

**FINAL COPY  
TORRANCE COUNTY BOARD OF COMMISSIONERS  
SPECIAL COMMISSION MEETING  
DECEMBER 20<sup>th</sup>, 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 December 20<sup>th</sup>, 2018 Special Commission Meeting to order at 10:063 A.M.

**Pledge lead by Michael Godey**

**Invocation lead by Madam Chair DuCharme**

**APPROVAL OF THE NOVEMBER 14<sup>th</sup>, 2018 REGULAR COMMISSION MEETING MINUTES**

Madam Chair DuCharme asks for a motion to approve the December 14<sup>th</sup>, 2018 Regular Commission meeting minutes. **ACTION TAKEN:** Commissioner Sanchez makes a motion to approve November 14<sup>th</sup>, 2018, Regular Commission meeting minutes. Commissioner Frost seconds the motion. Madam Chair DuCharme thanks Ms. Jaramillo for taking care of her request and making changes to the minutes. No further discussion, all Commissioners in favor. **MOTION CARRIED**

**APPROVAL OF THE DECEMBER 20<sup>th</sup>, 2018 MEETING AGENDA**

Madam Chair DuCharme asks for a motion to approve the December 20<sup>th</sup>, 2018 meeting agenda **ACTION TAKEN:** Commissioner Sanchez makes a motion to approve the December 20<sup>th</sup>, 2018 meeting agenda. Commissioner Frost seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

**APPROVAL OF 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**

**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 on any subject.

1.) **Linda Jaramillo**, Torrance County Clerk wishes everyone in Torrance County Merry Christmas and would like to say thank you for the privilege of being able to serve everyone in Torrance County. It has also been a privilege working with everyone here in the county as well.

2.) **Michael Godey** is not sure if there is going to be a get together for the 2 outgoing Commissioners. If not he would like to bid them farewell and thank you for all you have done. To the 3 Commissioners, he may not have always agreed with how they voted, but as a working body, working together and respecting each other in the years that he as observed the County Commission, you all have done the best job. This also goes out to Commissioner Sanchez, who will hopefully be here for the next 6 years and thank you to Commissioner Frost and Madam Chair DuCharme for all the work you have done and for all the open meetings you have supported.

**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.) **NextEra - Consider and act upon request by NextEra Energy Resources, LLC to renegotiate and extend payments in Lieu of Taxes for the High Lonesome Mesa Wind Re-Power Project**

**Belinda Garland** would like to welcome Mr. Henehan from NextEra and to thank him for coming today and speaking to the Commission.

**Gabe Henehan** representing NextEra Energy states that he came before the Commission and gave a presentation a month ago about plans to repower the High Lonesome Mesa wind farm. The schedule is looking for a May mobilization and to be completed by October 2019.

A few things that are different from the last meeting is how the repower would work. We thought we may have had to take down the whole tower. We learned that we no longer have to take down the entire tower, we only have to remove the top section of the tower, reach down with a crane, and pull out the assembly and replace it with the new one.

There was a lot of discussion about the IRB. Part of the repowers is that NextEra would request a new IRB. The old IRB would remain in place, and would issue a new IRB with a new PILOT that would cancel the old PILOT and start a new 30 year one from 2019 to 2054. We came to you with a \$5,000.00 flat rate for 30 years, which adds about \$1.1 million dollars at the end of the deal. If we didn't repower the project the taxes would drop from \$500,000.00 to about \$75,000.00. This is good deal for the county because you will get an extra 10 years. Mr. Henehan stated that he would go back and look at the numbers and return with the best deal

possible. He states that he looked at all of the financial models and he returned and spoke with Mr. Wallin and Ms. Garland and the best they could move up to would be \$5,200.00 and still make the project viable. Mr. Henehan is here for the Commission's support and if this is feasible he would like to return in February to have an inducement resolution, in March they will work with the school district on their support resolution, and the return in April for an IRB Ordinance.

**Commissioner Frost** asks what the amount will be in total dollars.

**Gabe Henehan** states that it will be an additional \$600,000.00 going from \$5,000.00 to \$5,200.00 per megawatt.

**Belinda Garland** states that the negotiation team, that consisted of herself, Mr. Wallin and Commissioner Sanchez, felt that this was a reasonable deal for both sides and are recommending that they approve this request. Ms. Garland also thanks Mr. Henehan for being able to attend the meeting.

**Madam Chair DuCharme** thanks Mr. Henehan for his presentation and asks if there are any questions or comments.

**Michael Godey** states that many people complain about the flashing red lights at the top of the towers. He states that there may be technology available that would allow the lights to come on when aircraft is detected. Is there something that can be put in place so that the red lights are not such an eye sore?

**Gabe Henehan** states that all of the FAA permits have been filed. The original project was awarded DNE. There are a DNH, DNE, and DH. DH is determination of hazard, DNH is determination of no hazard, and DNE is determination of exception. This project originally received the DNE. We are 9/10 of the way through the permitting process. There are 10 government agencies that sign off on the FAA permits. The last one is the Department of Defense Clearinghouse, and they have to wait for branches of the military to give their determination. Nine agencies comment and the tenth agency, the DOD, says ok and issues the ok for the FAA to issue permits.

