



HAND DELIVERED

May 5, 2026

Apache County Board of Supervisors, and  
Apache County Planning and Zoning Commission  
75 West Cleveland Street  
St. Johns, Arizona 85936

To: Supervisor Alton Joe Shepherd, Chair  
Supervisor Nelson Davis  
Supervisor Dr. Joe Shirley, Jr.  
Commissioner Brad Peterson, Chair  
Commissioner Carey Dobson  
Commissioner Bobby Fite  
Commissioner Brad Jarvis  
Commissioner Kay Hauser  
Commissioner Travis Johnson  
Commissioner Bob Pollock  
Commissioner Michael Bragiel

Cc: Clerk of the Board of Supervisors  
White Mountain Independent

Dear Apache County Officials:

The purpose of this letter is to expose the failures of the Apache County Community Development Department (“ACCDD”) in their efforts to revise the Utility Scale Renewable Energy Ordinance (“Ordinance”), and to highlight undue influence given to the renewable energy industry by the ACCDD, at the expense and to the detriment of the Board of Supervisors, P&Z Commission and the citizens of Apache County. We request Apache County to act immediately to correct this betrayal of the public trust – suggestions are included in the conclusion of this letter.

ACCDD has consistently demonstrated a lack of transparency in its handling of the proposed update to the Ordinance, and a process that seeks advice from special interests, while limiting public and Commission input. The ACCDD denied County citizens access to the first draft Ordinance (Draft 5v4), but provided advance copies to renewable industry representatives (“Industry”) without disclosure to the Commission, and incorporated Industry comments in the ACCDD presentation of the first draft Ordinance to the P&Z Commission. Hence, the first draft and starting point for ordinance revisions was based on Industry input - with little opportunity for input from Apache County residents, voters and taxpayers, or for meaningful Planning and Zoning Commission input.

This letter will document the public concerns of lack of transparency, unequal access, inadequate time allowed for public and Commission review and the lack of an effective process to consider public and Industry comments. Please note: throughout this letter, quotes from official Apache County documents are shown in Times New Roman font, with emphasis added.

A year ago, on May 1, 2025 the ACCDD first introduced a draft update to the Ordinance (Draft 5v4) to the Planning and Zoning Commission. It was our understanding that the County wanted to have a revised Ordinance in place quickly that was clear, well organized, and protected the County from liability. Draft 5v4 was based on the recently adopted Coconino County Renewable Energy Ordinance, customized for Apache County with additions from the San Miguel County, New Mexico Ordinance, and from the existing Apache County Ordinance.

**ACCDD stated that the draft ordinance was considered confidential and would not be available to the public.**

The official Apache County Planning and Zoning Commission Minutes (P&Z Minutes) of May 1, 2025 state:

“Mr. Fish noted that due to open meeting laws, only one-way communication is permissible between staff and commissioners between meetings. He had declined to share draft copies with the public, explaining that the ordinance is still evolving.”

ACCDD reinforced this restricted access status in the June 25, 2025 Planning and Zoning Commission special work session. The Minutes state:

“The draft ordinance is not yet publicly available and will be released when ready for Board recommendation.”

Access to the draft – or projecting applicable portions of the draft text on the screen during public meetings and work sessions - would have assisted the public to understand the proposed Ordinance and the Commission’s comments and deliberations. But ACCDD insisted on non-disclosure to the public, in compliance with Apache County Confidentiality policies.

### **Apache County Confidentiality Policy**

The Apache County Human Resources Department Employee Policy Manual (ACEPM) outlines County policies regarding employment, compensation and conduct of employees, and states:

#### **“4.5 CONFIDENTIALITY**

##### **4.5.1 Policy:**

All employees are to treat the internal business affairs and operations of Apache County as proprietary and confidential assets. It is the responsibility of each employee to take active steps to ensure the confidentiality of this information.

