

**FINAL COPY
TORRANCE COUNTY BOARD OF COMMISSIONERS
COMMISSION MEETING
JANUARY 9, 2019**

COMMISSIONERS PRESENT: RYAN SCHWEBACH -CHAIRMAN
KEVIN MCCALL -MEMBER
JAVIER SANCHEZ -MEMBER

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

CALL MEETING TO ORDER

Commissioner Schwebach calls the January 9th, 2019 Commission Meeting to order at 9:09 A.M.

Pledge lead by Commissioner Ryan Schwebach

Invocation lead by Rick Lopez

APPROVAL OF THE DECEMBER 12th, 2018 REGULAR COMMISSION MEETING MINUTES

Commissioner Sanchez asks for a motion to approve the December 12th, 2018 Regular Commission meeting minutes. **ACTION TAKEN:** Commissioner Schwebach makes a motion to approve December 12th, 2018, Regular Commission meeting minutes. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

APPROVAL OF THE DECEMBER 20th, 2018 SPECIAL COMMISSION MEETING MINUTES

Commissioner Sanchez asks for a motion to approve the December 20th, 2018 Special Commission Meeting minutes. **ACTION TAKEN:** Commissioner Sanchez makes a motion to approve the December 20th, 2018 meeting agenda. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

APPROVAL OF JANUARY 9th, 2019 COMMISSION MEETING AGENDA

Commission Sanchez asks for a motion to approve the January 9, 2019 Commission agenda.

Commissioner Schwebach requests that agenda item #10 be moved to position #2 on the agenda to take place after the public hearings and for agenda item #5 to be place at the end of the meeting directly after the Executive Session. Commissioner Schwebach feels that this item should not be discussed prior to the Executive Session. Dennis Wallin informs Commissioner

Schwebach that the Commission can enter into the Executive Session at any time. The Commission can keep this item in its place and then enter into the executive session for discussion at that time. **Commissioner Sanchez** asks for a motion to approve the January 9, 2019 Commission agenda and to move agenda item #10 to take place after the public hearings. **ACTION TAKEN: Commissioner Sanchez** makes a motion to approve the January 9th, 2019 Commission Meeting agenda and to move agenda item #10 to take place after the public hearings. **Commissioner McCall** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

APPROVAL OF CONSENT AGENDA

1.) Approval of Warrants

Commissioner Sanchez asks for a motion to approve the Consent Agenda. **ACTION TAKEN: Commissioner Schwebach** 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, informs everyone that the public now has the capability to search our document indexing online. You can go to www.torrancecountynm.org, click on the clerks link and a link for the live web search is there. You cannot view the document itself, but you will be able to view the recording information for the name or business searched. If anyone needs a copy they still must come into the office, email, or call and request the copy by giving us the book and page or document number.

2.) **Melvin McNeil**, Torrance County Republican Chairman, states that he would like to indorse Commissioner Schwebach to be appointed as the Commission Chair

***COMMISSION MATTERS:**

1. ELECTION OF COMMISSION CHAIR

Commissioner McCall would like to nominate Commissioner Schwebach as Commission Chair. **ACTION TAKEN: Commissioner Schwebach** makes a motion to approve to appoint Commissioner Schwebach as Commission Chair. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED.**

***PUBLIC HEARING:**

Consider the application for Appeal to the Planning & Zoning Board denial of a Conditional Use Permit for erection of a communications tower. Applicant: Gravity Pad Partners, LLC The subject property is located in projected sections 11 & 14, T.6N., R.6E., NMPM being a 5.9 acre parcel as shown on the plat of record, Lands of Dora Padilla, recorded 26 July 1984 in Cabinet A, Slide 372 of the records of the Torrance County Clerk.

Dennis Wallin states that this is an appeal from a decision by the Planning & Zoning Board. With appeal matters this Commission serves in a quasi-judicial capacity. The Commission is obliged to consider the record that will be presented by the staff and testimony that will be heard today. If the Commission wishes they can engage in deliberation in closed session, although it is not required. The Commission does have a period of time to deliberate in the matter if the Commission feels they need more time to deliberate. Staff will give an introduction, the appellate will then present any evidence and testimony they have. They are subject to cross examination if the board has questions for them or if anyone that is opposed has questions for them. Anyone that is opposed is also given the same opportunity as the appellate and they can be asked questions as well. With the permission of the Commission Mr. Wallin will makes sure that everyone's due process rights are being protected, if they aren't he will bring it to the attention of the Commission.

Steve Guetschow states that at the November 7th, 2018 Planning and Zoning meeting, the applicant, Gravity Pad Partners, LLC, represented by Sean Milks, came before the board after a tabling from the October 3, 2018 meeting on their request for a land use permit to erect a communications tower outside the village of Tajique on highway 55 to which the board denied their request. In the Commissioners packets there are the list of exhibits.

First is the applicant's exhibits, number 1 being the application for appeal that was received on November 14, 2018, and a written request for this January 9, 2019 public hearing. Mr. Guetschow explains that when an applicant has a problem with a P & Z decision they have 30 days to appeal that decision. The applicant met that deadline and the Commission must hear the appeal within 30 days of that request, but Mr. Milks requested additional time. Exhibit 2 is the original application submitted to P & Z for the conditional use permit, use of the property for a communications tower and variance for height over 80 ft. that was reviewed by P & Z on October 3rd and November 7th, 2018.

The staff exhibits include exhibit S1, which are the public notice signs and written notifications for the Planning & Zoning board meeting held on October 3rd, 2018, and the approved minutes for the October 3rd meeting. Exhibit S2 are the written statements of the opposition via email prior to the board meeting by Barbara Carmichael and a petition of opposition from residents of the Tajique Land Grant received during the October 3rd meeting. Exhibit S3 is public notice signs and written notifications for the November 7th, 2018 P & Z meeting, approved minutes from that meeting, and a plat of record of the subject property found by staff after the November 7th meeting. Exhibit S4 is the public notice signs, written notifications for the

January 9th, 2019 public hearing for the appeal, and the newspaper ads for the public notice published in the 12/14/2018 and 1/4/2019 editions of the Independent.

Dennis Wallin asks if the Commission would like for him to provide the guidelines for a conditional use permit. When the Commission is considering a conditional use permit you will look at what is set out in the Zoning ordinance under the conditional use section of the ordinance. What the board and the Commission is required to look at is the accessibility to the property, proposed structures, particular reference to automobile and pedestrian safety, traffic control, emergency access in case of fire, flood and catastrophe. Number 2 is the parking and loading concerns, with particular reference to refuge and service areas. Number 3 is the water and liquid waste facilities, with particular reference to soil limitations, locations, and public health. Number 4 is the economic, noise, glare, and odor effect to the adjoining properties. Number 5 is the general compatibility with adjacent properties. Number 6 the proposed land use must comply with Section 23 pertaining to water usage. In this particular case water usage won't be considered because it is a cell tower.

Dennis Wallin swears in Mr. Sean Milks

Sean Milks, owner of Gravity Pad Partners, LLC states that for this particular request, AT&T is the client. A year ago his company started to research to locate a 199 ft. cell support tower in and around the county. They looked at 4 locations which were, 180 Camino De Los Playas, the fire station off of highway 55 and a couple other large parcels around the area. These locations have to go through FirstNet and AT&T RF engineers that will out it into their propagation studies to determine if the site will work. These sites will have to hand off to existing sites. The first 4 sites were not able to see back to Tijeras.

The 5th location that the company located was a 5.9 acre piece of land that they came to an agreement on with the land owner, was deemed to be a perfect location. It's a larger parcel so that it could deal with any setbacks that may happen, it's a few 100 feet off of the highway, and electric and fiber optics are within range. No issues with access, a access road will be made off the main highway. There will be minimal traffic once the site is up, other than the occasional technician that has to go to the site.

During an October meeting is when they heard about the Tajique Land Grant Community Center that is about 500-700 feet away from the proposed site. The P & Z board at that time tabled this item in an attempt to see if Gravity Pad Partners, LLC, and the Tajique Land Grant could come to some sort of agreement with the land grant. Thirty days went by and neither party could come up with a specific day for a meeting. Mr. Milks personally met with them in December to see if both parties could come to an agreement. Neither party could come up with an agreement. The business terms as well as specific items that were needed by Gravity Partners were not met. Mr. Milks is doing his best to provide cellular service for the county. There is a huge need for the service and this tower is being designed for AT&T, Verizon, T-Mobile, and any EMS that would like to make use of the tower. Mr. Milks states that Michael Waring will be speaking to the Commission about the FirstNet, which is the federally funded project that is working with AT&T and Terri Nicole Baca who is a representative from AT&T.

Dennis Wallin swears in Michael Waring.

Michael Waring states that after the 9/11 attacks, the 9/11 Commission identified communications issues that occurred during that response. The federal government identified that issue as well and created FirstNet under the Department of Commerce. AT&T bid on the contract for billing out, operating, and maintaining that network for first responders across the nation. FirstNet is a broadband network for first responders and gives them priority during natural or emergency operations and natural disasters. AT&T is under a 25 year contract with the Federal Government to provide this service for first responders. This tower will give support to FirstNet but also give additional coverage and capacity to first responders across the county and for AT&T. It would be greatly appreciated by the commission for their consideration in approving this tower.

Dennis Wallin swears in Terri Nikole Baca

Terry Nikole Baca states that she is the state President for AT&T and would like to ask the Commission for their support and approval of this tower. Over the last 3 years AT&T has invested \$175 million into NM networks. The FirstNet build are specific towers that will support first responders as well as commercial users. Not only will this tower be dedicated for providing public safety in the county, it will also support the constituents. People have been increasing their use of mobile networks by hundreds of thousands of percentages over the past 5-10 years. There has been some issues with soft spots or no coverage in the county, putting in this tower will help with that. Would like to point out over 50% of people in New Mexico have wireless service only. Ms. Baca would like to thank Gravity Pad for the diligent work to get through the legal processes and establishing this tower.

Belinda Garland would like to ask that they clarify the range that will be added from the tower.

Sean Milks states that it will go several miles west. The intent is to have it speak to the tower that is being built in Tijeras and several miles south.

Chairman Schwebach asks if the tower that is being built in Tijeras is already being built or is it still in the planning process.

Sean Milks states that it is under construction right now.

Chairman Schwebach asks why this location was considered as the best site out of the 5 visited.

Sean Milks replies that it will be able to speak to the tower in Tijeras that is being built. The other sites had shading from the mountain and from the propagation studies would not communicate with the tower thus having a lapse in coverage.

Chairman Schwebach asks with the overall plan, would this tower give you good coverage with the foreseen existing users in the county or is this step one of another tower down the road.

Sean Milks states that it will dramatically increase the coverage for the county. Mr. Milks is currently not aware of other sites in the county. We will build the site and after a while see if there are spots that will need to be filled. From all of the propagation studies Mr. Milks has seen it will cover a large area down state road 55 and up to Tijeras.

Commissioner McCall ask if both technologies will be available immediately once the tower is up, both FirstNet and AT&T, with the possibility to add more to it.

Sean Milks replies, yes, that is correct. There will be capabilities for Verizon, T-Mobile, as well as Sprint. Also any other companies for EMS, 911, local sheriff repeaters, basically whomever will need to use the tower can.

Commissioner McCall asks if there is a limit of carriers that can use the tower.

Sean Milks states there is a structural limit to the tower, but this tower is overloaded with capacity so that in the future we will not run into structural concerns. Mr. Milks states that he has been building sites in New Mexico since 1997 so they have learned to be able to handle future capacities.

