

**FINAL COPY
TORRANCE COUNTY BOARD OF COMMISSIONERS
COMMISSION MEETING
OCTOBER 23, 2019**

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

OTHERS PRESENT: WAYNE JOHNSON-COUNTY MANGER
BELINDA GARLAND-DEPUTY COUNTY MANAGER
JOHN BUTRICK-COUNTY ATTORNEY
LINDA JARAMILLO- COUNTY CLERK
SYLVIA CHAVEZ-ADMIN. ASST.

1.) CALL MEETING TO ORDER

Chairman Schwebach calls the October 23, 2019 Commission Meeting to order at 9:05 A.M.

2.) INVOCATION AND PLEDGE

Pledge and Invocation lead by Chairman Schwebach

3.) CHANGES TO THE AGENDA

County Manager Johnson explains that there are no changes to the agenda just corrections on item 8A & 8B the wording needs to be changed to approval of the September 25 2019 Board of County Commissioners Commission Meeting minutes and approval of the October 15, 2019 Board of County Commissioners Special Commission Meeting minutes.

4.) PROCLAMATIONS

Chairman Schwebach would like everyone to be aware of the CCC, census which is the Complete Correct Count Committee and anybody interested in being on the committee or part of the census contact the County. This is very important, the census is how the County gets money by having an accurate count.

5.) CERTIFICATES AND AWARDS

There were no items presented

6.) BOARD AND COMMITTEE APPOINTMENTS

There were no items presented

7.) PUBLIC COMMENT and COMMUNICATIONS

Linda Jaramillo, Torrance County Clerk gives an update on the 2019 Local Election that is going on, there are 9705 registered voters in the County. There are 30 absentee ballots out, 124 people have voted in person. Mobile voting is going on right now in Mountainair from 10-6, Ms. Jaramillo encourages everyone to vote. There were 16 people that voted yesterday and the staff is there again today. Mobile voting will be at the McIntosh Fire Department on Thursday and next week for two days the mobile voting unit will be at the Moriarty-Edgewood School Administration building. This is a local election which covers the Municipalities, School Board and Soil and Water Conservation Districts, she explains that there are uncontested races but feels that in future elections this will change. She encourages everyone to exercise their right and VOTE. Ms. Jaramillo informs the Commission that the Secretary of State's office called her and asked for an estimate of the reimbursement to the county for this election. Ms. Jaramillo gave them the amount of \$24,468.00, this will be what the County will be reimbursed for this Local Election.

Jason Quintana, President La Merced de Manzano states that he is here today in support of agenda item 11.B. This advisory board will help with the communication between the land grants and the County. Mr. Quintana explains that on the state level the Land Grants also have the land grant council. He reminds the Commission that the Manzano Land Grant is considered a political subdivision as well as Tajique and Chilili. Mr. Quintana feels that getting this board together will help with the disconnect that the land grants feel they have with the County and open the dialogue for better communication.

Brenda Rich, Torrance County Resident is here today to talk about 2 issues she is having, one is with the Miller project, she explains that her daughter just recently purchased property in the McIntosh area. Ms. Rich states that there are several wells in the area that have gone out including Mr. Schwebach. Ms. Rich feels that the community cannot afford another Hemp farm in the area, the water is going dry. She suggests moving the Hemp farm somewhere else in the County where water is not an issue. The other issue Ms. Rich has is with PILT funding to the school districts, the split is currently 40/60 with the school districts getting the 40% and the County getting the 60%. Ms. Rich states that the school systems will go broke if those numbers are changed. She would like to see that changed to 50/50, this affects our children and she will not stand for it. There are petitions going around to have it changed to 50/50.

Jack Props, Vaughn Schools Superintendent gives a brief statement about the La Joya wind projects and the split of the PILT monies that will be received by the School districts and County. Mr. Props explains that the communication that has been given to the School districts about the 20/80 split is a concern to the school districts. He understands the needs of the County but he does not feel that the County understands the needs of the school districts. As educators it is their responsibility to make sure their students' needs are met. Those needs include being fed, meet their physical and emotional needs. Mr. Props explains that it is very difficult for students to be engaged if they are hungry or if their classrooms are hot during the summer with no air conditioner. And then there is the safety issue, we are all aware that the Estancia School district had a safety issue not too long ago with the bomb found on campus. Mr. Props does commend the Commission for their service to their communities, he also sits on the town council and has to make these types of decisions. He is asking that they take a long

hard look at the decision that is needing to be made here today and asks that a fair decision be made for everyone involved.

County Manager Johnson just wants to clarify that what is being discussed today is for new projects, not previous projects. So there will be no reduction to previous projects amounts, today will be discussion for new projects. That decision will be made by the County Commission and that will be discussed in executive session. He welcomes the school districts to the meeting today and hopes that they feel welcomed.

8.) APPROVAL OF MINUTES

A.) COMMISSION: Motion to approve the September 25, 2019 Torrance County Board of County Commission Regular Minutes.

