

NAVAJO COUNTY BOARD OF SUPERVISORS' MINUTES
TUESDAY, April 23, 2013

PRESENT: Sylvia Allen, Supervisor; Dawnafe Whitesinger, Supervisor; David Tenney, Supervisor; Jesse Thompson, Supervisor; and Jonathan M. Nez, Chairman were present in person.

9:04 a.m. Call To Order: Pledge of Allegiance and Invocation led by **Supervisor Allen**.

CALL TO THE PUBLIC: Levan Webb who lives in Lakeside at 6072 Sutter Drive addressed the Board to ask for help in regards to the sewer problems in the Wagon Wheel area. He reported he has spoken with the Health department, ADEQ and also the County School Superintendent regarding the sewer on the clothes of the school children who are attending different schools. He hopes to develop his 39 acres into a community recreation area and would like this issue rectified. **Supervisor Tenney** and **Chairman Nez** indicated that staff will be available to meet with him and help rectify the situation. Mr. Jayne reported Dr. Wade Kartchner the Health Director and Trent Larson the Planning and Zoning Director were available to meet with Mr. Webb in the hallway in regards to his concerns since at this point this is a public health issue.

CONSENT AGENDA: a) Minutes: April 9, 2013 b) Clerk of Superior Court Report March 2013 c) Juvenile Probation Report March 2013 d) Justice Court Reports: Holbrook Precinct #1, March; Winslow Precinct #2, March; Snowflake Precinct #3, March; Kayenta Precinct #4, March; Show Low Precinct #5, March; and Pinetop-Lakeside Precinct #6, March 2013 e) Constable Reports: Holbrook Precinct #1, March; Winslow Precinct #2, February; Snowflake Precinct #3, March; and Pinetop-Lakeside Precinct #6, March 2013 f) Tax exemptions filed pursuant to A.R.S. §42-11153 as a Request for Redemption of Waiver for 20 properties g) Letter to Arizona Counties Insurance Pool acknowledging the designation of County Manager James Jayne, as the authorized representative to the Arizona Counties Insurance Pool h) Quit Claim Deed to Miroslav Roth for APN 105-16-008 i) Quit Claim Deed to Nabil Mowad for APN 105-27-187 & APN 105-60-245: **Supervisor Thompson made a motion** to authorize the Chairman to sign the consent agenda as presented; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion.

HUMAN RESOURCES: Consideration and possible approval of Personnel Actions: Kimberly Eavenson reviewed the 19 item personnel action report. **Supervisor Allen** declared she had a conflict on Number 10. **Supervisor Thompson made a motion** to approve the personnel action report as presented; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion.

NAVAJO COUNTY PUBLIC HEALTH SERVICES DISTRICT Board of Directors Session: **Supervisor Tenney 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: Renewal of Contract #ADHS 13-043730, with the Arizona Department of Health Services for the Navajo County Child Fatality Review Team at a fixed price contract for \$10,000 annually for the period July 1, 2013 to June 30, 2018: Dr. Wade Kartchner reviewed the consent agenda item. **Supervisor Whitesinger** inquired if this is only for county jurisdiction and not for tribal lands. Dr. Kartchner indicated that we review all deaths through the entire county regardless of tribal lands however the Navajo Nation is trying to get their own contract with ADHS. **Supervisor Tenney made a motion** to approve the Renewal of Contract #ADHS 13-043730, with the Arizona Department of Health Services for the Navajo County Child Fatality Review Team at a fixed price contract for \$10,000 annually for the period July 1, 2013 to June 30, 2018; motion

seconded by **Supervisor Thompson**. Vote unanimous approving the motion. **Supervisor Thompson made a motion** to return to regular session; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion.

SUPERINTENDENT OF SCHOOLS: Consideration and possible approval of an Intergovernmental Agreement between the Navajo County Superintendent of Schools, Education Service Agency and the Apache County Superintendent of Schools, Education Service Agency in order to expend ARRA funds: **Chairman Nez** reported this item will be moved to the next Board of Supervisors meeting on May 14, 2013.

