

**FINAL COPY
TORRANCE COUNTY COMMISSION
REGULAR MEETING
AUGUST 22, 2018**

Present: **Julia DuCharme, Chair
Jim Frost, Member
Javier Sanchez, Member**

Others Present: **Belinda Garland, County Manager
Annette Ortiz, Deputy County Manager
Dennis Wallin, County Attorney
Sylvia Chavez, Admin. Asst.**

Call to Order:

Madam Chair DuCharme calls the meeting to order at 9:00 am. Glenda Page, leads the Pledge of Allegiance and Madam Chair DuCharme gave the Invocation.

Approval of Minutes:

August 8, 2018 Regular Meeting Minutes:

Madam Chair DuCharme asks for a motion to approve the August 8th meeting minutes.

ACTION TAKEN: Commissioner Frost makes a motion to approve the August 8th Regular Commission Meeting Minutes. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED.**

Approval of Meeting Agenda:

County Manger Garland asks for an amendment to the agenda, she asks that a portion of Executive Session be done at 9:30 due to the availability of the Attorney and that agenda item #3 be the first item heard.

Madam Chair DuCharme asks for a motion to amend the meeting agenda. **ACTION TAKEN: Commissioner Sanchez** makes a motion to approve the amendments to the August 22, 2018 Regular Commission Meeting Agenda. **Commissioner Frost** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED.**

Approval of the Consent Agenda:

Madam Chair DuCharme asks for a motion to approve the Consent Agenda. **ACTION TAKEN: Commissioner Frost** makes a motion to approve the Consent Agenda. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED.**

EXECUTIVE SESSION:

As Per Motion and Roll Call Vote, Pursuant to New Mexico State Statute Section 10-15-1, The Following matters will be discussed in Closed Session:

- a) Litigation related to Gonzales v. TCSO Baca, Section 10-15-1-(H)(3)

ACTION TAKEN: Madam Chair DuCharme makes a motion to go into Executive Session. **Commissioner Sanchez** seconds the motion. Roll Call Vote- District 1: Yes, District 2: Yes, District 3: Yes. **MOTION CARRIED.**

Executive Session started at 9:05 am

***Reconvene from Executive Session:**

Reconvened from Executive Session at 9:38 am

ACTION TAKEN: Madam Chair DuCharme makes a motion to come out of Executive Session. **Commissioner Frost** seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

Pursuant to Open Meetings Act, Section 10-15-1(J), Commission Report from Closed Session

- c) Consider and Act Upon, if necessary Litigation related to Gonzales v. TCSO Baca

Madam Chair DuCharme states they the Commission received an update on this case.

ACTION ITEMS*:

ITEMS TO BE CONSIDERED AND ACTED UPON

Public Comment, each item: At the Discretion of the Commission Chair, comments are limited to two (2) minutes per person.

Commission Matters:

3. 5-Member Commission, Presentation of Redistricting Plans- Michael Sharp, Research and Polling

Mr. Sharp informs the Commission that he has come up with 5 different scenarios for the 5 member Commission redistricting. Mr. Sharp goes over the experience he and his office have on redistricting, Mr. Sharp has been doing this since 1991. They do redistricting for State Legislators, County Governments, School districts as well as City Government. Mr. Sharp explains that redistricting is drawing lines so that each district is equal in population. He also explains that per state statute any population over 13,000 has to redistrict, research and polling gets their numbers from the NM census. Mr. Sharp explains who gets counted in the census, everyone gets counted.

Research and Polling was contacted by Torrance County to come up with plans for a 5 member Commission, Mr. Sharp goes over those plans and the Commission will choose from those plans if they choose to move forward with the 5 members. Mr. Sharp explains each map, stating that Research and Polling tried to keep all the municipalities within one Commission District, so not to split a municipality. Maps hereto attached.

Mr. Sharp explains that Torrance County's population of 15,764, that number is different than the 2010 census. Mr. Sharp has to deduct the amount of prisoners that were being housed at the detention facility since they are no longer here. Mr. Sharp explains that if you take the 15,764 and divide it by 5, you get 3,153 (that's a rounded off number) for each district plus or minus

5%. He explains that these districts are determined by population not the area each district covers. So in picture one district may look larger than the other but the populations are the same. Also the minority groups must also have representation, in NM those minority groups are Native American and the Hispanic groups. Which in Torrance County Hispanic's are 38-40% of the population so that is covered in each district.

Mr. Sharp explains each line break for each map, some of the lines will or may change for each current Commission district which could pose a different Commission district for the sitting 3 Commissioners. He explains the different variances in choosing the new districts, from subdivisions, to historic traditions and cities. All of these different things can play a role in the way redistricting is done. All of this is being done to be prepared for the Primary and General elections for 2020.

Madam Chair DuCharme states that by law the person running for that district must reside within the district they represent, therefore this may cause an issue for the current Commission Districts. Madam Chair also asks about who is counted in the census, is everyone counted even the undocumented people. Madam Chair DuCharme doesn't want to get into the legality of the census but people with Visa's are documented people but what about those undocumented people are they part of the census.

Mr. Sharp explains that everyone is counted, it may be difficult to get an accurate number on all undocumented people but everyone within the boundaries of the United States is counted. Theoretically when a Representative is elected they are elected to represent everyone within their district, no matter their status. You can use the same theory with registered voters, the amount of registered voters is not the same as the amount of people represented because not all of the population is registered to vote.

