

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY  
BOARD OF SUPERVISORS MEETING  
March 18, 2014  
St. Johns, Arizona**

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

Chairman White called to order the Board of Supervisors meeting, the Flood Control District meeting and the Public Health Services District meeting at 8:32 a.m. in the Board of Supervisors chambers, County Annex Building, 75 West Cleveland Street, St. Johns, Arizona and welcomed all in attendance.

Winslow McNeil gave the invocation.

Judith Pepple led the Pledge of Allegiance.

Chairman White called for the Flood Control District item.

Ferrin Crosby, County Engineer, requested approval of a resolution to accept FEMA grant funds for the Nutrioso Crossings Reconstruction. Mr. Crosby provided an overview of the project and asked the Board to approve the resolution so he can proceed with the receiving the funds so he can proceed with the reconstruction of the two crossings. Mr. Shirley moved approval, seconded by Mr. Weller. Mr. Weller and Mr. Crosby held a discussion regarding the timeframe for the project. Mr. Crosby stated that he is hoping to have the crossings completed this summer before the monsoon season. Vote was unanimous.

**Resolution 2014-03**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF APACHE COUNTY, ARIZONA AUTHORIZING THE ACCEPTANCE OF FEMA PRE-DISASTER MITIGATION FUNDS, IF AWARDED, FOR PDM-PJ-09-AZ-2013-006, Nutrioso Flood Control Project TO BE USED TO DESIGN AND CONSTRUCT FLOOD CONTROL MEASURES IN THE VICINITY OF COUNTY ROADS 2015 and 2180 AT THE INTERSECTION WITH NUTRIOSO CREEK; AND ALLOWING THE COUNTY TO COMMIT TO AN IN-KIND CONTRIBUTION AND LONG-TERM MAINTENANCE OF THE FLOOD CONTROL SYSTEM.

**WHEREAS**, flooding occurs on a regular, annual basis as a result of runoff in the White Mountains along the vicinity of Nutrioso Creek, in the Town of Nutrioso, an unincorporated community of Apache County, between County Roads 2015 and 2180;

**WHEREAS**, the Nutrioso Creek crossings at CR-2015 and CR-2180 were removed in the aftermath of the 2011 Wallow Fire, under recommendation from multiple state, local, and federal agencies to avoid exasperating post-fire flooding;

**WHEREAS**, experts from multiple state, local, and federal agencies anticipate greater flood hazards as a consequence of the Wallow Fire, which destroyed a significant portion of the upstream drainage into Nutrioso Creek;

**WHEREAS**, Apache County has demonstrated through empirical data that normal (1-yr to 2-yr) precipitation events result in 25-yr to 50-yr recurrence interval flood flows in the project area;

**WHEREAS**, Apache County Flood Control has provided engineering analyses, design, and construction drawings of flood control measures to restore and re-open the Nutrioso Creek crossings at CR-2015 and CR-2180;

**WHEREAS**, a design, engineering, construction, and administration budget of the flood control project to restore the Nutrioso Creek crossings at CR-2015 and CR-2180 has been documented under the Federal Emergency Management Agency's (FEMA) guidelines in the amount of

approximately \$131,598.75;

**WHEREAS**, the Arizona Division of Emergency Management has accepted a FEMA grant application from Apache County, and presented this grant to FEMA as one of the highest priorities for the State of Arizona, under the FEMA Pre-Disaster Mitigation Program in the amount of approximately \$94,252.75 of federal funding toward the design and construction of the flood control measures;

**WHEREAS**, the FEMA application for this project is one of 3 Arizona projects selected on a nationwide basis for programmatic and environmental review by FEMA for FY 2014;

1. Now Therefore Be It RESOLVED that Apache County:Accepts the funds from ADEM/FEMA, if awarded, to be applied toward the restoration of road crossings in Nutrioso as defined in the grant application;
2. Commits to an additional in-kind contribution through the use of County staff which will consist of construction labor, administration, and project management. The dollar equivalent of this "soft match" labor, with a federal value of \$37,346 (28.31% of the estimated federal costs of \$131,598.75), will ensure a minimum 25% non-federal cost share;
3. Certifies that labor and equipment costs for computation of the "in-kind" match by Apache County have been prepared by a registered engineer with recent, relevant experience, and has provided to FEMA backup documentation and analyses demonstrating that the unit costs used are comparable to published federal Davis-Bacon wage rates as of October, 2013;
4. Accepts responsibility for long-term maintenance of the system when completed under the County's Road Maintenance program;
5. Appoints Robert C. Toy, P.E. as Project Manager and Designated Applicant Agent to execute an application to the Arizona Division of Emergency Management for the purpose of obtaining certain Federal financial assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 100-707) or under the Federal Disaster Relief Act of 1974 (Public Law 93-288 as amended) or otherwise available from the President's Disaster Relief Fund;
6. That the County authorizes its agent to provide to the State, FEMA, and other Federal agencies for all matters pertaining to such Federal disaster assistance the assurances attached to the project application.

Passed and Adopted by the Apache County Board of Supervisors on March 18th, 2014.

/s/ Tom M. White, Jr.     /s/ Delwin Wengert

Chairman of the Board   Clerk of the Board

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

Chairman White called for the Public Health Services District item.

