

**BOARD OF SUPERVISORS
NAVAJO COUNTY, ARIZONA
JULY 26, 2004**

Supervisors' Chambers, Holbrook, Arizona - Time: 9:10

PRESENT: J.R. DeSpain, Chairman; Jerry Brownlow, Vice-Chairman; Percy Deal, Member; Jesse Thompson, Member; Pete Shumway, Member; Mel Bowers, Jr., County Attorney; Jimmy Jayne, County Manager; and Judy Jones, Clerk of the Board. Mr. Deal led the Pledge of Allegiance and offered the Invocation. **CALL TO THE PUBLIC:** The Board welcomed Jack Latham from Congressman Renzi's office. He gave an update on events and legislation.

CONSENT AGENDA: Mr. Brownlow 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: Voucher list for payment; Assessments and Tax Roll Corrections; Board Minutes: May 17, 18, June 7 and July 6, 2004; CDBG Closeout Certification; Special Event Liquor License: Sons of the American Legion for Fundraiser to be held on September 18 & 19, "Oktoberfest", Highway 260, MP 307, Overgaard, AZ (Tall Timbers Park); Proclamation for Purple Heart Week, August 7 – 13, 2004; Back Tax Land Deed: 105-60-340; Letter of Request to Resource Advisory Committee for grant funds to treat Rodeo-Chediski fire damaged right-of-way areas; Approve appointment of Martin Bahe to the Planning & Zoning Commission for District II and accept the resignation of Tommy Joe.

JULY MONTHLY ANNIVERSARY AWARDS: 15 Years–Jane Karges; 10 Years–Carolyn Christoffel, Gregory Kroeger, John May; 5 Years–Anthony Bowler, John James, Debra Serna . No one present, the Clerk will make sure the awards are mailed out to recipients.

BOARD OF SUPERVISORS: General update from Kevin Biesty, Government Relations Director, Arizona Department of Transportation, regarding transportation issues, including TEA-21 Reauthorization: Mr. Biesty informed the Board that the Governor and the Director Victor Mendez have created a Communication and Community Partnerships area within the organization. All the Communication agencies are under one roof. There will be an out-reach position created that will have to be out in Greater Arizona 10-days out of each month and will take the information they get from those meetings back to the group. This will enable ADOT to have a better understanding of the needs that are out there. He informed the Board that Michael Ortega had been appointed as the new State Engineer. He comes from the City of Douglas and is very aware of rural issues. Mr. Biesty discussed the following State issues: 1) Funding has been cut and this has created a resource problem for all of us; 2) working this summer on weeds on the right-of-way; 3) litter is also a big issue and this area is being addressed proactively. With regards to Federal issues, the main concern is regarding the Reauthorization which expired 9/20/03. Just had a series of on-going resolutions and they actively involved and trying to get the highest level of funding for the longest period of time. In Washington the Senate and House are trying to reach a consensus on the amount. The word on the street is that we will probably be discussing this next year at this time. ADOT has met to discuss the priorities that need to be taken to our delegation and have agreed on higher levels of funding, protect the firewalls that keep other governmental agencies from taking highway funds; revamp and try to improve conditions of the environmental clearing process and have greater flexibility. One of the major concerns is the Indian School Bus Route safety. He will setting up meetings in Washington regarding that issue. The Board encouraged Mr. Biesty to continue working on the litter problem. Mr. DeSpain suggested some public awareness such as billboards along the I-40 Corridor. Another issue is noxious weeds along the right-of-way and finding a way to take care of those weeds. Mr. Shumway suggested re-instituting using prison labor. Mr. Biesty stated that ADOT has been working on a study with ASU which suggested that most of those surveyed felt that "it is o.k. to litter, someone has to pick it up". We need to shift that focus and remind the public that this is a waste of taxpayer dollars. He added that as ADOT get updates the

