

**NAVAJO COUNTY BOARD OF SUPERVISORS MINUTES**  
**Monday, December 4, 2006**

**9:00 a.m. CALL TO ORDER:** Supervisor Brownlow led the Pledge of allegiance and offered the invocation.

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

**CALL TO THE PUBLIC:** No response

**CONSENT AGENDA:** a) Voucher list for payment; b) Tax roll corrections; c) Back tax land deeds; d) Minutes—September 18, October 2, October 4; e) Constable October reports—Holbrook #1; Kayenta #4; Show Low #5; Lakeside, Whiteriver, Pinetop, Cibecue, HonDah #6; f) Justice October reports—Holbrook #1; Snowflake #3; Show Low #5; Pinetop #6; g) Letter of appreciation for Dolores Najar’s service on the Planning and Zoning Commission; h) Correction to official election results of the General 2006 Election to reflect correct voter registration statistics; i) Certify revenue collected by Superior Court, Clerk of the Court and all Justice Courts in FY05/06 with 5% set aside funds; j) Certify revenue collected by Superior Court, Clerk of the Court and all Justice Courts in FY04/05 with 5% set aside funds: **Supervisor Brownlow made a motion** to authorize the Chairman to sign the items in the Consent Agenda; motion seconded by Supervisor Tenney. Supervisor Deal inquired what the correction to the election results were and Kelly Dastrup responded the correction increased voter registration numbers that raised voter participation by 0.1% but did not impact the number of votes cast. Vote unanimous approving the motion.

**SHERIFF’S OFFICE:** Consideration and possible authorization to submit an application to AZ State Parks, Law Enforcement Boating Safety Fund (LEBSF) for funding for one position and approve Resolution Number \_\_\_\_\_ - 06 authorizing Sheriff Butler to act on behalf of Navajo County in conducting all negotiations related to the LEBSF project for FY 07/08: Commander Bernard Huser advised the Board this is an annual renewal. **Supervisor Tenney made a motion** to authorize submittal of an application to AZ State Parks, Law Enforcement Boating Safety Fund (LEBSF) for funding for one position and approve **Resolution Number 103 - 06** authorizing Sheriff Butler to act on behalf of Navajo County in conducting all negotiations related to the LEBSF project for FY 07/08; motion seconded by Supervisor Brownlow; vote unanimous approving

**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 Brownlow; vote unanimous approving the motion.

- a. Consideration and possible approval of agreement between Navajo County Public Health Services District and the Humane Society of the White Mountains for the provision of an animal shelter: Dr. Wade Kartchner advised this is a renewal of the existing contract with a slight increase in cost. Supervisor Tenney inquired how many animals go through that facility and Dr. Kartchner replied approximately 1,000 to 1,200 per year. Mel Bowers stated that the \$50,000 for the first 1,000 animals provides budgeting certainty. Supervisor DeSpain entered at this point. Supervisor Deal inquired if this is the only facility where there is an agreement and Dr. Kartchner stated that there is an agreement with Holbrook but very few animals go through that facility. He also advised that animal control officers respond to animal complaints. **Supervisor Tenney made a motion** to approve the agreement between Navajo County Public Health Services District and the Humane Society of the White Mountains for the provision of an animal shelter; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.
- b. Consideration and possible approval of Direct Grant of \$35,407.69 from the Arizona Department of Health Services to provide local health care: Dr. Wade Kartchner reviewed the terms of this grant. **Supervisor**

**DeSpain made a motion** to approve the Direct Grant of \$35,407.69 from the Arizona Department of Health Services to provide local health care; motion seconded by Supervisor Tenney. Supervisor Deal stated that one of the conditions of this award is that the funds can not be used for abortion and inquired if this is a State requirement. Mel Bowers advised there are limitations at the state level to use public health monies to support abortion procedures. Vote unanimous approving the motion

- c. Consideration and possible approval of Per Capita grant of \$8,715 from the Arizona Department of Health Services to provide local health care: Dr. Wade Kartchner discussed the terms of this grant. **Supervisor DeSpain made a motion** to approve the Per Capita grant of \$8,715 from the Arizona Department of Health Services to provide local health care; motion seconded by Supervisor Brownlow; vote unanimous approving the motion with Supervisor Tenney absent for the vote.

**Supervisor DeSpain made a motion** to return to regular session; motion seconded by Supervisor Brownlow; vote unanimous approving the motion with Supervisor Tenney absent for the vote.

