

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY
BOARD OF SUPERVISORS MEETING
October 20, 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 and County Attorney Michael Whiting.

Chairman Shirley called to order the Board of Supervisors meeting at 8:35 a.m. 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.

Ryan Patterson gave the invocation.

Senator Carlyle Begay presented an overview of upcoming fiscal and legislative proposals and the current status of uranium contamination in the water in the Sanders area as well as increases in contamination levels throughout the county. Senator Begay expressed his understanding of the revenue constraints facing the counties within Arizona and the efforts to assist counties in the next legislative session. Senator Begay also spoke on the education issues impacting the State. No action was needed or taken.

Doyel Shamley, Natural Resources Liaison, provided a presentation on West Escudilla Restoration Project. No action was needed or taken.

Doyel Shamley, Natural Resources Liaison, requested approval of Forest letter regarding future timber treatments on the Apache-Sitgreaves National Forest as it compliments current forest projects. Mr. Weller stated this was an important issue and moved to approve, seconded by Mr. White. Vote was unanimous.

Doyel Shamley, Natural Resources Liaison, requested approval of a Memorandum of Understanding between Apache County and the United States Forest Service for future projects. Mr. Shamley stated this MOU specifically asked for Apache County to be part of avenues for future projects. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Mr. Wengert presented the Consent Agenda Items. **A-D** and recommended approval. **County Manager/Clerk of the Board:** Mr. Weller asked to pull Item D for discussion and moved to approve **Consent Items A-C**, seconded by Mr. White. **A.** Request approval of demands as distributed to the Apache County Board of Supervisors between October 6, 2015 to October 20, 2015. Demands are payments made or to be made, by the County. Payee Amount Shirley, Joe Junior 1,923.81 Rogers, Kent 1,133.6 Stradling, Reed 1,437.03 Madrid, Estevaun 1,184.09 King, Walter Scott 1,188.22 Burbank, Lorenzo 1,076.76 APACHE COUNTY HAS 2,281.67 APACHE COUNTY MEDICAL 141,211.58 APACHE COUNTY TAX WITHHOLDING 129,279.64 AZ STATE RETIREMENT SYSTEM 88,573.11 COLONIAL LIFE AND ACCIDENT INS 1,477.09 CORRECTIONS OFFICER RET PLAN 5,797.99 CORRECTIONS OFFICER RETIREMENT PLAN 520 5,787.68 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 10,971.63 PUBLIC SAFETY SHERIFF RET 39,500.58 SECURITY BENEFIT GROUP 1,141.00 SUPPORT PAYMENT CLEARINGHOUSE 2,272.27 4IMPRINT 3,706.35 ARIZONA STATE FORESTRY DIVISION

