

**BOARD OF SUPERVISORS
NAVAJO COUNTY, ARIZONA**

August 1, 2005

Board of Supervisors Chambers, Holbrook, Arizona – Time: 9:06 a.m.

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

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

CALL TO THE PUBLIC: Richard Jarenski, 2761 Apollo Circle, Heber Overgaard, invited everyone to an open meeting for C.H.O.I.C.E at Mogollon High School on August 13, 2005 at 7:00 p.m. to discuss the incorporation of the Heber/Overgaard area. He introduced Maxine Ihermel, Chairperson of CAN Organization in Heber/Overgaard. He advised the Board that he is again approaching the Board to request support for a Dial-A-Ride type program through a commitment of \$25,000 (22.5% of the bus purchase price) in 2006 or 2007 and then to appoint a committee to find a way to fund the \$80,000 necessary to run the program annually. He reported the NACOG deadline for a commitment is January 1. He expressed concern about the priorities of the County when allocating funding especially as related to the tissue plant. He also expressed concern regarding the county complex handicap access compliance. He expressed appreciation to J. R. DeSpain for his encouragement in this project. Mr. DeSpain and Mr. Brownlow suggested exploring expansion of the existing bus route in Show Low and Pinetop and Mr. DeSpain stated he would continue contact with NACOG for assistance.

BOARD BUSINESS: Mr. DeSpain expressed appreciation to Mr. Payette, Sheriff Butler and staff for assistance in a recent incident in Joseph City. Mr. Thompson reported that the recent meeting with ADOT and other interested parties on the Lone Pine Dam Bridge went well. He expressed appreciation to Congressman Renzi for his efforts in appropriating the funds to begin construction, stating it will take 18-24 months to complete the environmental and design stage. Mr. Thompson expressed concern regarding the recently passed transportation bill as to whether it contained TEA-21 funding. He reported he recently met at Keams Canyon with Dusty Parsons, Percy Deal, representatives from the BIA, reservation transportation personnel and members of the Hopi Tribe to determine ways to improve reservation roads. Mr. Jayne reported that TEA-21 funding was included in the recently passed bill at the same formula as it had been funded in the past. Mr. Deal expressed appreciation to Dusty Parsons and his staff for their assistance to him and Mr. Thompson in establishing better relations with agencies to improve the road. He expressed concern for the water shortage on the reservation and resulting confrontations, requesting everyone's spiritual support. Mr. Brownlow reported that community residents had questions regarding when Woodland Road construction would be finished. Mr. Young responded that paving of the turnoffs into the intersection will begin today and traffic signal modifications are in design right now.

CONSENT AGENDA: 1) Voucher list for payment; 2) Tax Roll Corrections; 3) Certify revenue collected by the Superior Court, Clerk of the Court, and all Justice Courts in FY97/98, FY98/99, FY99/00 along with 5% set aside funds for FY99/00; 4) Approval of quarterly report by County Attorney Bad Check Program; 5) Name an existing road in the Shumway area "Mason Ridge Road"; 6) Sheriff's office renewal of agreement for dispatch services with Heber-Overgaard Fire District; 7) Sheriff's office purchase of office furniture and equipment in the amount of \$3,292 plus tax from fund 7155; 8) Special event liquor license for Sons of American Legion Squadron 86 "Oktoberfest" in Overgaard; 9) Proclamation declaring

the fourth Monday in September Family Day; 10) Back Tax Land Deeds; 11) Board of Supervisors Minutes—July 11 and July 18, 2005; 12) Sympathy letter: John Poulsen; *13) Authorization for Chairman to sign letter to Congressman Renzi concerning the funding for a Feasibility Study for the Winslow Levee; *14) Name an existing road in the Linden area “Songbird Lane” **Mr. DeSpain made a motion** to authorize the Chairman to sign the items on the Consent agenda; motion seconded by Mr. Tenney; vote unanimous approving the motion.

HUMAN RESOURCES: Gail Calisen, Director: Approval of Personnel Actions: Ms. Calisen reviewed personnel actions as included on her report. **Mr. Thompson made a motion** to approve the Human Resources items as presented; motion seconded by Mr. Tenney; vote unanimous approving the motion. Mr. DeSpain was out of the room.

