

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
JUNE 1, 2021**

Be it remembered that the Eddy County Board of Commissioners held a regular meeting in the Eddy County Administration Complex-Room 211 on June 1, 2021 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. Mack gave the invocation.

PRESENT:

STEVE MCCUTCHEON	CHAIR, DISTRICT 4
FRED BEARD	VICE-CHAIR, DISTRICT 3
ERNEST CARLSON	COMMISSIONER, DISTRICT 1
JON HENRY	COMMISSIONER, DISTRICT 2
SARAH CORDOVA	COMMISSIONER, DISTRICT 5
ALLEN DAVIS	COUNTY MANAGER
CAS TABOR	COUNTY ATTORNEY
CARA COOKE	CHIEF DEPUTY CLERK
MARK CAGE	SHERIFF
KIM BALLARD	SHERIFF ADMIN ASSISTANT
LAURIE PRUITT	TREASURER
CAROLYN STROBLE	CHIEF DEPUTY TREASURER
ROBERTA SMITH	FINANCE DIRECTOR
ANISIA CERNA	PROCUREMENT MANAGER
BILLY MASSINGILL	DETENTION WARDEN
TERRA DOUGAN	ADMINISTRATIVE ASSISTANT
ROXANN BRANNON	HR DIRECTOR
JERRY FANNING	PUBLIC GOVT AFFAIRS DIRECTOR
CAROL HENNINGTON	INFO SYSTEMS DIR
ANDREW MEDRANO	INFO SYSTEMS
KEN KEMP	INFO SYSTEMS
JERI STRONG	PIO/O&G LIAISON
JERRY FANNING	PUBLIC & GOVT AFFAIRS DIRECTOR
JASON BURNS	PUBLIC WORKS DIRECTOR
JOSHUA MACK	FIRE SERVICE DIRECTOR/MARSHAL
BETSY BRADSHAW	ADMIN ASST FIRE SERVICES
BRIAN STEPHENS	M&O SUPERVISOR
CYNTHIA SHARIF	DWI COORDINATOR
STEPHANIE YBABEN	RED ROCKET MEDIA

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):** None.
- 2. IFB/RFP/BID AWARDS:**
 - a. *RFP 21-04 DETENTION CENTER MEAL AWARDS – TRINITY GROUP SERVICES AND SUMMIT – ANISIA CERNA.**

Cerna stated two proposals had been received. Staff recommended that the RFP be awarded to Trinity Group Services. Beard moved, seconded by Carlson, to approve RFP 21-04 awarding as recommended. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. RFP 21-04 was recorded as Timed Exhibit 2.a.

TRAILING AGENDA:

- 1. APPROVE:**
 - a. *COMMISSION MEETING MINUTES FOR MAY 18, 2021.** Cordova moved, seconded by Henry, to approve the May 18, 2021 Commission Meeting Minutes. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.
- 2. TREASURER’S REPORT FOR APRIL 2021 – LAURIE PRUITT.** This was for information only. The April 2021 Treasurer’s Report was recorded as Exhibit 2.
- 3. *DISCUSSION AND APPROVAL OF A-21-87; MOA BETWEEN EDDY COUNTY, THE CITY OF CARLSBAD, AND NMEMNRD FOR THE COUNTY’S CONTRIBUTION TO THE FINAL PHASE OF THE BRINE WELL REMEDIATION – ALLEN DAVIS.** Davis stated several media meetings had been held with Secretary Probst and staff discussed what had been done, what remained to be done, monies committed to date and those funds that had been expended. He stated it had been emphasized that there would be no more. He recommended approving the agreement, which was principally about the money. The State needed the City’s and the County’s commitment to the funds before being able to fulfill HB2, supplying the other \$15M that would make \$18M to finish the project. He stated it was felt that the initial grounding took care of the south part and subsequent pumping of sand had filtrated into the bulking factor at the bottom. The remaining volume should get close to the roof, allowing it to collapse and finish the seal. The principal concern for catastrophic failure of the cavern had passed; this would finalize the sealing and protect the ground water above it from migrating into the surface water. Davis was reasonably comfortable that this should be the last

