

FINAL COPY
Torrance County Board of Commissioners
Regular Commission Meeting
June 10, 2020
9:00 AM

Commissioners Present:

RYAN SCHWEBACH – CHAIR
JAVIER SANCHEZ – MEMBER
KEVIN MCCALL – MEMBER

Others Present:

WAYNE JOHNSON – COUNTY MANAGER
JANICE BARELA – DEPUTY COUNTY MANAGER
JOHN BUTRICK – COUNTY ATTORNEY
GENELL MORRIS – ADMINISTRATIVE ASSISTANT

1. Call Meeting to order

Chairman Schwebach: Calls June 10, 2020 Regular Commission Meeting to order at 9:04 AM

2. Pledge lead by: Chairman Schwebach
Invocation lead by: Commissioner Sanchez

3. Changes to the Agenda: No Change

4. PROCLAMATIONS- None

5. CERTIFICATES AND AWARDS- None

6. BOARD AND COMMITTEE APPOINTMENTS - None

7. PUBLIC COMMENT and COMMUNICATIONS- None

8. APPROVAL OF MINUTES

A. COMMISSION: Motion to approve the May 27, 2020 Torrance County Board of County Commission Minutes

Commissioner McCall: Motions to approve May 27, 2020 Torrance County Board of County Commission Minutes

Chairman Schwebach: Seconds the motion.

Roll Call Vote: MOTION CARRIED

9. APPROVAL OF CONSENT AGENDA

FINANCE: Approval of Payables

Commissioner McCall: Motion to approve payables

Chairman Schwebach: Seconds the motion.

Roll Call Vote: MOTION CARRIED

10. ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

A. **MANAGER:** First reading and motion to approve publication of amendments to the Torrance County Zoning Ordinance.

Wayne Johnson – County Manager: We have an issue with regard to special event permits. We do not have a good process in place. This will allow a temporary zone to change for special events, such as sales, fruit cart, firework sales, pumpkin chunkin and things of that nature etc. As long as the event does not last longer than 45 days. If this extends beyond 45 days or a permanent structure is up in place than they would have to go through the standard zoning process, per this Ordinance change. The rest is a cleanup.

In 2014 the Commission removed the permissive and conditional uses from the Ordinance and put it into a land use table. This has caused us problems because in some cases the lack of permissive and conditional uses and attached to a zone and land use, has implied that it is not permissible, yet in another area it states it is. We are inserting the permissive and conditional uses into the plain text for each zone. This should make it easier for businesses to understand.

The other 2 changes are changing the process of having 2 hearings. With this change Planning and Zoning will do the public hearing on an item and if there is no appeal, you do not have to have a repeat hearing of the first hearing. The Commission would approve P&Z action. This would change the length of the appeal period to 15 days. If in the 15-day period an appeal was filed, then you would have to hold an appeal Public Hearing on the evidence presented at the Planning and Zoning meeting. The time period would be at least 30 days depending on when the appeal was filed. This will allow the appeal to take place, you make your determination to uphold or overturn the Planning and Zoning Committee decision and the person appealing can decide to file with District Court if they choose to. This is good for economic development and landowners because they can get a decision quicker. This is what we will put on the website if you

approve the publication. We encourage public comment on this, so if there are problems this is the time to fix existing code or the proposed change.

John Butrick – County Attorney: Mr. Johnson is correct, there is no due process issue, even though we are reducing this from 30 days to 15 days as the appeal process is still in place to the Commission and the District court.

Commissioner McCall: Its more procedural?

Wayne Johnson – County Manager: Its more procedural and clarity. We are reinsuring the land uses. In this case it is very clear, if you are in -1 zone, you can go through and see what is permissive. We included cannabis in the D1 zone as a conditional use.

Commissioner McCall: Growing?

Steve Guetschow – Planning and Zoning Coordinator: Retail and wholesale outlets for cannabis products. Conditional uses in D1 and D2 zones, that is the 300 ft strip of land on either side of HWY 41 between here and Moriarty or can be determined between other State Highways. Also, along the I40 corridor on from the frontage roads. The D3 zone is the adult land uses zone, we are changing the title to Undetermined impact in Adult Land uses. This is at the on and off ramps at the freeway.

