

BOARD OF SUPERVISORS MINUTES WITH SUPPLEMENTAL TRANSCRIPT
(Where a supplemental transcript is available, it is printed in bold type)

OFFICE OF BOARD OF SUPERVISORS
YAVAPAI COUNTY, ARIZONA

Prescott, Arizona

April 19, 2004

The Board of Supervisors met in regular session on April 19, 2004, at 9:30 a.m., in Cottonwood, Arizona.

Present: Chip Davis, Chairman; Gheral Brownlow, Vice Chairman; Lorna Street, Member; Bev Staddon, Clerk.

Also present: Jim Holst, County Administrator; Dave Hunt, Board Attorney/Assistant County Administrator.

Clerk's note: A copy of these minutes with a supplemental transcript is available in the Office of the Clerk of the Board of Supervisors and is also available on the County website.

PLEDGE OF ALLEGIANCE: Charlene Dockray's 2nd Grade Class from Dr. Daniel Bright Elementary School.

ITEM NO. 1. Board of Supervisors.

1. Consider requesting the City of Prescott to work with the County to collect information regarding potential partitioning of the City/County property located along Prescott Lakes Parkway. Approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street. No comments from the public.

Mr. Holst explained that this request was related to property jointly owned by the City of Prescott and Yavapai County in the vicinity of Prescott Lakes Parkway, and that he would like permission for County staff to begin working with the City's staff regarding the partitioning of the property. Supervisor Brownlow said he had discussed this issue with the City's council members and the mayor, and that he had also spoken to most of the property owners within one-half mile of the property and that at this point it did not appear that anyone would have a problem with the County's plans to build a justice facility on the property.

2. Discussion and possible action regarding Indian Gaming Local Contributions. Upon a motion by Chairman Davis, seconded by Supervisor Street, the Board voted unanimously to use the approximately \$9,500 contribution made by the Yavapai Apache Tribe for the Verde Valley Senior Citizens project, with the understanding that the Tribe would be recognized for its contribution.

Mr. Hunt explained that Proposition 202 provided for the Tribes to contribute 12% of their gaming revenues to local governments either through a direct contribution or through a committee that would accept the contributions and then dole them back out in the form of grants. He said he believed it was better to work with the Tribes for a direct contribution in order maintain local control. He said the County had already received a contribution from the Yavapai Apache Tribe and that it could expect to receive a contribution from the Prescott Yavapai Tribe. Mr. Holst said there had been some preliminary discussions with the Prescott Yavapai Tribe, and Supervisor Street said the Tribe estimated that the contribution would be about \$70,000. She said the consensus among the leaders of the city and towns in the tri-city area, and the County, was that the Tribe should rotate contributions from one jurisdiction to the next because that would ensure that each jurisdiction would have sufficient funding to do something worthwhile. She added that many of the individuals who had been part of the discussion were now gone, and that it might be necessary to revisit the subject with the city and towns. Chairman Davis asked if using the contributions for specific projects would require Board approval. Mr. Hunt said he believed it would. Chairman Davis said he would like to use the approximately \$9,500 contribution from the Yavapai Apache Tribe for the Verde Valley Senior Citizens project. Supervisor Brownlow asked if that project would meet the criteria for use of the contribution. Mr. Hunt said he believed so, and that the criteria was quite broad. Supervisor Street said she thought it would be important to recognize the Tribe for its contribution.

3. Consider approval of items appearing on the Consent Agenda for Board of Supervisors. With the exception of items 1.e. and 2.a., all items were approved by unanimous vote. Motion by Supervisor Brownlow,

second by Supervisor Street. No comments from the public. See Consent Agenda for Board of Supervisors for detail.

ITEM NO. 2. MIS Director Stephen Welsh. Discussion and possible approval of options for a phone system for Medical Assistance Building located in Prescott Valley with two options. Option 1 (\$5,350 Capital and \$31,583 per annum) or Option 2 (\$67,636 Capital; \$16,800 per annum) to be paid from Long Term Care. Option 2 was approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street. No comments from the public.

Mr. Welsh said that the cost of Option 2 would be another \$20,000 above what was listed on this day's agenda. Mr. Holst said that going with Option 2 would provide for the IP phones that the majority of County offices are using and that it would take about four years for the Long Term Care program to pay the County back. He said that if the program were viable for that period of time it would make sense to go with the better technology. Mr. Welsh said that Option 1 would be to move the existing phones that are currently being used by the department. Mr. Holst said it would be possible to continue the lease of the building in Prescott that Medical Assistance would be vacating, to leave the existing phones and other equipment there and to move another department into that building. Supervisor Street asked what Medical Assistance would do for furniture in the new building. Mr. Holst said the department would purchase new work stations. Supervisor Street asked if there was enough money to cover these costs. Mr. Holst said there were sufficient funds to cover the costs. Supervisor Street asked if the General Fund would need to pay back the Long Term Care program for phones and equipment left in the Prescott building. Mr. Holst said yes, and that there were two or three departments that could move into that building. He said the only question in his mind was whether to lease the entire building or just part of it, adding that because of delaying the expansion of the Fair Street building and because of cramped conditions in the Gurley Street building there were departments that could be moved into the leased building.

