

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
REGULAR MEETING HELD ON
TUESDAY, JANUARY 24, 2023**

A regular board meeting of the Cochise County Board of Supervisors was held on Tuesday, January 24, 2023 at 10:00 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Ann English, Chairman; Peggy Judd, Vice-Chairman, telephonic; Tom Crosby, Supervisor

Staff Present: Richard G. Karwaczka, County Administrator; Sharon Gilman, Deputy County Administrator; Christine Roberts, Chief Civil Deputy County Attorney; Tim Mattix, Clerk of the Board

Chairman English called the meeting to order at 10:00 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

Jeff Sturges discussed reasons for and requested Supervisor Crosby's resignation.

Allison Morse discussed reasons for and requested Supervisor Crosby's resignation.

Cado Daily discussed various concerns regarding Board of Supervisors actions during the 2022 General Election and discussed concerns regarding releasing inmates without a basic support system.

Supervisor Crosby responded to criticism mentioned in Call to the Public.

CONSENT

Board of Supervisors

1. Approve the Minutes of the regular meeting of the Board of Supervisors of January 10, 2023.

County Sheriff

2. Approve amended agreement M22-0061 from the Arizona Department of Emergency and Military Affairs (DEMA) to provide funding to the Cochise County Radio Communication Network through Outside the Radio Network (ORNI) Consoles, said amendment by DEMA to clarify the method of funding disbursement.

Item 2 was removed from the consent agenda for separate consideration.

Vice-Chairman Judd made a motion to approve amended agreement M22-0061 from the Arizona Department of Emergency and Military Affairs (DEMA) to provide funding to the Cochise County Radio Communication Network through Outside the Radio Network (ORNI) Consoles, said amendment by DEMA to clarify the method of funding disbursement. Supervisor Crosby seconded the motion.

Supervisor Crosby stated that the original grant was for border fence construction. Chairman English stated that there was additional language in this grant that mentions a virtual fence. In response to the Board, Tom Alinen, Sheriff's Office Chief of Staff, stated that this will establish virtual consoles in Douglas which connect directly to Southeastern Arizona Communications Center (SEACOM) voice communications. This will allow Douglas dispatch the ability to speak directly to the Sheriff's Office and SEACOM when there are issues on the border.

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

Finance

3. Approve demands and budget amendments for operating transfers.

Supervisor Crosby made a motion to approve items 1 and 3 on the consent agenda . Vice-Chairman Judd seconded the motion and it carried unanimously.

PUBLIC HEARINGS

Board of Supervisors

4. Approve two Series #9 (Liquor Store) new liquor license applications submitted by Amy S. Nations, for Main Street Market #605, located at 2521 W. Business I-10, San Simon, AZ 85632.

Supervisor Crosby made a motion to approve two Series #9 (Liquor Store) new liquor license applications submitted by Amy S. Nations, for Main Street Market #605, located at 2521 W. Business I-10, San Simon, AZ 85632. Vice-Chairman Judd seconded the motion.

Mr. Mattix presented this item. Mr. Mattix stated that Main Street Market was selected for 2 Cochise County liquor licenses in last year's Arizona Liquor license lottery. Both applications will be placed at the same location, 1 on an active status and 1 on an inactive status, allowing the applicant time to find another location to place the second license. Mr. Mattix stated that all requirements had been met by the applicant and Board staff recommended approval.

Chairman English opened the Public Hearing. No one chose to speak and Chairman English closed the Public Hearing.

The Board discussed that the second license may be moved to another community or sold.

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

5. Approve Series #9 (Liquor Store) location/owner transfer liquor license application submitted by Andrea Dahlman Lewkowitz, for Beverage House, located at 67 E. Highway 82, Huachuca City, AZ 85616.

Vice-Chairman Judd made a motion to approve Series #9 (Liquor Store) location/owner transfer liquor license application submitted by Andrea Dahlman Lewkowitz, for Beverage House, located at 67 E. Highway 82, Huachuca City, AZ 85616. Supervisor Crosby seconded the motion.

