



22nd Navajo Nation Council
Summer Council Session
Speaker Pro Tem's Report



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Summer Council Session
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Speaker Pro Tem LoRenzo Bates

Yá'át'ééh, my fellow Navajo Nation Council colleagues and to our guests including chapter, tribal, state, and federal leaders, and most importantly to our Diné Citizens with us today. I also want to welcome those of you watching live on the internet, including our brave men and women serving in the military throughout the world. Welcome to the 2014 Summer Council Session.

I also want to recognize and thank the many men and women who embarked on a long and difficult journey to take part in the Summer Horse and Bike Ride. Many of you began your journey over a week ago in the spirit of honoring our past leaders who would ride to each regular Council session on horseback. Along the way, they would stop and listen to the concerns and issues of their respective communities. When they arrived for Council sessions they were well-informed and able to voice the concerns of their people.

It is with that same spirit that delegates take part in the annual horse and bike rides which have evolved over time to bring awareness and to promote causes such as healthy living and domestic violence awareness—two very critical issues throughout the Navajo Nation.

With that in mind, I am confident that each of us as elected leaders will address the issues and legislations before us while being mindful of the needs and voices of our people so that years from now, Diné will continue to prosper for many more generations.

Trust Mismanagement Litigation Agreement

On May 30, the 22nd Navajo Nation Council passed Resolution CMY-28-14, approving an agreement to end the Navajo Nation's lawsuit against the United States over historical mismanagement of trust fund assets. In return, the Navajo Nation was awarded \$554 million after years of hard fought negotiations by a team that included members of the Trust Mismanagement Litigation Task Force comprised of Council Delegates Lorenzo Curley (chair), Roscoe Smith (vice chair), Russell Begaye, Charles Damon, II, Walter Phelps, Alton Joe Shepherd, Dwight Witherspoon, and Leonard Tsosie.

The task force worked diligently with the Navajo Nation Department of Justice, the BuckleySandler law firm, and numerous other entities to negotiate the agreement.

On July 10, the Naabik'iyati' Committee issued a directive to the Office of the Speaker to initiate public hearings regarding the anticipated \$554 million award.

The Office of the Speaker is currently in the process of securing sites in each of the Nation's five agencies that will enable the use of live-streaming. The hearings will undoubtedly provide our Diné Citizens the opportunity to voice their thoughts and opinions as to how the award should be invested or otherwise used.

It is very important that Navajo people have a say in the planning and strategizing. Our office will soon release a schedule of public hearings. I cannot stress enough the importance of planning carefully and responsibly so that the benefits for the Navajo Nation and the Navajo people are maximized.

Voting Rights

While the redistricting of state legislative districts was redrawn in 2011, the Navajo Nation continues to be involved in redistricting litigation in the states of Arizona and Utah. In addition, congress is entertaining a legislative fix to the U.S. Supreme Court decision in the matter of *Shelby County v. Holder*.

In Arizona, Navajo Nation was an opposing amicus party to the lawsuit filed by the Republican Party, alleging that the Arizona Independent Redistricting Commission violated Arizona laws. Recently, the federal court three-judge panel issued its opinion in which it ruled that the redistricting commission did not violate laws. However, the Republican Party appealed the federal district court ruling to the U.S. Supreme Court. Navajo Nation must continue to be a party in the appeal process due to the potential effects on Navajo voting rights resulting from the outcome. Should the U.S. Supreme Court rule in favor of the appealing party, it is likely that the Navajo people on the Arizona side of the Navajo Nation will be impacted by the eventual requirement to redraw the 2011 legislative districts.

In Utah, the Navajo Nation is engaged in assuring that Navajo voters are properly represented in the San Juan County commission redistricting and the school district board member district plans. In the third quarter, the Office of the Speaker has been in discussions with various parties regarding the county requiring mail ballots for its June primary election. While the results of the June primary election are still being evaluated, it is clear there is significant decrease of voter participation in San Juan County elections. Council Delegate Jonathan Nez is actively evaluating the situation.

