

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
WORK SESSION HELD ON
WEDNESDAY, JULY 15, 2020**

A work session of the Cochise County Board of Supervisors was held on Wednesday, July 15, 2020, at 11:30 a.m. in the Board of Supervisors' Executive Conference Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Thomas E. Borer, Chairman; Ann English, Vice-Chairman; Peggy Judd, Supervisor, telephonic

Staff Present: Edward T. Gilligan, County Administrator
Sharon Gilman, Associate County Administrator
Christine Roberts, Chief Civil Deputy County Attorney
Britt Hanson, Of Counsel, County Attorney
Kim Lemons, Clerk of the Board
Amanda Baillie, Public Information Officer

Attendees: Judge Conlogue, Presiding Judge Division V
Judge Ward, JP 4
Judge Adame, JP 6
Keith Buonocore, Finance Director
Daniel Duchon, Budget Manager
Elda Orduno, HR Director
Niltza Flores, Associate Court Administrator
Marty Haverty, Public Works Director
Jennifer Graeme, Associate HR Director

Chairman Borer called the meeting to order at 11:30 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

ITEMS FOR DISCUSSION

Court Administration

1. Discussion and possible direction regarding Court Consolidation Agreements.

Judge Conlogue gave thanks for accommodating him and his trial schedule. He gave the background of cases that arise in cities for municipal and justice courts and said they have the same jurisdiction with one exception: cases for city ordinances must be filed in municipal court. Other cases that can be filed in a municipal or justice court are considered general cases. To avoid both courts having the same jurisdiction, magistrate cases are filed in a justice court as a consolidated court. The Justice of the Peace (JP) gets credit for those cases and gets paid for the number of filings. He was not entirely aware of the specific arrangements until Judge Call was appointed in Sierra Vista. Judge Conlogue was appointed to have

administrative control over the magistrate court and learned that JPs in consolidated court received an additional salary from cities, and was shocked to find out the amount of money they received. Currently, there are no consolidated agreements in place. Using an analogy for demonstrating the purpose of a consolidated court agreement, he said if a County Administrator does work as a City Manager on County time using County resources, and receives an additional salary from the City, that would probably raise questions. It is difficult to find out the number of cases there are because justice and municipal cases are reported together in some cities. He gave specifics of types of cases and JP salaries for some cities. He drafted wording for municipal courts, with the County Attorney and County Administrator as a model. He recently received suggested amendments by Judge Stagg and a representative for the Administrative Office of the Court. Also, a JP organization suggested some amendments. All suggestions were forwarded to the County. He had concerns about the payment to JPs from the cities, not personal concerns, but for the integrity of the judiciary and county taxpayers.

Chairman Borer restricted comments to County staff only.

Judge Ward said he was speaking on behalf of the JPs for Cochise County. He said the reason they are not signing is that they were not given an opportunity to review the IGA and did not have full knowledge and understanding of the obligations. It was presented ten days prior to expiration of the IGA, without any participation or feedback from the JPs, and they believe they have made the correct decision to not sign. He stated specific statutes and proposed the JPs draft the IGA, with the cities, and present to the Presiding Judge for approval. As far as the salaries from cities, he said we are afforded that ability by the constitution. The issue regarding pay should not be a decision by the Board or Judge Conlogue but the cities.

Chairman Borer asked if the magistrate cases count toward the productivity credits that the State uses to determine JPs' base salary.

Mr. Gilligan said it was his understanding from Judge Conlogue' research that the total cases from Benson, Willcox and Douglas fell outside the productivity credit. The number of cases in Willcox (14); Benson (0); and Douglas (170+) that included more detailed tracking.

There was a discussion about what cases count toward productivity credits, on which Judge Ward and Judge Conlogue did not agree, and how municipal cases are reported, and JPs are paid.

Judge Ward said Judge Conlogue has raised some valid concerns, but the JPs want to be a part of the discussion.