##### **4.5.2 Coverage:**

*This policy applies to all classified and unclassified positions. Nothing in this policy modifies or waives the “at will” status of an unclassified employee.*

##### **4.5.3 Procedures:**

- A. Employees shall discuss confidential information only with those individuals who have a legitimate need to know in keeping with general county interests. In addition, each employee shall have the responsibility to avoid unnecessary disclosure of any information related to any county business, whether or not it is confidential.
- B. All media or other inquiries shall be referred to the Clerk of the Board, the County Attorney, or the appropriate elected official. These individuals may designate another employee, where appropriate, to respond to the inquiries.
- C. Department heads and elected officials are responsible for identifying information that should be classified as confidential. The fact that a document is not marked as “confidential” does not mean that it is not in fact confidential and subject to the rules outlined above.
- D. Many aspects of county operations are open to the public. The County actively supports public oversight and willingly provides information to the public as it is requested. The procedure for providing the information to the public is defined in Section 7.2...
- F. Employees who violate this policy are subject to disciplinary action, up to and including termination of employment.” (Apache County Employee Policy Manual – policy 4.5 – Confidentiality)

This policy could justify not transmitting the draft Ordinance beyond the Planning and Zoning Commission and appropriate County Staff, per the procedure in 4.5.3 A:

“Employees shall discuss confidential information only with those individuals who have a legitimate need to know in keeping with general county interests. In addition, each employee shall have the responsibility to avoid unnecessary disclosure of any information related to any county business, whether or not it is confidential”.

But what does the term “a legitimate need to know” mean? There is no definition of need to know in the ACHRPM, so we googled the question. The AI generated answer was:

“A legitimate need to know is a security principle, when used by governments and other organizations, where access to sensitive information is restricted to individuals who must have it to perform their official, authorized duties. Even with security clearance, access is denied unless specifically necessary, ensuring only the minimum required information is shared to reduce unauthorized disclosure.

“Key aspects of Legitimate Need to Know include:

- **Purpose:** to protect sensitive information, limit browsing of confidential data, and ensure data integrity
- **Job Requirement:** The access must be crucial to fulfilling a specific, authorized role or function, not just because one is curious
- **Legal/Authorized Basis:** The necessity is often defined by official policy, government regulations, or legal requirements.”

A further Google search of “definition of need to know in Arizona local government” found:

“In Arizona local government, need to know generally refers to the restricted access of information based on a staff member’s or official’s specific duty to possess that information to perform their job, particularly concerning confidential or restricted data.”

Fortunately, the ACEPM policy 4.5.3 D, above, states:

“D. Many aspects of county operations are open to the public. The County actively supports public oversight and willingly provides information to the public as it is requested. The procedure for providing the information to the public is defined in Section 7.2.”

ACEPM Section 7.2 states that if a member of the public wishes information, a Public Records Reproduction Request (PRRR) is required:

## **“7.2 PUBLIC RECORDS REQUESTS**

### **7.2.1 Policy:**

All public records are presumed to be open to public inspection, and county personnel responsible for responding to public records requests shall comply with the provisions of Arizona’s Public Records Act, A.R.S. § 39-101 et seq. Apache County can be sanctioned for failing to properly respond to a public records request in a reasonable amount of time. Because of that, County personnel who deem a public records request inappropriate, or who have questions about responding to a specific public records request, shall refer the matter to the Apache County Attorney’s office...

### **7.2.3 Public Records Defined:**

Generally speaking, a “public record” is defined as “materials . . . made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of government, or because of the informational or historical value of data contained therein . . .” A.R.S. § 41-1350...The presumption is in favor of disclosure. Even when portions of a document contain confidential information, the document may be subject to disclosure with appropriate redactions...

### **7.2.4 Other Matter Subject to Disclosure:**

Some information, not technically considered “public records” must also be open for public inspection such as documents which are not required by law to be filed as public records, but which relate to matters essential to the general welfare of taxpayers. The determination of what information must be disclosed will depend upon whether the document is held by a public official in his official capacity and whether the public has a legitimate interest in the document that outweighs the government’s interest in confidentiality. Examples of “other matter” which may be subject to disclosure are: revenues produced by taxation, monies spent on governmental projects at public expense and annexation petitions.

### **7.2.5 Photocopies of Public Records:**

The custodian of records must furnish copies, printouts or photographs of public records upon request if the facilities are available. If not, the records may be permitted to inspect and/or reproduce the records in the presence of the custodian A.R.S. § 39-121.01 (D)". (Apache County Employee Policy Manual – policy 7.2 – Public Records Requests)

To summarize, Apache County considers internal information – such as an early draft ordinance – to be a confidential County asset, to be shared on a “need to know” basis, i.e., with a County employee, or County official, but only if that information is required to allow that employee to perform their official job duties.

