

FINAL COPY
Torrance County Board of Commissioners
Regular Commission Meeting
February 22, 2023
9:00 AM

Commissioners Present:

RYAN SCHWEBACH – CHAIR
KEVIN MCCALL – VICE CHAIR

Others Present:

JANICE BARELA – COUNTY MANAGER
JUAN TORRES – DEPUTY COUNTY MANAGER
MICHAEL GARCIA – COUNTY ATTORNEY
LINDA JARAMILLO – COUNTY CLERK
NOAH SADILLO – FINANCE DIRECTOR
GENELL MORRIS – ADMINISTRATIVE ASSISTANT

1. **Call Meeting to order**

Chairman Schwebach: Calls the February 22, 2023, Regular Commission Meeting to order at 9:03 AM.

2. **Pledge lead by:** Chairman Schwebach

Invocation lead by: Commissioner McCall

3. **Changes to the Agenda:**

Madam County Manager Barela: Defer 12 J will be presented at the next Regular Commission meeting. Move 12 A before 11 A and 14 A after 11 B. Also remove 5 A due to Jacob Medina is busy working on the roads, we appreciate his work. Superintendent Lujan can add back to the agenda when they have the time.

4. **PROCLAMATIONS:** None

5. **CERTIFICATES AND AWARDS:**

A. ROAD: Recognition of Employee Service Year Pin: Jacob Medina (5)
(Deferred from February 8, 2023, Commission Meeting).

Deferred

6. BOARD AND COMMITTEE APPOINTMENTS:

A. COMMISSION: Discussion and possible appointment of Torrance County's second representative to the EMWT Regional Water Association Board.

Chairman Schwebach: O'Brien accepted one of the two positions.

Action Taken:

Commissioner McCall: I nominate Ronny Reynolds for the second position.

Chairman Schwebach: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:

MOTION CARRIED

7. PUBLIC COMMENT and COMMUNICATIONS

Linda Jaramillo – County Clerk: I am attending the meeting via Zoom, following protocol since I was exposed to COVID when I attended a meeting for the Association of Counties in Santa Fe.

Sandy Ness – Torrance County Resident: Our County Clerk Linda Jaramillo made a comment in a previous meeting, after finding the ballots she hopes this will restore the communities faith in the Dominion machines. That does not enforce my faith in the Dominion machines. I'm validated in my opinion simply because of Legislation as we speak in Santa Fe. If there was transparency with our elections then legislation wouldn't be introduced to make it a felony to question election data or to canvass voter rolls. I have no faith in the Dominion machines. This is not a personal attack on the County Clerk and her staff, they are doing their best with what they are given.

I have also been selected to be a part of the Board of Registration and look forward to learn what that entails.

Madam County Manager Barela: Introduced flat Rosie, a school project from her granddaughter who attends a charter school in Arizona. Flat Rosie travels by mail to a destination of the student's choice, she got to come to Torrance County and attend our commission meeting and different locations/adventures around the county taking pictures/geography/culture along the way. All the pictures will go back to Arizona and be shared with the class.

Rob Wagner – Libertarian Party Chair: Welcomed flat Rosie and agrees with Sandy Ness's statement. I feel there is a lack of transparency, this shows there are things to hide.

8. APPROVAL OF MINUTES

- A. Motion to approve minutes of the February 8, 2023, Regular Meeting of the Board of County Commissioners.

Action Taken:

Chairman Schwebach: Motion to approve minutes of the February 8, 2023, Regular Meeting of the Board of County Commissioners.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

9. APPROVAL OF CONSENT AGENDA

- A. **PLANNING & ZONING:** Pattern Energy Special Use: Alternative Special Use District Boundary

Don Goen - P & Z Director: This application was unanimously approved by the P & Z board. This is a modification of the special use boundaries to facilitate the development of the Sun Zia North transmission line. Jeremy Turner – New Mexico Projects Director -Pattern and Mr. Adam Cernes-Clark Senior Manager for Environmental and Resource -Pattern are here to answer any questions.

