

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
JANUARY 28, 2020**

Be it remembered that the Eddy County Board of Commissioners held a regular meeting in the Eddy County Administration Complex-Room 211 on January 28, 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. Henry gave the invocation.

PRESENT:

ERNEST CARLSON	CHAIR, DISTRICT 1
STEVE MCCUTCHEON	VICE-CHAIR, DISTRICT 4
JON HENRY	COMMISSIONER, DISTRICT 2
LARRY WOOD	COMMISSIONER, DISTRICT 3
ALLEN DAVIS	COUNTY MANAGER
WESLEY HOOPER	ADMIN/COMM SRVCS DIRECTOR
CAS TABOR	COUNTY ATTORNEY
DARLENE ROSPRIM	CHIEF DEPUTY CLERK
RONDA NELSON	DEPUTY CLERK
MARK CAGE	SHERIFF
KIM BALLARD	SHERIFF ADMIN ASSISTANT
LAURIE PRUITT	TREASURER
CAROLYN STROBLE	CHIEF DEPUTY TREASURER
GEMMA FERGUSON	COUNTY ASSESSOR
MELISSA WASHBURN	CHIEF DEPUTY ASSESSOR
BILLY MASSINGILL	WARDEN
GAY WEST	EXECUTIVE ADMIN ASSISTANT
ROBERTA SMITH	FINANCE DIRECTOR
CAROL HENNINGTON	INFORMATION SYSTEMS DIRECTOR
ROSIE MUNOZ	IT DEPT
KEN KEMP	IT DEPT
ROXANN BRANNON	HR DIRECTOR
JERRY FANNING	PUBLIC & GOVT AFFAIRS DIRECTOR
JERI STRONG	PIO/O&G LIASON
STEVE MCCROSKEY	COUNTY PLANNER
VERONICA PARRAS	HEALTH CARE ADMIN
BRIAN STEPHENS	FACILITIES DIRECTOR
JASON BURNS	PUBLIC WORKS MANAGER
JOSHUA MACK	FIRE SRVC DIR/FIRE MARSHALL
JENNIFER ARMENDARIZ	EMERGENCY MANAGER
MIKE SMITH	CARLSBAD CURRENT ARGUS
STEPHANIE YBABEN	RED ROCKET MEDIA

ABSENT:

SUSAN CROCKETT	COMMISSIONER, DISTRICT 5
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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):** Rick Wiedemann thanked the Commission for allowing the Search and Rescue Team to set up shop in the County property located at 5307 Buena Vista. The Team had cleaned up the property, the grounds and building, taking care of maintenance issues. A library of training materials had been established along with secure storage for the Team's radios and electronic equipment. The Team had no knowledge that the building would be sold. They felt their work was not valued or appreciated. He felt the best use of that property and best benefit for the citizens of Eddy County would be to allow Search and Rescue to remain in the building. He respectfully requested the Commission to vote "no" on approving the sale of the property.

Dorie Donovan reminded all that Eddy County was fortunate to have the high level of Search and Rescue available to its citizens. The Team was well organized, spending hundreds of volunteer hours and thousands of their own money training the dogs and the Team. Over 80 people had been helped by the Team's services which were provided for free to the citizens of Eddy County. The Team had dogs trained to the level of those in the movie, "Super Power Dogs." She, along with Dr. Lark, had over 20 years' experience training dogs for Search and Rescue. The Team provided a unique asset to be valued by the County.

Kim Lark stated she had always been at the beck and call by any Sheriff, Police Department and State Attorney General. She volunteered all of her time. Lark stated if the goal was to get her to leave Eddy County they were doing a good job.

John Green inquired why the building was being sold if the County was in such an austere situation with all of the revenue and monies coming into the County. He felt it was best to have the services of fire departments and not need them, rather than to need them and not have them. He felt the same was with Search and Rescue. He reminded all of the Cold Cases the Team and their dogs had helped to solve. He referred to \$300K of County funds spent to remove a snake-infested rubble pile and a closed-containment center after that had not materialize. The County now had access to a recently purchased live-find, cadaver-find, avalanche-find rescue dog. Green felt they provided

a valuable service to the Citizens at no real cost. He urged the Commission to reconsider their decision to sell the property. William McCormack felt selling the Search and Rescue building made no sense. He noted the Happy Valley Fire Station was \$2M and felt it made no sense to sell the Search and Rescue building for the appraised value, far less than HV Station 1. His question of “Why” was still unanswered. The County would essentially not benefit from the sale. He asked the Commission to reconsider and not sell the property because it had no value for the County. It did have the value for the citizens of Eddy County, for a single purpose, for Search and Rescue, such as each of the 11 fire departments and the Sheriff’s. He requested the Commission not sell the building because it did bring purpose to the County.