ACTION TAKEN: **Chairman Schwebach** makes a motion to approve the September 25, 2019 Regular Commission Meeting minutes. **Commissioner McCall** seconds the motion. No further discussion, all in favor. **MOTION CARRIED**

B.) COMMISSION: Motion to approve the October 15, 2019 Torrance County Board of County Commission Special Minutes.

ACTION TAKEN: **Commissioner McCall** makes a motion to approve the October 15, 2019 Special Commission Meeting minutes. **Chairman Schwebach** seconds the motion. No further discussion, all in favor. **MOTION CARRIED**

9.) APPROVAL OF THE CONSENT AGENDA

A.) Finance: Approval of Payables

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

10.) ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

There were no items presented

11.) ADOPTION OF RESOLUTION

A.) FINANCE: Motion to approve Budget Increase No. 2019-56

Belinda Garland presents the Commission with a budget increase for the following money that the County received, Clerk- Election School Training \$389.28, Fire Admin-EMS Fund ACT \$12,059.00, Fire Admin-Fire Protection Fund \$23,458.00, Manager-Senior Center Vehicles \$136,000.00, Manager-Mountainair Senior Center \$5,650.00, Grants-Census Grant for Printing/Publishing \$8,000.00, Grants-Census Grant for Outreach \$5,000.00 and Grants-Census Grant for Contract Services \$6,308.00. The total amount of the budget increases is \$199,364.28. **ACTION TAKEN:** **Chairman Schwebach** makes a motion to approve Resolution 2019-56 Budget Increase. **Commissioner McCall** seconds the motion. No further discussion, all in favor. **MOTION CARRIED**

B.) COMMISSION: Motion to approve the creation of the Torrance County Land Grant Advisory Board Resolution 2018-52. (Sanchez)

Commissioner Sanchez reads the resolution into record.

County Attorney John Butrick would like to make a few technical changes, on the 3rd whereas strikeout “has”, the paragraph under the “Now therefore be it resolved” change the wording to say “Said board is to be made up and of representatives” and the next thing to be changed is “Done this 23rd day of October 2019”. Those are all the changes John is suggesting to Commission if approved today.

Commissioner Sanchez states that this item has been discussed in the past by the Commission and has been differed a couple of times but Commissioner Sanchez asks if there are any questions.

Commissioner McCall asks why this board needs to be created when there is public comment at the Commission meetings and if there is an issue that the Land Grants may have they can talk to their Commissioner.

Commissioner Sanchez explains that the Land Grants have a unique status in the state of NM as well as other states. There is some precedence for the close communication between Land Grants and their local government. This board will help the land grants keep in close contact with the Commission and there be no misunderstanding between the County and the Land Grants.

Commissioner McCall states that the only misunderstanding there could be is the misunderstanding amongst themselves (the land grants). Commissioner McCall states that the land grants can come to the Commission individually with any concerns or issues they may have. What is troublesome to Commissioner McCall is that as a collective group one land grant may feel that they are not being heard over the others concerns. Or come to the table with a full alliance because they may feel that they are not being fully represented by this collation group.

Chairman Schwebach states that he has to mimic a bit of what Commissioner McCall is saying. The only Land Grant we have heard from is the Manzano Land Grant, there is a list of 6 Land Grants. So is this advisory board going to meet and talk about their concerns and issues they have and then bring those concerns and issues to the Commission to address and the is the Commission not to listen to one individual Land Grant with their specific issue?

Commissioner Sanchez replies, if you can remember back to your 1st Commission meeting with the cell tower in Tajique, there was a lot of misunderstanding with that. This board will be a more efficient way of communication with the County to address these types of concerns. To be understood is different than being heard and that’s what the Land Grants want. The Land Grants want to be understood, to be communicated with and to have an open dialogue with the County.

Chairman Schwebach states that he understands that concept but asks why the County is the mechanism versus the Land Grants themselves to create this committee.

Jason Quintana President La Merced de Manzano answers Chairman Schwebach’s question, the County is the big brother. The County is our unit of government, Mr. Quintana states that as of right now the land grants go directly to the state to handle any issue they may have. They are trying to make a more united County because right now it is not. Mr. Quintana states that the Land Grants will go on with or without the County, they would like to open the dialogue with the County. The Land Grants are not being heard when it comes to things on the County level that directly effects them. The Commission has stated that we can come to the Commission individually with any issues they may have, Mr. Quintana explains that the Land Grants have what is called a Consejo and a Land Grant council that is made up of all the Land Grants, they all meet up and discuss their individual needs and concerns. So as a group we are

trying to see how we can help all the Land Grants as well as help our Counties. This is what this advisory board will do for the County, have a better perspective of what is going on in the Land Grants.

Chairman Schwebach states that this committee will be a County committee therefore it will be a public meeting and need to have minutes and the County will be responsible for the minutes?

County Manager Johnson responds to Chairman Schwebach's question, yes minutes will be required, however the structure of this committee has not yet been established. A chairman, vice chair and secretary will need to be appointed. So that the board itself will be able to take their own minutes and the County will provide the location and staff would be available for input on certain needs the board may need answered. Such as roads or planning and zoning issues.

