

FINAL

Torrance County Board of Commissioners

Regular Commission Meeting

February 9, 2022

9:00 AM

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

Others Present:

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

1. CALL MEETING TO ORDER

Chairman Schwebach: Called meeting to order at 9:06 A.M.

2. INVOCATION & PLEDGE

PLEDGE:

Chairman Schwebach: Led the Pledge of Allegiance.

INVOCATION:

Commissioner Candelaria: Led the invocation.



3. CHANGES TO THE AGENDA:

Madam County Manager Barela: Correction to item 11-A: Change typo of “Reservation Goal” to “Preservation Goal.”

4. PROCLAMATIONS:

NONE THIS DAY

5. CERTIFICATES AND AWARDS:

NONE THIS DAY

6. BOARD AND COMMITTEE APPOINTMENTS

A. COMMISSION: Discussion and approval of removal and reappointment of Torrance County’s representatives to the Estancia Valley Solid Waste Authority Board.

Chairman Schwebach: Opened the floor for discussion and spoke first, to the fact that he is a member of the Estancia Valley Solid Waste Authority (hereafter referred to as the EVSWA.) He informed the Commission that he had met with the other members of the EVSWA, and they had unilaterally decided that they would like to change the normally 13-member board to a 10-member board and eliminating the 3 positions that are currently vacant. The EVSWA members and Chairman Schwebach are asking for Chairman Schwebach to be the sole voting member representing Torrance County. The option to reinstate the other two vacant positions is available at any time to the Commissioners. The reason that Chairman Schwebach is recommended for the board seat is to fix issues with the Joint Power Agreement. The Board has decided to put elected officials on the board, as they can represent the constituents of Torrance County. Chairman Schwebach would like for the Commission to make a motion to make him an official voting member.

Commissioner McCall: Asked if this would be a reset for the EVSWA.

Commissioner Schwebach: Answered in the affirmative.

Commissioner McCall: Asked if this would jeopardize others pulling from the JPA.

Chairman Schwebach: Answered that there is a consensus with all JPA members, and that Mountainair has already proceeded. This happens during their regular meetings.

Commissioner Candelaria: Mentioned that he would like for the motion to be deferred, as this is the first time this is being brought up and was not on the agenda. There is not enough time for the people of Torrance County to make their voices heard in regard to the pending motion. Vice Chair Candelaria said that Chairman Schwebach is an elected official and they have more responsibility to the people.

The Joint Power Agreement needs to be fixed and fair. The goal is to be a good working organization for everyone.

Chairman Schwebach: Said that elected officials are owners and operators of the JPA, and he wants it done due to the items already in motion and items that are on the agenda that need to be dealt with.

The Chairman asked for a motion to be made to install himself as the voting member representing Torrance County, while eliminating two vacant Board Seats.

ACTION TAKEN:

Commissioner McCall: Made a motion to eliminate 2 Estancia Valley Solid Waste Authority Board Seats and make Chairman Schwebach the voting member representing Torrance County.

Commissioner Candelaria: Seconded the motion.

ROLL CALL VOTE:

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

Motion Passed.

7. PUBLIC COMMENT and COMMUNICATIONS

Madam County Manager Barela: Introduced the employees, residents and guests who had signed up for public comment.

Johnny Perea: Wanted to speak on the Resolution 2022-9, the resolution opposing the United States Federal Government's 30x30 Land Preservation Goal. Mr. Perea represents the Farm Services Agency. He believes current administration's goal is to tie up farmland for 10-15 years for conservation usage. The program has an economic impact of approximately \$1.5M. The CRP (Conservation Reserve Program) is a program that has been traditionally tied to irrigated land and has now expanded to ranged land. Those payments from the Farm Services Agency side can be up to \$250,000 on specific parts, not including the CRP side, which he believes can have an impact of \$2-5M.

Commissioner McCall: Stated that this was not how it was presented in Santa Fe. He asked him to stay and speak at Item 11-A.

Jason Quintana: Was surprised by the recent decision by EVSWA and wishes that they had spoken to their constituents before making a large decision.



According to Mr. Quintana, EVSWA is doing very well. It has more money than it has in a long time. Martin Lucero has done a good job helping it grow and keeping it on track. He brought some paperwork showing that EVSWA is doing better financially, and Mr. Quintana said that he is open to questions from the public.

Mr. Quintana asked where the matching funds for Item 12-A were going to be coming from.

Chairman Schwebach: Said that there would be a discussion going over the multiple possible areas that the funds could come from and invited him to stay to hear it out. He thanked him for his position at the EVSWA and said that things are getting better.

Lucy Lawrence: Ms. Lawrence owns some property in McIntosh and wants to see the east sides of Highway 41, specifically Willow Lake Road where the Senior Center is, paved. She is also asking for Cathy Lane, commonly known as a veritable “No-Man’s Land,” annexed and claimed by Torrance County, so it can at least be graded. There are too many holes on the road.

Antelope Springs has been a subdivision for the past 40 years, and the developer dropped the ball.

She said that one side of the road had pavement but that the other didn’t, and she has spoken with her neighbors who are in favor of getting the roads paved. She brought one of her neighbors with her.

Craig Noorlander: Mr. Noorlander is a beekeeper who lives on Cathy Lane and came to show support for getting the roads paved. He has noticed that busses can’t go down this lane.

Sylvia Chavez, Deputy County Clerk: Read a speech from the Torrance County Clerk, Yvonne Otero, as Madam Clerk was in the Legislative Session regarding Senate Bill 8. Speech hereto attached.

Commissioner McCall: Asked how the public gets help with the Clerk’s Office still being closed.

Sylvia Chavez: The public can come to the outside window, or if they are elderly/ disabled they will be let in the office. Title searches can be done by appointment.

