

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

Date: December 9, 2014

MICHAEL A. PASTOR
Chairman

MARIAN E. SHEPPARD
Clerk of the Board

TOMMIE C. MARTIN
Vice-Chairman

By: Marian Sheppard
Clerk of the Board

JOHN D. MARCANTI
Member

Gila County Courthouse
Globe, Arizona

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

COMMUNITY DEVELOPMENT DIVISION STAFF PRESENT: Bob Gould, Director; Scott Buzan, Chief Building Official; Jake Garrett, Environmental Engineering Manager; and Margie Chapman, Code Enforcement Supervisor (via ITV).

APPELLANT: David Wicks

Item 1 – CALL TO ORDER – PLEDGE OF ALLEGIANCE

The Gila County Board of Supervisors met in a special session at 10:00 a.m. this date in the Board of Supervisors' hearing room. Chairman Pastor called the meeting to order and asked Supervisor John Marcanti to lead the Pledge of Allegiance.

Item 2 - REGULAR AGENDA ITEMS:

A. Information/Discussion/Action to continue the Board of Supervisors' September 30, 2014, hearing to affirm, modify, or reverse the decision of the Gila County Hearing Officer regarding Community Development Division Complaint No. HCP1402-003.

Bob Gould, Community Development Division Director, advised the Board of Supervisors that an RV (recreational vehicle) is in use at the subject property as authorized by the Board of Supervisors during the Board's previous meeting regarding this case. A porta john is also temporarily located at the property, which was also authorized by the Board of Supervisors, and it is being emptied

and cleaned on a regular basis. Mr. Gould further advised that David Wicks, the appellant, has submitted the plans for the installation of a new septic system; however, he has not yet obtained his permit from the County because it was recently discovered that Arizona Public Service Company (APS) has an electrical line that runs through the intended path of the new septic system; therefore, the line needs to be relocated before the septic system can be installed. County staff has been advised that the line will be relocated by APS sometime between December 12th and 19th. Mr. Gould stated that if the Board of Supervisors chooses to continue this hearing to its January 6, 2015, meeting, he and his staff would not object.

Scott Buzan, Chief Building Official, advised that the APS line is a utility line that supplies power to the house next door to Mr. Wicks; it does not directly affect power to the subject property. An APS engineer will need to redesign the path of the electrical line and it will then be moved. The septic system may not be installed until the line has been moved. Jake Garrett, Environmental Engineering Manager, was assured by an APS representative that moving this electrical line would be a top priority for APS. Mr. Wicks, the Board and Community Development Division staff entered into a brief discussion regarding the details for moving the APS line. If the Board of Supervisors continues this agenda item to its January 6th meeting, Vice-Chairman Martin questioned if that would be ample time for Mr. Wicks to complete the installation of the new septic system. She also expressed a concern that a deadline for completion needs to be established by the Board so the Board can take a final action on the issues related to this case. Mr. Gould advised that he and Mr. Wicks discussed a timeline for completion of the septic system installation since the APS line issue was discovered. At that time, Mr. Gould advised Mr. Wicks that he was not agreeable to an extension of more than 4 weeks.

Margie Chapman, Code Enforcement Supervisor, advised that it is her understanding that Mr. Wicks needs to obtain a power of attorney form signed by Kelly Mahaffey, who owns the subject property, which needs to be submitted to the County in order for him to sign any County-required paperwork regarding this issue. The power of attorney form has not yet been submitted to the County; therefore, she stated that Mr. Wicks will not be able to sign the required paperwork. Mr. Garrett advised that on November 18, 2014, Barbara Mahaffey conveyed the subject property by quit claim deed to her daughter, Kelly Mahaffey, who lives with Mr. Wicks. Mr. Wicks has been given the papers for Kelly Mahaffey to sign or he is to have her sign a power of attorney, so that he can sign the required paperwork. Mr. Garrett advised that Mr. Wicks has not yet submitted to the County a power of attorney by Kelly Mahaffey or any paperwork that has been signed by Kelly Mahaffey. Mr. Wicks replied that Arizona recognizes "common law" relationships and he has been living with Ms. Mahaffey for 16 years. Mr. Wicks then advised that he has Ms. Mahaffey's signature on a paper which authorizes him to sign any documents on her

behalf. Vice-Chairman Martin advised that Ms. Mahaffey either needs to come into the County office to sign the documents or sign a document in the presence of a notary public which gives Mr. Wicks power of attorney to sign any documents on behalf of Ms. Mahaffey. Chairman Pastor asked Travis Shields, Deputy County Attorney, to comment. Mr. Shields stated that he would like Ms. Mahaffey to be present for any type of documents that require her signature or any documents that require Ms. Mahaffey to attest that she is the owner of the subject property. He stated that if Ms. Mahaffey submits a signed power of attorney, it also must contain the signature of a notary public. Supervisor Marcanti acknowledged that this case needs to be continued by the Board of Supervisors in order to allow APS to move its electrical line. He commended the Community Development Division staff on their efforts to “stay on top” of the issues.

Chairman Pastor inquired whether or not Mr. Wicks has submitted the plans for the septic system to the County. Mr. Garrett replied that County staff reviewed the plans but he does not consider them as being submitted until the fee is also submitted with the plans, which has not yet been done. He reiterated that the County would only accept the plans at the time the fee has been paid. Mr. Garrett also advised that the plans were prepared by a professional engineer.