3,864.06 AZ COUNTIES WORKERS COMPENSATION PLAN 55,195.65 AZ DEPT OF RISK MANAGEMENT 1,293.81 AZ STATE LAND DEPARTMENT 12,000.00 B & W FIRE SECURITY SYSTEMS LLC 1,120.48 BRADCO 9,537.95 DEMCO 2,742.70 GALL'S INC 2,437.55 HILLYARD INC 1,543.64 INGRAM LIBRARY SERVICES 1,096.81 KARTCHNER, WADE EVAN 1,500.00 MOORE MEDICAL LLC 1,411.15 PATTERSON, RYAN N 1,218.72 PLATT DDS, RANDOLPH 2,006.00 QUILL CORP 2,690.40 REDW LLC 3,100.00 RUSH TRUCK CENTER 1,491.44 SALAM INTERNATIONAL INC 26,619.70 SOUTHERN COUNTIES OIL COMPANY 13,772.70 SPECIAL OPERATIONS GROUP 2,717.87 ST JOHNS EMERGENCY SERVICES 1,972.87 TJP COMMUNICATIONS 2,491.83 TRINITY SERVICES GROUP INC 16,315.25 VALLEY AUTO PARTS 8,671.30 VERITAS RESEARCH CONSULTING 1,560.00 VERIZON WIRELESS 1,737.68 WHITE MOUNTAIN REGIONAL MEDICAL CENTER 7,790.58 WHITING, GARRET LEE 2,100.00 WHITING, MICHAEL B 2,167.44 ALLEGRA 2,999.09 ARCHER MANUFACTURING 1,600.00 AZ COUNTIES INSURANCE POOL 1,251.40 AZ DEPT OF REVENUE 2,083.06 BAUMAN HOME AND AUTO INC 1,620.20 BENDER, JUDITH A 7,500.00 BLUE HILLS ENVIRONMENTAL 1,746.61 BRADCO 16,994.38 CASTILLO, KODI LEE 1,394.54 CENTRAL ARIZONA SUPPLY 1,226.67 DELL COMPUTER CORPORATION 4,329.31 DIAMOND DRUGS INC 3,674.61 ELECTIONS SYSTEMS AND SOFTWARE 1,596.62 EMPIRE MACHINERY 26,761.60 FLAGSTAFF MEDICAL CENTER 30,564.79 GALLUP LUMBER & SUPPLY 1,517.35 HAMBLIN LAW OFFICE PLC 8,500.00 HATCH MOTOR COMPANY SNOWFLAKE 1,045.95 HILLYARD INC 1,250.25 LOGAN SIMPSON DESIGN INC 5,550.00 MISBACH, CHRISTOPHER BRIAN 1,800.00 NACO 1,430.00 NAVOPACHE ELECTRIC COOPERATIVE 10,709.98 OFFICE DEPOT 1,060.01 OVERDRIVE INC 6,500.00 PATTERSON, DANA BRYCE 8,500.00 QUILL CORP 3,487.45 RAIN FOR RENT 4,171.76 REDW LLC 5,235.00 SCHIFF, LAURENCE 1,800.00 SECURUS TECHNOLOGIES INC 1,554.03 SHIRLEY, JOE Junior 5,375.00 ST JOHNS CITY 2,754.12 ST JOHNS CITY 6,281.28 THE AARONS COMPANY LLC 3,000.00 THE UNIVERSITY OF ARIZONA 6,250.00 THE WOOD LAW OFFICE (RONALD WOOD) 2,123.00 US POSTMASTER 1,000.00 VALLEY AUTO PARTS 3,024.87 VERIZON WIRELESS 1,242.30 WHITE MOUNTAIN REGIONAL MEDICAL CENTER 1,181.67 WILLIAMS LAW GROUP PLLC 8,500.00 Wright, Linda 2,107.92 APACHE COUNTY TAX WITHHOLDING 1,031.78 Specific details of the demands may be requested through the County public record request process. **B.** Request approval of minutes dated October 6, 2015. **C.** Request approval of a Special Event Liquor License Recommendation for Wes Myers with the Walking Down Ranch Inc. for a fund raising event to be held on November 6, 2016 at the San Rafael Church Social Hall, 25 County Road 5041 I Concho, Arizona. Vote was unanimous.

Mr. Weller stated in regard to Item D, for approval to amend the Hidden Paradise Unit 1 Plat Map to allow Warren Bowman to split Hidden Paradise, Unit 1, Lot 13, a ten acre lot in 5 – 2 acre lots located near Vernon Arizona on parcel 106-25-012 he had some questions. Mr. Weller and County Attorney Whiting held a discussion regarding the jurisdiction of easements and sheriff's authority related to blocking easements. County Attorney Whiting requested Mr. Weller formulate his specific questions in writing to his office so they could provide a legal opinion. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Mr. Wengert, on behalf of District II, requested approval to promote Kirk Arviso to the position of Field Operations Manager with a starting salary of \$46,000 and increase the salaries of Christine Wauneka, Administrative Assistant III by \$2,000, Warren Thomas, Road Maintenance Worker III by \$2,000 and Wilbur Smith, Public Works Foreman II by \$3,000. Mr. White stated he has had some in house changes and have been without a Field Operations Manager for six months and have given individuals additional responsibilities so that is why he is asking for an increase for those individuals. Mr. White moved to approve, seconded by Mr. Weller. Mr. Weller stated this is not the only agenda item today regarding pay increases and asked to give careful consideration to the impact on the other 370 employees in the County and the inability to provide any significant raises during the budget year and asked the Board members to consider that before approving. Mr. Weller stated the tax bills just went out this week to the taxpayers and there were tax increases and he has been receiving calls from concerned citizens and asked to keep these issues in mind when voting. Mr.

Wengert stated the raises would come from HURF and not the general fund. Motion passed 2-1 with Mr. Weller voting nay.

Mr. Wengert, on behalf of District I, requested approval of salary increases for the following individuals: Patrick Sandoval at \$3,600, Elta Warner at \$2,600, Bryan Tsosie at \$2,600, Ted Watson at \$2,600 and Gloria Bowman at \$2,600 per year all pursuant to the proposed salary schedule if anyone would like to review it. Mr. Wengert stated the increases will come out of HURF Budget. Mr. Weller moved to approve, seconded by Mr. White. Mr. Weller reiterated what he stated on the previous agenda item, and regarding using HURF, there are different departments that have different revenue sources but the decision not to give raises in those areas can impact the concerns of other department heads that don't have those necessary resources. Mr. Weller stated the raises also impact how much money can be applied to the roads so there are lots of issues associated with this and asked the Board members keep that in mind. Motion passed 2-1 with Mr. Weller voting nay.

