

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY
BOARD OF SUPERVISORS MEETING
May 3, 2016
St. Johns, Arizona**

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

Chairman Shirley called to order the Board of Supervisors meeting at 8:31 a.m. in the Board of Supervisors chambers, County Annex Building, 75 West Cleveland Street, St. Johns, Arizona, and welcomed all in attendance.

Robert Mackenzie led the Pledge of Allegiance.

Steve Anderson gave the invocation.

Chairman Shirley called for the Library District item.

Judith Pepple, Library Director requested approval to close District libraries on Saturday, May 28, 2016, Saturday, July 2, 2016 and Saturday, September, 3, 2016 due to low demands for library services on the holiday weekends. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

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

Chairman Shirley called for the regular agenda items.

Milton Ollerton Community Development Director, presented a public hearing, discussion and possible approval of a Revision to Acreage Application, allowing Howard Nichols to revert back to acreage, part of Apache Vista Ranchitos, lots 13-24 and 25-36, eliminating a total of 24 lots and the associated easements. Mr. Ollerton stated the property is located near Eagar, Arizona on parcel 104-25-001D and was unanimously approved by the Planning and Zoning Commission. Chairman Shirley opened the floor for the public hearing. No one wanted to address the Board during the public hearing. Mr. Weller moved to close the public hearing, seconded by Mr. White. Vote was unanimous. Mr. Weller moved to approve the Revision of Acreage Application, seconded by Mr. White. Vote was unanimous.

Apache Sitgreaves National Forest (ASNF), Springerville Ranger Richard Madril and ASNF Fire and Fuels Specialist Rob Lever presented the on upcoming forest service plan and fire season outlook. No action was needed or taken.

Mr. Wengert requested approval of the **Consent Items A-E**: Mr. White moved approval, seconded by Mr. Weller. **County Manager/Clerk of the Board A**. Request approval of demands as distributed to the Apache County Board of Supervisors between April 19, 2016 to May 3, 2016. Demands are payments made or to be made, by the County. Payee Amount APACHE COUNTY HSA 2,031.67 APACHE COUNTY MEDICAL 138,401.26 APACHE COUNTY TAX WITHHOLDING 130,496.28 ASRS LEGACY EORP 1,009.62 AZ STATE RETIREMENT SYSTEM 88,190.81 COLONIAL LIFE