of it. The biggest expense would be trucking and disposal of 300K barrels of displaced water. He noted there had been \$40M expended to date with the estimate of over \$17M remaining to finish. He added if the City and County were not committed for the local contribution, the earmarked State monies would be at risk. Davis stated the funds had been budgeted. Beard noted that the State had permitted this and OCD had funds that should be used for a project such as this. Davis added that the County had previously made two annual payments, accelerating one and thought this would be the fourth. McCutcheon stated the County made three at \$1.3M per year and made \$1M or \$1.5M last year and now were making another \$1.5M totaling \$12M in contributions made. Carlson inquired how the displaced brine water had been disposed of and inquired if it had been sold leaving an offset. Davis was not aware of that, stating it had been nine-pound brine and felt it had been disposed of at a local disposal and had not been sold as oilfield brine to his knowledge. Davis explained the overall weight of the over-burden that was not supported would eventually crumble and fall. Maintenance cost of monitoring continued pressure would potentially be in excess of the remediation cost. Carlson inquired once the County had spent this \$1.5M, would the County be done? Davis stated it was attempted to incorporate that into the agreement and the contract. He noted the Governor had stated there were no more State monies after this. Beard felt if the canal developed a leak due to settlement in the area, it would be a real problem. McCutcheon noted that the initial cost estimate was \$47M with \$54M coming from the City and the County, but now another \$17M was being asked for bringing the actual project amount to \$71M, or 151 percent higher than the original estimate. Davis noted the City and County each had spent \$7.5M. Henry stated at some point, the County would have to mean it when it said this would be the last time. Beard added that the oil companies could have hauled the cuttings from drilling wells and put them in the underground cavity, charging them for that instead of charging for putting them in the landfill. McCutcheon stated this was it, done and done, and this was it for the Wood Group, who had milked everything they could. McCutcheon thanked Secretary Sandoval. Carlson moved, seconded by Beard, to approve A-21-87. Voting yes: McCutcheon, Beard, Carlson, Cordova a Henry. Passed 5-0. A-21-87 was recorded as Exhibit 3.

4. ***NOAH'S ARK ANIMAL REFUGE, INC. SPAY/NEUTER ASSISTANCE PROGRAM IMPLEMENTATION PLAN – ALLEN DAVIS.** The plan had been provided for review prior for the Service Agreement. Davis recommended approving the plan. Cordova moved, seconded by Beard, to approve Noah's Ark Animal Refuge, Inc. Spay/Neuter Assistance Program Implementation Plan. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. Noah's Ark Implementation Plan was recorded as Exhibit 4.
5. ***ACCEPTANCE OF AMERICAN RESCUE PLAN ACT FUNDS – ROBERTA SMITH.** Smith stated this was part of the State and Local Recoveries

Act for \$362B, of that the County was allotted \$11.3M, based on population in relation to the US population. Funds would come in two payments, one of which had recently been received. The funds would be used to combat the Coronavirus Pandemic. Davis had put a committee together to discuss the use of the funds and the US Treasury had presented guidelines on use of the funds. He felt it was similar to a grant with no expectation of funds being paid back unless they were used inappropriately. Quarterly and annual reporting would take place. If there were questions on the reporting, the County could be subject to having to repay the monies. Davis stated recommendations on how to invest the funds would be brought to the Commission. Smith stated the County would have until 2024 to encumber the funds and expend them by 2026. Davis noted funds could not be used for pension or rainy-day funds but were tied to mostly water, sewer and broadband infrastructure issues and could not be directly applied to roads unless revenue loss could be proven. Carlson moved, seconded by Beard, to accept the American Rescue Plan Act Funds. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. The American Rescue Plan Act Funds Application was recorded as Exhibit 5.

6. ***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-21-55; BOARD OF REGISTRATION APPOINTMENT – DARLENE ROSPRIM.**
- ii. **R-21-57; FTI CONSULTING’S MONTHLY REPORT FOR APRIL 2021 – ALLEN DAVIS.**
- iii. **R-21-58; DISPOSAL, REMOVAL, OR REVISE ITEMS IN THE EDDY COUNTY INVENTORY/ASSETS – JESSICA STYGAR.**

b. **AGREEMENTS:**

- i. **A-21-81; APPROVE PROFESSIONAL SERVICE AGREEMENT WITH ARTESIA GENERAL HOSPITAL FOR HEALTH CARE SERVICES FOR EDDY COUNTY DETENTION CENTER INMATES – VERONICA PARRAS.**
- ii. **A-21-82; APPROVE PROFESSIONAL SERVICE AGREEMENT WITH CARLSBAD MEDICAL CENTER FOR HEALTH CARE SERVICES FOR EDDY COUNTY DETENTION CENTER INMATES – VERONICA PARRAS.**

