

OFFICE OF BOARD OF SUPERVISORS
YAVAPAI COUNTY, ARIZONA

Prescott, Arizona

October 25, 2000

The Board of Supervisors met in special session on October 25, 2000.

Present: Chip Davis, Chairman; Gheral Brownlow, Vice Chairman; John Olsen, Member; Bev Staddon, Clerk.

Also present: Planning & Zoning Commission members Jacquie Weedon, Linda Bitner, Lee Nelson, Helmut Woellmer, Tom Thurman and Al Wood; Planning & Building Department Director Mike Rozycki and Assistant Director Enalo Lockard; Planning & Building staff members Elise Link, Andy Jochums, Susan Bronson and Chris Bridges; Deputy County Attorney Randy Schurr; Board Attorney/Assistant County Administrator Dave Hunt; Regional Road Program Coordinator Phil Bourdon; and Flood Control District Director Ken Spedding.

ITEM NO. 1. Meet in Joint Session with the Yavapai County Planning & Zoning Commission. All items are for discussion only, unless otherwise noted.

1. Report on Planning & Building Department activities and projects. Mr. Rozycki briefly reviewed his department's activities since the last joint session meeting on May 24, 2000, saying that an amendment to the Planning & Zoning Ordinance prohibiting lodging in less than 30-day increments in residential zones had been approved. He said that a Citizen Participation Ordinance to meet the requirements of the Growing Smarter Act had also been adopted and that it appeared to be well-received, at least where larger projects are concerned. Mr. Rozycki said that 114 hearing applications had been received by his department so far in 2000, that there had been seven Ordinance amendments in the last year, and about six development agreements over the last four to five years. He said there had also been 14 administrative approvals of wireless communications facilities and that of the total of 19 wireless applications received, 17 had been approved and two had been denied. In response to a question from Chairman Davis regarding issues related to the Agua Fria National Monument, Mr. Rozycki said he had been asked to lead a team of County staff to help identify specific issues of concern prior to the Board's next meeting with the BLM on November 20, 2000. There was brief discussion regarding the amendment to the Ordinance prohibiting lodging in less than 30-day increments. Sedona area resident Doug Ayres said that all ordinances assume that people will abide by them, but that in this case people simply did not agree with it and were ignoring it. He explained that in his subdivision homes were being rented out on a nightly basis. Mr. Rozycki said there was a question as to whether the particular PAD zoned subdivision that Mr. Ayres was concerned about had a pre-existing use. He said understood that Mr. Ayres had drafted a new version of the ordinance that he felt was better and more enforceable than what the Board had approved. He said he would review the draft, discuss it with staff and then meet with Mr. Ayres to discuss it. He acknowledged that there were some questions related to the ordinance that needed to be worked through, one of which was whether the ordinance was as enforceable as it should be. Ms. Weedon said she had been in favor of allowing the CC&Rs in an area to take care of this type of activity rather than dealing with it by ordinance, and asked Mr. Ayres whether there was a homeowners' association in his subdivision. Mr. Ayres said there was, but that the association board refused to make any rules and that people needed the County's help. Mr. Rozycki continued that the permit departments had gone live with the automated permits, and that the number of appeals of the Director's decision to the Board of Adjustment & Appeals had dramatically increased with six or eight appeals this year.
2. Discussion regarding Citizens Growth Management Initiative, Growing Smarter Act of 1998, and Growing Smarter Plus 2000, and possible action regarding an official position on Proposition 100 and Proposition 202. Mr. Rozycki said that Proposition 100 would basically allow some state lands to be made available for open space without having to go through the auction process, while Proposition 202 dealt with growth management. He said that in some respects, Proposition 202 would compete with Growing Smarter and Growing Smarter Plus. Mr. Rozycki reviewed his analysis of the two propositions, which was dated October 10, 2000, and was provided as part of the Board's and Commission's back-up information. He said his department had received a number of calls from people wondering if they would have to pull a building permit prior to the November 7 election. He said he could find nothing in Proposition 202 that would prevent people from obtaining a building permit under the current zoning, but that an increase in density from current zoning would require a unanimous vote of the Board. He said there were many questions about what would actually happen if Proposition 202 is passed, but that one of the things that would happen immediately would be a change in the definition of "subdivision." Mr. Rozycki said that if the proposition passes, the definition of subdivision would mean the division of land into four or more parcels, or if a new street is involved, any property that is divided into two or more lots, whereas