In June 2013, the U.S. Supreme Court issued its opinion which stated that Section 5 requirements of covered states are outdated. That is, those states that are found to discriminate against minorities must submit their redistricting plans to the U.S. Department of Justice for pre-clearance. Since the requirements of Section 5 have been outlawed by the U.S. Supreme Court, the Navajo Nation has been involved in the national voting rights commission meetings to appropriately introduce a legislative fix. Congressman Jim Sensenbrenner of Wisconsin introduced House Bill 3899. Unfortunately, H.B. 3899 does not fully protect Navajo voters in Arizona. The Office of the Speaker has been providing recommendations as to improve H.B. 3899.

Finally, as the voting rights issues continue to be at the forefront, the Inter-Tribal Council of Arizona solicited nominations of individuals who exhibit exemplary citizenship traits. Mr. Leonard Gorman was nominated and is awarded the *Harrison and Austin Citizenship Award*. Frank Harrison and Harry Austin were pioneers that demanded that Native Americans have the right to vote and the State of Arizona must recognize that right. They filed the second lawsuit in 1948 that resulted in the Arizona Supreme Court ruling that recognized Native Americans in Arizona have the right to vote. Congratulations to Mr. Gorman.

Fiscal Year 2015

The Office of the Speaker participated in several branch chiefs' meetings during the third quarter of FY 14. The Budget and Finance Committee has approved the allocation of FY15 projected revenues among the branches. The Office of the Speaker has established a budget review team that will assess the program budgets in the Legislative Branch.

Sacred Sites

The Naabik'iyat'i' Committee established the Subcommittee on Sacred Sites several years ago, which met several times during the third quarter of FY14. With the assistance of the Office of Navajo Nation Human Rights Commission, the Subcommittee has been active in examining the work conducted by the United Nations General Assembly President. In 2010, the UN General Assembly decided to conduct a world conference on indigenous issues.

In 2011, Naabik'iyat'i' Committee also authorized the President and Vice President of the Navajo Nation, Speaker of the Navajo Nation Council, their designees, and Navajo Nation Human Rights Commission to do all things necessary to protect San Francisco Peaks as a sacred site for the Navajo people. One of the issues affecting the Navajo Nation in the process of deliberating the world conference is sacred sites and places and sacred objects.

In addition to the world conference, the subcommittee is confronted with the fact that Navajo sacred objects and paraphernalia were auctioned in Paris. The subcommittee has the daunting task of ensuring that France, and the world community, respects Navajo people's sacred objects and paraphernalia. The subcommittee recently participated in the world conference preparatory meeting in New York City and met with the France Mission.

Navajo Nation Council Chamber Renovation

During the third quarter, the Office of the Speaker advertised and received proposals from Navajo firms to renovate the Navajo Nation Council Chamber seating arrangement. While the Office of the Speaker continues to assess the proposals, a number of issues have surfaced that require immediate attention; these issues were not anticipated but must now be addressed.

First, since the 2006 rehabilitation of the Council Chamber, the vigas have been excessively exposed to the elements. The Office of the Speaker learned that the copper flashings that were installed on top of the vigas are missing, allowing the elements to penetrate the pine logs. It is

important that proper rehabilitation methods be employed to ensure that if possible, to preserve the integrity of the Council Chamber structure, specifically the top tier roof system.

Secondly, when the Office of the Speaker was in the process of solidifying arrangements with the most qualified proposer, it became clear that the substructure of the Council Chamber require the remediation or abatement of asbestos in the tiles and adhesives. While it is presently contained under the raised floor, it is clear that the Office of the Speaker must appropriately address the existence of asbestos underneath the Council Chamber floor.

In addition, the Council has invested in upgrading its current voting system software that will offer an array of new options that will allow for a number of upgrades that to increase efficiency among Council and transparency for the public. The upgraded software is capable of securing and storing Council voting records, generating voting reports, and allowing the public to access voting records. In addition, the software is capable of transmitting information such as amendments and voting results for the public and delegates to view on their mobile devices as these actions take place on the Council floor.

