

**PROCEEDINGS OF THE
COCHISE COUNTY BOARD OF SUPERVISORS SPECIAL MEETING
HELD ON TUESDAY, JUNE 5, 2012 @ 10:00 A.M.
IN THE BOARD OF SUPERVISORS CONFERENCE ROOM
LOCATED AT 1415 MELODY LANE, BUILDING G, BISBEE ARIZONA**

Chairman Searle called the Special Meeting of the Board of Supervisors to order at 10:10 a.m. All three supervisors were present: Richard Searle, Chairman; Pat Call, Vice-Chairman; Ann English, Supervisor. Also attending were Mike Ortega, County Administrator; Jim Vlahovich, Deputy County Administrator; Dave Fifer, Deputy County Attorney; Adam Ambrose, Deputy County Attorney; Mike Evans, Emergency Manager and Katie Howard, Clerk of the Board. Also attending were George Barnes, City Manager of Tombstone and Daryl Audilett and Cynthia Mongelli from Arizona Counties Insurance Pool.

PUBLIC HEARING

ITEM 1

[This item was heard in Open Session.] Adopt Ordinance 042-12 authorizing the prohibition of open fire, campfires and fireworks in the unincorporated area of Cochise County, establishing procedures for the enactment of prohibitions, and prescribing penalties for violations.

Mike Ortega, County Administrator stated that Chairman Searle requested a Board item to prohibit all types of open fires; this Ordinance is the result. Adam Ambrose, Deputy County Attorney, stated that the Board of Supervisors has plenary authority to ban fires. The Ordinance is in a slightly different form than previous ones, he noted, and was drafted by Britt Hanson before he left on a leave of absence. The Ordinance is based on a similar Ordinance in Yavapai County.

Supervisor English stated that she was interested in the public knowing that it is not a good time to have fires. This Ordinance, she observed, includes Sheriff's powers to arrest, fines, etc. Is this what we were looking for, she asked? Chairman Searle agreed that the Ordinance goes a little farther than what he was looking for, especially regarding the definition of campfires used for cooking, branding fires, etc. He added that local fire departments should be allowed to issue burn permits.

Supervisor English added that she did not know that there is a state penalty already in place and Chairman Searle observed that fires for barbeques and branding are exempted in #6 of the exemptions. The exemptions cover a lot of my concerns, he said.

Attorney Adam Ambrose told the Board that they could restrict the scope of the prohibition by allowing the Emergency Manager to define the scope for each event. The virtue of the Ordinance, he said, is that it gives the Board broad powers that it does not need to exercise all the time.

Chairman Searle stated that a majority of the Fire Chiefs in his district are in favor of some type of a ban, provided Fire Districts are still allowed to issue permits. Mr. Ortega commented that #3 in the Exemption section should include/authorize Fire Districts to do so and could be clarified.

Chairman Searle then spoke of fires that have occurred in his district, specifically mentioning the Richland Fire and said there are some issues out there. He added that he had received correspondence both in favor of and opposed to the Ordinance.

Vice-Chairman Call then recounted a recent fire on Ramsey Canyon Road, stating that the cause was an electrical extension cord that sparked. He described the potential threat from that fire but then commented that the Board cannot legislate common sense. A ban on commercial fireworks is good, he said, but he thinks we are trying to do too much, for the right reason.

Supervisor English added that it is a large county and the fire situation is not the same for all areas of the county. Maybe instead of this Ordinance we need to be more active in public announcements, communication and information. She then made a motion to adopt Ordinance 042-12 authorizing the prohibition of open fire, campfires and fireworks in the unincorporated area of Cochise County, establishing procedures for the enactment of prohibitions, and prescribing penalties for violations. Vice-Chairman Call seconded the motion, for the purposes of discussion.

Supervisor English then stated she could not support the Ordinance as is. Chairman Searle agreed but asked if the penalty portion was removed from the Ordinance, would the Board support it?

Chairman Searle opened the public hearing. No one wished to address the Board and he closed the public hearing. The vote on the motion was 0-3 (motion failed).