If one of your citizens seeks information, Apache County consistently requires a Public Records Reproduction Request (PRRR) for public release of information, even information as simple as a job description. This is the County’s consistent policy, and PRRR requests generally require two or more months to fulfill, and are charged at the rate of 50 cents per page for printed copies. PRRRs are labor intensive for the County, and the time frame makes it difficult to access information on a timely basis, but that is Apache County’s consistent policy.

### **Violation of County Confidentiality Policy**

Although ACCDD did not allow access to the draft ordinance to Apache County residents, the record shows ACCDD transmitted advance copies of the first draft Ordinance (Draft 5v4) to certain renewable energy companies and advocates, in direct violation of ACEPM confidentiality policies.

On August 4, 2025 a PRRR was filed by a local citizen requesting to see input from energy companies into the renewable energy ordinance revision. (ATTACHMENT 1) On October 28, 2025 the PRRR was received consisting of 224 pages, primarily copies of extensive email correspondence between the ACCDD and Repsol Renewables, Triple Oak Power and Apex Clean Energy – three foreign-owned and out-of-state renewable energy developers.

As stated above, the first draft Renewable Energy Ordinance was presented to the P&Z Commission on May 1, 2025, and ACCDD stated it would not be shared with the public, consistent with ACEPM confidentiality policy.

However, the PRRR materials received include an April 29, 2025 email from the ACCDD to Trinidad Kechkian, Development Manager for Repsol Renewables: “Trini, Attached is the [draft] “Preferred Energy Generating Areas” for the County Comprehensive Plan, and the proposed rewrite of the portion of Article Four pertaining to renewable energy.” Therefore, the industry representative was emailed a copy of the draft ordinance even before the Apache County P&Z Commissioners received their own draft copies. (ATTACHMENT 2)

While the public was denied a copy of the draft Ordinance revisions, a copy of those draft revisions was transmitted to Repsol’s representative – not a County employee, not an applicant, or even a County resident, but an outsider representing the Industry - even before dissemination to the P&Z Commission, and apparently without requiring a PRRR request from Repsol.

The PRRR materials received also include emailed comments to ACCDD from three renewable energy development companies that had expressed interest in Apache County projects on the morning of May 1, 2025:

- An email dated May 1, 2025 at 8:11 AM from Henry Woltag, Development Director, Repsol Renewables to ACCDD generally objecting to the proposed draft Ordinance (ATTACHMENT 3)
- An email dated May 1, 2025 at 9:09 AM from Jen Bradford, Senior Project Development Director for Triple Oak Power, with specific comments on the draft Ordinance and Preferred Areas (ATTACHMENT 4)
- And an email dated May 1, 2025 at 8:52 AM from Dylan Ikkala, Director of Development for Apex Clean Energy to the ACCDD including a letter and extensive detailed comments on the draft Ordinance in “track changes” format. (ATTACHMENT 5)

**This shows that ACCDD sent out the draft ordinance to the Industry companies PRIOR TO presenting draft 5v4 to the P&Z Commission, and that ACCDD coordinated with those companies to gather their comments prior to the P&Z Commission meeting scheduled for the afternoon of May 1, 2025.**

Before the P&Z Commission had an opportunity to review and comment on the draft Ordinance, the ACCDD incorporated Industry comments into their staff presentation of the draft Ordinance to the P&Z Commission, sending mixed messages by highlighting possible problem areas rather than strengths of the Draft, likely confusing the Commissioners, as well as the public.

Below are excerpts from the May 1, 2025 P&Z Minutes, with staff comments based on Industry emailed input highlighted in italics:

“Mr. Fish introduced the proposed amendments, *acknowledging the process had proven more difficult than initially anticipated.*

“He highlighted the preferred energy generation area and read a proposed change to the comprehensive plan: Mr. Fish outlined the Primary and Secondary Area designated for electrical generation, which includes:

All land north of U.S. Highway 60, beginning at Springerville and extending eastward to the Arizona/New Mexico state line. From Springerville, the area continues east of U.S. Highway 191, running north to St. Johns. From St. Johns, it includes all land east of U.S. Highway 191/61, extending north to the northernmost boundary of the preferred area, adjacent to the Navajo Nation.

