



THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

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Navajo President Joe Shirley, Jr., urges Council to consider financial, voting rights, due process impacts to overrides

WINDOW ROCK, Ariz. – Navajo Nation President Joe Shirley, Jr., is hopeful Navajo Nation Council delegates understand that financial experts consider the purchase of the Gallup Inn not worth the money, that unseating elected members of the Navajo Nation Board of Education disenfranchises Navajo voters, and that a proposed Navajo Nation smoking ban does not consider how it would be enforced, paid for, or ensure due process of those cited for illegal smoking or chewing.

As the Council plans for a special session to override the President's recent veto of legislation, the President hopes to inform delegates of the true costs and effects their resolutions will have, and are urging them to defeat expected override attempts.

"The Gallup Inn hotel is not worth the money the Council is willing to pay, and is not a good deal for the Navajo Nation," President Shirley said.

He said the purchase of the Gallup Inn is considered high-risk by experts, would be extremely costly to renovate, and likely would never be worth more than the land it sits on.

"No responsible, arms-length, third-party lender or investor would consider this transaction," wrote Market Value Planners CMA Ed P. Chase to Navajo Nation Land Administration Director Mike Halona.

In 2006, Mr. Chase's firm conducted an appraisal on the Gallup Inn property.

Based on 2008 Gallup market conditions and the current state of the hotel investment market, the hotel is considered to be unsellable, or estimated at no more than its land value. It is considered beyond its lifecycle in order to be a candidate for conversion to a top quality hotel franchise, further limiting its ability to be competitive in the Gallup market.

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– Navajo Nation President Joe Shirley

And because of its 42-year-old age, there is more risk of exposure to major equipment replacement and physical renovation needs, translating to significant and unaffordable capital cost exposure.

Rick Swig, president of ISHC who evaluated the hotel, found that based on year-end 2006 performance, the hotel had an investment value of between \$2.5 million and \$3.5 million if fully renovated, and only between \$1 million and \$2 million if unrenovated. The legislation to purchase the hotel would have the Navajo Nation pay a total of \$9.2 million.

Because of the hotel's poor condition, in March the Navajo Nation Hospitality Enterprise withdrew its involvement in the purchase citing "the general economic deterioration of hotel market values since the date of the Inn of Gallup appraisal, May 3, 2007."

The property cannot be considered a quality or moderate risk investment, the President said, because of its age, physical obsolescence, and historical inability to compete effectively in the Gallup market area makes it an unadvisable acquisition.

In addition, there are several liens, deeds of trust and interest owed on the hotel which the purchase agreement would have the Navajo Nation pay \$5 million of the sale price to satisfy these debts. These include:

- Deed of Trust, Assignment of Leases and Rents and Security Agreement for the benefit of Amresco Commercial Finance, Inc., in the original amount of \$4,450,000, subsequently assigned to Norwest Bank.
- Finance Statement to Amresco Commercial Finance, Inc., \$308,067.
- Finance Statement to GMAC Commercial Mortgage Corporation, \$305,819.
- A utility Lien by the City of Gallup, amount not provided.
- A lodger's Tax by the City of Gallup, amount not provided.
- A delinquent property taxes for 2005, 2006, 2007, in amounts not provided.

Regarding the impact of overriding the Board of Education Amendments Act of 2008 veto, President Shirley said the recent amendments to the Diné Sovereignty in Education Act would take away everything that is good and special about the law.

Further, the amendments strip all substantive authority from the Navajo Nation Board of Education, making it merely advisory, he said. It would hand the board's authority to the Navajo Education Committee of the Navajo Nation Council which was not established to set educational standards and requirements, unlike the board.

But perhaps worse, the legislation would unseat all of the newly-elected members of the board, in essence,

rescinding the votes cast in good faith by Navajo voters, and disenfranchising voters about whom they want to represent them on education-related matters.

This action creates unsound precedent, tampers with the democratic process and violates the People's trust, the President said.

Finally, despite its good intentions, the President urges the Council not to override his veto of the Navajo Nation Commercial Tobacco-Free Act because it creates an unfunded mandated without a supportive budget analysis or plan of enforcement of the smoking ban.

He said the law provides no provisions to ensure that due process and equal protection of the law will be provided to those cited for illegal smoking, and that the legislation's ambiguity could result in the interference of, and infringement upon, bona fide religious ceremonies.

The law would allow any citizen to file an oral or written complaint to initiate enforcement procedures. That raises concerns about the burden of proof and civil penalties. Further, there is no administrative appeal process so all cases would go before the Navajo district courts which are already overburdened and lack adequate resources.

The President said a smoking ban would also put Navajo Nation casinos at a significant competitive disadvantage. That would likely result in a 20 percent reduction of projected gaming revenues which would translate into a reduction of employment, and cause the Navajo Nation Gaming Enterprise to default on its loan with the Nation.

The President has said he is committed to work with the resolution's sponsors and the Council to develop a law that addresses these concerns, as well as the real problem of underage smoking.

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