

**FINAL**

**Torrance County Board of Commissioners**

**Regular Commission Meeting**

**November 10, 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 – ABSENT**  
**JOHN BUTRICK – COUNTY ATTORNEY**  
**YVONNE OTERO – COUNTY CLERK**  
**VALERIE SMITH – ADMINISTRATIVE ASSISTANT**

**1.     CALL MEETING TO ORDER**

**Chairman Schwebach:** Called meeting to order at 9:01 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 Barela:** The changes to the agenda are as follows:  
Certificates and Awards: Will not be presented today because the employees that are being presented are largely out of the office due to illness. Items 5-A., B., and C. have been moved to December.

Item 13-A. has been moved behind 12-A. because both items are pertaining to dispatch.

**Chairman Schwebach:** Accepted the changes as presented.

#### 4. PROCLAMATIONS

None

### 5. CERTIFICATES AND AWARDS

**A. TREASURER: Announcement of Employee Service Year Pin: Kathryn Hernandez (5)**

**Deferred to December 8, 2021, Regular Commission Meeting**

**B. ASSESSOR: Announcement of Employee Service Year Pin: Cassandra Knotten (2)**

**Deferred to December 8, 2021, Regular Commission Meeting**

**C. ASSESSOR: Announcement of Employee Service Year Pin: Tanner Solomon (2)**

**Deferred to December 8, 2021, Regular Commission Meeting**

### 6. BOARD AND COMMITTEE APPOINTMENT

None

### 7. PUBLIC COMMENT AND COMMUNICATIONS

**Mayor Nathan Dial:** Monday, November 15, 2021, at the Torrance County Commission Chambers, there will be a Public Hearing to propose a new rule, that to attend an Estancia Town Council Meeting, one must be legally armed.

Precedent has been set at the state level. A new rule has been set that as of December 6th, no one may enter the Capitol Building with a firearm or other dangerous weapon. Mayor Dial believes that the next thing will be having to prove vaccination status. He believes the State has implied that once the rule has been put in place, they will then send goons to the municipalities to enforce the rule, and that they will disband a dually elected body if the rule is not enforced at the lower levels.

The new rule that is being proposed by Mayor Dial also states that no Town of Estancia employee will be fired for carrying a weapon into the Town building, being unvaccinated, or not wearing a mask.

**Madam County Manager Barela:** Read a statement from County Treasurer Tracey Sedillo, who was out at the time. The statement is attached.

## **8. APPROVAL OF MINUTES**

**A. COMMISSION:** Motion to approve the October 27, 2021, Torrance County Commission Minutes.

### **ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to approve the October 27, 2021, Torrance County Commission Minutes.

**Madam County Manager Barela:** The Minutes for the October 27, 2021, Commission Meeting are not finished yet. The Clerk's Office have been very busy with the Election, as well as illness having hit the office.

There was no discussion.

## **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.**

**B. MANAGER: Motion to accept the Third Quarter Restrictive Housing Report from CoreCivic pursuant to NMSA 1978 § 33-16-5.**

**ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to accept the Third Quarter Restrictive Housing Report from CoreCivic pursuant to NMSA 1978.

**Commissioner Candelaria:** 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**

None

**11. ADOPTION OF RESOLUTION:**

**A. FINANCE: Motion to approve Resolution No. 2021-48, Budget Increase**

**Chairman Schwebach:** Opened the floor for discussion.

**Madam County Manager Barela:** Asked if Jeremy Oliver was on Zoom.

**Amber Pava, Manager's Administrative Assistant:** Let Madam County Manager Barela know that there were technical difficulties with Zoom but that she would let the Commission know if they became resolved.

**Madam County Manager Barela:** Instructed the Commission that she would do her best to present Mr. Oliver's presentation. She presented the Budget Increase, which would be moving funds from same fund, the Juvenile Justice Grant. She broke down where the funds are going (See attached Schedule B, Commission Packet.)

The Road Department requested a transfer for the Riley Road Project.

The next request was GRTs, which was specified for furniture, fixtures, and equipment.

For DWI, the amount reverted to the state was then reverted to Torrance County.

**Commissioner McCall:** Had a question about the \$2.2 Mil for the Riley Rd. Project. He asked if it was somewhere else and being moved into the Road Department.

**Madam County Manager:** Answered that this is not the case, she misspoke. The funds are funds that have since come in, but that a budget increase must be approved for it to be placed in the correct department. It is for the Riley Road Project.

**Chairman Schwebach:** Asked about the Worker's Compensation Premium, \$117k, and if the matching funds transfer into funds.

**Madam County Manager:** Anytime there is movement within a fund, they do not have to come before the Commission as they have already permitted the funds to move, and Manager Barela okays the movement. When money is taken from one to another fund, that is when they must go before the Commission. Approval by the Commission is necessary to finance the County's portion of the Riley Road project. The funds are coming from the Worker's Compensation portion of the budget, where there are extra funds because, although the County was only charged half, they budgeted for the full amount. This has left a surplus in the fund, allowing the County to take advantage and use it for their portion of the Riley Road fund.

**Chairman Schwebach:** Reiterated what Madam County Manager Barela had previously explained.

**Commissioner McCall:** Asked if the Road department didn't have the funds in their budget to cover the Riley Road project.

**Madam County Manager:** Answered that she was unsure of the answer to this question. She explained that the County is trying to keep the Road Department's budget full for their own projects because they usually do a good job of budgeting tightly. There is not much rollover from one year to the next.

**Madam County Manager Barela:** Called the Finance Director Jeremy Oliver.

**Chairman Schwebach:** Asked if they anticipate Workman's Compensation to remain the same or go up.

**Madam County Manager Barela:** Explained that this budget cycle is set, if it were to go up, it would be on the next budget cycle. The agreement has been signed. (Speaking can be heard by Madam County Manager Barela, but it is because she is on the phone speaking to Mr. Jeremy Oliver.) Madam County Manager said that Mr. Oliver had told her there was not enough in the Road budget to cover the County's share of the Riley Road project. Mr. Oliver stood for questioning.

**Chairman Schwebach:** Asked if he is confident that Workman's Compensation will not change, or if he believes that it will, and that the money should be taken out of the General Fund.

**Jeremy Oliver, Finance Director:** This is the second year in a row that Workman's Compensation has been fully budgeted at projected rates. NM Counties gave approximately a 50% discount. The County will continue to fully budget, even if NM Counties decides to continue giving a discount. It would be the same as taking it out of the General Fund, but he doesn't want to touch the General Fund until taxes are paid by the residents of Torrance County, creating an influx of cash flow.

**Commissioner McCall:** Understands that to get the road repairs completed it will cost money and funds will have to be moved but doesn't want the movement of funds to become a habit.

**Chairman Schwebach:** Agreed but said that now there is not much of a choice.

#### **ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to approve Resolution No. 2021-48, budget increase.

**Commissioner Candelaria:** Seconded the motion.

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**B. MANAGER: Motion to approve Resolution No. 2021-49, Infrastructure Capital Improvement Plan (ICIP.)**

**ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to approve Resolution No. 2021-49, Infrastructure Capital Improvement Plan (ICIP.)

**Commissioner Candelaria:** Seconded the motion.

**Madam County Manager Barela:** This should have been presented by another employee that was also absent this day. This is the Capital Improvement Plan and is based on previous Commission meetings. Manager Barela read the Resolution into record. On a note, this Resolution would supersede Resolution 2021-35.

**Chairman Schwebach:** Made a note that he was looking for a copy of the Resolution to be sure of what it is they are approving.

**Madam County Manager Barela:** Asked the Commissioners if they would like to have the Resolution tabled until the next meeting. She will also work on getting a copy of the last time it was approved.

**Chairman Schwebach:** Made a motion to table Item 11-B: Resolution No. 2021-49, Infrastructure Capital Improvement Plan (ICIP.)

**Commissioner McCall:** Seconded the motion to table.

When Motion was returned to:

**Chairman Schwebach:** Manager Barela was not able to reach Cheryl for her input on this Resolution. This was previously approved, but now they are making a resolution for submittal.

**Deputy County Manager Juan Torres:** There was one change made, which is to add funding for the radios. Everything else was identical. It was adding a 2023 radio upgrade to the plan. The reason it needs to be done this way is because of

State regulations. If the State of NM has the funding, and Torrance County wants to make a request, this is the channel to go through ( adding it to the ICIP.) Since it was already submitted, it can be added on to at any point.

**Commissioner McCall:** Motion to Defer Item 11-B.: **Resolution No. 2021-49, Infrastructure Capital Improvement Plan (ICIP.)**

**Chairman Schwebach:** Seconded the Motion.

No Discussion

**ROLL CALL VOTE:**

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

**MOTION to DEFER has been PASSED.**

**C. MANAGER: Motion to approve Resolution No. 2021-50, Requesting a Change to the Public Employees Retirement Association (PERA) Return to Work Provisions.**

**Chairman Schwebach:** Opened the floor for a presentation.

**Madam County Manager Barela:** Presented this Item 11-C. This is a resolution requesting to change to the Public Employees Retirement Association (PERA) Return to Work Provisions. 13 other Counties have passed a similar resolution, and 6 other Counties have it on their agendas. This resolution would allow the employees to return to work after they have retired from the Public Employee's Retirement Association and have begun drawing from their pension. Currently, if an employee has retired after June 30th, 2010, and wants to return to work, the statute states that they may only return to work by either, A.) suspending their pension and resuming their service credit hours, during which they must still contribute to PERA, or B.) if there has been a break in service for over 12 months, they may go back to work and are not required to contribute to PERA but must suspend their pension. Torrance County has been blessed to not have to face the challenge of finding employees. This Resolution aims to show that Torrance County supports this legislation of putting a moratorium on the rules that compel a retired worker to return to work without also receiving a pension. This would assist



the New Mexico governmental agencies in filling open roles. The one place that Torrance County may benefit the most from is in EMT/ Rescue roles.

**Madam County Manager Barela:** Read the resolution into the record.

**Chairman Schwebach:** Stated that he supports this resolution, as he believes that the employment shortage issues have just begun.

**Commissioner McCall:** Questioned New Mexico Counties stance on this resolution, and if they will be pursuing it during the Legislative session, as he has not seen it on their list.

**Madam County Manager Barela:** Answered that she was unsure, and Treasurer Tracey Sedillo will be standing up at the next meeting to speak and will present the list formally at that time, and to ask for your support on that resolution.

**ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to approve Resolution No. 2021-50, Requesting a Change to the Public Employees Retirement Association (PERA) Return to Work Provisions.

**Commissioner Candelaria:** Seconded the motion.

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**D. MANAGER: Motion to approve notice resolution, proposing future adoption of a County Ordinance authorizing the issuance of industrial revenue bonds not to exceed \$3,500,000,000, relating to a wind energy project proposed by Pattern SC Holdings LLC and directing that the Title and General Summary of the subject matter of the proposed ordinance and notice of the meeting at which the ordinance will be considered for adoption, be published as required by law, Resolution No. 2021-51.**

**ACTION TAKEN:**

**Chairman Schwebach:** Opened floor for discussion on possible motion to approve notice resolution, proposing future adoption of a County Ordinance authorizing the issuance of industrial revenue bonds not to exceed \$3,500,000,000.

**Commissioner Candelaria:** Seconded the motion.

**Madam County Manager Barela:** Could not find the Notice Resolution. It had previously been given to her, and Manager Barela thought it would appear in the packet, but it did not. This resolution would give notice to the taxing entities in Torrance County that the Commission would be beginning the process of negotiating the IRBs (Industrial Revenue Bonds.)

**Commissioner McCall:** Asked if this was the same resolution that was presented two meetings ago.

**Chairman Schwebach:** Answered no.

**Madam County Manager Barela:** Answered that what was passed in a prior meeting was an approval to present the resolution before the Commission. This is the next formal step in the process.

**Chairman Schwebach:** Made a motion to table Item 11-D.

**Commissioner McCall:** Seconded the motion.

#### AFTER PRESENTATION

**Chairman Schwebach:** Made a motion to defer Item 11-D until the next meeting.

**Commissioner McCall:** Seconded the motion, wanted it deferred.

**Chairman Schwebach:** Wants to defer Item 11-D and found that Pattern wanted to wait until the next meeting to present in person.

**Madam County Manager Barela:** Explained that it was the Bond Council that wants to present in person. According to the Open Meetings Act she would need to be able to hear everything being said, but the way the current technology was set up it was not possible.

**John Butrick:** According to Section 10-15-1 Subsection C, the OMA requires all parties to be able to hear and be heard by everyone in attendance.

**Chairman Schwebach:** Motion made to defer Item 11-D.

**Commissioner McCall:** Seconded the motion.

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**12. APPROVALS**

**A. DISPATCH:** Motion to approve Service Agreement between Torrance County and Motorola for enhanced radio system. (Deferred from October 27, 2021, Meeting)

**Ben Daugherty, Torrance County Dispatch:** Introduced Frank Mendez and Judy Hines from Motorola Solutions.

**Frank Mendez, Motorola Solutions:** Handed out copies of the presentation that was to be shown on the screen. (See Commission Packet for full presentation materials.) Mr. Mendez introduced himself and his team members, including Judy Hines, Motorola Team Manager. Described the radio life cycle

**Chairman Schwebach:** Asked how old the 7.16 and the 7.18 programs are for the radio system.

**Frank Mendez:** The 7.16 was from 2015-2016. The 7.18 is from 2017-2018. Now they are going by year, so he wants to upgrade Torrance County to 2021.

