

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY  
BOARD OF SUPERVISORS SPECIAL MEETING**

**April 19, 2016  
St. Johns, Arizona**

Present were: Chairman Joe Shirley, Jr., Vice Chairman Tom M. White, Jr. and Supervisor Barry Weller. Also present were Clerk of the Board Delwin Wengert and County Attorney Michael Whiting.

Chairman Shirley called to order the Board of Supervisors meeting at 8:33 a.m. in the Board of Supervisors chambers, County Annex Building, 75 West Cleveland Street, St. Johns, Arizona, and welcomed all in attendance.

Ferrin Crosby led the Pledge of Allegiance.

Delwin Wengert gave the invocation.

Chairman Shirley called for the Health District items.

Chris Sexton, Health Director, requested approval of an Intergovernmental Agreement- STD Program, ADHS 14-071557, Amendment #1 with changes to the contract expiration date to December 31, 2018. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Chris Sexton, Health Director, requested approval of an Intergovernmental Agreement Healthy People/Healthy Communities ADHS #16-097960, Amendment#2 and the grant was included in the FY15/16 budget. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller stated he does not believe the government should be involved in personal, family issues. Motion passed 2-1 with Mr. Weller voting nay.

Chris Sexton, Health Director, requested approval to convert the Community Nutrition Worker Supervisor (Range 27) to a Health Educator II (Range 24), resulting in a cost savings of \$1,764, due to no longer needing the position. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Mr. White moved to adjourn the Health District meetings seconded by Mr. Weller. Vote was unanimous.

Chairman Shirley called for the Library District item.

Judith Pepple, Library Director, requested approval of the of the Strategic Plan for the Round Valley Public Library. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Mr. White moved to adjourn the Library District meeting, seconded by Mr. Weller. Vote was unanimous.

Chairman Shirley called for the Flood Control District item.

Ferrin Crosby, County Engineer, requested approval to enter into an agreement with Arizona Department of Water Resources to maintain ALERT flood warning precipitation gauges within the

Wallow Fire burn area. Mr. Crosby stated the contribution by the District under this agreement will be \$12,000 for the 2016 & 2017 seasons and is an ongoing maintenance agreement. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Mr. Weller moved to adjourn the Flood Control District meeting, seconded by Mr. White. Vote was unanimous.

Chairman Shirley called for the regular agenda items.

Milton Ollerton, Community Development Director, presented for possible approval, to allow Joel Young to rezone the property from AG Agricultural General to C-2 General Commercial and obtain a Conditional Use Permit to build an off-site dispensary cultivation located on parcel 212-69-019A, located near Concho. Mr. Ollerton stated the item was unanimously opposed on December 3, 2015 by the Planning and Zoning Commission and was continued from the February 16, 2016 Board of Supervisors meeting when the public hearing was held. Mr. Ollerton stated the Board of Supervisors made site visits to the location and to see that it is eight miles of a county highway. Mr. Ollerton stated he received a text message this morning from Mr. Young that he and his family were sick and would not be in attendance today, and to let him know the outcome of the determination. Mr. Ollerton recommended the Board go with the Planning and Zoning recommendation to deny the application. Mr. White stated he visited the site and is concerned with it being eight miles off a county road, in a rural area, and moved to deny the application. Mr. Weller stated he also visited the site and he still has unanswered questions regarding the issue and he also finds that this is not in a good location for this type of experiment and seconded Mr. White's motion to deny the re-zoning.

Chairman Shirley stated a public hearing was already held on the issue but he received two requests to address the issue so he will allow the two speakers.

Mary Springer, a resident who lives next to the applicant, urged the Board to deny the application.

Art Modica, a resident of the county, asked the Board to deny the application.

Chairman Shirley stated he also visited the site and spoke with the applicant, Mr. Young, and he agrees with Mr. White and Mr. Weller regarding the location of the site, as well as other concerns he was made aware that have not been resolved. Vote was unanimous to oppose the re-zoning and the Conditional Use Permit.

Doyel Shamley, Natural Resources Liaison: provided a presentation on Natural Resource activities, specifically woody-biomass utilization projects, currently in Apache County. No action as needed or taken.

Doyel Shamley, Natural Resources Liaison, requested approval of letters of correspondence to multiple entities, from Apache County, for consideration and approval for mailing. 1) Letter to Fennemore-Craig for BLM commentary team, 2) Letter to Apache-Sitgreaves National Forest Supervisors Office for meeting and date to complete the MOU already unanimously approved by the Apache County Board of Supervisors, 3) Letter to United States Forest Service, Region 3, Southwest Region, for meeting and date to complete the MOU already unanimously approved by the Apache County Board of Supervisors. Mr. Shamley requested the Letter to SRP for meeting arrangements with Apache County to coordinate and investigate usage of railroad spurs at the Springerville and Coronado Generating Stations for utilization by other industries in Apache County

be removed from the agenda and only approve the first three letters. Mr. Weller asked why the SRP letter was pulled. Mr. Wengert stated he spoke with SRP and they wanted to discuss this in more detail before it comes to the Board and wanted it removed from the agenda to speak with SRP officials before sending the letter. Mr. Weller moved to approve the three letters, Mr. White seconded the motion. Vote was unanimous.

