



The 21st Navajo Nation Council
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Agency caucus leaders discuss impacts of high court's decision on election, offers recommendations to address issues, concerns

A special session is tentatively scheduled for Friday

WINDOW ROCK, Ariz. – In a panel discussion, caucus leaders of the 21st Navajo Nation Council, who represent each of the Navajo Nation's five agencies, met for the first time in what was dubbed an historic moment to discuss the Navajo Nation Supreme Court's opinion, which has created issues in the election proceedings.

Caucus leaders, Andy Ayze (Central Navajo Agency), Leslie Dele (Western Navajo Agency), Phillip Harrison (Northern Navajo Agency), Orlanda Smith-Hodge (Fort Defiance Agency) and Young Jeff Tom (Eastern Navajo Agency), submitted their issues and concerns in written form to Larry Biltah, chairman for the Navajo Board of Election Supervisors (NBOES), and Edison Wauneka, director for the Navajo Election Administration.

Although clear and respectable of the high court's decision, the caucus leaders requested clarification for the following issues and concerns:

- 1) Caucus leaders said standard protocol for ordering an executive session only involves matters relating to personnel or litigation issues; thus, questioned the legality of the executive session that was declared on June 11 to discuss the reapportionment plan, which is a matter that affects the entire Navajo Nation and should not have gone into executive session.
- 2) Caucus leaders said the NBOES hastily approved a revised J-4 reapportionment plan based on verbal presentation by President Shirley who merely showed a map with deleted agency lines and failed to provide proper public hearings for the selected new plan. Caucus leaders said it is NBOES understanding that the J-4 plan was based on five agencies, not six agencies; thus, a NBOES resolution signed by the Chairman of the Board is requesting FOR proper documents.
- 3) Caucus leaders have asked, "How were the numbers determined?" President Shirley's selected J-4 plan is a concern because it is very likely many Navajo people who work and live off-reservation were not included in the new precincts.
- 4) Caucus leaders also expressed concern of how the high court inadvertently reversed the due dates and asked, "Is this enough time between June 18 and the voting date to distribute and receive absentee votes? What is the plan to distribute and receive absentee votes in this short time frame?" Caucus leaders understand Attorney General Louis Denetsoise was advising the election office that absentee voting be foregone, which is a violation of civil rights especially for soldiers overseas in the armed forces.
- 5) Despite the high court's decision, the NBOES were allowed to take action and extend the Council Delegate and Election Supervisors filing date at Friday's NBOES meeting. As a result of the action, caucus leaders said the NBOES has been re-empowered; thus, the NBOES can take action to suspend the election indefinitely until such time all election related documents are in proper order, which is a move in the best interest of the Navajo people. The caucus leaders recommend the NBOES to exercise their authority in accordance to 11 N.N.C.
- 6) Caucus leaders expressed grave concern of individuals who filed for Council Delegate positions before the high court decision was issued because these individuals received confirmation letters from the election office stating and listing chapters they would represent. Now, the Chapters Council delegates were initially informed to represent have drastically changed with the adoption of the J-4 plan; thus, candidates may have had their voting rights violated if the candidates are forced to go with a plan that is still in transition.

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Caucus leader Orlanda Smith-Hodge (Cornfields/Greasewood Springs/Klagetoh/Wide Ruins) said the purpose of the five agency caucus meeting was not to rehash the high court's opinion but to address various concerns and issues for better understanding to move forward.

"We put it upon ourselves to call this meeting today and address these issues and go forward with any proposed changes," Smith-Hodge explained. "Our membership is really adamant about holding a special session to discuss some of the laws that have been misused. A lot of emphasis has been put on reference to Diné Fundamental Law -- we will be addressing how others interpret the law."

As well, several Council delegates offered their recommendations to address these concerns and issues.

Council Delegate Jerry Bodie (Sanostee) said: "My recommendation is that when we ask for the reconsideration request that the current Navajo Nation judges recuse themselves from the case. Currently, we know the judges are biased. Other native communities have judges as well. Why not use them here?" Bodie also made recommendation for the Judiciary Committee to move forward in changing Navajo Nation judges to elected positions.

"The Supreme Court should not have politicized these cases," added Council Delegate Katherine Benally (Dennehotso). "That in itself the judges should recuse themselves from any decision as the decision is concerned. They played politics all day and jeopardized the impartiality of the court system." Benally also recommended the possibility of bringing forth a ballot measure during the general election for the Navajo people to vote "Yes" or "No" to Diné Fundamental Law.

In an effort to address the absentee voting issue, Council Delegate Leonard Tsosie (Pueblo Pintado/Torreón/Whitehorse Lake) suggested the election office to research internet voting to reach Navajo citizens off-reservation.

"I think we should send a letter to the election office to research the possibility of internet voting," Tsosie explained. "There is a way to do this (absentee voting), the states do it. The armed forces personnel can vote by internet as well as our students. Perhaps we can research that and come up with a way to do accommodate absentee voters."

Wauneka, however, said Tsosie's recommendation was not feasible given the short time frame of 13 days to accept and address absentee voting.

"At this time we will not be able to do internet voting," Wauneka said. "The timeline line for absentee voting is only 13 days. The decision on briefing is not going to come until next week. There is no question there will be an appeal. The time line for absentee was supposed to be submitted today."

Tsosie also recommended the Council to assist and meet with the 22nd Navajo Nation Council in transitioning to a 24 member Council after the general election decides the 24 new Council delegates and said it was the most responsible thing the current Council could do.

"My observation is that the only recourse we have is political recourse from traditional teachings," added Council Delegate Lorenzo Curley (Houck/Lupton/Nahata Dził) on challenging the reapportionment plan. "There is legal stuff we can do but we have to react quickly and that will involve oversight of hearings. You might fight grounds to legally suspend the rulings by the courts, which is the only recourse I see. That is how I think this whole thing can be framed by the Council."

"We are concerned of how the election board went forth on election proceedings," Smith-Hodge added. "We feel the voting rights of people have been violated in as far as absentee voting. We need to address that. We also need to present all of this information to our constituents. The election office was to provide public hearings on any reapportionment change, which did not happen and that was the concern of many delegates today."

In other related matters, Speaker Lawrence T. Morgan informed the delegation of the three branch chiefs' meeting regarding the Fiscal Year (FY) 2011 Budget and said, "We did not arrive at any percentage on the operating budget. The money that is available is \$149 million. Last year, we had \$161 million."

Morgan also said the three branch chiefs agreed to approve a continuing resolution which would extend the FY 2010 budget from October 1 to Jan. 31, 2011; thereafter, the 22nd Navajo Nation Council would approve the budget for the remainder of FY 2011.