

**FINAL COPY
TORRANCE COUNTY BOARD OF COMMISSIONERS
COMMISSION MEETING
DECEMBER 18, 2019**

COMMISSIONERS PRESENT: RYAN SCHWEBACH –CHAIRMAN
KEVIN MCCALL- DISTRICT 1
JAVIER SANCHEZ –DISTRICT 3

OTHERS PRESENT: WAYNE JOHNSON-COUNTY MANGER
JOHN BUTRICK-COUNTY ATTORNEY
LINDA JARAMILLO- COUNTY CLERK
SYLVIA CHAVEZ-ADMIN. ASST.

1.) CALL MEETING TO ORDER

Chairman Schwebach calls the December 18, 2019 Commission Meeting to order at 9:00 A.M.

2.) INVOCATION AND PLEDGE

**Pledge lead by Chairman Schwebach
Invocation lead by Caleb McCall**

3.) CHANGES TO THE AGENDA

County Manager Johnson states that there are no changes to the agenda

4.) PROCLAMATIONS

Commissioner McCall would like to take a moment to remember Dick Ness, who was Sheriff for Torrance County. He served as Sheriff from 1980-1982, services for him will be on Friday at 10 o'clock at the Baptist Church in Moriarty. Also former Commissioner Jim Frost is in the Beehive home recovering.

5.) CERTIFICATES AND AWARDS

There were no items presented

6.) BOARD AND COMMITTEE APPOINTMENTS

There were no items presented

7.) PUBLIC COMMENT and COMMUNICATIONS

No public comment

8.) APPROVAL OF MINUTES

A.) COMMISSION: Motion to approve the December 5, 2019 Torrance County Board of County Commission Regular Minutes.

ACTION TAKEN: Commissioner McCall makes a motion to approve the December 5, 2019 Regular Commission Meeting minutes. Chairman Schwebach seconds the motion. No further discussion, all in favor. **MOTION CARRIED**

9.) APPROVAL OF THE CONSENT AGENDA

A.) Finance: Approval of Payables

ACTION TAKEN: Commissioner McCall makes a motion to approve the payables. Chairman Schwebach seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

10.) ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

There were no items presented

11.) ADOPTION OF RESOLUTION

A.) FINANCE: Motion to approve Budget Increase No. 2019-61

Jeremy Oliver, Finance Director presents the Commission with a budget increase resolution. Mr. Oliver explains that the Emergency Manger received additional funding through a grant and the funding was for the Ice contract. When the budget was done, there were no numbers to compare to for the budget, therefore the budgeted amount was just an approximate number, so this amount should pay for the contract till the end of the year. **ACTION TAKEN:** Chairman Schwebach makes a motion to approve Resolution 2019-61 Budget Increase. Commissioner McCall seconds the motion. No further discussion, all in favor. **MOTION CARRIED**

12.) APPROVALS

A.) EMERGENCY MANAGER: Motion to ratify MOA between NM Energy, Minerals and Natural Resources Department and Torrance County to provide\$7,000.00 for Waste Isolation Pilot Plant transportation safety program

Cheryl Allen, Grant Coordinator presents for Matt Propp, Ms. Allen explains that this MOA is for the portion of the WIPP transportation that is in Torrance County. With the money that the County receives, the County can purchase equipment to help maintain that portion of the road that is affected by the WHIP transportation. And can be used for training personnel on safety issues and how to respond to an incident on the WHIP corridor. Due to the deadline constraints the MOA was already signed by County Manager Johnson, so at this time the MOA needs to be ratified by the Commission. **ACTION TAKEN:** Chairman Schwebach makes a motion to ratify the MOA between NM Energy, Minerals and Natural Resources Department and Torrance County. Commissioner McCall seconds the motion. No further discussion, all favor. **MOTION CARRIED.**

B.) SHERIFF: PERA Pre-Tax Presentation

Marty Sprunk, Sergeant presents the Commission with a presentation on pre-tax and post-tax contributions for employees into PERA. Sergeant Sprunk introduces Christina Gauthier with

PERA. Sergeant Sprunk informs the Commission that Torrance County is one of three counties that tax PERA post-tax, PERA contributions are generally not taxed when making those contributions. PERA benefits are taxed once you start drawing your retirement. Torrance County currently has PERA plan 1 for Law Enforcement and PERA plan 2 for all other employees. If the County were to change the way employees are taxed it will not cost anything to either the County or to the employees. Sergeant Sprunk explains that if Torrance County were to change to pre-tax it could give some employees more money on their paychecks.

