

**Final Copy
Torrance County Board of Commissioners
Special Commission Meeting
February 29, 2016**

Commissioners Present: **LeRoy Candelaria- Chair
James Frost-Member, Vice-Chair
Julia DuCharme-Member**

Others Present: **Joy Ansley-County Manager
Annette Ortiz- Deputy County Manager
Brandon Huss-County Attorney
Michelle Jones -Clerical**

Call Meeting to Order:

Chairman Candelaria calls the February 29, 2016 Special meeting to order at 9:00 am. He welcomes all those present to the meeting and leads us in the pledge. Commissioner Frost gives the invocation.

Approval of the Meeting Agenda:

Chairman Candelaria asks for a motion to approve today's agenda. **ACTION TAKEN:** Commissioner Frost makes a motion to approve today's Special Commission Meeting Agenda. Chairman Candelaria seconds the motion. Madam Commissioner DuCharme refers a portion of page 2 of the New Mexico Open Meetings Act:

Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda.

Madam Commissioner DuCharme states that she printed an agenda yesterday from the County's website and it did not have an Executive Session on it. She states that the current agenda with an Executive Session was not advertised to the public, therefore the Commission cannot hold an Executive Session during today's meeting. Ms. Annette Ortiz, Deputy County Manager, states that she emailed and

faxed the agenda with the Executive Session to everyone who requests an agenda and she posted the correct agenda on the doors of the County Administrative Offices, but the correct agenda was not posted on the website. Ms. Ortiz apologizes for this oversight. Mr. Huss, County Attorney, states that because the County typically posts the agenda to the website, the fact that the correct agenda was not posted means that the Commission should not hold the Executive Session. Madam Commissioner DuCharme now comments that at the last Commission meeting, the Commission made a decision to have the discussion of revisions to Ordinance 94-12 during a regular Commission meeting. Chairman Candelaria was not present at that meeting and has now overturned that decision. She asks Chairman Candelaria what his reason was for overturning this decision. Chairman Candelaria states that the Commission needs to discuss this issue and have a better understanding of what is going on with it; a decision is not going to be made today, this is just an opportunity for the Commission to have a workshop and be better informed. Madam Commissioner DuCharme reiterates that a decision was made to have this discussion during a regular Commission meeting and instructed the County Manager to put it on the next agenda. Chairman Candelaria asks if a vote was taken to do this. Madam Commissioner DuCharme replies no and asks Chairman Candelaria what authority he has to overturn the Commission's decision. Mr. Huss replies that Resolution 2016-02 paragraph 3 states:

Special meetings may be called by the Chairperson or a majority of the members upon three days notice.

Madam Commissioner DuCharme asks if Mr. Huss is referring to a County policy. Mr. Huss replies yes and states that the Commission passed Resolution 2016-02 in January of this year. Commissioner Frost asks the Clerk of the Commission, Ms. Jones (myself) if she has the minutes from the last meeting. Ms. Jones replies that she has her notes and the audio from the meeting. After reviewing her notes, she informs the Commission that discussion of Solid Waste Ordinance 94-12 was not an agenda item and no vote was taken; it was discussed during Ms. Ansley's Manager Update. Her update stated:

3. I'd like to plan a work session to move forward with the solid waste ordinance, 94-12; when would the Commission like to schedule a work session?

At that time, the Commission instructed Ms. Ansley to add the work session to the next regular Commission meeting, March 9th.

Ms. Ansley states that after the last Commission meeting, the County Attorney informed her that he had spoken to Chairman Candelaria and that Chairman Candelaria was going to call a Special Meeting and instructed Ms. Ansley to post the agenda. Chairman Candelaria confirms that he called the Special meeting at that time because he wanted the Commission to discuss the ordinance. Madam Commissioner DuCharme states that she tried to find out exactly what authority the Commission Chair has. She researched state statute and was only able to find two statutes: Chairman and Chairman powers and duties. Madam Commission DuCharme reads:

4-38-10. Chairman.

A. The county commission shall select a chairman in a manner and for a term provided by county ordinance.

B. In the absence of a county ordinance providing for the chairman's selection and term, the county commissioners shall, at the first meeting of each year choose one of their number chairman, who shall preside at that meeting and all other meetings if present; but in case of his absence from any meeting, the members present shall choose one of their number as temporary chairman.

4-38-11. [Chairman; powers and duties.]

The chairman of said board shall have power to administer oaths to any person concerning any matter submitted to the board or connected with their powers and duties and he shall sign all orders on the county treasury.

