

**NAVAJO COUNTY BOARD OF SUPERVISORS MINUTES**  
**TUESDAY, JUNE 19, 2007**

**Call to Order: Pledge of Allegiance and Invocation:** Chairman Tenney welcomed everyone and called the meeting to order at 9:00 a.m. Supervisor Percy Deal led the Pledge of Allegiance and offered the invocation.

**In Attendance:** Chairman David Tenney, Vice Chairman J. R. DeSpain, Percy Deal, Jesse Thompson, and Jerry Brownlow, members, Mel Bowers, County Attorney; James Jayne, County Manager; and June Foard, Secretary.

**CALL TO THE PUBLIC:** Cynthia Schooley addressed the board regarding her liquor license application expressing her need for the license.

**CONSENT AGENDA:** a) Vouchers b) Annual July 4<sup>th</sup> fireworks display to be conducted on the southwest corner of the Navajo County Complex c) Request that the Arizona Department of Transportation, Office of Special Investigation, issue an undercover plate d) Amendment of FY2006 Law Enforcement and Boating Safety Fund agreement extending the end date to December 31, 2007 utilizing the balance of funds to purchase replacement dive equipment and repair and maintenance of the boats e) Consideration and possible approval for Finance/Purchasing to conduct Internet public auctions for surplus equipment and approve auction schedule for fiscal year 07/08 f) Justice of the Peace Reports: Holbrook #1, May; Winslow #2, April; Show Low #5, May; Pinetop #6, May g) Constable Report: Winslow #2, May; Show Low #5, May h) Clerk of the Superior Court, May i) Applications for tax exemptions filed past the March 1 deadline, therefore, pursuant to ARS § 41-1153, a "Request for Redemption of Waiver" has been signed by each requesting resident j) Name existing roads in the White Mountain Lakes area "Coral Road, Dogwood Road, Ashland Road and Angus Road" in Section 28, Township 11 North, Range 23 East k) Name and existing road in the Heber/Overgaard area "Tree View Path" in Section 20 Township 12 North, Range 17 East: **Supervisor DeSpain made a motion** to approve the consent items as presented; Supervisor Brownlow seconded the motion. Motion unanimously approved.

**HUMAN RESOURCES:** Ms. Calisen presented 42 personnel actions to the board. **Supervisor Thompson made a motion** to approve the personnel action items as presented; motion seconded by Supervisor Brownlow. In response to questions about employees on administrative leave, Ms. Calisen responded these are pending investigations and that after investigations are completed there will be another report to the board regarding personnel actions. Supervisor Deal observed that there were more new hires than terminations, stating that this seems to demonstrate a greater amount of respect among employees. Motion unanimously approved.

**BOARD OF SUPERVISORS:**

Chairman Tenney invited Treasurer Manny Hernandez and Chief Deputy Sandie Heward to come forward to recognize Sandie Heward for her 30 years of service to Navajo County. Mr. Hernandez offered his congratulations to Ms. Heward, stating that she has shown great dedication to the county over the years. Sandie Heward addressed the board stating that she had the privilege of working with many good people and that she wanted to thank everyone. Supervisor Thompson stated that Ms. Heward is an individual who could teach the kind of character necessary to work with the public. All Supervisors thanked her for her years of service to the county and wished her well in her retirement.

Sheriff Gary Butler accepted the retirement plaque for Greg Eavenson, stating that Chief Eavenson has already sold his home and moved to Colorado. The Sheriff stated that Chief Eavenson had been his right arm and that while he would miss him, he wished him well in his retirement. County Attorney Mel Bowers reported that he also had a plaque for Chief Eavenson, requesting that the Sheriff let Chief

Eavenson know how much those who worked with him appreciated him. Supervisors expressed appreciation for Chief Eavenson's service to the county and wished him well in his retirement.