2. SERVICE AWARDS.

- a. **LEXI KESSLER, ASSESSOR OFFICE – 15 YEARS:**
McCutcheon presented a service award to Kessler for her service to Eddy County.

Short break for pictures.

3. BID AWARD:

- a. **IFB 19-05; CATTLE GUARD MATERIALS, CONSTRUCTION AND MAINTENANCE – ROBERTA SMITH:** Smith stated bids were received from D2D Industries and Hasse Contracting Co. The recommendation was to award to both bidders as D2D had only bid on three of the items and Hasse bid on 11 items. D2D was the lowest bid and Hasse bid on other items completing the request. Burns stated it would allow options to work with scheduling, etc. Wood moved, seconded by Henry, to award IFB 19-05, as recommended. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. IFB 19-05 was recorded as Timed Agenda Exhibit 3.a.

TRAILING AGENDA:

1. APPROVE:

- a. **COMMISSION MEETING MINUTES FOR JANUARY 7, 2020:**
McCutcheon moved, seconded by Wood to approve the Commission Meeting Minutes for January 7, 2020. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.
- b. **EXPENSE APPROVAL REPORT FOR DECEMBER 2019:**
McCutcheon moved, seconded by Henry to approve the Expense Report for December 2019. Voting yes: McCutcheon, Carlson,

Henry and Wood. Passed 4-0. The Expense Report for December, 2019 was recorded as Exhibit 1.b.

c. PURCHASE CARD APPROVAL LIST FOR DECEMBER 2019:

Henry moved, seconded by McCutcheon to approve the Purchase List for December 2019. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. The Purchase Card List for December 2019 was recorded as Exhibit 1.c.

2. TREASURER'S REPORT FOR DECEMBER 2019 – LAURIE PRUITT: This was an FYI item. The December 2019 Treasurer's Report was recorded as Exhibit 2.

3. FY 2019-2020 2ND QUARTER LODGER'S TAX REPORT – ROBERTA SMITH: Smith stated the account had started with a cash balance of \$235K for this FY and was at \$287K currently. Following up on previous questions, Smith stated American Airlines' agreement with the County had expired in 2018. American had stated the flights were doing well and had been meeting their quota since then. DFA confirmed the funds could be used on capital purchasing but must be government-owned or a tourist-related attraction. Carlson requested notices be sent to the county nonprofits informing them of the availability of funds for advertising events. It was the belief, based on an NMAC citation, that unspent funds would not revert back to the State after two years, but it was advised to consult legal counsel on the issue. Tabor stated it was not clear what would happen to unspent funds but advised the county to spend the money. Tabor stated a marketing individual had previously been paid to advertise the County. Hooper stated a marketing firm was approved in a previous Lodger's meeting but a contract had never been received by the marketing group. He stated invoices had been received for online advertising but he was unable to pay the invoices without a contract from the company. He was following up monthly but noted the project had changed hands five or six times. McCutcheon inquired if the "Welcome to Eddy County" billboards would qualify for funding from the Lodgers' Tax and Smith answered they would. Carlson added he would like to see "Another Project by Eddy County" signs promoting improvements made to roads, much like NMDOT project signs. Henry moved, seconded by McCutcheon to approve the FY 2019-2020 2nd Quarter Lodger's Tax Report. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. The 2019-2020 2nd Quarter Lodger's Tax Report was recorded as Exhibit 3.

4. DECEMBER 2019 REVENUE REPORT – ROBERTA SMITH: Smith stated Gross Receipts were \$1.7M, and Oil & Gas Production and Equipment was \$7.3M for December. She stated it was significantly higher than amounts previously received. As of December, 2019 \$10.2M in Gross Receipts had been collected & \$18.8M from Oil & Gas Production.. Henry moved, seconded by McCutcheon to approve the December 2019 Revenue Report.

Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. The December 2019 Revenue Report was recorded as Exhibit 4.

