

FINAL

Torrance County Board of Commissioners

Regular Commission Meeting

October 13, 2021

9:00 AM

Commissioners Present: **RYAN SCHWEBACH – CHAIR**
 KEVIN MCCALL – VICE CHAIR
 LEROY CANDELARIA – MEMBER

Others Present:

JANICE BARELA – COUNTY MANAGER
JUAN TORRES- DEPUTY COUNTY MANAGER
JEREMY OLIVER – FINANCE DIRECTOR
JOHN BUTRICK – COUNTY ATTORNEY
YVONNE OTERO – COUNTY CLERK
VALERIE SMITH – ADMINISTRATIVE ASSISTANT

1. CALL MEETING TO ORDER

Chairman Schwebach: Called meeting to order at 9:05 A.M.

2. PLEDGE

Chairman Schwebach: Led the Pledge of Allegiance.

INVOCATION:

Commissioner Candelaria: Led the invocation.

3. CHANGES TO THE AGENDA

Madam County Manager Janice Barela: There was a typo on the agenda. Items 5-A and 5-B should have stated “Road Department” as the topic, instead of “Operations”.

Item 11-A should say \$3.5 Billion, not \$3,500,000.

Requested Item 12-C be moved behind Item 11-A because the presenter Lyndsi Donner needed to leave early. Also requested Item 13-A be moved in front of Item 12-D.

4. PROCLAMATIONS

None currently.

5. CERTIFICATES AND AWARDS

**A. OPERATIONS: Announcement of Employee Service Year
Pin: Jozy Cosby (2).**

Leonard Lujan, Road Department: Presented the Employee Service Year Pin (2) to Jozy Cosby.

**B. OPERATIONS: Announcement of Employee Service Year
Pin: Isaiah Sanchez (2).**

Leonard Lujan, Road Department: Presented the Employee Service Year Pin (2) to Isaiah Sanchez.

6. BOARD AND COMMITTEE APPOINTMENT

None currently.

7. PUBLIC COMMENT AND COMMUNICATIONS

Yvonne Otero, County Clerk: Updates on the Election were presented, hereto attached.

Chairman Ryan Schwebach: Asked about the cost to the County and wants numbers on how much it costs to get a ballot from the permanent election boxes every time a ballot is cast. Wanted to get numbers on how much the cost of election boxes cost taxpayers.

Charlene Guffey, Torrance County Resident: Thanked Tracey Master for her work on the Suicide Prevention 5k and Car Show.

She also thanked the Chief of the Fire Department, as there have been sever fires in Indian Hills.

She thanked the Road Department for their work on McNabb Road and said that it looks great, and the drive is smooth.

Fire Chief Don Dirks: Updated the County on the Draft of the MOU Moriarty. This MOU covers EMS and Fire. There has been a high volume of medical calls, mostly with lung and breathing issues, in the middle aged.

8. APPROVAL OF MINUTES

A. COMMISSION: Motion to approve the September 8, 2021, Torrance County Commission Minutes.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve the September 8, 2021, Torrance County Commission Minutes.

Commissioner McCall: Seconded the motion.

There was no discussion.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

9. APPROVAL OF CONSENT AGENDA

A. FINANCE: Motion to approve Payables.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Payables.

Commissioner McCall: Seconded the motion.

There was no discussion.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

10. ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

A. PLANNING AND ZONING: Motion to approve amendment to Ordinance 94-12 Solid Waste Ordinance. Public Hearing and Final Action.

ACTION TAKEN:

Chairman Schwebach: Entered Public Hearing at 9:45 am. Made a motion to approve amendment to Ordinance 94-12 Solid Waste Ordinance. Public Hearing and Final Action.

Commissioner McCall: Seconded the motion.

PLEASE SEE AMENDED TRANSCRIPT FOR FULL PUBLIC HEARING QUESTIONS AND TESTIMONY.

ROLL CALL VOTE:

Commissioner Candelaria: Yes ; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

Chairman Schwebach: Made a motion to close Public Hearing and Testimony at 10:59, without action. Action will be taken at the next Public Commission meeting, November 27, 2021, at 9 AM.

Commissioner McCall: Seconded the motion.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

Regular Commission Session Recalled at 11:03 a.m.

Chairman Schwebach: There was no action on Item 10-A.

11. ADOPTION OF RESOLUTION:

A. MANAGER: Motion to approve Resolution No. 2021-37, Pattern Inducement Resolution, declaring intent of Torrance County to issue taxable industrial revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$3,500,000*, in connection with a proposed project for the generation of wind energy to be located within the boundaries of the County, but outside the boundaries of any incorporated municipality, for the purpose of inducing Pattern SC Holdings LLC, a Delaware Limited Liability Company (or any affiliated entity thereof and their respective successors, assigns and/or their affiliates) to develop the project site and acquire, construct, equip and install the project being developed in one or more phases. *TYPO ON AGENDA SAID “\$3,500,000” INSTEAD OF \$3.5 BILLION. ADDRESSED IN “ITEM 3. CHANGES TO THE AGENDA.”

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-37 Pattern Inducement Resolution, declaring intent of Torrance County to issue taxable industrial revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$3.5 Billion, in connection with a proposed project for the generation of wind energy to be located within the boundaries of the County, but outside the boundaries of any incorporated municipality, for the purpose of inducing Pattern SC Holdings LLC, a Delaware Limited Liability Company (or any affiliated entity thereof and their respective successors, assigns and/or their affiliates) to develop the project site and acquire, construct, equip and install the project being developed in one or more phases.

Commissioner McCall: Seconded the motion.

Jeremy Turner & Jill Sweeney, Pattern Energy: Presented the Torrance County IRB Inducement Resolution, (See Commission Packet.)

Commissioner McCall: Asked if there is work on language to give landowners coverage and protections.

Jeremy Turner: Answered that there is work on decommissioning language.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

NEXT ITEM IN AGENDA WAS 12-C DUE TO TIME CONSTRAINTS.

B. FIRE: Motion to approve Resolution No. 2021-38, intent to adopt Fire Protection Personnel Overtime Exemption.

ACTION TAKEN:

Chairman Schwebach: Motion to approve Resolution No.2021-38, intent to adopt Fire Protection Personnel Overtime Exemption.

Commissioner McCall: Seconded the motion.

Fire Chief Don Dirks and Kristin Oliver, Human Resources Director: Presented Resolution No. 2021-38. Discussion included the fact that the Fire Department have just switched to 48-hour shifts, and they are currently making approximately 106 hours, which is almost 30 hours of overtime, per pay period. There was a visit from the Public Regulation Commission (PRC.) They made the Fire Chief aware that with the Fair Labor Standards Act, the employees can work up to 56 hours and get paid regular time, without getting overtime pay. They are working more, in addition to the needs of the Fire Department, because Superior Ambulance Service is not living up to their MOU with Torrance County. Torrance has been left responsible for all medical calls within Torrance County for the past 8 of 14 days. Superior has been pulling out of their contract.

Chairman Schwebach: Asked if the employees if they have been informed and are okay with this.

Chief Dirks: Answered that since they now work 48-hour shifts, and can sleep in the downtime, that they are okay with not getting overtime until after 56 hours.

Chairman Schwebach: Asked if this was triggered by the visit by the PRC.

Madam County Manager Barela: Answered in the affirmative.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

C. FINANCE: Motion to approve Resolution No. 2021-39, to increase the Sheriff's Budget due to a Court-Mandated Court Seizure Sale.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No.2021-39, to increase the Sheriff's Budget due to a Court-Mandated Court Seizure Sale.

Commissioner Candelaria: Seconded the motion.

Jeremy Oliver, Finance Director: This is a budget increase request for the Court Seizure Sale of items. The sale was held two Saturdays previous. This property was seized by Court Order to go towards fines that someone owes. This is an increase to the budget to pay the funds to the court. The other item was the MOU with the town of Estancia. The Sheriff's fees that were collected funds will go into the Sheriff's budget, to buy new units.

Chairman Schwebach: Asked for clarification on the MOU and money collected.

Jeremy Oliver: This was assigned in the end of August, the sheriff providing services to the town of Estancia.

Commissioner McCall: The County is not entitled to any of the funds?

Jeremy Oliver: It is an unfunded mandate with the Court that they County sells the items and gives the funds to the Court. It is the first one that has happened since Mr. Oliver has worked for Torrance County.

Madam County Manager Barela: Another unfunded part was the auctioneer. This was not taken out of the proceeds.

Jeremy Oliver: This money was taken directly from the Sheriff's budget. The auctioneer cost \$600.

Commissioner McCall: Wants the auctioneer's price investigated, and to investigate the statute to see if it is an obligation of the County.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

D. FINANCE: Motion to approve Resolution No. 2021-40, Disposition of Vehicles.

ACTION TAKEN:

Chairman Schwebach: Motion to approve Resolution No. 2021- 40, Disposition of Vehicles.

Commissioner McCall: Seconded the motion.

Jeremy Oliver: Presented a packet with information and photos of Road Department vehicles that need to be auctioned or scrapped. Wants to see if items 9 & 10 vehicles have any parts that any other departments may need. Items 1-8 will be scrapped, as they are missing too much to make it worth the time. If items 9 & 10 are not wanted, they can be auctioned off at a silent auction.

Leonard Lujan, Road Department: Mr. Lujan was called to the podium. He told the Commission that there are no spare parts on any of the vehicles that are needed for the Road Department. The Road Department is trying to clean up the Department.

Chairman Schwebach: Told Mr. Lujan that there should be parts taken off in case they can be used, and then they can scrap them, give them to other departments, or auction off the rest.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

E. ROAD: Motion to approve Resolution No. 2021-41, to accept appropriation of \$300,000 for McNabb Road project and authorizing Janice Barela, County Manager, or her successor to act as signatory.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-41, to accept appropriation of \$300,000 for McNabb Road project and authorizing Janice Barela, County Manager, or her successor, to act as signatory.

Commissioner McCall: Seconded the motion.

Leonard Lujan, Road Department: This resolution is the Capital Outlay Funding, and Mr. Lujan needs the resolution signed to finish another mile of McNabb Road.

Chairman Schwebach: Asked when Mr. Lujan thinks that he will be starting to work on the next mile.

Leonard Lujan, Road Department: Answered that he will be starting as soon as the Commission approves the spending.

Madam County Manager Barela: They need to submit a Notice of Obligation, once they get a detailed Scope of Work, they will submit it to the Finance Authority, and wait for the go-ahead. Once that is received, they may begin the project.

Leonard Lujan: Explained that the money is for next year's projects. Explained that this money is for mile 2 of McNabb, and that they will be asking for miles 3 and 4 later.

Jeremy Oliver: Explained that Mile 1 of McNabb Road was paid for by the County. Mile 2 was a State Capital Outlay project, Mile 3 is a State Capital Outlay project that can't be spent until July of 2022, and Mile 4 can be approved anytime between now and the next budget cycle.

Chairman Schwebach: Asked Mr. Lujan to contact suppliers and have everything delivered at once, if possible.

Discussion continued about the timing of projects.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach**: Yes; **Commissioner McCall**: Yes.