ITEM NO. 3. Human Resources Director Julie Ayers. Consider the following reclassification requests to be effective July 4, 2004: Appraiser Supervisor, Range 60 to Range 61; Facilities Superintendent, Range 62 to 63; Sign Maintenance Worker, Range 57 to 58; Legal Secretary, Range 58 to 59; Attorney Entry, Range 64 to 65; Attorney Journey, Range 66 to 67; Attorney Senior, Range 67 to 68; Attorney Supervisor, Range 68 to 69; Investigator Supervisors, Range 65 to 66; Building Inspector Journey, Range 60 to 61; Building Examiner, Range 61 to 62; Building Inspector Senior, Range 62 to 63; Plans Examiner Senior, Range 63 to 64; Chief Building Inspector, Range 64 to 65; Land Use Specialist, Range 59 to 60; Environmental Health Specialist I, Range 58 to 59; Environmental Health Specialist II, Range 61 to 62; Program Manager II, Range 62 to 63; Identification/Property Supervisor, Range 61 to 62; Dispatch Communication Specialist, Range 58 to 59; Dispatch Communication Supervisor, Range 61 to 62; Deputy Sheriff, Range 61 to 62; Investigator, Range 62 to 63; Sergeant, Range 63 to 64; Lieutenant, Range 65 to 66; Captain, Range 66 to 67; Major, Range 68 to 69. As part of this reclassification, also consider correction of reclassifications for the following individuals: Karen Parker and David Boisvert corrected to Appraiser Supervisor; Kenny VanKeuren corrected to Facilities Superintendent and the Zoning Inspector Journey, Site Inspector and Code Compliance job titles all be combined into one title of Land Use Specialist and consider approval that each incumbent listed above receive a 5% salary adjustment, but in no case less than Step 1 of the new range at a cost of \$472,477 to be paid salary line item from each department being impacted. Chief Deputy County Attorney Dennis McGrane, Sheriff's Account Clerk III Jennifer Gray, and Sheriff's Lt. Steve Francis participated in discussion of this item. Supervisor Brownlow moved to approve the range adjustments to be effective July 4, 2004, except for the Attorney, Dispatcher, Building Inspector and Plans Examiner positions, which he said should be effective immediately. His motion died for lack of a second. Supervisor Brownlow then moved to approve the changes with all of them to be effective July 4, 2004, except for the new hire and incumbent Dispatcher positions, which he said would become effective immediately. Supervisor Street seconded the motion, which carried by unanimous vote.

Ms. Ayers told the Board that a number of positions were determined to be below market, and that her recommendation was to approve the changes as noted and to make them effective July 4, 2004. In response to a question from Chairman Davis, Ms. Ayers explained that the County had 320 different job titles and that reviews were generally done in response to a request from a department but that her goal was to re-evaluate all County positions every three years. Supervisor Street said that as a result of this request 233 people would receive at least a minimum 5% increase in salary, and that the Board was still considering an overall

range adjustment plus re-implementation of the merit program. Mr. Holst said that was true, and that upon approval of this day's request the starting salaries for the positions listed would increase by 10%. Mr. McGrane requested that the Board make the changes for the Attorney positions effective immediately, saying that this would help his office in its recruiting efforts. There was brief discussion regarding making the changes effective immediately, during which Supervisor Street asked if there were sufficient funds to do so. Mr. Holst said there was money in the Contingency account. Supervisor Brownlow expressed concern about the pay level for Dispatchers. Ms. Ayers suggested recruiting with the understanding that the changes would be effective July 4.

ITEM NO. 4. Presiding Judge of Superior Court Robert Brutinel. Consider approval of appointment of Superior Court Judge Pro Tempore Warren R. Darrow for term of April 19, 2004 through December 31, 2004. Approved by a 2-to-1 vote, upon a motion by Supervisor Street, seconded by Supervisor Brownlow. Supervisor Street and Brownlow voted "Yes", and Chairman Davis voted "No."