5. **BUDGET VS ACTUAL – DECEMBER 2019 – ROBERTA SMITH:** County-wide revenue collected was at 82.8%; expenses were 44%. Most departments were under what was budgeted. McCutcheon moved, seconded by Henry to approve the Budget vs. Actual December 2019 Report. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. The December 2019 Budget vs. Actual Report was recorded as Exhibit 5.
6. **FY 2019-2020 MID-YEAR FINANCIAL REVIEW – ROBERTA SMITH:** See attached information attached as Exhibit 6.
7. **APPROVE/DISAPPROVE THREE (3) INDIGENT BURIALS – VERONICA PARRAS:** McCutcheon moved, seconded by Henry to approve three indigent burials. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.
8. **RECLASSIFY EXISTING FISCAL OFFICER TO ACCOUNTING TECH – JASON BURNS:** Burns stated the reclassification would save the County \$21,716.98 annually. The position would be in line with the duties assigned to the employee. Henry moved, seconded by Wood to approve the reclassification of Fiscal Officer to Accounting Tech. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.
9. **BUDGET ADJUSTMENT FOR STATE GRANT AGREEMENT A-19-108 CAP – 26TH STREET – JASON BURNS:** Burns had presented the agreement for approval in the past. Instructions to him were to wait and see if any additional grant funds would be awarded. He stated none had been awarded. The budget adjustment was for the revenue amount that was previously unknown. Improvements would be made from the highway into the Artesia city limits on 26th Street. Henry moved, seconded by McCutcheon to approve the budget adjustment for State Grant Agreement A-19-108 CAP – 26th Street. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.
10. **ATOKA BUDGET ADJUSTMENT – JOSHUA MACK:** Mack stated the Atoka VFD requested the adjustment of \$65K with their roll-over Fire Excise fund to obtain a special response vehicle. This would allow them to get pricing and the order placed before the end of the fiscal year. The one-ton truck with camper utility bed and tool boxes would carry technical rescue and fire suppression equipment allowing quick and first-on-scene response. Henry moved, seconded by Wood to approve the Atoka Fire Department budget adjustment for the purchases of light trucks totaling \$65K. McCutcheon would not approve the purchase if it included leather seats in

the vehicle. Voting yes: Carlson, Henry and Wood. Voting no: McCutcheon. Passed 3-1.

11. COTTONWOOD BUDGET ADJUSTMENT – JOSHUA MACK: Mack stated Cottonwood was requesting the same vehicle as the Atoka request combining the two orders to save funds. The adjustment for the light truck totaling \$20K and other assets totaling \$40K was to come from fire excise cash balance. Wood moved, seconded by Henry to approve the Cottonwood Fire Department budget adjustment. Voting yes: Carlson, Henry and Wood. Voting no: McCutcheon. Passed 3-1.

12. OTIS VOLUNTEER FIRE DEPARTMENT – PIERCE 4000-GALLON TANKER – JOSHUA MACK: The current tanker was a 24-year-old water truck with nearly 250K miles. Malaga had also requested to replace their 2K gallon tanker with maintenance issues. Mack stated this was a combined project to cut expenses. Revenue sources were 60% Fire Excise funds and Otis' Fire Excise cash and Malaga's Fire cash balance. Mack stated the total price of both trucks was \$1,020,700.50. The funds were available but had not been budgeted. He noted a possible impending price increase and requested approval today. McCutcheon moved, seconded by Henry to approve the purchase of the 4000-gallon tanker. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.

13. REQUEST TO CHANGE DATE OF THE FEBRUARY 4, 2020 COMMISSION MEETING TO THURSDAY, FEBRUARY 6, 2020 – ALLEN DAVIS: Davis stated the Bat Brigade would not be back from Santa Fe on the 4th and requested to change the meeting to allow them to attend. Henry moved, seconded by McCutcheon to approve moving the scheduled commission meeting from February 4 to February 6, 2020 at 8:30 a.m. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.

McCutcheon moved, seconded by Henry to approve R-20-11, changing the regular meeting date from February 4, 2020 to February 6, 2020. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. R-20-11 was recorded as Exhibit 13.

