

**BOARD OF SUPERVISORS
NAVAJO COUNTY, ARIZONA**

August 29, 2005

Board of Supervisors Chambers, Holbrook, Arizona – Time: 1:08 p.m.

PRESENT: Jerry Brownlow, Chairman; David Tenney, Member; J.R. DeSpain, Member; James G. Jayne, County Manager; Lance Payette, Chief Deputy County Attorney; Darlene Fraley, Deputy Clerk of the Board. Jesse Thompson, Member, present by telephone and Percy Deal, Vice-Chairman, absent.

Mr. Brownlow led the Pledge of Allegiance and the Invocation.

SUPERINTENDENT OF SCHOOLS/ COUNTY ATTORNEY:

- 1) Discussion of and possible action on a request by the Northeast Arizona Technological Institute of Vocational Education (NATIVE) to rescind the tax rate for FY 2005-2006 as set by the Board of Supervisors at its August 15, 2005 meeting (\$0.05 per \$100 of assessed valuation) and to set a new tax rate of \$1.25 per \$100 of assessed valuation retroactive to August 15 Mr. Payette advised the Board that since the adoption of the tax rate for Northeast Arizona Technological Institute of Vocational Education (NATIVE) in the August 15 meeting there have been a flurry of e-mails and telephone conversations with other attorneys regarding the tax rate. He advised that he was of the opinion that JTEDs are limited to \$0.05 as per statute; therefore AJ Brown, Navajo County School Superintendent, made the recommendation to set the tax rate at \$0.05 even though NATIVE requested \$1.25. He advised the Board that the Attorney General still has not issued an opinion, stating they must study the issue; and that he and attorneys from Apache and Coconino County as well as a private law firm in Flagstaff and the attorney from ATRA have reviewed the issue and have not come to a consensus. He said all do agree that school district governing boards adopt an expenditure budget and the County School Superintendent has the responsibility to calculate how much tax is needed to support that budget and certify it and it is then the ministerial responsibility of the Board of Supervisors to set that rate. He advised the Board that a lawsuit could result regardless of the tax rate set and that it must be clear that this is a ministerial action based on calculations to support the budget. Ms. Brown reviewed a letter from NATIVE requesting a \$1.25 tax rate and reviewed calculations to support the budget that NATIVE submitted. She stated that with the existing budget, setting a tax rate of \$1.25 would leave a \$600,000 shortfall in their budget. She stated she has an email from NATIVE's attorney stipulating that if the Board of Supervisors would adopt a \$1.25 tax rate the district governing board would amend their budget to reduce it to the amount that \$1.25 would support. Ms. Brown stated NATIVE's last year's budget was based on 450 students and this year's budget is based on over 800 students by utilizing a distance learning satellite system. Mr. Charles Waite, NATIVE Business Manager, stated they are requesting approximately \$900,000 over last year's budget, explaining legislature has not fully funded the district since it was formed and further restrictions were put on funding this year. Ms. Brown explained carry over funding will also be utilized to fund this budget. Following further discussion, **Mr. Tenney made a motion** to rescind the NATIVE tax rate for FY 2005-2006 as set by the Board of Supervisors at its August 15, 2005 meeting at \$0.05 per \$100 of assessed valuation.; motion seconded by Mr. DeSpain; motion approved by a unanimous vote of 4-0.

- 2) Adopt FY 2005-2006 tax rate and levy taxes for NATIVE retroactive to August 15, 2005 in accordance with budget adopted by NATIVE governing board and estimate and certification by County School Superintendent: During discussion, Ms. Brown stated that regular school districts must budget within formula funding and then must go to a vote to exceed that amount. She is concerned that this increased

tax rate has not gone to the voters. She stated she is more comfortable with certifying the tax rate since NATIVE has stated they will reduce their expenditure budget to conform to her calculation of tax rate to support it. Chester Crandall, Superintendent of NAVIT, addressed the Board stating that this issue will focus attention on JTED districts and expressed concern that all JTED districts may be affected by this action. **Mr. Tenney made a motion** to adopt \$1.25 per \$100 as the FY 2005-2006 tax rate and levy taxes for NATIVE retroactive to August 15, 2005 in accordance with budget to be amended by NATIVE governing board and estimate and certification by County School Superintendent; motion seconded by Mr. Thompson; motion approved by a unanimous vote of 4-0.

ADJOURN: **Mr. DeSpain made a motion** seconded by Mr. Tenney to adjourn. Motion was approved 4-0 and the meeting adjourned at 1:44 p.m.

APPROVED:

DATE:

Jerry Brownlow, Chairman

ATTEST:

Clerk/Deputy Clerk of the Board