Madam Commissioner DuCharme states that Chairman Candelaria's duty here is to preside over meetings. She states that at the least, Chairman Candelaria was not present at the last Commission meeting when the decision was made. She states that Chairman Candelaria shows disrespect, not to her personally, but to her position and reiterates again that she does not think that Chairman Candelaria has the authority to do this.

Chairman Candelaria responds that he does have the authority to call this Special meeting and he also has the authority to decide what items go on the agenda.

Mr. Huss comments that the statute does not address Special meetings. Special meetings have to be empowered by resolution. Resolution 2016-02, which was enacted by this board, is the basis of the authority. This resolution provides the Chair the authority to call a Special meeting without the consent of any other board member. Commissioner Frost comments that he feels it is important to have this meeting and the discussion of the items on the agenda. He states that all of us, including the audience, took time from their busy day to attend and it would be

fair, after hearing the opinion of legal counsel, to go forward with the meeting. He states that he sees no advantage to waiting.

Madam Commissioner DuCharme states that she does not believe there is anything in Resolution 2016-02 that gives Chairman Candelaria the power to overturn the decision of the Commission. Mr. Huss replies that first of all, there was no formal decision, just discussion. Secondly, even if there had been a vote, the Chairman can call another Special meeting. There is nothing that prevents him from calling a Special meeting; he can call one whenever he wants on whatever topic he wants with the proper legal notice, which is what he did here.

Chairman Candelaria states that right now we are approving the meeting agenda and now is the time that his fellow Commissioners can vote to approve or not approve today's agenda. He calls for a vote. **ACTION TAKEN:** Commissioner Frost amends his motion and makes a motion to approve today's agenda with the omission of the Executive session. Chairman Candelaria seconds the motion. The Commissioners vote; two in favor, Madam Commissioner DuCharme is opposed. **MOTION CARRIED.**

Action Items

Items to Be Considered and Acted Upon

1. Solid Waste Ordinance 94-12 Work Session Chairman Candelaria speaks. He clarifies for all that this is a WORK SESSION; this is the only time that the Commissioners can get together to discuss this. The Commission cannot have discussion outside of a meeting because of the Open Meetings Act.

Ms. Ansley states that she gave the Commission a copy of the most recent draft to ordinance 94-12. The Commission appointed a committee to write this draft. The committee consists of Ms. Ansley, Mr. David Saline, and Ms. Leanne Tapia. Since the presentation of the first draft, there has been a Public Hearing. Ms. Ansley also gave the Commission a list of recommendations that was drafted by Madam Commissioner DuCharme that was presented at the Public Hearing. Ms. Ansley states that the original ordinance had allowed for some discounts. The committee is suggesting taking out those discounts. Any discounts the Commission might decide to include in the final ordinance could be set by resolution. The intent of the committee was to try and get a good draft that separated the landfill system from

the billing system from the collection stations. The committee has since had several meetings with the EVSWA to discuss budget numbers. The committee met with the EVSWA last Thursday and received some updated contract numbers which Ms. Ansley is sharing with the Commission. She has also given the Commission a sheet titled FY16 County Account Revenues. She also presents the Commission with a document titled AGREEMENT FOR SOLID WASTE SYSTEM SERVICES between the COUNTY OF TORRANCE and the ESTANCIA VALLEY SOLID WASTE AUTHORITY. Ms. Ansley states that she did not draft this agreement, it was presented to her and she has some issues and concerns.

Ms. Ansley refers the Commission to the following printout:

	FY17 Contract Budget	Billing Service	Collection Stations
Personnel Services, (Salaries and Benefits)	\$486,078.98	\$111,945.32	\$374,133.66
Worker's Compensation Insurance	\$12,328.56	\$3,059.64	\$9,268.92
Debt Service	\$0.00		
Utilities (Electricity, Natural Gas, Propane, Wa	\$14,850.00	\$10,000.00	\$4,850.00
Office Supplies and Other Expenses	\$5,100.00	\$5,100.00	
Miscellaneous Expense	\$4,675.00	\$4,000.00	\$675.00
Postage Expense	\$30,000.00	\$30,000.00	
Tools/Safety/cleaning supplies	\$4,125.00	\$1,000.00	\$3,125.00
Ad/Publication/Dues	\$3,000.00		\$3,000.00
Insurance	\$17,500.00	\$4,375.00	\$13,125.00
Travel & Schools	\$3,375.00		\$3,375.00
Professional Services	\$10,000.00	\$2,500.00	\$7,500.00
Board Fees	\$4,000.00		\$4,000.00
Equipment acquisition/lease	\$1,900.00		\$1,900.00
Equipment repair & maintenance	\$7,500.00		\$7,500.00
Building repair & maintenance	\$2,500.00	\$500.00	\$2,000.00
Refunds & NSF	\$2,500.00	\$2,500.00	
Vehicle R&M	\$24,000.00		\$24,000.00
Computer expense	\$2,000.00	\$2,000.00	
Credit card fees	\$5,700.00	\$5,700.00	
Fuel & Oil	\$77,000.00		\$77,000.00
Uniforms	\$6,600.00		\$6,600.00
Recycling expense	\$0.00		
Capital Outlay - Construction	\$0.00		
Capital Outlay - Equipment	\$40,000.00		\$40,000.00
Tipping Fees	\$0.00		
Contract Hauling	\$10,000.00		\$10,000.00
Contract Labor	\$4,200.00		\$4,200.00
Property Lease	\$4,000.00		\$4,000.00
Truck Tires	\$18,000.00		\$18,000.00
	<u>\$800,932.54</u>	<u>\$182,679.96</u>	<u>\$618,252.58</u>

She clarifies for the Commission that these are budget projections and not hard numbers. She states that in the proposed AGREEMENT FOR SOLID WASTE SYSTEM SERVICES with the County, which will have to be considered for approval upon adoption of the ordinance, the tipping fees at the landfill have been split out. The County has not contributed anything to the EVSWA or the landfill operations for tipping fees in the past; this agreement forces the County to pay the tipping fees. The municipalities are already doing this. The City of Moriarty pays approximately \$72,000.00 per year to the EVSWA for their tipping fees. The estimated tipping fees for Torrance County are going to be approximately \$120,000.00. Ms. Ansley drafted some possible scenarios for the Commission to consider:

POSSIBILITIES FOR HANDLING SOLID WASTE SYSTEM IN TORRANCE COUNTY

Scenario #1: Torrance County agrees to keep all stations as they are currently being operated. The County agrees to pay EVSWA \$800,000 per year, which shall include all fees collected from the billing. The County shall pay whatever shortfall exists, from County dollars. The County also agrees to pay the tipping fees for solid waste disposal. The amount paid to EVSWA by Torrance County shall be approximately \$225,000 per quarter. The average revenue collected per quarter from County accounts is approximately \$190,000, which leaves the County responsible for about \$35,000 per quarter, excluding the tipping fees which will be about \$30,000 per quarter. That will bring the direct cost to the County to about \$65,000 per quarter, or \$260,000 per year. In order to make these payments, the County will have to make significant budget cuts.

Scenario #2: Torrance County attempts to negotiate a lower fee with EVSWA, which will be collected by the billing of the residents. The County will still be required to pay the tipping fees for solid waste disposal at the landfill, which is still estimated at \$120,000 per year.

Scenario #3: Torrance County cuts services within the collection stations. Consideration is given to eliminate certain stations and to cut hours of operations at all stations. This will, in theory, cut the cost of operations, so that the county is able to fund the cost of operations and billing.

Scenario #4: Torrance County eliminates the collection stations, and forces the County residents to either:

1. Hire a private hauler to pick up their solid waste and haul it to the landfill; or
2. Take their trash to the landfill and pay their own tipping fees directly.

After meeting with EVSWA various times regarding this contract, these are the possibilities that I see for the County.

Ms. Ansley clarifies that these are not her recommendations. These are possible scenarios that she sees for the Commission to consider in addition to any suggestions they may have.

Chairman Candelaria clarifies that in the past, the EVSWA did not charge the County for tipping fees. This is a change and a new charge. He questions why this is coming up now, what is the reason? Ms. Ansley answers that, in the past, the billing service, the collection station costs, and the landfill operations were all commingled. EVSWA is now trying to develop a capital fund so that when the time comes to build new cells, they will have the money. In order to do that, the landfill has to stop subsidizing the County.

Commissioner Frost asks about scenario 1. He asks about possible budget costs. Ms. Ansley comments that in that scenario, the County would either have to make significant budget cuts or raise the rates significantly for the County customers.

Chairman Candelaria states that the County income projections are very important when considering what the County can pay and states that putting the burden on the County customers is unacceptable.