Mr. Henehan states that he went to the FAA headquarters and asked about the lighting issues. They hear constantly that citizens do not like the lights. The lights are a federal requirement. The lighting system that Mr. Godey is referring to is ADLS or Advanced Detection Lighting System. The lights detect the aircraft and all come on at once. There is another system that has not yet been approved that makes the lights dim up slowly instead of immediately. We have asked many times about the lighting. There may be an option here we can put up a minimal amount of lights and not have every single tower have lights. The ADLS can be very costly. We are hoping they will approve a better system, we just don't know when it will happen.

**Madam Chair DuCharme** asks for a motion to approve the new contract with NextEra Energy Resources, LLC to extend payments in Lieu of Taxes for the High Lonesome Mesa Wind Re-Power Project in the amount of \$5,200.00. **ACTION TAKEN: Commissioner Frost** makes a motion to approve the new contract with NextEra Energy Resources, LLC to extend

payments in Lieu of Taxes for the High Lonesome Mesa Wind Re-Power Project in the amount of \$5,200.00. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

**2.) Consider & Act Upon: Findings of Fact and Conclusions of Law, Cain Appeal – Heard August 22, 2018**

**Steve Guetschow** states that this document was prepared and awaiting legal approval before it was brought before the Commission for approval. With everything going on it got lost in the shuffle. Mr. Guetschow wants to know if the Commission would like for him to read the entire document for the record or would they like to approve it without him reading the document.

**Belinda Garland** states that the document is rather long to read for the record and if anyone wants to read the document it will be available in the Clerk's office for viewing.

**Madam Chair DuCharme** asks Mr. Guetschow if he can read just the Conclusions of Law for the record.

**Steve Guetschow** reads the Conclusions of Law. 1. The Zoning Ordinance and the Animal Control Ordinance, as part of the administration of these Ordinances, provide Planning & Zoning Commission with authority to make a determination as to whether a proposed Animal Control Permit for a commercial kennel should be granted. 2. The Planning & Zoning Commission considered whether the kennel operation had economic, noise, glare, or odor effects, and was compatible with the adjoining properties. 3. The applicant was afforded the opportunity to present testimony and evidence regarding the impact, and compatibility with the character of the neighborhood. 4. Opponents and supporters of the application were afforded the opportunity to present testimony and evidence regarding the impact and compatibility with the character of the neighborhood. 5. Insufficient evidence has been presented to support reversing the Planning & Zoning Commission's denial of the Animal Control Permit for a commercial kennel. 6. Therefore, there is an insufficient basis to reverse the Planning & Zoning Commission's denial of the permit and: accordingly, that determination is hereby affirmed.

**Madam Chair DuCharme** asks for a motion to approve the Findings of Fact and Conclusions of Law, Cain Appeal – Heard August 22, 2018. **ACTION TAKEN: Commissioner Sanchez** makes a motion to approve the Findings of Fact and Conclusions of Law, Cain Appeal – Heard August 22, 2018. **Commissioner Frost** seconds the motion. **Madam Chair DuCharme** states that when this item was first presented to the Commission she voted in favor of this. Madam Chair DuCharme states that she cannot vote yes or no and will abstain from voting on this. **Steve Guetschow** states that there are some issues happening with this and his office will be taking further action at the beginning of the year. No further discussion. **Commissioner Frost** and **Commissioner Sanchez** vote yes, **Madam Chair DuCharme** abstains. **MOTION CARRIED**

### 3.) Five Commission Ordinance – Further Actions

**Commissioner Sanchez** states that he would like to proceed with a re-advertisement of the ordinance, however he would like for it to be advertised as a Workshop/Public Hearing and to be scheduled for the second Commission meeting in January which will be the 23<sup>rd</sup> at 9 AM. Commissioner Sanchez states that he would like for the advertisement to be sent to the Independent so that it can go out on the paper for December 28<sup>th</sup>, 2018.

**Belinda Garland** states that it won't be in next week's paper because we will not be able to make the deadline.

**Commissioner Frost** asks Commissioner Sanchez why we need to advertise this again.

**Commissioner Sanchez** states that there seems to be a lot of public interest in the 5 member Commission and this would give the new Commission members a chance to be involved.

**Commissioner Frost** states that the new Commission should be the ones to decide when and if this should be advertised again.

**Belinda Garland** states that the advertisement will not make it into next week's paper. The Independent's office will be closed all next week. We can make it into the January 4<sup>th</sup> paper but not for the 28<sup>th</sup>.

**Madam Chair DuCharme** states that the workshop would be for the benefit of the new Commissioners and the public. There was an overwhelming support from the public from previous meetings and she would be in full support of having another workshop.

**Bill Williams** asks what will happen to the ordinance that did not pass if you have another hearing/workshop on the same issue. Mr. Williams states that he agrees with Commissioner Frost, this is something that should be left to the new Commission.

