

**FINAL COPY
TORRANCE COUNTY COMMISSION
SPECIAL MEETING
OCTOBER 22, 2018**

Present: **Julia DuCharme, Chair**
 Jim Frost, Member
 Javier Sanchez, Member (via phone)

Others Present: **Belinda Garland, County Manager**
 Annette Ortiz, Deputy County Manager
 Dennis Wallin, County Attorney
 Sylvia Chavez, Admin. Asst.

Call to Order:

Madam Chair DuCharme calls the meeting to order at 9:05 am. Ms. Marla Lovato leads the pledge and Ms. Annette Ortiz gives the invocation.

Approval of Meeting Agenda:

Madam Chair DuCharme asks for a motion to approve the meeting agenda. **ACTION TAKEN: Commissioner Frost** makes a motion to approve todays Special Meeting Agenda for October 22, 2018. **Madam Chair DuCharme** seconds the motion. No further discussion all in favor. **MOTION CARRIED.**

***ACTION ITEMS*:**

ITEMS TO BE CONSIDERED AND ACTED UPON

(Public Comment, each item, at the discretion of the Commission Chair. Comments are limited to one (1) minute per person)

***Commission Matters:**

1. Consider and act upon request by NextEra Energy Resources, LLC to renegotiate and extend payments in Lieu of Taxes for the High Lonesome Mesa Wind Re-Power Project.

Gabe Henehan, of NextEra gives a brief overview of NextEra Energy, they bought the High Lonesome Mesa project. NextEra is one of the largest for wind and solar energy, they currently have 6 renewable energy projects in the state of New Mexico, NM Wind Energy Center in DeBaca & Quay Counties at 200 megawatt, Casa Mesa that is currently under construction which is a 50 megawatt and Red Mesa in Cibola County. They have just recently completed the largest solar project in New Mexico in Roswell at 140 megawatts and also have a small solar project in Hatch at 5 megawatts. The High Lonesome Mesa project here is Torrance County is a 100 megawatt project. Mr. Henehan explains that the current turbines at the High Lonesome Mesa project use clipper blades and they will be replacing them with GE's. The GE's are bigger

blades and are more efficient, they require less maintenance and therefore are more cost effective.

Mr. Henehan explains that the repower will take 4-6 months and the only thing that will be touched is the turbine base and up everything else will stay as is. Transmission lines and the roads are good. He goes over the different parts of the turbine and what will be replaced. He states that there is really only 4 parts that will be replaced for the repower. NextEra is reevaluating their fleet to repower and High Lonesome Mesa is one of them. With the reevaluation the IRB's are being looked at. The current IRB that the County has on this project has 20 more years on the PILT funding. NextEra would like to renegotiate with the County and extend the IRB for an additional 10 years. In short it will be an additional 3 million to the County if extended. At this time Mr. Henehan goes over all the numbers on the chart, the chart depicts the amount the county will receive with the current IRB and what could be the potential amount with the renegotiation. This renegotiation has a \$5000.00 per megawatt for the next ten years and then \$6000 at the end of the IRB. Mr. Henehan explains that the County may feel like NextEra is asking for a reduction in the PILT payments but in all actuality this IRB is very rich for what is being proposed in today's market. All documentation hereto attached.

Commissioner Frost asks Mr. Henehan how long will the upgrade take?

Mr. Henehan explains that it will take 4-6 months for completion of the repower.

Commissioner Frost asks if the turbines will still be in operation during the upgrade.

Mr. Henehan explains that all the turbines will be taken offline while the upgrade is being done. This is done for safety issues and for construction proposes. A few of them may be turned on during the upgrade for inspection proposes but not for full operations.

County Manager Garland asks the Commission if they would like to call Evan Kist, the financial analyst, at this time Belinda calls Evan.

Evan Kist explains to the Commission that he basically went back to the 2008 structure and used those numbers to see how the money structure was broken down. He then did the numbers with today's value to get the money structure if the County was to renegotiate. At this time Evan goes over all the numbers in the chart attached. With the renegotiated numbers the dollar amount will be \$500,000.00 for the next 10 years then \$600,000.00 for the 10 years after that and then the remaining 10 years will be at approximately \$75-78 thousand for the remainder of the term.

