

**OFFICIAL PROCEEDINGS OF THE APACHE COUNTY  
BOARD OF SUPERVISORS MEETING  
September 1, 2015  
St. Johns, Arizona**

Present were: Chairman Joe Shirley, Jr., Vice Chairman Tom M. White, Jr., County Manager/Clerk of the Board Delwin Wengert, County Attorney Michael Whiting and Chief Deputy Attorney Joseph Young. Supervisor Barry Weller participated via the telephone.

Chairman Shirley called to order the Board of Supervisors meeting at 8:33 a.m. in the Chinle District I Road Yard, Administrative Building, U.S. Highway 191 mile post 446.9 and welcomed all in attendance.

Elta Warner gave the invocation.

Keli Sine-Shields led the Pledge of Allegiance.

Chairman Shirley called for the Public Health Services District items.

Keli Sine-Shields, Assistant Health Director, requested approval of the Health Start program Agreement ADHS-15-0004913, for prenatal and child home visitation in the amount of \$132,250.00. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller stated he knows the people involved with the program in the Health Services District and they have the greatest of intentions of helping the citizens of the county, but he personally does not believe this type of program should be funded by the government so he will be voting against the item. Motion passed 2-1 with Mr. Weller voting nay.

Keli Sine-Shields, Assistant Health Director, requested approval of the Independent Contractor Agreement between the Apache County Public Health Services District and Hostyl Takeover Cleaning Services to provide janitorial Services for the premises located at 191 State Highway 264, Ganado, Arizona, effective July 1, 2015 through June 30, 2017. Mr. Weller moved approval, seconded by Mr. White. Mr. White asked about the cost associated with the agreement. Mrs. Sine-Shields stated \$200.00 per month. Vote was unanimous.

Keli Sine-Shields, Assistant Health Director, requested approval of the Memorandum of Understanding between the Apache County Public Health Services District and Chinle Unified School District #24 to provide physical facilities to support personnel who are providing teen pregnancy prevention services. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller stated the people involved have good intentions but as he witnesses more government involvement he sees more moral values deteriorating in our society and is against government being involved in this type of program. Motion passed 2-1 with Mr. Weller voting nay.

Keli Sine-Shields, Assistant Health Director, requested approval of the Professional Services Agreement between the Apache County Public Health Services District and Coordinated Consulting Services, LLC, for a response plan for public health disease issues. Mr. Weller moved to approve, seconded by Mr. White. Vote was unanimous.

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

Chairman Shirley called for the regular agenda items.