Ferrin Crosby, County Engineer, requested authorization to add Brimhall Sand and Rock as a vendor to yearly Bid#201507 for road and aggregate base at \$1525 per ton out of their Indian Wells quarry. Mr. White moved approval, seconded by Mr. Weller. Mr. Weller asked why Brimhall came in at this date and not earlier. Mr. Crosby stated Brimhall didn't respond at the time of the annual bid and it happens occasionally. Mr. Crosby stated the County limestone pit was closed this summer and District II needed material and thought it best to add them to the annual bid as a vendor. Vote was unanimous.

Ferrin Crosby, County Engineer requested approval to purchase three new vehicles for District I through State Contract, not to exceed \$91,163.00 utilizing District I carryover funds. Mr. Weller moved approval, seconded by Mr. White. Mr. Weller asked if these were replacement vehicles and will put any into the surplus auction. Mr. Shirley responded the vehicles are replacements. Vote was unanimous.

Mr. Wengert presented the request for possible changes to the Board of Supervisors' Agenda Item Review Form. Mr. Wengert stated there have been questions over the past few months about how to fill out the form properly and a change was made to the review process for legal, finance and human resources review. Mr. Wengert stated not all items require departmental reviews before being placed on the agenda but the form that is before the Board today is the most recent form and wanted to obtain direction from the Board to move forward with it. Mr. Weller stated he appreciates the attempt to unify the use of the form because there are multiple forms being used and in speaking with other departments, it seems this form suits all the needs everyone has and asked to add a form number or Board approval date to the form so there is no confusion as to which form to use moving forward. Mr. Wengert stated prior to posting the agenda and sending out the backup material, a meeting is held with everyone who has submitted an item and the material is reviewed carefully to make sure all proper reviews and signatures have been obtained. Mr. Walsh, a resident of Vernon, stated if this item is like other policies in the county it would require following A.R.S. 11-251.18 for adoption of rules and procedures and read from the section of the statute regarding public notice of two weeks before adoption. County Attorney Whiting responded that rules are different than internal policies so the statute does not apply to the action today. Mr. Weller stated Mr. Walsh's question raises a discussion on our policy that states we will follow a sequence of placing things on the agenda, which is in our County policy and he was intending this to apply to all departments so it is a stretch to think it is not a rule and will go with the County Attorney's ruling but he wants to be sure this is a form that we are expecting all departments to follow equally. Mr. Wengert stated he would not let departments deviate from using this form, especially since it is marked as approved by the Board of Supervisors. Mr. Weller asked County Attorney Whiting if this action could be challenged and put this on the agenda for final approval in two weeks. Mr. Whiting stated if the Board wanted to take that action it

could. Mr. Weller moved to table the item until it can be posted appropriately and put on an agenda for approval after the public is making a change to the County policy. Mr. White asked Mr. Whiting if the form meets all requirements to be approved today. Mr. Whiting responded yes. Motion died for lack of a second. Mr. White stated the form meets all requirements and should be approved now and made the motion to approve. Mr. Weller seconded the motion. Mr. Weller stated he wants to keep the county business running but may not meet the complete statutory requirements, but with Mr. Whiting's verbal statement that it does meet the statute, he will approve. Vote was unanimous.

Malena Bazarro, Grants Manager, requested approval to ratify the Memorandum of Understanding (MOU) between the City of St. Johns and Apache County to apply for funding from Arizona Game and Fish for revitalization for the Patterson Pond area. Ms. Bazarro stated this item was tabled at the October 6, 2015 Board meeting. Mr. Weller stated the backup material is not the actual MOU to be approved and does not include the Heritage Grant Application as it did the previous week. Mr. Weller moved to approve the MOU that was emailed to him on October 19, 2015 only in that form as long as it is attached with the Heritage Fund Grant Application as presented at the October 6, 2015 Board meeting. Ms. Bazarro stated that finalized MOU was given to the Clerk of the Board; Mr. Weller had a concern with the word "goals" that was pluralized so that sentence was removed. Mr. White seconded the motion. Vote was unanimous.

Seth Slade, on behalf of Probation Services, requested approval of an amendment to the Intergovernmental Agreement between Navajo County and Apache County for the housing of detained juveniles. The amendment addresses the educational responsibilities of Navajo County. Mr. Slade stated this item was tabled at the last meeting. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller expressed his concerns about the modification in the funding for the juvenile tax district that have not been brought before him for an understanding of appropriate use of funds and the re-allocation of those funds, so he will be casting his vote with that in mind. Motion passed 2-1 with Mr. Weller voting nay.