### HUMAN RESOURCES:

- a. Consideration and possible approval of Personnel Actions: Gail Calisen summarized the 34 personnel actions on her report and responded to Chairman Thompson regarding conditions surrounding the extension of probation. Supervisor Deal inquired if the person placed on administrative leave is with or without pay and stated he is concerned about the reason why that person is placed on administrative leave and in a related matter, what is intended with the action for the employee under number 16? James Jayne stated the employee was placed on administrative leave for lack of performance and is on paid administrative leave through the end of December and his county employment will be terminated December 31<sup>st</sup>, and the person listed under item 16 will act in that position for the remainder of the month. Supervisor Deal stated he had difficulty believing this employee has not performed satisfactorily as he has been an employee since 1980. He inquired if the board could address this in executive session in a couple of weeks. He stated that the primary reason for putting this action on the report is to bless the action putting him on administrative leave and to terminate him at the end of the year. He said he would prefer that item be deleted prior to approval as it relates to termination of his employment. James Jayne advised the only item under discussion today is placing him on administrative leave.

Supervisor Tenney stated this action has already been taken by the county manager to put the employee on administrative leave. He inquired if Mr. Jayne could advise Supervisor Deal of the concerns and Mel Bowers stated this is acceptable as long as he does not discuss it with three or more supervisors. Chairman Thompson stated the county manager made a decision on the administrative leave and the board will simply approve what he did. Supervisor Deal stated the item is on today's agenda and he would like to address it. Mel Bowers stated this action has already been taken by the county manager and unless the board is willing to override the county manager's authority they must approve the action today. **Supervisor Tenney made a motion** to approve the Personnel actions as presented and authorize the chairman to sign the report; motion seconded by Supervisor Brownlow. Chairman Thompson stated that clarification discussions will take place between the county manager and Supervisor Deal and if needed, this issue will be brought back before the board. Vote unanimous approving the motion.

- b. Discussion of procedures for filling elected official position vacancies: Gail Calisen stated it is the board's direction to fill this position and she outlined what has been done in the past. She stated she could advertise the positions and in response to a question from Supervisor Deal, that the Navajo Times is one that they would advertise in and they will go to others if requested. Supervisor Deal requested and received clarification that there was no written guidelines for filling positions. Mel Bowers reported that there had been several different procedures used in the past and described them, stating there are no legal requirements for this political action other than the person must meet the requirements of the position and the person must be the same political party as the retiring person. He advised the board may not want to create a restrictive procedure so there would be future flexibility on appointments depending on the number of people applying for the position. Supervisor

DeSpain inquired if there will be both a Justice of the Peace and a Constable position open and Supervisor Deal stated there will be in January.

**FINANCE:** Consideration and possible approval to award contract for supply of cattle guards for Public Works IFB B06-09-013 to WW Cattle Guards and Precast: Mary Springer reported there was only one responsible, responsive bidder to this bid and she recommends award to that firm. Supervisor Tenney inquired why, when there is only one unit, the extended cost is not the same as the unit cost and Ms. Springer advised the extended cost includes tax. **Supervisor Tenney made a motion** to award the contract for supply of cattle guards for Public Works IFB B06-09-013 to WW Cattle Guards and Precast; motion seconded by Supervisor DeSpain. In response to a question from Supervisor Deal, Ms. Springer stated this firm is from Lakeside. Vote unanimous approving the motion.