a) **Public Hearing Liquor License:** Discussion and possible action recommending approval of application for Liquor License #12093062 for Interim Permit - New License APN 207-17-047T – 1893 Steakhouse at 3374 Stone Bridge Trail, Heber—applicant is Cynthia Schooley: June Foard presented this liquor license application information to the board. Mr. Schooley addressed the board and expressed the need for approval of the license. **Supervisor Brownlow made a motion** to approve the application. Supervisor DeSpain seconded the motion. Motion was unanimously approved.

b) **Consideration and possible approval of Contract Number 00009A for Hearing Officer Services with the Arizona State Board of Equalization for FY 2007-2008 at the rate of \$150.00 per day:** Finance Deputy Director Mary Springer addressed the board and asked for approval of the proposed contract for hearing officer services. Supervisor DeSpain stated he is not in favor of this action, that the hearing officer would have the ability to address the public on behalf of the board, making decisions that the board was elected to make. In response to questions from the Supervisors, County Attorney Mel Bowers explained the hearing officer process, stating the hearing officer must have the expertise in this field to make sound decisions, would act on behalf of the board and appeals would then be made to the courts. Following extensive discussion among the Supervisors regarding the anticipated impartiality of a hearing officer, Assessor Darris was asked for her recommendation. Ms. Darris stated that her office has no opinion or recommendation on this matter. In response to questions from the Board, Ms. Springer stated some other counties conduct their own Board of Equalization hearings and some use a hearing officer and that the hearing officer would be from the State Board of Equalization. Supervisors commented that it seems appropriate to try this process as it could be changed in the future if there were dissatisfaction. **Supervisor Brownlow made a motion** to approve the award of Contract Number 00009A for Hearing Officer Services with the Arizona State Board of Equalization for FY 2007-2008 at the rate of \$150.00 per day; Supervisor Deal seconded the motion. Motion passed 4-1 with Supervisor DeSpain voting nay.

#### **BOARD OF SUPERVISORS/BOARD OF EQUALIZATION SESSION:**

a.) **Swearing in of Assessor, Appraisers and Petitioners:** June Foard administered the oath to the Assessor and petitioners.

b). **Discussion and possible action regarding Petition for Review of Proposed Correction for Fitzgerald Living Trust APN: 105-10-002D and 105-10-002F** Assessor Cammy Darris distributed information regarding this hearing, stated the parcels were located in the Sun Valley area and further explained the parcels were removed from agriculture status in 2001. She reported that a courtesy letter was sent to Mr. Fitzgerald asking him to re-apply for agricultural status. Assessor Darris read the statute and stated that notices of value have been sent every year, advising that her office recommends no change. The assessor introduced Mr. Heimbach, who is representing the Fitzgerald family. Mr. Heimbach stated he agrees that the assessor does not have the authority to grant agriculture status. He reported that numerous multi-page letters have been written by Mr. Fitzgerald's daughter explaining that Mr. Fitzgerald is in very poor health and didn't understand filing the paperwork. He stated his office has filed a Notice of Claim and handed out copies of his presentation to the board. He indicated that vacant land is valued at \$60.00 per acre but with agricultural designation it would be valued at only \$2.00 per acre. Mr. Heimbach distributed statutes, stating they do allow for actual use of the property and the board can establish agricultural status. He stated this is an actual use issue and he is requesting agricultural classification for these two parcels. Assessor Darris clarified the appeal process. Mr. Heimbach stated that the statute was amended this spring and the bill was approved by the governor for the litigation process. County Attorney Bowers said this appears to be a technical legal issue and that he did not see where the Assessor's office made any factual errors. Mr. Heimbach stated that the new