counties will be made aware of those updates. The Board thanked Mr. Biesty for coming and for the information he provided. Update on Eastern Arizona Stewardship Center: Mr. Jayne stated that the U.S. Forest Service is still deliberating on the ward of the 10 year Stewardship Contract and stated we should hear sometime the end of this month. Request by Wayne Rothwell, Manager for Grants Project Specialist (GPS) for Support for Grant Application Requests for Indian Gaming Compact Funds: Mr. Rothwell stated that he is applying for funds that have been made available as a result of Prop 202, ARS §5-601.02(H)(4): (A) 12% of a tribe's total annual contributions distributed by the tribe to cities, towns and counties. He is submitting two (2) grant project applications to the White Mountain Apache Tribal Council concerning the financial need for new fire station facilities for Claysprings-Pinedale Fire District and the Linden Fire District. The Claysprings-Pinedale grant request is in the amount of \$416,905 to construct a replacement station and renovate an existing fire station. The Linden grant is in the amount of \$350,000 and will be used to construct a station and renovate and expand two existing fire stations. Mr. Rothwell asked for the Board support letter to attach to the Grant Applications. The grants will be administered by Navajo County and asked that consideration be given to the amount the County uses for Administrative funding. Mr. Thompson stated he had a great concern regarding fire protection on the reservation. Mr. Jayne stated that the new grant possibilities will give us a lot of opportunity to look at the north part of the county. **Mr. Shumway made a motion** to support the Grant Applications as requested; motion seconded by Mr. Brownlow; vote unanimous approving the motion. Update regarding Fire Restrictions for unincorporated areas of Navajo County: Emergency Services Director Dunagan stated that the County's Fire Ordinance states that it will prohibit fires in the unincorporated portions of the County when such fires are prohibited by the US Forest Service. He continued stating that this is posing a problem as certain areas of the unincorporated portions of the county may receive a lot less moisture than others. Additionally, cities and towns are not following the same ordinance. Therefore, it is very confusing to the residents. Linden Fire Chief, Marilyn Price spoke of her concerns stating that Linden had received very little rain and she felt it was dangerous to lift the restrictions. Director Dunagan stated that there was an exploratory committee being formed to look at all ordinances within the county, cities, towns, etc. to try and work out something that would work for all entities. Mr. Deal suggested that Director Dunagan would be on that committee to represent Navajo County. Funding assistance from District I Road Funds to share in the cost of repairing a D8L Dozer for Kayenta Chapter Frank Donald, Jr. Kayenta Chapter Community Coordinator addressed the Board regarding a request from Kayenta Chapter, for funding assistance in the repair of the Chapters Dozer. The machine has a blown engine that will cost \$34,748 to repair. Kayenta Township has contributed \$6,000 and he asked that the Board consider funding the same amount. **Mr. Deal made a motion** to approve \$6,000 (Manual Warrant) from District I Special Road Funds; motion seconded by Mr. Shumway; vote unanimously carried. **Resolution amending the Navajo County Fencing Policy and instructing Public Works to develop a plan for fencing on other county roads**: Mr. DeSpain stated that he has been getting several request for fencing of county right-of-ways in his District. The statutes provide for this type of repair to county roads, however, the current fencing policy does not. Mr. Payette drafted a Resolution that would allow these requests to be addressed by adding the following language: ...allow Special Project Road Funds to be used on fencing on other county-maintained roads where livestock may pose a hazard to the traveling public; and, ... such expenditures of Special Project Road Funds should be in accordance with a prioritized list of eligible roads to be developed by the County Engineer on basis of average daily traffic volume, historical frequency of accidents involving livestock and such other factors as the County Engineer may deem appropriate... . Mr. Cox suggested that if a cattle related accident had occurred on a road in a two-year period that it be considered as a road to be fenced. At this time there are four roads that meet that criteria (Woodruff Road, Bourdon Ranch Road, Hay Hollow Road and Pinedale Road). There have been 79 livestock related accidents in on Navajo County roads in the past 10 years. Although none of the accidents resulted in serious injury there is always a potential of serious injury or death in such an accident. **Mr. Brownlow made a motion** to approve Resolution 84-04 amending the Navajo County Fencing Policy and that fencing be completed on Woodruff, Bourdon Ranch, Pinedale and Hay Hollow roads; motion seconded by Mr. Shumway; vote unanimously carried. Funding assistance from District III Road Funds for Right-of-way Fencing on Woodruff Road: Mr. DeSpain requested Board approval of up to \$82,000 from District III Special Projects Road Fund for the fencing of 3.8 miles of Woodruff Road. Mr. Cox added that Woodruff Road is a paved, high speed Declared County Highway that has had seven collision accidents