**PUBLIC WORKS/PLANNING & ZONING:** Dusty Parsons introduced Douglas Van Cleave as the new County Engineer.

a. **PUBLIC HEARING:** Consideration and possible action on proposed **Resolution Number - 06** for a **Zone Change request by Porfirio Diaz from Rural-20 to Rural-5 for APN 303-97-025B, a seven acre parcel in the Cedar Hills area:** Telford Chapman oriented the board to the property on a vicinity map. He reviewed the staff report discussing: the request; that this is a seven acre site within R-20 zoning; that Mr. Diaz would like to bring this parcel into compliance so he can sell the property; Flood Control and Engineering have no objections to the rezoning; and Planning and Zoning staff recommends denial based on the existing zoning. He reported four letters had been received in opposition to this zone change and the Planning and Zoning Commission voted to deny the zone change on a 4-3 vote. Mr. Chapman displayed a site map showing where the subject property is as related to the letters of opposition received. In response to Supervisor DeSpain, Telford Chapman stated that there is currently a resident on the property from which this parcel was split. Chairman Thompson invited comments from the public. Mr. Diaz stated he would like this zone change passed and would appreciate the board's support. He said he wants to sell the property as residential and be within the law. There were no other public comments. Supervisor DeSpain stated that matters like these are hard to address as they don't fit within county policies. He said there is quite a history with this property and he has spoken with Planning and Zoning and these circumstances are unique because the owner is vulnerable to the condition that it does not fit the zoning and this impacts the price and affects the use. Mr. Fraley stated this parcel is not zoned incorrectly; the zoning in the whole area is Rural 20 which is the largest zoning classification. He said the split on this property took place in the 1980's but was sold in 1990. He said there are any number of undersized properties throughout the county and the county can slow down the creation of undersized parcels by having an ordinance that addresses illegal sized properties. He said if there is an undersized parcel, they can not issue a building permit and the only recommendation staff can make is the one presented to maintain the integrity of the zoning regulations. He reviewed the statement from legal counsel about the inadvisability of granting this request. Mel Bowers stated the individual before the board is experiencing a hardship yet the board must consider the existing zoning. He said there are letters from residents stating they were relying on the zoning that was applied to this area of R-20. He said the split was in violation of the zoning ordinance and an individual is coming after the fact requesting an exception. He expressed concern about the precedence that would be set for future action; stating the board should support the zoning for this area or throw it out the window. He said at some point the exceptions could eat up the rule. He stated this action would be hard to defend in a court action as it is spot zoning, not part of the plan. Chairman Thompson inquired what the reasoning was behind those individuals who felt an exception could be made. Mr. Fraley stated that they felt there was a lot of mis-education out there and the person may not have been informed of the situation when they bought. Mel Bowers inquired if this purchase went through a Title Company as that should have been caught. Mr. Diaz stated he went through a title company and he got a title and nobody told him about the zoning. He said he paid to survey the land; he said he

went through the Show Low office and got a septic permit and when he went for the building permit he did not get one. He said he has been paying the taxes on his property all this time. Mel stated it would be good to see the title report to see if that was an exception to the report. Supervisor DeSpain inquired if there is a septic tank on the property and he said there was and that he had a permit for it. He said the inspector told him all he had to do was get a permit to build. **Supervisor DeSpain made a motion** to approve **Resolution Number 104 - 06** granting a Zone Change request by Porfirio Diaz from Rural-20 to Rural-5 for APN 303-97-025B, a seven acre parcel in the Cedar Hills area; Supervisor Deal seconded the motion. Supervisor Deal stated it appears that the county has already given its blessing by sending out taxes on this residence. Supervisor Brownlow stated the county has some responsibility on this property because the county issued a septic permit. Vote unanimous approving the motion.

- b. Consideration and possible approval by **Resolution Number** - 06 of the Final Plat and the Financial Assurances for Wagon Wheel Meadows subdivision: Telford Chapman oriented the board to the parcel on a vicinity map. He stated the applicant/owner Carl Davis is present in today's audience. He reviewed the staff report discussing the information related to the final plat for this subdivision and advised that staff and the Planning and Zoning Commission recommend conditional approval as outlined in the resolution. He displayed a zoning map showing the surrounding area. **Supervisor Brownlow made a motion** to approve by **Resolution Number 105 - 06** the Final Plat and the Financial Assurances for Wagon Wheel Meadows subdivision; motion seconded by Supervisor Tenney; vote unanimous approving the motion. Carl Davis thanked the board for their consideration on approving this project, stating it would be completed within 24 months. He expressed appreciation to Supervisor Brownlow for his support as well as Dusty Parsons and his staff's work on the improvement district for this area; stating that the property will drain well.
- c. Consideration and possible approval by **Resolution Number** - 06 of the Amended Final Plat of White Mountain Lake Vistas, Unit 1: Bill Fraley located the property on a vicinity map, stating this project was approved by the Board in November. He said the developer found he needed to make changes in some lots that resulted in changes to the legal description and the engineering staff feels these changes are positive. Mr. Brimhall addressed the board, stating that he actually purchased additional property to the north so they were able to create another hole on the golf course. He said the owner appreciates the assistance and support they have received on this project. Chairman Thompson recognized Mr. Shumway's presence for this item. **Supervisor Deal made a motion** to approve by **Resolution Number 106 - 06** the Amended Final Plat of White Mountain Lake Vistas, Unit 1; motion seconded by Supervisor Tenney; vote unanimous approving the motion.
- d. Consideration and possible approval for the Public Works Department to initiate a Request for Proposals for the Impact Fee Process: Dusty Parsons discussed issues related to this process through a power point presentation. He reported they have a community advisory committee and discussed existing conditions related to large scale developments; density of existing properties; employment projections; and graphs of future growth trends. He displayed maps depicting anticipated growth in unincorporated and incorporated areas. He stated they will use this information to develop distribution models and use this information for planning. He said this growth potential has initiated his request to issue an RFP for Impact Fees. He said that most cities in Arizona have impact fees and several counties are exploring this option to fund growth in a particular area with funds to be used only through the board's direction for public safety, parks, and streets. He stated they anticipate using data gathered in correlation with the transportation study that is being completed. Supervisor Tenney thanked Mr. Parsons for the information. He stated they are all aware of the growth that is coming and infrastructure needs. He asked if the request is for a firm to study our needs. Mr. Parsons advised this is the case, stating that before initiating impact fees, you must have a capital plan in place. **Supervisor Tenney made a motion** to authorize the Public Works Department to initiate a Request for Proposals for the Impact Fee Process; motion seconded by Supervisor DeSpain. Supervisor Deal inquired if funding is available in the budget and Mr. Parsons stated there is. Supervisor Deal inquired where the firms are that do these studies and Mr. Parsons stated they are national firms, with one doing work in Arizona now. Supervisor Deal inquired if the firm will base