the current definition of a subdivision is six or more lots. He said the initiative would also provide that the division of land into parcels of 160 acres or more would not constitute a subdivision, while currently this distinction is made at divisions of land into parcels of 36 acres or more. Mr. Thurman said that if the County did not enforce the provisions of Proposition 202, if passed, anyone would have the right to sue and require enforcement. Mr. Rozycki said the initiative would also prevent the County from issuing a building permit for any parcel in violation, and that currently the County does sometimes issue permits for parcels in violation of the current definition of subdivision. Mr. Schurr said that in the past the County has always looked at whether the applicant is innocent of involvement with the violation, but that if passed, Proposition 202 would not grant that flexibility. Supervisor Olsen said it did not seem to him that the provisions of the initiative would not be any more enforceable than what currently exists, but would require more staff to deal with more rules. In response to a question from Supervisor Brownlow regarding what was meant by a "vote of the locals", Mr. Rozycki said that Proposition 202 would require the adoption of urban growth boundaries that would have to be approved by the voters in each supervisorial district in the growth area as well as by the voters on a County-wide basis. Mr. Schurr said there were many ambiguities in Proposition 202, including opportunities for individuals with no direct interest in a project to file suit. He noted that in developing the urban growth boundaries, Department of Economic Security population figures would have to be used. In response to a question from Supervisor Brownlow regarding exceptions, Mr. Schurr said the initiative does refer to the ability of the Board of Supervisors to change density with a unanimous vote and to grant exceptions. Supervisor Brownlow asked if the initiative would affect the Planning & Zoning Commission. Mr. Schurr said it would not, and that the Commission would continue to act as an advisory board. Mr. Thurman asked if the County could take an official stand on Proposition 202 and then get the word out about that position. Mr. Schurr said that he and Mr. Hunt had discussed that possibility. He said there was a statute prohibiting the County from using resources, personnel, or the like to influence the outcome of an election. He said that as individuals, members of the Board and Commission had the right to express their opinions on political issues, but that as official bodies, they needed to be constrained with regarding to taking official action. Chairman Davis asked if the Governor's Office was bound by the same criteria. Mr. Schurr said he did not believe it was. Chairman Davis said he thought that Proposition 202 would affect incorporated areas to a far greater degree than it would the rural unincorporated areas because people would still be able to build on a two-acre parcel and put in a well and septic system. Mr. Rozycki said he agreed, but that there were other issues where the County would be affected. He said that with regard to zoning regulations, Proposition 202 would repeal the requirement that the County obtain the consent of the property owner prior to rezoning property. He said that in addition to adopting a Growth Management Plan, the County would still have to adopt a County General Plan. He said he believed that the incorporated areas would look to the County for regional growth planning with regard to urban growth boundaries. Mr. Rozycki said he believed there would also be considerable concern about the accuracy of DES population projections, and that DES at present projects that the County population would only increase by 24% or 37,177 people over the next ten years. Supervisor Olsen said the City of Prescott has a very tough annexation policy and that it was unlikely that the city's boundaries would change much. He asked how that would work with developed areas in the County that are adjacent to cities. He said he did not believe expansion would be as great as what some people had projected. Supervisor Olsen said that a recent Supreme Court decision stated that underground flows in streams are the same as surface flows, and that wells near streams cannot negatively affect flows in those streams. He asked where Cottonwood, Clarkdale, or Prescott Valley would get the water for expansion, saying he believed Salt River Project would challenge every development decision if it increases water use anywhere on the Verde watershed. He said he wondered what it would do to growth if the Verde River subflow was dependent on the Big Chino. He said he believed Proposition 202 was the worst way to legislate because it did not take into account the kinds of situations faced by rural areas. Supervisor Brownlow said he thought it would be impossible to get the County voters to approve a plan. Mr. Rozycki said that if property is not included in an urban growth area in January of 2003, the County cannot rezone it and cities, towns or other utility providers would not be allowed to extend water or other services to it. He said there was concern about property owners securing a vested right prior to approval of the growth plan. Mr. Schurr said that the way Proposition 202 is written, vested rights have to be based on court cases prior to 1998. He said that if a person pulled a building permit or received approval of a subdivision plat and in the process had spent a significant amount of money, the person would have a vested right. He said he believed there would be a greater push towards development agreements if Proposition 202 was approved. Supervisor Olsen said the initiative would also require developers to pay for infrastructure, and that for the most part the County was already requiring that. Mr. Schurr noted that the provisions of Proposition 202, if taken to extremes, would violate the Constitution. Mr.