Augustine Montoya, Resident, Tajique: Here as a private citizen. Here to discuss Item 12-A, the “presentation, discussion and possible action regarding the County providing matching funds for EMWT Regional Water Association’s Water Trust Board application for the McIntosh Water System.” He had multiple questions. His first was what funds the County would be matching, and if they had discussed with EMW what the funds were.

Chairman Schwebach: Answered that they would be discussing matching funds and discovering where they are coming from when the item comes up on the agenda. He answered that they had discussed different concepts with EMWT. He is assuming it is something to do with the McIntosh area, but he is not positive.

Augustine Montoya, Resident, Tajique: To clarify, said “you don’t know where the funds are, but you know what the project is.”

Chairman Schwebach: Said that he was assuming that he knew what the project was about.

Augustine Montoya, Resident, Tajique: Read a prepared statement, as follows:

“So, I was born and raised in this community, and we all know water to be a major issue and something that we all concern ourselves about, and major water interests and people who are after the exploitation of that finite resources, is something that’s concerning. I remember in the December meeting when we were talking about some of the funds that were being sought by our land grant communities that the worry was that we stood against EMWT and that interest, so my question for you now, Mr. Chairman, members, is in standing opposed to EMWT, is that inhibiting on future actions? And if so, why?”

Chairman Schwebach: Said he had no intention of answering that question in this dialogue at this time.

Augustine Montoya: So, in my observation, the way that the water system and the way that this aquifer works, any interest outside of the interests of the general public is concerning. And the EMWT has shown on its masterplan map that Edgewood was intended to be in part with that project. My concern is that there are propositions for Campbell Ranch which is a 4,000-home development that will be connected to that water system. Multiple people in the community have spoken out against that same Ranch because of the concerns with the water. He raised this concern because the County does have water issues here. And my land grants do stand for their water. He asked them to take that into consideration and moving forward with anything.

Chairman Schwebach: Thanked Mr. Montoya.

Fire Chief Don Dirks: There is now a tentative go-live date for the new billing contract for EMS, which is set for March 1st.

They are in the process of getting a DEA license to expand their EMS-ALS services.

All 5 tenders, which come to \$1.6M, have been issued and they are awaiting their delivery date.

EMS grant funds for Districts 2, 3 & 5, were approved though they don’t know for how much. they have been allowing Superior to apply for grant funding every year. This year it is also available to Torrance County. There is \$20,000 in that fund that is available for Torrance to use.

There was a new ambulance at the factory that was ordered, and when the order fell through Chief Dirks snatched the opportunity to get a new ambulance. They are awaiting DFA approval through the State.

Joshua Villafuerte: Brought to the attention of the Commission a subject matter that was personal and needed to be dealt with in private.

Chairman Schwebach: Offered him a moment to speak, but because the subject matter was of a private nature, Chairman Schwebach asked to speak to him after the meeting and in private.

Joshua Villafuerte: Asked to be put on the next EVSWA meeting agenda.

Tracey Master: Torrance County DWI Prevention Coordinator: Updated the County on her upcoming programs. The Diaper & Wipes Drive will continue Saturday, February 12th at Venus Park in Edgewood, and Saturday, February 18th at Lake Arthur Park in Estancia 11am to 1 pm.

Friday, February 11th at the Moriarty Lion’s Club will be the first in-person DWI Prevention Meeting BINGO.

Mrs. Master is still working on FY2023 DWI Prevention grant application quote to go to DFA. It has been submitted to the Manager’s Office to be put on the February 23rd Commission Meeting.

8. APPROVAL OF MINUTES

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

ACTION TAKEN:

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

Commissioner Candelaria: Seconded the motion. There was no discussion.

ROLL CALL VOTE:

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

Motion Passed.

B. COMMISSION: Motion to approve the January 12, 2022, Torrance County Commission Meeting Minutes.

Chairman Schwebach: Made a motion to approve the January 12, 2022, Torrance County Commission Meeting Minutes.

Commissioner McCall: Seconded the motion.

There was no discussion.

ROLL CALL VOTE:

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

Motion Passed.

C. **COMMISSION:** Motion to approve the January 26, 2022, Torrance County Commission Meeting Minutes.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve the January 26, 2021, Torrance County Commission Meeting Minutes.

Madam County Manager Barela: Made a comment that there were corrections to be made on the minutes, and that once done they would be ready for approval.

Chairman Schwebach: Amended his motion to approve the amended version of the January 26, 2021, Torrance County Commission Meeting Minutes.

Commissioner McCall: Seconded the motion.

ROLL CALL VOTE:

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

Motion Passed.

9. APPROVAL OF CONSENT AGENDA

A. **MANAGER:** Motion to accept the Third Quarter 2021 Restrictive Housing Report from CoreCivic pursuant to NMSA 1978 § 33-16-5.

ACTION TAKEN:

Chairman Schwebach: Made a motion to accept the Third Quarter 2021 Restrictive Housing Report from CoreCivic pursuant to NMSA 1978 § 33-16-5.

John Butrick, County Attorney: After the motion is accepted it will be sent to the New Mexico Legislative Council Service, and it gets sent to the New Mexico Legislature.

Commissioner McCall: Seconded the motion.

ROLL CALL VOTE:

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

Motion Passed.

B. **MANAGER:** Motion to accept the Fourth Quarter 2021 Restrictive Housing Report from CoreCivic pursuant to NMSA 1978 § 33-16-5.

ACTION TAKEN:

Chairman Schwebach: Made a motion to accept the Fourth Quarter 2021 Restrictive Housing Report from Core Civic pursuant to NMSA 1978 § 33-16-5.

Commissioner McCall: Seconded the motion.

There was no discussion.

ROLL CALL VOTE:

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

Motion Passed.