statute authorizes going back 3 years and that the referenced errors are any mistake in assessing or collecting taxes, that the statutes only allow application for agriculture use for the years 2004, 2005, and 2006. Mr. Heimbach stated the error was because the taxes have not have been classified according to actual use. He stated he is requesting the board to do what is fair for the property owner. Chairman Tenney asked if the board has the statutory authority to recommend the changes and the assessor provided a copy of the statute to Mr. Bowers who read it. Mr. Heimbach stated that he realizes tax statutes are confusing and added the Court of Appeals has interpreted these statutes very broadly, stating that there have been problems interpreting the statutes and gave examples of some of the interpretations. Mr. Bowers stated he still sees no error on the part of the Assessor and that the owner failed to file the necessary documents. Mr. Bowers asked Mr. Heimbach if he would agree that it was failure on the part of the owner and there was no error on the part of the Assessor. Mr. Heimbach stated the property is being used as agriculture property and has always been used as agricultural property. Chairman Tenney stated that it appears that no one is sure the board has the authority to proceed and Mr. Heimbach agreed this was true. Mr. Bowers asked Mr. Heimbach if he was asking the board to correct the error that the client did not file for correct status and Mr. Heimbach responded the error was that the property was not classified as agriculture. Mr. Bowers again stated he did not see an error on Assessor's part. Mr. Heimbach stated there is a question in filing and history of cases going before board concerning errors and that this is a classification error. Chairman Tenney stated it seems that the Assessor's office did not make an error in assessing or collecting. Mr. Bowers stated that is correct and that the Assessor gave it the only classification possible. Mr. Heimbach remarked that he would not have filed this request if other boards were not accepting this interpretation and that the use of classification was incorrect and there is no question about the use of the property. Assessor Darris stated that as far as her office knows, the property is being used as agriculture and has been used in the past as agriculture. Assessor Darris said her department did send out courtesy letters. Chairman Tenney asked what happens if the board denies this request or decides that they do not have the authority to act, if it would then go to Court. Mr. Heimbach stated the laws have been liberally viewed in favor of property owners. Mr. Bowers asked again if there was an error on Assessor's part and Mr. Heimbach stated the error is that the property is being used for agriculture. Mr. Bowers stated that he felt in a strict reading of the law that the board doesn't have authority to make a decision. Mr. Heimbach stated he has been involved in many cases over the years and the board should do what is right. Chairman Tenney stated he felt it is not the Assessor's job to get tax payers to file the correct paperwork. In response to a question from Supervisor DeSpain about the Board's authority in this matter, Mr. Bowers stated he is not fully prepared to address that at this time. **Supervisor DeSpain made a motion to** approve the request from the taxpayer. He stated he had personal knowledge that Mr. Fitzgerald was very ill and that he also knew the property was used agriculturally for the years of 2004, 2005, and 2006. Supervisor Thompson seconded the motion. Supervisor Deal stated that after hearing the arguments that he was hesitant to approve. He stated while he understood the illness, on the other hand he appreciated the honesty of the tax representative. Supervisor Deal stated he felt the County Attorney had not had time to prepare his opinion and that he is hearing that the proper papers were not filed. He added that he knows Assessor Darris is a very honest person and she knows and upholds the law so he would like for the County Attorney to be able to do research and to provide the board guidance. **Supervisor DeSpain amended the motion** to read that the board would move to approve this action pending the County Attorney's opinion on the legal issue of statutory authority. Supervisor Thompson seconded the amendment. Mr. Bowers stated he would have an answer within two weeks. Motion was unanimously approved.

#### **PUBLIC WORKS:**

a) Consideration and possible award of Contract #B07-04-012 Pavement Markings to United Highway Technologies, Inc. Dusty Parsons presented information to the board regarding this annual contract. **Supervisor DeSpain made a motion to** approve awarding Contract #B07-04-012 Pavement Markings

to United Highway Technologies, Inc.; Supervisor Thompson second the motion. Motion unanimously approved. b) Consideration and possible award of Contract #B07-04-030 Supplying Barbed Wire Fencing to Pioneer Fence and Vinyl: Dusty Parsons presented information to the board regarding this contract. **Supervisor Thompson made a motion to** approve the contract as presented; Supervisor DeSpain seconded the motion. Motion unanimously approved.