BOARD OF SUPERVISORS ACTING AS BOARD OF EQUALIZATION: **Supervisor Tenney made a motion** to enter into the Board of Equalization; motion seconded by **Supervisor Thompson**. Vote unanimous approving the motion.

- a. Swearing in of Assessor, Appraisers and Petitioners: Melissa Buckley, Clerk of the Board did the Swearing in of Assessor, Appraiser and Petitioners.
- b. Discussion and possible action regarding Petition for Review of Taxpayer Notice of Claim APN 309-46-001A: Assessor Cammy Darris reviewed the appeal periods and further reviewed the process of a Notice of Claim and indicated a Notice of Claim can only be changed as a result of a property tax error. The concrete mentioned was a factual error and had been previously addressed by the Assessor. The petitioner was unhappy with the increase of their last year tax evaluation and was still appealing the valuation which is not a notice of a factual error. Ms. Darris indicated a Notice of Claim cannot be used for this and reported the petitioner should have gone through the earlier appeals process. **Supervisor Allen** inquired if Brad Carlyon, County Attorney agreed and he indicated he did concur. **Supervisor Tenney made a motion** to deny the Petition for Review of Taxpayer Notice of Claim APN 309-46-001A; motion seconded by **Supervisor Whitesinger**. Vote unanimous approving the motion.
- c. Discussion and possible action regarding Petition for Review of Taxpayer Notice of Claim M870012901: Assessor Cammy Darris reported that this is the same scenario as the last claim and indicated the petitioner cannot file to dispute the valuation under the Notice of Claim which can only be used for factual errors. **Supervisor Tenney made a motion** to deny the Petition for Review of Taxpayer Notice of Claim M870012901; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.

Supervisor Tenney made a motion to return to regular session; motion seconded by **Supervisor Thompson**. Vote unanimous approving the motion.

EMERGENCY MANAGEMENT:

- a. Presentation on 2013 Fire Season for Apache-Sitgreaves: Mary Springer introduced Mark Empey from the forest service who then presented a fire season video which can be viewed at the following link: <http://gacc.nifc.gov/swcc/predictive/outlooks/outlooks.htm>.
- b. **PUBLIC HEARING:** Consideration and possible approval of the repeal of the Outdoor Fire Ordinance Number 01-06 and possible adoption of a new Outdoor Fire Ordinance, Ordinance Number 01-13: Mary Springer and Catrina Roe discussed the item and answered all inquires. They indicated that this has been a combined effort with many agencies and the new ordinance will set the county's Fire Ordinance to be more in accordance with those of the national forests and other fire agencies. **Chairman Nez** opened the public hearing. Kirk Webb with Lakeside Fire District spoke in favor of the new Outdoor Fire Ordinance. There were no other public comments. **Supervisor Tenney made a motion** to approve the repeal of the Outdoor Fire Ordinance Number 01-06 and the adoption of a new Outdoor Fire Ordinance, **Ordinance Number 01-13**; motion seconded by **Supervisor Whitesinger**. Vote unanimous approving the motion.

FINANCE:

- a. Consideration and possible approval of a Proclamation declaring April as “Fair Housing Month”: Mary Springer discussed the proclamation. Mary recognized Bill Chaddick for his work on the CDBG projects. **Supervisor Thompson made a motion** to approve the Proclamation declaring April as “Fair Housing Month”; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion. Mr. Jayne thanked Bill Chaddick for his work here at Navajo County.
- b. County Finance Update: James Menlove indicated that we are projecting to be in the black about \$22,500. He shared information on revenues and county sales tax.

