

FINAL

Torrance County Board of Commissioners

Regular Commission Meeting

September 28, 2022

9:00 AM

Commissioners Present: **RYAN SCHWEBACH – CHAIR**
 LEROY CANDELARIA-VICE CHAIR
 KEVIN McCALL- MEMBER, ABSENT

Others Present: **JANICE BARELA – COUNTY MANAGER**
 JUAN TORRES - DEPUTY COUNTY MANAGER,
 INTERIM FINANCE DIRECTOR
 MICHAEL GARCIA – COUNTY ATTORNEY
 VALERIE SMITH – ADMINISTRATIVE ASSISTANT

1. CALL MEETING TO ORDER

Chairman Schwebach: Called meeting to order at 9:07 A.M.

2. INVOCATION & PLEDGE

PLEDGE:

Chairman Schwebach: Led the Pledge of Allegiance.

INVOCATION:

Commissioner Candelaria: Led the invocation.

3. CHANGES TO THE AGENDA:

Chairman Schwebach: Asked if there were any changes to the agenda.

Madam County Manager Barela: There were no changes proposed.

4. PROCLAMATIONS

NONE

5. CERTIFICATES AND AWARDS

NONE

6. BOARD AND COMMITTEE APPOINTMENTS

NONE

7. PUBLIC COMMENT and COMMUNICATIONS

Chairman Schwebach: Opened the floor for public comment and communications.

Madam County Manager Barela: Introduced the public commenters in person and on Zoom.

Tracey Master, Torrance County DWI Prevention & Awareness: Gave an update on the 5th Annual Suicide Awareness & Prevention 5k and Embrace Life Celebration. She thanked everyone who helped, including Noah Sedillo for running the Fishing Derby, Sylvia Chavez, and the Chavez Family for their help with the food. There were over 400 hot dogs grilled, and all were eaten. She believes that roughly 500-600 people came to the event. She thanked Rochelle Wallace, Executive Assistant to Madam County Manager Janice Barela, for all her help with the random last-minute items that needed to be completed. Sammy Chavez was going to do a horseshoe tournament, but there were not enough players to compete. There were many vendors. Tracey said that youth and adult mental health classes were beginning again soon. She was invited to teach Youth Mental Health and First Aid in Socorro County next month. She has also been invited to a summit for improving the court and community response to those with mental illness, as well as a class to train to become a peer support worker, all in San Juan County. This will increase the total amount of services that we are able to provide for the population of the County. The first referral came in for the Moral Reconation Therapy. This therapy helps change thought patterns.

Chairman Schwebach: Thanked everyone that came to the 5k and the Embrace Life Celebration.

Torrance County Fire Chief Don Dirks: Came up to say that the well drilling has finally commenced on September 27 thanks to the approval of the Commission.

The Fire Department has 7 openings now. There were originally 4, and now there are 3 more people who have left the department. Chief Dirks is looking at PRN and thinking of hiring from a contracting company in the meantime. The State Fire Marshal will be coming to the Fire Department to do their annual inspection at some point near the end of October. It has been approximately two years since the previous inspection due to COVID.

Deputy County Manager Juan Torres: There are no public comments and there is no one that would like to speak on Zoom.

8. APPROVAL OF MINUTES

A. Motion to approve the September 14, 2022, Torrance County Commission Meeting Minutes.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve the September 14, 2022, Torrance County Regular Commission Meeting Minutes.

Commissioner Candelaria: Seconded the motion.

Madam County Manager Barela: Suggested amendments that had already been made before the meeting but would like them to be approved. The following were changed: page 3, a misspelling of a name; Page 14, Changed County Clerk to County Manager; page 14, Item 13.D.3, change Commissioner Schwebach to Commissioner Candelaria.

Chairman Schwebach: Amended his motion to approve the September 14, 2022, Torrance County Regular Commission Meeting Minutes as amended.

Commissioner Candelaria: Seconded the motion to approve amended minutes.

Roll Call Vote:

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

MOTION PASSES.

9. APPROVAL OF CONSENT AGENDA

A. FINANCE: Motion to approve payables.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve payables.

Commissioner Candelaria: Seconded the motion.

Roll Call Vote:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Absent.

MOTION PASSES.

