

Joe Shirley, Jr.
Chairman
District I

Tom M. White, Jr.
Vice Chairman
District II

Barry Weller
Member
District III

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

**January 6, 2015
St. Johns, Arizona**

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

Chairman Shirley called to order the Board of Supervisors meeting at 8:35 a.m. in the Board of Supervisors chambers, County Annex Building, 75 West Cleveland Street, St. Johns, Arizona and welcomed all in attendance.

Delwin Wengert led the Pledge of Allegiance.

Milton Ollerton gave the invocation.

Chairman Shirley called for the Health District items.

Chris Sexton, Health Director, requested approval of re-enrollment of the Group Biller Participation Agreement Between Arizona Health Care Cost Containment System Administration (AHCCCSA) and Apache County Public Health Services District. Mr. Sexton stated this agreement allows the Health District to bill AHCCCSA for services provided. Mr. Weller moved approval, seconded by Mr. White. George Walsh, a resident of Vernon stated the Health District meeting and other Special District meetings have not been legally posted. Mr. Young stated the County looked into the issue as expressed by Mr. Walsh and put in place solutions as directed by the Ombudsman's Office. Mr. Weller stated he has seen documents from other counties that tack the special district notice on to the Board of Supervisors meeting location notice. A discussion was held regarding posting requirements for the Board meeting and the special districts meetings. Mr. Weller requested Mr. Young send him the applicable statutes that cover the posting requirements for the Board of Supervisors and the special districts. Chairman Shirley directed Mr. Wengert to make sure the Board meetings are properly noticed. Vote was unanimous.

Mr. Sexton, Health Director, requested approval of Intergovernmental Agreement #ADHS13-034434 Amendment #2 Teen Pregnancy Prevention Program- Abstinence Plus. Mr. Sexton stated this is due to revised price sheets. Mr. White moved approval, seconded by Mr. Shirley. Motion passed 2-1 with Mr. Weller voting nay and stated he would not support this motion because he believes the government should not be in the business of the issues associated with this grant and it is a family and community issue.

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

Chairman Shirley called for the regular Agenda items.

Sitting as the Board of Equalization, Chairman Shirley called for the Petition for Proposed Correction for parcel 101-41-017 for Tina Dendy. Mr. Wengert stated Mrs. Dendy called and stated she did not

think she would be attending today. Attorney Joe Young stated in the absence of the petitioner, the hearing still moves forward. Mr. Wengert stated the Assessor has reduced the value but not to the extent Mrs. Dendy asked for but it was lowered. Marc Patterson, on behalf of the Assessor presented their reasons for the value and outlined the studies and sales he used to reach that amount. Mr. Patterson recommended the corrected value for 2015 tax year be sustained at \$97,940. Mr. Weller moved to approve the Assessor's value for parcel 101-41-017 and deny the change. Mr. White seconded the motion. Vote was unanimous.

Malena Bazarro, Grants Manager, presented the public hearing to gather citizen input for Community Development Block Grant (CDBG) State Special Projects Application, and requested approval of submission of application for ADA improvements at the Round Valley Rodeo Grounds pursuant to Resolution #2013-17. Chairman Shirley opened the floor for public comment. Mr. Weller asked about meeting the lower income for the area. Ms. Bazarro stated it meets the income level for the area and she is addressing the critical need of ADA compliance. Mr. Wengert stated there has been a lot of work done at the rodeo grounds over the past couple years and it is significantly better and this would just be adding to the facility and will be a good project. Mr. Shirley closed the public comment portion of the hearing. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Mr. Wengert presented the Consent items A-E. Mr. Weller stated he would like Item A, approval of the demands removed from the Consent Agenda because of some delays and problems related to the demands. Mr. Weller moved to approve Consent Items B-E, seconded by Mr. White. Vote was unanimous. B. Approval of minutes dated December 2, 2014 and December 16, 2014. C. Request approval of a Special Event Liquor License Application for walking Down Ranch, Inc. for a Valentines dinner located at the San Raphael Catholic Church, #25 Apache County Road 5041 located in Concho, on February 14, 2015. D. District II: Request approval to purchase food for Ganado, Ft. Defiance, and Cottonwood senior centers, located in District II, not to exceed \$2,700.00 total utilizing District II funds. E. District III: Request approval to take back possession of a 2011 Chevrolet Traverse Blazer, VIN# 1GNKVFED5BJ218822 and a Navajo Nation Check #1676395 in the amount of \$2,500.00 from the St. Michaels Chapter House and St. Michaels Senior Center, and secure the value of the car in addition to the \$2,500.00 for the benefit of St. Michaels Senior Center's future transportation costs.