**Commissioner Candelaria:** How important is it to be up to be part of the State of New Mexico?

**Frank Mendez:** It is very important to stay up to date and be able to communicate with other first responders. Interoperability is key. It is up to the County how well they want to integrate and be able to communicate between different organizations.

**Commissioner McCall:** Asked why the numbers on this presentation are different than the last presentation (Previous meeting on October 27, 2021).

**Ben Daugherty:** Explained that he had presented an older contract that Mr. Mendez had given him, and because he did not understand the order that Mr.

Mendez put them in, it was confused on the presentation. Mr. Mendez reorganized the contract to be easier to read.

**Commissioner McCall:** Asked if there is a roadmap to where the County is and where they should be.

**Frank Mendez:** With the initial investment that the County would make, the County is entitled to three upgrades. One for sure is the SMA, which would happen approximately 2 years in, after the initial payments are taken out. Then the County would be owed 2 more upgrades.

**Chairman Schwebach:** Asked how long Motorola has offered these types of 6-year contracts.

**Frank Mendez:** In his own experience, he was introduced to the system in 2012, as a customer. He believes it was further back than 2012. Motorola based their P-25 standard contracts on Microsoft, Cisco, and others that offer similar contracts.

**Chairman Schwebach:** Asked why Torrance had not been offered a 6-year contract in the past.

**Frank Mendez:** Answered that he is unsure.

**Ben Daugherty:** Answered that in the past they were just presented with 1-year contracts, but the service also went through Advanced Communication via the contract with the State of New Mexico, through Motorola. The service was horrible, and the contract was never brought to them. Historically, long contracts were shot down by previous Commissioners. They would have rather done 1-year contracts.

**Chairman Schwebach:** Understood that Motorola wants to get the County caught up to '17/'18 standards, but must know why are they not looking to get caught up to 2021 standards?

**Frank Mendez:** Explained that the core of the system can only be upgraded to '17/'18 standards. The next upgrade would focus on upgrading the actual core, to then upgrade the software. As it stands, the core of the Torrance County system is not compatible with the current systems. Unless the County wants to upgrade everything at once, which will cost more up front. Motorola does not want the County lagging behind but wants the County to get the most use out of the systems that they can get. They want to "future-proof" the County, which is the goal of Motorola.

**Commissioner McCall:** Asked why they don't want to just upgrade everything up front, instead of waiting.

**Chairman Schwebach:** Asked if the County would be using the 2025 hard- and software in 2027.

**Ben Daugherty:** Answered that some of the confusion may be coming from the fact that some of the programs that are being discussed are not even available yet. They will upgrade what they can now, and then will upgrade again when the next available system comes out. You cannot skip from 2015 to 2021, because the system is not compatible with that upgrade.

**Chairman Schwebach:** Asked if the County has skipped those steps in the past.

**Ben Daugherty:** Answered in the negative. In the past the entire system was replaced. The system was brand new about 6 years ago, when Simulcast was installed, but has not been upgraded since. It is still functioning, but it cannot be interfaced with the State's system. It is out of date.

**Commissioner McCall:** Asked if a number can be provided on the cost of leap-frogging to the current standards. Explained that he believes it looks like the County will always be lagging.

**Frank Mendez:** Explained that he wants to get the County to a crescent point where it is form-fitting for all the upgrades that are available. He said that he could come in and give the County a budget for the top of the line, completely new system, though he wants to stay in the County's budget, and doesn't want to blindside the Commission with a large figure. A full upgrade will cause the County to have to remove almost all the current equipment. He wants the County to be able to get the most use out of the investment that has already been made.

**Commissioner McCall:** Asked if at the end of the 6 years, will the County be at the most current, or will they still be lagging.

**Frank Mendez:** The goal, though not guaranteed, is to be up to date at the end of the 6 years. If the County decides to sign the letter of intent to standardize with the State of New Mexico, then there will be no choice but to maintain the top of the line, ever-changing equipment. Mr. Mendez' goal is to keep Torrance up to date, without breaking the budget. If the County was not using the same equipment that the State of New Mexico uses, it would cause an interruption of service.

**Commissioner McCall:** Asked if there is any money in the dispatch budget to cover the cost of the newest equipment.

**Ben Daugherty:** As a standalone upgrade, no. But as the 6-year plan has been laid out, yes. It is a small increase over the standard service fee that we have been paying yearly. With standard inflation, the price would be similar to what these numbers are. Answered that the cost for the first year is \$94k, the second is \$97k, and it increases yearly.

**Commissioner McCall:** Asked what Dispatch had budgeted.

**Ben Daugherty:** \$90K for this year.

**Commissioner McCall:** Asked what level the County would need to be at with the equipment to be on the same level as the State of NM.

**Frank Mendez:** Explained that would be the 7.18. After that, the State would lead the County in what equipment and upgrades to get, and when.

**Commissioner McCall:** Asked Mr. Daugherty if it was true that only a few years ago the County spent more than \$1 million on a system, and if so, how much of the equipment purchased with the taxpayer money is still in use and would continue to be an asset.

**Ben Daugherty:** Answered affirmatively in response to the question of money spent on a system. Answered in response to the second question that the infrastructure would remain the same. It would be the radios and the computer's brain that would be replaced.

**Commissioner McCall:** Asked if the departments will have better coverage with this system.

**Ben Daugherty:** Answered that there would be more reliable coverage. As they continue to work with the State of New Mexico, as an addition to the Torrance System, there will be more options on what types of radios may be purchased and used. The current issue is that the radios currently in use are cumbersome and it is hard to find efficient and economical field radios.

**Commissioner McCall:** Wanted to know if there is a roadmap, and if so, if there is some sort of action that can be taken to ensure that when the newest product hits the market, that Torrance County receives it within a certain amount of time.

**Frank Mendez:** Explained that he would be willing to introduce the newest products but wants to make sure that Torrance County can benefit from any new item or upgrade debut. The roadmap that has been laid out allows Torrance County to incrementally change their plan so that they remain interoperable with other towns and the State of New Mexico. He wants the County to stay on the crescent, instead of the bleeding edge. He insists that the newest feature or software may not even be the best thing for the County. He wants the County to be able to operate fully functionally and using the tools that are the best for Torrance.

**Commissioner McCall:** Wants to take the leap, wants to know the big number, and see what it takes to become fully functional.

**Ben Daugherty:** Reiterated what Commissioner McCall had just said.

**Chairman Schwebach:** Said that he feels that he is missing something and wants to know why the Commission is not just being offered the best equipment up front. He has been hearing about the “road map,” yet still wants to know just what the leap to the “latest and greatest” items are not being offered. He wants to know what exactly the “road map” looks like, and now the State of New Mexico is getting involved. If we wanted to get in line with the State, what would that entail for the County and the prices involved. Asked why the plan is heavily discounted on something they are behind on to begin with. He thinks the plan is loose on what the County will receive for equipment. Now that the State is coming in, and they may want to align with the State of New Mexico, so wants to know if that is included. Chair Schwebach said that in most of his business dealings he gets a discount for buying upfront because he is floating the interest, not the company. He wants to know what is not included.

**Frank Mendez:** Covered what would not be included in a plan that would overhaul the whole system. Radios, mobile and portable, repeaters, headsets, etc.; day to day items. What is included is the infrastructure itself, like the repeater site, and the backhaul (microwave.) This items that are linked

**Commissioner McCall:** Asked if Mr. Mendez could speak to weather and acts of nature, such as ice and snow.

**Ben Daugherty:** The majority of what the plan covers would be the Simulcast network. There are 3 sites, including the dispatch center on Capilla Peak, and the Fire Station in Moriarty. This will cover the communication hardware inside, a.k.a. the Simulcast network. It does not cover the outside communication infrastructure

hardware. If an accident happens again like last year's ice incident, where the ice punched a hole in the roof. If water and snow had gotten in, that is something that Motorola would look at. The two repeaters at Cline's Corners and Gallinas are not part of the Simulcast network. They are covered for maintenance, but any hardware repairs come out of the County's coffers.

**Commissioner McCall:** Clarified that he is not against first responders getting the equipment that they need and apologized for not completely being on board. Took the time to remind everyone that the County fully supports the Police and first responders. He just wants the best steps for the County to be taken, especially when considering spending so much of the taxpayer's money.

**Ben Daugherty:** Mr. Daugherty wants the Commission to know that he wants Torrance County to be compatible with the State system, not to replace the Torrance system with the State system.

**Chairman Schwebach:** Concurs with Commissioner McCall. Chair Schwebach brought up the fact that Mr. Mendez many times said that he was conscious of the Torrance County budget. He asked if Madam County Manager Barela had given him a budget to work from.

**Frank Mendez:** Said that he worked off the budget that Ben Daugherty had given him, which were based on previous costs to Motorola.

**Chairman Schwebach:** Wants to see, no holds barred, what it would cost to upgrade to the very newest system.

**Commissioner McCall:** Thanked Mr. Mendez for coming to Torrance County.

**Chairman Schwebach:** Believes that going to Motorola is a no-brainer. He wants more information but will be switching to Motorola.

**ACTION TAKEN:**

No action was taken. Mr. Daugherty will come back at the December 8, 2021, meeting.

**Chairman Schwebach:** Made no motion.

**ACTION TAKEN:**

ITEM DEFERRED.

-2 MINUTE BREAK-



**B. CLERK: Motion to approve canvass for the November 2, 2021, Regular Local Election.**

**ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to approve canvass for the November 2, 2021, Local Election.

**Commissioner Candelaria:** Seconded the motion.

**Yvonne Otero, Torrance County Clerk:** Read the reports that are available in the Commission Meeting Packet, beginning with the winners of the elections.

VIDEO AND AUDIO ARE UNAVAILABLE FOR THIS PORTION OF THE MEETING, UNTIL AFTER ITEM 12-E. UNEXPECTED ERROR OCCURRED WHILE RECORDING

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**C. DWI: Motion to approve a service agreement between Torrance County and Prevention Works Consulting, LLC, for evaluation services of the prevention component of the Torrance County DWI Program.**

**ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to approve a service agreement between Torrance County and Prevention Works Consulting, LLC, for evaluation services of the prevention component of the Torrance County DWI Program.

**Commissioner McCall:** Seconded the motion.

**Tracey Master, DWI Program Coordinator:** Introduced the Professional Services Contract for the DWI Prevention Consultant, Frank Magourilos.

**John Butrick:** Noticed that there is a contradiction between paragraphs 20 & 21, which allow for an attorney's fee to be collected, and paragraph 32, which forbids

it. Mr. Butrick told the Commission that the contract may be approved with one of the paragraphs stricken from the contract.

**Chairman Schwebach:** Amended his motion to approve a Made a motion to approve a service agreement between Torrance County and Prevention Works Consulting, LLC, for evaluation services of the prevention component of the Torrance County DWI Program, with Paragraph 32 stricken from the contract.

**Commissioner McCall:** Seconded the amended motion.

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**D. FIRE: Motion to approve submittal of an application requesting up to \$20k each from the Volunteer Fire Assistance Grant for District 4 & District 6.**

**Fire Chief Dirks:** Presented the application for the Grant. He believes that a 10% match is what would be necessary for the grant. This allows them to pursue the agreement.

**Commissioner McCall:** Made a motion to approve submittal of an application requesting up to \$20k each from the Volunteer Fire Assistance Grant for District 4 & District 6.

**Commissioner Candelaria:** Seconded the motion.

**ACTION TAKEN:**

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**E. OPERATIONS MANAGER: Motion to hire a facilities Maintenance Position. (Deferred from October 27, 2021, Meeting.)**

**Juan Torres, Deputy County Manager:** Presented the motion to hire a facilities Maintenance Position. Mr. Torres explained to the Commission the many reasons that a new position was needed, which included the main argument that everything is backed up, and work orders are still flooding in, on top of the daily maintenance and checks that need to be completed. They are in reactive mode, not proactive mode. The beginning pay for the new employee will start at \$16/hr., then go up according to experience.

**Janice Barela:** Offered the gray Manager's Office vehicle to the Maintenance department.

**Commissioner McCall:** Asked if there would be a higher rate of pay for an electrician or mechanically licensed person.

**Nick Sedillo:** Answered that a plumber or electrician would start at \$24-\$25/hour with experience.

**ACTION TAKEN:**

**Chairman Schwebach:** Made a motion to hire a facilities Maintenance Position with an approved salary of \$16/hour. Madam County Manager and Human Resources can figure out the details.

**Commissioner Candelaria:** Seconded the motion.

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**F. FINANCE AND PURCHASING: Motion to approve Grievance Hearing Officer (Professional Services) Contract between Robert F. Curtis and Torrance County.**

**Chairman Schwebach:** Introduced the item for discussion, with no motion.

Discussion included points made regarding the fee of the Grievance Officer.

**Deputy County Manager Juan Torres:** Told the Commission that Mr. Curtis charges a \$1500 fee and travel charge. The agreement is for an extended RFP for 1 year with a 2-year renewal option.

**Commissioner McCall:** asked if the policy can be re-written so that 5 Grievance Hearing Officers are not needed.

**Madam County Manager Barela:** Answered that yes, the policy may be re-written.

**Chairman Schwebach:** Pondered why to award a contract to a Grievance Hearing Officer if it is not necessary. If the staff and the grievance member are each allowed to strike one officer anyway, then why have the extra?

