

**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
EMERGENCY MEETING HELD ON
WEDNESDAY, MARCH 8, 2023**

An emergency meeting of the Cochise County Board of Supervisors was held on Wednesday, March 8, 2023 at 10:00 a.m. in the Board of Supervisors' Executive Conference Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

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

Staff Present: Richard G. Karwaczka, County Administrator
Sharon Gilman, Deputy County Administrator
Brian McIntyre, County Attorney
Christine Roberts, Chief Civil Deputy County Attorney
Tim Mattix, Clerk of the Board

Attendees: David Stevens, County Recorder

Chairman English called the meeting to order at 10:00 a.m.

Chairman English called on Mr. Karwaczka for the reason necessitating the emergency. Mr. Karwaczka stated that staff received information that on March 7, 2023, at 10:56 a.m., the Attorney General filed a lawsuit against the Board and the County Recorder. The case number is S-0200-CV-202300106. Based on that filing, an emergency meeting was needed to receive legal guidance from the County Attorney.

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

ACTION

Board of Supervisors

1. Discussion and possible direction regarding litigation and options in the matter of The State of Arizona, *ex rel.* Kristin K. Mayes, Attorney General, v. Cochise County, Tom Crosby in his official capacity as Cochise County District 1 Board Supervisor, Ann English, in her official capacity as Cochise County District 2 Board Supervisor, Peggy Judd, in her official capacity as Cochise County District 3 Board Supervisor, and David W. Stevens, in his official capacity as Cochise County Recorder, filed on March 7, 2023.

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.

In response to the Board, Mr. McIntyre stated that he recommends the Board meet in

Executive Session regarding agenda item 1; it is left to the Board to decide.

Supervisor Crosby made a motion to 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, according to A.R.S. § 38-431.03(A)(3). Vice-Chairman Judd seconded the motion. Chairman English called for the vote and it was approved 3-0.

The Board moved into Executive Session at 10:03 a.m.

The Board came out of Executive Session at 10:25 a.m. Chairman English and Vice-Chairman Judd (telephonic) were present.

Vice-Chairman Judd asked for clarification regarding today's agenda. Mr. Karwaczka confirmed that the Special Meeting that was scheduled was canceled and the Emergency Meeting is being held instead. Chairman English noted that it is an Emergency Meeting as the Board is being sued and needs legal advice.

Supervisor Crosby returned at 10:28 a.m.

2. Discussion, direction and approval of obtaining outside legal representation for the matter of The State of Arizona *ex rel.* Kristin K. Mayes, Attorney General, v. Cochise County, Tom Crosby in his official capacity as Cochise County District 1 Board Supervisor, Ann English, in her official capacity as Cochise County District 2 Board Supervisor, Peggy Judd, in her official capacity as Cochise County District 3 Board Supervisor, and David W. Stevens, in his official capacity as Cochise County Recorder, filed on March 7, 2023, and authorize the County Administrator to sign an agreement for legal representation of the Board in said matter.

Chairman English stated her understanding that the Board has the intent for actions to be taken.

Supervisor Crosby made a motion to obtain outside legal representation of attorney Tim La Sota, for the matter of The State of Arizona *ex rel.* Kristin K. Mayes, Attorney General, v. Cochise County, Tom Crosby in his official capacity as Cochise County District 1 Board Supervisor, Ann English, in her official capacity as Cochise County District 2 Board Supervisor, Peggy Judd, in her official capacity as Cochise County District 3 Board Supervisor, and David W. Stevens, in his official capacity as Cochise County Recorder, filed on March 7, 2023. Vice-Chairman Judd seconded the motion.

Chairman English asked if the motion was for one attorney to be hired to represent both the Board and Recorder Stevens. Supervisor Crosby confirmed, and noted that Recorder Stevens has an additional attorney. Chairman English stated her understanding that the Board can only hire attorneys for itself. Ms. Roberts clarified that the caption for the lawsuit included Recorder Stevens; the discussion is for the Board to hire an attorney for the Board. Chairman English requested the motion be re-read without Recorder Stevens included. Mr. McIntyre stated that because it is a civil matter, any potential conflicts between the Board and Recorder Stevens could be resolved by waiver. Mr. McIntyre stated that the County Attorney will discuss this separately with Recorder Stevens and noted that it is possible that the same lawyer could do those things [for both the Board and Recorder].

Chairman English stated that the motion is to discuss Mr. La Sota as the attorney. Vice-Chairman Judd asked about Mr. La Sota's lawsuit against the County; Ms.

Roberts stated that the lawsuit has been resolved.

Vice-Chairman Judd discussed the need to have someone come in to assist the Board.

Vice-Chairman Judd removed her second from the motion.

Ms. Roberts clarified that the proper motion would be to discuss, direct, and approve obtaining outside legal counsel, which would allow the Board to discuss which counsel the Board would like to consider. The Board could then make a motion on that particular counsel. The current motion limits discussion to Mr. La Sota.

Supervisor Crosby stated that he would withdraw his motion and remake it, to remove Recorder Stevens from the motion. Mr. Karwaczka suggested the motion include authorizing the County Administrator to sign an agreement [for legal representation of the Board]. Mr. McIntyre stated that the rest of the paragraph for the agenda item is to sign an agreement for legal representation of the Board in this matter.

Supervisor Crosby made a motion to obtain outside legal counsel of attorney Tim La Sota for the matter of The State of Arizona *ex rel.* Kristin K. Mayes, Attorney General, v. Cochise County, Tom Crosby in his official capacity as Cochise County District 1 Board Supervisor, Ann English, in her official capacity as Cochise County District 2 Board Supervisor, Peggy Judd, in her official capacity as Cochise County District 3 Board Supervisor, filed on March 7, 2023, and authorize the County Administrator to sign an agreement for legal representation of the Board in said matter. Vice-Chairman Judd seconded the motion.

Vice-Chairman Judd discussed the possibility of outside funding or private funding as the Board was told before that the County should not cover it, and the Arizona Counties Insurance Pool (ACIP) would not cover it. She asked if that is in effect with Mr. La Sota; Supervisor Crosby responded that it is not in effect with Mr. La Sota and he has not spoken with Mr. La Sota. He has not spoken with Mr. La Sota about doing anything for free or being reimbursed in any other place besides the County. Vice-Chairman Judd stated that is not ok with her; Supervisor Crosby concurred, and stated that he did not file a lawsuit against the Board.

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

Chairman English adjourned the meeting at 10:37 a.m.

APPROVED:

Ann English, Chairman

ATTEST:

Tim Mattix, Clerk of the Board