Commissioner McCall questions why the Land Grants cannot form a coalition amongst themselves.

Jason Quintana replies that the Land Grants already have the consejo, they just want better communication with the County.

Commissioner Sanchez states that this advisory board will help with future issues that the Land Grants may have and minimize any issues or problems they may have. The board will lend to a better understanding of an issue and have an early buy in to an issue and have a better end result for everyone involved. It's about being proactive and having efficient communication between the Land Grants and the County.

Juan Sanchez, President La Merced Pueblo de Chilili states that the Land Grants are their own government entity and they handle their affairs internally, what the Land Grants are trying to do is open the dialogue with the County. Mr. Sanchez mentions that they are often asked at the state or federal level how the communication is between the Land Grants and the County and if there are any issues. Mr. Sanchez states that just like any other entity, there are issues that the Land Grants may have and want to make sure that the County is aware of those issues. As well as the Land Grants understand the County's plans on structure that will impact the Land Grants with issues such as land use, planning and zoning and infrastructure. The Land Grants have taken big strides to get where they are today and they want to ensure that there is open communication with the County. Chilili Land Grant is in both Bernalillo and Tarrant County, Bernalillo County has grown to understand the issues the Land Grant has. As the Chilili Land Grant grows they struggle with issues on land use within the grant. And the County needs to be aware of what land is within the Land Grant and what is common land and what is not common land and this is what the advisory board would do.

Commissioner McCall asks what is the percentage of common and non-common land within Tarrant County is for the Chilili Land Grant.

Juan Sanchez replies that in Tarrant County there is 1200 acres that the Land Grant pays taxes on that is common land, there are 13,000 acres within Tarrant County.

Commissioner McCall asks how the other Land Grants feel about this advisory board, where are the other Land Grants. How does Torreon and Tajique feel about the board?

Juan Sanchez states that the members of the Land Grant Boards are all volunteer and cannot attend all meetings because they do have jobs.

Commissioner Sanchez states that all the Land Grants and the two communities (that have been identified) have all selected a nominee to be appointed by the Commission, so yes all the Land Grants have been contacted about this advisory board. That includes Chilili, Manzano, Tajique, Torreon, Punta de Agua and Abo.

Belinda Garland asks a question about the advisory board, will this board rule over all four of the Land Grants and how each one functions? So if all of the Land Grants have an issue and one does not agree does that prohibiting them from arguing their case.

Commissioner Sanchez states that this is exactly why is this board is being created, to have the platform of open communication amongst everyone involved. It's not about having a consensus on the issue but to have a discussion of the issue in detail.

Belinda Garland states that she just wants to make sure that every Land Grant will have proper representation. Will this board rule over all the Land Grants, if one Land Grant does not agree with the rest of the Land Grants will they not have a say.

Commissioner Sanchez states that the advisory board will not have the ability to govern other Land Grants.

Chairman Schwebach states that from what he is hearing this advisory board will be a mechanism amongst the Land Grants to communicate with the County, it has no ability to govern but to access the county resources so that both the Land Grants and the County understand the issues better.

County Manager Johnson agrees with Chairman Schwebach but to address Ms. Garlands point, nothing in the resolution will prohibit any Land Grant from coming to the Commission and address an issue they may be having. The County would not create a board that would take that ability away from any entity. This hopefully could become a two way street where the County could use the board to bounce ideas off them and vice versa.

Chairman Schwebach states that he was reluctant about this board but from hearing from the individuals today he is leaning in good faith that this will be an open door for communication. There are many risks involved to this but you cannot deny open communication.

Commissioner McCall states that he feels like Chairman Schwebach but would still like to hear from the other Land Grants, he feels like only 50% is being represented here today.

Johnny Romero, Tajique Land Grant states that the issue is that the County approves things that affect these small communities and these communities feel like they have never been represented right. What the Land Grants are trying to do is have better communication with the County and better understanding. Mr. Romero would like to see this approved today because it has been put off several times by Commission.

Commissioner McCall states that this board will not fix everything and could cause some issue amongst the Land Grants.

Johnny Romero responds that he knows that but this can improve the communication with the Commission.

Commissioner Sanchez feels that this is ironic, Commissioner McCall is saying that the land grants don't need an advisory board because they have me (Commissioner Sanchez) but yet I am telling you that they need an advisory board and you are saying no. So even when we have

the plethora of voices saying we the board, it just seems like a losing game. We need the advisory board.

Commissioner McCall responds to Commissioner Sanchez that he has not even heard his vote yet.

Jason Quintana would like to answer an earlier question about the land, historically La Merced de Manzano had 192,000 acres within Torrance County, by US Patent they have a little of 17,000. Their boundaries encompass, Mountainair to Abo and Casa Colorado.

Commissioner McCall does not want there to be confusion on him wanting this board he just wants to hear from all the Land Grants.