NORTHEAST ARIZONA TRAINING CENTER: Murray Zeigler, Presentation regarding Northeast Arizona Training Center project and possible appointment of a Board of Supervisors representative to the NATC Board of Directors: Mr. Ziegler reported bids have been awarded for the first phase of construction of the new Northeast Arizona Training Center. He described the training tower and discussed the construction process. He expressed appreciation to the Board of Supervisors, Mr. Jayne, Mr. Parsons and Sheriff Butler and his staff for their support. He advised the Board it would be beneficial to have a Supervisor on the Board of Directors to ensure communication lines remain open. **Mr. DeSpain made a motion** to designate David Tenney as the Board of Supervisors’ representative to the NATC Board; motion seconded by Mr. Deal. During discussion Mr. Ziegler stated that this is a regional training facility that will serve all Navajo County and part of Apache County. The motion carried unanimously.

PUBLIC WORKS, Dusty Parsons, Dick Young, Bill Fraley: 1) **Board of Directors Session:** Navajo County Flood Control District: Mr. DeSpain made a motion to enter into a **Board of Directors Session** for the Navajo County Flood Control District; motion seconded by Mr. Tenney; vote unanimous approving the motion.

- a. Approve the purchase of a 1996 Jeep at \$3,465 by the Planning and Zoning Division from the Flood Control District: Mr. Parsons explained the need for the purchase of this jeep. **Mr. DeSpain made a motion** to authorize the purchase of a 1996 Jeep at \$3,465 by the Planning and Zoning Division from the Flood Control District; motion seconded by Mr. Tenney; vote unanimous approving the motion with Mr. Deal absent for the vote.
- b. Authorize the Public Works Director and County Engineer to negotiate contracts with a consulting engineering firm or firms and an appropriate contractor to design and perform emergency repairs to the Winslow Levee in an amount not to exceed \$300,000: Mr. Parsons advised the Board that a public hearing will be held Wednesday night to advise Winslow residents of the circumstances surrounding these repairs. **Mr. DeSpain made a motion** to authorize the Public Works Director and County Engineer to negotiate contracts with a consulting engineering firm or firms and an appropriate contractor to design and perform emergency repairs to the Winslow Levee in an amount not to exceed \$300,000; motion seconded by Mr. Tenney. During discussion, Mr. Parsons advised that fast tracking the project would be to utilize a soils firm and a design firm familiar with the project. He advised there should be about 100’ to repair. Mr. Deal requested that Mr. Parsons work closely with the County Attorney to assure that all legal issues are met in this project. The motion carried unanimously.

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

- 2) Approve Task Agreement #Four (4) of MOU AGN003004 between Bureau of Indian Affairs, Navajo Region and Navajo County in the amount of \$71,572.84: Mr. Thompson and Mr. Parsons explained

the necessity for this MOU and requested the Board support. **Mr. Thompson made a motion** to approve Task Agreement #Four (4) of MOU AGN003004 between the Bureau of Indian Affairs, Navajo Region and Navajo County in the amount of \$71,572.84; motion seconded by Mr. DeSpain. During discussion, Mr. Deal requested that reference to the Dilkon area be stricken from the MOU as the intent is for the entire Ft. Defiance area. Mr. Thompson explained the reference to Dilkon was to the Dilkon Transportation Sub Office. Mr. DeSpain inquired if this agreement could address some of the issues that arose during the last emergency incident so the County could provide assistance. Mr. Thompson responded that the personnel funded will have equipment and work under the BIA five days per week which should take care of this area for the year. **Mr. Thompson amended his motion** to remove reference to the Dilkon area from the agreement and include Fort Defiance; Mr. DeSpain amended his second to reflect the same; vote unanimous approving the motion.

- 3) Approve setting a Public Meeting for the adoption of Planning and Zoning Fees: Mr. Parsons reviewed proposed planning and zoning fee increases and compared them to fees charged by other entities. He stated the department would advertise a public hearing for these fees on September 6 with approved fees to go into effect October 1. **Mr. Tenney made a motion** to authorize setting a Public Meeting for the adoption of Planning and Zoning Fees on September 6; motion seconded by Mr. Thompson. Mr. Deal inquired if there would be additional meetings out in the field and Mr. Parsons stated none are scheduled and they will meet with any contractor who would like to do so. The vote was unanimous approving the motion.

Chairman Brownlow stated the scheduled budget and Truth in Taxation public hearings will be conducted at this time and the Board will address Public Works items 4 and 5 in this section later in this meeting.

BOARD OF SUPERVISORS/ADMINISTRATION: James Menlove, Finance Director: **Public Hearing:** Discussion and possible board action: Mr. Brownlow invited all members of the audience to actively participate in these public hearings.

