



Members of the public may call and listen and view the meeting by following these steps:

- Dial (669)900-6833
- Enter the Meeting ID: 914 664 2271
- Presentation Zoom Meeting Link: <https://us02web.zoom.us/j/9146642271>

All incoming calls for the meeting will be muted.

1. 8:30 A.M. 08-17-2022 - SPECIAL MEETING

Documents:

[AGENDA - SPECIAL BOARD MEETING OF THE BOARD OF SUPERVISORS - 08-17-2022.PDF](#)

2. 8:30 A.M. 8:30 A.M. DOCUMENTATION

Documents:

[08-17-2022 SPECIAL BOARD MEETING.PDF](#)

3. 8:30 A.M. ACTION TAKEN

Documents:

[08-17-2022 ACTION.PDF](#)



# Board of Supervisors

## Santa Cruz County

MANUEL RUIZ  
District 1

RUDY MOLERA  
District 2

BRUCE BRACKER  
District 3

### PUBLIC NOTICE OF MEETING

Notice is hereby given, pursuant to A.R.S. § 38-431.02, that the Board of Supervisors of Santa Cruz County, State of Arizona will hold a **SPECIAL MEETING** at **8:30 a.m.**, on **Wednesday, August 17, 2022**, at the Santa Cruz County Complex, 2150 N. Congress Drive, Room 120, Nogales, Arizona.

Notice is further given that one or more members of the Board of Supervisors may attend this meeting telephonically or by videoconference.

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Dated this 15<sup>th</sup> day of August 2022.

*Alma Schultz, Clerk  
Board of Supervisors*

### AGENDA

8:30 AM  
Special Meeting  
Santa Cruz County Complex  
2150 N. Congress Drive, Room 120  
Nogales, AZ 85621  
(520) 375-7812 • FAX (520) 761-7843 • TDD (520) 375-7934

#### **A. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

#### **B. EXECUTIVE SESSION**

1. Pursuant to A.R.S. § 38-431.03 (A) (3) and (4), discussion and consultation for legal advice and direction regarding the public records request from Audit USA dated Thursday, July 28, 2022, and initiating a proposed declaratory judgment action (Req: County Attorney)

#### **C. ACTION ITEMS**

#### **ACTION TAKEN**

1. Discussion/possible action to direct staff and or legal counsel regarding the public records request from Audit USA dated Thursday, July 28, 2022, and initiating a proposed declaratory judgment action (Req: County Attorney)

#### **D. ADJOURNMENT**

Posted: 08/15/2022 at 4:30 p.m. by AS

Alma Schultz, Clerk of the Board

The Board of Supervisors may vote to hold an executive session for the purpose of obtaining legal advice from the Board's Attorney on any matter listed on the agenda pursuant to A.R.S. §38-431.03(A) (3).



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# AUDIT USA

Americans United for Democracy, Integrity and Transparency in Elections

Date: Thursday, July 28, 2022

Links to this doc: <https://bit.ly/3PNR7aw>

QR code

To: **Santa Cruz County Board of Supervisors**  
Mr. Bruce Bracker, Chairman / District 3  
Manuel Ruiz, Vice-Chairman / District 1  
Rudy Molera, Member / District 2  
C/O Ms. Jennifer St. John, County Manager  
Alma Schultz, Clerk of the Board  
Lizbeth Tolano, Deputy Clerk of the Board  
2150 N. Congress Dr #119, Nogales, AZ 85621



From: **AUDIT-USA- Americans United for Democracy, Integrity, and Transparency on behalf of Santa Cruz Election Transparency Committee. List of members below and growing.**

Subject: **Public Records Request**

This is a public record request pursuant to ARS §39-121 et seq. It is not for a commercial purpose. We request records stored electronically in electronic form.

This request concerns ARS §16-625 which provides:

### §16-625. Electronic data and digital images: ballot security

“The officer in charge of elections shall ensure that electronic data from and electronic or digital images of ballots are protected from physical and electronic access, including **unauthorized copy or transfer**, and that all security measures are at least as protective as those prescribed for paper ballots.”

Since the Board of Supervisors is "in charge of elections" this request has been filed with the Board.

### Our request is for the upcoming primary of August 2, 2022.

This request is for **ballots Images**, the **Cast Vote Record** and the **Cast Vote Record Database** to be provided to us publicly on the day of the signing of the County canvass.

We realize that election night the results are unofficial, thus giving you the time to self-audit and reconcile the system by inventorying the ballot images.