PUBLIC WORKS:

- a. Acknowledge and Recognize Jeanine Carruthers’ contributions to Navajo County and Public Works: Homero Vela recognized Jeanine Carruthers, Deputy Director of Public Works, who develops and manages various budgets and oversees the contracting of materials and equipment, helps create and manage various agreements with Chapters, the Navajo Nation, the Hopi Tribe, the White Mountain Apache Tribe, Cities, Towns and other partners. He reported she recently passed a module for Legal Aspects of Purchasing in the Public Sector class. Mr. Vela indicated he would like to publicly thank Jeanine for her significant contributions and excellent work to Public Works and Navajo County. **Chairman Nez and Supervisor Thompson** thanked Jeanine.
- b. Consideration and possible approval of the Memorandum of Agreement between the Hardrock Chapter and Navajo County to repair NR8027 with FEMA awarded emergency assistance: Homero Vela discussed the item. **Supervisor Thompson** indicated that this is a team effort to restore this road. **Supervisor Thompson made a motion** to approve the Memorandum of Agreement between the Hardrock Chapter and Navajo County to repair NR8027 with FEMA awarded emergency assistance; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion.
- c. Consideration and possible award of Contract #B13-03-007 Supplying and Delivering Liquid Asphalt Products to Cactus Transport, Inc. and Hawker & Evans Asphalt Company, Inc.: Homero Vela discussed the item. **Supervisor Tenney made a motion** to award Contract #B13-03-007 Supplying and Delivering Liquid Asphalt Products to Cactus Transport, Inc. and Hawker & Evans Asphalt Company, Inc.; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.
- d. **Public Hearing:**
 - i) Consideration and possible dismissal of an Appeal received by RDO Equipment Company in response to a bid protest for the purchase of one or more Backhoe Loader, #B12-12-017: Homero Vela discussed the appeal received by RDO regarding the bid specifications. **Chairman Nez** opened the Public Hearing on all three items. Mr. Greg Smith who represents Empire Southwest reported on the hydraulic specifications and the bid protest. **Chairman Nez** closed the Public Hearing. **Supervisor Tenney made a motion** to dismiss the Appeal received by RDO Equipment Company in response to a bid protest for the purchase of one or more Backhoe Loader, #B12-12-017; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.
 - ii) Consideration and possible termination of the contract for the purchase of one or more Backhoe Loader, #B12-12-017 with RDO Equipment Company: Homero Vela asked to terminate this contract with RDO since the John Deere 310 SK does not meet the specifications identified in Section 2.6.1. **Supervisor Tenney made a motion** to terminate the contract for the purchase of one or more Backhoe Loader, #B12-12-017 with RDO Equipment Company; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.
 - iii) Consideration and possible award of Contract for the Purchase of one or more Backhoe Loader, #B12-12-017 to Empire Southwest LLC: Homero Vela requested that the Board award the contract to Empire Southwest. **Supervisor Tenney made a motion** to award the Contract for the Purchase