Jeremy Turner – New Mexico Projects Director -Pattern: We are preparing for full construction, we have started site cleaning for Sun Zia transmission line and expect to be in full construction in both the wind farm and transmission later this year, this construction will continue till early 2026.

Action Taken:

Chairman Schwebach: Motion to approve Alternative Special Use District Boundary

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes; Commissioner McCall: -Yes;

MOTION CARRIED

B. MANAGER: Approve Restrictive Housing Report – 2022

Deferred to after 12 I in this meeting to get the Commission the report.

C. FINANCE & PURCHASING: Motion to approve payables.

Action Taken:

Chairman Schwebach: Motion to approve payables.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes; Commissioner McCall: -Yes;

MOTION CARRIED

10. ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE:

None

13.A. FINANCE & PURCHASING: Presentation of Torrance County FY 2022 Audit – Kubiack, Melton and Associates. (Presented Joe Ortiz)

Joe Ortiz – Audit Manager from Kubiack, Melton and Associates:

(Full audit presentation attached hereto.)

Mr. Ortiz explained the Auditor and management responsibility. There were no significant issues discussed with management prior to retention, difficulties encountered in performing audit or consultation with other accountants.

No New findings for 2022, 2021-001 findings financial close and material adjustments and 2021-002 reporting have been resolved.

Audit completion report date November 28, 2022; received OK to print January 11, 2023; received release letter January 31, 2023.

Madam County Manager Barela: Commissioner Candelaria sat in on the entrance and exit conferences of the audit and wanted to give public acknowledgement to our staff for a job well done.

Chairman Schwebach: I also appreciate the staff for what you have done and what you continue to do.

11. ADOPTION OF RESOLUTION:

A. FINANCE & PURCHASING: Motion to approve Resolution 2023-05, Torrance County FY 2022 Audit Report.

Action Taken:

Chairman Schwebach: Motion to approve Resolution 2023-05, Torrance County FY 2022 Audit Report, with zero findings.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:

MOTION CARRIED

B. ROAD: Motion to approve Resolution 2023-06, annual request for hardship90 funds through the New Mexico Department of Transportation.

Leonard Lujan – Road Supervisor: This contract is submitted every year. Once this letter is submitted, they will let us know if we qualify for it or not. Last year, we were able to get our roller and a couple of pick up online. This year will be in person. We are given \$25,000 to run around and see what items you can get, competing with other counties, this is retired DOT equipment. No strings attached. This saves us money on having to buy new equipment.

Action Taken:

Chairman Schwebach: Motion to approve Resolution 2023-06, annual request for hardship funds through the New Mexico Department of Transportation.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:

MOTION CARRIED

14. EXECUTIVE SESSION:

- A. **COMMISSION:** Meeting with County Attorney pertaining to threatened or pending litigation in which Torrance County is or may become a participant. Section 10-15-1(H)(7), regarding opioid litigation/settlement.

Action Taken:

Chairman Schwebach: Motion to go into executive session with County Attorney pertaining to threatened or pending litigation in which Torrance County is or may become a participant. Section 10-15-1(H)(7), regarding opioid litigation/settlement.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

9:47 AM

Action Taken:

Chairman Schwebach: Motion to return from executive session into regular session.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

10:00 AM

Chairman Schwebach: We discussed with County Attorney pertaining to threatened or pending litigation in which Torrance County is or may become a participant. Section 10-15-1(H)(7), regarding opioid litigation/settlement, nothing else discussed.

- C. **MANAGER:** Resolution 2023-07, A resolution authorizing Torrance County to enter into a settlement agreement with Albertsons Companies, CVS Pharmacy, Kroger, Walmart, Allergan and Teva to resolve the County's litigation and currently pending in the Northern District of Ohio, In RE: Opioid Litigation, MDL 2804.

Action Taken:

Chairman Schwebach: Motion to approve Resolution 2023-07, A resolution authorizing Torrance County to enter into a settlement agreement with Albertsons Companies, CVS Pharmacy, Kroger, Walmart, Allergan and Teva to resolve the County's litigation and currently pending in the Northern District of Ohio, In RE: Opioid Litigation, MDL 2804.