**Madam County Manager Barela:** Answered that the current Grievance Policy may or may not be the best thing for the County.

**John Butrick:** Reminded the Commission that just because time is short, does not mean that they must accept this contract.

**Commissioner Candelaria:** Asked about possible liability for not having the contract decided on.

**John Butrick:** Answered that he is unaware of any liability for not choosing an officer in a timely manner. He answered that is it just best practice to get it done as quickly as possible.

**Madam County Manager Barela:** Asked if it was possible to ask Mr. Curtis to renegotiate the contract. Mentioned that the Chief Purchasing Officer is not on duty at the time.

**Deputy County Manager Torres:** Told the Commission and Madam County Manager Barela that it is possible for the contract to be re-negotiated.

**ACTION TAKEN:**

**No Motion was made, no action taken.**

**G. MANAGER: Motion to approve the 2022 Holiday and Commission Meeting Calendar.**

**ACTION TAKEN:**

**Madam County Manager Barela:** Presented the proposed Calendar that Tracey Sedillo, Treasurer, would like to see passed. The reason that there are two calendars being presented was for the fairness of holidays. The admin staff who do a normal 10-hour, 4-day workweek, get floating holidays for holidays that land on the weekend, or they get to take the actual holiday off. For the Emergency and Rescue staff, they do not get that luxury. With the dual calendars, it would give First Responders overtime pay for working the actual holiday, instead of a floating holiday.

**Chairman Schwebach:** Asked what was different on the Federal Holiday schedule for the Admin. staff that has been presented.

**Madam County Manager Barela:** Answered that there was an extra holiday added, Juneteenth.

**Chairman Schwebach:** Was not pleased with adding an extra holiday and suggested that if the new holiday was kept on the schedule, then the Admin Staff go back to 5-day workweeks. He also suggested letting the staff take the holiday if they made up the hours and worked Friday instead.

**John Butrick, Torrance County Attorney:** Asked if the County is required to adopt federal holidays.

**Madam County Manager Barela:** Explained that the answer to that question would be according to the language in the personnel manual.

**Action Taken:**

**Chairman Schwebach:** Made a motion to approve the 2022 Holiday and Commission Meeting Calendar, striking the Juneteenth holiday (observed June 20) and striking the November 23, 2022, Commission Meeting.

**Commissioner McCall:** Seconded the motion.

**ROLL CALL VOTE:**

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

**MOTION PASSED.**

**H. PLANNING AND ZONING: Consider the application for appeal to the Planning & Zoning Board's denial of a Conditional Use Permit to operate a commercial greenhouse at the residence of Mr. Richard M. Strahlem. The subject property is described as Lot 4 of the Mission Hills subdivision; a Type 5 subdivision within the Agricultural Preservation (AP-40) Zone District. PUBLIC HEARING.**

**Consider Planning & Zoning Boards determination to deny Mr. Richard M. Strahlem's application for a Conditional Use Permit to operate a commercial greenhouse at his residence.**

**Torrance County Board of Commissioners**

**PUBLIC HEARING**

**November 10, 2021**

**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 – ABSENT**  
**JOHN BUTRICK – COUNTY ATTORNEY**  
**YVONNE OTERO – COUNTY CLERK**  
**VALERIE SMITH – ADMINISTRATIVE ASSISTANT**

**PLANNING AND ZONING: Consider the application for appeal to the Planning & Zoning Board's denial of Conditional Use Permit to operate a commercial greenhouse at the residence of Mr. Richard M. Strahlem. The subject property is described as Lot 4 of the Mission Hills Subdivision; a Type 5 subdivision within the Agricultural Preservation (AP-40) Zone District. Public Hearing. Consider Planning & Zoning Board's determination to deny Mr. Richard M. Strahlem's application for a Conditional Use Permit to operate a commercial greenhouse at his residence.**

**Chairman Schwebach:**

I don't think we need a motion.

**John Butrick, County Attorney:**

I believe you do Mr. Chair, to move into a public hearing.

**Chairman Schwebach:**

I make a motion to move into public hearing to consider Planning and Zoning Board's determination to deny Mr. Richard M. Strahlem's application for conditional use permit to operate a commercial greenhouse at his residence.

**Commissioner McCall:**

Seconded the Motion.

**ROLL CALL VOTE**

**Commissioner Candelaria: Yes. Commissioner Schwebach: Yes.**

**Commissioner McCall: Yes.**

**Chairman Schwebach:**

Now I'm going to enter into the public hearing. I'm going to turn the floor over to our attorney, Mr. John Butrick to lay the groundwork on how this will be conducted.

**John Butrick, Torrance County Attorney:**

Thank you, Mr. Chair. John Butrick, Torrance County Attorney. The first thing I want to read is just that this is a public hearing for appeal.

Richard M. Strahlem appeals to the Torrance County Board of County Commissioners to reverse the decision of the Planning and Zoning Board denial of a Conditional Use Permit to operate a commercial greenhouse at Lot Four, Mission Hills Subdivision being 13 Deer Run Court. The first thing I want to provide everyone is some directions as to how this is going to go. This will be very ordered. What will happen is the people who are in support of Mr. Strahlem will go first and anyone else in support of his appeal to overturn the P & Z board's decision will testify first in support of the appeal. As each person has testified, when that person is done testifying under oath, then anyone in the audience will be allowed to ask questions of that person. At that point, no one will be allowed to testify, but just provide questions. You will be given an opportunity to testify later, whether that's for or against. But at that point, when you're asking questions of Mr. Strahlem or anyone in favor, or anyone that is against it, all you will be doing at that time is asking questions. Now, if you do proceed to testify, I will stop you because you will not be under oath at that point. Even if you are, it will not be the time to actually ask to testify, just to ask questions. After everyone who is in support of the appeal has been given the opportunity to testify, and people who want to ask questions of those people have been able to ask those questions, then everyone who has who wants to testify in opposition of the appeal, the same thing will happen. Anyone who wants to ask questions of those who are opposing the appeal, who are testifying in opposition to the appeal, will be given the opportunity to ask questions as well. It's just the exact opposite, but the same process. After that, once all the testimony has been provided, and all the questions have been asked, then it will be submitted to the County Commission for their consideration. What I want to do now --what one other thing I want to bring up- on the sign in sheet, it states that there's a two-minute limit. Please disregard that in its entirety. Because this is a public hearing, you will be given all the opportunity you need to testify and or ask questions, so that there will be no two-minute limit, so do not worry about that. And do not worry if [your] name is not on this list. Obviously, everyone who's on this list will get a chance to testify or ask questions, but



anyone else who wants to testify, or ask questions will also be given an opportunity to do that as well. So, with that, I want to just bring up some of the of the ordinances or subdivision regulations of the Cannabis Regulation Act provisions that may be at issue during this hearing. So, I'm going to begin with the Zoning Ordinance, Section Two. The provisions of this ordinance are designed to promote health and the general welfare of the County, to secure safety from fire, flood, and other dangers; to protect local water resources; to facilitate adequate provisions for water systems; to conserve the value of property, and to provide for the compatible development of land and other natural resources in the County. This is an unincorporated area northwest of here in town [205 S. Ninth St., Estancia, New Mexico,] the Mission Hills subdivision.

So next I'm going to go to Section Four. That's Definitions, Subsection B-7: Conditional Use: the means to use which may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Such uses require individual review and approval by the Zoning Board.

Next, I'm going to go to Section Five: interpretation. Subsection A, Interpretation of Ordinance, no structures shall be constructed, placed, or maintained, and no land use commenced or continued within the jurisdiction of this ordinance except as authorized by this ordinance, and amendments thereto. The provisions of this ordinance are held to be the minimum requirements to carry out the purpose of this ordinance and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this ordinance are more or less restrictive than other laws, covenants or ordinances, then whichever is more restrictive shall govern. However, the County shall not enforce private covenants, unless such private covenants are incorporated into an approval of a subdivision by the County Commission. On that point, Commissioners: per my discussions with the Planning and Zoning Department, the HOA deed restrictions that are potentially at issue here, were never and have never been approved by a County Commission as part of the Mission Hills subdivision approval. That is my understanding. Now, such approval of private covenants centered around, say, the creation of a community water system when a subdivision is created, versus, you can't paint your house brown. We're not going to get involved in small issues like that. But the creation of water systems when the subdivision is created, we might get involved with that. That is not the case here; we were not involved as far as I am aware. Now, this Commission is

not bound by these deed restrictions. I need to repeat that word. This Commission is not bound by these deed restrictions because it has not been approved by any Commission, though you may consider these deed restrictions. Moreover, what is before you today is an appeal of the Planning and Zoning Board's decision to deny a conditional use permit. In this instance, only, not the adoption or acceptance of the private HOA covenants. So even a reversal of the Planning and Zoning Board's decision would not mean an approval or acceptance of these private HOA covenants, I want to make that clear to all of you.

Next, this, Section Five and Section Six, Subsection D, water and wastewater requirements is the general provisions in the County ordinance. All lots and all structures located thereon shall be in compliance with applicable statutes as well as any regulations established by the New Mexico Environment Department and the New Mexico State Engineer's Office concerning water. I know from looking at the packet there are letters from the State Engineer's Office. So that obviously is for your purview if you want to take a look at that. I'm not going to get into the nuts and bolts at this point. But if there are questions that need to be asked, we can do that later.

Subsection Six again, General Provisions. This is Subsection L. Now I read this section, but in my discussions with the Planning and Zoning Department, this section in effect is no longer enforced, and let me explain why. I'm going to go to a different section because I have some notes on that. So, this ordinance was amended back in 2020. Well, since then, medical cannabis was already allowed before this ordinance was amended. But since then, recreational cannabis has also been legalized in New Mexico.

So, if you will, I'm just pointing to- this is Section Nine. It is Subsection D, Paragraphs Five and Six. If you'll see Paragraph Six is the same as Subsection L of Section Six in the County Ordinance. The reason that this section is no longer in force is because at the time, all we had was medical cannabis. The County as a policy decision decided to put a specific provision in its order. Regarding medical cannabis, now that recreational cannabis has been passed recreational and medical cannabis, we cannot treat them any different than any other agricultural [unintelligible] crop. The way that this reads now, because Subsection Six here states just medical cannabis. Recreational cannabis by implication is now found in Section Five, in Paragraph Five there, we can't treat medical and recreational cannabis differently. In effect, Paragraph Six there and Subsection L of Section Six are dead letters in the law. So do not consider those

in my view. Okay, so we all we will consider is Paragraph Five at this point. And that's just so we treat medical and recreational cannabis the same.

Section Nine, this is regarding the type of Zoning District that we're going to be talking about this morning, or this afternoon. Agricultural Preservation District AP 510 and 40. We're in an AP 40 district here for the purposes of this hearing, Subsection A intent. This zone district is intended to protect and preserve areas of suitable agricultural soil for agricultural and agricultural related uses. The standards prescribed for this District are intended to preserve the open character of the area and thereby to protect the business of agriculture. The minimum lot size in the Zone district shall either be 510 or 40 acres. Obviously this is 40 as indicated on the Zoning map. Subsection B, Permissive Uses: any of the following permissive uses are allowed in this zone district. Subsection 2 of B, Cultivation and harvesting of plants and crop lands. Just to give you a point of reference, cultivation and harvesting of plants is the definition of horticultural operations in the ordinance cultivation, so the depth of what is stated here is not that it is cultivation and harvesting of plants, which is horticultural cultural operations, but it says cultivation and harvesting of plants and crop lands. So, it's inclusive also of crop lands here, not just horticulture operations.

Then we go to Section Nine Subsection C: Conditional Uses. The following uses may be allowed in this Zone District only upon permit granted by the Zoning Board. And then I go to Paragraph Subsection Four of that section, Subsection C: large scale commercial processing of agricultural products. So just to point out to you what we're going to be talking about and I know that the applicant for appeal can get into this, but just as an observational matter where we are talking about two types of plants 270 plants each, that is 540 plants annually. Under the New Mexico Cannabis Regulation Act, a micro business is considered 200 or fewer plants. So given that we are talking about 270 and 540. If we're talking about both plants, I think it is fair to say that we are not talking about a micro and we are closer to a large scale. commercial operation, whether that's agricultural horticultural is another question. But we are certainly in a large-scale operation, such as Section 9, Subsection D, district standards, the following standards apply to all land uses within this Zone district. And then that's where we get back to Paragraph Five and Six, and we're going to disregard Paragraph Six now. But Paragraph Five states, commercial, agricultural and horticultural operations are prohibited within the bounds of Types One and Two subdivisions as defined in Article Two of the Torrance

County subdivision regulations. That really does not apply here because we're not talking about Types One and Two. Second sentence in types three, four and five subdivisions a conditional use permit may be required and let me go to Article Two of the Torrance County subdivision regulations, which defines the different types of subdivisions. What we're in today is a Type Five subdivision. And that is defined specifically in the subdivision regulations. A Type Five subdivision is any subdivision containing not more than 24 parcels, each of which is 10 acres or more insides. So, I can go through the other different types, but that's the type of subdivision that we're in today.

