

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
May 5, 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 5, 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. McCutcheon gave the invocation. Carlson requested roll call for those in attendance.

PRESENT:

ERNEST CARLSON	CHAIR, DISTRICT 1 - REMOTE
STEVE MCCUTCHEON	VICE-CHAIR, DIST 4
JON HENRY	CHAIR, DIST 2 - REMOTE
LARRY WOOD	COMMISSIONER, DIST 3 - REMOTE
SUSAN CROCKETT	COMMISSIONER, DIST 5 - REMOTE
ALLEN DAVIS	COUNTY MANAGER
CAS TABOR	COUNTY ATTORNEY - REMOTE
ROBIN VAN NATTA	COUNTY CLERK
RONDA NELSON	DEPUTY CLERK - REMOTE
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.

TRAILING AGENDA:

1. APPROVE:

- *SPECIAL COMMISSION MEETING MINUTES FOR APRIL 22, 2020:** Crockett moved, seconded by McCutcheon, to approve the Special Commission Meeting Minutes for April 22, 2020. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.

- 2. TREASURER'S REPORT FOR MARCH 2020 – LAURIE PRUITT:** This item is FYI only. The March 2020 Treasurer's Report was recorded as Exhibit 2.

- *APRIL 2020 REVENUE REPORT – ROBERTA SMITH:** Smith informed the Commission of the details included in the April 2020 Revenue Report for business activity in February. Gross Receipts revenue was \$1,607,032, which was over the \$1.1M monthly budgeted amount. The year-to-date amount

collected was \$16.8M with the YTD budgeted amount having been \$13.8M. Oil and Gas revenue for April was \$2,696,066 with the monthly budgeted amount having been \$1.5M. The YTD amount was \$20.2M with the budgeted amount having been \$30,200,000. McCutcheon moved, seconded by Henry, to approve the April 2020 Revenue Report. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0. The April 2020 Revenue Report was recorded as Exhibit 3.

4. ***BUDGET VS ACTUAL – MARCH 2020 – ROBERTA SMITH:** Smith noted the County revenue was currently 103%, with a total of \$121.5M having been collected. Expenses were at 56% of the County-wide budget of \$139M, noting that the biggest funds had yet to expense the majority of their budgets, i.e., Road, Landfill, FEMA and Fire Excise funds. General Fund revenue had been collected at \$59.2M, or 107% total collection, and expenses were at 74%. Crockett moved, seconded by McCutcheon to approve the March 2020 Budget vs. Actual Report. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0. The March 2020 Budget vs. Actual Report was recorded as Exhibit 4.

5. ***REFERENCE RESOLUTION R-18-67; REQUEST FROM EMNRD SECRETARY PROBST, MARCH 6, 2020, REQUEST FOR AN ACCELERATION OF THE FY2020 - 2021 SCHEDULED PAYMENT (\$1,340,000) TO BE AUTHORIZED IN THE CURRENT FISCAL YEAR – ALLEN R. DAVIS:** Davis stated a letter had been received from ENMRD asking for acceleration of the County’s scheduled payment for the next fiscal year. This would change it to the end of this fiscal year to allow the brine well project to have sufficient cash flow to access additional State funds and complete the project. He stated the \$1.3M payment had been agreed to in R-18-67; three payments of \$1.34M had been agreed upon. The payment would be moved from next year’s budget into this year’s actual expenditures, and notification would be sent acknowledging the transfer. He noted the City of Carlsbad had recently approved this same resolution, and also had approved an additional \$800K payment that the State had asked for. Davis had not included that additional payment in the authorization and had asked for an accountability of the project before giving an additional \$800K, noting that that information was still pending from the State project manager. Davis stated the funds were needed to finish the project with their timeline having been accelerated, possibly finishing in August. Carlson asked for Davis’ recommendation upon which he recommended the accelerated payment be made as it had already been agreed to. It would be paid in May versus July of this year. He added he still had concern about the additional \$800K, noting \$53M was in the project. There had been scope changes, and gross receipts tax, land acquisition, et al, had not been included in the initial budget. He had requested expenditure accountability on the scope changes. Crockett had no problem making the payment now as opposed to July 1. McCutcheon inquired if the County was “paying ahead” on the project, paying 75% with only 50% of

the work having been completed. Davis felt the answer was “no”, stating they had a cash flow problem now, “an inability to pay the bills”. He had requested accounting to know projected expenses and cumulative expenses but had not received or seen that information yet. McCutcheon stated he also would like to see some accounting on the project. Wood agreed to making the payment a couple of months earlier but agreed with Davis in that there should be accountability. Henry agreed. Carlson inquired if the brine water produced from the cavern had been a sellable commodity, and if so, where the funds had gone. Davis would inquire with the project manager, Griswold, on the outcome of the brine. Crockett moved, seconded by Wood, to approve the payment. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.

