



JOINT SESSION MEETING MINUTES

COUNTY BOARD OF SUPERVISORS
TOWN OF THATCHER
TOWN OF PIMA
CITY OF SAFFORD

Friday, January 25, 2019 at 8:00 a.m.

SAFFORD LIBRARY PROGRAM ROOM • 808 S. 7TH AVE SAFFORD, ARIZONA

1. Mayor Kouts called the meeting to order at 8 a.m.. He welcomed everyone from the communities of the Town of Thatcher, Town of Pima, and Graham County.

ROLL CALL: A quorum of the Council was present.

COUNCIL PRESENT: Jason Kouts, Mayor; Richard Ortega, Vice Mayor; Councilmembers' Gene Seale, Arnold Lopez, Steve McGaughey and Michael Andazola.

COUNCIL ABSENT: Chris Taylor

STAFF PRESENT: Horatio Skeete, City Manager; Joe Brugman, Police Chief; Lance Henrie, Public Works Director/Assistant City Engineer; Leslie Norton, Human Resources Officer; Alma Flores, Finance Officer; Victoria Silva, Library Director; Georgia Luster, City Clerk; Sam Napier, I.T. Officer; Dan Braatz, Electric Division Supervisor; Raymond Osornio, Gas Division Supervisor; and Morgan Seale, Wastewater Division Supervisor.

OTHERS PRESENT: Jenny Howard, Sam Daley, Justin Layton, Sean Lewis, Debra Barr, Sherill Teeter, C.B. Fletcher, Teresa Bigler, Nathan Estes, John Howard, Heath Brown, Paul R. David, Danny Smith, and others who did not sign in.

2. **Pledge of Allegiance:** Councilman Andazola (City of Safford) led the Pledge of Allegiance.
3. **Opening Prayer:** Mayor Bob Rivera (Town of Thatcher) offered the opening prayer.
4. **Presentation and discussion in respect to Valley cooperation regarding areas of irrigation. City Manager Skeete will introduce Mr. Sam Daley. Mr. Daley will provide a presentation on the status of court case between irrigation district and San Carlos Apache Tribe. INFORMATION/DISCUSSION**

Mr. Skeete introduced Sam Daley who provided a presentation on the irrigation issues and the status of the court case between the irrigation district and San Carlos Apache Tribe.

Sam Daley said the whole Valley, not just the Gila Valley Farming Community, is currently under attack and currently at risk. The issues are much bigger than just the farming community, whether it be the tax base, or just the area that we live in agriculturally. He turned the time over to Jenny Howard to speak in respect to farming in the community.

Jenny Howard said she is the wife of a retired fourth generation farmer and has seen the stress of the water litigation and how it had directly impacted their farm. This Valley was founded on cotton, copper and cattle and all have a direct economic impact on the Valley. She views them as a three-legged stool and if one of those legs gets broken or pulled away, then the stool will fail. Times are getting tougher for farmers, it's their legacy, it's their job, it's their life. As a business owner, she worries about one of those legs because of commerce and the direct economic impact it will have on the Valley if the Valley loses its agricultural community. She noted that the University of Arizona just completed an economic impact study on agriculture in Pinal County and plan to do a study on the agricultural area and the direct impact that agriculture has economically on Graham County.

Ms. Howard said the purpose of this meeting is to seek input, open conversations and to bring everyone up to speed on what's happening and the challenges that the Gila Valley Irrigation District is currently facing in the Valley. Sam Daley and Justin Layton can answer questions.

Ms. Howard referred to the 2004 GRIC Agreement and the challenges from a municipality point, the agreement affects the water with Safford:

- Water is regulated
- Special reporting required
- Maximum usage on an annual basis

Secondly, there are issues on the agricultural side:

- 6 Acre feet allotment that they cannot go over when irrigating
- Includes water from wells and from the river
- Non-consumptive use - "non-decreed" ground with no rights to irrigate. (strips of ground running through fields). Water can run through non-decreed ground, but nothing can be planted that will consume the water.