Jason Quintana understands that, but he wants the Commission to know that when he went to the state last year for funding the first thing they asked him is if the County was involved with the Land Grant. Mr. Quintana had to answer no because the County is not involved with them. So they are trying to make those steps to open that dialogue with the County.

ACTION TAKEN: Commissioner Sanchez makes a motion to approve Resolution 2019-52 Creation of the Torrance County Land Grant Advisory Board.

Chairman Schwebach states that he will second the motion if the following amendments be added to the resolution, a scope of work and operating procedures.

Commissioner Sanchez states that rules and regulation are a good thing to have, he is ok with that.

ACTION TAKEN: Commissioner Sanchez amends the motion to approve Resolution 2019-52 with the addition of a scope of work and operating procedures for the board. **Chairman Schwebach** seconds the motion.

County Manager Johnson would like to add some language change to the resolution, on line 20, after the communication with the County Commission and the Land Grant communities the board shall develop a scope of work to be presented to the County Commission for approval.

John Butrick, County Attorney would like to add, and to include scope of work and operating procedures.

No further discussion, all in favor. **MOTION CARRIED.**

C.) COMMISSION: Motion to approve the creation of the Heritage Center Advisory Board. Resolution 2019-53. (Sanchez)

Commissioner Sanchez asks if this item can be differed to the next meeting. **ACTION TAKEN: Chairman Schwebach** makes a motion to differ Resolution 2019-53 to the next meeting. **Commissioner McCall** seconds the motion. No further discussion, all in favor. **MOTION CARRIED, ITEM DIFFERED**

12.) APPROVALS

A.) FIRE: Motion to approve conversion of one full-time EMT/Firefighter position to two part-time positions.

Chief Lester Gary comes before the Commission today to ask for approval to move a full-time EMT position to a two part-time EMT positions. The full time position was approved by the Commission earlier in the year and it was filled but that individual left for another position and Chief Gary states they are having a hard time finding someone to fill the full-time position. He has asked within the departments if anyone is interested in the position and no one is

interested in a full-time position but would do a part-time position. **ACTION TAKEN: Chairman Schwebach** makes a motion to approve the conversion of a one full-time EMT/Firefighter position to two part-time positions. **Commissioner McCall** seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

B.) SHERIFF: Motion to approve transition of Court Compliance office into TSCO Sergeant Office

Sheriff Rivera states that since the move of the Court Compliance Officer to be under the County Managers office, Sheriff Rivera is asking for a time line when she will be moved. The Sheriff's office could use the office space for a Sergeant's office. Currently the Sergeants are using boxes to have some type of privacy. *Sheriff presented the Commission with pictures of the Sergeants area.*

County Manger Johnson explains that the compliance officer will not receive the type of security that she gets now by being in the same building as the Sheriff's office. Her clients could pose as a security issue and there is no place for her here in the Administrative building. So at this time County Manager Johnson does not have a timeline of when the compliance officer will be moved. Ms. Reyes could not be here today but would like to read portions of her letter read into record.

Sheriff Rivera states that Ms. Reyes is currently a Reserve Officer for the Town of Mountainair and has the training to defend herself. The clients she has are not felons, they have misdemeanor charges. The domestic violence staff deal with mostly men who are aggressive towards women and those staff members do not have anyone in their office to attend to their safety issues.

Belinda Garland reads portions of Ms. Reyes's letter into record, letter hereto attached.

Ms. Garland states that the #1 concern is Ms. Reyes's safety and there is some discrepancy on the space for the Sergeants. Also the safety of Ms. Reyes can become a liability to the County if anything were to happen to her.

John Butrick states that he echo's Ms. Garland, County Manager Johnson and Ms. Reyes's concerns on the safety aspect of this, it can be a liability to the County.

There is conversation back and forth about office space and the need for privacy

Chairman Schwebach states that Ms. Reyes's safety is an issue and he sees that the Sergeants need office space and that will be worked on but this is an issue for management to deal with not the Commission. It is apparent that the County is running out of office space and that will have to be addressed. He will ask the county managers office to take of this issue.

C.) SHERIFF: Motion to approve Grant Agreement for:

1. Traffic Grant ENDWI 20-AL-64-103

Stephanie Dunlap, Administrator presents the Commission with grant ENDWI, BKLUP/CIOT and STEP/DNOS. Ms. Dunlap states that this is the same grant the SO has applied for in the past. **ACTION TAKEN: Chairman Schwebach** makes a motion to approve grant agreement ENDWI 20-AL-64-103. **Commissioner McCall** seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

2. Traffic Grant BKLUP/CIOT 20-OP-RF-103 **ACTION TAKEN:** Commissioner McCall makes a motion to approve grant agreement BKLUP/CIOT 20-OP-RF-103. Chairman Schwebach seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

3. Traffic Grant STEP/DNOS 20-PT-RF-103 **ACTION TAKEN:** Chairman Schwebach makes a motion to approve grant agreement STEP/DNOS 20-PT-RF-103. Commissioner McCall seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

D.) MANAGER/GRANT COORDINATOR: Motion to approve submission of final application for FY21-24 Juvenile Continuum Grant Fund.

