



Pima Natural Resource Conservation District
Pima Center for Conservation Education, Inc.
NRCS Plant Materials Center
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Minutes of the Combined Meeting of the Board of Supervisors of the Pima NRCD and Pima Center for Conservation Education

Meeting Date: January 22, 2019

Time meeting was called to order: 1:00 PM MST

Attendees:

Supervisor Jim Chilton

Supervisor Cindy Coping, Chair

Supervisor Jonathan DuHamel

Supervisor Patricia King, Treasurer

Supervisor Andrew McGibbon

Penny Brown, Member of the public

Sarah Gandaría, Arizona Game and Fish Department, Region 5 Landowner Relations Specialist

October 23 Minutes:

Supervisor King motioned to approve the minutes of October 23, 2018.

Supervisor McGibbon seconded the motion.

Ayes 5, Nays 0: motion passed

Financial Report:

The current financial report was discussed.

Supervisor King explained that during the holiday break, a Fidelity account was opened for the Pima NRCD. The mature \$25,000 CD from the District account was reinvested in a 6-month CD with an FDIC insured bank through Fidelity at 2.55% APR. Had the CD been allowed to roll over, it would have paid 1.22% APR.

Supervisor Coping (acting bookkeeper) explained that cash donations to the Pima Center for Conservation Education, which is a 501(c)(3) corporation, are tax deductible whereas contributions to the Pima NRCD are not. Therefore, funds were transferred between the two accounts to make all payments to consultants for the September 24, 2018 comments on critical habitat, and relevant do-

nations received were paid from or to the PCCE. This allows a contractor's \$600 pro-bono gift of consulting services for the project to be recognized as a tax deductible contribution.

Presently, the Pima NRCD manages all PCCE funds under a bank account that is separate from the State and District accounts, but under the name and Tax ID of the Pima NRCD. The bank accounts were structured this way due to the PCCE not yet having been registered with the Arizona Corporation Commission despite being recognized by the IRS as tax exempt.

The District will make an effort to properly register the PCCE with the Arizona Corporation Commission as a nonprofit corporation. That will enable the PCCE to open its own bank account under its own unique IRS Taxpayer Information Number (TIN).

Dues

Supervisor McGibbon moved to pay the full \$775.00 for "Gold level" NACD dues. Supervisor DuHamel seconded the motion. Ayes 5, Nays 0; the motion passed.

Supervisor Copping explained that the AACD is considering raising dues to \$1,500 in order to make up for a current dearth of conservation contracts, so that the organization can afford to retain its current administrative contractors. No dues invoice has yet been sent to the Districts. The Pima NRCD/PCCE supervisors decided to wait until an invoice is received before voting on the anticipated expenditure for 2019 AACD dues.

AACD auction proceeds

Supervisor DuHamel motioned to accept the PNRCD/PCCE's share of available residual funds from AACD's 2018 fiscal year (\$150) and proceeds from auction to benefit the educational centers (\$350). Supervisor King seconded the motion.

5 Ayes, 0 Nays; motion passed.

Open Position for Clerical Services Contractor

The board discussed the structuring of compensation and work requirements for a near-future opening of a contractor position. The anticipated work load for the new contractor is 20 hours per month. The new contractor will be compensated with an hourly wage beginning at \$15.00 per hour, with a performance and pay review to occur 6 months after the contract start date. The contract will be immediately terminable by either party upon written notice.