- 1) Truth in Taxation Hearing- Notice of Tax Increase: Mr. Menlove and Dennis Miller addressed the Board of Supervisors discussing the proposed increase of taxes to \$63.37 on a \$100,000 home which reflects a \$1.24 increase using the ATRA formula. Mr. Miller explained the actual increase is only \$0.21 over last year's levy. Mr. DeSpain clarified that this increase reflects only the Navajo County rate and did not include school districts or special districts. In response to a question from Mr. Deal, Mr. Miller explained the Truth in Taxation hearing is conducted to allow the public to comment in this hearing and notification of this hearing had been published. There were no comments from the public. In response to questions from Board Members, Mr. Menlove stated that no action would be taken today and tax rates for all taxing entities would be levied at the August 15 meeting.
- 2) 2005-2006 Budget hearing and final budget adoption: Mr. Menlove explained the final budgets to be adopted, including all districts as listed in item 3. He advised those present that since the preliminary budget was adopted there have been adjustments within the line items but no changes were made to the bottom line of the 2005-2006 budgets. There were no comments from the public. After discussion and action regarding the special district budgets, **Mr. Tenney made a motion** to adopt the Navajo County final budget for 2005-2006 as presented; Mr. DeSpain seconded the motion. During discussion, Mr. Deal inquired if this budget includes both the general budget and the roads budget and was advised it did. Mr. Deal stated he had raised the issue of seniors citizen centers across the County and Mr. Jayne stated there are some special budget dollars in the general budget and there are funds that can be drawn from if the Board determines throughout the course of the year that they have projects they would like to fund. The vote was unanimous approving the motion with Mr. DeSpain absent for the vote.
- 3) Board of Directors Sessions for public hearing and adoption of final 2005-2006 budgets

- a. Little Colorado River Flood Control District: **Mr. DeSpain made a motion** to enter into the Little Colorado River Flood Control District **Board of Directors Session**; motion seconded by Mr. Thompson; vote unanimous approving the motion. Mr. Menlove recommended adoption of the budget as presented. There were no public comments. **Mr. DeSpain made a motion** to adopt the final 2005-2006 budget for the Little Colorado River Flood Control District as presented; motion seconded by Mr. Thompson; vote unanimous approving the motion. **Mr. DeSpain made a motion** to reconvene into regular session; motion seconded by Mr. Thompson; vote unanimous approving the motion.
- b. Navajo County Flood Control District: **Mr. DeSpain made a motion** to enter into the Navajo County Flood Control District **Board of Directors Session**; motion seconded by Mr. Tenney; vote unanimous approving the motion. Mr. Menlove recommended adoption of the budget as presented. There were no public comments. **Mr. Tenney made a motion** to adopt the final 2005-2006 budget for the Navajo County Flood Control District as presented; motion seconded by Mr. Thompson; vote unanimous approving the motion. **Mr. DeSpain made a motion** to reconvene into regular session; motion seconded by Mr. Tenney; vote unanimous approving the motion.
- c. Navajo County Public Health Services District: **Mr. DeSpain made a motion** to enter into the Navajo County Public Health Services District **Board of Directors Session**; motion seconded by Mr. Tenney; vote unanimous approving the motion. Mr. Menlove recommended adoption of the budget as presented. There were no public comments. **Mr. DeSpain made a motion** to adopt the final 2005-2006 budget for the Navajo County Public Health Services District as presented; motion seconded by Mr. Tenney; vote unanimous approving the motion. **Mr. Tenney made a motion** to reconvene into regular session; motion seconded by Mr. DeSpain; vote unanimous approving the motion.
- d. Navajo County Library District: **Mr. Tenney made a motion** to enter into the Navajo County Library District **Board of Directors Session**; motion seconded by Mr. DeSpain; vote unanimous approving the motion. Mr. Menlove recommended adoption of this budget as presented. There were no public comments. **Mr. Tenney made a motion** to adopt the final 2005-2006 budget for the Navajo County Library District as presented; motion seconded by Mr. DeSpain; vote unanimous approving the motion. **Mr. DeSpain made a motion** to reconvene into regular session; motion seconded by Mr. Tenney; vote unanimous approving the motion. Mr. Thompson was absent for the vote.

TREASURER: Manuel Hernandez, Treasurer, Approval to accept 67 cents on the dollar for taxes owed to Navajo County by Eagle West, LLC as part of bankruptcy settlement: Mr. Hernandez advised the Board that this bankruptcy settlement had been reached with all parties agreeing. Mr. DeSpain and Mr. Brownlow requested clarification of the legal position regarding the settlement. Mr. Payette stated that if the Board elected not to participate in this settlement as presented the county would have to litigate separately. He also clarified that this action differed from forgiveness of taxes in that the court has approved the settlement. **Mr. Tenney made a motion** to accept 67 cents on the dollar for taxes owed to Navajo County by Eagle West, LLC as part of a bankruptcy settlement; motion seconded by Mr. DeSpain; vote unanimous approving the motion.

