

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
SPECIAL/EXECUTIVE MEETING HELD ON
TUESDAY, JUNE 21, 2022**

A special meeting of the Cochise County Board of Supervisors was held on Tuesday, June 21, 2022 at 1:00 p.m. in the Board of Supervisors' Executive Conference Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

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

Staff Present: Richard G. Karwaczka, County Administrator
Sharon Gilman, Deputy County Administrator
Christine Roberts, Chief Civil Deputy County Attorney
Paul Correa, Civil Deputy County Attorney
Jim Jellison, Legal Counsel
Tim Mattix, Clerk of the Board

Chairman English called the meeting to order at 1:00 p.m.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ACTION

Board of Supervisors

1. Discussion, direction and possible action regarding the ongoing litigation and potential settlement regarding *Welch v. County Board of Supervisors*, CV201900060.

Pursuant to A.R.S. § 38-431.03 (A)(3) and (4), the Board may go into executive session for legal advice with the attorney of the public body and to consider its position and instruct attorneys regarding the public body's position in pending litigation.

Ms. Roberts recommended that the Board move into Executive Session.

Vice-Chairman Judd made a motion to go into Executive Session, pursuant to A.R.S. § 38-431.03(A)(3) and (4) for legal advice, discussion and instruction with the attorney. Supervisor Crosby seconded the motion.

Supervisor Crosby distributed a handout and read an excerpt of an email from Mr. Mattix, A.R.S. § 38-431.07(B), and an excerpt of a Supreme Court decision regarding

actions taken in violation of the Open Meeting Law. Ms. Roberts read the entire Mattix email into the record. She stated that the County Attorney's Office conflicted out of representing the Board, retained Legal Counsel for the Board, and that all of Mr. Jellison's invoices have been approved by the Board.

Supervisor Crosby asked at which meeting prior to February 22, 2019, the Board publicly approved expenditure of funds to retain Mr. Jellison. Chairman English stated that the issue is whether to go into Executive Session.

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

The Board moved into Executive Session at 1:05 p.m.

The Board came out of Executive Session at 1:35 p.m. Chairman English, Vice-Chairman Judd, and Supervisor Crosby were present.

Vice-Chairman Judd made a motion to approve a negotiated settlement and release agreement and instruct the Board's attorney to execute the necessary documents, that provides that the Board will pay a settlement amount of \$52,500 as reimbursement for a portion of the attorney fees and costs incurred by Mr. Welch; in exchange, for a general release of claims by Mr. Welch, which includes a dismissal of the pending lawsuit and any and all claims with prejudice; and the settlement does not constitute an admission by Cochise County, Supervisor English, Supervisor Judd and former Supervisor Call of any liability or wrongdoing, and the Board also instructs the Board's attorney to execute the necessary documents to complete the settlement. Supervisor Crosby seconded the motion.

Supervisor Crosby repeated the excerpt from the Supreme Court case regarding the Open Meeting Law and stated his opinion that the retention of Mr. Jellison was unlawful.

Mr. Jellison reviewed the case history and stated that all parties have agreed to the general terms of the agreement and are prepared to sign it. The motion will designate Mr. Jellison to execute all documents necessary to effect resolution of the case. A negotiated press release will be released; it discusses the case history and terms of resolution and includes a note that resolution will result in the complete and final dismissal of the lawsuit and that the settlement does not constitute an admission by the County, Supervisor English, Supervisor Judd or former Supervisor Call of any wrongdoing or liability.

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

Chairman English adjourned the meeting at 1:41 p.m.

APPROVED:

Ann English, Chairman

ATTEST:

Tim Mattix, Clerk of the Board