10. ADOPTION OF ORDINANCE/AMENDMENT TO COUNTY CODE

A. Request a Motion to Adopt Ordinance No. 2022-02 authorizing the issuance and sale Torrance County, New Mexico Taxable Industrial Revenue Bonds (El Corazon Wind LLC Project), Series 2022A in the maximum aggregate principal amount of \$2,541,000,000, and Torrance County, New Mexico Taxable Industrial Revenue Bonds (Mesa Canyons Wind LLC Project), Series 2022A in the maximum aggregate principal amount of \$959,000,000, and in a combined aggregate principal amount not to exceed \$3,500,000,000, and associated documents. Jill Sweeney, Sherman and Howard, LLC and Rob Burpo, First American Financial Advisors, Inc. (Public Hearing)

Chairman Schwebach: Introduced and read the item.

ACTION TAKEN:

Chairman Schwebach: Made a motion to enter Public Hearing.

Commissioner Candelaria: Seconded the motion

Roll Call Vote:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall: Absent.

MOTION PASSES.

Public Hearing began at approximately 9:17 a.m.

Chairman Schwebach: Made a motion to enter into a public hearing on the possibility of adopting Ordinance No. 2022-02 authorizing the issuance and sale Torrance County, New Mexico Taxable Industrial Revenue Bonds (El Corazon Wind LLC Project), Series 2022A in the maximum aggregate principal amount of \$2,541,000,000, and Torrance County, New Mexico Taxable Industrial Revenue Bonds (Mesa Canyons Wind LLC Project), Series 2022A in the maximum aggregate principal amount of \$959,000,000, and in a combined aggregate principal amount not to exceed \$3,500,000,000, and associated documents. Jill Sweeney, Sherman and Howard, LLC, and Rob Burpo.

Commissioner Candelaria: Seconded the motion.

Roll Call Vote:

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

MOTION PASSES.

Public Hearing began at approximately 9:18 a.m.

County Attorney Mike Garcia: Swore in Rob Burpo.

Rob Burpo: Introduced himself and Jill Sweeney from Sherman and Howard, via Zoom, to the Commission. He also introduced Jeremy Turner and Luis Carrasco from Pattern Energy. He came to explain some changes that have been made, the first being that it is subject to House Bill 50, which means that the PILT payments will be split between the 5 school districts within Torrance County. Each school will get 8% of the PILT payments for a total of 40% of the total payments, with the remaining 60% coming to the County.

The second change is that there is an inflation factor built in, with a change reflecting the current inflation rate every 5 years.

There are decommissioning obligations at the end of the term that have always been in the sub-leases between the developer and the landowners. This has always been included in the lease between the County and the Developer on the IRB.

There is a delay between when they pass it and getting the final project up and running, there will be a make-whole provision payment. This will most likely happen in year 2026. A total of about \$13.5 million in make-whole payments will be made and divided. \$8,149,000 will go to the County and the School Districts will each receive about \$1,086,560.

Between October 26 and October 31, they will get together with the appropriate County Officers and sign the bond documents and then have the closing on or around November 1,

2022. This allows the 30-day window that is required by State Statute for the passage of the Ordinance and the actual closing.

Chairman Schwebach: Asked what the total going to the schools will be after the make-whole payments annually?

Rob Burpo: The total payments over the life of the deal is \$8,879,000 to each school. After the fact they will each receive about \$7,800,000 over the term of the transaction. In the first full year without the make-whole, they will receive \$283,556 per school, which will graduate up to \$290,644, then \$297,911: \$305,358, \$312,992, and finally graduate to \$328,070.

Chairman Schwebach: Asked if the money is restricted.

Rob Burpo: They can do what they want to with this money, it is unrestricted. The County put no limitations on how, why, or when the money may be used. Mr. Burpo gave examples of what the schools may do with the money they receive.

Commissioner Candelaria: Explained that he is all for this and excited for the school districts and the County.

Chairman Schwebach: Believes that HB-40 is one of the better pieces of legislation that has been passed. He said that he had questions for Jeremy Turner.

Jeremy Turner, Pattern Energy: Offered to go over the main points of his presentation for the Commission.

Chairman Schwebach: Agreed to this, as he would like everyone in the community to be able to see and hear what the plan from Pattern Energy is. He would like everyone to be able to see the scope of the project and know the estimates first.