recommendations on information being gathered in the traffic studies and Mr. Parsons stated they would. Supervisor Deal inquired if they are only looking at the White Mountain area and Mr. Parsons stated they will consider the entire county. Supervisor Deal inquired if Apache County will participate in this process and Mr. Parsons stated it would be difficult to partner on this type of project but several counties in the state will move in this direction. Chairman Thompson encouraged moving forward with this project. Vote unanimous approving the motion.

- e. Consideration and possible approval to amend the existing professional services contract with Ironside Engineering & Development for an additional amount not to exceed \$30,000: Dusty Parsons advised this will probably be the last change order that will come forward now that a County Engineer has been hired. He stated Jim Matteson will continue to work with the new engineer. **Supervisor Tenney made a motion** to approve amending the existing professional services contract with Ironside Engineering & Development for an additional amount not to exceed \$30,000; motion seconded by Supervisor DeSpain. Supervisor Deal inquired if this contract has been in place for over a year and Mr. Parsons stated that is the case. Supervisor Deal inquired if the \$30,000 would cover a year and Mr. Parsons stated it depends on utilization of services. Vote unanimous approving the motion.

**ATTORNEY GENERAL'S OFFICE:** Presentation outlining services provided by the Attorney General's office: Robin Stamp, Community Outreach Coordinator, reported the AG Community Services program was launched about a year ago, stating there is not a satellite office in Navajo County. He advised satellite offices are staffed by trained volunteers and they anticipate a larger presence in Navajo County in the future. He reported that Arizona per capita is the highest nationally in identification theft, targeting elderly communities. He encouraged anyone with concerns in the community to contact him directly for support. James Jayne thanked Robin Stamp for his presence, inquiring what space requirements they have. Mr. Stamp said they normally work with the senior centers for coverage for a couple of hours per week to provide assistance to those wanting to file complaints. Chairman Thompson stated that many incidents have been reported in the Native American areas, asking how prevalent it is on the reservation. Mr. Stamp stated he did not have statistics but stated he had just been on the reservation to set up an office. He stated that many times vehicle purchases create difficulties for consumers on the reservation. Mel Bowers inquired if Mr. Stamp's function is mainly education. Mr. Stamp stated that is the case and if someone is a victim of fraud the volunteer sends the complaint to the consumer complaint division or the appropriate public agency such as DPS, county, etc. Supervisor Deal inquired if the top ten listed issues are Arizona or nation wide and Mr. Stamp stated they are mainly in Arizona although many states have similar problems. He said he addresses the most prevalent scams in the educational program. Chairman Thompson thanked Mr. Stamp for his presentation.