Wayne Johnson – County Manager: The other clarification is we are reminding people in the case of kennels; they have to abide by the Animal Ordinance here and the Animal Control Ordinance in Torrance County. This should be clear for residence and developers.

Chairman Schwebach: Motion to approve publication and have the hearing on the July 8th regular Commission meeting.

Commissioner McCall: Seconds the motion.

Roll Call Vote: MOTION CARRIED

11. ADOPTION OF RESOLUTION

12. APPROVALS

A. MANAGER: Administration Building Stucco and Gutter project.

Motion to approve \$ 54,694.73 in capital funding to replace the stucco on the Administrative building and install a new gutter system.

Wayne Johnson – County Manager: This is part of our initiative to better maintain county facilities. It came to our attention we had some safety and structural issues with the administrative building, in regard to the stucco and drainage from the roof. Last time the roof was done the roofer covered the down spouts that were designed into the building. Right now, it drains to the sides and

created tremendous icicles in the winter and damaging the stucco and is a health and safety issue. \$11,000 of this is the bid for the gutter replacement. The stucco bid is from Facility Build they are on state contract, we are able to use this without going to bid. We may go to bid because the bid is high. This will cover stuccoing the whole building. It is better to do the gutters before you do the stucco. The new gutter system is more extensive and takes into account some of the areas on the north and south side that do not currently have gutters.

Commissioner McCall: Are we confident that putting these gutters in will fix all the problem of the failing stucco?

Wayne Johnson – County Manager: We believe so, Yes. Part of the bid for the stucco is to knock off the failing stucco and patch it and gray coat and put a color coat on top.

Commissioner McCall: Does the fact that the roof drains are plugged need to be addressed?

Wayne Johnson – County Manager: The gutter design takes care of that and keeps the stucco from degrading over time. We could just do the gutter system now; this is up to you.

Commissioner Sanchez: Were there 4 quotes for the gutter system?

Wayne Johnson – County Manager: We could not get many people to come out. So, we have a sole source justification for this, through procurement.

Commissioner Sanchez: Looking at the memos, there is ABQ gutter pros \$4,000, Roof Care \$9,000, ABC seamless \$11,320 and Sandia seamless \$5,000.

Wayne Johnson – County Manager: When we looked at those bids, they were substantially different as far as what was covered and what we would be able to protect. We decided the best one was ABC Seamless. There are cheaper bids and you can direct us to take them, we do not feel it would completely cover the roof. With some bids the gutters were not extensive enough and they did not come on site to look at what was needed. ABC Seamless was the only one that came out to the site.

Commissioner Sanchez: Do we know why they would not come out?

Jeremy Oliver – Finance Director: The scope of work that was asked for was not met and only given by ABC Seamless. The other vendors had different plans that were not asked for. When we asked again concerning the scope of work, they were unresponsive. That is when we went to the sole source, the vendors had 15 day to respond. That is in the state procurement as allowable.

Chairman Schwebach: I would be uncomfortable having someone work on it that did not come out and look at the job. I have not walked around the building to look at what is needed for the stucco work.

Commissioner McCall: We need to make a decision as to whether we want to put that much money into this building or just do the maintenance and do the gutter now and what is the longevity of this building.

Wayne Johnson – County Manager: If this remains the County Admin building at some point you will have to address the stucco because of the integrity of the structure. I recommend replacing the stucco, this buys you some time in this facility.

Commissioner Sanchez: I am not sure what we gain or lose for spending that amount of money. That needs to be clear before I can vote yes.

Wayne Johnson – County Manager: You are going to have to do the gutter project one way to the other. If you want more expensive structural damage, then do not do the gutter project. If we want additional safety hazards, someone slipping and falling on the ice, or an icicle falling on someone's head, this is a real problem. I would disagree with throwing out the entire project, from a liability standpoint and potential structural damage, I think you need to at least do the gutters.

Chairman Schwebach: I am inclined to go with the gutters but would like to take a recess to see the stucco damage, 10 min recess.

We are back in session continuing discussion on the gutter and stucco project of the county facility. How many bids did we have on the stucco?

Wayne Johnson – County Manager: We only have the one and feel it is high. I am bringing this to the commission for an authorization to see what we can do for a better bid. Mr. Sedillo believes we can get a better price.

Noah Sedillo - Chief Procurement Officer: The gutter system is a must because it could lead to the integrity of the building failing us. We do need to shop around for a better price.

