

Board of Supervisors

Richard R. Searle
Chairman
District 3

Patrick G. Call
Vice-Chairman
District 1

Ann English
Supervisor
District 2



Michael J. Ortega
County Administrator

James E. Vlahovich
Deputy County Administrator

Katie A. Howard
Clerk

AGENDA FOR SPECIAL BOARD MEETING AND POSSIBLE EXECUTIVE SESSION

Tuesday, June 5, 2012 at 10:00 a.m.

BOARD OF SUPERVISORS EXECUTIVE CONFERENCE ROOM
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Cochise County Board of Supervisors and to the general public that the Board of Supervisors will hold a meeting open to the public for the purpose of deciding whether to go into executive session on Item 4. If authorized by a majority vote of the Board, the executive session will be held immediately after the vote and discussion on Item 4 will not be open to the public.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

PUBLIC HEARING

1. [NOTE: This item will be 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.

ACTION

2. [NOTE: This item will be 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.
3. [NOTE: This item will be 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.

4. This executive session is authorized under A.R.S. § 38-431.03, Subsection (A), paragraph 3: Discussion or consultation for legal advice with the attorney or attorneys of the public body, and paragraph 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 contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Tracy Kee v. Cochise County.

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

Cochise County - 1415 Melody Lane, Building G - Bisbee, Arizona 85603
(520) 432-9200 - Fax (520) 432-5016 - Email: board@cochise.az.gov
www.cochise.az.gov

"PUBLIC PROGRAMS, PERSONAL SERVICE"

AI-774

1.

Special / Executive Session Board of Supervisors Meeting

Meeting Date: 06/05/2012

Adopt Ordinance Prohibiting Open Fires

Submitted By: Katie Howard, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME of PRESENTER: Mike Ortega

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE of PRESENTER: County Administrator

Source of Mandate or Basis for Support?:

Information

Agenda Item Text:

[NOTE: This item will be 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.

Background:

The purpose of this Ordinance is to protect the public health, safety and welfare by establishing procedures for enactment and enforcement of emergency prohibitions of open fires and campfires pursuant to Section 11-251(63) of the Arizona Revised Statutes and establishing penalties for violation of such prohibitions.

Department's Next Steps (if approved):

Record and publish the ordinance in the newspaper; post online. Ordinance is effective 30 days after its adoption.

Impact of NOT Approving/Alternatives:

No prohibition will be in place to prevent open fires in unincorporated area of the county.

To BOS Staff: Document Disposition/Follow-Up:

SEE DEPT STEPS, above.

AN ORDINANCE OF THE BOARD OF THE COCHISE COUNTY BOARD OF SUPERVISORS AUTHORIZING THE PROHIBITION OF OPEN FIRE, CAMPFIRE AND FIREWORKS IN THE UNINCORPORATED AREA OF COCHISE COUNTY, ESTABLISHING PROCEDURES FOR THE ENACTMENT OF PROHIBITIONS AND PRESCRIBING PENALTIES FOR VIOLATIONS.

I. TITLE

This Ordinance shall be known as the Cochise County Outdoor Fire Ordinance.

II. DEFINITIONS

1. **"BOARD"** means the Cochise County Board of Supervisors.
2. **"CAMPFIRE"** means an open outdoor fire which used only for the cooking of food or providing personal warmth for human beings or for recreational purposes.
3. **"EMERGENCY SERVICES COORDINATOR"** means the Cochise County Emergency Services Coordinator as designated by the Cochise County Emergency Management Director.
4. **"OPEN FIRE"** means a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney (including burning in a burn barrel), except as set forth in Section XIII herein.
5. **"OUTDOOR FIRE PROHIBITION"** means a prohibition on open fires and campfires enacted by the Board pursuant to Section 11-251(63) of the Arizona Revised Statutes.
6. **"UNINCORPORATED AREA"** means the unincorporated area of Cochise County, exclusive of areas under the jurisdiction of the United States or the State of Arizona.

III. PURPOSE

The purpose of this Ordinance is to protect the public health, safety and welfare by establishing procedures for enactment and enforcement of emergency prohibitions of open fires and campfires pursuant to Section 11-251(63) of the Arizona Revised Statutes and establishing penalties for violation of such prohibitions.