Mr. Wengert presented the **Consent Items, A-C** and recommended approval. 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 August 17, 2015 to September 1, 2015. Payee Amount NORTHLAND MOTORSPORTS 18,179.69 Sykes, Timothy Senior 2,723.54 4IMPRINT 9,900.83 A TO Z TIRE & BATTERY INC 3,249.24 ANDA INC 2,411.64 APACHE COUNTY SHERIFF'S POSSE 1,500.00 ARCHAEOLOGICAL CONSULTING SERVICES LTD 1,305.00 ASHTONS REPAIR INC 1,167.60 AVAYA COMMUNICATIONS 1,381.19 AZ SUPREME COURT 4,390.25 BASIN PUMP AND SUPPLY CO INC 3,017.59 BLUE HILLS ENVIRONMENTAL 1,404.70 BOB BARKER COMPANY INC 1,317.56 BRADCO 46,975.90 BRIMHALL SAND & ROCK 10,652.88 COMMUNITY COUNSELING CENTERS INC 2,400.00 CRESCENT ELECTRIC SUPPLY CO 1,154.33 DELL COMPUTER CORPORATION 2,489.79 DIAMOND DRUGS INC 6,282.63 FIREFIGHTERS AND POLICE OFFICERS CANCER INSURANCE 1,450.00 FOREMOST PROMOTIONS 1,631.50 FRONTIER 4,592.68 GALLUP LUMBER & SUPPLY 1,641.25 GOLIGHTLY TIRE 1,344.34 GOSERCO, INC. 32,050.48 H & C STARTER AND ALTERNATOR 1,685.76 HESCO BASTION INC 25,263.31 HILLYARD INC 1,080.12 LAW OFFICE OF DIRK LEGATE PLLC 8,692.50 MO MONEY ASSOCIATES LLC 2,919.77 NAVOPACHE ELECTRIC COOPERATIVE 14,173.75 NEXTRAQ 16,532.40 OFFICE DEPOT 2,446.21 PATTERSON, DANA BRYCE 8,500.00 PIMENTEL CONTRACT CLEANING 3,350.00 QUILL CORP 1,511.67 REIDHEAD, BRANDY 3,205.00 RICOH USA INC 6,480.60 SANDOVAL, PATRICK J 1,223.38 SCHIFF, LAURENCE 1,400.00 ST JOHNS CITY 2,477.46 ST JOHNS CITY 5,830.75 ST JOHNS EMERGENCY SERVICES 1,126.71 STANLEY SECURITY SOLUTIONS INC 1,487.45 US POSTMASTER 1,200.00 VALLEY AUTO PARTS 1,413.90 VERITAS RESEARCH CONSULTING 1,440.00 VERIZON WIRELESS 1,827.58 WHITE MOUNTAIN PUBLISHING CO 6,407.06 WILLIAMS LAW GROUP PLLC 8,500.00 WOODLAND BUILDING CENTER 1,011.35 Heap, Justin 1,947.39 Young, Joseph 2,952.16 Shirley, Joe Junior 1,923.82 Rogers, Kent 1,133.58 Stradling, Reed 1,437.04 King, Walter Scott 1,188.22 APACHE COUNTY HAS 1,681.67 APACHE COUNTY MEDICAL 139,936.08 APACHE COUNTY TAX WITHHOLDING 129,624.41 AZ STATE RETIREMENT SYSTEM 88,638.93 COLONIAL LIFE AND ACCIDENT INS 1,490.43 CORRECTIONS OFFICER RET PLAN 5,816.03 CORRECTIONS OFFICER RETIREMENT PLAN 520 5,209.48 NATIONWIDE 1,605.00 PUBLIC SAFETY PERSONNEL 401 10,971.63 PUBLIC SAFETY SHERIFF RET 41,174.22 SECURITY BENEFIT GROUP 1,141.00 SUPPORT PAYMENT CLEARINGHOUSE 2,542.68 4IMPRINT 4,545.45 ADHS AZ HEALTH CARE COST 22,400.00 AMAZON COM INC 4,205.43 APACHE COUNTY 1,093.23 ARIZONA FURNISHINGS 4,456.43 AZ SUPREME COURT 4,240.00 BAUMAN HOME AND AUTO INC 1,600.61 BILLS DISCOUNT AUTO PARTS (NAPA) 1,560.28 BRADCO 19,304.50 BUNTON, KELLY L 2,820.00 CDW GOVERNMENT LLC 3,064.94 COALITION OF ARIZONA NEW MEXICO COUNTIES 2,600.00 CRESCENT ELECTRIC SUPPLY CO 2,927.16 ESCUDILLA INTERIORS 2,690.00 GOLIGHTLY TIRE 10,419.47 HILLYARD INC 4,778.07 INGRAM LIBRARY SERVICES 3,097.80 KATHLEEN M MCGUIRE PSY D LLC 2,095.00 LITTLE COLORADO BEHAVIORAL HEALTH CENTERS INC 1,540.50 MINKUS 1,055.00 NAVAJO NATION WATER CODE ADMIN 2,100.00 NAVAJO TRIBAL UTILITY AUTHORITY 1,924.32 NAVOPACHE ELECTRIC COOPERATIVE 3,903.82 NEVES UNIFORMS & EQUIPMENT 2,636.88 NORCHEM DRUG TESTING LABORATORY 1,737.60 NORTHLAND MOTORSPORTS 2,275.03 QUILL CORP 3,787.25 RAIN FOR RENT 4,713.11 RDO EQUIPMENT CO 2,613.48 SANOFI PASTEUR INC 1,699.32 SECURUS TECHNOLOGIES INC 1,037.29 SMITHS DETECTION INCE 8,346.00 ST JOHNS EMERGENCY SERVICES 1,128.96 TOWN OF EAGAR 7,942.68 UNIVERSAL FLEET CARD 1,757.88 WHITE MOUNTAIN REGIONAL MEDICAL CENTER 3,502.43 AZ SUPREME COURT 12,680.51 NORCHEM DRUG TESTING LABORATORY 2,108.37 Demands are payments made or to be made, by the County. Specific details of the demands may be requested through the County public record request process. **B.** Request approval of minutes dated August 17, 2015. **Superior**

