

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
May 19, 2020**

Be it remembered that the Eddy County Board of Commissioners held a regular meeting in the Eddy County Administration Complex-Room 211 on May 19, 2020 at 8:30 a.m. Davis called the meeting to order and led the Pledge of Allegiance and the Salute to the New Mexico State flag. Tabor gave the invocation.

PRESENT:

ERNEST CARLSON	CHAIR, DISTRICT 1
STEVE MCCUTCHEON	VICE-CHAIR, DIST 4
JON HENRY	CHAIR, DIST 2
LARRY WOOD	COMMISSIONER, DIST 3
SUSAN CROCKETT	COMMISSIONER, DIST 5
ALLEN DAVIS	COUNTY MANAGER
CAS TABOR	COUNTY ATTORNEY
ROBIN VAN NATTA	COUNTY CLERK
MARK CAGE	SHERIFF
CAROL HENNINGTON	INFO SYSTEMS DIR
STEPHANIE YBABEN	RED ROCKET MEDIA

TIMED AGENDA

8:30 A.M.:

1. **PUBLIC COMMENTS/ANNOUNCEMENTS.** **(ONLY EMAILED, MAILED, OR ONLINE SUBMITTED PUBLIC COMMENTS WILL BE READ.):** None.
2. **SERVICE AWARDS:** None.
3. ***BID AWARD:**
 - a. **IFB 20-02; MORSE WATCHMAN ELECTRONIC KEY WATCHER TOUCH LOCKER SYSTEM – ROBERTA SMITH:** Smith stated the electronic locker system was for the employees to hold their personal belongings at ECDC. The keyless system would integrate with the existing software platform. All bids were due May 14 and only one solicitation had been received from Genesis Resource. The bid amount was \$69,105 and the recommendation was to award the bid to Genesis Resource. Crockett moved, seconded by McCutcheon, to award IFB 20-02 to Morse Watchman Electronic Key Watcher Touch Locker System in the amount of \$69,105. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0. IFB 20-02 was recorded as Timed Agenda Exhibit 3.a.

TRAILING AGENDA

1. APPROVE:

- a. ***COMMISSION MEETING MINUTES FOR APRIL 21, 2020:** Crockett moved, seconded by Henry, to approve the Commission Meeting Minutes for April 21, 2020. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.
 - b. ***COMMISSION MEETING MINUTES FOR MAY 5, 2020:** McCutcheon moved, seconded by Crockett to approve the Commission Meeting Minutes for May 5, 2020. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.
 - c. ***SPECIAL COMMISSION MEETING MINUTES FOR MAY 7, 2020:** McCutcheon moved, seconded by Crockett to approve the Special Commission Meeting Minutes for May 7, 2020. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.
 - d. ***EXPENSE APPROVAL REPORT FOR APRIL 2020:** Wood moved, seconded by Crockett to approve the Expense Report for April 2020. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0. The April 2020 Expense Report was recorded as Exhibit 1.d.
 - e. ***PURCHASE CARD APPROVAL LIST FOR APRIL 2020:** Crockett moved, seconded by McCutcheon to approve the Purchase Card List for April 2020. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0. The April 2020 Purchase Card List was recorded as Exhibit 1.e.
- 2. *REQUEST FOR ADDITIONAL FUNDING FOR BRINE WELL REMEDIATION PROJECT – ALLEN R. DAVIS:** Davis had spoken with and exchanged emails with Project Manager Jim Griswold since the last meeting. He had reviewed the detailed information that was provided showing where costs had occurred and what to expect in the future. The information he received had contained a workbook with summaries by large categories, with one being “Subcontractors”. Davis had requested that category’s data and explained the breakdown of funds. The \$23M had translated to 40% for the injection, the pumping services; 30% was for the sand and grout material; site prep and sand was 12%-15%. He had received a breakdown for the last two years’ invoices and he felt they did line up. Extrapolating the data through May, the total would be \$26M, which he felt was about right at \$3M to \$4M a month. He had requested the percentages for the subcontractors for the remaining months through August. The numbers provided per month to finish the work, was consistent with the data that had been provided. The property acquisition was \$2.3M; professional services for Wood Environmental was