She understands that the San Carlos Indian Tribe was not a part of the GRIC settlement when it was signed and now the Tribe is looking at their water use and what they feel

their water rights are to the Gila River. The Gila Valley Irrigation District has been working on some plans for some time with the San Carlos Economic Foundation. Ms. Howard stated that the Gila Valley Irrigation District owns a well field on the Goodwin Wash (she referred to a map identifying the area on HWY 70 and reservation line). This well field has nine (9) pumps that can provide 10,000 gallons of water per minute that can be delivered by two constructed pipelines to Bylas. This water can be used for whatever they would like to use it for, i.e. recreation and for watering an orchard that they are caring for. The irrigation district has been working with the Tribe trying to find a balance of what the Tribe's needs are from the Gila River and needs of the irrigation district. Currently, the road block is with legal counsel because the irrigation district cannot directly visit with the Tribe to develop a plan that will be suitable for all.

On the other side, she referred to the impact area along the River known as the "Bright Line," that is in the GRIC Agreement. The San Carlos Tribe is wanting control over any agriculture well that offers over 30 gallons per minute because they believe the water being pulled from the River belongs to the Tribe. The Tribe considers these wells as a point of diversion from the River whether the well is in the Bright Line or not. She noted Court is scheduled for 2020 and this court decision will affect everyone in this Valley. At this time, she introduced Sam Daley and Justin Layton, members of the Gila Valley Irrigation District, who can answer any questions.

Sam Daley reiterated the main purpose of today's meeting is to inform the community on what is happening with the Tribe. They are asking for suggestions or thoughts of how to provide this information to the Tribe or to the tribal council.

Questions/Comments/Responses:

When you made this presentation of the irrigation district you indicated you are willing to spend a lot of money. What were the figures on that? The Gila Valley Irrigation District is willing to spend around \$10 million to help get water to the reservation.

What is the worst case scenario? It's not what it's used for, it's just 30 gallons per minute. Water doesn't have to be used for agriculture. Tribe is claiming that all the pumps in the Valley pumping 30 gallons or more a minute are illegal points of diversion. If the opposition wins every pump in this Valley will be an illegal point of diversion from the Gila River.

Would it be beneficial to draft a letter in support with the consolidation of all communities to the courts? Yes, absolutely.

Is FreePort assisting because they have a large pool of water? FreePort has been involved, but it varies depending on what degree. FreePort has been

directly involved with the Abandonment and Forfeiture Litigation also currently happening with Gila.

Who is the audience that should facilitate a resolution, the Tribal Council, San Carlos Tribe, Warriors, or the Court? If it's an area wide resolution, could it be viewed by the tribal council as "us against them"? Depending on the wording because this recent drought contingency plan worked on and proposed by Arizona State Legislature has really stirred up a hornet's nest with the Gila River Indian Community. He referred to an article in the Arizona Daily Star where the House Speaker, Rusty Bowers, is proposing changes to state laws in a way he said will protect the rights of Safford farmers. The Gila River Indian Tribe is upset because it perceives the Safford farmer's as the recipient where it's actually a CAP water use problem in Pinal County. Although, Safford got drug right into the middle of their fight. Who is the audience and what is the best way to facilitate a resolution?

Pinal County is up against a fight for their agricultural. Rusty Bowers was resistant to add the Safford Valley into the conversation, but just recently he said that the Safford Valley has been scratching out a living and trying to survive for over a hundred years of litigation. The opposition caught onto that and really stirred up a hornets nest. There's a lot of eyeballs on Safford right now.

As a group of farmers, and historically there have been a lot of trust issues. Although, I truly believe this generation is just not that way - we play sports together and are friends with them. I do not perceive that it's us against them. It does seem like there is some tense opposition, but we really want the outcome to be in their best interest as well! We want them to succeed also! They believe maybe a carefully written letter to the Tribal Council and maybe the Judge would be helpful.

Does it involve wells, stock tanks and windmills in all of Graham County? Currently it involves only pumps above 30 gallons per minute and is perceived to draw water from the river. Most ranchers are outside the impact line and would not affect them. However, it involves water and the entire agricultural community in Graham and Greenlee Counties.

Worst Case scenario - What would be the economic downfall to this Valley if the opposition wins? The University of Arizona is currently doing an economic study on Graham County to give us a better number. However, we feel the worst case scenario – cotton would no longer be a crop in the Gila Valley. Water can be taken outside the high priority period – wheat and small grains can be raised during that time, but there will be no more cotton in the Gila Valley.