Madam Chair DuCharme asks for clarification on the prisoner population, is that number used as part of the census number for Torrance County and if so how will that affect Torrance County since the facility has since closed.

Mr. Sharp explains that, yes prisoner population is used in census numbers, knowing the prison has closed Mr. Sharp deducted that population for the proposed maps for the 5 member Commission. He also explains that with 2020 census coming up it could be a strong possibility that these district may not be equal in population and may have to change.

Commissioner Sanchez likes map "D", this is what he envisioned for the 5 member Commission. This map is a good representation for everyone and every municipality has their own Commissioner. Commissioner Sanchez suggests some small line changes to keep the continuity that the current communities have now.

Madam Chair DuCharme states that she is not ready to make any recommendations and is a bit surprised that Commissioner Sanchez is but she would like some time to look over the proposed maps. Madam Chair DuCharme asks Commissioner Frost if he has anything to say.

Commissioner Frost states that he is not ready either, he has some homework to do.

Commissioner Sanchez asks what the process will be to suggest these changes. How do we get the feedback to Research and Polling?

County Manager Garland states that the County will need to hold a public hearing for these proposed changes and once the Commission has had public hearing and any changes from that we can get back to Research and Polling.

Mr. Sharp states that changes will vary depending on the Commission, any changes should be done by the Commission and then those changes can be presented to the public during the public hearing process.

Commissioner Sanchez suggests having a Special Meeting/Workshop so that the Commission can go over each map and perhaps choose 2 or 3 maps that we can then take to the public. The Commission can suggest any changes to those maps and get those changes to the Research and Polling and have public input on those particular maps we have chosen.

Dennis Wallin, County Attorney advises the Commission that there is no need for a public hearing until the notice of the ordinance change is ready. The redistricting is totally up to the Commission not the public.

Commissioner Sanchez states that the Commission needs to have a consistent plan developed on how to address the public when they ask, "What are the size of the districts" and we need to be able to inform the public with accurate information.

Commissioner Frost states that the Commission needs to decide if we are even going to go forward with the 5 member Commission, we may even have to redistrict after the 2020 census. Which comes with a heavy price tag to do again.

Commissioner Sanchez we have already put our notice of intent to go to a 5 member Commission as well as invested on the intent to change to a 5 member Commission, we all voted on it.

County Manager Garland clarifies how the Commission wants to proceed, the Commission wants to have a workshop to go over the plans and then present the plans the Commission has chosen to the public.

Commissioner Sanchez replies that would be nice, yes.

County Manager Garland states that at some point the decision needs to be made on going forward with the 5 member Commission or not.

Commissioner Sanchez states that the Commission has already stated their intent to move to a 5 member Commission. Now we just need to come to a consensus on 1 or 2 plans to take to the public for their comment.

Public Comment:

Billy Jack Broderick Jr asks the Commission what is the purpose of changing the districts?

Madam Chair DuCharme states that many members of the public requested it, to provide better representation.

Commissioner Sanchez states that there are currently 3 districts, it's important to Commissioner Sanchez that each municipality have its own Commissioner. There can come a time where it could become a 2 against 1 vote on everything and one or more district can be easily dominated. We need better representation with an open system and this provides that. Commissioner Sanchez states that as a public servant everyone's voice needs to be heard, that's important to Commissioner Sanchez, everyone's voice has value.

Madam Chair DuCharme seconds what Commissioner Sanchez states, it's very important to have equal representation.

County Manager Garland asks if anyone has recommendations for boundary line changes before the workshop, so that she can get those to Mr. Sharp. Or would the Commission prefer to do those changes at the workshop?

Commissioner Sanchez replies that at the workshop would be fine.

Commissioner Frost states that he has not made up his mind on 3 or 5 but what he would like to say is that, the Commission has not yet decided to go to a 5 member Commission. We are getting

the cart before the horse. So let's decide if we are going to be 3 or 5 before we get to all of this planning of meetings and determinations before we even know if this is what we want to do. **Mr. Sharp** asks if he may take into consideration the changes that Commissioner Sanchez has made verbally in today's meeting and bring those changes to the workshop.

Public Comment:

Billy Jack Broderick Jr. states that if the Commission has not yet decided to go to a 5 member Commission then why are we sitting here listening to going to a 5 member and all these plans.

Michael Godey comments that in order to make an informed decision you must have as much information as possible to make good decisions. The Commission must remember that the public is your boss, so you should have public input.

Commissioner Sanchez states that the Commission has already issued the notice of intent to go to the 5 member Commission in either April or May and that was passed unanimously. All 3 of us Commissioners voted yes, now the next step is to take a look at the redistricting and that is why the Commission entered into a contract with Mr. Sharp's firm to have these drawn up. And now it looks like we don't have unanimity in this but it was unanimous from the get go.

Billy Jack Broderick Jr asks if that vote was from the 3 Commissioners.

Madam Chair DuCharme & Commissioner Sanchez both answered yes.

Commissioner Frost states that he suspects that a vote like that would be in the records of the minutes in the Clerk's office that would be the best way to determine of what exactly happened at that meeting.

Ms. Linda Jaramillo, County Clerk states that, yes, it would and she can provide that to the Commission and public if necessary.

Norm "Speedy" Gonzales states the he is in favor of a 5 member Commission, it is ideal that way everyone has representation and everything is divided up easily. 5 members makes the decision process a lot easier, this way you don't have a member not show to a meeting to throw everything off. The ball keeps rolling if you have a member absent.