Section 21, Conditional use permits Subsection A approval and permit required conditional uses established by this Ordinance shall not be allowed without the review and approval of the Zoning Board which shall be guided in making a decision by the criteria set forth in this section, Subsection B. I'm just reading part of Subsection B to the extent possible, all abutting property owners shall be notified at the Zoning Board meeting at which the conditional use permit application will be considered. What I can tell you in my discussions with the Planning and Zoning Department for the October 6 Planning and Zoning Board meeting, there were letters that went out to Mr. Strahlem and the abutting owners on September 22, which is in compliance with this. And for today's hearing letters went out to the abutting property owners on October 25. So, this was complied with. My understanding is that all posted signs are still there on the property as required by the statute or by the ordinance. Subsection D guidelines the Zoning Board shall not approve any conditional use permit, unless satisfactory provision has been made concerning the following where applicable:

Number one: accessibility to property and proposed structures there on with particular reference to automobile and pedestrian safety, traffic control and emergency access in case of fire, flood or catastrophe.

Number two: Off street parking and loading areas where required with particular attention to the refuse and service areas.

Number three: Water and liquid waste facilities with reference to soil limitations, locations and public health.

Number four: The economic noise glare or odor effects of the conditional use on adjoining properties.

Number five: General compatibility with adjacent properties.

Number six: A proposed land use must comply with Section 23 pertaining to water usage.

And I will discuss Section 23 here shortly.

Section 21, conditional use permits, Subsection E limitations: Conditional use permits issued in accordance with this ordinance shall be considered permanent with the following exceptions. And the reason I want to bring this up is in case should you decide to overturn the Planning and Zoning Board's decision that denied the Conditional Use permit, here are some things that you need to consider if you do choose to overturn the Planning and Zoning Board's decision.

Conditional Use permits [that] are issued in accordance with this ordinance shall be considered permanent with the following exceptions:

Number one: For any conditional uses that have an exceptional tendency because of their nature or character to create an adverse impact on neighboring properties. The Zoning Board may limit the term of the permit to a specified length of time, after which the permit shall expire and may be renewed. An application for renewal of the Conditional Use permit may be submitted and processed in the same manner as the original application with reduced filing fee.

Number two: Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the Zoning Board may require a renewal of the original Conditional Use permit. Significant change shall be determined by the Zoning Board based on a scheduled review of the conditional use permit.

Number three: An approved conditional use permit shall become void one year after the date of approval if the rights and privileges granted thereby have not been utilized.

Number four: An approved conditional use permit shall become void if, after the use has begun, it ceases on the approved site for a continuous period of one year or more.

Number five: That County Commission may revoke a permit if the requirements and restrictions required by this ordinance are not met. Before permit may be revoked, the permittee must be given at least 10 days written notice of the specific chain of charges and be given the opportunity for hearing before the County Commission.

Now I'm going to get into Section 23, which regards water usage: The Purpose-Subsection A: Given the effects that water usage associated with the proposed land use may have on water resources within the County, both as to quality and quantity. The purpose of this Section is to promote the health, safety, and welfare of County inhabitants to promote the conservation and beneficial use of water resources within the County and to protect prior existing water rights and interests. As I suggested earlier, the State engineer has some documentation in your packet to review.

Subsection B, Application: Every application under the Zoning ordinance will be evaluated as to its potential effect on water resources within the County. Every application shall contain with it a statement of the water use associated with or required to carry out the proposed land usage. Either the Zoning Director or Zoning Board shall make an initial review of the associated water usage and shall determine whether the proposed usage is of such an extent or nature that referral for comment to an appropriate public agency is an order. My understanding and talking to the Planning and Zoning Department here is that a referral to a public agency was not made in this case.

Subsection E- Guidelines in Evaluating a Water Usage Associated with a Proposed Land Use: The County shall consider the following factors were applicable.

1. The effect or impacts on the public safety, health and welfare of County inhabitants, particularly those in the vicinity of the proposed water usage.
2. The potential adverse effects on water quality number.
3. Effects on water quality. I'm sorry- quantity- effects on water quantity, including potential impairment of prior existing water uses.
4. Whether the water use is consistent with conservation and beneficial use of water.

And then the final Section in the County ordinance that I'm going to discuss is Section 25. And that's the Appeals Section. Subsection A-Right of Appeal. Anyone aggrieved by a decision of the Zoning director or the Zoning Board and carrying out the provisions of this ordinance may appeal such decision to the County Commission as they have here. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion or where the decision was not supported by evidence in the matter. In reviewing Mr. Strahlem's appeal, Mr. Strahlem, it appears is appealing under Sections 9-B.2..

That's regarding the potential permissive use under the AP 40, District 21 D, which are the factors to consider in granting a conditional use permit and Section 23-the Water Usage. Let's see-Subsection B: Application and any appeal following a decision of the Zoning director or the Zoning Board shall be made in writing to the County Commission on prescribed forms obtainable from the Zoning director upon payment of the applicable filing fee. Any appeal not submitted within 14 days after the decision, which is subject of the appeal shall not be considered by the County Commission. In this instance Mr. Strahlem submitted his appeal on the 14th day so that is timely. Subsection C- Public Hearing: The decision on an appeal shall be made by the County Commission following a public hearing. Notification at the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least 15 days prior to the hearing. Mr. Chair, Members, notice was timely published in The Independent on October 15, and October 22. Subsection D- Stay of Proceedings: An appeal shall stay all proceedings in the action unless Zoning Director or Zoning Board certifies that a stay will cause imminent peril to life or property upon such certification. The proceedings shall not be stayed except by order of the district court. That didn't occur here. And subsection 2- Decision: An appeal shall be decided within 45 days of the date of application of the appeal, a majority vote of the members of the County Commission is required to reverse change or form a decision made by the Zoning Director or the Zoning Board. Were within that 45 days.

So next, I want to briefly look at the Cannabis Regulation Act. I'm looking I'm going to be looking at both a statutory provision and some regulations. So, this is Section 26. C (as in cat), Dash 12- Local Control: A local jurisdiction may adopt (meaning that the definition of a local jurisdiction includes counties. So, it includes the County Commission here. So, this is something that the County Commission can do.) A local jurisdiction may adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses. In other words, you can decide how to regulate the when, the where, and the how, of how the operations of a cannabis facility are done here in this County. What this Commission cannot do, and that's Subsection B of this same section. And in my view, none of these six actually apply to you, but I will read them because they're in the statute. And I believe they do not apply because number one, Mr. Strom is not currently a licensee on the first five

and number two, he is not growing this just for homegrown personal use, but for financial consideration on the sixth one. So let me go through these.

A local jurisdiction shall not:

1. Prevent transportation of cannabis products on public roads by a licensee that transports cannabis products in compliance with the cannabis regulation act
2. Completely prohibit the operation of a licensee.
3. Prohibit or limit signage attached to or located on licensed premises that identifies the premises as a cannabis establishment.
4. Require a licensed premises or cannabis consumption area to be any more than 300 feet from a school or daycare center that was in existence at the time the cannabis establishment or integrated cannabis micro business was licensed.
5. Require an existing licensee at a licensed premises to relocate.
6. Prohibit a person from producing homegrown cannabis as provided for in the Cannabis Regulation act.

I want to share with you some things in the regulations. and that's Title 16-Chapter Eight, part two of the NMAC code. So, this is something-and you will understand why I'm saying this here in a second-but this is something that happens after they get approval or after they would get approval from the County and only after that application requirements for Cannabis Producer License. An initial application or renewal for Cannabis Producer Licensure shall include the following: A copy of a current business license, Fire Inspection Report, and Zoning Approval Certification. The applicant will adhere to applicable Federal, State and local laws governing the protection of public health and the environment including occupational health and safety, food safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge, and a demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis production as evidenced by either documentation from the Office of the State Engineer showing the applicant has a valid and existing water right or a permitted available water right for irrigation purposes for outdoor cultivation. Or in this case for a commercial purpose for indoor cultivation. And in this case pursuant to the documents that you have from the State Engineer's Office, this is a for residential use only at this point; it's not for commercial use. For commercial purpose for indoor cultivation, which would be the case here at the proposed place of use of the cannabis



establishment, the documentation may include any of the following: a State Engineer permit or license in good standing but not including a permit issued pursuant to several sections, the findings of the Office of the State Engineer hydrographic survey or other documentation. The Office of the State Engineer has deemed in writing as acceptable to the Office of the State Engineer under this rule. And Mr. Chair I'm almost done. So, I beg you for your patience here.

Just a couple more provisions. So, this is under the NMAC code again, this is 16.8 dot 2.8 General operational requirements for cannabis establishments, state, and local laws pursuant to the cannabis regulation act. Applicants and licensees shall comply with all applicable state and local laws that do not conflict with the Cannabis Regulation Act, including laws governing zoning, water use and quality water supply, hazardous materials, pesticide use, wastewater discharge and business or professional license.

And then finally, 16.2.18: Construction or Alteration of Cannabis Establishment: If applicable, licensees shall ensure that all licensed premises are in compliance with the Construction Industries Licensing Act. And the LPG and CNG Act, including associated rules as well as applicable codes and standard zoning laws, licensing laws and fire codes.

So none of what I just read are intended to be an all-inclusive of every single potential applicable law. But they are the ones that might be discussed today. Copies of the complete ordinance and the subdivision regulations are available on the Torrance County website. And copies of the Cannabis Regulation Act are available on the New Mexico Compilation Commission website. And I'm not and regulations can be found online as well. So finally, I want to give a word to the Commission. If you have read the draft notes for the Planning and Zoning hearing on October 6, you might notice that there were no comments from me early in the during this action item. And that was because this meeting occurred on October 6, and if you recall, that was the day that I returned from my vacation, so I got in a little late that day, and the Planning and Zoning Board actually recessed their meeting briefly, to allow me to get here and to provide any consultation and advice as I could. I appreciate that. So, what my goal here today will be as I will advise you as best as I can today. Likewise, let's see here. That said and given that I do not know what the decision of this Commission on this appeal will be, and to maintain my objectivity at this point, I will not be addressing the veracity of the arguments in public, at least to the extent that they

aren't obvious, and I kind of went into the places where I thought they were obvious. And given the anticipation that whoever is aggrieved over today's decision may appeal to the District Court, I will withhold value judgments of the issues themselves outside of any executive session called pursuant to pending or threatened litigation under the Open Meetings Act Section 1015-1.H.7. With all of that, I will invite Mr. Strahlem to the podium to be sworn in.

**John Butrick, County Attorney:**

Mr. Strahlem, do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

**Mr. Strahlem:**

I do.

**John Butrick:**

Thank you. Please state your name for the record.

**Mr. Strahlem:**

Richard Strahlem.

**John Butrick:**

And you're allowed to testify now.

**Mr. Strahlem:**

Mr. Schwebach, Chairman Schwebach, Commissioner Candelaria, Commissioner McCall. Good afternoon. I guess I should start from the beginning.

**John Butrick:**

How you present your case- how you present your case is completely up to you, okay.

**Mr. Strahlem:**

My wife and I are in the application process with the state of New Mexico and the Cannabis Control Division for a cannabis producers license. We are not applying for a micro business license. That's a different phase of the business. It would be actually selling the cannabis. If we had a micro business, we'd have

the production of the cannabis and then we'd have a storefront or a room where we'd sell it. We don't want to do that. So, to give you a perspective of our location, we're on a 40-acre lot rectangular. We're in the western end of it. The closest home to the east is approximately 60 acres away. To the north, there are no homes visible. It's probably a mile drive to get to home on the north. On the west and west and south the old Garlin ranch borders our lot, so we are pretty isolated. I mean we're not close to schools, or as like I say the only closest home is 60 acres away. The proposed building that we're going to use as the proposed production facility is a detachment garage, is a steel building that is insulated. It's 720 square feet. It's 50 feet from our own residence. You can't see it from Rancourt St. If you know where that is from Mission Hills Road you can barely detect it.. Its's painted green to match the trees. So if you were to come out to the house today, and look at it will look the same after we begin production. We'll all be in this, in our building. And of course, we have to go by the regulations of the of the Cannabis Control Act. We have. It has to be secure, it has to be monitored, it has to have cameras, nobody can enter that space unless they have permission, they have to have a badge. There, no one, it's going to be out of sight out of mind. And I've stated that to my neighbors on October 6, that's our intention. The other aspect is the ventilation of the grow room, which would probably occur every day. It would be through a blower with a carbon filter on it. It'll be on the west side of the building. There should be no fumes, no smell, you won't, it will be invisible. So we, we have installed a rainwater harvesting system. We have an 18,000 gallon system with a solar pump. And we can capture up to 18,000 gallons. Today we have 10,000 gallons of water. We've reduced our production schedule from 570 annually to 420. You know, initially, I thought we could do 570. We probably could, you know. It'd be very packed. Not much room to working out. So it seems more feasible to do 210 plants at a time to crops that would and we've adopted the one to one ratio, that's-that's the water usage to produce one plant of one cannabis plant. If the plant produces a pound of cannabis, it will use one gallon of water. And, you know, you can control the size of the plants, how big they are, what-what they are potentially, you know, what they potentially produce. So, our intention is to have strains of cannabis that would maybe produce a pound of cannabis, maybe, maybe less so based on the one-to-one ratio of 420 cannabis plants annually, that puts us at approximately 52,800 gallons of water a year.