Chris Sexton, Health Director, requested approval of an Intergovernmental Agreement ADHS 13-003957Immunization Program Amendment #1 which deletes scrutinized business, replaces contract price sheet and amends the Scope of Services in the amount of \$50,000. Mr. Shirley moved approval, seconded by Mr. Weller. Vote was unanimous.

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

Chairman White called for the regular agenda item.

Mark Empey, on behalf of Jim Zornes, Apache Sitgreaves Forest Supervisor provided an overview of the upcoming fire season outlook, the current drought and summer monsoon predictions. Mr. Empey addressed the forest fire issues for this fire season. No action was needed or taken.

Milton Ollerton, Community Development Director, presented the public hearing for discussion and possible approval of a revision to the Temporary Use Application process. Mr. Ollerton provided an overview of the revisions and stated that this was approved unanimously by the Planning and Zoning Commission. Mr. Ollerton stated that there was an issue with the newspaper publication that didn't print a color version of the proposed changes so a legal opinion was obtained from the County Attorney that advised it was still a legal public notice that met the requirements so the Planning and Zoning Commission proceeded and approved the revisions. Mr. Ollerton stated that for the Board of Supervisors public hearing, he informed the newspaper not to make any changes to the notice and it was published as submitted. Mr. White opened the floor for public comment.

George Walsh, a resident of Vernon, Arizona expressed his disagreement with the notice being properly advertised in the newspaper for the Planning and Zoning meeting and asked that the proposed revision be sent back to the Planning and Zoning commission to be properly noticed in the paper and handled correctly by the Commission.

Mr. Wengert stated that he attended the Planning and Zoning meeting and he believed that it was handled correctly and the notice in the paper properly noticed the item and the Board received a legal opinion that the notice was legal. Mr. Weller stated that he listened to the Planning and Zoning meeting on an audio disc and there was significant confusion but does not attribute that to the notice issue. Mr. Weller stated that he spoke with the County Attorney's Office and Mr. Ollerton about the improvement being made and expressed his appreciation that we are improving the posting because the better clarity there is the less controversy there will be in the future on the issue. Mr. Ollerton and Mr. Weller held a discussion regarding the background and purpose of the revisions. Mr. Weller moved approval of the revision to the Temporary Use Application, seconded by Mr. Shirley. Vote was unanimous.

Mr. Wengert presented the **Consent Items A-E** and recommended approval. Mr. Weller requested Item C be removed from the agenda for discussion (C. Request approval of a plan to replenish the County Supervisors Association (CSA) pitalization assessment to assist with building maintenance). Mr. Shirley moved to approval A,B,D and E, seconded by Mr. Weller. **County Manager/Clerk of the Board:** **A.** Request approval of minutes dated March 6, 2014. **B.** Request approval of demands dated March 6, 2014 to March 18, 2014. Demands are payments made by the County. Specific details of the demands may be requested through the County public record request process. Payee Amount 4 RIVERS EQUIPMENT LLC 1,402.89 AZ DEPT OF RISK MANAGEMENT 2,312.19 BAUMAN HOME AND AUTO INC 1,119.88 BILLS DISCOUNT AUTO PARTS (NAPA) 3,737.20 CHEVRON USA INC 1,315.43 D AND A BODY SHOP 1,254.55 EMPIRE MACHINERY 1,513.92 EMPIRE POWER SYSTEMS 1,912.90 FRONTIER 4,538.56 GOODYEAR AUTO SERVICE 2,020.77 HILLYARD INC 1,239.31 KIES, DAVID R 1,080.00 LEHIGH OUTFITTERS LLC 1,490.77 MORTUARY MALL.COM LLC 4,748.95 NAVAJO TRIBAL UTILITY AUTHORITY 2,336.81 NCI METAL DEPOTS 2,961.76 NGUYEN, ROMETA 1,500.00 OVERDRIVE INC 1,738.13 PIMA COUNTY MEDICAL 4,400.00 QUILL CORP 3,335.27 SOURCECORP 2,786.45 THE AARONS COMPANY LLC 3,000.00 TJP COMMUNICATIONS 1,043.10 TYCO INTEGRATED SECURITY LLC 1,195.40 TYLER TECHNOLOGIES INC 5,956.72 VALLEY AUTO PARTS 1,825.48 VERITAS RESEARCH CONSULTING 1,558.17 VERIZON WIRELESS 1,841.97 YAVAPAI COUNTY GOVERNMENT 15,450.00 YAVAPAI REGIONAL MEDICAL CENTER 6,008.00 APACHE COUNTY MEDICAL 146,818.00 APACHE COUNTY TAX WITHHOLDING 127,878.80 AZ STATE ETIREMENT SYSTEM 85,763.79 COLONIAL LIFE AND ACCIDENT INS 1,291.45 CORRECTIONS OFFICER RET PLAN 8,793.52 CORRECTIONS OFFICER RETIREMENT PLAN 520 4,205.94 MUTUAL OF OMAHA 1,293.62 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 13,825.82 PUBLIC SAFETY SHERIFF RET 30,074.99 SECURITY BENEFIT GROUP 1,346.00 SUPPORT PAYMENT CLEARINGHOUSE 2,554.58 TRINITY SERVICES GROUP INC 14,590.90 ADHS AZ HEALTH CARE COST 22,400.00 AMIGO CHEVROLET 1,336.37 ARIZONA STATE