Mr. Mattix presented this item. Mr. Mattix stated that all requirements have been met by the applicant and staff recommended approval.

Chairman English opened the public hearing. No one chose to speak and Chairman English closed the Public Hearing.

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

Development Services

6. Adopt Zoning Ordinance 23-03, to rezone parcel 404-21-012A from R-9 (Residential, one dwelling per 9,000 square feet) to RU-4 (Rural, one dwelling per 4 acres), pursuant to the application of Ms. Laura Done.

Supervisor Crosby made a motion to adopt Zoning Ordinance 23-03, to rezone parcel 404-21-012A from R-9 (Residential, one dwelling per 9,000 square feet) to RU-4 (Rural, one dwelling per 4 acres), pursuant to the application of Ms. Laura Done. Vice-Chairman Judd seconded the motion.

Chairman English opened the public hearing.

Christine McLachlan, Planner II presented this item using a PowerPoint presentation. Ms. McLachlan stated that this was an applicant initiated rezoning requested by the applicant to qualify for United States Department of Agriculture (USDA) loan refinancing and this request will increase consistency between land use and zoning. Ms. McLachlan went over 5 factors in favor of approval and 2 against. Ms. McLachlan stated that staff and commission recommend conditional approval, with the only condition being requiring a standard waiver of claims to be signed by the owner.

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

Vice-Chairman Judd made a motion to adopt Zoning Ordinance 23-03, to rezone parcel 404-21-012A from R-9 (Residential, one dwelling per 9,000 square feet) to RU-4 (Rural, one dwelling per 4 acres), pursuant to the application of Ms. Laura Done. Supervisor Crosby seconded the motion.

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

7. Adopt Zoning Ordinance 23-04 to rezone parcels 116-14-174, 116-14-175 and 116-14-157, 116-14-158 and 116-14-159 from SR-22 (Single Residential, one dwelling per 22,000 square feet) to RU-4 (Rural, one dwelling per 4 acres), pursuant to the application of Mr. Benjamin Hipps and Ms. Felicia Hipps.

Supervisor Crosby made a motion to adopt Zoning Ordinance 23-04 to rezone parcels 116-14-174, 116-14-175 and 116-14-157, 116-14-158 and 116-14-159 from SR-22 (Single Residential, one dwelling per 22,000 square feet) to RU-4 (Rural, one dwelling per 4 acres), pursuant to the application of Mr. Benjamin Hipps and Ms. Felicia Hipps. Vice-Chairman Judd seconded the motion.

Chairman English opened the Public Hearing.

Robert Kirschmann, Planner II, presented this item using a PowerPoint presentation. Mr. Kirschmann reviewed the request and current and proposed zoning which would allow the applicant to build a single family residence. Mr Kirschmann reviewed the 2 factors in favor of approval and stated none were identified as being against. Mr Kirschmann stated that the staff and planning commission recommended conditional approval with the only condition being that all parcels combine into one prior to the issuance of permits.

No one chose to speak and Chairman English closed the Public Hearing.

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

ACTION

Board of Supervisors

8. Acting as the Board of Directors of the Cochise County Jail District, adopt Jail District Resolution 23-01, approving the ballot language for the May 16, 2023 Election.

Vice-Chairman Judd made a motion to adopt Jail District Resolution 23-01, approving the ballot language for the May 16, 2023 Election. Supervisor Crosby seconded the motion.

Supervisor Crosby made a motion to change the ballot language to add the following; "That is estimated to be about \$67 per capita the first year, \$137 per capita the 25th year, and about \$2,175 per capita over the 25 years lifespan of the tax". He explained that it would be subject to correction with the most accurate estimates available to the Board.

There was discussion amongst the Board regarding putting cost estimates in the ballot language.

In response to the Board, Mr. Karwaczka stated that the ballot language needs to be submitted by January 30, 2023 and this is the final date that the Board can approve this matter. Mr. Karwaczka stated that the information given to the Public Outreach Committee was an estimate calculated by the number of residents, which was how they arrived at the \$67.

