

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
REGULAR MEETING HELD ON
TUESDAY, DECEMBER 12, 2023**

A regular board meeting of the Cochise County Board of Supervisors was held on Tuesday, December 12, 2023 at 10:00 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

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

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

Chairman Judd 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

Alfred Kern discussed his frustration about the lack of attention to roads with homes despite residents paying taxes and urged the County to take action and communicate with residents.

Allison Morse discussed issues of transparency regarding a grant given to Recorder Stevens, she stated that there are discrepancies in expenditures without proper approval and the unaccounted whereabouts of equipment and supplies purchased with taxpayer money.

Radford Hyde raised concerns about voting centers and the lack of transparency regarding Wi-Fi connected devices used to check voter status, and highlighted discrepancies in certification processes and urged support for Supervisors questioning the system's integrity.

Tricia Gerrodette discussed concerns about the use of Wi-Fi during elections. Ms. Gerrodette expressed regret for Supervisors Judd and Crosby not receiving the promised pro bono legal representation and highlighted concerns about potential expenses incurred due to legal actions stemming from election certification issues last year, hoping for smoother certification in 2024.

Kathy Hargrove raised concerns about a lithium mine's impact on the Willcox Playa area, highlighted environmental hazards, water shortage risks, potential harm to wildlife, agricultural implications, and urged action to prevent the mine's development.

Kara L. Harris highlighted the detrimental impact of the lithium mine on the Willcox Playa,

emphasized the lack of local benefits from electricity and resources taken, predicted severe environmental consequences including harm to wildlife, and depletion of resources, urged intervention and concluded with a plea for road maintenance for Mr. Kern.

Sandy Trull addressed concerns about the unconstitutionality of elections, advocated against third-party involvement, secrecy in ballot counting, corporate interference, and maladministration with voting machines, called for a return to precinct-based voting, removal of third-party technology, and a ban on machines.

Joanna L. Seeley referenced the Cochise County Comprehensive Plan and its regulations against open-pit mining, emphasized the plan's focus on preserving open space, agricultural resources, historical sites, wildlife habitats, and the Willcox Sulphur Springs aquifers, urged the board to halt the Max Power Mining Corp operation based on the plan's guidelines.

Johnny Lee Wilson Sr. expressed support for the Board and addressed concerns about the unaccounted votes in an election, critiqued the use of voting machines, emphasized the need for transparency, called for adherence to the Constitution, expressed love for the country, and voiced concerns about immigration and foreign aid.

County Attorney

CONSENT

1. Approval of settlement regarding Benchmark Estate Winery LLC & Aridus Wine Company LLC v. Cochise County, TX2021-000546, now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County. The Board may go into executive session for legal advice with the attorney for the public body and to consider its position and instruct attorneys regarding the public body's position in the pending litigations.
2. Approval of settlement regarding Benchmark Estate Winery LLC & Aridus Wine Company LLC v. Cochise County, TX2022-000397, now pending in Arizona Tax Court, a division of the Superior Court of and for Maricopa County. The Board may go into executive session for legal advice with the attorney for the public body and to consider its position and instruct attorneys regarding the public body's position in the pending litigations.

Board of Supervisors

3. Approve the Minutes of the regular meeting of the Board of Supervisors of November 28, 2023.
4. Approve the Governor's Office of Highway Safety Grant, Contract Number 2024-AL-014, in the amount of \$32,500, for the DUI / Impaired Driver Enforcement program effective October 1, 2023, through September 30, 2024.

County Sheriff

5. Approve Grant Agreement 2024-043, with the Arizona Attorney General's Office for the continuation of funding assistance for personnel who perform Victims' Rights services for the Cochise County Sheriff's Office, in the amount of \$9,600, effective July 1, 2023 through June 30, 2024.

Elections

6. Acknowledge receipt of the written presentation by the San Pedro Valley Hospital District Board of Directors of the certified canvass of the November 7, 2023, Special Election.
7. Approve the two resignations and five appointments of Democratic Precinct Committeemen, by recommendation of their Cochise County Party Chairman, to serve through the October 1, 2024 term.

Finance

8. Approve demands and budget amendments for operating transfers.

Vice-Chairman Crosby made a motion to approve items 1-5 and 7-8 on the Consent Agenda. The motion failed for lack of a second.

Supervisor English made a motion to approve items 1-8 on the Consent Agenda. Chairman Judd seconded the motion.

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

PUBLIC HEARINGS

Board of Supervisors

9. Approve Uniform Video Service License Agreement for Allo Arizona, LLC, effective December 12, 2023 through December 12, 2033.

Vice-Chairman Crosby made a motion to approve Uniform Video Service License Agreement for Allo Arizona, LLC, effective December 12, 2023 through December 12, 2033. Supervisor English seconded the motion.

Chairman Judd opened the Public Hearing and no one chose to speak.