Cheryl Allen, Grant Coordinator states that with this grant application the County was given the opportunity to submit a draft application, which Ms. Allen did and there were a few changes that CYFD has asked for. So Ms. Allen will add the percentages of increase and decreases in the program performance measures as well as the local site specific measures. They also want to have the quantity tied to the amount of youth served throughout the County in the activity guide from the one circle foundation that is used in this grant. The amount of the grant is \$98,385.00 with a 44% match to the County, which is \$39,354.00. So Ms. Allen has done those changes and is now asking the Commission for approval. **ACTION TAKEN:** Commissioner Sanchez makes a motion to approve the final application for FY21-24 Juvenile Continuum Grant Fund and to authorize County Manager Johnson sign the grant application. Chairman Schwebach seconds the motion.

Commissioner McCall asks about the 44% match to the County, has that money been budgeted and where does the money come from?

County Manager Johnson replies that the \$39,354.00 can be completely in-kind and Cheryl has already put a dent in that amount with her hours worked.

Belinda Garland would like to give a shot out to Cheryl for her hard work on the application, when they had the review done on the application, CYFD said this was one of the best application they had ever seen. So good job to Ms. Allen on her hard work.

A round of applause was given to Cheryl, Good Job Cheryl!

No further discussion, all in favor. **MOTION CARRIED**

E.) PLANNING & ZONING: PUBLIC HEARING-Andrew Miller partial vacation of Antelope Springs Subdivision & right away for Bart Ln.

Chairman Schwebach explains that is a public hearing and for the people that are wanting to speak on this must be sworn in, so he asks everyone that is planning on talking to please stand and the County Attorney will swear everyone in at the same time.

County Attorney Butrick swears in all those that will be speaking during the public hearing

Steve Guetschow, Planning and Zoning informs the Commission that this vacation was heard by the Planning and Zoning board on October 2, it did receive a 2 to 1 vote with a do pass recommendation. Mr. Guetschow gives a little background history on this vacation, it first started off as a compliance issue with the County ordinances. Mr. Miller and his tenants were operating a commercial agricultural in a type 2 subdivision, so they are on the path to compliance without shutting down their operation because of the unique location of Mr. Miller's lots. The lots are located at the edge of the subdivision where they can be vacated. Mr.

Guetschow reads section 11.5 from the zoning ordinance, Commercial Agricultural are prohibited within the bounds of a type 1 and 2 subdivisions. In types 3, 4 and 5 a conditional use permit may be required for a commercial horticultural operation for medical cannabis. At this time Mr. Guetschow goes over the exhibits from the meeting packet, Exhibit 1 is the original application package, Exhibit 2 is the staff report submitted to the P&Z board, Exhibit 3 is the portion of Antelope Springs subdivision plat with all of Mr. Miller's lots described in deeds highlighted and the portion of Bart Ln and the un-named 30' right of way to be vacated highlighted, Exhibit 4 is the draft minutes from the October 2, 2019 P&Z board meeting regarding this action, Exhibit 5 the public notices posted at the property and in "the Independent" newspaper and Exhibit 6 Torrance County subdivision regulations regarding vacations of plat and the portion of NMSA chapter 3-20-12 regarding vacations of right-of-ways.

Blair Dunn states that he is legal representation for Mr. Miller, he would first like to thank County Manager Johnson and Steve Guetschow. They both have been very helpful through this process. Mr. Dunn states that in the start of this process, his client went to get a business registration to be a legit business and that is when Mr. Miller found out that he was not in compliance with the County's ordinance. Mr. Miller is wanting to comply with the County's ordinance and be able to use his property as he sees fit and be in compliant with the County. Mr. Dunn understands that water is a precious resource in the state and he knows that whiskey is for drinking and water is for fighting. He wants the Commission to know that Mr. Miller does have his water rights and he is using those rights within the guidelines from the State Engineers office. So Mr. Miller is requesting the vacation of the plat, so that it works well with what Mr. Miller has planned for the property which is agriculture. The property is being used as a Hemp farm and has been doing so since the beginning of the year and would like to continue to do so. Mr. Dunn understands the concerns that there may be with the type of activity on the property but he wants to assure the Commission that his client is trying to be compliant with the County's ordinances. Mr. Dunn believes that the robust conversation that was had with the planning and zoning board is why this vacation did receive a do pass and hopes the Commission will do the same.

Brenda Rich, Torrance County Resident states that Hemp is a sticky project, the water used to produce one acre of Hemp is 65,000 gallons of water for a 70 to 90 day grow period. In a sandy area, which McIntosh is, it takes double that amount of water to grow. Ms. Rich explains that she did her due diligence whenever she purchased her property and her daughter did the same when she purchased her 20 acres in McIntosh. Perhaps Mr. Miller should've done the same. The neighbors next to Mr. Miller's property are having to dig new wells because they lost their well, 2 wells at Rock Hill farm have been lost. Plus the added traffic in the area, Ms. Rich states that she was nearly run off the road twice by the trucks out of Schwebach farms. The McIntosh residents do not want any more Hemp farms in the area, the area cannot support the Hemp farm with the amount of water being used. Ms. Rich states that her water pressure is already going down. We can't afford to lose these wells because we will lose the residents in the area and in the long run it will end up hurting the County. The resident don't want the Hemp farm there and Mr. Miller violated the County ordinance by allowing them to start the Hemp farm and why are they being allowed to continue to grow if they are in violation. If there are more wells that go dry it will affect the children in the area, so shame on you for making a decision that can and will affect this County's future because the children are our future. Ms.