Vice-Chairman Judd stated that an information pamphlet would be given out which may be a better place for estimates.

Supervisor Crosby withdrew his motion.

Supervisor Crosby made a motion to change the last sentence to remove the two words "operating" and "maintaining" to read "to be used only for acquiring, constructing and financing of county jail facilities and a county jail system". The motion failed due to a lack of a second.

The Board and Mr. Karwaczka discussed borrowed money versus what is already in the general fund for operating expenses and construction cost estimates.

Frank Antenori discussed various reasons in support of the amendment.

Chairman English stated that 2 people did not wish to speak but were in opposition to this item.

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

9. Adopt Resolution 23-04, amending Resolution 22-29, adopted by the Board of Supervisors on November 15, 2022, to clarify that the election for the question of the Cochise County Jail District is a mail ballot election.

Supervisor Crosby made a motion to adopt Resolution 23-04, amending Resolution 22-29, adopted by the Board of Supervisors on November 15, 2022, to clarify that the election for the question of the Cochise County Jail District is a mail ballot election. Vice-Chairman Judd seconded the motion.

Mr. Karwaczka presented this item. Mr. Karwaczka stated that the Resolution is recommended to be changed to clarify that this will be a mail in ballot election to match what was published. In response to the Board, Mr. Karwaczka discussed the timing of publishing.

Chairman English stated that 2 people did not wish to speak but were in opposition to this item.

Vice-Chairman Judd and Supervisor Crosby discussed concerns of not previously being aware of the mail-in ballot election.

Supervisor Crosby made a motion to table this agenda item until 1:00 p.m. today. Vice-Chairman Judd seconded the motion.

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

At this time the Board continued on with the rest of the agenda.

Chairman English re-convened the meeting at 1:00 p.m. All 3 Supervisors were present (Judd telephonic).

Supervisor Crosby made a motion to un-table Resolution 23-04, amending Resolution 22-29, adopted by the Board of Supervisors on November 15, 2022, to clarify that the election for the question of the Cochise County Jail District is a mail ballot election. Vice-Chairman Judd seconded the motion.

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

Vice-Chairman Judd made a motion to adopt Adopt Resolution 23-04, amending Resolution 22-29, adopted by the Board of Supervisors on November 15, 2022, to clarify that the election for the question of the Cochise County Jail District is a mail ballot election.

Supervisor Crosby seconded the motion.

Mr. Karwaczka distributed a copy of the publication dated December 7th and 14th, 2022. Mr. Karwaczka indicated that on the bottom it states that this will be a mail ballot election and this is the opportunity to have a discussion on holding a mail ballot election or a regular election.

Vice-Chairman Judd discussed her concerns with costs and voter turnout.

Chairman English stated that 70-80% of people vote by mail or early.

The Board continued to discuss their thoughts and opinions on the agenda item.

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

The Board moved to Mr. Karwaczka's report next.

10. Approve Community Enhancement Fund expenditures for District 3: Roll-offs for Bowie Community Cleanup, in the amount of \$3,000.

Vice-Chairman Judd made a motion to approve Community Enhancement Fund expenditures for District 3: Roll-offs for Bowie Community Cleanup, in the amount of \$3,000. Supervisor Crosby seconded the motion.

Vice-Chairman Judd presented this item and she stated that it had been 4 years since Bowie has had a community clean up.

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

11. Approve revised Human Resources Policy 2210, Personal Leave, as written in the attachment, effective January 24, 2023.

Supervisor Crosby made a motion to approve revised Human Resources Policy 2210, Personal Leave, as written in the attachment, effective January 24, 2023. Vice-Chairman Judd seconded the motion.