In addition to the above records, we are also requesting the following ES&S reports from the same election:

1. EL45A – Official Summary Report – Group Detail with overvotes, undervotes, and write-ins
2. EL30A – Official Precinct Summary Report – Group Detail with overvotes, undervotes, and write-ins
3. ES52 – Official Numbered Key Canvass Report, by precinct.

ES&S 483i "i" is for image

483c "c" Cast vote Record

Cast Vote Records Database /Spreadsheet

All public records are presumptively available to the public. Nothing in this statute counters that general law. **Since the Board of supervisors is “in charge,”** then it would clearly be up to that board to authorize any copying or transfer, since the statute only forbids “**unauthorized**” copying or transfer.

In order for the “officer in charge of elections” to authorize copying or transfer, it only has to make sure that the original digital images are protected from physical and electronic access.

Copying a digital file does not endanger the file, so copying the ballot image files would not endanger the originals. For example, if you have a document stored on your computer, you can email it to anyone without damaging the original document. The person to whom you send the copy of the document does not have physical or electronic access to the original document still stored on your computer. They are only receiving a copy.

The same thing is true with ballot images. The original file of the ballot images stays safely stored on the computer at the elections office. Copying that file of ballot images does not allow anyone to have physical or electronic access to the file. The person receiving the file of ballot images is only receiving a copy.

We do not request physical or electronic access. We propose you purchase a thumb drive large enough for your use in electronically copying the stored images. We will reimburse you for it.

## WHAT IS A SECRET BALLOT?

It shouldn't be that hard to understand THAT VOTING IS THE SECRET PROCESS AND COUNTING IS A PUBLIC PROCESS.

To make it clear, this from Tucson Election Attorney Bill Risner:

Ballots and thus ballot images are a public record; here is what the Arizona constitution states:

*“Method of Voting: **secrecy** - Section 1. All elections by the people shall be by ballot, or by such other method as may be prescribed by law:*

*PROVIDED, that secrecy in voting shall be preserved.”*

Voting is the process of casting a ballot. After voting, the same ballot has been “**VOTED**”.

**There is no secrecy in counting votes on ballots.** Ballots are anonymous records, which are unsigned and stored in boxes, along with other anonymous ballots.

We are committed to working within the constructs of the law, to improve our elections, through election monitoring, research, data analysis, and information so that people can have confidence in election results that are **BASED ON FACTS**.

We teach others how to do effective public oversight of elections, making sure they have all the facts and without making false claims of election fraud.

Our efforts revolve around the fight for the gold standard in elections, which is hand-marked paper ballots and using “Ballot images” as a redundant, auditable system that is trackable to the original anonymous ballot.

Our ongoing effort in all states is to require the retention of ballot images and make those images a public record.

At this time, ninety-five percent of the country now uses digital scan voting machines that take a picture of every ballot.

This picture is called a ballot image, and the voting system counts the votes from the images, **NOT** from the paper ballots themselves.

**Although Arizona's public record laws do not require anyone to explain their intentions we choose to do so.**

# AUDIT USA

Americans United for Democracy, Integrity and Transparency in Elections

Our group is named AUDIT Elections USA. AUDIT is an acronym for Americans United for Democracy, Integrity and Transparency in elections. We are a nonpartisan organization whose mission is to have each vote counted as intended in a secure, transparent, impartial, and independently audited election process.

**OUR NATION IS AT A CRISIS POINT OVER ELECTIONS.** Over 50 million Americans believe that the 2020 presidential election was stolen. And Sixty-four percent of ALL Americans believe that our democracy is in CRISIS and at risk of FAILING. **With all of this being in the media and being a border town only complicates the growing cynicism that is so prevalent in Santa Cruz County.**

This is AUDIT's second time getting involved with Santa Cruz County elections. In 2014 we prevailed in a court case regarding access to public records. <https://arizonadailyindependent.com/2014/10/21/judge-finds-against-santa-cruz-county-supervisors-in-election-integrity-case/>

I lived and ran a business in Nogales for many years with my wife of 43 years, Marisela, whose maiden name is Campos.

## Friends, TRANSPARENCY IS THE SOLUTION.

In 2016, Democrats doubted the results of the presidential election. In the 2020 Election, REPUBLICANS had election doubts on STEROIDS.

Clearly, in our country, we've passed the Rubicon, and there's no going back to a system telling us to trust without real verified audits. We must not continue to lurch from election to election without public confidence in election results. I have often said that it is more important for losers to believe they have lost than it is for the winners to believe they have won.