The Secondary Area designated includes:

From St. Johns, all land west of U.S. Highway 191/61, extending north to the Navajo Nation boundary. Additionally, all land north and east of U.S. Highway 180 from St. Johns, extending to the Apache County boundary or Interstate 40.

“Mr. Fish referenced a State of Arizona map showing Average Annual Wind Resources, identifying strong wind potential areas. *He noted that this region included open State Trust land north of U.S. Forest Service lands, making it particularly attractive for wind energy projects.*

“He emphasized that access to existing transmission lines in the preferred areas plays a significant role in the siting of renewable energy infrastructure. While the ordinance highlights preferred areas, it does not preclude development outside them. Rather, the intent is to provide clarity for the County, the public, and prospective developers about where energy development is most feasible and supported.

“*Mr. Fish acknowledged differing views on how restrictive the ordinance should be and stated that the current draft represents a more restrictive approach than what is presently in place.*

“Mr. Fish went over the proposed changes in detail as outline in the Revised Utility Renewable Energy Ordinance Draft 5v4.

Key Changes:

Section 436: Added biomass to renewable energy.

Section 436.B.2: Struck “A General” zoning, limiting projects to Industrial zones only.

*Mr. Fish objected, recommending continued allowance in both A General and Industrial zones to avoid widespread rezoning.*

436.C.12: Added definitions for Gen-tie Line, Participating Property, and Non-Participating Property.

Section 437.B: Preferred criteria include locating projects more than 10 miles from a visual resource. *Location aesthetics (e.g., Repsol’s site) were acknowledged as a major issue.*

Section 439.7 – Performance Standards: Setbacks:

(a) From non-participating property: Increased from ½ mile to 1 mile.

(b) From residential/subdivided/open space parcels: From ½ mile to 1 mile.

(c) From any other zoning district: At least ¼ mile.

(e) and (f) From overhead utilities and public roads/trails: Changed to 150% of turbine height.

(g) From major highways/visual resources: Proposed 3 miles

*Mr. Fish stated these changes would significantly restrict placement options and urged further discussion. While his goal was to finalize the ordinance by June [2025], he acknowledged that may no longer be feasible.*

“Mr. Bragiel asked for clarification of “visual resource,” and Mr. Fish pointed to the draft’s definition. *He emphasized efforts to maintain flexibility within the ordinance while recognizing the inherent restrictions.*”

“Mr. Fish noted that due to open meeting laws, only one-way communication is permissible between staff and commissioners between meetings. He had declined to share draft copies with the public, explaining that the ordinance is still evolving.”

It is concerning that ACCDD denied public access to the draft, and cautioned the Commission that due to open meeting laws, communication and information exchange between staff and individual commissioners can be one-way only (likely misinterpreting the Open Meeting Law) - rather than staff and individual commissioners discussing the Ordinance to help educate each other- but ACCDD had no concerns about communication and discussion with the Industry representatives – with clear conflicts of interest – regarding the draft Ordinance.

The Arizona Open Meeting Law Handbook, published by the Arizona State Ombudsman states:

“Although a staff member may provide information separately [to a member of the Commission] that person must be careful not to facilitate a discussion or deliberation by a quorum by sharing information with other members in subsequent [non-public] meetings.” (Arizona Open Meeting Law: Compiled by AZ Ombudsman-Citizen’s Aide, June 2024 edition. Article 7.5.3: Applicability to Staff Members and Others)

Standard planning procedure for an ordinance revision would be for staff to prepare a draft ordinance, the P&Z Commissioners to study and comment on the draft ordinance, the staff makes changes to reflect Commission comments and direction. Then at an official public hearing, the industries to be governed by the proposed ordinance would have an opportunity to provide their comments, along with other members of the public. Based on public and industry comments, the Commission would then direct staff to make any revisions they deemed necessary to create the final draft ordinance prior to a vote to recommend to the Board of Supervisors.

