

**PROCEEDINGS OF THE
COCHISE COUNTY BOARD OF SUPERVISORS SPECIAL EMERGENCY MEETING
HELD ON TUESDAY, SEPTEMBER 20, 2012 @ 11:30 A.M.
IN THE BOARD OF SUPERVISORS CONFERENCE ROOM
LOCATED AT 1415 MELODY LANE, BUILDING G, BISBEE ARIZONA**

This Emergency Meeting of the Board of Supervisors is authorized under A.R.S. § 38-431-02, Subsections C & D

Vice-Chairman Call called the Special Meeting of the Board of Supervisors to order at 11:34 a.m. Supervisors attending telephonically were Richard Searle, Chairman and Ann English, Supervisor. Vice-Chairman Pat Call was present at the meeting; also present were Mike Ortega, County Administrator; Britt Hanson, Chief Deputy County Attorney; Dave Fifer, Deputy County Attorney; Juanita Murray, Elections Director and Katie Howard, Clerk of the Board. Also attending telephonically was Ed Rheinheimer, County Attorney and the following representatives from the Secretary of State's office: Jim Drake (Deputy Secretary of State), Amy Chan (Elections Director), Michele Fourney (Legal Counsel for the Secretary of State), Kris Kingsmore (Deputy Elections Director).

ACTION

ITEM 1

Guidance from the Secretary of State's Office on the procedures for filling the position of Cochise County Sheriff as a result of the vacancy created by Sheriff Larry Dever's death; discussion and possible action regarding same.

Chief Deputy County Attorney Britt Hanson clarified that if the Republican Party committee identifies a candidate today by the deadline, then the law is clear about the course of action to take. County Attorney Ed Rheinheimer added that the established deadline is now 3:00 p.m. Arizona time; he also said that he thinks it is pretty likely that the Republican Party will be able to come up with a candidate by the deadline. The question, he said, is whether the election goes forth with Sheriff Dever's name as the sole candidate for Sheriff on the ballot or whether the election becomes strictly a write-in ballot. He referenced Arizona Revised Statutes, section 16-343 paragraphs (D) and (F). He said the initial Secretary of State's opinion was that if no candidate was named by the Republican Party, the County should remove Dever's name and the election becomes strictly a write-in election. His problem with that is that he is looking for statutory authority to remove Sheriff Dever's name. That's where the disagreement is.

Jim Drake addressed the Board, saying that this is first and foremost a county matter; the Secretary of State will not intrude. However, if asked, he said, he believes there is clear authority. He then discussed the language in subsection A (says "shall be filled by the political party"), and subsection D says "following the printing of the ballot". He said if the 3:00 p.m. deadline passes, then subsection D comes into play, but given the County's foreknowledge of Dever's death, subsection A rules.

Mr. Rheinheimer asked if there was case law on point. Ms. Kingsmore cited the circumstance involving Jake Flake's death. Ms. Chan stated that this was exactly the situation faced on Monday with the

Supreme Court case involving Jake Flake. Mr. Hanson then inquired what happens in the scenario where the Republican Party does not come in with a candidate; Sheriff Dever's name comes off the ballot and what happens? Ms. Chan replied that there would be a write-in candidate. Ms. Kingsmore suggested that the office be listed as "No Candidate" and then the ballot would have a write-in line. Mr. Hanson stated that an orderly election is everyone's goal.

Mr. Drake reiterated that subsection D would apply if the Republican Party is not able to meet the deadline at 3:00 p.m., but that right now, subsection A applies; he stated that the Arizona Attorney General agrees with this position.

Vice-Chairman Call summarized: There is agreement that this is the Board's decision, and the second point is that the Secretary of State and the Attorney General recommend that Larry Dever's name should come off the ballot.

Mr. Hanson also told the Board that any write-in candidates would have to file no later than the fifth day prior to the election. In this situation, he added, candidates must file a nomination statement and a financial disclosure statement; there are no signatures required. He also reminded the Board that early voters will need the names of any write-in candidates updated on the County's website daily and also at the polling places.

Mr. Fifer stated that he and Ms. Murray would go to the Republican Party meeting later that day to accept their nomination, time stamp and notarize it; then notify the printer.

It was agreed that given the statutes, there would be no issue for a 'special accommodation challenge' from another party.

Mr. Ortega suggested that given that the deadline has been moved to 3:00 p.m., the Board should move the second special meeting to begin at either 2:45 or 3:00 p.m. The Board will know by the time of the meeting whether there is a nomination from the Republican Party. The Board concurred.

There being no further business before the Board, Vice-Chairman Call adjourned the meeting at 12:08 p.m.

APPROVED: _____
Richard Searle, Chairman

ATTEST: _____
Katie A. Howard, Clerk of the Board