

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY
BOARD OF SUPERVISORS MEETING
May 15, 2012
St. Johns, Arizona**

Present were: Chairman Jim Claw, Vice Chairman Tom M. White, Jr. and Supervisor R. John Lee. Also present were Clerk/Manager Delwin Wengert and County Attorney Michael Whiting.

Chairman Claw called to order the Apache County Board of Supervisors 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.

Mr. Lee led the Pledge of Allegiance.

Chairman Claw called for the Public Health Services District item.

Chris Sexton, Health Director, Request approval of Delegation Agreement between Arizona Department of Environmental Quality and Apache County through Apache County Public Health Service District. Mr. White moved to approve, seconded by Mr. Lee. Vote was unanimous.

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

Chairman Called for the regular and items.

Mr. Claw called for those wanting to address the Board in the call to the public.

George Walsh, a resident of Vernon, stated that the contract between White Mountain Independent and the County has failed to be followed and asked that this issue be put on a future agenda to discuss why the contract is not being followed and what the cost is to the taxpayers. Mr. Walsh also stated that with the issue going on in the Treasurer's Office, why is the county hiring and purchasing vehicles, and he would think that until the issue is resolved there should be a freeze on any hiring and purchases until the exact balance is known.

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

Mr. Claw presented the request for approval of a conditional use permit for Jeanette Lucier requesting to run a bed and breakfast on property located at #6 County Road 2036 in Alpine, Arizona. Planning and Zoning Commissioners recommendation was 3 opposed, 2 approved and 2 abstained. Andrew Kramer, attorney who stated he was retained to represent the majority of the community, and within the 83 parcels of land within the Tal Wi Wi estates currently there are 4 votes in favor of the bed and breakfast and everyone else has responded against. Mr. Kramer provided a map of the residents who support the bed and breakfast, outlining who does not support it, and who has not responded.

Pat Dawn, a resident of Alpine expressed his opposition to the bed and breakfast and that the Board should respect the CC&Rs. Mary Gale Lee, a resident of Alpine stated her opposition to the bed and breakfast because it is against their deed restrictions. Pete Starkey, a property owner in Alpine,

voiced his objections to the request for a bed and breakfast within Tal Wi Wi Estates. Ron Creighton, a resident of Alpine, stated he also was against the bed and breakfast.

Mr. Claw asked if there was anyone in support of the bed and breakfast. Bobbi Jones, a land owner in Alpine stated that she was in favor of the bed and breakfast, and that this project is adjacent to a commercial motel/lodge. Jenny Lucier, the applicant, addressed the issues and concerns voiced by the residents. Ms. Lucier stated that she has met all of the criteria in the zoning ordinance and comprehensive plan. Mr. Ollerton, Community Development Director stated that during the meeting with the Planning and Zoning Commission, the deputy county attorney explained to the Commission that the CC&Rs are irrelevant and do not apply in this case. Mr. Ollerton stated that a bed and breakfast is an appropriate use in a residential area and a conditional use permit is needed so that the Community Development Department understands the issues surrounding it, such as adequate parking and if the home is adequate for the number of guests as well as food permits in order to serve guests and that this fits in the area and has met the requirements of the conditional use permit and it is not unusual to approve things that may or may not meet the CC&Rs, but those are handled in a different venue and recommended approval of the application. Mr. Whiting stated that what Mr. Ollerton has said about the CC&Rs is correct.

Mr. Lee stated that at the last meeting he had requested this item be tabled to check on why the split in commission votes and apparently from what he can gather, a lot of individuals were concerned about being sued over the CC&Rs but the CC&Rs are nothing more than contractual obligations between land owners in a subdivision and this Board is not the forum to fight about CC&Rs; if you want to fight with your neighbors you do it in court. Mr. Lee stated that Mr. Ollerton has said this application meets all of the requirements and the Board has looked at the application and if it meets all of the requirements is should be approved and moved approval, seconded by Mr. White. Motion carried with a 2-1 vote with Mr. White deciding to oppose the permit.

Mr. Wengert presented the request for approval of a Liquor License Application Recommendation for Sarah Padilla, Uno Mas Bar & Grill in Concho, Arizona. Mr. Wengert stated that there was no opposition received and recommend approval. Mr. Lee moved approval, seconded by Mr. White. Vote was unanimous.