**Court: C.** Request approval of a Fill-the-Gap Grant Application in the amount of \$155,580.00. Vote was unanimous.

Mr. Wengert presented the request for approval of a resolution requesting the Congress of the United States to provide full funding for Payment-in-Lieu-of-Taxes (PILT) program. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller stated he had an issue with resolution and the inaccuracies that give him great concern since this would be sent off to Washington. Mr. Weller stated we should also be talking about 68% of our lands which are tribal lands that we get no compensation from the federal government. Mr. Weller stated PILT is a federal government payment to areas who have untaxable lands and the Navajo Nation is untaxable and the county receives zero dollars for that untaxable land and if we were to come close to receiving the money associated with 68% of our county that is on Native lands and compared to the forest lands which are also untaxable, we would get well in the area of 18 million dollars for Apache County. Mr. Weller stated it's time to start holding discussions about the abuse of the federal government to make us try to serve the people on the Navajo Nation without funding to do so. Mr. Wengert stated he does see the error in the numbers and will get them corrected. Chairman Shirley asked if this item could be tabled. Mr. Wengert stated there is nothing urgent about this issue. A discussion was held about possible funding sources for obtaining funding for Native lands. Mr. Wengert stated this topic can be taken to National Association of Counties, the Governor's Office and our Washington delegation to raise the issue and as Mr. Weller said, have discussions about moving in that direction. Mr. White withdrew his previous motion to approve and moved to table the item until the next Board meeting, seconded by Mr. Weller. Vote was unanimous.

Mr. Wengert requested approval of the Resolution and Intergovernmental Agreement between Apache County and the Eastern Arizona Counties Organization. Mr. Wengert stated Cochise County has requested to join the group and this resolution addresses that as well as the Intergovernmental Agreement and the Bylaws of the Organization. Mr. Wengert stated all the other counties who are part of Eastern Arizona Counties are going through this same approval process and recommended approval. Mr. White moved approval, seconded by Mr. Shirley. Mr. Weller stated the Intergovernmental Agreement is in support of the By-laws that are not complete and have been modified to drastically, if not completely, reduce or eliminate the need for elected officials to make decision in the organization. Mr. Weller stated Exhibit A was not previously provided with the By-laws for approval and remains unattached or marked appropriately for the Agreement. Mr. Weller stated the Eastern Arizona Counties Organization has taken opposing positions to critical issues in District III of Apache County; at the very least the grey wolf issues, with respect to any local involvement in forest service actions which contradicts the wording of the Intergovernmental Agreement. Mr. Weller stated the By-laws provide far too much power and authority to the executive director who has shown on multiple occasions to be working against Apache County, District III concerns which he believes to also be county wide concerns. Mr. Weller stated The By-laws provide far too much authority to other un-elected officials, providing for the possibility of having meetings completely run without even one elected official present when making critical decisions about the use of public funds. Mr. Weller stated the By-Laws and many participants in the Eastern Arizona Counties Organization completely disregard what he is sure is the intent of the Open Meeting Law by not even providing a website to announce or keep track of the meetings held throughout the state. Mr. Weller stated citizens have great difficulty knowing when and where the meetings will be and he does not even get notice when meetings are being held, even after personally directing the Apache County Manager to inform him of all meetings and provide him with all communications to and from the Eastern Arizona Counties Organization. Mr. Weller stated in his opinion, Eastern Arizona Counties group does not plan to, or even desire to operate in the open and he will be voting against the Intergovernmental Agreement today. Mr. Wengert stated all of the supervisors from other counties who are part of the Eastern Arizona Counties Organization would vehemently disagree with Supervisor Weller's statements; the supervisors within Eastern Arizona Counties are actively involved in the organization and feel they are doing the best they can for their counties. Mr. Wengert stated Navajo County is very much involved in Eastern Arizona Counties and believes the

