

**FINAL COPY
TORRANCE COUNTY BOARD OF COMMISSIONERS
REGULAR COMMISSION MEETING
OCTOBER 24th, 2018**

COMMISSIONERS PRESENT: JULIA DUCHARME-CHAIRMAN
JAMES FROST-MEMBER
JAVIER SANCHEZ -MEMBER

OTHERS PRESENT: BELINDA GARLAND-COUNTY MANAGER
YVONNE OTERO-ADMIN. ASST.

CALL MEETING TO ORDER

Madam Chair DuCharme calls the October 24th, 2018 Regular Commission Meeting to order at 9:06 A.M.

Pledge lead by Yvonne Otero

Invocation lead by Linda Jaramillo Torrance County Clerk

APPROVAL OF THE OCTOBER 3rd, 2018 SPECIAL COMMISSION MEETING MINUTES

Madam Chair DuCharme asks for a motion to approve the October 3rd, 2018 Special Commission meeting minutes. **ACTION TAKEN:** **Commissioner Frost** makes a motion to approve the October 3rd, 2018, Special Commission meeting minutes. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

APPROVAL OF THE OCTOBER 10th, 2018 REGULAR COMMISSION MEETING MINUTES

Madam Chair DuCharme asks for a motion to approve the October 10th, 2018 Regular Commission meeting minutes. **ACTION TAKEN** **Commissioner Sanchez** makes a motion to approve the October 10th, 2018 Regular Commission meeting minutes. **Commissioner Frost** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

APPROVAL OF THE OCTOBER 24th, 2018 MEETING AGENDA

Madam Chair DuCharme asks for a motion to approve the October 24th, 2018 meeting agenda **ACTION TAKEN:** **Commissioner Frost** makes a motion to approve the October 24th, 2018 meeting agenda. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

APPROVAL OF CONSENT AGENDA

1.) Approval of Checks

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

Public Requests*:

At the discretion of the Commission Chair. For Information Only (**No Action Can Be Taken**).
Comments are limited to three (3) minutes per person.

1.) **Linda Jaramillo** Torrance County Clerk comes forth to give everyone early/absentee voting information. The early voting numbers for here in Estancia, we have had 303 people come in to early vote. At our alternate site, which opened Saturday October 20th, so far 241 people have gone in to vote early. That makes a total of 544 people that have voted in person at both sites. For absentee we have sent out 305 absentee ballots by mail, and 157 of those have been returned, and we are still waiting for the rest to come in. Ms. Jaramillo would like to encourage everyone to get out and vote. We have two sites, the alternate site in Moriarty at the Civic Center, which is open Tuesday through Saturday from 10:00 am to 6:00 pm, and the main site here the county building, which is open Monday through Thursday from 7:30 am to 5:30 pm. Main Election Day will be November 6th, 2018 7 am to 7 pm, and that will be at your designated polling location. Again, Ms. Jaramillo encourages everyone to exercise your right to vote, every vote counts.

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

****Commissioner Matters***

1.) Torreon Acequia Memorandum of Agreement

Commissioner Sanchez states that it was brought to his attention, every year, the community of Torreon asks the county for assistance in cleaning out one of the large acequias in the area. Commissioner Sanchez would like to see if the attorney and the county manager can create an MOA, so that this may be a standard practice, and the community not have to come and ask the county to help clean it out. Commissioner Sanchez would like to know what the legalities are in rendering that assistance, can we do it or not. If we can offer assistance, then maybe we can create the MOA so that this happens automatically every year. If it cannot be done then this will be discarded and not brought up again.

Belinda Garland states that Mr. Wallin was not able to attend today's meeting. In her opinion we may possibly be able to enter into an MOA that specifically outlines what we will be assisting Torreon with in regards to the Acequias. Once the information is gathered, as well as

all the information for the funding for this project, the MOA would depend on what happens with the funding and if they are an entity that we can enter into that type of agreement with.

Commissioner Sanchez states that there is a particular page in Michie's Annotated Statutes of New Mexico. On page 46, 72-4-1, of this book, has some vague information that may cover this topic, and would be able to share this with Ms. Garland and Mr. Wallin.

Belinda Garland asks Commissioner Sanchez if he can give her some idea of what he is wanting the MOA to cover.

Commissioner Sanchez states that earlier in the year they asked for help in cleaning the upper acequia. The system gets clogged and with all the rains that we were getting the water wasn't draining and was flowing into the homes. They asked for help and the county went in with the blade and cleaned it out. Commissioner Sanchez wants to know if this is something that we can continue doing, make it standard maintenance, and do it once or twice a year. Doing so would help them not having to come in and request the assistance.

Belinda Garland states that she has no problem in doing this, she just would like to talk to Mr. Salas on this topic, and also see if this is something we can enter into legally.

Commissioner Sanchez states that he was also informed that they never received any correspondence regarding the fiscal match that will be required by them for the acequia repairs. Commissioner Sanchez states that we will move forward on gathering information on whether or not an MOA can be entered into and getting them a letter for the potential of a match of funds. Commissioner Sanchez asks if this should be tabled until all the information is gathered and if two weeks will be enough time to place this on agenda for the next meeting.

Belinda Garland states that it all depends on Mr. Wallin's schedule. There has been several things she has been working with him on. Ms. Garland has already drafted the letter and is waiting to be viewed by legal. She is ready to move forward and can do so as soon as she gets the letter back.