Mr. Wengert presented the Consent Items **A-G** and recommend approval. **County Manager/Clerk of the Board:** **A.** Request approval of minutes dated May 1, 2012. **B.** Request approval of the demands. ADHS AZ HEALTH CARE COST \$22,400.00 ALLEGRA dba \$5,727.42 AZ COALITION FOR VICTIM SERVCS \$1,050.00 Az Dept of Economic Security \$13,884.51 AZ DEPT OF HEALTH SERVICES \$1,195.00 BRIMHALL SAND & ROCK \$2,912.71 BURNHAM MORTUARY \$1,407.90 CDW GOVERNMENT INC. \$1,621.92 DELL COMPUTER CORPORATION \$3,480.49 EMPIRE MACHINERY \$5,890.78 Frog Window Cleaners dba \$1,400.00 FRONTIER \$11,852.19 GMCO CORPORATION \$10,290.01 GOLIGHTLY \$1,335.81 INGRAM LIBRARY SERVICES \$1,583.98 KTNN RADIO STATION \$3,246.49 KWKM POWER 95.7 \$1,260.72 Law Office of Marsha Gregory \$7,223.50 LAWSON PRODUCTS INC. \$2,143.36 LIBERTY FENCE AND SUPPLY \$1,182.86 OFFICE DEPOT \$1,018.71 QUILL CORP. \$1,495.54 SIERRA PROPANE \$1,457.01 STAPLES CREDIT PLAN \$2,216.13 TJP Communications \$1,740.53 TOM GROWNEY EQUIPMENT \$1,091.23 USDA, APHIS \$8,219.00 VERIZON WIRELESS, BELLEVUE \$2,071.89 WOOD LAW OFFICE \$7,130.00 ADMINISTRATIVE ENTERPRISES INC \$1,631.48 APACHE COUNTY \$147,507.00 APACHE COUNTY TAX WITHHOLDING \$119,480.87 APACHE COUNTY TREASURER \$328,062.21 AZ STATE RETIREMENT SYSTEM \$80,008.04 Corrections Officer Ret. Plan \$8,020.33 Mutual of Omaha \$1,234.80 NATIONWIDE \$1,935.84 PUBLIC SAFETY CORR. RETIREMENT \$3,583.04 PUBLIC SAFETY PERSONNEL \$11,249.42 PUBLIC SAFETY SHERIFF RET. \$22,111.11 Security Benefit Group \$1,821.00 SUPPORT PAYMENT CLEARINGHOUSE

\$2,287.44 Aarons, Barry M. \$3,000.00 AZ COUNTIES INSURANCE POOL \$1,242.15 AZ DEPT OF RISK MANAGMENT \$1,799.20 BACKBONE COMMUNICATIONS \$4,500.00 BRADCO \$34,640.29 BUDGET BLINDS \$2,680.09 DELL COMPUTER CORPORATION \$3,541.13 EMPIRE MACHINERY \$2,705.13 GEXPRO \$1,548.62 GRAVES PROPANE CO., INC. \$1,498.50 HILLYARD Inc \$1,688.73 INGRAM LIBRARY SERVICES \$2,493.45 J & J SIGNS & DESIGNS \$1,300.76 MCGUIRE, KATHLEEN M. \$4,262.50 NATIONAL BUSINESS FURNITURE \$1,926.84 NAVOPACHE ELECTRIC COOP \$2,404.52 New World Systems Corporation \$41,500.00 PACIFIC PONDEROSA CO. INC. \$2,910.30 PATTERSON II, G.L. \$1,500.00 ProQuest LLC \$7,620.00 QUILL CORP. \$1,323.61 Romero, Mary E. \$2,518.02 SIERRA PROPANE \$1,496.15 SLAYSMAN, DAN \$4,335.50 TJP Communications \$1,071.48 Trinity Services I, LLC \$16,971.15 Veritas Research Consulting \$1,642.42 WHOLESALE FLOORS, INC. \$5,172.76 Young`s Future Tire \$3,112.95 **C. District III:** Request authorization for funds to purchase food in the amount of \$2,500 for the St. Johns Senior Citizens Center, utilizing District III funds. **D. District III:** Request authorization of expenditure in the amount of \$2,500 for the St. Johns Senior Citizens Center, Funds will be used for Maintenance and fuel for a new van, utilizing LTAF funds. **E. District II:** Request authorization to ratify repairs to a Duramax engine. This vehicle was acquired from the Sheriff's Office repairs not to exceed 15,000. **Human Resources:** **F. District I:** Request authorization to extend the temporary employment of Randy Bia for an additional 90 days. **G. District II:** Request authorization to hire a temporary Executive Assistant for 90 days at \$13.77 per hour. Mr. White moved approval, seconded by Mr. Lee. Vote was unanimous.