Rich states that she wants to be able to do what she wants with her property but she has to follow the County's ordinances as well as everyone else but Mr. Miller has violated those ordinances and is being given the opportunity to become compliant, there are other people who have gone to jail because they have violated those ordinances. So the Commission better be ready to do to this for all County residents because the residents are coming together and talking about this issue and are not happy with what is going on. McIntosh Does Not Want This Hemp Farm.

Michael Godey, Torrance County Resident states that his understanding that when this was voted on at the P&Z board it was a 2 to 1 and the alternate was not allowed to vote. The alternate should be allowed to vote when another member is absent. So the vote could have been a 2 to 2 or a 3 to 1 vote and the Commission should take that into consideration. This could become a litigation issue for the County just like the Loma Parada issue years back.

John Butrick, County Attorney explains that the Planning and Zoning board is made up of 5 member when 3 of the 5 members are present they can vote on an item. So the vote was an accurate vote on this item at the Planning and Zoning.

Susan Wyrich, Torrance County Resident states that her property backs up the Mr. Millers property. There are safety issues for her horses, there are water issues, crime issues and how will this effect property values in the area. They shoot guns day and night, don't know what they are shooting but it is a pain. There are lights being flashed into her property all night long. Ms. Wyrich wants to know why they are still operating if they are in violation of the County ordinance. She also states that the community was a friendly community but that Mr. Miller hasn't been the nicest neighbor. She is not allowed to walk on Bart Ln, Mr. Miller gets on her for walking there. She just wants it to be the friendly community it's always been.

Barbara Barr, Torrance County Resident states that there are problems, water is one and there is gunfire. She has been told to call the Sheriff when there is gunfire, well you can't call the Sheriff if you're shot. It constantly smells like skunk in the area. There is a newbie in the area that wants to change our way of life out there, he doesn't tell any of the residents what he's wanting to raise out there. And now he wants to cut off roads to access to the area. Ms. Barr feels her way of life and her rights are being changed and taken away from her. If the Commission approves this, there will be a class action suit filed.

Jason Quintana, EMWT Board Member *County Attorney Butrick swears in Mr. Quintana,* states that he is the County's representative on the EMWT board. EMWT is still working on getting water to the McIntosh area. The water levels in the area are going down and it does not look like the aquafer in the area is not getting any better. The more that is being added to the aquafer the more stress it will cause and take water away from other individuals in the area. Mr. Quintana states that he is not against people having business or farms trying to improve themselves but at the same time if an area is zoned a particular way, those people need to come to the County before they start doing whatever they feel like doing. And it is the boards to investigate to see what effects it will have to the area and to the County.

That concludes the public comment portion.

Commissioner Sanchez asks what Mr. Miller is attempting to do here, is to go from residential to agricultural, correct.

Blair Dunn replies, yes that is what Mr. Miller is trying to do, this area was once agricultural before and in the 60's and 70's subdivision were put in the area and Mr. Miller would like to go back to using it for agricultural.

Commissioner Sanchez asks when, the last time this property was used for farming.

Mr. Dunn responds that he is not sure when it was last used for farming.

Chairman Schwebach asks what type of well is being used and how many acres were irrigating this year.

Mr. Dunn replies that Mr. Miller has about 10 acres being irrigated.

Chairman Schwebach states that Mr. Miller derived income out of a subdivision through a residential well.

Mr. Dunn replies, yes he did.

Chairman Schwebach asks what kind of well does Mr. Miller have.

Mr. Dunn responds that Mr. Miller has an agricultural well with a right that is recognized by the State Engineers office.

Chairman Schwebach asks if that right from the State Engineers has been looked at by the County.

Mr. Dunn replies that he believes that Steve has looked at that paperwork.

Commissioner Sanchez asks what type of irrigation system is being.

Mr. Dunn replies that a drip irrigation system is being used, a small line irrigation.

Chairman Schwebach asks if the water rights have been reviewed in order to put this land into production.

Steve Guetschow responds that the P&Z were not given a copy of the well permit. The wells out in the area are domestic wells.

Chairman Schwebach states that he needs some legal advice on this before he can make a decision on this. So Chairman Schwebach needs to know how to proceed, can he take a private session with the County Attorney?

John Butrick states that if Chairman Schwebach needs further advice, the Commission can differ to the next meeting that would be within the County's right to do that.