MOTION CARRIES

F. ROAD: Motion to approve Resolution No. 2021-42, to accept agreement with New Mexico Department of Transportation (NMDOT) through the Transportation Fund Program to complete the Riley Road project (Total Project Cost: \$2,346,031, NMDOT's Share: \$2,228,729.45, County's 5% matching share: \$117,301.55).

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-42, to accept agreement with New Mexico Department of Transportation (NMDOT) through the Transportation Fund Program to complete the Riley Road project (Total Project Cost: \$2,346,031, NMDOT's Share: \$2,228,729.45, County's 5% matching share: \$117,301.55.)

Commissioner McCall: Seconded the motion.

Leonard Lujan, Road Department: This is for Riley Road, it needs to be approved so that the 6 miles can begin. None of the 6 miles has been laid yet.

John Butrick, County Attorney: As part of the agreement, the NM DOT is covered under our insurance. In case something goes wrong, they are additionally insured on our policy.

Commissioner McCall: Asked if this was just while they are doing construction.

John Butrick: Does not recall specifics of the plan.

Chairman Schwebach: Asked what the insurance will cost.

Madam County Manager Barela: The insurance premiums do not go up, but the deductible would change.

Leonard Lujan: They would not be doing the work; the County would most likely go through a contractor that has been used before.

John Butrick: Found the correct passage from the Transportation Project Fund Grants Agreement and read it to the Commission. He explained that the contractors would be covered under the agreement, though not necessarily indemnified.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

G. ANIMAL SERVICES: Motion to approve Resolution No. 2021-43, to accept appropriation of \$25,000 for County Animal Shelter project and authorizing Janice Barela, County Manager, or her successor to act as signatory.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-43, to accept appropriation of \$25,000 for County Animal Shelter project and authorizing Janice Barela, County Manager, or her successor to act as signatory.

Commissioner McCall: Seconded the motion.

Cyndi Sullivan, Animal Services: Thanked Cheryl Allen, Grants Coordinator for her help getting grants for Animal Services. The Resolution she presented was to make a cat area, like the new foyer but smaller. Asking to buy portable, non-permanent cat play areas so they can be moved when the new building is built.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

H. DISPATCH: Motion to approve Resolution No. 2021-44, to accept appropriation of \$75,500 to plan, design, construct, and equip building security and entry control systems for the 911 dispatch center in Torrance County, and authorizing Janice Barela, County Manager, or her successor to act as signatory.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-44, to accept appropriation of \$75,500 to plan, design, construct, and equip building security and entry control systems for the 911 dispatch center in Torrance County,

and authorizing Janice Barela, County Manager, or her successor to act as signatory.

Commissioner McCall: Seconded the motion.

Cheryl Allen, Grants Manager: Christine Snow was not available, so she asked Mrs. Allen to present the Resolution. This is Capital Outlay funding awarded to the County to plan, design, construct, and equip building security and entry control systems for the 911 dispatch center in Torrance County. She wants to have the Resolution signed to begin the process.

Commissioner McCall: Asked if this has been planned yet.

Cheryl Allen, Grants Manager: Answered that most of a plan had already been drafted when the estimate was done. It is almost complete. She just needs new quotations.

Commissioner McCall: Explained that he would like Nick Sedillo and the Sheriff's Office part of the planning process, so that there is more accountability with the amount of money being spent.

Chairman Schwebach: At the very least Nick Sedillo should be involved because he understands security.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; **Chairman Schwebach:** Yes; **Commissioner McCall:** Yes.

MOTION PASSED.

I. OPERATIONS MANAGER: Motion to approve Resolution No. 2021-45, to accept appropriation of \$700,000 for County Fairgrounds project, and authorizing Janice Barela, County Manager, or her successor, to act as signatory.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-45, to accept appropriation of \$700,000 for County Fairgrounds project, and authorizing Janice Barela, County Manager, or her successor to act as signatory.

Commissioner McCall: Seconded the motion.

Nick Sedillo, Operations Manager: Presented the Resolution. Believes everyone is on the same page as far as where everything needs to go.

Chairman Schwebach: In discussion, we will be discussing marching orders.

Madam County Manager Barela: On the next agenda, there will be a discussion on the next orders and steps in this project.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

J. OPERATIONS MANAGER: Motion to approve Resolution No. 2021-46, to accept appropriation of \$100,000 for County Administration Building project, and authorizing Janice Barela, County Manager, or her successor to act as signatory.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution No. 2021-46, to accept appropriation of \$100,000 for County Administration Building project, and authorizing Janice Barela, County Manager, or her successor to act as signatory.

Commissioner McCall: Seconded the motion.

Nick Sedillo, Operations Manager: Has met twice with the architect and had them provide an updated needs assessment. The ICIP committee has been conservative with what they need, but he believes that the project will be a great benefit to the employees and constituents.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

12. APPROVALS

A. OPERATIONS MANAGER: Motion to approve the restructure of the Road Department Mechanic/Equipment Operator position to an Operations/Road Department shared Facilities Maintenance/Fleet Technician position with the agreed upon salary, along with a supervisory pay increase for the Maintenance Foreman.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve the Restructure of the Road Department mechanic/equipment Operator position to an Operations/Road Department shared Facilities Maintenance/Fleet Technician position with the agreed upon salary, along with a supervisory pay increase for the Maintenance Foreman.

Commissioner McCall: Seconded the motion.

Madam County Manager Barela: Asked for the Commission to look at each point separately, instead of approving both together.

Nick Sedillo, Operations Manager: Leonard is having difficulty filling the mechanic's position, so Mr. Sedillo, Mrs. Kristin Oliver, HR Director; Madam County Manager Barela and Mr. Leonard Lujan decided together to have one shared mechanic between the two departments. This would allow another person to help Stetson with his workload and have someone help with minor mechanical issues at the road department. This person would be more of a fleet technician, doing routine and some small special maintenance on the vehicles. There would be an ad placed and a new employee brought on. This would save the County roughly \$3,000.

Chairman Schwebach: Asked how this would fit with the maintenance needs in the Road Department.

Commissioner McCall: Asked if the position already can't be filled, how it will be filled if the scope is broadened.

Leonard Lujan, Road Department: Nick and himself have been speaking about this position for years being broadened. They cannot get a mechanic because all the big fixes go to the auto shop. They need someone for the Road Department on a smaller scale than what Nick Sedillo needs currently.

Nick Sedillo, Operations Manager: Has been speaking about getting a Fleet Services Department going for a long time. Things like oil changes and regular maintenance would be done by a Fleet Services Department.

Chairman Schwebach: There is a lot that he wants to discuss, so he is ready to vote this motion down. He would like to put more thought into it.

Commissioner Candelaria: Likes the idea of having a Fleet Services Department so that the different departments don't have to go to a shop and sit and wait while their vehicle is worked on. It would save time for the other departments. Also believes the cost could be brought down on what is charged for the work.

Commissioner McCall: Sees the need for giving Nick more help. Concerned about the sharing. Leaning towards giving another employee to Nick's Department.

Discussion Continued on where a new employee would go.

Chairman Schwebach: Directed Madam County Manager Barela to gather more info on what the Road Department and the Operations Department needs and come back to it at the next meeting.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: No; Commissioner McCall: No.

MOTION FAILS.

B. EMERGENCY MANAGEMENT: Motion to approve MOU between New Mexico Department of Health and Torrance County for \$30,000 grant to fund collaboration on preparedness, mitigation, and preventative measures.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve MOU between New Mexico Department of Health and Torrance County for \$30,000 grant to fund collaboration on preparedness, mitigation, and preventative measures.

Commissioner McCall: Seconded the motion.

Madam County Manager Barela: Matt Propp was supposed to present but felt under the weather, so Cheryl Allen, Grants Manager, presented.

Cheryl Allen, Grants Manager: The grants committee reviewed and approved this MOU. In the last fiscal year with the COVID pandemic, The Department of Health and Torrance County entered into an agreement regarding the vaccination and testing sites, without any funding. Mr. Propp has continued the discussion with them about continuing the vaccination sites, etc. They were provided a new agreement that was now funded. There are 5 tasks that need to be completed to receive the funds.

Madam County Manager Barela: Mr. Propp let her know that they are housing the PPE for the schools and County.

Cheryl Allen, Grants Manager: They want a one-page protocol. He has assured Mrs. Allen that he can complete this within his workload.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

C. GRANTS: Motion to approve Professional Services Contract between Torrance County and Lyndsi Donner to provide Girls Circle Services in the Estancia Valley.

ACTION TAKEN:

Chairman Schwebach: Made a motion to provide Professional Services Contract between Torrance County and Lyndsi Donner to provide Girls Circle Services in the Estancia Valley

Commissioner McCall: Seconded the motion.

Noah Sedillo, Procurement Manager; and Lyndsi Donner, Girls Circle:

Presented the motion to provide the Professional Services Contract between Torrance County and Lyndsi Donner to Provide the Girl's Circle Services in the Estancia Valley. Lyndsi applied and it triggered an IFP and gave her a contract for her award.

Cheryl Allen, Grants Coordinator: It is run by The One Circle Foundation. They are internationally acclaimed. They are bringing their girls circle to the Estancia Valley Classical Academy in addition to the services for boys and girls in Estancia Municipal Schools. This approves facilitators, and to hopefully expand to Mountainair. Lyndsi Donner was the only person who applied but is the best candidate regardless.

Chairman Schwebach: Asked what the cost to the County is.

Cheryl Allen: Girls Circle is \$29,700, the grant is matched in kind.

Commissioner McCall: Asked how often the program is.

Cheryl Allen: It is a once-a-week program on Fridays. It gives kids skills to deal with life without getting involved in bad things.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

BREAK FROM 11:34 to 11:46

NEXT ITEM IS 11-B.

D. FIRE: Motion to approve changing the part-time EMT/Firefighter position to full-time.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve changing the part-time EMT/Firefighter position to full-time.

Commissioner Candelaria: Seconded the motion.

Madam County Manager Barela: Used her power under the Torrance County Personnel Ordinance to move Julie Fill from a part-time EMT/Firefighter to a full-time EMT/Firefighter position. This leaves the part-time position vacant.

Fire Chief Don Dirks: Previously was going to ask that the two part-time positions he had be made into full-time positions. At the time only one was made full-time. Now with the onset of the 48-hour shifts, Ms. Fill is good with being a full-time employee.

Chairman Schwebach: Asked how this fit with the budget.

Jeremy Oliver: Change would cost about \$26,000 for the full year. There is enough funding with rollover and vacancy to cover this in the budget. There would be no more part-time positions.

Discussion included levels of EMT and Paramedics, which are Basic, or BLS at the lowest, Intermediate, or ILS, and Advanced, or ALS, which is also Paramedic.

Don Dirks: Superior has been sending many Basic level EMTs. This is not what is supposed to happen. Superior's Ambulance Director Chris Archuleta has threatened to leave.