ACTION TAKEN: **Commissioner Sanchez** makes a motion to table Torreon Acequia Memorandum of Agreement until all information is gathered. **Commissioner Frost** seconds the motion. **Belinda Garland** asks, once we determine if we can move into an MOA, will we come back and decide what you want to be put into it? **Madam Chair DuCharme** asks if there is any further discussion.

Bill Larson states the he doesn't understand this. Didn't the King of Spain give that land to private individuals or us the public? Isn't it private land a private ditch? The land doesn't belong to the state of New Mexico or Federal Government.

Commissioner Sanchez replies, no, but it's not private property either. The land grants are formed as a form of communal land ownership. They were formed with the idea that the land would be owned in common, meaning everyone would own the land. The acequia system is a quasi-unit of government because the system belongs to the community of Torreon and not just

one person. It is owned by the community of Torreon. This is why there is a possibility of us entering into an MOA with them. It could be government to government.

Bill Larson asks, what is the Commission's position on using Torrance County money for a group of people that have their own land and system? Shouldn't they maintain the acequia?

Commissioner Sanchez replies that it would be almost the same as when a municipality needs assistance, they ask, and we help them.

Bill Larson states that, if he or his neighbors want the county to go and maintain their terraces, dams, and terraces etc., all they need to do is come and ask, and the county will help?

Commissioner Sanchez replies, no, they cannot. They are not a quasi-unit of government. That is privately held land.

Bill Larson states that he doesn't know when things changed. In his opinion the land grants need to take their own resources and maintain their own ditches. Commissioner Sanchez is saying it's the same as in helping a municipality and Mr. Larson is saying it's not.

Commissioner Sanchez replies, which may be their intentions, but at the present time they require our help, just like any municipality would. Commissioner Sanchez states that he believes it is the same, it may not be, and that is why he is wanting to check the legality of the situation. The land grants face a challenge that most are trying to reconstitute communities that have been disorganized for years. The revitalization of these acequia systems & communally within these communities is of key importance to revitalize these communities. The acequia system in Torreon is organized as a quasi-unit of government, they have their quarterly meetings, they have their accounting system, which is checked and verified through the state. They are recognized by the state and the federal government. Just like a municipality, they are recognized as a quasi-unit of government and that is why there is a potential for us to assist them. At one point and time these land grants were not recognized by the state and federal governments, but there is a new push that is trying to follow the rules and this is what give us the potential to assist them. We are trying to revitalize and protect these historical assets.

Erminio Salas with the Torreon Acequia association, states that the particular acequia that is being discussed, was designed & built by the federal government. They did install a diversion system for the town. The county has helped the association clean this acequia many times. The reason for the diversion is for flood control. The other acequias the association does maintain them on their own, but this particular acequia is for flooding and as of today the water level is high and may soon start reaching people homes. If this is not cleaned out soon and it gets into people homes, there could be a potential lawsuit. The association is also asking the state to help replace the culverts in the area because the water is really bad.

Belinda Garland tells Mr. Salas that the MOU's and MOA's that the county have in place with the towns, that Commissioner Sanchez has referred to, the towns pay the road department to go out and do the work for them. Ms. Garland wants it to be known that there may be a possibility that the county charges the association for the assistance.

Michael Godey states that, recently, the state has gone out of their way to recognize the land grants as governmental agencies. There is some catching up to do, so as of right now they may need the help, but in the future as things progress, they may not need the help from the county. The land grants are open to the people that live around there, and is public land. Not only for the people in the land grant, but for the public.

Martin Lucero states that this particular project in Torreon was brought up a few years ago when the county was putting together the hazard mitigation plan. An application was sent to FEMA to have the project worked on. FEMA asked us to have someone engineer the project to test the project, and once it was completed it would have a life span of 30 years. The Torreon Acequia Association has done that. They are in an un-incorporated area, however they do fall under the Claunch-Pinto district to submit for hazard mitigation funding. There are funding opportunities available to have this fixed. This has been considered and the state is aware of this project. When the opportunity comes up again, we can submit an application and try to get this fixed permanently. In the interim it is a good idea to have some sort of support system in place until we can have it permanently fixed and break ties.

Bill Larson states that he is not in favor of having conflict with the land grants, but wants to know why it wasn't stated that this was flood control and FEMA was involved. Mr. Larson asks Mr. Sanchez why he didn't just make a motion to proceed. Earlier Mr. Sanchez sounded like a lawyer.

Commissioner Sanchez replies, he didn't make the motion because he wants to check the legality of this and make sure that we can enter into an agreement with them or not.

Bill Larson asks why this has gone on so long without some sort of maintenance within the land grant. What is the length of the acequia? What amount of money is being put into this? What kind of equipment is involved? Are we just sending them money and not seeing what is getting done? Who is keeping track of this?

Commissioner Sanchez replies, it's about a mile of maintenance just clearing out the acequia. Commissioner Sanchez does not want this to be a custom, he wants it to be either through an MOA or not done at all. The reason there is not an MOA in place is because no one has taken the time to put one in place.

Bill Larson states that most of the northern part of the state has acequia systems, is this a standard operating procedure up north? In that mile of the acequia, are there users irrigating and diverting the water, or is the water going by and becoming a problem further down?

Erminio Salas states, that particular acequia was designed for flood control, but there are gardeners along the way. It is a mile long, the project takes only one grater, and it is about half a day of work. The community goes and helps as well by moving debris and taking down a fence that is in the way and then puts it back up. The only help we need is from the grater to go in and cut that flood control ditch. It also goes into a reservoir which holds about 2 million gallons of water. From this reservoir they also divert to irrigate fields

Belinda Garland asks Mr. Salas if the acequias are in need of being cleaned out right now because of the flooding.

