

**BOARD OF SUPERVISORS
NAVAJO COUNTY, ARIZONA**

MAY 5, 2003

Supervisors' Chambers, Holbrook, Arizona - Time: 10:05 a.m.

PRESENT: Pete Shumway, Chairman; J.R. DeSpain, Vice-Chairman; Percy Deal, Member; Jesse Thompson, Member; Jerry Brownlow, Member; Mel Bowers, Jr., County Attorney; Eddie Koury, County Manager; and Judy Jones, Clerk of the Board.

Mr. Thompson led the Pledge of Allegiance and offered the Invocation.

CALL TO THE PUBLIC: There were no comments offered.

CONSENT AGENDA: **Mr. DeSpain made a motion** to authorize the Chairman to sign the items in the Consent Folder; motion seconded by Mr. Thompson; vote unanimously carried. The following items were included in the Consent Agenda: 1) Voucher List for Payment; 2) Board of Supervisors Minutes: April 21, 2003; 3) Assessor's Assessment and Tax Roll Corrections; 4) Sheriff request to add Leonard Butler, Navajo Director of Law Enforcement and Chief Ben Owens, Show Low Fire Department to the Homeland Security Advisory Task Force; 5) Justice Court Reports: (March) Pinetop-Lakeside; Holbrook; 6) County Attorney Bad Check Program Report 1/1/03 - 4/1/03; 7) Back Tax Land Deed: 105-09-131, Sun Valley area; 8) Memo to the Arizona Department of Racing authorizing racing on Navajo County Fair dates as permitted by the Arizona Racing Commission (2002 revenues- \$18,152.36)

COMMUNITY DEVELOPMENT BLOCK GRANT: **Clint Shreeve, Assistant County Manager: Public Hearing:** 1) **Resolution - Residential Anti-displacement and Re-location assistance plan, per Section 104(D) of the Housing and Community Development Act of 1974 as amended:** Mr. Shreeve advised this is the next step in the CDBG application process. **Mr. Shumway made a motion** to approve **Resolution #30-03**, Residential Anti-displacement and Re-location assistance plan, per Section 104(D) of the Housing and Community Development Act of 1974 as amended; motion seconded by Mr. DeSpain; vote unanimously carried.

2) **Resolution - Submission of applications for FY 2003 State CDBG funds, certifying that said applications meet the community's previously identified housing and community development needs and the requirements of the State CDBG program, and authorizing all action necessary to implement and complete the activities outlined in said applications:** **Mr. DeSpain made a motion** to approve **Resolution #31-03** for Submission of applications for FY 2003 State CDBG funds, certifying that said applications meet the community's previously identified housing and community development needs and the requirements of the State CDBG program, and authorizing all action necessary to implement and complete the activities outlined in said applications; motion seconded by Mr. Thompson; vote unanimously carried.

SHERIFF: Gary Butler, Sheriff: **Enter into IGA with the Department of Corrections for training for Detention Officers through the Corrections Officer Training Academy (COTA) program:** Commander Burke explained that the COTA program would be an alternate route to provide training for detention officers at a reduced cost of \$750-\$850 per cadet. The costs will increase by \$20 each year we renew. Total savings is \$350-\$450 per cadet. This is a correctional officer training only and will be paid out of Jail Enhancement funds. **Mr. DeSpain made a motion** to approve IGA with the DOC for training for Detention Officers through the COTA program; motion seconded by Mr. Brownlow; vote unanimously carried.

Sheriff Butler updated the Board on the June Goodman matter, noting that the reward has reached \$40,000 (\$10,000 from the county and up to \$30,000 from the family). He added that there is also a \$100,000 reward being offered if Ms. Goodman is returned unharmed. He said that Representative Jake Flake helped to get four more FBI agents on the case.

(Clerk's note: The Board recessed at 10:30 a.m. due to a power outage. The meeting reconvened at 12:55 p.m. with all present)

NAVAJO NATION DIVISION OF PUBLIC SAFETY: Tyrone Benally, Sergeant: Request to transfer un-used funds approved for training on May 6, 2002, to allow two officers to attend Advance Law Enforcement Interviewing Training Program on May 9-11, 2003: Mr. Deal explained that the funds approved last year for training were not used and the request is to allow those funds to be used for a training program scheduled for May 9-11, 2003. **Mr. Deal made a motion** to transfer un-used funds to allow two officers to attend Advance Law Enforcement Interviewing Training Program on May 9-11, 2003; motion seconded by Mr. Shumway; vote unanimously carried.