A. **FINANCE:** Motion to approve payables.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve payables.

Commissioner McCall: Seconded the motion.

Madam County Manager Barela: Informed the Commissioners that 3 checks for \$125 had been cut for Deputy County Manager Juan Torres, Torrance County Probate Judge Josie Chavez, and Madam County Manager for their per diem to attend the New Mexico Legislative Conference in person. Because they attended virtually instead, they did not pick

up the checks and the Finance Department will void them. If they are on the Payables report, they will be removed.

ROLL CALL VOTE:

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

Motion Passed.

10. ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

NONE THIS DAY.

11. ADOPTION OF RESOLUTION

A. COMMISSION: Motion to approve Resolution 2022- 9, opposing the United States Federal Government's 30 X 30 Land Preservation Goal.

Chairman Schwebach: Opened the floor for discussion.

Commissioner McCall: He was in Santa Fe for the New Mexico Counties Legislative Conference. BLM (the Bureau of Land Management) was in attendance, representing the Federal Government, and the American Stewards of Liberty presented. The current administration is looking to conserve 30% of land and ocean waters in the United States by 2030 for preservation. Commissioner McCall was under the impression that human involvement was not allowed on the land, unlike the wilderness, where motorized vehicles banned from entry. He believes that all states west of the Mississippi should be extremely concerned about the involvement of the Federal Government. When the presenter was asked "How do we stop this bill?" the answer they got was to pass a resolution in opposition. Since then, the Governor has written an executive order making New Mexico a supporter of the bill. He does not want to see things like Conservation Reserve Program (CRP) and Non-Insured Crop Disaster Assistance Program (NAP) being put in jeopardy for the residents and farmers of Torrance. Commissioner McCall believes that the government will be confiscating private land to fill their quota. The Governor of New Mexico has signed an executive order in support of the act. A call to action would have those potentially impacted make a resolution in opposition to the act. Mr. McCall yielded the rest of his time to John Perea.

John Perea, Farm Services Bureau: He wants to let people in the County that their programs won't be put into jeopardy if this bill passes. To get into the CRP, you offer your land, and then your land is ranked nationally. When something is input into this program, it must follow a conservation plan. There is still access and grazing allowed. It is not as restrictive as Commissioner McCall has heard. There are 50,000 acres in the program, roughly, based on one sign-up. When more people hear about it, it will become more popular.

It would be against the law to deny someone the program because of their political beliefs.

Chairman Schwebach: We have a Governor who, without asking, told the Federal Government that the State of New Mexico supports the Preservation bill. At this point, he, and the other Commissioners, have stated that they do not support this bill. A Resolution can always be rescinded, but he thinks it is foolish not to protect the County from this.

Commissioner Candelaria: Believes this bill will affect the constituents of this county, and believes they need to react to it. He thinks that there will be unforeseen consequences. He said that "they think country people do not know what is going on." The ranchers rely on grazing leases.

John Perea, Farm Services Bureau: He wants to make it clear that there is a conservation plan that goes into place when these are passed. The people entering contracts are concerned. If there is a program that involves farmers and ranchers, people will be concerned.

Commissioner McCall: There are a lot of unknowns. If your state meets a criterion when it comes to state/federal service of lands. Since New Mexico already has a ton of federal and local land, the State may be okay.

There were 33 representatives in the meeting the day this was presented to them, and almost all of them were wound up because they had not been visited by the BLM representatives like they said they had been. He feels failed because he has not been contacted by any of these representatives. He believes that the community should be scared and worried.

John Butrick: This is in the Federal Registry. If it goes past Notice of Comment, it will be enforceable as much as Federal Law. This is in the Federal Registry, and if it goes past a certain amount of time, it has full force of a law.

John Perea: An easy way to enforce this, if it goes to the extent that Commissioner McCall believes it will, is the restriction of grazing permits by the Federal Government and the Forest Service.

John Butrick: To circle back to what he was saying about full force and effect of law, is that the way it has been done is by executive order. That said, it is still in the Federal Registry, and that makes it Administrative Law.

Commissioner McCall: Wants to know what can be done to protect ourselves. He asked Madam County Manager Barela to read the Resolution 2022-9 into record.

Madam County Manager Barela: Read the Resolution 2022-9 into record.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution 2022- 9, opposing the United States Federal Government's 30 X 30 Land Preservation Goal.

Commissioner McCall: Seconded the motion.

ROLL CALL VOTE:

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

Motion Passed.

B. COMMISSION: Motion to approve Resolution 2022- 10, opposing the State of New Mexico 30 X 30 Land Preservation Goal.

Commissioner McCall: Explained why there are two very similar resolutions. He explained that they are basically the same Resolution but one aiming to oppose the Federal 30x30 Act (Resolution 2022-9), and the other aims to oppose the State 30x30 Act (Resolution 2022-10)

Madam County Manager Barela: Explained that the Resolution is to oppose the State 30x30 Act, since the Governor has issued an executive order to support the President in the 30x30 goal.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution 2022-10, opposing the State of New Mexico 30 X 30 Land Preservation Goal.

Commissioner McCall: Seconded the Motion.

ROLL CALL VOTE:

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

Motion Passed.

C. FINANCE: Motion to approve Resolution 2022-11, budget increase/transfer.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Resolution 2022-3, budget increase/transfer.

Chairman Schwebach: Asked if that was the correct Resolution number.

Valerie Smith, Admin Assistant: Answered that it was not, that it was a typo, and the correct Resolution 2022-11.

Chairman Schwebach: Restated Motion to approve Resolution 2022-11, budget increase/transfer.

Commissioner McCall: Seconded the Motion.

