

**FINAL COPY
TORRANCE COUNTY BOARD OF COMMISSIONERS
COMMISSION MEETING
MAY 13, 2020**

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

OTHERS PRESENT: WAYNE JOHNSON-COUNTY MANAGER
JOHN BUTRICK-COUNTY ATTORNEY
JANICE Y. BARELA- DEP. COUNTY MANAGER
YVONNE OTERO-ADMIN. ASST.

1.) CALL MEETING TO ORDER

Chairman Schwebach calls the May 13th, 2020 Commission Meeting to order at 9:02 A.M.

2.) Invocation and Pledge of Allegiance

Pledge and Invocation lead by Chairman Schwebach

3.) Changes to the Agenda

There were no changes to the agenda.

4.) PROCLAMATIONS

There were none presented.

5.) CERTIFICATES AND AWARDS

Sheriff Rivera states that he would like to present Arely Cuevas with a certificate of appreciation for her assistance during a domestic violence situation in which Ms. Cuevas served as an interpreter for the officers and the victim. Ms. Cuevas has done this several times for the department and Sheriff Rivera wanted her to be recognized for her assistance.

6.) BOARD AND COMMITTEE APPOINTMENT

Steve Guetschow states that they had a resignation of one of the Torrance County Agriculture Representatives to the Estancia Basin Water Planning Committee. An ad was placed in the Independent asking for individuals who would be willing to serve on this board and to submit letters of interest. It was posted twice and on the second posting the county received two letters of interest from Betty Cabber and James H. Pachta.

Chairman Schwebach states that he would like to hear from both candidates.

Betty Cabber states that the Commissioners have her letter of interest in front of them and they may notice her experience with agriculture and water. She has been in the county for 24 years and cares about the county and its future. Ms. Cabber states that she is interested in everything that is going on and would like to ask the Commission to consider her for the position.

Commissioner McCall asks Ms. Cabber if she is currently irrigating and using her water rights.

Betty Cabber replies, no, she is not currently using her water rights or irrigating.

Commissioner McCall asks Mr. Guetschow how many representatives from the County are on this board.

Steve Guetschow states that for the agricultural representatives there are 2, with 3 total who sit on the board, and the entire board consists of more than a dozen.

James Pachta states that he put his name in the hat because he has been involved with agriculture his whole life. He was born and raised in Moriarty and currently lives in Stanley. He manages a cow/calf operation and owns and leases property where he runs cows as well. Mr. Pachta realizes the importance of conserving the land and water for our needs and would be highly involved in making decisions for the future.

Chairman Schwebach asks Mr. Pachta if he has served on any other boards.

James Pachta states that he currently serves on the FSA board and has been on the board for 2 years.

Commissioner McCall would like to clarify that Mr. Pachta is mainly on the cow/calf side of things and asks if he is personally pumping irrigation water.

James Pachta replies, no, he is not currently pumping irrigation water, only drinking water.

County Manager Johnson states that on a procedural note this falls into the category of filling in a blank as far as Robert's Rules are concerned. There would need to be a nomination for an individual(s), nominations will close, the Commission will then make a vote on those nominated, the one with the majority vote will become the appointee.

Commissioner McCall nominates James Pachta to the Estancia Basin Water Planning Committee.

Chairman Schwebach asks if there are any other nominations, there being none, nominations are closed.

ACTION TAKEN: **Chairman Schwebach** makes a motion to appoint James Pachta as the Torrance County Agriculture Representative to the Estancia Basin Water Planning Committee.

Commissioner McCall seconds the motion. No discussion, all Commissioners in favor. By unanimous vote, **MOTION CARRIED**

7.) PUBLIC COMMENT and COMMUNICATIONS

Steve Guetschow states that at the last P & Z meeting there were two applications that were given a due pass recommendation and will be coming to the Commission for the public hearings and approval at next Commission meeting on May 27th, 2020. One application is for Roger Clyde for a Special Use Permit for an RV Park and the other is for the renewal for Special Waste Disposal, Inc., the renewal of a solid waste facility permit. The signs have been placed on the properties and ads will be placed in the newspaper to give notice of the public hearings.

Mayor Nathan Dial states that the Town of Estancia offices will be re-opening to the public Monday May 18th, 2020 at 9 am.

Mayor Dial states that there will be a memorial ceremony at the Estancia Cemetery on Memorial Day at 10:00 am.