Chairman Schwebach: After looking at it, I am comfortable with the gutters. I would like more bids for the Stucco.

Commissioner Sanchez: I am good with moving forward with the gutter and go out to bid for the stucco.

Noah Sedillo - Chief Procurement Officer: If you can give us the latitude of your motion that not only, go out to bid, but also continue to get quotes because our current threshold is \$25,000 before going out to bid so if we can get a quote that is below we can go with it.

***Chairman Schwebach:** So, Moved

John Butrick – County Attorney: in the packet there are 2 forms that say construction drawings, it is the same form. On the bid it says, the sheriff's office, I wanted to make it clear we are talking about the NW part of the admin building not the current Sheriff's Office.

Commissioner Sanchez: Second the motion

Commissioner McCall: Can we look at removing the cinder block room on the corner of the building before we stucco?

Wayne Johnson – County Manager: I think we can do that in house.

Roll Call Vote: MOTION CARRIED

- B. SAFETY COMMITTEE:** Motion to approve a Purchase Order (PO) and payment that exceeded the limit of \$2,499.99 (Torrance County Purchasing Policy 2.9 A) for Cintas, First Aid cabinet restock.

Kristin Oliver – HR Director: The safety committee is requesting payment to Cintas for restocking our first aid cabinets. We went over \$2,400.00 purchase order by \$251.00. This put us over our \$2,500.00 limit.

Chairman Schwebach: Motion to approve

Commissioner McCall: Seconds the motion.

Roll Call Vote: MOTION CARRIED

- C. DWI PREVENTION PROGRAM:** Motion to approve Local DWI Grant Agreement 21-D-G-31.

Tracey Master – Torrance County DWI Prevention Program Coordinator:

Before you is a grant agreement between Torrance County and the Department of Finance and Administration local Government division special programs bureau LDWI for local DWI funding for FY2021. I request you approve this grant agreement so we can continue what we are doing.

Chairman Schwebach: Motion to approve

Commissioner Sanchez: Seconds the motion.

John Butrick – County Attorney: The grant match requires a 10% minimum totaling \$7,000.00 budget commitment. The grant application is approximately \$17,900. In one of the exhibits it talks about checking off exhibit F and F1, that is just the corresponding exhibit to D and D1, there is no F and F1. D and D1 refer to the grant calculations and F and F1 talk about us giving the numbers to the state regarding the distribution not the grant.

Roll Call Vote: MOTION CARRIED

- D. DWI PREVENTION PROGRAM:** Motion to approve contract between Torrance County and Adrian Ortiz for Teen Court Services

Tracey Master – Torrance County DWI Prevention Program Coordinator: I provided you with a floor substates, there was some language that needed to be cleaned up.

John Butrick – County Attorney: Paragraph 3 of the agreement and point out the County will not be paying the taxes for this agreement; I am making that point because in item 12 E we are paying the taxes. Paragraph 4 under termination subparagraph F should say paragraph C not circle and the substitute change at the end in paragraph 27, This agreement is binding upon, and inures to the benefit of, the parties to this agreement and their respective successors. It should take off the words; and assigns, the reason for that is paragraph 22, this agreement will not be assigned by either party.

Chairman Schwebach: Motion to approve

Commissioner McCall: Seconds the motion.

Roll Call Vote: MOTION CARRIED

E. DWI PREVENTION PROGRAM: Motion to approve contract between Torrance county and John Steiner for Evaluation Services.

Tracey Master – Torrance County DWI Prevention Program Coordinator: In paragraph 3, compensation and method of payment, it originally has conflicting information. It states to pay the contractor on a monthly basis in the amount of \$800 it should state \$850/month that shall not exceed \$10,200. The other changes on this were similar to the changes on Mr. Ortiz's contract.

Commissioner McCall: Motion to approve

Chairman Schwebach: Seconds the motion.

Roll Call Vote: MOTION CARRIED

F. CLERK: Canvass of the 2020 Primary Election

John Butrick – County Attorney: State law allows the Canvassing Board no less than 6 days after and no more than 10 days to meet after the election, we are at 8 days.

Linda Jaramillo – County Clerk: (Distributed brief 2020 Primary Election reports) There is a lot of detail that goes into an election before early voting and election day voting. As per state statute you are the Canvassing Board for all elections in Torrance County including local elections.