Jennifer Graeme, Associate Human Resources Director, presented this item. Ms. Graeme stated that all departments, employees and elected officials had an opportunity to review and provide feedback on this policy. Ms. Graeme outlined changes to the policy. Supervisor Crosby and Ms. Graeme discussed the Merit Commission and their role in this policy. In response to the Board, Mr. Karwaczka stated that the reason for the provision in the policy allowing the County Administrator to extend personal time is that there is no exhaustive list and the Merit Commission would not apply in this case.

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

12. Approve Memorandum of Understanding (MOU) No. 2022-154 between the Department of Public Safety and Cochise County, in the amount of \$166,666.66, to be used for prosecutorial and jail expenses incurred from individuals charged with drug trafficking, human smuggling, illegal immigration and other border related crime, effective July 1, 2022 through June 30, 2023.

Vice-Chairman Judd made a motion to approve Memorandum of Understanding (MOU) No. 2022-154 between the Department of Public Safety and Cochise County, in the amount of

\$166,666.66, to be used for prosecutorial and jail expenses incurred from individuals charged with drug trafficking, human smuggling, illegal immigration and other border related crime, effective July 1, 2022 through June 30, 2023. Supervisor Crosby seconded the motion.

Commander Kenneth Bradshaw, Sheriff's Office, presented this item. Commander Bradshaw stated that this is a renewal of an agreement with the Department of Public Safety that is used to offset the cost of incarceration and prosecution for border related crimes. Supervisor Crosby questioned the enforcement of A.R.S. § 11-1051 and Commander Bradshaw stated that the County Attorney agrees that they are in compliance.

Ms. Roberts stated that A.R.S. § 11-1051 is a valid statute that has been reviewed by the United States Supreme Court. which made clear that border issues and illegal immigration are the realm of the Federal Government. A.R.S. § 11-1051 requires some cooperation of the local law enforcement with the Federal agencies and does not give law enforcement discretion to enforce border issues. Ms. Roberts reaffirmed that the County is in compliance.

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

Court Administration

13. Approve Fiscal Year 2022-23 Traffic Case Processing Funds funding agreement as provided by the Arizona Supreme Court, Administrative Office of the Courts (AOC), effective July 1, 2022 through June 30, 2023, in the amount of \$64,576 that includes \$25,000 matching funds from general fund, \$6,500 from cash carry forward, and \$8,077 from local Judicial Collection Enforcement Funds.

Vice-Chairman Judd made a motion to approve Fiscal Year 2022-23 Traffic Case Processing Funds funding agreement as provided by the Arizona Supreme Court, Administrative Office of the Courts (AOC), effective July 1, 2022 through June 30, 2023, in the amount of \$64,576 that includes \$25,000 matching funds from general fund, \$6,500 from cash carry forward, and \$8,077 from local Judicial Collection Enforcement Funds. Supervisor Crosby seconded the motion.

Rita Shipley, Budget and Finance Director for Superior Courts, presented this item. Ms. Shipley stated that this a funding agreement that provides wages, employer-related expenses and operating expenses for 1 full-time field trainer position. The field trainer position provides full-time on-site training and state computer support for the Superior, Justice and Municipal Courts.

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

Facilities

14. Approve Contract 23-02-FAC-01 with Cochise Painting, LLC, for exterior painting of the Bisbee Melody Lane Complex, Bisbee Sheriff Administration Building, Willcox Regional Service Center, and the Sierra Vista Regional Service Center, in the amount of \$291,000, effective January 24, 2023.

Supervisor Crosby made a motion to approve Contract 23-02-FAC-01 with Cochise Painting, LLC, for exterior painting of the Bisbee Melody Lane Complex, Bisbee Sheriff Administration Building, Willcox Regional Service Center, and the Sierra Vista Regional Service Center, in the amount of \$291,000, effective January 24, 2023. Vice-Chairman Judd seconded the motion.

Chairman English called for the vote and it was passed 3-0.

15. Approve proposals with Classic Roofing, under Maricopa County Contract 210137-S, and Trane Corporation, under Omnia Contract 15-JLP-023, for roof coating services and the replacement of Heating, Ventilation, and Air Conditioning (HVAC) units at 100 Colonia De Salud, Building B, in the amount of \$441,631, effective January 24, 2023.