Madam Commissioner DuCharme comments that she wants to remind all that when Mr. David Saline presented the draft revisions to this ordinance, he stated repeatedly that it had nothing to do with the EVSWA, and yet here we are talking about the income the EVSWA receives and their expenditures. She asks if he was being truthful. Madam Commissioner DuCharme now asks where we are in the process of creating the RFP for solid waste services. Ms. Olivas replies that the RFP is in progress. Ms. Ansley comments that this RFP is very complicated and suggests that Madam Commissioner DuCharme meet with Ms. Olivas at another time to discuss this. Chairman Candelaria also suggests Madam Commissioner DuCharme meet with Ms. Olivas at a later date. Chairman Candelaria states that Ms. Olivas has previously requested something in writing from the Commission outlining exactly what services the RFP should be requesting. Madam Commissioner DuCharme disagrees, stating that the RFP should be for the exact services that the EVSWA is currently providing, which is outlined in their contract. Commissioner Frost states that he has been working on a written request to give to Ms. Olivas; a written list of things that could be considered for the RFP. He believes it is a good idea to go ahead with an RFP and outline the services that would be needed to take care of our County trash and find out what it would cost. Commissioner Frost states, let's take a look at it; unless we see some figures we aren't going to know what we are talking about. The Commission continues to discuss the possible specifics of the RFP. Madam Commissioner DuCharme suggests that the RFP be flexible. Chairman Candelaria suggests that we need to be requesting exact services. Ms. Ansley agrees. Commissioner Frost makes several suggestions about what should be included in the RFP: number of collection

stations, hours of operation, whether the stations should be manned or not, what materials the stations will accept, etc. There is further discussion about the RFP.

During this discussion, the Commission talks about providing Ms. Ansley with any written comment that they want her to bring to the EVSWA Board meetings. They also request that Ms. Ansley provide them with the minutes of the EVSWA Board meetings for their review.

At the conclusion of discussion for this item, Commissioner Frost and Chairman Candelaria agree to write a list of items they want included in the RFP for solid waste services. Madam Commissioner DuCharme comments that the main intent of the RFP is to save money for the County and the residents and not to subsidize the EVSWA or anybody else. She wants flexibility in the proposal. Chairman Candelaria states that the RFP needs to be for the exact services that we are currently receiving. Commissioner Frost states that we can have further discussion and possibly make small changes to the RFP for services that are different from the services we are currently receiving. Chairman Candelaria points out that the County can subsidize the EVSWA because it is a governmental entity. The County could not subsidize a private hauler; this needs to be considered when final decisions are made on this issue. **NO ACTION, DISCUSSION ONLY**

2. Discussion and Action on GO Bond

Ms. Ansley speaks. She comments that Chairman Candelaria put this item on the agenda for further discussion and possible action. Ms. Ansley asked Mr. Harrigan, RBC financial advisor, to attend today's meeting and be available for questions. Mr. Harrigan is in attendance today and has provided the Commission with a handout entitled 'Torrance County General Obligation Debt Overview'. *(He has provided the Commission with this same handout at a previous meeting).*

Chairman Candelaria would first like to discuss the date of the election. He would like to have the GO Bond election before the current bond expires.

Mr. Harrigan comes to the podium and introduces himself. As he has explained in a prior meeting, he states that DFA typically starts the tax rate setting process in the June/August timeframe. They finalize those rates in late August, and then the Commission certifies those rates at one of their September meetings. If the bond election is not held until November, the tax rate will already be set and taxes will have decreased because the current bond will be paid off. The November bond election will be asking residents to vote for a tax increase. If the bond election is

held in August and voters vote in favor of the bond, tax rates will remain steady. Based upon the discussion at the last meeting, Mr. Harrigan developed a list of pros and cons, from a financial perspective, concerning the election date:

August 2016 Election

Pros

- Debt service Tax Rate remains the same as prior 5 year average
- May reduce interest rate risk, by not having to wait to issue new bonds
- No additional question on ballot other than bonds

Cons

- Up to \$23k potential cost of election
- Requires Commission to decide bond question and approve Election Resolution by early May
- Lower voter turnout expected

November 2016 Election

Pros

- Little to no additional cost of election
- Higher voter turnout expected
- Provides Commission more time (2 months) to decide on question and approval of Election resolution

Cons

- Debt service Tax Rate would drop in 2017 (2016 Tax Year) and increase following year
- Would postpone sale at least 6 months subjecting the County to interest rate risk
- Cost of election negated if interest rates rise by more than 7 basis points (0.07%)

Chairman Candelaria asks for clarification on the impact of postponing the sale of the bonds. Mr. Harrigan states that if the election were held in November and the voters voted in favor of the bonds, it would take 6 months to issue the bonds because there will be no debt service tax rate levy; there would be no money collected during that time period to pay that service. The County would have to wait until the June or August time frame of the next year to issue those bonds so that the first interest and principal payment would occur in the following tax year when the debt service tax levy is actually on the rolls and collected.