In this case, the transmittal of the draft Ordinance to the Industry representatives was not disclosed in the May 1, 2025 P&Z Commission public meeting, and several of the concerns raised by Industry representatives in their May 1 emails were directly incorporated into the staff presentation introducing the draft to the Commission.

Additional comments on Draft 5v4 were received by ACCDD in later emails. Triple Oak on 5/22/25 suggested changes throughout the Draft Ordinance (ATTACHMENT 6). Repsol on 5/29/25 addressed setback concerns (ATTACHMENT 7). Apex on 6/18/25 addressed setbacks and sound levels (ATTACHMENT 8) Apache County residents had no access to draft 5v4 and therefore had no opportunity to comment on the specific proposed standards contained in that draft. To date, the public has had no opportunity to view or specifically comment on any provision of the draft 5v4 Ordinance, which was not discussed in detail with the Commission after the June 25, 2025 Special Work Session, and was unilaterally discarded by ACCDD without Commission discussion or direction by October 2, 2025.

Below is a chronology highlighting the most important points relative to the Ordinance update contained in the Planning and Zoning Minutes from May to December, 2025, with information from the PRRR materials added.

### **Chronology**

April 29, 2025 ACCDD emailed proposed Preferred Energy Areas and Ordinance Draft 5v4 to Repsol (NOTE: The PRRR failed to include copies of emails sent to Triple Oak and Apex, but they must have been sent because they also replied, as noted below.)

May 1, 2025 AM - ACCDD received emails from 3 potential renewable energy applicants commenting on the draft Ordinance 5v4

- Triple Oak commented regarding Industrial Zoning, Preferred Areas, Setbacks, and Decommissioning regarding removal below 3 feet below ground surface
- Repsol generally objected
- Apex Clean Energy provided a full markup in “track changes” format

May 1, 2025 PM – ACCDD presented Preferred Energy Areas and Ordinance Draft 5v4 to P&Z Commission. Staff presentation did not inspire confidence, or explain the objectives, organization or benefits of the draft Ordinance update, but rather highlighted potential problem areas, especially Industrial Zoning, Preferred Areas and Setbacks which were noted in Industry May 1 emails.

The May 1, 2025 official P&Z Minutes state:

“Mr. Fish introduced the proposed amendments, acknowledging the process had proven more difficult than initially anticipated. He highlighted the preferred energy generation area and read a proposed change to the comprehensive plan...

“Mr. Fish acknowledged differing views on how restrictive the ordinance should be and stated that the current draft represents a more restrictive approach than what is presently in place.

“Mr. Fish went over the proposed changes in detail as outline in the Revised Utility Renewable Energy Ordinance Draft 5v4...

Section 436.B.2: Struck “A General” zoning, limiting projects to Industrial zones only.

Mr. Fish objected, recommending continued allowance in both A General and Industrial zones to avoid widespread rezoning”. [Why would staff object their own draft ordinance?]

“Section 437.B: Preferred criteria include locating projects more than 10 miles from a visual resource. Location aesthetics (e.g., Repsol’s site) were acknowledged as a major issue.

“Section 439.7 – Performance Standards: Setbacks:

(a) From non-participating property: Increased from ½ mile to 1 mile.

(b) From residential/subdivided/open space parcels: From ½ mile to 1 mile.

(c) From any other zoning district: At least ¼ mile.

(e) and (f) From overhead utilities and public roads/trails: Changed to 150% of turbine height.

(g) From major highways/visual resources: Proposed 3 miles

“Mr. Fish stated these changes would significantly restrict placement options and urged further discussion. While his goal was to finalize the ordinance by June [2025], he acknowledged that may no longer be feasible.”

May 22, 2025 – ACCDD received extensive comments on the Draft Ordinance from Triple Oak in “track changes” format. (ATTACHMENT 6)

May 27, 2025 – ACCDD received a letter from David Brown of Brown and Brown Law Office to “express concerns about the proposed revisions to the County’s renewable energy ordinance... as currently drafted.” So while the general public was denied a copy of the draft Ordinance 5v4, Mr. Brown – an Industry advocate and potential renewable energy site lessor - had also obtained a copy of Draft 5v4. Mr. Brown’s letter said that he would not be able to attend the May 28 work session, and “requested that [Apache County] slow the process down and ensure that all voices, especially those with the most at stake, are heard.” (ATTACHMENT 9)

This request by one property owner to slow the Ordinance revision process was not discussed by the Commission, but after the August 28 Special Work Session, ACCDD appears to have unilaterally pumped the brakes and stopped making any significant progress on the draft Ordinance for the next six months, until Draft 5v4 – which was based on the Coconino format - was abandoned by ACCDD without P&Z Commission direction.