6. ***PURCHASE TWO TRAILERS – SHERIFF MARK CAGE:** Cage stated Devon had generously donated two side-by-side vehicles to the SO and these open trailers would accommodate those vehicles. There would be no budget increase. Existing funds would be repurposed. He commended Captain Moore for his frugality on the fleet purchase which allowed funds to be available for this purchase. McCutcheon moved, seconded by Henry, to approve the purchase of two trailers for the Sheriff’s Department. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.
7. ***BUDGET RE-ALLOCATION FOR PUBLIC WORKS LANDFILL EQUIPMENT – JASON C. BURNS:** Henry moved, seconded by McCutcheon to approve the budget re-allocation for public works for landfill equipment. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.
8. ***BUDGET ADJUSTMENT FOR DUARTE ROAD PROJECT – JASON C. BURNS:** Burns stated project plans had been completed and were ready to move forward on Duarte Road. Funds would be moved from Road Construction and from Cattle Guards to Road Maintenance for the project, striving to be finished before the end of the fiscal year. Crockett moved, seconded by McCutcheon to approve the budget adjustment for the Duarte Road Project. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.
9. ***APPROVE/DISAPPROVE ONE (1) INDIGENT BURIAL – VERONICA PARRAS:** Wood moved, seconded by McCutcheon to approve one indigent burial. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.
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-20-37; FTI CONSULTING'S MONTHLY REPORT FOR FEBRUARY 2020 – ALLEN DAVIS.
- ii. R-20-38; FY 2019-2020 DFA 3RD QUARTER REPORT – ROBERTA SMITH.
- iii. R-20-39; FTI CONSULTING'S MONTHLY REPORT FOR MARCH 2020 – ALLEN DAVIS.
- iv. R-20-41; RESOLUTION DESIGNATING POLLING PLACES – REVISED FOR THE JUNE 2, 2020 PRIMARY ELECTION – ROBIN VAN NATTA.
- v. R-20-42; INDIGENT MEDICAL/HOSPITAL CLAIMS REPORT – VERONICA PARRAS.

b. AGREEMENTS:

- i. A-20-36; APPROVE/DISAPPROVE AGREEMENT WITH NEW MEXICO MORTUARY/RIVERSIDE FUNERAL HOME FOR CREMATION SERVICES – VERONICA PARRAS.
- ii. A-20-41; APPLICATION FOR FY21 CDWI FUNDS – CYNTHIA SHARIF.
- iii. A-20-42; MEMORANDUM OF AGREEMENT TO FILE A JOINT APPLICATION FOR FY21 CDWI FUNDS – CYNTHIA SHARIF.
- iv. A-20-43; FY2019-2020 ANNUAL AUDIT SERVICES WITH CARR, RIGGS & INGRAM, LLC – ROBERTA SMITH.
- v. A-20-45; AGREEMENT WITH DONA ANA COUNTY FOR HOUSING OF JUVENILE DETAINEES – WARDEN BILLY MASSINGILL.
- vi. A-20-46; AGREEMENT WITH SANTA FE COUNTY FOR HOUSING OF ADULT DETAINEES – WARDEN BILLY MASSINGILL.
- vii. A-20-47; WASHER EXTRACTOR QUOTE AND SALES SECURITY AGREEMENT – JOSH MACK.

Davis noted that Smith had requested A-20-43 be pulled for discussion. Crockett moved, seconded by McCutcheon, to approve the Resolution/Agreement Consent Agenda, pulling for discussion A-20-43, approving the rest as presented. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.