Madam Chair DuCharme asks how many board members are there in the Municipalities.

Sylvia Chavez (myself) states that the Town of Estancia has 4 Trustees and a Mayor, I am not sure if you would consider the Mayor as a board member but that would be 5 members.

Madam Chair DuCharme asks how the Commission wants to end this agenda item.

Commissioner Sanchez states that County Manager Garland will set up a workshop and we will decide from there if we will move to a 5 member Commission.

***Public Hearing:**

A Public Hearing to Review the Request for an Appeal to the Torrance County Planning & Zoning Board decision regarding Mrs. Melody Cain's Commercial Kennel Application.

The Cain property is located at 8 Aztec Rd being described as Lot 20-B Unit 3 of the Sweetwater Hills Subdivision Sec. 15 T9N R9E NMPM Torrance County, NM

Dennis Wallin, County Attorney, explains the process of the public hearing and gives a brief explanation for the public hearing. Ms. Cain applied for a Commercial Kennel at the July 2, 2018 Planning & Zoning meeting her application was denied. Ms. Cain is here today to appeal the decision by the Planning & Zoning board.

Steven Guetschow, Planning & Zoning Director explains that Ms. Cain's application for a Commercial Kennel was denied by the Planning & Zoning board and Ms. Cain is appealing the action taken by P/Z board. Mr. Guetschow gives a brief explanation and history behind the application. Melody Cain aka Melody Von Farms, LLC has been operating a commercial kennel within a residential subdivision (Sweetwater Hills). Ms. Cain was in violation of the following ordinances and regulations:

- Ord. 93-10: Requirement of County Business Registration
- Zoning Ord. Section 6-H-1,3 & 4 Regarding Kennel Operations
- Zoning Ord. Section 4-B-2, 6 & 14, Sections 6-I-1, 8-A, B & C-5
Regarding Small Feedlots.

Mr. Guetschow refers to a small feedlot due to the excessive amount of livestock on the 2.25 acres being used to house the animals. Ms. Cain submitted a sketch of the plans but not all of the property referenced on the plan is fenced in and is not being used to house the animals. Ms. Cain's operation is in violation of the Sweetwater Hills restrictive covenants # 1 & 2. Mr. Guetschow further explains that Ms. Cain's application stems from a citation issued by Animal Control officer Worley. The citation was for operating a kennel without a permit as well as other violations of the Animal Control Ordinance.

Mr. Guetschow asks the Commission to uphold the decision by the Planning & Zoning board and deny the Commercial Kennel permit. Other recommendations include a reduction in the amount of animals on the property.

At this time Dennis Wallin swears in Melody Cain:

Melody Cain reads a brief statement to the Commission of the reason of her appeal. Ms. Cain explains that the P/Z board denied her application due to "too much opposition", she feels that was in error. At the July 2nd P/Z board meeting there were only 4 people that spoke in opposition and in the testimony from two of the individuals they stated that her dogs were not a problem. Ms. Cain states that she breeds and raises Great Pyrenees dogs. This type of dog is vital to ranchers in the area, they protect their farm animals. She also mentions that a chosen few are picked to become service animals for veterans with PTSD. Every puppy that she has are sold, there are no extra puppies at her farm. At times Ms. Cain has had waiting lists for her dogs. She also mentions that she raises her own meat, fiber and milk from her farm, as well as some of her animals are used for show animals. Ms. Cain mentions that officer Worley did an inspection of her farm as part of the application process and had no complaints about the farm and its conditions. Officer Worley even asked Ms. Cain if Animal Services could use her farm as a temporary shelter facility for goats, sheep, rabbits and cats. Ms. Cain asks if her farm is sufficient for a rescue facility then why isn't it sufficient for a kennel.

Ms. Cain addressed Ms. Carpio's complaint, Ms. Carpio stated that she cannot walk her dog on Aztec road due to Ms. Cain's dogs attacking her. Ms. Cain explains that if her dogs had attacked Ms. Carpio why was Animal Control and the police not called and a report made. There was no report of this incident. The Carpio's made a complaint that the fence between their properties is damaged from Ms. Cain's dogs. Ms. Cain says that her dogs as well as the Carpio's dog both jump on the fence and bark at one another as sometimes dogs do. The fence keeps my dogs in my yard and their dog in their yard. Ms. Cain references the right to farm act, NM Statute 47, article 9, gives her the right to farm on her property. Article 9 states that if within one year of a farm being established and there are complaints they need to be addressed but after a year the right to farm act protects her farm from nuisance complaints. Ms. Cain explains that when she

realized she needed a kennel permit, she fully cooperated with everything the County has asked her to do.

Madam Chair DuCharme asks Ms. Cain how big her farm is.

Ms. Cain answers that her farm is 7 acres.

Madam Chair DuCharme asks how many neighbors Ms. Cain has.

Ms. Cain stated that she has 2 neighbors.

Madam Chair DuCharme asks how many of her neighbors have complained.

Ms. Cain answered that only 1 has complained.