involving livestock in the past ten years. I has been requested that the county fence the road. **Mr. DeSpain made a motion** to approve \$82,000 from District III Road Funds for this project; motion seconded by Mr. Brownlow; vote unanimously carried. Funding assistance from District II Special Project Funds for maintenance and repairs of the Southwest Fairgrounds facility (a public facility), requested by Teesto Chapter: Mr. Thompson explained that this facility is used all year round by elders, youth and the general public. It is in need of repair. **Mr. Thompson made a motion** to approve \$400 (Manual Warrant) from District II Special Project Funds for maintenance and repairs needed; motion seconded by Mr. Deal; vote unanimously carried.

HEALTH SERVICES DISTRICT/BIOTERRORISM: Mary Tyler, Interim Director, Kevin Neill, Bioterrorism Manager and Larry Dunagan, Emergency Services Director: Board of Directors Session: Bioterrorism MOU with Navapache Regional Medical Center to serve as a secure county receiving and storage site for Smallpox vaccine

and

other medical supplies in the event of a public health emergency: Mr. Shumway made a motion to enter a Board of Directors Session; motion seconded by Mr. Brownlow; vote unanimous approving the motion. Mr. Neill stated Navapache Regional Medical Center is the only medical facility in the county large enough to safely and securely receive/store emergency vaccines and equipment. The central location of the medical center will also facilitate the efficient dispersal of vaccines and equipment to planned vaccination sites located across the county. Should the MOU not be in place, there will be no guarantee that effective public health measures will be in place in case of an emergency. The MOU has been signed by the Navapache CEO, the Navapache attorney, and the Navajo County **Mr. Brownlow made a motion** to approve the MOU as presented; motion seconded by Mr. Shumway; vote unanimously carried. Amendment #4 to Contract #252039 for Bioterrorism amending existing contract (March 31, 2007): Mr. Neill stated that the contract extension will facilitate the flow of contract funds from the State to Navajo County. This will improve the county's ability to plan and prepare for public health emergencies beyond a single calendar year. **Mr. Thompson made a motion** to approve the amendment as presented; motion seconded by Mr. Shumway; vote unanimously carried. Contract with Apache County Health Department to provide services as a sub-contractor for #HP461323-003 with ADHS for the Injury Prevention Program (June 1, 2004 – May 31, 2005): Ms. Tyler reported to the Board that Apache County Health Department received an injury prevention grant from the Arizona Department of Health Services to provide program services in Apache and Navajo Counties for June 1, 2004 to May 31, 2005. Navajo County Public Health Services District will be a subcontractor for Apache County Health Department in the amount of \$20,074 in order to provide injury prevention services in Navajo County communities. **Mr. Shumway made a motion** to approve HP461323-003 as presented; motion seconded by Mr. Thompson; vote unanimously carried. West Nile Virus Implementation Plan: Ms. Tyler stated that the 2004 West Nile Virus season has began. The Navajo County Public Health Services District will need to respond. She reviewed the stages of the outline: Level 1 – No West Nile Virus Detected; Level 2 – West Nile Virus Detected in Mosquitoes, Horses and/or Birds; Level 3 – West Nile Virus Detected – Human Cases. Mr. Deal asked that Ms. Tyler speak with the Navajo Nation to make sure they are taking care of the Implementation Plan on the reservation. **Mr. Shumway made a motion** to approve the Plan as presented; motion seconded by Mr. Deal; vote unanimous approving the motion. Navajo County Emergency Services Wildfire Smoke Response Plan: Ms. Tyler explained that due to forest fires Navajo County communities have experienced smoke. The principal public health concern from exposure to wild fire smoke is from the exposure to particulate matter. This can lead to breathing difficulties, especially for individuals with asthma or other respiratory diseases. Wild Fire Smoke is unpredictable due to the wind. It is difficult to prepare for something that in unpredictable. In order to assist Navajo County residents prepare for and deal with wild fire smoke and in order to have the same message, the Navajo County Public Health Services District and the Navajo County Emergency Services have developed a joint Wild Fire Smoke Response Plan. This plan outlines the response consisting of Public Service Announcements in several stages. Level 1 is Pre-season; Level 2 is when wild fire smoke is present; Level 3 is when heavy smoke is present and visibility is reduced. Mr. Brownlow asked her to look at the possibility of including the Control/Prescribed Burn that are done by the