FORESTRY DIVISION 11,764.26 ARIZONA WIRELESS AND RADIO INC 90,865.81 AZ ASSN OF COUNTIES 3,486.08 AZLGEBT 283,100.60 BLUE HILLS ENVIRONMENTAL 1,473.79 BRADCO 3,943.73 CHESTERS HARLEY DAVIDSON 1,840.37 COMMUNITY COUNSELING CENTERS INC 5,600.00 COPSPLUS INC 1,675.89 COURTESY CHEVROLET 31,435.83 DELL COMPUTER CORPORATION 1,487.79 EMPIRE MACHINERY 2,870.12 FRONTIER 1,081.21 GAYLORD BROTHERS 3,450.00 GRAVES PROPANE CO INC 3,716.55 HILLYARD INC 4,900.13 L R INVESTIGATIONS LLC 1,520.00 LAW OFFICE OF MARSHA GREGORY 8,500.00 MOVIE LICENSING USA 1,598.32 NAVAJO TRIBAL UTILITY AUTHORITY 2,008.92 NAVAPACHE CHEM DRY 11,628.04 NAVOPACHE ELECTRIC COOPERATIVE 8,437.50 QUILL CORP 1,121.30 RIGG LAW FIRM PLLC 1,397.00 SCHIFF, LAURENCE 1,200.00 SECURUS TECHNOLOGIES INC 1,155.35 SIERRA PROPANE 3,216.74 SOURCECORP 26,832.79 ST JOHNS CITY 1,062.53 STALEY LAW FIRM PLLC 1,507.00 THE WOOD LAW OFFICE (RONALD WOOD) 1,006.50 TJP COMMUNICATIONS 2,063.75 TOWN OF EAGAR 7,430.67 UNIVERSAL FLEET CARD 1,494.10 WHITE MOUNTAIN REGIONAL MEDICAL CENTER 1,007.62 WILLIAMS LAW GROUP PLLC 8,500.00 AZ DEPT OF REVENUE 1,391.09 ORIENTAL TRADING COMPANY 2,094.75 **Personnel**

**Items: D. County Attorney's Office:** Request authorization to hire 2 temporary Legal Clerk positions for the Summer 2014, not to exceed 90 days. **E. District II:** Request approval to extend the temporary employment of Troy Charlie, Road Worker I for an additional 90 days. Vote was unanimous.

Mr. Wengert presented Item C from the Consent Agenda to request approval of a plan to replenish the County Supervisors Association (CSA) capitalization assessment to assist with building maintenance. Mr. Weller stated that the reason he asked this to be pulled from the Consent Agenda was to comment that this item was part of the discussion at the County Supervisors Association (CSA) meeting and he opposed it. Mr. Weller stated that this is an extremely rapid recapitalization of funds and an exceptional burden to small counties because it has been equated to to all of the counties and should be apportioned based on the size of each County. Mr. White asked Finance Director Ryan Patterson if there was money available for the assessment. Mr. Paterson stated that the \$5,000 is budgeted currently for this fiscal year and the \$15,000 would be allocated to that department next year and the Board's general fund budget is used to pay for such things as this. Mr. Shirley stated that he does not see a problem with the assessment, that what the relationship the County has with CSA goes beyond the physical structure and the director and his staff go all out to support the County so we are getting our monies worth and more. Mr. Weller stated that CSA is one of the most professional organizations in government and they do provide a tremendous service for the County and the building is always available for side meetings; he just believes that the assessment should be apportioned equally. Mr. Shirley moved to approve, seconded by Mr. White. Motion passed 2-1 with Mr. Weller voting nay.

Mr. Wengert presented the request for approval to provide inmate labor and fuel at a not to exceed cost of \$1,000 to build a fence at the Game and Fish Shooting Range. Mr. Wengert provided an overview of the proposed 3 miles fence. Mr. Shirley moved approval, seconded by Mr. Weller. Vote was unanimous.

Mr. Wengert requested that the item to approve an Amendment to Doyel Shamley's contract be removed from the agenda. Chairman White removed the item.

Mr. Wengert requested approval of a resolution renewing Apache County's membership in Arizona Local Government Employee Benefit Trust (AZLGEBT) as well as appointing the County trustees Delwin Wengert and Karen Houston. Mr. Wengert provided an overview of the Trust and stated that this renewal will be in effect for a three (3) year period beginning July 1, 2014 and will run through June 30, 2017. Mr. Weller moved approval, seconded by Mr. Shirley. Vote was unanimous.

