sox Spring Training contract.

Chuck Huckelberry, County Administrator, stated Pima County received a proposal from the Chicago White Sox to develop a youth tournament complex and a Major League Youth Academy at Kino Sports Complex in lieu of continuing to fulfill the terms of their spring training and Use Agreement and Contract. The proposal was forwarded to the Pima County Sports and Tourism Authority for their review and comments during which time they also conducted a public meeting. The original request and offer did not include a cash buyout for the remaining term of their three

year use agreement. A final cash buyout offer was made in the amount of five million dollars and based on conversations with the owner, he expressed his unwillingness to go above the five million dollar offer. In addition, a series of club covenants were agreed to that included a requirement that the White Sox through the year 2016, attempt to attract another spring training baseball team to relocate to the Kino facilities.

Mr. Huckelberry stated the Board has two options that included a 180 day option period to either accept the five million dollar cash offer or to accept the option associated with the Youth Sports and Training Facility. He stated this item was placed on the agenda for the Board to provide direction regarding how to proceed regarding which option to accept and, if the Board had modifications, those could be provided to staff so that the document can be finalized. The option chosen by the Board would be placed back on the Boards agenda for ratification.

The following speakers addressed the Board:

1. Frank Segers
2. Tom Tracy, Chairman of Pima County Sports and Tourism Authority
3. Joyce Schulte
4. Marty Flack
5. Ronney Haas
6. Michael Toney
7. Jim Tiggas

The speakers provided the following comments:

- A. It was hoped that the final settlement would include a combination of both a cash settlement and a youth program;
- B. The Sports Authority requested funding to make a professional pitch to several teams that could come to Tucson;
- C. The Sports Authority members with expertise in these particular areas reviewed the proposed settlement for alternate facilities, economic impact and various aspects of the proposal;
- D. A tournament quality baseball facility would probably generate enough economic impact to mitigate the White Sox departure;
- E. The proposal raised as many questions as it answered, particularly regarding the utilization of the facility, who would make decisions about who would use the facilities and when;
- F. The Sports Authority believed the cash offer was an excellent alternative, and it was suggested that the County take a portion of the cash settlement and allocate it to a tournament quality youth and amateur sports facility for which there is a desperate need;
- G. The facility could potentially attract youth and amateur teams from within and outside the State of Arizona that might allow the County to recoup the revenue lost with the departure of the White Sox;
- H. The White Sox departure would cause the County to break their contract with the Diamondbacks while the City of Tucson would break their lease with the Colorado Rockies; and,

- I. The Kino Facility could be utilized for amateur baseball in the form of Little League, baseball at the college level, pony, high school and senior traveling teams to national championships with the possibility of the placement of a hotel, restaurant and shopping development adjacent to the Kino Facility.

Supervisor Valadez inquired how did Pima County get to where they are today with the departure of the White Sox?

Mr. Huckelberry responded the City of Glendale built a two team spring training facility for the Los Angeles Dodgers for their relocation from Florida and offered the Chicago White Sox the opportunity to be the other team at the new facility. Pima County was at an economic disadvantage and could not compete with Maricopa County to retain the White Sox. In addition to the cash settlement offer, there were a series of negotiations with the White Sox, and club covenants were added to the agreement of which there are nine.

The first covenant (a) would require the White Sox to attract another spring training baseball team to relocate to the Kino facility through 2016 and this covenant is binding.

The second covenant (b) was a contractual obligation not to represent or encourage any other team to relocate to a location other than Tucson Electric Park.

The third covenant (c) would require the White Sox to use their best efforts to influence major league baseball to develop a youth tournament complex with the component of being a major league baseball brand associated with the youth league facilities.

The fourth covenant (d) would reaffirm the White Sox commitment to those obligations even though they leave this region through the term of the use agreement related to donated equipment and appearances associated with youth development activities.