Smith clarified that the item was in reference to RFP-20-02 not RFP-20-01. Following the discussion, McCutcheon moved, seconded by Wood, to approve A-20-43, noting that it was RFP-20-02. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0. R-20-37 through 39, 41 and 42 were

recorded as Exhibits 10.a.i. – v. respectively. A-20-36, 41 through 43, 45 through 47 were recorded as Exhibits 10.b.i – vii., respectively.

11. DEPARTMENT UPDATES. Burns updated the Commission on progress made on Eddy County road repair and construction. London and Carrasco Roads had been chip-sealed. Burns commended the crews on their hard work and for the jobs well done. Crews were working on Nymeyer and Onsurez Roads. Paving was completed on Black River Village Road with signage and striping in progress. The City of Artesia had approved the MOU, partnering with the County on the North 26th Street project from the Roswell Highway to Richey Street. The project would be awarded in the next two weeks. Hilltop would be finished next week. Armendariz updated the Commission on continued progress on distribution of PPE to hospitals and agencies locally. Orders would be received from dentists, eye doctors and other physician offices as they worked on re-opening. Calls and updates continued with Homeland Security, Artesia Task Force, Department of Health and CMC.

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: None.

13. EMERGENCY BUSINESS: None.

14. LEGISLATIVE UPDATE: None.

15. LEGISLATORS AND ELECTED OFFICIALS' COMMENTS/ANNOUNCEMENTS/UPDATES: Cage thanked Davis for his strong leadership and communication. He stated he had been inundated with questions and requests, and he wanted to clarify that ECSO did not enforce the orders from Santa Fe. The order from Santa Fe was to subordinates and the ECSO was not a subordinate, and the SO was not telling businesses to shut their doors. The SO was committed now more than ever to being very careful with daily exposure to Hepatitis-A, -B, -C, Aids, etc. He noted Lieutenant Mike Garcia had retired. His department was down four employees at this time.

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

Davis stated a lot of work had been going on behind the scenes. Stephens' department had help set up polls for early voting that had begun today in Artesia and Carlsbad. He noted Plexiglas and all the protections required by the State had been provided. He updated the virus statistics in Eddy County. There had been 13 positive cases reported and felt the curve might peak at less than 20. He attributed that relatively-flat figure to the citizens and businesses of Eddy County being vigilant. He had combined five counties in SENM and totaled the population at just under 300K or 15% of the State population. The five counties had about 6% of the testing that had occurred and showed a positive rate of well under 2% of the positive tests within the State. He noted some businesses had been allowed to move forward and open, and many were still closed. The County was open with business continuing on all fronts. He thanked the County employees for working day-in and day-out to deliver the services County citizens needed and expected. Property taxes due-date would be Sunday, May 10; however, second-half payments made on Monday, May 11 would be accepted as "on time".

17. COUNTY COMMISSIONERS' COMMENTS/ANNOUNCEMENTS/UPDATES:

Crockett echoed Cage's comments and thanked the County leaders and employees noting that because of us, the County constituents felt comfortable asking questions. She also thanked the mayors of Carlsbad, Loving and Artesia and their administrative staffs for doing a fantastic job. McCutcheon echoed the comments and appreciated the leadership and felt we were in good hands top to bottom in Eddy County. He agreed with a sign he had seen posted by some kids that said, "Everything is gonna be OK." He implored all to not let our hearts fail us, to stand up with faith and face the day and everything would be okay. He noted in history countries had lost their freedom under the guise of "protection." He advised all to be their own protector, tending to their own business and sustaining their selves; all would come out different but better and stronger, and to not weaken. Wood agreed with McCutcheon. He had received compliments on County employees when he had been in public. He thanked the County employees for showing up to work each day, and thanked the Manager for the updates. Henry echoed all the comments. He appreciated all the changes the Clerks, Assessors and Treasurers had made and continued to stay open and serve the people. Carlson echoed all the comments and stated all the County had done an amazing job working together, accomplishing a lot in a very difficult time and he thanked everyone.

18. *EXECUTIVE SESSION: None.

19. *TRANSFER \$6.5 MILLION FROM GENERAL FUND TO ROAD FUND FOR FUTURE PROJECTS AND OPERATIONS – ROBERTA SMITH: Smith recommended the transfer noting the road operations did not have a huge revenue source. This transfer was similar to the brine well, accelerating the

transfer of funds into this fiscal year rather than next fiscal year for future operations for FY2021. Crockett moved, seconded by Henry, to approve the transfer of \$6.5M from the General Fund to the Road Fund for future projects and operations. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.