Dennis Wallin, swears in the following people who testified in favor of Ms. Cain's Commercial Kennel:

Lynn Hafely, Carol Parker, Patricia Maas, Derek Searles, Charles Weaver, Mona Cosmos, Julie Nowotny, Jennette Hunt, Lawrence Montoya, Arthur Falconer, Timothy Roberts, Ken Dow,

The above mentioned people all testified to the demeanor of the dogs on Ms. Cain's farm, they are kind and gentle animals but they will protect the farm and the livestock on the farm, that's what these dogs are bred to do. The dogs have been around children with no incidents to report. The livestock on the farm are well taken care of, they are fed, watered and their pens are clean and in order. One of the individual's mentions that he purchased a dog from Ms. Cain to protect his land and livestock and has since lost his service dog and is planning on buying another dog from Ms. Cain to use as his service dog. The Great Pyrenees can make a great service dog because of the kind of temperament they have. Ms. Cain provides a wide variety of animals for the public to purchase.

Commissioner Frost asks each one of the individuals if they lived in the neighborhood where Ms. Cain's farm is, only one answered yes, the rest lived in other areas throughout the County and surrounding Counties.

This concluded all testimony in favor of Ms. Cain's application for a Commercial Kennel.

Dennis Wallin, swears in the following in opposition of Ms. Cain's Commercial Kennel:

Ezekiel Carpio, Donna Carpio and Kevin McCall

Mr. & Ms. Carpio have several concerns in regards to the Commercial Kennel within a residential area. The Carpio's explain to the Commission that they have lived at their residence for 24 years and have raised their family in Torrance County. The Cain's moved into the community in 2013 and they have watched them over the past 5 years get more and more animals and start breeding the Great Pyrenees. One of their concerns is the fence that adjoins their properties. The Carpio's state that the fence was installed within their right away easement on their property. They installed the fence for security purposes, it was never intended to keep Ms. Cain's dogs in her property or out of theirs. They had some concerns in regards to lighting on Ms. Cain's property and the dogs barking at all hours of the night. Mr. Carpio commends Ms. Cain on fixing the lighting and the dogs do not bark as much at night anymore and he thanks her for her efforts in taking care of this. The Carpio's state that Ms. Cain's dogs attacked Ms. Carpio and their German Sheppard on one of their daily walks through the neighborhood. They feel that if Ms. Cain had proper fencing on the property there would not be an issue of Ms. Cain's dogs getting out of their yard. The Carpio's would be fine with the kennel if Ms. Cain would follow

the conditions set forth from the County and in addition to a 6 foot barrier wall all along the Cain residence. The Carpio's do not have an issue with the livestock, they are just concerned about the amount within the residential area.

Madam Chair DuCharme asks Mr. Carpio how long he has lived at his residence.

Mr. Carpio answers that his family has lived there for 24 years.

Madam Chair DuCharme asks how long has there been a problem with the Cain's.

Mr. Carpio explains that it has been a slow process in the 5 years the Cain's have lived there. It started with a cow and just has progressed to what it currently is.

Madam Chair DuCharme when did the issue with the dogs begin.

Mr. Carpio when the dogs started to get bred, there were more dogs and they would bark throughout the night.

Dennis Wallin asks Mr. Carpio how many dogs are there on the property.

Mr. Carpio states that they are seven dogs that he can see.

Madam Chair DuCharme asks if the Carpio's have made complaints before this.

Mr. Carpio states they have not complained prior to this, they felt that what people do on their property is their own business. They did not want to have any animosity with any of the neighbors in the community.

Madam Chair DuCharme asks Mr. Carpio, "If the Cain's were to install a fence around their property, would you agree with the Ms. Cain's kennel?"

Commissioner Sanchez asks Mr. Carpio where he would like the fence to be installed.

Mr. Carpio states that the fence should be installed on the property line that is shared by both parties and believes that it should be a wall.

Kevin McCall is here today in support of the Carpio's. Ms. Carpio works for Mr. McCall and attest to her creditability and is a stellar person.

Dennis Wallin explains that this case is a Quasi-Judicial, so at this point he wants clarification if the applicant has meet all the requirements for the CU permit for the commercial kennel. Are they in violation with the amount of livestock they have?

Steve Guetschow yes they have more animals than should be permitted for the 2.25 acres they are on. There is a total of 55 animals on the property and this is excluding the rabbits, chickens and the other birds. Mr. Guetschow goes over the definition of a small feedlot, a small feedlot is 20-200 head of animals and anything larger than 200 head of animals is considered a large feedlot.

Dennis Wallin asks Mr. Guetschow that the Planning and Zoning board suggests to the Commission that the application be denied, correct.

Steve Guetschow states that yes they are suggesting it be denied due to the amount of animals on the property.

Dennis Wallin states that we need to allow the process to be done and allow for rebuttal at this point and allow the Commission to put conditions if they so choose.

Commissioner Frost asks how many dogs are allowed on people's property.

Cindi Sullivan, Animal Services Director, explains that the Torrance County Ordinance allows for five animals total. In whatever combination that may be. You cannot have five dogs and five cats, five animals in total is what is allowed.

AC Officer Worley states that she visited the farm due to the complaint received from someone who had bought a puppy from Ms. Cain and the pup ended up with parvo. So Officer Worley needed to inspect the other dogs and make sure they all had their shots.

Madam Chair DuCharme asks what the conditions of the farm were like.

AC Officer Worley states that on her initial visit she only saw three dogs and the conditions were fine, no concerns at all.

Dennis Wallin asks AC Officer Worley how many dogs are located at Ms. Cain's residence.

AC Officer Worley states that they are seven adult dogs, one had just had a litter of pups and another one was expecting or may have had the pups already.

Rebuttal from Ms. Cain, Dennis reminds Ms. Cain that she is still under oath.