**RESOLUTION NO. 2014-04**

**AUTHORIZING RENEWAL OF APACHE COUNTY'S MEMBERSHIP  
IN THE ARIZONA LOCAL GOVERNMENT EMPLOYEE BENEFIT TRUST AND  
APPOINTING TRUSTEES TO SERVE DURING THE RENEWAL PERIOD**

**WHEREAS**, Apache County ("the County") is currently a Participating Entity in the Arizona Local Government Employee Benefit Trust ("the Trust"); and

**WHEREAS**, the County's current term of membership as a Participating Entity shall expire on June 30, 2014; and

**WHEREAS**, Section 14.02 of the Trust's Intergovernmental Agreement and Declaration of Trust, designates a 3-year Membership Renewal Period for Participating Entities wishing to renew membership in the Trust; and

**WHEREAS**, renewal of a Participating Entity's membership in the Trust requires approval by the Trust's Board of Trustees (the "Trust Board") prior to the proposed effective date of such renewal; and

**WHEREAS**, such approval was granted at the meeting of the Trust Board held on February 14, 2014; and

**WHEREAS**, once Trust Board approval is received, the Participating Entity is required to approve a Membership Renewal Resolution authorizing the Participating Entity's membership for the designated Renewal Period; and

**WHEREAS**, the County's Board of Supervisors ("the Board of Supervisors") must appoint a Trustee and Alternate Trustee to serve as the County's representatives on the Trust Board as of the effective date of the Renewal Period and until the appointment of a duly-qualified successor; and

**WHEREAS**, renewal of the County's membership in the Trust will serve the interests of the County and its employees.

**NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:**

The Board of Supervisors hereby authorizes the renewal of the County's membership in the Trust for the period commencing July 1, 2014 and terminating on June 30, 2017; and The Board of Supervisors hereby appoints the following Trustees to serve on the Board of Directors of the Arizona Local Government Employee Benefit Trust from July 01, 2014 until the appointment of a duly-qualified successor:

Trustee Delwin Wengert

Alternate Trustee Karen Houston

APPROVED AND ADOPTED this 18th day of March, 2014.

/s/ Tom M. White, Jr.

Chairman, Board of Supervisors

ATTEST:

/s/ Delwin Wengert

Clerk of the Board

APPROVED AS TO FORM:

/s/ Garrett Whiting

Deputy County Attorney

Angela Romero, Election Director, requested approval of the Canvass of the March 11, 2014 Special Election. Ms. Romero stated that this was for the Window Rock School Board recall and the Vernon Fire District. Mr. Weller moved approval, seconded by Mr. Shirley. A discussion was held regarding the all-mail election and the Board thanked Ms. Romero for the good job on the election. Vote was unanimous.

Angela Romero, Election Director, requested approval of the 2014 Polling Place Agreements to be used for the Primary and General Election to be held on August 26, 2014 and November 4, 2014. Mr. Shirley moved approval, seconded by Mr. Weller. Vote was unanimous

Karen Houston, Human Resources Director requested approval of the amendments to the Human Resources Policy Manual Sections 2.18 and 2.19 as well as the approval of the inclusion of new Section 2.20. Mr. Weller stated that he had an issue with Section 2.20 D, and stated that he is supportive of all of the changes except that one because the proposed changes will reduce the burden on the board when the county manager can make the necessary decisions but Section D is not clear to him and moved to approve the changes except for section D. A discussion was held regarding the proposed change. Mr. Weller modified his motion to approve with the addition that if that particular section is utilized, the Board receive a report on the action, seconded by Mr. Shirley. Vote was unanimous.

### **2.18 Human Resources Responsibilities:**

The Human Resources Department is responsible for administering the Apache County salary and classification plan on an ongoing basis. This responsibility includes:

- A. Conduct new employee orientations;
- B. Maintaining records of current job descriptions, job titles and salary range assignments;
- C. Evaluating new and revised jobs and recommending salary range changes;
- D. Recommending starting salaries and new salaries as job changes occur;
- E. Analyzing external market changes annually and as special situations arise;
- F. Recommending possible changes in the salary structure and suggested salary increase budgets annually;
- G. Being responsible for special analysis, reports and administrative tasks as necessary;
- H. Advise and assist elected officials and department heads with disciplinary actions;
- I. Review and track open and ongoing disciplinary cases;
- J. Conduct a preliminary review and analysis on all requests put forth in the County Manager's Responsibilities policy as outlined in section 2.20.

### **2.19 Board of Supervisors' Responsibilities:**

The Board of Supervisors will approve all changes in job titles, salary range assignments, salary structure salary levels and creation of new positions. The Board of Supervisor's shall retain all authority for wage changes in excess of those authorized to the County Manager, if granted, under section 2.20. The Board has final authority over any annual salary increases and pay changes that occur as a result of job changes. The Board of Supervisors may suspend pay increases, freeze hiring, eliminate vacant positions and direct employee layoffs to meet budgetary requirements.

### **2.20 County Manager's Responsibilities:**

The County Manager, with the authorization of the Board of Supervisors, may review and approve the following actions:

- A. Requests for the hiring of temporary employees, as defined in section 1.55 of this manual, and to allow for the hiring of such positions at the minimum salary level and for a period of no longer than 90 days, as well as granting a one-time extension request on such employees;
- B. Approve requests for starting salaries higher than the standard starting wage at a level no greater than 10% over the minimum;
- C. In accordance with Human Resources Policy Manual, Section 1.3, grant the end of probation and its permitted increase to employees who meet the outlined criteria;
- D. May authorize changes due to wage discrepancies within the same job classifications within the same departments, and with proper justification, in an amount no greater than 5% of the effected employees' salary.