20. FY 2020-2021 PRELIMINARY BUDGET REVIEW, DISCUSSION AND DIRECTION WORKSHOP #1 – ROBERTA SMITH:

Davis stated he and Smith had met with all the Elected Officials and Department Heads and Directors organizing the initial budget, then stepping back, revising the revenue outlook and reducing expenditures. The interim budget for FY2020-2021 was presented in the agenda packet with the adjustments and changes representing nearly a balanced budget for the next fiscal year. All departments had stepped up recognizing the revenue shortfalls and had agreed to the adjustments to be able to continue County services at current levels. There were only a couple job adds. He stated that should things change from a revenue standpoint at the end of this calendar year, some of the proposals and items pulled back could be revisited and adjustments made. He felt the presentation was an acceptable budget that was reasonably balanced and allowed accomplishments from an infrastructure standpoint. He was pleased that crude oil futures were trading at \$24 this day. Davis then explained that the TDS connections had failed, rendering the meeting's communications choppy and stated a secondary circuit was currently running, noting there would be a short pause in the meeting communications. Smith presented and explained the FY 2020-2021 Interim Budget Approval Highlights. She recapped the County revenue projections in January and budget roll-out to Department Heads in February, requesting their needs/wants to move forward with a robust budget. March review brought a \$38M deficit for General Fund. The original budget had contained a 5% COLA with step increases and a market increase on personnel. Upon further review and discussion in April, items were scaled back. Oil and Gas revenue had been projected at \$23M but had been scaled back to \$17M, and was now sitting at \$14.8M for Oil & Gas revenue. Expenses had also been adjusted; COLA and step increases had been removed. The market increases and SO incentive pay remained. A County-wide total budget to be approved would be \$123M. The Personnel Budget was 30%, \$37.1M. Total Capital for the County was \$16.3M. The General Fund had \$1.2M with the majority going to the SO for vehicles. She noted it was felt there was no need to take out a lot of Capital for the SO and Public Works, as the Commission priorities were public safety and county roads. The General Fund had a balanced budget of \$59,801,769 with O&G revenue scaled back to \$4.8M and Gross Receipts scaled back to \$13.3M, leaving Property Taxes at \$14.5M. Recapping, Smith stated Personnel Budget was 51% of the General Fund, Capital \$1.2M majority was in the SO, with ECDC getting vehicles, OEM and Fire Service also receiving Capital. There was a slight increase for PERA and an increase for insurance up 5%. Three positions had been removed. Department Head

and Elected Officials had requested 43 positions, but were scaled back to six positions, two being in General Fund, one in Road Department and three in landfill. The three positions from General Fund were removed. The Engineer position had been frozen as it had not been used, and one position in the Road Department had been frozen. Crockett thanked Davis and Smith for allowing them to ask questions regarding the changes. She complimented Smith and her department for putting together a great budget. McCutcheon also thanked Davis and Smith for putting together a balanced budget. He felt Davis had a good budget for the first six months at \$25 oil, \$37 for three months after that. Davis corrected stating the County was staying flat for six months and then \$37.50 for the next six months. McCutcheon felt the budget looked frugal enough to weather any storm and he appreciated the balanced budget. Henry echoed their comments and appreciated the department heads sacrificing to make sure others had their needs met, and he appreciated their leadership. Carlson liked the collaborative effort between department heads and elected officials to make the available monies work. He reminded all that a budget was just a roadmap that needed to be revisited from time to time as the outside financial environment changed. He felt it was better to be conservative than to have to take away monies from departments. He noted that all big business did that and that the County was big business.

21. *FY 2020-2021 INTERIM BUDGET APPROVAL – ROBERTA SMITH:

Crockett moved, seconded by McCutcheon, to approve the FY2020-2021 Interim Budget. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.

22. *ADJOURN: At 9:46 a.m., McCutcheon moved, seconded by Henry, to adjourn the meeting. Voting yes: McCutcheon, Carlson, Henry, Wood and Crockett. Passed 5-0.

***ASTERISKS DENOTES VOTE REQUIRED**

COMMISSION CHAIR, ERNEST CARLSON

ATTEST:

COUNTY CLERK, ROBIN VAN NATTA

DATE