Ryan Patterson, Finance Director, requested approval of a confidential tax disclosure agreement between the State of Arizona and Apache County. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Brannan Eagar, Chief Deputy Sheriff, requested approval of the Master Agreement between Electronic Recovery and Access to Data (ERAD) and the Apache County Sheriff's Office to be effective as of June 1, 2015 and will remain in effect for a period of 5 years. Chief Eagar stated the funds associated with the agreement will be paid by non-general fund monies on a case by case basis and is a valuable tool in solving crimes. Mr. Weller moved approval seconded by Mr. White. Mr. Weller and Chief Eagar held a discussion on how the ERAD works. Vote was unanimous.

Brannan Eagar, Chief Deputy Sheriff, requested authorization to enter into a memorandum of Understanding (DPS Contract No. 2015-090) with the State of Arizona through its Department of Public Safety for enforcement of immigration, human smuggling, drug smuggling, gangs and employer sanction laws in the amount is \$12,000. Chief Eagar stated the funds would be used to upgrade the tasers. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Michael Whiting, County Attorney, requested authorization to promote Garrett Whiting to an Attorney III, promote C.B. Misbach to an Attorney II, increase the salary of Jared Robinson, and increase the salary of Travis Simshauser all pursuant to the proposed salary schedule that was attached with the backup material and will result in a savings of over \$156,000 to the Attorney's Office. Mr. White moved approval, seconded by Mr. Weller. Mr. Weller stated he is concerned with the taxation issue

and the many other employees who are not benefiting from this movement and asked Mr. Whiting how this is saving \$156,000 and how that related to the savings associated with the raise given to the deputy attorney recently. Mr. Whiting responded that he as well as the two previous County Attorneys have operated with six or seven Deputy Attorneys as well as a contracted attorney and his attorneys came to him and asked if they could obtain a raise to try and handle the case load themselves so with there being just five attorneys, that is where the savings comes from. Motion passed 2-1 with Mr. Weller voting nay.

Mr. Wengert presented notification of Northern Arizona Council of Government Regional Council meeting to be held on October 22, 2015 at 9:00 a.m. at the High Country Conference Center, 201 West Butler Ave., Flagstaff, Arizona where two or more Board members may be in attendance. No action was needed.

County Attorney Michael Whiting presented the item, following a possible executive session for legal advice pursuant to A.R.S. 38-431.03(a)(3), discussion and possible approval of a Settlement Agreement with Bob Nguyen and Hoa Van Nguyen to settle disputes arising from a traffic stop. Mr. Whiting stated the item was tabled at the last Board meeting. No executive session was needed. Mr. Weller moved to approve the settlement, seconded by Mr. White. Mr. Weller asked Chief Deputy Brannan Eagar to meet in his office after the meeting to answer a question associated with this issue, and stated he would like to modify his motion, with an understanding that there are no other good and sufficient considerations other than the funding mentioned of the \$142,250.75 and wanted to make sure his motion included that fact. Mr. Whiting stated that is the only consideration under the agreement.

Mr. White seconded the modified motion. Vote was unanimous.

Chairman Shirley opened the floor for call to the public.

Arthur Modica, a resident of Apache County, stated the last time he was here he addressed County Road 5270 and since then, Mr. Crosby called him and said he had contacted ADOT and they would take on the task of fixing the problem in a cooperative manner and he is very appreciative of Mr. Crosby's work. Mr. Modica stated his other issue he spoke about at that meeting was the school bus turning around in that area and he has since spoke with the supervisor at the Concho School District and she said she would look into the issue of parents driving further down the road to pick up their children but he hasn't heard anything back yet. Mr. Modica addressed an issue he had with his tax bill and his frustration with the tax billings system that does not work. Mr. Modica stated he also would like to meet with County Engineer Ferrin Crosby to discuss how maintenance on roads is determined and prioritized. Chairman Shirley asked staff to follow up with Mr. Modica's issues.

George Walsh, a resident of Vernon, stated his concerns with the medical marijuana ordinance process by the Planning and Zoning Commission and the board of Supervisors as required by statute. Mr. Walsh stated the Board of Supervisors is required to hold a public hearing on the issue and wanted to know why that has not taken place and asked Mr. Weller to place this issue on a future agenda to raise the question as to why the ordinance has not come before the Board as required by statute. Mr. Weller requested the County Manager and the County Attorney respond in writing where we are at with this issue and if and when this issue might be on the agenda as statute seems to require as outlined by Mr. Walsh's presentation.

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

Approved this 3rd day of November, 2015.

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

/s/ Delwin Wengert
Clerk of the Board