c) Consideration and possible approval to amend the existing Professional Services contract with Ironside Engineering & Development in an amount not to exceed \$40,000; Mr. Parsons presented information on this contract. **Supervisor Brownlow made a motion to** approve the contract as presented; Supervisor DeSpain seconded the motion. Motion unanimously approved.

d) Consideration and possible approval of funding from District IV and District V LTAF II funds for equipment and operating costs for the White Mountain Meals on Wheels: Dusty Parsons discussed this request with the board. **Supervisor Deal made a motion to** approve the items as presented with expenditures not to exceed \$3,200 and \$3,400 from Districts IV and V respectively; Supervisor Brownlow seconded the motion. Motion unanimously approved.

e) Consideration and possible approval of an expenditure from District IV Special Road Funds to purchase materials for the repair of Pinedale Bridge: Dusty Parsons presented information on this project and Chairman Tenney reported the project is progressing nicely. County Attorney Bowers asked if the community maintains the bridge, stating that maintenance is still the county's liability. Mr. Parsons reported that the community will do the upgrade, touch up paint and do cosmetic upkeep; and the county will do major overhauls, advising the county raised the height a little as people kept hitting the top of the bridge. **Supervisor DeSpain made a motion to** approve the item as presented authorizing \$25,000 from District IV Special Road Funds; Supervisor Thompson seconded the motion. Motion unanimously approved.

f) Consideration and possible approval of Resolution # \_\_\_\_ - 07 amending an Intergovernmental Agreement with the Arizona Department of Transportation for the Reservation Roadway Maintenance fund Dusty Parsons discussed this IGA with the board. **Supervisor Thompson made a motion to** approve the amendment of the Intergovernmental Agreement with the Arizona Department of Transportation for the Reservation Roadway Maintenance fund by **Resolution 59-07**; Supervisor Brownlow seconded the motion. Supervisor Deal reported when the legislation was first designed he wrote a letter to ADOT outlining how he felt the money should be allocated and they responded they were going to use old formula for 2007 and 2008 and then would start using the new formula. He indicated it looks like they are still using the old formula. Mr. Parsons stated that ADOT is willing to use the new formula but the other counties involved don't want to change. Supervisor Deal stated everyone needs to consider this issue; Mr. Parsons agreed but stated that Apache County and Coconino Counties do not want to change the formula. When Supervisor Deal stated he was not happy about the entities not wanting to discuss this, Chairman Tenney suggested submitting the information to ADOT in writing and requesting that they do what they had said they would do. Mr. Parsons said he is willing to try that approach and Supervisor Deal stated he would like to see that happen. Motion unanimously approved.

g) Consideration and possible approval to award Contract #B07-05-015 for hauling of waste tires to CRM of America, LLC: Mr. Parsons presented the information on the contract. **Supervisor DeSpain made a motion to** approve the contract as presented; Supervisor Brownlow seconded the motion. Motion unanimously approved.

h) Victory Heights Road Maintenance District Board of Directors' Session: Consideration and possible award of road maintenance Contract #B07-03-140 to Perkins Cinders: **It was moved and seconded to** go into the Victory Heights Road Maintenance District Board of Directors session. Mr. Parsons presented the information on the contract. **Supervisor Thompson made a motion to** approve the award of road maintenance Contract #B07-03-140 to Perkins Cinders; Supervisor Brownlow

seconded the motion. Motion unanimously approved. **Supervisor Brownlow made a motion to** return to regular session; Supervisor Thompson seconded the motion. Motion unanimously approved.