Rozycki said there was still a December 31, 2001, deadline for submission of a County General Plan under the Growing Smarter Act, that the County General Plan would still be required under Proposition 202, but that there would be elements required in the plan that would not be required under Growing Smarter. Mr. Thurman said he thought voter approval of additional expansion under the initiative was unlikely because most people who move to the County do not want other people to come here. Mr. Schurr said that if Proposition 202 was approved, the interim rules would require a unanimous vote of the Board to change density, but that once the urban growth boundaries are set it would take a vote of the electorate to expand the boundaries and that this would likely be done at a general election. Chairman Davis said the Board had always hammered the table about lot splits and that he believed Proposition 202 attempted to give counties some tools to do something about them. He said the that the problem he saw with the initiative was that the times are changing and there are so many issues to deal with because of unbridled growth. He said he believed it would be unfortunate if the County got stuck with a law that would not allow it to use available technology to do what it needs to do in terms of planning for growth. He said the initiative had been designed as a "one size fits all" law, and that it was unfortunate. Supervisor Olsen asked how much things were likely to change between now and January of 2003. He said that DES would have to make a population projection and that he did not believe it would be possible for them to do that given the water limitations and the limited amount of private land in the County. He said he used to believe that there was enough water for everyone who wanted to come to the County, but that he had begun to change his mind. Supervisor Olsen noted that there are no limits on exempt wells and that exempt wells can take just as much water out of the ground as water system wells. Chairman Davis compared the initiative process to a union, saying that unions are formed because employees feel that management is not providing for them. He said that initiatives are offered because the voters feel their elected officials are not providing for them, and that it is very important that the Board and other elected bodies make the right decisions so that people don't feel they have to go to an initiative in order to force the right thing to happen. He said he believed that as long as the Board did a good job, people would be happy.