Vice-Chairman Judd made a motion to approve proposals with Classic Roofing, under Maricopa County Contract 210137-S, and Trane Corporation, under Omnia Contract 15-JLP-023, for roof coating services and the replacement of Heating, Ventilation, and Air Conditioning (HVAC) units at 100 Colonia De Salud, Building B, in the amount of \$441,631, effective January 24, 2023. Supervisor Crosby seconded the motion.

In response to the Board, Henry Meraz, Facilities Management Director, stated that they are not on a rotating replacement schedule yet but they are working on it. Mr. Meraz stated that the refrigerant is hard to get and it may be obsolete soon.

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

Finance

16. [Item Tabled from the December 27, 2022 Special Meeting] Approve Warrant 59106, for an invoice from Pierce Coleman PLLC, dated December 1, 2022, in the amount of \$30,715.50, for the representation of Lisa Marra, Director of Elections.

Vice-Chairman Judd made a motion to remove from the table the approval of Warrant 59106, for an invoice from Pierce Coleman PLLC, dated December 1, 2022, in the amount of \$30,715.50, for the representation of Lisa Marra, Director of Elections. Supervisor Crosby seconded the motion.

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

Vice-Chairman Judd made a motion to approve Warrant 59106, for an invoice from Pierce Coleman PLLC, dated December 1, 2022, in the amount of \$30,715.50, for the representation of Lisa Marra, Director of Elections. Supervisor Crosby seconded the motion.

Supervisor Crosby referenced an email from Brian McIntyre, County Attorney, stating that this litigation did not concern the open meeting laws. Supervisor Crosby stated that he previously referenced A.R.S. § 38-431-07B and Ms. Roberts stated that it was not relevant.

Ms. Roberts stated that the statute Supervisor Crosby referenced is found in the open meeting law and this is a different situation. Ms. Marra was named in a lawsuit that had to do with the recount that the Board was trying to direct her to do. The County Attorney's Office had a conflict and could not represent Ms. Marra but had an obligation to find representation for Ms. Marra, and ultimately had to hire outside counsel.

Supervisor Crosby stated his concerns with the following from Mr. McIntyre's email; "I hope that you consider the potential future impact for the County's ability to engage professional services when needed if this is what professionals can expect when their bills come due". Ms. Roberts stated if outside counsel is needed again there may be hesitation if they may have trouble being paid.

Vice-Chairman Judd stated her concerns about knowing about charges prior to incurring them and requested better communication.

Chairman English stated the County Attorney made it clear when the decision was made to go forward that they would not be able to represent the Board or the County and the County Attorney has the authority to hire other lawyers.

Jeff Sturges discussed various reasons in favor of this item.

Allison Morse discussed various reasons in favor of this item.

Steve Marlatt discussed various reasons in favor of this item.

Chairman English stated that 8 people did not wish to speak but were in favor and 0 were opposed.

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

Health & Social Services

17. Approve three National Environmental Health Association-U.S. Food and Drug Administration (NEHA-FDA) Retail Flexible Funding Model Grant Program awards for training, G-OATR-202210-03028 in the amount of \$6,823, development, G-BDEV2-202210-02892 in the amount of \$3,331, and mentorship, G-OAME-202210-02895 in the amount of \$13,000, with the Cochise Health & Social Services Environmental Health Division with a grant period for all three of January 1, 2023 through December 31, 2023.

Supervisor Crosby made a motion to approve three National Environmental Health Association-U.S. Food and Drug Administration (NEHA-FDA) Retail Flexible Funding Model Grant Program awards for training, G-OATR-202210-03028 in the amount of \$6,823, development, G-BDEV2-202210-02892 in the amount of \$3,331, and mentorship, G-OAME-202210-02895 in the amount of \$13,000, with the Cochise Health & Social Services Environmental Health Division with a grant period for all three of January 1, 2023 through December 31, 2023. Vice-Chairman Judd seconded the motion.