Erminio Salas replies, yes, as soon as possible. We currently have a project going on where they are installing an infiltration gallery and a pipeline system. This includes the acequia del medio and the acequia del norte. The acequia that we are talking about right now is to the south side of Torreon.

Belinda Garland states that in the past if there are legal entities that need assistance from the county, the Commission can approve a special project for the county to assist.

Madam Chair DuCharme thanks Mr. Larson for his questions that allowed us to have this discussion in depth. She has not formed an opinion on this matter as she would like to have more information from legal as well as provide statute(s) pertaining to this matter. Doesn't think Commissioner Sanchez lied, he started this discussion with what his thoughts were. He asked Ms. Garland to ask Mr. Wallin to form his legal opinion. This was a productive discussion.

Commissioner Frost states that he has no comment on the matter other than that the Manager has offered to talk with Mr. Salas and the attorney. Commissioner Frost is in favor of listening to what they have to say. No further discussion, all Commissioners in favor. **MOTION CARRIED**

2.) EVSWA Vacant Exempt Denial, Appeal(s)

Commissioner Sanchez states he is trying to conduct more research as to how other entities/counties are conducting their hearings. Most of them appoint an independent hearing officer. In most cases that person is an attorney. Seeing as how we currently have a more cooperative relationship with the EVSWA Commissioner Sanchez thinks it would be good for these appeals to be handled by a hearing committee. This committee should consist of individuals from the county as well as EVSWA. He feels that these appeals should be heard from an un-biased board. Commissioner Sanchez feels that the way the appeals are heard now should not be heard by the commission. People pay their bills to EVSWA but when they have an appeal they come before the county commission, in his opinion this is confusing to the people. Commissioner Sanchez feels that an independent hearing officer would be better to adjudicate these appeals than the Commission.

Madam Chair DuCharme states that the Commission is the last hope and the last resort for those people. If we create another committee it makes the process more bureaucratic and create more bureaucracy. It is the Commission's responsibility to hear these appeals. For example, P & Z, their board hears their request and if they are denied, they then make their appeal to the County Commission. Would we need to form another board/committee to hear those appeals? Why do you think we cannot be fair? Creating a board with someone from the authority would be more biased because they receive the income. In her opinion it's like we are shifting responsibility to someone else's shoulders. There is already a process in place for this.

Commissioners Sanchez states that he can understand where Madam Chair DuCharme is coming from. The way he sees it, we are not shifting the responsibility, but sharing it. We would be teaming with EVSWA and creating a more united front. Cooperate from step 1 all the way up. We would be delegating our authority to an impartial member of the county.

Madam Chair DuCharme asks, how can the EVSWA board can be impartial when they receive the payments? The authority takes their money how can they have an impartial opinion? She asks Commissioner Sanchez to explain that.

Commissioner Sanchez states, maybe a board member could sit on the committee. A board member is not receiving any personal benefit from this. Having a county member on this board would help them to complement each other. Commissioner Sanchez uses an example of people that hold account in a county of like 600,000 people with 300,000 accounts as opposed to our county of 16,000 people with about 5,000 accounts. The Commission in that larger county will bring in a lawyer to hear these appeals, the commission there does not have the time to hear all of these appeals. Here we only have a handful of appeals. In his opinion it is not the appropriate approach to have the Commission handle the appeals. The Commission should work with EVSWA to adjudicate this responsibility to the appropriate body.

Belinda Garland states that when it comes to these types of matters a hearing officer is either contracted or hired because they are completely impartial. The Commission can do as they please, but in her opinion the Commission does a great job. Ms. Garland asks Commission Sanchez who, from the county, are you thinking of placing on the board? Placing someone from the county on this committee could put them in a direct conflict of interest. The county works for the Commissioners. It is our directive to administer what the Commission puts in place. If you are asking us to be impartial, that is a direct conflict of interest.

Commissioner Sanchez states that possibly one of the EVSWA county board members could sit on this committee. **Belinda Garland** asks Commissioner Sanchez if they would be qualified to do so. **Commissioners Sanchez** replies, are we? **Belinda Garland** replies, no but you have legal counsel. **Commissioner Sanchez** states, so will they by extension.

Madam Chair DuCharme asks Commissioner Sanchez if he is just envisioning two people on the board instead of 3.

Commissioner Sanchez replies that it could take any form the Commission feels comfortable with. He is merely stating that it is problematic for the Commission to be handling the appeals. We need to put something in place that makes it better and more impartial.

Bill Larson states that he agrees with Madam Chair DuCharme that there is already a process in place and this should come to the Commission. This is what is legally in place. You are trying to create a whole new bureaucratic level. The Commission can stand up, voice their opinion, and vote yes or no. The next step is District Court, if the appeal is denied. This whole view of cooperation between ESVWA and the Commission is nonsense in his opinion. What he has heard is that no one gets along and the board is a result of a lot of political maneuvering. It was all done to appoint members that would agree with the person that appointed them.

Michael Godey states that he agrees with Madam Chair DuCharme from a different point of view & reputes what Mr. Larson stated. The county gerrymandering for the representatives on the EVSWA board has been going on for a very long time. You are the county Commission and you appoint who you see best to fill the position and represent the county. Unless there is an ordinance in place that states you have to have a representative from each district, then you really can't call it gerrymandering. The majority of the board is cooperating but in the past it wasn't so. Right now the board gets along, but in the future you may end up with a board that doesn't and you will be going through this all over again.