Christina Gauthier explains that PERA is considered to be a 401A under the IRS code and the functions of PERA is set up by state statute. The taxing part is set up by each PERA entity, with pre-tax employees will get more money. Ms. Gauthier explains that when an employee is paying into PERA post-tax the employee will be in a higher tax bracket. Those contributions are then sent to the non-deferred tax bucket. If an employee works for an entity that chooses to pre-tax the PERA deductions that will lower the amount of the taxable paycheck for the employee. Ms. Gauthier did a payroll calculation with some payroll numbers from the County, an employee making \$1,120.00 with zero exemptions would have \$119.28 post tax deduction making the net paycheck \$768.48. With pre-tax PERA deduction the employee will get \$29.29 over the course of 26 pay periods which will be \$761.54 more annually, which over the span of the 25 years of service credit that will equal to \$19,038.50 more income.

Ms. Gauthier explains that if the County chooses to change their tax option for PERA contributions it will need to be done by resolution but there will be no additional cost to the County or the employee. Ms. Gauthier explains the difference between the two for employees when they retire. When an employee has made pre-tax contributions and they start receiving their benefits, they will be taxed according to their tax deductions forms. Ms. Gauthier clears up a misconception on post-tax contributions and benefits. When an employee starts to draw their benefits they WILL BE taxed, the misconception is that there is no tax when drawing their benefits.

Ms. Gauthier states that there may be concerns on the additional workload in the finance/payroll/HR department or that perhaps the current software program is not compatible with the portal to switch from tax deferred bucket to the non-tax deferred bucket. She explains that the current software program that Torrance County uses is used by other County's that do the pre-tax option and have no problems.

Chairman Schwebach asks for this to be simplified, the only reason there is an option for post-tax/pre-tax is because it affects the retiree's pension. Is that correct.

Christina Gauthier replies, the reason for the two options is because in the late 80's early 90's the IRS gave the option to have either pre-tax or post-tax option. The governing board has to vote on the decision for pre-tax and pass it by resolution form if not it will by default be done as post-tax.

Chairman Schwebach asks if this would only be for the Sheriff's office.

Christina Gauthier explains that it would have to be for all employees.

County Manager Johnson explains that the Sheriff's office initially came in for just the Sheriff's employees and there was concern that the Triadic software would not be able to separate the Sheriff's office for the pre-tax option. County Manager Johnson's opinion is that this should be an all or nothing decision, every employee on either the pre-tax or post-tax

option. All the employees should have all the proper information in order to make the best decision for themselves for now and their future.

Chairman Schwebach states that he wants a clear understanding of what the benefits and consequences will be for either the pre-tax or post-tax. He hopes that whoever is behind this in the Sheriff's office is well versed in this to have brought this up as an option.

Christina Gauthier responds that PERA benefits are defined by state statute, regardless of the employee's contribution PERA will at an employee's years of service credit multiplied by their pension factor(s) during their course of years worked. Then that percentage gets multiplied by their final average salary. In tier 1 it's the last 36 months, in tier 2 is the last 60 months salary.

Chairman Schwebach clarifies with Ms. Gauthier that the difference between the "pre-tax" bucket and the "post-tax" buckets is the pay out to the beneficiaries. If an employee has paid \$1000, 000.00 into PERA and was only able to collect \$10,000.00 the remaining \$90,000.00 will be paid out to the family and at that point depending on if it was pre-tax/post-tax, that sum would be taxed. Is that correct?

Christina Gauthier responds, that is correct. PERA keeps a very strict accounting to all the dollar paid out to members during retirement. So any residual balance cannot be kept by PERA so those benefits will be continued to the designated beneficiary or those benefits get refunded to one individual, organization or the member's estate.

County Manager Johnson asks for clarification on the pre-tax option, what happens with the benefits.