Milton Ollerton, Community Development Director, requested approval of a request to waive the permit fees for a temporary use permit for Greer Civic Association, a nonprofit organization to hold Greer Days an annual community event in Greer, held June 15-17, 2012. Mr. Lee moved approval, seconded by Mr. White. Vote was unanimous.

Milton Ollerton, Community Development Director, requested approval of a request to purchase a new pickup using state purchasing. Mr. Ollerton stated this will replace two or more vehicles for the department and he had two people retire from his department this year so the downsizing has left him with a little funding available to purchase a new vehicle that is desperately needed to do inspections, and with this purchase, he will get rid of three vehicles that are in not running properly. Mr. Lee moved approval, seconded by Mr. White who stated that it is a concern to make purchases right now and asked Mr. Patterson, Finance Director, if the Planning and Zoning Department had the money for this purchase. Mr. Patterson stated that he has looked at the Planning and Zoning Department's budget and they do have the budget to make this purchase. Mr. Wengert stated that these kinds of decisions are not taken lightly and the Community Development is taking the full 11% cut that is required next year, and as a county we need to make strategic purchases to function and Mr. Ollerton has the money in his budget for the purchase. Mr. Claw stated that in the long run, it will be cheaper since you don't have the maintenance of three vehicles.

George Walsh Vernon, Arizona stated that he understands Mr. Wengert's statement about needing vehicles but what would it hurt to wait until the treasurer's issue is resolved and know the exact numbers before spending more money in a department that has not produced any income or fines since it has been established. Mr. Claw asked if this can wait on the purchase. Mr. Ollerton stated that it is not in his budget next year; he has the funds available now and in response to Mr. Walsh, his department does charge for permit fees and the fee collections are well over \$100,000 a year so he doesn't know what Mr. Walsh is talking about. Mr. White asked why Mr. Ollerton couldn't wait and buy this later. Mr. Wengert responded that the departments don't have the luxury of carrying forward savings in their budgets; that money goes into the County's opening balance to be used by everyone the next fiscal year. Mr. Wengert stated that Mr. Walsh has his opinion and he continually attacks the Community Development Department but a lot of the things he says are not true and that department does bring in money with building permits so that is one department that does generate revenue. Vote was unanimous.

Ferrin Crosby, County Engineer, requested authorization for payment to Arizona Department of Transportation for design review for County Road 3144, from County Road 3148 to County Road 3140 in the amount of \$10,000. Mr. Crosby stated that this is a federally funded project and ADOT required payment up front which pays for travel to the sight and plan reviews and any remaining funds will be reimbursed back to the County. Mr. White moved approval, seconded by Mr. Lee. Vote was unanimous.

Karen Houston, Human Resources on behalf of Probation Services, requested authorization to hire one (1) Summer Intern at \$7.65 per hour, to work 40 hours per week starting May 29, 2012 through August 31, 2012. Mr. Lee moved approval, seconded by Mr. White. Mr. Lee asked if this was funded by the Supreme Court. Ms. Houston stated yes. Vote was unanimous.

Mr. Wengert on behalf of Probation Services, requested appointment of Ryan Patterson, Director of Finance, as the Chief Fiscal Officer for both the Adult and Juvenile Divisions in accordance with the AZ Code of Judicial Administration, Part 6 Probation, Sections 6-206 & 6-301. Mr. Wengert stated that this has been done in the past. Mr. Lee moved approval, seconded by Mr. White. Vote was unanimous.

Brannon Eagar, Chief Deputy Sheriff, requested that pursuant to Section 2.1 of the Apache County Open Outdoor Fire Ordinance (Ordinance No. 2003-21) and pursuant to a request by the Director of Emergency Services, consideration and possible approval of a resolution prohibiting open outdoor fires in the unincorporated areas of Apache County not including tribal reservation or federal lands. Chief Eagar stated that he has worked closely with Navajo County and the State and the conditions are such that it be prudent to move into restrictions prior to a fire event. Mr. Lee moved approval, seconded by Mr. White. Vote was unanimous.