Chairman Schwebach asks if there are any questions from the Public for Mr. Milks.

Dennis Wallin reminds everyone that this time is for Questions only and not for testimony.

Michael Godey ask if it was clear to the realtor and to Mr. Padilla what the purpose of the property was for. The next question pertains to that of the 50% of people having wireless service, does that pertain to the residents of Tajique, or is that the entire state. Was there a study done on this? Was the amount of money spent on this the reason for Mr. Milks pushing the appeal?

Sean Milks replies, yes it was made clear to the owner and realtor what property was to be used for.

Terri Nikole Baca states that the study was done state wide, there was not a specific study for that area.

Sean Milks replies that the importance of the appeal is to get coverage in the area as soon as possible. We already went through all the environmental processes, FCC, and FAA. That all takes time, moving the site would require us to start from scratch. We are trying to get this site up and on air as quickly as possible.

Venessa Chavez asks Mr. Milks when he approached the other sites, which included the Torreon Land Grant, what was their response and why didn't they place the tower there?

Sean Milks replies that there was not response from the people at that site. Mr. Milks personally contacted and left messages for a Fire Chief. After reviewing the site through a propagation study, this area would not work. We have a process called S.C.I.P or site candidate information package, and although we didn't get a response from the fire station, Mr. Milks

states that he created a S.C.I.P, pictures were taken, and the coordinates of that location were analyzed by First Net and At& T and it would not work for this specific application.

Richard Lopez ask if this site is not approved, are you still going to bring in all of the essential additives to this particular tower for first responders, Verizon, and the other elements at a different location. Is there going to be any drop off if this site is not approved? How much good faith negotiation with the best wishes of the land grant was done?

Sean Milks states that there will not be an alternate site. In response to the seconds question is that it was negotiated in good faith. Mr. Milks met with the Tajique Land Grant and answered questions for about an hour. They went behind closed doors to see if they could come to an agreement. The business terms on how long they could have a lease, was not close, it was triple what they normally pay on a lease. Mr. Milks' company is purchasing this property out right. If you look at the purchase price versus the rent, it was more than triple. The length of the leases with other clients are half as long. They went back and forth several times and could not come to an agreement.

Dennis Wallin asks Mr. Milks if his testimony is that the land grant wanted to lease an alternate property in the land grant.

Sean Milks replies that the land grant wanted to lease property across the street from the proposed site.

Dennis Wallin states that the Land Grant was against this site but would lease you the land across the street, correct?

Sean Milks states that the land grant is against the proposed site of off highway 55 and would prefer it to be directly across the street near the community center which is about 500-750 feet away from the proposed site.

Art DuCharme asks what the financial relationship is between Gravity Pad Partners and the potential users of the tower. What kind of contracts are proposed, and how do you insure fair competition among the users.

Sean Milks replies that Gravity Pad Partners has contracts with set business terms with AT&T as well as with Verizon, T-Mobile, and Sprint. We have been building and owning sites since 2005 in New Mexico and all of those sites are set in place. All of them are about the same, as far as competition.

Venessa Chavez states that she would like to clarify her question as to why she brought up the Torreon Land Grant site. It is because when the Tajique Land Grant met with Mr. Milks, he did state the people of Torreon did not want the cell tower. So, if one town doesn't want the tower, why another town be forced to have the tower. Mr. Milks never once let Tajique know that it did not meet his criteria. Ms. Chavez asks Mr. Milks did he ever tell Tajique the reason he did not want to place the tower in their proposed site because the coordinates didn't matter, or did he leave that out?

Sean Milks replies that he does not recall stating that the town of Torreon did not want it. As far as it not working for AT&T, the coordinates had shading, the location was not high enough and he would have to build a 300-400 foot cell support tower and there was not enough space for that. The propagation studies do not show that it would communicate with the other tower from that location.

Dennis Wallin asks if there are any another questions for Mr. Milks. If there are no more questions, with the permission of the Commission Chair there should now be input on any opposition from the public on this subject. Any one that would like to speak on this may now come forward and would like to remind that this in evidentiary hearing and if the testimony given pertain to what the person has personal knowledge of.

Dennis Wallin swears in Andrew Gutierrez

Andrew Gutierrez would like to clarify that the land grant is not opposing the tower. What they are opposing is the location of the tower. This location is in the middle of town and by no means is in located in the outskirts of town. The location that the land grant offered is about 5,000 to 6,000 feet on top of the hill north of Tajique. This is around the area where the park is located near the community center about 750 feet. We are offering this site because the citizens of Tajique do not want the tower at the proposed location. There are signatures from about 60 people that are against this location. We live in a rural area for a reason, we don't want to get up and look at a cell tower every morning. The Tajique land grant was proposing this alternate location to possibly get a revenue stream for the land grant to possibly put it to work for the community, the community center, and to invest in our youth.

The reason that the Tajique Land Grant and Mr. Milks could not come to an agreement on term limits is because the land grant as a political subdivision as certain statutes they have to follow. The land grant cannot go around those statutes that is why they could not come to an agreement with term limits. Mr. Gutierrez asks that Commission consider the respect of the land grant. Find another location but not in the middle of town.

Dennis Wallin swears in Fred Sanchez

Fred Sanchez states that he is a member of the land grant and that this is ridiculous that they are considering placing the tower in this location. It is not a good idea to go up to the north. Mr. Sanchez lives in that area and it is a residential and agricultural zoned area and he does not know anyone else in that area would want to see a tower in that location. Mr. Sanchez states that he is against this whole concept. These people are smart and can find another location to place this tower.

Dennis Wallin swears in Michael Godey.

Michael Godey states that at the land grant meeting money was an issue. Listen to their testimony and keep that in mind. They don't want it. When you give notice it is so that people that live nearby can voice their opinion. This is being pushed off on to the Commission and we are not responsible for the amount of money paid out by Gravity Pad or AT&T that is their responsibility not ours.

Dennis Wallin swears in Richard Lopez.

Richard Lopez states that the question is not of the vital importance and the vital need for the tower. Mr. Lopez states that he is an AT&T subscriber and when they dropped the Plateau service his service went down. The need is critical, the question today is the location. Mr. Lopez doesn't believe the fact that there is not an alternate location. The community wants the tower and is not on board that this is the only location for this tower. Mr. Lopez implores the Commission that when they vote, to look at the respect of the land grant and their wishes and respect of the people in that community. Ask this company to come back with a better location, do their homework and to talk to the community more. Let's get this issue resolved because the need is there but not at the expense of the people that live in Tajique proper.

Chairman Schwebach asks if there is any land grant zoning, ordinance or covenants addressing this.

Richard Lopez replies that because it is a quasi-political entity they have that separation. When the zoning ordinance for animals was done a few years back, they went as far as exempting the land grants from this ordinance. The commission was wise enough to respect the wishes of the land grant and exempt them from the ordinance. This will be a challenge for this commission on working with the land grants. There is not one that is against the tower it's the location.

Dennis Wallin states that the actual question is if the land grant has their own zoning ordinance and the question may be better answered by Mr. Gutierrez.

Andrew Gutierrez states that the land grant does have their own zoning comprehensive plan. They have jurisdiction over land grant common lands only.

Chairman Schwebach states that this is private property currently owned by Mr. Padilla within land grant boundaries but sole private property, correct?

Andrew Gutierrez replies, yes, that is correct.

Dennis Wallin swears in Jason Quintana

Jason Quintana President of the Manzano Land Grant states that he sees a few issues here. One issue is that of communication, and states that this issue will come up again for those in the Land Grants and states that this issue may not be a problem if it was in a town like Moriarty or Estancia. In this situation shouldn't the company come to the local entity to discuss their plan before going straight to the top? Had this been discussed a lot of these issues may have been resolved and would not have gotten this big. If this was a gated community, the company would have to approach the people in this area and not just say they purchased this lot and erect a tower. In his opinion there may have been an overstep by the company, they should have tried to communicate with the locals first, they said they did, but it doesn't look like they did. With the no response the company could try and come to the county to see if they have any contact information for those people that didn't respond.

Dennis Wallin swears in Venessa Chavez.

Venessa Chavez states that she is a land grant heir in two land grants as well as a private property owner and she highly values her private property rights and respects Mr. Padilla's private property rights. The land grant is not proposing that they want to tell anyone what they can do with their private property. We are asking that they respect the wishes of the people within the community. This is a money issue. We are dealing with a business man. His business and his profitability is not our problem. Mr. Milks was willing to move the site to our land, but the land grant was going to have to pay him to move to the new location. The land grant would have had to wait many years to receive any payment. The terms were not fair. We have to understand that the land grant has to work under the same laws as the county does for the anti-donation clause. If the land grant was to lease to a private under fair market value, it is not legal. We have to run everything through DFA just like the county. The land grant looks opportunistic to a lot of people. There is another land grant in New Mexico that was approached by a wind farm and the land grant told them that they didn't want a wind farm in the land grant. That company therefore went and approached a private land owner with in that grant and the wind farm went there and the land grant did not benefit from it. The reason the land grant got involved is because if this tower is going to be within the community then we should be able to benefit from it in some way. Be it scholarships for the youth, a better cemetery, or some other way.

This is the reason we approached him and proposed another site. When Mr. Milks started this process he stated that he contacted a local realtor and said he needed a piece of property that is close to fiber. If he has to move it from the highway it will cost him more money. It's not that there isn't additional sites, it's that he has invested money and wants it done as quickly as possible. Mr. Milks told us that if you can get this to happen as quickly as he can get it to happen at his site and it meets our coordinates, then let's do it. When we sat down to talk about terms he told us we would have to pay him \$25,000.00 to move to the other location. The land grant doesn't have that kind of money. There are alternate sites. Ms. Chavez states that she is willing to work with local relators to provide him with a list of better locations. Please do not put this in the middle of our town. Mr. Milks only researched property on the market. Please reconsider this as there are alternate sites.

Sean Milks states that Gravity Pad as a company and AT & T try to look for the best possible location. This tower has to talk to 3 others towers in the area. The location it is at now is very unique and specific. Moving it several hundreds of feet in either direction provides it not being an optimum site. This particular site is the 5th location they looked at. They looked at properties for sale and not for sale such as the fire station in Torreon. They searched for a perfect location for the clients and the community. Mr. Milks states that he has been down this road before and does not believe that there is a perfect spot. No matter which direction you go it will upset someone. We are not trying to hurt, but help the community. Everyone has agreed that we need the coverage in this area and it is imperative that we do what is best for the community.

Kathleen Jessie asks if the alternate site that is 700 feet away from the actual site, did the company check on the site to see if it would work or not. Tajique is nice and the families have

been there for years. The site in question is close to highway 55, it may not be as close as you like, but it's still close. Does that site work as where the other 4 sites did not.

Sean Milks states that they were not able to come to a specific location. As stated earlier, it was understood that it would be close to the community center, and now he is hearing that it is about 7,000 feet away. This was not run passed the RF engineers in an attempt to see if it would work. We never nailed down a specific location.

Dennis Wallin asks when Mr. Milks discussed alternate locations with Tajique, did they not provide you with a specific location when that might be available?

Sean Milks states that the land grant told him a roundabout location, but there were no specific coordinates. He was under the impression that it was behind the community center and they are now stating it is about 5,000 ft. back from that. There was no specific area per say. As to why we didn't reach out the community, it is because when he began this process a year ago, Mr. Milks contacted P & Z went through the county zoning ordinance. They went through the ordinance thoroughly and was done correctly. There was no neighborhood reach out, had there been, we would have done that.