Jeremy Oliver, Finance Director: Explained what the resolution was for, which was small projects around the Administrative Building. The biggest increase was for \$146,845.54, which was approved to pay off one of the New Mexico Finance Authority loans in August. He couldn't touch the budget until September and wanted to hold off until property taxes were sent out and started to be received. This is from increased gross receipts and does not affect any projections that were discussed in other matters. Previously when transfers were done, they were done with existing funds. The numbers don't match at the bottom of the budget because they used new funds to pay the loan. That way they used new sheets for gross receipts, and the negative balance is the same amount that was transferred out to the debt service fund, which is where they pay their loans from.

ROLL CALL VOTE:

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

Motion Passed.

12. APPROVALS

A. MANAGER: Presentation, discussion and possible action regarding the County providing matching funds for EMWT Regional Water Association's Water Trust Board application for the McIntosh Water System.

Chairman Schwebach: Opened the floor for discussion.

Bobby Ortiz, EMWT: Introduced himself and Donzil Worthington from Bohannon Huston. He made a comment directed toward the questions that Augustine Montoya had asked during Public Comment. He explained that his service boundaries are Torrance County only, and do not go into Edgewood. Mr. Montoya had asked about a plan that has since been modified, and shrunk at the request of the Land Grant communities to exclude them, and the bylaws of the company keep the water in the Estancia Basin. They want to encumber as many water rights as they can to discourage the water being taken from the community. He said that he has invited the representatives of the Land Grants to the meetings, but when they go to the meetings, they just spread misinformation, such as the Campbell Ranch idea.

Chairman Schwebach: Asked Mr. Ortiz to explain the entire situation. He thinks it is unfair to put anyone in a group with assumptions. This is the start of something that has been talked about for a long time and is confident in the ability of the Commission to make sound decisions.

Bobby Ortiz, EMWT: This project is to benefit the McIntosh area. The water table has been dropping substantially. They applied to the Water Trust Board.

Donzil Worthington, Bohannon Huston, Project Manager: Introduced himself and Mr. Todd Burt, Senior Vice President and one of the owners over the Water Systems portion of the company. They had a presentation that they showed. See Commission Packet for presentation.

Mr. Worthington went over a brief history of EMWT. The main points are below and are the items that are on the presentation.

- In 2007 EMW Gas initiated planning for a regional water system in the Estancia Basin. There were plans afoot to take the water and pipe it out of town/state, etc. There were many organizations who tried to stop the water from being sold and shipped out of the area.
- In 2008, a Preliminary Engineering Report (PER), and an Environmental Report completed and approved, identifying McIntosh as an initial project. This was still under the direction of EMW Gas at this time. They had developed a 5,000 person user base, and felt like they were in the best position to lead this project, and were looking to aggressively expand. Since then, that map has become smaller because there were concerns that the water would not stretch that far. This started the push to help as many people as possible within the Estancia Valley and Estancia Basin area. This is a 2,400 sq. mile area that does extend in some places outside of Torrance County.
- At this point, a master plan was coming together, with projects such as a mainline up and down Highway 41, which would branch out to homes along the corridor. This would also include homes in Moriarty and Willard. This is where there were doubts with the project's scope.
- This got the attention of Senator Bingaman and he earmarked \$8.5M for the project.
- The earmarked money for the project went away, replaced instead by a grant by the USDA in the form of \$6M grant, and 3-4M in loan funds.
- EMW Gas was told that when they are applying for loans and financial help, that it looks like it is a gas request, not a water request. EMW is a not-for-profit, intermunicipal owned, public water and gas utility. It is quasi-public, has all the powers and authorities of a mutual domestic, and because it is public it qualifies for state and federal funding and grants. The fact that it is a gas company really threw people.
- EMWT came about because the name EMW Gas threw people off. EMW stands for Estancia, Moriarty, and Willard. EMWT was so named to add the T for Torrance County. This helped cover the more outlying and rural areas.
- EMWT filed Articles of Association in 2014, to save the water in the Estancia Basin from being taken out.
- In 2015, EMWT was successful in receiving a \$25K USDA Rural Development search grant, and a \$25K grant through the New Mexico Finance Authority LGPG Local Government Planning Fund. The NMED (New Mexico Environmental Department) decided that this was more of a long-term project, so they decided they wanted to see a PER specifically for this project.
- In 2017 the PER for the McIntosh Water System was completed and approved by the USDA and their engineer Robert Garcia.

- In 2018 the USDA came forward with a funding offer, but it was 2/3 partial funding. They wanted the rest to come from local match, which was the Water Trust Board. The Trust Board had much competition vying for the funds, so EMWT did not receive the match. This is when things fell apart with funding.
- They would have ended up with approximately a 60% grant and required a match by the finance authority. The debt service was challenging. If they wanted to retire the debt, it would have cost \$65-125/person/month.
- This year, there are many fewer applicants for the fund, and they have moved forward with the water trust board fund application. These funds are brought together by the severance tax base. The severance tax is from the extractive industry from the oil and gas generally that provides that money, and because of that has enough money to fund all the projects that applied this year.
- EMWT has legislative authorization for funding. They are in the final decision on this.

The next slide shows a document from the 2017 PER for the McIntosh Water System, showing the wells. There were 164 wells in the planning area, 144 of those are domestic. 161 are on currently occupied lots. There are approximately 1100+ lots in total, and 933 currently vacant lots still available in that subdivision area. The concept for PER in the McIntosh system is a well, a tank, a transmission line that comes down from adjoining areas, but it would be a looped system with a gravity feed serving the McIntosh area. It would have 6" pipelines throughout, and fire hydrants, which should lower the homeowner's insurance cost for the residents in the area.

Chairman Schwebach: Asked Mr. Worthington if he was doing the same amount, just on a different scale than the one before.