\$5.7M to date; material and equipment had used \$1M. The subtotal came up to \$35.8M. Adding in GRT, \$2.4M, brought the total to \$38M. The appropriation made by the State had been \$45.5M. The difference between that and expenditures to date of \$38.2M was \$7.3M remaining of the appropriated amount. The balance to complete their outlook showed \$12M, leaving a deficit of \$5.5M to complete the work. The State had appropriated an additional \$7M for the project but the City and County's acceleration of next fiscal year's funds plus the \$800K was needed to get the work done. Davis stated he was satisfied that the project accountability was now visible and transparent. He was happy to share the information. He recommended that the Commission approve the additional \$800K so that the brine well project could be completed and could move into the monitoring phase, which was included in that cost to complete and should happen within 90 days. Crockett thanked Griswold for providing the information, noting that the City of Carlsbad had approved the \$800K funding two weeks prior and had also approved the early release of their payment. She stated Griswold needed this money to be able to have State-held funds released on June 1. She felt the County needed to pay the additional funds and move on to Phase 2, finish the project, get the traffic flowing again, and return the properties to the owners in the area. She felt it would probably be 2024 for the project to be wrapped up. McCutcheon had also spoken to Griswold and had gotten some good answers. He understood the money needed to be appropriated to allow the project manager to take advantage of other State monies. McCutcheon inquired if the NMRD was charging the County overhead. Davis answered that \$125K per year was the project manager's salary and support staff for the project. Henry inquired if the State did not have the money to cover this. Wood inquired if it was one of those items the County had to match in order to have funds released. Davis answered that there was \$2M pending, and once the additional monies were approved would be released. He added the NMRD put another \$400 in and that is where the match for the \$2M was made. Wood inquired if the State would take that away. Davis noted we did not know what would happen when the Special Session came about. DFA had commented that if the money could be shown to be encumbered and an invoice had been paid off, it could not be taken back. A commitment sheet from the State would be signed by the Chairman. Crockett moved, seconded by McCutcheon, to approve the additional funding for the Brine Well Remediation Project in the amount of \$800K. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.

3. ***EDDY COUNTY ORDINANCE NO. O-20-97 AMENDING ORDINANCE O-17-87; AMENDMENT TO ORDINANCE O-17-87 MODIFYING DEDICATION – CAS TABOR:** Tabor stated effective last July 1, Legislature had passed the demarcations of local options on GRT that had been previously passed in a lot of areas. NM Tax & Rev had indicated there was no need to change the ordinances due to earmarking. Rather than leaving it as it was, it was felt the County was better served to have a paper trail and memorialization of the

fact. The dedication that was in that ordinance provided unrestricted use of those funds. The effective date would be January 1, Tax & Rev had notified the county the GRT's were unrestricted as of July 1, 2019. Tabor stated to pass the amendment, the same requirements would have to be followed as if passing any ordinance and following the requirement included in the Tax Act. A majority of the Commission must first vote to publish the amendment in the newspaper for public view two weeks prior to the Commission's consideration to pass or deny the ordinance. McCutcheon moved, seconded by Wood, to post the Eddy County Ordinance O-20-97 to amend Ordinance O-17-87 for discussion to be brought up on the agenda at a later date and vote after its been publicly announced. McCutcheon amended his verbal motion, correcting the 'zero' to 'O' in all of the three relevant examples, seconded by Wood. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.

4. ***EDDY COUNTY ORDINANCE NO. O-20-98 AMENDING ORDINANCE O-93-21; AMENDMENT TO ORDINANCE O-93-21 MODIFYING DEDICATION – CAS TABOR:** Tabor stated the dedication had been for indigent citizens' care or such other use as might be authorized by statutes. The Ordinance would be put in as unrestricted. The Commission would follow the same process of publishing for the public two weeks prior to the hearing where it would be considered for amendment and reflect the dedication as unrestricted. McCutcheon moved, seconded by Crockett, instructing Eddy County Ordinance O-20-98 be amended to Ordinance O-93-21 and to publish the amendment so it could be brought up at a later date and voted on. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.