County Attorney Mike Garcia: Swore in Mr. Jeremy Turner.

Jeremy Turner: Mr. Turner read the presentation hereto attached. Spoke to the Commission about the Pattern Energy expansion worldwide. They are expanding into offshore wind in Japan. They have an office headquartered in Albuquerque. He spoke about how many jobs they had created in the state and had about 2 million man-hours for the construction of the Western Spirit job, a 1050-megawatt windfarm that the County now hosts. They found that the local community can sustain about 1500 workers. The other 1500 remaining workers will be spread across the transmission line that will be used to get the power out of the State of New Mexico and into the State of Arizona and other Western markets. They recently purchased Line One of the SunZia transmission project. There are two transmission lines on that project. One is a DC transmission line 500 kV DC. One is a 500 kV AC line. They

bought the DC portion, so it has now been renamed. The other portion is still owned by SunZia; this will be one of the largest projects on the planet.

Mr. Turner continued to read the presentation thoroughly.

Commissioner Candelaria: Had no questions.

Chairman Schwebach: Had no questions but thanked Pattern for getting involved in the State more than just taking one mill up. They are sponsoring the County and State Fair and have proven that they want to be involved in the community.

Commissioner Candelaria: Had the same comment as Chairman Schwebach and noticed the sponsorships and thanked them for helping the kids out with 4H and FFA.

Chairman Schwebach: Invited anyone from the community to speak.

Madam County Manager Barela: There were no sign ups on the sign-up sheet, but there were people from the audience that had questions and comments.

Chairman Schwebach: Allowed the public to speak even if they had not signed up for public comment, including on Zoom.

Deputy County Manager Torres: Rob Wagner on Zoom would like to speak. Jill Sweeney would like to speak and explain the ordinance at a higher level if they prefer.

Chairman Schwebach: Said that they would move on to the people watching on Zoom after the in-person speakers take their turn.

Attorney Mike Garcia: Swore in Danielle Johnston.

Danielle Johnston: Recognized the efforts of the County Manager and Commissioner McCall on House Bill 500 (sic) that equalizes the distribution of funds. She thanked Pattern Energy because she used to work at the school district and understands the value of PILT monies. Estancia had access to much more money than other school districts because of the location of the generators. She is happy that the other schools in the district will now have access to money for improvements because of this bill. She thanks the Commissioners for championing the bill.

Madam County Manager: Introduced Patti Alexander to speak.

Attorney Mike Garcia: Swore in Patti Alexander.

Patti Alexander: Spoke up to say that recycling has been a big concern for her and wants to know what happens with all the blades to the wind turbines.

Jeremy Turner: Told Ms. Alexander that in the past, recycling has been a big concern for the wind industry because the blades have ended up in landfills. In the last 3 years all the major manufacturers have undertaken recycling programs (GE, Vestas, SGRE.) They want to utilize the blades again rather than throw them away. In Australia and overseas they use them as feedstock for concrete because it helps to accelerate the heating process in kilns. They are also expanding to other uses. GE has partnered with a firm in Texas that is trying to figure out additional ways to recycle the blades.

Chairman Schwebach: There was no one else in the audience that wanted to speak, so Chairman Schwebach moved on to Zoom.

Deputy County Manager Torres: Introduced Rob Wagner via Zoom.

Attorney Mike Garcia: Swore in Rob Wagner.

Rob Wagner: Asked how long the payments to the County (IRB) last.

Rob Burpo: Answered that IRB lasts 30 years.

Rob Wagner: Asked what the annual payment was on those.

Rob Burpo: It accelerates after the first in 2027, the total PILT payments are \$3,544,450. Then starting in year 32, they go to \$3,633, 061. In 2037, it jumps to \$3,723,887, in 2042, \$3,816,984, in 2047 it will be \$3,912,409 and in the last year of 2052, it will be \$4,010,219.84.

Chairman Schwebach: Asked if that was total PILT payments or just to the County.

Rob Burpo: Correct, that is 40% to the school and 60% to the County.

Rob Wagner: Asked what stops the money from going straight into the pockets of the administration.

Chairman Schwebach: The School board will keep the money going to the right place.

Deputy County Manager Torres: Introduced Lyndsey Padilla via Zoom.

Attorney Mike Garcia: Swore in Mr. Lyndsey Padilla.