**ARIZONA FOREST RESTORATION PRODUCTS, INC.:** Information on a proposed oriented strand board (OSB) plant: Dale Patton, City of Winslow Attorney, stated Jim Ferguson, City Administrator, was delayed getting back from Phoenix so he could not attend. He introduced Pascal Berlioux of Arizona Forest Restoration Products, Inc. who has plans for property adjacent to Winslow and it is anticipated it will be annexed into the city. Supervisor DeSpain acknowledged Dale Patton and his service to the community and previously to Navajo County. Pascal Berlioux, President and Chief Presiding Officer of Arizona Forest Restoration Products, Inc. stated he is a US citizen and lives in Flagstaff. He said the forests are dying and something must be done to restore them to health yet funding is not sufficient from federal and state funds and must come from private enterprise, from those who care to do something about the forest. He discussed profitable economic activity for the wood products, discussing prior obstacles to these profits. He said the wood that creates the most problem for the forest is small diameter wood which has typically had limited value but his company proposed to take advantage of technology developed in Germany for OSB plants replacing the need for large diameter trees for plywood. He visited the AZFRP website outlining the information related to their company. He advised they anticipate feeding the OSB plant by the public forest and that Arizona has the largest Ponderosa Pine forest in the world. He stated this plant is very close to Los

Angeles, Las Vegas, and Phoenix and he discussed the benefits as it is located strategically in a good position with no competition. He said they are putting together a company that will implement an economically viable forest restoration program as opposed to previously implemented programs and discussed the timetable as outlined on their website. He stated this project will have a positive restoration impact on the National Forests in the area, taking forest restoration to a new scale, treating 30,000 to 35,000 acres annually. He discussed the support he has already garnered and requested this board's support. Mr. Berlioux stated it takes \$390,000,000 to set up this plant and that funding is available. He said the perception of what must be done in the forest was tremendously impacted by Rodeo Chediski. He said their project is different because it is from a grassroots point of view with the realization that the community at large has agreed something must be done. He said the discussion with the Forest service was based on how they are going to do it and in the discussions with the regional forester in Albuquerque they assured they will work with each individual forest to determine the right prescription in the forest in which it is implemented. He said he is finding the service supportive and will meet again with the regional forester in Albuquerque for discussion of additional stewardship contracts. Mr. Berlioux stated there are natural reservations when a new company talks about big business so they must meet with the group, present their plan, answer questions and ultimately people discover his firm means what they say. He said it is a slow process but if you answer people's questions and tell the truth they will come to see you are genuine. Supervisor Tenney expressed appreciation for this presentation and Mr. Berlioux's willingness to work with existing stewardship contracts. He said he personally welcomes assistance for the forest. Supervisor Tenney suggested a letter of support be drafted for the December 18<sup>th</sup> agenda. Dale Patton stated this parcel is just inside the Navajo County boundary where the Hopi Hat Factory was located and he believes it will be a benefit to BNSF at that site. He reported he believes the Winslow City Council will be willing to annex this property and they have a water treatment plant in city. Mr. Berlioux stated the money will be released when investors are convinced they will receive a return and it would be beneficial to receive a strong letter of support from the county showing there won't be many years of legal issues for permitting. All supervisors expressed appreciation to Mr. Berlioux for his presentation. Supervisor Brownlow stated Navajo County representatives have spent a lot of time meeting with Washington figures for support of the forests here in Navajo County. Supervisor Deal inquired if Mr. Berlioux had met with the Apache tribe and Mr. Berlioux stated the tribe has taken pro-active stance on managing their forest and the tribe acknowledges that the small diameter gap is creating a problem. He reported his company will fill the small diameter gap problem and are working with the tribe to purchase that wood and create jobs, which is being favorably received by the tribe. Supervisor Tenney stated he represents the Board of Supervisors on ECO which is comprised of 5 counties and that board's main purpose is to improve environmental issues in forest. He invited Mr. Berlioux to come to a future ECO meeting and that he would be provided information regarding dates. Chairman Thompson thanked Mr. Berlioux for this comprehensive information on his project.

**EXECUTIVE SESSION** pursuant to A.R.S. § 38-431.03 A.4 for consultation with the board's attorney(s) for legal advice and to consider the board's position and instruct its attorneys regarding pending or anticipated litigation involving a former county employee: At 12:06 p.m., **Supervisor Tenney made a motion** to enter into this executive session; motion seconded by Supervisor Brownlow; vote unanimous approving the motion.

At 12:32 p.m. the Board reconvened with all supervisors present.

**BOARD BUSINESS:** All Supervisors reported on activities they had attended and planned to attend to benefit their constituents.

**ADJOURN:** At 12:50 p.m., **Supervisor Tenney made a motion** to adjourn; motion seconded by Supervisor DeSpain; vote unanimous approving the motion.

**APPROVED:**

**DATE:**

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**David Tenney, Chairman**

**ATTEST:**

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**Clerk of the Board**