Venessa Chavez states that there are some inaccuracies as to what was just presented. Mr. Milks was sent an email from Arturo Archuleta with the coordinates. In the appeal, he is stating that we just want it to be moved across the street. If you go out to the proposed site where he wants to have it, it is not across the street at the community center, it is across the street and up the road on the site that they are willing to lease. We did proved Mr. Milks with the exact coordinates for the proposed site.

Chairman Schwebach states that we seem to be going down a road with repeated questions, unless there are new questions, then we are done with questions.

Michael Godey states that Mr. Milks may not have been given the exact coordinates, but he was aware of the location that Ms. Chavez stated. Mr. Godey was at this meeting and he testified that Mr. Milks didn't now. Mr. Godey states that there are some inaccuracies in his testimony.

Dennis Wallin asks if there any exhibits that would be relevant to this case. He stated earlier that there are certain factors that the Commission has to determine. If anyone has anything they can present it now.

Yvonne Otero states she is neither for nor against this, and will go with whatever decision is made. If anyone is worried about the aesthetics of the land here are pictures where cell towers are disguised as trees. Ms. Otero hands out pictures of the towers.

Dennis Wallin states that the pictures provided will be as community exhibits and be labeled as C-1 & C-2. The board is aware that they have the right to deliberate. They have 30 days under the ordinance to render a decision. Once the board renders a decision they will draft the findings of fact and conclusions of law and will be submitted to the board. Once they are entered any appellate rights from either side will begin at that time.

Commissioner McCall asks, the photos that were presented, what size towers are they?

Yvonne Otero replies that she does not know, she just pulled the photos from the internet to show options. They are huge trees and she has seen them around the Rio Rancho, NM area, in Albuquerque as well as in California and Arizona. The towers in these areas are disguised to blend in with that particular environment.

Chairman Schwebach asks Mr. Milks if AT&T or his companies looked in to this option.

Sean Milks states that these are faux trees. In this particular case the tower is too high and it being disguised as such is not an option. The capacity of the tree, limits the amount of carriers that can go on this tower.

Commissioner McCall asks Mr. Guetschow if he can explain the truth behind Planning & Zoning's denial of this application.

Steve Guetschow explains that the reasons given are in the minutes from the P & Z meeting that are in the packets given to the Commissioners.

Commissioner McCall states that he is fully aware of that and read the minutes and does not see the truth or the facts as to why the denial was passed.

Dennis Wallin states that the question is, did the board consider the relevant factors that are in the zoning code in reaching their decision?

Steve Guetschow replies, yes, they did consider the relevant facts and the opposition from the community. Overall their decision was based on incompatibility of the location with the community.

Commissioner Sanchez states that at the P & Z meeting there were a few issues that were brought up. Federal regulations and eminent domain, these issue came up. What was the relevance? It is lost in the minutes where the main vein of the argument is. Time lines also came up regarding contracts, contractual obligations, things of this nature came up and is a contributor to the denial.

Steve Guetschow states that in Mr. Sanchez's copy of the November 7th minutes in exhibit S-3, it is where the board and Mr. Milks is describing the shot clock, according to the FCC federal regulations.

Commissioner Sanchez asks if they can clarify the details pertaining to the shot clock.

Dennis Wallin states that essence is that it is an FCC order entered that at one time the federal government tried to take over these types of issues. The shot clock was a result of the federal order. This states that there was a timeliness factor in local community's considering these types of towers. The time for new construction was 150 days from the time of submittal.

Steve Guetschow states that the deadline for the October 3rd meeting was in September, however Mr. Milks submittal was received on September 6th, 2018.

Dennis Wallin states that he does not think anyone has raised the issue in regards to time limits.

Commissioner Sanchez states that is circumstances unfolded in regards to the P & Z decision was upheld then what would be the next step for the firm to start researching an alternate site. How is the project furthered in such circumstances?

Dennis Wallin states that either party would have the right to appeal the decision of this board to District Court. Mr. Wallin cannot answer if there are any other courses of action the applicant can take.

Steve Guetschow would like to add the comments related to the boards feeling and the shot clock are in the minutes from the November 7th meeting.

Dennis Wallin advises Chairman Schwebach that we do not need to hear this matter as none of those issues have been brought up.

Chairman Schwebach would like to clarify that the Commission has 30 days to make a decision on this, research, and come together to discuss this.

Dennis Wallin states that there is no research to be done, the Commission is limited to what they have heard. The Commission has 30 days to deliberate. This is put into the code because everyone is busy and you may not have 2-3 hours to discuss this matter at the current time. The commission is given 30 days to deliberate. You are not bound by this, you can make a decision now, or 30 days from now.

Chairman Schwebach asks Mr. Wallin to repeat what the commission is looking at and essentially upholding the P & Z decision and the reasons behind that decision.

Dennis Wallin states that both the P & Z Board and the Commission must look at the following factors when making a decision for conditional uses. They are accessibility to the property and the proposed structures, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case in case of fire, flood, or catastrophe. Two, off street parking, and loading areas where required, with particular attention to refuse and service areas. Three, is water and liquid waste facilities, with particular reference to soil limitations, locations, and public health. Four, is economic, noise, glare and odor effects of the condition use on adjoining properties. Five, is general compatibility with adjoin properties, and six, it has to comply with our water usage. Mr. Wallin states that the biggest issue here is compatibility with the adjoining properties.

Commissioner Sanchez states that from his perspective the weak link has been communication. He believes that potential difference and hardships for the project would have been exposed at a much earlier stage had more effective communication transpired. It is a very welcome development to bring added infrastructure into the county. However, our obligation

to uphold community's vision of themselves and self-characterizations are a tremendous impact as well. He believes that there is an incompatibility here that is inescapable with this project. The Commission is in a difficult situation because you have a firm that would like to bring in added infrastructure while at the same time the community is not in agreement with the location of the project. If the Commission would allow for the project to be furthered and grant the conditional use permit, such a situation would require the Commission to take a stance that is in opposition to the well expressed concerns of the community. However, it is very contradictory to the essence of public service. He cannot perceive the viability of the project where a community is expressing such concern. It is impossible for the Commission to go back in time and put those pieces into place. It would be an impossibility for the Commission to support a project with so much opposition of the location of the project.

Sean Milks states that we did not get to hear anyone that is for the site. All we heard was those that are against and all the negative. Nothing positive, is there a voice that could speak positively about this.

Dennis Wallin states that the Commission offered that opportunity. If the Commission wants to reopen for further comment they can do so.

Chairman Schwebach states that in pondering this issue, we can move that location and put 3 people next to his property, and it will be protested. Did Planning & Zoning have the authority to deny it? Clearly everything was done properly for the permits. There is no ordinance, and nothing from the land grant formally stating that they don't want this until this time comes. Chairman Schwebach understands that Tajique does not want the tower, but he also understands that you have EMT and other individuals in that area that need cell phone service. Many times he has heard that this might be about money. The other location the land grant offered is at a higher location, so is it about money? This is a question he has to ask, is it about the money. We need a tower in that area, he asks Mr. Milks is this the best possible location. Have you exhausted all other avenues possible?

Sean Milks replies, yes, this is the best location. When dealing with 3 different sites and 3 different locations that are 10 to 25 miles away, the topography plays a huge role. In going 500-1000 feet to the east or west there is a concern, there is shading. Mr. Milks thought he had found a spot at 180 Camino del las Playas. It had too much shading and too far west from this location. This location is the optimal location for FirstNet and AT&T.

Chairman Schwebach states that it is clear the residents of Tajique need a communications tower. What kind of leniency could the land grant create to make it more economically feasible for AT&T? He is not sure this can be answered at this time, these are the types of questions going through his head. Has everything been exhausted to satisfy both ends? Let's be realistic, there will be a tower coming, this community will get a tower. The Commission at this time is forced to make this decision. If Chairman Schwebach was in a town, he would not want a tower right in the middle. How do we know this is the only location, how do we find that out? It goes back to the question was P & Z wrong in denying this application. If we overturn Planning & Zoning's decision, then the land grant has the option to enter into litigation. No one wants litigation.

Commission McCall states that land use issues are always the toughest ones. If we want to discuss change of polices and change of laws at a different time that can be done. What is before us today and the information that has been submitted are our current laws and our P & Z statutes. Commissioner McCall asks Mr. Guetschow if that is a correct statute, he asks him if everything has been done by the county prior to now have asked for it to go through. We have a willing tower builder and land owner, they came together and followed the correct pathway to move forward with this conditional use permit. Commissioner McCall hears that they need the service in the area as well as other constituents throughout the valley that can benefit from this. He goes back to Commissioner Schwebach's comment about moving it down the road, we will be right back to where people don't want it there. The facts have been presented and he feels that the company and land owner have followed the code.

Commissioner Sanchez states that he attended the Planning School at UNM and Anderson School of management, the classes he took may be boring but they come in handy. He learned that a firm must carry the burden of the buy in. It is not the responsibility of the community to build the buy in. It is very important that the community be the critical voice. There is no question about whether its communication or buy in. The burden of the building, a coalition in support is squarely on the firm. That would fall into line with what is ethical and what is correct. He would encourage the Commission to listen to the community and allow the firm an opportunity to renegotiate its position, and make the decision that is required in furthering the project.

Commission Schwebach asks if it is the Commissions place to ask the firm to renegotiate. It is our place to decide whether or not to overturn Planning & Zoning's decision.

Dennis Wallin states that the Commission can ask but they can't direct. The Commission needs to make a decision.

Commissioner Sanchez states that a denial would spark that conversation and begin that process. **ACTION TAKEN: Commissioner Sanchez** would like to make a motion to deny the appeal for the conditional use permit. **Chairman Schwebach** states that he would like to have more discussion before a motion is on the table. **MOTION DIES FOR LACK OF A SECOND**

Chairman Schwebach asks if there are other possibilities to work with Tajique Land Grant.

Sean Milks states that at this time he believes there is not. They only allowed to provide a certain amount of time to a lease, and his company has to mirror that time frame of 50 years with their client, and Tajique cannot grant that type of timeline. IT is not exactly about monthly rent, it is about terms. AT&T can't & won't enter into an agreement with Mr. Milks' firm if they only control it for 15, 20, or 25 years. They can't go past that as a legal entity of the state. There is no more negotiation at this point.

Chairman Schwebach ask if there have been any other special use permits that have been denied by Planning & Zoning, such as a tower, that has had public input such as this. If the laws & permits have been abided by, how many of these permits have been turned down in other situations. What is the precedence in this county?

Steve Guetschow states that it depends on the situation. Similar to this are the wind farms. In the last application for a wind farm from Pater & Wind Energy Corporation for the large project in the southeast portion of the county, there was a lot of opposition from the residents of Corona. The residents said the wind farm would destroy their views and property values would drop, the reason for them living in the area was because of the views. The county didn't recognize that and voted in favor of, it was basically the land owners who were benefiting from the leases and their right to utilize their property in the matter that befitted them. There have been other applications such as commercial kennels, (which is the flipside) where the applicant had outstanding animal numbers in a residential subdivision and was denied because of the compatibility with that neighborhood. They came before the Commission with the appeal and were denied by the Commission as well.

