

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
REGULAR MEETING HELD ON
Tuesday, July 9, 2019**

A regular board meeting of the Cochise County Board of Supervisors was held on Tuesday, July 9, 2019 at 10:00 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Peggy Judd, Chairman; Ann English, Vice-Chairman; Thomas E. Borer, Supervisor
Staff Edward T. Gilligan, County Administrator; Sharon Gilman, Associate County
Present: Administrator; Christine Roberts, Civil Deputy County Attorney; Arlethe G. Rios, Clerk of
the Board

Chairman Judd called the meeting to order at 10:09 a.m.

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

PLEDGE OF ALLEGIANCE

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT
THE MEETING**

CALL TO THE PUBLIC

Chairman Judd opened the call to the public.

Mr. Tom Crosby, Sierra Vista resident, addressed the Board regarding the Public Safety Personnel Retirement System (PSPRS).

No one else chose to speak and Chairman Judd closed the call to the public.

This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.

PRESENTATION

Presentation of Proclamation to Mr. Vaughn Croft declaring July 10, 2019 Fred G. Acosta Job Corps Center Day in Cochise County.

The Board presented the proclamation to Mr. Croft and thanked him for his work in Cochise County.

CONSENT

Board of Supervisors

1. Approve an Intergovernmental Agreement (IGA) with the City of Sierra Vista regarding funding of a consultant to promote retention and expansion of missions of the U.S. Army at Fort Huachuca, effective July 9, 2019 through July 9, 2021, with four automatic one-year extension in the amount of \$27,000 annually.
2. Approve the Minutes of the regular meeting of the Board of Supervisors of June 25, 2019.
3. Approve Amendment No. 2 to the Intergovernmental Agreement between Cochise County and the City of Sierra Vista authorizing both entities to administer programs and to receive and disburse funds for the Upper San Pedro Partnership in the amount of \$10,000 extended for five additional years until February 28, 2023.
4. Approve a letter appointing a member and alternate of the Cochise County Board of Supervisors to the Sierra Vista Metropolitan Planning Organization pursuant to the Joint Project Agreement between the State of Arizona and the City of Sierra Vista as specified by Governor Janice K. Brewer.
5. Approve the Community Enhancement Funds Policy effective July 9, 2019.
6. Approve a Proclamation declaring July 10, 2019 Fred G. Acosta Job Corps Center Day in Cochise County.

Community Development

7. Appoint Mr. David Koch for the District 1 position of the Planning & Zoning Commission to serve a two year and six months term, ending December 31, 2021.

County Attorney

8. Approve the proposed settlement of the Small Tax Appeal in Roger A. Nusbaum v. Cochise County, ST2018-000025, now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County.

Finance

9. Approve demands and budget amendments for operating transfers.

Vice-Chairman English moved to approve items 1-9 on the consent agenda. Supervisor Borer seconded the motion and it carried unanimously.

PUBLIC HEARINGS

Community Development

10. Adopt Zoning Ordinance 19-06 amending certain Zoning district boundaries from R-36 (Residential; one dwelling per 36,000 square feet) to RU-4 (Rural; one dwelling per four acres), pursuant to the application of Lavon and Rebecca Womack.

Mr. Robert Kirschmann, Planner II, presented this item using a PowerPoint presentation. Mr. Kirschmann went over the background:

- The Applicant is requesting rezoning from R-36 (Residential; one dwelling per 36,000 square feet) to RU-4 (Rural; one dwelling per four acres)

- Parcel 123-25-007B and is located at 1350 E. Barney Lane
- 40 acres
- The request is to facilitate use of the Owner Builder Opt-Out program and preserve the open space
- The Applicants are Lavon and Rebecca Womack
- Planning Commission unanimously recommended approval at the June 12, 2019 meeting.

He also showed a map of the location and site photos.

He moved on to the Factors in favor of the approval:

1. Allowing the request would be in keeping with the character of the existing development in the area;
2. The Comprehensive Plan policies prescribe a low density of residential development in this area to protect the current character of the neighborhood, and the request would facilitate such a density; and neighborhood, and
3. Two letters of support has been received.

The only factor against approval is that the area is adjacent to commercially designated property, in a Category B (Developing Area) near Interstate 10. The down zoning could restrict potential growth in the future.

He noted that the Planning and Zoning Commission had recommended conditional approval based on:

1. The Applicant shall provide the County with a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning; and
2. It is the Applicant's responsibility to obtain any additional permits, or meet any additional Conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations;

Chairman Judd opened the public hearing.

No one else chose to speak and Chairman Judd closed the public hearing.

Supervisor Borer moved to adopt Zoning Ordinance 19-06 amending certain Zoning district boundaries from R-36 (Residential; one dwelling per 36,000 square feet) to RU-4 (Rural; one dwelling per four acres), pursuant to the application of Lavon and Rebecca Womack.