AND ACCIDENT INS 1,285.17 CORRECTIONS OFFICER RET PLAN 5,829.34 CORRECTIONS OFFICER RETIREMENT PLAN 520 4,864.47 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 11,393.58 PUBLIC SAFETY SHERIFF RET 42,139.86 SECURITY BENEFIT GROUP 1,111.00 SUPPORT PAYMENT CLEARINGHOUSE 2,290.09 AVAYA COMMUNICATIONS 1,381.19 AZ COUNTIES INSURANCE POOL 18,286.26 AZ DEPT OF HEALTH SERVICES 1,860.00 BAUMAN HOME AND AUTO INC 1,747.88 BRADCO 18,938.26 CONSOLIDATED ELECTRICAL DISTRIBUTORS 3,592.87 DIAMOND DRUGS INC 7,288.71 DUGDALE, BEN 1,963.71 EARTH MOVER TIRE SALES INC 1,041.11 ELECTIONS SYSTEMS AND SOFTWARE 3,017.16 FRONTIER 1,078.35 FRONTIER 4,864.06 GREGORY, MARSHA ANN 1,034.20 HAMBLIN LAW OFFICE PLC 8,500.00 HEINFELD MEECH AND CO PC 12,250.59 HILLYARD INC 3,003.83 INGRAM LIBRARY SERVICES 2,618.67 INLAND KENWORTH INC (FARMINGTON) 1,918.70 KTNN RADIO STATION 3,465.00 LAW OFFICE OF DIRK LEGATE PLLC 8,606.67 LITTLE COLORADO BEHAVIORAL HEALTH CENTERS INC 9,407.62 NAVAJO COUNTY 7,500.00 NAVAJO TRIBAL UTILITY AUTHORITY 1,921.90 NAVAJO TRIBAL UTILITY AUTHORITY 4,827.61 NAVOPACHE ELECTRIC COOPERATIVE 13,434.50 NORCHEM DRUG TESTING LABORATORY 1,650.95 PACIFIC PONDEROSA CO INC 6,517.00 PATTERSON, DANA BRYCE 8,603.50 PIMENTEL CONTRACT CLEANING 3,350.00 PROFORCE LAW ENFORCEMENT 5,326.91 QUILL CORP 4,786.95 REDW LLC 1,082.00 REIDHEAD, BRANDY 2,855.00 SKY BLUE HVAC LLC 4,517.00 SPECIAL OPERATIONS GROUP 1,500.00 ST JOHNS CITY 1,038.07 STALEY LAW FIRM PLLC 2,068.00 SUMMIT HEALTHCARE ASSOCIATION INC 3,398.08 THOMSON REUTERS WEST 5,299.24 US POSTMASTER 3,000.00 WAGNER EQUIPMENT CO 4,924.35 WESTERN DETENTION PRODUCTS INC 1,623.00 WILLIAMS LAW GROUP PLLC 8,500.00 YOUNGS FUTURE TIRE 3,231.58 AZ DEPT OF REVENUE 1,446.48 A & E REPROGRAPHICS 2,860.31 ADHS AZ HEALTH CARE COST 22,400.00 ALERTUS TECHNOLOGIES LLC 1,918.00 AMAZON COM INC 5,143.23 BOUND TREE MEDICAL LLC 5,220.98 BRADCO 12,954.63 COURTESY CHEVROLET 34,730.87 DELL COMPUTER CORPORATION 1,684.45 DESERT MOUNTAIN CORPORATION 17,509.46 EMPIRE MACHINERY 1,465.30 EPIQ SYSTEMS CORP SERVICES 30,196.09 GOODYEAR AUTO SERVICE 1,988.80 HATCH CONSTRUCTION 4,643.66 INGRAM LIBRARY SERVICES 1,486.62 OVERDRIVE INC 2,054.06 QUILL CORP 2,450.82 RED SUN BUILDERS INC 13,609.75 SECURUS TECHNOLOGIES INC 2,845.63 ST JOHNS EMERGENCY SERVICES 1,411.20 TJP COMMUNICATIONS 2,159.55 TYLER TECHNOLOGIES INC 3,575.22 UNIVERSAL FLEET CARD 1,707.59 US GEOLOGICAL SURVEY 5,600.00 VERITAS RESEARCH CONSULTING 2,720.00 VERIZON WIRELESS 1,891.42 AMERICAN BIO MEDICA CORPORATION 1,588.07 NAVOPACHE ELECTRIC COOPERATIVE 2,190.81

Specific details of the demands may be requested through the County public record request process. **B.** Request approval of minutes dated April 19, 2016. **C.** Request approval to re-appoint Carey Dobson as a permanent commission board member for the Planning and Zoning Commission representing District I. **D.** Request approval of a Special Event Liquor License Application for Donald Borg, San Rafael Church on September 24, 2016 at the Catholic Church Hall, #25 County Road 5014 in Concho, for a fiesta celebration. **Personnel Items:** **E.** Notification of the retirement of Milton Ollerton, Community Development Director, effective May 12, 2016 and request approval to pay out his sick leave balance per Human Resources Policy 3.25. The Board of Supervisors thanked Mr. Ollerton for his service to the County. Vote was unanimous.

Brannan Eagar, Chief Deputy Sheriff requested approval to convert the currently vacant Detention Finance Clerk (range 24) to an Administrative Coordinator (range 38) and transfer Cheryl Stradling, Dispatch Supervisor (range 47) to the new position with an annual salary of \$42,554.37. Chief Eagar stated this will result in a cost savings of \$5,217.71. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Barry Williams, School Superintendent, requested approval to convert the currently vacant position of Professional Development Coordinator (range 37) to an Office Manager (range 32) and fill the vacancy. Mr. White moved approval, seconded by Mr. White. Vote was unanimous.