Chairman Shirley presented Consent Item A., Request approval of demands as distributed to the Apache County Board of Supervisors between December 16, 2014 and January 5, 2015. Demands are payments made or to be made, by the County. Payee Amount APACHE COUNTY HAS 2,687.92 APACHE COUNTY MEDICAL 138,127.27 APACHE COUNTY TAX WITHHOLDING 32,613.27 AZ STATE RETIREMENT SYSTEM 87,377.15 COLONIAL LIFE AND ACCIDENT INS 1,431.81 CORRECTIONS OFFICER RET PLAN 8,833.81 CORRECTIONS OFFICER RETIREMENT PLAN 520 4,210.80 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 14,293.21 PUBLIC SAFETY SHERIFF RET 29,011.62 SECURITY BENEFIT GROUP 1,321.00 SUPPORT PAYMENT CLEARINGHOUSE 2,096.18 AVAYA COMMUNICATIONS 1,381.19 BARNES, PATRICIA M 2,410.00 BAUMAN HOME AND AUTO INC 1,455.71 BRADCO 55,296.11 COMMUNITY COUNSELING CENTERS INC 4,800.00 CONTAINERS ON DEMAND LLC 4,731.20 DIAMOND DRUGS INC 4,603.59 EMPIRE MACHINERY 2,662.52 FERRELLGAS 4,125.24 FRONTIER 4,828.48 GALLUP LUMBER & SUPPLY 1,196.33 HAWKER AND EVANS ASPHALT CO 16,561.33 HILLYARD INC 2,403.07 LOWES #24 1,996.77 NAVAJO TRIBAL UTILITY AUTHORITY 2,008.21 NAVOPACHE ELECTRIC COOPERATIVE 4,018.44 PATTERSON, DANA BRYCE 8,500.00 QUILL CORP 2,880.91 RDO EQUIPMENT CO 1,723.64 ROBERTS TIRE SALES INC 2,853.84 SCRUBWORKS 2,846.00 SHELL OIL 2,106.41 SIERRA PROPANE 1,767.56 ST JOHNS CITY 2,685.80 TOWN OF EAGAR 10,929.89 TUCSON ELECTRIC POWER 49,399.29 UNIVERSAL FLEET CARD 1,936.17 VERIZON

