COCHISE COUNTY
COMMUNITY DEVELOPMENT
"Public Programs...Personal Service"

MEMORANDUM

Date: May 15, 2013

To: Board of Supervisors

Thru: Karen Riggs, CD Interim Director; Eddie Levins, Facilities Director

From: Terry Couchenour, Right-of-way Agent II TEC

Subject: **Resolution 13-__, Abandonment of a portion of Ghost Town Trail adjoining the Pearce Jail and Conveying the Pearce Jail to Old Pearce Preservation Association**

Recommendation: If the Board by unanimous vote determines to convey the historic Pearce Jail to the Old Pearce Preservation Association ("OPPA"), this department recommends adopting the accompanying resolution abandoning an 11 foot x 72 foot portion of Ghost Town Trail, approximately 0.02 acres, which is unnecessary for public road use.

Background (Brief):
This agenda item consists of two separate board actions, requiring separate votes, relating to the proposal to convey the historic Pearce Jail to OPPA. The first action is to convey title to the old Pearce Jail and the property on which it is located. Pursuant to A.R.S. § 11-251(9), this action requires a unanimous vote by the Board. The second action is abandoning a portion of right-of-way for Ghost Town Trail, on which a part of the fence that protects the jail is located.

In 1897 the Board of Supervisors received a petition and awarded a bid of $300 to build a jail for the residents of Pearce. The Jail is located north of Pearce Road and adjoins the west boundary of Ghost Town Trail. The lands occupied by the Jail were patented in 1901 and in June of that same year a version of the Bignon Tract of Pearce is recorded. In March of 1915 Joseph Bignon conveyed a lot to Cochise County for the purpose of the Jail and in September of that year the plat for the Amended Bignon Tract of Pearce was recorded.

In 2008, several Pearce Townsite lots were auctioned and certain proceeds were allocated to fence the Jail to aid in preserving the site. In 2010 the site was surveyed and it was found that the site did not lay completely within the lot conveyed to the County in 1915. In order to appropriately fence the site, the County exchanged lands with the neighboring property owner, as well as extended the fence 11 feet into the platted right-of-way for Ghost Town Trail.

OPPA is a nonprofit corporation organized under Arizona laws for the purpose of preserving, acquiring, protecting and promoting the appreciation of historical items, buildings and real properties in Pearce. With the support of Supervisor Searle, OPPA has requested that the County convey the jail property to it in order to enhance its ability to preserve the jail. Although in order to sell real estate counties are normally required to appraise real estate and sell it at auction, A.R.S. § 11-251(9) contains an exception to that rule: "A county, with unanimous consent of the board and without public auction, may sell or lease any county property for a specific use to any solely charitable, social or benevolent nonprofit organization incorporated or operating in this state." OPPA meets the statutory criteria as an Arizona nonprofit organization. If the Board unanimously approves the transfer, the deed will contain a covenant restricting OPPA's use "for the public purpose of preserving the historic former jail, allowing the public to view the jail, and related purposes" with a reversion clause in the event the covenant is violated. As far as is known, the jail property has no economic or other value to the County, except as an historic site.

As mentioned, a portion of the fence that protects the jail extends 11 feet into the County's right-of-way for Ghost Town Trail. This portion of the property can be transferred via the right-of-way abandonment process.

A review of the proposed abandonment was conducted. While Ghost Town Trail is a County Maintained Road, staff recommends that the fenced right-of-way is unnecessary for public road use. The right-of-way was formerly known as Willcox Avenue and was dedicated at a width of 100 feet in 1901 and 1915. In 1910 Willcox Avenue was combined with another route and adopted as the County Highway known as "Cochise to Pearce". This highway became the alignments we now refer to as Highway 191 and Ghost Town Trail. In 1989 the Board established the declared highway width for Ghost Town Trail at 80 feet in width as opposed to the 100 foot wide dedication. The 11 feet required for the fence is approximately 3 feet outside of the declared highway width and approximately 33 feet from the edge of pavement. The remaining 89 feet of right-of-way exceeds the declared width and the minimum standard width (50 feet per figure D-103 of the Road Construction Standards) for this Rural Major Access road. Accordingly, the 11 feet of right-of-way that OPPA is requesting be transferred with the jail is not necessary for the County road and has no value to the County.

Fiscal Impact & Funding Sources: Not applicable

Next Steps/Action Items/Follow-up: If the abandonment and transfer are approved, the Board Chair will need to execute and record a deed conveying the abandoned right-of-way to OPPA and send a copy of the recorded deed to OPPA. After that, no further Board action is required.

Impact of <u>Not</u> Approving: If abandonment is not approved, the right-of-way will remain dedicated for public road use. The dedicated road use may inhibit future preservation of the historic Pearce Jail.