

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
WORK SESSION HELD ON
Monday, August 4, 2014**

A Community Outreach meeting of the Cochise County Board of Supervisors was held on Monday, August 4, 2014 at 10:30 a.m. in the Board of Supervisors' Executive Conference Room at 1415 Melody Lane, Building G, Bisbee.

Present: Patrick G. Call, Chairman; Ann English, Vice-Chairman; Richard R. Searle, Supervisor
Staff Michael J. Ortega, County Administrator; Jim Vlahovich, Deputy County Administrator;
Present: Britt W. Hanson, Chief Civil Deputy County Attorney; Arlethe G. Rios, Clerk of the Board;
Ed Gilliland, Adult Probation; Joel Larson, Legal Defender

Chairman Call called the meeting to order at 10:30 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

INTRODUCTIONS

ITEMS FOR DISCUSSION - CONSIDERATION OF LEGISLATIVE PROPOSALS TO RECOMMEND TO COUNTY SUPERVISORS ASSOCIATION

Board of Supervisors

1. Amend the floodplain violation enforcement procedure set forth in A.R.S. § 48-3615.01 by adding certain due process protections and eliminating ambiguity and unnecessary steps in the procedure in counties with a population less than 175,000.

Mr. Hanson, Deputy County Attorney, presented this item. He stated that during the floodplain violation process, staff discovered that the State has a statute that does not make sense for a small, rural county. Staff recommendation to the statute is having the Hearing Officer make the recommendation and add a population cap. He noted that other county attorneys statewide agreed with this proposal.

The Board agreed that this proposal would make the process simpler for county citizens and agreed to submit the proposal to the County Supervisors Association (CSA).

2. Amend A.R.S. 11-584 (Public Defender Statute) to expressly authorize public defender or similar offices (legal defender, legal advocate) to participate in problem solving courts, such as drug courts, mental health courts, veterans' courts, and domestic violence court programs.

Mr. Joel Larson, Legal Defender, presented this item. He stated that the effort focused on legal defenders or advocates being able to participate in problem solving courts to accommodate certain types of individuals. The current statute does not disallow legal defenders or advocates be involved, but does not give a detail on how much involvement there can be. He noted that there should not be a proposal made at this time, just wanted to update the Board on the current process.

3. Request that the Legislature refer a change to the Arizona Constitution to the voters to modify Article 9, Section 20, expenditure limitation; adjustments; reporting that would exclude capital expenditures from determining the applicable expenditure limitation for counties, cities and towns.

Mr. Michael J. Ortega, County Administrator, presented this item and said that the expenditure limitation presented a problem to entities who had monies for projects and cannot accomplish them all at once. He noted that the expenditure limit was put in place by legislature to protect entities from going into debt when trying to complete too many projects.

Mr. Britt Hanson, County Attorney, stated that in order to raise the expenditure limit, the Board would have to put it on a general election ballot.

Mr. Ortega said that in order to avoid doing this every time the Board wanted to complete a capitol project, staff was proposing making a change to the legislature. He noted that adding this to an election every time would not be cost effective.

Supervisor Searle asked how many counties face this issue.

Mr. Ortega said that there were two counties currently facing this issue and added that they used the financing option for capital projects.

Chairman Call stated that Cochise County has virtually no debt and is holding the tax rate even and is forced to go into debt in order to comply with the current expenditure limit.

Mr. Ortega stated that this discussion was for the Board's information and not needed to move forward as a legislative proposal.

Chairman Call adjourned the meeting at 11:17 a.m.

APPROVED:

Patrick G. Call, Chairman

ATTEST:

Arlthe G. Rios, Clerk of the Board

"PUBLIC PROGRAMS, PERSONAL SERVICE"

DIS-1926

Work Session Board of Supervisors1

Meeting Date: 08/04/2014

Amend the floodplain violation procedure

Submitted By: Gussie Motter, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V
Presentation

Recommendation:

Document Signatures:

of ORIGINALS

Submitted for Signature:

NAME
of PRESENTER: Britt Hanson

TITLE
of PRESENTER: Chief Civil Deputy Attorney

Mandated Function?:

Source of Mandate
or Basis for Support?:

Items For Discussion 1.

Community Development

Information

Agenda Item Text:

Amend the floodplain violation enforcement procedure set forth in A.R.S. § 48-3615.01 by adding certain due process protections and eliminating ambiguity and unnecessary steps in the procedure in counties with a population less than 175,000.

Background:

Cochise County has been going through a floodplain violation enforcement procedure pursuant to A.R.S. § 48-3615.01 and found it very awkward. It calls for a hearing by a hearing officer, but the hearing officer only makes a recommendation to the chief engineer, who then renders a final order and decision. In a small county such as Cochise, the engineer who would render that final order and decision is also the engineer who has already made the determination that a violation has occurred and will be the chief witness for the flood control district at the hearing. Needless to say, the respondent property owner will see all of this as fundamentally unfair—the engineer as the investigator, prosecutor, judge and jury. While we realize that administrative procedures don't need to have all of the due process safeguards as a court procedure, the process and outcome does look ridiculously rigged.

The proposed amendment calls for the hearing officer to make the final order and decision rather than the chief engineer. The proposal makes that procedure available to counties less than 175,000 because perhaps the existing procedure works well in larger counties where there may be more engineering layers. But we would certainly have no problem adjusting that number up or down depending on the wishes of other counties.