Madam County Manager Barela: Mr. Archuleta has contacted Madam Barela and wants to set up a meeting to discuss the current MOU.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

E. FIRE: Motion to hire an Assistant Fire/EMS Chief, a second EMS Lieutenant and five (5) additional EMT/Firefighters for 24/7 EMS coverage.

ACTION TAKEN:

Chairman Schwebach: Made a motion to hire an Assistant Fire/EMS Chief, a second EMS Lieutenant and five (5) additional EMT/Firefighters for 24/7 EMS coverage.

Chairman Schwebach: Retracted motion to hear discussion first.

Jeremy Oliver, Finance Director: Presented "Torrance County Fire Department Funding" Power Point (See Commission Packet for full presentation.)

Fire Chief Don Dirks: Superior is only transporting about 48% of the time. They are not carrying more people in because they are obtaining refusals, and then two hours later we get toned out to the same house and must transport the patient. They talk the patient into not being transported. Their contract is written to transport, but they don't want to. They are failing out here. They have issues and their management does not do anything. When told that Torrance County would be transporting and billing, their attitude was that "if they can't make money here, why be here?"

Chairman Schwebach: Reiterated what Mr. Oliver had presented, that if Superior is out, Torrance County takes over the transporting and billing.

Jeremy Oliver: It is paid for through the last budget the current \$250,000, and there is the potential of billing. The only caveat is that until billing can begin, which means hiring people, there would be a portion that needs to be covered. He does not have a guess as to what that would look like, it would be somewhere less than the \$1.35 million. Maybe \$500,000 at most since we are halfway through the year.

Discussion continued about the salaries and financing and included topics such as the minimum wage increase. Discussed bringing in a PRN, because they are not paid benefits or retirement. There are two units needed, but only one available.

Fire Chief Don Dirks: After the PRC visit, Estancia will be dropping their PRC and only transporting life and limb. Mountainair will keep their PRC.

Chairman Schwebach: Made a motion to hire two full-time employees, basic to intermediate level, to the Fire Department.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

F. FIRE: Motion to approve amendment to Nominal Fee/Pay Per Call Program to reflect the change of paying volunteers \$25 per call in addition to the \$50 shift duty to augment career staff.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve amendment to Nominal Fee/Pay Per Call Program to reflect the change of paying volunteers \$25 per call in addition to the \$50 shift duty to augment career staff.

Commissioner McCall: Seconded the motion.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION PASSED.

G. FIRE: Motion to approve Billing and Reimbursement Services Agreement between Torrance County and Quick Med Claims (QMC).

Chairman Schwebach: Asked to hear discussion before making a motion.

Fire Chief Don Dirks:

Madam County Manager Barela: This is not a professional service agreement, but a General Service Agreement.

ACTION TAKEN:

Commissioner McCall: Made a motion to defer Item 12-G.

Commissioner Candelaria: Seconded the motion.

ROLL CALL VOTE:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

Item Deferred.

13. DISCUSSION

A. MANAGER: Presentation by Robert Burpo, First American Financial Advisors, Inc., on funding options for the design, development, and construction of a new County Administrative Building.

Chairman Schwebach: Introduced Mr. Robert Burpo.

Robert Burpo, First American Financial Advisors, Inc: Showed a presentation for the discussion item via PowerPoint. (See Commission Packet for the full PowerPoint presentation.)

Discussion between **Mr. Burpo, Chairman Schwebach, Commissioner McCall, Commissioner Candelaria, Attorney John Butrick,** Madam County Manager Janice Barela, and Deputy County Manager Juan Torres included information about PILT and the other Counties, interest rates, CARE money, and timelines for the project.

No action was taken, Discussion Only.

NEXT ITEM IS 12-D.

BREAK FOR LUNCH AT APPROXIMATELY 1:15, RESUME MEETING 1:37.

B. MANAGER: SunZia Transmission Update – John Ryan.

Chairman Schwebach: Introduced Mr. John Ryan of SunZia.

John Ryan, SunZia: Presented the SunZia Transmission update presentation (See Commission Packet for Complete PowerPoint presentation.)

No action was taken, Discussion Only.

C. MANAGER’S REPORT: No update.

D. COMMISSIONER’S REPORTS

1) Commissioner McCall, District 1: No Update.

2) Commissioner Schwebach, District. No Update.

3) Commissioner Candelaria, District 3: Updated the County on the fact that Commissioner Candelaria traveled the roads of the County and found that there was a couch blocking a road. He let the Road Department know, and they promptly took care of it. The Commissioner thanked the Road Department.

14. EXECUTIVE SESSION

A. MANAGER: Purchase of the County Fairgrounds, closed pursuant to NMSA 1978, Section 10-15-1(H)(8).

(See Item B, Items A & B announced at the same time)

B. MANAGER: Discuss personnel issues (County Attorney), closed pursuant to NMSA 1978, Section 10-15-1(H)(2).

ACTION TAKEN:

Chairman Schwebach: Made a motion to enter executive session to discuss Item 14-A., the Purchase of the County Fairgrounds, closed pursuant to **NMSA 1978**, Section 10-15-1(H)(7), and Item 14-B., to discuss personnel issues (County Attorney), closed pursuant to NMSA 1978, Section 10-15-1(H)(2).

Commissioner McCall: Seconded the Motion.

Roll Call Vote:

Commissioner McCall: Yes; Chairman Schwebach: Yes; Commissioner Candelaria: Yes.

MOTION APPROVED.

Enter executive session at approximately 3:30 P.M.

ACTION TAKEN:

Chairman Schwebach: Made a motion to reconvene Regular Session.

Commissioner McCall: Seconded the motion.

Roll Call Vote: Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

MOTION APPROVED.

Regular Session reconvened at approximately 4:49 P.M.

15. Announcement of the next Board of County Commissioners Meeting: October 27, 2021, at 9:00 AM.

16. SIGNING OF OFFICIAL DOCUMENTS

17. ADJOURN

ACTION TAKEN:

Chairman Schwebach: Made a motion to adjourn the meeting at approximately 4:51 P.M.

Commissioner McCall: Seconded the motion.

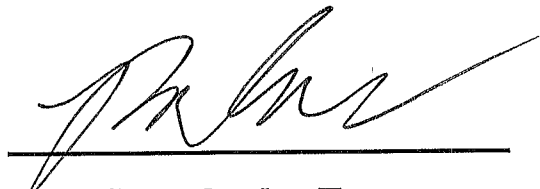
Roll Call Vote:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Yes.

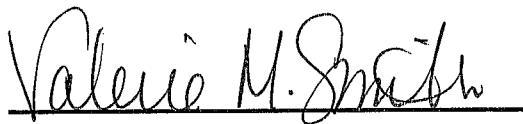
MOTION PASSED.

MEETING ADJOURNED AT: 4:52 P.M.

Signed By:



**Ryan Schwebach – Torrance
County Board of Commission
Chairman**



**Valerie Smith – Admin Assistant,
Torrance County Clerk’s Office**

Date: 10/27/2021

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.



For Public
Comment

Good Morning Commissioners Madam County Manager Barela, Staff and all those present in the audience today. I am Yvonne Otero, Torrance County Clerk.

Just a quick update on voting for the 2021 Regular Local Election. Early voting here at the County Admin Building started last Tuesday and the Hours are Monday thru Thursday from 7:30 am to 5:30 pm. And will be open one Friday October 29th, 2021 from 7:30-5:30, and Saturday October 30th, 2021 from 10 am to 6 pm. This will be the last day to vote early in person. As if today we have had 42 voters vote in person, and 29 people have requested absentee ballots, none have been returned yet.

Absentee voting also began at the same time. Anyone wishing to receive a ballot via the US Postal service can contact my bureau of elections at (505) 544-4362 and the staff can send you that application to receive your ballot. You can also come to the clerks office and pick one up or if you go to www.nmVote.org you can make your request online. The last day to request the ballot will be Thursday October 28th, 2021. All absentee ballots need to be back at my office by 7:00 pm November 2, 2021.

Also if one does not wish to mail in their ballot I have two permanent ballot drop boxes set up in the county one is at the Mountainair Town Hall and the other at the Moriarty City hall, which is across the street from the Civic Center. And of course the voter may drop off their voted absentee ballot at my office or at the polling location on election day.

The boxes are totally secure, I monitor them from my office and I am alerted once there is tampering or if someone has drop off a ballot and the ballot will be picked up at 5 PM that day. The boxes are totally secure from fire, water, and damage. I am alerted to any motion and the boxes have cameras that are on 24/7.

The Alternate early voting site will open this Saturday October 16th 2021 and will be open from 10 am to 6 pm. This site will be open Tuesday thru Saturday from 10 am to 6 pm and the last day to vote here will be Saturday October 30th 2021.

Also Same Day Voter Registration is available for those that are not registered to vote at my office and will also be available at the alternate site and will close at 6 pm on October 30th.

October 13, 2021

Torrance County Commission Meeting

Public Hearing Transcript for the Public Hearing and Testimony on Item 10-A: ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE, A. Motion to approve amendment to Ordinance 94-12 Solid Waste Ordinance. Public Hearing and Final Action.

Those Present:

Torrance County Commission Members:

Ryan Schwebach- Chairman

Kevin McCall- Vice Chair

Leroy Candelaria- Commissioner

Torrance County Employees:

Janice Barela- Torrance County Manager

Juan Torres - Assistant County Manager

John Butrick- County Attorney

Steve Guetschow- Planning and Zoning Director

Yvonne Otero- County Clerk

Valerie Smith- Administrative Assistant

Others Present:

Charlene Guffey- Torrance County Resident

This transcript is not verbatim. There were portions where amendments were necessary for continuity.

NOTE* Miss Charlene Guffey refers multiple times to different documents. The documents she is referring to are the Ordinance 90-4, the Resolution that is part of Ordinance 90-4, the "Red Line Copy", which is a copy of the Ordinance 94-12 appended to this transcript, the "Black Line Copy", which is the updated version of the Red Line Copy, and possibly other amendments.

CHAIRMAN SCHWEBACH: Let's enter the Public Hearing for the motion to approve amendment to ordinance 94-12, the Solid Waste Ordinance.

STEVE GUETSCHOW: Mr. Chair, members. Thank you.

JOHN BUTRICK, COUNTY ATTORNEY: The way that this will go is that I will swear Mr. Guetschow in right now. After that, members of the audience will have an opportunity to ask questions of Mr. Guetschow. This will not be the time where members of the audience or members on Zoom will provide their own testimony but just provide questions to Mr. Guetschow. You will give and get an opportunity to be sworn under oath and then provide your testimony. At that point, after all testimony has been given, it will be turned over to the to the Commission and it will be up to them to decide [to approve the Amendment.] So, at this point I will swear in Mr. Guetschow. Mr. Guetschow, do you solemnly swear or affirm that the testimony you're about to give is the whole truth and nothing but the truth, so help you God?

STEVE GUETSCHOW: I do.

JOHN BUTRICK: Thank you.

STEVE GUETSCHOW, PLANNING AND ZONING: Commissioners, before you as it was last month is the same draft. The only difference was changing the date of approval if you so choose to do so. On the last page to today's date, October 13, there you have a red line version that you have had before the proposed changes and then of course, the black line, final draft.

