

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
September 1, 2020**

Be it remembered that the Eddy County Board of Commissioners held a regular meeting in the Eddy County Administration Complex-Room 211 on September 1, 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. Powell gave the invocation.

PRESENT:

ERNEST CARLSON	CHAIR, DISTRICT 1
STEVE MCCUTCHEON	VICE-CHAIR, DISTRICT 4
LARRY WOOD	COMMISSIONER, DISTRICT 3
SUSAN CROCKETT	COMMISSIONER, DISTRICT 5
ALLEN DAVIS	COUNTY MANAGER
GAY WEST	ADMINISTRATIVE ASSISTANT
CAS TABOR	COUNTY ATTORNEY
ROBIN VAN NATTA	COUNTY CLERK
RONDA NELSON	DEPUTY CLERK – REMOTE
MARK CAGE	SHERIFF
CAROL HENNINGTON	INFO SYSTEMS DIR
KEN KEMP	INFO SYSTEMS
BILLY MASSINGILL	WARDEN
WESLEY HOOPER	COMMUNITY ADMIN SERVICES DIR
JERI STRONG	PIO/O&G LIAISON
JOSH MACK	FIRE SERVICES DIR/FIRE MARSHALL
BRIAN STEPHENS	FACILITIES DIRECTOR
JASON BURNS	PUBLIC WORKS DIRECTOR
MIKE SMITH	CARLSBAD CURRENT ARGUS
STEPHANIE YBABEN	RED ROCKET MEDIA

ABSENT:

JON HENRY	COMMISSIONER, DIST 2
-----------	----------------------

TIMED AGENDA

8:30 A.M.:

- 1. PUBLIC COMMENTS/ANNOUNCEMENTS. (THREE MINUTE TIME LIMIT PER PERSON) (WE REQUEST ALL COMMENTS BE RESPECTFUL AND COURTEOUS IN NATURE):** James Walterscheid was in favor of R-20-77, the resolution to match NMDOT funds for alternate highway routes. He was reminded of a past vehicle accident on US285 that caused traffic to be rerouted to other county roads. He had

spoken on the issue in the past and was pleased there may be an alternate route if an accident occurred.

2. ***BID AWARDS:**

- a. **IFB 20-05; LAW ENFORCEMENT VEHICLE OUTFITTING FOR SHERIFF'S DEPARTMENT – KRISTEN NOVOTNY:** Novotny stated four bids had been received and considered. Crockett moved, seconded by McCutcheon, to award IFB 20-05 to WAC Outfitters with a total bid of \$150,419.38, outfitting a total of 12-2021 Chevrolet Tahoe's. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0. IFB 20-05 was recorded as Timed Agenda Exhibit 2.a.

3. **PUBLIC HEARING – O-20-99; EDDY COUNTY MANUFACTURED HOME PLACEMENT ORDINANCE, REPLACING O-16-87**

- a. **OPEN PUBLIC HEARING – CHAIRMAN CARLSON** – At 8:34 a.m., Crockett moved, seconded by McCutcheon, to open the Public Hearing. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.
- b. **STAFF COMMENTS** - McCroskey stated the changes in the ordinance were to remove the forms and fees allowing future changes to be readopted through a resolution rather than an ordinance. Davis noted that the changes were for future operating effectiveness allowing the fees and forms to be kept current.
- c. **PUBLIC COMMENT – THREE MINUTE TIME LIMIT PER PERSON** – James Walterscheid did not approve of the stated definition of “manufactured home” and would like to see it clarified by adding to the definition the phrase, “commonly called a mobile home or trailer house.” He commented on Sections 5.2 and 7.2, relating to storage and utility hookups.
- d. **COUNTY ATTORNEY COMMENTS/QUESTIONS** – None.
- e. **COUNTY COMMISSIONERS COMMENTS/QUESTIONS** – None.
- f. **ENTERTAIN MOTION AND SECOND FROM THE BOARD OF COUNTY COMMISSIONERS – CHAIRMAN CARLSON** – Wood moved, seconded by Crockett, to approve O-20-99, replacing O-16-87.
- g. **ADDITIONAL COMMENTS/QUESTIONS FROM COMMISSIONERS** – None.
- h. ***BOARD ACTION ON MOTION- CHAIRMAN CARLSON (CALL FOR THE VOTE)** - Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0. Ordinance O-20-99 was recorded September 1, 2020 in Ordinance Book 2 Page 857.
- i. ***ADJOURN HEARING** - At 8:42 a.m., McCutcheon moved, seconded by Crockett, to adjourn the public meeting. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

TRAILING AGENDA:

1. *APPROVE:

a. **COMMISSION MEETING MINUTES FOR AUGUST 4, 2020:** The minutes were approved in 1.b. below.

b. **COMMISSION MEETING MINUTES FOR AUGUST 18, 2020:** Crockett moved, seconded by McCutcheon, to approve the Commissioner Meeting Minutes for August 4 and August 18, 2020. Voting yes: Carlson, Henry, Wood, Crockett and McCutcheon. Passed 4-0.

c. **PURCHASE CARD REPORT FOR JULY 2020:** McCutcheon moved, seconded by Wood, to approve the Purchase Card Report for July 2020. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0. The Purchase Card Report for July 2020 was recorded as Exhibit 1.c.

