



**OFFICE OF THE COCONINO COUNTY BOARD OF SUPERVISORS AND BOARD OF DIRECTORS OF THE COCONINO COUNTY FLOOD CONTROL DISTRICT**

**SPECIAL SESSION AND EXECUTIVE SESSION MINUTES**

**Friday, April 14, 2023, 10:30 a.m.**

**This meeting was held virtually via zoom webinar.**

**Present:** Chair Patrice Horstman, Vice Chair Jeronimo Vasquez, Supervisor Matt Ryan and Supervisor Judy Begay were present virtually via Zoom. Supervisor Lena Fowler joined the meeting at 11:33 a.m. virtually via zoom.

**Also Present:** Deputy County Manager/Flood District Administrator Lucinda Andreani, Deputy County Manager Sue Brown, Deputy County Manager Andy Bertelsen, County Manager Steve Peru, Deputy County Attorney Heather Mosher, Deputy County Attorney Monique Coady, County Attorney William Ring, Clerk of the Board of Supervisors Lindsay Daley were present virtually via zoom.

Chair Horstman called the meeting to order at 10:31 a.m. and each Supervisor present introduced themselves. Supervisor Lena Fowler was not present. Chair Horstman led the Pledge of Allegiance.

**Call to the Public:**

Chair Horstman requested Clerk of the Board Lindsay Daley to provide instructions for how people present can provide public comment and the Clerk provided the instruction of clicking on the hand icon if present via zoom or dialing \*9 if present by telephone.

**Jamie Hernandez, 12385 Daniel Way, Flagstaff, AZ 86004 spoke:**

“Good morning Supervisors. Thank you for the opportunity to address some concerns of the Black Bill Park neighborhood within the community of Timberline. I represent the residents of Daniel Way. As you know, we were significantly impacted by the Tunnel and Pipeline Fires and subsequent floods. The residents continue to be negatively impacted due to the actions of one property owner located at 12075 Daniel Way. Against the County’s wishes, this property owner filled in a traditional drainage on a County owned easement, which now causes significant pooling of any rainwater or runoff and negatively impacts the health of our road. Additionally,

this property owner continues to encroach on the ingress and egress easements on Daniel Way by building wildcat berms and extending her property line into the roadway. The residents continue to incur expense to maintain the road due to this property owner's selfish acts and willful disregard of the County's direction. I am here today to appeal for help in resolving this matter prior to the upcoming monsoon season. The community has borne the brunt of this financial burden in mitigating this issue, due to her actions. We feel as though the County shares responsibility in resolving this issue for the neighborhood. We look forward to partnering with the County to facilitate a resolution that benefits all parties. Thank you."

Chair Horstman thanked Ms. Hernandez for the comment and stated that due to open meeting law they cannot discuss the issue brought forward but stated they can have the County Manager look at the issue and discuss the issue with Public Works. County Manager Peru asked Ms. Hernandez to email her concern to Clerk of the Board of Supervisors Lindsay Daley.

There were no additional comments from the public.

Chair Horstman stated, "I am going to ask for a motion to resolve as the Flood Control District Board of Directors, do I have such a motion?"

**Motion:** So moved, **Action:** approve, **Moved by:** Supervisor Judy Begay, **Seconded by:** Vice Chair Jeronimo Vasquez. The motion passed unanimously. Supervisor Lena Fowler was not present for this vote.

#### **Flood Control Action Items:**

1. Consideration and possible action to approve a sole source procurement and enter into a Letter of Engagement with Gust Rosenfeld, PLC for District Legal Counsel services.  
**Flood Control District**

Flood District Administrator Lucinda Andreani presented this item. Administrator Andreani explained that the County Attorney's office is struggling with resources with the amount of work coming forward as a result of Flood Control District. She explained the complications and complexities of the Flood Control District work and that there is a lot of transactional and specific work that needs to happen for the Flood Control District in managing the various projects, grants and contracts involved with the necessary flood mitigation work happening right now. She explained that she did propose contracting with outside legal counsel for Flood District for legal review of Flood District issues and items and that the Board was supportive and so that is why she is bringing this forward today for action of the Board. She explained that they have identified Gust Rosenfeldt as legal counsel that has the experience, expertise and capacity that is needed for the type of work the Flood Control District requires. She explained that the scope of work drafted explains the type of work needed. She stated that their goal is to get this representation in place and move forward with the work of the district.