WIRELESS 1,803.84 WESTERN GRADE LLC 16,759.16 BANK OF THE WEST – 4747 2,045.68
 VERITAS RESEARCH CONSULTING 5,870.05 ADHS AZ HEALTH CARE COST 22,400.00
 AMAZON COM INC 3,285.35 ARIZONA STATE FORESTRY DIVISION 4,634.80 ASHTONS
 REPAIR INC 3,530.61 AZ SUPREME COURT 4,180.00 EMPIRE MACHINERY 1,074.96
 FERRELLGAS 1,421.45 FRONTIER 1,019.02 GLAXO SMITHKLINE PHARMACY 1,053.96 GMCO
 CORPORATION 7,798.35 GRAVES PROPANE CO INC 3,247.53 HATCH CONSTRUCTION
 2,045.44 HILLYARD INC 1,640.55 INGRAM LIBRARY SERVICES 3,949.03 KTNM RADIO
 STATION 1,286.25 NAVAJO TRIBAL UTILITY AUTHORITY 1,278.10 NAVOPACHE ELECTRIC
 COOPERATIVE 12,292.87 QUILL CORP 2,332.35 SHELL OIL 2,558.04 SIERRA DETENTION
 SYSTEMS INC 70,300.00 THOMSON REUTERS WEST 1,025.52 VALLEY AUTO PARTS 1,167.61
 VERIZON WIRELESS 1,577.48 WELLS FARGO BANK 0609 2,515.88 WHITE MOUNTAIN
 REGIONAL MEDICAL CENTER 1,150.11 WHITING, MICHAEL B 1,081.16 WHOLESALE FLOORS
 LLC 10,072.52 WRIGHT EXPRESS FSC 1,118.95 YOUNG, JOSEPH 6,910.00 YOUNGS FUTURE
 TIRE 1,219.97 IMPRINT 3,218.01 AGUERO, ROBIN R 1,026.46 AZLGEBT 300,445.55
 CONTAINERS ON DEMAND LLC 4,731.20 CRESTLINE SPECIALTIES INC 4,856.33
 FERRELLGAS 1,381.45 FRONTIER 1,741.89 LATHAM, MICHAEL 1,800.00 MOUNTAIN
 COMFORT HEATING AND COOLING 1,152.68 OVERDRIVE INC 1,328.22 PITNEY BOWES
 4,214.49 QUILL CORP 5,867.94 TRINITY SERVICES GROUP INC 12,753.73 TYCO INTEGRATED
 SECURITY LLC 1,175.00 VERIZON WIRELESS 2,152.27 WHITING, GARRET LEE 1,800.00
 APACHE COUNTY HAS 2,687.92 APACHE COUNTY MEDICAL 137,229.42 AZ STATE
 RETIREMENT SYSTEM 90,507.43 COLONIAL LIFE AND ACCIDENT INS 1,431.81
 CORRECTIONS OFFICER RET PLAN 9,054.16 CORRECTIONS OFFICER RETIREMENT PLAN
 520 4,508.30 INGRAM, STAN 1,437.75 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL
 401 10,971.63 PUBLIC SAFETY SHERIFF RET 31,344.31 SECURITY BENEFIT GROUP 1,181.00
 SUPPORT PAYMENT CLEARINGHOUSE 2,096.18 APACHE COUNTY TAX WITHHOLDING
 134,671.80 Specific details of the demands may be requested through the County public record
 request process. Mr. Weller stated he wanted to recognize the Finance Department and appreciated
 the work they are doing. MR Weller stated the reports that have been created to help improve the
 efficiency of the review of the demands is much appreciated, and the change in language on the
 agenda to assure what he is approving is what he has actually seen, but the glitch today was a
 problem with the report which resulted in some demands that weren't presented to him so he cannot,
 in good faith, approve all the demands without seeing them. Mr. Patterson, Finance Director, stated
 the report that was given to the Board was through December 30th and Finance ran payroll as of
 December 31st so there are about 23 checks related to social security, retirements and payments of
 that nature that were not included on the list as well as issues related to running the report and his
 office is working to remedy how that list is generated. Mr. White moved approval of demands,
 seconded by Mr. Shirley. Motion passed 2-1 with Mr. Weller voting nay.

David Romeo, Chief Deputy Treasurer, requested approval to extend Allisa Norton, the temporary
 Accounting Specialist I at \$11.02 per hour for of 120 days to take effect January 7, 2015 to April 29,
 2015. Mr. Weller asked if this hire was targeted at a specific project and if it would be needed for the
 next budget year. Mr. Romeo stated he believed it will be an ongoing hire needed for the office and
 possibly a permanent position and as the office gets further with new Tyler software there will be
 continued changes to the office. Mr. Weller stated that he is going to want detailed information about
 any potential increase to the manpower because the software that was implemented cost hundreds
 of thousands of dollars was supposed to help the County be more efficient, not less so he will be
 wanting very detailed information why there would be a need for an increase in personnel. Mr.
 Weller moved approval, seconded by Mr. White. Vote was unanimous.

Ferrin Crosby, County Engineer, requested acceptance of a forest service easement to access from
 Private Property (Ellis Bloomfield) through forest lands to County Road #4140 (Water Canyon). Mr.
 Crosby provided an overview of the easement issue problems and the need for the acceptance of

the 150 foot long easement. Mr. Crosby stated the private property owners could not get legal access but it could be given to the County at no expense and there is no liability to the County as well. Mr. Crosby stated this issue was started in 2003 and has taken so long because of the complexity of the location and issues with the property owners and forest service. Mr. Weller stated he is wholeheartedly in favor of taking back right-of-ways and property from the forest service and there is an established criteria to follow but asked about establishing a financial cap for future requests and asked about a bond requirement to assure one more level of liability coverage. A discussion was held regarding the liability and indemnification coverage for the property owner and any other third party. Attorney Joe Young stated a bond could be required. Mr. Crosby stated he would like to see a bond requirement for future easement acceptances but he thinks the fair thing to do is approve it and any future easements going forward require a bond. Mr. White moved approval seconded by Mr. Weller. Vote was unanimous.