Lyndsey Padilla: Mr. Padilla is the Vaughn Schools Superintendent. He wants to find out more information about what is coming their way.

Madam County Manager Barela: Would like to schedule a meeting. Or possibly get on the school board's agenda. She would also ask Mr. Burpo to make himself available to Mr. Padilla and anyone else on the school board.

Deputy County Manager Torres: Introduced Jill Sweeney via Zoom.

Attorney Mike Garcia: Swore in Jill Sweeney.

Chairman Schwebach: Asked Ms. Sweeney if she had an update with an explanation of the ordinance.

Jill Sweeney: There is an ordinance in front of you, the primary purpose of which is to authorize the issuance and sale of these two bonds in the aggregate principal amount not to exceed \$3.5Million. The ordinance also approves the forms of the various bond documents that we have been working through, including the indenture, the bond purchase agreement, and the industrial revenue bond leases. This ordinance authorizes you to proceed also to closing and with the band to execute the documents and close the transaction. It also makes various findings, clarifies that the bonds are limited obligations that do not place the County at risk, and confirms the agency relationship between the County and the company which allows the property tax abatement to flow to the company. It allows the company to purchase equipment as agent for the County thereby facilitating the gross receipts tax abatements that then in turn, are compensated are used as the basis to calculate the payment in lieu of taxes.

Chairman Schwebach: There is a typo, it should say “Kevin McCall, Vice Chair,” but it says “Kevin, Vice Chair.” We will get that fixed and signed.

Chairman Schwebach: Made a motion to conclude this public hearing of Ordinance 2022-02.

Commissioner Candelaria: Seconded the motion.

Roll Call Vote:

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

MOTION PASSES.

Public Hearing is closed, Regular Commission Meeting is entered

Chairman Schwebach: Recognized Madam County Manager Barela for changing the legislation, she was the backbone on getting it done and he wanted to give her credit. He said that legislation still works, so don't give up on it. Things can still be done. He also recognized Rob Burpo for thinking outside the box and twisting things around so that the situation is better than where it began.

11. ADOPTION OF RESOLUTION

NONE

12. APPROVALS

A. GRANTS

GRANTS: Motion to approve application for the Community Wildfire Protection Plan designed to help the affected jurisdictions, plan and prioritize implementing projects that can make a difference in protecting homes, residents and responding firefighters.

ACTION TAKEN:

Chairman Schwebach: Made a motion to approve application for the Community Wildfire Protection Plan designed to help the affected jurisdictions, plan and prioritize implementing projects that can make a difference in protecting homes, residents and responding firefighters.

Senaida Anaya, Grants Department: She is there to ask for permission on behalf of the Emergency Management Department to apply for the CWPP, or Community Wildlife Protection Plan. This plan helps affected jurisdictions plan and prioritize implementing projects that can make a difference. According to the Southern Economic Plan, these plans cost about \$60,000 with a 30% increase and Torrance County does have a match of 10%. The total would be \$85,800. That would be \$8,500 in cash.

The community partners would be the Claunch-Pinto Soil and Water Conservation, Edgewood Soil & Water, the United States Forest Service, the Tree Land Bureau Management,
Chairman Schwebach: There is a motion and a second for approval. Any further discussion?
No Answer.

Roll Call Vote:

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

MOTION PASSES.

13. DISCUSSION

A. **MANAGER Discussion of a presentation on a proposed new 75 MGW solar farm to be developed in Torrance County by Duke Energy and Amshore Renewable Energy. (Jeff Neves or Tylan Shelton/Duke Energy and Aaron Young/Amshore Renewable Energy)**

Madam County Manager Barela: Introduced the gentlemen from Duke Energy and Amshore Renewable Energy. This presentation is on a proposed new 75-Megawatt solar farm to be developed. Presentation hereto attached.

Aaron Young, Project Developer, Amshore: Introduced himself and said that Jeff Neves was not available this day. He did however bring with him Tylan Shelton, a project developer for Amshore.