Dennis Wallin, County Attorney clarifies with Evan that the numbers he is going over is at full taxable rate of the IRB, that doesn't give consideration of the PILT reduction for the company, correct.

Mr. Kist answers yes, the numbers he has presented are in favor of the County no offense to NextEra but he is contracted with the County and is looking out for the County.

Madam Chair DuCharme asks Evan if his suggestion would be to continue negotiations with NextEra.

Mr. Kist states that, yes that is his suggestion. He is unsure of the timeline of the negotiations but feels the payment stream is reasonable. Evan feels that \$500,000.00 is a good start for the negotiations and of course the \$600,000.00 is at the high end of the spectrum.

Dennis Wallin asks Evan about numbers they went over previously on a phone call between himself, Evan and County Manager Garland. At this time Evan goes over how he got the numbers and explains that he miscalculated with the numbers and explains that the chart before the Commission has the new calculations. Dennis explains that a representative from NextEra is present at today's meeting and may have a few questions on the payment structure.

Mr. Henehan explains that he has not had the opportunity to look at this payment structure and would like the opportunity to go over the numbers. But he states that taxing this project at 100% of the value is unheard of. It just does not happen with renewable energy that is where the IRB comes into play. Mr. Henehan explains to the Commission that with these types of projects municipal services are not highly impacted, municipal services are funded through property taxes. He cautions the Commission with the \$6000.00 per megawatt price that will set a huge precedent when setting renewable energy prices and could have companies look to other counties for their projects. When this project was first structured it was at a higher dollar amount because it was one of the first projects to be started in the state of New Mexico, at this point NextEra is looking at all its fleet across the Country to see what projects are viable for their company and at \$5000.00 per megawatt that is a good deal.

County Manager Garland states that at this time the proposal is being brought before the Commission to go over the numbers, herself or Dennis were not authorized to do any kind of negotiations so it will be up to the Commission to either accept the amount being presented by NextEra or negotiate the price.

Dennis states that the bottom line here today is that the County is being offered \$500,000.00 for 30 years with an additional \$75 million dollars of IRB and the construction revenue during the 4-6 months of the repower construction. Versus 10 years of \$500,000.00 with the next 10 years at \$600,000.00 then after that it essentially drops off to the depreciated tax value, of roughly \$75,000.00 per year.

Madam Chair DuCharme asks Mr. Henehan what the time frame is for the negotiations on the repower.

Mr. Henehan states that by the end of the year they need to know if it is a go or a no go. They have already filed permits with the FAA, the permits are for the longer blades. The project is ready to go depending on the permits and IRB.

Commissioner Frost explains that when purchasing a new vehicle you try and negotiate a good price, he is in favor of allowing the County Manager and Attorney to enter into negotiations.

At this time Evan is thanked for his time and effort and he is told that if the Commission has any other questions they will call him back. Madam Chair DuCharme asks Ms. Tracy Sedillo for her input.

Tracy Sedillo, Treasurer explains this is all a mystery to her due to being tasked with Gasby 77 as to what the value of the turbines would be so perhaps the Assessor's office can help with the evaluation. She would like to see the payment structure change and have the school receive their portion of the payment directly. She is hoping that this can be done with the negotiations process, this eliminates the school having to wait for the County to issue them a check.

Madam Chair DuCharme states that the mention of the school payment has brought up a concern she has received from constituents. Why does the Estancia School district only receive payment from this project and not the Mountainair School district?

Dennis Wallin mentions that the project is within the Estancia School District.

Commissioner Frost states that the project is in Torrance County and therefore that includes all 3 school districts and he believes it would only be fair that all the districts receive money from these big projects.

Mr. Muirhead with Modrall Firm (bond counsel) states that the state statute is structured for the particular school district that is impacted to receive the payment.

Jesse Lucero, Deputy Assessor states that he is on the same tone as the Treasurer, he has not had time to review the data and cannot give input at this time.

Tracy Sedillo clarifies that there are 5 school districts within Torrance County and the reason there is only one school district that receives the funding from this project is due to the property taxes being abated and those properties are within the Estancia School district.