**Belinda Garland** states that the ordinance from the last meeting failed and they are proposing a new one go out. Ms. Garland explains to Mr. Williams that Commissioner Sanchez is wanting to advertise the ordinance, have a workshop, and vote on the ordinance again on the January 23<sup>rd</sup>, 2019 Commission meeting. She advised Commissioner Sanchez that she would not be able to meet the deadline to have to advertisement go out in the paper for December 28<sup>th</sup>, 2018.

**Steve Guetschow** states that the notice needs to be published in the paper 15 days prior to the public hearing.

**Betty Cabber** states that the 2 in coming Commissioners were at the public hearing, they got a lot of information. Also not too many people read the paper. Most likely all the same people that were at the previous public hearing will be present again. In her opinion it should only be a discussion item in January and then go forth with the workshop and public hearing in February. At this point there is no need to rush this. It doesn't matter if a majority of the citizens love it or hate it, the final decision is up to the Commission.

**Michael Godey** states that he agrees with Ms. Cabber. Be patient, take your time, and give the new Commissioners a chance to listen to the comments. Get the opinions from all 3 districts don't rush it and do this the first Commission meeting in February.

There is more discussion between Commissioner Sanchez and Belinda Garland about the request to advertise in the newspaper. Commissioner Sanchez wants it done by December 28<sup>th</sup>. Ms. Garland states that Ms. Ortiz is not here this week and she is the one that handles the publications for the paper. She would need to find out who she would need to talk to at the Independent so that the advertisement can get out in the paper for December 28<sup>th</sup>, 2018. The advertisement will read that it is a workshop and public hearing to approve the ordinance.

**Commissioner Frost** states again that it would be a good thing to wait until after the new year so that you have the full support of the new board. If you all work together you will have a better end result.

**Madam Chair DuCharme** asks how many times it will be advertised before the public hearing.

**Commissioner Sanchez** states that if the advertisement it out by the 28<sup>th</sup>, it will run for 3 weeks therefore giving it maximum exposure.

**Belinda Garland** states that we are going to spend the money to have it advertised 3 times when it only needs to be advertised 1 time.

**Commissioner Frost** asks how much it costs to run each advertisement.

**Belinda Garland** replies that it is about \$100.00 each time it runs, but the fee depends on the verbiage.

**Madam Chair DuCharme** asks again when Commissioner Sanchez wants to have the meeting. There is a requirement that it should be advertised 15 days before the public hearing, and if it is advertised 3 times we will still meet that requirement.

**Belinda Garland** states that whether we get the advertisement in the 28<sup>th</sup> or January 4<sup>th</sup>, 2019 we will still meet that requirement.

**Steve Guetschow** states that whether it's an appeal or a public hearing, P & Z will advertise twice. The advertisement does have to run in the paper 15 days prior to that meeting.

**Madam Chair DuCharme** asks for a motion to approve the request for a workshop/public hearing for the 5 member commission to be held on January 23<sup>rd</sup>, 2018. **ACTION TAKEN:** **Commissioner Sanchez** makes a motion to approve the request to advertise for a workshop/public hearing for the 5 member commission to be held on January 23<sup>rd</sup>, 2018 and for the advertisement to go out on December 28, 2018. **Madam Chair DuCharme** seconds the motion. **Bill Larson** states that the reason that this room was standing room only during the first public hearing was because people knew that the ordinance required a unanimous decision and they knew Commissioner Frost was not going to vote in favor of the ordinance. If any of

the Commissioners would listen to any of the people in their district, they would know that there are lots more opinions from the public than just those present at the meeting. We are here again wasting time and money to start over. It has been decided and should be left to the next Commission. No further discussion, Madam Chair DuCharme and Commissioner Sanchez are in favor, Commissioner Frost is opposed. **MOTION CARRIED**

\*County Manager Request/Reports:

**4.) Ratify Standard Form of Agreement (Contract) Between Torrance County and Vigil Contracting Services, Inc for the Animal Shelter Addition**

Noah Sedillo states that the Commission awarded the bid to Vigil Contracting Services, Inc. for the Animal Shelter addition. Mr. Sedillo stands before the Commission holding a standard form agreement i.e. contract, between Torrance County and Vigil Contracting Services, Inc. and is requesting ratification.

Madam Chair DuCharme asks for a motion to approve to ratify the Standard Form of Agreement (Contract) Between Torrance County and Vigil Contracting Services, Inc for the Animal Shelter Addition. **ACTION TAKEN: Commissioner Sanchez** a motion to approve to ratify the Standard Form of Agreement (Contract) Between Torrance County and Vigil Contracting Services, Inc for the Animal Shelter addition. Commissioner Frost seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

\*Adjourn

**ACTION TAKEN: Commissioner Sanchez** makes a motion to adjourn the December 20<sup>th</sup>, 2018 Special Commission Meeting. Commissioner Frost seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

**MEETING ADJOURNED AT 10:46 AM**

  
\_\_\_\_\_  
Ryan Schwebach-Chairman

  
\_\_\_\_\_  
Yvonne Otero-Administrative Assistant

1-9-19  
\_\_\_\_\_  
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.*