County Attorney William Ring explained that he concurs with Administrator Andreani's analysis and report in this case and that the Board of Supervisors, sitting as the Flood Control District Board of Directors, is in an extraordinary time. He explained that if they were in a

situation where they were operating a district that was well developed and operating a district that was just simply maintaining improvements in place then they would likely have capacity in the County Attorney's Office. He spoke about the County being one of the few places in the nation inundated by fires and floods that need to be dealt with while also having flood mitigation projects and emergency incidents running simultaneously of each other. He stated that all of those projects have contracts and bonds that require review. He explained that this is a public safety issue, imminent, and needs to be acted on now. Attorney Ring explained that the County Attorney's Office does not have the capacity to address all the instances needing legal support. He explained that the County has had a history with Gust Rosenfeldt and that he has great confidence if the Board chooses to engage with them and that they have the depth and capacity to review and act quickly on matters and meet the District's needs.

Attorney Ring stated that he wants to make sure that engagement letter aligns with the staff report on the item. He stated that the draft agreement before the Board describes project work, but that the County Attorney's Office is requesting transition of Flood Control District work to Gust Rosenfeldt not on a project basis and that they are going to receive the client.

He explained that if the Flood Control District Board of Directors takes a motion today that the motion would be to authorize the Chair of the Flood Control District Board of Directors to engage with Gust Rosenfeldt for all manner of legal practice for Flood Control District. If the motion is approved, two things will happen.

1. The Chair of the Flood Control District Board of Directors will be authorized to sign and engage. The County Attorney's Office will work to transition that entire body of work for the Flood Control District over to Gust Rosenfeldt.
2. The Flood Control District Board of Directors should expect to receive a disengagement letter from the County Attorney's Office explaining the transition of work to Gust Rosenfeldt.

Attorney Ring explained that time of essence and neighborhoods are counting on the projects as the monsoon season is coming.

Administrator Andreani explained that the County Attorney worked all through the Schultz flood mitigation work and that he understands the nature and urgency of the work. She also stated that because of that work they have a good framework to use moving forward and how that has laid a great foundation related to disaster confronting the County. She thanked the County Attorney for support.

Chair Horstman explained that the Board of Directors have the cover letter and scope of work in their meeting packet. She asked County Attorney Ring if he agrees that those documents encompass the business of the flood control district and exclusive of agenda items and agenda wording, but the scope of work does set forth retention of private counsel.

Attorney Ring stated that he thinks the agreement outlined project work and that as far as that scope of work goes the outside legal counsel is accurate. He explained though that the County Attorney's Office is wanting to transition all of the legal work for the Flood Control District

work to outside legal counsel and when considering that, the scope of work in the packet is incomplete.

Administrator Andreani summarized what Attorney Ring stated to possibly include in the language.

Chair Horstman stated that Attorney Ring is asking for an increase of the scope of work in the letter. Attorney Ring confirmed that is correct.

She asked Administrator Andreani if she thinks that is the intent of the cover letter and scope of work if it is to provide legal counsel on all matters related to the Flood Control District. Administrator Andreani answered that she does think that is the intent and that she thinks it can be cleared in the letter of engagement.

Chair Horstman stated that it seems outside legal counsel would be used for all matters related to the Flood Control District that are currently in the books and in the books going forward. Attorney Ring stated that it would be all present work and future work related to the Flood Control District.

Director Judy Begay stated that she is confused as she thought the contracted legal counsel would be reviewing the legal documents but now it is including other stuff and is confused how this is going to work.

County Manager Steve Peru stated that he does not want to complicate matters, but the Board does have the option to go into executive session if they so desire on this issue.

Director Matt Ryan stated that he understands what County Attorney Ring is suggesting and this is a different contract than what was brought to them and that he is in favor of going into executive session to discuss the item.

Chair Horstman agreed with Director Ryan and stated that the intent now seems broader than what was described in the material in the meeting packet.

Chair Horstman stated that she would entertain a motion for executive session for advice from legal counsel and asked if she has a motion.