BOARD OF SUPERVISORS: Resolution in opposition of the taking of Highway User Revenue Funds (HURF) to fund the Arizona Department of Public Safety: Public Works Director Bill Cox explained that the State Legislature is planning to divert approximately \$500,000 of Navajo County HURF funds (\$14,000,000 state-wide) to the Department of Public Safety. HURF funds are used to fund many road projects throughout the county each year and if these funds are diverted, we would cut back on the scheduled project on Lone Pine Dam Road, which has been in the planning stages for eleven years, and we would stop the prep work. It is totally inappropriate for the state to take these funds. Mr. Brownlow agreed, noting that if the state takes the funds this year, they could do the same next year, with even more funds diverted to other programs. **Mr. Brownlow made a motion** to approve **Resolution #35-03** in opposition of the taking of HURF funds to fund the AZ DPS; motion seconded by Mr. Thompson; vote unanimously carried. (Mr. DeSpain absent for the vote)

DEVELOPMENT SERVICES: Dave Ashton, Director: 1) **Final Plat and Master Development Plan approval for Linden Trails Subdivision, Linden area:** Mr. Ashton explained that the developer requested approval of a tentative plat for Linden Trails Subdivision at the May 16, 2002 P & Z meeting. They also presented a Master Development Plan because the development was more than 40 acres. (76 acres) The site of the proposed subdivision is located on Lone Pine Dam Road in the Linden area, and has been classified as R1-10 since 1977. At the May 16, 2002 P&Z meeting, the Commission raised concerns regarding road access to a private roadway, flood control and the proposed sewer treatment plant and discharge. P & Z recommended approval with the stipulation that all design concerns be satisfactorily addressed prior to meeting with the Board of Supervisors. Citizens at the P&Z meeting also expressed concerns regarding issues such as: overcrowded schools, increased crime, increased traffic on Lone Pine Dam Road and safety issues for the children. In light of these comments, the developer reworked his plan and, because there were some modest changes, staff brought the matter back to P&Z on March 20, 2003. The revised Tentative Plat was approved due to the following: two primary access roads to Lone Pine Dam Road and an emergency access to Aspen Way and the sewer plant has been replaced with individual septic tanks. The improvement plans and drainage design report have been reviewed by staff and found to meet the subdivision requirements. The CC&R's establish that the Homeowners Association will maintain the drainage facilities. The Financial Assurances are based on the approved Engineer's Cost Estimate and have been reviewed by the County

Attorney's office. Staff recommends approval of the Final Plat for Linden Trails, as well as the financial assurances, with the stipulation as presented. Staff also recommends approval of the Master Development Plan. Mr. Ashton noted that there is a problem with the original zoning in 1977. Two of the parcels are still zoned A-General instead of R1-10, and these must be rezoned. Deputy County Attorney Lance Payette noted that in 1977, resolutions were not recorded and the maps at the time indicated that the zoning in that area was all R1-10. As this was the county's error, it is up to us to correct the zoning. Mr. Shumway noted there were no public comments offered. **Mr. Shumway made a motion** to adopt **Resolution #34-03** to approve Final Plat and Master Development Plan for Linden Trails Subdivision as presented, with stipulations and that staff correct the zoning; motion seconded by Mr. DeSpain; vote unanimously carried.