8.) APPROVAL OF MINUTES

a.) **COMMISSION:** Motion to approve the April 22, 2020 Torrance County Board of County Commission Minutes.

ACTION TAKEN: Chairman Schwebach makes a motion to approve the April 22, 2020 Torrance County Board of County Commission Minutes. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

9.) APPROVAL OF CONSENT AGENDA

a.) **FINANCE:** Approval of Payables

ACTION TAKEN: Chairman Schwebach makes a motion to approve the Consent Agenda: Approval of Payables. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

10.) ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

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

a.) **MANAGER:** Motion to approve Ordinance 2020-04 authorizing the issuance and sale of Torrance County Taxable Industrial Revenue Bonds for the Clines Corners Wind Farm, LLC project, in the amount of \$470,000,000.00. (Conduct Public Hearing)

Crystal Koffman with Pattern Energy, states that they are present today with the Clines Corners Wind project. This was originally brought before the Commission by a group called Orion. Through

some back and forth, Pattern Energy has finally completed the acquisition from the Orion Group. They are hoping to connect this project with the Western Spirit Transmission line and be in production by the end of 2021.

Just as they did with the Red Cloud, Duran, and Tecolote projects a month ago, they are here seeking the approval of the Ordinance for the IRB process. As previously discussed, Pattern Energy would like to align this project with the Red Cloud, Duran, and Tecolote projects, in both documentation and the PILT agreements. This is the same deal and more megawatts for the county.

A positive for this project amidst all the Covid-19 issues, we are looking at a possible 100% of PTC's (Production Tax Credit) which will increase the payments that are made to the county and the schools. The Federal Government will need to approve this, and we would need to be commercially in service by the end of 2021.

Commissioner McCall asks Ms. Koffman the number of megawatts this project will produce.

Crystal Koffman states that it will produce 350 megawatts, but with the PTC's it may bring it down to about 325. The difference will be made up between the Red Cloud, Duran, and Tecolote projects. They are looking at a total of about 900 megawatts from all these projects put together.

Commissioner McCall asks if Western Spirits is still moving forward.

Crystal Koffman states that it is still going on and if requested she could have the Western Spirits expert available at another meeting to give an update on that project. Overall, the land control is going well and are over 95% right of way in hand. They are now getting all of the legal items done.

County Manager Johnson states that he would like to recommend hearing from Jill Sweeny and Mr. Burpo from the financial aspect of the project.

Jill Sweeny states that the Commission has before them the Ordinance for the IRB in the amount of \$470,000.000.00 for the Clines Corners Wind Project. Crystal Koffman gave the details of the project. This is a wind project that will be constructed in phases for the purpose of electrical generation and transmission. It will be located solely in the unincorporated area of the county.

As part of the bond Ordinance the County will also approve the indenture, the lease, the bond purchase agreement, sub-lease, and the bonds. The lease that is before the Commission today does include the PILOT provisions. As Ms. Koffman discussed they are currently set at \$2,500.00 per megawatt, but subject to increase based on federal action. The PILT is shared with the Vaughn School district allocated with a 65/36 split pending the action of the Vaughn School District board.

This transaction is proceeding smoothly towards closing and are remaining in close contact with the group on completing the documentation. They are expecting to have this wrapped up by the morning of June the 18th.

Mr. Burpo states that he has reviewed section 4.14 of the lease that deals with the PILT payments, and is exactly as described. Per every megawatt used it will be \$2,500.00 unless the federal

government changes its conditions. If the Federal Government change the conditions, then it will be bumped up to \$2,800.00 per megawatt. In a letter received from the Treasury Department there is also a possibility that they may handle the 100% PTC administratively instead of congressionally. This would generate an additional \$270,000.00 per year for the county and the school district.

County Manager Johnson states that he would like to thank Mr. Burpo for his foresight in bringing the PTC issue to the Commissions attention and helping the county negotiate the insertion of the provision that if the PTC is increased the PILT payment would also increase.