The addition of television screens within the Council Chambers will also allow for amendments and other materials to be displayed for the public to see as well. The upgrades and additions are part of an effort to increase transparency and accountability.

Please keep in mind that the installation and configuration of the upgraded software and equipment will certainly entail technical challenges that will require time to resolve. The software upgrade will be implemented during the current session.

Document Review Tracking System

Within the last three months, the Office of the Speaker has implemented a Document Review Tracking System in order to increase efficiency and to protect the integrity of documents that are submitted to the office. The system is centered on a cover sheet which requires staff to acknowledge their receipt of the document(s) by signing off on the sheet. If a financial request is submitted, the cover sheet will document the availability of funds as provided by the Financial Advisor. The system was implemented to ensure that documents are accounted for and to secure their location and tracking at all times.

Legislative Documents

The Office of the Speaker, Office of Legislative Counsel, and the Office of Legislative Services have collaborated to increase efficiency and to secure the integrity of sensitive legislative documents by streamlining the processing and sharing of documents between the offices.

It was brought to my attention that the production and processing of legislations and resolutions often entailed duplication of services which prolonged the entire process from beginning to end. The three offices strategized and developed a safe and efficient file sharing process that allows certain staff to access files as needed.

Sanders Liquor Licenses

In April 2014, the Naabik'iyat'i' Committee issued a directive for the Office of the Speaker and Navajo Nation Human Rights Commission to ensure that a strategy plan is instituted to ensure that four liquor licenses in Sanders are not renewed. Since the directive was issued, the Office of the Speaker has worked closely with the Navajo Nation Human Rights Commission, Renewal of Hope Task Force, and Council Delegate Lorenzo Curley to not only develop strategy plans but to ensure that appropriate efforts are instituted.

In May, the Office of the Speaker, Navajo Nation Human Rights Commission, and Lewis and Roca law firm met with the Arizona Liquor Department Executive Director. It was clear that under normal circumstances liquor licenses are automatically renewed. In this particular case, the Navajo Nation raised strong concerns regarding the previous owner's qualifications to run liquor stores as he is presently in jail. In light of these concerns, the liquor department entered an agreement with the previous owner of the liquor licenses in order for him to relinquish the licenses. However, part of the process to relinquish liquor license allows the owner(s) to transfer or sell their licenses.

During the early part of June 2014, Mr. Gary McDonald, previous owner, transferred ownership of four licenses to Mr. George Ryan. Currently, the Navajo Nation is concentrating on raising strong concerns regarding Mr. Ryan's credibility, reliability and qualifications. Since the licenses are scheduled to be transferred, in accordance with Arizona laws, the local government (Apache County) will have the opportunity to recommend approval or disapproval of the liquor licenses. Apache County Supervisors will be meeting on July 22, 2014 at Nahata Dziil Chapter to consider its recommendation.

Navajo Health Care Issues

There is continued monitoring and assistance to improve the overall health care system on the Navajo Nation.

Additionally, further enhancing and understanding the issues that cause many of the illnesses and health problems on the Navajo Nation was discussed. Public outreach and education to stem the rising numbers of Navajo people with diabetes, mental health treatment, and accidental deaths is key to helping our people.

Legislation No. 0346-13 was introduced by Council Delegate Dwight Witherspoon to create a Navajo Nation Department of Health. The legislation was proposed and subsequently tabled by the Naabik'iyati' Committee. This legislation would significantly change the Navajo Nation Division of Health to allow oversight and regulating of all health care services on the Navajo Nation.

In response to a work session held in Flagstaff, AZ on January 3, 2014, a task force was created, Department of Health Creation that would review Legislation No. 0346-13 and develop it in the best interest of the Navajo Nation and the people. Included in the task force are four delegates,

the Vice President, Division of Health, representatives from 638 health providers, a traditional healer, a non-emergent transportation provider, and a home health care provider.

The task force was meant to dissolve by the start of Spring Session. However, due to an incomplete legislation, an extension was granted and work continued on Legislation No. 0346-13.