2) Public Hearing - Establishment of fees for collection of some Waste Tires to defray disposal costs: Mr. Ashton explained that for more than 10 years, Navajo County has participated in the state mandated Waste Tire Program which requires each county to collect and dispose of waste tires from new tire dealers, who charge a fee for disposal of the used tires. The county then receives grant funds based on tires sold within the state and registered vehicles in the county. Three years ago, staff surveyed neighboring counties regarding their management of the waste tires to see what they do with OTR (off the road) tires and tires received from non-dealers. Staff checked these same counties in April of this year and although their fees have not changed, the fees collected do cover all expenses incurred in the management of the waste tire program. Fees charged are for OTR tires and tires from non-dealers. We do not charge fees for waste tires brought to the two contracted collection sites and we end up paying to dispose of waste tires from trucking companies, construction companies, the Reservations, governmental agencies and people with more than 5 tires to dispose of. This costs the county anywhere from \$20,000 to \$40,000 per year. Mr. Ashton said he feels this is a Gift of Public Funds which the county cannot afford. Over the past three years, Navajo County has paid to dispose of 55,566 tires from non-tire dealers. Had the fees been in place three years ago, we would have been ahead \$25,000 a year. Staff recommends the implementation of a fee schedule as previously presented: OTR's-\$5 for tires less than or equal to 25 inches inside diameter and \$50 for those greater than 25 inches inside diameter; Semi-tires-\$5 each (no rims allowed); More than 5 passenger tires (first five are free) \$1 each (no rims allowed). Les Baker, of Waste Management, advised that he receives \$7000 each quarter to store the tires, pursuant to ADEQ requirements. The Painted Desert Landfill has been permitted for a used tire monofill, and the tires can be buried until such time as the technology is here to take care of them. He noted that if the proposed fees are approved, Waste Management will likely add a small handling fee (about 10 cents) for administrative costs, but this is negotiable. Deputy County Attorney Lance Payette advised that this resolution to adopt the fee schedule is separate and apart from the contract with Waste Management. Mr. Bowers noted that the contract can only be negotiated after the fees are adopted. Mr. Ashton noted that this matter was properly advertised for public hearing, and he has received no comments. Clerk Judy Jones also noted she had not received any public comments in this matter. **Mr. Brownlow made a motion** to adopt **Resolution #33-03**, to approve establishing fees, as presented, for collection of some Waste Tires to defray disposal costs; motion seconded by Mr. Deal; vote unanimously carried.

3) Public Hearing - Resolution for a Special Use Permit request by Byron Brown to allow for a hardware store on APN #206-15-044B, Heber/Overgaard area: Mr. Ashton explained that this was originally proposed as a mixed-use project consisting of a hardware store, covered RV storage and mini-storage warehouse. The application was approved by the Planning & Zoning Commission on August 19, 1999. Because of various circumstances, ie ownership change, summer fires, etc., the project moved ahead very slowly. The new owner wants only approval for the hardware store. The only stipulation is a 20 foot landscaped buffer on the

residential property side to the east. No letters received in opposition to the permit. Staff recommends approval with the one stipulation as presented. The developer, Byron Brown, stated he has addressed the privacy concerns of the residential neighbors, and he can put in a 6' fence at the rear of the property if necessary. No public comments in favor or in opposition. **Mr. Shumway made a motion** to approve **Resolution #32-03** for a Special Use Permit request by Byron Brown to allow for a hardware store on APN #206-15-044B, Heber/Overgaard area, with stipulation; motion seconded by Mr. Brownlow; vote unanimously carried.

PERSONNEL COMMISSION: Mary Kelley, Vice Chairman: Comments and recommendations from the Personnel Commission/Budget Advisory Committee regarding the budget crisis: Ms. Kelley stated the Commission realizes there is no easy answer to our budget crisis. The list they would like to be considered by the Board are as follows: 1) pursue the ½ cent sales tax-this could bring in approximately \$5 million a year in revenue. This tax would not be borne only by the full time residents, but part-time residents, tourists, etc. 2) reduce travel to the minimum necessary; 3) address take-home vehicle policy and establish guidelines. Employees are our most valuable asset and recommended 2 additional days of personal leave time for this fiscal year (total of 4 days), and that, if possible, the dependent insurance premiums be kept at the same level as last year. Mr. Shumway noted that the ½ cent sales tax is one of the items on the list to bring to the legislature, however many of the legislators are opposed to any additional taxes whatsoever. Ms. Kelley suggested that perhaps we should be more aggressive. She noted that if there is no relief, next year will be worse than this. We cannot afford more lay-offs. She asked the Board to adopt the additional 2 days of personal time and presented a list of cost-saving suggestions which have been submitted by the employees. **Mr. Deal made a motion** to approve two (2) additional days of personal leave for this fiscal year only, for a total of four (4) days; motion seconded by Mr. DeSpain; vote unanimous approving the motion.

