

NAVAJO COUNTY BOARD OF SUPERVISORS' MINUTES
TUESDAY, JUNE 17, 2008

9:02 a.m. Call to Order: Supervisor Deal led the Pledge of Allegiance and offered the invocation.

PRESENT: J. R. DeSpain, Chairman; Jerry Brownlow, Vice-Chairman; Percy Deal, Supervisor; Jesse Thompson, Supervisor; David Tenney, Supervisor; Mel Bowers, County Attorney; James Jayne, County Manager; and Darlene Fraley, Clerk of the Board.

CALL TO THE PUBLIC: Leo Maestas of Holbrook, AZ stated he was prompted to speak about the Heritage Area due to the article that appeared in the paper stating the board rescinded their support. He expressed concern that ranchers and the parent of a supervisor spoke opposed to the issue, stating he believed these supervisors should have recused themselves. He stated that through walking the whole state of Arizona he has developed sensitivity to the environment. He discussed his beliefs related to the wolf being one of God's creatures; that we are stewards of this world; that when the ranchers approached the board it seemed that they were the only constituents; ranchers have limited deed land and there is over 120,000 acres of forest land where cattle graze; that when you yield to a select few you are wrong; and behind the board's action is a hidden agenda. He stated the board expressed concern that it is too broad of an area and he believes the board is made up of intelligent people who could piece meal the area. He requested the board reconsider their action, stating the public lands need to be protected, not just protected for a select few.

Supervisor Tenney suggested that Leo Maestas get with the County Attorney for clarification since what he is stating constitutes a conflict and what the law says are far apart. Mr. Maestas declined the offer.

CONSENT AGENDA: a) Recommendation for approval of Special Event Liquor License for Northland Pioneer College Foundation at Pinetop Country Club, 6734 Country Club Drive, Pinetop, AZ 85935 on 6/28/08; b) Authorization for Navajo County Fair to lease race dates of March 7, 8, 14 and 15, 2009 to Turf Paradise for source of revenue permitted by the Arizona State Racing Commission'; c) Juvenile Justice System report—May; d) Temporary extension of patio permit for the Cabin Bar & Grill located at 2763 Highway 260 for the July 4, 2008 weekend (July 3, 4, 5 and 6) and July 18, July 19 and July 20 for the Annual Chili Cook-off; e) University of Arizona Services Agreement (Cost reimbursable) for Navajo County Forest Health and Fire Mitigation 2008-2009 not to exceed \$67,076.00; f) Letter of sympathy to the family of Senator Jake Flake; g) Name an existing road in the Heber/Overgaard area "Dovetail Trail" in Section 27, Township 12 N – Range 17 E; h) Name an existing road in the White Mountain Lake area "Trinity Place" in Section 23, Township 11 North – Range 22 E; i) Rename a portion of a road in the Starlight Ridge Estates Unit 2 in the Pinetop/Lakeside area from "Webb Drive" to "Wagon Wheel Lane" in Section 8, Township 09 North, Range 22 East; j) Ratification of contracts as signed by the Navajo County Manager as per Board resolution: Navajo County Employee Benefit Trust for mobile on-site mammography screening; Arizona State Procurement contract to be used for cooperative purchasing; Professional Services contract with Tetra Tech, Inc. for Silver Lake Survey in an amount not to exceed \$3,785.00 **Supervisor Thompson made a motion** to authorize the chairman to sign the documents in the Consent Agenda; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.

NAVAJO COUNTY PUBLIC HEALTH SERVICES DISTRICT Board of Directors' Session: HEALTH DISTRICT CONSENT AGENDA: **Supervisor Brownlow made a motion** to enter into the Navajo County Public Health Services District **Board of Directors' Session**; motion seconded by Supervisor Thompson; vote unanimous approving the motion. **CONSENT AGENDA: Amendment #1 of the Delegation Agreement for the Smoke Free Arizona Program:** In response to a question from Supervisor Brownlow, Dr. Kartchner said that early in this program there were businesses that did not want to comply but now there is compliance throughout the county. **Supervisor Brownlow made a motion** to authorize the chairman to sign the documents in the

Consent Agenda; motion seconded by Supervisor Thompson; vote unanimous approving the motion. **Supervisor Brownlow made a motion** to return to regular session; motion seconded by Supervisor Thompson; vote unanimous approving the motion.