Linda Kayser - Chief Deputy Clerk: Introduces herself.

Linda Jaramillo – County Clerk: (Documents passed out by Linda Kayser. Here to attached.) The 1st page is the votes by tabulator for every polling place. On election night after the voting is complete, we gather the results cartridges and tapes from all the polling places. We send runners out to collect this for us.

On election night we bring the cartridge to the people who upload the information from the cartridge into RTR and this creates a total votes cast report you see on election night; we compare the results to the results tapes brought in with the cartridge and make sure everything matches. These results are on the tabulator report Linda Kayser handed out. Linda Kayser will show you the absentee results tape so you can compare to the results tape for absentee by mail with the tabulator report. Linda Kayser compares, with Chairman McCall, result tape totals tape with tabulator report for verification.

The next item you have is a brief copy of the absentee roster. On the cover you will see on the tape we have 2,056 ballots counted, we issued 2,443 mailed ballots. Only 2,056 came back or that the machine read, we also had 2 UOCAVA overseas voters. The voting machine could not read 26 ballots which were hand tallied by the absentee by mail board. This increased the total votes cast to 2,084 accepted and counted mailed ballots. In your roster you will see as we received the ballots and accepted them, they entered AB for received and documented if there was no signature and not accepted or left blank to indicate that their ballot was not returned.

Commissioner McCall: Do you have a count on how many came after election day?

Linda Kayser - Chief Deputy Clerk: An estimate of 34, they are post marked June 4th or after and we received them around the 8th or 9th.

Linda Jaramillo – County Clerk: I know I encouraged absentee by mail but found that the processing of ballots by the post offices was very slow. We were sending ballots on May 5, 2020 but voter not receiving it till the 20th, some people did not get them. The Secretary of State issued a ruling, that if a person did not get their ballot or if they did not want to vote by mail, the voter was able to go to the polling place and sign an affidavit saying they did not want to vote the ballot or did not receive it. We have real time synchronization at all our polling places, except for Duran, and we are able to cancel their absentee ballot request and they were able to vote on the machine.

Wayne Johnson – County Manager: Where those compared to the absentee ballots received?

Linda Jaramillo – County Clerk: Yes, we have a list of the issued replacement ballots. The ladies in the office kept tabs on the incoming ballots and were checked before an absentee ballot was canceled. The list of people you have went to the polling place and were given a replacement ballot, they are marked in the absentee by mail roster. You can see they didn't get a ballot and a replacement, so there was

no double voting and if anyone was to try and do that, we could pull up their name in the computer and you could see if they voted early or received and returned their absentee ballot. We started processing ballots on the 28th, we worked Thursday, Friday, Saturday, Sunday and into Monday, processing all the ballots. The turn out was excellent.

On the election day rosters, I have them all here for you to look at and compare totals with results tapes. I can go through each and every one but I thought we could go through one and compare to the tabulator report handed out like we did with the absentee by mail. It is the same process for all polling places. I want to prove to you and the public and everyone listening that there is a constant check and recheck on balance of ballots issued and the results tapes from our voting machines used in each polling place.

Linda Kayser - Chief Deputy Clerk: (Reviewing numbers with the Canvassing Board.)

Chairman Schwebach: I am good.

Linda Jaramillo – County Clerk: In some instances, a voter will come in and they are not on our roster, most of the time in primary elections it is because they did not choose a party. If they insist on voting the voter has to vote on a provisional ballot and not on the machine and that ballot is returned to my office where we examine the ballot and the voter to our records and count or not count the ballot. We do not deny anyone the right to vote if they insist even if it is not going to count. In this election all the provisional ballots were absentee. Because there were glitches in the election day computers, and we were not able to cancel their mail ballots so we voted them provisional and not on the machine.

Commissioner McCall: The Provisionals do not count?

Linda Jaramillo – County Clerk: These absentee provisional ballots count, but if you were not in the Republican, Democrat or Libertarian Party for this primary election you were not allowed to vote unless you insisted on voting and that would be on a provisional ballot and it would not count. On Election night everything I have shown you today is also sent to the Secretary of State so nothing can be changed or altered.

Wayne Johnson – County Manager: How many provisional ballots were issued?