14. 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-20-07; DISPOSAL, REMOVAL, OR REVISE ITEMS IN THE EDDY COUNTY INVENTORY/ASSETS – JESSICA STYGAR.
- ii. R-20-08; INDIGENT MEDICAL/HOSPITAL CLAIMS REPORT – VERONICA PARRAS.
- iii. R-20-09; FY 2019-2020 DFA 2ND QUARTERLY REPORT – ROBERTA SMITH.
- iv. R-20-10; APPROVE FY 2020-2021 BUDGET PREPARATION METHODOLOGY PROCESS – ROBERTA SMITH.
- v. R-20-12; SUPPORTING CERTAIN AMENDMENTS TO THE LODGERS’ TAX LAW – ALLEN DAVIS.

b. AGREEMENTS:

- i. A-20-03; CIVIC HR SUBSCRIPTION TERMS OF USE – ROXANN BRANNON.
- ii. A-20-04; PDS MAINTENANCE/SUPPORT AGREEMENT – CONTRACT NUMBER 2979 – ROXANN BRANNON.
- iii. A-20-06; PROFESSIONAL SERVICES AGREEMENT WITH KING INDUSTRIES – JASON BURNS.
- iv. A-20-07; ENTER INTO AGREEMENT WITH OPTOMEN PRODUCTION TO ALLOW THEM TO PRODUCE A DOCUMENTARY ON OUR ASU PROGRAM AT THE EDDY COUNTY DETENTION CENTER – WARDEN BILLY MASSINGILL.

McCutcheon moved, seconded by Henry to approve the Resolution/Agreement Consent Agenda. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0. R-20-07 through R-20-10 and R-20-12 were recorded as Exhibit 14.a.i. – v. A-20-03, A-20-04, A-20-06 and A-20-07 were recorded as Exhibit 14.b.i. – iv.

15. DEPARTMENT UPDATES: Burns updated the Commission on the Road Tracker issues; 15 of the 19 concerns had been addressed. He reviewed progress made and scheduled improvements on County roads. Smith presented a “Most Improved Audit 2018” award received at the NMC Conference. She congratulated and thanked the departments for responding and following their requests. Cage thanked those attending the NM Legislative Conference and reception. The annual conference would be in Las Cruces. He introduced the governor and elected officials at the general conference. He requested the Commission consider PVDTF and their aging facility that had mold and multiple issues when considering use of the surplus County funds. He stated it was definitely a necessity. The SO would be fully staffed next week. Stephens stated sewer lines that had erupted at the Court House had since been repaired. He felt the lines were undersized

for the capacity of the Court House. He noted that Fire Services was getting a roof coating and scuppers to divert excess water.

16. 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:

- a. **ALFREDO GUEVARA ATTENDED SWAT TEAM LEADER TRAINING IN PHOENIX, AZ FROM JANUARY 12 THRU JANUARY 17, 2020.**
- b. **RICHARD BURKS ATTENDED FIRE DEPARTMENT SAFETY OFFICER ASSOCIATION IN SCOTTSDALE, AZ FROM JANUARY 12 THRU JANUARY 18, 2020.**
- c. **CHRISTOPHER CHAVARRIA, DAVID HARKNESS, TRAVIS OLBERT, AND WILL WYATT ATTENDED FINAL INSPECTION ON QUEEN VFD'S SKEETERS IN DALLAS, TX FROM JANUARY 14 THRU JANUARY 16, 2020.**
- d. **JAMES B. MOORE ATTENDED SHOT SHOW IN LAS VEGAS, NV FROM JANUARY 19 THRU JANUARY 25, 2020.**
- e. **COMMISSIONER SUSAN CROCKETT ATTENDED ECA MEETING IN WASHINGTON, DC FROM JANUARY 28 THRU FEBRUARY 1, 2020.**

FUTURE:

- f. **JERI STRONG TO ATTEND ENERGY & ENVIRONMENT SYMPOSIUM IN RIFLE, CO FROM APRIL 14 THRU APRIL 17, 2020.**
- g. **RIKKA YTURRALDE TO ATTEND REGIONAL TRAINING ACADEMY FOR EMERGENCY REPORTING IN AUSTIN, TX FROM JULY 6 THRU JULY 10, 2020.**