Forest Service to the Plan. **Mr. Shumway made a motion** to add Control/Prescribed Burns to the Plan and approve the Wild Fire Smoke Response Plan; motion seconded by Mr. Brownlow; vote unanimous approving the motion. Lease to allow the Bioterrorism Program's Tribal Liaison to occupy office space in the Town of Dilkon on the Navajo Nation: Mr. Neill stated that one of the primary missions of the Tribal Liaison is to establish physical office space on each of the Indian Nations located within Navajo County, as this will facilitate communication and joint activities among the new tribal BT Programs and the Navajo County BT Program. The Lease price was previously approved by the Board of Supervisors as part of the BT Program's FY2002-03 carry-over spending plan. The cost will be \$3,000 per annum funds from BT Program. Mr. Deal asked that Mr. Neill also look into office space in the Kayenta Township. **Mr. Thompson made a motion** to approve the Tribal Lease as presented; motion seconded by Mr. Shumway; vote unanimous approving the motion.

SPECIAL DISTRICTS: Leida Hatch, Coordinator: **Resolution** determining the validity of the Petition for Annexation, Number 04-04 to the **Pinetop-Lakeside Sanitary District:** Ms. Hatch explained that the Assessor's office checked for validity and they appear to be in order. There are only two parcels included in this annexation and they are both owned by the same people. **Mr. Brownlow made a motion** to approve **Resolution # 81-04** determining the validity of the Petition for Annexation; motion seconded by Mr. Thompson; vote unanimous approving the motion. (Mr. Shumway not present for vote.) **Board of Directors Session:** **Sutter Drive Improvement District:** Approval to set date, time and place for hearing all protests and objections with respect to the Resolution of Intention for the Sutter Drive Improvement District (#64-04), for 10:00 a.m. on August 9, 2004 at the Navajo County Governmental Complex, Holbrook, Arizona: **Mr. Brownlow made a motion** to enter into a Board of Directors Session; motion seconded by Mr. Deal; vote unanimous approving the motion. Ms. Hatch stated that an objection has been filed as to the intended improvements to be made in the District. The objections must be heard before the Board can consider the Resolution Ordering the Improvement or continue with the District project. **Mr. Brownlow made a motion** to approve August 9, 2004 at 10:00 a.m. at the Governmental Complex as the hearing date to hear all protests and objections; motion seconded by Mr. Thompson; vote unanimous approving the motion. **Mr. Brownlow made a motion** to return to regular session; motion seconded by Mr. Deal; vote unanimous approving the motion.

LEGAL DEFENDER: Ben Cole, Public Defender or Jane Karges, Office Administrator: **Approval of funding for expert witness fees in the State vs. Mariano Billegas case, utilizing Dept. 019 Misc Professional Services:** Mr. Cole explained that this request is for a defendant charged with Second Degree Murder. The funds are requested to hire an expert on coerced confessions that would provide necessary and essential information to the jury in evaluating the testimony of key witnesses who have changed their stories. The fees are \$250.00 per hour including travel time from his home in California. The Legal Defender's Office has a budget of \$8,000. for professional services, a large portion of the \$8,000. is encumbered for expert witnesses in the State v. Thomas case that will go to trial in October. If there is sufficient funds in the Legal Defender's Budget to pay the expert the budget would be wiped out and we would be required to appear before the Board to request funds each time there were any expenditure for professional services. Mr. Jayne added that he has requested that each time expert witness fees are needed that one of the Superior Court Judges be asked to review the amount requested for accuracy. Mr. Cole stated that he has requested a letter but has not received it as of today. He will get the letter to Mr. Jayne when he receives it. **Mr. Shumway made a motion** to approve \$6,000 for expert witness fees as requested to be taken from Misc. Professional Services; motion seconded by Mr. Thompson; vote unanimous approving the motion.