5. ***RESOLUTION AND AGREEMENT CONSENT AGENDA:** Since all of the items listed below have been distributed to the Commissioners in advance for review and are of a routine and non-controversial nature, they will be enacted by a single motion. Any Commissioner or the County Manager may remove an item from this Resolution and Agreement Consent Agenda if separate discussion is desired. Any item so removed shall be placed on the Trailing Agenda immediately following the approval of this Resolution and Agreement Consent Agenda or later, at a specific time or place on the Trailing Agenda.
 - a. **RESOLUTIONS:**
 - i. **R-20-43; REVISION OF THE EDDY COUNTY PURCHASING POLICY – KRISTEN NOVOTNY.**
 - ii. **R-20-44; REVISION OF THE EDDY COUNTY P-CARD POLICY – KRISTEN NOVOTNY.**
 - iii. **R-20-45; REVISION OF THE EDDY COUNTY TRAVEL POLICY – JESSICA STYGAR.**
 - iv. **R-20-46; INDIGENT MEDICAL/HOSPITAL CLAIMS – VERONICA PARRAS.**

- v. R-20-47; AUTHORIZING TRANSFER OF A PORTION OF THE FUNDS FROM THE EDDY COUNTY INDIGENT ACCOUNT TO SUCH ACCOUNTS AS DETERMINED BY THE COUNTY MANAGER AND FINANCE DIRECTOR – CAS TABOR.

b. AGREEMENTS:

- i. A-20-44; PROFESSIONAL SERVICE AGREEMENT FOR HEALTHCARE SERVICES – VERONICA PARRAS.
- ii. A-20-48; EQUIPMENT SERVICE CONTRACT FOR ASSESSOR CARLSBAD OFFICE COPIER – GEMMA FERGUSON.
- iii. A-20-50; AGREEMENT TO FACILITATE VIDEO ARRAIGNMENT FOR ARTESIA MAGISTRATE COURT BETWEEN THE ADMINISTRATIVE OFFICE OF THE COURTS (AOC), CITY OF ARTESIA, AND THE COUNTY OF EDDY – WARDEN BILLY MASSINGILL.
- iv. A-20-51; AGREEMENT TO FACILITATE VIDEO ARRAIGNMENT FOR MAGISTRATE COURT BETWEEN THE ADMINISTRATIVE OFFICE OF THE COURTS (AOC) AND EDDY COUNTY DETENTION CENTERS – WARDEN BILLY MASSINGILL.

Crockett moved, seconded by Henry to approve the Resolution and Agreement Consent Agenda as presented, pulling no items. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0. R-20-43 through R-20-47 were recorded as Exhibits 5.a.i. through 5.a.v., respectively. A-20-44, A-20-48, A-20-50 and A-20-51 were recorded as Exhibits 5.b.i. through 5.b.iv., respectively.

6. DEPARTMENT UPDATES: Davis had pulsed the department heads and related the updates he had received. Public Works had finished London and Carrasco Roads with Duarte and Hilltop work to begin next week. Engineering had been completed and work on N. 26th would go out for bid soon. He noted that the unit cost on that work had been really good. McCutcheon added Burns wanted to recognize and give kudos to Nathan Gustin, who had done a really good job on the chipper. Fire had assisted with equipment and efforts on the recent drowning at Brantley Lake. The Sheriff's Office and State Dive Team had also worked at the Lake for three-plus days with boats and grids to try to recover the body. The activity had been called off by the State. Davis thanked the VFDs, Fire Service and the Sheriff's Office for their contributions and work there. The radio tower maintenance project was awaiting a crew from California. The Court House roof repair was about 70% complete. The flagpole guy had repaired the equipment at the top of the County flagpole to allow a flag to be flown for Memorial Day. Davis expressed kudos to the facilities maintenance group keeping all the buildings clean, helping teams get equipment needed to do their jobs, and following guidelines. He noted the