Christina Gauthier replies, the same will apply to the pre-tax benefits, depending on who the member chooses to have as their beneficiary or if there is none it will be refunded to the estate or an individual or an organization.

County Manager Johnson asks again what the difference is between pre-tax or post-tax, what's the tax difference.

Christina Gauthier explains that the benefit to having pre-tax is while the employee is working and making 100% of their salary that employee is in a higher tax bracket. In retirement for a tier 1 member under municipal plan 2 that put in the 25 year service credit, that member is allowed to draw 62% of their salary, so that member is immediately in a lower tax bracket. So they are paying lower taxes.

Chairman Schwebach states that he would like further information on this and to make sure there is a complete understanding of benefits for either options. He would like County Manager Johnson to get this information and make sure all County employees understand them. at that point the Commission will make a decision on which option is best suited for the County and employees.

DISCUSSION ONLY, NO ACTION TAKEN.

13.) DISCUSSION

A.) FINANCE: Presentation for Cost and Potential Cost savings of new Admin. Building. Approval to start RFP process for the design of a new Admin. Building

Jeremy Oliver, Finance Director presents the Commission with a cost analysis for the maintenance of the Current Admin building versus the potential cost savings with a new Admin building. Mr. Oliver explains that the current building was built in 1966, it houses the County Manager, Finance, Operation Manager, Human Resources, Planning and Zoning, Rural Addressing, Clerk's Office, Treasurer's Office, Assessor's Office as well as the NM State

University Office. The current building has 26,000 square feet and the maintenance cost for the building is from \$1.40 to \$1.85 per sq. ft. The average cost at \$1.63 sq. ft. equals to \$42,380 per year which includes maintenance man hours. Utility costs per year which include electricity, gas and water is \$45,000.00 a year and that is on a 4 day work week. If the County admin offices worked a 5 day work week it would be \$56,000.00

The largest needs for the Admin building is updated plumbing, currently there is no hot water in the building. The quote to have the plumbing taken care of is \$105,000.00. The AC system needs to be updated and the cost for that is \$72,000.00. And the next need is more adequate storage for the different departments. Mr. Oliver explains that with the current building space each department has out grown their storage capacity, we are busting at the seams with storage. The boiler is another issue, the boiler is just as old as the building, if there are repairs that will need to be done the parts are pretty much obsolete. The roof was repaired but there are still spots that need repaired.

Mr. Oliver states that if the County were to switch to energy efficient features the savings could be 21 to 46%. If we had motion lights, or LED lighting, proper electrical wiring needs, high efficiency heating and cooling, the approximate savings a year could be \$40,000.00. Mr. Oliver explains with the two large projects that need repaired it will cost the County \$177,600.00, the parking lot has already been funded it just needs to be done.

Mr. Oliver goes over the price of a new building and the different funding sources the County can use. The design of the new building will cost \$200,000.00, the new building will have 36,000 sq. ft. and will cost \$11.8 million. That will be with all the bells and whistles, at the low end it could cost \$6.5 million. The different funding sources the County could potentially use are bonds, loans, grants and capital outlay funding (ICIP).

Chairman Schwebach asks Mr. Oliver if the cost for the utilities and maintenance are actuals. **Jeremy Oliver** replies that the utilities are actual and the maintenance is hard to track due to all the County buildings maintenance was coming out of one fund. So it was hard to track what amount would be for the Admin building, the maintenance for the buildings have been surrogated so the maintenance cost for each building will be able to be tracked.

County Manager Johnson states that the Commission should think of the area the current Admin Bldg., is located, it's not an ideal location. The building is located right in the middle of a neighborhood. The County has 25 acres, which is plenty of room to grow, this project can be done in phases. Over spending and over building is what gets County's in trouble, phasing projects can help with any of that.

Nick Sedillo, Operations Manager states that this project or the thought of this project was done back in 2009 when the 25 acres were bought. When the thought process was being done on a new building each department was very conservative on what they needed. The one thing that the Assessor's, Treasurer's and Clerk's office all requested was to have a fault in all of their offices like they currently do. Mr. Sedillo agrees with Mr. Oliver's numbers for a new building, Mr. Sedillo also mentions that the current Admin bldg. is functionally obsolete. With a new building that has the proper maintenance and upkeep, it can last 50 plus years.