Ms. Cain explains that when they purchased the property they were never told about the covenants for the subdivision. They have lived on the property for five years and there has never been an issue before. Ms. Cain explains that all her animals are healthy. The Carpio's have never had a legitimate complaint and now there complaints have changed. If the Carpio's want a privacy fence they can install it NM is a fence out state. Ms. Cain is open to reasonable conditions that the County requests.

Madam Chair DuCharme asks Ms. Cain if she is open to building a fence.

Ms. Cain states that there is a fence on the property line to the north and east of the Carpio's property line. If the Carpio's want a privacy fence they can build it themselves.

Madam Chair DuCharme asks if the permit is allowed will there be any changes that the Carpio's should be aware of.

Ms. Cain states that she is not planning on increasing the amount of dogs she has, she may down size but will not increase

Dennis Wallin states that at this time the hearing is closed, he informs the Commission that they have 30 days to make a decision. This can be discussed in closed session or in open session and even have deliberations if necessary and put conditions on the permit if applicable.

1. Commercial Kennel Application by Melody Cain

Commissioner Sanchez states that the Commission can take the evidence that has been given to them and study it and make a decision at the next Commission meeting. Commissioner Frost states that there has been a lot of testimony given today for and against the kennel and the only way to find out what our decision is, is to vote on it. All documentation hereto attached.

ACTION TAKEN: Commissioner Frost makes a motion to support the Planning and Zoning board and deny the appeal of the Conditional Use Permit. **Commissioner Sanchez** seconds the motion.

Commissioner Sanchez states that he believes the issue to be that the commercial kennel has not met the requirements. Only two and quarter acres are being used for the farm, when it should be five acres. Perhaps if the additional acreage were to be used for the farm the Commercial kennel could be reconsidered.

Public Comment:

Nancy Brockerman states that the Commission has 30 days to vote on this.

Timothy Roberts informs the Commission that he has material that he is willing to donate for a fence if the Commission waits the 30 days.

Madam Chair DuCharme mentions that the land is also an issue, there is not enough acreage being used for the farm.

Commissioner Sanchez collaborates Madam Chair's comment and states that if the other acreage were to be used it could be compliant. Commissioner Sanchez states that the Commission wants businesses in the County but we want businesses that will be viable businesses for the future.

Jennette Hunt states that the County should want licensed kennels, the Commission can put conditions on the permit and if those conditions are not being met, then something can be done about it.

Dennis Wallin, states that the Commission can put conditions on the C.U.P. (Conditional Use Permit) and if those conditions are not met and then the Commission can do something about it at that time.

Steve Guetschow mentions that another thing that Ms. Cain needs to become compliant with is that she needs to get a business registration through the County.

Ms. Cain states that she applied with seven acres but only the two and a quarter are fenced. If the County were to give the 30 days, she could have the fence installed.

Commissioner Sanchez asks Mr. Wallin if Ms. Cain is given 30 days to build a fence would that be ok.

Dennis Wallin answers that Ms. Cain can be given the 30 days if the Commission so chooses to but Ms. Cain needs to be given those conditions that she needs to become compliant with.

County Manager Garland reminds the Commission that when the original application was submitted it was submitted with two and a quarter acres not the seven.

Cindi Sullivan also mentions that the original application was with the two and a quarter acres and Ms. Cain has been operating a business for 3 years and had no intention of coming to the County until Animal Services showed up at her residence.

Commissioner Frost asks if the Carpio's would be ok if Ms. Cain would install a fence.

Ms. Carpio answers that a fence would be nice but reminds the Commission that where the current fence is installed is not the property line, the fence is on the Carpio's property.

Madam Chair DuCharme asks Ms. Carpio if she is asking for a privacy fence on one side of the property.

Ms. Carpio stated that, yes, that would be fine.

Mr. Carpio stated that if Ms. Cain is going to expand her business he would like a privacy fence on two sides of the property.

Ms. Cain states that a five foot horse fence should keep everything in or out of her property.

Commissioner Sanchez states that it's just not about the fence and the Commission is treading on dangerous grounds here. The Commission is getting between the Carpio's and the Cain's personal business and the Commission cannot go against its own ordinance.

Madam Chair DuCharme asks "Why can't the Commission allow Ms. Cain to become complaint. They are a lot of people that spoke in favor of Ms. Cain and her farm."

Commissioner Sanchez states that he agrees with Madam Chair but we cannot allow a commercial kennel within a residential area. We cannot go against our ordinances.

Commissioner Frost states that we cannot make everyone happy so let's vote. Commissioners vote, 2 in favor, Madam Chair against. **MOTION CARRIED.**

2. EVSWA Vacant Exempt Denial, Appeal (s)

a. Charlie Herrera

b. Pablo Chavez

c. Jesus Trujillo

d. Ronnie Martinez

Commissioner Sanchez states that with the new changes to the board at EVSWA there is good head way being done on the budget and numbers, the County is actually running the in black and will be getting money back instead of having to pay EVSWA. There is a healthy revenue stream going into the authority. Since the outlook is favorable for the County now would be a good time for the Commission to review the resolution for the vacancy exempt definitions. All documentation hereto attached. **ACTION TAKEN: Commissioner Sanchez** makes a motion to defer a decision on items A through D until we can revisit the resolution. **Madam Chair DuCharme** seconds the motion.

County Manager Garland asks the Commission to allow the people that came here the courtesy and time to speak, they have sat through all the previous items to do so.

Commissioner Frost states that if they came here to talk they should be allowed the opportunity to speak.