Paul Correa, Deputy County Attorney, presented this item. Mr. Correa stated that Allo provides video, internet, and fiber optic services primarily to rural communities in Nebraska, Colorado, and Arizona. He explained that under a statute enacted in 2019 necessitates an application, payment of a license fee, and a revenue contribution. In response to the Board, Mr. Correa stated that Allo would provide service similar to Cox and Sparklight and their service area would be most of Cochise County.

Chairman Judd closed the Public Hearing.

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

Development Services

10. Adopt Zoning Ordinance 23-22 and approve docket RZ23-21 (Bowie Power Plant) to revert zoning for parcel 301-04-033G from HI (Heavy Industry) to RU-4 (Rural, minimum lot size 4 acres), pursuant to a County-initiated request.

Supervisor English made a motion to adopt Zoning Ordinance 23-22 and approve docket RZ23-21 (Bowie Power Plant) to revert zoning for parcel 301-04-033G from HI (Heavy Industry) to RU-4 (Rural, minimum lot size 4 acres), pursuant to a County-initiated request. Vice-Chairman Crosby seconded the motion.

Chairman Judd opened the Public Hearing and no one chose to speak.

Dan Coxworth, Development Services Director, presented this item. Mr. Coxworth stated that this is a reversion of zoning from HI to U4, following a project cancelation for a power plant north of Bowie, with staff recommending approval for the zoning reversion. In response to the Board, Mr. Coxworth stated that a Limited Liability Corporation (LLC) out of Phoenix owns the property.

Chairman Judd closed the Public Hearing.

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

11. Adopt Zoning Ordinance 23-23 to revert the zoning from SR-87 (Single-Family Residential, one dwelling per 87,000 square feet) to RU-4 (Rural, minimum lot size 4 acres) on parcels 124-01-013K and 124-01-013L, pursuant to a County-initiated request.

Vice-Chairman Crosby made a motion to adopt Zoning Ordinance 23-23 to revert the zoning from SR-87 (Single-Family Residential, one dwelling per 87,000 square feet) to RU-4 (Rural, minimum lot size 4 acres) on parcels 124-01-013K and 124-01-013L, pursuant to a County-initiated request. Supervisor English seconded the motion.

Chairman Judd opened the Public Hearing and no one chose to speak.

Mr. Coxworth presented this item using a PowerPoint presentation. Mr. Coxworth stated this involves a 555-acre reversion west of Benson, initially rezoned from RU-4 to SR-87 in 2011 with a requirement of a subdivision plat. The subdivision plat lead to a lawsuit and a subsequent settlement agreement extending construction timelines. Despite notifications and a settlement stipulation, the applicant hasn't complied, prompting staff to request zoning reversion back to RU-4 due to the lack of response or compliance. In response to the Board, Mr. Coxworth stated that the letters to the owners were not sent certified mail but were not returned back from the post office. Mr. Coxworth stated that going forward it may be good practice to mail these notices via certified mail.

Chairman Judd closed the Public Hearing.

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

12. Adopt Zoning Ordinance 23-24 to revert the zoning from MR-1 (Multi-family Residential) to R-9 (Residential, one dwelling per 9 acres) on parcel 105-71-139F, pursuant to a County-initiated request.

Supervisor English made a motion to adopt Zoning Ordinance 23-24 to revert the zoning from MR-1 (Multi-family Residential) to R-9 (Residential, one dwelling per 9 acres) on parcel 105-71-139F, pursuant to a County-initiated request. Vice-Chairman Crosby seconded the motion.

Chairman Judd opened the Public Hearing and no one chose to speak.

Mr. Coxworth presented this item using a PowerPoint presentation. Mr. Coxworth stated the three property reversions were prompted by ongoing digitization efforts. He stated that this reversion on a 13,900 square foot property in Naco was initially rezoned R-9 to MR-1 in 2011 with the condition of placing a manufactured home on the property within one year. He stated the property owner did not meet that condition and no longer lives on the property. Mr. Coxworth stated that the property owner was notified of the reversion they requested and were given a 6 month delay. He stated the property owner requested an additional 4 weeks and it was explained to her that she has had well over ten years to meet this condition. Staff is requesting that the property be reverted back to R-9 zoning.

Chairman Judd closed the Public Hearing.

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

ACTION

Court Administration

13. [Item tabled from November 28, 2023 Regular Board of Supervisors Meeting] Approve the appointment of Gary Ramaeker, Elda Orduno and Charles Price as county-wide Justices of the Peace Pro Tempores, where no other elected justices of the peace are available or otherwise able to conduct a necessary hearing pursuant to A.R.S. § 22-121, effective November 28, 2023 through June, 30, 2024.

Supervisor English made a motion to remove item 13 from the table from November 28, 2023. Vice-Chairman Crosby seconded the motion.

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

Chairman Judd stated that one person signed in support of this item and did not wish to speak.