Dennis Wallin states that a direct answer to Chairman Schwebach's question is that these are such fact specific matters that every case has to be looked at differently. There is no legal precedence that can be followed because of a necessity, you look at the facts of each one. Mr. Wallin mentioned earlier about the overarching purpose and would like to read from the purpose of the zoning ordinance in section 2. The provisions of this ordinance are designed to promote health and the general welfare of the County, to secure safety from fire, flood, and other dangers, to protect water resources. To facilitate provisions for transportation, solid waste, management water, and waste water, schools, parks, and other community requirements. To conserve the value of property and to provide for the compatibility of land and other natural resources in the county. That is the purpose of zoning in this county.

Steve Guetschow states that he was just reminded of another application in the county for a special use permit for the Manzano Mountain Gun Club west of Mountainair along highway 60. There was a lot of public input both for and against. The Commission approved that application, even though there was a lot of public opposition to that application. Approval or denial is based upon the circumstances of each application.

Sean Milks states that this month is his 22nd year of building cell towers in the state of New Mexico. This is the 228th site that he has actually done something physical with. WE have been opposed a couple times, was appealed, and then approved. Mr. Milks has never seen a permit not get approved. Staring over would be detrimental because of time constraints.

a.) Conditional Use Permit, erection of communications tower, Gravity Pad Partners, LLC

ACTION TAKEN: **Commissioner McCall** makes a motion to approve the Conditional Use Permit for erection of a communications tower. Applicant: Gravity Pad Partners, LLC The subject property is located in projected sections 11 & 14, T.6N., R.6E., NMPM being a 5.9 acre parcel as shown on the plat of record, Lands of Dora Padilla, recorded 26 July 1984 in Cabinet A, Slide 372 of the records of the Torrance County Clerk. **Chairman Schwebach** seconds the motion.

Commissioner Schwebach would like to enter into discussion and explain his reasoning. What he has before him is a permit that went through due process. This went through private property. It is a need of the citizens throughout the valley to have a communications tower. We

have a private business that wants to move forward with this, a land owner that wants to move forward and we have a location. He will not argue that it won't be pleasant to some people. We are forced to move this issue forward and either the land grant or the business owner will have to enter into litigation if they don't agree with our decision. Everything according to our Planning & Zoning was done correctly and the tower is of the upmost benefit for fire safety and the citizens of the county. This needs to move forward and unfortunately the burden lies upon the burden of the Tajique land grant to appeal the decision. That is how the current laws read and how he interprets them. This is his decision.

Commissioner Sanchez states that this has been marketed to us in terms of public safety and emergency communications. That is an argument that has come up about 10 time during this conversation. There is a big stack of documents, and the one thing that seems to be missing is what is the measurable benefit, what is the data driven piece that regards emergency communication. We have existing emergency communications infrastructure. WE have systems that exist throughout the county, at what point and quantity will emergency communications be enhanced. He would like to see a data driven report to show that public safety will benefit from this. The community recalls many situations in the past in regards to wildfires. It would be very disingenuous to tout such a benefit without some data driven report where a benefit is to be derived.

Belinda Garland states that she can answer how FirstNet works as a benefit for the public. This was driven by the fires in California. There were firefighters that got lost in the fire because there going over their data usage on the Verizon network, and Verizon cut their service. Ms. Garland is prepared to move the county into FirstNet. She has been working on this for about 3 months. The purpose and the reasoning behind FirstNet is how you prioritize how the phone systems works in the county. The sheriffs off and fire fighters are first priority, next is the EOC team with second priority, the administration is 3rd priority, and it just goes down from there. As data usage fills in the tower and the airwaves, in order to not lose communications with the first responders, those at the bottom tier will lose service so that those at the top tier will continue to have service. Ms. Garland states that during the dog head fire she lost service. The federal firefighters lost some of their guys up there for a while because they did not have cell phone service. That is how the structure of FirstNet works and it gives our first responders better service. Superior Ambulance could be out in Tajique looking for a house and they may not have service or they may have used up all their data and their service has been cut off by their carrier. Without the service they may not find the house they are looking for. FirstNet will prevent this loss of service. Ms. Garland is from the area and she understands the community being against a tower in their community. This will help our first responders in the county.

Dennis Wallin states that we are at the board, and because we need to keep a record because this may be appealed, we are closed with testimony. Comments of the board area appropriate.

Chairman Schwebach asks if there is any further discussion from the Commissioners.

Commissioner Sanchez states that he has not heard about FirstNet. Nothing has been delivered in terms of a data driven report as to how service will be enhanced. Commissioner Sanchez is interested in learning more about the facts. This has been unfolding for many

months and this is the first time he has heard about FirstNet. Commissioner Sanchez would like to request that if there is any opportunity for stake holders to conduct a necessary review of what the specific benefits are to the county. He would be very interested in this prior to making a final decision since there is a 30 day option.

Chairman Schwebach states that there may not be enough orchestration in the Planning & Zoning Ordinance & laws or the land grant having a stricter ordinance than the county, the county now has the burden to make this decision. We are not going to satisfy both parties. No matter how you look at it, it will be forced to litigation to solve the issue, if either party decides to do so.

No further discussion, **Commissioner McCall** and **Chairman Schwebach** are in favor, **Commissioner Sanchez** is opposed. **MOTION CARRIED**

***PUBLIC HEARING:**

Consider the application of PNMR Development & Management Corp. and NMRD Data Center II for Special Use change in zoning to create a solar powered electrical generating facility located on multiple parcels within Torrance County sections 8 & 9, T9N, R8E, NMPM, lands of Burson, Current, Harvey, & within the City of Moriarty Tillery Five partnership annexation.

Steve Guetschow states that in the application package before the Commission is Exhibit 1, the application package that was reviewed by the Planning & Zoning board on December 11th, 2018. Exhibit 2 is the hard copy of the power point presentation shown during the Planning & Zoning Meeting. Mr. Guetschow distributed additional information to that power point presentation. Under the staff exhibits in the packet, there are the public notice signage, and written notifications for the P & Z board meetings. Due to the open meetings acts compliance the meeting was postponed from the December 5th, 2018 meeting to December 11th, 2018. The draft minutes of the December 11th, 2018 P & Z board meeting are staff exhibit S-2, the P & Z directors report to the Board of the County Commissioners regarding a recommendation of the P & Z board on December 11th, 2018 the board made a do pass recommendation for this application. Exhibit S-3 is the public notice signage and written notifications for the January 9th, 2019 public hearing, and the newspaper add that appeared in the December 14th, 2018 and the January 4th, 2019 editions of the Independent.

Mr. Guetschow states that the board made a do pass recommendation. The previous Commission had that report given to them at the Commission meeting the following day and that written report is in this current packet. At this time Mr. Guetschow will let the applicant address the Commission.

Laurie Moyer, on behalf of Select Right of Way, who is an agent for PNMR Development and Management Corporation and NMRD Data Center II, LLC and they are requesting a special use permit for a tracking solar energy facility. The proposed change is the special use to construct Britton Solar Energy Center in Torrance County. Approximately 20% of the solar energy is within the city limits of Moriarty. The purpose of the project is to assist in meeting the increased demand for clean cost effective renewable energy for the region and for New Mexico. The energy will be added to the local transmission grid to be used to power homes,

businesses and other needs of the local community as served by the immediate transmission grid system. The Britton Solar Energy Center is located on 520 acres of vacant land that is currently zoned as rural residential. The site meets the solar land layout requirements for a successful solar generating station. Other alternative sites were considered in Torrance and Valencia County, but they were cost prohibitive to connect with the transmission grid.

This location offers the ability to connect to the grid because the solar facility will connect with the transmission system at the Britton switching station. This is an existing station and is located adjacent to the site and will transmit the generated energy. The company is currently working on a site in Sandoval County. The project is located south of I-40 between County Road A093 Lexco Road and County Road A107. They have entered into land purchase option agreements for the properties for the solar energy center.

The station is a 50 megawatt solar facility in Torrance County and the City of Moriarty. The station will be operated remotely after the construction is complete. The solar project will be a clean, quiet facility, with no permanent employees on site. There will be 3 separate detention ponds to prevent any flow of water from entering the neighboring parcels. There will be an 8 foot security chain link fence around the property with an addition 1 ft. of 3 strands of barbed wire that will surround the solar array and components. Access to the facility will be controlled and will be directly from the existing road adjacent to the Britton switching station. The gated driveway is proposed into the site with a locked entrance gate. There will be a temporary increase in traffic during the construction. The project will not generate any traffic once it is completed. It will be visited by authorized personnel as needed for maintenance or repair. For public safety and security purposes, the site has to be enclosed by a chain-link security fence. If the facility is broken into, we will add a concertina wire roll at the foot of the fence.

It is significant that a project such as this uses no water. No water lines, septic lines, sewer lines, gas lines are needed. The project will take advantage of natural moisture to clean the tracking solar panels. If necessary an organic light cleaning compound will be used to clean the panels.

The solar tracking systems follow the sun throughout the day to maximize the energy output. The project will include rows of tracking solar modules attached to direct bury ground mounted racks. Each row of panels will rotate together making adjustments to follow the sun. Solar panels are approximately 6 feet 8 inches in height when full extended. They are mounted close to the ground which minimizes visual impacts. They are generally non-reflective and designed to absorb the light and not reflect it. The same PV panels are often installed at airports so glare is not an issue. The solar panels are attached to a racking system that is anchored into the ground. Any noise generated by the solar facility is low and is generally unnoticeable while you are standing next to them.

The Britton Solar Energy Center brings multiple benefits including, additional renewable energy to the New Mexico local transmission grid, increasing the renewable energy in New Mexico. It's a greater diversification of energy resources and the creation of temporary construction jobs for the area. Approximately 200 jobs will be created during construction. The length of construction for the project is about 6-9 months.

Commissioner McCall asks for Ms. Moyer to show what is city and what is county.

Laurie Moyer points to the map and explains which area is county and which is city. Maps hereto attached.

Commissioner McCall asks if the numbers he has are correct that 40 megawatts are generated in the county property and 10 megawatts are generated in the city property.

Laurie Moyer replies, yes, that is correct.

Chairman Schwebach asks Ms. Moyer if that concludes her presentation, if so he will now open it up for public comment in support of this project.

Myra Pancrazio, with EVEDA, states that they have worked with this project over a year ago. This particular project, through PNM resources, has been looking for a solar project for many years, as well as working with these land owners for many years. There was an opportunity for PNM resources to entertain wind and solar for the Facebook project. This particular project would be supplying a portion of the energy for the Facebook project. This will also be supplying a portion of the La Joya project that will be coming before the Commission next month. We have been working with the company and we are delighted that they did select Torrance County and gave us an opportunity to submit a proposal to them. They asked and did want to know what the application process is for the Industrial Revenue Bond. We have never done one on solar before. Ms. Pancrazio stated she explained the process and this seemed to be one of the determining factors of the other counties that were being looked at. Ms. Pancrazio states that she asked the county assessor at the time Betty Cabber and the county attorney, Dennis Wallin, to attend a second meeting with PNM Resources and talked to them about all the parameters they were doing in Torrance County. A few months later PNM Resources contacted Torrance County and let us know we had been selected and they began their application process with the county and the city of Moriarty. EVEDA fully supports this project.

Danielle Johnston, a resident of Torrance County, states that she lives off of Lexco Road and Cedar Lane. Tommy and Helen Burson have been their neighbors for many years as their property is right next to theirs. Ms. Johnston states that she has always been impressed by Tommy Burson's contributions to the county and the maintenance of the land. She believes that Helen Burson would be very proud of the use of their land for this project. There is an elegance of solar energy and the way it's delivered. It is a quiet and non-disruptive presentation. Having seen it in the southern part of the state and here, it is very fitting that people who loved the land, that their land can be utilized for generations to come. We have beautiful vistas out there, and to keep those vistas open and that sky blue, by using another type of energy. Ms. Johnston states that she also loves the wind turbines, they are quiet, elegant, and so powerful. As a resident of the area she fully supports this as it is a great use of that land.