Dan DeCosta-Code Enforcement states that he would like to inform the Commission that since the beginning of the year he has done 332 inspections. He has put in two years' worth of time in these inspections. Mr. DeCosta feels that every time the Commission gets a little heat from customers they want to change the process. Dan knows that the Commission can change the process at any time but the Commission should take into consideration the amount of time and effort it takes for these inspections. He realizes that people are not happy about this but the Commission is the one who has directed the staff to these inspections.

Commissioner Sanchez replies that it's not about the heat, the Commission can take the heat it's about doing what is right and the current resolution is not conducive to what needs to be done in light of the progress being made at EVSWA.

Charlie Herrera, Pablo Chavez, Jesus Trujillo all addressed the Commission and informed them that their residents are vacant. They may have furnishings in the homes but no one lives in these residents. And any trash that may be accumulated when they are there they bag up and take with them and dispose of the trash at their homes they reside in.

Dan DeCosta asks the Commission to inform these people here today that he was doing the job that he was instructed to by the Commission. These people are genuinely upset with him.

Commissioner Sanchez states that “Yes Mr. DeCosta was doing the job the Commission instructed him to do”. Commissioner Sanchez states that he made a bad decision when voting for this resolution and I am saying now that it needs to be changed.

Public Comment:

Michael Godey states that there has been a lot of discussion not only with the Commission but as well with EVSWA board on the definition of vacancy and the furniture was an issue. There needs to be a true definition of what vacant means. Perhaps another inspector to help Dan could be helpful in this situation.

Madam Chair DuCharme states that she has received numerous complaints on this as well.

4. Farm Event at the Old Windmill Dairy with Gruet Winery and Algodones Distillery- Aimee Kuckartz, The Old Windmill Dairy

Michael Lobaugh is here today to ask for approval for his celebration at the farm. There will be cheese and wine tasting and then later a movie to enjoy with the goats. All documentation hereto attached. **ACTION TAKEN: Commissioner Frost** makes a motion to approve the Farm Event at the Old Windmill Dairy with Gruet Winery and Algodones Distillery. **Commissioner Sanchez** seconds the motion.

Madam Chair DuCharme states that this is the third time that Mr. Lobaugh has had this event and hopes he stays successful.

Commission votes, all in favor. **MOTION CARRIED.**

5. Legal Contract Analysis Report

a. Legal Contract Consideration

County Manager Garland provides the Commission with a list of some of the duties the County Attorney assists with. The list consists of the following items: general legal advice, is present during the Commission Meetings, prepares the findings of fact and conclusion of law, helps with Planning and Zoning matters, labor laws, tort claims and law suits, helps elected officials and manager’s office, helps law enforcement (policies and procedures), federal and state laws, open meetings act, wind farms and IRB’s, GO bonds, county contracts, MOU’s, lease agreements, professional service agreements, resolutions, property donations, IPRA requests, construction law suits, water rights and development laws. County Manager Garland reached out to other Counties to find out if their Attorney is on a contract or if they have an in house Attorney, which means they are an actual County employee. The response was both, some counties have in house Attorney’s and contract Attorney’s. She reminds the Commission that Mr. Wallin’s contract ends in October. County Manger Garland is asking the Commission to extend his contract to the beginning of the New Year. For the reasons being that there will be new Commissioners on the board and the relationship an Attorney has with the Commission is a personal one. She means no disrespect to the current Commissioners but feels the new Commissioners should be the ones to make the choice on the new Attorney and if they want the Attorney on contract or in house.

Commissioner Frost states that he agrees with that.

Madam Chair DuCharme states that she also agrees with that but there are a lot of decisions that the current Commission is making, so should those decisions wait until the New Year for the new Commissioners. Madam Chair DuCharme asks if Mr. Wallin is willing to do this.

Dennis Wallin states that he can wait till the New Year but informs the Commission that he will not be reapplying for the position. With his new law firm he does not believe he will be able to. Dennis informs the Commission that he can work till the end of February 2019.

County Manager Garland asks if the RFP process should start now

Dennis Wallin states that, yes, the process can be started now, the Commission can RFP and or advertise for an in house attorney. The County can do both and see what kind of response the County gets and then make the decision. All documentation hereto attached. **ACTION TAKEN: Commissioner Frost** makes a motion to extend Mr. Wallin's contract to February 2019.

Commissioner Sanchez seconds the motion.

Public Comment:

Myra Pancrazio wants the Commission to know that consistency in the County is a very vital point when it comes to negotiations with the wind farms. The IRB process is a very difficult process and Dennis Wallin was very instrumental for the County in getting this process done. The County will soon be starting on phase two of one of the wind projects and would like to see Dennis help the new Attorney with these negotiations. So Ms. Pancrazio is happy to see that the Commission will be extending Dennis's contract to the New Year.

Michael Godey states that the next wind farm project will be more difficult then the Commission realizes and Dennis can help with that process.

Commission votes, 2 in favor Madam Chair DuCharme against. **MOTION CARRIED.**

County Manager Garland asks the Commission for direction on how to advertise for the position.

Commissioner Frost asks County Manager Garland what she needs from the Commission.

County Manager Garland states that she needs a motion from the Commission directing her to RFP or advertise for legal counsel and to start the process starting in October so be ready for the New Year.