IV. EFFECTIVE AREA

This Ordinance shall be effective in the Unincorporated Area as defined herein.

V. DETERMINATION OF FIRE EMERGENCY

The Emergency Services Coordinator shall be responsible for determining when a fire emergency exists within the County. A Fire Emergency Determination shall be based upon such factors as may be deemed relevant by the Emergency Services Coordinator including, but not limited to, continual Red Flag Warning days, multiple wildland fire starts within the

unincorporated area of the County, and/or the imposition of fire restrictions within the boundaries of Cochise County by federal, state or local agencies having the authority to impose such restrictions. Upon a determination that a fire emergency exists, the Emergency Services Coordinator shall issue a written Notice of Fire Emergency Determination and shall provide a copy of said Notice to the Board, specifying the basis on which the determination was made and requesting that the Board enact an Outdoor Fire Prohibition in the Unincorporated Area of the County.

VI. ENACTMENT OF PROHIBITION

If, following receipt of a Fire Emergency Determination and request for an Outdoor Fire Prohibition, the Board, by majority vote, determines that restrictions on open fires and campfires are necessary to protect public health and safety, and Board may issue an Order enacting an Outdoor Fire Prohibition. The Order will specify the effective date of the Prohibition.

VII. TERMINATION OF PROHIBITION

Unless otherwise specified in the Order enacting the Prohibition, an Outdoor Fire Prohibition shall expire as of the date that the Emergency Services Coordinator issues a written determination that an emergency condition warranting an Outdoor Fire Prohibition no longer exists within the Unincorporated Area of the County, or as of such other termination date as specified by the Emergency Services Coordinator in said written determination. The Emergency Services Coordinator shall file a copy of each determination issued pursuant to this Section in the Office of the Board of Supervisors.

VIII. PROHIBITED CONDUCT

During the effective term of an Outdoor Fire Prohibition enacted pursuant to this Ordinance, it shall be unlawful to burn, start, ignite, build, possess, maintain or use any open fire or campfire within the Unincorporated Area of the County.

IX. ENFORCEMENT

This Ordinance may be enforced by any peace officer acting within the officer's area of jurisdiction.

X. FAILURE TO OBEY A LAWFUL ORDER

The failure to obey a lawful order by a peace officer to comply with the requirements of this Ordinance shall be a distinct and separate violation of this Ordinance.

XI. CONTINUING VIOLATION

If any violation of this Ordinance is a continuing one, each day, or portion thereof, within which said violation continues, shall be deemed a separate violation.

XII. PENALTIES FOR VIOLATIONS

Any person, firm, associations, partnerships, corporation or other legal entity who is convicted of a violation of this Ordinance is guilty of a Class 2 misdemeanor and shall be

subject to a fine not to exceed \$750 and/or a term of imprisonment not to exceed 4 months. Restitution shall be made as provided by law.

XIII. FIRES EXEMPT FROM OUTDOOR FIRE PROHIBITIONS

The following fires are exempt from any Outdoor Fire Prohibition enacted pursuant to this Ordinance:

1. Fires set or permitted by any public officer, federal, state or local, in the performance of the officer's official duties.
2. Fires set or permitted by the State Entomologist or Cochise County Health Department to the purpose of disease or pest prevention.
3. Fires set or permitted by the United States, the State of Arizona, or any of their respective departments, agencies or political subdivisions for the purpose of fire prevention or control, or watershed rehabilitation or control through vegetation manipulation.
4. Petroleum or propane fueled stoves, lanterns, heating and livestock branding devices.
5. Fires burning in a charcoal burning device.
6. Fires for barbecues and branding.

XIV. EFFECTIVE DATE/DECLARATION OF EMERGENCY

This Ordinance is an emergency measure intended to reduce the hazard created by open fires and campfires during periods of declared fire emergency, has been determined to be necessary to preserve the public peace, health or safety and shall, therefore , be effective immediately upon approval as provided by this law.