Chairman Schwebach asks if there is anyone else that would like to make a comment. **ACTION TAKEN: Chairman Schwebach** states that there being no further comments he makes a motion to close the public hearing for Ordinance 2020-04 authorizing the issuance and sale of Torrance County Taxable Industrial Revenue Bonds for the Clines Corners Wind Farm, LLC project, in the amount of \$470,000,000.00. **Commissioner McCall** seconds the motion. **MOTION CARRIED, PUBLIC HEARING CLOSED. ACTION TAKEN: Chairman Schwebach** make a motion to approve Ordinance 2020-04 authorizing the issuance and sale of Torrance County Taxable Industrial Revenue Bonds for the Clines Corners Wind Farm, LLC project, in the amount of \$470,000,000.00. **Commissioner McCall** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

11.) ADOPTION OF RESOLUTION

a.) **FINANCE:** Motion to approve budget increase for County Clerk, Election Fees. Resolution No. 2020-17

Jeremy Oliver states that the Finance Department is requesting approval from the Commission for a budget increase for the County Clerk's office for reimbursement for local election fees from the Secretary of State in the amount of \$27,048.00.

ACTION TAKEN: Chairman Schwebach makes a motion to approve Resolution 2020-17 Budget Increase. **Commissioner McCall** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

12.) APPROVALS

a.) **SHERIFF:** Motion to Approve PO over-expenditure

Stephanie Dunlap is requesting approval from the Commission for payment made to DT Automotive in the amount of \$38.00 for an overage to PO #34935 for vehicle maintenance. The original PO was in the amount of \$2,000.00 and was corrected to \$2,500.00 and when submitted for payment it was over the \$2,500.00 threshold according to the county policy. With the amount exceeding procurement policy this invoice requires the approval of the Commission for it to be paid.

ACTION TAKEN: Chairman Schwebach makes a motion to approve PO over-expenditure for the Sheriff's Department. **Commissioner McCall** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

b.) FIRE: Motion to approve submission of FEMA’s Staffing for Adequate Fire & Emergency Response (SAFER) grant.

Lester Gary, Fire Chief, states that this is a request for approval to submit an application for Staffing for Adequate Fire & Emergency Response (SAFER) grant. What this grant does is it directly funds fire departments to assist in increasing the number of firefighters to help communities to meet minimum standards and have 24-hour staffing.

The grant is a 3-year grant; the first 2 years the federal government pays 75%; the third year they will cover 65%, and by year four the total cost of salaries will be solely the county’s responsibility. Chief Gary states that the department will be able to fund this with current funds that are available. They will have to de-earmark their quarter-cent sales tax to fund this; therefore, it dropped the positions from 10 down to 6. This will always give the department 2 firefighters on 24 hours a day seven days a week with 24 hours on and 48 hours off.

Commissioner McCall asks Chief Gary to explain the quarter-cent de-earmarking.

Lester Gary states that the de-earmarking has been approved in the past. The reason for this is because the quarter-cent sales tax can only be used on supplies & equipment. The de-earmarking is approved so that the tax can be used for staffing.

Jeremy Oliver states that with the de-earmarking there are timelines. This obviously cannot be implemented on July 1st. We will need to go through an ordinance, and it will be brought to the Commission sometime in August. This needs to be sent to Tax & Rev by September so that the funds will be de-earmarked January 1, 2021.

County Manager Johnson states that this was approved by the legislature in the 2019 session and many counties have been struggling with how to use this. We can de-earmark about 4 or 5 items, but we decided to start with something simple such as the fire fund. The SAFER grant will help build a bridge and use existing funding. With the new IRB’s we will anticipate more funds and allow us to bring on additional firefighters.

Commissioner McCall asks if the plan to de-earmark is immediate.

Jeremy Oliver replies, yes. With the grant, the people would have to be hired in the fall. We would have to use other funds to cover the initial cost, then once it is de-earmarked, we can pay back those funds.

Commissioner McCall asks if in year 4 if there will be enough funds to cover the salaries.

Lester Gary replies, yes.

Commissioner McCall asks Chief Gary if taking those funds out of the equipment funds, cause him problems with the budget.

Lester Gary replies, no.

Chairman Schwebach asks what the time frame is with submitting the grant.

Lester Gary states that the grant submittal is on Thursday.

Cheryl Allen states that she does not remember the exact dates, but they are anticipating giving the award as early as July with funding available as early as September. First phase will be recruitment, and the funding will be available after the recruitment phase.

Chairman Schwebach states, as he understands, once this is de-earmarked the funds will cover the salaries after the 4 years, without the help of the grant, is that correct?

Lester Gary replies, yes.

Jeremy Oliver states that it will get de-earmarked. The ordinance needs to be brought to the Commission for approval, then sent to tax & rev, and at that point it will be de-earmarked.

Chairman Schwebach states that we are essentially taking money we have for equipment and moving it to personnel without an overall change to the budget, correct?