Vice-Chairman English seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

11. Approve the denial to appeal the decision to approve Docket SU-19-06 (Counter Intelligence), a request for a Special Use Authorization to allow construction of a 1,600 square foot building to be used in manufacturing of counter tops on a 4.55 acre site zoned RU-4, thereby upholding the May 8, 2019 Planning and Zoning Commission decision.

Mr. Robert Kirschmann, Planner II, presented this item using a PowerPoint presentation. Mr. Kirschmann gave the background:

- On May 8, 2019 the Planning and Zoning Commission voted unanimously (5-0) to approve the construction of a 1,600 square foot building to be used in the manufacturing of counter tops.
- The Appellant seeks to overturn the Commission's decision on the basis:
- Misrepresentation of the "character of Ranchos Cochise"

- Misrepresentation of “Arizona Legislation of General, Comprehensive, and Envision 2020” Comprehensive, and Envision 2020”
- The approval “will do irreparable harm to residents of Ranchos Cochise, Cochise County as a whole, the state of Arizona and Mr. Hogan personally”
- The Appellant is Mr. Terrance Hogan

He went over the details of the site:

- The proposed use is to approve a 1,600 square foot building to be used in manufacturing counter tops
- The subject property, 106-04-126B is located at 2439 N. Busick Road
- The site currently has a single family home and is zoned RU-4
- The site is 4.55 acres

He showed a map of the location, proposed site plan, and site pictures. He also went over the process used for the proposed business:

- No actual manufacturing
- Raw slab delivered by personal pick up truck no semis or large trucks
- Slab is sanded, contoured, glued
- Minimal water used only to rinse dust, which dries on floor and is swept up

He went over factors used for the special use authorization and explained that Zoning Regulations have 10 factors used to evaluate a proposal:

- Nine of the criteria apply to this request
- As submitted complies with 7 criteria
- One criteria complies with modifications: Site Development Standards
- One criteria does not comply: Public Input

He reviewed the zoning regulations that govern the appeal of a special use authorization:

Section 1716.04 of the Zoning Regulations governs the appeal of Special Use Authorization Decisions. The Appeal shall include:

1. An identification of the decision being appealed; The Appellant requests that the entire decision be overturned.
2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision, was erroneous, arbitrary, capricious, or an abuse of discretion; The Appellant states that misinformation was provided to the Planning Commission.
3. Written presentation of additional testimony and evidence, a full explanation of the additional testimony and evidence that will be submitted, with an explanation of why this was not presented to the Planning Commission. The Appellant provided several pages as to why he has filed the appeal

He went over the 6 factors in favor of denying the appeal:

1. The Planning Commission voted unanimously to approve the original request.
2. With the recommended Conditions of Approval, the Special Use would fully comply with the seven Special Use factors used by staff to analyze this request;
3. The subject parcel is of a size and configuration that would allow compliance with all applicable site development standards with the conditions;
4. The proposed Special Use is low impact and more akin to a home occupation.
5. The request for this Special Use is allowable within the RU4 Zoning District;
6. Four letters of support were received for the original request, two in response to the appeal notice.

Factors in Favor of Granting the Appeal:

1. Sixty-nine letters in opposition to the original request were received, six in response to the appeal notice, and one more in favor of the appeal submitted this morning.

Staff's recommendation was to deny the appeal and uphold the Planning Commission's approval of SU-19-06 with the original conditions of approval.

Mr. Terrance C. Hogan, appellant, went over the reasons why he did not agree with this special use authorization being granted. He specifically noted that water use, road use, hazardous material exposure, safety concerns, and employee conditions were all reasons he had filed the appeal.

Chairman Judd opened the public hearing.

In Favor of Appeal:

1. Ms. Debra A. DeRosa, neighbor, addressed the Board regarding the approval of the special use authorization and concerns with road use, water use, ingress/egress, legal access, and noise levels to the neighborhood.
2. Linda Guinter, neighbor, addressed the Board regarding the approval of the special use authorization and her concerns with the negative impact to the community and what she believed were misrepresentations submitted by Mr. Montez.
3. Ms. Kim Jackson, neighbor, addressed the Board regarding the approval of the special use authorization and her concerns with lack of water supply, hazardous waste, and noise negatively impacting the neighborhood.
4. Mr. Charles Everett, neighbor, addressed the Board regarding the approval of the special use authorization and the negative impact on the community.
5. Ms. Tricia Gerrodette, citizen, was not present to speak, but had shown her support of the Board approving the appeal.
6. Ms. Ann E. Aust, neighbor, addressed the Board regarding the approval of the special use authorization and her concerns with this approval impacting the continued development of Cochise Ranchos as a residential neighborhood.
7. Mr. Kenneth G. Kempson, neighbor, addressed the Board regarding the approval of the special use authorization and his concerns with the negative impact on the neighborhood.