Judge Brutinel reminded the Board that in January it had asked the court to come up with a plan to improve felony case processing. He said the court had done that and that the Board had funded the new plan, and that he had taken the necessary steps to implement the plan including hiring a new Judge Pro Tempore. He said he had recommended that Warren Darrow be appointed to the position and that the Chief Justice of the Arizona Supreme Court had approved that appointment. Chairman Davis said he thought the Chief Justice made the appointment after the Board approved it. Judge Brutinel that the Chief Justice made the appointment and then it went to the Board for approval. Chairman Davis said there were nine full-time judges and that 40% of the cases were in the Verde Valley. He asked whether three of the nine judges should be in the Verde Valley. Judge Brutinel replied that he was increasing resources in the Verde Valley, that there were three full-time judges in the Verde Valley and that Judge Darrow would be doing about 7% of the cases in the Verde Valley. Supervisor Brownlow asked whether it would be necessary to have a new courtroom in the Verde Valley in order to make the new felony case processing program work. Judge Brutinel said a new courtroom was needed, but that it was needed more in Prescott. Supervisor Brownlow noted that the prisoners are housed in the Camp Verde Jail, and he asked why, when that was the case, the new Judge Pro Tem would only spend 7% of his time in the Verde Valley. Judge Brutinel said he and Supervisor Brownlow had discussed whether the judges who work in the Verde Valley were familiar enough with the Verde communities. He said he believed that diversity was good but that he believed there were also other types of diversity to consider, such as intellectual diversity. He said it did not matter to him which judge sat in the Verde. He said it appeared the Board was telling him it would like the new Judge Pro Tem to be more involved in the Verde Valley and that this would certainly make Judge Hinson happy because he would not have to drive to the Verde. Supervisor Brownlow asked about civil cases. Judge Brutinel said he planed to work on that issue as well, but that the Board had made it clear that criminal case processing was its top priority. Supervisor Brownlow asked if people are sent to court in the jurisdiction in which they are arrested. Judge Brutinel said that was true, at least in the case of juveniles. Chairman Davis asked what percentage of prisoners was housed in the Verde Valley. Lt. Price said it was about 75%. Chairman Davis said that three-quarters of the prisoners were housed in the Verde, that one-third of the cases were from the Verde, and that 100% of the judges were from Prescott. He said the pro tem process was the only time the Board had an opportunity to weigh in on the appointment of judges. Judge Brutinel said that was true. Chairman Davis said the Board had made a request for a streamlined process and the Board had agreed to spend \$1.5 million to make it work. He said the process included a new pro tem position and he asked Judge Brutinel at what point the Board had engaged with him to discuss the appointment of the pro tem. Judge Brutinel said he was not sure he understood the question, and that he was not sure the Board was supposed to be part of that process. He said the Board and the court were separate processes of government and that he did not get to pick Supervisors just as the Board did not get to pick judges. In response to a question from Chairman Davis about the process used to appoint a pro tem, Judge Brutinel said he had created a committee of four people to interview applicants and that the committee had made recommendations to him regarding the top applicants. Chairman Davis asked if the same process had been used to appoint Mr. Darrow as that which had been used to appoint Judge Hess. Judge Brutinel said no, that he thought there was a greater need to fill the new pro tem position quickly and that he had used the same list

of applicants that were interviewed prior to the appointment of Judge Hess. He said he had chosen Mr. Darrow as the best person for the job. Chairman Davis referred to the fact that the Board also makes appointments and chooses the best person for the job. He said that when Judge Hess was appointed Judge Brutinel had told him that he was torn between appointing Judge Hess and appointing an applicant from the Verde Valley who was very well qualified. Judge Brutinel said he had told Chairman Davis there were three other applicants who were very well qualified. He said he agreed that it would be good to have a judge from the Verde Valley and that it would make his life easier, but that it was his job to appoint the best person for the job and that he had some specific reasons for appointing Mr. Darrow. He said one reason had to do with conflicts and that another had to do with wanting to have intellectual diversity. Judge Brutinel said that two of the last judges appointed by the Governor had been prosecutors and that Mr. Darrow had experience in both prosecution and defense. Chairman Davis asked Judge Brutinel if he was friends with Judge Hess and Mr. Darrow. Judge Brutinel responded that he was, and that he was also friends with Deputy County Attorney Joe Butner but that he was probably better friends with Judge Hess than with Mr. Darrow or Mr. Butner. Chairman Davis said he thought there was an appearance that Judge Brutinel was friends with the people he appointed and not friends with the rest of the applicants. Supervisor Street said the only surprise for her was the fact that the Board had been in budget meetings with Judge Brutinel all day the day before he announced Mr. Darrow's appointment and that not once during those meetings had he mentioned the appointment to the Board. She said she was sick of discussions every Monday about the Verde and Prescott. She said she believed the appointment of a pro tem was Judge Brutinel's call, and she moved to approve the appointment of Mr. Darrow as the Judge Pro Tem. Judge Brutinel apologized to the Board members for failing to say anything about Mr. Darrow's appointment before making it public. Supervisor Brownlow seconded the motion. Chairman Davis told Supervisor Street he was sorry if she was tired of hearing about the Verde and Prescott, but that if he had nine members of an elitist club he would be happy, too. He said he did not have anyone in the elitist club and those those who were in the club even used County vehicles to drive to work in the Verde. He said that rather than have 30% to 40% of the judges situated in the Verde Valley, they all lived in Prescott and drove to the Verde every day and that it did not make sense as a management strategy. Judge Brutinel said he understood Chairman Davis' point, but that the judges were not an elitist club. He said there were a few lawyers in the Verde Valley but that for the most part they did not apply for judicial positions. He said there was enough work for two judges in the Verde Valley and that he had two full-time judges there, and that because of the Board's approval of the new pro tem position there would now be four judges working full time on criminal cases. Judge Brutinel said there was not enough work in the Verde for a third full-time judge, adding that many of the people who were housed in the Camp Verde Jail actually had committed crimes in Prescott. Supervisor Street said she would like to call for the vote. Chairman Davis said there was a clear disadvantage with regard to judges because once a person was appointed or elected to a judicial position no one would run against them. Judge Brutinel said perhaps the reason for that was that people felt the judges were doing a good job. He said that in the last eight years there had been two contested judicial races. He pointed out that of the nine superior court judges, six of them were elected and three were appointed. Judge Brutinel said that anyone who wanted to be a superior court judge could run for the office and that if there were lawyers in the Verde Valley who were interested in being judges they could run for office. Supervisor Street pointed out that the appointment on this day's agenda was a pro tem appointment for a limited period of time. She said the purpose of the new felony case processing system was to expedite cases and that that was the only reason she had voted to spend \$1.5 million for the program. She told Judge Brutinel she hoped the program worked because if it did not she would vote to take the money back. There was brief discussion regarding the length of appointments for pro tems, during which Ms. Schaefer said state statutes allowed appointments of one year. Supervisor Street restated her motion to approve the appointment of Mr. Darrow. Supervisor Brownlow restated his second of the motion, adding that he also was ready to call for the vote. Supervisor Brownlow said he was disappointed that this appointment was not for someone from the Verde Valley, but that the disappointment had nothing to do with Mr. Darrow, whom he described as a fine person. He said he understood Chairman Davis' position, and that being a Supervisor in the Verde Valley was very different than being a Supervisor in the Prescott area. He said he understood Chairman Davis' disappointment but felt the Board needed to approve the appointment and move on. Supervisor Brownlow said that many people