Mr. Wengert presented the **Consent Items A-E** and recommended approval. Mr. Weller moved to approve **A-D** with the exception of Item E for discussion. Mr. White seconded the Motion. **County Manager/Clerk of the Board: A.** Request approval of demands as distributed to the Apache County Board of Supervisors between April 5, 2016 to April 19, 2016. Payee Amount APACHE COUNTY HSA 2,031.67 APACHE COUNTY MEDICAL 139,225.26 APACHE COUNTY TAX WITHHOLDING 132,208.91 ASRS LEGACY EORP 1,009.62 AZ STATE RETIREMENT SYSTEM 91,197.96 COLONIAL LIFE AND ACCIDENT INS 1,297.35 CORRECTIONS OFFICER RET PLAN 5,851.87 CORRECTIONS OFFICER RETIREMENT PLAN 520 4,990.41 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 11,393.58 PUBLIC SAFETY SHERIFF RET 41,033.57 SECURITY BENEFIT GROUP 1,111.00 SUPPORT PAYMENT CLEARINGHOUSE 2,206.91 AGUERO, ROBIN R 3,929.89 ALLY FINANCIAL 102,030.20 ASHTONS REPAIR IN 1,378.21 AZ SUPREME COURT 3,246.00 BANK OF THE WEST – 4747 2,488.88 BILLS DISCOUNT AUTO PARTS (NAPA) 1,799.99 BRADCO 16,711.18 C AND K HOSE COMPANY 1,008.02 CDW GOVERNMENT LLC 1,618.16 CMS COMMUNICATIONS INC 1,797.58 EMPIRE MACHINERY 301,105.04 FROG WINDOW CLEANERS 2,615.00 GLAXO SMITHKLINE PHARMACY 1,777.20 HATCH CONSTRUCTION 6,589.96 HATCH MOTOR COMPANY SNOWFLAKE 1,069.30 HILLYARD INC 1,509.58 IFE GROUP 1,250.00 KIMBALL EQUIPMENT COMPANY 2,342.60 LOOMIS 1,569.84 MINE SAFETY & HEALTH ADMIN (MSHA) DEPT OF LABOR 1,008.00 NAVAJO COUNTY 5,555.23 NEVES UNIFORMS & EQUIPMENT 1,014.56 PACIFIC PONDEROSA CO INC 22,929.12 PERFECT PRINTZ LLC 3,450.32 QUILL CORP 4,649.69 SECURUS TECHNOLOGIES INC 1,593.35 SHI INTERNATIONAL CORP 14,631.14 THE AARONS COMPANY LLC 3,000.00 TRAK ENGINEERING INC 14,823.00 UNITED RENTALS 5,913.60 VERITAS RESEARCH CONSULTING 1,520.00 VERIZON WIRELESS 1,234.61 WHITE MOUNTAIN PUBLISHING CO 11,531.15 WHITE MOUNTAIN REGIONAL MEDICAL CENTER 1,515.02 WHITING, GARRET LEE 1,800.00 A & E REPROGRAPHICS 1,998.00 AZ BRAKE & CLUTCH SUPPLY 8,094.15 AZ COUNTIES WORKERS COMPENSATION PLAN 47,601.13 AZ DEPT OF RISK MANAGEMENT 1,273.97 BENDER, JUDITH A 1,512.50 BRADCO 17,421.38 CDW GOVERNMENT LLC 12,864.30 COUNTRY MOUNTAIN AIRWAVES LLC 4,553.28 FRONTIER 1,758.05 GALL'S INC 1,295.10 GRAVES PROPANE CO INC 1,227.77 HI TECH WINDSHIELD & GLASS CO 1,428.49 HUGHES SUPPLY INC (LAKESIDE) 1,329.64 INGRAM LIBRARY SERVICES 2,344.60 KWKM POWER 95.7 1,233.18 NAVAJO COUNTY 7,000.00 NAVOPACHE ELECTRIC COOPERATIVE 8,319.82 OFFICE DEPOT 2,671.68 OVERDRIVE INC 3,820.34 PITNEY BOWES 1,227.07 QUILL CORP 4,440.00 ROBERTS TIRE SALES INC 9,219.56 SCHIFF, LAURENCE 1,400.00 SECURUS TECHNOLOGIES INC 3,278.46 ST JOHNS CITY 6,767.89 SUN RIDGE SYSTEMS, INC 13,460.00 THE UNIVERSITY OF ARIZONA 6,250.00 VERITAS RESEARCH CONSULTING 1,440.00 VERIZON WIRELESS 1,659.50 WOODLAND BUILDING CENTER 1,357.06 Demands are payments made or to be made, by the County. Specific details of the demands may be requested through the County public record request process. **B.** Request approval of minutes dated March 30, 2016 and April 5, 2016. **C.** Request approval of a Special Event Liquor License for Wes Myers, American Legion Post 130, at the Concho Valley Lions Club Park, Commercial Drive, in Concho, Arizona on May 30, 2016. **D.** Request approval of a Proclamation supporting Buena Vista Children's Services, a non-profit organization for child abuse prevention. This Proclamation was also approved last year. Vote was unanimous.