department was down three custodians and three maintenance techs. Armendariz was on her way to Roswell to obtain more materials and supplies from the National Guard for distribution in the County. He noted what a great job Armendariz had been doing. He noted the Clerk's Office had a tenuous task with early voting, absentee voting and on-site voting in person. The facilities team helped get the necessary supplies, adding it was a coordinated effort to make things happen. He noted it was apparent that those issuing the orders did not necessarily have an idea how to get them effectively executed. He felt the County had done a great job in all departments. The Treasurer's Office had collected taxes and the Assessor's Office had issued valuations and dealt with the period of protests/exceptions. He stated all the departments had done an outstanding job in the last 60 days when things started to shut down, including those departments not outwardly visible, IT, HR, Finance, SO, Detention, Fire Services and others working behind the scenes. County Clerk Van Natta stated this election was going to take all of us in an coordinated effort to make it a success. She noted maintenance and the Road Department for their help getting Early Voting set up. The Clerk's Office had mailed out 2,860 absentee ballots with 1,600 ballots having been mailed out in the last two days, and 901 early voters. She thanked her staff for all their hard work. She urged all to vote, noting the Artesia and Carlsbad offices were open for voting. Van Natta mentioned Central Valley Electric for their donation of hand sanitizers for voting locations and the US Postal Service for their help keeping election related mail local for faster delivery. McCutcheon inquired of the loss of employees in the Facilities Maintenance Department. Sheriff Cage clarified the Brantley Lake incident. He stated State Police were in charge of search and rescue efforts. When it was a body recovery effort like that, the County would be in charge and it would be treated like a crime scene. The Sheriff's Office did command and control to have centralized command. He added the SO was in the process of building its own dive team with equipment assistance from VFDs. San Juan County had donated a boat to the SO that was not conducive to diving but Happy Valley had a dive boat it would share with the SO. He added one of his deputies had piloted his own plane aiding in the search. The State Police had decided to stop diving after so long and that was the call made; the body was recovered thereafter.

7. **TRAVEL REQUEST CONSENT AGENDA:** Since all of the items listed below have been distributed to the Commissioners in advance for review and are of a routine and non-controversial nature, they will be enacted by a single motion. Any Commissioner or the County Manager may remove an item from this Travel Request Consent Agenda if separate discussion is desired. Any item so removed shall be placed on the Trailing Agenda immediately following this Travel Request Consent Agenda or later, at a specific time or place on the Trailing Agenda.

PRIOR: None.

FUTURE: None.

8. EMERGENCY BUSINESS: None.

9. LEGISLATIVE UPDATE: None.

10. LEGISLATORS AND ELECTED OFFICIALS' COMMENTS ANNOUNCEMENTS UPDATES: None.

11. COUNTY MANAGER'S COMMENTS/ANNOUNCEMENTS/UPDATES:

Davis made reference to the Lodgers' Tax that had come out of the last Legislative Session, he related that the City had a draft resolution for consideration. The City's draft resolution would be adapted for County purposes. If approved by the County, a joint effort on administering, collecting and distribution of the tax could be considered. Davis stated revenue received to date in GRT and Severance had not been far off pace. He added that next month may show a downturn. He noted the WTI benchmark was trading at \$32 this morning which was a positive sign. He noted vacancies in the RV parks were about 50% to 60% and traffic was noted to be lower in town. He stated there was a lot of data concerning COVID and the State's response had been that their decisions would be made based on the data. Davis agreed that SENM would be at greater risk from the NE-, NW-metros in NM than it would be from Texas. There were 17 cases as of this day noting most of the SE quadrant counties were under 20. He added the data showed the County and citizens of the County had done all the right things to preclude the spread of the virus. The County needed to look at the transition to the next stage for County operations, community operations, SE quadrant operations. He asked that the County employees continue what they were doing and keep calm and stand firm, adding the results manifested themselves that we were doing the right thing.