Joe Young, County Attorney's Office, requested approval of updated settlement agreement between Apache County and Wenima Development to resolve tax court litigation on the classification of property owned by Wenima Development. Mr. Young stated the other party approved the requested changes this morning and provided an overview of the changes. Mr. Weller requested a short recess to review the agreement and Exhibit A. Chairman Shirley recessed the meeting for 5 minutes.

Chairman Shirley reconvened the meeting. Mr. Weller moved to approve the Wenima Development settlement agreement with the understanding that Exhibit A would be inclusive only of a contiguous property northwest of Springerville when it is created, seconded by Mr. White. Vote was unanimous.

County Attorney Whiting requested approval to hire Justin Heap to fill the vacant Deputy Attorney II position, with the starting salary of \$73,836.27. Mr. Whiting stated Mr. Heap worked for the Maricopa County Attorney's Office as a prosecutor and most recently was in private practice and would be replacing Mr. Latham and the salary is commensurable with the other four Attorney II's that he has hired. Mr. Weller stated with the budget overrun last year in Mr. Whiting's office, he asked if this will help maintain or reduce his budget next year. Mr. Whiting stated this is a cost savings around \$17,000. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Superior Court Judge Latham, requested approval to hire Sueanne Czarnyszka as Court Administrator effective January 5, 2015 at the annual rate \$57,387.62 (below mid-range of the job description and \$2,000 below the previously approved amount for the same position). Mr. Weller stated his job it to be concerned with the budget and the Superior Court budget is tight and this is a significant increase in what this person made last time they worked for the County and is hoping this does not put a pinch on the budget and is concerned that this person is making a 90% increase over what they made just a year or two ago. Mr. Weller stated he is hoping she serves the Judge well but he will be reviewing this as he looks at the Superior Court Budget throughout the budget process. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Karen Houston, Human Resources Director, presented notification to the Board of Supervisors of the increase by the State of Arizona on the minimum wage for 2015 and the new wage will increased by .15 cents per hour to total \$8.05 per hour. Ms. Houston stated there are currently no employees at an hourly level less than the new minimum wage and therefore there is not a necessity for wage adjustments for any employee. No action was needed or taken.

Chief Deputy Sheriff Brannan Eagar requested approval to enter into a Cooperative Law Enforcement Agreement with the USDA, Forest Service Apache-Sitgreaves National Forest in the

amount of \$9,110, an ongoing agreement. Chief Eagar stated this is for patrolling forest service roads on busy holiday weekends and also helps reduce overtime costs to the County. Mr. White moved approval, seconded by Mr. Weller. Mr. Weller asked if the County Attorney had reviewed the agreement. Mr. Young stated yes. Vote was unanimous.

County Attorney Michael Whiting stated after meeting with Supervisor Weller, County Manager and Mr. Ollerton, Community Development Director yesterday, he was presented with documents from Mr. Ollerton so the item for possible executive session for legal advice pursuant to A.R.S. 38-431.03(3) to discuss the legal implications triggered by agenda item 12, regarding the resignation of a Planning and Zoning Commissioner, and required steps for appointing a replacement candidate was not needed. Chairman Shirley removed the item.