**i) PUBLIC HEARING Consideration and possible approval by Resolution Number \_\_\_\_\_ - 07 for a Special Development Master Site Plan for the proposed "Cabin Inns at Bison Ranch" development for APN206-49-987, 997E & 997F in Township 12 North, Range 17 East, Section 34 in the Heber-Overgaard area;** Telford Chapman explained this request for a Master Site Plan, indicating this was an area along Hwy 260 in the Bison Ranch area. He reviewed the staff report and indicated the plan would include 28 cabins and an office. He stated staff and the Planning and Zoning Commission recommend approval. Mr. Parsons pointed out a similar development across the road. In response to the Chairman's invitation for public comment, Mr. Dan Curtis from Bison Town, LLC addressed the board stating that they are pleased with the project; that this will be a complimentary use for the property. Chairman Tenney stated this project will be an asset to community. **Supervisor DeSpain made a motion to** approve the Special Development Master Site Plan for the proposed "Cabin Inns at Bison Ranch" development for APN206-49-987, 997E & 997F in Township 12 North, Range 17 East, Section 34 in the Heber-Overgaard area by **Resolution 58-07**; Supervisor Deal seconded the motion. Motion unanimously approved.

**COOPERATIVE EXTENSION: Discussion of drought impact on Navajo County;** Mr. Steve Campbell addressed the board and introduced Gregg Norton with the Farm Service Agency. Mr. Norton reported on some of the issues regarding the drought conditions, stating they are considering different management practices since the drought conditions are ongoing. Mr. Norton distributed fact sheets and advised that Congress passed and the President signed the Agricultural Assistance Act, adding that at the very bottom of the legislation they included some drought help. He advised there may be some funding, a crop disaster program, all for losses for 2005, 2006, and 2007 and that the livestock compensation program requires a Presidential or Congressional declaration of disaster. Mr. Norton stated that this will be an assistance payment and that some payments are limited to different areas of the country. Supervisor DeSpain inquired if the crop disaster program is different from the previous program, stating he is on a drought monitoring committee and so far the drought conditions have actually worsened and that in 2006 there was a drought declaration. Mr. Norton stated the Governor's Office is currently working on a declaration. Supervisor Deal stated he appreciated this information and inquired about assistance for the repair of windmills providing water for livestock. Mr. Norton stated there is some assistance under one program, but it must be directly related to drought. He added the Natural Resource Conservation Service has an assistance program and there may be some new programs of which he is not yet aware. Supervisor Deal said he hopes there is some relief because in some areas the animals are trying to get water which causes damages to the facility and that it is the same with families; that sometimes the facility is sabotaged because of frustration. Mr. Norton said there are some programs where they can cost share on drilling new wells and deepening wells. He said he will check with NRCS to see if they have any assistance available. Supervisor DeSpain said it was his experience that most programs are geared to large operations with no opportunity to apply for smaller grants and that assistance is needed for the mini grants to help the small ranchers and farmers. Mr. Norton stated the 1995 farm bill changed to the total operation conservation plan, but he knows there are some mini grants and he will check with NRCS to see what might be available. Supervisor DeSpain stated that when there is a drought situation and overgrazing, there is an immediate need for rotation and water production. Supervisor Thompson reported his concern is that it may take several months to go through the grant process, asking if there is any immediate relief available. Mr. Norton said that with the emergency conservation program, the funding is such that may have to wait. He indicated he is hoping that livestock water funding will be available sooner. The board thanked Mr. Campbell and Mr. Norton for attending and sharing information.

**FINANCE:** a) **PUBLIC HEARING;** Consideration and possible adoption of **Resolution Number – 07** to adopt and approve **Ordinance Number \_\_\_\_\_ - 07** establishing a fee for filings in the Justice Courts in Navajo County in order to defray the costs of services provided by the additional clerical and prosecutorial staff required to keep pace with increased workloads; Finance Director James Menlove discussed the use of this proposed fee and asked for approval for this item. Chairman Tenney invited public comment and there was none. Chairman Tenney stated there has been considerable input previously. **Supervisor Brownlow made a motion to approve by Resolution 60-07 Ordinance Number 06- 07** to establish a fee for filings in the Justice Courts in Navajo County in order to defray the costs of services provided by the additional clerical and prosecutorial staff required to keep pace with increased workloads; motion seconded by Supervisor DeSpain. In response to a question from Supervisor DeSpain, County Attorney Mel Bowers explained the costs that are incurred and indicated one option was to add personnel. He added this will help the county to continue to provide services. Donna Rescola of the White Mountain Independent asked if this new fee would cover orders of protection and Mr. Bowers responded it would apply to all violent issues. Motion unanimously approved.