12. COUNTY COMMISSIONERS' COMMENTS/ANNOUNCEMENTS/UPDATES:

Crockett relayed the information that the DOD had discovered relating to the occupancy in the Carlsbad area. By June, many apartments would be at 50% to 60% occupancy, as leases had not been renewed; RV parks were currently at 40% to 50% occupancy. Restaurant data would be available in the near future. She was happy to see several businesses open. She thanked the directors, elected officials and employees and noted she had heard nothing but great compliments about the employees. She thanked the Clerks and she had sent several people to their office for help and had received really positive feedback. She thanked Cara Cooke for her statement on Facebook concerning the negative comments about the election. McCutcheon wanted to look at ordinances in the County that were outdated and remove them, having less ordinances. He added every time an ordinance passed, someone lost freedom somewhere and that was contrary to his principles. He did not

believe the State had practiced financial frugality. He was concerned with the lawsuits that were happening and the expensive burden that they would put on the State. He believed things were looking up, adding highs and lows never lasted. He agreed with Davis that real data was available on which to base decisions concerning COVID. Henry felt the governor was doing a terrible job. He felt it was sad what was done when there was a 99% chance of surviving and yet families' dreams were killed; we had made people scared. He felt the governor based her theories on science and not the data and actual fact. He was disappointed in the way the State had handled the situation, blowing through money, blaming the Feds and wanting them to pay for our mistakes. He added the State had a history of blowing through money and blaming someone else; that ownership was squarely on her shoulders for the deficit the State was in with the money that Eddy and Lea County had provided to her. He felt the County had done a fantastic job and had heard no complaints and to keep up the good work. Wood thanked the County employees for staying open, noting City and Federal employees were staying at home, drawing a paycheck. He had received a call with information concerning elderly individuals needing medical attention that were unable to obtain needed procedures. He had checked and found there were zero people in AGH with the virus but were not allowing people to check in and get procedures because of rules put in place by the Governor. A caller had noted the library was closed and social distancing was practiced at the library. When the data had been read, he felt you might get sicker eating a bad piece of chicken as opposed to catching the virus, noting the high percentage of people who did not get sick or go to the hospital. He felt this had gotten blown out of proportion and acknowledged that the virus was a bad thing. The Governor had spent money on a hospital in Albuquerque specifically for COVID, \$8M to redo it, and he felt that was significant. He noted traffic on US285 today. Carlson echoed what had been said and stated the economy had to get back open; there were so many dreams that families and small businesses had were crushed; things they had lost and would never be able to get back.

13. *EXECUTIVE SESSION: The Board may go into executive session in accordance with the State of New Mexico Open Meetings Act, section 10-15-1-h(2) & (7), which authorizes the Board of County Commissioners to go into executive session to discuss:

a. LIMITED PERSONNEL MATTERS:

i. RENEWAL OF MEMORANDUM OF UNDERSTANDING FOR EDDY COUNTY AND THE CITIES OF ARTESIA AND CARLSBAD FOR PUBLIC AND GOVERNMENT AFFAIRS SERVICES – ALLEN DAVIS.

b. THREATENED OR PENDING LITIGATION:

i. EDDY COUNTY PURCHASE – CAS TABOR.

At 9:29 a.m., McCutcheon moved, seconded by Crockett, to go into executive session and discuss the items as stated above, reopening at 10:01 a.m. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.

14. *RE-OPEN MEETING – MOTION MUST BE CERTIFIED: At 10:16 a.m. Crockett moved, seconded by McCutcheon, to re-open the meeting and certify the only items discussed were as stated in item 13.a.b. above. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.

15. TAKE ACTION, IF ANY, ON ANY MATTER RELATING TO THE EXECUTIVE SESSION.

a. LIMITED PERSONNEL MATTERS:

i. RENEWAL OF MEMORANDUM OF UNDERSTANDING FOR EDDY COUNTY AND THE CITIES OF ARTESIA AND CARLSBAD FOR PUBLIC AND GOVERNMENT AFFAIRS SERVICES – ALLEN DAVIS. – None

b. THREATENED OR PENDING LITIGATION:

i. EDDY COUNTY PURCHASE – CAS TABOR. - None

16. *ADJOURN: At 10:19 a.m., McCutcheon moved, seconded by Henry, to adjourn the meeting. Voting yes: Henry, Wood, Crockett, McCutcheon and Carlson. Passed 5-0.

***ASTERISKS DENOTES VOTE REQUIRED**

COMMISSION CHAIR, ERNEST CARLSON

ATTEST:

COUNTY CLERK, ROBIN VAN NATTA

DATE