Commander Webb Hogle, on behalf of the Sheriff's Office, requested approval of bid award to Superstition Springs Chrysler Jeep Dodge Ram for 10 leased patrol units. Commander Hogle stated that the bid is for 10 outfitted Ram 1500 SSV (police package) crew-cab trucks equipped with lights,

sirens, transport partitions, etc., and the lease offer is through Ally Financial at an individual cost of \$30,512 per unit plus tax, and a total cost of lease over 4 year term is \$336,026.56. Mr. Shirley moved approval seconded by Mr. Weller. Mr. Weller stated that in the future on large budget items, that he would like to see justification and presentation included with the packet so that he has time to review. Mr. White agreed that in the future he would like a phone call from the elected official or department head to discuss items of this size before they are brought before the Board. Vote was unanimous.

Commander Webb Hogle, Sheriff's Office, presented the public hearing, for discussion and possible approval of updating the Apache County Fire Ordinance. Chairman White opened the floor for the call to the public.

George Walsh, a resident of Vernon, Arizona expressed his concern that the notice in the paper did not provide any information as to what changes are taking place and no information was provided as to where to find the information and there is no information at the back of the room regarding the proposed ordinance. Mr. Wengert stated that when the notice is posted in the paper, the public is always able to ask and we will respond. Mr. Weller stated that he was asked if the notice was legal or not and he obtained a written opinion for the County Attorney that the notice did meet legal standards but the county attorney did agree that we can continue to improve in our notice capabilities. Mr. White asked in the future, to make sure copies are available for the public. Mr. Wengert stated that the proposed ordinance was available online but would have copies in the future. Mr. Shirley stated that he would like to move toward paperless but a phone number in the notice would be helpful. Chairman White closed the public hearing. Mr. Shirley moved approval, seconded by Mr. Weller. Vote was unanimous.

ORDINANCE NO. 2014-05  
OUTDOOR FIRE ORDINANCE

An ordinance of the Board of Supervisors of Apache County, Arizona,  
repealing Ordinance No. 2003-21 (Open Outdoor Fire Ordinance);  
establishing fire zones in the unincorporated area;  
establishing restrictions on certain outdoor fires;  
providing for the implementation of emergency fire restrictions; and specifying civil and criminal  
penalties for violations. Preface

The purpose of fire restrictions is to reduce the risk of human-caused fires during periods of unusually high fire danger and/or burning conditions. Fire restrictions impose many limitations on the public, and therefore should be implemented only after all other prevention measures have been taken. These measures include, but are not limited to: increasing the number of prevention signs, public contacts, media campaigns, etc. Fire restrictions should be considered when high to extreme fire danger is predicted to persist. Other considerations are the level of human-caused fire occurrences being experienced, firefighting resources available, potential high-risk occasions (4th of July, etc.), and large fire activity occurring on a unit or within the Region. Fire restrictions should not be considered the primary prevention program and all other alternatives should be taken prior to considering fire restrictions.

Emergency closures have an extreme impact on the public and fire agencies, and are discouraged except under the most severe conditions. Closures should be implemented only in situations where the public's safety cannot be guaranteed. Closures are not justified by fire danger alone, but should be driven by the potential for risk to life safety due to extreme fire behavior, high potential for human-caused fires, severe shortages of resources, and numerous large fires.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF APACHE COUNTY AS FOLLOWS:

TITLE

This ordinance shall be known as the Apache County Outdoor Fire Ordinance.

#### REPEAL OF PRIOR ORDINANCE

Ordinance No. 2003-21, the Open Outdoor Fire Ordinance, is hereby repealed in its entirety.

#### EFFECTIVE AREA | FIRE ZONES

This Ordinance is effective in the unincorporated area of Apache County, exclusive of areas under the jurisdiction of the United States, the State of Arizona or a federally recognized Indian tribe. For purposes of this Ordinance, the unincorporated area has been divided into two fire zones as depicted on the map attached hereto.

#### **PURPOSE | AUTHORITY OF EMERGENCY MANAGEMENT DIRECTOR**

**4.1** The purpose of this Ordinance is to help provide a uniform system for political subdivisions in Apache County to determine what fire restrictions are needed and when they are to be put into place during emergency fire conditions.

**4.2** It is the duty of the Apache County Emergency Management Director/Manager, (after consultation as the Emergency Management Director/Manager deems appropriate, with the U.S. Forest Service ("USFS"), local Fire Districts, state or municipal Emergency Management Directors, or other fire officials) to initiate fire restrictions within any fire zone (or zones) during emergency fire conditions as described in Section 7.

**4.2.1** The Emergency Management Director/Manager shall utilize the USFS Apache-Sitgreaves Test Data and Monitoring Systems ([www.fs.fed.us](http://www.fs.fed.us)) to help determine when such restrictions are necessary. As a general guideline, emergency fire restrictions should be considered when the Energy Release Components (ERC) reading reaches 80.

**4.2.2** The Emergency Management Director/Manager shall attempt to coordinate with other fire officials in the affected zone(s) a uniform date for implementing such restrictions.

