

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
JANUARY 5, 2010**

BE IT REMEMBERED that the Eddy County Board of Commissioners held a regular meeting in Room 211 of the Eddy County Administration Complex on January 5, 2010 at 8:30 a.m. Derrick called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation.

Present:

LEWIS DERRICK	CHAIRMAN, DISTRICT 2
ROXANNE LARA	COMMISSIONER DISTRICT 5
TONY HERNANDEZ	COMMISSIONER DISTRICT 1
JACK VOLPATO	VICE-CHAIRMAN DISTRICT 4
ALLEN SARTIN	COUNTY MANAGER
CAS TABOR	COUNTY ATTORNEY
DARLENE ROSPRIM	COUNTY CLERK
ROBIN VAN NATTA	CHIEF DEPUTY COUNTY CLERK
TERRI RICHARDS	TREASURER
ERNEST MENDOZA	SHERIFF
KENT WALLER	CHIEF DEPUTY SHERIFF
DEBBIE PENALUNA	FINANCE DIRECTOR
KENNEY RAYROUX	HUMAN RESOURCES DIRECTOR
SHAWN FUNK	WARDEN
CAROL HENNINGTON	IT DIRECTOR
TINA PARRISH	PURCHASING ADMINISTRATOR
GAY WEST	ADMINISTRATIVE ASSISTANT
FRANK WELDON	ROAD SUPERINTENDENT
DANNY STAFFORD	M&O SUPERVISOR
ROBERT BRADER	FIRE DIRECTOR
JOEL ARNWINE	EMERGENCY MANAGEMENT COORDINATOR
STEVE MCCROSKEY	CODE ENFORCEMENT
JIM GRANTNER	CARLSBAD CITY COUNCIL
CANDACE AUTRY	COMMUNITY HEALTH SERVICES COORDINATOR
WOODS HOUGHTON	EXTENSION AGENT
GEORGIA GOAD	RURAL ADDRESSING
STELLA DAVIS	CARLSBAD CURRENT ARGUS
JESSICA LEE	ARTESIA DAILY PRESS

Absent:

GUY LUTMAN	COMMISSIONER DISTRICT 3
KAREN ROBINSON	ASSESSOR
CHARLENE WRIGHT	PROBATE JUDGE

Derrick offered condolences to Lutman, who had a death in the family and was overseas.

TIMED AGENDA:

8:30 A.M.

1. **ELECT CHAIRMAN & VICE-CHAIRMAN OF EDDY COUNTY BOARD OF COMMISSIONERS FOR CALENDAR YEAR 2010:** Derrick moved, seconded by Lara to nominate Volpato as Chairman. Voting yes: Volpato, Lara, Derrick and Hernandez. Passed 4-0.

Derrick moved, seconded by Lara to nominate Hernandez as Vice-Chairman. Voting yes: Volpato, Lara, Derrick and Hernandez. Passed 4-0.

Volpato thanked Derrick for his service as Chairman.

2. **UPDATES FROM PURCHASE SERVICE AGREEMENTS:**

- a. **MAINSTREET - REBECCA PENDERGAST:** Pendergast stated in the 13 years Mainstreet had been in operation, \$8 million in capital projects had been completed. She thanked the County for their participation and support. Pendergast explained Mainstreet was designed to focus on design, promotion, economic development and organization. Next year's projects would include renovations at Central Park, continued work on Veteran's Park, and a Pathway of Progress which would honor oil and gas pioneers. A car show was also scheduled, as well as Balloons and Blue Grass, and Light Up Artesia. School programs and out for the summer promotions would also be held. Pendergast stated regional and local advertising was used to draw people to the area. Business recruitment was also a focus at Mainstreet.

b. **CARLSBAD MAINSTREET - BIANCA GRANADO:** Granado explained she had been Director of Carlsbad Mainstreet for six months. Last year's biggest accomplishment was the Farmers' Market, which was estimated to earn \$20K for local farmers. Carlsbad downtown had received a Historical District Designation which would be a great benefit to area business. A new web site had been developed to help market Mainstreet. Granado reported the Christmas programs had also been a big success, which helped focus residents on downtown.

c. **EDDY COUNTY SAFEHOUSE - LINDE MERRY:** Merry explained the name had changed to Kids Safehouse of Eddy County. Merry reported the State organization had picked up a book developed by the local safe house and it had been distributed to schools in Clovis and Alamogordo. The use of the book should result in additional State funding. Eddy County had been the lead agency to distribute the prevention aid material to kindergarten and first grade kids. Merry reported forensic interviews had picked up in December and the agency would continue to focus on education and prevention.