Would you care to go through what we've been through at the previous public hearing?

CHAIRMAN SCHWEBACH: I do not.

STEVE GUETSCHOW: You also have before you a copy of the public notice published in the newspaper, and the ordinance was online on the County website. That public notice in the newspaper appeared in the September 17 and September 24 issues at the Independent.

COMMISSIONER MCCALL: Steve, did your department receive any phone calls from citizens?

STEVE GUETSCHOW: No, we haven't.

CHAIRMAN SCHWEBACH: Commissioners, do you have any questions?

COMMISSIONER MCCALL: We do not.

CHAIRMAN SCHWEBACH: At this point I'm going to open the floor to the public to ask questions of Mr. Guetschow or this commission currently.

CHAIRMAN SCHWEBACH: Come on up.

MADAM COUNTY MANAGER BARELA: Mr. Chairman, Commissioners, Miss Guffey did sign up for Public Comment. So, I just wanted to let you know.

CHAIRMAN SCHWEBACH: In this I'm not requesting you sign up for Public Comment. If you wish to speak, whether you are on Zoom or in the audience, please raise your hand and make sure you get my attention and can have the floor.

CHARLENE GUFFEY, TORRANCE COUNTY RESIDENT: Charlene Guffey, Torrance County. I do have a couple questions on this copy that you guys have red lined, and this is the one that you guys are going

off from the 2016 version. I would like to know why. All the where-as' on this page that you are crossing out are not on this version that you guys gave to the public. And when I read it, basically, Planning and Zoning has the authority to go out and enforce these ordinances underneath you, so it's confusing to me. All the powers of Torrance County Commission Boards that lean toward the contract with Solid Waste is being removed and has already been okayed underneath your Planning and Zoning administration. That's his [Steve Guetschow's] job.

JOHN BUTRICK: I don't mean to interrupt.

CHARLENE GUFFEY: I know.

JOHN BUTRICK: John Butrick, County Attorney, if you intend on testifying, I have I'm going to have to put you under oath, but this is the time where you'll be just asking questions.

CHARLENE GUFFEY: Yes, that's the question. I want to know why this where-as was not on the Red Line page in the beginning.

JOHN BUTRICK: Thank you, and we'll give Mr. Guetschow an opportunity to answer.

STEVE GUETSCHOW: I'm not sure I know what Miss Guffey means by that. What's on the black page here is the same as what's on the red, the red lines are the proposed changes. See, this is an amendment to the Solid Waste Ordinance 94-12. And the where-as' have to do with the issues covered in this ordinance. Does this answer your question?

CHARLENE GUFFEY: No, it doesn't. My question is on this red line. (Pointed to a particular line in the Red-Line version of the amendment.) You also have all this information down here, where it says interpretation and conflict all the way through. Everything is there except for that where-as. Also, there's another resolution that's missing out of here. That was back in 2018, 0-44. That's not in this one that you guys are presenting in 2021.

JOHN BUTRICK: Okay Miss Guffey, you're testifying again.

CHARLENE GUFFEY: I'm sorry. I'm just asking why this resolution's not in there, because it should be all in there for the public to see the red line. And he's still not answering me. Because if you red line, you're crossing out the wording, and you put what you want to replace with the red line?

CHAIRMAN SCHWEBACH: What resolution are you referring to?

STEVE GUETSCHOW: To answer that question, that's what the red line is. It's showing the strikeouts of the current ordinance. And the red line is the replacement wording that's going to be put in, and then the black copy is the vital copy. The red lines have been put in, and the strikeouts are being removed.

CHARLENE GUFFEY: That's what I'm saying. All this in the beginning [pointing to the copy she has in her hand], this where-as, is this where all of this Torrance County where-as' on the 2016 are going to still be in there? That's what I'm asking. Because these reds should strike out the black. They're not even on this front page.

JOHN BUTRICK: So, I think I'm understanding your question. You're talking about the where-as' on the original on the current form of 2016.

CHARLENE GUFFEY: Yes.

JOHN BUTRICK: And your question is, why are those not struck out, or if they're going to be struck out?

CHARLENE GUFFEY: Yes, if they're going to be struck out. That's why I want to know.

STEVE GUETSCHOW: That's not required. We have the same issues as when we redid the zoning ordinance, the where-as' have to do with the current ordinance. We don't have to strike out the where-as' that were the impetus to revise the previous ordinance.

JOHN BUTRICK: And Miss Guffey and Mr. Chair and members, I think my opinion would be that anything that is struck that's not in there probably should have been in there, but at the same time the where-as' are not substantive to the actual ordinance. It's saying "where-as this and where-as that, now therefore, be it resolved, (etc.)" on the actual ordinance, so I understand Miss Guffey's point. But those where-as' at the end of the day are not going to be looked at as something that is the requirement within an ordinance. They're just saying what the purpose of the ordinance is, why we're coming before the Commission, and why we're doing what we're doing at this point today, not previously.

STEVE GUETSCHOW: That is correct.

CHARLENE GUFFEY: But I do have another question. If these where-as' are just to enhance Torrance County Planning and Zoning Ordinances, why weren't they just amended in there like they are in the red-lines? Why did they have to be a where-as?

CHAIRMAN SCHWEBACH: A where-as is laying the groundwork of why it is brought to the table. Usually where the authority to make an ordinance is, whatever business this Commission is conducting. Looking at the reason one is red and was black, I cannot answer that. But sitting up here looking at that, it is not pertinent to the changes we are making within the ordinance.

CHARLENE GUFFEY: Why weren't these just left on and these where-as' added?

JOHN BUTRICK: Mr. Chair, my understanding is the where-as' that are red-lined are the same ones that are now black on the one that you are looking at today. So, they're the same.

CHAIRMAN SCHWEBACH: Correct.

JOHN BUTRICK: So, she's asking about the where-as' from 2006 that were on the current version?

CHARLENE GUFFEY: 2016.

CHAIRMAN SCHWEBACH: I can't answer that.

CHARLENE GUFFEY: And I do have another question. On page three, what I have on the red line on 17- there are lines that are blacked out and crossed out with nothing added except for a word specified.

JOHN BUTRICK: Which one are you looking at?

CHARLENE GUFFEY: On 17 underneath the Solid Waste facilities, there is a black line right after "incinerator" and it indicates "for any facility that proceeds, recycles, transforms, transfers, or otherwise handles level low-level or high-level radiation waste and transient waste" that was blacked out. So, was that a mistake?

STEVE GUETSCHOW: Number 17?

CHARLENE GUFFEY: Yeah, right here. Look, Steve, if you have it blacked out, but not changed.

STEVE GUETSCHOW: She's referring to the red line copy number 17. And as we go down, it says we struck out the word "and incinerators" and just left it " [comma] incinerators" and struck out "or any facility that possesses recycles transforms, transfers, or otherwise handles low-level or high-level radioactive waste, or transuranic waste." And then what's not struck out is the current wording "and other facilities not specified." Then in red, we added the NMSA title that effects that and the changes that were done to the ordinance.

JOHN BUTRICK: Miss Guffey, are you asking why there is a blank space on the second line? Is that what you're asking?

CHARLENE GUFFEY: No, I'm asking why was it blacked out?

CHAIRMAN SCHWEBACH: May I see your copy, please. Because my copy does not have it blacked out.

[SPEAKING AWAY FROM MICROPHONE, BROUGHT COPY TO CHAIRMAN SCHWEBACH.]

CHAIRMAN SCHWEBACH: Because we are removing it. On this part of as part of the amendment. We're removing that wording. [EXPLAINING TO MS. GUFFEY HER QUESTIONS.]

[SPEAKING AWAY FROM MICROPHONE]

CHAIRMAN SCHWEBACH: Well, we're removing that wording, and what is replaced is that we're adding "NMSA title 20.9.2.7.S- 11." Do you have the redline copy, Miss Guffey?

CHARLENE GUFFEY: Yeah, I don't see it.

CHAIRMAN SCHWEBACH: Well, here. See, it has that line crossed out. And see where it's added, right here. [SHOWED MS. GUFFEY HIS RED LINE AND BLACK LINE COPIES.]

CHARLENE GUFFEY: No, that wasn't in here.

CHAIRMAN SCHWEBACH: There is a difference.

CHARLENE GUFFEY: There is another question I did want to ask and that is, under Section 13, it's the red line and it's also this one [POINTED OUT THE LINE ON HER COPY.]. And again, this resolution 2018-0-44. That's not in there. So how is the public going to know if you guys are going to change anything on this resolution that should have been in there?

CHAIRMAN SCHWEBACH: What resolution are you referring to?

CHARLENE GUFFEY: This is about the management fee. There are changes in the document about the money the County had given, (unintelligible) Estancia Solid Waste change, for low income and vacant properties.

STEVE GUETSCHOW: Excuse me, Mr. Chair. Miss Guffey is offering testimony and needs to be sworn in.

JOHN BUTRICK: Yes, and Mr. Chair, I am not sure that Miss Guffey has the most recent and proper red line. That's why there might be a difference. There might be a legitimate reason as to why there's a difference between your copy and her copy.

STEVE GUETSCHOW: Whether that was an earlier copy that was brought up for discussion or given to the Solid Waste Authority before they did their review, I don't know, but that does not appear on any that has come before this Board in the Public Hearing forum for approval.

CHARLENE GUFFEY: I got this copy from the Clerk's Office.

CHAIRMAN SCHWEBACH: What we're going to do right now: you had one more question, and I agree that with the ordinance, we're going into a sworn testimony. You had a question concerning the printout and what I'm gathering is that your questions pertain to the fact that what was published is not necessarily what we're looking at.

CHARLENE GUFFEY: Yes, because I was informed that I could go to either the County Manager's Office or the Planning and Zoning office to get the copy. I did that, and I was told there was no copy in the County Manager's Office, and I was told in the Planning and Zoning Office there was no cop, so I went over to the Clerk's office, and they printed off these.

CHAIRMAN SCHWEBACH: So, at this point, did we answer your questions as to the differences and the discrepancies that you are seeing within this amendment?

CHARLENE GUFFEY: I'm still concerned about this up here. [Pointed to her copy.]

CHAIRMAN SCHWEBACH: What is this?

CHARLENE GUFFEY: The where-as that is in the 2016 version that was going on here, you just put a bunch of red lines on here explaining to the public that Planning and Zoning gets to do these things [outlined in the amendment.]

CHAIRMAN SCHWEBACH: I understand your question.

CHARLENE GUFFEY: So, my concern is that-

CHAIRMAN SCHWEBACH: We're going to take that into testimony again.

CHARLENE GUFFEY:

CHAIRMAN SCHWEBACH: We haven't approved anything yet. So, if that concludes your questions for Mr. Guetschow, I would like when we go into the testimony part of that, I would like to address it at that point.

CHARLENE GUFFEY: I have a couple others, too, that I'd like to do in testimony.

CHAIRMAN SCHWEBACH: Perfect.

CHARLENE GUFFEY: Okay. Those are the questions I just was sort of like normal red lines, you get to see on the red line what they marked out and what they're changing.