**4.2.3** When the Emergency Management Director/Manager determines that such restrictions are necessary, and the date of implementation has been determined, the Emergency Management Director shall reconm1end to the Chairman of the Board of Supervisors or designee, that such restrictions be ordered pursuant to the Chairman's emergency powers under Title 26, Chapter 2, Article 1 of the Arizona Revised Statutes. Notwithstanding the forgoing, the restrictions shall automatically lapse, unless it is first ratified by the Apache County Board of Supervisors, at the next legally scheduled Board meeting. Upon the issuance of the Chairman's order, the Emergency Management Director shall promptly take appropriate steps to notify residents and visitors of the nature and extent of the restrictions and the effective date.

**4.2.4** Upon issuance of the initial order, the County shall suspend issuance of burning permits until the emergency fire restriction order is lifted.

**4.2.5** Upon issuance of the initial order, the Chairman authorizes the Emergency Management Director/Manager to modify the restriction level or cancel the restrictions as conditions warrant per the NOAA-ERC combination to determine the cancellation of restrictions. The Emergency Management Director/manager shall immediately notify the Chairman and the County Manager of any changes in restriction and provide an update of the change in restrictions at the next legally scheduled Board meeting.

#### **DEFINITIONS**

**5.1** "Campfire" means an open outdoor fire used only for the cooking of food or for providing personal warmth for human beings or for recreational purposes.

**5.2** "Charcoal Fire" means an open outdoor fire which uses primarily charcoal as the combustible material, and which is used only for the purpose of cooking food.

**5.3** "Combustion Engines" means an engine which generates mechanical power from a fuel. This includes an engine in which combustion is intermittent such as four-stroke, two-stroke, gas turbines, and diesel engines.

**5.4** "Emergency Management Director" means the County official designated as such by the Board of Supervisors.

**5.5** "Fire Alms" means a weapon that launches one or more projectiles at high velocity through the confined burning of a propellant

**5.6** "Fireworks" means any composition or device consisting of a combination of explosives and

combustibles, detonated to generate colored lights, pyrotechnic displays, smoke, and noise for amusement or entertainment purposes.

**5.7** "Flue" means a pipe, tube, channel, duct or passage through which hot air, gas, steam, smoke or fire may pass, such as a chimney, stovepipe or stack.

**5.8** "Open Outdoor Fire" means any burning, oxidation or combustion of combustible material of any type in the open where the products of combustion are not directed through a flue, but not including campfires and charcoal fires.

**5.9** "Recreational Fire" means burning of materials other than rubbish where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit with a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking or similar purposes.

**5.10** "Red Flag Warning" (or "Red Flag Conditions") means a determination by the National Oceanic and Atmospheric Administration to inform the County and other agencies of the imminent or actual occurrence of extreme fire danger or extreme fire conditions.

#### **NON-EMERGENCY FIRE RESTRICTIONS**

The following restrictions are in effect at all times in all zones, except as they may be superseded by emergency fire restrictions pursuant to Section 7:

**6.1** It is unlawful for any person to start, ignite, cause or permit to be ignited, or allow or maintain any open outdoor fire except as allowed by permit through the Emergency Management Director, the applicable Fire District, or the Arizona Department of Environmental Quality pursuant to Title 49, Chapter 3 of the Arizona Revised Statutes. The following fires are exempt from this restriction:

#### **EXEMPTIONS:**

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

**6.1.1** Fires used only for the cooking of food or for providing warmth for human beings or for recreational purposes (campfires and charcoal fires); for the branding of animals; for the purpose of frost protection in farming or nursery; or for the disposal of flags pursuant to federal law.

**6.1.2** Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or such permission is given for the purpose of instruction in the methods of fighting fires.

**6.1.3** The control of an active wildfire will occur after coordination with the County Emergency Management Director/Manager.

**6.1.4** Fires set or permitted by authority of the director of the Arizona Department of Agriculture or by Apache County agricultural agents for the purposes of disease and pest prevention.

**6.1.5** Fires authorized by special permits as issued by the Emergency Management Director/Manager.

**6.1.6** After coordination with the Emergency Management Director/Manager, Fires set by or permitted by the federal government or any of its departments, agencies or agents, or by the State or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.

**6.1.7** Fires permitted by any rule or regulation adopted pursuant to Title 49, Chapter 3, Article 3 of the Arizona Revised Statutes, by any special or conditional permit issued by a hearing board established under said Article

3, or by any rule or conditional permit issued pursuant to Title 49, Chapter 3, Article 2, when pursuant to ARS § 49-402 the Arizona Department of Environmental Quality has assumed jurisdiction of the portion of Apache County where the fire is located.

**6.1.8** Fires permitted by Local Fire Chiefs within their Jurisdiction.

**6.1.9** Fires for the purpose of burning rubbish, waste material or refuse.

#### **EMERGENCY FIRE RESTRICTIONS**

In addition to the non-emergency fire restrictions set forth in Section 6, the following emergency fire restrictions when ordered and in effect shall apply to the zone(s) in which they have been implemented:

**7.1** During "Red Flag Warning" conditions, as posted by the National Weather Service, no open outdoor fires, campfires, charcoal fires or outdoor smoking are permitted on either public or private

property within the unincorporated area of the affected zone(s).