Attorney Adam Ambrose then asked for direction from the Board regarding whether he should undertake additional work on this effort, saying that he could soften the approach. Chairman Searle observed that he had received feedback from the Sheriff's Office and they said they would support, adding that he thinks it is important to bring the issue forward and to allow the Sheriff to tell someone to put out a fire.

Mike Evans, Emergency Manager offered that all of the bans that go out (federal (Forrest Service and BLM), as well as State bans); those all carry penalties. Yavapai Co has their county broken up into sectors, but there is no convenient way to break Cochise County into sectors (fewer roads bisecting the County).

Vice-Chairman Call stated that he had no problem with Mr. Ambrose working on this. He said it would be nice to have the work done in the event that we need in the future. The others agreed.

ACTION

ITEM 2

[This item was heard in Open Session.] Adopt Resolution 12-15 to support the City of Tombstone, Arizona, in engaging the cooperation of the U.S. Forest Service in repair and maintenance of its municipal water system.

Supervisor English stated she asked that this be put on the Board agenda to support the City of Tombstone as an integral part of Cochise County. The possibility of them being without adequate water is not good. It is not the city's fault that their water source has been impaired. The city is working through the courts to resolve the situation, but she said she thought that a Resolution of support from

the Board would assist them; if approved, the Resolution would be included in the documents filed with the court.

Chairman Searle read the Resolution aloud.

Supervisor English made a motion to adopt Resolution 12-15 to support the City of Tombstone, Arizona, in engaging the cooperation of the U.S. Forest Service in repair and maintenance of its municipal water system. Vice-Chairman Call seconded the motion.

Chairman Searle called for the vote and the motion was approved unanimously, 3-0.

George Barnes spoke of the shove brigade effort underway by private citizens this weekend, as a demonstration of support.

ITEM 3

[This item was heard in Open Session.] Adopt Resolution 12-16 to support the effort of the Arizona Commerce Authority to attract and locate an FAA National Test Range at the Benson Municipal Airport in Benson, Arizona, for unmanned aircraft systems (UAS) development.

Mr. Ortega told the Board that Benson has been identified as a potential site for UAV Test Range. Vice-Chairman Call added that this is an excellent, clean economic development for Benson. Chairman Searle agreed, but stated that he had constituents who have concerns and wondered if there was a place in the Resolution to add that public input should be a part of the process. Following discussion, that was determined to be unnecessary as public input is a part of the process anyway. Chairman Searle mentioned e-mails he had received objecting to this action and confirmed that the other board members had also received them. Supervisor English spoke of the drone history in the entire county. All agreed that would be good economic driver for the county. Vice-Chairman Call recapped the reasons why Benson has been chosen as a possible location.

Vice-Chairman Call made a motion to adopt Resolution 12-16 to support the effort of the Arizona Commerce Authority to attract and locate an FAA National Test Range at the Benson Municipal Airport in Benson, Arizona, for unmanned aircraft systems (UAS) development; Supervisor English seconded the motion.

Chairman Searle called for the vote on the motion and the item carried unanimously, 3-0.

ITEM 4

Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contract that are the subject of negotiations, in pending or in contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Tracy Kee v. Cochise County.

STATUTORY AUTHORIZATION FOR EXECUTIVE SESSION

A.R.S. §38-431.03, Paragraph A, Subparagraphs 3 & 4

Supervisor English made a motion to move into Executive Session as stated in agenda item 4, on the advice of legal counsel. Vice-Chairman Call seconded the motion and it was approved, 3-0.

Executive Session convened at 10:57 a.m.

Mr. Audilett, attorney from ACIP briefed the Board on the facts surrounding the matter of Tracy Kee v. Cochise County and the recommended strategy for settlement.

Chairman Searle took the Board out of Executive Session @ 11:25 a.m.

No action was taken on Item 4.

There being no further business before the Board, Chairman Searle adjourned the meeting at 11:25 a.m.

APPROVED: _____
Richard Searle, Chairman

ATTEST: _____
Katie A. Howard, Clerk of the Board