CHAIRMAN SCHWEBACH: Understood. Is there anybody else with questions for Mr. Guetschow? Is there anybody in Zoom?

[No answer]

Now we will go on to Testimony.

{Entered into Public Testimony}

Is there is anybody within the public that wishes to testify, to add testimony to this Public Hearing?

[Charlene Guffey rose her hand and came to the podium again.]

JOHN BUTRICK: Please raise your right hand. Do you solemnly swear or affirm the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

CHARLENE GUFFEY: Yes.

JOHN BUTRICK: Thank you.

CHAIRMAN SCHWEBACH: First, proceed.

CHARLENE GUFFEY: Like I said before, Planning and Zoning already has permission through the Board of Commissioners to uphold all Torrance County Ordinances, rules, covenants, everything. And to me when I read these red lines, it's confusing. Why are you putting this on a Solid Waste Ordinance, when the Planning and Zoning Department has already been created for these ordinances. So, are you going to do this to all the ordinances?

CHAIRMAN SCHWEBACH: We may.

CHARLENE GUFFEY: It indicates here, especially this one that was sort of threw it up was this line, "where-as, Planning and Zoning Department personnel are utilized to enforce portions of this ordinance..." They have the power to do the Ordinance for you guys. I don't see why that should be in there. Also, about was sort of confusing too, where-as funding for equipment supplies vehicle maintenance vehicle fuel enforcement portions of this Ordinance is derived from the Planning and Zoning budget. And it goes on, "Where-as the Planning and Zoning director or department head has supervisory authority of Department personnel", it goes right into "where-as discard appliances are considered Solid Waste." To me it's like why one of the appliances be underneath. I would say maybe underneath hazardous waste and green waste because a refrigerator has Freon, and there are rules and laws of the federal government and state. So, to me, that should be underneath the hazardous waste and green waste. Why is it a where-as, why can't it just be added in there? And my biggest concern is these words, back in 2016 is sort of like leading into a contract and gives the County Commissioner to give the County Manager power to handle and deal with and make decisions on Solid Waste for the people at Torrance County. And the 2016 ordinance that was in there. It helps to protect the people through the Commissioners that we voted in, and trust the County Manager to protect us, to make sure that we have a fully operable trash system. Because to me, if you take these where-as' out that depletes the power and gives you guys an opportunity to do whatever. That's the way I'm feeling it, the way I'm seeing it.

CHAIRMAN SCHWEBACH: I really don't see it that way.

CHARLENE GUFFEY: I do. Another thing is, there was that resolution 2018-04-4-

CHAIRMAN SCHWEBACH: I need an explanation on this resolution, how is it pertinent to this. Now, I need an explanation because an ordinance and resolution are two different things.

CHARLENE GUFFEY: Right now, for the County to give permission through the contract for Estancia Solid Waste to collect fees that they decided on for low income. It's the Temporary Assistance, LIHEAP, general Medicaid, it gives them that permission to discount. Also, on number two, which was the big fight about the vacant property. It also indicates what they can do on vacant property. This right here, I think is very important for the people who are paying for that system to know that's in there. The County doesn't pay for the system, the County just pays for the tipping fees. After it's collected through the Solid Waste- September 8 meeting, or even a previous meeting if not that one. And then this meeting as well. I think

MADAM COUNTY MANAGER BARÉLA: Mr. Chairman, Commissioners, in what Miss Guffey is talking about and the resolution that does set the fees, according to the Commission, that was going to be charged. I would recommend not putting a resolution number in here because we're going to be updating that resolution as well as we work on our contract with Solid waste. And so, the fact that it states that on 12-30...

CHAIRMAN SCHWEBACH: You're referring to the resolution?

MADAM COUNTY MANAGER BARELA: I'm referring to the resolution that Ms. Guffey is talking about. And so, I'm looking at Section 13-E. It says that "Any responsible party owning or possessing a vacant residence may be entitled to a reduction of the Solid Waste Management fee. According to administrative guidelines established and adopted through resolution by the County Commission. And so, with the negotiations that I'm doing with the Solid Waste Authority at this time with the Estancia Valley Solid Waste Authority, depending on what the outcome of that negotiation is we may be coming before the Commission with an updated resolution to adjust those fees, and so that would give that resolution a new number. And I would not want you to have to come and redo this ordinance, go through all this public process just to update a resolution number in an ordinance

JOHN BUTRICK: Mr. Chair, I don't believe there's an actual resolution, a specific resolution.

MADAM COUNTY MANAGER BARELA: No there is not and that's what Ms. Guffey thinks, even if this Commission changes the resolution later.

JOHN BUTRICK: I think we would be okay. I mean it would then be a part of this ordinance by extension.

STEVE GUETSCHOW: Mr. Chair, Commissioners, what Miss Guffey is referring to is a resolution for setting prices, which you guys will do on a recurring basis in the ordinance. What's referred to, as Miss Barela has explained, under Section 3, Miss Guffey's concerns about that power being taken away from the County Manager, or you guys, is covered under Section 13-B. "The County Commissioner shall set out frames for fees for Solid Waste." And I can read through the whole thing if you wish. And the County Manager is the one that enters into those contract agreements with your approvals.

CHARLENE GUFFEY: Excuse me.

STEVE GUETSCHOW: Again, the where-as' have nothing to do with that.

CHAIRMAN SCHWEBACH: We'll get back to the where-as'.

CHARLENE GUFFEY: So, I'm just stating that if you have a red line that you're changing, whether it's a resolution or amendment, it's missing whether you have to go back and change it again. This is not really

truthful to the public when they're reading through this red line, and they're reading up to the Solid Waste management.

CHAIRMAN SCHWEBACH: You know, I hear what you're saying.

CHARLENE GUFFEY: I don't, I don't want this County to pass an ordinance that is missing, vital things that the public need to know. I feel that it should be tabled. I've been to Estancia Solid Waste Board meetings; they are going through some issues over there that they're straightening out and I think that this Commission and the Attorney and County Manager should hold off on this ordinance, until that audit goes through.

CHAIRMAN SCHWEBACH: Firstly, what Solid Waste is doing has nothing to do with this ordinance and with what's going on with that board, and it does not have to do anything with this ordinance.

CHARLENE GUFFEY: It sort of does because this ordinance change sort of sets the first step on contracting.

CHAIRMAN SCHWEBACH: That it does.

CHARLENE GUFFEY: Yes, it does. So, this is your ordinance that you guys are going to take out. Whether you believe me or not, you're going to take all this out. We're trusting the board. These are very important where-as' for the public to know that the board is going to be there to protect us and give us the right decision, and the fair decision on keeping a good Solid Waste together. I have another concern about how it says a hauler is any person transporting solid waste, versus the old one, which goes into more protection for this County, for somebody that might be hauling something that they shouldn't be hauling. I have a problem with the way you guys just struck it out because in the old one, it says hauler is any person transporting solid waste by whatever means, for the purposes disposing of solid waste and a solid waste facility except the term does not include an individual transporting solid waste generally from his residential premise for a purpose of disposing it into a solid waste facility. So, when you just take that out to me, my interpretation is that a hauler is any person transporting solid waste, and that means anybody. That means private contractors, whatever, can do whatever, and that's another door opening. That is not protecting the people of Torrance County, where somebody is transporting waste.

JOHN BUTRICK: Mr. Chair, I don't mean to interrupt Miss Guffey because I'm not speaking to the validity of her comment, but I do think her comment is valid in the sense that it is speaking about differences from the old version to the new version, so I want to point out where I think Miss Guffey is correct and making at least that statement as to comparing and contrasting the old versus the new.

CHARLENE GUFFEY: You guys just marked it all out and to me that's an important, because if somebody is hauling something not right, and they flip it on 41, and it is hazardous material in there, it at least gives a little bit more than saying, hey you have to. This is what a hauler is responsible for, and what they're doing with it. They're going from point A to B. And to me, hauler is any person transporting solid waste. That can be anything.

COMMISSIONER MCCALL: John, would DOT regulate regulations and rules cover that? Say they are on a state highway and they flip their vehicle? Why did we strike that? What was the purpose of striking?

CHAIRMAN SCHWEBACH: That's what we're asking Steve right now. Steve, Go ahead please.

STEVE GUETSCHOW: That strike out was suggested by the Solid Waste Authority in their blue line. If Mr. Butrick would remember and we discussed this in previous meetings, and the new definition to replace that came directly from the current version of the NMAC which was wanted by the Solid Waste Authority.

CHAIRMAN SCHWEBACH: And that's with the addition. That's the new thing that's directly from the NMAC for what that definition is.

CHARLENE GUFFEY: Should the NMAC Ordinances be attached to this hauling purposes section, because that covers the County legally?

CHAIRMAN SCHWEBACH: I don't even understand why we're protecting somebody hauling something.

CHARLENE GUFFEY: Certain things that the federal government makes you do, that the State makes you do, and they have State and Federal Statutes.

CHAIRMAN SCHWEBACH: It's a State Statute. We discuss this when we were looking at this in some of this, that we struck and inserted the NMAC, the statute you see in the red, it coincides with State and Federal. I think here's another example there's one over here, it had to do with solid waste, along with hazardous waste, yes. So, is that correct?

STEVE GUETSCHOW: Yes.

CHAIRMAN SCHWEBACH: And that's why, and it's common when you get hazardous waste. But help me out on this hauler, referring to this NMSA, how long is this document? Do you know?

STEVE GUETSCHOW: I think you mean the NMAC.

CHAIRMAN SCHWEBACH: I don't want to go 9.2.7H1

CHARLENE GUFFEY: So, while he's looking, up above it on number eight it says hazardous waste includes material listed in 40 CFR 261-3. I can look that up and look at 200,000 pages if I want. But when it comes to hauling, there's nothing there to indicate it just says it's a, to me it's like a word free for all you want, and that comes to back to Commissioner McCall was concerned about tarping things. I have another question. When was this change versus the one?

JOHN BUTRICK: So, Miss Guffey, the time for your questions are over because you were given that opportunity to present questions. Now, you're testifying. Now you need to testify.

CHARLENE GUFFEY: This is the other thing. I don't have a problem with how they say clean fill underneath definitions. I don't have a problem with that. It puts out exactly what green fill means versus the old one that you guys struck out. Number two, where it says Code Enforcement Officers where you guys struck it out, you put Zoning Officers in there. That's why I have a concern about where-as if you can already change it, put it in those. Why is there a where-as for zoning to enforce portions of this ordinance, when you can change it easy. Number 13 I had another issue with. It's called premises. The definition on the red line doesn't explain. It just says means any lot or combination of contiguous lots held in single ownership together with the development there. That to me sounds like it comes out of the Zoning book for building something it defines. So when you guys struck out that premises is defined as a structure, whether designed for residential or commercial use located on any property within

Torrance County, outside the corporate limits of municipalities of Moriarty, Estancia, Mountainair, Encino. So, when you shorten it down to that sentence. What does that mean?

CHAIRMAN SCHWEBACH: It means to me that if somebody showed a bunch of trash and a lot that doesn't have a structure, we have authority to enforce them cleaning up the trash. That's what it means to me.