Since its creation, the task force met March 16, March 28, April 4, June 20, July 7, and July 16 in regard to modifying the original legislation. There have been suggestions on the recommended changes. The proposed changes will either be incorporated into the legislation or not.

Currently, the task force has a 90% working solution to the proposed creation of the Navajo Nation Department of Health. The request for additional time to complete the legislation is proposed. When the completed changes are made, a special session will be requested to consider the amended legislation.

The Cobell Land Buy-Back Program.

The process of creating a cooperative agreement for conducting the Land Buy-Back Program on the Navajo Nation was completed on April 30, 2014.

The program has a directive to complete the buy-back for a number of tribes across the United States with each having a set time period of its own. The program will be completed in four phases: Outreach, Land Research, Land Valuation, and Land Acquisition. Determining the phases that the Navajo Nation will complete is the purpose of the cooperative agreement.

The cooperative agreement was completed and sent to the U.S. Department of the Interior. On May 15, 2014, the Navajo Nation was selected among other tribes for participation in the Land Buy-Back Program. Federal program implementation is planned for calendar year 2015.

Staff continues working with Mr. McClanahan and the Executive Branch as we continue to discuss the overall framework for the Navajo Nation's Buy-Back Program plan. The next months will examine the impact that implementation will have on the land users, permit issues, title issues, and office establishment.

Navajo Veterans Issues

There is a continued effort to help Navajo Veterans across our Nation. There is much yet to accomplish, and in continuing to support our returning Veterans, there are still unmet needs—namely, employment opportunities, health care, and education benefits.

Staff has continued direct coordination with the Navajo Nation Department of Veterans Affairs (NDVA). Together, they have kept the priorities aligned with those of the Office of the Speaker. The department faces a number of challenges and funding is key to providing the services requested.

There is continued work on the creation of the Veterans' Act. Staff has offered recommendations for improving the document through dialogue with the NDVA. Currently, there is not a document that can be presented through legislation.

Staff is in direct contact with the Navajo Department of Veterans Affairs and the various state agencies responsible for serving our veterans. I am apprised of the various issues that our Veterans face across the Navajo Nation. The Office of the Speaker is committed to helping the leadership and local organizations that support and aid our Navajo Veterans.

Fort Wingate

The agreement that exists to divide the land known as the Fort Wingate Army Depot, between the Navajo Nation and the Zuni Tribe is on-going. As you may be aware, H.R. 3822 proposes to direct the division of the land of Fort Wingate Army Depot. H.R. 3822 and is sponsored by Rep. Ben Ray Lujan and Rep. Steve Pearce.

On June 13, 2014, Legislation No. 0122-14 was passed by the Naabik'iyáti' Committee, which will be considered during the summer session. Rep. Lujan has held off action on H.R. 3822 until the Navajo Nation Council decides whether or not to support Legislation No. 0122-14.

Navajo Mine Draft Environmental Impact Statement (DEIS)

In accordance with the National Environmental Policy Act (NEPA), the Office of Surface Mining and Reclamation Enforcement (OSM) prepared a Draft Environmental Impact Statement (DEIS) for the Four Corners Power Plant and Navajo Mine Energy Project. OSM evaluated five alternatives and proposed Alternative A, under which OSM would approve Navajo Transitional Energy Company's (NTEC) Pinabete Surface Mining Control and Reclamation Act (SMCRA) permit application and Navajo Mine SMCRA application for permit renewal. Additionally, the Bureau of Indian Affairs would approve right-of-way renewals, Navajo mine access roads, and Amendment 3 of the Four Corners Power Plant lease with the Navajo Nation.

On March 28, 2014, the DEIS was made available to the public with a public comment period ending in May 27, 2014, which was later extended to June 27, 2014. On June 27, the Navajo Nation working through the Navajo Nation Department of Justice and the Navajo Environmental Protection Agency, submitted comments affirming OSM's conclusion that Alternative A is the preferred alternative, based on the information presented in the DEIS. The DEIS is expected to be completed by January of 2015, after which NTEC will be able to expand its operations necessary to meet the coal supply of the Four Corners Power Plant into 2031.