TRAILING AGENDA:

1. APPROVE:

a. **COUNTY COMMISSION MEETING MINUTES FOR DECEMBER 15, 2009:** Hernandez moved, seconded by Derrick to approve the County Commission Minutes for December 15, 2009. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

b. **SPECIAL COUNTY COMMISSION MEETING MINUTES FOR DECEMBER 21, 2009:** Derrick moved, seconded by Volpato to approve the Special County Commission Minutes for December 21, 2009. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

c. **EXPENDITURE APPROVAL LIST FOR JANUARY 5, 2010 CHECK RUN:** Derrick moved, seconded by Hernandez to approve the Expenditure Approval List for January 5, 2010 Check Run. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. The Expenditure Approval List for January 5, 2010 check run was recorded as Exhibit 1.c.

2. **TREASURER'S FINANCIAL REPORT FOR NOVEMBER, 2009 - TERRI RICHARDS:** Sartin explained the item was FYI for the Board.

3. **REVENUE REPORT - DEBBIE PENALUNA:** Penaluna stated GRT continued to be a little low. Oil and gas was \$1.7 million lower than last year; however an equipment check had been received which would help bring those numbers up.

4. **JUNE 30, 2009 CASH CLOSING SUMMARY - DEBBIE PENALUNA:** Penaluna passed out a Financial Summary by department. She reviewed the document and fielded questions from the Board. Penaluna stated conservative spending put the County in good shape for the future. The June 30, 2009 Cash Closing Summary was recorded as Exhibit 4.

5. **APPROVE/DISAPPROVE ONE (1) INDIGENT BURIAL - LINDA MARTINEZ:** Lara moved, seconded by Hernandez to approve one Indigent Burial. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

6. **APPEAL, CODE ENFORCEMENT ACTION R-09-73, 402/404 LUM - ALLEN SARTIN:** Sartin stated the owner had requested an extension and had obtained building permits in December 2007. The building permits expired at the end of 2009. Santiago Granger, owner of the property, stated additional permits would be obtained, and requested 6 months to finish the project. Hernandez stated the property had experienced significant progress and he had no problem with the extension. Granger reported both properties had working septic tanks and promised the lots would remain clean. Derrick requested a copy of the building permits for proof that the work was ongoing. Derrick moved, seconded by Hernandez to approve a 6 month extension contingent upon receipt of the building permit. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

7. **DISCUSS MINERAL LEASE WITH MEWBOURNE OIL COMPANY - ALLEN SARTIN:** Sartin explained a letter had been received from the company requesting a lease in concept to be followed by a formal agreement. Sartin requested input from the board regarding the terms. Derrick stated the average price was around \$300 per acre. Derrick requested the lease agreement for review before action was taken. Tabor stated the Board would like to review the agreement and make changes before approval was given. The Board directed Sartin to inform the company of the request for \$300 per acre and to submit a lease for review by the Commission.

8. **APPROVE/DISAPPROVE COMBS LOT LINE ADJUSTMENT - KENNEY RAYROUX:** Georgia Goad stated Mrs. Combs had called with concerns about her lot line. Goad explained a portion of the lot was public access. The lot was curved and the remaining portion was

a road maintenance issue. The owner had a plat drawn up to square the lot which would leave enough room for future road development. Derrick had been out to review the area and had no problem with the change. Derrick moved, seconded by Volpato to approve the lot line adjustment. Tabor questioned the mineral rights on the easement. Derrick amended the motion to include surface rights only, Volpato seconded. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

9. **APPROVE DISAPPROVE RESPONSE TO THE DEPT OF HEALTH REQUEST FOR PROPOSAL FOR CONTINUED FUNDING FOR EDDY COUNTY COMMUNITY HEALTH COUNCIL - CANDACE AUTRY:** Autry stated the RFP was for continuation of funding for the Health Council. The deadline to submit the request was January 21, 2010. Autry reported the focus would be on drug and alcohol abuse. A new item of concern was obesity and nutrition. Volpato moved, seconded by Derrick to approve the request for RFP. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

10. **RESOLUTIONS:**

a. **R-10-02: OPEN MEETINGS ACT - ALLEN SARTIN:** Lara moved, seconded by Hernandez to approve R-10-02. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-02 was recorded as Exhibit 10.a.

b. **R-10-03: USE OF FACSIMILE SIGNATURE STAMP & AUTHORIZATION FOR COUNTY MANAGER TO SIGN ON BEHALF OF THE COMMISSION CHAIRMAN - ALLEN SARTIN:** Derrick moved, seconded by Volpato to approve R-10-03. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-03 was recorded as Exhibit 10.b.