He went over the presentation for Amshore and what their plans are for the 75-Megawatt solar farm. He is at the County to show them the history of Amshore and spoke to them about coming back so that they could discuss IRBs in the near future. The industry is booming, and they shared where they have other solar farms. They are doing strategic development now. He spoke about Duke Energy, which is one of the oldest utilities in the United States. It is also one of the largest with total operating capacity of 52,000 megawatts, or 52 gigawatts of generating capacity throughout the US. The company is headquartered in Charlotte, North Carolina, and they are working here today with the deregulated side of the development arm with Duke Energy, which is now Duke Energy Sustainable Solutions. He continued to read slides and talk about the history of Duke Energy (report hereto attached.) They are trying to start construction in either quarter 4 of 2024 or quarter 1 of 2025. The size of this project will cost close to \$100 Million. He believes in two weeks they will begin the geotechnical portion of the development process along with the environmental and surveying.

He is excited to begin talks about IRBs and is happy to begin formal discussions.

Chairman Schwebach: Asked if they were looking to do anything more than 75 Megawatts

Aaron Young: He doesn't see the possibility as of right now, but possibly in the future.

Chairman Schwebach: Thanked the gentlemen for coming in to present.

B. MANAGER'S REPORT:

1) Update on Torrance County Primary Election Audit (not completed)

Madam County Manager Barela: She has placed on the agenda an update on Torrance County the Primary Election Audit. She made it clear that this is not a complete report. She wanted to give the community a good update on the process without a giving a final report. She started by saying that she has a healthy respect for those that run the elections, as there is a lot to learn.

The Commission stated in the Resolution that they passed that they were going to have an internal, informal audit of the 2022 Primary Election. She had the ballots hand tallied, and then compared the results with the data the voting machines had tabulated. She got a group of people together, they hand tallied all of the ballots, and another group to hand tally the absentee ballots. There was another woman that volunteered, and they put all of that information by precinct into spreadsheets. Now all that is left for Madam County Manager to do is to compare that data to the

to the tabulator. The information was broken down by precinct and by party, but she is already seeing discrepancies. She will save that for the official audit. She audited copies of the certificates from when the machines were certified before the Primary Election. There are 22 machines, with one certificate for each machine. Within the 22 certificates, there were two different types; 16 of one certificate, and six of another. The 16 were filled out on old 2014 forms. Six are the current 2022 forms. This is relevant because on the 2014 forms, on the second page you would see that there are 10 items that the technician checks off, verifying that these items have been completed. On the 2022 form, they add an additional item so there are 11 items on their checklist. This 11th item is to verify that the CAT Five port is sealed on the machine. It may have been done, but those 16 machines don't have validation. Madam County Manager Barela finds this extremely concerning. She will be checking that in the next cycle that they go through tomorrow (for the General Election 2022)The next thing that Madam County Manager Barela found is that every one of these certificates are to be signed and sealed by the County Clerk, and she found that two of them do not have a county seal. She most likely did sign these but forgot to seal them. There was also an issue with the dates, but it took three days to do the certification. She would like to have her final report finished by next week.

C. COMMISSIONERS' REPORTS

1) Commissioner McCall, District 1: Absent.

2) Chairman Schwebach, District 2: No Report.

3) Chairman Candelaria, District 3: Told the community that he is happy about the energy companies coming in, and that it will help the schools compete and thrive. He is looking forward to the future.

14. EXECUTIVE SESSION

NONE

15. **Announcement of the next Board of County Commissioners Meeting:**
WEDNESDAY, OCTOBER 12, 2022, at 9:00 AM.

16. SIGNING OF OFFICIAL DOCUMENTS

17. ADJOURN

ACTION TAKEN:

Chairman Schwebach: Made a motion to adjourn this Regular Commission Meeting.

Commissioner Candelaria: Seconded the motion.

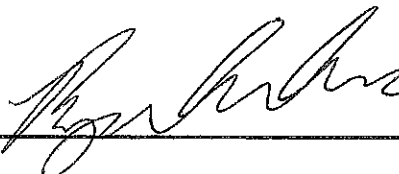
Roll Call Vote:

Commissioner Candelaria: Yes; Chairman Schwebach: Yes; Commissioner McCall:
ABSENT.

MOTION PASSES.

MEETING ADJOURNED AT APPROXIMATELY 10:07 AM

Signed By:



Ryan Schwebach – Torrance
County Board of Commission
Chairman



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



Date: 10 / 1 / 22 2022

The Video of this meeting can be viewed in its entirety on the Torrance County NM website. Audio discs of this meeting can be purchased in the Torrance County Clerk's Office.