Steve Guetschow apologizes to the Commission as he forgot to mention in his introduction, the difference between a conditional use and a special use. Currently this property is zoned Rural Residential for the county portion of the project. The special use allocations are a change in zoning for this particular type of business. That means if PNM would sell to another solar company they would not have to have any approvals from P & Z for the land use. The location

is within the extra territorial limits of the city of Moriarty. They had the opportunity to comment, the Mayor is present, but since this is being presented at the meeting later in the evening he will not comment.

Commissioner McCall requests that Ms. Moye speak upon the comment that the local citizens will be using the power from this facility as opposed to the wind turbines.

Laurie Moyer states that it is her understanding that the power flows from the Britton switching station directly in CNMEC station just down the street. From there it flows out into the transmission grid. Typically people are concerned when they say Facebook has contracted this energy and is going to go all the way down to Los Lunas. Solar electrons are free range electrons and they go wherever the weakest point is, they flow like water and will go wherever they go. This doesn't mean that CNMEC is purchasing the energy, the electrons will just be flowing into that system.

Commissioner McCall asks Ms. Moyer to speak about the life expectancy of the panels. What will happen when they are out of commission, who will be responsible for cleaning up, or the re-paneling?

Laurie Moyer states that when she started permitting the quality of the panels has changed. The quality is getting better and better. They have become more efficient through the years. If there is a problem with a panel, NMRD will come in and replace the panel.

Ms. Moyer states that she failed to talk about the construction. Everything is pounded into the ground, there are no concrete pads, and there isn't asphalt roads laid out. If the site ceases to operate it is easy to come in and pull everything out and you will be left with a flat piece of land. No heavy grading, we just come in and grow.

Chairman Schwebach asks if there is any more of the public that would like speak in favor of this project. No response, and then asks if there is any one opposed.

a. Special Use change in zoning to create a solar powered electrical generating facility located on multiple parcels, PNMR Development & Management Corp. and NMRD Data Center II

ACTION TAKEN: **Commissioner McCall** makes a motion that the Commission accept the application of PNMR Development & Management Corp. and NMRD Data Center II for Special Use change in zoning to create a solar powered electrical generating facility located on multiple parcels within Torrance County sections 8 & 9, T.9N., R.8E., NMPM, lands of Burson, Current, Harvey, & within the City of Moriarty Tillery Five partnership annexation. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

10. RESOLUTION 2019-03 INDUCEMENT RESOLUTION FOR UP TO \$60,000,000 IN IRB BONDS FOR NM RENEWABLE DEVELOPMENT DATA CENTER II, LLC, AN AFFILIATED ENTITY OF AMERICAN ELECTRIC POWER, INC. AND PNM RESOURCES, INC.

Dennis Wallin states that Mr. Duffy is here to present this item and introduces Jill Sweeny who is with the law firm of Sherman & Howard. The law firm will serve as the County bond counsel on this matter as well as the La Joya Wind project.

Eddie Duffy is the representative for the company in connection with this IRB. This resolution goes in connection with the solar project that was just presented. This inducement resolution expresses the intent of the county to move forward with the IRB with the company for this solar project. It does not commit the county to close on the bonds it just expresses the county's intent. The IRB will give the company property tax breaks on property that will be used for the project and GRT tax breaks on equipment purchases and other aspects for the project. This also authorizes the publication of your notice to consider a final ordinance, should you decide to move forward it is imbedded in the resolution. It authorizes the company to make equipment purchases after the date of this resolution on a tax free basis in anticipation of the closing of the IRB. Should the IRB not close they would have to undo those tax exempt purchases and go back and pay the taxes. It will give them tax benefits in connection with project. The tax benefits are important because they make the project more economically feasible.

The IRB is issued by the county, but it does not obligate the county to pay for the bonds in any way. By statute, the county cannot finance this, all the money must come from the company. The only thing being provided by the county are the tax breaks. When the bonds are finalized and approved the company will be making payments to the county in Lieu of Taxes. These are a portion of taxes. In addition to getting the county approval the company will also need the school districts approval. This project is also being done with the city of Moriarty for the portion of the solar project that is within their city limits.

Dennis Wallin states that the bond council and he have reviewed the resolution and they approved it. Ms. Sweeny's firm had a few recommendations that were incorporated in by Mr. Duffy.

Jill Sweeny, with Sherman & Howard, states that she is looking forward to working with the county on this process and will be happy to discuss any items pertaining to this with the commission. Her firm will be working closely with the county on the review of inducement, the ordinance, and the support documents, to make sure everything is complete and the commission understands and are comfortable with the process. Also, to make sure the process is clear to the commission and what your role is and that the county is protected throughout its life.

ACTION TAKEN: Commissioner Sanchez makes a motion to approve resolution 2019-03 inducement resolution for up to \$60,000,000 in IRB bonds for NM Renewable Development Data Center II, LLC, an affiliated entity of American Electric Power, Inc. and PNM Resources, Inc. **Commissioner McCall** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

2. RESOLUTION 2019-01 ESTABLISHING COUNTY POLICY STATUTE COMPLIANCE

ACTION TAKEN: Commission Sanchez makes a motion to approve Resolution 2019-01 Establishing County Policy Statute Compliance. Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

3. RESOLUTION 2019-02 OPEN MEETINGS

ACTION TAKEN: Commission Sanchez makes a motion to approve Resolution 2019-02 open meetings. Commissioner Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

4. COMMISSION MEETING GENERAL GUIDELINES OF PROCEDURE

Chairman Schwebach asks if the county currently has a set of general guidelines and procedures.

Belinda Garland states, not in writing. This was placed on the agenda to see if the Commission would like a set of guidelines for how the Commission meetings are run and how appointments are made. If you don't have time to think about this now we can table this and it be placed on the next meeting.

Commissioner McCall states that he would like more input on how the meetings are handled procedurally.

ACTION TAKEN: Commissioner McCall makes a motion to table the Commission meeting general guidelines of procedure. Commissioner Sanchez seconds the motion. No further discussion, all Commissioners in favor. Chairman Schwebach states this item will be on the agenda for the next meeting. **ITEM TABLED**

***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. Personnel Matters: Pursuant to Section 10-15-1(H)(2), discuss Limited Personnel Matters regarding the County Manager

Chairman Schwebach asks for a motion to enter into executive session. **ACTION TAKEN:** Commissioner McCall makes a motion to enter in executive session to discuss Limited Personnel Matters regarding the County Manager. Chairman Schwebach seconds the motion. Roll call vote, District 1-Yes, District 2-Yes, and District 3-Yes. All Commissioners in favor. **MOTION CARRIED**

ENTERED INTO EXECUTVE SESSION AT 11:55 AM

***Reconvene from Executive Session**

Pursuant to Open Meetings Act, Section 10-15-1(J), Commission report from closed meeting:

Chairman Schwebach makes a motion to reconvene from executive session. **ACTION TAKEN: Commissioner Sanchez** makes a motion to reconvene from executive session. **Chairman Schwebach** seconds the motion. All Commissioners in favor.

RECONVENE FROM EXECUTIVE SESSION AT 1:12PM

b. Consider and act upon personnel matters regarding the County Manager, if necessary

Chairman Schwebach states that they spoke about personnel issues in the executive session and asks the Commission if there is any discussion.

Commissioner McCall asks if the contract has been published.

Dennis Wallin states that he is not sure if a copy of the contract was placed into the Commissioners packets or not.

The Commissioners stated that the copy was not in their packets.

Commissioner Sanchez asks Chairman Schwebach to introduce the issue.

Chairman Schwebach states they have looked at a contract for Mr. Wayne Johnson to become the County Manager. They have come to an agreement and reviewed the contract. He states that Mr. Johnson brings experience to this county that he fills is needed. It is not against the current county manager and the job she has done, is doing, or will do. IT is an opportunity for this county to move forward in a positive direction, in a forward thinking direction, and a professional direction.

Commissioner McCall states that he has also looked at the experience and knowledge that Wayne would bring to the county with the IRB and the potential clients that we are seeing in the future. Commissioner McCall states that Wayne would bring a great knowledge and professionalism to this job. This is in no way against Ms. Garland and the job she has done. We know she worked hard. While he was campaigning he kept an open mind and the options that he had seen, he is taking that option into consideration.

Commissioner Sanchez states that two years ago he was a new Commissioner and was faced with a situation where the manager's office was vacated and we had an interim manager. At that time he considered how the Commission would proceed with acquiring a new manager. Most will recall the process. The process was as follows, we advertised for the position, we took applications, and advertised for 30 days, we considered the applications, and took the extra step to have a public hearing and allow for public input on the new county manager. The existing county manager was put in this position by unanimous vote. By taking the time to get

the necessary buy in from our stake holders it is essential to doing things right. This is about equality and balance. He has faced lots of opposition in his life, but it was all done in fairness and equality. We are all equals, no one here is better than another.

This is a mistake to drop this person and bring on this person without them having earned it. It is about doing what's right, just because things are legal, doesn't make them right. From his perspective the current county manager has not received censure from the Commission nor has she received any disciplinary notes of any kind. Why? That is his question, why? Just because it is possible? Just because it can be done. Should we exercise power in a manner just because it can be done? No, this is the USA and this is not how we do things in this country. He believes in fairness, equality, balance, and courage. There is a lot of people that may agree or disagree with him and he would like to hear from them.

Linda Jaramillo states that when she arrived Monday at work, she was told that Belinda would no longer be working for the county, and it broke her heart. In speaking for herself, Belinda has been very helpful and professional. Things like this do happen in politics, and she understands that. In 1996 when Ms. Jaramillo ran for the clerk position, she won and beat the incumbent. No one told Ms. Jaramillo that the Commissioners had fired the county manager and placed this lady, who had lost the election, as the new county manager. She took her staff with her. It bothered Ms. Jaramillo that no one told her, she was in shock and in disbelief at how things were done. There was a lawsuit filed, and after all was said and done, she asked this person, why? Why would you do this to me? Her reply was "Welcome to the world of politics, you need to develop a thick skin." Ms. Jaramillo states that she has yet to develop that thick skin, things still hurt her.

Shannon Cobb states that she started attending the meetings about a year ago and didn't understand what a county manager did. After time, and watching Belinda, she began to understand the important role of the county manager. She gave the public and the Commission all the information they needed. Through all these long meetings Belinda has been there to clarify things with a can do and professional attitude.

Ms. Cobb states that she was shocked when she saw Mr. Johnson's name on the agenda she wanted to look into this. Here is a man that doesn't live in or know Torrance County, he was on the Bernalillo board, he ran for Mayor for City of Albuquerque and lost, he then gets appointed to Auditor, he runs for state Auditor and he loses again, and here is another appointment as the Torrance County Manager. As a citizen it is frustrating to us who live and breathe Torrance County to see this being done to us, it's not fair. Then there is the ethics consideration, this individual is under investigation for issues in campaign finance reporting, and other finance issues. This is the worst of politics.

Jason Quintana states that it seems this decision was already made before this meeting. It looks like there had to be an agreement between two of the Commissioners, is this not a violation of the Open Meetings Act? Can you explain this to us?