Donzil Worthington: Looked at the map and explained to Chairman Schwebach that there is basically nothing on the East side of 41, that it is the developed roads on the West that will be getting the work done.

Chairman Schwebach: Is that Calle del Sol, and El Rancho Grande?

Donzil Worthington: The red line is the line to a proposed future water tank, up on a hill. Mr. Worthington continued to explain the map to the proposed Distribution system within McIntosh. (See Map, in presentation.)

Chairman Schwebach: What is the East-West road called?

Bobby Ortiz: He believes the East-West road is Otero Rd. EMWT is looking for some land in the area of the proposed water tank. They are in the process of finding sellers.

Donzil Worthington: He believes that there are 1,161 lots, and 1,072 lots platted, 161 are developed as of the 2017 PER, which leaves 911 platted lots, but undeveloped.

Speaking about ways to fund this project, he said the Water Trust Board funds, and there has been talk of matching funding through the local Rescue Plan Act that the County received. Based on that, the WTB application, if they are awarded based on water transmission and immediate

household income, which is at poverty level, they would be most likely be awarded a 90% grant and 10% loan, and then they require a 10% match of local funding, provided as a funding of some source by the owners. If they did not get the local 10% match, they may be able to roll it into the one, but then it would bring the debt service up to 20% instead of 10%. Currently the project is at \$7.34M. The top line shows \$100k that has been accessed by EMWT to do their due diligence. The Environmental Document has been created. The PERs have been completed and approved by the USDA and the NMED. They had to lay out the project for the Phase I of the McIntosh project. When they first began, they thought they could do a \$6M project and still serve the full 161 lots. The cost estimate has gone up to almost \$10M to serve the entire subdivision. With the \$6-7M, the maximum allowable funding from the Trust Board, the cost of getting the well, tank, transmission line and all the lines in the subdivision, and can serve the first 100 lots. That leaves roughly 60 lots without water. Once the bids come in the could maybe do more. The big effort here is critical. Once EMWT has a working water system, they are eligible for the working water fund, which gives them ass

Commissioner McCall: Asked if Mr. Worthington said 100 lots could possibly be fulfilled with this money, and if so, what is the number?

Donzil Worthington: He doesn't know if he has the full number. The Envision Project was the full distribution system for the entire subdivision and probably 60-70% of the full subdivision with mains in front of them, the only thing left was to put the service line in to put them in action. With the remaining funds and the drinking water SRF, he doesn't think he would increase the debt service to do the rest of the subdivision with the full 161. He thinks they could complete it as part of the initial project. With the grant/loan combination of 90%, they are at 92% if Torrance is willing to donate American Rescue Plan money. This would make it so that Torrance would be using Federal Grant money that they received, to supplement leverage of this \$7M project, which would end up with a total debt service of approximately \$660k. Their terms are 20 years, with 0% interest and a .25% service fee. Calculated, that is \$25 to \$26 per lot, dedicated just for debt service. And then the PER addresses the operations and water. \$50 per lot would put it in operation. Looking at the drinking water survey that the SRF puts together, \$45 is the State average user fee for a system of this size. If they are not close to the State average, they will not be considered for State funding.

Bobby Ortiz: It is comparable for the local area.

Commissioner McCall: The more users you have, the lower it would be.

Donzil Worthington: If they can get a State Revolving Water Fund or an additional trust fund allocation, the water trust fund will be \$6.2 million. They want you to use the local funds first on the front and the back end before you spend the grant money.

As far as acquisitions go, the water rights would have to come out of the local funds. There are some possibilities for the location of the water tank. The \$200K shown on the Land Acquisition line under local funds is for land acquisition and water rights, not land acquisition alone. This year, the Water Trust Board (WTB) is making their final decisions, by June 1st, there should be a declaration of which projects will be funded. There will then be months of closings. You

wouldn't have to put up any money up until everything is settled, so possibly July or August before money would be drawn.

The next action items would be to document local match availability if Torrance decides to collaborate with EMWT Water Conservation.

Chairman Schwebach: Have you explained what type of water rights you are looking to obtain?

Donzil Worthington: Asked if he meant what aquifer it is coming from?

Chairman Schwebach: He referred to the history and how EMWT came about. The Water Planning Committee and EMWT, part of the plan to conserve water, in the future paper permits would be shut off. The concept would be called wet water. Someone who is allowed to pump 2.5-acre foot of water for their farm, when it comes to consumptive use, it is cut in half. There is less pumping from the irrigator and the water is going back in the ground.

Donzil Worthington: The original PER that identified the 161 lots was based on acre feet acquisition based on 55 acre feet. Currently they are serving 100 lots with 33-acre feet. As they go further along, there would be more they need to add. A hydrogeologic investigation would take place to see the best place to acquire water. They would also investigate insuring the water rights and finalizing the cost. They get a lot of calls from people wanting to sell water rights.

Bobby Ortiz: They are a quasi-municipal entity, not for profit. They cannot sell water for a profit and cannot give dividends to their stakeholders. They can only bank money for operations.

Commissioner McCall: Is the development of the well in the construction costs?

Donzil Worthington: Answered yes.

Steve Guestchow, Planning & Zoning Director: Wanted to make it known that the lots in the Estancia Del Norte Subdivision (he meant and then corrected to El Rancho Grande) are all one acre lots. If everyone were to develop with a well, they would be given $\frac{1}{2}$ acre foot. The amount of water that would be saved by the proposed system is substantial. Also, this subdivision was made before 1973, when the law changed, and subdivisions of that size had to provide community water. This subdivision does not have community water

Donzil Worthington: These lots have septic and sewer systems. There is not really enough oversight on how close the waste-water is to the freshwater.

Chairman Schwebach: Questioned whether EMWT would try to make people use EMWT's water system, as most of them already have wells. People want to make their own choices.

