

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY**

**BOARD OF SUPERVISORS MEETING**

**February 2, 2016**

**Ganado, Arizona**

Present were: Chairman Joe Shirley, Jr., and Vice Chairman Tom M. White Jr. Also present, County Manager/Clerk of the Board Delwin Wengert and County Attorney Michael Whiting. Supervisor Barry Weller participated via the telephone from St. Johns.

Chairman Shirley called to order the Board of Supervisors meeting at 8:35 a.m. in the Ganado Road Yard Conference Room, Highway 264 Mile Marker 446.8, Ganado, Arizona and welcomed all in attendance.

Ferrin Crosby led the Pledge of Allegiance.

Kirk Arviso gave the invocation.

Chris Sexton, Health District Director, requested approval of the amendment to the contract with Stericycle which will reduce medical waste pick-up and disposal to twice a year, effective January 1, 2016 and was budgeted for FY2016. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Chris Sexton, Health District Director, requested approval of the service agreement with Banner Health (dba ENTECH) effective January 1, 2016 for maintenance, calibration and repair service of medical equipment used in the Health District which was budgeted for FY15/16. Mr. Weller moved approval, seconded by Mr. White. Mr. White asked what the cost will be. Mr. Sexton stated \$690.00. Vote was unanimous.

Chris Sexton, Health District Director stated the Arizona Administrative Code (R9-10-1004) requires periodic reports of clinical activities to the governing body authority of the outpatient treatment center. Mr. Weller thanked Mr. Sexton for the report. No action was needed or taken.

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

Chairman Shirley called for the regular agenda items.

Mr. Wengert presented the **Consent items A-G** and recommended approval. Mr. White moved to approve the items. Mr. Weller asked **Item E & F be removed for discussion**. Mr. White modified his motion to exclude **E and F**. Mr. Weller seconded the modified motion to approve **Consent Items A,B,C,D & G**. **County**

**Manager/Clerk of the Board: A.** Request approval of demands as distributed to the Apache County Board of Supervisors between January 19, 2016 to February 2, 2016. Payee Amount AZ DEPT OF REVENUE 1,016.71 ADHS AZ HEALTH CARE COST 22,400.00 APEX SOFTWARE 1,295.00 AVAYA COMMUNICATIONS 1,381.19 BAUMAN HOME AND AUTO INC 1,204.53 BRADCO 17,111.27 CDW GOVERNMENT LLC 1,508.74 CELLULAR ONE NE AZ 1,751.58 COURTESY CHEVROLET 91,223.65 CRESCENT ELECTRIC SUPPLY CO 1,077.33 DIAMOND DRUGS INC 4,004.26 EMPIRE MACHINERY 35,031.02 FERRELLGAS 1,246.68 FRONTIER 4,864.45 GOLIGHTLY TIRE 3,562.70 GRAVES PROPANE CO INC 1,337.05 GURNEE, MISTY M 4,487.35 HAMBLIN LAW OFFICE PLC 8,500.00 HEALTH EDUCATION COUNCIL 1,185.00 INGRAM LIBRARY SERVICES 2,968.42 KING, DANIEL A 6,843.60 LAW OFFICE OF DIRK LEGATE PLLC 8,500.00 LEADSONLINE LLC 2,238.00 MCCOOK BOILER AND PUMP COMPANY 2,424.00 MCKESSON MEDICAL SURGICAL 1,194.24 NAVAJO COUNTY 7,500.00 NAVAJO TRIBAL UTILITY AUTHORITY 3,178.87 NAVOPACHE ELECTRIC COOPERATIVE 6,197.74 NEW WORLD SYSTEMS CORPORATION 81,176.33 PATTERSON, DANA BRYCE 8,500.00 PERFECT PRINTZ LLC 1,350.94 PHIL STRATTON ELECTRIC IN 7,081.00 PIMA COUNTY MEDICAL 6,900.00 PIMENTEL CONTRACT CLEANING 3,350.00 PLATT DDS, RANDOLPH 1,654.00 PROFORCE LAW ENFORCEMENT 26,086.58 QUILL CORP 4,194.40 REIDHEAD, BRANDY 2,855.00 SANDSTONE PUBLIC RELATIONS 4,935.00 SECURUS TECHNOLOGIES INC 1,624.00 SOURCEHOV 2,434.93 SPRINGERVILLE-EAGAR CHAMBER OF COMMERCE 4,125.00 THE UNIVERSITY OF ARIZONA 6,250.00 THOMSON REUTERS WEST 1,138.29 TRUJILLO, RENEE ANN 1,534.40 VERITAS RESEARCH CONSULTING 1,080.00 VERIZON WIRELESS 1,291.49 WILLIAMS LAW GROUP PLLC 8,500.00 WOLFCOM ENTERPRISES 1,739.93 YELLOWHORSE, JAY 3,812.29 APACHE COUNTY TAX WITHHOLDING 6,538.03 APACHE COUNTY HSA 1,956.67 APACHE COUNTY MEDICAL 138,999.43 APACHE COUNTY TAX WITHHOLDING 132,313.76 ASRS LEGACY EORP 1,009.62 AZ STATE RETIREMENT SYSTEM 90,867.05 COLONIAL LIFE AND ACCIDENT INS 1,378.20 CORRECTIONS OFFICER RET PLAN 5,821.33 CORRECTIONS OFFICER RETIREMENT PLAN 520 6,071.66 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 11,393.58 PUBLIC SAFETY SHERIFF RET 40,380.57 SECURITY BENEFIT GROUP 1,091.00 SUPPORT PAYMENT CLEARINGHOUSE 2,069.77 4IMPRINT 1,582.45 ALAN DANA LEWIS PLLC 2,000.00 AMAZON COM INC 3,236.85 ARCHER MANUFACTURING 2,280.00 BATTERIES PLUS 1,094.87 BILLS DISCOUNT AUTO PARTS (NAPA) 1,282.58 BRADCO 1,551.12 CELLULAR ONE NE AZ 1,104.89 COMMUNITY COUNSELING CENTERS