organization is doing good things for the vendors in their community so he would make the statement that the other supervisors that are involved in Eastern Arizona Counties would disagree with Mr. Weller's statements and feel they are doing a good thing. Mr. Wengert stated the executive director does not run Eastern Arizona Counties; he works under the direction of the elected officials that are part of Eastern Arizona Counties and from what he has witnessed, and the vendors he has spoken with, in both Navajo and Apache Counties are very grateful for the involvement of the Eastern Arizona Organization. Mr. Wengert stated Supervisor Weller's opinion is only his opinion and the supervisors that are a part of Eastern Arizona Counties would certainly disagree. Mr. Weller stated that was Mr. Wengert's opinion and he has the right to express his opinion but all of the statements he (Mr. Weller) made were statements of fact and anyone who wishes to challenge or discuss them further, he is ready to do so. Motion passed 2-1 with Mr. Weller voting nay.

**Resolution #2015-12**  
**RESOLUTION BY THE BOARD OF SUPERVISORS OF APACHE COUNTY,**  
**TO AMEND THE 1993 INTERGOVERNMENTAL AGREEMENT CREATING THE**  
**EASTERN ARIZONA COUNTIES ORGANIZATION (ECO).**

**Whereas**, Arizona Revised Statutes 11-952 authorizes two or more public agencies to enter into agreements with one another for joint or cooperative action, and;

**Whereas**, the Arizona Counties of Apache, Gila, Graham, Greenlee and Navajo requested in 1993 by joint resolution that the State of Arizona assist the Counties in developing a process to implement Presidential Executive Order 12372 (P.E.O. 12372) related to the clearinghouse process for review of Federal programs which affect the custom, cultures and economic well-being of the Counties, and;

**Whereas**, the Counties are all dependent on measured and appropriate development of all resources to ensure public welfare and promote economic stability, and;

**Whereas**, it is in the best interests of the Counties to combine their efforts whenever possible to further the goals of ensuring cultural and social preservation, and enhancing economic stability and growth as relates to the management of resources, and;

**Whereas**, the Counties have undertaken to make scientific, economic, social and cultural information and other data available for analysis to help guide themselves and other agencies in making the best resource management decisions, and;

**Whereas**, cooperation on the regional level between all parties involved in such decisions is deemed to be most advantageous, and:

**Whereas**, the Eastern Arizona Counties Organization (ECO) consisting of membership from Apache, Gila, Graham, Greenlee and Navajo Counties was created in 1993 by Intergovernmental Agreement between Apache, Gila, Graham, Greenlee and Navajo Counties, and:

**Whereas** in the years from 1993 to 2015 ECO evolved to provide to the Original ECO Counties a clearinghouse of technical, scientific, social, cultural and economic information and advice to the individual counties for more effective interaction, coordination and collaboration in the decision making process with federal and state agencies, and ;

**Whereas** in 2015 the Arizona County of Cochise expressed the desire to join ECO and Apache, Gila, Graham, Greenlee and Navajo Counties expressed the desire to include Cochise County in ECO, and;

**Whereas**, it is believed that the best method for ensuring that the overall functions of ECO are carried out is to formalize the ECO structure through adoption of an amended intergovernmental agreement and approval of appropriate Bylaws to guide the conduct of ECO business.