Chairman Schwebach asks if there has been discussion of the repurpose of the current Admin bldg. other than to use it for storage.

Nick Sedillo responds that the Committee back then talked about storage and rental space. Different groups or agencies are often looking for a place to use for meetings and there would be room here to do so.

County Manager Johnson states that a hard look will be given to go over storage space and the possibility of storage can be factored into the new building. County Manager Johnson does not think leaving an abandoned building in the middle of estancia is a good idea, perhaps the Town of Estancia might be interested in purchasing the building.

Chairman Schwebach states that he can't argue with anything that is being said, but wants to know how the County goes about doing it.

Jeremy Oliver replies that the 1st step is to go out for RFP for the design of the building. This is a big project so it will take a lot of time to get the RFP written. Mr. Oliver mentions that there is money available to the design phase of this project.

Commissioner McCall asks if there was already work done on the design part for this project in the beginning.

Nick Sedillo replies, that yes there was an architect, who was volunteering his time to design the building with the input from the departments which at that time included the Sheriff's office.

Commissioner McCall asks when this was done.

Nick Sedillo states that this was done in 2010 after the property was purchased, this was a phased project. It took the County a year to find the property and then once the property was purchased a year later the committee was formed to develop the needs of the building. There is a needs assessment but it's 10 years old.

Chairman Schwebach asks what happened, why did the process stop.

Nick Sedillo responds that the then County Manager put a stop to it.

Chairman Schwebach adds that finances also played a part in that as well, correct?

Nick Sedillo replies that the momentum was there for the project, with the needs assessment and design but the County Manager put a stop to it. It was difficult finding property within the city limits but we did find a good piece of property that had all the infrastructure already on it. Mr. Sedillo explains that the County did not receive an actual blue print for a new building but did get numbers. The numbers is the amount of space each department will need.

Commissioner McCall asks Nick if he can remember how much more square footage was needed back in 2010.

Nick Sedillo replies that it was an additional 10,000 square feet but he reminds the Commission that these were very conservative numbers given at the time.

Commissioner Sanchez asks what the time frame of this project will be, from the RFP to the completion.

Nick Sedillo mentions that there are architects on state contract that the County could use to avoid the long process of going out for RFP.

County Manager Johnson also explains that it all depends on the funding for the project. The County could use MFA loans, issuing bonds or through capital outlay. Or a combination of all of those funding avenues. The County needs to put together a plan of what the new building will look like and get an amount of what it will take to move forward with a new building.

County Manager Johnson feels that a 5 year time frame might be what it takes and to have it be done right.

Commissioner Sanchez states that he agrees with the 5 year time frame and the cost of the maintenance in the current Admin bldg. will end up costing the County the same amount to have a new building built.

Chairman Schwebach states that he agrees with Commissioner Sanchez and County Manager Johnson and would like to move forward with the RFP process.

County Manager Johnson does want to inform the Commission that if the current Admin bldg. is repurposed, the maintenance will still need to be done to the building. County Manager Johnson states that his biggest pet peeve with this building is the parking lot and there being no hot water in the building. The parking lot has already been approved to get fixed but the hot water will not be very easy to get fixed. There is a lot of pipe work that needs to be done in the building.

There was more conversation about the much needed repairs to the building, County Manager Johnson was advised to move forward with the RFP and the hot water for the current Admin Bldg.

14.) EXECUTIVE SESSION

A.) MANAGER: Acquisition of property for the Road Department, close pursuant to NMSA 1978 10-15-1 (H)(8)

B.) MANAGER: PILT Negotiations Update La Joya I & II Estancia & Vaughn School Districts, Closed Pursuant to NMSA 1978 10-15-1(H)(8)

ACTION TAKEN: **Chairman Schwebach** makes a motion to go into Executive Session. **Commissioner McCall** seconds the motion. Roll call vote: District 1, Yes, District 2, Yes, District 3, Yes.

Executive Session began at 10:26 am.

Reconvened from Executive Session:

ACTION TAKEN: **Chairman Schwebach** makes a motion to reconvene from Executive Session. **Commissioner McCall** seconds the motion. Roll Call vote: District 1, Yes, District 2, Yes, District 3, Yes.