BOARD OF SUPERVISORS:

- a. American RV and Navajo County Recognizing Excellence: Supervisors presented a certificate and fruit basket as sponsored by American RV to Will Sturgeon of Public Works and Joel Johnston of Building and Grounds for their outstanding contributions to their departments and county operations.
- b. Consideration and possible approval of a Proclamation Declaring June 17, 2008 the Day of the Lady Wildcats: Darlene Fraley read this proclamation and supervisors presented the proclamation to the Lady Wildcats' team with Coach Baird thanking the board for this recognition and discussing the challenges the team faced to become state champions. **Supervisor Brownlow made a motion** to adopt the proclamation as presented; motion seconded by Supervisor Tenney; vote unanimous approving the motion

SHERIFF:

a. **PUBLIC HEARING**

- b. Consideration and possible approval of Resolution Number _____ - 08 authorizing Sheriff's Office to implement a \$150.00 administrative fee for hearings set for release of impounded vehicles in accordance with A.R.S. §28-351: Commander Bob Sutton advised the board that the notice for this hearing had been appropriately advertised and discussed the circumstances under which a vehicle would be impounded stating that everyone whose vehicles were impounded would be charged the proposed fee. He advised this money goes into a special fund in the Treasurers' office with funds to be used for the implementation of the impound program. He responded to questions from Supervisors, stating there are no existing county impound fees; the county does not have an impound lot so a private company tows and stores the vehicle; the person must request a hearing within ten days and for a first offense the car can be released before 30 days if the hearing is already set; if the person has another offense within one year the vehicle has to stay 30 days in the impound lot at \$15.00 per day; some municipalities have implemented impound fees and the DPS fee is \$75.00; the fee amount recommendation is from the Sheriff and staff; hearings are held by the District Commander of each area and the hearing decision can not be appealed; and staff anticipates 8-9 hearings per week throughout the county. In response to a question from John Weigen of PO Box 2221 in Overgaard, Commander Sutton stated that if you loan your car to someone and they do not have a valid license your car will be impounded and Mr. Jayne clarified that seizing of a vehicle is governed by state statute. Chairman DeSpain closed the public hearing. **Supervisor Brownlow made a motion** to adopt **Resolution Number 41 - 08** authorizing the Sheriff's Office to implement a \$150.00 administrative fee for hearings set for release of impounded vehicles in accordance with A.R.S. §28-3513; motion seconded by Supervisor Tenney. In response to a question from Supervisor Thompson about hardship waivers, Commander Sutton stated if the paper work is done wrong they could waive the fee but if the request is because of a hardship, he did not believe there was a provision but he would research this. Mel Bowers concurred, stating that if there is an irregularity in the vehicle seizure the hearing officer has the authority to waive the fee and release the vehicle. He said that he has not reviewed this statute but even in a criminal matter if there is a mandatory fine, the judge does not have the authority to waive it. Commander Sutton further clarified that if the court determines that an individual is innocent they would not pay the fine but would not get the hearing fee back. In response to a question from Chairman DeSpain, James Jayne stated this is a policy decision to be made by the Board of Supervisors to comply with the State statute for mandatory impound hearings when a person is knowingly driving when they should not be driving that vehicle; there is a provision to deal with a mistake; it is reasonable for the Sheriff's office to ask to recover costs and the State allows counties to collect up to \$150. Vote unanimous approving the motion.

SILVER CREEK COUNTY ROAD IMPROVEMENT DISTRICT: Board of Directors' Session: **Supervisor Tenney made a motion** to enter into the Silver Creek County Road Improvement District **Board of Directors' Session**; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.

- a. Consideration and possible approval of recommended FY08-09 budget: John Hager advised they are requesting a 3% levy increase to this budget rather than the noticed 5% and there will be a decrease in the tax bill because of new home growth. **Supervisor Tenney made a motion** to approve the recommended FY-08-09 budget; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.
- b. Consideration and possible approval of recommended 5% levy increase: **Supervisor Tenney made a motion** to approve a 3% levy increase; motion seconded by Supervisor Brownlow; vote unanimous approving the motion. Mr. Hager thanked the board on behalf of the community for bringing Silver Lake Boulevard into the county system and reported the overlay is done. **Supervisor Tenney made a motion** to return to regular session; seconded by Supervisor Thompson; vote unanimous approving the motion.