ACTION TAKEN: Commissioner Sanchez makes a motion to RFP and take applications for legal counsel. **Commissioner Frost** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED.**

6. 2020-2024 Infrastructure Capital Improvements Plan

Commissioner Sanchez states that before the Commission is a list that County Manager Garland and Deputy County Manager Ortiz put together. The list is comprised of items from department heads as well as other agencies. Commissioner Sanchez asks County Manager Garland if anything was added or was the list rearranged.

County Manager Garland states that there were some additions and some removals from the list. McIntosh water system, the landfill cell and the vehicles for the McIntosh Senior center were removed. The vehicles for the senior center will be purchased this year, so they have been moved down further on the list. The animal control vehicles, solar panels, fencing of properties, the purchase of the pictometry software and the upgrade to computers have all been added to the list.

Deputy County Manager Ortiz brings up the fairground improvements, every year the Commission approves the rental of tents for the pig barn and show area. The past two years a tent has been rented for vendors and for the past two years the vendor's tent has been rained out.

The County continues to throw money away every year by renting tents for the fair. With the money spent on the rentals a new building could have already been built. Deputy County Manager feels the fairground improvements should be high on the ICIP list.

Marcie Wallin states that there are quite a few repairs that need to be done to the existing building as well as the parking area. Ms. Wallin states that the improvements can be phased out over a couple of years. The shell of a building can be erected first then the enclosure of that structure in the following year(s).

Jason Quintana is here for the La Merced de Manzano Land Grant, the land grant is in need of a building to have meetings for the land grant. The land grant visualizes this building being used for not only their meetings but it can be used as a community center as well. The building they would like to purchase is a polling place for County, the fear would be that someone else could purchase this building and not allow it be used for elections. Since the land grant is considered a government entity they are able to enter their own ICIP list but would like to have support from the County for this item.

Norm "Speedy" Gonzales is here for Punta de Agua, the village is in serious need of a building. There is nothing in Punta for the people to use, if there is a funeral people have to go to Mountainair to gather after the services, if people want to celebrate and have parties for birthdays or graduations they can't have it in their home town because there is nothing in Punta. The village isn't asking for a huge building but a small building like the one that was built in the Town of Mountainair. The land is even going to be donated by the land owner for this purpose. Mr. Gonzales is asked by the Commission if the village has some kind of revenue source for the up keep of this building, yes, the people of the village are willing to pay fees, donate or fund raise. Whatever it takes to help get a building in the village.

County Manager Garland will have Deputy County Manager Ortiz look into this project, we don't want to get into an anti-donation issue here.

At this time the Commission goes over the list, they discuss these items and try to narrow down the top five, the top five are what is looked at for funding purposes from the legislators. The Commission is in agreement of the following: Vehicles for the Sheriff's Office, Road Repairs & Building Repairs. The other two items are fairground improvements and the building for Punta de Agua. The placement of the list was not determined, the Commission suggests having a Special Meeting to discuss this further and make final decisions. All documentation hereto attached. **ACTION TAKEN: Commissioner Sanchez** makes a motion to table the ICIP and schedule a Special Meeting on Wednesday August 29 at 9am. **Commissioner Frost** seconds the motion. No further discussion, all Commissioners in favor. **ITEM TABLED.**

7. Resolution 2018-043 Adopting a 2020-2024 Infrastructure Capital Improvement Plan

ACTION TAKEN: Commissioner Sanchez makes a motion to table Resolution 2018-43 adopting the 2020-2024 Infrastructure Capital Improvement Plan. **Commissioner Frost** seconds the motion. No further discussion, all Commissioners in favor. **ITEM TABLED.**

***Department Requests/Reports:**

8. Transportation Committee

Commissioner Sanchez informs the Commission that he has met with the Municipalities and they are all on board and ready to move forward with the plan. The only question left is who will facilitate the meeting and to set a time and date. September is suggested to have this meeting. Commissioner Sanchez will work with staff and figure out the date and time. **INFORMATION ONLY, NO ACTION TAKEN.**

9. Consider and Act Upon, La Miga Canyon Road

10. Consider and Act Upon, La Parra Road

Commissioner Sanchez asks that these item be tabled, the requestors both were not able to attend today's meeting. **ACTION TAKEN: Commissioner Sanchez** makes a motion to table items 9 & 10. **Commissioner Frost** seconds the motion. No further discussion, all in favor. **BOTH ITEM'S TABLED.**

11. Discussion of Solid Waste Pick-Up Options

Commissioner Sanchez states that in light of the changes at EVSWA, he has had several people contact him about curb side services for the residents and Commissioner Sanchez did not have a reason as to why this could not be done. So Commissioner Sanchez would like to have research done to see if this would be a feasible plan to move forward with. The EVSWA is doing a great job but perhaps there could be better services for the customers. There has been discussion with the Executive Board from EVSWA on what would be the most efficient job for the customers and everyone agrees that it would come from a private hauler and still provide services at the collection stations. The potential private hauler would contact with EVSWA for their collections and the private hauler can possibly do 80-90% of the waste pick up and the County could see a cost savings as well as the customer. This could be done for \$40-45 dollars a month, which would cover the curbside pickup, the billing and tipping fees.

County Manager Garland asks if Commissioner Sanchez is wanting to end the contract with EVSWA and pursue private hauling. She also reminds the Commission that the County will still have to pay the \$800,000.00 per the contract unless amended.

Commissioner Sanchez states that this would be purely research to see if a private hauler would be beneficial for the County as well as the customers.