May 28, 2025 – Special Work Session – Ordinance Draft 5v4 was discussed in detail in a productive meeting as noted in the minutes:

“Focused on refining ordinance details including **setbacks, visual resource protection, preferred development areas, and compliance with existing plans.**

No official action taken; intent was to build consensus and outline priorities for future hearings”...

“Broad consensus emerged on the need for:

- **Flexible setback standards** rather than rigid buffers.
- **Distinct treatment** for wind, solar, biomass, and storage systems.
- **Public input mechanisms** in siting decisions.
- Recognizing **agricultural and tourism economies** as vital interests.

“Apache County may see **limited direct benefit**, especially for state leased projects.”

#### **Action Items & Next Steps**

**Mr. Fish** to:

- Draft revised language on **setbacks**, including visual resource provisions.
- Research **scenic and historic byway protections** under state/federal law.
- Compile additional examples from other counties.

**Commission** to:

- **Begin formal hearing process for comprehensive plan amendment (preferred energy zones).**
- Schedule a **follow-up special work session on Wednesday, June 25, 2025** at 4:00 PM.
- Prepare for **July 10 hearing on the Juniper Ridge Solar Project**, under existing ordinance.

May 29, 2025 – ACCDD received email with additional comments from Repsol addressing setbacks. (ATTACHMENT 7)

June 12, 2025 – P&Z Meeting – P&Z Chair asked about timeline for Preferred Area Amendment, discussion was deferred to June 25, 2025 work session.

June 18, 2025 – ACCDD received email from Apex with additional comments, noting “Reminder – Navajo County will be discussing their regulation updates tomorrow morning. This may be worth checking out if you are available.” (ATTACHMENT 8)

June 25, 2025 – Special Work Session Minutes:

“This special work session focused on reviewing and discussing Sections 436, 437, and 438 of the proposed Renewable Energy Ordinance... The session aimed to shape the ordinance prior to a draft being presented to the Board of Supervisors. No formal action was taken.

“Mr. Fish explained that public comments would be deferred until the end of the meeting. The draft ordinance is not yet publicly available and will be released when ready for Board recommendation.”

“Commissioners tentatively agreed to place preferred area language on the July agenda for possible inclusion in the Comprehensive Plan.”

“Mr. Fish introduced the Navajo County Renewable Energy Ordinance as a point of comparison... Commissioners expressed interest in reviewing Navajo County’s approach due to geographic similarity.”

#### “Action Items

“Staff will compare the proposed Apache County ordinance to Navajo County’s and report back at the July 10, 2025, regular meeting. A follow-up special work session will be scheduled after the July 10 meeting to continue refining the ordinance, set during the July 10th working lunch session. Preferred Energy Generation Areas will be discussed for Comprehensive Plan inclusion during a July working lunch session.”

#### July 10, 2025 – P&Z Meeting Minutes

“Mr. Fish opened the discussion by offering an alternative approach. He explained that while staff was fully prepared to recommend initiating the process to amend the Comprehensive Plan to include the Preferred Energy Generation Areas and associated map and text, staff was now seeking direction from the Commission. In light of recent discussions during Special Work Sessions, Mr. Fish asked whether the Commission preferred to move forward at this time or postpone action until further discussion on the Renewable Energy Ordinance rewrite had occurred. [This discussion regarding postponing the Preferred Areas Plan Amendment was repeated for the balance of the meeting]

“Mrs. Hauser requested that the August work session include both the preferred area and the Renewable Energy Ordinance as agenda items. Mr. Fish confirmed.”

#### August 26, 2025 – Special Work Session Minutes

“The Commission and staff discussed options for addressing renewable energy citing within the Comprehensive Plan, specifically whether to create an overlay district or to establish preferred zones. The Commission expressed their views and discussed the pros and cons of creating a overlay district vs. preferred zones and regulation vs. policy.