Mr. Wengert requested approval of an Intergovernmental Agreement between Apache County and Northland Pioneer College to provide higher education programs and services. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Ferrin Crosby Engineering Director, requested approval to award Bid #201603 for the purchase of modular buildings for the Chinle Justice Court. Mr. Crosby state this item was tabled from a previous meeting and recommended awarding the bid to Palomar, the low bidder in the amount of \$99,798.00, plus tax. Mr. White moved approval, seconded by Mr. Weller. Mr. Weller stated the cost of insulation adds about \$36,000 and asked if the insulation cost was included in the approval today. Mr. Crosby stated the action is only to award the bid for the building. Mr. Weller asked what the funding source for the project is, since this was an unbudgeted item. Mr. Wengert stated there is a fund at the Arizona Counties Insurance Pool (ACIP) that the County used to purchase the election equipment and this proposal is to also to use that money for this purchase as well. Mr. Wengert stated the ACIP funding is intended to be used for capital type projects and this project qualifies. Mr. Weller asked if the insulation cost would come from the ACIP fund as well. Mr. Wengert stated yes. Mr. Weller stated he is concerned with using the funding for a project with an ongoing increase in costs due to maintenance and utilities and he isn't convinced this is the right use of the ACIP funding. Mr. Weller stated he was in support of using the ACIP funding for the election equipment because it is a county wide issue that does not increase costs, it \should ultimately reduce costs. Mr. Weller asked Mr. Crosby if there were other buildings and costs associated with this project. Mr. Crosby stated the Building and Maintenance Department looked into other various alternatives to a new building; they advertised and received bids for used buildings for the site and those buildings would require modification to create a court room and offices and it was determined those costs were the same or more as a new building that would already come with the courtroom configuration so it was decided to reject those bids. Mr. Weller asked about three proposed buildings that were part of the back-up material. Mr. Crosby responded only one building would be purchased at this time because Chairman Shirley asked that a site plan be developed to show where the buildings would be situated and one is a relocation of the MVD building that is on the site but would be re-arranged to allow for better parking and also to remove it from a flood prone area. Mr. Crosby stated the map does show 3 buildings but at this point only one building is to be approved and relocate the MVD building. Mr. Wengert stated the courts will also be assisting with the cost for the building in an amount between \$40,000 to \$50,000 they will help with the court building so that will reduce the amount that would have to be used out of the ACIP fund. Mr. Weller asked if the courts would be utilizing the juvenile jail district funding since that concerns him. Mr. Wengert stated he was not sure what funding would be used by the courts. Mr. Weller stated the buildings on the site were demolished and he was under the impression the buildings were not needed and asked what has happened to the people who were in those buildings. Mr. Shirley stated the old building where Judge Clyde and his staff were located was full of mice and had a leaky roof and a decaying floor so this is a necessity for their safety. Mr. Shirley stated as the proposed site map indicated, he would like to eventually see another buildings for the State troopers to use as well as elections, vital records and economic development wanting to move onto the site and right now several departments are cramped in his district office building. Mr. Shirley stated the second building is just a proposal for an eventual one stop for county services for constituents, depending on the future funding. Mr. Weller stated he appreciates the vision and commended Mr. Shirley on trying to consolidate resources so people can obtain services. Mr. Weller asked if the county attorney was available on the phone. Mr. Wengert indicated no. Mr. Weller asked if we were in violation of the lease with the Secretary of Interior, the Bia and the Navajo Nation. Mr. Wengert stated this issue arose with ACIP inspecting the buildings and red flagging certain issues at the building and indicated it was on the verge of not being habitable so that inspection is what started this whole process. Mr. Wengert stated in regard to the lease, it was renewed about a year ago for another 25 years and Building & Maintenance Director, R.D. Stradling will make sure everything is in place for the new building. Mr. Wengert stated once the Board approves the new modular, it takes about 60 days to build it so within the next 60 days the old building will be removed to get the area ready for the new building. Mr. Weller stated he