PUBLIC NOTICE

Pursuant to A.R.S. § 11-251.08 (correction: A.R.S. § 251.05); the general public is hereby notified that the Cochise County Board of Supervisors will hold a public hearing at a special meeting on Tuesday, June 5, 2012 at 10:00 A.M. to consider an ordinance authorizing the temporary 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.

These hearings will be held at the Cochise County Board of Supervisors Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona 85603. This building is accessible by handicapped individuals.

Information is available with the Clerk of the Board by calling (520) 432-9200 or by mail, Attention: Katie A. Howard, Clerk of the Board, Cochise County Board of Supervisors, 1415 Melody Lane, Building G, Bisbee, Arizona 85603 or via email at khoward@cochise.az.gov.

Dated this 16th day of May, 2012
Katie A. Howard, Clerk of the Board

AI-796

2.

Special / Executive Session Board of Supervisors Meeting

Meeting Date: 06/05/2012

Resolution supporting City of Tombstone in USFS and municipal water system

Submitted By: Kim Lemons, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME of PRESENTER: Ann English

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE of PRESENTER: Supervisor

Source of Mandate or Basis for Support?:

Information

Agenda Item Text:

[NOTE: This item will be 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.

Background:

The City of Tombstone has been struggling to repair/replace the water line from the Huachuca Mountains to the City that was damaged as a result of the Monument Fire caused flooding last summer. This resolution has been proposed by Supervisor Ann English to show the Tombstone community and the Federal Government, particularly the Forest Service (USFS), that the Cochise County Board of Supervisors is supportive of Tombstone's position with regard to repairing the water line that provides vital resource to this community.

Department's Next Steps (if approved):

NA

Impact of NOT Approving/Alternatives:

Cochise County will not show formal support for Tombstone's effort to resolve repairing/replacing the waterline damaged by the fire caused flooding.

To BOS Staff: Document Disposition/Follow-Up:

Staff will send a copy of the resolution to the USFS, the City of Tombstone and the local media outlets.

RESOLUTION 12- ____

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

WHEREAS, the Coronado National Forest is part of the United States Forest Service, with lands located in Cochise County, Arizona; and

WHEREAS, in 2011 a catastrophic fire commonly known as the Monument Fire caused the burning of several thousand acres of land in the Huachuca Mountains located in the Coronado National Forest in Cochise County; and

WHEREAS, the denuded lands could no longer absorb the rains that followed, causing mud slides and erosion which destroyed a portion of the water system for Tombstone, Arizona, which draws water from springs located on Coronado National Forest land in the Huachuca Mountains in Cochise County; and

WHEREAS, the City of Tombstone established a right of way to said springs, essential to the operation of its water system, dating back to 1882, before the establishment of the U.S. Forest Service; and

WHEREAS, the City of Tombstone now has insufficient water reserves for fire fighting and support of demand generated by the City's tourist economy, thereby causing a state of water emergency in the City; and

WHEREAS, the U.S. Forest Service has impaired the ability of agents of the City of Tombstone to make repairs to its water system by restricting access to said lands by motorized vehicles, and has slowed the permit process, thereby creating a health and safety emergency for the residents of the City of Tombstone and its visitors,

NOW, THEREFORE, BE IT RESOLVED that, by this resolution, the Cochise County Board of Supervisors hereby supports the City of Tombstone's right to immediate and unimpaired access to Coronado National Forest lands located in the Huachuca Mountains, free of federal restraint, to make all necessary repairs to its water system.

RESOLUTION 12-__

Re: 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

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PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this ____ day of June, 2012.

Richard R. Searle, Chairman
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Katie Howard
Clerk of the Board

Adam Ambrose
Civil Deputy County Attorney

AI-797

3.

Special / Executive Session Board of Supervisors Meeting

Meeting Date: 06/05/2012

Resolution supporting ACA to attract UAS development in Benson

Submitted By: Kim Lemons, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

Recommendation:

of ORIGINALS

Submitted for Signature:

NAME Richard Searle
of PRESENTER:

TITLE Chairman
of PRESENTER:

Mandated Function?:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

[NOTE: This item will be 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.

