



OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL'S OFFICE
GOVERNMENT ACCOUNTABILITY UNIT

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February 23, 2023

Via Email & By Certified Mail, Return Receipt Requested

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cc: Cochise County Attorney Brian McIntyre

Cochise County Attorney's Office
P.O. Drawer CA
Bisbee, AZ 85603
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Re: Open Meeting Law and the Cochise County Board of Supervisors

Board Members:

The Office of the Attorney General has received multiple Open Meeting Law complaints regarding the Cochise County Board of Supervisors (the "Board"). The Attorney General is authorized to investigate alleged violations of and enforce Arizona's Open Meeting Law ("OML"). The complaints have been assigned to the Government Accountability Unit, and in particular the Open Meeting Law Enforcement Team ("OMLET").

This letter's purpose is to request information from you regarding the following allegations so that we may better assess this matter. Pursuant to A.R.S. § 38-431.06(C), please provide a written response to the following allegations.

Board Members' November 2022 Marra Lawsuit

The majority of the complaints concern actions in November 2022, alleging that Supervisors Tom Crosby and Peggy Judd, who together constituted a quorum of the Board, met privately, without providing public notice, discussed legal action, and ultimately filed a lawsuit purportedly in their official capacities against Elections Director Lisa Marra (Cochise County Superior Court, No. CV2022-00533). Supervisors Crosby and Judd apparently retained Mr. Bryan Blehm to represent them in their official capacities in this matter, and the complaints allege that they did so absent a public meeting. Some of the complaints also allege that, a few days later, Supervisors Crosby and Judd privately met again to withdraw the lawsuit.

Please provide a written response to these allegations. Along with your response, please include and preserve any relevant November 2022 executive session minutes and any available audio or video

recording of the same, as well as copies of any physical and/or electronic documents, including but not limited to email communications, text messages, and social media messages, in your possession, custody or control that are relevant or potentially relevant to the above allegations.

July 26 Supervisor Crosby Statements

One complaint alleges that in the Cochise County Flood Control District's July 26, 2022 meeting, concerning Agenda Item #4 (Amendment P00002 to Contract W9124J-15-2-0001, between US Army Environmental Command and the Cochise County Flood Control District in the amount of \$1,500,000, for the Bella Vista/Coyote Wash Stormwater Management Project), Supervisor Crosby discussed matters outside the noticed agenda topic, relating to the San Pedro Riparian National Conservation Area. Following several warnings from a Deputy County Attorney concerning a potential OML violation, the Chairman ultimately stated that she believed the comments overreached the noticed agenda item.

Please provide a written response to these allegations.

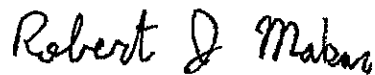
April 5 Supervisor Crosby Statements

One complaint alleges that in the April 5, 2022 Regular Board Meeting, concerning Agenda Item #13 (amendment to Intergovernmental Agreement IGA2021-055, Controlling SARS-CoV-2 Transmission, between the Arizona Department of Health Services (ADHS) and Cochise Health & Social Services), Supervisor Crosby asked questions ranging outside the noticed agenda topics, about unvaccinated people with natural immunity spreading COVID. Following warnings from a Deputy County Attorney and the County Administrator concerning a potential OML violation, Supervisor Crosby continued this line of questioning.

Please provide a written response to these allegations.

Please forward the information requested within twenty (20) days of receiving this letter. Any objections to or reasons for not complying with this request should be filed with the Attorney General's Office no later than the same deadline. A failure to timely respond to this letter may result in the finding of a violation(s) and the imposition of appropriate remedies.

Sincerely,



Robert J. Makar
Assistant Attorney General
Open Meeting Law Enforcement Team