And we can utilize the rainwater. Let's just say I don't, we don't, get any more than 10,000 gallons a year, that would be 20%. If we use those 10 gallons to supplement our -well, that would be 20% of the water consumption. There was

there seemed to be a concern at the October 6 meeting about our ability to, you know, to capture this rainwater, but it's a fact. And I would invite anyone, all of you to come out if you want. You can check the tanks and see that we have 10,000 gallons. We have a solar pump. We can pump water into our home. That was one of our concerns. Theoretically, it will never be without water. So electric and ultimately the Office of the State Engineer will have the final decision on whether we can repurpose part of our household well to water cannabis. We'd have to present the case to them. And they would either allow it or not. So, this is we're here today because the application process requires a business license. And in this case. We're not in the municipality, excuse me. So, we're asking the County to give us permission to have our greenhouse. I don't think I have any other angles to say, I appreciate the Mr. Butrick's reading into the record the regulations. I think we comply with all of them. I think today based on the ordinance, on the Torrance County Planning and Zoning ordinance, that you gentlemen could permit us to have a greenhouse at our residence. Also, a note, there was much discussion about deed restrictions. Covenants, HOA, as said at the last October 6 meeting, and have in the final analysis there. They're not applicable, as counsel said. It's something that the Commissioners do not have to consider or cannot consider. So, having said that, thank you for having us here today.

**John Butrick:**

And, Mr. Chair, at this point, I would welcome anyone to if they would like to ask questions of Mr. Strahlem. And just to give you guys a little more, anyone who testifies is absolutely a has the ability to provide any evidence in terms of physical evidence, electronic evidence, anything that you want to provide today, you can do that. So, if you'd like to do that, you can. And just to clarify what I stated, I stated that the County Commission is not bound by those deed restrictions, but they may consider them. So, you're not bound by them, but you may consider them if you'd like. So, at this point, if anyone in the audience or the Commission, and I actually would open it up to the audience first, if anyone in the audience would like to come forward and ask questions of Mr. Strahlem, now's the time to do that. And like I said, if you begin testifying, I will stop you because you will be given an opportunity to testify. So please limit your questions to just questions now, to Mr. Strahlem.

**Randy Wright:**

Good afternoon, Mr. Chairman and Commissioners. And I do have a couple of questions. Mr. Strahlem, you stated that you have an existing metal building that you keep referring to?

**Chairman Schwebach:**

I'm sorry, state your name, please.

**Mr. Wright:**

I'm so sorry.

**John Butrick:**

That's alright. Please state your name for the record.

**Mr. Wright:**

My apologies. I'm Randy Wright, and I'm a resident of the Mission Hills subdivision. So, in a sense, I'm a neighbor. Mr. Strahlem, you stated that you have an existing metal building that you're going to use as your grow house, is that correct? And it's metal, not glass, because you keep referring to a greenhouse. So, this is going to be an indoor grow facility with lights rather than-?

**Mr. Strahlem:**

Oh, absolutely.

**John Butrick:**

And if Mr. Strahlem can come up to the mic, I'm going to, you know, while you come up to the mic, I'm actually going to swear you in. (To Mr. Wright) Do you solemnly swear or affirm that the testimony or actually the questions or testimony that you're about to give is the truth, the whole truth and nothing but the truth? So help you God?

**Randy Wright:**

Yes.

**John Butrick:**

Okay. So as you ask questions, please allow Mr. Strahlem to then come up to the mic and answer any of those questions.

**Mr. Strahlem:**

The question or the answer is it's going to be an indoor grow which allows you to control the environment allows you to control the water. There's no wastewater compared to a shelter room. So yes, it's all contained. Locked down. What Mr. Wright said-

**John Butrick:**

Valerie, are you able to hear Mr. Strahlem on there? You're here. Good. Okay. Just want to make sure.

**Randy Wright:**

Okay, Mr.Strahlem. You also stated that you'll need about one gallon per plant per day. And that is for a typical 150 day grow season. For how many days is your grow season?

**Mr. Strahlem:**

All the information I have and all the research I've done for four months is a normal gestation for reinforced indoor, for growing indoor cannabis performance.

**Randy Wright:**

Mr. Strong, can you tell us where you got the information on a water usage that will be required?

**Mr. Strahlem:**

On the worldwide web.

**Randy Wright:**

Can you be more specific?

**Mr. Strahlem:**

I copied to websites. And I gave the Commissioners as part of my appeal that information. Most of the information you find on the web, regarding cannabis growing cannabis is related to the outdoor grows. So yeah, I use the web a lot. It's a lot of good information. Plus, I have books. But-

**Mr. Wright:**

I understand, but you can't tell us a specific reference. Did you go to a university extension agency, say like the University of California, or New Mexico State University, or anywhere like that to get this information?

**Mr. Strahlem:**

Mr. Wright, the cannabis business is pretty new. Universities don't have classes, generally speaking now about how much water it takes to grow cannabis. If there were or if there becomes one, I will say that I'm going to use the information I have to the best of my ability to produce cannabis for the State of New Mexico. Legal cannabis.

**Mr. Wright:**

So, you're absolutely right. The research that's available on water usage for cannabis. The-

**John Butrick:**

You're testifying now so I'm going to stop you. Okay.

**Mr. Wright:**

I thought you said I could testify at-

**John Butrick:**

Not at this point. Not at this point. If you want to testify later, you're going to be able to do that.

**Mr. Wright:**

Those are the last of my questions. And when I'm given a chance to testify, I'll provide evidence that suggests different outcomes. Okay, I will reserve that for them. Okay, thank you. Thank you.

**John Butrick:**

Is there anyone else that would like to ask questions of Mr. Strahlem? Okay, please come to the mic. Please raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

**Mr. Hagemeyer:**

I do.

**John Butrick:**

Thank you. Please state your name for the record.

**Mr. Hagemeyer:**

My name is Jonathan L. Hagemeyer. I go by Ladd, my middle name. I have one question. Do you, did you agree to the deed restrictions when you bought your property?

**John Butrick:**

I please come up to the mic so that I can hear you.

**Mr. Strahlem:**

I wasn't asked to agree. I was given a copy of the- it's not called deed restrictions. It's called the declaration of restrictions. So yes, I have a copy of-

**Mr. Hagemeyer:**

Did you agree or not agree to them?

**Mr. Strahlem:**

As I stated nobody asked me to agree.

**Mr. Hagemeyer:**

Do you believe they apply to you?

**Mr. Strahlem:**

My wife and I have you know we're we are homeowners in Mission Hills subdivision also. We value our property. We value our home. We've done everything to maintain our home and yeah, we- you know what? We have. We've lived by the letter to those restrictions written by Kirk. The restrictions are not only recently denied it was able to, determine that the restrictions were never registered with the County. They were notarized. Cobb's signature was notarized. And we have lived up to the conditions unlike yourself, sir.

**Mr. Hagemeyer:**

I guess trying to figure out how to phrase this The first page on those declaration of restrictions. Does does it have a County court stamp on it?

**Mr. Strahlem:**

I mean, here's my copy no stamp. Notarized signature.

**Mr. Hagemeyer:**

That's all my questions. Thank you. I'll address that aspect later.



**John Butrick:**

Mr. Chair, members just so you're aware, those restrictions are found in Exhibit Four in your packet, looking for those. Anyone else that would like to ask questions of Mr. Strahlem And obviously, the Commission can ask questions now or later once it's been submitted to the Commission for its consideration as well. Okay, Mr. Strahlem you're welcome to have a seat.

**Mr. Strahlem:**

Okay. Thank you.

**John Butrick:**

Is there anyone else that would like to testify in support of Mr. Strahlem's appeal at this point at this time?

Please raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give is the truth, the whole truth and nothing but the truth? So help me God. So help me God. Thank you, please state your name for the Gale strong. Okay. And please proceed.

**Mrs. Strahlem:**

I would just like to say that I firmly support Richard Strahlem. And I have been- he has done most of the work. I have looked over a lot of it. And I totally agree with everything he says.

**John Butrick:**

Okay, is there anyone in the audience for the Commission that would like to ask questions of Mr. Strahlem? Okay, is there anyone else that would like to testify in support of Mr. appeal this morning or this afternoon? Seeing none, I'm then going to open it up to anyone who would like to testify in opposition to Mr. Strahlem's appeal. Okay, and please consider yourself still under oath. So and please state your name again for the record.

**Mr. Hagemeyer:**

My name again for the record is Jonathan L. Hagemeyer. And again, I go by my middle name, Ladd. I want to get a glass of water. Commissioners our Mission Hills property borders the property under consideration here today. Our property will be negatively impacted by the proposed commercial cannabis greenhouse operation, as will the entire Mission Hills community. Our purpose here today is to provide you with a logical and common-sense reason, set of

reasons to confirm and uphold the decision of the Planning and Zoning Board and deny this appeal. For those of you not familiar with Mission Hills, we are a small community, but located about five miles south of Chilili and just east of Highway 337. As has been discussed earlier, during the question period, we are protected by deed restrictions. Those deed restrictions are tied to the property and everyone buys property. They are indeed combined, compelled to live by those. You have a copy in the packet that was sent over from the Planning and Zoning Commission and if you look at the first page and that has a stamp on it for the County Clerk. They are on file with the County Clerk's Office. The deed restrictions are signed by everyone because it provides a method to ensure that you have a quality community going forward without obstructions from business enterprises such as greenhouse cannabis operations. Matter of fact, the deed restrictions specifically prohibit commercial operations within the community.

Mr. Strahlem states that he believes that he has applied or fulfilled all the standards of a conditional use permit. I of course take exception to that and don't believe he did. If you look at Guideline Number Four that the conditional use permit, it says economic noise, glare, and odor effects of the conditional use on adjacent areas. One thing that I've learned a lot about cannabis research, and I didn't know a thing about it, or where we started getting involved with this, is that cannabis plants sweat profusely. This is one of the reasons that they use a lot of water. And it's also a reason that they exhibit a significant odor. That odor has a skunky smell. There have been numerous legal actions taken against cannabis growers from California to Colorado over the distress that it's caused of adjacent communities to cannabis growing operations. We live directly downwind from this operation and our property will be significantly impacted holder wise. from the economic point of view under the same provision. We bought our acreage and built a house in Mission Hills because it did have deed restrictions. And it was something that we could use going forward to be assured that we live in a quality residential community. If this cannabis operation opens next door, the economic impact on the land value will be significant. As a matter of fact, we would not live in Mission Hills knowing that there was a commercial cannabis operation next door. My guess is most folks would not. Moving on to the Guideline Number Five says general compatibility with adjacent properties. The County attorney outlined a lot of information that's in the guidelines or actually it's the right wording here. The licensing and operational requirements for cannabis. One thing he didn't focus on, there's a three-and-a-half-page set of conditions here that outlines very stringent security

requirements for this kind of operation. My only interpretation is, and based on information from places like Colorado, and even California, is that the reason the drafters of this document put those in there is because they fully recognize that these types of operations are a magnet for certain elements of criminal activity. It's definitely something we're not anxious to have in our community or in Torrance County. As a matter of fact, most of us moved out there to get away from some of the criminal activity that goes on in adjacent metropolitan areas. That indeed, would be a contradiction to the general compatibility of the area.

The other aspect that I am talking about here is keep repeating are these old restrictions. We all live by them. We think they're very important. And this would be a violation of those restrictions, and indeed would be a violation of the general compatibility clause in the conditional use requirements. Finally, the proposed land use must comply with Section 23 pertaining to the usage and includes water usage, which includes considering its effects on water quality, and the impairment of existing water uses. I can tell you up front, this is going to impact not only our water well. It's going to impact other properties within the Mission Hills area. I want to get to that the water resources over in this area are marginal at best. If drafters of the zoning laws, in their wisdom did require 40-acre minimum based on the limited water availability or water comes from fracture porosity and permeability out of a 250-million-year-old limestone, modern formation production from this kind of reservoir is so different than it is over here in the central valley where you have intergranular porosity and permeability. It's typical well over here will produce hundreds of gallons a minute. Our wells produced two to five gallons a minute. And the total volume available for use out of those wells doesn't even register on the same scale as a total volume that's available for use here in the Valley. So, a gallon of water that I use is a gallon less of my neighbors are going to be able to use and here's why. The recharge in this area is a non-event. So, we're actually mining fossil water. That is not as defined in this hydraulic report from the New Mexico Bureau of Mines and Mineral Resources. And I'll just read you a summary here.

**John Butrick:**

And Mr. Hagemeyer, I don't mean to interrupt you, but are you going to be submitting this as part of your evidence?

**Mr. Hagemeyer:**

I only have one copy. And, you know, I can give some copies.

**John Butrick:**

I mean, if you want to have to, if you wish the Commission to consider that evidence then we'll need to make copies so they can have that in front of them.

**Mr. Hagemeyer:**

Oh, let me just go ahead and read it.

**John Butrick:**

Yeah, go ahead and read it. But we'll need copies. I don't want to keep you from using it.

**Mr. Hagemeyer:**

Well, there's the fact that this- you know what, I'll just read a summary.

**John Butrick:**

I don't want to keep you from using it. But at the same time, I want I want to be able to have a copy.

**Mr. Hagemeyer:**

Let me just read you a summary just real quick. Large, large supplies of groundwater are not available in the Sandia and Northern Manzano mountains. The mountainous area contains several contrasting geologic terrains in which groundwater is found. In some terrains developing adequate quantities of groundwater is difficult. And in others poor water quality exists now and it talks about specifically the good Madera formation, which is the one in which our water comes from. It says Madera limestone, from the Pennsylvania age crops out over higher parts of the mountain and over much of the Eastern steep slope. The overall experience in attaining groundwater in the Madera terrain has been two wells out of five can be considered dry holes in some areas to search for water knowledge in dry holes and more than 1000 feet deep. Only point here is these reservoirs were charged over the past 10,000 years, filled with water. We are extracting that water right now at a rate that will probably deplete useable quantities within 100 years. The message here is that while there are some really good wells in this Madera formation, there are a lot of really marginal ones. And the marginal ones are what characterizes the area that we live in. And again, that's the reason there's a 40-acre minimum for individual dwellings over in this area. So how does that volume impact me? Those very good wells are in areas of high fracture in the Madera formation when mountains were uplifted.