- iii. **A-21-86; WORK AND FINANCIAL PLAN WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) ANIMAL AND PLANT HEALTH INSPECTION SERVICE WILDLIFE SERVICES (APHIS-WS) FOR JULY 1, 2021 THROUGH JUNE 30, 2022 – ALLEN DAVIS.**
- iv. **A-21-88; DWI GRANT AGREEMENT – CYNTHIA SHARIF.**
- v. **A-21-89; MEMORANDUM OF UNDERSTANDING PARTNERING WITH CITY OF CARLSBAD FOR WEST LOOP PROJECT – JASON BURNS.**

McCutcheon requested A-21-89 be pulled for discussion. Henry moved, seconded by Beard, to approve the Resolution and Agreement Consent Agenda, as presented, pulling 6.b.v. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. R-21-55, R-21-57 and R-21-58 were recorded as Exhibits 6.a.i – 6.a.iii, respectively. A-21-81, A-21-82, A-21-86, and A-21-88 were recorded as Exhibits 6.b.i – 6.b.iv, respectively.

Burns stated the project was being attacked from both ends. The major design was drainage structures with an engineer working on the south tie-in from Commerce to Hidalgo Roads, and an engineer was working from the north tying in from the Happy Valley Loop across to Lea Street. Procurement would be ready after the beginning of the FY, breaking ground in August. Fence building through rights-of-way would begin from Lea Street heading south. McCutcheon inquired if the City's \$1M commitment was the MOU. Burns replied the City had been supportive of the project and had agreed to pay up to \$1M a year for the portion within City limits. Burns noted two miles was in the City. Burns noted once complete, the City would be responsible for the City portion. Davis stated the rights-of-way had been renewed with the private land owners and discussion was ongoing with BLM on their portion of the right-of-way. Burns added the conceptual future of the south side of the loop would be to take it south of the airport. Carlson moved, seconded by Cordova, to approve A-21-89. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. A-21-89 was recorded as Exhibit 6.b.v.

7. **DEPARTMENT UPDATES.** Smith informed the Commission that Inventory would take place the week of June 14. The end of the FY was approaching and purchase of non-capital items had been cut off to allow time for barcoding for inventory. The last week for new purchase orders would be next week and the FY would be closed out the end of June. Hooper gave an update on the SE loop and presented a list of milestones for the Commissioners to reference. He felt the road should be open to through-traffic in two weeks with a pilot car. An old gas line was found to be a dead line and would be cut and capped allowing construction to commence. The City waterline would not interfere with construction. Traffic could access Old Refinery Road around the construction. Hooper noted another route had previously been in place allowing local and through-traffic access but the contractor had felt it was

unsafe for the employees and had put a change order in place. The change order had closed the road down, but communication was better now and things were going more smoothly. McCutcheon requested another update on the SE 2.0 milestones. Stephens stated recent rains had put water into some County buildings. In the near future, staff would take care of vegetation growth. He stated the Road Department roof repair had begun last week, with completion possible in 10-15 days, weather depending. Mack stated on June 10 at 10:30 a.m., Permian Basin Road Safety Coalition would be donating equipment. The Guadalupe Fire had been 1,059 acres to date. The Park had been managing the fire. Fire Services would man a booth at the Farmers' and Makers' Market every third Thursday to recruit volunteers. Mack stated sandbags were at the office and sand was available for filling. Burns stated the sandbag machine was part of the County's FEMA purchases. He stated public could pick up sandbags at some point in the future when needed. Davis noted public currently would have to make their own sandbags at the Fire Services. Burns noted the sand and bags were also available at the Atoka Station on 13th Street in the Artesia area.