is aware of the 25 year lease; his question is, if the County was found in violation of the lease, what would happen to the buildings. Mr. Crosby stated the nature of the building to be purchased are modular so they can be removed and would not have to forfeit any infrastructure on the lot if found in violation of the lease, but he does not see that ever being an issue but in worst case, the buildings could be moved from the site. Mr. Weller stated he wanted the record to reflect, after reading the lease, he has concerns; there are lawful and unlawful uses of the property and his constituents are sending him information about activities that may be considered by the Department of Interior and/or the Navajo Nation as being inappropriate uses and he is concerned with that and risks the costs of the buildings and the County's presence there because to him, it is clear in the lease what is a lawful and unlawful use and any alternate use are supposed to be approved in writing by the Secretary of Interior of the United States and the Navajo Nation. Mr. Wengert stated this new building does not change the use; we have had the justice court there for many years so nothing will be different from when the lease was originally approved; part of the lease is that a justice court is present so nothing is changing. Mr. Weller stated he isn't intending to infer there is a change of use with the new building; he is addressing events like advertised dances, bazaars and jewelry sales that are going on up there are not necessarily County operations and that is what concerns him and puts the entire lease at risk. Mr. Shirley stated he has worked with the BIA and many other agencies while serving the public for the past 44 years and has always reached out to partner and worked together, because with the challenges facing the communities, no one government agency can address effectively. Mr. Shirley stated he would like to believe he has integrity and always tries to do it right by the people and if he didn't, he does not believe he would have remained in public office for 44 years. Mr. Shirley stated he always looks at applicable laws and in regard to the community activities, County and State government and the BIA know about the use of the facilities and HURF funds are not being used and nothing illegal is going on. Mr. Shirley stated he has worked with County attorneys and these events are an attempt to get the community involved and the events are held during times the buildings are vacant so why not use them by holding bazaars during holidays so they have an opportunity to sell their wares; nothing is shady or illegal. Mr. Weller stated he commends Mr. Shirley for working with the community attempting to cooperate with the different agencies. Mr. Weller stated his past 44 years have not been public service; it has been in private service but he was very involved with contracts so he takes contracts very seriously and what it says is what it means because if not you end up in court when you violate language of a contract. Mr. Weller stated it is clear in the contract that any change or modification in use must be approved in writing. Mr. Weller stated he appreciates that Mr. Shirley has had discussions with different people about this issue but he would like to see it in writing that shows we are allowed these different uses. Mr. Weller stated Mr. Shirley referenced the community using vacant buildings for events and we are about to put another building on the property yet there is a vacant building sitting there that Mr. Shirley wants used for other purposes. Mr. Weller stated he would like to see any alternate uses approved by the Department of Interior and the Navajo Nation in written form or he will still have concerns with the County being charged with inappropriate use of the property. Mr. Shirley stated in regard to the vacant building, because the work schedule is 4/10's, the buildings are vacant Friday through Sunday, which include the garage so the buildings are available for use during that time. Mr. White stated up north they have to work with various entities and at times different organizations want to utilize the facilities and he does not have a problem with that because he tries to accommodate them because sometimes he may need to utilize their facilities for meetings. Mr. Weller stated there is a difference; County owned properties can be utilized as we see fit unless there are special grant funding associated with the direction of the use; the properties that are leased in Chinle are not county property, they are under contract law and there are use limitations in that contract that indicate if you change the usage you need to have that in writing. Mr. Weller stated he isn't suggesting to not work with the community, he is only concerned with the risk to the lease. Vote was unanimous.

Malena Bazarro, Grants Manager, requested approval of an Amendment to the State Forestry Contract #WFHF-12-205, extending the end date to September 30, 2016. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Malena Bazarro, Grants Manager, requested approval of an Amendment to State Forestry Contract #WFHF14-205, extending the end date to August 30, 2016 and modification of the Detailed Project Plan in order to meet treatment acreage goals. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

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 17th day of May, 2016.

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

/s/ Delwin Wengert
Clerk of the Board