Opposed to the Appeal:

Mr. Larry Lane, neighbor, addressed the Board regarding his support of the special use authorization.

Chairman Judd also gave the applicant of the special use authorization an opportunity to speak.

Mr. Montez spoke, explained that he had addressed all of the concerns brought up by his neighbors and did not feel like his business would negatively impact the neighborhood or the quality of life of the neighbors.

No one else chose to speak and Chairman Judd closed the public hearing.

Vice-Chairman English moved to approve the denial to appeal the decision to approve Docket SU-19-06 (Counter Intelligence), a request for a Special Use Authorization to allow construction of a 1,600 square foot building to be used in fabrication of counter tops on a 4.55 acre site zoned RU-4, thereby upholding the May 8, 2019 Planning and Zoning Commission decision. Supervisor Borer seconded the motion.

Chairman Judd called for the vote and it was approved 2-0-1 (Judd opposed).

ACTION

Board of Supervisors

12. Approve a letter to the Foreign-Trade Zones Board signed by the Board of Supervisors in support of designating all of Cochise County as a Foreign-Trade Zone.

Ms. Mignonne Hollis, Executive Director, Arizona Regional Economic Development Foundation, presented this item using a PowerPoint presentation. Ms. Hollis explained a foreign trade zone:

- Foreign-Trade Zones (FTZ) are secure areas under U.S. Customs and Border Protection (CBP) supervision that are generally considered outside CBP territory upon activation. Located in or near CBP ports of entry, they are the United States' version of what are known internationally as free-trade zones.
- Authority for establishing these facilities is granted by the Foreign Foreign-Trade Zones Board under the Foreign-Trade Zones Act of 1934. The Foreign-Trade Zones Act is administered through two sets of regulations, the FTZ Regulations and CBP Regulations.

She said that foreign and domestic merchandise could be moved into zones for operations including: storage, exhibition, assembly, manufacturing, and processing. She noted that foreign-trade zones are subject to laws and regulations of the United States, as well as those of the states and communities in which they are located. She added that the letter signed by the Board would designate the entire county as a foreign trade zone, which was a huge incentive for economic development.

Supervisor Borer moved to approve a letter to the Foreign-Trade Zones Board signed by the Board of Supervisors in support of designating all of Cochise County as a Foreign-Trade Zone. Vice-Chairman English seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

13. Approve the draft Court Consolidation Agreement between Cochise County and the City of Sierra Vista, effective July 1, 2019 through June 30, 2020.

Mr. Ed Gilligan, County Administrator, presented this item. He explained that this was modified from what the City had approved and noted that this agreement would only be for one year. He stated that this would be an example of what other court consolidation agreements would look like for other partners. He then went over the two changes:

1. Staffing of Pro Tem will be done by Superior Court Presiding Judge dependent on the appointee being a lawyer in the State of Arizona in good standing.
2. Obligation of County to consult with the City for the process used when appointing a Justice of the Peace for Justice Precinct 5, provided that the County will make the final decision.

Vice-Chairman English said that she wanted the agreement to be between the County and the City, not the Board and the Council.

Vice-Chairman English moved to approve the draft Court Consolidation Agreement with the fore mentioned changes between Cochise County and the City of Sierra Vista, effective July 1, 2019 through June 30, 2020. Supervisor Borer seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

Community Development

14. Approve a lease agreement between Cochise County and Master Aircraft Services, Inc.; Master Aircraft will lease hangar one on the Bisbee-Douglas International Airport for \$19,000 a year and have an option of leasing hangar two in the same group of three hangars for the same terms as hanger one, effective at midnight on August 9, 2019 and ending at midnight on August 9, 2039.

Mr. Dan Coxworth, Development Services Director, presented this item. Mr. Coxworth went over the terms.

Mr. Gilligan said that this was a positive move for the County that would be beneficial for improvement at the airport.

Supervisor Borer wanted to go on the record over his concerns regarding the delicate water system and its impact on business services.

Mr. Gilligan said that studies were done, funding was made available to fix the issues, and the project was done. However, the focus now is to build redundancy by working with the City of Douglas to connect to their system as a backup.

Supervisor Borer moved to approve a lease agreement between Cochise County and Master Aircraft Services, Inc.; Master Aircraft will lease hangar one on the Bisbee-Douglas International Airport for \$19,000 a year and have an option of leasing hangar two in the same group of three hangars for the same terms as hanger one, effective at midnight on August 9, 2019 and ending at midnight on August 9, 2039. Vice-Chairman English seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

15. Approve a Notice of Award in the amount of \$435,937 to Rural Electric, 9502 E. Main Street, Mesa, Arizona 85207 to reconstruct the runway lighting at Bisbee-Douglas International Airport.