CHARLENE GUFFEY: Well then you go down to 14 and it says residence is any inhabited dwelling unit or each single one.

CHAIRMAN SCHWEBACH: So that is relevant when it comes to billing between residents, or lawn and premises. They are two different things.

CHARLENE GUFFEY: Are you going to be enforcing more, like people that are living in RVs and they're not paying trash bill?

CHAIRMAN SCHWEBACH: I certainly hope so.

CHARLENE GUFFEY: So, I just don't see. It is more defined to emphasize exactly what premises means that you cannot, this is what happens is this, is this like a premise for vacant lots, or premises for vacant lots with a trailer or house on it that was abandoned. It's not really defining to me.

JOHN BUTRICK: And Mr. Chair, Miss Guffey. I mean obviously this is a policy choice. Do you want something more specific, defined as a structure specifically or do you want a more broad definition? It's obviously a policy choice. I can't speak to the good or bad. I mean, but I can say that one is more narrow, for example "it's a structure -whether designed for"... blah blah blah. Where-as this one, that we have now, means "any lot or combination of continuous lots held in single ownership," that is a much broader definition and it encompasses a lot more. Whether or not you want the specific very, very narrow definition or very broad definition that is a policy choice left to this Commission.

CHAIRMAN SCHWEBACH: it reads very well for me.

STEVE GUETSCHOW: Mr. Chair, Commissioners, Miss Guffey that definition comes from the Zoning Ordinance so that definitions between the Zoning Ordinance and the solid waste ordinance, do not conflict with one another.

CHAIRMAN SCHWEBACH: Correct.

CHARLENE GUFFEY: So, that premise, if it is going to be a little bit broader, will give planning and zoning more bite into enforcing these laws.

CHAIRMAN SCHWEBACH: Yes.

CHARLENE GUFFEY: And then we discussed 17, I don't understand about the strike out.

CHAIRMAN SCHWEBACH: I don't know what you're looking at.

CHARLENE GUFFEY: 17 - strike out below it. That was changed before this meeting.

CHAIRMAN SCHEWBACH: Thank you.

CHARLENE GUFFEY: And then, again, underneath section 5 under F. Like I said I'd like to have it tabled, because like I keep on telling you, this was what I have a concern with you guys pulling the power in and just throwing it out there-

CHAIRMAN SCHEWBACH: You say "pulling the power." Give me a layman definition of what you're thinking.

CHARLENE GUFFEY: This is what I think, especially this one. When it says, "Where-as the Torrance County Board of Commissioners find that as necessary to provide a coordinated County-wide program of management of solid waste and construction, demolition debris in cooperation with federal and state agencies, and that it is necessary that a solid waste management program be implemented in order to protect the environment and the health welfare and safety of the citizens of Torrance County and protect, order comfort, and convenience of the citizens of Torrance County." To me that's pretty powerful. So, if you take that out, where's our protection by State law, you have to provide, and I know what some going down another road is what all seems to be, but to me, when these where-as' that are all in here. They find that a system of solid waste collection is necessary in order to protect Torrance County from illegal dumping. I mean these are important to me. They might not be important to you, but my interpretation. This is a protection for the public, and that's what this is about. It's about the public that has a very solid ordinance that we know that our board and our County Attorney, and our County Manager is protecting us. And making sure that that department Planning and Zoning is doing their job. For us, it's very, very important.

CHAIRMAN SCHWEBACH: Mr.. Guetschow-

STEVE GUETSCHOW: There again what's being left out. These are amendments to 94-12. The where-as' that she was just reading was the where-as for the original 94-12. We're not changing what the purpose of that is what the where-as' in this amendment to 9412. They cover, what we are amending within that document.

CHAIRMAN SCHWEBACH: So those where-as' in the original document are not being removed.

STEVE GUETSCHOW: That's correct.

CHAIRMAN SCHWEBACH: And these are additional where-as' that we are adding to it.

STEVE GUETSCHOW: That's correct.

CHAIRMAN SCHWEBACH: And that is why the original where-as' were not listed, and stricken.

STEVE GUETSCHOW: That's correct.

CHARLENE GUFFEY: I still think they should have been on there.

CHAIRMAN SCHWEBACH: I'm assuring you, they are in the original document read, right now that they're on there in the document that's going to be approved. I apologize if there was a confusion.

CHARLENE GUFFEY: Is this thw document that was handed to me?

CHAIRMAN SCHWEBACH: Correct me if I'm wrong. This is the amended - and it will be attached to the original document.

JOHN BUTRICK: Well, the redline itself will not be attached to the new ordinance.

MADAM COUNTY MANAGER BARELA: Mr. Chairman, Commissioners I get what Ms. Guffey is saying, I'm going to go get the copy, that is the originals so we can read those and read that to make sure it's there because the copy that I just provided to Ms. Guffey does not have that.

STEVE GUETSCHOW: And if I may, that was done on the model of the last zoning ordinance change that Mr. Wayne Johnson presented to you guys. It does not change 90-3 and the intent of it.

STEVE GUETSCHOW: That was done on the model of the last zoning ordinance change that Mr. Wayne Johnson presented to you guys. It does not change 93 and the intent of the where-as'. The changes of that ordinance simply just are simply referred to the changes to that ordinance for that amendment. And it was not needed, nor required by legal counsel to have the original where-as' from the original 90-3 zoning ordinance in that amendment. Now I'm going to flip here to your earlier question, NMAC

CHAIRMAN SCHWEBACH: Haulers correct? Referring to haulers, is that correct?

STEVE GUETSCHOW: I have it here, that's correct. And so that is the definition, Section title 20, chapter 9, part two subsection seven definitions. And it is-

JOHN BUTRICK: Mr. Chairman-

STEVE GUETSCHOW: That would be sub-section G. Or I'm sorry. H, Number one, hauler means any person, transporting solid waste, period.

CHARLENE GUFFEY: My last thing I'm going to throw out back in November 20 of 2002. This ordinance was also amended, but they kept that protection where-as, this was 2002. So, this amendment has been amended, but it's always kept that up in front, so you handed me this, this is what they're going to vote on that has the red line up there, that has the where-as. And if they're going to vote on something, then this page and where-as from 2016 should have been in.

MADAM COUNTY MANAGER BARELA: Mr. Chairman, Commissioners-

CHARLENE GUFFEY: Voting, just the red, not throwing this out.

CHAIRMAN SCHWEBACH: It is a legitimate question on whether or not we are adding those original where-as'.

MADAM COUNTY MANAGER BARELA: So, Mr. Chairman, Commissioners I have an Administrative Assistant in the Manager's office printing copies of the ordinance that's in place right now so you can have that as a comparison as well. So that will be arriving shortly.

JOHN BUTRICK: Mr. Chair, this is what I was going to say just before Mr. Guetschow spoke up. My understanding, and after talking to Mr. Guetschow is the version that you have before you today to sign is the same version that was presented to you at the prior commission meeting

CHAIRMAN SCHWEBACH: It is and I will say I haven't looked at the original where-as'. Is there any further testimony?

CHARLENE GUFFEY: Yeah, I do have one on the planning and zoning website. It says the Planning and Zoning division mission is to promote orderly and quality development in the community by ensuring that all land use and development propose form to the city's comprehensive plan, and Code of Ordinance. I think we're in Torrance County, not a city.

CHAIRMAN SCHWEBACH: What are you referring to?

CHARLENE GUFFEY: On their page underneath their mission. I just, on the website it says city comprehensive plan.

JOHN BUTRICK: She's referring to the website, not the ordinance.

CHARLENE GUFFEY: So, if somebody is from out of state-another state looking this up, they're wondering, where's the city comprehensive plan, not the County. I just wanted a correction.

CHARLENE GUFFEY: I guess I still think that in this book and page 71 that you guys approved again because you got to approve this on July 8 of 2020. You guys have in Section 19 "Administration Official Zoning Director shall be appointed by the County Commissioners to administrate the provisions of the ordinance. The Zoning Director may also serve in some other capacity as an employee," which he is an employee or appoint official to the county. I think that these, like i indicate, these where-as' don't really need to be on there because you guys already said that he can go out and do these ordinances because unless you guys like you say, this is the first stepping-stone of a contract for a solid waste. Because you said this is a stepping-stone to go into a contract of solid waste.

CHAIRMAN SCHWEBACH: I don't think I said that.

CHARLENE GUFFEY: You said it was I asked you. Is this is this ordinance a stepping stone to a contract with solid waste. And you said yes. So to me, I think zone, the where-as' (unintelligible) to me, I just don't think it's right, hiding something from the public, because I rather have these protections that I can count on the people that voted in to make sure my solid waste is protected. And not just thrown out the door with trash. So again unlike this table, because the public didn't see this red line stuff here. So why couldn't you just put this underneath. Keep the where-as' on the 2016 and then just add this in 2021 changes. You are fully taking and changing the where-as'.

JOHN BUTRICK: So, Miss Guffey, are you complete on your testimony?

CHARLENE GUFFEY: I am complete.

JOHN BUTRICK: Okay, so at this point, Mr. Chair, thank you, there are members of the audience or anyone else that would like to ask questions of Miss Guffey, they're free to do that as well. And so, I actually do have a question if no one else does. And so, my question is specifically do you are you testifying as your testimony that you want all where-as' in the, the current ordinance, you're wanting all six of those where-as' in the current ordinance?

CHARLENE GUFFEY: Yes.

JOHN BUTRICK: So Mr. Chair at this point if you, with your permission, I'd like to read those where-as is for your consideration.

CHAIRMAN SCHWEBACH: Proceed.

JOHN BUTRICK: Where-as the Torrance County Board of Commissioners finds that it is necessary to provide for the efficient and sanitary collection recycling, transportation and disposal of solid waste and construction and demolition debris and control of litter in Torrance County to provide for the safety preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its citizens. And where-as the Torrance County Board of Commissioners participated in establishing the Torrance County Solid Waste Authority, which is now known as the Estancia Valley Solid Waste Authority, for the purpose of providing a coordinated countywide program for the collection of Solid Waste in cooperation with the incorporated municipalities of Moriarty, Estancia, Mountainair Encino and Willard. And where-as, the Torrance County Board of Commissioners has determined that it is necessary to adopt the powers enumerated in Section 11-1-1 NMSA 1978 for the storage recycling collection and disposal of solid waste. And where-as, the Torrance County Board of Commissioners finds that it is necessary to provide a coordinated county wide program of management of solid waste and construction and demolition debris in cooperation with federal and state agencies, and that it is necessary that a solid waste management program be implemented in order to protect the environment, provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort, and convenience of the county, its citizens, and where-as, the Torrance County Board of Commissioners finds that a system of solid waste collection is necessary in order to protect the environment of Torrance County from the illegal dumping occasioned by the lack of a county wide system of refuse collection containers, and to protect the environment and promote the preservation of the natural beauty of Torrance County lands, and where-as the Torrance County Board of Commissioners finds it is necessary to assess a fee hereinafter the Solid Waste Management fee to pay for the solid waste collection and disposal system described herein and to provide for mechanism for collection of said fee.