“The Commission reached consensus that no additional special work sessions would be scheduled. Staff was directed to provide a report at the September work session comparing Navajo County’s ordinance to Apache County’s ordinance, and to prepare recommended changes for consideration at the October public meeting.

“The Commission reached consensus to place an item on the October agenda for discussion and possible action on whether to establish an overlay district or preferred zones.”

#### September 4, 2025 – P&Z Meeting Minutes

“Planning Director Matthew Fish provided a review of Navajo County’s recently adopted Renewable Energy Ordinance for comparison with Apache County’s ordinance...”

“The Commission discussed the value of including “preferred criteria” for siting renewable energy projects rather than establishing an overlay district, noting that such criteria may be sufficient when combined with updates to the comprehensive plan...”

“The Commission agreed that staff should prepare draft recommendations, incorporating Navajo County provisions and other sources, for presentation at the October meeting. Fee structures for renewable energy permits will be scheduled for discussion at a future meeting”.

October 2, 2025 – P&Z Minutes – Note: About this time ACCDD abandoned Ordinance draft 5v4, although the minutes do not reflect this being discussed or decided by the Commission:

“Mr. Fish reported a comparison of the Navajo County Renewable Energy Ordinance (Article 12) with Apache County’s current Renewable Energy Systems Ordinance (Article 4) and Apache County’s Conditional Use Permit process (Article 11 and CUP Packet).”

“Mr. Fish stated he can prepare draft revisions or a new ordinance version for Commission consideration in November, with primary areas of debate likely being setbacks and “preferred areas” vs. “preferred criteria.”

“Mr. Peterson stated he would like to see a draft in November for the Commission to review. The Commission agreed.”

November 6, 2025 – P&Z Meeting Minutes – ACCDD reviewed an all-new draft ordinance based on the existing Apache County Ordinance:

“Mr. Fish stated that staff’s objective was to review Sections 436 through 442 of the draft ordinance.

“Section 438B – Preferred Siting Criteria

Mr. Fish asked whether both “Preferred Criteria” in the ordinance and “Preferred Energy Generation Areas” in the Comprehensive Plan were needed. Commission agreed that both should remain.

Mr. Fish relayed a request from Arizona Game and Fish to consider modifying the Preferred Energy Generation Area due to significant pronghorn habitat south of St. Johns. Chair Muth suggested revising the boundary to avoid Lyman Lake and habitat areas. Commissioner Peterson recommended that any direction be documented in writing.

Mr. Fish stated staff’s recommendation is to retain the current boundary, with Game and Fish input considered during project reviews. Commission agreed.

“Mr. Fish raised concerns voiced by others that visual impact criteria may conflict with private property rights.

“Mr. Fish added that staff will incorporate today’s revisions and prepare recommendations for Section 442 – Setbacks, the pre-application checklist, and submission requirements for the December work session. Staff aim to complete 90% of the revisions by next month, present the final draft in January, and forward the Commission’s recommendation to the Board of Supervisors by February or March.”

December 4, 2025 – P&Z Meeting Minutes

“Mr. Fish reviewed the draft ordinance revisions and summarized updates made throughout the document.

“Mr. Fish will prepare a Pre-Submittal Checklist and Pre-Application Meeting Checklist for the January meeting.

“No known complete decommissioning of large-scale wind facilities in the U.S.; turbines are typically repowered.

“Commission requested setback analysis and visuals for the next work session.”

## **Conclusion**

While ACCDD specifically prohibited County residents access to Ordinance Draft 5v4, they willingly shared it with Industry representatives without public disclosure to the Commission. ACCDD incorporated and highlighted Industry concerns (stated as staff comments) in its presentation of the Draft to the Commission on May 1, 2025,

and in subsequent meetings. ACCDD substituted staff opinion for Commission direction – unilaterally slowing down the Ordinance update process, and discarding the Coconino format without public review or the Commission’s review, discussion or direction.

ACCDD also failed to follow Commission direction to place the related draft Preferred Energy Areas Comprehensive Plan Amendment on the agenda for public hearing – which according to the official P&Z Commission Minutes was directed by the Commission on May 28, June 12, June 25, July 10 and August 26, 2025.