County Manager Johnson replies, yes, that is correct. After the de-earmarking we can pay for the 6 salaries. This grant provides a bridge for us to get there.

ACTION TAKEN: Chairman Schwebach makes a motion to approve submission of FEMA's Staffing for Adequate Fire & Emergency Response (SAFER) grant. Commissioner McCall seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

c.) **DWI:** Motion to approve amendment to Torrance County Teen Court Contract

Tracey Master states that the Commission has before them Contract FY 2020-DWI-01 Amendment 1 between Torrance county and Adrian Ortiz as the Teen Court Coordinator. Ms. Master states that she does have a floor substitute. After meeting with the County Attorney there was a need to clean up some of the language. Under scope of services, item L, obtain training through the National Safety Council as an "Alive at 25" instructor it continues to the end of FY2020. Under the Compensation, it states that the Contractor will be compensated an additional \$1,000.00 upon successful completion of the training. The final line states that it shall not exceed \$41,000.00 for FY2020.

Ms. Master is requesting approval for this amendment and once approved she will give the floor substitutes to Deputy County Manager Barela.

ACTION TAKEN: Chairman Schwebach makes a motion to approve amendment to Torrance County Teen Court Contract. Commissioner McCall seconds the motion upon what he has to hear from the County Attorney. John Butrick states that the changes are minor but important clarifications to insure the additional items that are being added to Mr. Ortiz's contract are

completed and only compensated if they are completed by the end of FY2020. No further discussion, all Commissioners in favor. **MOTION CARRIED**

d.) **DWI:** Motion to approve submission of the CDWI funding application to NMDOT

Tracey Master states that she is requesting approval to submit an application to NMDOT Traffic Safety Division for CDWI funding for FY21. The funds are in the amount of \$1,500.00 to be utilized for incentive/outreach materials to be distributed to the community. There is a floor substitute, and once approved the substitute will be given to Deputy County Manager Barela.

ACTION TAKEN: **Commissioner McCall** makes a motion to approve submission of the CDWI funding application to NMDOT. **Chairman Schwebach** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

e.) **FINANCE:** Motion to approve Interim Budget

This action item is the next step in the FY21 budget process. The proposed budget includes Commissioners' directives provided through the public hearing on April 22, 2020 and individual meetings with the Commissioners. County Manager Johnson is requesting approval at today's meeting as Mr. Oliver requires several days to enter the entire interim budget in the LGBS system for the state and into Triadic system for the county. More time is also required for someone else to review the entries for accuracy before the budget is submitted. The deadline for the Interim FY21 budget is June 1st, 2020 and the final budget is due by July 31st, 2020.

Jeremy Oliver states that the Commission has before them the Interim Budget and would like to go over some questions that Commissioner Sanchez has.

Mr. Oliver states that Commissioner Sanchez asked about the PILT for Juvenile Justice and Domestic Violence. Mr. Oliver states that there is no PILT funds going into those funds. At one point the PILT funds were going into those but the departments name has not been changed.

Another question was concerning the incentive fee in the Assessor's office. It was being paid out of the reappraisal funds but is currently being proposed to move into the General Fund as part of their increases.

County Manager Johnson states that he handed out the statute that allows for the incentive pay for the appraisers and the Assessor. The county has a certain amount of money that can be used depending on the education level or certification levels.

There is some discussion on the incentive pay and its involvement in the budget through the years.

Mr. Oliver goes on to present the budgets from the various departments and a long discussion on what the PILT should be used and not used for.

There is discussion on buildings and raises for the county employees.

ACTION TAKEN: Chairman Schwebach makes a motion to approve the FY21 Interim Budget. Commissioner McCall seconds the motion. County Manager Johnson states that for clarification that the motion is to approve staff recommendations, with the addition of 2 positions starting no sooner than January as recommended by staff. No further discussion, all Commissioners in favor.
MOTION CARRIED

f.) MANAGER: Motion to Approve the Torrance County Judicial Complex security fencing project. Funds to be appropriated from the Torrance County Capital Outlay Fund.

Nick Sedillo states that this item has been tossed around for many years and has been on the Commissions radar. It has been on the ICIP list and off again several times and was placed on the top 10 this year. This request was placed on the top of the list for the safety committee. Mr. Sedillo has met with County Manager Johnson to discuss the construction of this project. It was suggested Mr. Sedillo bring this before the Commission for approval.