Are you insinuating that you make a pipeline and force people to hook up to it?

Bobby Ortiz: In many cases, local governments do make an ordinance that if there is a local water system that those in the area must hook up to it. He believes it would be beneficial to the County and to EMWT to create a similar ordinance. He thinks that most people would want to hook up to the water because their wells are not working and they have to haul water.

Chairman Schwebach: Has always believed that this is the point of contention that will make or break this deal. He does believe that many people would want to hook up to the system. He has a hard time forcing anyone to hook up. How do they know how many people will want to hook up and do that before investing money into it?

Donzil Worthington: Several years ago, when the USDA funding came through, the underwriters required demonstration of an adequate pool of debt before they would release the funds. Most Department of Health or state governments have ordinances or rules that if there is a utility within a reasonable distance from you, then you must hook up to it. If the County were to implement an ordinance that required hookup in an overlay zone, you can put policy in place that makes the transition easier, such as requiring hookup when the land changes hands.

Mr. Worthington suggested that an ordinance for the proposed zone only is put in place, as money coming from the debt service (customers) would go toward the infrastructure.

During closing, the Water Trust Board will require some type of ordinance that will ensure a steady stream of income.

When the County is involved, it becomes easier to convince people that hookup is the “correct answer.” Then it comes down to knocking on people’s doors and coerce people into agreeing to hook up.

Commissioner McCall: Say 100 people who live in this area still want to use their well, can they be hooked up and also use their wells?

Donzil Worthington: Unsure of the answer, said that it’s not something that typically happens. A domestic well is not a true adjudicated water right with paper on it. He thinks that it is 3 acre feet.

Chairman Schwebach: The State engineer, by law, if a resident of New Mexico asks to drill a well for residential use, they are granted a permit to drill a well. They can divert a ½ acre foot of water. A livestock well is not allowed on acreage that small. Livestock is a 3 acre foot, and you must have over 20 acres. Water rights are not really policed, unlike irrigation rights, which are licensed.

Steve Guetschow: Explained the water rights regarding domestic and agriculture use.

Chairman Schwebach: Believes that in the summer they will have a better chance of getting the agreement of 100 people. Believes that they should see if they can get 75 people and make an ordinance that says that in 5 years’ time, or whenever the well dries, or if the land is sold, then they must switch to the water line. Chairman Schwebach believes that the problem is that the State Engineer’s office has mismanaged the subdivisions. The County is dealing with 60-year-old laws.

Chairman Schwebach sees a potential issue with who will cap the wells once everyone is hooked up to the water line.

The Chairman says that the water line is a great idea that just makes sense, and that the County should get on board with it but understands why people wouldn’t take his word for it. He

believes it is only a matter of time before all the wells in existence in the subdivision do dry up. At that point people will be more inclined to hook up to the water line. He asked the two residents that live in the area that were in the audience to raise their hand if they have 1st.) Heard of EMWT, to which they said “no,” and 2nd.) would like to be part of this water line. The answers were one “yes” and one “no.” The “no” said that they would like to have a choice.

Commissioner McCall: What will the connection fee be?

Donzil Worthington: The initial hookup fee for a property owner would be \$175. They look for ways to help the property owners. The convenience of the utility usually outweighs the hassle of drilling and maintaining their own wells. There are USDA loans and grants to help out with their water, wells and the fees associated with getting hooked up to the water line.

Commissioner McCall: The Commissioner is looking forward to helping EMWT. He is disappointed that the Census shows that Torrance County has not grown at all, and wants to see the population and economy grow. He keeps going to both sides, and said that they have to help the economy in the end. He believes that the County needs to hear the opposition, but thinks that the time is right to begin the water line project. He thinks that maybe Edgewood and the East Mountains have grown because they have water systems set up.

Steve Guetschow: The public safety aspect has not been touched upon. With the water system, fire hydrants will be installed and make the area safer.

Commissioner Candelaria: This system will help because the water quality needs to be checked continuously so it is guaranteed to be cleaned.

Commissioner McCall: Wants the County to own the water rights.

Bobby Ortiz: Needs to get approval from the rest of the Board but doesn't see a problem with that.

Chairman Schwebach: Is ready to commit funds, but there are questions that need to be answered.

Commissioner McCall: One of the big goals with the ARPA funds is to expand infrastructure. Commissioner McCall believes that the time is right.

Commissioner Candelaria: People will come if there is a way of making a living at it. He has been working to keep the water in the County.

Chairman Schwebach: Is ready to move forward, but there are things they need to smooth out. He wants the County to remain the water right's owner. EMWT is structured identical to EMW, which are non-profit organizations. He wants to know how many people are willing to commit to hooking up to the water line, and if that would change the fee schedule. He also wants to know what kind of ordinance the County needs, and what type of commitment the County needs to look at. He envisions a 5-year phase in project. It will not make some people happy but believes that is how it needs to be. He wants to make the public aware that the money can be taken back before it can be spent.

Donzil Worthington: As part of the readiness procedure, they will want to see that the match is obligated and ready to make a commitment. He believes March 1st is the cutoff. March 2nd they will be sent a non-compliance letter if they can't show that there is a match in place. They would have to go before them by March 22nd asking them or waive that requirement. March 2nd they should make the deadline to have something in writing, even if it is contingent up on having funding.

Chairman Schwebach: If the numbers don't add up down the road, they can back out and the money is returned, correct?

Donzil Worthington: Yes. At a certain point the County will be required to commit those funds for good, but before that there is a period of 2-3 months that the fine print gets worked out.

Chairman Schwebach: Understands that people will be upset but believes that this water line will help.

John Butrick: They can wait to make a motion until the next meeting for February or make one now with all the terms and conditions that they would like.