County Manager Johnson states that there was no executive session put on the agenda for this item therefore the Commission cannot go into executive session on this item. It would need to be differed to have executive session. County Manager Johnson does not encourage executive session on Planning and Zoning issues. The questions that Chairman Schwebach has may be able to be answered right here and it can be public record.

Mr. Dunn explains that Mr. Miller's water rights are public record at the State Engineers office. The meter reading are reported to the engineer's office and those also are public record. If Mr. Miller was in violation of his water rights the County would have every authority to tell Mr. Miller that he needed to comply with his right to irrigate. If there was a complaint against his right to irrigate that can be addressed however that is separate and apart then what is trying to be done today. Mr. Miller has water rights and Mr. Dunn does understand the need to further investigate by the Commission but Mr. Miller does have his private property rights and Mr. Miller is trying to exercise his right to do so. As his attorney, Mr. Dunn representing to the

Commission that he has water rights and Mr. Dunn representation as Mr. Miller's attorney is very sacred to Mr. Dunn. So he wants the Commission to know that if he is saying that Mr. Miller has the water rights for an irrigation well, then Mr. Miller has the water rights.

Commissioner Sanchez states that his only question in full view of Mr. Dunn's statement, is an understanding of water rights, if the rights have not been used they have to be proven every seven years. There would have been no opportunity to prove those rights over the years.

Chairman Schwebach states that this was what he was eluding to about the water rights. Chairman Schwebach states that he is not an expert on water rights and this is why he needs legal advice. The State Engineers office has the right to put water rights to rest if they are not being used. So where does the State Engineer sit on this, what kind of water rights does Mr. Miller have. There are individuals in this room here today that would protest the use of this well. So my question is does the County have a say on water use?

County Manager Johnson states that the County does not have any say on the water use, the Commission would have to differ to the Planning and Zoning regulations and the County Attorney. This is strictly a land use question being proposed today, the vacation of a subdivision and the regulation that govern that may not have the hook in it to cover water use. The way that the subdivision is plated now it would result in more water use then what is being proposed.

Steve Guetschow explains that there is no requirement on water use on a vacation of a subdivision therefore P&Z does not require a copy of water rights. Removing 14 lots out of a residential area removes 14 potential residential wells and septic tanks as well. If this was a land use permit where a subdivision was being proposed or to do a manufacturing business than a copy of the water rights would be required. Under section 19.F in the zoning ordinance covers water use and proof of fire protection.

Commissioner Sanchez states that it is difficult for him to divorce the water situation from the land use situation.

County Manager Johnson replies that this is always a difficult thing for the Commission to make a decision on, which is land use. The Commission may not like the way the law is written but the Commission must up hold the law the way it is written now. There is a process in which to change that law but this is not the venue in which to do so, because this is a quasi-judicial proceeding.

Commissioner Sanchez states that given our ordinance, the water rights issue does not come into play.

John Butrick states that Mr. Miller's group is not in compliance with the current subdivision law. But Mr. Miller has also crossed all the "T's" and dotted all the "I's" and everything has been done right according to the ordinance.

County Manager Johnson would like to point out that Mr. Miller is not being treated any differently than anyone else who has been in violation. It is the County's goal to help property owners to become compliant with our ordinances, oppose to ending up in court.

Commissioner Sanchez states that if the water rights issue were to be answered by somebody and satisfy the Commissions questions and it was found to be in violation then it may preclude the Commission to change the zoning structure.

County Manager Johnson states that the use of the land is not up to the Commission. The land owner needs to comply with the P&Z regulations. Mr. Miller is going through P&Z to become compliant, it's the Commission's decision to see if Mr. Miller has followed the County

procedures and has become compliant with County law and to allow the vacation or not. At this point there is no other option for the land owner to become compliant, the vacation is either granted or it's not. The water issue is not on the table for the Commission to decide, that is at the State Engineers office.

Steve Guetschow states that if the Commission had read the minutes from the October 2 P&Z meeting, they would have known the Mr. Canyon from the State Engineers office was in attendance at the meeting. He of course could not comment on any specific case file in front of his office. But he was able to comment and answer some questions in general about water usage.

County Manager Johnson wants to caution the Commission on making a decision on what is not being presented to the Commission and what is not in County ordinance.

Chairman Schwebach replies, that he understands what County Manager is trying to caution the Commission on and understands why the Planning and Zoning board did give it a do pass.

Steve Guetschow states that the P&Z board gave it a do pass with accordance to laws.

Commissioner McCall states that all the "I's" have been dotted and all the "T's" have been crossed and Mr. Miller is using his rights as a private land owner.

Commissioner Sanchez states that the industry is brand new and we are seeing a push in agriculture that we have not seen in years. Real estate is changing hands and we will be dealing with a lot of policy having to deal with Hemp. So there is the potential for quite a few worms to come out of this can. Commissioner Sanchez suggests that the Commission tread very lightly on this. If we allow such changes to take place we may be setting a precedence that in an absence of policy will lead to negative repercussions for the County. Commissioner Sanchez's perspective is that the Commission has the right to ask what ever question we have and request clarification necessary to make these decisions. This issue is complicated and it requires a complicated answer, Commissioner Sanchez's questions have not been answered and his questions are relevant, they may not be relevant technically but practicality they are and how can the practicality be ignored.