PUBLIC WORKS, Dusty Parsons, Dick Young, Bill Fraley

- 4) Approve a professional services contract with David Ashton, P.E. not to exceed \$15,000: Mr. Parsons stated this contract would provide support to Planning and Zoning, which has become a two-member staff addressing the largest growth trend the county has experienced in 20 years. **Mr. Thompson made a motion** to approve a professional services contract with David Ashton, P.E. not to exceed

\$15,000; motion seconded by Mr. DeSpain. Mr. Thompson questioned 40 cents as a mileage reimbursement rate and Mr. Parsons clarified that rate is consistent with other engineering contractors with some charging a higher mileage rate. Vote unanimous approving the motion.

- 5) Approve by Resolution exchanging a portion of the public Deer Hill Road right-of-way dedicated in Buckskin Artists Community for a portion of Lot 13 of that same plat: Dick Young explained that when this subdivision was platted several years ago these streets were already in existence and the property owners are now requesting this exchange. **Mr. Tenney made a motion** to adopt **Resolution 51-05** to exchange a portion of the public Deer Hill Road right-of-way dedicated in Buckskin Artists Community for a portion of Lot 13 of that same plat and to authorize the Chairman to sign the deed for this transaction; Mr. DeSpain seconded the motion; vote unanimous approving the motion with Mr. Deal absent for the vote.

ADMINISTRATION/FINANCE: Mary Springer, Purchasing Agent, Approve solicitation for Request for Qualifications for Architectural/Engineering Firm to develop Navajo County Master Facility Usage Plan: Mary Springer advised the Board that the intent of issuing this RFQ is to have the selected firm provide timelines and budget requirements for future space needs. Mr. DeSpain stated that Finance staff is to be commended for initiating this planning, as many facilities need strategic planning, especially in South County. **Mr. DeSpain made a motion** to approve the solicitation for a Request for Qualifications for an Architectural/Engineering Firm to develop a Navajo County Master Facility Usage Plan; Mr. Thompson seconded the motion. In response to a question, Ms. Springer clarified that this study would cover the entire county. The vote was unanimous approving the motion with Mr. Deal absent for the vote.

SHERIFF'S OFFICE: Chief Greg Eavenson, Commander David Burke

- 1) Approve amendment to IGA with Coconino County for Medical Examiner services increasing fees retroactive to October 1, 2004: Chief Eavenson explained that Medical Examiner fees increased last October resulting in the necessity for the IGA to be amended retroactively. He responded to questions regarding the types of autopsies and fees charged for them stating that the fee increases apply to External, Standard and Extended autopsies. **Mr. DeSpain made a motion** to approve the amendment to the IGA with Coconino County for Medical Examiner services increasing fees retroactive to October 1, 2004; Mr. Tenney seconded the motion. **Mr. DeSpain amended his motion** to include fee increases only for External, Standard and Extended autopsies; Mr. Tenney amended his second to the motion; vote unanimous approving the motion
- 2) Approve two-year Inmate Telephone Service Agreement between FSH Communications and the Navajo County Sheriff's Office for inmate telephone services with a commission rate of 43% of gross revenue: Commander Burke explained this agreement, advising the Board that this company is based out of Delaware and the department coordinates with US West, which is based in Phoenix. **Mr. Tenney made a motion** to approve the two-year Inmate Telephone Service Agreement between FSH Communications and the Navajo County Sheriff's Office for inmate telephone services with a commission rate of 43% of gross revenue; Mr. DeSpain seconded the motion; vote unanimous approving the motion.

PUBLIC HEALTH SERVICES: Dr. Wade Kartchner, Kevin Neill, Presiding Judge Dale P. Nielsen Board of Directors Session: Report on July 22nd emergency incident: **Mr. DeSpain made a motion** to enter into a Public Health Services **Board of Directors Session**; seconded by Mr. Tenney; vote unanimous approving the motion with Mr. Deal and Mr. Thompson absent for the vote. Dr. Kartchner stated that the July 22 incident is referred to as the "White Powder Incident" and introduced Kevin Neill of the Bio Terrorism department to report to the Board. Mr. Neill reported the incident began