Mr. Weller stated he had a concern with the **Community Development's Consent Item E**, request approval to re-appoint Jim Thornhill as a permanent Planning & Zoning Commission Board Member representing District I. Mr. Weller stated he cannot support the re-appointment of Mr. Thornhill, though a dedicate servant of his community, there are other applicants in the vast county, and a lot

of people who want to serve. Mr. Weller stated he does not support Planning and Zoning members being used from incorporated areas of the county since this is an unincorporated area decision process. Chairman Shirley stated he has known Mr. Thornhill for many years and has no problem having Mr. Thornhill represent his district and would appreciate a motion to approve this item. Mr. White stated since Mr. Shirley does not have a problem with Mr. Thornhill representing District I, he moved to re-appoint Mr. Thornhill, seconded by Mr. Shirley. Mr. Weller stated his opposition has nothing to do with Mr. Thornhill's character, he is trying to help the Board think about making changes to benefit the stagnated economic development that exists in the county. Motion passed 2-1 with Mr. Weller voting nay.

Chief Deputy Sheriff Brannan Eagar requested approval to continue the Cooperative Law Enforcement Annual Operation and Financial Plan between the Apache County Sheriff's Office and the USDA, Forest Service Apache Sitgreaves National Forest, Agreement #12-LE 11030121-004, in the amount of \$14,110. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Malena Bazarro, Grants Manager, requested approval of the annual resolution and proclamation recognizing April as Fair Housing month in Apache County as part of the County's commitment to affirmatively further fair housing. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Malena Bazarro, Grants Manager, requested approval of a Memorandum of Understanding between Apache Natural Resources Conservation District and Apache County for continued partnership in natural resource projects in Apache County. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Malena Bazarro, Grants Manager, requested approval of resolution to commit local leveraged funds for project labor by the Apache County Building and Maintenance Department to the FY2016 CDBG project at the Apache County Fairgrounds in St. Johns. Ms. Bazarro stated the agreement requires a County in-kind contribution of \$36,000. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller stated he believed unincorporated CDBG funds should be targeted at unincorporated assets, not incorporated assets that have their own CDBG funding every four years. Mr. Weller stated he hopes for a report as to how Apache County is re-compensated for this type of funding that goes towards the incorporated areas. Motion passed 2-1 with Mr. Weller voting nay.

Angela Romeo, Election Director, requested approval of the polling places for the upcoming May 17, 2016 Special Election. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Angela Romeo, Election Director, requested approval of all Tally Board, Poll Workers and Troubleshooters/Election Day Technicians for the upcoming May 17, 2016 Special Election. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Angela Romeo, Election Director, requested approval of a Sales Order Agreement at a cost not to exceed \$607,490.30 and an annual Rental Agreement in the amount of \$22,800.00, between Election Systems & Software (ES&S) LLC and Apache County for election equipment. Mr. Weller and Finance Director Ryan Patterson, held a discussion regarding the financing costs and interest rate. Mr. Weller moved approval of the ES&S equipment as detailed and the associated backup documentation presented, as well as the E.S. & S. Rental Agreement for one year as detailed in the backup material with a directive that the Election Director, with cooperation with the Recorder's Office, write a special security protocol of policy and procedures covering the use of the ES&S including all ballot handling from election beginning to end, ensuring ballot integrity. Mr. Weller stated the procedures and policy is to be presented to the Board of Supervisors within 60 days, on or

before June 20, 2016, seconded by Mr. White. Mr. Weller stated this motion is a result of many discussions with Ms. Romeo and appreciates her diligence in serving the needs of the Election Department. Mr. Weller stated the new equipment is a significant change to the county to move into a whole new method of tabulating the votes throughout the county. Mr. Weller stated it is important to have a good written document to make sure the protocols are well tracked and understood so the training can be done for the new election process, to reduce liability. Mr. Wengert stated that some of the election equipment is 20 years old and many counties around the state are in the same situation and have already moved forward with new equipment and will be used in the upcoming Primary and General Elections. Mr. Shirley asked Ms. Romeo if she was in agreement with the motion. Mrs. Romero state yes. Vote was unanimous.