Chairman Schwebach states that it was a conversation between 3 Commissioners before 2 Commissioners took office. When he was elected, he was elected to do what is best for the county and pulled from his experience and knowledge. It was legal the conversations they had,

as 2 Commissioner Elects and 1 Commissioner. There was not a violation of the Open Meetings Act. The Commissioners only hire is the County Manager, the only spot the Commission gets to control. There are a lot of issues in this county that Chairman Schwebach feels that this is the best path to fix it. It is not easy and he believes in the long term it is best for the county and the citizens of the county, even though it doesn't appear that way in the current view. There are solid reasons and they will come out. This is what Chairman Schwebach was elected to do and is the right thing to do to take advantage of an opportunity for the citizens of this county.

Michael Godey states that he is shocked. The way you are going about this is all wrong. You can do the minimal legal requirements, or do what is right. Mr. Godey brings up a previous Commissioner and his actions. He feels that what the Commission is doing is not appropriate.

Chairman Schwebach asks if this is going to turn into a bashing session by bringing into the conversation a previous Commissioner then Mr. Godey will not be welcome to speak. We are within the law and he states that it is not appropriate to bring up Mr. Candelaria's name again. He asks Mr. Godey to speak towards him and the topic and not a previous Commissioner.

Michael Godey states that he agrees with Commissioner Sanchez and what they are doing is corrupt.

Betty Cabber states that this is the second time in 2 years that she has agreed with Commissioner Sanchez. She understands that this county needs fresh eyes and new blood. We need to consider major changes. We are a small family county and we are all invested including the Commission. There are possibilities for the county, maybe not in the County Manager, but maybe hire a consultant to go around the departments and the community to see what their concerns are. Ms. Cabber has mixed emotion on this because we do need to make changes. It bothers Ms. Cabber that it needed to be done right now instead of a few months down the road. There are a lot of things that need to be learned when it comes to county government. Even now, Ms. Cabber is still learning, the mentality of local government bothers her to this day. Change is good and change is needed, but she still feels this was a decision made to soon.

Chairman Schwebach states that his driving factor is what is best for the County. There are timelines for all parties involved and we have to make these types of decisions, would he have liked to have done this at a later time, yes, but it just doesn't work that way.

Mayor Ted Hart for the City of Moriarty, states that he has worked with Belinda and they have agreed some and they have disagreed some. Mayor Hart states that Commissioner Sanchez is to blame for this. When he took office, they did not give Belinda any training for this job. Ms. Garland has not had the opportunity to learn her job with all that has been going on. The Commission and Mayor Hart have worked with Mr. Johnson in the past and they know how he works. During the Dog Head Fire, Bernalillo County played a major part in that. We all work tighter and we can make it work. Mayor Hart is in favor of Mr. Johnson coming into the county, he may be able to do things for the county that Belinda never had the chance to do. He will miss Belinda, but this county needs to move forward and think about the people in the communities.

Kathleen Jessi states that Belinda is not just about the job, she is part of the Community. This will be a huge loss and feels that the new Commissioners should take the time to get to know the community. She read Mr. Johnson's bio and he sits on the Water Utility board in Bernalillo County, is that a conflict? Ms. Jessi would like for the Commissioners to get to know the members of the community, especially those in the southern part of the county.

Johnny Romero states that what he has seen today has been going on for years and the county cannot seem to get over that hump. The Commission made a decision that wasn't in your district. People pleaded with you against it. We have guidelines to follow. The two new Commissioners need to think about the public. The two new commissioners made a sole decision against what our commissioner was fighting for. It had nothing to do with your district but it did with ours. Mr. Romero hopes that they can make decisions for the county as a whole and not just part of it. He feels the procedure the commission took on this was wrong. There are 3 Commissioners and you need to think about him as well and who he is representing.

Richard Lopez states that when several of the offices get elected they appoint their second in charge. This lady's integrity and drive is second to none. The Commission will appoint who they think is best to do the work they done for the county. We elected them because of what they are qualified for. We need to put our trust in Mr. Johnson is a great man of integrity and will do good things for this county. Ms. Garland knew when taking this position that this day would come, and it has. We all need to support the decision the Commission has made.

Nathan Dial the Mayor of Estancia states that the Commission is within their right to do this. It's not what you are doing is wrong or that Mr. Johnson doesn't bring a lot to the table. Mr. Johnson will not be as dedicated to Torrance County and is willing to bet he will leave the county if he gets a better offer. This timing is bad, in 90 days when Ms. Garlands contract is up, is when this should have been done. This is a slap in the face to the Community. You are well with in your rights, but the community as whole was slapped in the face. The dedication that Belinda has put in will not be matched.

Martin Lucero thanks Belinda for all her support. He had a lot of challenges when he came on board, and would like to thank Ms. Garland for helping him with all the accomplishments for his department. Mr. Lucero is looking forward to working with Mr. Johnson if he is appointed today. He wants a better future for the county, we are quick to fire these days, and we need to work with these people and help them get to where we need to go. Belinda has a great mind and experienced and that is why she was put into this position. If we are going to create opportunities we need to take people lives into consideration.

Rick Gonzales with PMS Senior services, would like to thank Belinda for all of her help with his Torrance County national treasures. We appreciate all the help you have given us and we hope the new Commission will continue to support us to make sure the seniors are fed properly and get where they need to go.

Victoria Sedillo would like to thank Belinda for all her work. When she was hired here 2 years ago the morale in this building was at an all-time low because of bad publicity. Belinda went to

all the offices and took the time to get to know us and care about what we thought. Thank you for bringing the morale up and in this county.

Mari Wallin thanks Belinda, she has always been helpful when it came to the county fair. Ms. Wallin will be thankful for today's outcome no matter what it is. She asks Chairman Schwebach what he meant by the timeline.

Chairman Schwebach states that he was referring to the timeline on hiring Mr. Johnson.

Commission Sanchez thanks everyone for their comments. Perception is often reality and if the Commission is not satisfied with Ms. Garland's work and wants to bring someone else in, then we need to be more open about it and he would recommend that we advertise for the position and take applications. He would like to give an equal opportunity to all, yes the decision is ours to make, but give others a chance. Fairness is right, this just handing the position to someone is not right. Please reconsider this and follow a process that is more inclusive, balanced, and fair.

Belinda Garland would like to thank everyone for coming. It is very much appreciated. When she arrived 2 years ago there were tremendous challenges to overcome, morale was low, and lots of things happening to all the employees of the county. We have all pulled together and accomplished lots of things together. Thank you for all of that.

5. CONTRACT FOR WAYNE JOHNSON, RELATED TO COUNTY MANAGER

ACTION TAKEN: **Commissioner McCall** makes a motion to accept Wayne Johnson's contract effective this Saturday. **Chairman Schwebach** seconds the motion. No further discussion. **Commissioner McCall & Chairman Schwebach** are in favor, **Commissioner Sanchez** is opposed. **MOTION CARRIED**

6. SCHEDULE EVSWA WORKSHOP

Commissioner Sanchez states that he placed this on the agenda to consider looking at long term strategies to all the stake holders and inviting the representatives to take a look what has been going on with the EVSWA. He invites the Commissioners to set up a workshop to discuss these matters.

Chairman Schwebach states that he agrees with this and if Commissioner Sanchez has a date in mind for this.

Commissioner Sanchez states that he would like this to happen as soon as it is convenient. We would need to decide who we would like to have in this workshop and when. The representatives for solid waste and the county manager and solid waste's manager and of course the commissioners should be present. We could schedule it as part of a meeting.

Chairman Schwebach states that we should try to schedule it after a meeting in the afternoon.

Commissioner Sanchez states that we could schedule this for the afternoon of the next Commission meeting on January 23rd.

Chairman Schwebach states that we need to tackle one item at a time. Which item would Commissioner Sanchez like to tackle first, the EVSWA, the radio station or the transportation committee? Chairman Schwebach would like to recommend, under the assumption that the County Manager and the Commission will be present at the meeting regardless of the meeting days, we leave it open to all 3 depending on the remainder of the staff that is available. We can schedule it in the afternoon after 2:00 pm or about 20 minutes after the adjournment depending on the length of the Commission meeting. For solid waste the manager along with the county representatives need to be present. This is an excellent way to discuss these matters after meeting.

Commissioner Sanchez that is ok, the only drawback to having the meetings after a Commission Meeting, is that it is hard to focus, especially if the meeting in a long one such as this.

Commissioner Schwebach states that he agrees, but this is something that he is willing to try for now and see how it goes.

Commissioner Sanchez would want to get new ideas from the EVSWA workshop. We would need to get some set of options that the Commission can look at. What resources will we have to allocate to get answers? We can look at strategies and to get deliverables.

In regards to the Radio Station, we may be able to think about creating a JPA. Commissioner Sanchez states he was going to go out and visit the towns to get their input on the radio station. We could task the manager's office with getting the stakeholders together for a meeting to see whether or not it is feasible. If it is not feasible we can drop it.

The transportation committee is set up to see what can be done with our major arteries. There is opportunities there. We would need a collaborative effort with the DOT. This would require us having an introductory meeting. There is already a buy in from the communities, all of the land grants, as well as the municipalities. Have the manager's office schedule a meeting and Commissioner Sanchez will facilitate this as he has done most of the leg work. All of these are very time consuming. All of these will be introductory meetings, we discuss, and then it be brought to the Commission to see if that project is viable. It will give the Commission a wide set of options.

Commissioner McCall states that he is in total agreement with these options.

Commissioner Sanchez states that he will require the assistance of the manager's office to help schedule these meetings and get out all the information to the stakeholders and create packets and agendas and sign in sheets it all takes time.

Chairman Schwebach states that is why he is in favor of having these meetings after a Commission meeting. Since it's in its infancy and it would give the Commission and the public the ability to be here at a set time. After things are further along we can adjust for schedules.

Commissioner Sanchez states that it requires a lot of active engagement in getting stakeholders to the table. In his district it is difficult because he has 4 land grants, 3 municipalities, and various neighborhood associations and a large unincorporated area. It requires a lot of work on his part because he has to talk to all of them to see if that time works for all of them, it may not work for them to attend a meeting in the afternoon after a Commission meeting.

Chairman Schwebach states that his vision is to begin these workshops and actions plans is to begin communication on the best direction to go. The workshops can start as a simple process, we may even need to go to communities as a workshop to make sure all the players are there. This can be expanded.

Annette Ortiz asks that after the regular Commission meeting you will adjourn and then host the workshop at 2:00 PM?

Chairman Schwebach states that he does not want to limit it to 2 PM. It will be 30 minutes after the meeting, but if we adjourn at 10:00 am the workshop would not occur before 2 PM. Will this be posted as a special meeting or just a notice of possible quorum?

Dennis Wallin states that it just needs to be posted as a workshop.

Chairman Schwebach states that the concept of the workshop is not to take action but to come up with a plan to act on it at a later meeting, is that correct.

Commissioner Sanchez replies, yes, that is correct

Belinda Garland states that the radio station needs to be in the front. Mr. Schwenka is needing to make some changes

Commissioner Sanchez states that he will take charge of the radio station and we will keep the EVSWA meeting the way it is.

7. RADIO STATION ACTION PLAN

This item was discussed during item number 6.

8. SCHEDULE TRANSPORTATION COMMITTEE MEETING/WORKSHOP

This item was discussed during item number 6.

9. TORREON ACEQUIA MEMORANDUM OF UNDERSTANDING

Commissioner Sanchez requests that this item be tabled because the MOU is not completed.