INC 8,662.00 EARTH MOVER TIRE SALES INC 3,290.35 FILEONQ INC 3,724.57 HILLYARD INC 1,731.02 JURY SYSTEMS INCORPORATED 1,500.00 LINE X OF AZTEC 1,470.57 NAVAJO TRIBAL UTILITY AUTHORITY 3,951.01 NAVOPACHE ELECTRIC COOPERATIVE 2,364.79 NEWMAN SIGNS INC 1,851.51 NORCHEM DRUG TESTING LABORATORY 1,520.55 PENA, KERRY 1,303.49 PHELPS DIESEL 2,500.00 PITNEY BOWES RESERVE ACCOUNT 5,000.00 PLATT DDS, RANDOLPH 1,425.00 QUILL CORP 3,179.78 S R ROBERTS INC 2,699.20 SANDSTONE PUBLIC RELATIONS 3,675.00 SECURUS TECHNOLOGIES INC 1,586.21 THE GUIDANCE CENTER 3,900.00 TJP

COMMUNICATIONS 3,543.99 VALLEY AUTO PARTS 1,429.33 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 January 19, 2016. **Personnel Items:** **C. Human**

**Resources:** Request approval to modify the Human Resources Table 3 position 14011 (Division Manager Public Health Prevention) from a range 42 to a range 44. This modification will bring the position in line with existing Division Manager positions already set at a range 44. **D. District II:** Request approval to transfer Dwight Smith, Facilities and Construction Worker II (range 27) to a Road Worker Maintenance Worker I (range 18) laterally, with no change in salary. Current salary is \$25,321.60. This request is made as a result of the need for Mr. Smith in the roads division. **Engineering Department:** **G.** Request authorization to purchase at Richey Brothers Auction on February 9, 2016 a dump truck and a water truck for District I at a cost not to exceed \$85,000 each, using District I carryover funds. Motion passed 2-0 with Mr. Weller abstaining.

Mr. Weller stated regarding Consent Item E, he pulled the item because of some emails he saw regarding the request for approval of a Conditional Use Permit to allow Steve Horsman to add a guest house on a 36.5 acre parcel adjacent to an existing house structure at Lakeview Ranch II Lot #99, located near Concho, parcel 201-60-099 with the Planning and Zoning Commission voting unanimous approval. Mr. Weller stated there are members of the public who want to speak on this issue.

George Walsh, a resident of Vernon, Arizona stated he does not have any opposition to the item; he opposes the item being heard with the meeting being held in Ganado where he can't face all of the Board members. Mr. Walsh stated the meeting is being held in an area where there are not any people who want to serve as commissioners on the Planning and Zoning Commission. Mr. Walsh stated the zoning does not affect the area the meeting is being held in and asked the item be pulled since state law requires it be pulled when there is a request for a public hearing. Mr. Walsh stated he sent an email and asked if all three supervisors had received a copy because if not, the Community Development Director and the County Attorney have withheld information that he asked be forwarded.

Mr. Weller stated he received nothing from Mr. Walsh through the Community Development Department and is not sure if the other two supervisors received what he is talking about. Mr. Weller stated he has been in communication relative to Mr. Walsh's concerns and stated and he thinks there is an appropriate objection to this being heard and disagrees with some of the County Attorney's positions so he will be abstaining from the vote though he is not necessarily against the two items it is just the process and the disrespect for the objection that took place.

Mr. Ollerton stated the email from Mr. Walsh was forwarded to Mr. Weller this morning and also brought copies for the other two supervisors. Mr. Ollerton stated the Zoning Ordinance section 1107, it outlines how a conditional use permit should be heard before the Board of Supervisor. The ordinance stated that any person who desires to file an objection or appeal on an item has 15 days after the Planning and Zoning Commission has taken action for a recommendation to the Board, a person has 15 days to turn in an objections and the letter from Mr. Walsh was not received within that 15 day period; it was received after, so he sees no reason to not move forward and continue to hear the items.