Chairman Borer cited statutes that cover the use of County facilities and resources to provide service to the City, receiving additional pay for cases that already count in the productivity credit, and the additional cost to County taxpayers.

Judge Ward said the contract with cities and the JPs are not in the purview of the Board. If the cities have an issue, they are the ones that should be a part of the discussion.

Chairman Borer reiterated the Board's responsibility to County taxpayers for not providing a work environment for non-county work.

Judge Ward said that should be addressed in the IGA.

Supervisor Judd asked what the cities pay to the County in order not to have to cover their own court costs

Judge Conlogue outlined some salaries and the formula developed to share costs and said the formula needs additional consideration.

Mr. Gilligan stated we are working overall on consolidated court agreements, to develop funding metrics that are easy to understand. The County's costs to operate these consolidated courts, all operate in a deficit. The total revenue is less than the operational expense and the deficit is \$500,000 a year. The formula was changed last year in Sierra Vista and Judge Call is not receiving any money but because of the case volume there is a judge pro tem that receives a salary. Additional costs bore by the County are incarceration, and attorney representation, and it is extraordinarily expensive. All cities are getting a great benefit to operate these courts at a low cost. It is a complicated matter and the only term of the agreement that is problematic is the idea that the County is the sole payer of salary money to the JPs. The cities have not voiced concerns about costs.

Vice-Chairman English made a comment for the record. In a consolidated agreement it is the understanding of the City and the County to work together for efficiency and cost-effectiveness. She does not understand separate pay when it is within a consolidated court. When Judge Conlogue brought up this point she thought it was reasonable. She asked why a JP should get 2 separate payments for doing the same job.

Judge Ward said he would not explain to the County but would to the City if asked.

Vice-Chairman English thought it was appropriate for her to ask since it was the reason why the JPs did not want to sign the agreement.

Judge Ward said they did not sign because they were not a party to it, and did not have input. He said they are willing to work together with the parties on a resolution of the IGA.

Mr. Gilligan stated Judge Ward indicated the JPs were not a party to the contract, but it must have been reviewed if they will not sign. The issue of salary, specifically \$35,000 a year for no cases heard, is not a defensible argument to the public and in the best interest of the communities nor the taxpayers.

Chairman Borer said he is not sure of the next steps, and reiterated previous points made. He is open to suggestions on how to move forward with a JP review and draft.

Vice-Chairman English asked if Judge Conlogue has the authority over the JPs and clarified when he said they cannot be paid twice; this came from the court system not the Board.

Judge Conlogue said he sent the proposed language to the County, and was not part of the negotiation with the cities. The Presiding Judge does have authority over all the courts, and there are some proceedings moving through the court now to address this. Again, there are no agreements in place now which is a concern. He wants to work with the JPs within the judicial framework to approve a reasonable agreement. A JP cannot enter into an IGA without the Presiding Judge's approval and it is highly unlikely he will sign one that allows an additional agreement with cities outside the consolidated court agreement.

Vice-Chairman English also said she was unsure of the next steps but reiterated the aspects of the consolidated agreement, handling one issue with one payment.

Supervisor Judd asked for the cities' involvement; possibly collecting their own fees, and letting negotiations continue.

Chairman Borer talked about eliminating the consolidated structure of the agreement. At this

time, the Board cannot give direction until after the Presiding Judge and JPs are ready.

Judge Ward said he looks forward to coming to an amicable agreement and to keeping it consolidated.

There was short discussion about the timeframe for resolution, incorporating changes for the IGA.

Judge Conlogue said he is also open to discussion within the next five months when he retires.

Judge Ward said the JPs will continue to provide service until this issue is resolved.

The Board agreed to meet again on July 29 and adjust that date if necessary.

Chairman Borer adjourned the meeting at 12:27 p.m.

APPROVED:

Thomas E. Borer, Chairman

ATTEST:

Kim Lemons, Clerk of the Board