Mr. Wicks advised that Kelly Mahaffey’s house was built first; however, her brother decided to place the septic system that provided service to both his house and Ms. Mahaffey’s house on his side of the property. As a result of that situation, Mr. Wicks stated that there should have been a “grandfather” clause in place which would have prohibited Ms. Mahaffey’s brother from capping the septic system to the house that is occupied by Ms. Mahaffey and Mr. Wicks. Chairman Pastor advised Mr. Wicks that he need not continue talking about “what should have been done” because that information had been presented to the Board at the previous hearing. Mr. Wicks proceeded to comment that he and Ms. Mahaffey did not cause the current situation; it was Ms. Mahaffey’s brother that created it; therefore, the County should have assessed any fines to Ms. Mahaffey’s brother. Chairman Pastor advised that should the Board proceed to grant Mr. Wicks an additional 4 weeks to install the septic system, which includes being officially approved by the County, and if the system has not been installed and approved by that time, Mr. Wicks will owe the fines and the County will take measures to vacate Mr. Wicks from the property. Chairman Pastor emphasized that he will only agree to an extension of an additional 4 weeks. He then asked for a motion from the Board on this agenda item. Vice-Chairman Martin also agreed that 4 weeks was a sufficient amount of time for the extension as long as APS completes the line relocation by no later than their committed date of December 19th. She also mentioned that the Board may want to consider adding additional time to the four-week extension period if there are issues related to bad weather which affect the installation of the septic system. Mr. Shields advised that it would be wise for

the motion to include a statement that the 4-week deadline is contingent on APS relocating the electric line by no later than December 19th.

Svanhildur (Svanna) Jafetsdottir, Community Development Division Environmental Engineering Specialist, asked for clarification on getting the permit issued. She stated that Mr. Wicks will be installing the system versus using a professional contractor, which will take longer. In order to provide Mr. Wicks as much time as possible to install the septic system, she would like to see that the permit gets issued by Friday, December 12th. If the permit is issued at that time and APS completes its line relocation, then Mr. Wicks only needs to focus on the installation.

Mr. Garrett anticipates Mr. Wicks submitting the plans and the required fees to the County by no later than noon on December 10th. The next step in the process would be for County staff to review the plans and Mr. Garrett anticipates the County permit could be issued to Mr. Wicks no later than Thursday afternoon (December 11th) or Friday morning (December 12th) at the latest, providing that the plans are complete and correct. Mr. Garrett also suggested that the Board's motion include an extension of time past the 4 weeks if APS has not completed its line relocation by December 19th and additional time if there are weather-related issues that delay the installation of the septic system because there have been moisture problems on the subject property. After the septic system has been installed, Mr. Garrett advised that the County would then need to issue a discharge authorization, which gives Mr. Wicks the authority to use the newly installed septic system.

Ms. Jafetsdottir advised that she also has reviewed the plans and she has spoken with the engineer. If Mr. Wicks wants to move the lines a little or move the tank a little, Ms. Jafetsdottir stated that would be agreeable to the engineer; however, she wanted it noted in the official record of this meeting that "the way the trenches are built and the way everything is installed - that cannot be changed." Mr. Garrett added that if locations are moved (for the lines or tank), there are two items that require submitting money to the County, which would be the as-built drawings and a water tightness test on the tank of which Mr. Wicks would be responsible to have a contractor perform that test.

Mr. Wicks advised that he talked with Mr. Garrett and there may be a possibility that Ms. Jafetsdottir would be able to perform the water tightness test, which could be verified by the County; thereby, it would reduce Mr. Wicks' expenses. Vice-Chairman Martin was not comfortable with having the water tightness test performed in-house because that is not done for others. Mr. Garrett added that he also mentioned to Mr. Wicks that would be a decision of Mr. Gould and the Board of Supervisors.

Don McDaniel, County Manager, offered the following motion: "I think, put simply, that the Board would want to continue this item for four weeks from this Friday, December 12th, subject to APS completing, by December 19th, the relocation of the electrical line and that any days beyond the 19th that APS takes to complete the relocation would be added to the four-week continuance regardless of where that 4 weeks ends. Rather than to a date certain; it would be four weeks from December 12th and any days that APS adds to that would be added to that deadline." Vice-Chairman Martin suggested that the motion should also address an extension for any weather-related issues to which Mr. McDaniel replied that the weather is an unknown, and at this time it is also unknown if APS will meet the December 19th deadline. If any unforeseen delays did occur, Mr. McDaniel advised that would cause the Board to consider a different action at that time.

Complete Motion as Approved: Upon motion by Vice-Chairman Martin, seconded by Supervisor Marcanti, the Board unanimously continued the Board's consideration of the appeal of the Hearing Officer's decision in the matter of Community Development Division Complaint No. HCP1402-003 for four weeks from Friday, December 12, 2014, subject to Arizona Public Service (APS) completing the power line relocation on the subject property by December 19, 2014, and further that any days beyond the 19th that are required by APS to complete the relocation will be added to the four-week continuance deadline for the appellant. The four weeks begins on Friday, December 12, 2014, and ends on Friday, January 9, 2015, at 5:00 p.m. unless extended by the number of days required by APS to relocate the electrical line.

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

There were no comments from the public.

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

Each Board member and the County Manager provided brief comments on current events.

There being no further business to come before the Board of Supervisors,
Chairman Pastor adjourned the meeting at 10:42 a.m.

APPROVED:

Michael A. Pastor, Chairman

ATTEST:

Marian Sheppard, Clerk of the Board