Betty Cabber states that she agrees and disagrees with Madam Chair DuCharme and Commissioner Sanchez. Also there is 3 Commissioners on the board and would like to hear Commissioner Frosts opinion. When Ms. Cabber first moved to the county, there was a mediation board made up of residents of the county. This board was there to sit and listen to both sides of the situation. This board was completely impartial and when they heard both sides of the story, the board would then give that information back to the county Commission to help make the decision. This Commission needs to come up with a definition of what vacant means and stick by that decision. You are saying its ok for one set of property owners but then you change the definition and expect the next set of property owners to abide by this new definition. In doing this you are creating a new class of property owners. The constitution that Ms. Cabber abides by states that she is supposed to be fair and equitable. Ms. Cabber also agrees with Madam Chair DuCharme that this board should not have any employees from the county or from the EVSWA board sitting on it. The individuals that are paying their bills are not confused as to where their money is going. In Ms. Cabber's opinion if she is appealing something she would not want to do it in front of members of the county or solid waste. If you want a good board try appointing people like Judge Jones or Danielle Johnston. They have knowledge of the county and they are also paying the \$62.00 per month like everyone else. When making comparisons, one should compare to a county of similar size.

Commissioner Frost states that a few years ago the Commission did change the definition of vacant and many people were happy with that change. Since then, code enforcement officer has kept track of these things, and then reports back to the Commission and we make our decision. We need to keep things simple. Also Commissioner Frost states that he was reading the legal ads in the Independent and he noticed that there are requests for 2 board positions in the county that had to do with solid waste and residences. What is that for?

Belinda Garland states that it was the committee that the Commission approved that will be looking into the process of picking up the trash in the county. The board will consist of Ms. Garland, Madam Chair DuCharme, a member from the EVSWA, and members of the community.

Dan DeCosta states that he is confused. He was under the impression this agenda item was to decided when the last definition of "vacant" was to be implemented. You decided on a definition and thought you were going to decide if it was to begin January 1st or be retroactive.

Madam Chair DuCharme states that she was under that impression as well.

Belinda Garland states that the agenda states that it is about the appeal.

Dan DeCosta states that he misunderstood and apologizes.

Madam Chair DuCharme states that she would like to keep this checks and balance system in place and simple. She would like to hear from the source and not the filter. We are not a county with a population of 500,000 and we the Commission can do it. We do not have a lot of appeals, it is not a good sign. It can mean we did something wrong and look at the root of that problem and fix it. We don't have a lot of unhappy people or think that we did something wrong. Madam Chair DuCharme would like to keep the system in place and talk about the people who filed those appeals and make a decision. She cannot compare these appeals to the property evaluation appeals. Some people receive positive feedback and others do not. They appealed they were heard, and either awarded or not. It doesn't create a new class of people.

Commissioner Sanchez asks, when do you think the date of the new ordinance should take effect?

Betty Cabber the only reason she was using the Assessor's office as an example was because of the Constitution stating you have to treat everyone fair & equitable. You can't let one group of people abide by the old law, then have another set abide by the new law. This is when you create a separate class of people. Even if you were to grandfather people in, this again, creates a new class of people. You need to treat everyone the same. No matter what you do, you will not make everyone happy, and that is all part of life. Unless you are up for re-election, then you need to treat everyone the same with that vacant definition.

Belinda Garland states that if we are not cautious about not creating a special group of people, we could open ourselves up to a class action law suit.

Madam Chair DuCharme tells Ms. Cabber that she doesn't think that it is different to what she said previously. She also tells her that you need to be fair to every whether you are up for election or not. Those people have the right to appeal and they will receive award for their appeal or a denial. It isn't always a denial. If they have a right to appeal, how will it create a special class of people if they are awarded their request? How can we charge those people when they testified that they don't live there?

Commissioner Sanchez asks again, what date do you think this new ordinance should take effect?

Madam Chair DuCharme states that it should take place at the date the ordinance changed. We voted, the document was signed and it is already in effect.

Commissioner Sanchez states that the new definition does change the conditions of which the vacant exempt status is awarded. If you apply it on September the 26th there is a whole group of people that already paid their vacant exempt status that shouldn't have paid. If you apply this mid-step, and you chose to award vacant exempt status to those that did their appeals based on the new definition, then how do you use that same yardstick to measure those that have already paid?

Madam Chair DuCharme asks Ms. Garland when the people were billed last.

Belinda Garland states that they were billed the first part of September. Which was before the Commission made its decision. The bills are sent out on the 10th of the previous month of the quarter.

Madam Chair DuCharme states that we cannot do anything about that, because the bills were already sent out.

Commissioner Sanchez states that the Commission wasn't thinking ahead. We should have stated we would consider this matter in December or the next billing cycle. Instead we are implanting it right in the middle.

Belinda Garland states that it is ok. We can make it effecting January 1st and send notices out to the people of what documents are required. The people can gather the documentation needed and be qualified by January 1st. This is perfect timing to start this.

Madam Chair DuCharme states that she would like for this new definition to be reflected in the new billing in December. This is already in place and we do not need to say that it will be effective on January 1st. According to this document you have to bill differently.

Commissioner Frost states that we need to make a clear decision. No everyone will be happy, so let's set a date on this.

ACTION TAKEN: **Commissioner Frost** makes a motion for the new billing to become effective January 1st, 2019.