**Motion:** So moved, **Action:** approve, **Moved by:** Director Judy Begay, **Seconded by:** Director Matt Ryan. The motion passed unanimously. Director Lena Fowler was not present for this vote.

**Present:** Chair Patrice Horstman, Vice Chair Jeronimo Director Matt Ryan and Director Judy Begay were present virtually via Teams software.

**Absent:** Director Lena Fowler

**Also Present:** Deputy County Manager/Flood District Administrator Lucinda Andreani, Deputy County Manager Sue Brown, Deputy County Manager Andy Bertelsen, County Manager Steve

Peru, Deputy County Attorney Heather Mosher, Deputy County Attorney Monique Coady, County Attorney William Ring, Clerk of the Board of Supervisors Lindsay Daley were present virtually via Teams software.

Chair Horstman convened executive session at 11:02 a.m.

Chair Horstman adjourned the executive session at 11:30 a.m.

The Flood Control District Directors went back into public session via Zoom software at 11:33 a.m.

**Present:** Chair Patrice Horstman, Vice Chair Jeronimo Director Matt Ryan and Director Judy Begay were present virtually via Zoom software. Director Lena Fowler also joined the meeting at 11:33 a.m. virtually via zoom.

**Also Present:** Deputy County Manager/Flood District Administrator Lucinda Andreani, Deputy County Manager Sue Brown, Deputy County Manager Andy Bertelsen, County Manager Steve Peru, Deputy County Attorney Heather Mosher, Deputy County Attorney Monique Coady, County Attorney William Ring, Clerk of the Board of Supervisors Lindsay Daley were present virtually via Zoom software.

**Chair Horstman stated that in light of their executive session that she would entertain “a motion that we table item number 1 and bring it back at a future board meeting. Do I have a motion?”**

**Motion:** So moved, **Action:** approve, **Moved by:** Director Judy Begay, **Seconded by:** Director Matt Ryan. The motion passed unanimously.

2. Consideration and possible action to approve Amendment #1 to CMAR 2023-106, the Schultz/Pipeline Flood Mitigation – On-Forest Watershed Restoration Project. Amendment #1 provides for Phase 1 Construction Services on the Campbell, North Paintbrush and South Paintbrush watersheds for a total Guaranteed Maximum Price of \$483,993.01. The cost will be reimbursed through the U.S. Forest Service Good Neighbor Agreement #23-GN-11030400-096. There is no District match. **Flood Control District**

Flood District Administrator Lucinda Andreani presented this item. She explained that this will be the first of what will be many guaranteed maximum price amendments to this contract manager at risk- Tiffany Construction. She explained that this specifically allows them to begin work on three watersheds that will be going into construction this spring and how there will be future amendments related activities for phase two in these watersheds. She explained where they currently have clearance to work and that this is needed to get the work underway.

**Chair Horstman asked if she has a motion from her Directors to “approve Amendment #1 to the CMAR 2023-106, for the Schultz/Pipeline Flood Mitigation – On-Forest Watershed Restoration Project. Amendment #1 is for Phase 1 Construction Services on Campbell,**

**North Paintbrush and South Paintbrush watersheds for the total Guaranteed Maximum Price of \$483,993.01, which will be reimbursed to us through the U.S. Forest Service Good Neighbor Agreement which is listed. Do I have a motion?"**

**Motion:** So moved, **Action:** approve, **Moved by:** Vice Chair Vasquez, **Seconded by:** Director Judy Begay. The motion passed unanimously.

**Motion:** To resolve as the Board of Supervisors, **Action:** approve, **Moved by:** Director Matt Ryan, **Seconded by:** Director Judy Begay. The motion passed unanimously.

**Adjourn**

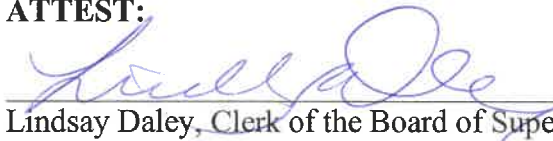
Chair Horstman adjourned the meeting at 11:37 a.m.

**COCONINO COUNTY BOARD OF SUPERVISORS**

(SEAL)

  
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Patrice Horstman, Chair

**ATTEST:**

  
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Lindsay Daley, Clerk of the Board of Supervisors