CHARLENE GUFFEY: Yes, I'd like that.

CHAIRMAN SCHWEBACH: You'd like that in there.

CHARLENE GUFFEY: Because to me it gives the people who are paying a service that's been out there for 29 years, the security that this county is going to continue giving providing this, this, security, because when you take that out this to me just should be directed to changing Planning AND Zoning Department things. I mean, it's sort of not, not really, it's not really protecting the public.

JOHN BUTRICK: And Mr. Chair just looking at the red lines for the where-as' in the red line that we have, I don't see any apparent conflicts between-

CHAIRMAN SCHWEBACH: The only one I see is down here on 5, finds this system is solid waste collection is necessary. That may be reworded because we have a system when this was written.

JOHN BUTRICK: Okay.

STEVE GUETSCHOW: So, Mr. Chair, Commissioner, if I may rebut the testimony that's been given.

CHAIRMAN SCHWEBACH: Absolutely. Proceed.

STEVE GUETSCHOW: Again, as was said earlier, where-as' in the original ordinance are not being tampered with, they will remain with the original ordinance. This is an amendment to that ordinance. If you read the title of this document given to you, this is ordinance number 2021 Solid Waste

Management ordinance amendments, and the where-as' that are in these amendments, only have to do with these amendments, and the reason why the original 94-12 an amendment, with these changes, it does not change the veracity of the original 94-12 and no where-as' that were recorded and approved for that. These where-as' are only for this amendment.

CHARLENE GUFFEY: (unintelligible)

CHAIRMAN SCHWEBACH: Proceed.

CHARLENE GUFFEY: What I have is a copy of the Torrance County ordinance number 94-12, underneath in parentheses it said amended November 20, 2002. This is another one, it says Torrance County ordinance number 94-12 in parentheses amended April 13, 2016 . If he's indicating these, he says this right here it's an amendment in there they change amendments. They changed the front. They might have amended this one, I think there was something about land use in here, this one was about changes and some other stuff in 2016. So they are saying this will be amended without the where-as, in 2016 on here. This one that you guys want to push through in 2021. These are your amendments that will be. When I get a copy. This red line will be on there. None of these will be, unless it's done today, or you tabling and redo it because it's unfair to the public, because I think some of this should went through the Planning & Zoning board. That's why you have it don't they? Is that how it goes, that they get these, they approve them then they come up to the Commissioners and then the Commissioners put out a public hearing, and then we'll do the final decision because it's important that the public knows these ordinances, because it affects people and it affects your land as agricultural that affects ranchers, it affects subdivisions, it affects everybody. These ordinances do, especially the solid waste, because there's cows out there that are eating stuff that are being blown out, and like Mr. McCall, he wanted something in here about tarps. There is not anything in here about tarps. He wanted that in, He indicated it was a concern due to the problem we had this year with Moriarty and all the trash and all over the county, we just had a bad windy year. It's going to happen again. My concern is, is that I was driving into Albuquerque yesterday, and it was so windy. I had a bag shoot on my front windshield, I couldn't see. Immediately I had to hurry up, roll my window down pull that bag off. I was going down the interstate doing 75. But that's what I'm saying, that he's indicating that these ordinances amended, and I'm just saying that. That's what you do with amendments in an ordinance as amended.

JOHN BUTRICK: Does anyone else have any questions for Miss Guffey. Hearing none, I'll turn it over to the board.

CHAIRMAN SCHWEBACH: So, I do recall the tarping, and help me out Steve, because I want to say it was still in the amendment.

STEVE GUETSCHOW: It's in here.

CHAIRMAN SCHWEBACH: And it's also general DOT regulations as far as anything, driving down the road is tarped. I think one of the questions that we had was, I remember now if you're if you have a truck, to haul trash it must be contained. You know, I think there may be a little confusion on the where-as' and all the where-as', but let's clear their confusion at this moment. What we have in front of us, that we're looking to approve is a document that has additional where-as', and that's the confusing part is whether these were struck, or not from the original ordinance and looking at that I can see the point of view. I think the Commission will make it very clear whether these original where-as' will be left to remain or

not, if this is approved or disapproved. And Steve, I will stand corrected you did, I made a comment I haven't seen these. I did see this, these were without all our packets. And when we went to working on the packet that Miss Guffey is referring to. Now these where-as' were not in.

COMMISSIONER CANDELARIA: We got it in the first round, in the first public hearing.

CHAIRMAN SCHWEBACH: And they were there. And so to be clear, as of right now that's what we're signing, it's Mr. Guetschow I understand that these original where-as', would be remained, and these would be.

JOHN BUTRICK: Yes, and I believe Mr. Chair if it's this County Commission's perspective and desire to include those and Mr. Guetschow has been clear that these where-as' were never going to be taken out. believe just to be clear, we need to be clear for the public sake that these where-as' are going to be in there with that one difference, because there is a fee system now in place so that one change would need to be changed, obviously, but otherwise not hearing any other changes, we would leave those where-as' all six where-as statements in there, as they are in the current ordinance.

COMMISSIONER MCCALL: So, could we amend 94-12 with this new information. Is that the appropriate way to do it? An amendment, as opposed to a new ordinance.

STEVE GUETSCHOW: Any ordinance, until the point where the Board of County Commissioners revoke that ordinance or repeal it is a growing document. This ordinance was originally adopted in 1990 as ordinance number four and has as testified to several amendments to it.

COMMISSIONER MCCALL: Mr. Chairman, just pointed out on the top of that it's this Solid Waste Management ordinance amendment.

STEVE GUETSCHOW: That means it is not the only portions of the original ordinance, replaced by this ordinance which says ordinance number 2021-, whatever the deal is. That's all it does. So, while it does make those changes to the body of the original text, it does not replace the where-as in the original text.

COMMISSIONER MCCALL: To be clear the one we were voting on today does not replace the old one. It's an amendment to it. This one still has teeth. It still has value.

STEVE GUETSCHOW: That is correct. As it says in the where-as' for this. It started clarifications of whose duties it is.

JOHN BUTRICK: Mr. Chair, Commissioners. If I hadn't expressed this view previously to Mr. Guetschow previously, my point now is not to just throw that at him now for the first time and I apologize if I am. I believe best practice in terms of, You know whether or not we're amending or creating a new ordinance to supersede, I think the cleanest practice in my view, is to create a new ordinance and supersede the old ordinance. That way, we're not working off of one document and then amended here and amended here and amended here. I think that's a little dirtier. And to be fair to Mr. Guetschow, I mean, that's not what he's trying to do here he's trying to do in good faith, trying to change the Ordinance, you know to make amendments to make it better. I think, a better practice would be to create a new ordinance with a new number and say, here's our ordinance, here's the new ordinance it supersedes it, and here's the new document, the other stuff, it's gone.

COMMISSIONER MCCALL: I agree.

CHAIRMAN SCHWEBACH: That's not what we have before us.

JOHN BUTRICK: No, what we have before us now are solid waste management ordinance amendments.

CHAIRMAN SCHWEBACH: Oh, we can make a choice but no with public hearings we have been going through. This is an amendment. And really, it's all rewritten with instructions other than the where-as' the where-as' is only-I would suggest we add them. And then when we look at it again I would say I agree, redo the entire thing to make it cleaner to where you don't have to go through this. My suggestion, and I'm looking at these where-as' from the original 94-12. On the fifth where-as really I think all that needs to be struck is "occasioned by the lack of a county wide system or refuse collection containers."

JOHN BUTRICK: Sorry Mr. Chair, where's that again?

CHAIRMAN SCHWEBACH: The fifth where-as in the original 94- 12 document.

JOHN BUTRICK: Okay. And what would you-

CHAIRMAN SCHWEBACH: I would strike "occasioned by the lack of a county wide system or refuse collection containers."

JOHN BUTRICK: And so to your point previously, Mr. Chair. What about the fourth where-as, "where-as is necessary to provide a coordinated Countywide program of management of solid waste and construction and demolition debris in cooperation with Federal and State agencies" that still necessary?

CHAIRMAN SCHWEBACH: Yes, that's still necessary.

JOHN BUTRICK: Okay. And then the second that says "it is necessary that a solid waste management program be implemented in order to protect the environment." The implication being that has not been implemented yet and that's okay.

CHAIRMAN SCHWEBACH: I mean all of that is very true and I have no problems with it. That's what I want to see is a lack-of, which there's no longer a lack-of.

JOHN BUTRICK: I want to give you an opportunity to-

CHAIRMAN SCHWEBACH: Is there any further questions?

STEVE GUETSCHOW: No, if you turn on (UNINTELLIGIBLE) your markup, you've got my original copy, we can incorporate those into this and presented to you at the next meeting for signature.

MADAM COUNTY MANAGER BARELA: Mr. Chair, Commissioners, I think Miss Guffey-

JOHN BUTRICK: At this point it's up to you whether or not you want to recognize Miss Guffey.

CHAIRMAN SCHWEBACH: I will.

CHARLENE GUFFEY: Thank you Commissioners. Shelly Guffey, Torrance County. When you're going through and you're striking things out. That is the public going to see this before. Are you guys going to vote on what you guys just struck out or is it going to be redone and another hearing and an action?

CHAIRMAN SCHWEBACH: So, we do not have to have another public hearing, correct?

MADAM COUNTY MANAGER BARELA: Mr. Chairman, Commissioners, I'll talk to Mr. Butrick about this, but I believe if it's involving an ordinance name changes, especially if you're superseding the ordinance, with another ordinance, with it not being an amendment but giving it a different description that could trigger, I believe it would trigger another public hearing, and you could do public hearing and final action.

JOHN BUTRICK: If we are merely amending and doing another amendment, we have very substantively gone over those amendments here, but if we're doing a 180 and we're superseding things at the next hearing, I believe that we would need another public hearing because now we're doing a different process. So, it's up to this Commission what it wants to do.

CHAIRMAN SCHWEBACH: Steve I think I have an understanding we've discussed what's been published. I don't think we're looking at any major changes in my opinion of this other than the where-as'. I do like the idea of instead of amendments changing to supersede to where we have one document without amendments do you foresee any problems with that Steve.

STEVE GUETSCHOW: No, and if you like I can add to your original where-as' back into this document,

JOHN BUTRICK: And that's what we're doing.

STEVE GUETSCHOW: But I wouldn't see why that would need another public hearing and that's the only change you want in this document before.

CHAIRMAN SCHWEBACH: With that we would need another public hearing because what has been published. What has been presented to the public could be very confusing. We could conceivably hold another public hearing at the next meeting, and then act upon it.

STEVE GUETSCHOW: We have to wait, requires at least 14 days publication in the local newspaper before it comes before this body.

CHAIRMAN SCHWEBACH: What do y'all want to do?

COMMISSIONER MCCALL: Could it not be published 14 days prior to our next meeting?

CHAIRMAN SCHWEBACH: But my line of thinking is, we're in a public hearing, as we're getting information from the public, and we're implementing changes to changes that we have come from the public. In the past we have closed these public meetings we've implemented changes and proceed forward.