Madam Commissioner DuCharme asks what the difference in taxes would be, on average, for our taxpayers with the GO bond obligation vs without. Mr. Harrigan states, as an example, per \$100,000.00 of market value it would be about \$33.00 per year.

Madam Commissioner DuCharme clarifies with Mr. Harrigan that yes, a con to a November election could be a \$28,000.00 cost to the tax payers if interest rates rise by more than 7 basis points (0.07%) over the 15 year life of the bond. In that event, the \$28,000.00 cost would be collected by the tax payers over the life of the bond. If the election is held in August, the County must come up with the total \$28,000.00 now.

Madam Commissioner DuCharme compliments Mr. Harrigan on his professionalism and willingness to answer the Commission's questions. She asks how his company will be effected if the County does not have an August election and we do not have debt service. Mr. Harrigan replies that basically, the way the contract is laid out, his company is only compensated if there is a sale of bonds. If there are no bond sold, his company will ask for reimbursement of his travel. This is how they work for all of their clients: school districts, cities, towns, etc.

Commissioner Frost states that this is an action item. Madam Commissioner DuCharme questions whether it is or not. Mr. Huss confirms that it can be, as the item states **Discussion and Action on GO Bond**.

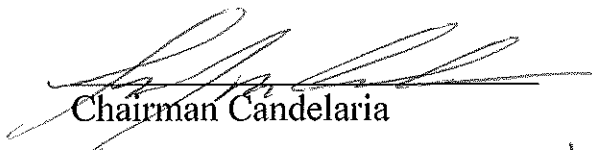
Chairman Candelaria asks Ms. Jaramillo, County Clerk, for her input on this item. She states that her job is to run the election and she can run it in August or during the General election in November. She can do either, it is up to the Commission. For the General election on November 8th, she must have the ballot to the printer 56 days before the election. If the Commission decides to have the election in August, they would have to have their resolution completed in May. Ms. Jaramillo further states that the Commission is not obligated by election law to have any public hearings on this issue, but if they wanted to, those hearings would need to be conducted very soon. *(The Commission has conducted one Public Hearing on this issue already.)*

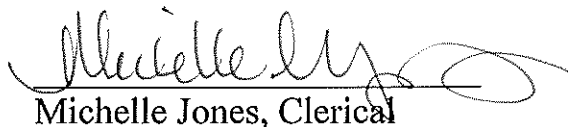
Commissioner Frost states that after reading Mr. Harrigan's report, he is ready to make a motion. **ACTION TAKEN:** Commissioner Frost makes a motion to have a GO Bond Special Election in August 2016. Chairman Candelaria seconds the motion. Madam Commissioner DuCharme states that this is not the first time the Commission is discussing this. She comments that she had stated her opinion on

this several times already, but will repeat it. She states that she spoke to Sheriff White recently and he told her that he needs to have at least 20 deputies, but he would be happy with adding one deputy and one police car each budget year. She states that she has heard again and again that when people requested essential services from the County they were told that the County has no money, and yet here, for some reason, the Commission is ready to spend \$28,000.00 not knowing what we will receive in return. She thinks this is called gambling and she does not think the Commission has the authority to gamble with the taxpayer's money. She further states that we will be having a Presidential election this year and she does not want to interfere in any way with that election, but she thinks indirectly we will because Ms. Jaramillo needs all her attention and time to be prepared for that election. Why can't we wait a few months to have the election in November and not spend this expense? And what about low participation. 1.8% of voters participated in the last GO Bond election in Mountainair. What is her fellow Commissioner's justification to spend the \$28,000.00 to have the election in August? No further discussion. The Commissioners vote. Two in favor, Madam Commissioner DuCharme is opposed. **MOTION CARRIED.**

***Adjourn**

ACTION TAKEN: Commissioner Frost makes a motion to adjourn the February 29, 2016 Special Commission Meeting. Chairman Candelaria seconds the motion. No further discussion. The Commissioners vote. All in favor, none opposed. **MOTION CARRIED.** Meeting adjourned at 10:56 am.


Chairman Candelaria


Michelle Jones, Clerical

2/23/16
Date

The video of this meeting can be viewed in its entirety on the Torrance County NM Website. Audio discs of this meeting can be purchased in the Torrance County Clerk's Office and the audio of this meeting will be aired on our local radio station KXNM.