County Manager Johnson replies, that is right but this is not up to the board.

Steve Guetschow states that the State ignored local regulations when they brought about a legalized Hemp.

Chairman Schwebach states that water is an issue and Hemp was just the mechanism here today. Chairman Schwebach needs to do more research before he can make a decision.

ACTION TAKEN: **Commissioner Sanchez** makes a motion to differ the Vacation of Antelope Springs Subdivision and right of way for Bart Ln. **Chairman Schwebach** seconds the motion.

County Manager Johnson asks for clarification on when this will be differed to?

Chairman Schwebach states that it will be differed to the next meeting. He asks for clarification on the public hearing, the public came today and voiced their concerns so the public hearing on this has been conducted, the Commission needs further clarification before making a decision.

John Butrick asks the Commission other than water rights what other issues needs to be researched.

Chairman Schwebach replies that he would like the water planning committee to review this on a water basis along with the State Engineers. And would like to review the water rights for this property.

Steve Guetschow replies that if the Commission is wanting the water planning committee and the State Engineers office to review this, the Commission has to allow them 45 days to review this.

Chairman Schwebach states that he does not want to wait that long.

County Manager Johnson replies that the proper thing motion in this case would be to continue this hearing to November 13.

ACTION TAKEN: Commissioner Sanchez amends his motion to continue the public hearing on the Vacation of Antelope Springs Subdivision and right of way for Bart Ln. Chairman Schwebach seconds the amended motion. No further discussion, all in favor. **MOTION CARRIED, ITEM CONTINUED.**

13.) DISCUSSION

14.) EXECUTIVE SESSION

A.) COUNTY ATTORNEY: Pending litigation, Lidyard vs Watts, Closed Pursuant to NMSA 1978 10-15-1(H)(7)

B.) COMMISSION: Discussion regarding purchase of real property PILT payments for La Joya I and La Joya II, Closed Pursuant to NMSA 1978 10-15-1(H)(6)

ACTION TAKEN: Commissioner Sanchez makes a motion to go into Executive Session. Commissioner McCall seconds the motion. Roll call vote: District 1, Yes, District 2, Yes, District 3, Yes.

Executive Session began at 11:12 am.

Reconvened from Executive Session:

ACTION TAKEN: Chairman Schwebach makes a motion to reconvene from Executive Session. Commissioner McCall seconds the motion. Roll Call vote: District 1, Yes, District 2, Yes, District 3, Yes.

Reconvened at 12:35pm

Chairman Schwebach reads a statement from Executive Session, only those items listed were discussed during the Executive Session on Wednesday October 23, 2019. **ACTION TAKEN:** Commissioner McCall makes a motion to approve the statement out of Executive Session. Chairman Schwebach seconds the motion. **MOTION CARRIED.**

Chairman Schwebach makes another statement about the litigation matters that were discussed, the Commission authorizes the County Manager and the County Attorney to proceed with real property and litigation matters that were discussed in executive session with the parameters set by this Commission. **ACTION TAKEN:** Chairman Schwebach makes a motion to approve the statement from Executive Session. Commissioner McCall seconds the motion. No further discussion, all in favor. **MOTION CARRIED.**

15.) Announcement of next Board of County Commissioners Meeting

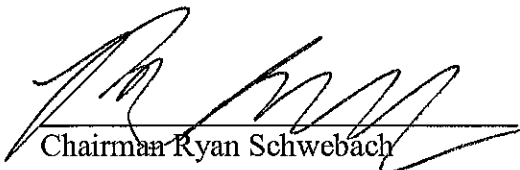
Next meeting to be held on November 13, 2019 in the Torrance County Administrative Chambers at 9am.

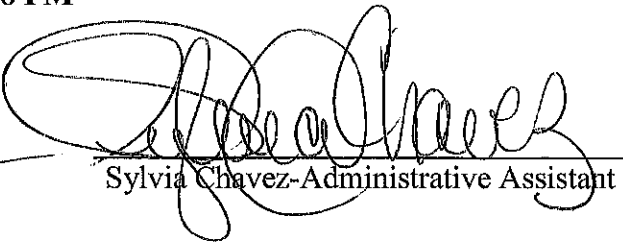
16.) Signing of Official Documents

***ADJOURN**

ACTION TAKEN: **Chairman Schwebach** makes a motion to adjourn the October 23, 2019 Commission Meeting. **Commissioner Sanchez** seconds the motion. No further discussion, all Commissioners in favor. **MOTION CARRIED**

MEETING ADJOURNED AT 12:38 PM


Chairman Ryan Schwebach


Sylvia Chavez-Administrative Assistant

November 13, 2019
Date

There is NO video for this meeting, Audio discs of this meeting can be purchased in the Torrance County Clerk's office and the audio of this meeting will be aired on our local radio station KXNM.