



## The Navajo Nation Council — Office of the Speaker

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**FOR IMMEDIATE RELEASE**

### Human Services Committee hear update on special elections results, pending lawsuit, development of reapportionment plan

*Executive Branch staff, division directors, Office of the President duplicating services of devising reapportionment plan, encouraged to get back to work*

**WINDOW ROCK, Ariz.** – The Human Services Committee of the 21<sup>st</sup> Navajo Nation Council met today for a special meeting to hear an update from the Navajo Elections Administration, the Navajo Department of Justice and the Office of Legislative Counsel regarding the final election results of the special election held Dec. 15, as well as information regarding a pending lawsuit concerning the election results and the development of the proposed reapportionment plan for a 24 member Navajo Council.

Before the reports were given, Council Delegate Young Jeff Tom (Mariano Lake/Smith Lake) and several committee members voiced concern of staff members from the Office of the President utilizing valuable work time and tribal resources to work on a reapportionment plan.

"The area of reapportionment is not their [Office of the President] area of jurisdiction," Tom said "There is great concern of misusing tribal government resources and property. There is a duplication of services here, services that should be performed by the Navajo Elections Administration and not the Office of the President. We have laws that we have to abide by. We have Navajo people concerned about this and they are questioning why the Office of the President is putting the plans together."

Edison Wauneka, executive director of the Navajo Elections Administration agreed. Wauneka gave a brief report to the committee explaining the reapportionment planning process. He explained a complaint filed during the 10-day grievance period, which expired on Dec. 28, by Timothy Nelson of Leupp, Ariz. challenging the election results and the reapportionment process is currently holding up the certification process.

"Currently, we have to hear from the Office of Hearing and Appeals," Wauneka said. "Until that [lawsuit] is resolved, then the Navajo Elections Board of Supervisors can certify the special election results. If the case is appealed to the Navajo Supreme Court, it will cause further delay of this certification process."

Wauneka said he met with his staff earlier this week and said they are ready to do reapportionment. He explained there is a process that they have to abide by. First, the Navajo Elections Administration needs to decide which data source to use in determining the reapportionment. They could use either the upcoming 2010 Census count, the Navajo enrollment, which includes the BIA or vital records, or the voter registration database of the Navajo Elections Administration. Wauneka would like to have this information presented to the Navajo Nation Council by the 2010 Winter Session scheduled for January 25-29.

Second, the elections office will develop the reapportionment plan for a 24 member Council. They would have to decide how many plans need to be developed.

Third, the elections office needs to conduct public hearings across the Navajo Nation to educate the Navajo public about the drastic effects of Council reduction. Wauneka estimates this process will take at least three to five weeks and it will be done by Navajo Election Administration staff.

Fourth, the Navajo Board of Election Supervisors will present the plans to the Navajo Nation Council for consideration. Wauneka estimates this presentation to occur during the 2010 Spring Session, scheduled the third week of April 2010. Lastly, the Navajo Nation Council will have final authority in approving such a reapportionment plan.

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According to Title 11 N.N.C. § 9, on or before the first Monday of May, 1975, and every 10 years thereafter, the Navajo Nation Council, with the recommendation of the Navajo Board of Election Supervisors, shall designate the number and location of precincts. All such precincts shall be approximately equal in population.

Chief Legislative Counsel Frank Seanez said the Navajo Board of Elections Supervisors and the Navajo Election Administration are authorized by Navajo Nation law to put reapportionment plans together and no one else.

"The law provides the board of elections supervisors the authority to develop and recommend to the Navajo Nation Council all reapportionment plans," Seanez said. "It also authorizes the Navajo elections staff to develop the plans and recommendations to the board of elections supervisors. There is nothing in the code that authorizes the executive office [Office of the President] to work on the reapportionment or to recommend any reapportionment to the Navajo Nation Council."

Henry Howe, an attorney with the Navajo Department of Justice, agreed with Seanez's interpretation of the law and what the law states.

Seanez also explained doing a reapportionment plan now will be difficult with such a short timeframe. He explained language in the initiative petition that clearly stated deadlines for the construction of a reapportionment plan was never accomplished. In the petition language, the Navajo Nation Council had until Aug. 15, 2009 to adopt a plan for a 24 member Council. The Council did not adopt any plan. Therefore, if the Council failed to devise a plan, the President would be able to do this. The President had until Oct. 30, 2009 to put a plan together for consideration, but it was never done. The time period has long since expired.

Currently, there is not enough time to implement such a 24 member Council for the upcoming election in 2010. The date to file for candidacy for Navajo elected positions is Feb. 4, 2010, which includes all Council delegate positions. This means a reapportionment plan needs to be put in place, but the combination of the lawsuit and the approval of such a plan will not make it likely to make it to the 2010 elections.

The committee also expressed dismay after learning about executive branch staff utilizing valuable tribal time and resources to meet to devise a reapportionment plan. Copies of an email from Arbin Mitchell, division director for the Navajo Division of Community Development, were handed out to committee members. Mitchell was an organizer of several meetings scheduled from Dec. 28 to Jan. 2, specifically for constructing a plan. The email was sent to other division directors and staff from the Office of the President.

"I got a call from Arbin Mitchell requesting me to go the Navajo Nation Museum to help them put the reapportionment plans together. I do not have a problem working with them, but I explained that I have to go to the Navajo Elections Board -- they have the authority," Wauneka explained. "I called the chair and vice chair of the Elections Board and I was advised to stay out of their planning until the election is certified -- from the Elections Administration, that is where we stand right now."

Council Delegate Leonard Chee (Birdsprings/Leupp/Tolani Lake) recommended the Human Services Committee convey these concerns to the Office of the President, specifically to stop interfering with the reapportionment process.

"There are questions out there. I think this committee should make it known that division directors need to do their work and the President's use of valuable tribal resources and employees should not be used on the reapportionment plans," said Chee.

Tom agreed and added, "There is certainly a violation here with staff members from the Office of the President and division directors going far beyond the scope of their job descriptions. We have needs out there, we have people in need, and we have court cases we need to prepare for -- one coming up next month. We have already lost some crucial court cases this past year; the staff should be concentrated on those things and not duplicating services of the Navajo Elections Administration -- they need to get back to work."

Tom made the motion to accept the reports with a second by George Apachito (Alamo), stating the Navajo legal counsels and the Department of Justice are in concurrence with the report given by the Navajo Elections Administration. A directive to send a letter explaining the process of Navajo Nation law as related to the creation of reapportionment plans, specifically the entities responsible for the plans as outlined in Title 11 N.N.C. Sec. 9, be sent to the Office of the President for compliance.