3. Discussion regarding the Verde Valley Regional Plan. Mr. Lockard gave a brief update on the efforts of 12 jurisdictions in the Verde Valley to develop a regional plan, saying there were many issues to resolve such as roads, transportation, housing, and so on. There was brief discussion regarding the Prescott College NASA program and the County's involvement in it, during which Chairman Davis said the program would enable the County to look at potential growth and to look at how policy changes might affect such growth. There was also brief discussion regarding reference to affordable housing in the Plan resolution, during which Supervisor Brownlow said what he saw happening was a lot of wealthy people coming to the County who want people to work for them for only \$7 to \$10 per hour and that there was a real lack of affordable housing. He said that people always protest higher density subdivisions, but that higher density may be the only way to provide affordable housing. Mr. Lockard said that the City of Cottonwood had worked to provide affordable housing but that it did not want to be known as the affordable housing capital of the world. Chairman Davis said there were federal incentives available for affordable housing, and that it had been established in the Verde Valley plan that affordable housing should be located within urban areas because of proximity to services. Mr. Rozycki agreed that the question of how to provide for affordable housing was a good one, saying what kind of development will be considered for the rural areas was something to determine.
4. Discussion regarding the evaluation of subdivision plans and steps that may be taken to encourage subdividing as an alternative to parcel splitting. Mr. Rozycki said he believed that people lot split instead of subdividing because there is little or no cost associated with it and because by lot splitting they are not subject to the whims of the Board of Supervisors or Planning & Zoning Commission. He said lot splitting was also faster than subdividing and that it was not subject to public scrutiny. He told those present that the County's subdivision rules are very complicated and costly and that he was interested in knowing if there was a way for certain kinds of subdivisions to move forward without having to comply with all of the current subdivision regulations. Mr. Rozycki said he did not anticipate ever seeing subdivisions with only ten lots, but that it was realistic to expect subdivisions of 25 to 50 lots. He said if the County was going to encourage subdividing, it may also need to look at increasing density. He asked how serious the County was about promoting subdividing as opposed to lot splits. Supervisor Brownlow noted that property owners in a lot split area off of Orme School Road were now talking about how the County should improve their road for them. Mr. Schurr said that lot splits were not inherently evil, but that he believed the County needed to be careful to not bend over backwards to give lot split areas road improvements. Mr. Rozycki said he agreed that not all parcel splitting was bad, and that some areas had done a pretty good job of it. He asked if there was a way to increase the standard for parcel splitting while softening some of the subdivision requirements to provide for different subdivision standards for a 20 to 25 lot subdivision than for a 1,000-acre project. Supervisor

Olsen suggested that full disclosure following each sale of a parcel split lot would be helpful. Chairman Davis said he thought parcel splitting was fine and that not everyone wanted to live on a paved road, but that if a person owned ten acres and wanted to subdivide it the County should try to make that easier. Mr. Rozycki said there were things like whether the County would require a water system or sewer system that could have a chilling effect on whether or not people come forward to subdivide. Chairman Davis suggested developing tiered criteria and addressing issues such as legal access, utilities, roads, and so on. He suggested requiring one set of standards for subdivisions of up to ten lots, another set of standards for subdivisions of ten to 25 lots, and so forth, saying the County should make it easier for people to subdivide but at the same time try to require things that make the end result better than lot splits. Mr. Woellmer said he always had a problem with dry lot subdivisions and that he did not like the idea of having a well and septic system on each lot. Ms. Weedon referred to Supervisor Brownlow's "Code of the Wild, Wild West", saying she thought it was excellent and should be provided to everyone thinking about purchasing property not in a subdivision. She suggested that if people want to do less than what the County would require there be a stipulation included that neither they, nor any future property owners, could come to the County at any time in the future and ask for County improvements. Sedona area resident Doug Ayres said he believed the problem was that buyers are unaware that lot splitting is the alternative to subdividing. There was general agreement that full disclosure on property sales was a good idea.