2. TREASURER'S REPORT FOR JULY 2020 – LAURIE PRUITT: The Treasurer's Report for July 2020 was recorded as Exhibit 2.

3. *JULY 2020 REVENUE REPORT – ROBERTA SMITH: Smith stated the July GRT collected had been \$1.2M with \$1.1M had been budgeted. She stated for Oil and Gas, only \$639K had been collected based on May's activity with about 13M barrels averaging \$14. The budgeted amount of \$1.2M had been missed but she felt it would start increasing, perhaps taking a few months to catch up. She noted it had been the lowest month of this FY. Crockett moved, seconded by McCutcheon to approve the July 2020 Revenue Report as presented. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0. The July 2020 Revenue Report was recorded as Exhibit 3.

4. *BUDGET VS ACTUAL – JULY REVENUE AND EXPENSES – ROBERTA SMITH: Smith stated \$24M had been collected and expensed, noting \$17.6M were annual budgeted transfers. McCutcheon moved, seconded by Wood, to approve the Budget vs. Actual July Revenue and Expenses. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0. The July Revenue & Expenses Budget vs. Actual Report was recorded as Exhibit 4.

5. *DISCUSSION, DIRECTION, AND RECOMMENDATION ON THE FY 2019-2020 SURPLUS – ROBERTA SMITH: Smith stated the FY ended with a \$12.4M surplus in the General Fund. It was recommended to commit \$5M to the Road Construction Fund for the alternate routes matching fund, which would be presented for approval in R-20-77. The remaining \$7.4M was recommended to be moved to the Capital Improvement Fund for capital purchases. The Commission could approve changes at the mid-year review in December, if requested. McCutcheon inquired if the Road Construction Fund was an internal fund. Smith replied it was a special revenue fund

separate from the General Fund and separate from the Road Fund. There were no monies for active projects in that fund currently, as it had been previously used for FEMA matching funds. She added that it would be considered a committed fund a change would have to be approved by the Board through an agenda request. Davis added that the County had a contract from NMDOT and the funds would be utilized for county routes that NMDOT had committed to previously. Smith stated the Capital Improvement Fund was the same special revenue fund that monies could be committed to; changes could be made by the Board, as was done last year. McCutcheon noted that both he and Henry had wanted to commit the surplus funds to roads. They both wanted to pull out 10% of the \$12.4M reserving it for a rainy-day and unplanned expenses. McCutcheon stated his goal was to make sure the funds would be encumbered and could not be swept. Smith noted it was suggested to move monies to a committed fund so it would not be sitting in the General Fund spurring questions about high General Fund balances. Carlson inquired of having the \$5M and also moving \$5M to infrastructure fund and \$2M to road maintenance fund. Following discussion on the Capital Improvement Fund, it was noted funds could be redistributed to road maintenance in the Road Fund by an agenda request. Davis added a consideration may be made of what could be executed and accomplished in the plan during the road construction weather windows. The amount of specific capital road projects would be known and could be used for maintenance, not leaving funds uncommitted. He stated the list of capital and maintenance projects and recommendations would be presented at the next meeting. McCutcheon moved, seconded by Crockett, to accept the recommendation for the FY2019-2020 surplus being committed \$5M to the Road Construction Fund, \$3,500 for matching DOT monies, and committing \$7,425,139 to the Capital Improvement Fund holding back 10 percent of the two added funds or \$1,242,513, as a reserve to be put where the Commission would see fit to be best allocated due to emergencies. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

6. ***REQUEST TO SET HEARING DATE FOR ADOPTION OF ORDINANCE O-20-100; EXTENDING FOR 10 YEARS, EDDY COUNTY ORDINANCE O-10-57; ENTITLED NON-EXCLUSIVE FRANCHISE AGREEMENT FOR US CABLE AS A NON-EXCLUSIVE FRANCHISE AGREEMENT FOR TDS BROADBAND SERVICES, LLC – ALLEN DAVIS:** Davis stated this was a 10-year extension on the previous broadband service contract. The provider was now TDS. McCutcheon moved, to propose setting a hearing date for adoption of O-20-100. McCutcheon amended his motion to add the date of October 6 for the hearing seconded by Crockett. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.
7. ***APPROVE/DISAPPROVE ONE INDIGENT BURIAL – VERONICA PARRAS:** McCutcheon moved, seconded by Crockett, to approve one indigent burial. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