WHITE MOUNTAIN LAKE RECREATION DISTRICT Board of Directors' Session: **Supervisor Brownlow made a motion** to enter into the White Mountain Lake Recreation District Board of Directors' Session; motion seconded by Supervisor Tenney; vote unanimous approving the motion.

- a. Consideration and possible approval of recommended FY08-09 budget: John Hager introduced Don Anderson Cosgrove, a resident of the White Mountain Lake community. Mr. Hager reported there is a lot more activity at the lake, payroll has gone up due to the additional patrol time and expenses went up related to the ramp at the boat dock. He stated this increase will bring the average tax bill up \$1.50 to \$12.85 per acre or \$38.56 for a regular 3.03 acre lot. **Supervisor Brownlow made a motion** to approve the recommended FY08-09 budget; motion seconded by Supervisor Tenney; vote unanimous approving the motion.
- b. Consideration and possible approval of recommended 5% levy increase: **Supervisor Tenney made a motion** to approve the recommended 5% levy increase; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.

Supervisor Brownlow thanked Don Anderson Cosgrove for being here, stating he participates in the White Mountain Transportation meetings, Supervisor Tenney reported he also comes to economic development meetings each month and Mr. Jayne stated he sits on the Citizens' Advisory Council.

Supervisor Brownlow made a motion to return to regular session; motion seconded by Supervisor Tenney; vote unanimous approving the motion.

WIA:

- a. Workforce Investment Board Membership: Gail Sadler reviewed the submitted requests regarding Workforce Investment Board membership.
 - i. Consideration and possible approval of resignations of Workforce Investment Board members: Jack Latham, Michael Downs, Roxanne Gomez, Jeannie McClaran and Tom Chacon, Sr.: **Supervisor Tenney made a motion** to accept the resignations from the Workforce Investment Board as presented; motion seconded by Supervisor Thompson; vote unanimous approving the motion with Chairman DeSpain absent for the vote.
 - ii. Consideration and possible re-appointment of the following current members of the Workforce Investment Board: Gertrude Bartlett, Peggy Belknap, Gordon Emerson, Darlene Fraley, Cynthia Furrh, Kenneth Light, Fran McHugh, Dana Overson, Patty Reidhead, Bob Seymour, Donna Slade and John Sorensen: **Supervisor Tenney made a motion** to re-appoint Gertrude Bartlett, Peggy Belknap, Gordon Emerson, Darlene Fraley, Cynthia Furrh, Kenneth Light, Fran McHugh, Dana Overson, Patty Reidhead, Bob Seymour, Donna Slade and John Sorensen to the Workforce Investment Board; motion seconded by

- Supervisor Thompson; vote unanimous approving the motion.
- iii. Consideration and possible appointment of Michael Zimmerman as Apache County Business Representative to serve a three year term on the Navajo and Apache Counties Workforce Investment Board beginning June 17, 2008: Supervisor Tenney made a motion to appoint Michael Zimmerman as Apache County Business Representative to serve a three year term on the Navajo and Apache Counties Workforce Investment Board beginning June 17, 2008; motion seconded by Supervisor Thompson; vote unanimous approving the motion.
 - b. Consideration and possible approval of Two Year Plan for Navajo and Apache Counties Workforce Area Program Years 2008-2009: Gail Sadler advised that the Arizona Department of Economic Security recommended changes to this document and they were made subsequent to the Board of Supervisors' plan review. She briefly reviewed these minor changes. **Supervisor Tenney made a motion** to approve the "Two Year Plan for Navajo and Apache Counties Workforce Area Program Years 2008-2009" as submitted; motion seconded by Supervisor Thompson; vote unanimous approving the motion.
 - c. Consideration and possible approval of Designation of One Stop Operator/Consortium Agreement: **Supervisor Tenney made a motion** to approve the "Designation of One Stop Operator/Consortium Agreement"; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.
 - d. Consideration and possible approval of Memorandum of Understanding between One Stop Partners and LWIB: **Supervisor Tenney made a motion** to approve the "Memorandum of Understanding between One Stop Partners and LWIB" as presented; motion seconded by Supervisor Thompson; vote unanimous approving the motion.