5. Discussion regarding a possible Zoning Ordinance amendment to clarify when use permits and/or variances are used to authorize a use or relax an Ordinance requirement. Mr. Rozycki briefly reviewed changes in how variances are handled, saying he would like direction on what the Board of Adjustment and Appeals should hear and when use permit questions would more appropriately be forwarded to the Planning & Zoning Commission and the Board. Chairman Davis said there had been a number of applications to the Board of Adjustment and Appeals with regard to livestock being kept on property not zoned for livestock, and that some members of the Board of Adjustment and Appeals felt that this is a land use issue and should be taken to the Commission. Mr. Rozycki said he believed things could be more clear, and that it should be clear in the Ordinance where these types of issues go. He suggested including that if it is a land use issue it requires a use permit. There was general agreement that Mr. Rozycki's idea was a good one.
6. Report and discussion on Planning & Zoning Commission study session held on September 6, 2000, possible Ordinance amendments regarding: There was discussion only on those items noted.
 - a. Fire department access standards for single-family residences/signing of private streets.
 - b. Discontinuance and change of non-conforming uses. Mr. Rozycki pointed out that the Ordinance currently refers to "abandonment" and that he would prefer to change it to "discontinuance" and to change the criteria for discontinuance of a non-conforming use from six months of discontinued use to 12 months. He said that in addition, he would like to have an amendment to provide that non-conforming uses not be changed from one use to another unless they comply with the current provisions of the Planning & Zoning Ordinance. There was general agreement that Mr. Rozycki should move forward with the proposed changes.
 - c. Self-storage facilities.
 - d. Temporary uses such as festivals. Mr. Rozycki said there are currently no provisions in the Ordinance for temporary uses such as festivals and that in most cases a person is required to go through the use permit process. He said that sometimes he allows a temporary use, but that he would rather have something in the Ordinance to address this issue and that he would likely model it after what Coconino County has done. There was general agreement that Mr. Rozycki's idea was a good one.
 - e. "Sea cargo" containers as an allowable accessory residential use. Mr. Rozycki said the Commission felt that this use should be allowed on a case-by-case basis. Mr. Woellmer and Chairman Davis agreed.
7. Set dates for 2001 Joint Session calendar and discussion of items for next joint session. The Board and Commission did not discuss this item.

ITEM NO. 2. Convene in executive session pursuant to A.R.S. §38-431.03(A)(3) for legal advice regarding County liability for flood damage and drainage project areas. Approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Olsen.

ITEM NO. 3. Consider approval of items appearing on the Consent Agenda and on the Consent Agenda for Special Districts. With the exception of item 1.d., all items were approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Olsen. No comments from the public. See Consent Agenda for detail.

CONSENT AGENDA FOR BOARD OF SUPERVISORS:

1. Ratify action taken at special meeting of October 18, 2000, to approve the following items:
 - a. Subleasing the 4-H Building from the Yavapai County Fair Association and directing staff to work on a sublease with Prescott Frontier Days for the building.
 - b. Approving purchase of land necessary for the widening and realignment of State Route 89A through the Prescott Valley area (half-cent sales tax project).
 - c. Approval of an On-Call Contract and Authorization of Services #0010115 with Professional Valuation Services in an amount not to exceed \$4,500 for Mingus Avenue Extension Partial Acquisition Appraisals (half-cent sales tax project).
 - d. Approval of a change in the Jail per-diem rate from \$64.50 to \$59.50, to be effective for fiscal years 2000-01, 2001-02, and 2002-03. This item was pulled at the request of Ms. Staddon, who said it should have been placed on the agenda for consideration by the Board of Directors of the Yavapai County Jail District. She said she would place it on the November 6, 2000, agenda.
2. Request from Victim Witness Program for permission to send Compensation Caseworker Deborah Hatchell to National Training Conference in San Francisco, California, November 1-5, 2000, at approximate cost of \$1,104.04 to be paid from Victim Witness Compensation Fund.
3. Requests from Public Works:
 - a. Award or reject bids for Various Turn Lane Projects in Yavapai County, Arizona. Bids opened October 24, 2000. (Backup to be provided at meeting of October 25, 2000. Half-cent sales tax project.
 - b. Approve purchase agreement and fees for property needed for the extension of Mingus Avenue, Cottonwood. Half-cent sales tax project.

CONSENT AGENDA FOR SPECIAL DISTRICTS: Reference: Prescott East Sanitary District minutes.

1. Resolve into the Board of Directors of Prescott East Sanitary District to approve assessment diagram, approve assessments, and set hearing on the assessment proceedings for November 20, 2000, at 2:00 p.m., in Prescott, Arizona.

There being no further business to discuss, the meeting was adjourned.

ATTEST:

_____ Clerk _____ Chairman