in the legal field had said it would be very difficult to make the new program work. Chairman Davis said he wanted to apologize to Mr. Darrow and that he thought the applicants in this process were all innocent victims. He said he could not fully express the extreme disappointment he felt in the things that had taken place in order to make sure the Board approved this appointment. Judge Brutinel said he would be willing to discuss this matter with Chairman Davis in private.

ITEM NO. 5. Public Works Director Richard Straub.

1. Presentation of the 2004 National Partnership for Highway Quality "Making a Difference" Award for the Glassford Hill Segment of the State Route 89A Project.
2. Consider approval of an intergovernmental agreement with Cottonwood-Oak Creek School District No. 6 for the paving of Del Rio Drive, Verde Village area, at a cost of \$5,000 to be paid from HURF funds. Approved by unanimous vote. Motion by Supervisor Street, second by Supervisor Brownlow. No comments from the public.
3. Permission to enter into a purchase agreement for acquisition of Lot 89, Wickiup Mesa for the Chipmunk Hollow Road Widening Project, Lake Montezuma area, in an amount not to exceed \$3,500 to be paid from HURF funds. Approved by unanimous vote. Motion by Supervisor Street, second by Supervisor Brownlow. No comments from the public.
4. Consider the following actions relating to the Ash Fork Maintenance Building with no County funds involved: (a) Rescind previous Board approval of intergovernmental agreement JPA 02-125 on April 21, 2003, with the State of Arizona. (b) Approve a revised intergovernmental agreement JPA 02-125 with the State of Arizona for the Renovation of the Ash Fork Maintenance Building. (c) Renewal of the Facilities Management/Use Agreement with Ash Fork Development Association. (d) Approve Amendment No. 1 to the Facilities Management/Use Agreement with Ash Fork Development Association. Approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street. No comments from the public.
5. Award or reject bids received for the Dry Creek Road Pre-Cast Bridge Installation in Yavapai County, Arizona, Project #2112130. Bids opened April 6, 2004, with bids received from the following vendors: Silver Eagle Western LLC, \$422,140.50; J. Banicki Construction, Inc., \$484,469.50; Vastco, Inc., \$495,959.00; Stronghold Contracting, \$512,278.70; Fann Contracting, \$517,724.00; Bison Contracting Co., Inc., \$541,564.15; and Rocky Construction, \$581,868.25. Recommend awarding to Silver Eagle Western LLC at \$422,140.50. Half-cent sales tax project. Approved by unanimous vote. Motion by Supervisor Street, second by Supervisor Brownlow. No comments from the public.
6. Consider approval of items appearing in the Consent Agenda for Public Works. All items were approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street. No comments from the public.

CONSENT AGENDA FOR PUBLIC WORKS: Approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street. No comments from the public.