8. ***RECLASSIFICATION OF CIVIL PROCESS SERVER TO CERTIFIED SHERIFF DEPUTY II – SHERIFF MARK CAGE:** Cage stated the request would restore the position back to the previous classification of Certified Deputy. The funding amount to finish out the year would be around \$16K. Crockett moved, seconded by McCutcheon to approve the reclassification of Civil Process Server to Certified Sheriff Deputy II. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

9. ***ICIP PRIORITIZATION FY 2022-2026 – STEVEN MCCROSKEY:** McCroskey stated a workshop had been held as requested and the ICIP list was the product of the workshop and discussion. He stated a resolution would follow to formally approve the list. McCutcheon moved, seconded by Crockett, to approve the ICIP Prioritization FY 2022-2026. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

10. ***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-20-70; ICIP PRIORITIZATION FY 2022-2026 – STEVEN MCCROSKEY.**
 - ii. **R-20-74; INDIGENT MEDICAL/HOSPITAL CLAIMS REPORT – VERONICA PARRAZ.**
 - iii. **R-20-75 AND A-20-127; NMDOT COMPANION RESOLUTION AND A-20-127; COOPERATIVE AGREEMENT FOR BLACK RIVER VILLAGE ROAD – JASON BURNS.**
 - iv. **R-20-76 AND A-20-128; NMDOT COMPANION RESOLUTION AND A-20-128; COOPERATIVE AGREEMENT FOR OLD CAVERN ROAD – JASON BURNS.**
 - v. **R-20-77; MATCHING NMDOT FUNDING FOR ALTERNATE ROUTES – JASON BURNS.**
 - vi. **R-20-78; ESTABLISHING THE FEES AND FORMS FOR O-20-99; EDDY COUNTY MANUFACTURED HOME PLACEMENT ORDINANCE, REPLACING O-16-87 – STEVEN MCCROSKEY.**

b. AGREEMENTS:

- i. A-20-122; CONTRACT WITH WESTT, LLC FOR PROCUREMENT SERVICES – ROBERTA SMITH.
- ii. A-20-123; FY20 DWI REVISION GRANT APPLICATION – CYNTHIA SHARIF.
- iii. A-20-124; GOOGLE MAPS ADD-ON FOR EMERGENCY REPORTING SYSTEM – JOSHUA MACK.
- iv. A-20-125; CONSOLIDATED GRANT AGREEMENT BETWEEN NMDOT TRAFFIC SAFETY DIVISION AND EDDY COUNTY SHERIFF’S OFFICE – MARK CAGE.
- v. A-20-126; MAINTENANCE/SUPPORT AGREEMENT WITH PROFESSIONAL DOCUMENT SYSTEMS (PDS) FOR THE EDDY COUNTY DETENTION CENTER – WARDEN MASSINGILL.
- vi. A-20-129; MEMORANDUM OF AGREEMENT (MOA) WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES FOR REIMBURSEMENT OF OVERTIME SALARY COSTS ASSOCIATED WITH ATF TASK FORCE – SHERIFF MARK CAGE.

McCutcheon moved, seconded by Crockett to approve the Resolution/Agreement Consent Agenda, pulling item 10.b.vi, A-20-129. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0. R-20-70, R—20-74 through R-20-78 were recorded as Exhibits 10.a.i – vi. A-20-122 – A-20-126 were recorded 10.b.i – v.

Addressing A-20-129, Davis explained that ATF had wanted the agreement pulled, noting it would be revised and there would be another mechanism to accomplish that.

11. DEPARTMENT UPDATES: Hennington stated as of September 12020, the County had begun retaining and archiving all emails for three years to cover FOIA, IPRA requests, allowing a legal copy of emails to be available if requested. Smith informed that the CARES Fund application had been awarded to Eddy County and small businesses affected by COVID. The County had been awarded \$50K and \$931,875 for small businesses within Eddy County. The Cities of Artesia and Carlsbad had applied for the funds as well and had also received funds for the cities and small businesses within the city limits. The logistics had not been worked out but a system would have to be brought forth with the cities to ensure that there would be no double-dipping on funds. Carlson requested the application process and qualification for applying for the funds be published in the paper. Smith stated the County would confer with the cities concerning the application process and the residents would be made aware of how and when they could apply. Davis added a conference call would be held Wednesday afternoon with county managers to talk about how the process might occur. Previous discussion was held concerning using the equivalent of a third party, maybe

using the Chamber of Commerce to help with the process. Davis noted these would be reimbursable costs and businesses would have to provide invoices or expenditures to receive the monies. Burns updated the Commission on progress made by the road department. Joint projects with the City of Carlsbad and Lea County were close to bidding and moving forward.