Reconvened at 12:00 pm

Chairman Schwebach reads a statement from Executive Session, only those items listed were discussed during the Executive Session on Wednesday December 18, 2019. **ACTION TAKEN:** **Commissioner McCall** makes a motion to approve the statement out of Executive Session. **Chairman Schwebach** seconds the motion. **MOTION CARRIED**

ACTION TAKEN: Chairman Schwebach makes a motion to authorize the County Attorney and County Manager to proceed with the real property and litigation as discussed in executive session held on Wednesday December 18, 2019 within the parameters set by the Commission. **Commissioner Sanchez** seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

ACTION TAKEN: Chairman Schwebach makes a motion to accept the agreement from the Estancia and Vaughn school boards in regards to the PILT payments and authorize the County Manager and County Attorney to move forward with the payment being split 65/35. **Commissioner Sanchez** seconds the motion. No further discussion, roll call vote: District 1- No, District 2- Yes, District 3- Yes. **MOTION CARRIED.**

Commissioner McCall would like to explain that he is not against the kids or the school districts involved here. Commissioner McCall was in favor of the original 80/20 split for the reason being that there will be more wind projects coming into the County. There will be more money leaving the County with these larger splits going to school districts outside our county lines that will not benefit the citizens of this County. Commissioner McCall sees as a Commissioner that this County needs funds. He is taking a hard stance that he is sticking with the 80/20 split. Basic needs are not being met in our County, we need economic development in our County and without economic development the health of this County will keep declining. With more wind projects coming it is important to keep as much as we can in our County. The City of Moriarty and the County entered into an agreement with the PNM solar farm at 70/30 split, the current Commission set a precedence by setting that rate. Commissioner McCall would like to stay at that rate. This is Commissioner McCall's statement for the no vote.

Commissioner Sanchez asks how much money will be leaving the County.

Commissioner McCall replies, that there is no way to know that but the Pattern project is worth 1.8 billion dollars, that's 4 to 5 times higher than the La Joya project.

Chairman Schwebach states that he agrees with both Commissioners, 70/30 split is a good number. The School boards did what they were supposed to do for their districts and got the most money for their perspective districts. This project needed to move forward and this is why Chairman Schwebach went with the 65/35 and believes whether this money is in our County or not it is going to good use. In the bigger picture, for future negotiations they will be different. We must look through the eyes of the other people on the table to take the whole thing into account.

Commissioner Sanchez agrees and in the future feels the Commission needs to remain united in future endeavors.

NO FURTHER DISCUSSION, MOTION CARRIED.

15.) Announcement of next Board of County Commissioners Meeting

Next meeting to be held on January 8, 2020 in the Torrance County Administrative Chambers at 9am.

16.) Signing of Official Documents

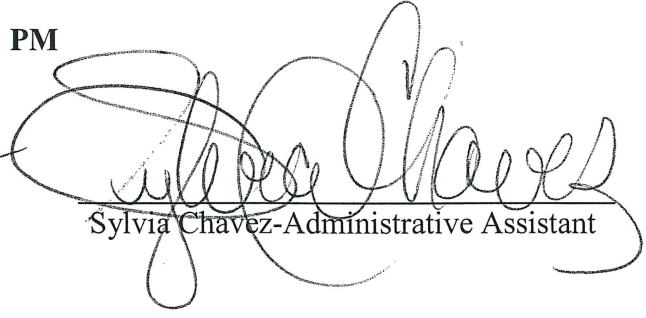
*ADJOURN

ACTION TAKEN: Chairman Schwebach makes a motion to adjourn the December 18, 2019 Commission Meeting. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

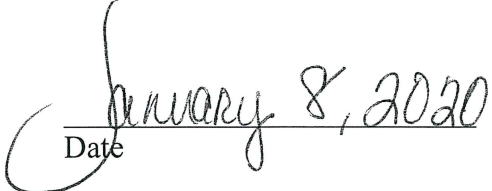
MEETING ADJOURNED AT 12:10 PM



Chairman Ryan Schwebach



Sylvia Chavez-Administrative Assistant



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.