Ferrin Crosby, County Engineer, requested the item to approval to award Bid #201603 for the purchase of modular buildings for the Chinle Justice Court be tabled at this time some the bids received raged from \$99,798 to \$148,899. Mr. Crosby stated there have been other developments and need time to gather more information. Mr. Weller moved to table the item until the next meeting or a meeting previous to the regular meeting, seconded by Mr. White. Vote was unanimous to table the item.

Ferrin Crosby, County Engineer, requested approval to enter into an agreement with Cochise County to use their Intergovernmental Purchasing Agreement for the purchase of approximately 645 tons of CRS-2P oil at a cost of \$367.00 per ton for a total of \$236,715 from Western Emulsions, Inc., for county chip seal projects. Mr. White moved approval, second by Mr. Weller. Vote was unanimous.

David Romeo, Chief Deputy Treasurer, requested approval of a "Certificate of Removal of Abatement of Taxes" pursuant to ARS 42-18351, 42-18352 and 42-18353. This certificate impacts parcels 211-24-001, 211-36-008, 211-29-002, and 211-47-002 in the amount of \$383.39, owned by the United States of America. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

David Romero, Chief Deputy Treasurer, requested a possible an executive session for legal advice, pursuant to ARS 38- 431.03 (A)(3) discussion, and possible approval of a settlement agreement on centrally assessed taxes between Apache County and Nacogdoches Oil and Gas. Mr. Weller stated he did not see a reason for the executive session. Mr. White stated he agreed he was fine with not holding an executive session. Chairman Shirley stated he sees no reason for executive session. Mr. Weller stated he appreciated all the work done and it is a good settlement agreement and moved to approve, seconded by Mr. White. Vote was unanimous.

Barry Weller, District III Supervisor, requested possible approval to provide exclusively to the State Bar of Arizona and the Arizona Attorney General, copies of the Apache County Attorney's April 11, 2016 and April 12, 2016 emails, memorandums and exhibits concerning the restructuring of two County Departments. Mr. Weller stated Mr. White, Mr. Shirley and Mr. Wengert were provided the information referred to in the item and there is no need to publicly discuss any details of the material. Mr. Weller stated the dates clarify what would be submitted if approved and is exclusive to only those two entities to assure maintaining confidentiality and is essential to keep the personal information as confidential as possible in an order to seek an unbiased, independent a third party opinion about the issue. Mr. Weller stated he put the potential executive session on the agenda only so it could be discussed it if need be. Mr. Weller stated the Board cannot utilize the County Attorney staff or office in any way for advice on the item since the item is concerning that office. Mr. Weller stated the Board will need to discuss and arrange the potential free use of the State Attorney

General's Office or another jurisdiction, if the Board chooses to go that way. Mr. Weller stated he personally sees no need to seek advice since we are releasing this information exclusively to those attorney-centered organizations and the sequence of the release of the information from the County Attorney's Office along with its broad distribution, complete with a request for public posting, has created at a very minimum, a doubt about the attorney-client privilege claim that was sent out the following day. Mr. Weller stated in his opinion the many eyes other than the Board and the County Manager who saw the information has already broken client-attorney privilege. Mr. Weller asked the Board to approve as a matter of professionalism so they may work together and get a qualified and appropriate independent third party review and oversight. Chairman Shirley asked Mr. Weller if he had a motion. Mr. Weller made the motion for the Board to release any and all client-attorney privilege that may exist for the submission exclusively to the State Bar of Arizona and the Arizona Attorney General, copies of the Apache County Attorney's April 11, 2016 and April 12, 2016 emails, memorandums and exhibits concerning the restructuring of two Apache County Departments. Mr. Weller stated this release does not apply to any person or entity other than the State Bar Arizona and the Arizona Attorney General and the release shall be accompanied by confidentiality requirements to those entities. Chairman Shirley called for a second to Mr. Weller's motion. Hearing no second, motion died.

Mr. Wengert presented notification of the Eastern Arizona Counties Organization meeting on April 20, 2015 at 3:00 p.m. at the County Supervisors Association (CSA) building, 1905 W. Washington Street, Phoenix, the Small Counties Forum meeting on April 20, 2016 at 5:30 p.m. at the CSA building, 1905 W. Washington Street in Phoenix, the Northern Arizona Council of Governments (NACOG) meeting on April 28, 2016 at 9:00 a.m. at the Town of Prescott Conference Center Council Chambers, 7501 East Civic Circle, Prescott Valley, Arizona, where two or more members of the Apache County Board of Supervisors may be in attendance.

There was no one wanting to address the Board during call to the public.

Mr. White moved to adjourn the meeting, seconded by Mr. Weller. Vote was unanimous.

Approved this 3rd day of May, 2016.

/s/ Joe Shirley, Jr.  
Chairman of the Board

/s/ Delwin Wengert  
Clerk of the Board