8. **LEGISLATIVE UPDATES.** Fanning updated the Commission on interim committee meetings. The LFC would meet June 23-25 with an update on oil and gas production and a presentation from the Transportation Department on the status of road projects, SB133, essential air service and HB270, autonomous vehicles. The US Fish and Wildlife Service would begin the process of listing the Lesser Prairie Chicken, looking at two distinct populations. The Northern distinct population encompassed a small NE tip of NM, panhandles of Texas, Oklahoma, Kansas and SE Colorado, where the majority of the prairie chickens lived and were "threatened". The rest of the range, Southern distinct population segment, would be the half of TX panhandle coming down the West side of TX, and eastern NM with that population proposed listing as "endangered". More stipulations would be on the "endangered" than on the "threatened." He noted chicken numbers were about 27K with an increase in some places the last few years. The primary threats were habitat fragmentation and loss, and climate change. The proposed rule was 175 pages. Two virtual meetings, July 8 and July 14, were planned. The decision process could last up to 12 months. He reminded the reason it was not listed previously was that they did not consider the conservation programs that already were in place, allowing the decision to be thrown out. He noted the previous Candidate Conservation Agreements had worked, giving some entities the ability to operate their businesses. He urged all businesses and entities to enroll in the Candidate Conservation Agreements giving them tools to continue operation.
9. ***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. **SHERIFF MARK CAGE TO ATTEND THE NATIONAL SHERIFF'S ASSOCIATION CONFERENCE IN PHOENIX, AZ FROM JUNE 21 THRU JUNE 25, 2021.**
- b. **ROBERTA SMITH TO ATTEND NACO 2021 ANNUAL CONFERENCE – FPIGA STEERING COMMITTEE IN PRINCE GEORGE COUNTY, MA FROM JULY 8 THRU JULY 13, 2021.**
- c. **ERIC MORAN TO ATTEND SRO CONFERENCE IN ORLANDO, FL FROM JULY 11, 2021 THRU JULY 17, 2021.**
- d. **JAMES LARA TO ATTEND SIG SAUER 320 ARMORER COURSE IN LAS VEGAS, NV FROM JULY 21 THRU JULY 23, 2021.**
- e. **JAMES LARA TO ATTEND COLY M4/M16 AND COLT 1911 ARMORER COURSE IN LAS VEGAS, NV FROM AUGUST 22 THRU AUGUST 28, 2021.**

Cordova moved, seconded by Henry, to approve the Travel Request Consent Agenda. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

10. EMERGENCY BUSINESS. None.

11. LEGISLATORS' AND ELECTED OFFICIALS' COMMENTS/ANNOUNCEMENTS/UPDATES. Sheriff Cage stated NM Counties would meet this month and the annual conference would take place in September in Lea County. Cage was honored to help lead the Memorial Day parade and speak at the Veterans' Memorial. The SO's Armored Rescue Vehicle had motor issues but had a backup with the City of Carlsbad's vehicle being available if needed. Funds had been given for a Law Enforcement Memorial honoring fallen officers. He stated the SO had a surplus of bulk hand sanitizer for use. Cordova stated she would find a use for it. He stated Fentanyl overdoses had skyrocketed in NM. He stated the pill form was now being seized, noting users had a one-in-four chance of dying from use of Fentanyl. Mexican cartels were now making their own Fentanyl that was being smuggled into and distributed in NM. The Task Force had seized 2,900 pills last year and were on point to pass that number this year. He discussed issues in the Queen area of roads being State roads and enforcement of laws. He stated the SO was fully staffed but would lose one to retirement soon. He noted that Ryan Kinnikin had recently graduated from the Academy and had received the Academic Award and also broke the sit-up record. He stated three more

deputies would be attending the Academy. Cordova inquired if Fentanyl presentations were being done locally. Cage stated they would do that if asked. Henry inquired if there were State statistics on Fentanyl deaths. He wondered what the State was doing to protect the citizens of the drug overrun. Cage stated if not for HIDTA support with its funding, training and coordination, NM would be lost to illegal narcotics. Cordova added synthetic forms of Fentanyl were also coming from China. She stated education on the dangers of Fentanyl and focus on rehab of individuals, getting at the root of substance abuse was necessary. Cage stated kids were mistaking Fentanyl with Ecstasy.

12. COUNTY MANAGER'S COMMENTS/ANNOUNCEMENTS/UPDATES. Davis stated he had attended meetings with the City of Carlsbad, CDOD, Holtec and others, building partnerships and networks advocating for the County. He was working on messaging that would advocate for the diversity of industry across the County with multiple opportunities. He cited recent statistics that Eddy County agriculture was a source of one of the largest revenues in the state. He felt one of the largest challenges of Eddy County was overcoming the resource availability of manpower and affordable living.

13. COUNTY COMMISSIONERS' COMMENTS/ANNOUNCEMENTS/UPDATES. Cordova thanked Hooper and Davis for the information on the SE Loop update, and thanked Cage for the information on the Fentanyl situation. She thanked all for their hard work and encouraged all to stay safe. Henry requested that Artesia and the people of Artesia be kept in their prayers.

14. EXECUTIVE SESSION: None.

15. *ADJOURN. At 10:15 a.m., Beard moved, seconded by Henry, to adjourn. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

~Asterisks denote vote is required~

EDDY COUNTY BOARD OF COMMISSIONERS

CHAIR

ATTEST: _____

DATE: _____