The proposed amendment also eliminates a very needless step in the enforcement process: a show cause meeting (or something—it's not really a hearing) between the respondent property owner and the chief engineer; the actual hearing process before the hearing officer doesn't commence until after that show cause meeting. In our County, by the time we've gotten to that point, the engineer (or other representative of the flood control district) will have met with the property owner on one or more occasions to discuss and attempt to resolve the violation. So the show cause meeting just unnecessarily causes the respondent property owner to show up at a meeting and the engineer to sit around to see if the respondent will show up at the meeting. This part of the process is actually more confusing than I've just outlined, as you can see if you read through subsection B of § 48-3615.01. The proposed amendment eliminates that step.

As currently in effect, § 48-3615.01 does not provide for a complaint or answer, which hearing officers (and others) are accustomed to. Accordingly, the proposed amendment adds that if the matter goes to a hearing, the notice of violation serves as the complaint and the respondent's response to the notice of violation serves as the answer.

Department's Next Steps (if approved):

Send Proposal to the county Supervisors Association.

Impact of NOT Approving/Alternatives:

There is no fiscal impact but the current process will remain unchanged.

To BOS Staff: Document Disposition/Follow-Up:

To be determined.

Budget Information

Information about available funds

Budgeted: ☐

Funds Available: ☐

Amount Available:

Unbudgeted: ☐

Funds NOT Available: ☐

Amendment: ☐

Account Code(s) for Available Funds

1:

Fund Transfers

Attachments

Proposed Amendment

Legislative Proposal Form

DIS-1927

Items For Discussion 2.

Work Session Board of Supervisors1

Board of Supervisors

Meeting Date: 08/04/2014

Amend ARS 11-584 Public Defender Statute

Submitted By: Gussie Motter, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V **Recommendation:**
Presentation

Document Signatures: **# of ORIGINALS**
Submitted for Signature:

NAME Joel Larson **TITLE** Legal Defender
of PRESENTER: **of PRESENTER:**

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

Information

Agenda Item Text:

Amend A.R.S. 11-584 (Public Defender Statute) to expressly authorize public defender or similar offices (legal defender, legal advocate) to participate in problem solving courts, such as drug courts, mental health courts, veterans' courts, and domestic violence court programs.

Background:

The statute currently sets forth the duties of the public defender. It also authorizes the public defender to provide representation in other matters, provided that the board of supervisors notifies the presiding judge that such representations are authorized.

In 1997, the U.S. Department of Justice, Office of Justice Programs established ten key components for the effective operation of drug court programs. These standards have been replicated in other problem solving court models. The second key component cites the nonadversarial participation of prosecution and defense counsel to "promote public safety while protecting participants' due process rights."

Drug courts and other problem solving courts are prevalent in Arizona. While each of these programs is unique, all programs should adhere to key components and evidence-based practices to achieve optimum results. By expressly authorizing the Public Defender to participate in problem solving court teams and provide legal representation for participants during court proceedings in A.R.S 11-584, the State of Arizona would be taking an important step toward protecting the rights of problem solving court participants and improving the quality and consistency of program statewide.

Department's Next Steps (if approved):

Forward to the County Supervisors Association

Impact of NOT Approving/Alternatives:

Not known at this time

To BOS Staff: Document Disposition/Follow-Up:

Not known at this time

Budget Information

Information about available funds

Budgeted: ☐

Funds Available: ☐

Amount Available:

Unbudgeted: ☐

Funds NOT Available: ☐

Amendment: ☐

Account Code(s) for Available Funds

1:

Fund Transfers

Attachments

Proposal

DIS-1930

3.

Work Session Board of Supervisors1

Meeting Date: 08/04/2014

Expenditure Limitations

Submitted By: Gussie Motter, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME Lois Klein

of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE Finance

of PRESENTER: Director

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

Information

Agenda Item Text:

Request that the Legislature refer a change to the Arizona Constitution to the voters to modify Article 9, Section 20, expenditure limitation; adjustments; reporting that would exclude capital expenditures from determining the applicable expenditure limitation for counties, cities and towns.

Background:

The expenditure limitation requirement of the Constitution prevents local governmental entities from overspending their budgets and protects taxpayers from dramatic increases in budget (and corresponding property tax increases). Unfortunately, as currently written, it prevents Counties from expending funds wisely for major capital expenditures. Specifically stated, in order to fund a major capital project such as a building, which will surely result in exceeding the County's expenditure limitation using current revenues, the only way that counties can accomplish it is to borrow money using devices such as certificates of participation and paying interest on it. Counties that watch their revenues and expenditures wisely instead may be able to accumulate cash reserves (a necessity due to the delay in receiving new property tax revenue each year) and pay cash for the capital expenditure. Ultimately the taxpayers will pay less money for the expenditure, which will occur anyway, and funds will be expended more wisely. Simply stated, it is better government to budget wisely, pay cash for significant expenditures, rather than getting into an endless cycle of borrowing money and having to pay it back with interest.

Department's Next Steps (if approved):

Forward to the County Supervisors Association

Impact of NOT Approving/Alternatives:

Nor known at this time.

To BOS Staff: Document Disposition/Follow-Up:

Not known at this time.

Budget Information

Information about available funds

Budgeted: ☐

Funds Available: ☐

Amount Available:

Unbudgeted: ☐

Funds NOT Available: ☐

Amendment: ☐

Account Code(s) for Available Funds

1:

Fund Transfers

Attachments

Proposal