Resolution # 2012-07

DECLARING EMERGENCY FIRE RESTRICTIONS WITHIN THE EXTERIOR BOUNDARIES OF APACHE COUNTY

WHEREAS, Apache County is dependent upon the use of our natural resources, whether those uses are consumptive or non-consumptive, including those resources on federally managed lands; and

WHEREAS, Apache County has an inherent and legal right to protect the health, safety, welfare and prosperity of all peoples within Apache County; and

WHEREAS, all lands within the exterior boundaries of Apache County, including those on federally managed lands, are all necessary and essential for the productive and economic well being of all peoples in Apache County; and

WHEREAS, Apache County has coordinated with multiple agencies, experts and has used science based analysis of upcoming fire threats, fire season hazards, including those on federally managed lands; and

WHEREAS, the people, lands, infrastructure and economic activities within the exterior boundaries of Apache County are under imminent threat from wildfire to the threat and detriment of the people's health, safety, welfare and economic well being;

NOW THEREFORE, hereby be it resolved that The Board of Supervisors of Apache County establish the 18th of May, 2012 to be the beginning date of emergency fire restrictions on all unincorporated lands within the exterior boundaries of Apache County, including federally managed lands; and

BE IT FURTHER RESOLVED, in accordance with Ordinance No. 2003-21, The Board of Supervisors of Apache County is exerting it's authority to declare fire zones in unincorporated areas of Apache County; and

BE IT FURTHER RESOLVED, The Board of Supervisors of Apache County are establishing restrictions on certain outdoor fires; and

BE IT FURTHER RESOLVED, that The Board of Supervisors of Apache County will lift the fire restrictions of this resolution, by subsequent resolution, at a time and date as determined by coordinated efforts of The Board of Supervisors of Apache County, other land management agencies, and science based analysis of fire threats, wildfire risks and fire season data; and **BE IT FURTHER RESOLVED**, this resolution is exclusive of any areas under the jurisdiction of federally recognized Indian Tribes and other federal and state owned land. **PASSED, APPROVED AND ADOPTED** on this 15th day of May, 2012.

ATTEST:

/s/ Jim Claw /s/ Delwin Wengert
Chairman of the Board Clerk of the Board

Mr. Wengert presented the item for a possible executive session for legal advice pursuant to A.R.S. 38-431.03(A)(3), discussion and public hearing related to Apache County Treasurer suspension pursuant to A.R.S.11-664 including comment by treasurer, county officials, and public. Mr. Wengert stated that he did not believe the treasurer was here today and would need to defer to legal counsel on how to proceed from here. Mr. Lee asked if anyone knew where Treasurer Arviso was. Karen Glennon, Chief Deputy Treasurer responded that she is not here. Mr. Lee stated that he was not sure if an executive session was needed since this was a hearing requested by the treasurer even though she isn't here, but the Board certainly can't conduct a hearing without the treasurer and Mr. Lee moved to go into executive session for legal advice on how to proceed when the treasurer doesn't show up for her hearing. Karen Glennon, Chief Deputy Treasurer stated that the reason the treasurer was not present was because she now has legal counsel and it is her attorney's opinion that this scheduled agenda item was not scheduled properly; that Statue 11-664 allows the treasurer to request a hearing and she has not requested a hearing, that she has ten days after the last hearing (that was held this past Tuesday) to request the hearing and she has only met with her legal counsel last Thursday afternoon. Ms. Glennon stated that there were materials handed out in the board room related to the charges against the treasurer. Mr. Claw stated that if this is not on the agenda he has a hard time accepting it. Mr. Claw stated that it is his understanding that a hearing is going to take place after the hearing is set and to his knowledge, it has not been set. Mr. Whiting asked if there was a second to go into executive session. Mr. White stated that he would not second the motion for executive session. Mr. Claw stated he was not going to second the motion either, until a hearing is scheduled. Mr. Lee's motion died for lack of a second.

There was no need for discussion of candidates and appointment of interim treasurer pursuant to A.R.S. 11-664(D).

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

Approved this 5th day of June, 2012.

/s/ Jim Claw
Chairman of the Board

/s/ Delwin Wengert
Clerk of the Board