Commissioner Sanchez states that he would like to support this. The issues he has with this is that when January 1st come around these people are going by the old ordinance and have already paid, but then the new ordinance comes into effect and you are going to have to pay again.

There is discussion back and forth between Commissioner Sanchez, Madam Chair DuCharme, and Belinda Garland on how the people will be affected once the new ordinance is implemented. The main discussion is that people should not have to pay now and then have to pay again. There are people waiting on a decision from their appeals. It is stated that the Commission and the EVSWA board are not in a position right now to adjudicate the appeals. Too many politics are involved and that needs to be cleared before we can begin to look into the appeals.

Michael Godey states that the Commission is making a lot of assumptions about the people that made their appeals. You have placed these people on hold and you need to let these people know that the nature of making a decision will go into effect on the next billing cycle. You never know, these people may be happy to pay the bill now and then reapply for that vacant exempt during the next cycle. The people may not be happy about this but they may do what is needed once a decision has been made.

Commissioner Sanchez states that he doesn't agree with Mr. Godey. Commissioner Sanchez states that he has spoken with a few of the people that have filed appeals. The people are upset

with how they are treated. To them it isn't about the amount of money they have to pay. The ordinance itself is black and white. There are a lot of gray areas and lots of different stories going around. The people are angry and he cannot condone the rough handling. We need an independent hearing officer to hear these appeals.

Michael Godey states, to the people that appealed and let them know that under the new ordinance you appeal may not happen. Solve this issue first and then take care of the other issues. A lot of time is being spent talking about an issue and you are not getting anywhere.

Belinda Garland states that the commission needs to be careful about making public, personnel matters.

Martin Lucero states that it is cut and dry. People had applied for an apple off an old ordinance. Regardless of when they are appealing it is based off the old ordinance. Once the new ordinance comes into place those people that want to appeal can appeal that. You don't have that process in place that covers the new change. Mr. Lucero would like to reiterate what Ms. Garland stated earlier. This gives you the opportunity to be fair and equitable to those people. They would be appreciative that you took the time to address the issue and fix it with the new ordinance so that this does not occur again. They may be upset that they have to pay, but you are going off the ordinance that was in place at the time. The Commission should talk to these people and let them know that the old ordinance did not support their cause, evidence was provided and showed whether you did or did not qualify. The new ordinance is in place and they reapply like everyone else under the new ordinance.

Commissioner Frost states that we do not need another meeting like this to talk about the same topic. We need to make a decision. He made a motion and it wasn't seconded. The motion would cover what Belinda suggested. People may have to pay more but then we will just move on with the new plan at the first of the year.

More discussion goes back and forth about the people having to pay or not pay or pay again and when the ordinance should be implemented. It is suggested that it start on January 1st and maybe the people can withdrawal their appeals and then reapply once the new ordinance goes into effect.

ACTION TAKEN: **Commissioner Sanchez** make a motion to table agenda item #1. **Madam Chair DuCharme** seconds the motion. **Madam Chair DuCharme** asks if there is any further discussion. **Michael Godey** states that it is a good suggestion to have the people withdrawal their appeals and the reapply. Allow Ms. Garland to do her job. Let this come into effect January 1st and deal with the appeals at that time. You are holding up what everyone else needs to do. **Madam Chair DuCharme** states that this is a resolution and not an ordinance. No further discussion, Madam Chair DuCharme and Commissioner Sanchez vote for and Commissioner Frost votes no. **MOTION CARRIED**

***Public Relations**

3.) Updates

a.) Various County Departments

Tracy Sedillo Torrance County Treasurer states that the tax bills will be sent out next week. If there is anyone that does not receive a Tax Bill please contact the office. There may be a chance that we have an incorrect address and the bill may get returned to us. The office gets a lot of returned mail every year due to an invalid address. Payments will be taken in the office or online via the Torrance County website. Ms. Sedillo also states that the new phone payment system should be up and running next week giving an extra option for everyone to make their tax payments.

c.) County Manager

Belinda Garland states that on October 15th there were 4 session for civil rights training and an update on sexual harassment which was mandatory for all county employees. On October 25th there will be an active shooter training and drill. On Tuesday & Wednesday October 16th & 17th she met and worked with legal counsel regarding the proposal from NextEra on restructuring the PILT for the special Commission Meeting. At the meeting no decision was made and will be speaking with NextEra more and the topic will be brought back to the Commission when both parties can come to an agreement.

On October 17th Ms. Garland met with the finance director and the County Treasurer to see if fund are available from improvements and projects for county assets. Also on the 17th Ms. Garland & Leonard Lujan met with legal counsel concerning the Caldera/Pacheco Law Suit.

The county audit is moving forward and we hope to have the audit submitted on time this year. Finance and Treasurer have worked hard to get everything required from the audit firm and keep us moving on getting the audit completed.

Ms. Garland has been working with the Maintenance Manager on building improvements that need funding. The heating and cooling in the Sheriff's Department evidence room needs to be replaced. The cooling unit at the Mountainair health clinic is getting replaced. All the counters have been installed and all of the doors seem to be working now. Somethings still need to be finalized and everyone seems to like the new customer service areas.

Ms. Garland is also working on completing the filling of the Operations Manager and the Grant Coordinator position is being advertised and all applications must be received by 5:30 p.m. November 8th, 2018.

Work is currently being done on the foyer at the animal services department building. Ms. Garland has also been working with legal counsel on several legal matters, and with the HR director on personnel matters. They are also working on the job description for an attorney position.