There were limited zones that are about 100 foot wide all along and are intentionally fractured. A well in those produces great. Those fractures decrease proportionally with the distance away from those minimum zones. And you get an area where my well is located about 2500 feet from Mr. Strahlem's well. I'm making about two gallons a minute. The cause of the decreased fracture density he's making says he making about 20 gallons a minute, at least, he testified that in his Zoning Commission meeting which says he's probably pretty close to one of those limit fracture zones so the amount of water that he pumps and uses directly it will directly impact me because all those fractures are interconnected. As a matter of fact, in a decade over in the sub regional area the Mission Hills so a gallon used is a gallon gone. Now how much water is he really going to use? In his appeal here, you say one gallon a minute, or I'm sorry, one gallon a plant per day.

He offers in evidence as a reference= He offers up as evidence of an exhibit that we took off the web which if you look at the- here they are- this exhibit, this is it. He says that only one gallon per plant. And he submits this in support of that. And I want to point out that it's written by a Sacramento, California comedian and self declared. Cannabis experts actually says here, marijuana experts that's fine one gallon per minute if you're going to grow a few potted plants. For one, one pound per per plant in your sunroom somewhere. But every professional institution and academic institutions that have written research on this say that in order to optimize your plant growth, so that you can produce as much as six pounds per plan, you're going to need one gallon per pound per plant, six gallons a day per plant. For in the case that I cited during the Zoning meeting was a California Fish and Wildlife study said six gallons per day over 150 Day grow period. Now maybe he will just use one and a half gallons a minute, that's okay. I mean one and a half gallons per day. And in his original proposal of 570 plants, he was going to use about a half an acre foot or three quarters of an acre depending on the amount of downtime between the tiny harvest and tiny replant called he's finding inside. So it's not just 120 times to 440 days, it's how, you know 365 days minus how many days you're down in between. But let's say that's that's what it is. It's a one half to three quarter acre foot per year he's using. On the other hand, if you think about it, if you're in the business of growing product for a profit, what what makes sense, you're going to make that plant produce as much as you can so you can reap as much profit as you can. So there's a chance you know, if you wanted to maximize those plants, the optimum he would grow them at six gallons a day. And that would be two and a half acre feet per year. I don't know what the right answer is but one and a half

is is a lowball number, maybe three gallons a day. That would be about one and a half acre feet. For comparison, my well as inflow About two gallons a minute. I've lived there for 15 years total 15 years I've produced 650,000 gallons that's brought at two acre feet that Well, I pump it manually into a 3000 gallon holding tank I take I take readings that every pumping and pump it until my WelTec shuts it off. Over the 15 years I've seen a 10% drop in the total volume pump for pumping. It's gone from 555 down to 494. Actually I just pumped it two days ago. That's a 10% reduction in the total volume that I can pump from that well. That drawdown and loss in production is only due to the domestic use in the same all the area of the wells. If you start pumping one and a half acre feet per year that's you know even want to pump as much in two years as I pumped in 15 years that's for the impact the drawdown in my well because all these fractures are interconnected. My whole point here and rambling through this is that the water used is going to be a major impact on my well and on all other domestic wells in Mission Hills. Now that brings me to the next exhibit that he gave me and that was a copy of his well from it that's a half a half an acre foot well from it. It is a domestic well permit just like all over wells in Mission Hills area that domestic well from. It cannot be used legally to water any commercial plants. And that is specified in the document that is available to you that I was just talking to here. I've got so much stuff here. And actually, the attorney read this. It says the State Engineer permit or license in good standing but not including a permit pursuant to Section 72-12-170 one of the state's statutes is domestic water wells. And if you look at his license and look at the top on the second page, it is a domestic well. He cannot use it. So what's he have to do? He has to either buy commercial water right from someone and go to the state engineer and try to get it transferred in or buy water from some commercial entity like perhaps the water plant in Edgewood. So the water use that is potential there will be detrimental to our well. Now getting to the cannabis production permits that he's talking about buying. He said he's going to get-a there's there's two tiers of commercial permits. One is be called a micro business. But you don't have to have a storefront for that. That is an add on that you can add to the micro business. The micro business permit will allow you to grow for sale 200 plants at a time before 100 per year. The commercial permit would allow you to buy grow 8000 at a time or 16,000 plants per year. My only point out here is if you get started and he has a commercial permit, there's nothing to stop him from doubling and tripling the amount of plants he plans to grow. My closing remarks here. There are defensible and common sense and geoscience reasons why these conditional use permits should not be approved.

Commercial cannabis operations are not appropriate in residential neighborhoods. is not consistent with the Zoning provisions designed to protect and limit water resources that are present in our region of Torrance County. There are other locations in Torrance County where commercial cannabis operations can coexist with surrounding environment and where adequate water resources are potentially available without impairment of existing water uses. Our County should limit commercial cannabis production to these areas and prohibit them inside of residential communities. In areas like the 40-acre minimum are not appropriate for extensive cannabis greenhouse operations. The Zoning Board objectively evaluated all the pros and cons allowing this conditional permit to go forward and came to the conclusion that the best interests of the citizens of Torrance County can best be served by denying the request I encourage you to follow their lead and do not reverse the Zoning Commission's Zoning Board's decision. Zoning Board decision serves the best interest of many, especially the residents of Mission Hills and not the desire of one. That concludes my remarks. Thank you for your attention.

**John Butrick:**

So Mr. Hagemeyer, if you just wait there for a second Is there anyone in the audience that would like to ask any questions of Mr. Hagemeyer? Please state your name for the record.

**Mr. Strahlem:**

So I'm going to ask you the same question you asked me. Do you adhere to these?

**John Butrick:**

Please be specific what you mean by these.

**Mr. Strahlem:**

This is the declaration of restriction Mission Hills subdivision in Torrance County, New Mexico.

**John Butrick:**

And Mr. Hagemeyer please come up to the podium to answer the question.

**Mr. Hagemeyer:**

Yes I do.

**Mr. Strahlem:**

One of these restrictions is no commercial businesses correct?

**Mr. Hagemeyer:**

That's correct. There's actually- there's two provisions in here if you'd like me to, I'll read them find them what is it, eight Owners Association- here it is- commercial activity. No commercial activity of any kind shall be carried on upon any lot nor shall anything be done on this lot which shall constitute a nuisance any to any other owner. Commercial kennels, commercial horse boarding shall not be allowed within the property. You remember the other one is? That's probably enough. There are few provisions in there that prevent commercial use.

**John Butrick:**

Mr. Hagemeyer? Just I mean, not speaking to the veracity, but I think it's Article Two and Article Eight that you're referring to.

**Mr. Hagemeyer:**

Thank you. Yes, Article Two: Residential Use. The property shall be of residential use only. No commercial business or enterprise shall be conducted or allowed on the property. The lot shall not be further divided except for the mortgage or finance exemption as outlined in the Torrance County Zoning



Ordinances. No structures or improvements shall be erected, altered, or placed or permitted to remain on the lots other than the one detached single-family dwelling and buildings related to, unless approved in writing by the Architectural Control Committee. Detached garages and other outbuildings shall conform the construction and design relative residences, and the design of all such detached structures shall be approved by the Architectural Committee. So yes. Thank you.

**Mr. Strahlem:**

This is from your link in account on the web. Linked-In. Jonathan, what-

**John Butrick:**

What are you referring to, Mr. Strahlem?

**Mr. Strahlem:**

This is a printed off the web. It's from his Linked-In. I cannot Okay, it says Jonathan Hagemeyer, Geoscience Consultant at Lone Piñon Ranch Company. He is the manager of all activities on 240 acres of semi-arid ranch land located long the-

**John Butrick:**

Mr. Strahlem, I'm going to stop you if you're testifying. Is there a question?

**Mr. Strahlem:**

No, there's not a question. It's a statement.

**John Butrick:**

Okay. So, you had the opportunity to testify. So, at this point, you're asking questions of Mr. Hagemeyer.

**Mr. Strahlem:**

Okay. Mr. Hagemeyer, where do you manage a 240-acre ranch in our subdivision?

**Mr. Hagemeyer:**

I shall manage 240 acres that I own. It isn't a subdivision. It is not a ranch. The, if I may, bargain, this was when I first moved over, I was consulting in Galveston and Houston and I was consulting, the marker of Geoscience consulting moved to New Mexico, I needed a new one, get a business license, I call it the geoscience consultant at Lone Pinon Ranch Company. That was going to be my name. However, when I got into addressing all the complications involved with running a business in New Mexico, I was well beyond the time I should be retired. I decided not to move forward with it. You've printed out just the first page of this. It goes on to state that what I- what I'm really running here is a nature preserve.

**Mr. Strahlem:**

What date does it say, sir, that you? Date: 2006 to the present? Well, it says you're presently a Geoscience Consultant at your ranch.

**John Butrick:**

Is that a question, Mr. Strahlem?

**Mr. Hagemeyer:**

I am not a Geoscientist Consultant. I retired. When I left Houston. I was anticipating to continue my business here. But I didn't. As a matter of fact, if you look at the LinkedIn account, you'll see that I am not logged on going over a year.

**Mr. Strahlem:**

He logged on to February. It's on it's on the web. If you're not a Geoscientist-

**John Butrick:**

Mr. Strahlem, you're testifying now.

**Mr. Strahlem:**

Why would your LinkedIn account still be on the web? If you're not a consultant?

**Mr. Hagemeyer:**

But I haven't removed it?

**Mr. Strahlem:**

Where's your land? You're saying these 200 acres-

**Mr. Hagemeyer:**

It is 240 acres.

**Mr. Strahlem**

1,2,3,4-acre subdivision lots and one adjacent property?

**John Butrick:**

We can't--could you please all speak up, come to the mic. We can and we want to make sure the record is clear.

**Mr. Hagemeyer:**

3-40 acre lots of one 1-140 acre lot.

**John Butrick:**

Mr. Hagemeyer, Mr. Strahlem, if you could please get closer.

**Mr. Hagemeyer:**

They are in Mission Hills. That's correct.

**Mr. Strahlem:**

Does a 240-acre ranch in our subdivision, does that, does that comply with these restrictions?

**Mr. Hagemeyer:**

Well you could very well say yes, because you're allowed to have a certain number of livestock, you're allowed to have certain number of horses and you're allowed to fence your property, which I haven't.

**Mr. Strahlem:**

I'll tell you this again. My wife and I have adhere to these restrictions well

**John Butrick:**

Be careful you're testifying now.

**Mr. Strahlem:**

You can't have a 240 acre ranch in our subdivision. You can't be a Geoscience consultant having a commercial business in our subdivision. [unintelligible]

**John Butrick:**

Is that a question?

**Mr. Strahlem:**

Okay, it is a question. Are you allowed to have this ranch in our subdivision?

**Mr. Hagemeyer:**

I am. It says so right in here. You know, you call it a ranch, or property or, you know, lots, you're allowed to have the property and you're allowed to have animals on them. And if that constitutes a ranch, then I guess you can call it a ranch.

**Chairman Schwebach:**

I'm going to chime in here, with all due respect, the question at hand that this Commission has before us is whether or not to uphold a Zoning denial. And so, I do not see the relevance of this questioning going on. So, I would ask you to move on. This is not the time or place for that, correct me if I am wrong.

**John Butrick:**

I agree.

**Chairman Schwebach:**

If it's relevant to this decision, or to this discussion, that's fine. But right now, we have one question at hand, on whether or not to uphold the Planning and Zoning's-

**Mr. Strahlem:**

I understand.

**John Butrick:**

Anyone else in the audience who would like to ask questions of Mr. Hagemeyer? Seeing none, is there anyone else who would like to testify in

opposition to Mr. Strahlem's appeal? Okay. And if you remember, you are under oath still. So please state your name for the record.

**Mr. Wright:**

My name is Randy Wright. And, Mr. Chairman, I promised to be brief and relevant. Exhibit D that Mr. Strahlem presented as part of his evidence, he just mentioned the first part where there's concerning water usage. This was the-

**Chairman Schwebach:**

Let me interrupt exhibit- excuse me- exhibit attachment.

**John Butrick:**

It's Exhibit D, the Sacramento News and Review article, I believe.

**Mr. Wright:**

It's the one by the comedian and self-proclaimed marijuana expert. It does start out saying that you can grow marijuana using one gallon. But he goes on to say, and this wasn't mentioned-

**John Butrick:**

That is Exhibit D, by the way.

**Mr. Wright:**

Yeah, that's what I said Exhibit D. But it goes on, if you read further into the article, that if you want a commercially viable crop, or you're harvesting more product, you have to add more water. So that is a really relevant issue to your decision, is water usage. So, I'd like to present other evidence. And I have electronic copies of those that I can get to you by email, or however you'd like to have them.

**John Butrick:**

You're going to be referring to them today. But you, you don't have them today.

**Mr. Wright:**

I have them on my computer right here.

**John Butrick:**

Okay, so long as you can get copies to us so that the Commission can use those later in their deliberation. Sure.