Commissioner McCall: Seconds the motion.

Chairman Schwebach: We went into this as a county. It is a national litigation; we are now getting into the potential settlement. There are no strings attached. No finances the county needs to use.

Roll Call Vote: Commissioner Schwebach: -- Yes: Commissioner McCall: -Yes:
MOTION CARRIED

12. APPROVALS

A. FINANCE & PURCHASING: Motion to award IFB 2023-01 -- County Road Department Construction to B & R Construction Co. Inc.

Noah Sedillo -- Finance Director: We had one bid from B & R Construction for this IFB 2023-01, one of two bids showed up late. This bid was publicly opened Monday February 6th, 2023, at 3:30 PM. The one bid was for \$1,244,015.30. With that we have a posted budget of \$675,000.00 for this project. I did provide for you liquid cash we have in our fund today from the PILT and American Rescue Act available to be used for this.

One of the late bids called to apologize for being late and stated their bid would have been well north of this bid.

Chairman Schwebach: This bid is twice what we had budgeted, I'm not ready to approve 1.2 million dollars. I know prices have increased since making this budget, but have we looked into making cuts to get closer to our budget?

Noah Sedillo -- Finance Director: Yes, the discussions we have had with our architect and construction company with some of the modifications, there is not a significant change in the price. If the county could do the dirt work, we will incur the liability if something were to happen to the foundation.

Leonard Lujan -- Road Supervisor: We have spoken to the architect and some things we can't change because then it won't meet the specs that have to be met. It needs to meet energy efficiency. We looked at it as we moved forward and did what we could or stop and wait and the bid may go up.

Noah Sedillo – Finance Director: This is with the current energy code in place. One of the main drivers of this cost is we have to pay wages for the labor because this is a public works project.

Chairman Schwebach: What is involved in the dirt work? Is the road crew capable of it?

Leonard Lujan – Road Supervisor: We can do it but if anything happens to the slabs then we are liable because we did the dirt work. Do we want to be liable on a new building?

Commissioner McCall: Concrete is going to crack; it doesn't matter what you do. We have the liability of you building roads with the public driving on them. The surface below the road department building is way down there when it comes to liability. I believe the county can do the dirt work

Chairman Schwebach: I'm assuming its prep work not foundation.

Leonard Lujan – Road Supervisor: Yes just prep work and compaction.

Chairman Schwebach: If we approve this, we are approving to enter into contract to not accede 1.2 million but have the ability to scope it down.

Noah Sedillo – Finance Director: That is correct.

Juan Torres – Deputy County Manager: We do not have the ability to phase it because the IFP was sent out for the entire project.

Chairman Schwebach: I want to move forward and think we can increase to a \$100,000 budget but want to see where we can make cuts.

Commissioner McCall: I agree and want to spend some time to see if we can make changes.

Chairman Schwebach: Motion to award IFB 2023-01 – County Road Department Construction to B & R Construction Co. Inc. of the bid not to exceed as bid presented.

Commissioner McCall: Seconds the motion.

Chairman Schwebach: At this point, if we approve this can we approach the contractor to discuss this?

Noah Sedillo – Finance Director: Yes

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

B. FINANCE & PURCHASING: Motion to approve prior year invoices for Domestic Violence Program.

Noah Sedillo – Finance Director: We have two invoices one for FY19 and one for FY 20 from the Domestic Violence Program for the use of a room at Motel 6.

The previous director was instructed to pay for these, but they fell through the cracks. We have a good working relationship with Motel 6 and want to keep that relationship.

Chairman Schwebach: Motion to approve prior year invoices for Domestic Violence Program.

B1. FY19 Invoice # 517-519814 for \$180.88

B2. FY20 Invoice # 246-979227 for \$233.02

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

- C. **DWI:** Application Budget for FY2024 LDWI Grant and Distribution Funding.