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

The Board of Supervisors of Apache County approves the amendment of the 1993 Intergovernmental Agreement between Apache, Gila, Graham, Greenlee and Navajo Counties creating the Eastern Arizona Counties Organization (ECO), and the 1993 ECO by-Laws; approves the membership of Cochise County in the Eastern Arizona Counties Organization; and, approves the amended ECO Intergovernmental Agreement and by-Laws as attached in Exhibit A.

Approved this 1st day of September, 2015.

ATTEST:

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

/s/ Delwin Wengert  
Clerk of the Board

Angela Romero, Election Director, requested authorization to cancel the Special District Election for the Concho Fire District and appoint Wes Myers with his term ending November 2018. Mr. Weller asked if the action today modifies in any way the election for the recall election and asked what the dates of the elections related to the Concho Fire District. Mrs. Romero stated the action today does not affect the recall election that will be held in November and the reorganization of the Concho Fire District that is set for March, 2016. Mr. Weller asked if this action has any bearing on the ongoing lawsuit associated with the Concho Fire District. County Attorney Whiting responded the action today has no bearing on the lawsuit. Mr. Weller asked if the vote today would allow the Concho Fire District to operate as a full three member board. Mr. Whiting stated that was correct. Mr. Weller asked if Mr. Myers has full authority to act as a board member as of today, September 1, 2015. Mr. Whiting responded that was correct. Mr. Weller moved to approve the appointment of Mr. Myers, seconded by Mr. White. Vote was unanimous.

Angela Romero, Election Director, requested authorization to cancel the Special District Election for the Nutrioso Fire District and appoint Karen Zalesky with a term ending November 2016. Mrs. Romeo also informed the Board the Nutrioso Fire District will have an election for vacant positions with terms ending November 2018 but the action today is to cancel the race for appointment of Ms. Zalesky to term November, 2016. Mr. White moved approval, seconded by Mr. Weller. Mr. Weller stated to clarify the action today is to appoint Ms. Zalesky as a Board member effective September 1, 2015 to term November, 2016. County Attorney Whiting stated yes. Mr. Weller asked if there was an election scheduled for a five member board. Mrs. Romero stated no, that election is for the two vacant seats that are currently on the Nutrioso Fire District Board for terms ending November 2018. Vote was unanimous.

Angela Romero, Election Director, requested approval to cancel the Special District Election for the Concho Wastewater Improvement District, vacant-no filing received for a term ending November 2019. Mr. Weller moved to approve, seconded by Mr. White. Mr. Weller asked if this action will allow the two board members to be able to appoint a third member to the board. Chief Deputy Attorney Joe Young stated the two Board members of a three member board cannot appoint a person to that seat because it is due to an expiration of term; that requires going to a special election, at such a point where there is someone willing to take that spot. Mr. Weller clarified they cannot appoint a third member to the board without having a special election. Mr. Young stated yes. Mr. Weller asked if the Concho Wastewater Improvement District was under open meeting law requirements and if they are required to notify the election department when their terms expire so they can have an election for themselves. Mr. Young stated yes; the District is subject to all election and open meeting laws. County Attorney Whiting stated the District needs to understand they could be at an impasse in regards to votes based on the fact there is only two members on the board without an odd number to break a tie vote and there needs to be an election held as soon as possible to alleviate that issue. Vote was unanimous.

Michael Whiting, County Attorney, requested approval of Attorney General's Victim's Rights Program Grant Agreement A.G.2016-001 in the amount of \$28,490.00, awarded for FY2016 with no matching funds required. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Michael Whiting, County Attorney, requested approval of Arizona Criminal Justice Commission Victim Compensation Grant Agreement #VC16-049 in the amount of \$64,150.00 for FY16. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Michael Whiting, County Attorney, requested approval of Arizona Criminal Justice Commission Victim Assistance Grant #VA-16-017 in the amount of \$23,339 for FY16 with a match of \$23,339 and has that money budgeted. Mr. White moved approval, seconded by Mr. Weller. Vote was unanimous.