Ms. Garland received a letter of resignation from Mr. Fred Sanchez on Tuesday October 18th stating he was resigning from the EVSWA board. On Monday October 22nd he rescinded that letter and as of now he is still on the board.

***Department Requests/Reports:**

4.) Sub-Grant Agreement 2018-19 Emergency Management Performance Grant (EMPG) Ratification-Martin Lucero, Emergency Manager

Martin Lucero states that he is asking for a ratification on this EMPG grant. This year the department was awarded \$20,925.55. This grant covers salary and benefits and is a shared cost with the county, who pays the other half of Mr. Lucero's salary and benefits.

ACTION TAKEN: **Commissioner Sanchez** makes motion to approve to ratify the Sub-Grant Agreement 201 Emergency Management Performance Grant (EMPG). **Commissioner Frost** seconds the motion. **Belinda Garland** states that this grant was reviewed by the grant committee and legal counsel. No further discussion, all Commissioners in favor. **MOTION CARRIED**

5.) Professional Services Agreement between Torrance County and Ware Resources to Facilitate the Boys Council Program-Jenea Ortiz, Estancia Valley Youth & Family Council Continuum Coordinator

Belinda Garland requests that this item be tabled. There are corrections that need to be made to this contract.

ACTION TAKEN: **Commissioner Sanchez** makes a motion to table the Professional Services Agreement between Torrance County and Ware Resources to Facilitate the Boys Council Program. **Commissioner Frost** seconds the motion. No further discussion, all Commissioner in favor. **ITEM TABLED**

6.) Award Invitation Bid A17-15 for Torrance County Animal Shelter Addition-Noah Sedillo, Chief Procurement Officer

Noah Sedillo states that this project is under the guidance of NCA Architects. The bid came in over the projected budget of about \$30,000.00. The amount of the bid is from Vigil Contracting Services, Inc in the amount of \$52,000.00. Mr. Sedillo received a letter from Dave Puritz, the project manager for NCA Architects, and they are comfortable with recommending the lower bid contractor. There would be a difference of about \$22,000.00, and wants to know what fund would be able to cover the extra funds. Mr. Sedillo states that the current status of the Animal Shelter, the foyer has a separation of about an inch, there is daylight coming through and it's raining today and water is going into the building.

Commissioner Sanchez asks if the Infrastructure fund be able to fund the remaining balance.

Belinda Garland states that the Capital Outlay would be able to fund this.

Commissioner Sanchez asks how long the project will take.

Noah Sedillo states that it may take approximately 3 months, but he would have to look at that again. Mr. Sedillo states that the reason for the crack in the foyer is because of a tree root that has continued to grow under the floor of the foyer. When the remodel happens the root will be completely removed.

Belinda Garland states that the area is a safety issue for the employees. They have no way of seeing who is standing in the foyer when they knock on the door. This foyer will create a window and a safety barrier for the employees.

Commissioner Sanchez asks if this is one of the projects that was discussed between Ms. Garland, the County Treasurer, and the Finance Director, and how does this fit in with the projects that were talked about. Commissioner Sanchez states that any projects discussed at the meeting are coming from the same fund and would taking the money for this project hurt that fund.

Belinda Garland states that this project was not talked about. This was an award of a bid and it has to be brought before the Commission. Some of the projects will be coming from the same fund, but others will not, and taking the money for this project will not affect it in anyway. Ms. Garland states that the commission had previously awarded \$30,000.00 for this project, but none of the bids came close to that amount.

Commissioner Sanchez asks what the reason was for the disparity and if anyone has looked into this.

Noah Sedillo replies that the cost of materials has gone up since this project was discussed. Mr. Sedillo states the Mr. Puritz has looked into the disparity and it is because the price of the materials has gone up. Mr. Puritz said that there are a few items that can be removed, but the scope of work is bare bones as to fit the needs and address the safety concerns.

Belinda Garland states that there was more than one bid received.

Noah Sedillo states that there were 4 bids. Vigil Contracting Services came in with the lowest at \$52,000.00. There were 2 other bids, 1 non-responsive in this category in the amount of \$58,900.00, \$58,600.00 and the highest in the amount of \$74,700.00.

Commissioner Frost states that this project has been on hold for years. If we went out for bid years ago, the cost would have been cheaper. If we continue to wait the cost may get higher.

Cindi Sullivan states that there have been a lot of changes that needed to be made since the initial request. The counters are going to now be ADA compliant. These were types of things that were not thought about initially. There is no heating or cooling in the area, an electrician had to be brought in to see how everything would be connected from the old heating and cooling to the new heating a cooling, therefore creating the need of adding another electrical box. Lots of other things came out when Mr. Puritz was hired. As far as safety issues go, this

past weekend we had to have law enforcement come to physically remove someone from the premises. Once the new desk is put in then no one can just walk in and threaten the employees.

ACTION TAKEN: Commissioner Frost makes a motion to award Bid A17-15 for Torrance County Animal Shelter Addition to Vigil Contracting. Commissioner Sanchez seconds the motion. Commissioner Sanchez asks if we need to add in the motion that the remaining money be funded from capital outlay. Belinda Garland replies, yes, the motion should reflect that. Therefore, Commissioner Frost needs to rescind his motion and do it again to reflect that. Ms. Garland also asks Mr. Sedillo to give the amount of the bid again. Noah Sedillo states that the base of the bid was in the amount of \$52,000.00, excluding GRT's. Commissioner Frost rescinds his previous motion and makes a motion to award Bid A17-15 for Torrance County Animal Shelter Addition to Vigil Contracting with the remaining funds to be covered by capital outlay. Commissioner Sanchez seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

7.) Resolution 2018-47 Fourth Quarter Report Adjustment-Amanda Tenorio, Finance Director

Amanda Tenorio states due to a system error some numbers were submitted wrong to DFA for the fourth quarter report. The corrections have been made and she is asking the Commission for approval of the Amended Fourth Quarter Report for FY17/18 Budget.