The fifth covenant (e) would require the White Sox to play an exhibition game in Tucson with their identified players, meaning the players would not be minor league players and they are required to do this annually with the proceeds of that charity game going to youth non-profit events and disadvantaged youth programs.

In a memorandum dated November 18, 2008, four additional covenants were added and would be identified as f, g, h and i. The additional covenants are as follows:

- f. To the extent it has not done so already, the Club will make available to the Public Bodies, in reproducible form and at no cost to the Public Bodies, its design plans for the Operator Facilities to be operated as a youth baseball playing and instructional facility.
- g. To the extent authorized to do so, the Club has made and will make available to the Public Bodies, at no cost to the Public Bodies and to the extent that such documents are non-proprietary to parties other than the Club, all documents, studies and other written material in its possession pertaining to the Club's proposed development of a youth baseball playing and instructional facility at the Operator Facilities.

- h. In the event that the Public Bodies do not deliver an Election Notice, subject to any scheduling conflicts, the Club will make available to the Public Bodies, at no cost to the Public Bodies and at reasonably requested times, its head groundskeeper and other personnel involved in the design and development of playing fields for a youth baseball and instructional facility at the Complex to consult with, and provide advice to, the Public Bodies regarding the development of such a facility at the complex or other location.
- i. In the event that the Public Bodies do not deliver an Election Notice, the Club will consult with, and provide advice to, the Public Bodies regarding the operation of a youth baseball playing and instructional facility at the Complex or other location.”

He suggested that in front of each of the covenants there was a prepositional phrase that should be stricken to make the covenants read a little more direct.

Supervisor Day asked if Pima County takes the advice of the White Sox, would they have any control or anyone on the payroll regarding how the facility was operated?

Mr. Huckelberry responded he would recommend the option to remain in the agreement but also give notice that the County intended to exercise the option to take the cash offer. Acceptance of the cash offer would mean the White Sox have no say in the operation of the Kino facility.

Supervisor Valadez asked whether the recommendation to strike the prepositional phrase would eliminate the beginning phrase of each of the covenants.

Mr. Huckelberry responded yes.

Supervisor Valadez commented the reason this matter was before the Board was not because the White Sox were unhappy with Tucson Electric Park, but due to the fact that the City of Phoenix and the City of Glendale got together and used some amount of State revenues and made an offer that Pima County could not match. He expressed his gratitude to the Sports Authority and all the youth sports and organizations who took time, consideration and provided ideas, but Pima County has reached the point where a decision must be made. Pima County has enjoyed the White Sox stay and having them as part of the community, no one wants to see the White Sox leave.

On consideration, it was moved by Supervisor Valadez, seconded by Supervisor Bronson to accept the cash offer of a five million dollar buyout which would go to the Stadium District and retain 180 days internally to allow the Sports and Tourism Authority to investigate what can be done to attract additional teams and additional direction would be provided once the 180 days have expired. No vote was taken at this time.

Supervisor Carroll stated he would like to see a budget for the Sports and Tourism Authority regarding their request for \$500,000.00 over two years. That request was not part of the motion, but he requested that information. He expressed his gratitude to everyone who worked hard and gave their time to this effort.

Mr. Huckelberry suggested the document be finalized and brought back to the Board of Supervisors' for ratification on December 2, 2008. Once the document

comes back to the Board, he would make a formal recommendation to address all of the discussions.

Supervisor Valadez as the maker of the motion, and Supervisor Bronson as the second, amended their motion to include direction to the County Administrator to prepare his formal recommendations when the final document come back to the Board at their meeting of December 2, 2008. Upon the vote being taken, the motion carried unanimously by a 5-0 vote.

**38. COMMUNITY DEVELOPMENT AND NEIGHBORHOOD CONSERVATION**

RESOLUTION NO. 2008- 301, of the Board of Supervisors of Pima County, Arizona, amending the U. S. Department of Housing and Urban Development Annual Action Plan 2008-2009, to receive an additional \$3,086,867.00 through the Housing and Economic Recovery Act of 2008 (HERA), for the Neighborhood Stabilization Program.