PUBLIC WORKS: Bill Cox, Director: **Resolution** Agreeing to Sponsor Grant Application to the Arizona Department of Transportation for the Restoration of the Navajo County Courthouse: Mr. Cox stated that in

1997 the stabilization of the historic Navajo County Courthouse was begun and by the end of 1998 Phase I of the stabilization project had been completed. This work included underpinning of the exterior walls foundation, improvement of site drainage, removal of certain additions, and repair of the roof and roof drainage system. The cost for this work was approximately \$222,000.00. Since Phase I has been completed there has been no new emphasis for continuing the stabilization work until now. However, a renewed interest on the part of the City of Holbrook and Supervisor DeSpain has motivated a submission for additional grant money for the continued restoration of the Courthouse. Phase II stabilization work includes the repair of the building walls due to damage caused by an inadequate foundation and drainage system. The specific repairs include interior foundation repair and arch repairs, and repair of the exterior masonry walls. Other non-stabilization work that will be addressed in this phase of rehabilitation includes painting of the exterior walls, roof and floor repair work, seismic up grades to the building, removal of the Boiler Room, modifications to the heating and cooling system and other architectural items. All engineering design and construction management including review and inspection will be the sole responsibility of the City of Holbrook. **Mr. Brownlow made a motion** to approve Resolution 80-04 agreeing to sponsor the Grant Application to ADOT as presented; motion seconded by Mr. Thompson; vote unanimous approving the motion. Purchase four (4) Ten Wheel Dump Truck from Yavapai County Contract #2312030: Mr. Cox explained to the Board that Yavapai County recently purchased three heavy duty dump trucks in July of 2003 under Contract # 2312030. When these trucks were delivered in April of 2004 there had been an error in the manufacturing of the trucks. They were built with an air ride suspension instead of a spring suspension and Yavapai County would not accept the trucks. The cost of these trucks was \$140,844.79 each. Cunningham Commercial Vehicles has offered these trucks to us at a cost of \$133,577.45 each that is a savings of \$7,267.34 per truck. Three trucks are ready to be picked up and they have agreed to build the fourth truck at the same cost. Our lead mechanic has inspected the trucks and feels that this is a very good deal. We prefer air ride suspension over spring suspension and the trucks are set up for our snow plow equipment. With the cost of these trucks continuing to climb we do not believe that bidding these units out would be cost effective. We do have a cooperative purchasing IGA with Yavapai County and recommend that we purchase these trucks. Two will go the Holbrook road Yard and two will go to the South County Road Yard. **Mr. Shumway made a motion** to approve the purchase of four dump trucks for Yavapai County as requested; motion seconded by Mr. Brownlow; vote unanimous approving the motion.

FINANCE: James Menlove, Director: Monthly Finance Report: Mr. Menlove presented to the Board the Truth in Taxation Press Release regarding "Notice of Tax Increase" that will be sent out today. The Board suggested additional wording be included in the Press Release. Mr. Menlove revised the Press Release explaining that the proposed tax increase is due to an artificially low rate of .4771% in 2003. Navajo County's primary property tax rate of .6909% in 2002, the 2004 tax rate of .6316 represents a decrease of 5.64% from 2002. A handout with the Taxing Authorities as handed out for the Boards information. **Mr. Shumway made a motion** to approve the Press Release as revised; motion seconded by Mr. Deal; vote unanimous approving the motion. Introduction of new Grants Administrator, Linda Yoskowitz: Ms. Yoskowitz introduced herself to the Board stating she has three primary areas that she will be focusing on: Obtaining grants, training and technical assistance and public safety primarily Homeland Security. She looks forward to working on partnerships with Tribal law enforcement agencies. The Board welcomed Ms. Yoskowitz to Navajo County. **Resolution Adopting A Fair Housing Policy:** Mr. Menlove explained the Resolution will allow us to continue with our housing assistance programs. The Board asked if there was a list of the projects that had been completed the previous year. Mr. Jayne explained that he had been trying to obtain that information for months and could not get it. Mr. DeSpain stated that he would talk to the Director if NACOG at the next meeting. **Mr. Shumway made a motion** to approve Resolution 83-04 Adopting the Fair Housing Policy; motion seconded by Mr. Brownlow; vote unanimous approving the motion.