Supervisor English made a motion to approve the appointment of Gary Ramaeker, Elda Orduno and Charles Price as county-wide Justices of the Peace Pro Tempores, where no other elected justices of the peace are available or otherwise able to conduct a necessary hearing pursuant to A.R.S. § 22-121, effective November 28, 2023 through June, 30, 2024. Vice-Chairman Crosby seconded the motion.

Niltza Flores, Deputy Court Administrator, presented this item. Ms. Flores stated that these appointments would assist with weekend and holiday initial appearances, ensuring coverage in case of unavailability of a Justice of the Peace. In response to the

Board, Ms. Flores stated that there are currently 4 Pro Tempores and these appointees would be added to the rotation as to not overload the ones currently serving and would allow additions to the schedule. Ms. Flores stated that a selection committee vets the applicants through a hiring process.

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

Elections

14. Adopt Resolution 23-27 to approve 18 Vote Centers for the 2024 Presidential Preference, Primary and General Elections as listed on the attached Exhibit; and authorize the Elections Director to make substitutions as necessary prior to each election, in the event that a Vote Center replacement needs to be made in accordance with A.R.S. § 16-411.

Vice-Chairman Crosby made a motion to adopt Resolution 23-27 to approve 18 Vote Centers for the 2024 Presidential Preference, Primary and General Elections as listed on the attached Exhibit; and authorize the Elections Director to make substitutions as necessary prior to each election, in the event that a Vote Center replacement needs to be made in accordance with A.R.S. § 16-411. Supervisor English seconded the motion.

Chairman Judd stated that 17 people signed in favor and 3 in opposition to this item and do not wish to speak.

James Cook spoke in favor of this item and discussed the reasons.

Allison Morse spoke in favor of this item and discussed the reasons.

Tricia Gerrodette spoke in favor of this item and discussed the reasons.

Kara L. Harris spoke in opposition to this item and discussed the reasons.

Sandy Trull spoke in opposition to this item and discussed the reasons.

Nancy Olmstead spoke in opposition to this item and discussed the reasons.

Randall Limbach spoke in opposition to this item and discussed the reasons.

David Wm. Penrose spoke in favor of this item and discussed the reasons.

Tim Mattix, Elections and Special Districts Director, presented this item. In response to the Board, Mr. Mattix stated the machines for the new voting center will come from spares that are already in the County's possession.

Chairman Judd expressed her support for vote centers, emphasized the convenience for those within the immediate area, and refuted the argument that individuals working an hour away from home would need alternative voting centers due to the ability to vote early in the morning or after work hours. Chairman Judd expressed gratitude for the San Simon Vote Center's implementation despite initial doubts about its practicality compared to other nearby centers.

Vice-Chairman Crosby acknowledged cost concerns but prioritizes accuracy and voter trust over ease of voting centers, suggesting that saving costs in this area isn't advisable and expressed a constitutional opinion regarding the Help America Vote Act's potential

unconstitutionality related to the 10th amendment.

Supervisor English emphasized transparency in the voting process, highlighting that although physical access to the counting room might not be feasible, 24-hour cameras are in place for public viewing. She expressed a commitment to ensuring votes are accounted for accurately and consider it a sacred responsibility and discussed the challenges that may prevent providing a quick voting experience for everyone.

Chairman Judd suggested an alternative method for oversight during voting, proposing that precinct committeemen, elected within political parties, can serve as watchers to monitor the voting process.

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

Health & Social Services

15. Approve Amendment 2 to Intergovernment Agreement (IGA) CTR059344, "Senate Bill 1847 Funding," between the Arizona Department of Health Services and Cochise County Health and Social Services to increase the amount of the award to \$91,500 annually for the period of July 1, 2023, through June 30, 2027.

Supervisor English made a motion to approve Amendment 2 to Intergovernment Agreement (IGA) CTR059344, "Senate Bill 1847 Funding," between the Arizona Department of Health Services and Cochise County Health and Social Services to increase the amount of the award to \$91,500 annually for the period of July 1, 2023, through June 30, 2027. Vice-Chairman Crosby seconded the motion.

Suzanne Hagle, Director of Prevention Services, presented this item. Ms. Hagle stated that this funding will be used to address and mitigate overdose deaths in Cochise County.

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

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

Mr. Karwaczka acknowledged recent construction in the boardroom, expressing gratitude to the Facilities and IT staff for swiftly adapting the space to comply with new statutes allowing public access to all meeting areas. He highlighted the changes made for work sessions to be more accessible and the redesigned podium for public speakers to address the Board.

SUMMARY OF CURRENT EVENTS

Report by District 1 Supervisor, Tom Crosby

Vice-Chairman Crosby deferred his report.

Report by District 2 Supervisor, Ann English

Supervisor English wished everyone a Merry Christmas and safe and happy holiday.

Report by District 3 Supervisor, Peggy Judd

Chairman Judd wished everyone a Merry Christmas.

Chairman Judd adjourned the meeting at 11:20 a.m.

APPROVED:

Peggy Judd, Chairman

ATTEST:

Sharon Gilman, Interim Clerk of the Board