APS Application for 2% Rate Increase

The Navajo Nation's purchase of the Navajo Mine from BHP to NTEC has been a long and arduous process filled with many challenges and rewards. Although we have completed the lion's share of the work and currently own the mine, there is much more work to ensure the economic viability of our venture. One of the obstacles in the mine purchase was APS's ability to purchase units 4 & 5 from Southern California Edison under strict deadlines and to then

apply to the Arizona Corporation Commission for a utility rate increase to cover the costs associated with this purchase. We are now at the stage involving an Evidentiary Hearing which will be held to consider the merits of this rate increase. It behooves us as a Nation reliant on the taxes and revenues from this venture to offer our support of these measures.

We have approximately 5,000 Navajo Citizens who rely on APS for their source of electricity—both on and off the Navajo Nation—who will be affected by this rate increase. Although, this may seem to be a potential hardship on our citizens, the alternatives were much more difficult. Had APS not purchased Southern California Edison's share of units 4 & 5, they would have had to build entirely new facilities and the utility rates would have increased by over 5-percent. Additionally, our taxes and revenues as well as Navajo jobs would have been greatly impacted. We now have the added benefit of participating in these proceedings as the owner of the Navajo Mine, working to maintain the long-term economic viability of our operations.

EPA's Proposed Rule

On January 8, 2014, the EPA released a Notice of Proposed Rulemaking: "Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units", which proposes to create new standards for fossil fuel-fired electric steam generating units, including utility boilers and integrated gasification combined cycle units (IGCC), and for natural gas-fired stationary combustion turbines. The comment period for this rulemaking ended on May 9, 2014 and the Navajo Nation has submitted its comments through the Navajo Nation Environmental Protection Agency.

At the center of this issue is the Navajo Nation's ability to continue to utilize our coal resources for new fuel-fired electric steam generating units. Although we as a Nation realize the need to transition to cleaner sources of energy, we must also realize that our major natural resource is coal and that there are viable alternatives, such as integrated gasification combined cycle units (IGCC), for utilizing these coal resources and still meeting more stringent EPA standards.

Our ability as a Nation to continue to mine coal relies on the emerging technologies associated with IGCC and carbon capture and storage (CCS). It is important that the U.S. EPA recognize how devastating the impacts of their proposed rulemaking could have on particular economic interests such as our sovereign Nation's ability to take care of our own. We must continue to advocate for the development of rulemaking that will allow for these emerging technologies to be developed in an economically viable fashion here on Navajo Land for the benefit of our future generations and in a way that will allow for a smooth transition to a greener future.

Navajo Nation Energy Policy

We have recently completed the first phase of an Energy Policy, a long time in the making. We are a Nation who is heavily reliant on energy resources for the day-to-day operations of the critical needs of our Diné Citizens. It is important that we have a clear understanding and process of how energy projects are processed through our Nation with all the proper due

diligence and forethought necessary for a healthy Navajo Nation economy. At the heart of this Energy Policy is the development of a Navajo Nation Energy Office, a central repository of information and resources necessary for the successful development and deployment of energy projects.

As we have coined our newly formed 'Navajo Transitional Energy Company', it is a true reflection of the major challenge of our time, transitioning our energy and economic resources from fossil fuel-based energy to alternative and renewable energy sources. This transition will require a team of professionals working full time for the benefit of our future and able to collaborate and engage the resources of the legislative and executive branches of our Navajo government.

This is no small task and will require the joint efforts of both branches working together to ensure the successful realization of our ever growing government to meet the complexities and challenges of an ever changing world.

Conclusion

As we move forward, I ask each of my Council colleagues to remain focused as we face the challenges before us and to continue advocating for the voices and needs of our people. It is through the people that we have been elected to serve our communities and our Nation and we must continue to forge ahead in a manner that best secures the futures of Diné Citizens.