1. Consider accepting the roads in Verde Santa Fe Parcels 15 and 19 as fully maintained County roads and release funds held in retention under the financial assurances, except for chipseal funds.
2. Consider approval to release all funds being held in retention under the financial assurances for Verde Santa Fe Parcels 16 and 18 except for funds being held for chipseal.
3. Consider approval of final Change Order #1 with Asphalt Paving & Supply, Inc., for the West Cortez Drive Paving and Overlay, Project #2312849, Village of Oak Creek, in the decreased amount of \$726.40. HURF project.
4. Award or reject bids received for the Montezuma Castle Highway ACFC or ARCFC Pavement Overlay in Yavapai County, Arizona, Project #2314011. Bids opened April 6, 2004, with bids received from the following vendors: Fann Contracting, Inc., \$47,338; C&E Paving & Grading, \$47,450; Asphalt Paving & Supply, \$53,891.64; Combs Construction Company, \$59,951.52 and J. Banicki Construction, \$76,661.40. Recommend awarding to Fann Contracting, Inc. for \$47,338. Half-cent sales tax project.

ITEM NO. 6. Development Services Director Ken Spedding and Assistant Development Services Director Enalo Lockard. Planning and zoning.

1. Hearing: Use permit renewal, Trail Horse Adventures, 408-32-012B and 066A, Sedona area, Tom Yoke and Tony Cullum agents for Horsecents Entertainment, Inc., #3140. Consideration of a permanent and transferable Use Permit for the continued operation of a commercial horse boarding, training, riding and public gathering facility in a R1-35 (Residential, Single Family, site built, multi-sectional and manufactured, minimum 35,000 square feet lot size per dwelling) zoning district on approximately 7 acres. Located in the

Elmersville/Red Rock Loop Road area on the South side of Mockingbird Lane 800 feet West of the Mockingbird Lane/Elmersville intersection. Trail Horse Adventures, formerly known as Kachina Riding Stables, has been in operation since July 7, 1986. Located in SEC 13 TWN 16N R 5E G&SRB&M. The Planning and Zoning Commission recommended approval of the Use Permit renewal, with the following changes in Stipulations: 1). The Use Permit shall be granted on a ~~40~~ 5 year and non-transferable basis; 2). With the exception of hours of operation which shall be from 7 am to 10 pm, the Use Permit shall be in conformance with the Letter of Intent dated 10-7-03, Alternate Site Plan dated 3/3/04, and be in conformance with the applicant's "Suggested Additional Comments" dated 11-19-03; 3). All uses, except for trail riding, to be conducted on site. A current Forest Service Special Use Permit allowing for rides on Forest Service lands shall be maintained at all times while this Use Permit is in effect; 4). *A maximum of ~~75 horses~~ 67 horses during the months from March through August, 54 horses during the months from September through February, to be stabled on site subject to an ongoing abatement program for odor, pests, and dust control; 5). Daily manure removal shall be required; 6). Use shall be in compliance with Sedona Fire District requirements; 7). Certificate of Compliance to be issued within 6 months of Board of Supervisors approval confirming that all stipulations have been satisfied, the use is operating in conformance with all approvals, and in conformance with all other applicable County, state and Federal regulations or the Use Permit will become null and void; 8). A shaded area shall be provided within each of the corrals; 9). The Use Permit shall be limited to the 6 acre proposed parcel as indicated on the Alternate Site Plan dated 3/3/04. A legal description for the proposed parcel of approximately 6 acres and the proposed residential parcel shall be provided prior to BOS approval and shall conform to the standards of the R1-35 Zoning District. Planner Ryan Smith presented this item and Deputy County Attorney Randy Schurr participated in discussion. The following individuals also participated in discussion: Applicant's attorney John Moshier; and area residents Rygh Westby, Jim Elmer, Harry Easton, Jay Elmer, and Sarah Sokol. Supervisor Brownlow moved to approve the use permit with the following stipulations: (1) The Use Permit shall be granted on a 5 year and non-transferable basis; (2) with the exception of hours of operation which shall be from 7:00 a.m. to 10:00 p.m., the Use Permit shall be in conformance with the Letter of Intent dated 10-7-03, Site Plan dated 10/8/03, and be in conformance with the applicant's "Suggested Additional Comments" dated 11/19/03; (3) all uses, except for trail riding, to be conducted on site. A current Forest Service Special Use Permit allowing for rides on Forest Service lands shall be maintained at all times while this Use Permit is in effect; (4) a maximum of 67 horses, to be stabled on site subject to an ongoing abatement program for odor, pests, and dust control subject to gradual reduction as follows: year 1 will equal 67 horses in total with 90 days to reduce the herd to 67 head, year 2 will reduce the herd to 56 head, year 3 will reduce the herd to 45 head, year 4 will reduce the herd to 34 head and year 5 will reduce the herd to 23 head. At the end of year 5 the herd will be reduced to 14 horses; (5) daily manure removal shall be required; (6) use shall be in compliance with Sedona Fire District requirements; (7) Certificate of Compliance to be issued within 6 months of Board of Supervisors approval confirming that all stipulations have been satisfied, the use is operating in conformance with all approvals, and in conformance with all other applicable County, state and Federal regulations or the Use Permit will become null and void; (8) a shaded area shall be provided within each of the corrals; and (9) the use permit shall be limited to the 7 acre proposed parcel as indicated on the original site plan dated 10/8/03. Supervisor Street seconded the motion, which carried by unanimous vote.