On consideration, it was moved by Chairman Elías, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to adopt Resolution No. 2008- 301.

**39. CONTRACTS**

**A. Economic Development and Tourism**

1. RESOLUTION NO. 2008- 302, approving an Intergovernmental Agreement between the Cities of Tucson and South Tucson and the Towns of Marana and Sahuarita, to re-establish a Joint Enterprise Zone Commission, no cost (01-71-T-141569-1108)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day and carried by a 4-0 vote, Supervisor Carroll not present for the vote, to adopt Resolution No. 2008- 302.

**B. Facilities Management**

2. ThyssenKrupp Elevator Corporation, Amendment No. 1, to provide for modernization of elevators at 33 N. Stone Avenue and amend scope of work, 2007 Certificates of Participation Fund, contract amount \$282,479.00 (03-13-T-141342-0908)

**C. Transportation**

3. Regional Transportation Authority, Amendment No. 1, to provide for the design and construction of the I-19 Frontage Road: Canoa Road to Continental Road Project and amend contractual language, RTA Fund, contract amount \$2,782,200.00 revenue (01-04-R-139823-0807)

4. RESOLUTION NO. 2008-303, approving and authorizing an Intergovernmental Agreement with the Regional Transportation Authority, to provide for the design and construction of the Valencia Road: Alvernon Road to Kolb Road Project, RTA Fund, contract amount \$10,700,000.00 revenue (01-04-R-141572-1108)
5. RESOLUTION NO. 2008-304, approving and authorizing an Intergovernmental Agreement with the Regional Transportation Authority, to provide for the continuation of the Green Valley/Sahuarita Circulator and Regional Connector, RTA Fund, contract amount \$131,852.00 revenue (01-04-R-141573-0209)

On consideration, it was moved by Supervisor Bronson, seconded by Chairman Elías and unanimously carried by a 5-0 vote, to approve the contracts and adopt Resolution Nos. 2008-303 and 304.

40. **BOARDS, COMMISSIONS AND/OR COMMITTEES**

A. **Tucson-Pima County Bicycle Advisory Committee**

Ratification of University of Arizona representative: Reappointment of Charles J. Franz. Term expiration: 8/31/10. (Jurisdictional recommendation)

B. **Pima County/Tucson Women's Commission**

Appointment of Nubia Chacon to replace Felicia Granillo. Term expiration: 12/31/12. (District 2)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the reappointment and appointment.

41. **DEVELOPMENT SERVICES: ASSURANCE AGREEMENT**

P1201-035, Canoa Ranch, Blocks 1-5. (District 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the Assurance Agreement.

42. **DEVELOPMENT SERVICES: FINAL PLAT WITH ASSURANCES**

P1208-035, Century Park Research Center Phase II, Blocks 5-16, Parcels B1 and B2, and Common Areas A and C. (District 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the final plat with assurances.

43. **DEVELOPMENT SERVICES: FINAL PLAT WITHOUT ASSURANCES**

P1208-022, Green Valley Country Club Estates II, Lots 377-381 and Common Area A. (District 4)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the final plat without assurances.

44. **REAL PROPERTY: AMENDMENT TO THE CANOA RANCH DEVELOPMENT AGREEMENT**

Fairfield Canoa Ranch, L.L.C., Amendment No. 1, to extend the term of the Development Agreement to 3/22/2016 and approve a Declaration of Easements releasing exclusive easement rights on Block 1 and providing for a utility and access easement on Block 6.

Chuck Huckelberry, County Administrator, stated the submitted material was modified by staff and the County Attorney after review with the developer. Those modifications do not alter the intent or the necessary action.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to approve the amendment as modified by staff and the County Attorney.

45. **CALL TO THE PUBLIC**

The Chairman inquired whether anyone wished to be heard.

Dale Roose addressed the Board regarding the role of walkability in community planning in an urban County.

46. **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 3:12 p.m.