**7.2** When it has been determined by the Emergency Management Director/Manager that additional emergency fire restrictions are needed to assure the safety of the public in any zone(s), the Director shall recommend that the Chairman of the Board of Supervisors order additional emergency restrictions at the appropriate restriction stage level.

**7.3** When it has been determined by the Emergency Management Director/Manager that additional emergency fire restrictions are needed to assure the safety of the public in any zone(s), the issuance of burning permits shall be suspended until the emergency fire restrictions are lifted.

**7.3.1** Burn permits issued prior to the emergency fire restrictions declaration shall be suspended until the fire restrictions have been lifted.

**7.4** It shall be unlawful for any person to use fireworks when emergency fire restrictions are in effect. Prohibitions of fireworks include but are not limited to consumer or display fireworks, ground and handheld sparkling devices, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, tracer bullets and/or explosive targets in the unincorporated areas of Apache County.

### **STAGE I: Minimal Restrictions**

The following acts are prohibited until further notice:

1. Building, maintaining, attending, or using a fire, campfire, unless noted in the exemptions below.
2. Smoking, except within an enclosed vehicle or building, a developed recreation site, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.
3. Use of any and all fireworks.
4. Use of Tracer bullets and/or explosive targets.

Note: for the smoking provision, each agency/tribe must cite their actual regulations/laws; therefore the wording for the prohibition may be slightly different.

### **Exemptions:**

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

1. Fires used only for the cooking of food or for providing warmth for human beings or for recreational purposes (campfires and charcoal fires) in an area that is designated for that purpose and is barren or cleared of all debris.
2. Persons using a device solely fueled by liquid petroleum or LPG fuels that can be turned on and off. Such devices can only be used in an area that is barren or cleared of all overhead and surrounding flammable materials within 3 feet of the device.
3. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
4. After coordination with the Emergency Management Director/Manager, any Federal, State, local officer or member of an organized rescue or firefighting force in the performance of an official duty.
5. All land within a city boundary is exempted unless otherwise stated by city ordinance.
6. Other exemptions unique to each agency/tribe.

### **STAGE II: Moderate Restrictions**

The following acts are prohibited until further notice:

1. Building maintaining, attending, or using a fire, campfire, charcoal, coal, or wood stove including fires in developed campgrounds or improved sites.
2. Smoking, except within an enclosed vehicle or building.
3. Mechanical and Industrial Prohibitions
  - a. Operating any internal combustion engine other than exemption 7 below.
  - b. Welding, or operating acetylene or other torch with open flame.
  - c. Using an explosive.
4. Operating motorized vehicles off designated roads and trails.
5. Use of any and all fireworks.

6. Use of Tracer bullets and/or explosive targets.

**Exemptions:**

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

1. Persons with a written permit that specifically authorizes the otherwise prohibited act.
2. Industrial operations where specific operations and exemptions are identified and mitigation measures are implemented as outlined in an agency plan.
3. Persons operating internal combustion engines with spark arrestors such as lawnmowers and landscaping equipment in maintained landscaped space.
4. Welding, or operating acetylene or other torch with open flame in an enclosed or developed area designated for that purpose that is equipped with appropriate fire protection.
5. Persons using a device fueled solely by liquid petroleum or LPG fuels that can be turned on and off. Such devices can only be used in an area that is barren or cleared of all overhead and surrounding flammable materials within 3 feet of the device.
6. Operating generators with an approved spark arresting device within an enclosed vehicle or building or in an area that is barren or cleared of all overhead and surrounding flammable materials within three feet of the generator.
7. Operating motorized vehicles on designated roads and trails so long as you park in an area devoid of vegetation within 10 feet of the roadway.
8. Emergency repair of public utilities and railroads and mitigation measures are implemented as outlined in an agency plan.
9. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
10. After coordination with the Emergency Management Director/Manager, any Federal, State, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.

II. All land within a town boundary is exempted unless otherwise stated by town ordinance.

**STAGE III: Extreme Fire Danger**

Extreme Fire Danger is the method that would be employed if conditions are so extreme that the potential of a catastrophic disaster is highly likely.

Examples include:

- Potential loss of life due to explosive fire conditions.
- Potential for extreme or blowup fire behavior.
- Stage II restrictions are not effective in reducing the number of human-caused fires.
- Resources across the geographic area are at a critical shortage level.

The following acts are prohibited until further notice:

1. Building maintaining, attending, or using a fire, campfire, charcoal, coal, or wood stove including fires in developed campgrounds or improved sites.
2. Smoking, except within an enclosed vehicle or building.
3. Mechanical and Industrial Prohibitions
  - a. Operating any internal combustion engine.
  - b. Welding, or operating acetylene or other torch with open flame.
  - c. Using an explosive.
4. Operating motorized vehicles off designated roads and trails.
5. Use of any and all fireworks.
6. Use of explosive targets.
7. Use of tracer round ammunition.

**EXEMPTIONS:**

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

1. Persons with a written permit that specifically authorizes the otherwise prohibited act.
2. Emergency repair of public utilities and railroads as per attached conditions.
3. Persons conducting activities in those designated areas where the activity is specifically

authorized by written posted notice.