County Manager Garland states that though she and Commissioner Sanchez have met with EVSWA and we have a pretty good idea of what they will do, they still have not yet approved the contract with the County. She suggests the Commission wait till next Wednesday to make a decision.

Commissioner Sanchez states that he is merely suggesting the County do research on this plan not to make any decisions today.

Leonard Lujan states that there will need to be a lot of research done, as of right now there is not enough easement room to have the dumpsters in the road and have the road passable if there is traffic on the roads. Not to mention that by using private haulers you will have that much more heavy equipment on our roads. Mr. Lujan also mentions that in the winter when they are blading the roads they will not stop and move the dumpsters that will defeat the purpose of trying to get the roads open for the residents. Then they will be getting the calls to go pick up the trash they knocked over.

Dennis Wallin questions where the dollar amount to customers has come from, Mr. Wallin has lived in many different cities and he can't believe that a private hauler can charge \$15.00 a month for the rural areas.

Commissioner Sanchez states that the \$40-45 amount came from discussions he has had.

Madam Chair DuCharme states that right now, they are charging \$20.00 a month but for those that use a private hauler are getting penalized from the authority for a third of what the annual bill is on top of the payment for the private hauler.

Commissioner Sanchez explains that the Commission needs to do the research, not the EVSWA board members, on all the facts and numbers to get an accurate picture of what this will entail for the County as well as the customers.

Madam Chair DuCharme states that Lincoln County had a contract with waste management and then later to switch to a private hauler. Madam Chair DuCharme states, we as a County need to do the research to see if this will be better for the County and its customers.

Public Comment:

Nancy Brockerman strongly regrets the resignation of Andy Miller, the authority had a major change in how they take recyclables. Would like to go over the numbers with Commissioner Sanchez because she isn't sure how he was getting the numbers he came up with. And she reminds the Commission that Albuquerque should not be our role model on this either and she prefers going to the waste stations versus a roll cart at her house.

Betty Cabber states that when her family first moved out here 22 years ago they were paying \$55.00 a month to a private hauler because there was no authority at that time. She lives off a chip sealed road so the cost for her may be different than where Leonard lives because of amount of the miles and condition of the road. On the upside of this, there could be someone that decides to open a business to become a private hauler in the mountain areas and the cost may not be as much because their business would be based out of the area that they will service. This is a good idea but Ms. Cabber can see where a lot of research needs to be done on this before moving forward.

Commissioner Sanchez states that we need to do the research, that's all he is suggesting. We can monitor the situation now and over a course of time gather information.

NO ACTION TAKEN, FOR INFORMATION ONLY

**Public Relations:*

12. Updates: a. Various County Departments, b. Commission, c. County Manager, d. Other Boards or Land Grants (upon request), e. Forest Service

a. Various County Departments

Linda Jaramillo, County Clerk requests the Commission give a lunch break when the meetings are going to last as long as today's meeting. It is only courteous and considerate of the employees who are here for the duration.

Lester Gary, Fire Chief informs the Commission that Torrance County Fire Department took part in the burning of the church for the movie set located just right out of the city limits of Estancia. There will be seven members attending training for the next six Saturdays. The training will be held here in the Estancia Fire Department. By the end of year there will be ten more firefighters and seven more EMT's.

Madam Chair DuCharme asks about the \$70,000.00 the Fire Department received from the legislators.

Lester Gary states, yes, they received the money and will be doing bathroom repairs to some of the departments.

Madam Chair DuCharme asks about the process of the new truck purchase.

Lester Gary states that he and Noah Sedillo, Chief Procurement Officer are both new to this process and missed the deadline to get this item placed on today's agenda but it will be on the next agenda in September.

***Department Requests/Reports:**

13. Approval of Membership of Partnership for a Healthy Torrance Community-Tracey Master, DWI Prevention

Ms. Annette Ortiz, Deputy County Manager presented this item for Tracey Master. All documentation hereto attached. **ACTION TAKEN: Commissioner Frost** makes a motion to approve the Membership of Partnership for a Healthy Torrance Community. **Commissioner Sanchez** seconds the motion.

Madam Chair DuCharme asks how the list of people were chosen.

Ms. Ortiz answered that she is not aware of how the people are picked but does see that there is a term limit for the people who serve.

Commission votes all in favor, no further discussion. **MOTION CARRIED.**

County Manager Garland asks the Commission to table the other executive session item due to the length of the meeting, this particular item could be quite lengthy in discussion. County Manager Garland asks that it be heard at the Special Meeting next week. **ACTION TAKEN: Commissioner Sanchez** makes a motion to table the Executive Session. Commissioner Frost seconds the motion. No further discussion, all in favor. **EXECUTIVE SESSION TABLED.**

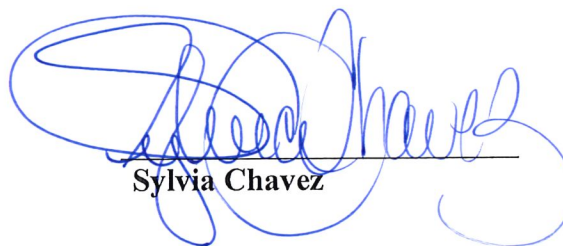
Adjourn

ACTION TAKEN: Commissioner Sanchez makes a motion to adjourn the August 22, 2018 Regular Commission Meeting. **Commissioner Frost** seconds the motion. No further discussion, the Commission votes all in favor. **MOTION CARRIED.**

Meeting adjourned at 6:25 pm



Madam Chair DuCharme



Sylvia Chavez



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.