Mr. Dan Coxworth, Development Services Director, presented this item. Mr. Coxworth stated the purpose and noted that funding was from an annual grant received by the Federal Aviation Administration.

Vice-Chairman English moved to approve a Notice of Award in the amount of \$435,937 to Rural Electric, 9502 E. Main Street, Mesa, Arizona 85207 to reconstruct the runway lighting at Bisbee-Douglas International Airport. Supervisor Borer seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

16. Approve one-time contract with KE&G Construction, Inc. for Robbs Road Improvements in an amount not to exceed \$1,488,798.65.

Ms. Jackie Watkins, Engineering & Natural Resources Director, presented this item. Ms. Watkins gave the background and showed a map of the area. She noted that the grant received by the Arizona Department of Commerce would only pay for one third of the project and the County would be responsible to cover the other two thirds.

Supervisor Borer moved to approve one-time contract with KE&G Construction, Inc. for

Robbs Road Improvements in an amount not to exceed \$1,488,798.65. Vice-Chairman English seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

County Attorney

17. Approve the City of Tucson High Intensity Drug Trafficking Area (HIDTA) Grant Agreement HT-19-2933, in the amount of \$143,234.80 between the City of Tucson and Cochise County, effective January 1, 2019 through December 31, 2020.

Mr. Brian McIntyre, County Attorney, presented this item. Mr. McIntyre said that it was a renewal grant that assisted with the funding needed for drug related crimes prosecution.

Vice-Chairman English moved to approve the City of Tucson High Intensity Drug Trafficking Area (HIDTA) Grant Agreement HT-19-2933, in the amount of \$143,234.80 between the City of Tucson and Cochise County, effective January 1, 2019 through December 31, 2020. Supervisor Borer seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

County Sheriff

18. Approve an Intergovernmental Agreement (IGA) among Cochise College, Sierra Vista Police Department, and the Cochise County Sheriff's Office to establish the Southeastern Arizona Law Enforcement Training Academy (SEALETA).

Lt. Curtis Wilkins, Sheriff's Office, presented this item. Lt. Wilkins stated that this was the agreement for the continued law enforcement academy and the only changes were to overtime pay.

Supervisor Borer moved to approve an Intergovernmental Agreement (IGA) among Cochise College, Sierra Vista Police Department, and the Cochise County Sheriff's Office to establish the Southeastern Arizona Law Enforcement Training Academy (SEALETA). Vice-Chairman English seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

Health & Social Services

19. Approve IGA CTR045217 for the Hepatitis A Vaccine Program, between the Arizona Department of Health Services and Cochise Health & Social Services, in the projected amount of \$45,000, effective June 26, 2019 through June 25, 2024.

Mr. Ray Falkenberg, Deputy Director of Health & Social Services, presented this item. Mr. Falkenberg said that this funding would be used to purchase hepatitis A vaccines at a lower rate, which was a cost savings of \$55,000.

Vice-Chairman English moved to approve IGA CTR045217 for the Hepatitis A Vaccine Program, between the Arizona Department of Health Services and Cochise Health & Social Services, in the projected amount of \$45,000, effective June 26, 2019 through June 25, 2024. Supervisor Borer seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

20. Approve ADHS16-109191 Amendment 7 for Healthy People Healthy Communities, between the Arizona Department of Health Services and Cochise Health & Social Services, in the amount of \$684,356, effective July 1, 2019 through June 30, 2020.

Ms. Suzanne Hagle, Health & Social Services Department, presented this item. Ms. Hagle stated that the funding would be used for prevention services, accreditation, and family planning.

Supervisor Borer moved to approve ADHS16-109191 Amendment 7 for Healthy People Healthy Communities, between the Arizona Department of Health Services and Cochise Health & Social Services, in the amount of \$684,356, effective July 1, 2019 through June 30, 2020. Vice-Chairman English seconded the motion.

Chairman Judd called for the vote and it was approved 3-0.

REPORT BY EDWARD T. GILLIGAN COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS

Mr. Gilligan stated that several departments were moving in accordance with the Board's strategic plan for infrastructure and streamlining services. He noted that there should be minimal interruption to services.

SUMMARY OF CURRENT EVENTS

Report by District 1 Supervisor, Thomas E. Borer

Supervisor Borer deferred his report.

Report by District 2 Supervisor, Ann English

Vice-Chairman English said that she had attended the Arizona/Mexico conference and she planned on fully supporting the trade agreement between the three countries in North America and encouraged the other members to reach out to legislative representatives in support of this agreement.

Report by District 3 Supervisor, Peggy Judd

Chairman Judd commented on the great Fourth of July celebrations in her district and the great information she acquired from attending the National Association of Counties summer conference.

Chairman Judd adjourned the meeting at 12:32 p.m.

APPROVED:

Peggy Judd, Chairman

ATTEST:

Arlthe G. Rios, Clerk of the Board