Background:

Under terms of the National Defense Authorization Act, signed into law Dec. 30, 2011, the Federal Aviation Administration must undertake a pilot study of how best to integrate unmanned aircraft systems (UAS) into the National Airspace System by establishing six test range sites across the country. Those sites must be selected by June 27, 2012 (180 days from passage). The first airworthiness certificate issued by the FAA permitting an unmanned aircraft to operate at a public-use airport that serves general aviation was issued in March 2007 for an unmanned aircraft at Benson Municipal Airport and, due to weather conditions and other factors, the location appears to be an optimal site for location of an FAA UAS test range. Such a designation is expected to draw substantial economic resources to the County, in the form of high-paying jobs and new development to accommodate the influx of workers.

The Benson community has been working to respond to an RFI solicited by the Arizona Commerce Authority who will in turn respond to the RFI from FAA. This resolution from the BOS will be included in Benson's response to the RFI.

Staff recommends the BOS adopt Resolution 12-16.

Department's Next Steps (if approved):

NA

Impact of NOT Approving/Alternatives:

Cochise County will not show formal support for the City's proposal for Benson's airport to be considered as a UAS testing range.

To BOS Staff: Document Disposition/Follow-Up:

Staff will send a copy of the signed resolution to the City of Benson for inclusion in their response to the RFI.

RESOLUTION 12- ____

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

WHEREAS, Under the National Defense Authorization Act, signed into law on December 30, 2011, the Administrator of the Federal Aviation Administration is required to establish a program to integrate unmanned aircraft systems into the national airspace system at six test ranges; and

WHEREAS, the Administrator of the Federal Aviation Administration is required to determine the location of those six test range sites within 180 days of December 30, 2011, taking into consideration geographic and climatic diversity, location of ground infrastructure and research needs; and

WHEREAS, the Benson Municipal Airport is an optimal location for a test range based upon factors such as size and availability of non-exclusionary air space, proximity to restricted airspace, military operating areas, border patrol operations, general aviation activity, a climate conducive to continuous testing, geography and elevation; and

WHEREAS, establishing an FAA Test Range at the Benson Municipal Airport would likely attract numerous civilian contractors, FAA managers, engineers, trainers, technicians and other specialized employees to Cochise County, with corresponding capital investment in the County; and

WHEREAS, location of an FAA Test Range at the Benson Municipal Airport will capitalize on the extensive UAS training, UAS expertise and UAS operations that already exist in this area; and

WHEREAS, job creation, economic investment and sustainable average wage enhancement is sorely needed in Southeastern Arizona,

NOW, THEREFORE, BE IT RESOLVED that the Cochise County Board of Supervisors hereby supports and encourages the efforts of the Arizona Commerce Authority, SEAGO, the City of Sierra Vista, the Benson/San Pedro Valley Chamber of Commerce and other stakeholders to persuade the Administrator of the Federal Aviation Administration to locate a test range for unmanned aircraft systems development at the Benson Municipal Airport.

RESOLUTION 12-____

**Re: 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**

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PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona,
this ____ day of June, 2012.

Richard R. Searle, Chairman
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Katie Howard
Clerk of the Board

Adam Ambrose
Civil Deputy County Attorney

AI-775

4.

Special / Executive Session Board of Supervisors Meeting

Meeting Date: 06/05/2012

Advice from attorneys in the matter of Tracy Kee v. Cochise County

Submitted By: Katie Howard, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

Recommendation:

of ORIGINALS

Submitted for Signature:

NAME Dave Fifer
of PRESENTER:

TITLE Deputy
of PRESENTER: County
Attorney

Mandated Function?:

**Source of Mandate
or Basis for Support?:**

Information

Agenda Item Text:

This executive session is authorized under A.R.S. § 38-431.03, Subsection (A), paragraph 3: Discussion or consultation for legal advice with the attorney or attorneys of the public body, and paragraph 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 contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Tracy Kee v. Cochise County.

Background:

To be provided to the Board at the meeting in Executive Session.

Department's Next Steps (if approved):

tbd

Impact of NOT Approving/Alternatives:

tbd

To BOS Staff: Document Disposition/Follow-Up:

tbd