Tracey Master - DWI Program Coordinator: DFA has estimated we will receive \$120,741.00 in distribution funding for FY2024. The second column is the competitive grant request in the amount of \$108,207.00. The money will be allocated to the following components: prevention, law enforcement, screening, treatment, compliance, coordination, and alternative sentencing. The total amount budgeted is \$228,948.00. Application is due to DFA next Thursday.

Chairman Schwebach: Motion to approve Application Budget for FY2024 LDWI Grant and Distribution Funding.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

- D. **DWI:** Ratification of CDWI grant agreement between Torrance County and the New Mexico Traffic Safety Division.

Tracey Master - DWI Program Coordinator: Respectfully requesting ratification of 03-CD-05-103 between NMDOT and Torrance County in the amount is \$2,239.00. This money will be utilized to purchase promotional items for outreach events. The end date of using this money is June 30, 2023.

Chairman Schwebach: Motion to approve Ratification of CDWI grant agreement between Torrance County and the New Mexico Traffic Safety Division.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

- E. **SHERIFF:** Ratification of Traffic Safety Agreement with New Mexico Department of Transportation providing funding for overtime for ENDWI, BLKUP and STEP Projects in the amount of \$6,048, \$2,814, and \$3,066, respectively, with no match.

Sheriff Frazee: NMDOT requested immediate action to allow state approval of Torrance County Sheriff's department, scheduling patrols as soon as possible. This was accepted and reviewed by the Sheriff's department, County Manager and County Attorney in the amounts of ENDWI - \$6,048.00; BKLUP - \$2,814.00; STEP - \$3,066.00 totaling \$11,928.00 This is an ongoing grant and expect to receive this annually.

Chairman Schwebach: Motion to approve Ratification of Traffic Safety Agreement with New Mexico Department of Transportation providing funding for overtime for ENDWI, BLKUP and STEP Projects in the amount of \$6,048, \$2,814, and \$3,066, respectively, with no match.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

- F. **ROAD:** Discussion and possible approval of amendment to Road Department Salary Schedule.

Leonard Lujan – Road Supervisor: This does not increase the budget. We are wanting to change the salary schedule from years of service to experience. The guys can not move up until they get their certifications. They will move up from probation, Operator 1, Operator 2 then Operator 3. There will be testing to show the operator is capable of moving up in levels to our standards and maintain that level. If unable to maintain these levels there could be demotion. Our starting pay is \$13.50, we want to have starting pay to \$16.50 to be competitive.

Madam County Manager Barela: The Executive administrative assistant position is \$19.25, other administrative assistant positions in the county have a

starting pay of \$15.75. The request from the Managers office, if this is going to be a salary schedule to be set at \$15.75. That is not taking into consideration Charmen current rate of pay of \$16.88, she will stay at that rate of pay unless the commission chooses to give her an increase now. Operator 3 position is \$18.75, Clarence Romero is at \$19.50, we what to keep that the same.

Leonard Lujan – Road Supervisor: We would also like to change the mechanic position to a labor position at \$15.00 to be able to fill the position and have the extra help so I don't have to move someone from a large project to handle small projects. We are having a hard time finding a mechanic.

Chairman Schwebach: Motion the approval of amendment to Road Department Salary Schedule as presented, changing mechanic position to labor position, administrative position salary stays the same and leave Clarences salary as is.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

G. ROAD: Call for project – 2023/24 CAP NM DOT LGRF Project Letter of Interest.

Leonard Lujan – Road Supervisor: This project is for Willow Lake Road near the cemetery and senior center in McIntosh totaling \$277,696.00 4.75 miles. We submit a letter of interest. This 75% with 25% match. Anything over that amount we have cover.

Commissioner McCall: Motion to approve 2023/24 CAP NM DOT LGRF Project as proposed.

Chairman Schwebach: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

H. ROAD: Call for project – 2023/24 SB NM DOT LGRF Project Letter of Interest.

Leonard Lujan – Road Supervisor: This is the school bus project totaling \$120,811.00 chip seal 2 miles on Saline pump road. This 75% with 25% match.