**Mr. Wright:**

So, what seemed relevant with the Zoning Board, who you already know, they voted unanimously to deny the conditional use permit. And a lot of their discussion was concerning the water usage. So, if you use the one gallon, that's one thing, but there are academic studies that have actually been done by universities, the University of California, the Berkeley Cannabis Research Center. Their mission is to really apply a scientific approach to this question of how much water does it cause does it take to grow cannabis. And their conclusion from this academic institution is it takes about five gallons per plant per day. It's a lot water. The Journal of Bioscience and other academic reference says, oh, it takes more than that. It takes six gallons per plant per day over that 120 plus day growing season. So, when you calculate that out, you can easily be 400,000 gallons of growth a year to 600,000 gallons. Now that exceeds a one-half acre, domestic well permit in this state, considerably less water. So also, there's an article in one of our newspapers in the state, the Santa Fe New Mexico on July 20, this year, 2021. There was an article in there it says, does New Mexico have enough water for cannabis? And this article offers a cautionary tale about a family in Madrid that's trying to do something similar to what you're doing. So they have got everything ready to go. And guess what, they can't get a permit from the State Water engineer to get the water that they need. So they're going to consider trucking water in. That's how they're gonna satisfy this. So, John Romero, who is the director of Water Resources allocation

at the State Engineer's Office, he says there's a backlog of over 500 permits for water rights transfer, and commercial well applications just for cannabis. And that their backlog, this is back in July. Their backlog at that time was at least 8 to 10 months. And goes on to say that as they get more applications, that timeframe is just going to get further out. Now, let me refer you to what you already have- the Torrance County Zoning ordinance. This is the limitation on conditional use permits. And may I read it? It's, it's Section A is Paragraph Three, which that an approved, and we're hoping that you will not,-

**John Butrick:**

Which main section is that? I'm sorry, Mr. Wright?

**Mr. Wright:**

it is on page 7777. Okay, thank you. It's under limitations, which says conditional use permits issued in accordance with this ordinance shall be considered permanent, with the following exceptions. And then in Paragraph Three, it says an approved conditional use permit shall become void, one year after the date of the approval. If the rights and privileges grant granted thereby have not been utilized, well, we already have a vector of water resource allocation, that if you made a permit back in- a permit request back in July, we're going to take eight to 10 months before that's even going to be processed. And it's growing every day, because there are more and more people applying for permits. So, if you do approve it, there's a really good chance that you're going to run the calendar out on the year. And the permit will be denied. I would urge you to seriously consider the unanimous decision of the Zoning Board in denying this conditional use permit that you uphold that. Thank you,

**John Butrick:**

Mr. Chair, you know, the timing of when the state does, you know, does something is not really relevant to your decision here. And the reference that Mr. Wright was referring to is obviously only in place, should you decide to overturn the Planning and Zoning Board's decision. So those conditions only apply if you decide to do so. Is there, at this point, is there anyone who would like to ask questions of Mr. Wright?



**John Butrick:**

Okay, please. Mr. Strahlem, if you please, state your name for the record.

**Mr. Strahlem:**

Richard Strahlem. Your study, the California study, Randy? Is that for indoor grow or for outdoor?

**Mr. Wright:**

I have a copy of the article. And there are differences with an outdoor grow. You've got to take into consideration elevation, the relative humidity, the type of soil that you're using. All of those are factors with outdoor, there's more control indoor. So, I'll highlight in the article. If this is for indoor or outdoor. I'm not sure.

**John Butrick:**

And just before Mr. Strahlem asks his next question, just to remind Mr. Hagemeyer and Mr. Wright at this point, anything that you have referred to please do provide us with a copy because we need to make a complete record of this and so the Commission can use it to consider in its deliberations. So, we'll need that to aid in in the deliberations of the Commission.

**Mr. Wright:**

You bet. As I said, I have with me their electronic copies on my computer.

**John Butrick:**

Okay. Mr. Strahlem?

**Mr. Wright:**

I know that's not my answer. The answer was I'm not sure what the article says. You need to read the article.

**John Butrick:**

Is there anyone else that would like to ask questions of Mr. Wright? Seeing none, Mr. Wright, you're welcome to take a seat. Is there anyone else who would like to testify in opposition of Mr. Strahlem's appeal today? And just so I have my list here and so, Jonathan L. Hagemeyer has already testified, Randy Wright, he's just testified. I also have- oh, yeah, please, if you wish to testify in opposition of the appeal, go ahead.

**John Butrick:**

Please raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give is the truth, the whole truth and nothing but the truth? So, I didn't get your name.

**Bill Simms:**

And my name is Bill Simms. And I've talked to most of you before. And thank you for listening to what we have to say today. And this is not going to be controversial. So, I don't think anybody's going to want to ask me any questions. I think that you probably have seen this news report Channel 13. Back on September 13, gave a news report as probably about a 10-to-15-minute report. And Colorado is warning New Mexico, about the crime that's about to happen. The it was it was entitled Colorado's warning to New Mexico about legalizing marijuana from a Colorado District Attorney.

**[UNKNOWN]:**

Emergency I got to take care of it. Okay.

Y'all may continue, please. Yes, yeah. Okay.

**Mr. Simms:**

But let me summarize this. This report for you. They say what happens when you legalize marijuana in a state where other states are not legalized, a huge black market is created. Colorado's crime rate has increased dramatically because the thieves are targeting smaller Colorado marijuana growing operations, like the one we are talking about today. Here in our subdivision. Small operations, like the one that is being proposed today are prime targets for thieves to take advantage of this readily available black market. Small operations are less likely to install the extensive security measures that are necessary to keep out determined thieves. And a chain-link fence, for example, can be just cut in seconds. Of course, a marijuana growing operation like this is an attractive nuisance. And the last thing a quiet, residential, rural subdivision like ours would have in our midst is this thing. This is just one of the many reasons you should uphold our Zoning Board's decision tonight to deny this special use permit. Now, I have I have this news report. And it's readily available on the web. You can- any one of you can -go listen to it right away. And it lasts about 10 minutes. And it's a warning from Colorado. And this is a District Attorney from the 18th district in Colorado. And he says that, be careful what you wish for. Thank you very much.

**John Butrick:**

Mr. Simms and you have the URL for the website where that can be found?

**Mr. Simms:**

I Do. I do, I have it on my phone.

**John Butrick:**

Okay, let's do it right now. Or you can. Will you provide that to Ms. Pava? Okay. Thank you. Is there anyone in the audience that would like to ask questions of Mr. Simms, please. And please state your name for the record?

**Mr. Simms:**

Okay.

**Mr. Strahlem:**

Richard Strahlem. Mr. Simms? Do you live in our subdivision?

**Mr. Simms:**

No, I do not. Just in your same area.

**Mr. Strahlem:**

Thank you. It seems like you are implying that you lived in our subdivision.

**Mr. Simms:**

No, I do not. But I do own two lots on that subdivision that I helped to build on there that I hope my kids will build on. So, we're very proud of our Mission Hills subdivision. Thank you.

**John Butrick:**

Thank you. Sir. Anyone else that would like to ask questions of Mr. Simms? Hearing none, Mr. Simms as you're welcome to take a seat. Is there anyone else who would like to testify in opposition to Mr. Strahlem's appeal okay. Now, please raise your right hand. Do you solemnly swear or affirm that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

**Janet Cool-Hagemeyer:**

Yes, I do.

**John Butrick:**

Go ahead and please state your name.

**Mrs. Cool-Hagemeyer:**

My name is Janet Cool-Hagemeyer, Ladd's wife. And I just wanted to make a couple points about our deed restrictions. Mr. Strahlem implies that he's on the edge of our subdivision but he's smack dab in the middle of it. And that's where our property is as well. We chose to purchase this land, told you we chose to purchase land and build our retirement home in Mission Hills because the Cobbs represented Mission Hills as strictly a residential community with no commercial operations allowed, as outlined by the deed restrictions that we thought were binding. And my husband has helped Bud Cobb establish our Road Maintenance Committee Association to raise funds for maintaining our roads when the County could not. We are a small residential community connected by these roads but the deed restrictions are what really are the heart of our neighborhood. They established the value of the neighborhood and they are-- if these deed restrictions don't have any value then I think we're all in trouble because it is why we all moved to Mission Hills and it is what we agree to. And the Strahlems have stated that they agreed to these covenant when they build their home, but they want to ignore them for the personal finance gain without regard for the negative impact to the rest of us. And you heard about what those are. It seems to me, though, I think, that- am I correct, Counselor, that Section 4 are all the letters are from the resident Mission Hills?

**John Butrick:**

Are you talking about deed restrictions now?

**Mrs. Cool-Hagemeyer:**

No, I'm talking about Exhibit Four where we provided a packet of letters from written-

**John Butrick:**

Written opposition?

**Mrs. Cool-Hagemeyer:**

Yes, that is Exhibit Four.

**Mrs. Cool-Hagemeyer:**

Really it seems to me these- these letters, If you want to take a look them, are from our neighbors, property owners, and they universally oppose cannabis in the neighborhood. It seems to me that as residents and property owners we're being held hostage by one family that chooses to pursue their own economic interests at the expense of the rest of us. So, I would join my husband and my neighbors in asking you to not approve this appeal. Thank you.

**John Butrick:**

Is there anyone who would like to ask questions of Mrs. Hagemeyer?

**Mrs. Cool-Hagemeyer:**

I'm sorry, I go by Cool, but I didn't want to confuse everybody. I didn't want Ladd to lose his Cool.

**John Butrick:**

Is there anyone who'd like to ask questions of Mrs. Cool? Mr. Strahlem, please state your name for the record.

**Richard Strahlem:**

Richard Strahlem. Well, since we are still talking about the deed restrictions-

**Mrs. Cool-Hagemeyer:**

My favorite topic.

**Richard Strahlem:**

Yeah. Do you have the two story red barn on your property?

**Mrs. Cool-Hagemeyer:**

Yes, we do.

**Richard Strahlem:**

That's against deed restrictions.

**Mrs. Cool-Hagemeyer:**

No, it's not.

**Mr. Strahlem:**

Did you live in the in your outbuilding for a year before the house was built?

**Mrs. Cool-Hagemeyer:**

We were given permission to do that.

**Mr. Strahlem:**

Permission by whom?

**Mrs. Cool-Hagemeyer:**

By the Cobbs.

**Mr. Strahlem:**

Exactly, exactly because the Cobbs giveth and the Cobbs taketh away. Thank you for answering my questions.

**John Butrick:**

Are you asking questions of Miss Cool?

**Mr. Strahlem:**

Is that okay?

**John Butrick:**

Absolutely. Be careful now.

**Johnathan Ladd Hagemeyer:**

I am Johnathan Ladd Hagemeyer, for the record. Did you have a building permit and a- what's that called? The Architectural Committee Permit before you built up that barn?

**Mr. Strahlem:**

Yes.

**Mr. Hagemeyer:**

Did that building permit you to live in it?

**Mr. Strahlem:**

Yes, it did.

**Mr. Hagemeyer:**



Did the inspector give a clear inspection of the building, clear it for occupancy?

**Mr. Strahlem:**

Yes, it did.

**John Butrick:**

Mr. Chair, Members, I'm not completely sure if the questioning by Mr. Strahlem on the point of the red barn is relevant to the question before you, but since we allowed Mr. Strahlem to answer questions I allowed Mr. Hagemeyer to ask questions in rebuttal to that. Is there anyone else who would like to ask questions of Miss Cool?

**Richard Strahlem:**

Okay, sure. I mean absolutely.

**John Butrick:**

Please state your name.

**Mr. Strahlem:**

Richard Strahlem. You had just asked I had a permit or letter from the Architectural Committee. Now I am going to do that. Do you have the letter?

**Mrs. Cool-Hagemeyer:**

We have the letter.

**Mr. Strahlem:**

Well good I'd like to see it.

[Unintelligible]

**John Butrick:**

Let's be careful Mr. Strahlem, you are testifying now.

**Mr. Strahlem:**

Thank you.

**Mrs. Cool-Hagemeyer:**

I have to say Commissioners, in my eyes I don't really see the relevance of this line of questioning to our objection to a commercial operation in the middle of Mission Hills which is a residential subdivision, which we bought into, as did the Strahlems, when we purchased the property and built our home. All right, thank you for listening.

**John Butrick:**

Anyone else who would like to ask questions of Miss Cool? Seeing none, Miss Cool, please take a seat. So is there anyone else who would like to testify in opposition to Mr. Strahlem's appeal? And just so we have the record here so Mr. Hagemeyer has testified, Mr. Wright, Mr. Simms, now the only other person on the list is Charlene Guffey. I believe I saw her earlier today but I don't see her now. Do we know if she's still here? Okay, so she had an emergency. She's not here anymore. So is there anyone else who would like to testify in opposition to Mr. Strahlem's appeal? Okay at this point I would submit this case to the Commission with some comments before. So just based on the testimony, just some brief comments. I'm not aware of any other evidence other than what you have before you in terms of the State Engineer documentation showing dates of prior appropriation for any other water rights. I am also not aware, at least I do not know the law on this specifically, I know it was testified to, but whether or not the water right that Mr. Strahlem currently has a half-acre foot, which is approximately 162,000 gallons. Whether that can or cannot be transferred over to a commercial use. I'm not- I don't know the exact answer to that question.