Madam Chair DuCharme asks for a motion to approve Resolution 2018-47 Amended Fourth Quarter Report for FY17/18. **ACTION TAKEN:** Commissioner Sanchez makes a motion to approve Resolution 2018-47 Amended Fourth Quarter Report for FY17/18. Commissioner Frost seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

8.) Resolution 2018-48 Budget Adjustment-Amanda Tenorio, Finance Director

Amanda Tenorio states that this is a budget adjustment that needs to reflect the changes made for the amended fourth quarter report from the previous resolution. Today she is asking the Commission for approval of Resolution 2018-48 Budget Adjustment.

Madam Chair DuCharme asks for a motion to approve Resolution 2018-48 Budget Adjustment. **ACTION TAKEN:** Commissioner Frost makes a motion to approve Resolution 2018-48 Budget Adjustment. Commissioner Sanchez seconds the motion. Madam Chair DuCharme asks Ms. Tenorio why some of the amounts are highlighted. Amanda Tenorio replies, those are the amounts where the adjustments were made. No further discussion, all Commissioners in favor. **MOTION CARRIED**

9.) Resolution 2018-49 Line Item Transfers-Amanda Tenorio, Finance Director

Amanda Tenorio states that these are line item transfers within the same funds and is asking the Commission for their approval of Resolution 2018-49.

Madam Chair DuCharme asks for a motion to approve Resolution 2018-49 Line Item Transfers. **ACTION TAKEN:** Commissioner Frost makes a motion to approve Resolution

2018-49 Line Item Transfers. Commissioner Sanchez seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

10.) Resolution 2018-50 Budget Increase-Amanda Tenorio, Finance Director

Amanda Tenorio states she is requesting approval for an increase in the FY2018-19 budget. This increase comes from a grant given to the Domestic Violence program.

Madam Chair DuCharme asks for a motion to approve Resolution 2018-50 Budget Increase. **ACTION TAKEN: Commissioner Sanchez** makes a motion to approve Resolution 2018-50 Budget Increase. Commissioner Frost seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

11.) Resolution 2018-51 Budget Procedure-Amanda Tenorio, Finance Director

Amanda Tenorio states that the finance department is requesting the Commissioners approval for a budget procedure allowing the finance director to approve smaller periodic cash transfers on an as needed basis (not to exceed the total operating budget scheduled transfer amount) in order to keep funds from having a deficit balance. The County Treasurer will be the second approval of the small periodic cash transfers request to ensure adequate funds are available for the transfer.

Madam Chair DuCharme asks Ms. Tenorio how she would define small.

Amanda Tenorio states, as an example, the jail fund is in deficit, and we currently have money budgeted from the general fund and the wind PILT. We are just going to transfer the amount that is needed instead of transferring the full amount so that it doesn't drain the fund.

Tracy Sedillo states that she, Ms. Tenorio and Janice Barela visited Taos County. They spent some time in the Treasurer's office looking at their procedures and getting some prospective on another county's procedure. They are a triadic user county, so it's helpful to see how other counties are utilizing the software. Ms. Tenorio also spent time with their finance director to see what they do. Taos County also uses this procedure that we are requesting. This eliminates a lot of unnecessary transfers down the road.

Ms. Sedillo states that we currently have funds in deficit. Per DFA rule they cannot be in deficit. If Ms. Sedillo would take out all of the money to cover these deficits, it would be a total of \$1.4 million out of the general fund. We only have \$1.8 million and the transfer would make the general fund non-operational. We are only trying to transfer the amount of money as needed in a smaller amount so that we don't over transfer and drain the general fund. Some forms will be designed and we will have tracking mechanisms in place to make sure we don't over transfer. This is an internal procedure to make the transfers timelier and not transfer money that is not needed. For example, if we over transfer money then we have to do a transfer to move the money back. Having this procedure in place would eliminate this. Right now we need to transfer about \$400,000.00 to the jail fund and we can split that between the PILT and general fund. The transfers are made in December when there is a heavy flow of money coming in from taxes. We cannot report any deficit to DFA, if we do that we could be in

trouble with DFA. They would then force us to make the transfer from the general fund for the full amount.

Madam Chair DuCharme asks Ms. Sedillo would cause confusion in the public record because there one amount and then you transfer a different amount.

Tracy Sedillo states that this procedure will allow for that. We will keep track of the transfers. There are other counties that have this procedure in place. We have also spoke with the auditors and as long as there is a procedure in place that the Commission approves, the auditors are ok with it. We will never exceed what the Commission approves. If we make the small transfers and then we have exhausted that \$1.4 million in the small transfers, we will have to come back with a new resolution with another transfer amount to cover that amount. If the Commission requests reports, we can come back with a report when all the transfers are completed, or after each transfer has been completed. Ms. Sedillo states that she is trying to keep the budget from getting drained. If we drain the budget then everyone would have to go home because we would not be able to make payroll.

Belinda Garland states that this procedure also allows for county funds to be invested.