Commissioner McCall: Suggested meeting with the County Attorney and ironing out the details and contingencies.

Chairman Schwebach: This will be put on the next meeting agenda for a decision, and the public should now know that there is up to a \$1M match being considered.

NO ACTION TAKEN AT THIS TIME.

John Butrick, Torrance County Attorney: Asked for Item 12-C. to be deferred to the end of the meeting due to an important phone call.

Chairman Schwebach: Denied request to defer Item as it should have been requested during Item 3 "Changes in Agenda."

B. MANAGER: Motion to approve participation in the Summer Enrichment Internship Program through New Mexico Public Education Department (NMPED) for 2022.

Chairman Schwebach: Introduced Item 12-B.: Motion to approve participation in the Summer Enrichment Internship Program through New Mexico Public Education Department (NMPED) for 2022.

Kristin Oliver, Human Resources Director: Said that she wants to do the same program she did with the Public Education Department as last year, which was an utter success, but this time with 60 students from local public high schools, instead of 40 students. This year she has time to reach out to more businesses who would be open to hiring the students.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve participation in the Summer Enrichment Internship Program through New Mexico Public Education Department (NMPED) for 2022.

Commissioner Candelaria: Seconded the motion.

ROLL CALL VOTE:

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

Motion Passed.

C. **ATTORNEY:** Motion to approve Findings of Fact and Conclusions of Law upholding the Planning and Zoning Board's denial of a Conditional Use Permit to operate a commercial greenhouse at the residence of Mr. Richard Strahlem.

Chairman Schwebach: Opened the item for discussion.

John Butrick, Torrance County Attorney: Read the findings of fact and conclusions of law upholding the planning and Zoning Board's denial of a Conditional Use Permit to operate a commercial greenhouse at the residence of Mr. Richard Strahlem. Once approved they will be filed with the County Clerk's Office.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve Findings of Fact and Conclusions of Law upholding the Planning and Zoning Board's denial of a Conditional Use Permit to operate a commercial greenhouse at the residence of Mr. Richard Strahlem.

Commissioner McCall: Seconded the motion.

ROLL CALL VOTE:

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

Motion Passed.

13. DISCUSSION

A. **COMMISSION:** Discuss the proposed New Administrative Office Building Project.

Chairman Schwebach: Opened the floor for discussion to the proposed New Administrative Office Building Project.

Robert Burpo, Financial Advisor: Came to discuss 3 separate issues. These include:

- 1.) The need for a new building.
- 2.) Is it a good time or bad time to borrow?
- 3.) Which type of financing is best for the County?

Under 1.) The need for a new building, he asked if the building is working, and meeting all of the County's needs, and if not, how big will the new building be?

2.) The dilemma is that inflation is rising fast. There will be a glut of money coming in this summer, which will keep interest rates low in the long term, but they are high in the short term. In the scheme of things, it is a good time to borrow. The interest rates are most likely as low as they will be for some time. They are also lower now than they were 10 years ago.

3.) In a bond, if you need \$9M, for example, you need to borrow \$10M, because you would need to put \$900K into a debt service reserve account, that cannot be touched, until the 20th year of your loan. You may not be able to touch the last (almost) 10% of your bond, but it will result in lower interest rates. It's a lower interest rate on a larger amount of money.

With a loan, you can set it up so that you only pay interest for the first two years on the amount that you have drawn down. After 2 years, you amortize your loan for 18 years.

You cannot pay back a bond right now before 10 years from date of issue.

If you start today, it would take about 2 months to communicate with the lenders, then an ordinance would have to be done, then wait 30 days for it to take effect. It would be about June before money is available. It would either be in the bank all at once, and you would be paying interest on it immediately, or a construction loan/permit loan, where the interest rate is locked in for the next 20 years.

The County will not know the final price by June, and the numbers will be unknown for the entire project until roughly 2 years in. Mr. Burpo believes that the total cost will be much more than requested. He explained that there are two options on what to do when the County is low on funds and need to finish a project. You either borrow the difference, or when PILT money comes in, that can be pledged instead of Gross Receipts Tax. Use PILT for Debt Service.

Mr. Burpo believes interest rates will be much higher in the next two years than the next 6 months.

If you determine that there is a need, which it seems there is, then now is a good time to get into the marketplace under long-term floating options.

Mr. Burpo stood for questions.

Commissioner McCall: Did you catch that you can only borrow \$10M at a time. So if the building costs \$12M or \$13M then it is the \$10M plus the back end.

Robert Burpo: Bonds are better than loans. If you do a bond, you can borrow as much as you want. Banks restrict loans, and they cannot issue more than \$10M in debt per calendar year. In that case you would do a \$9.5M loan. You have to take into account leases and equipment, etc. Right now loans are more attractive than bonds. If you don't have the debt service reserve fund set aside, then a loan is more attractive.

Showing the history of debt will help.

Commissioner McCall: When they met they had the spreadsheet for the maintenance cost. The water lines, sewer lines and boiler are on borrowed time. He asked Jeremy what County Staff is costing us in lost productivity.

Jeremy Oliver, Finance Director: When there is a closure, for \$950/hour times \$9,500 in staff salary due to lost productivity, including benefits, and just for admin staff. Usually, maintenance is still at the building working on the problem. In the last 2.5 years, there have been approximately 2.5 days of closure per year, so \$23,000/ year paying staff to do nothing. Right now, there are approximately 18 space heaters on @ \$0.20/hour. Running from November to February equals \$4300/year. There were 2 major sewer leak and 1 water leak issue. Stetson will be tracking manhours better, but based on routine maintenance, there are \$15,000 in manhours that are being used, not including the contracted costs from TLC, etc. That is 320 manhours where the two sewer line issues and the one water leak where they found that the broken line ran under the city street and on private property. The boiler estimate is \$1.5-2.5M to move over to a ductless system, and it's the cheapest option. The square footage is 29,000 feet.