FINANCE/PURCHASING: Consideration and possible authorization for Finance/Purchasing to award the 2008-2009 contract to The Holbrook Tribune as the County's Official Newspaper and printing supplier: Mary Springer reviewed this request advising the Holbrook Tribune was the only bid received. **Supervisor Brownlow made a motion** to authorize the award of the 2008-2009 contract to The Holbrook Tribune as the County's Official Newspaper and printing supplier; motion seconded by Supervisor Thompson. In response to Chairman DeSpain, Mr. Jayne stated that statute requires that a paper be named as the official newspaper and that the county has started also publishing higher profile issues in specific communities where the public is interested in order to be as transparent as possible. Darlene Fraley discussed the new minute legislation, advising that when it goes into effect publication of minutes will no longer be required. Vote unanimous approving the motion.

PUBLIC WORKS:

- a. Consideration and possible approval of Resolution Number _____ - 08 for approving an Intergovernmental Agreement with the State of Arizona for Bridge Inspection (Agreement reference: TRACS No.: MAINTAGR) for the inspection of county bridges: Dusty Parsons stated this is a routine IGA done every three years and there is no cost to the county. **Supervisor Brownlow made a motion** to adopt **Resolution Number 44 - 08** approving an Intergovernmental Agreement with the State of Arizona for Bridge Inspection (Agreement reference: TRACS No.: MAINTAGR) for the inspection of county bridges; motion seconded by Supervisor Thompson. Mr. Parsons responded to questions regarding the bridge inspection process and subsequent repairs. Vote unanimous approving the motion.
- b. Consideration and possible action related to Contract Amendment #1 supplying barbed wire fencing, Bid Contract #B07-04-030 with Pioneer Fence & Vinyl: Dusty Parsons advised this is the first price increase in this contract in several years and the increase is in accordance with the terms of the contract. **Supervisor Tenney made a motion** to approve Contract Amendment #1 supplying barbed wire fencing, Bid Contract #B07-04-030 with Pioneer Fence & Vinyl to increase the unit price bid as per the presented bid tab to be effective June 19, 2008 and to extend the contract an additional year until June 18, 2009; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.