Madam Chair DuCharme asks, why can't we just transfer what we need or close to what we need instead of over transferring?

Tracy Sedillo states that the budget is a guess. When we start work on the budget we are making a guess as to what we think certain funds are going to be. The budget is a living document, things change all the time when it comes to the budget. Right now the jail fund is \$200,000.00 in deficit. This procedure will keep us from having to over transfer and drain out one of the funds. Something may come up and we need money from that fund, but if it's drained out then we have to pull from another fund. Again this procedure will prevent that.

Madam Chair DuCharme states that she is talking about certain transfers. The Commission just approved line item transfers, are those transfer not close to what needs to be transferred?

Tracy Sedillo states that the transfers that were just approved are within a specific department, those transfers have nothing to do with the transfers being referred to here. These are actually cash transfers. A cash transfer is moving money between two different funds. We are moving money from the general fund into the jail fund. With this procedure it will prevent use from over taxing the general fund. In December we can transfer all the funds that we need, but right now there are 3 funds in deficit and we cannot report anything in the negative to DFA.

ACTION TAKEN: **Commissioner Frost** makes a motion to approve Resolution 2018-51 Budget Procedure. **Commissioner Sanchez** seconds the motion, but would like to make sure Madam Chair DuCharme thinks this procedure is a good idea, and if not why does she not think so. **Madam Chair DuCharme** doesn't think this procedure is a good idea. The transfers are not just between line items its between funds, and she fills the Commission needs to made aware of the transfers. There is continued discussion back and forth between Madam Chair DuCharme and Tracy Sedillo. Ms. Sedillo continues to state that the Commission has already approved the transfers. This procedure will allow her to make a smaller transfer a little at a

time until the amount that was approved is reached. She will update the Commission on every transfer she is not keeping anything from them. Madam Chair DuCharme still does not like the idea of the transfers not being brought before the Commission. Discussion goes back and forth between the two about the transfers and not exceeding any amounts allowed and it needing to be brought before the commission. **Commissioner Frost** states that this is a good procedure, Ms. Sedillo has been working with the budget for 20 plus years and is very responsible and knows what she is doing. **Commissioner Sanchez** states that it is a good idea, but all 3 Commissioners should agree with the procedure. Just moving money around without the commission being aware doesn't seem right. **Tracy Sedillo** states that she mentioned earlier that she can give reports to the Commission as the transfers take place. She is not keeping anything from the Commission the transfer has been approved, she is just trying to move that money in a small amount to not drain a fund if she were to transfer the full amount. **Madam Chair DuCharme** would like a written report from when the transfers have taken place. She merely wants to be made aware of when this happens and how much was transferred. **Commissioner Frost** amends his previous motion and moves to approve Resolution 2018-51 Budget Procedure with the addition of the reporting of the transfers to the consent agenda every meeting. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

12.) Emergency Reporting Contract Ratification-Lester Gary, Fire Chief

Lester Gary states that he has given the Commission an updated contract for the Emergency Reporting system. Emergency reporting is the data base the fire department uses to report all of the fire and EMS reports. They also use this database to upload those reports to the state reporting system as well as the national reporting system.

Mr. Gary states that back in 2016 when the department first got this program up and running, this contract was not correctly instituted. The contract did not come before the Commission, the Fire Chief signed the document, and that was it. What Mr. Gary has done is made a few modifications to the program, submitted it to legal for review. The initial contract that was in the packet was a onetime contract. This contract is good for 5 years and locks in the payment for 5 years. The payment for \$15,449.63 is the total payment for all 7 fire districts (6 districts + Admin). On the last page, the governing law section, Mr. Wallin recommended for us to add "for the state of New Mexico" so that it covers all New Mexico laws and the statute of limitations was taken out. At this time Mr. Gary is asking for ratification of the signature of an existing contract to a new 5 year contract.

Madam Chair DuCharme asks for a motion to approve the ratification of Emergency Reporting Contract. **ACTION TAKEN: Commissioner Sanchez** makes a motion to approve the ratification of Emergency Reporting Contract. **Commissioner Frost** 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.) Limited personnel matters pursuant to NMSA 10-15-1 H (2) related to the Operation Manager Position

ACTION TAKEN: Madam Chair DuCharme makes a motion to enter into executive session. Commissioner Sanchez seconds the motion. Roll call vote, District 1-Yes, District 2-Yes, and District 3-Yes. All Commissioners in favor. **MOTION CARRIED**

EXECUTIVE SESSION ENTERED INTO AT 11:46

***Reconvene from Executive Session:**

Madam Chair DuCharme asks for a motion to reconvene from executive session. **ACTION TAKEN:** Commissioner Sanchez makes a motion to reconvene from Executive Session. Commissioner Frost seconds the motion. All Commissioners in favor. **MOTION CARRIED**

RECONVENE FROM EXECUTIVE SESSION AT 12:36 P.M.

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

a.) Consider and act upon, if appropriate, Limited personnel matters related to the Operation Manager position

Madam Chair DuCharme states that no action was taken during executive session.

***Adjourn**

ACTION TAKEN: Commissioner Sanchez makes a motion to adjourn the October 24th, 2018 Regular Commission Meeting. Commissioner Frost seconds the motion. No further discussion, all Commissioners in favor, **MOTION CARRIED**

MEETING ADJOURNED AT 12:37 P.M.

Julia Du Charme
Madam Chair DuCharme

Yvonne Otero
Yvonne Otero-Administrative Assistant

November 14, 2018
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.