Chairman Schwebach: Motion to approve 2023/24 SB NM DOT LGRF Project Letter of Interest.

Commissioner McCall: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:

MOTION CARRIED

- I. **ROAD:** Call for project – 2023/24 SP NM DOT LGRF Project Letter of Interest.

Leonard Lujan – Road Supervisor: This 75% with 25% match. This is chip seal for 1 mile on Ranger Station Road south of Mountainair in the amount of \$83,040.00.

Commissioner McCall: Motion to approve 2023/24 SP NM DOT LGRF Project Letter of Interest.

Chairman Schwebach: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:

MOTION CARRIED

Michael Garcia – County Attorney: Roads have to be up to the county standards to be added to the inventory.

- J. **MANAGER:** Discussion and possible approval of incentive pay for Torrance County Safety Officer. - **Deferred**

9.

- B. **MANAGER:** Approve Restrictive Housing Report – 2022

Madam County Manager Barela: This report is not a public record it contains personal information about inmates housed at the detention center. This should be a quarterly report however this report has information for the last three quarters. I will look into the first quarter of 2022. This is required for your review.

Action Taken:

Commissioner McCall: Motion to approve presented Restrictive Housing Report

Chairman Schwebach: Seconds the motion.

Roll Call Vote: Commissioner Schwebach: – Yes: Commissioner McCall: -Yes:
MOTION CARRIED

13. DISCUSSION

A. FINANCE & PURCHASING: Presentation of Torrance County FY 2022 Audit – Kubiack, Melton and Associates. (Presented by Daniel Trujillo or Joe Ortiz?) - **Moved before 11 A**

B. MANAGER’S REPORT

Madam County Manager Barela: I have started negotiations with Solid Waste, everything is looking good, we are moving forward. We talked about pulling the billing in to the county but decided at this point to leave as is. We are gathering accurate numbers to move forward as best as possible. I appreciate what Ms. Danette Cabber has brought to the table and the amount of transparency she is trying to show. I also appreciate what this Solid Waste Board is doing.

B. COMMISSIONER’S REPORT:

Commissioner McCall, District 1: Two weeks ago Madam County Manager and I went to Santa Fe and met with four Legislatures that represent our county. They are a great resource and had a lot of questions concerning our county. This was a very productive day.

Commissioner Schwebach, District 2: Roads - Where do we get most calls?

Leonard Lujan – Road Supervisor: Up North

Commissioner Schwebach, District 2: Solid Waste – JPA members own and operate Solid Waste. We started with 13 members now we have seven, we have lots of ups and downs, we have a plan and are moving forward. Other landfills throughout the state look at our landfill as a guide for theirs.

Moriarty FFA had their pie auction with great success. \$20,000 was raised and will be donated to the three families that lost their children in the tragic accident. I’d like to thank all that participated.

14. EXECUTIVE SESSION:

G. COMMISSION: Meeting with County Attorney pertaining to threatened or pending litigation in which Torrance County is or may become a participant. Section 10-15-1(H)(7), regarding opioid litigation/settlement. - **Moved before 11 C**

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

Regular Commission Meeting March 8th, 2023, 9:00 AM, Torrance County Admin Building.

16. Signing of Official Documents

27. Adjourn.


Action Taken:

Chairman Schwebach: Motion to Adjourn.


Commissioner McCall: Seconds the motion.

MOTION CARRIED


Meeting adjourned at 11:34 PM



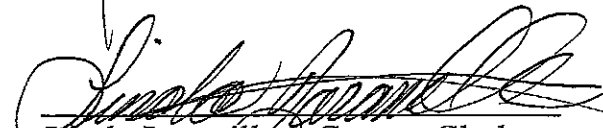
Ryan Schwebach - Chairman



Genell Morris - Admin Assistant



Date



Linda Jaramillo - County Clerk

The Video of this meeting can be viewed in its entirety on the Torrance County NM website.