ACTION TAKEN: Commissioner Sanchez makes a motion to table the Torreon Acequia Memorandum of Understanding. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **ITEM TABLED**

11. APPOINT NM COUNTIES WORKER'S COMPENSATION POOL BOARD REPRESENTATIVES

Annette Ortiz states that the Commission was provided with the minutes from the last meetings as far as who the representatives are for the Workers Compensation Pool and the Multi-Line Board Representatives for NM Counties. The representatives need to be appointed annually.

Belinda Garland states that the representatives for the NM Counties Worker's Compensation pool board representatives should be the County Manager and the HR Director. The workers comp flows through the HR Director and the County Manager. Her recommendation for the NM Counties Multi-Line Board Representative should be the County Manager and Nick Sedillo who is the Operations Manager. The multi-line is liability based off the safety office. The appointments need to be made today. Ms. Garland was notified that there will be a meeting between the two boards at the NM Counties conference next week. There are going to be decisions made and votes will be made.

Chairman Schwebach asks for a motion to approve to appoint the County Manager as the representative and the HR Director as the co-representative to the NM Counties Workers Compensation Pool Board. **ACTION TAKEN:** Commissioner McCall makes a motion to approve to appoint the County Manager as the representative and the HR Director as the co-representative to the NM Counties Workers Compensation Pool Board. Commissioner Sanchez seconds the motion. No further discussion, all Commissioner in favor. **MOTION CARRIED**

12. APPOINT NM COUNTIES MULTI-LINE BOARD REPRESENTATIVE

Chairman Schwebach asks for a motion to approve to appoint the Operations Manager as representatives to the NM Counties Multi-Line Board and the County Manager as the Co-Representative. **ACTION TAKEN:** Commissioner McCall makes a motion to approve to appoint the Operations Manager as representative to the NM Counties Multi-Line Board and the County Manager as the co-representative. Commissioner Sanchez seconds the motion. No further discussion, all Commissioner in favor. **MOTION CARRIED**

13. 2019 NM LEGISLATIVE SESSION PRIORITIES

Belinda Garland states that we need to turn in capital outlay request forms to the legislature. The plan for Torrance County was voted on and approved at a previous meeting, and Ms. Garland wants to know if the Commission wants forms to be submitted for all top 5 requests or just part. Which requests would the Commission prefer. The top 5 are 4x4 vehicles for the Sheriff's Department, county building repairs (specifically the heating and cooling for this building), county road improvements (McNabb road for paving), county fairground improvements (a new building for the fair), and Punta de Agua multi-purpose center.

Chairman Schwebach asks if we can only submit 5 requests.

Belinda Garland states that you can submit as many as you want. You can submit to one representative or senator or you can submit to all 4 associated with the county. Last year we submitted the top 5 to all four.

Commissioner Sanchez states that we should submit all 5 to all four but he will state that it is difficult to get approval when it comes to vehicles.

Belinda Garland states that we can move down to item #6 which is the update to the county computer systems. The county is currently running on Windows 7 and in a few years Ambitions will no longer be able to offer support for this. Computer systems will have to be purchased for the entire county to be upgraded to windows 10.

Chairman Schwebach states that it doesn't hurt to submit the top 6 so that we don't cut our throats.

Commissioner Sanchez states that we can submit the first 10, but computer upgrades are difficult as well as others. The fair building and multi-purpose building are very likeable.

Belinda Garland states that she wants to know what to submit because the forms are very time consuming to fill out.

Chairman Schwebach tells Ms. Garland to submit the top 6 to all 4.

ACTION TAKEN: **Chairman Schwebach** makes a motion to submit the top 6 Capital Outlay request to all 4 of the representatives. **Commissioner McCall** seconds the motion. No Further discussion, all Commissioners in favor. **MOTION CARRIED**

Belinda Garland states that with last year's appropriations there was some money awarded to the Torreon community building. Torrance County was the grantee on that, and it is not possible to do it that way. There are forms that Ms. Garland re-did so that the money flows to the Torreon Water Association. Torrance County can be a fiscal agent for them and they need to be the grantee, not Torrance County. We also received money for the zipper, we got a deal on the zipper, and we made that purchase. We weren't able to use appropriation funds to purchase the zipper so we are going to re-authorize to purchase a roller for the road department.

14. CONSIDER AND ACT UPON LEGAL COUNSEL FOR TORRANCE COUNTY

Belinda Garland states that Mr. Wallin's contract is up at the end of February. Ms. Garland would like direction from the Commission on how to proceed with bringing in a new attorney. Do you want to go out for RFP or hire an in house attorney? Ms. Garland and the HR Director, Kristin Oliver, have worked on the job specs for the position. Mr. Wallin has reviewed the job specs, added a few things, and said they are ok to post. If we hire an in house attorney, there is

no room in this building, but there is room in the new building that was just purchased by the Fire Department.

Chairman Schwebach would like to go for an RFP for a contract, he does not see a need for a full time attorney.

Dennis Wallin states that would be a good idea. You could create a contract and the Commission decides later that an in house attorney would be better, then you can terminate the contract and hire a full time attorney. In Mr. Wallin's experience, Planning & Zoning takes up a lot of time as well as personnel matters. There is plenty of work to be done, but it may decrease. Mr. Wallin suggests that they do a contract to start.

Belinda Garland asks if we can advertise for both.

Dennis Wallin replies, yes you could advertise for both.

Belinda Garland states the reasoning behind this is because she looked at some of the bids that came in from a previous RFP and they were very expensive. Looking at the timeline, if you advertised for both, you can choose which one to go with. Belinda states that the motion will need to be made with the salary as we will have to advertise a salary.

Chairman Schwebach states that he saw in the budget the current expense for legal is \$120,000.00. That is primarily paid to Mr. Wallin meaning he is our sole attorney.

Dennis Wallin replies, yes, that is correct. There is also a contract with P & Z that comes out of the \$120,000.00 and he needs to check to see if a portion of that comes from wind farm work that is reimbursed through the county.

Chairman Schwebach asks what a good market is for a lawyer.

Dennis Wallin replies, it just depends on what you are looking at. Do you want someone fresh or of law school or someone that has years of experience. There is not a huge market for lawyers in this area, so you are looking to bring someone in from Santa Fe or Albuquerque. Mr. Wallin states that he hires first year associates at about \$85,000.00 per year.

Chairman Schwebach states that the risk of advertising for both will send a message that it will change the rate on RFPs and the hourly rate. At this time Chairman Schwebach states that he is not prepared to hire for an \$85,000.00 full time job.

Commissioner McCall states that by the 23rd we may have a better idea of wages and direction they wish to go.

Belinda Garland states that you can advertise it at a range of \$75,000.00-\$85,000.00 depending on experience. You can pick any range you want, and once they are hired you can decide what amount you want to pay them.

Chairman Schwebach states that the RFP is simply saying we need to hire an attorney, this is our scope of work, this is what we require from you, what are your rates, and then we enter into a contract with them, is that correct?

Belinda Garland states that the RFP will go before a selection committee and they will review what the law firm submits, and see if they meet all the requirements of the job. The committee will choose the law firm and then bring that choice to the Commission for approval.

Dennis Wallin states that we are making an assumption that you have to advertise a salary. You can advertise the salary depending on experience. See what you come up with, you may find someone you like and then possibly be able to find that money in the budget.

Chairman Schwebach states that he agrees with that and he asks for a motion. **ACTION TAKEN: Commissioner McCall** makes a motion to approve to advertise the job for legal counsel pending salary based up experience and the RFP. **Chairman Schwebach** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

15. NM COUNTIES BOARD OF DIRECTORS ELECTION – LINDA JARAMILLO, CLERK

Linda Jaramillo states that all of the elected officials have voted, she has the ballots and her and Yvonne will count them. The votes have been counted and Tracy Sedillo is the new representative for the NM Counties Board of Directors. Ms. Jaramillo would like to thank Betty Cabber for being on the board, she has done a great job and was very informative.

*** DEPARTMENT REQUESTS/REPORTS:**

16. UPDATES: a.) Various County Departments

Martin Lucero provided a copy of his quarterly report for the Commission to view, but will not be going through the whole thing. Mr. Lucero would like to give kudos to those that helped with this winter storm that passed. Mr. Lucero was in touch with all the Commissioners, the County Manager, and various teams that assisted with this. As everyone is aware this winter storm took a hit on the county and the city of Moriarty. Several departments, agencies, and members of the community came together to shelter transient personnel at the Moriarty civic center and Lions Club. Throughout the event we only had to house 165 people. Mr. Lucero would like to thank the Mayor of Moriarty and his staff. They have a big role on that interstate and is appreciative of all the help they gave to Mr. Lucero's department. Thank you to the Lion's Club they always volunteer their building and staff, and in some cases they provided food. Thank you to the American Red Cross for coming out. The East Mountain CERT, those volunteer efforts were very much appreciated. All of the EMS departments, the Sheriff's Department, Fire Department, dispatch, Road department, Operations Department, maintenance, and animal services. There is a lot of transparency that happens in the county and would like to thank them for all they do. New Mexico DOT assisted us in several instances around the county in making maneuverability better throughout the county. New Mexico State Police worked with us in keeping the roads open and keeping people safe. Thank you to Chili Hills and Blake's Lotaburger for donating food for our volunteers.

Thank you to Bernalillo County, Department of Homeland Security, and Emergency Management, Richard Clark was able to assist with shelter equipment. We used the interstate mutual aid system here in New Mexico, Mr. Clark was able to help us and lent use shelter trailer, cots and blankets. Along the interstate there are 3 counties that share a part of the interstate. We are currently discussing that each of those counties provide some sort of shared assistance in sheltering people with monetary value or providing volunteers. From Guadalupe County up to Tijeras there is nothing in between. Mr. Clark was gracious enough to not charge us for the use of this.

Mr. Lucero would also like to thank members of the community that volunteered. Rubena Miranda and her son Ryan, Terry and Wynette Asbury, who went out and helped evacuate a local family. Mr. Lucero would like to thank his Wife and his children who also came in to help. When these types of instances occur we have a possibility of getting reimbursed for these types of instances. We are looking at the disaster assistance program for possible reimbursements. At the next meeting we may have the ability to do an after the fact declaration to get that funding back. Mr. Lucero has reached out to all department heads effected to see what type of monetary value they have regarding this.

Commissioner McCall tells Mr. Lucero he did a great job during the storm.

Nick Sedillo states that back in January of 2008 NMAC visited all 33 counties and mostly the counties that pay in to the pool. They highly endorsed the Risk Awareness program. They provide us with 50 weeks of safety training per office. Torrance County has been involved with this for 12 years. In December the safety committee met and set the goals for 2019, the data was received and was distributed to all departments On January 7th. He would like to thank Cindy Sullivan from the Animal Services Department, Dorothy Rivera & Christine Snow from Central Dispatch, Bill Holt from the Assessor's Office, Sylvia Chavez from the Clerk's Office, Lori Archuleta from the Manager's Office, Stephanie Dunlap from the Sheriff's Department, Carol Aragon from the Treasurer's office, Anna Martinez from the Resource Office, Lester Gary and Hannah Sanchez from the County Fire Department, Steve Guetschow from P & Z, and Charmen Padilla from the Road Department. These individuals are the RAP instructors for each department, and without these people Mr. Sedillo could not be successful. The offices sometimes think it's monotonous, but at the end of the day its Mr. Sedillo's job to make sure that everyone gets home safe. Nick Reads an email he received from New Mexico Counties on January 8th, 2019. The county met all the requirements and will be presented at the NM Counties Legislative Conference next week. Kudos to all the instructors, safety is passionate to Mr. Sedillo and without the instructors we would not be where we are at today.