c. **R-10-07: 2010 COMMITTEE, BOARD & COMMISSION APPOINTMENTS & DESIGNATIONS – ALLEN R. SARTIN:** Sartin reported some of the public listed had not been contacted to confirm their participation. Hernandez moved, seconded by Lara to approve R-10-07 contingent upon contact with the public listed to verify their participation. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-07 was recorded as Exhibit 10.c.

d. **R-10-09: APPROVE BUDGET PREPARATION METHODOLOGY - ALLEN SARTIN:** Sartin anticipated the general fund would be down around \$3 million in revenues. He proposed a flat budget for departments, with no increases in salaries. Derrick agreed in light of the economy there was no choice but to tighten the budget. Lara stated it was a testament to Eddy County to be able to ride out hard times with a flat budget and no staffing cuts. Sartin stated this was a one year approach and would be re-evaluated next budget cycle. Derrick moved, seconded by Hernandez to approve R-10-09. Voting yes:

Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-09 was recorded as Exhibit 10.d.

e. **R-10-08: FIRST QUARTER BUDGET ADJUSTMENTS - DEBBIE PENALUNA:** Penaluna reviewed the resolution and fielded questions from the Board. Sartin stated the purpose of the document was to provide information on the reason for the adjustment, what they would cost the county and how the changes would be funded. Lara moved, seconded by Derrick to approve R-10-08. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-08 was recorded as Exhibit 10.e.

f. **R-10-04: COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CITIZEN PARTICIPATION PLAN - KENNEY RAYROUX:** Rayroux explained resolutions R-10-04 through R-10-06 were standard in order to maintain federal funding. Derrick moved, seconded by Hernandez to approve R-10-04. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-04 was recorded as Exhibit 10.f.

g. **R-10-05: FAIR HOUSING - KENNEY RAYROUX:** Lara moved, seconded by Derrick to approve R-10-05. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-05 was recorded as Exhibit 10.g.

h. **R-10-06: RESIDENTIAL ANTI-DISPLACEMENT & RELOCATION ASSISTANCE PLAN & CERTIFICATION - KENNEY RAYROUX:** Lara moved, seconded by Hernandez to approve R-10-06. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-06 was recorded as Exhibit 10.h.

i. **R-10-10: CODE ENFORCEMENT, 1313 WALTERSCHEID - KENNEY RAYROUX:** Derrick expressed concern about the cost of cleanup, and questioned how much money was left in the line item. McCroskey stated the fund balance was around \$64K. McCroskey reported he had not been able to contact the owner of the property. L & S Trucking had bid \$925 to clean the property. Hernandez questioned the legality of the resolution since the owner could not be located. Tabor explained due diligence had been practiced when trying to notify the owner. McCroskey explained the resident had been notified; however the owner had refused any written notification. Volpato stated if the County cleaned up the property then a lien would be placed on the property. Tabor explained the County had four years to foreclose on the lien. Hernandez moved, seconded by Volpato to approve R-10-10 and encouraged the County to foreclose after the four year time limit. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-10 was recorded as Exhibit 10.i.

j. R-10-11: CODE ENFORCEMENT, 1297 E. WOOD - KENNEY RAYROUX: McCroskey explained the owner had a shop that had burned down. The resolution was to compel the owner to clean up the property. Lara moved, seconded by Hernandez to approve R-10-11. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-11 was recorded as Exhibit 10.j.

k. R-10-12: CODE ENFORCEMENT, 5708 REMINGTON - KENNEY RAYROUX: Hernandez moved, seconded by Derrick to approve R-10-12. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. R-10-12 was recorded as Exhibit 10.k.

l. R-10-13: CODE ENFORCEMENT, R276 N. THIRTEENTH ST. SPACE #22 -KENNEY RAYROUX: Lara pointed out the property was scheduled for tax auction. McCroskey stated the trailer was in very bad condition. Volpato noted the bid to remove the trailer was substantial. McCroskey reported the debris had to be hauled to Sandpoint landfill, which brought the bid up considerably. Volpato questioned the lien process. Tabor explained the tax lien would supersede the lien for clean up. Sartin suggested the item wait until the tax sale to see if the property was purchased. Tabor suggested the resolution be tabled pending further investigation. No action was taken.

11. AGREEMENTS:

a. & b.: A-10-01 & A-10-02: VOTING MACHINE AGREEMENT-CARLSBAD & ARTESIA SCHOOLS - DARLENE ROSPRIM: Derrick moved, seconded by Lara, to approve A-10-01 and A-10-02. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-01 and A-10-02 were recorded as Exhibits 11.a. and b.

c. A-10-03: IEM EOC EXERCISE CONTRACT - JOEL ARNWINE: Tabor noted the contract was with a sole service provider. Hernandez moved, seconded by Derrick, to approve A-10-03. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-03 was recorded as Exhibit 11.c.

d. A-10-04: FY09 STATE HOMELAND SECURITY GRANT PROGRAM SUB-GRANT AGREEMENT - JOEL ARNWINE: Derrick moved, seconded by Volpato, to approve A-10-04. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-04 was recorded as Exhibit 11.d.