Mr. Whiting stated in regard to the email, the County Attorney's Office reviewed them and advised the Community Development Department just as Mr. Ollerton stated; an email was sent to Mr. Weller outlining the concerns which were addressed and the recommendation of the County Attorney's Office is to proceed.

Mr. Weller asked Mr. Whiting if the statute mentions no timeline or time limitation and the County Ordinance is being cited and appears to reflect a limitation on the objection and asked if state statute overrides county statute. Mr. Whiting responded there is no conflict. Mr. Weller stated that was not what he asked; he asked if state statute overrides county statutes. Mr. Whiting responded the same answer.

Mr. White stated every time a meeting is held in Ganado or Chinle there are always individuals that object, saying it is not legal but the way the statutes reads, a meeting can be held anywhere and items put before the Board will be considered by the Board. Mr. White moved to approve Item E, the Conditional Use Permit for Mr. Horsman. Mr. Weller stated for the sake of discussion, seconded the motion. Mr. Weller stated he wanted to clarify he heard no statement here about any illegality or inappropriateness of having meetings on the Navajo Nation, that is a separate subject, the items have to do with an objection and if that objection was appropriate or not and has nothing to do if whether there was a legal ability to be heard on the Navajo Nation. Motion passed 2-0 with Mr. Weller abstained.

Chairman Shirley asked if there was a motion to approve Item F., a Conditional Use Permit allowing Concord Blue Eagar, LLC, to construct and operate a renewable biomass power plant and biochar production facility on

an 11.95 acre lot portion of the Eagar Industrial Site located near Eagar, Arizona, on portion of parcel 103-10-013B ad 103-10-012A and has unanimous approval by the Planning and Zoning Commission. Mr. White moved to approve. Mr. Weller seconded the motion.

George Walsh, a resident of Vernon, read from statute and stated he believes the County Attorney's opinion is bogus. Mr. Ollerton stated the zoning ordinance recognizes a specific statute and allows for an appeal of a conditional use permit. Mr. Ollerton stated the County had the opportunity to place a time limit of 15 days through the zoning ordinance. Mr. Ollerton stated the ordinance has been in place for many years and followed state statute when it was created and believes this is accurate.

Mr. Whiting stated he concurs with Mr. Ollerton and just like the same issue as on the last item, the County Attorney's Office has issued an opinion and he is sorry Mr. Walsh does not agree; though he fancies himself an attorney, but he is not one. Mr. Whiting stated the item is legal and the Board can take action if they so choose. Mr. Motion passed 2-0 with Mr. Weller abstaining.

Malena Bazarro, Grants Manager, requested approval of a Crew Use Agreement between Arizona State Forestry and Apache County for work to be performed by an inmate crew under the existing Agreement #WFHF-14-205 for fuels reduction in the Tai Wi Wi Subdivision in Alpine, at a not to exceed cost of \$6,000. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

R.D. Stradling, Building & Maintenance Director, requested approval to increase the salaries for the following individuals: Lanny Sherrill, Facilities & Construction Worker III, 12.5 years of service, current salary \$34,902 – midpoint is \$36,706, proposed increase \$2,000. Johnny Chavez, Facilities & Construction Worker II, 9.83 years of service, current salary \$24,704 – midpoint is \$30,880, proposed increase \$2,500. Mr. White moved approval. Mr. Weller seconded the motion for the sake of discussion. Mr. Weller stated his comments do not reflect the good work these employees do and they probably deserve the funds but in the past three months the people who voted in favor, approved over \$103,000 in increases that were not in the budget, without any discussion on how this would be paid for and that amount exceeds what a levy limit would allow us each year. Mr. Weller stated this affects the special district taxing and there has been no discussion on how to pay for these raises and that concerns him. Mr. Wengert stated the raises have occurred within the current budget and departments are not increasing their budget to give the raises; only using their existing budget that the Board approved last July. Mr. Wengert stated the actual amount that were given in raises in this fiscal year is about \$36,000 in HURF for Districts I, II, & III, and about \$40,000 from the general fund. Mr. Weller stated \$16,900 in raises were given to District I Roads, \$16,269 for Distinct II, County Attorney was given \$26,000 in raises

this year, Community Development was given \$3,000, Engineering was given nearly \$6,000, Finance was given over \$6,000, Grants Department was given \$3,000, School Superintendent's Office was given \$6,000 District III Roads was given \$11,000, Health District was given over \$2,000 and now the Maintenance Department is wanting to give \$5,400. Mr. Weller stated that is well over the \$76,000 that Mr. Wengert referenced. Motion passed 2-1 with Mr. Weller voting nay.

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

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

Approved this 16th day of February, 2016.

/s/ Joe Shirley, Jr.

Chairman of the Board

/s/ Delwin Wengert

Clerk of the Board