DEVELOPMENT SERVICES: Dave Ashton, Director: Request for building permit fees to be waived for the Joseph City Chamber of Commerce: This item was pulled. **Public Hearing: Resolution for a Zone Change for an**

unincorporated area along I-40 basically Cholla Power Plant to I-2 (Heavy Industrial Zoning District) request by Arizona Public Service in the Joseph City area: Mr. Ashton stated that APS has requested a zone change for all of their parcels they own and operate on in the Joseph City area. As the parcels have several zoning districts for them, they want to create a consistency in the zoning for the area of the plant. Staff feels this is consistent with the Comprehensive Plan in encouraging development utilizing the transportation corridor, i.e., rail, interstate and state highway in the area. At the Planning & Zoning Commission Meeting on June 17, 2004, two commissioners were not in favor as there are parcels being rezoned that are about two miles away from the interstate on the south side of the river. For this reason they voted against carte blanche rezoning of all the parcels. Since that time a letter was received on July 16th from the BLM noting a that several parcels north of the freeway are within an Area of Critical Environmental Concern (ACEC) long Tanner Wash and that a rezone to I-2 would not be consistent with their plans for lands within the ACEC. APS has withdrawn those parcels at this time. The Parcels being approved today are: 107-05-019, 022, 036, 039, 043B, 050, 107-21-011, 013A, 107-23-003 and 109-31-007B. **Mr. Shumway made a motion** to approve Resolution #78-04 approving the Zone Change for APS; motion seconded by Mr. Brownlow; vote unanimous approving the motion. **Public Hearing: Resolution for a Zone Change and Conceptual Master Site Plan for the "Wagon Wheel Village" in the Wagon Wheel Area:** Mr. Ashton stated that on May 20, 2004, the Planning & Zoning Commission conducted a public hearing. After hearing the Staff Report and taking public comments, the Commission voted 6-0 to recommend that the Board of Supervisors approve the zone change to Special Development along with the Conceptual Master Development Site Plan. This application is complete. One letter in support and no letters of opposition has been received in conjunction with the Public Notice and mail outs of this Hearing. **Mr. Brownlow made a motion** to approve Resolution #79-04 with the stipulations to approve the zone change and Conceptual Master Site Plan for Wagon Wheel Village; motion seconded by Mr. Deal; vote unanimous approving the motion.

HUMAN RESOURCES: Gail Calisen, Director: Approve Extension of Temporary Clerk II in Administration until August 31, 2004, funded by FY 2005 vacancy savings in Administration: **Mr. Deal made a motion** to approve extension of the Temporary employee as requested; motion seconded by Mr. Brownlow; vote unanimous approving the motion. **Personnel Actions:** **Mr. Thompson made a motion** to approve the personnel actions; motion seconded by Mr. Shumway; vote unanimous approving the motion.

BOARD OF SUPERVISORS: Resolution honoring Presiding Justice of the Peace, Fred Peterson, for Receiving the "Kenneth L. MacEachern Memorial Award, which is Awarded to the "Outstanding Non-Attorney Judge in the United States": The Board presented Judge Peterson with this prestigious award. Judge Peterson thanked the Board of the Resolution. **Mr. Shumway made a motion** to approve Resolution #77-04 honoring Judge Peterson; motion seconded by Mr. Thompson; vote unanimous approving the motion.

BOARD BUSINESS: Ms. Jones announced that she will be retiring effective September 15, 2004 after 21 years of service to Navajo County.

There being no further business to come before the Board of Supervisors, the meeting was adjourned until Monday, August 9, 2004, upon a **motion made by Mr. Thompson**; motion seconded by Mr. Shumway; vote unanimously carried. The meeting adjourned at 2:35 p.m.

APPROVED:

ATTEST:

DATE: _____

J. R. DeSpain, Chairman

Judy Jones, Clerk of the Board