4. After Coordination with the Emergency Management Director/Manager, any Federal, State, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.

5. All land within a city boundary is exempted unless otherwise stated in city ordinance.

6. Other exemptions unique to each town /tribe.

### **8. FIRES EXEMPT FROM EMERGENCY RESTRICTIONS**

The following fires are exempt from the provisions of the emergency fire restrictions set forth in Section 7.

#### **EXEMPTIONS:**

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

**8.1** Fires set or permitted by any public officer, federal, state or local, in the performance of the officer's official duties.

**8.2** Fires set or permitted by the State Entomologist or Apache County agricultural agents for the purpose of disease and pest prevention.

**8.3** After coordination with the Emergency Management Director/Manager, Fires set or permitted by the United States, the State of Arizona or any federally recognized Indian tribe, or any of their respective departments, agencies or political subdivisions, for the purpose of fire prevention or control, or watershed rehabilitation or control through vegetative manipulation.

**8.4** Any federally recognized Indian Tribe.

**8.5** Fires permitted by the Emergency Management Director or designee. The conditions of the permit, including permitted date(s) and the nature of the burning, shall be clearly stated on every such permit issued.

**8.6** Fires permitted by Local Fire Chiefs within their Jurisdiction.

### **9. FAILURE TO OBEY LAWFUL ORDER**

Under Emergency Fire Restrictions, Stage II or III, failure to obey a lawful order by the Emergency Management Director/Manager, a peace officer, a firefighter or other officer of a Fire District, or uniformed personnel of the USFS acting within the officers area of Jurisdiction or failure to comply with the requirements of this Ordinance (including without limitation an order to extinguish or put out any lit, burning or smoldering materials during emergency fire restrictions) shall be a distinct and separate violation of this Ordinance.

#### **ENFORCEMENT / PENALTIES**

**10.1** This Ordinance may be enforced by the Emergency Management Director or designee, any peace officer acting within the officer's area of jurisdiction, a firefighter or other officer of a Fire District acting within the officer's area of jurisdiction, or uniformed personnel of the USFS acting within their area of jurisdiction.

**10.2** Civil Violation. Except as set forth in Section 10.3, when a violation of this Ordinance is undesignated or is designated a first offense by the enforcement official or prosecuting attorney, a person found to have violated this Ordinance shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than one hundred dollars (\$100) nor more than seven hundred and fifty dollars (\$750), plus surcharges, fees and court costs, plus restitution for any medical treatment required, reimbursement for emergency response personnel and equipment and any property damage or other economic loss suffered by any person as a result of such violation.

**10.3** Criminal Violation. When a person convicted of a violation of this Ordinance has previously been charged with a violation of this Ordinance during the preceding 12 months, or has refused to obey the lawful order of an officer as set forth in Section 9, the person shall be deemed to have committed a Class 2 misdemeanor and shall be subject to a fine of not less than two hundred and fifty dollars (\$250) nor more than seven hundred and fifty dollars (\$750) for each violation or count, plus surcharges, fees and restitution for any medical treatment required and reimbursement for emergency response personnel and equipment, and any property damage or other economic loss suffered by any person as a result of such violation.

**10.4** Continuing violations. If any violation of this Ordinance is a continuing one, each day shall be deemed a separate violation.

SO ORDAINED by the Apache County Board of Supervisors at St. Johns, Arizona on 3/18/14  
/s/Tom W, White, Jr.

Tim Orona, Probation Services, presented the request for acceptance of an additional \$55,059 from the Administrative Office of the Courts. This is funding to offset shortfalls in additional funding for payroll and counseling costs. A discussion was held regarding the areas where the shortfalls may occur and where the funds are coming from. Ryan Patterson, Finance Director stated that funds will not come from general fund. Mr. Weller moved approval, seconded by Mr. Shirley. Vote was unanimous.

Malena Bazaruto, Grant Manager, requested approval of a modification to Contract #GSC ADEQ14-064788, Asbestos Survey at South Fork Cabins. Mss. Bazaruto stated that the Modification Agreement states that Apache County will administer the project instead of Arizona Department of Environmental Quality. A discussion was held regarding the liabilities related to the project. Mr. Weller moved approval, seconded by Mr. Shirley. Vote was unanimous.

Mr. Wengert presented notification of the Small Counties Forum meeting on March 19, 2014 at the Radisson Hotel 427 N. 44th Street in Phoenix at 6:30 p.m. and the County Supervisors Association (CSA) meeting on March 20, 2014 at 10:30 a.m. at the CSA building, 1905 W. Washington Street, in Phoenix, where two or more members of the Apache County Board of Supervisors may be in attendance. No action was needed or taken.

A work session regarding the 4th of July Rodeo and the proposed use of the county owned rodeo facility in Eagar, Arizona. Bryce Hamblin, Mayor of Eagar, expressed his displeasure of Supervisor Weller's involvement with the rodeo and Mr. Hamblin requested the Board place an action item on a future agenda to turn the rodeo over to the Town of Eagar. No action was needed or taken.

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

Approved this 1st day April, 2014.

/s/ Tom M. White, Jr.            /s/ Delwin Wengert  
Chairman of the Board        Clerk of the Board