Natalie Johnson, Environment Health Director, presented this item. Ms. Johnson stated that this grant is for training purposes to align with the FDA standardization program. In response to the Board, Ms. Johnson defined Risk Study Factor.

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

18. Adopt Resolution 23-05 amending Resolution 13-36 to correct errors in the Environmental Health Sanitary Code, effective January 24, 2023.

Vice-Chairman Judd made a motion to adopt Resolution 23-05 amending Resolution 13-36 to correct errors in the Environmental Health Sanitary Code, effective January 24, 2023. Supervisor Crosby seconded the motion.

Ms. Johnson stated that the changes were to align with the revised Arizona Administrative Code. In response to the Board, Ms. Johnson stated that some of the changes included adding verbiage to add non-latex single-use gloves versus regular due to latex allergies and mobile food unit regulations.

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

19. Approve Amendment 4 to Intergovernmental Agreement (IGA) YH16-0018-13 between the Arizona Health Care Cost Containment System (AHCCCS) and Cochise County, to incorporate terms into State Fiscal Year 23, effective May 1, 2023 through April 30, 2024.

Supervisor Crosby made a motion to approve Amendment 4 to Intergovernmental Agreement (IGA) YH16-0018-13 between the Arizona Health Care Cost Containment System (AHCCCS) and Cochise County, to incorporate terms into State Fiscal Year 23, effective May 1, 2023 through April 30, 2024. Vice-Chairman Judd seconded the motion.

Dr. Alicia Thompson, Health and Social Services Director, stated that a balance of \$10,000 needs to be maintained to cover inmates that are hospitalized.

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

20. Approve Intergovernmental Agreement (IGA) CTR063847, formerly known as ADHS 18-180472, Arizona Prescription Drug Overdose Prevention Program, between the Arizona Department of Health Services (ADHS) and Cochise Health & Social Services, in the amount of \$470,720, effective September 1, 2022 through September 29, 2023.

Vice-Chairman Judd made a motion to approve Intergovernmental Agreement (IGA) CTR063847, formerly known as ADHS 18-180472, Arizona Prescription Drug Overdose Prevention Program, between the Arizona Department of Health Services (ADHS) and Cochise Health & Social Services, in the amount of \$470,720, effective September 1, 2022 through September 29, 2023. Supervisor Crosby seconded the motion.

Dr. Thompson stated that renewal of this grant funding will continue to support prevention strategies, linkage to care, peer navigation contract, overdoes fatality review tasks, public health resources for County inmates and support data collection of trends in opioid use.

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

STATE & FEDERAL LEGISLATION

21. Discussion and possible action regarding state and federal legislative matters listed or described in the attached County Supervisors Association Legislative Policy Committee Agenda, the Arizona Association of Counties (AACo) Legislative Policy Committee Agenda, and the proposed State budget, and other matters related thereto.

Chairman English stated they were asked by SouthEastern Arizona Governments Organization (SEAGO) to send letters or phone representatives at the state in support of County projects, such as the Davis Rd. project.

No Board action was taken on this item.

REPORT BY RICHARD G. KARWACZKA, COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS

Mr. Karwaczka gave his report after the meeting re-convened.

Mr. Karwaczka encouraged everyone to submit pro/con statements for the jail district.

Instructions on how to submit are on the County's website.

SUMMARY OF CURRENT EVENTS

Report by District 1 Supervisor, Tom Crosby

Supervisor Crosby reported on Mr. Hamadeh's lawsuit and a potential conflict of interest for the County Attorney's Office. Ms. Roberts responded.

Report by District 2 Supervisor, Ann English

Chairman English deferred her report.

Report by District 3 Supervisor, Peggy Judd

Vice-Chairman Judd reported that the state of the city in Willcox is tonight.

Chairman English recessed the meeting at 12:08 p.m.

Chairman English adjourned the meeting at 1:17 p.m.

APPROVED:

Ann English, Chairman

ATTEST:

Tim Mattix, Clerk of the Board