- 12. *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:

- a. **WESLEY YERBY, EDGAR ALEMAN, DILLON SAMANIEGO, AND TERIA STARR TO ATTEND GRACIE SURVIVAL TACTICS LAW ENFORCEMENT INSTRUCTOR CERTIFICATION COURSE IN WESTMINSTER, CO FROM OCTOBER 25 THRU OCTOBER 31, 2020.**

Crockett moved, seconded by McCutcheon, to approve the Travel Request Consent Agenda. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

- 13. EMERGENCY BUSINESS:** Davis stated a notice from the State had been received on the tax rates. A special meeting should be held within five days to review, certify and approve those tax rates. Davis recommended setting a special meeting for Friday, September 4 after discussion. Crockett moved, seconded by McCutcheon, to set the special meeting date to set the tax rates to be held on Friday, September 4 at 8:00 a.m. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

14. LEGISLATIVE UPDATE: None.

- 15. LEGISLATORS AND ELECTED OFFICIALS' COMMENTS/ANNOUNCEMENTS/UPDATES:** Cage found it refreshing to get budget reports showing the foresight of the Commission and county government in the budget surplus. He was proud to be with Eddy County where things were done right. He noted he would bring to the next Commission meeting a request for funding to cover the body cameras. He was disappointed in the new Public Health Orders, and that the Governor was using our children to try and strongarm leverage us and punish us by keeping our schools closed when other schools throughout the state were opened. He remembered the saying

of, "We're all in this together." He added that when our numbers were great, and the rest of the state was doing badly, we inquired why we had to do what the rest of the state was doing and heard, "No, no, we're all in this together. What we do for one, we do for all, stay in this together." He felt we were not doing that now and we were being singled out. Cage felt it was important to focus on how unfair this was. He stated the Violent Crimes Suppression Unit had been effective, as well as the Drug Task Force, and felt that due to the economic downturn, there had been a definite rise in crime with five homicides in the County already this year.

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

Davis wanted to recognize all departments but especially Warden Massingill and the Detention Center staff for working with the State. The same kudos for Jennifer and the Office of Emergency Management. The State had recently sent to Emergency Management the PPE for the schools. Davis stated the process for prioritizing the CARES Fund allocation still had not been published. He noted the unemployment rate for NM had been 7.5%, but Eddy County had been much lower than that. He stated consumer spending for the state had been down about 9% but Eddy County had been down about 2% compared to January. He felt activity would continue to ramp back up. Small business revenue had been disappointing, having dropped 30% since January. The number of businesses open had dropped substantially, 25%, since January.

17. COUNTY COMMISSIONERS' COMMENTS/ANNOUNCEMENTS/UPDATES:

Crockett had had a meeting with the Mayor on ways to help small businesses. A campaign of "Shop Local" had been considered. She and Davis had been collaborating to try to figure out the numbers associated with the COVID testing, with different places doing the testing and trying to figure out where their tests were being sent, if they were getting to the State and coming back as numbers. A replacement for the Mainstreet Director position would be announced soon. McCutcheon advised that Henry's absence had been due to his wife's grandfather passing and attending the funeral. He recognized Don Kidd for all the good things he had done for the City of Carlsbad and New Mexico, and his service. He congratulated Jerry's 83-year-old dad on having killed an antelope. He appreciated all for keeping their heads up during these odd times. He was interested in getting the kids back in school and making sure the cure was not worse than the disease. Carlson stated as a community, we were disappointed in some of the rulings that came down from the Supreme Court and the State of NM. It appeared politicized. He had a concern that the State government had been cashing some political checks and creating some mental and health issues that the State of NM could not cash. He felt the County was experiencing some of those problems now with the rise in homicides, etc. He felt we needed to be proactive in getting businesses and people back to work.

18. 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 (7), which authorizes the Board of County Commissioners to go into executive session to discuss:

a. THREATENED OR PENDING LITIGATION:

i. FEMA UPDATE – ROBERTA SMITH.

At 9:38 a.m., Crockett moved, seconded by McCutcheon, to go into executive session, returning at 10:00 a.m. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

19. RE-OPEN MEETING: At 10:00 a.m. Crockett moved, seconded by Wood, to come back into open session and certified the only matter discussed was threatened or pending litigation – FEMA update. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

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

a. THREATENED OR PENDING LITIGATION:

i. FEMA UPDATE – ROBERTA SMITH. No action taken

21. *ADJOURN: At 10:02 a.m. Crockett moved, seconded by Wood, to adjourn the meeting. Voting yes: Carlson, Wood, Crockett and McCutcheon. Passed 4-0.

****Asterisk denotes vote is required.***

COMMISSION CHAIR, ERNEST CARLSON

ATTEST:

COUNTY CLERK, ROBIN VAN NATTA

DATE