The county is considered to be a division 2 county with NM Counties when it comes to losses and prevention and risk management. The counties that we compete with are Lincoln, Colfax, Hidalgo, Roosevelt, San Miguel, Sierra, and Socorro. If we have the record of least amount of accidents in division 2 they recognize our efforts towards safety. Mr. Sedillo reads an email from them. This is a monetary award that we will be presented with at the conference next week and we ask that you allow us to put that money back into the safety committee.

Mr. Sedillo would like to thank Belinda and the Commission for this opportunity and hopes he doesn't let anyone down. God Bless and God Speed.

Belinda Garland tells Nick that he will do a wonderful job, he has a lot of knowledge and is very dedicated to this county.

Lester Gary states that he would like to present the Commission with the calendar year 2018 annual report. It covers all calls responded to in the county and the audit that goes before the state marshal's office every year. Torrance County responded to over 800 EMS and/or fire calls throughout the year.

The building that the fire department has purchased with the GRT is not complete. WE will be getting a quote soon to do the painting within the building to get done within the next week. We are working on getting the internet and fiber in the building and it should be completed next week as well.

Mr. Gary will be attending the EMS Region I Board of Directors meeting. EMS Region I covers the 7 counties in the northwestern corner of the state and they meet quarterly. January 22nd he will be meeting with the Santa Fe County Fire Marshal's office to work on an MOU for the A102 area, to get closest unit response for EMS in the area. January 25th he will be meeting with the town of Mountainair and the Mountainair fire department to discuss an MOU with AMR Ambulance that comes out of Valencia County. For a quicker response if superior is not available. In February he will be attending a meeting for the Metro Chiefs, to which Mr. Gary is a member of.

Jessie Lucero would like to thank Belinda for all your willingness on working with our department. Betty has been a great mentor in his early career. Mr. Lucero would like to thank the public for electing him to office, he will do the best he can and work hard to be the best Assessor that he can be.

January 31st there will be a conference here in the Commission Room concerning a Pictometry Project. This will be a big part of his vision for the Assessor's office. Nick has been a big help to Mr. Lucero during this endeavor. We have received a lot of interest in this. Nick Sedillo has been with Torrance County for 23 years 20 of those with the Assessors. Nick is very thorough in his job and always seeks to do the very best. Welcome aboard to Commissioner Schwebach and Commissioner McCall. There are some pending matters that will be taken care of at a later date.

Tracy Sedillo welcomes the two new county Commissioners and all of the other elected officials. The office survived tax season, still adjusting to the new counter, and a few of our processes are changing. Thank you to the Commission for allowing us to move forward with the counter project, it's made the office more efficient. The new credit card chip readers have been installed and are working great. Ms. Sedillo has been working with the Triadic and the Clerk's office to get the live web up and running. The online payment system will change slightly, but with this system the data will be able to push and pull from the services and no longer require manually uploading the reports. This should be up and running by the end of the month. E-Check payments will be available with the new system and our phone payments

should be up and running by the end of the month. Wells Fargo is closing and we are working on ways to handle that issue and keep deposits and operations flowing smoothly. If the Commission has any ideas or suggestions do not hesitate to contact the office.

Linda Jaramillo welcomes the Commission on board as well as Mr. Johnson. The liveweb indexing is now up and running. As we record documents in the office, they will be live on the web. Anyone at home can get online and do a search for anything that is filed under their name. Ms. Jaramillo would like to encourage everyone to go to the website and check their deeds and their property. You can only view the recording information online. If you want a copy of the document you can contact our office with the book and page or document number and we can provide you with that copy. We also have our new marriage license software up and running. This money came from a grant from the Attorney General's Office. No money came from the county, the Attorney General paid for this upgrade. Also Vaughn Schools is having a special bond election right now. A majority of the voters are in Guadalupe County, but 99 of the voters are with in Torrance County. It is an all-mail election, the ballots have been sent out and will be starting to come in next week.

Annette Ortiz states that today is Law Enforcement Appreciation Day and would like to extend our greatest appreciation for the hard work, dedication, and sacrifices of our deputies and all law enforcement across the state.

Leonard Lujan states that all of the state projects are done. We are starting a new process and getting all of our information together for what we need to get done. Mr. Lujan states that his guys did god job on the storm that just passed. **Belinda Garland** states that the road department didn't do a good job they did a great job. Mr. Lujan states that they pushed anywhere from 10 to about 46 inches of snow. Every road was opened up by Monday, another storm came in and they got them all cleared up again. Four blades went down, but should be up and running by the end of the week. There are 2 new hires for the department, one already knows the county, and the blade, the other is a young hire and his training will begin next week. With these two new hire's and getting everyone where they need to go we can cover a lot more ground and fast.

Marci Wallin welcomes the new Commissioners and the fair board is looking forward to working with you all. The fair board has been working hard on the ICIP plan. There is a site plan. Ms. Wallin presents the site plan. Thank you to Max Cabber for donating his time and effort in creating this plan.

Commissioner McCall asks if the plans are available in a smaller size.

Marci Wallin replies, yes, they are and she will email them to the Commissioners.

Chairman Schwebach asks if this is a conceptual plan for the Torrance County Fairgrounds, and if it was developed by the fair board.

Marci Wallin states that they put in what they were requesting funding for, the fair board met, and came up with what they wanted for the Multi-Purpose building.

Chairman Schwebach states that this would be the biggest wish list, the best of the best, correct?

Marci Wallin relies, yes, that is correct.

Commissioner Sanchez asks if Ms. Wallin has if she has any information on the cost of the building.

Marci Wallin states that she does not, this was the first step, and then go to an architect.

Chairman Schwebach states that he pushed this. There is a building on the ICIP list and didn't have a concept of what to work with. We go big and then go down from that. They are well aware of limiting factor and what is needed at the fairgrounds. We needed a working document, and there is a lot of things that still need to be done with this.

Richard Lopez states that there a lot of methods being looked at by the fair board to get this done. They are working with rural development on ways to fund this. We don't want to come in and just ask the county to give us the money. Here will be no cost to the county, they are going through the legislature, and just researching on different ways to get funding for this. With whatever is left, we can go through rural development and provided a low interest loan to the County. They are currently looking at different revenue streams.

Marci Wallin states that they have also met with the town to discuss possibly working together and purchasing more land that connects to the fair grounds.

Steve Guetschow states that he sat in with the Planning Committee, with the architect, and the contractor Juan Vigil that will be working on the foyer at the animal shelter. They went through all the application papers, the timeline of the project, problems with the site and the encroachment of the radio station property. Some of the details of the plans that need some improvement and called for change order.

Commissioner McCall asks if this is the animal Shelter at Dispatch.

Steve Guetschow replies, yes, they are doing the addition to the entry there.

18. REQUEST EXTENSION OF THE COUNTY FAIR SECRETARY CONTRACT – MARCIE WALLIN, FAIR BOARD PRESIDENT

Marci Wallin states that they are requesting an extension of the contract for Isabel Lesperance the end on October 31st instead of December 31st. If we change it to October 31st it will give us more time to train a new person in line with the county fair.

Chairman Schwebach asks for a motion to approve the request extension of the county fair secretary contract. **ACTION TAKEN: Commissioner McCall** makes a motion to approve the request the extension of the county fair secretary contract. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

17. EMS FUND ACT APPLICATION(S) – LESTER GARY, FIRE CHIEF

Lester Gary states that these are 4 applications for EMS fund monies that come to his department. They are fiscal agent for superior ambulance. They need to be reviewed and have get the signatures of the Commissioners to get the funding. Superior ambulance receives about \$15,000.00 per year and districts 2, 3, & 5 receive about \$1,500.00 per year. This money helps offset the cost of soft goods and EMS supplies that are used while helping the citizens of the county.

Commissioner McCall asks Mr. Gary if he feels this money is equally distributed.

Lester Gary replies, yes, it is. The amount is pre-determined by the EMS bureau. Prior to MR. Gary the department had not be receiving this money so he had to go in and start brand new, and that is why the amount is so low. There is a 2 year variance we can bump up the request and depending on the licensure of the EMTs we can get more funding.

Chairman Schwebach asks for a motion to approve the EMS Fund Act Application. **ACTION TAKEN: Commissioner McCall** makes a motion to approve the EMS Fund Act Application. Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

The Commission is instructed that they need to make 4 different motions so they will need to retract the motion and do 4 separate ones. **ACTION TAKEN: Commissioner McCall** makes a motion to retract his previous motion. Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

a. Superior Ambulance

Chairman Schwebach asks for a motion to approve the EMS Fund Act Application for Superior ambulance in the amount of \$15,000.00. **ACTION TAKEN: Commissioner McCall** makes a motion to approve the EMS Fund Act Application for Superior Ambulance in the amount of \$15,000.00. Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

b. Torrance County Dist. 2

Chairman Schwebach asks for a motion to approve the EMS Fund Act Application for District 2 in the amount of \$1,500.00. **ACTION TAKEN: Commissioner McCall** makes a motion to approve the EMS Fund Act Application for District 2 in the amount of \$1,500.00. Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

c. Torrance County Dist. 3

Chairman Schwebach asks for a motion to approve the EMS Fund Act Application for District 3 in the amount of \$1,500.00. **ACTION TAKEN: Commissioner McCall** makes a motion to approve the EMS Fund Act Application for District 3 in the amount of \$1,500.00.

Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor.
MOTION CARRIED

d. Torrance County Dist. 5

Chairman Schwebach asks for a motion to approve the EMS Fund Act Application for District 5 in the amount of \$1,500.00. **ACTION TAKEN: Commissioner McCall** makes a motion to approve the EMS Fund Act Application for District 5 in the amount of \$1,500.00. **Chairman Schwebach** 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.

Cheri Lujan, recorder for the Estancia Basin Water Committee, would like to bring it to the attention of the Commission that there is a vacant position on that Committee. This is the regional water planning Committee that you have an MOU with Santa Fe County and Bernalillo County. Torrance County has 3 positions on that board. One Position is currently being held by Linda Jaramillo, the other by Gene Winn, which is the vacant spot, and the government position that is held by Steve Guetschow. You will need to place on the agenda, when you have time, to place someone in that vacant position.

Cheri Lujan with East Torrance Soil and water district, states that East Torrance will be giving the commission a formal request in writing to remember that you will need to inform East Torrance that you are going into negotiations with the company for the La Joya project. You do not need to include us but you are required to inform us when you are going into negotiations.

Belinda Garland states that a special meeting will have to be scheduled next week. Mr. Wallin needs to be in attendance. The meeting will be held January 17, 2019 at 3:00 pm.

Michael Godey asks what the special meeting is about.

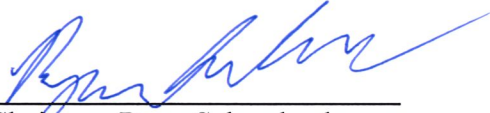
Belinda Garland states that she didn't say what it is, but the information will be on the agenda when it comes out.

Dennis Wallin states that one of the items will be the PILT negotiations for a few IRB projects.

***ADJOURN**

Chairman Schwebach asks for a motion to adjourn the January 9th, 2019 Commission Meeting. **ACTION TAKEN: Commissioner McCall** makes a motion to adjourn the January 9th, 2019 Commission Meeting. **Chairman Schwebach** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

MEETING ADJOURNED AT



Chairman Ryan Schwebach



Yvonne Otero-Administrative Assistant

1-23-19
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.