b) **Consideration and possible authorization for Purchasing to solicit for proposals (RFP B07-060-003) for tax payment processing equipment and software for County Treasurer to replace existing manual process;** Deputy Finance Director Mary Springer reviewed the documentation regarding this item, stating it will simplify the tax payment process. **Supervisor DeSpain made a motion to** approve the authorization to solicit for proposals (RFP B07-060-003) for tax payment processing equipment and software for County Treasurer to replace the existing manual process; Supervisor Brownlow seconded the motion. Motion unanimously approved.

c) **Consideration and possible authorization for Purchasing to solicit for proposals (RFP B07-060-001) for computer assisted mass appraisal and assessment administration system for County Assessor to replace existing Department of Revenue system;** Mary Springer explained that the existing assessment system is obsolete, discussing the need for this new software. **Supervisor DeSpain made a motion to** approve RFP B07-060-001 for the computer assisted mass appraisal and assessment administration system authorizing the County Assessor to replace the existing Department of Revenue system; Supervisor Brownlow seconded the motion. Motion unanimously approved. Ms. Springer explained this project would include partnering with several other counties.

d) **Consideration and possible authorization for Purchasing to solicit invitation for bids (IFB B07-060-007) for modular office moving service;** Ms. Springer stated this item is for moving buildings to the NATC training center. **Supervisor DeSpain made a motion to** approve IFB B07-060-007 for modular office moving service; Supervisor Brownlow seconded the motion. Motion unanimously approved.

e) **Consideration and possible award of contract B07-050-014 for annual printing and advertising to lowest responsive and responsible bidder as submitted on 6-18-07;** Ms. Springer explained that one bid was received and she read the pricing. **Supervisor DeSpain made a motion to** approve the award of contract B07-050-014 for annual printing and advertising to the lowest responsive and responsible bidder, The Holbrook Tribune; Supervisor Thompson seconded the motion. Motion unanimously approved.

**WORKFORCE INVESTMENT AUTHORITY:** Consideration and possible approval of WIA/DES Contract #DEO70300 to establish PY07-08 funding; WIA Director Gail Sadler discussed the proposed contract and requested approval. **Supervisor DeSpain made a motion to** approve the contract as presented; Supervisor Brownlow seconded the motion. Motion unanimously approved.

**ELECTIONS:** Consideration and possible approval for Navajo County Election Services to conduct an all mail ballot election for the Silver Creek Flood Protection District #1 on October 3, 2007; County Manager James Jayne advised this call for election has met all requirements. **Supervisor Deal made a**

**motion to** authorize Navajo County Election Services to conduct an all mail ballot election for the Silver Creek Flood Protection District #1 on October 3, 2007; Supervisor Brownlow seconded the motion. Motion unanimously approved.

**EMERGENCY MANAGEMENT/BOARD OF SUPERVISORS:** NIMS compliance training workshop in the Information Technology training room; This item was continued to a later date.

**BOARD BUSINESS:** Supervisors discussed issues that impact the county and events within their district. Finance Director James Menlove announced auditor general staff is on site working on audits. Ms. June Foard addressed the board, stating it had been an honor and a privilege working for them the last seven years.

**ADJOURN:** **Supervisor Deal made a motion to** adjourn at 12:40 p.m.; Supervisor Brownlow seconded the motion and the motion carried unanimously.

**APPROVED:**

**DATE:**

\_\_\_\_\_  
David Tenney, Chairman

**ATTEST:**

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Clerk of the Board