ADMINISTRATION: Eddie Koury, County Manager: **Budget Discussions - FY 2003/2004:** Mr. Koury presented a summary of the cost of increases in retirement fund rates for FY 2003/2004. Impact to the General Fund will be approximately \$434,122, including: Arizona State Retirement System-\$267,239 increase; Elected Officials Retirement System-\$89,360 increase; Public Safety Retirement System-\$72,878 increase; Correction Officers Retirement Plan-\$4645 increase and that employee contributions will also increase. This increase is approximately \$120,000 more than we had anticipated. The medical insurance premiums will increase about \$25 on the employee side, and another possible increase in dependant coverage. He will have updated figures on revenues and expenditures for the next meeting. Other items for discussion include: analysis of the 15% reductions; status of grants; non-mandated services; funds with negative balances; possible increase in developmental services fees; and special districts. Mr. Shumway requested a priority on the revenue updates. **No action taken at this time.**

PAYROLL ACTIONS: Gilbert Gonzales, Human Resource Director, presented a list of payroll actions. **Mr. Thompson made a motion** to approve the payroll actions as submitted; motion seconded by Mr. Brownlow; vote unanimous approving the motion.

BOARD OF SUPERVISORS/COUNTY ATTORNEY: Pete Shumway, Chairman and Mel Bowers, County Attorney: 1) Executive Session pursuant to ARS § 38-431.03(A)(3) for legal advice: Consideration and review of whether the county's response to a personnel matter, protected pursuant to ARS § 38-532,

constituted a prohibited personnel practice and/or a violation of the county's personnel policy: Mr. Thompson made a motion to enter into the executive session at 2:45 p.m.; motion seconded by Mr. DeSpain; vote unanimously carried. Present: Chairman Pete Shumway; Vice-Chairman J.R. DeSpain; Members Jesse Thompson, Percy Deal and Jerry Brownlow; County Attorney Mel Bowers; Deputy Clerk Kathy Hieb. Mr. Deal made a motion to return to regular session at 3:00 p.m.; motion seconded by Mr. Thompson; vote unanimously carried.

2) Executive Session pursuant to ARS §38-431.03(A)(1) for personnel matters: Consideration of Human Resources' role with respect to any prohibited personnel practices or violation of county personnel policies and to discuss with the Human Resources Director and the Personnel Supervisor, individually, their respective roles with regard to any prohibited personnel practices or violations of county personnel policy: Mr. Shumway made a motion to enter into the executive session at 5:40 p.m. as to the Personnel Supervisor; motion seconded by Mr. Thompson; vote unanimously carried. Present: Chairman Pete Shumway; Vice-Chairman J.R. DeSpain; Members Jerry Brownlow, Jesse Thompson, Percy Deal; Deputy Clerk Kathy Hieb. Mr. Shumway made a motion to return to regular session at 5:55 p.m.; motion seconded by Mr. DeSpain; vote unanimously carried.

3) Executive Session pursuant to ARS §38-431.03(A)(1) for personnel matters: Consideration of Administration's role with respect to any prohibited personnel practices or violation of county personnel policies and to discuss with the County Manager and Assistant County manager, individually, their respective roles with regard to any prohibited personnel practices or violations of county personnel policy: Clerk's note: All matters concerning the County Manager were discussed under #4 below.

4) Executive Session pursuant to ARS §38-431.03(A)(1) for personnel matters: Discussion of conditions of employment with the County Manager: Mr. DeSpain made a motion to enter into the executive session to discuss employment with the County Manager at 3:05 p.m.; motion seconded by Mr. Thompson; vote unanimously carried. Present: County Attorney Mel Bowers; Chairman Pete Shumway; Vice-Chairman JR DeSpain; Members Jerry Brownlow, Jesse Thompson, Percy Deal; Deputy Clerk Kathy

Hieb; County Manager Eddie Koury. The Executive Session recessed at 4:45 p.m. and reconvened at 4:55 p.m. with all present. Mr. Deal made a motion to return to regular session at 5:30 p.m.; motion seconded by Mr. Brownlow; vote unanimously carried. No action required or taken.

The Board reconvened in regular session at 6:00 p.m. with all present. Mr. Bowers advised that these executive sessions, which began on April 28, 2003 and continued on April 29, April 30 and today, were recessed rather than adjourned to allow the Board to re-enter those sessions if necessary. These matters have now been concluded. Mr. DeSpain made a motion to adjourn from all executive sessions at this time; motion seconded by Mr. Thompson; vote unanimous approving the motion.