- c. Consideration and possible award of Supply of Aggregate for Cover Material Contract #B08-05-140 to Cholla Ready Mix, Inc. and Hatch Construction & Paving Inc.: Dusty Parsons advised there were three bidders for this chip seal award and the two bidders listed are the low bidders. He reported that costs have gone up significantly which will determine if, in the future, the county does a lot of chip seal or if will convert more to slurry seal. **Supervisor Brownlow made a motion** to approve the award of Supply of Aggregate for Cover Material Contract #B08-05-140 to Cholla Ready Mix, Inc. and Hatch Construction & Paving Inc; motion seconded by Supervisor Tenney; vote unanimous approving the motion.
- d. Consideration and possible approval of funding in an amount not to exceed \$6,061.71 from District III LTAF II funds for vehicle operating cost for the Bread of Life Mission: Dusty Parsons advised these expenses are authorized through LTAF II funds and delineated how the entity would use the funding. **Supervisor Thompson made a motion** to approve funding in an amount not to exceed \$6,061.71 from District III LTAF II funds for vehicle operating costs for the Bread of Life Mission; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.
- e. Consideration and possible approval of funding an amount not to exceed \$6,500.00 from District IV LTAF II funds for vehicle operating cost for the White Mountain Meals on Wheels program: Dusty Parsons reviewed this letter of request delineating the use of the funds. **Supervisor Tenney made a motion** to approve funding in an amount not to exceed \$6,500.00 from District IV LTAF II funds for vehicle operating costs for the White Mountain Meals on Wheels program; motion seconded by Supervisor Thompson; vote unanimous approving the motion.
- f. Elk Pines RV Resort Condominiums PUBLIC HEARING: Bill Fraley oriented the board to the subject property on a site map, reviewed the staff report and advised that this is an existing RV park. He stated that since the owners now wish to sell the lots rather than rent the lots a zone change is required. He reported the Planning and Zoning Commission voted 5-2 in favor of this proposal. He stated these lots are on septic and there is no indication there has ever been a failure of the septic system; that there are currently 60 lots and the owner will add twenty lots; there were 59 lots within the 300' notification area and since only five negative responses were received (less than 20%) it does not require another vote of the commission; Engineering & Flood Control have no concerns related to this action; and the biggest concern expressed at the Planning and Zoning Commission was that there would be condominiums and that would not be the case as this action just falls under the condominium regulations. He advised the commission recommended putting a screened fence along the northern boundary of Phase I to go up immediately if the board approves the action and along the eastern portion at the development of Phase 2. He further reported the commission requested the developer's engineer meet with some property owners to address their concerns and they have done that. He said the commission has no problem with converting from existing rentals to sales but recommends that the board consider the same five stipulations that they requested, then he read them as listed on the resolution. Chairman DeSpain opened the public hearing. John Welnick of 33160 Blazing Star in Show Low reported he is the owner and the usage of the park will not change as they will remain RV spaces as stipulated in CCRs. He reported Phase I is well developed with some natural area and the planned density on the northwest side is not as dense as the other area. In response to a question from Mr. Bowers, Mr. Welnick stated that the septic tank apportionment will be administered by the Home Owners' Association, that some tanks are on individual properties but it is stipulated in the CCRs that there must be an easement to them for maintenance. Dave Riley of 2015 Overgaard stated he is the managing partner of the neighboring property and he asked if there will be provisions for the extension of fencing over the area not mentioned. After discussion when it was determined that there were rental cabins on the adjoining property and that the owner was not required to fence his property, it was suggested that the adjoining developers should cooperate on fencing needs. John Wiegen PO Box 2221 Overgaard, stated he represents the HOA whose primary concern is safety as related to their development's runway and the board held a unanimous vote to oppose any additional development in that area. He requested that prior action being taken on development that the Board of Supervisors request that the FAA complete an evaluation on this

plan. He discussed weather conditions and altitude considerations that impact the safety of landing and take off. In response to a question from Supervisor Tenney, Mr. Wiegen stated that there are no homes in the direct line of the taxi way and the main concern is changing from a low density to a high density, making it difficult for a pilot to have a 45 degree safety leeway. Mr. Welnick stated that the Oklahoma Wash is in the immediate vicinity so a plane could avoid homes. John Wiegen stated that if this action is permitted the HOA requests that the developer and eventual property owners provide Mogollon HOA with a hold harmless agreement, that if they are willing to put a house at the end of a runway the HOA should not be held responsible. Mr. Bowers stated this is a fairly unusual request and he does not believe they could put a hold harmless on every parcel that is already in existence without a hold harmless clause. He further stated that part of disclosure in a property sale would be that the property is in the vicinity of the air park. There being no further discussion, Chairman DeSpain closed the public hearing. Supervisor Tenney observed that the development has been in the vicinity of the air park since it was established and the HOA has never come before the Board of Supervisors to request a hold harmless agreement in stipulations. He asked if the development of Phase II would happen regardless of today's action and Mr. Welnick stated they do intend to move forward. There was considerable discussion related to what type of fencing is required and Mr. Fraley stated the commission was responding to concerns of neighbors of blowing garbage and discussion of ATV crossing boundaries. Mr. Welnick responded that when Jennie Vitale met with residents, one wanted a slat fence and another wanted a cedar fence. He stated he believes a fence will detract from the park and surrounding properties and that most blowing trash comes from outside the park and blows through the park. He said he could put up a split rail or some other type of wood fence that would keep people from going through there. Melvin Trushinsky of 2760 Sky Hawk Drive stated that he owns five acres outside the 300' limit and the reason that people wanted a fence was to keep quads and people from going across private property. He reported that this weekend he watched people come out of the trailer park, cut across private property and then use quads on the runway. He said he felt the board should take into consideration the depreciation of property that would reduce tax revenue.