Worst case scenario – would be looking at a 50-60% reduction of what is currently being farmed because of water use restrictions. Currently there are about 18-20,000 acres under cultivation, but if the opposition wins, farmable acres will be reduced down to about 7,000 – 9,000 acres. He explained the bright line area which is one mile on the north side of the River and three miles on the south side of river. **Any well** over 30 gallons per minute within the bright line zone will be affected.

What are we doing to get the information to Tribal members? As said earlier, historically there have been some trust issues. It's a sensitive topic of discussion and must be approached in a sensitive way.

The Tribe has a long history of feeling like they have been manipulated. For example, the Resolution Copper Mine, the Oak Flats issue in the Superior area. People are typically fairly cynical when they hear a cooperation saying they have your best interest at heart. The Tribe has a long history of feeling like they have been manipulated.

Is the Tribe accepting the pipeline plan? A few years ago, several members of the Valley met with the Tribe and attended some economic development meetings with the Tribe. The tribal members at that time were excited and had accepted the proposed plan even to the point of referring the plan up to the Tribal Council. A meeting was scheduled so that the Tribe could come to a decision. However, the Tribes legal counsel (Joe Sparks) invited them to no longer communicate with the Tribe. Millions of dollars have gone into this case and the communication with tribal members hasn't improved at all. It's time to get the lawyers out of both sides of this case and have some negotiations.

San Carlos Tribe should be telling their lawyers that this is what we want and insist they want to work together and come to an agreement that is beneficial to everyone involved. It's good for the Tribe!

The irrigation district is not asking the Tribe to give up anything that is theirs and historically been theirs. A pipeline from Goodwin Wash has the ability to provide 10,000 gallons of water per minutes is what is being offered to the Tribe. The Tribe will be able to develop their 1,000 decreed acres. The pipeline will provide more than enough water to develop the orchard they have been working on for some time and for recreation development. The Tribe is not going after water rights, they are going specifically after the water.

What is the economic value if the Tribe gets a favorable ruling from the Court of Appeals?

Historically, there has been some contention between Bylas and San Carlos which could stir up if Bylas gets this benefit and San Carlos doesn't profit from this. They

Just to put it into perspective, how much water is 10,000 gallons of water per minute? It's a substantial amount of water, approximately two and one-half Union Canals flowing near capacity.

He pointed out on a map, and historically the Tribe has another 350 agricultural acres (irrigated acres). The irrigation district is offering them another 1,000 decreed acres that they can put anywhere they want. Therefore, if San Carlos wanted to start farming, they could. If they would agree to this pipeline, it will give them the ability to develop farming. The pipeline would dump into the river and then San Carlos would take the water further down stream. It has potential! We are asking for ideas. There sometimes is contention between the two tribes - we can't have a direct impact to San Carlos, but could have an indirect impact, but just need help to develop a plan. He said the proposed orchard is not developed at this time (some land clearing). Although, they have the decree to develop the 320 acres into an orchard. A study and a proposal was done in respect to developing the orchard for the Tribe. They have the decree to move the orchard wherever they want. The irrigation district is trying to give them an avenue that will help them develop this orchard. It directly impacts San Carlos and not so much Bylas, but yet this plan helps San Carlos.

Are you both on a legal team representing the farmers? Mr. Daley and Mr. Layton stated they both are on Boards that interact with the legal team, but today they are representing the farmers in an attempt to get the community involved and take this away from the Gila Valley Irrigation District. Farmers, as an agricultural component, cannot negotiate with the Tribe because agriculture discussions must be by legal ways (1930 decree).

A comment was made that the Tribe nor the people are not really involved with "free enterprise". What kind of orchard is the Tribe talking about developing? Pecans.

He believes a good point to communicate with the Tribe is the development of the orchard because a tribal industry would benefit the whole Tribe. Secondly, the water in Bylas is not very good water and the water is not there. How can discussions with the Tribe happen if Joe Sparks is taken out of these discussions.

Can SEAGO, a Council of Governments (19-20 communities) become involved?

Yes, they have spoken with SEAGO and SEAGO is very interested in the project. The Tribe is one of the SEAGO Communities.