Mr. Brownlow made a motion as follows: We have reviewed this matter of the handling of a recent whistleblower action by administration and personnel. It is the finding of this Board as follows: 1) Gilbert Gonzales and Clinton Shreeve had minimal involvement in this matter and no action will be taken as to these individuals. 2) Mr. Koury was found to have made a good faith error in judgment. No disciplinary action will be taken, however a letter of direction will be issued. 3) Mr. Smith, who has extensive experience and training in personnel matters: a) failed to recognize the letter as whistleblower implications; b) refused to acknowledge the letter as a whistleblower letter after the fact; and c) spoke inappropriately of the whistleblower to another county employee. It is the determination that Mr. Smith engaged in prohibited personnel practices in violation of state law and county personnel policies. Therefore, Mr. Smith will receive a letter of reprimand and one (1) week without pay; motion seconded by Mr. DeSpain; vote unanimous approving the motion.

BOARD BUSINESS: Mr. Brownlow presented a "Founding Fathers Award" to Mr. Shumway on behalf of the Coalition of Counties.

There being no further business to come before the Board of Supervisors, the meeting was adjourned until Monday, May 12, 2003, upon a motion made by Mr. DeSpain; motion seconded by Mr. Brownlow; vote unanimously carried. The meeting adjourned at 6:05 p.m.

APPROVED:

Pete Shumway, Chairman

DATE: _____

ATTEST:

Judy Jones, Clerk of the Board

The following Navajo County demands were audited, approved and ordered paid by the Board:
USPS\$12000;AWHardy\$3500;APS\$2113.72;BIA\$14566.78;Bradco\$3562.99;CarteGraphSyst\$1600;CtyHlbrk\$10169;ChollaRdyMx\$1668.10;ClrkSupCrt\$12148.69;CocoCntyMedEx\$1661.75;CumminsRckyMtn\$4392.76;DMartin\$1240;DecCataSystm\$1200;DMcCoy\$3603.90;DFrame\$1605;DurhamComm\$10192.69;Fi

berMrktngIntntl\$1700;FroniterComm\$1234.04;GDurkee\$1541.25;GustRosenfeld\$19168.66;HatfieldReynoldsElctrc\$8221.23;HlbrkExtCare\$3813;I10Intrntl\$96418.77;J&MWhls\$6898.88;KnsStBnk\$1628.03;LRInvgtns\$2202.70;M&MProfCIng\$1248.74;NCRF\$3313.17;NCSRF\$1260.13;NCSU\$4214.01;NorchemDrgTst\$3214.41;PetroleumTrdrsCorp\$8397.27;P/LPolice\$10169;PreferredImage\$3080.81;RedburnTire\$1254.67;ReidheadSnd&Rck\$7817.36;RevegetationSrv\$35797.79;RHigginsLaw\$1605;RSCRntlSrv\$3148.36;Sheckathorne\$3015;TPhalen\$1180;TransourceComp\$1558.81;Versatech\$4212;WMH\$1121,73;WoodLawOfc\$3969.25;Xerox\$1064.21;KachinaOfcBldg\$1785.47;JFish\$3290;AzDptRev\$1912.04;Comm1stBnk\$1409.13;AdoptAWatershed\$2488.34;APS\$2167.61;ACIP\$5909.91;BearCatMfg\$2369.58;BetterCommCo\$1320.37;CHolliday\$2505;CocoCntyMedEx\$4475.50;CCC\$2466.90;CompassGrp\$32479.48;CntrctrsBldgSply\$3159.88;CoopExt\$6370;DiamondPharmSrv\$5420.42;DBecker\$2500;DrakeTrck&Trlr\$6131.01;E&ESrv\$2069.75;FleetSltn\$5682.80;FSpore\$3750;FrontierComm\$1365.66;FullersWhtMtnMtrs\$1206.41;HughesSply\$1413.65;JComerford\$1500;KByrneRNCFNP\$1050;LasonSystm\$1273.05;GForsyth\$1760;NCRF\$1379.37;NCSRF\$3000.35;OwensEnrgy\$2123.08;Peart&Assoc\$1529.81;PioneerFence\$1070;RuchTrkCntr\$1576.68;STavey\$1250;SShumway\$1250;CarpetWrks\$2030.93;TigerDrct\$1468.55;Versatech\$10296;VikingOfcProd\$1169.86;VisionBusinessProd\$1703.69;Walmart\$1303.86;WaterCnsltnt\$2752.17;WestGroup\$1898.84;WhtMtnCnslng\$7280;WhtMtnEntrtnmnt\$1782