There was an incident at the judicial complex where the family of the individual in custody approached the deputies trying to intervene during the transport. The judges have some reluctance and are concerned this may happen to them when they enter or exit the complex.

Sheriff Rivera states that the judges constantly complain about their security. In 2018 there was also an escapee who was captured within 24 hours. Had there been security fencing at the complex this escape could have been prevented.

Sheriff Rivera states that the security fencing will also help with the safety of their vehicles and equipment that are onsite as well.

Nick Sedillo states that he has tried to be conservative with his project. He is proposing the construction of a 450' of 6' high galvanized 9 gauge chain link fence, 3 rows of barbed wire, 1-20' Cantilever gate with Door King (9150) gate operator, 1-18' double drive gate and 1-4' gate with panic bar.

Mr. Sedillo reached out to the 5 contractors that are on State Procurement. Three of the contractors responded with a quote and 1 of them came to the site. The cost for the project will be \$24,656.99 for the fencing and \$2,200.00 for the electrician for a total amount of \$26,856.99. There is money in the current budget, and it will come from line item 621-96-2612 (Capital Outlay GRT-Land & Land Improvements). Although the companies are on state contract the three quotes were not required, but Mr. Sedillo opted to obtain 3 quotes anyway. He is requesting the Commissions approval for this project.

County Manager Johnson states that staff recommends approval. One of the requests was to have a segregated area between the judges and the sheriff's area because of the transport of prisoners. That will be in phase 2 because of the double gate for future access. A road needs to be built so that the deputies can use that area to load and unload prisoners that is totally segregated from the judge's entrance. The expansion will be brought to Commission later once more funds become available.

Commissioner McCall asks if phase 2 will just be a fenced off area where only the judges will park.

County Manager Johnson replies, yes, that is correct.

Nick Sedillo states that this area will only allow access to the judges and no one else.

ACTION TAKEN: Commissioner McCall makes a motion to approve Torrance County Judicial Complex security fencing project. Funds to be appropriated from the Torrance County Capital Outlay Fund. Chairman Schwebach seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

13.) Discussion

a.) **COMMISSION:** EMWT Update (Commissioner Sanchez)

Commissioner Sanchez states that he requested this to be on the agenda because Jason Quintana, representative from EMWT, has some information for the Commission.

Jason Quintana states that one of the things that was brought up at the meeting was the purchase of Sunset Estates which the board is looking into getting a loan to acquire the property. Some questions were asked by some of the board members concerning the amount and quality of the water, the amount of water rights that come along with the property, and the overall cost.

Another question that was asked that if the board enters this loan, who would be responsible for paying the loan. That will be investigated. There is no clarity if they are able to enter into a loan.

There was also some discussion on purchasing watering tanks, but upon speaking with another board member, there is a better system that would return to the aquifer.

Chairman Schwebach states that it has been 4 months since he sat in on that meeting. In general, with them purchasing a water system, they are currently a paper company. Upon purchasing the water system, they will become a brick & mortar. This will enable them to apply for any type of grants or assistance. Upon his understanding it was never the intent for the counties or municipalities to be responsible for any loans entered into by EMWT. This will need to be looked into and see if the county is responsible in any way.

County Manager Johnson states that it will be investigated. There is some discussion between County Manager Johnson and Chairman Schwebach concerning the loan and even if they can enter a loan being that they do not have funds for that. **NO ACTION TAKEN, DISCUSSION ONLY.**

14.) EXECUTIVE SESSION

There was no Executive Session scheduled for this meeting.

15.) Announcement of the next Board of County Commissioners Meeting.

Chairman Schwebach states that the next commission meeting will be held on May 27th, 2020 at 9:00 am at the Torrance County Administrative Building.

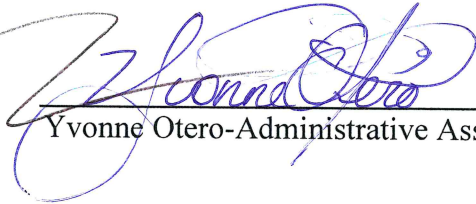
ADJOURN

ACTION TAKEN: Chairman Schwebach makes a motion to adjourn the May 13th, 2020 Commission Meeting. Commissioner Sanchez seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

MEETING ADJOURNED AT 11:36 AM



Chairman Ryan Schwebach



Yvonne Otero-Administrative Assistant

5.27.2020
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.