- i. Consideration and possible approval by **Resolution Number** _____ - **08** of a zone change request by Lynn Welnick, agent for Old West LLC from CR Zoning to Special Development Zoning for APN 206-27-014L in the Heber-Overgaard area: **Supervisor Tenney made a motion** to adopt **Resolution Number 42 - 08** for a zone change request by Lynn Welnick, agent for Old West LLC from CR Zoning to Special Development Zoning for APN 206-27-014L in the Heber-Overgaard area; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.
- ii. Consideration and possible approval by **Resolution Number** _____ - **08** of a Master Development Site Plan for the proposed "Elk Pines RV Resort Condominiums" Development for APN 206-27-014L in the Heber-Overgaard area: **Supervisor Tenney made a motion** to adopt **Resolution Number 43 - 08** for a Master Development Site Plan for the proposed "Elk Pines RV Resort Condominiums" Development for APN 206-27-014L in the Heber-Overgaard area with correction to stipulation 5 to take out the words "six foot screened" leaving the remainder as is; motion seconded by Chairman DeSpain; vote unanimous approving the motion.

HUMAN RESOURCES:

- a. **EXECUTIVE SESSION** pursuant to A.R.S. § 38-431.03(A)(1) to review the application for the Assistant County Manager: Mel Bowers advised there is only one applicant and that person was not given written notice but did receive 24 hour verbal notice and Mr. Jayne confirmed this. Dusty Parsons, applicant, stated he did have actual notice so he is willing to waive written notice. At 11:43 a.m., **Supervisor Brownlow made a motion** to enter into executive session pursuant to A.R.S. § 38-431.03(A) (1) to review the application for the Assistant County Manager; motion seconded by Supervisor Tenney; vote unanimous approving the motion. The meeting reconvened at 12:36 p.m. with all supervisors present.
- b. Consideration and possible approval of the applicant recommended for appointment to the Assistant County

Manager position: In response to a question from Supervisor Tenney, Mr. Bowers stated that one motion could be made for the appointment and the specific salary. Supervisor Deal stated he believes the board is satisfied with the interview and that as a board or each individually have had positive experiences with the applicant. He further stated he is pleased that the board has created an Assistant County manager position, that this is a move in right direction. **Supervisor Deal made a motion** to authorize the County Manager to offer 92% of the recommended salary range to the applicant (E. L. Parsons) for his consideration as the Assistant County Manager; motion seconded by Supervisor Tenney. Chairman DeSpain stated he understands that this position will supervise departments and Mr. Jayne would continue partnering with Navajo County employees and spending time with elected officials. Vote unanimous approving the motion.

- c. Consideration and possible approval of Personnel Action report: Gail Calisen reviewed the written report of 27 personnel actions for consideration today. **Supervisor Tenney made a motion** to authorize the Chairman to sign this report; motion seconded by Supervisor Thompson. In response to a question from Supervisor Thompson, Ms. Calisen stated the county has not employed graduates of WIA recently. Vote unanimous approving the motion.

BOARD BUSINESS: Supervisors reported on meetings within their districts and meetings they had attended outside their districts for the benefit of the county. These meetings were discussed as chapter meetings including a Forest Lake appreciation event, a meeting with Peabody Coal regarding supplying red-dog material; the ground breaking for the Kayenta airport; meetings with Winslow elected officials; meetings with the BIA to discuss existing policies that impede road improvement projects; and attendance at budget meetings at the legislature with Navajo County well represented. Mr. Jayne stated that Mr. Deal had been humble when reporting the Forest Lake expression of appreciation as the chapter recognized Supervisor Deal for his efforts on their behalf and presented a beautiful rug as a thank you. Supervisor Tenney reported that Senator Allen had requested a long time friend, Senator Johnson, and Senator Hale to escort her onto the floor but Senator Hale was unable to attend.

ADJOURN: At 12:40 p.m., **Supervisor Brownlow made a motion** to adjourn; motion seconded by Supervisor Thompson; vote unanimous approving the motion.

APPROVED:

DATE:

J. R. DeSpain, Chairman

July 15, 2008

ATTEST:

Darlene Fraley, Clerk of the Board