Mr. Smith said this item had been heard by the Board in December 2003 and was subsequently sent back to the Commission to address the concerns of residents in the area. He said it had been suggested that the applicant downsize his operation to six acres and reduce his herd to 75 horses, and that the permit be granted for 10 years. He said the Commission had reduced the herd size to 67 horses on a five-year permit, and that it now appeared that a five-year phase-out might be acceptable to the neighbors who were opposed to the operation. He added that because of opposition to the use permit, a unanimous vote of the Board would be required to approve the permit. Chairman Davis asked if the boundaries had changed because the applicant wanted to get around someone voting no on this project. Mr. Smith said that appeared to be the case. He said he had also received many letters of support for the project but that most of them were from outside the Elmersville area. Mr. Smith said the applicant had suggested that he had an agricultural exemption but that no documentation for that had been provided and that the Assessor's Office had the property on the rolls as a commercial property. Chairman Davis said the first attempt was to redraw the boundaries to avoid the issue of someone voting no, that the second attempt was to claim grandfathered status because the operation was there prior to approval of the building code, and that the third attempt was to say the property was agricultural and therefore not subject to the Board's jurisdiction. Mr. Smith said yes. Mr. Westby said his property was approximately 150 feet from

the applicant's property. He said the operation had been there for about 30 years and that he had seen steady erosion of the rural communities in favor of development. Mr. Westby said the corrals had been moved back and that he had no problem running his cooler because of odors, and that he did not believe properties in the area had lost value as a result of Mr. Yoke's business. He said there were three permitted businesses in the Elmersville area but at least eight other businesses that were not permitted and which were being run out of people's homes. Mr. Westby said this was the last stable in the Sedona area that could operate on forest land. Mr. Moshier said his client was in a life or death situation with regard to his business and that he was appealing to the Board to not kill the business now. He said that at the beginning of this process he did not think it would be controversial because there were no complaints to the County and no complaints at the neighborhood meeting his client had held. Mr. Moshier said that when the issue of a unanimous vote arose, it made sense to change things in order to reduce the number of votes needed for approval but that because of recent protests his client would need a unanimous vote of the Board anyhow. He said that the majority of the neighbors who had weighed in on this issue were in support of the application to continue the use permit and that they recognized that the business represented a clean industry and that it provided jobs. Mr. Moshier said the business had been in the same location in one form or another since at least 1973 and that his client had invested a great deal of money in it. He said it was not possible for his client to just pick up and move somewhere else and that if the Board denied the use permit the business would be gone forever. Mr. Yoke said the hearing process had gone on for about six months and that this was the fourth hearing on the matter. He explained the changes that had been made to try to mitigate neighbors' concerns and he pointed out those neighbors closest to his property who were in support of his application. He said that the last time was in front of the Board, the Board had asked him to address the neighbors concerns and that he had made a number of phone calls to people to discuss their concerns, and that the greatest concern he had heard was the idea that he might be expanding his operation. Mr. Yoke said the other major concern he heard was that if he was granted a permanent use permit he would no longer take care of the property. He said another concern was that because of the number of horses on the property horse urine could affect groundwater. Mr. Moshier told the Board it would be a shame to put the business down now. He pointed out that the Commission had again reviewed the application and had made some changes by reducing the number of horses allowed and providing only a five-year non-transferable permit. He said that the reduction in the number of horses would reduce the impacts and reduce people's concerns. He said that with regard to additional improvements to Mockingbird Road, there was not much more his client could do because of power poles that could not be moved. Mr. Moshier said his client was doing everything possible to address concerns about odor, but that there were other horses in the area also that could be contributing to odor problems. He said his client had tried hard to be a good neighbor and that he would like five more years on the use permit to allow more time to work with neighbors and to develop and exit plan. Chairman Davis said the problem would not get smaller and would only grow because that was what happened when more people moved into an area. He said he did not want to go through this again in five years. Mr. Moshier said his client would like enough time to make a graceful exit. Supervisor Brownlow said he was not sure that he agreed with Chairman Davis, and that most of the people who were complaining about Mr. Yoke's business knew it was there when they moved into the area. He said that if the new people did not like it, they should not have moved there. Jim Elmer said his father's parents had homesteaded in the Elmersville area and that he, himself, was born in Sedona. He cited dust, commercial traffic and flies as some of the most obvious problems associated with this operation, saying that fewer horses in the area would mean fewer flies. He said a 12-foot-wide road was not sufficient to handle commercial traffic, and that the business had grown from what it was in the 1973 or 1975. He said he thought that many of the supporters of this application had commercial interests in the area, and that the area had been over-used. He said that in addition sometimes the creek was used by people on the trail rides and that residents in the area who used the creek were told to leave. He said he felt strongly that this operation needed to be phased out and he requested that the Board deny the permit. Mr. Easton said he was a member of the Red Rock-Dry Creek Community Plan committee and he referred to the Plan recommendations that the County not allow any use permits that would add non-residential uses in the plan area, and that commercial or industrial activities not be allowed in the Red Rock Loop area. In response to a question from Supervisor Brownlow, Mr. Easton said he did not object to home businesses but that people did not like to see more