This resulted in the County losing valuable time to have renewable energy siting direction in place prior to renewable energy CUP applications. ACCDD’s unilateral decisions resulted in a waste of scarce County financial and staff resources, a waste of P&Z Commissioners’– and the public citizens’ – valuable time and energy, a loss of the citizens’ trust in Apache County’s ability to protect the public health, safety and welfare through the Planning and Zoning process. This created the public impression that while limiting resident access and therefore meaningful input, ACCDD secretly coordinated with Industry developers to accommodate Industry wishes.

**Lack of an effective process to accept and consider public comments**

ACCDD first allowed public access to the draft Ordinance on February 5, 2026 with draft 5v9, and has posted subsequent drafts 5v10 and draft 6 on the ACCDD website. However, there is no practical ability for the public – or the Commissioners - to review and effectively comment on the drafts, as ACCDD has consistently posted new revisions to the ACCDD website within 24 hours prior to the scheduled Commission meetings, which does not give the public - or the Commissioners - adequate time to read and understand the changes proposed to the complex 20+ page draft Ordinance.

For example, recent Commission meetings were held on March 4 and April 1, 2026. During the March 4, 2026 work session, draft Ordinance 5v10 was discussed. Draft 5v10 was posted on the ACCDD website until approximately 5 PM on March 31, less than 24 hours before the scheduled April 1 P&Z meeting, when it was replaced with a new draft Ordinance version 6. The result is: following the March Commission meeting, the public studied draft version 5v10. Several citizens submitted written comments to the ACCDD, and many came prepared speak on draft 5v10. But at the April 1, 2026 Commission work session, only Draft 6 - which was posted just the night before - was discussed.

This did not give the public, or the Commissioners, adequate time to read and consider the or implications of the changes proposed by staff in Draft 6. This last-minute approach by the ACCDD prevents the Commission from taking a thorough and thoughtful approach to the Ordinance update. In contrast to this rushed, less than one day review period for Ordinance Draft 6, the first draft Ordinance (5v4) was transmitted (without disclosure) to Industry representatives, who submitted their comments to ACCDD over a 1.5 month period from May 1 to June 18, 2025 (based on the August 4, 2025 PRRR emails) with no opportunity for public comment during that period. Industry representatives have likely remained in close contact with the ACCDD, continuing to request changes to drafts directly to ACCDD - behind the scenes - throughout the update process.

It is not too late for the Commission to correct this betrayal of the public trust regarding the Ordinance update, as nothing has been voted by the Commission yet.

We recommend Apache County immediately take the following steps:

1. The Commission should take the leadership role in the Ordinance update and revisions.
2. Establish a subcommittee of P&Z Commissioners and knowledgeable Apache County Citizens to:
  - a) Determine and specify - based on the record - the County’s objectives for the Renewable Energy Ordinance update

- b) Analyze how well the current draft Ordinance meets those objectives, and
  - c) Report the subcommittee's findings and recommendations to the Commission
  - d) Continue to assist the Commission with recommendations as needed and requested by the Commission until the Ordinance update is ratified by the Board of Supervisors.
3. Establish an effective public input procedure to:
- a) Allow the Commission and the public adequate time to review the draft ordinance and revisions
  - b) Post draft Ordinance and full staff reports on ACCDD website in a timely manner
  - c) Establish a formal process to gather and allow the Commission to review resident and Industry comments organized by section of the Ordinance
  - d) Establish a way for the Commission to effectively and transparently analyze and direct changes to the draft based on those comments, and
4. Consider a moratorium delaying ACCDD acceptance of any renewable energy related CUP applications until such time as the Ordinance update is approved and adopted by the Apache County Board of Supervisors, following the required official public hearings.

Please consider the evidence contained in this letter and Attachments 1 through 9, and act immediately to correct the Ordinance update process to help restore public confidence in the Apache County government including the P&Z Commission, and comply – without discrimination against Apache County residents, taxpayers and voters – with Arizona State Law and legally adopted Apache County policies.

Sincerely,

Arizona White Mountains Save Open Spaces - Core Group  
Representing over 1200 Apache County Citizens  
[azwmsos@gmail.com](mailto:azwmsos@gmail.com)

Enclosures: Attachments 1-5, Attachments 6-9