- of one or more Backhoe Loader, #B12-12-017 to Empire Southwest LLC.; motion seconded by **Supervisor Whitesinger**. Vote unanimous approving the motion.
- e. Consideration and possible award of Contract #B13-03-012 Hot Asphaltic Concrete Pavement Overlay to Combs Construction Company, Inc.: Homero Vela discussed the item. **Supervisor Thompson made a motion** to award Contract #B13-03-012 Hot Asphaltic Concrete Pavement Overlay to Combs Construction Company, Inc.; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.
- f. **NAVAJO COUNTY FLOOD CONTROL DISTRICT Board of Directors Session: Supervisor Thompson made a motion** to enter into the Navajo County Flood Control District Board of Directors Session; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion. Consideration and possible approval of a Professional Service Contract with J.E. Fuller Hydrology and Geomorphology for an amount not to exceed \$80,000.00: Homero Vela discussed the item. **Supervisor Allen made a motion** to approve the Professional Service Contract with J.E. Fuller Hydrology and Geomorphology for an amount not to exceed \$80,000.00; motion seconded by **Supervisor Thompson**. Vote unanimous approving the motion. **Supervisor Tenney made a motion** to return to regular session; motion seconded by **Supervisor Thompson**. Vote unanimous approving the motion.
- g. **Public Hearing:** Consideration and possible adoption of Resolution Number 12-13, approving a Special Use Permit for Apache District Wind Farm, LLC to place a temporary meteorological tower with a height not to exceed 200 feet, to measure wind for the potential of developing an alternative power (wind) generating facility on a site located approximately 13 miles southwest of Holbrook: **Chairman Nez** opened the Public Hearing. Trent Larson discussed the item. He indicated the land owner Steve Brophy with Aztec Land and Cattle Company and developer Eric Simon of Apache District Wind Farm were present and available for questions. Eric Simons thanked the Board for allowing him to apply for this Special Use Permit and spoke in favor of this item. He indicated the proposed tower would give the company more data to determine if the wind resource would be enough for the commercial project. Mr. Simons indicated that it takes a minimum of one year however they would like to gather more data and has asked for a three year period. **Supervisor Allen** indicated that she received a letter from Itasca Small and then read the letter in regards to wind towers causing health issues. Mr. Carlyon indicated that he disagrees with the letter. Mr. Larson responded that the Planning and Zoning department has looked into these issues previously and that at this point they are just measuring wind with a meteorological (MET) tower. **Chairman Nez** indicated that Planning and Zoning had considered the item and recommended approval. **Chairman Nez** closed the Public Hearing. **Supervisor Allen made a motion** to adopt **Resolution Number 12-13**, approving a Special Use Permit for Apache District Wind Farm, LLC to place a temporary meteorological tower with a height not to exceed 200 feet, to measure wind for the potential of developing an alternative power (wind) generating facility on a site located approximately 13 miles southwest of Holbrook; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion.
- h. **Public Hearing:** Consideration and possible adoption of Resolution Number 13-13, approving a Special Use Permit for Concho Road Self Storage to operate a mini storage facility on APN: 403-81-016L: Trent Larson discussed the item and indicated that Planning and Zoning does recommend approval. **Chairman Nez** opened the Public Hearing. Mr. Jerry Somers addressed the Board in opposition to the item. The owner Dave Young spoke in favor of the item. Mr. Doug Brimhall, the project manager with Tetra Tech spoke in regards to the concerns of the lighting, gravel, drainage and septic issues. **Chairman Nez** closed the Public Hearing. **Supervisor Allen made a motion** to adopt **Resolution Number 13-13**, approving a Special Use Permit for Concho Road Self Storage to operate a

mini storage facility on APN: 403-81-016; motion seconded by **Supervisor Tenney**. Vote unanimous approving the motion.

- i. **Public Hearing:** Consideration and possible adoption of Resolution Number 14-13, approving a Special Use Permit for Overgaard Compassion Care to operate a Medical Marijuana Dispensary located on APN: 206-31-001F: Trent Larson discussed the item. Mr. Larson indicated that this is a new site eleven miles east of Overgaard on Highway 277. **Chairman Nez** opened the Public Hearing. Peggy Saunders indicated that there was no opposition at the Planning and Zoning meeting. **Supervisor Tenney** expressed appreciation to the applicants for listening to the public and the Board's concerns and that the previous issues have been addressed and taken into consideration for the new site. **Supervisor Tenney** indicated that he is not in agreement with medical marijuana however the applicants have done what the Board has asked and have selected an agreeable location. **Chairman Nez** closed the Public Hearing. **Supervisor Tenney made a motion** to adopt **Resolution Number 14-13**, approving a Special Use Permit for Overgaard Compassion Care to operate a Medical Marijuana Dispensary located on APN: 206-31-001F; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.
- j. Presentation about Wildland Fire Training & Arizona Department of Transportation Equipment Roadeo: Russell McCray made a presentation on the Wildland Fire Training & the Arizona Department of Transportation Equipment Roadeo. Mr. Jayne thanked Mr. McCray for the presentation and spoke in regards to Navajo County's preparedness to respond to an emergency situation.
- k. Consideration and possible approval of a letter providing input and direction to the State Transportation Board regarding Navajo County's preference on the Five-Year Transportation Plan: Bill Bess presented the item and answered questions of the Board. **Supervisor Allen made a motion** to approve the letter providing input and direction to the State Transportation Board regarding Navajo County's preference on the Five-Year Transportation Plan; motion seconded by **Supervisor Whitesinger**. Vote unanimous approving the motion.

