

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
WORK SESSION HELD ON
Tuesday, February 27, 2018**

A work session of the Cochise County Board of Supervisors was held on Tuesday, February 27, 2018 at 1:30 p.m. in the Board of Supervisors' Executive Conference Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Chairman Ann English; Vice-Chairman Patrick G. Call; Member Peggy Judd

Staff Present: Edward T. Gilligan, County Administrator
Britt W. Hanson, Chief Civil Deputy County Attorney
Kim Lemons, Deputy Clerk of the Board
Amanda Baillie, Public Information Officer

Attendees: Brian McIntyre, County Attorney
Sheriff Mark Dannels
Thad Smith, Chief Deputy Sheriff
Sam Farris, Operations Manager, Sheriff's Office
Kenneth Bradshaw, Jail Commander
Scott Clifton, President, Aerial Solutions
Vanessa Clifton, Vice-President, Aerial Solutions
Dan Roberts, Citizen

Chairman English called the meeting to order at 1:30 p.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

Board of Supervisors

1. Discussion and possible direction regarding Aerial Solutions Contract and Liability.

Mr. Gilligan, County Administrator, said this is an opportunity to share information as we enter into year two of a multi-year agreement with Aerial Solutions. One year ago, there was board consensus that this is a valuable program funded by Buffet Foundation that affords service to be provided without any taxpayer liability. There was also value in contracting with Aerial Solutions for operations management. In discussions with Arizona Counties Insurance Pool

(ACIP) Executive Director, Bill Hardy, this agreement is preferred. ACIP does not insure third parties and when things go wrong with aircraft, it is typically pilot error or maintenance issues. These types of issues are better served by professional service companies. It would be too expensive for a County to own and operate aircraft which lead to this agreement. The contract insurance obligation calls for a minimum of \$10 million liability and this contract is for \$20 million liability.

Mr. Gilligan said this brings us to a couple of concerns. Basically, who is riding in the helicopter. If there are multiple civilians, the liability insurance might not cover a catastrophe. County employees are covered by Workman's Compensation, and law enforcement through the Public Safety Pension Plan. The other concern is with the type of ownership agreement for the aircraft. The aircraft is currently owned by a non-profit: Arizona Law Enforcement Air Support. That non-profit board, consists of members of the Sheriff's Assist Team. In a perfect insurance liability world, there would be a clear break in the chain of command for the County for pilot operation and aircraft ownership. A possible option, moving forward is for a third-party oversight and accreditation agreement that costs \$4,000 with all parties having full knowledge of what agreements and policies are in place.

Chairman English stated two issues with the operation of this important law enforcement tool. 1) the Board and the Sheriff's Office had agreed that there would be no one on the aircraft that was not law enforcement; and 2) the creation of another non-profit organization for operation and maintenance oversight with members from current or previous employees of the Sheriff's Office versus staying with the prior operations company.

Sheriff Dannels addressed the Board and started by saying the helicopter program was not in operation for a year in order to bring it back as a safer program. The Sheriff's Office followed the Board's direction of not wanting ownership. A 501C was set up and vetted through the County Attorney's Office and followed their advice to not have any County employees on the board. The helicopter flies every day promoting some component of law enforcement with a mission: education, prevention, awareness for the County or border. There was an instance where a music band was given a 10-minute ride on the helicopter. Since then, there have been discussions with County administration, the attorney's office, ACIP and the Sheriff's Office has conceded to no more rides for civilians. They have also revised the policies and updated the non-profit's board members. There are no County employees on the board, only volunteers from the Sheriff's Assist Team.

Chairman English reiterated that the issue is who is on the aircraft because of liability, a non-profit will not be held accountable for liability. She is totally behind a mission based program but not a public relations program.

Sheriff Dannels discussed past incidents and recounted some of the positive missions the helicopter has been used for.

Mr. Gilligan questioned who was named as the statutory agent for the non-profit. Commander Farris stated he filed a statutory agent change form in February 2016, that removed him, and added Mr. John Black, volunteer, Sheriff's Assist Team as the statutory agent. Sheriff Dannels noted the credentials for Mr. Black.

Chief Deputy Smith added that he spoke with Bill Hardy, ACIP, the day before and Mr. Hardy indicated that the volunteers for the 501C was not a problem. Mr. Hardy also said the \$20 million coverage is more than sufficient to cover claims.

Commander Farris explained his role as a pilot of the helicopter.

Mr. Gilligan stated today's meeting is to make sure everybody knows the conditions of

operation for the helicopter program and that everyone is in agreement with it.

Supervisor Judd commented she has had a chance to discuss the issue of civilians on the helicopter with colleagues and citizens and they mostly had strong responses that civilians should not be riders. She also expressed her appreciation for today's discussion.

Sheriff Dannels said he wants and understands the need for the safest program in the sky.

Mr. Gilligan brought up the value of accreditation to bolster the credibility of the program.

Commander Farris spoke of his research of the Airborne Law Enforcement Safety Association accreditation. We can seek accreditation if it is a factor for the Board but his research suggests that it does not carry value and is not important.

County Attorney McIntyre spoke about how the 501C was created and his perspective at that time regarding Commander Farris's role on the board. For him it was not an issue because Sheriff Dannels controls Commander Farris's paycheck. Regarding Mr. Black, he is the kind of volunteer you would expect or want to be on the board, versus someone random and there is no fiduciary relationship between Mr. Black and Sheriff Dannels. Finally, based on his experience outside of the County, he appreciates Sheriff Dannel's concession on civilians and he is comfortable with the \$20 million liability coverage. He suggested possibly researching other accreditation companies available and noted there are many aircraft in the state and this jurisdiction that are without accreditation. Mr. Hanson addressed the question regarding ownership of the aircraft and liability and said the board's involvement/liability would be same regardless of who is the owner.

Chairman English stated she wanted to make sure we reduce any liability possible and if the Sheriff's Office is willing to concede on the civilian issue and the County Attorney says that it is not a problem then we can move forward.

The Board asked what the next step would be and if they need to act on any policy. Mr. McIntyre clarified that the Sheriff's Office adopts their own internal policies. If those policies are not followed, the Board can request termination of the contract based on the failure to follow.

Vice-Chairman Call said ultimately the buck stops with the Board. He has no problem with this policy, if definitions for civilians are crystal clear. He does not understand why an accreditation program is an issue, it seems like a logical step that would provide another level of insulation for the liability issue. He has no issue with the value of the helicopter program or the Sheriff's officers. The officers are doing an incredible job and he admires their work. He asked if the members of the non-profit board are insulated from personal liability. Mr. Hanson said they are included in the Aerial Solutions insurance policy.

After discussion, all parties agreed that the Sheriff's Office and Aerial Solutions would work together to initiate the process of accreditation as requested by the Board.

The Sheriff agreed to share the policy with the Board for transparency purposes.

Representatives from Aerial Solutions clarified the qualifications of their pilots. They also stated that the civilian definition would need to include possible civilians rescued on a law enforcement mission. Additionally, depending on a lawsuit, the legal defense fund does not come from the \$20 million liability insurance.

The Board thanked everyone for their participation in this discussion.

Chairman English adjourned the meeting at 2:53 p.m.

APPROVED:

Ann English, Chairman

ATTEST:

Kim Lemons, Deputy Clerk of the Board