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

17. EMERGENCY BUSINESS: None.

18. LEGISLATIVE UPDATE: Fanning stated 260 House bills and 182 Senate totaling 442 bills had been submitted before the Legislature thus far. The Lodgers' Tax bill had been referred to Committee. He felt the bill looked favorable. The County Tax Road Credit HB104 had been referred to committee but not scheduled. Of interest was HB160, the Cannabis Bill. He

thanked Cage for this informative presentation on the subject. He noted that officials from Washington and Colorado, states that had enacted recreational marijuana, had agreed that they gotten their cart way ahead of the horse. He noted it was a highly-regulated industry with issues coming back to the local level if this type of legislation were enacted. It would put a great burden on the County and the local communities. Senate Bill 5, the Red Flag Bill, would be burdensome on the County. Cage added there was no input being paid attention to in our legislature by the highest-ranking law enforcement officials in the state regarding the Red Flag Bill. He noted that only three of the state's thirty-three sheriffs were not opposed to the bill with the majority being vehemently opposed to the bill. It would violate civil rights with due process being ignored. Public safety was the priority and was protected. He noted the ACLU was against the Red Flag law. Fanning felt other counties were in support of Eddy County and were cognizant of the issues presented to Eddy County. Cage reminded the PERA reform bill with any increase of contributions by counties was opposed by NMAC.

19. LEGISLATORS AND ELECTED OFFICIALS' COMMENTS, ANNOUNCEMENTS, UPDATES: None.

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

Davis felt having all the Commissioners in Santa Fe had sent a united message and felt Eddy County had been well represented, making good headway with the legislators and the Governor. He had had a positive discussion with the Governor and a meeting with NM Secretary of Transportation, working on partnerships with the State, local government and industry. He presented an artist's rendition of "Eddy the Horse" drawn by A-10, Etienne Etcheverry. "Eddy" pulled a wagonful of money to Santa Fe with a few dollars falling out of the back of the wagon. He felt using the drawing as a message could be useful presenting Eddy County's issues.

21. COUNTY COMMISSIONERS' COMMENTS, ANNOUNCEMENTS, UPDATES:

McCutcheon thanked all who had attended the Legislative Session. He felt the County had a few more friends in Santa Fe when they left. He felt if we didn't "feed the horse," we would not have a horse. He noted that 34% of the State Land Office revenue came from Eddy County which went to support the schools in the State. Carlsson stated a joint effort with Lea County was essential. Wood congratulated Smith on the audit award. He felt all should keep an eye on PERA issues. Henry referenced the State of the State, hearing it as a commercial with free, free, free everything with no acknowledgement to the oil and gas industry for the revenue, it being the biggest industry contributing to the State. He noted the State gave huge tax credits to the movie making industry but were not in favor of tax credits involving roads and public safety. He felt other counties were recognizing the contributions of Eddy County. Henry felt the minimum wage increase would be hurtful to those on fixed incomes and small

businesses. He felt the marijuana bill would not bring funds to the County and would bring more harm than help for Eddy County citizens. He wondered if the resolutions should be brought back to be voted on, the marijuana, voter registration and possible gun resolution. Carlson thanked the Commission for going as a group to Santa Fe. He noted \$714M went to roads in NM last year and \$346M in tax credits and incentives went to the movie industry. He did care about the roads in Eddy County and did not care if a movie was made in the state. He noted from 2012 to 2018, \$6.4B was sent to the State by Eddy County and the oil and gas industry. This did not include funds sent by the potash industry, nuclear or agricultural industry. He was ready to go back to Santa Fe and meet up with the Governor.

22. 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(8), which authorizes the Board of County Commissioners to go into Executive Session to discuss:

a. REAL PROPERTY

i. SEALED BIDS FOR PROPERTY LOCATED ON 5307 BUENA VISTA – ROBERTA SMITH.

At 10:50 a.m., McCutcheon moved, seconded by Henry to go into Executive Session to discuss items previously stated and to return at 11:10 a.m. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.

23. RE-OPEN MEETING: At 11:20 a.m., McCutcheon moved, seconded by Henry to re-open the meeting and certified the only topic discussed was real property. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.

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

a. REAL PROPERTY

i. SEALED BIDS FOR PROPERTY LOCATED ON 5307 BUENA VISTA – ROBERTA SMITH.

No action taken.

25. ADJOURN: At 11:21 a.m., McCutcheon moved, seconded by Henry to adjourn the meeting. Voting yes: McCutcheon, Carlson, Henry and Wood. Passed 4-0.

EDDY COUNTY COMMISSION CHAIR:

ATTEST:

COUNTY CLERK

Date: _____