A detailed list of minimum required duties will be prepared as guidance to the contractor and for posting with the job opening. The contractor will be required to submit time sheets itemizing the hours billed for each completed task. The contractor will be required to keep office hours in the Pima NRCD office at least twice monthly and will be required to start work in the office by 10 AM on the days when the Pima NRCD is to meet at the NRCS Plant Materials Center

Resolution concerning Endangered Species Act

Supervisor King motioned to pass the proposed resolution, as amended. Supervisor McGibbon seconded the motion. 5 aye, 0 nay. The motion passed. The amended resolution states,

Resolution 2019.01.22. Remove the word “negative” from the Endangered Species Act

Whereas, Section 4 of the Endangered Species Act requires 90-day petition findings to be based solely on the best commercial and scientific data; and

Whereas, Section 4(b)(3)(C)(ii) of the Endangered Species Act, by stating, *“Any negative finding described in subparagraph (A) and any finding described in subparagraph (B) (i) or (iii) shall be subject to judicial review,”* exclusively allows judicial review of negative 90-day petition findings while prohibiting judicial review of positive findings; and

Whereas, some positive 90-day petition findings have been shown not to be founded on best available scientific and commercial information, in violation of Section 4 of the ESA; and

Whereas, no existing mechanism exists to hold the U.S. Fish and Wildlife Service or National Marine Fisheries Service accountable to the ESA Section 4 mandate to base 90-day petition findings *“solely on the best scientific and commercial data available;”* and

Whereas, a negative petition finding can be challenged in an evidentiary hearing under the ESA but a positive petition finding cannot; and

Whereas, a positive petition finding is barred from any evidentiary hearing under the Endangered Species Act or the Administrative Procedure Act; and

Whereas, the scientific validity of a positive petition finding can never be challenged, rendering unenforceable the ESA’s clearly stated mandate that 90-day petition findings be based “solely on the best available scientific and commercial information”, and

Whereas, the unequal treatment of positive and negative 90-day findings under the law gives one citizen access to the courts to challenge the scientific validity of a finding while denying those same rights to another citizen equally situated, and thereby violates the Equal Protection Clause of the Constitution, and

Whereas, positive but scientifically flawed 90-day ESA petition findings have resulted in regulations that caused significant, unjustified and uncompensated damages to innocent citizens;

BE it therefore resolved, that the Pima NRCDC requests Congress to amend the Endangered Species Act to remove the word “negative” from Section 4(b)(3)(C)(ii).”

February and March meetings

Supervisor Coping suggested the Pima NRCDC hold a teleconference meeting on February 26, 2019; and hold a potluck luncheon at her ranch for the March meeting. The supervisors proposed the March meeting occur on Tuesday, March 19, and include an educational workshop on Best Management Practices in Sonoran Desert Habitat. A tour of severe erosion sites on the Santa Cruz River in

southern Pinal County could also be included. The tour could precede the luncheon, as the sites could be visited along the way between Interstate 10 and the Copings' ranch.

Reports

AGFD- Sarah Gandaría reported that AGFD has access grant funds available. Habitat improvement grant funds will be available in July. Interested ranchers should contact Sarah by May or June. All funding is allocated by October. AGFD has some matching funds available for RCCP grants for mechanical and chemical brush management through the NRCS. AGFD also has money available for partnering with US Fish and Wildlife Service to clean out tanks on private land where threatened and endangered species are living.

Altar Valley Conservation Alliance-

AVCA received a National Wildlife Federation grant for burn planning and put together a fire plan for the Anvil Ranch. They asked for permission to use some of the money for chemical brush control. They also have an ADEQ grant to treat 2,000 acres on the Las Delicias, Elkhorn, and Anvil ranches.

The AVCA is working with Pima County Flood Control to begin prioritizing projects in the north end of the valley.

The entire Altar Valley has been flown and photographed with LIDAR infrared photography. AVCA's contractor who flies the drones and does this photography showed Supervisor King alarming images taken in 2011 and again in 2016, showing rapid progression of erosion along a major wash on the Palo Alto ranch. The image mimics a dragon's mouth with the lower jaw heading for a dam.

Call to the Public

Penny Brown asked if any programs are available to help address pond overflow problem causing erosion across the property line dividing two of her suburban neighbors. The two properties are not in agricultural production.

The meeting adjourned at 3:20 PM.

Date Minutes were Approved by the Pima NRCD/PCCE Board of Supervisors: February 26, 2019

Signed



Cindy Coping, Chair, Pima NRCD/PCCE