Mr. Weller presented notification as District III Supervisor, under the authority of ARS 11-802(C) provided notice to publicly thank Mr. Tilford for his years of dedicated service on the Planning and Zoning Commission. Mr. Weller stated for expediency and in recognition of the fact that the Planning & Zoning Commission is presently short at least one member, District III Supervisor also under the authority of ARS 11-802 (C) is appointing Mr. John Freeman as an Alternate Planning and Zoning Commissioner to serve during a period allowing appropriate notice and interviews to be conducted for Mr. Tilford's permanent replacement. Mr. Weller stated Mr. John Freeman shall be seated, as a voting member in official capacity for the January 8, 2015 Planning and Zoning Commission meeting and additional alternates may be appointed during the same interview and selection process to accommodate the Commission in future quorum requirements. Mr. Weller stated he will work diligently to take in applications to provide a permanent replacement. Mr. Shirley stated Dick Bruneau requested to address the Board on this item. Dick Bruneau, a resident of Greer stated he is objection to the appointment of John Freeman as the replacement; but he has no problem with filling the vacant position, just not with Mr. Freeman and does not see a need to fill the position today since there are enough members to make a quorum. Mr. Bruneau stated there is also a conflict of interest with Mr. Freeman since he is a board member and co-president of the Greer Coalition and has appeared before the Board of Supervisors and Planning and Zoning meetings on occasion with their attorneys in opposition to two items that are on the agenda for an upcoming Commission meeting. Mr. Bruneau stated that Mr. Freeman would have to recuse himself from that meeting because of his position and his organization's position with respect to development in Apache County. Mr. Bruneau stated that Apache County needs economic development and needs to broaden its tax base and Mr. Freeman is opposed to growth and asked that Mr. Freeman's nomination be denied. Mr. Shirley asked County Attorney Whiting if Mr. Weller has authority to appoint Mr. Freeman. Mr. Whiting stated yes, based on the fact that the commissioner who resigned came from District III, that supervisor is the appointing authority. George Walsh, a resident of Vernon stated Mr. Freeman would not have to recuse himself from every item on the P & Z agenda, only possibly the two items related to Greer and if there is any bias, the Board may want to look at the current P & Z Board as a whole and they will see the bias; the chairman who was re-appointed in March who has not attended one meeting since being re-appointed and has since move to California and the P & Z Director did not replace him or have his chairmanship voted on. Mr. Weller stated he appreciates the comments from Mr. Burneau and Mr. Walsh and understands the difference in each other's views in the area of Greer and that is one reason he made this an alternate appointment but he also feels both sides need to be represented on the P & Z Board to allow complete and thorough discussions and Mr. Freeman is one vote of nine board members who will not be able to carry the majority vote without convincing evidence. Mr. Weller stated he would like to meeting with the County Attorney to discuss the issue of Mr. Freeman possibly recusing himself from certain items at the upcoming P & Z meeting but feels comfortable Mr. Freeman will properly represent his position as an alternate. No action was needed or taken.

Mr. Shirley opened the floor for the call to public.

George Walsh, a resident of Vernon stated in ARS 11-255, related to the County publishing adverting bid, the Board has failed to go out to bid since 2010 and are not following that statute and that is illegal and asked Mr. Weller, the only taxpayer on the Board, to place an item on the next agenda so everyone knows what is going on with this issue. Mr. Walsh stated the County Manager has not had an evaluation by the Board of Supervisor and wanted this brought to the Board's attention because as the manager and overseer of all the departments, he has allowed the Community Development Director to allow ongoing civil rights violations to property owner and people in this county. Mr. Walsh stated there is no Building Advisory Board as required under statute and County building ordinance, and that is the duty of the Community Development Director and no one has been seated since terms expired. Mr. Walsh stated there are also numerous times when a dead person is listed on the county website as a member of the boards. Mr. Walsh stated the misinformation that is on the managers page, the clerk of the board's page and community development's page is atrocious. Mr. Walsh requested Mr. Weller place the items on the next agenda for an open discussion on the contract for the county printing and why an evaluation has not been done for the clerk of the board and county manager. Mr. Weller stated he appreciated Mr. Walsh's comments but does caution he does not sit in agreement that there has been malfeasance and would like the two items on the next agenda for some discussion and possible input from the County Attorney.

Leonard Gorman, Navajo Nation Human Rights Commission, addressed the Board and thanked the Board of Supervisors and the County Attorney for their support regarding the Liquor License Transfer from Gary McDonald to George Ryan that will be heard on Thursday, January 8, 2015. Mr. Gorman stated the Board of Supervisors' denial recommendation and opposition back on July 22, 2014 has been a pivotal point in their efforts to protect the citizens of Apache County. Mr. White stated he will be traveling to the hearing on Thursday to attend. Mr. Gorman stated there are about 100 Navajo citizens from the Chambers and Sanders area that will be transported by bus to the hearing in Phoenix as well. Mr. Weller stated he will also be attending the hearing. Chairman Shirley directed Mr. Wengert to notice the liquor board hearing since all three members of the Board of Supervisors will be attending the hearing. Mr. Wengert state he would notice the meeting.

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

Approved this 20th day of January, 2015.

/s/ Joe Shirley, Jr.	/s/ Delwin Wengert
Chairman of the Board	Clerk of the Board