I do want to point out just a couple of things that I just failed to do at the at the start that I want to be fair to both my office as County Attorney and then also the Planning and Zoning Department with the County. So, in looking at Mr. Strahlem's appeal document there's just a couple of places here. And in his appeal document, he states that he listened to the video of the of the P & Z board meeting and what he states here so in his appeal document he states, "Board Member Ducharme: asks County Council could states like New Mexico and others be held responsible for breaking federal marijuana law? Council:" and then he has in quotes from me "Yes, potentially. But the federal government has chosen not to enforce the law." I did not state "which essentially grants him permission." Also, "Board Member Langell asks counsel if the board can weigh heavily the deed restrictions. Council: 'No, that is a private matter.'" I did not say the word no, I just said that is a private matter. And then finally the "Board Chairman Mr. Lawson, asks Planning & Zoning Director Steve Guetschow: If the 100-acre requirement was still valid, Mr. Guetschow: 'No.'" What Mr. Guetschow said there was "that is correct," not no. So, I just wanted to point that out just to make the record clear as to what was and what was not said at the County Planning and Zoning Zoning Board meeting. Okay. So, I think the last thing that I will say before this is submitted to you for your consideration, and obviously you're welcome to ask questions of anyone who has testified today, both for and against. You are not required to make a decision today. If you want to review the evidence that has been presented by Mr. Hagemeyer, Mr. Wright, Mr. Strahlem, Ms. Cool. If you want to look at that evidence, Mr. Simms, if you want to look at that evidence, before you come to deliberation, and to a decision, you're welcome to do that. The appeal section for the County Ordinance states that an appeal shall be decided within 45 days of the date of application of appeal. So, if it was 14 days, and I'd asked the Planning and Zoning Department to, Mr. Goen, correct me if I'm wrong, the date of the hearing was the 6th, 14 days would have been October 20.

**Don Goen, Planning and Zoning:**

Don Goen, Planning and Zoning, Administrative Assistant.

**John Butrick:**

Mr. Goen, 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?

**Don Goen:**

I do. That is correct. It was the afternoon of the 20th.

**John Butrick:**

Thank you. Okay, so then the 45 days starts on October 20. So, let's see here. 11/30. That's 41. So, by December 4, if my math is correct. So that obviously is before the next Commission meeting. So, I want you to take that into consideration if you want to have a special meeting between now and then you can if you want to deliberate. Now, you may, if you want to review the evidence that has been presented, you may, it's kind of up to you, if you want to ask questions. You may, it's kind of up to you at this point.

**Chairman Schwebach:**

Unknown Speaker 1:51:29 So quick question. For the technicality. Can we deliberate the three of us in private concerning this? Or does it all have to be public in this public hearing? How does that work?

**John Butrick:**

I think that's an excellent question. Commissioner Schwebach, and I believe you can deliberate in private. But the final decision has to be absolute. And put in public, but I think my opinion, my opinion is that you can deliberate in private.

**Chairman Schwebach:**

I do have a question on do we have representation of the Planning and Zoning Board? I have a question for them. Either or.

**Don Goen:**

Don Goen.

**Chairman Schwebach:**

Don what was the reason for denying this this application by the Planning and Zoning?

**Don Goen:**

Well, it seemed to be that one of the main concerns was the water usage. But in my position as administrative assistant, I don't ask them why they make the decisions they do. I just, it was not, it was not defined.

**Chairman Schwebach:**

Do we have a board member of board that could speak about this?

**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?

**Art DuCharme:**

Yes.

**John Butrick:**

State your Name.

**Mr. DuCharme:**

Art DuCharme, I'm the Vice Chairman of the P & Z, Torrance County P & Z. We I think each member had a different emphasis in terms of why they rejected

it as such. I'm inferring that by the questions they asked. The key one as Don mentioned was water usage. But there was also some inaccuracies in Mr. Strahlem's presentation is his Letter of Intent mentioned catchment as the being reason he was having water adequacy, for growing the marijuana. But when he testified before us, he's mentioning-he emphasized the domestic well contribution to the growth of the plants. And I think that legal aspect with the State Engineer was also consideration that he was using, possibly using water for the wrong purpose.

**John Butrick:**

And, Mr. Chair, I'm just going through the notes real quick, the draft minutes, just to extrapolate some questions. So, Chairman Lawson refer to the comment about very little recharge of the reservoir. Chairman Lawson ask how deep his well was. See here, I'm just looking for any other.

**Chairman Schwebach:**

Remember that council?

**Mr. DuCharme:**

If I could just say one more thing. Mr. Butrick.

**John Butrick:**

Sure.

**Mr. DuCharme:**

I think the resistance of the community is always a strong influence on our decisions. I think, if there's, it takes a lot of effort for neighbors to complain. And most people don't show up to do so. But this was as you noted, some of these people are here today. They had a strong opposition to this being in their neighborhood. And I think the Planning and Zoning has to consider that is part of the considered deliberations.

**John Butrick:**

I think based on the minutes, Mr. Chair, John Butrick, County attorney, it's fair to say that the majority, at least of the first part, if not the first two thirds of the meeting were specifically about the water use. There was a discussion about federal law and the illegality or non-illegality of marijuana cannabis based on federal law and whether states could or could not do such things later in the presentation. But I think it's fair to say that a primary consideration was the water use.

**Chairman Schwebach:**

Commissioners, do you have any questions?

**Commissioner Candelaria:**

I have one question of Art DuCharme. And I think it's the question is, did conversation about the covenants come into play? And during that, that meeting, that hearing?

**Mr. DuCharme:**

Yes. There was testimony by the lady who left who was here today. Charlene Guffey? Yes, Charlene Guffey testified that she had reviewed past decisions of the Torrance County Commission, and she found evidence. She thought that there were decision points in the past when the Commission said that they had to follow local covenants in subdivisions, or they had to accept that there was some sort of generic decision, I don't have the actual information, but that was her contention.

**Commissioner Candelaria:**

I'm sure it's in the statements that were made. Okay.

**John Butrick:**

And Mr. Chair, Commissioner, I'm sorry. Go ahead. Go ahead.

**Art DuCharme:**

No, that was that was it.

**John Butrick:**

Mr. Chair, Commissioner Candelaria. I provided the same counsel to the Planning and Zoning Board that I provided this Commission this morning, that while those deed restrictions do exist, you are not bound by them. The Planning and Zoning Board was not bound by them, but you could, you could consider them.

**Chairman Schwebach:**

Any questions? We're going to step in there and ask our attorney to come with us.

(AFTER DELIBERATIONS:)

We're back to wrap up this public hearing we deliberated on. On the facts and findings that were represented before us, so the question before the Commission is whether or not to uphold Planning and Zoning's decision to deny a conditional use permit For Mr. Richard Strahlem. Understood? So we will now put it to a vote.

**ACTION TAKEN:**

**CHAIRMAN SCHWEBACH:**

I will Make a motion to uphold Planning and Zoning decision.

Motion Seconded by Commissioner McCall.

**ROLL CALL VOTE**

**Commissioner Candelaria:** Votes Yes.

**Commissioner Schwebach:** Votes Yes.

**Commissioner McCall:** Votes Yes.

**John Butrick:**



Was there a second for that?

**Chairman Schwebach:**

Yes, there was a second.

**John Butrick:**

Ok I did not hear it.

**Chairman Schwebach:**

Planning and Zoning's decisions and will be upheld and looking at what we're seeing here I think Planning and Zoning do their due diligence to not grant this based on not proper water use, which is something Planning and Zoning needs to look at and also a commercial endeavor in an area has been deemed not to have commercial use. So that concludes this public hearing. Thank you.

Transcribed by Otter.io and Valerie Smith, with thanks to Amber Pava.

### **13. DISCUSSION**

#### **A. DISPATCH: Presentation on Project 25-700mhz Dispatch System by Vince Bradley with the State of New Mexico**

**Chairman Schwebach:** Introduced item 13-A, Presentation on Project 25-700mhz Dispatch System by Vince Bradley with the State of New Mexico.

**Mr. Vince Bradley:** Introduced himself as the Public Safety Engineer for the Torrance area. He introduced his director, Michael Roebacher, and Integration Manager Charles Ross. Mr. Bradley gave a narrative about why he was there. In 2007 and 2008, House Bill 2 by Bill Richardson created the Department of

Information. This gave the Department of Information an old and unsustainable Public Safety network. In 2009, the Department of Information and Technology understood that they needed more funds. In support of DPS, Parks, Fire, and Forestry, and the Department of Transportation. They got their full requested. They received \$55.6M. To upgrade their Public Safety infrastructure, for redundancy, they received. in 2014, they went to the Legislature and asked for \$25M, and received 1.5 M to do a Public Safety study to assess how the United States and how public safety was moving, they were given a 150 page report. They suggested going to Project 25 as the standard. The big thing was interoperability between the different branches. They were given \$20M in \$5M increments, and in the end went from 60-70% reliability to 99.99% reliability.

They have brought in about 10% of the agencies in the state with their system, called the DTS or the Digital Trunked Station.

Mr. Bradley then went through the slides that he brought with him.

**Commissioner McCall:** Asked Mr. Bradley if he planned on being 86% built out by 2025.

**Vince Bradley:** Answered in the affirmative.

**Michael Roebacher:** Introduced himself as the director of Public Safety and Communications for the State of New Mexico's IT Department. They are in the process of building out, just requested \$26M and are planning on building out state-wide regardless of local partners, so it makes sense to make it available to all Federal, Local and Tribal partners who would like to take part. It saves taxpayer money and helps reduce duplication of radio sites and infrastructure. He does not believe that 100% coverage is feasible, just because there are many rural, unpopulated areas with very high mountain terrain.

If Torrance County does not want to partner, the State will continue to build out, but only to what the State needs. If Torrance does, then the State will help with Torrance County's needs.

**Commissioner McCall:** The Doghead Forest Fire, communication was an issue. If high terrain is a problem, that is concerning to him.

**Vince Bradley:** The State of New Mexico obtained a lease from the Chilili Land Grant. The Dog Head Fire was concerning to the State of New Mexico as well. They are building an 80-foot tower that is self-supporting, with shelter.

**Commissioner Candelaria:** Asked if there are any grants or incentives to partner with the State.

**Chairman Schwebach:** Asked if it was different and separate from all other cell towers.

**Michael Roebacher:** It is owned and operated entirely by the State of New Mexico, it is not dependent on any other cell tower in the area. If you have anything like push-to talk, it will be able to work off these towers. The system can also work over Wi-Fi.

In regard to the grant funding question, the P-25 Standard is a federally adopted standard. The Department of Homeland Security (DHS) and Federal Emergency Management Agency (FEMA) have certain grants available, though to be eligible for them you must purchase devices that are Project 25 capable, though you don't need to use them. Subscribers are looking to have a bill sponsored that would allow General Funds to be allocated for subscriber fees in the Legislative Session.

**Commissioner McCall:** Asked if the County were to sign the letter of intent, if it would put the County in a better position to ask for these grants.

**Michael Roebacher:** Answered in the affirmative. Mr. Roebacher also mentioned that if Torrance County were to show interest in joining the P-25 Standard that the build-out into Torrance County would be prioritized. Additional funding would be reserved so that the needs of both the County and the State are met.

**Commissioner McCall:** Extended the floor to Matt Propp, Sheriff Rivera, and Fire Chief Dirks for questions.

**Fire Chief Dirks:** Asked for the fee per radio per month, he was not aware of the fee, and would be a big hit to the budget. The interoperability would be great but is hoping the coverage would be much better.

Torrance's system is a standalone system. Is the State system the same or would we have to get new equipment?

**Vince Bradley:** Your K-2 core would be taken but would be replaced with one from the State. As far as hooking back up, it would be either microwave, fiber, or circuit. If the County has any equipment that the State can use for the interoperable system, the State will then give the County a 20% discount on the monthly bill for radios.

Mr. Bradley suggests getting dual-band, P-25 compliant radios.

**Chairman Schwebach**: Asked Mr. Bradley to explain what happens if the core fails.

**Vince Bradley**: Answered that there is a backup core in case the main core, located in Santa Fe at their Class 3 Data Center, fails. The backup is at the Disaster Recovery Center in Albuquerque. If both cores fail, they will go into what is called “site trunking mode.”

**Charles Ross**: Explained that there are multiple levels of redundancy in the system. There is Core Redundancy and then Site Level Redundancy. If Torrance has four sites, for example, its okay because you still have coverage from 3 other sites. If your sites fail, they go into stand-alone mode, which is what the State has as well. A State-wide communication outage would be close to impossible and has not happened to date.

**B. MANAGER’S REPORT:**

**Madam County Manager Barela:**

**C. COMMISSIONER’S REPORTS**

- 1) Commissioner McCall, District 1:**
- 2) Commissioner Schwebach, District 2:**
- 3) Commissioner Candelaria, District 3:**

**14. EXECUTIVE SESSION**

**15. Announcement of the next Board of County Commissioners Meeting:  
December 8, 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:

**Commissioner McCall**: Seconded the motion.

**Roll Call Vote:**

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

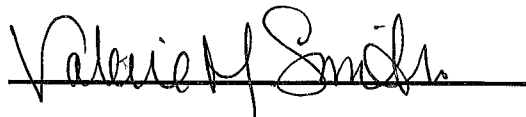
**MOTION PASSED.**

**MEETING ADJOURNED AT: 12:46 P.M. APPROXIMATELY**


**Signed By:**



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



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

1/12/2022 

**Date:** ~~1/2/2021~~

**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.**