when an employee in the Courts opened a letter with white powder from an inmate at DOC. He stated the incident was handled like a textbook case with Officer Ortega making immediate notification to his unit and taking the appropriate steps to contain the incident. He reported that Alex Baker, Holbrook Fire Chief, was the incident commander and all emergency services participated in the event, Holbrook Police and Fire Departments, Sheriff's office, Health Services, Bio Terrorism, the Show Low Hazardous Response Team and County administration including Risk Management. He stated the incident began at approximately 5:00 and employees who had been detained were able to leave prior to 8:00 with the determination that the incident was a hoax. He said there was not sufficient residue to test but the items were being sent to Phoenix for further examination. Mr. Neill reported that the response teams had been commended by the State and FBI for the appropriate way the event was handled. Marla Randall-Myers commended Heather Smith and the Court staff on the response to this incident stating that the employee who opened the envelope had powder on her face, arms, and legs. Mr. Ortega advised the Board that upon instruction from the health department, the employee washed the residue off as quickly as possible to limit contamination. Mr. Neill stated that employees were instructed to watch for specific symptoms and get medical assistance if they require it. Board members expressed confusion over how there could be insufficient residue in the envelope to test, thanked those who responded so well to the incident and requested a follow-up report to the Board on the testing results. Ms. Randall-Myers stated the Court would also conduct its own investigation. Mr. Don Walker will also facilitate education of County staff regarding suspicious powders and Ms. Randall-Myers has contacted the US Postal Service for an inspector to do additional follow-up workshop on possible contaminated mail. All Board members asked questions regarding the incident and Mr. Deal and Mr. DeSpain stated they would like further consideration given by the DOC to disciplining the inmate who mailed the letter. Mr. Deal requested the County Manager prepare a letter to the Governor explaining the incident and how well all entities responded with many of these entities funded through Homeland Security funds. All Board members expressed appreciation to those involved in the incident, commending the effective way it was handled. Mr. Tenney and Mr. Deal stated that while they were not in Holbrook when this incident occurred they appreciated the timely notification by voice mail message.

Dr. Kartchner reported that a dead bird infected with the West Nile Virus has been found in Navajo County; that cases of West Nile Virus are lower this year than last and testing will continue.

Mr. DeSpain made a motion to return to regular session; motion seconded by Mr. Tenney; vote unanimous approving motion.

Mr. Brownlow made an announcement that long-time Judge Jay Abbey passed away on Saturday and memorial services would be scheduled later in the week.

The Board of Supervisors recessed for lunch at 11:38 a.m. At 1:37 p.m., Board of Supervisors reconvened into regular session.

EXECUTIVE SESSION—Mr. DeSpain made a motion pursuant to ARS § 38-431.03(A)(3) and ARS § 38-431.03(A)(4) to go into executive session for legal advice, consultation with and instructions to the board's attorneys regarding the negotiation of a property development agreement with Trinity Enterprises for a tissue mill in the Snowflake area; motion seconded by Mr. Tenney; vote unanimous approving the motion. At 2:37 p.m., **Mr. DeSpain made a motion** to reconvene into regular session; motion seconded by Mr. Thompson; vote unanimous approving the motion.

BOARD OF SUPERVISORS: Discussion and possible board action concerning a property development agreement with Trinity Enterprises pursuant to ARS § 11-1101: Jerry Brownlow stated it is the position of the Board that there needs to be a meeting with the developer for further clarification before the Board is comfortable moving forward with this agreement. The Board directed Mr. Jayne, the County Attorney and Mr. Brownlow to hold this meeting prior to the August 15 Board meeting when answers to questions can be addressed to the whole Board. Mr. Tenney stated for the record that he would like to see this project move forward but personally has questions he would like addressed and he would like the County Attorney to be satisfied regarding the County's exposure and how the money will be spent and if these questions could be satisfactorily answered a project of this magnitude would be a blessing for the county. Mr. Joe Papa stated they had anticipated an agreement coming forward today following the four hour meeting on Saturday. He inquired if the issues to be addressed were discussed in that meeting and Mr. Brownlow advised him they were and there are more questions that need to be answered. Mr. Tenney expressed appreciation to Mr. Jayne, Mr. Brownlow, Mr. Bowers and Mr. Payette for the time and effort that have been put forth for this agreement.

ADJOURN: Mr. DeSpain made a motion seconded by Mr. Tenney to adjourn. Motion unanimously approved and the meeting was adjourned at 2:45 p.m.

APPROVED:

DATE:

Jerry Brownlow, Chairman

ATTEST:

CLERK/DEPUTY CLERK OF THE BOARD