Madam Chair DuCharme states that she is favor of Commissioner Frost's suggestion to allow the County Manager and Attorney to negotiate. Madam Chair DuCharme asks Mr. Henehan if it is common practice to negotiate the IRB.

Mr. Henehan explains that it is not common practice but this is a repower project. He would like to remind the Commission that at \$5000.00 a megawatt that is being offered that is on the high end of the spectrum and anything higher than that could be problematic for future projects in the County.

Madam Chair DuCharme mentions that there have been concerns from constituents about the flashing lights on the turbines at night.

Mr. Henehan understands the concerns but that is a FAA requirement and they cannot bypass that. NextEra is looking into developing new technology where the lights will turn on when an aircraft is detected close by. Of course all of this will need to be approved by the FAA and other federal agencies before this could take place.

Commissioner Frost asks Mr. Henehan if he has time to visit and willing to negotiate with staff.

Mr. Henehan states that yes, he does and it is nice to work with County Staff.

Dennis Wallin states that for staff protection he would like to see in a form of a motion that the Commission set the terms of the negotiations, the negotiators need the Commissions guidance for the terms.

Commissioner Sanchez asks who was part of the negotiations the in the past.

Dennis Wallin states that is was himself and the County Manager with help from a financial advisor.

Commissioner Sanchez asks if it would be appropriate to have a Commissioner in the negotiations.

Dennis Wallin states that he does not think it would be inappropriate to have a Commissioner help with negotiations.

EXECUTIVE SESSION:

As Per Motion and Roll Call Vote, Pursuant to New Mexico State Statute Section 10-15-1, the Following Matters Will Be Discussed in Closed Session:

1. *Consider and act upon request by NextEra Energy Resources, LLC to renegotiate and extend Payments In Lieu of Taxes for the High Lonesome Mesa Wind Re-Power Project*
 - a. *Discussion regarding the purchase, acquisition or disposal of real property for Torrance County operations, Sec 10-15-1 (H) (8) (5)*

ACTION TAKEN: Commissioner Sanchez makes a motion to go into Executive Session. **Commissioner Frost** seconds the motion. Roll Call Vote: District 1: Yes, District 2: Yes, District 3: Yes.

Executive Session starts at 10:09 am

***Reconvene from Executive Session:**

Pursuant to Open Meetings Act, Section 10-15-1(J), Commission Report from Closed Meeting:

2. *Consider and Act upon request by NextEra Energy Resources, LLC to renegotiate and extend Payments in Lieu of Taxes for the High Lonesome Mesa Wind Re-Power Project*
 - b. *Consider and Act Upon, if necessary the purchase, acquisition or disposal of real property for Torrance County operations.*

ACTION TAKEN: Commissioner Frost makes a motion to reconvene from Executive Session. **Madam Chair DuCharme** seconds the motion.

Reconvened at 10:30 am

Madam Chair DuCharme reports from Executive Session, the negotiating team will be comprised of Commissioner Sanchez, the County Manager and County Attorney. They received and update on the purchase of property but no decision was made.

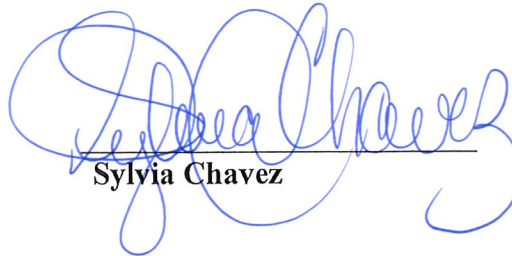
***Adjourn:**

ACTION TAKEN: Madam Chair DuCharme makes a motion to adjourn the October 22, 2018 Special Commission Meeting. **Commissioner Frost** seconds the motion. No further discussion, the Commission votes all in favor. **MOTION CARRIED.**

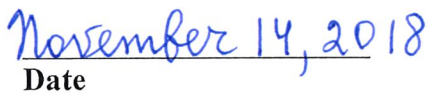
Meeting adjourned at 10:33 pm



Madam Chair DuCharme



Sylvia Chavez



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.