Linda Jaramillo – County Clerk: 10 provisional ballots were issued. On Election night in absentee by mail, the ballots not read in the machine were hand tallied by the precinct board. We hand tallied the provisional ballots in my office. We have the hand tally sheets if you would like to see them.

Commissioner McCall: I think you should put on a school/clinic for other counties for other County Clerks on how this should be done.

Linda Jaramillo – County Clerk: We have been at this a log time and every year they change the law.

Commissioner McCall: It was interesting the night of election to see Torrance County 100% in at 9:30PM. Job well done. Ms. Jaramillo thanks him.

Linda Jaramillo – County Clerk: We created other reports for you to look over if want to see how all precincts voted and for who. I want to thank everyone that helped, there were offices that helped throughout the election.

Linda Kayser - Chief Deputy Clerk: Because of COVID-19 there was a lot of stress on all of us. We had to hire people to help with all the added duties due to Covid-19 and I want to thank everyone for what they did to help us. It was 10x harder trying to make sure people had PPE, training of the poll workers etc. Linda did an amazing job.

Linda Jaramillo – County Clerk: Thanks Linda Kayser and the ladies in her office, it is a team effort and that is why it works so well, and because everyone follows direction well.

Wayne Johnson – County Manager: Is the canvass complete or do we need a motion to authorize the canvass?

Linda Jaramillo – County Clerk: Yes, Secretary of State issues the Certificates of Election.

Chairman Schwebach: Make motion to approve the canvass as presented.

Commissioner McCall: Seconds the motion.

Roll Call Vote: MOTION CARRIED

Linda Jaramillo – County Clerk: If anyone in the public wants to look at this information, they are welcome to come into my office and we will walk them through this.

13. DISCUSSION

A. MANGER: Presentation of the Torrance County Organization Charts.

Janice Barela – Deputy County Manager: Presented Organizational Charts for Torrance County, this is a requirement by the auditors annually. This is so they know who the signatory responsibility is when it comes to purchase orders etc. This is the first time we have visited with each department and elected officials asking for them to submit their organizational charts. This is very extensive and covers every position in the county. This will be published on our website. Here to Attach.

Wayne Johnson – County Manager: this is something I have been wanting to do since day one. Janice picked up and ran with the project. This is an important piece

of transparency for the county, for you, for the public and county staff. This does a good job of describing the relationship that are unique to county government.

14. EXECUTIVE SESSION:

A. **Commission:** Pursuant to Section 10-15-1(H)(2), discuss County Manager Position.

Chairman Schwebach: Motion to enter into executive session.

Commissioner McCall: Seconds the motion.

Roll Call Vote: MOTION CARRIED

Enter into Executive Session: 10:43

Chairman Schwebach: Motion to enter into regular session

Roll Call Vote: MOTION CARRIED

Enter into Regular session 11:27

Chairman Schwebach: We are now back in regular session the only items discussed were pertaining to the County Managers soon to be vacant position, Pursuant to Section 10-15-1(H)(2), no formal action will be taken.

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

June 24, 2020 9:00 AM @ the Torrance County Admin Building.

16. Signing of Official Documents

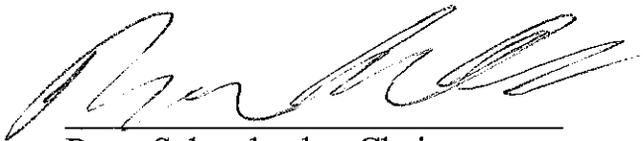
**Adjourn*

Chairman Schwebach: Motions to adjourn Commission Meeting

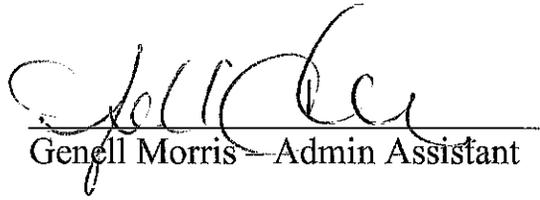
Commissioner Sanchez: Seconds the motion.

All in favor: MOTION CARRIED

Meeting adjourned at 11:28 AM



Ryan Schwebach – Chairman



Genell Morris – Admin Assistant

June 24, 2020
Date

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 and the audio of this meeting will be aired on our local radio station KXNM.