traffic in the area. Ms. Sokol said she owned property in the area that she was renting to someone and that her tenant had said he was in favor of Mr. Yoke's application but that her tenant did not have the authority to make that statement. Jay Elmer said he thought what people were really upset about was the attempt to take away the residents' ability to have a voice in this issue. Chairman Davis said he would like to suggest a phase-out over a five-year period, with 67 horses the first year, 54 horses the second year, 45 horses the third year, 34 horses the fourth year, and 23 horses the fifth year with the understanding that at the end of the fifth year there would be 14 horses on the property. He said if that was not economically feasible then he would recommend a three-year permit and being done with the whole issue at the end of that time. Mr. Moshier said that given the two options, his client would prefer the phase-out over five years, but that he did not want to surprise the Board if at the end of the five years he came back with a request for a commercial use permit. Chairman Davis said he believed the applicant did have a good operation and that there was value to the community because of the business, but that there was a conflict because it was in a residential area. He said this was not an easy situation. Supervisor Street told Mr. Yoke that she understood what he was trying to do, but that she also understood that she would not have put so much money into a business that was operating on a temporary use permit. She said she thought Mr. Yoke could see the writing on the wall and that she was fine with some kind of phase-out of the business. There was brief discussion about allowing the applicant 90 days to reduce the number of horses to 67, and allowing the applicant to have the same number of horses on the property year round. Mr. Schurr pointed out that at the end of the five-year permit there would be 14 horses allowed on the property for personal use but that if Mr. Yoke wanted to operate a commercial business he would need to request a use permit.

CONSENT AGENDA FOR BOARD OF SUPERVISORS: Unless otherwise noted, all items were approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street. No comments from the public.

- 1. Requests from Board of Supervisors:
 - a. Approve minutes of meeting of April 5, 2004, and of special meetings of March 29, 30, 31 and April 1 and 2, 2004.
 - b. Bingo license for which there are no protests: Type "A", Villages of Lynx Creek Owner's Association, Dewey area, Ben Stanton.
 - c. Approve appointment of precinct committeemen as recommended by the Yavapai County Republican Party as evidenced in Board Memorandum No. 2004-6.
 - d. Consider approval of Change Orders 1 – 11 with ETW Group, Inc., for the Verde Valley Senior Center, a CDBG project, in the additional amount of \$32,182.96.
 - e. Approve appointment of Bryan Detwiler as a Yavapai County Water Advisory Committee Alternate for District 3. Chairman Davis introduced Mr. Detwiler. Approved by unanimous vote. Motion by Chairman Davis, second by Supervisor Brownlow.
 - f. Request from the Local Workforce Investment Board to approve the appointment of the following individuals to the Local Workforce Investment Youth Council Board: Patrice J. Sell, Local Education Sector and Brent Freeman, Non-Profit sector with terms to expire April, 2006.
- 2. Requests from Juvenile Probation:
 - a. Approve appointment of Scott Mabery to replace Gordon Glau on the Youth Count Steering Committee as a County representative. Mr. Mabery participated in discussion of this item. Approved by unanimous vote. Motion by Supervisor Brownlow, second by Supervisor Street.
 - b. Approve intergovernmental agreement with Yavapai College for YouthSTEP, a collaborative summer employment/remedial education program for juvenile offenders, at a cost of \$69,913 to be paid from Probation Services Fund.
- 3. Request from Human Resources to consider payment to Boyle, Pecharich, Cline, & Whittington, PLLC for legal services for the local retirement boards associated with Public Safety, in the amount of \$2,438 to be paid from Contingency.
- 4. Approve vouchers.

- CLAIMS AGAINST YAVAPAI COUNTY

<u>ACCOUNT</u>	<u>AMOUNT</u>	<u>ACCOUNT</u>	<u>AMOUNT</u>
General Fund	1,943,602.25	Jail District	290,471.71
District 1 Park Fund	1,113.96	District 2 Park Fund	10,800.79