It was noted that the Economic Development Coordinator has a meeting this next week, on behalf of SEAGO, who is going to visit with the Tribe, very generally, and encourage them to meet with those advocating this proposal. Advisors have met with the Board.

Who does Mr. Sparks represent? San Carlos

Will individual lots be affected in this Valley? Yes, and may be impacted more because of allotted time allowed for irrigation.

It was suggested to draft a “well-drafted letter” from community leaders.

It was also noted that Bylas is relocating its town to the south of the highway. There are plans to build an activity center, Boys and Girls Club, Fire Department, and relocating Emergency Medical Services.

How many decreed acres does San Carlos have?

San Carlos and Bylas have 1,000 acres of decreed acres to move anywhere they want.

All the irrigation district is asking for the Tribe to stop litigation and sign on to the 2004 settlement – no more litigation concerning agricultural farming.

Mr. Skeete believes the best approach would be in a friendly and at a community level in an attempt to work out a solution. Secondly, to not take the lawsuit lightly. It is his opinion that each individual council should decide whether or not to sign on to the lawsuit in order to provide ourselves a right to the table and part of the discussion at a legal level, because it will impact us all if they lose. Currently, the only legal team at the table is the irrigation district. He is not sure of the impact it will have on the collection point in Bonita Creek – it’s time from a legal and technical standpoint to get involved. Filing the initial brief to the court is the initial cost, but once the brief is filed with the court, you now know what is taking place and the decision to get legal counsel can be made at that time.

The San Carlos Tribe did not sign the 2004 Gila River Indian community Agreement (GRIC).

Mayor Rivera suggested all the managers get together to develop a plan.

The irrigation district wants the support of the community. They expressed their appreciation to everyone for attending this meeting today and for their comments.

It was recommended that the manager's get together to develop a plan and bring it back to their councils. The joint meeting adjourned at 9:12 a.m.

5. **Update on Distracted Driving Ordinance. INFORMATION/DISCUSSION**

Mayor Kouts congratulated the Town of Pima for adopting a Distracted Driving Ordinance. He invited Chief Brugman to provide an update to the proposed distracted driving law.

Joe Brugman, Police of Chief, presented an update in respect to legislation regarding distracted driving. Distracted driving is a critical issue because people are being injured and killed because of distracted driving. Law enforcement can't really understand why there has been such a reluctance to go to a distracted driving law. National reports indicate Arizona is in the bottom five as far as highway safety because the state does not have a distracted driving ordinance. He congratulated the Town of Pima for adopting the law. It appears that the leaders of the house/senate are in favor of the distracted driving law, but not sure of what the outcome may be at this point. One of the proposed law proposed making it a Class II misdemeanor. Law enforcement does not want to criminalize drivers, they just want to change behavior.

Councilman Seale stated that he and the Chief has had many conversations about a distracted driving law. He is not opposed to a distracted driving ordinance, but it made no sense to him that the law is not equal throughout the Valley. He wanted the community to get together and work out an ordinance that will work for the whole Valley.

Mayor Rivera believes legislation will adopt a distracted law ordinance.

Mayor Fletcher stated that before the Town enacted the law, the law was advertised heavily around town. Pima High School Student Council was contacted and the students supported it. Town Manager Lewis stated that distracted driving will be a state law, it's just a matter of when. He said eighteen (18) teenagers die every day! The Town of Pima didn't want to wait six (6) months and possibly be one of those towns who lost a

teenager. There will be a training period and citations will not be written until possibly April/May.

Mayor Kouts expressed his appreciation to the communities for getting together.

6. **Adjourn:** It was moved by Vice Mayor Ortega, seconded by Councilman Andazola and carried unanimously to adjourn the council meeting at 9:15 a.m. **MOTION ADOPTED**

APPROVED:

Jason Kouts, Mayor

ATTEST:

Georgia Luster, MMC, City Clerk

STATE OF ARIZONA)
) ss
COUNTY OF GRAHAM)

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the Joint Meeting of the Safford City Council, Graham County, Arizona held Friday, January 25, 2019 and approved at a Regular Council Meeting held on Monday, February 11, 2019. I further certify the meeting was duly called, held and that a quorum was present.

Georgia Luster, MMC, City Clerk

February 11, 2019

Date: