

**MINUTES OF  
YAVAPAI-APACHE NATION  
Regular Council Meeting  
April 8, 2021**

Amended on 4-14-2021

**1. CALL TO ORDER:** Chairman Jon Huey called the meeting to order at 9:10 a.m., Middle Verde Administration Building and Zoom.us.

**2. INVOCATION:** Darlene Rubio

**3. ROLL CALL:** Nancy Guzman, Amanda Honwytewa, Jon Huey, Ricardo Pacheco, Darlene Rubio and Henry Smith were present. Tanya Lewis and Apphia Shirley joined by zoom.us. Germania Jones arrived late via zoom.us.

**4. APPROVAL OF AGENDA:**

Nancy Guzman emailed a list of items for a work session following the Council Meeting today.

Ricardo Pacheco motioned to approve the agenda seconded by Amanda Honwytewa; 8 For, 0 Against, 0 Abstained, motion passed.

**5. MINUTES OF 3-25-2021**

Vice Chairman Lewis provided the following correction via email:

Page 3, 3<sup>rd</sup> paragraph, 5<sup>th</sup> line, after “costs” insert “per Version 2 (3-25-2021)”

Ricardo Pacheco motioned to approve the minutes with the corrections seconded by Apphia Shirley; 8 For, 0 Against, 0 Abstained, motion passed.

**6. RESOLUTION APPROVING THE NATION’S FUNDING AGREEMENT WITH THE INTER TRIBAL COUNCIL OF ARIZONA – AREA AGENCY ON AGING, REGION 8, UNDER THE OLDER AMERICANS ACT, TITLE III – FOR FISCAL YEAR 2021 EFFECTIVE JULY 1, 2020 THROUGH JUNE 30, 2021**

Darlene Rubio motioned to approve the resolution per Version 1 (4-8-2021) seconded by Amanda Honwytewa;

There was a request to include the 3<sup>rd</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> whereas.

Darlene Rubio and Amanda Honwytewa amended their motion to include the following:

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The Council is authorized to negotiate with other governments, manage the economic affairs of the Nation, and appropriate and regulate the use of the Nation's funds, all as provided under Article V(b), (i) and (k) respectively of the Constitution; ITCA has notified the Nation that the Nation has been awarded OAA Funding for the period July 1, 2020 through June 30, 2021, to fund the Nation's OAA Program during the period in the amount of \$66,700 (\$68,260 with the Nation's In-kind match), which sum includes (1) OAA funds (2) COVID-19 FFCRA relief funds ("Families First Coronavirus Response Act"), and (3) COVID-19 CARES Act relief funds ("Coronavirus Aid, Relief and Economic Security Act"), as reflected in the Funding Agreement for Older Americans Act, Title III Funding ("Funding Agreement"), and Notice of Grant Award Amendment; the Funding Agreement will cover the Project Period of July 1, 2020 through June 30, 2025, as provided in the Agreement will be subject to annual amendments to be approved by ITCA and the Nation as additional program funds become available; the Council approved the Funding Agreement with ITCA per Version 1 (4-8-2021) 8 For, 0 Against, 0 Abstained, motion passed.

Bernadette Williams requested to dispose of an old car. She would like to sell it to U-Pick It.

Darlene Rubio asked if there is a disposal of property policy. If so, Nellie Monroe needs to provide the policy to the Directors/Managers.

Nellie Monroe mentioned the request needs to go to the Council for approve and a form is signed by the Chairman.

Scott Canty explained once we get the title and match the VIN number then you come back for authorization from the Council.

**7. RESOLUTION APPROVING AN AGREEMENT FOR CONSULTING SERVICES BETWEEN THE YAVAPAI-APACHE NATION AND TOSCA HENRY, THE TOSCA LAW FIRM, PLC, TO ASSIST THE NATION IN DEVELOPING AND IMPLEMENTING A STRATEGIC PLAN FOR DOMESTIC VIOLENCE VICTIM SERVICES – Bill Richardson & Robert Mills**

Darlene Rubio mentioned Tosca Henry has a contract under the Public Defender. She feels there is a conflict of interest.

Germania Jones joined the meeting via Zoom.us.

Bill Richardson explained he met with Chief Judge Wilber regarding the agreement and if there is a conflict of interest. Chief Judge Wilber didn't feel there was a conflict.

Chairman Huey informed the Council he will be abstaining due to his relationship with Desiree Huey, Victims Advocate for the Domestic Violence Program.

Scott Canty met with Bill Richardson and also felt there was no conflict.

Henry Smith motioned to approve the resolution with the Term of the Agreement extends from April 19, 2021 through March 31, 2022, with total compensation to be paid to Consultant under the Agreement (inclusive of all fees and expenses) not to exceed \$20,000 for the Term of the Agreement; Funding to pay compensation under the Agreement shall be appropriated and paid from the grant funds received from the National Congress of American Indians Victims Services Micro-Grant Program; the Council has determined that entering into an Agreement for Consulting Services with Tosca Henry for the purposes stated in the Agreement is the best interest of the Nation per Version 1 (4-8-2021) seconded by Nancy Guzman; 6 For, 0 Against, 3 Abstained, motion passed.

**8. RESOLUTION APPROVING THE FIRST AMENDMENT TO THE GAMING DEVICE OPERATING RIGHTS TRANSFER AGREEMENT BETWEEN SAN CARLOS APACHE TRIBE AND YAVAPAI-APACHE NATION – Lisa Estensen**

Henry Smith motioned to approve the resolution due to on December 27, 2002, the Nation executed the Yavapai-Apache Nation and State of Arizona Gaming Compact, which became effective in February 2003, and on January 8, 2009, pursuant to Resolution No. 03-09, the Council approved amendments to the 2003 Compact; on May 8, 2003, pursuant to Resolution No. 45-2003, the Council approved the Gaming Device Operating Rights Transfer Agreement between San Carlos Apache Tribe and Yavapai-Apache Nation, under which the Nation acquired 90 gaming device operating rights from the San Carlos Apache Tribe; Section IILB of the Agreement provides for a Term of 23 years from the effective date of the Agreement; on April 3, 2018, pursuant to Resolution No. 46-18, the Council approved the reduction of gaming device operating rights acquired from San Carlos from 90 to 43 in accordance with Section IILD of the Agreement, authorizing the Nation to reduce the number of gaming device operating rights acquired under the Agreement on each five-year anniversary of the Agreement; on February 18, 2021, pursuant to Resolution No. 31-21, the Council approved the Yavapai-Apache Nation and State of Arizona Amended and Restated Gaming Compact; Section 3(c)(1)(A)(iv) of the 2021 Compact provides that the Nation “shall extend its Existing Transfer Agreement in accordance with its terms, including the term authorizing the Yavapai-Apache Nation to reduce the number of Gaming Device Operating Rights acquired under the Transfer Agreement on each five-year anniversary of the Transfer Agreement.”; the First Amendment to the Gaming Device Operating Rights Transfer Agreement Between San Carlos Apache Tribe and Yavapai-Apache Nation

amends Section II.B of the Agreement to extend the Term of the Agreement through the term of the 2021 Compact in compliance with Section 3(c)(1)(A)(iv) of the 2021 Compact; the First Amendment to the Gaming Device Operating Rights Transfer Agreement Between San Carlos Apache Tribe and Yavapai-Apache Nation provides that all other terms and conditions of the Agreement shall remain in full force and effect through the extended Term, including Section II.D which authorizes the Nation to reduce the number of gaming device operating rights acquired under the Agreement on each five-year anniversary of the Agreement; the Council has reviewed the First Amendment to the Gaming Device Operating Rights Transfer Agreement Between San Carlos Apache Tribe and Yavapai-Apache Nation and finds it in the best interest of the Nation to approve per Version 1 (4-8-2021) seconded by Ricardo Pacheco; 9 For, 0 Against, 0 Abstained, motion passed.

**9. RESOLUTION APPROVING THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING AND COOPERATION BETWEEN THE NAVAJO NATION AND THE YAVAPAI-APACHE NATION – Lisa Estensen**

Henry Smith motioned to go into Executive Session seconded by Apphia Shirley; 8 For, 0 Against, 0 Abstained, (no vote from Tanya Lewis); 8 For, 0 Against, 0 Abstained, motion passed.

**EXECUTIVE SESSION**

Darlene Rubio motioned to come out of Executive Session seconded by Ricardo Pacheco; 9 For, 0 Against, 0 Abstained, motion passed.

Chairman Huey summarized while in Executive Session the Council discussed the Memorandum of Understanding with Navajo Nation.

Henry Smith motioned to approve the resolution due to on December 27, 2002, the Nation executed the Yavapai-Apache Nation and State of Arizona Gaming Compact, which became effective in February 2003, and on January 8, 2009, pursuant to Resolution No. 03-09, the Council approved amendments to the 2003 Compact; as a result of the 2009 Amendment, the Council also approved the Memorandum of Understanding and Cooperation between the Navajo Nation and the Yavapai-Apache Nation pursuant to Resolution No. 03-09 which provides: (1) that both Nations would support the 2009 Amendment, (2) that both Nations would cooperate and provide political assistance to one another for the purpose of protecting the exclusive right of Tribes to operate gaming in the Coconino and Yavapai Counties gaming markets, and (3) limitations on each Nation's gaming development in the Flagstaff area; on February 18, 2021,

pursuant to Resolution No. 31-21, the Council approved the Yavapai-Apache Nation and State of Arizona Amended and Restated Gaming Compact; the 2021 Compact includes, among other things: (1) an additional facility of limited size of the Nation (Section 3(c)(4)(A)(vi) ), (2) the Lower Highway 89 Gaming Facility of limited size of the Navajo Nation (Section 3(c)(4)(A)(x)); and (3) a provision allowing the Nation and the Navajo Nation to have equivalent remedies to a tribe that continues under the 2003 Compact if that tribe claims remedies set forth in Sections 3(g) and 3(h) of the 2003 Compact (Section 3(g)(6)); the Nation and the Navajo Nation have a mutuality of interest in the Coconino and Yavapai Counties gaming markets and desire to work cooperatively to protect their gaming investments through management and limitation of future expansion in said markets; as a result of the 2021 Compact, the Nation and the Navajo Nation desire to enter into an Amended and Restated Memorandum of Understanding and Cooperation which provide for the following: 1. Both the Nation and the Navajo Nation will cooperate and consult with each other to address any gaming development by other entities (including tribal entities) in Coconino or Yavapai Counties; 2. The Navajo Nation shall limit the development of gaming in the Flagstaff area to its current facility in the Leupp Chapter and the Lower Highway 89 Gaming Facility; 3. The Nation shall not develop a gaming facility in the Flagstaff area; 4. Neither the Nation nor the Navajo Nation shall assist another entity (including a tribal entity) to develop a gaming facility within the exterior boundaries of the other Nation's reservation, Yavapai County, or Coconino County without the advance written agreement of both Nations, and the Nation shall not assist another entity (including a tribal entity) to develop or operate a gaming facility in the area within 25 miles of either side of Interstate 40 in Navajo and Apache Counties without the advance written agreement of Navajo Nation; 5. Both the Nation and the Navajo Nation agree to meet and confer prior to either Nation claiming the equivalent remedies provided under Section 3(g)(6) of the 2021 Compact in an effort to manage future expansion of gaming in Coconino and Yavapai Counties; the Council has reviewed the Amended and Restated Memorandum of Understanding and Cooperation Between the Navajo Nation and the Yavapai-Apache Nation and finds it in the best interest of the Nation to approve the same per Version 1 (4-8-2021) seconded by Ricardo Pacheco; 4 For, 0 Against, 5 Abstained, motion passed.

**10. RESOLUTION APPROVING THE DISTRIBUTION OF A PER-CAPITA PAYMENT TO THE NATION'S TRIBAL MEMBERS UNDER THE NATION'S REVENUE ALLOCATION PLAN – Lisa Estensen**

Darlene Rubio motioned to go into Executive Session seconded by Ricardo Pacheco; 9 For, 0 Against, 0 Abstained, motion passed.

**EXECUTIVE SESSION**

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Ricardo Pacheco motioned to come out of Executive Session seconded by Amanda Honwyte; 9 For, 0 Against, 0 Abstained, motion passed.

Chairman Huey summarized while in Executive Session the Council discussed the amount of appropriated funds received from the Casino.

Nancy Guzman motioned to approve the resolution with the Tribal Council authorized to represent the Yavapai-Apache Nation and act on all matters that concern the health and welfare of the Nation, and to make decision not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation, as provided by Article V (a) of the Constitution; the Council as the legislative body of the Nation, is authorized to enact laws, ordinances and resolutions incidental to the exercise of its legislative powers, as provided by Article V(v) of the Constitution; the Council is authorized to manage all tribal economic affairs and enterprises and to appropriate and regulate the use of tribal funds as provided by Article V(i) and (k), respectively of the Constitution; the Council has determined to appropriate funds of the Nation as provided under the Nation's Indian Gaming Revenue Allocation Plan, under which said funds are to be directly distributed to the adult enrolled members of the Nation as a Per-Capita distribution, or placed into trust for those members who are either minors or incompetents, in accordance with the trust requirements of the RAP; the Council hereby finds that as of the RAP accrual date of December 31, 2020, there were a total of 2,612 enrolled members of the Nation (1,810 adults and 802 minors) as reported by the Nation's Enrollment Department; as provided under the RAP, the Council has determined that a Per-Capita distribution for the year ended December 31, 2020, in the amount of \$490.90 should be distributed to the enrolled members of the Nation in accordance with the requirements of the RAP; the Tribal Council hereby approves and directs the Per-Capita distribution from the funds of the Nation, as provided under the Nation's Revenue Allocation Plan, in the amount of \$490.90 to each enrolled member of the Yavapai-Apache Nation in accordance with all requirements of the Nation's RAP for direct distributions to adult members of the Nation and for payments into trust for members who are either minors or incompetent; the Per-Capita direct distribution to adult members is to be made by individual checks distributed by mail on or before April 16, 2021, with the payments for the benefit of minors and incompetents being placed into trust as required by the RAP; due to the ongoing Coronavirus emergency, the Council has determined that for this 2021 per capita distribution the Nation will not deduct from per capita payments any amounts owed as debts to the Nation, except for court ordered payments which shall be collected by the Finance Director and remitted to the accounts of the Nation's Tribal Court for disposition per Version 2 (4-8-2021) seconded by Henry Smith; 9 For, 0 Against, 0 Abstained, motion passed.

**11. RESOLUTION AUTHORIZING AND DIRECTING THE NATION’S TREASURER TO INSTRUCT THE INVESTMENT MANAGEMENT FIRM OF MERRILL LYNCH TO MOVE CERTAIN INVESTMENT FUNDS OF THE YAVAPAI-APACHE NATION HELD IN THE NATION’S PERMANENT FUND INVESTMENT PORTFOLIO INTO AN ALTERNATE INVESTMENT FUND AS SPECIFIED HEREIN – Steven Schepman**

Henry Smith motioned to approve the resolution due to the Nation’s investment funds managed by Merrill Lynch are held in specified investment portfolios and are allocated among particular investment funds and the Tribal Council now wishes to move certain invested funds within the Nation’s Permanent Fund Investment Portfolio into an alternate investment fund as specified in this Resolution, and to authorize the Nation’s Treasurer to instruct Merrill Lynch to carry out the movement of funds as specified in this Resolution; the Yavapai-Apache Tribal Council authorizes and directs the Nation’s Treasurer, Steven Schepman, to instruct Merrill Lynch to take the following action with respect to the Yavapai-Apache Nation Permanent Fund Investment Portfolio; All investment funds of the Nation currently invested by Merrill Lynch in the “Western Asset Strategy Fund” shall be moved immediately into the “Western Asset Corporate Ladder Bond Fund.”; the Chairman and Vice Chairwoman or either of them, are authorized to work with the Treasurer in taking such further action as deemed necessary to carry out the intent and purposes of this Resolution per Version 1 (4-8-2021) seconded by Ricardo Pacheco; 9 For, 0 Against, 0 Abstained, motion passed.

- 12. OLD BUSINESS – None**
- 13. NEW BUSINESS – None**
- 14. ADJOURNMENT**

Ricardo Pacheco motioned to adjourn at 10:59 a.m. seconded by Henry Smith; 9 For, 0 Against, 0 Abstained, motion passed.

**YAVAPAI-APACHE TRIBAL COUNCIL**

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Karla Reimer, Secretary