Doubts will continue unless we implement solutions to help get our nation functioning on an even keel.

Confidence in election results is good for all political parties, for voters, for candidates, for election officials, and good for our country.

You as the Board of Supervisors have the power to prove to the electors of Santa Cruz County that they have elections that are transparent, trackable, and publicly verified by providing ballot images so that the public can add up results themselves, by precinct.

We also recommend that you install the inkjet into your high-speed counter, the DS850. thus, creating a ballot library system as a way if needed to match ballot images to the original ballot.

Wouldn't it be nice if, after an election, people would believe the results and the winner would have a "honeymoon" for at least a few months before the politics of division starts up.

I don't mean to be an alarmist; however, our democracy is in crisis.

Please feel free to engage me in conversation about why we need to do this.

My attorneys would be happy to talk to your attorneys.

Thank you for your prompt attention to this request.

*John R. Brakey,*

John R. Brakey,

Director of Americans United for Democracy, Integrity, and Transparency (AUDIT ELECTIONS USA)

Email: [JohnBrakey@gmail.com](mailto:JohnBrakey@gmail.com)

[www.AUDITElectionsUSA.org](http://www.AUDITElectionsUSA.org)

Phone: 520-339 2696

# AUDIT USA

Americans United for Democracy, Integrity and Transparency in Elections

## Names of other electors below who have endorsed and are part of this steering committee to make Santa Cruz County Elections Transparent, Trackable, and Publicly Verified.

John Doyle, Former Mayor of Nogales  
Cesar C. Parada,  
Anna Elena Parada  
Sergio Adalberto Arellano-Oros

CC: William "Bill" Risner, Esq. (AUDIT USA Co-Founder General Counsel based in Arizona.)  
Chris Sautter, Esq. (AUDIT USA General Counsel based in Washington D.C.)  
Ken Bennett, Former AZ SOS

### PLEASE NOTE:

[A.R.S. § 39-121.03](#) requires your board to "promptly" furnish the copy of public records we have requested. The definition of "promptly" is not defined by a statute but promptness includes factors such as the public interest in the records, the location of the records and your resources. The records requested by AUDIT-USA are in computers under your control and which your staff is familiar and for which they have ready access. Those records are included in the definition of public records in [A.R.S. § 39-121.01\(B\)](#) and [A.R.S. § 41-151.18](#).

AUDIT-USA is a "person" permitted to make its request by definition in [A.R.S. § 1-215\(29\)](#).

[A.R.S. § 1-211](#)(B) provides that "statutes shall be liberally construed to affect their objects and to promote justice." We have cited that statute as background for understanding [A.R.S. § 16-625](#).

[A.R.S. § 39-121.02](#)(A) provides that AUDIT-USA, if denied its request, for public records may immediately appeal through a special action in the superior court, pursuant to the rules of procedure for special actions against the offices or public body.

**John Roberts Brakey** is the director and co-founder of **AUDIT Elections USA**. (AUDIT is an acronym for Americans United for Democracy, Integrity and Transparency), a 501(c)3 NGO that advocates and litigates for public oversight of federal, state, and local elections. AUDIT USA evolved from AUDIT AZ, which Mr. Brakey co-founded in 2004.



Mr. Brakey's signature phrase, "**Elections must be transparent, trackable, and publicly verified,**" is becoming ingrained in the language of politicians and election integrity advocates across the U.S.

All the efforts of AUDIT USA revolve around this concept, including the fight for hand-marked paper ballots; opposition to ballot-marking devices (BMDs) for all voters; and the ongoing effort in multiple states to require the retention of ballot images and make those images a public record.

AUDIT USA's successful litigation in 2016 forced Arizona counties to preserve ballot images and the organization's current litigation in Arizona will make ballot images a public record. AUDIT USA's current litigation in Florida will require Florida counties to retain ballot images in accordance with state and federal laws. AUDIT USA has been the primary driving force in the U.S. behind the increasing recognition of **ballot images as vitally important, redundant election records that must be retained and must be available to the public.**

Mr. Brakey's tireless advocacy is an inspiration to those who work with him. He believes in building a "horizontal" organization that educates, empowers, and collaborates with local groups in different states to assist them in developing their own advocacy efforts. Election transparency and public oversight are the goals that motivate Mr. Brakey to travel extensively around the U.S. to meet with a variety of election integrity advocates and organizations. Mr. Brakey returned in May 2022 from a 10-day trip to North Carolina where he worked with Transparent Elections NC, to help that organization develop its advocacy goals and plans.



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