JOHN BUTRICK: If the issues have been fully vetted here. If you will make the announcement now today that in two weeks' time or whenever that is...

CHAIRMAN SCHWEBACH: Let me back up a little bit since we're in hearing what I am seeing here is 1.) I'm not looking at changing the gist of what we're changing. I will agree that there may be some confusion out there in the way it has been presented or way information has come out and also that amendments versus document replacing it. We're not changing anything in here. And that is what I'm looking to approve. Other than adding the where-as' back, and within this public hearing we're vetting that out, in which case the next meeting, that's why I was asking if we need another public hearing, because we've vetted that out.

JOHN BUTRICK: Other than adding the where-as' back, then I don't believe so because we vetted all the issues out. I think that's correct. I think that's correct and to remind the public, everything in here is the same as what it was presented to the Commission at the last hearing a month ago over a month ago.

CHAIRMAN SCHWEBACH: Correct.

STEVE GUETSCHOW: Mr. Chair. And if I may. You know this argument about the where-as' in the original document and the where-as' in this amendment to that document is pretty ludicrous because it's covered under Section Two authority, where it states "this ordinances enacted, pursuant to the authority granted to the Counties to provide for the safety and preserve the health of the residents of the County, as set forth in Section 4.3 7.1 NMSA 1978. The Authority provided in sections 4-56 1-4, 56.3 NMSA 1978, which authorizes the County to establish, maintain manage and supervise a system of storage collection and disposal of all refuse, and the authority provided in sections 336-1 through 336-7 NMSA 1978, which enables the county to attach liens for unpaid charges established by ordinance. Now, that's the authority of the ordinance and that hasn't changed. The where-as' in the original ordinance, as you guys noted earlier, was because previous to 90-12, there was no Solid Waste Ordinance. That created the Solid Waste Ordinance. We don't need to be repeating that same stuff again and again. It's already in the body of the ordinance that has not changed. All that's changed in this ordinance is the definition of the officers that are going to be enforcing it, and the changes in the definitions, and other portions that the Solid Waste Authority wanted, along with meeting the new descriptions in the State documents, any revisions in the Solid Waste statutes or and the New Mexico Administrative Code that affects was stated in this ordinance, so that they all match. That's all this is doing. I think it's a waste of the taxpayer's dollar to republish this again and go through this process again. Just to add where-as' from the original ordinance. I'll be quiet now.

CHAIRMAN SCHWEBACH: Go ahead, Miss Guffey.

CHARLENE GUFFEY: Shelly Guffey, Torrance County. One thing I like you guys to do, like you said, go ahead, accept this, but keep these where-as' in 2016, because from 2002. These where-as' have changed. They made a more powerful, from 20, from 202, and they add more things in it. So, this 2016 just these don't change your wording, just add it to your what you guys are going to vote on now, and that will be fine. And no word changing and no crossing out. Later on, you can do that. But right now, to get this moving just, that's all I'm asking.

Chairman Schwebach: Thank you.

JOHN BUTRICK: Mr. Chair, I mean, I'm just thinking about this, if we're talking about this and there's not going to be any changes substantively to the amendments, and the only thing that we're changing is the where-as we're putting the where-as' back in less than one statement. And the fifth where-as, and that has been fully discussed and open to the public today, I don't see a need for another public hearing, and thus not another need for publicizing it in the paper, as opposed to you know, having to wait four weeks because of the whole publication issue but I think we can do this in two weeks.

CHAIRMAN SCHWEBACH: And what will be presented in two weeks, what we would be voting on, instead of amendments, and we'll have everything that's in here, but it will be a full replacement to where we have one ordinance, without amendments, because this, this was the entire ordinance, so

we've been looking at this even though it was amended a couple times back. This is the ordinance in its entirety, correct?

JOHN BUTRICK: And I believe effectively what we were going to be doing was we were going to be putting those amendments into the ordinance, and it was going to supersede the old orange but we're still going to call it 94-12 But now we're going to be calling it 21 Dash, whatever that ordinance is.

CHAIRMAN SCHWEBACH: That's correct.

JOHN BUTRICK: So now the public is completely aware of that, at this moment, at this time, those curves so I think we're okay.

CHAIRMAN SCHWEBACH: Steve are you good with that. Does that make sense.

Yes, I think we're all on the same page-

CHAIRMAN SCHWEBACH: Because we have-

STEVE GUETSCHOW: I'm sorry Mr. Chair, but that's the purpose of these public hearings is, this is the record, the public record, that and the public information about the revisions or amendments to this ordinance. And so, this being done in the public forum as it has been documented, thus far, whatever additions that you want to put to the document before you. All we need to do is make that change, we don't have to go back and argue it again.

CHAIRMAN SCHWEBACH: That's correct. I concur. I agree. Is there anybody else who wishes to testify at this time during this public hearing?

JOHN BUTRICK: Again, it's up to you whether or not you want to recognize.

CHAIRMAN SCHWEBACH: Oh, this will be the last opportunity so yes proceed.

CHARLENE GUFFEY: So it comes up on where it says, Torrance county ordinance number 2021. And then on here it says Torrance county ordinance number 9412. That 9412 indicates a solid waste ordinance. And when you change that number 2021 to whatever. Then basically you wipe all this ordinance out, and whatsoever in this goes. That's all I'm saying. It's not that difficult to keep the 2016 where-as on here, without changing that number 9412. Because people have known that number 9412. To go over to the Clerk's office and say hey, I need 9412 And they know exactly what it is so they can look it up. Just like in in planning and zoning books I can go over there and say hey I need a 97-3 they know exactly what I'm talking.

CHAIRMAN SCHWEBACH: And Miss Guffey we have taken that into account.

CHARLENE GUFFEY: You want to change, and Steve wants to change to a different number. Totally. That makes it a new total ordinance.

CHAIRMAN SCHWEBACH: Yes, it does make it a new total ordinance and it is a Solid Waste Ordinance of Torrance County. And the clerk will be aware that the new number will be very clear that this is the one and only to where we are going back and looking at it, and correct me if I'm wrong, if you would like if it would make it easier to supersede 94 -12, we can put that in the title for ease of finding it, but at the end of the day we're going to be looking at one document that covers everything within 94-12.

Commissioners, correct me if I'm wrong with the where-as', we're looking at adding the where-as', okay, and it will be a document that can be found very easily. Is that correct Manager?

MADAM COUNTY MANAGER BARELA: My apologies, Mr. Chairman, Commissioners, I'm also referencing the resolution because it does reference in the resolution ordinance 94 -12. I wanted to make sure that we didn't have any issues with changing that before we had our ducks in a row for the resolution that goes along with it.

JOHN BUTRICK: And the concern, I think, from Madam Manager is so it's in Resolution 2016-18 it says, where-as the Torrance County Board of Commissioners upon revising Solid Waste Ordinance 94-12 does wish to grant certain discounts. So the concern is, when we get rid of 9412, 9412 won't be here anymore-

CHAIRMAN SCHWEBACH: So it creates a whole other set of problems.

COMMISSIONER MCCALL: Are we not going to redo that resolution in two weeks? And this will not go in place until two weeks, yes?

JOHN BUTRICK: So, we have to recognize that changes are always going to be made, though. I mean, we can't live statically and worry about all of this change. We will come across it and make those changes as we find them and do what we need to do. My only suggestion now is in the new ordinance in two weeks. Just to be clear that this ordinance, meaning the one in two weeks, supersedes 94-12.

CHAIRMAN SCHWEBACH: Correct,

CHAIRMAN SCHWEBACH: And on any other resolution that affects 9412.

MADAM COUNTY MANAGER BARELA: Mr. Chairman, Mr. McCall, we will not have this resolution ready for the next meeting because this ties into the negotiations with the Solid Waste. This is why we talked about the fees and all of that, so we're not ready to do this at the next meeting, but I just wanted to show that these are connected. And if we didn't have that understanding that supersedes it, it probably supersedes it in the resolution too, that was just the discussion I was having.

CHAIRMAN SCHWEBACH: Okay, understood. I'm in my opinion, in light of what we've heard, now's the time to clean it up. One ordinance supersedes and don't have to track down amendments if we have to fix resolutions down the road, we'll fix them to adjust it.

JOHN BUTRICK: I don't need to say anything about resolutions in here.

CHAIRMAN SCHWEBACH: That's fine.

STEVE GUETSCHOW: Mr. Chair, you know, because the problems that County Manager has pointed out with the resolution and things. There are other things as well. If we do away with 94-12 or 90 -3 we're going to have to file new documents with the court as far as our charging and things go. And as we discussed earlier, with the latest revision of the zoning ordinance it's still, even though in the first page of this let me read the title, Torrance County Board of County Commissioners ordinance number 2020-06 Torrance County's Zoning ordinance amendments. Now, we don't refer to ordinance 2020--06, because this is the current published document of all living ordinance. So, you know, it may be stepping a bit too far to be completely eliminating the 94-12. Because it goes through 2021- whatever this number is going to be, is simply an amendment to 94-12, and it will be published as such.

JOHN BUTRICK: Mr. Chair, members, I think my view is that if you supersede something you superseded it, but that ordinance was still in place. At that time, let's say that somebody committed a crime, and they committed it, you know, a solid waste crime, you know, under the ordinance. At that time, and let's say it was today. We're not passing this for two more weeks. My view is that 94-12 would be the applicable charge document, because that was the document that was in place at that time. So, if something happens before two weeks from now on October 27, we would still charge under 94-12, because that would be the proper document, but as of October 27 When this commission does final passage on the new ordinance, then it would be going forward from that day forward, 2021 day, whatever that ordinance number.

STEVE GUETSCHOW: Correction, Mr. Butrick- 30 days from that date.

JOHN BUTRICK: Okay, sure. That's right. No, thank you for that. Thank you.

CHAIRMAN SCHWEBACH: So, what we're talking about is his technicalities on just how everything reads but it can be worded that this document when it takes effect supersedes 94-12 on this day. Now do you see issues with that, Mr. Guetschow?

STEVE GUETSCHOW: No, not at all if the charging and the other contractual documents resolutions that refer to 9412 aren't affected.

JOHN BUTRICK: No, I think we're okay.

COMMISSIONER MCCALL: If we're not going to take final action until two weeks, I say we give Planning and Zoning and our attorney those two weeks to review. And let's move on. I agree.

STEVE GUETSCHOW: Well, I was thinking you were going to take action today with a provision that the changes that you've described will be added. And then you won't sign it until you see those provisions are done in two weeks. That was my understanding, I'm sorry if I missed this.

CHAIRMAN SCHWEBACH: In public hearing we have now given direction through our attorney for Mr. Guetschow to change his documents on what we've talked about. We're going to clear their public hearing. And then at the next meeting we will have those documents before us to take action on without a public hearing. But the two weeks are giving you the time to put it together in what we've instructed. Okay, thanks sounds good, how it works. I'll make a motion to close this public hearing.

COMMISSIONER MCCALL: Second.

CHAIRMAN SCHWEBACH: All in favor.

ALL COMMISSIONERS: Aye.

CHAIRMAN SCHWEBACH: Motion carries.

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