BOARD OF SUPERVISORS: Consideration and possible approval of a letter to Arizona Department of Transportation Director regarding State Route Weight Limits: Hunter Moore gave a presentation to the Board regarding the weight limit issue and requested that a letter be sent to the Arizona Department of Transportation. **Supervisor Tenney, Supervisor Allen, Supervisor Whitesinger, Hunter Moore and James Jayne** expressed their support to Apache County, Senator Chester Crandall, the Hopi Tribe, the White Mountain Apache Tribe and the region for this important issue. Mr. Jayne indicated this is a regional economic development, jobs and forest health issue. **Supervisor Allen made a motion** to approve the letter to Arizona Department of Transportation Director regarding State Route Weight Limits; motion seconded by **Supervisor Whitesinger**. Vote unanimous approving the motion.

COUNTY BUSINESS UPDATE: Report from Board members, County Attorney and County Manager: **Supervisor Allen** indicated that she is very concerned for the private rights of law abiding citizens being affected by laws being enacted and pushed upon those people because of issues and events being used for a reason to make these laws. She feels the federal government should not pass laws which affect the citizen's private rights. **Supervisor Allen** says she does not agree with the medical marijuana law but supports the property rights of the previous issue. **Supervisor Allen** indicated she received the sweetest letter from her constituents who live in the El Dorado area. Their road had been repaired and they thanked the county for fixing that part of the road. **Supervisor Whitesinger** expressed her thanks to **Supervisor Allen** for her leadership and indicated she has also changed her perspective on laws especially in regards to medical marijuana. She indicated she attended the Navajo Nation's Spring Session and attended community cleaning projects. **Supervisor Tenney** reported he appreciated the support he has received through his illness. He addressed the medical marijuana issue and his vote to support the dispensary and location as an acceptable spot

in the county even though he is against the medical marijuana law. **Supervisor Thompson** spoke about the marijuana issue and other senate bills which are affecting the native issues; Bill 1317 Aviation, and TPT funding. He reported on the Water Summit at Greasewood he attended regarding the Little Colorado River Litigation and the status of the water issue. Brad Carlyon reported on the Veterans administration meeting in Phoenix he attended with Judge Higgins and how we can get these services to our veterans in Navajo County that come into our criminal justice system and courts. He has been asked to Chair the AACo Veterans and Military Services task force for next year. He reported he spoke at the Arizona Narcotics Officers Association task force to help develop a communications strategy. He reported the Navajo County Family Advocacy Center won recognition as the non-profit of the year at the Snowflake-Taylor Chamber of Commerce awards dinner. He extended an invitation to the 4th Annual Victims Rights Symposium on Friday at NPC in Snowflake and spoke about the symposium's agenda. Mr. Jayne indicated that he will be attending the White Mountain Manager's Association meeting where they will be saying goodbye to Kelly Udall, Pinetop-Lakeside Town Manager and Jim Ferguson, Winslow City Manager. Mr. Jayne expressed congratulations to Melissa Buckley for successful completion of the certificate requirements for the Management and Leadership Institute from Arizona State University. He then thanked Melissa Buckley, Catrina Roe and Debra Chapman and acknowledged them for Administrative Professionals Day. **Chairman Nez** and **Supervisor Thompson** also expressed their appreciation to the Clerk of the Board and staff. **Chairman Nez** reported on District 1 in regards to the road construction and gravel projects which the Board has supported. He expressed appreciation to those from the county who attended the Spring Session at the Navajo Nation. The Navajo Generating Station was a topic at the Navajo Nation Spring Session. **Chairman Nez** then introduced Mr. Manuel Shirley and expressed his gratitude for his partnership with the Board.

Navajo Word of the Day: ya da lay - discombobulate

ADJOURN: at 12:14 p.m. **Supervisor Thompson made a motion** to adjourn; motion seconded by **Supervisor Allen**. Vote unanimous approving the motion.

APPROVED:

DATE: *May 14, 2013*

Jonathan M. Nez, Chairman

ATTEST:

Melissa W. Buckley - Clerk of the Board