District 3 Park Fund	875.97	CERT	11.40
Hazmat Equip Grant	6,565.12	WMD Planner	217.02
HS 2003 Primary	8,198.76	HS 2003 Supplement	13,069.65
DOJ HS Exercise	1,146.15	Education Svs Agency	3,976.08
AZ Coop Purchas. Net	1,466.87	Medical Reserve Corps	726.01
Resep Radiation Exp.	411.96	Child Health Grant	4,630.35
Comm. Health Center	17,970.99	AMPPHI	1,316.63
Family Planning	3,933.32	MCH Programs	2,679.18
Health Promotion	2,545.50	Teenage PG Prevent	3,407.03
Nutrition	1,054.47	T.B. Control	1,820.36
WIC Program	17,790.29	Title X Family Plann.	9,276.35
Folic Acid Program	162.53	Jail Enhancement	2,559.36
Juvenile Delinq. Reduct	9,832.76	Juvenile IPS	14,905.50
Family Counseling	1,977.00	Juvenile Food Prog	1,344.29
Comm. Advisory Bd	2,500.00	Probation Serv	4,274.77
Adult IPS	30,565.92	Adult Probation Fees	18,637.24
Prob Enhance	44,712.59	Recorder's Surcharge	2,008.87
Indigent Def/Dg	1,281.38	Crim Just/Atty	1,828.05
Bad Check Prog	2,427.35	Juv Prob Svs	1,869.92
Commodity Fd	1,318.23	Azeip Case Mgmt	291.60
Sexual Trans Disease	144.45	Hi Risk Chld HI	5,460.41
Clerk's Storage	1,521.15	HIV Counsel & Test	2,500.29
Atty Anti-Racket	4,487.58	PANT	2,910.20
Law Library	1,051.43	CASA	5,648.56
Case Processing	5,672.78	Prim. Care – V.V.	8,976.76
Vict Witns Prog	8,424.55	Court Enhancement	1,900.78
Council Court	3,180.62	Project Lifesaver	263.57
Inmate Health Svs	52.77	Preserve Co Att Photos	150.00
Drug Enforcement Fund	4,182.37	Probate Fund	146.30
Primary Care Svs	12,682.61	PC Fees V.V.	4.55
Local ADR	475.00	Victims Rights Impl	3,926.47
JAIBG Juv Acct P-II	3,070.73	Yav. Indian Agree.	1,298.38
Dietetic Intern	2,214.55	Immuniz Service	2,214.55
Personal Care Svs	3,774.57	Idea-Preschool	2,104.01
Subs Abuse/DARE	514.40	Chem Abuse	686.54
Family Drug Court	977.86	Juvenile Drug Court	4,543.97
Juv Det/PACE	2,634.22	Collab. Comp Rev Gr	337.36
Prevent Child Abuse	4,195.29	Special Program	37,803.01
Sm Schools Ecia	1,165.00	Sm Schools Beha	22,940.61
Fill the Gap – Courts	13,509.50	School Facilities	2,568.30
Hurf Road Funds	588,400.66	Assessor Surcharge	1,674.80
Assessor App Dev	7,702.00	Health Fund	73,555.87
Jail Commissary	5,717.18	Landfill Administ.	15,365.41
Water Advisory Comm	3,221.77	Clinical NICP	194.36
Tire Recycle	4,942.56	Safe School Pro	7,635.84
Adhs-Svs Coord	943.62	EII Consort 2003 NCLB	6,007.61
Fill the Gap – Attorney	4,508.83	Family Law Commiss.	6,781.09
Comm Punish Pro	4,271.09	Juven. Detent Ed Pro	4,256.61
Regnl Road Project	328,682.52	Sterilization Svs	600.00
Health Start	3,408.47	DUI Comm. Gov Office	1,908.70
Interstate Compact Pro	1,954.20	Ryan White II	3,293.54
Prepared. Bioterror	10,990.40	Primary Care Fees	9,206.72
Perinatal Block	2,293.81	Well Woman Health	7,025.97
Tobacco Educ	10,592.79	St Imple. Grant	134.95
School Reso. – Mayer	1,482.32	St Grant in Aid	1,168.30
Az Reg. Supp. Center	168.68	Direct Treatment Fund	13,792.69
Mental HealthRWJF	3,221.96	Mental Health Part.	3,221.99
Field Trainer	2,139.22	Comm. Access Pro	5,912.71
Attendant Care	24,112.48	HIV/CT	154.95
HIV Prev. & Control	8.15	Access & Vis	84.00

Childrens Justice	1,131.96	Child Sup & Vis	646.15
Domestic Relations Ed	522.82	Self Service	373.81
VOCA	8,146.30	LTAF Vlt Local Trans	4,500.00
Yav. Drug Court	1,938.49	JTSF Treatment	4,329.70
Diversion Conseq.	960.75	Tobacco Donation	53.58
Capital Projects	25,708.00	Jail Construction	102,020.44
Seligman Airport	12,622.00	Bagdad Airport	293.06
ALTCS	1,771,105.01	Help Debt Svs Loans	191,789.06

In addition, payroll was issued on April 16 for the pay period ending April 10; warrant numbers 2442007 through 2442441, in the amount of \$362,704.04. Jury certificates issued during this time; 6865258 through 6865286; 6865286 through 6865425. Warrants issued for April 19 Board day, 4215858 through 4216325; 4216326 through 4216796.

There being no further business to discuss, the meeting was adjourned.

ATTEST:

_____Clerk _____Chairman