Michael Whiting, County Attorney, requested approval of Arizona Criminal Justice Commission Drug, Gang, and Violent Crime Control Agreement, #DC-16-020 in the amount of \$67,852.00, with a \$22,617.00 match amount for FY16 and there is money budgeted for the match. Mr. Weller moved approval, seconded by Mr. White. Vote was unanimous.

Michael Whiting, County Attorney presented the item following a possible executive session for legal advice pursuant to A.R.S. 38-431.03(3), discussion and possible action regarding litigation in case number CV-2015-097 between Wanda Williams and Concho Fire District in which Apache County is also listed as a defendant. Mr. Weller moved to go into executive session, seconded by Mr. White. Vote was unanimous.

Executive session was held.

Chairman Shirley reconvened the meeting.

Mr. Weller moved to end executive session, seconded by Mr. White. Vote was unanimous.

Chairman Shirley presented the item regarding litigation in case number CV-2015-097 between Wanda Williams and Concho Fire District in which Apache County is also listed as a defendant. No action was taken.

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

Tonya Baloo, a resident of Sanders, Arizona stated someone out of Flagstaff came to her community and informed them there is uranium in the water and those results go back to 2009. Ms. Baloo stated Senator Carlyle Begay is trying to help and she is requesting the Board of Supervisors look into the issue to help find a solution to get safe and clean potable water and to have Windsong Water Company stop providing water since this a safety concern. Mrs. Baloo stated the community is contaminated and exposed to uranium but also any consumers at the local stores since that water is used to make coffee and fountain drinks with the water. Ms. Baloo asked the Board of Supervisors to place this issue on a future agenda. Mr. Weller stated he appreciates Ms. Baloo coming to speak on this important issue in Sanders and he is involved with discussions with Senator Begay and the Windsong Water Company. Mr. Weller stated the impetus is very heavy to try and resolve this issue promptly and inviting Navajo Tribal Utility Authority (NTUA) to come to the discussions and Senator Begay is going to include the corporation commission and ADEQ . Mr. Weller stated the citizens are presently drinking water that is beyond the definition of being radiant and this is an important issue. Chairman Shirley stated it sounds like Mr. Weller is on top of the matter and asked Mr. Wengert to have the Health Department see what can be done to help alleviate the community's concerns. Mr. White asked if the Navajo Nation has been contacted since this is part of their jurisdiction as well as the County. Ms. Baloo stated yes, a meeting was held at the chapter house and created a resolution

that was distributed to the officials there but she hasn't heard anything since July 31, 2015. Mr. Weller stated Rex Kontz is one of the directors at Navajo Nation Utility Authority and he has been connected to this issue and very professional and willing to participate last week with discussion with Windsong Water Company. Mr. Weller stated he is pleased that Senator Begay, NTUA and the council delegates are involved and it is going well, but in his opinion, it just isn't quick enough for the citizens. Chairman Shirley told Ms. Baloo to continue to work with Supervisor Weller and County Manager and if there is anything the Board can do to let them know but otherwise, it sounds like the issue is being handled by Mr. Weller. Mr. White stated he would contact Mr. Kontz with NTUA regarding the issue.

Jackie Yazzie, Jr., from the Lupton Chapter stated he hasn't seen some of the elected officials at his chapter house so that is why he came to the meeting today; to make sure the elected officials are out there to see what is going on and see what assistance is needed. Mr. Yazzie stated he only sees most of the elected officials at election time but wanted to thank the road crew who has been working on the school bus routes and roads for the senior citizens and preschool and he appreciated that.

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

Approved this 15th day of September, 2015.

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

/s/ Delwin Wengert  
Clerk of the Board