There were air conditioning systems that got replaced, plus re-piping the hot water into the bathroom sinks. That was State funding, included in the charts and graphs (hereto attached.)

Commissioner McCall: Asked if he had any information on Judicial.

Jeremy Oliver: Said that he would make one up. He then went over the next sheet, which was replacement of water lines.

Commissioner McCall: Made a point of saying that it would be catastrophic for the County if there was a water leak.

Robert Burpo: Talked about the energy efficiency of new buildings and how it can save the County a significant amount of money. Most or all of the cost is covered in reduced gas and electric bills.

Commissioner McCall: It is obvious the County wants to go with bank instead of bond money.

Robert Burpo: You can pay off bank loans at any point in time, but the only problem is not knowing how much you need to begin with. The lenders have not gotten into pricing but he hopes to get into pricing in the next two weeks; he wants to have presented then.

Jeremy Oliver: A new wind project would generate at least 5 million in PILT in the next 5 years.

Commissioner McCall: 25-30K sq. ft, at \$500/sq. ft., is about - He was unaware that the County can pledge PILT payments, and thinks that they should use it,

Chairman Schwebach: The building is currently at 26,000 sq. ft. That includes the jail and also incorporated two Health Services offices.

Commissioner McCall: Asked to clarify debt service payments.

Robert Burpo: Said that he has seen some governments loan money to themselves, essentially. It is done by resolution. They replenish that with cash.

Commissioner McCall: The state requires 3/12ths in reserve, the Commission went to 5/12ths, and has paid off loans in a very timely manner. GRT was 1.5% in excess over what we predicted?

Jeremy Oliver: It was a little over 3%. Is predicting a little over 2%, which is \$1.5M that is expected to collect, based on typical average.

Commissioner McCall: Believes the time is right, and thanked Robert for the advice and his hard work.

Robert Burpo: They have never had a client default, and so bankers go to them for clients.

Chairman Schwebach: Doesn't want to build a new building, but he knows it needs to be done. It is costing too much closing, and staff productivity.

Commissioner McCall: Wants to talk to their constituents.

Chairman Schwebach: Said he is making a decision and suggests that Mr. Burpo speak with the Manager and members of the Committee. Wants him to come back in two weeks to make an actual decision on the next agenda. Thanked Mr. Burpo for coming out to present.

B. COMMISSION: Discuss paving the last mile of McNabb Rd. using County funds.

Chairman Schwebach: Opened the floor for discussion on paving the last mile of McNabb Road using County Funds.

Commissioner McCall: Spoke to Leonard Lujan about how they have the funding to do the first two miles of McNabb Road, but wanted to see what can be done about paving the last mile. He asked for a discussion item. He believes now is a good time with \$1.5M in excess GRT, appropriating another \$300K to do that last mile.

Leonard Lujan, Road Department Superintendent: He has funding from a project, and then capital outlay, to pave the first two miles of McNabb, he just needs the funding to do the third and final mile. Contractors are getting booked very fast. He has all the quotes for the road and for

Riley as well. He is trying to get the best deal to do everything at once. He was told that it would be July at the earliest to start.

Commissioner McCall: They cannot make a decision today but want Mr. Lujan to come back in two weeks with the item on the agenda so that they can make a decision.

C. MANAGER'S REPORT

Madam County Manager Barela: Thanked Emergency Management, Road Department, Fire Department and EMS, both career and volunteer staff, Sheriff's Office, Dispatch, Animal Services, Facilities and Emergency Management for their phenomenal job done during the last snowstorm.

Thanked the employees who teleworked while the Administration Offices were closed on Wednesday and Thursday, February 2nd & 3rd, 2022.

Chairman Schwebach: Thanked the staff as well.

D. COMMISSIONERS' REPORTS

1) Commissioner McCall, District 1

Commissioner McCall: Said that he spoke to Johnathan Lujan and has learned that the paving project for the road in front of the Pilot Truck Stop in Moriarty, and 5 miles north on Highway 41 is ready for this spring.

2) Commissioner Schwebach, District 2

Chairman Schwebach: Thanked the staff for everything. Explained that he has been frustrated with funds being held up in the state, but that his frustration is not directed to the staff, and that he appreciates all the hard work that the staff does. The County is truly blessed with the heart and quality of the employees who work at Torrance County.

He also took a moment to thank Dr. Cindy Simms, Superintendent of Estancia for staying through the meeting.

Dr. Cindy Simms: Thanked the Torrance County Employees for coming to the rescue of the Estancia Municipal Schools who couldn't have gotten the kids to school safely, or had clear bus routes and walkways to keep the children and staff safe.

3) Commissioner Candelaria, District 3

Commissioner Candelaria: Thanked the Road Department, he got many calls that they were blading the roads and doing a great job. There was no snow left on the road to get muddy. Thanked Leonard, Jeremy and all the staff who work together to get things accomplished.

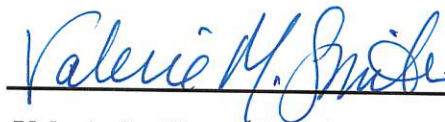
14. EXECUTIVE SESSION
15. Announcement of the next Board of County Commissioners Meeting:
February 23, 2022, at 9:00 A.M.
16. SIGNING OF OFFICIAL DOCUMENTS
17. ADJOURN

Chairman Schwebach: Adjourned the meeting at approximately 1:26 P.M.

Signed By:



Ryan Schwebach – Torrance
County Board of Commission
Chairman



Valerie Smith – Administrative Assistant III,
Torrance County Clerk's Office

Date: ____ / ____ / 2022

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.