Sartin reported the State had cancelled all projects. The State had subsequently requested information on projects that had funds encumbered and would in turn give

grants in the amount spent. The remaining cost of the project would go back to the Legislature for approval.

e. A-10-05: GRANT AGREEMENT BETWEEN EDDY COUNTY & DFA LOCAL GOVERNMENT DIVISION FOR THE REAUTHORIZATION OF GENERAL FUND APPROPRIATION FOR THE SHERIFF POSSE RODEO ARENA GRANT AGREEMENT NO. 02996 - KENNEY RAYROUX: Stafford stated the project was complete and we were awaiting reimbursement from the State. Volpato moved, seconded by Derrick, to approve A-10-05. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-05 was recorded as Exhibit 11.e.

f. A-10-06: GRANT AGREEMENT BETWEEN EDDY COUNTY & DFA LOCAL GOVERNMENT DIVISION FOR THE REAUTHORIZATION OF GENERAL FUND APPROPRIATION FOR THE ARTESIA HORSE COUNCIL GRANT AGREEMENT NO. 03000 - KENNEY RAYROUX: Derrick moved, seconded by Lara, to approve A-10-06. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-06 was recorded as Exhibit 11.f.

g. A-10-07: GRANT AGREEMENT BETWEEN EDDY COUNTY & DFA LOCAL GOVERNMENT DIVISION FOR THE REAUTHORIZATION OF GENERAL FUND APPROPRIATION FOR THE CONSOLIDATED DISPATCH CENTER GRANT AGREEMENT NO. 02998 - KENNEY RAYROUX: Derrick moved, seconded by Hernandez, to approve A-10-07. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-07 was recorded as Exhibit 11.g.

h. A-10-09: GRANT AGREEMENT BETWEEN EDDY COUNTY & DFA LOCAL GOVERNMENT DIVISION FOR THE REAUTHORIZATION OF GENERAL FUND APPROPRIATION FOR THE ARTESIA SHOOTING RANGE GRANT AGREEMENT NO. 03525 - KENNEY RAYROUX: Hernandez moved, seconded by Derrick, to approve A-10-09. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-09 was recorded as Exhibit 11.h.

i. A-10-10: GRANT AGREEMENT BETWEEN EDDY COUNTY & DFA LOCAL GOVERNMENT DIVISION FOR THE REAUTHORIZATION OF GENERAL FUND APPROPRIATION FOR THE DRUG REHABILITATION CENTER GRANT AGREEMENT NO. 03526 - KENNEY RAYROUX: Lara moved, seconded by Derrick, to approve A-10-10. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-10 was recorded as Exhibit 11.i.

j. A-10-08: ENGAGEMENT LETTER FOR ACCOUNTING SERVICES WITH JOHNSON, MILLER & CO. - DEBBIE PENALUNA: Sartin stated the accountant position approved by the Board had not been filled. The company would resolve budget issues and assist Penaluna with work load. The salary savings from the unfilled position would be used to fund the request. Sartin explained a contract resource was being used to replace an accountant on staff. Derrick moved, seconded by Volpato, to approve A-10-08. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0. A-10-08 was recorded as Exhibit 11.j.

12. TRAVEL REQUEST CONSENT AGENDA:

PRIOR:

a. KAREN ROBINSON ATTENDED REVENUE STABILIZATION & TAX POLICY COMMITTEE MEETING IN SANTA FE, NM:

b. KAREN ROBINSON ATTENDED REVENUE STABILIZATION & TAX POLICY COMMITTEE MEETING IN ABQ, NM:

c. ONE (1) DEPUTY ATTENDED FIRE/ARSON FATALITY FIRE SCENE INVESTIGATION TRAINING IN RIO RANCHO, NM:

FUTURE:

d. DARLENE ROSPRIM TO ATTEND VOTER REGISTRATION COMMITTEE MEETING IN SANTA FE, NM:

e. JOEL ARNWINE TO ATTEND DANIELS SEMINAR & SICWG CORE MEETING IN ABQ, NM:

Derrick moved, seconded by Lara to approve the travel requests. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

13. DISCUSS PROPOSED GRAFFITI ORDINANCE-KENNEY RAYROUX: Mendoza pointed out the State had a statute regarding graffiti. He suggested the local ordinance follow the statute already in place. He expressed concern about liability when entering private property without permission of the property owner. Waller stated the ordinance addressed the clean up and the property owner's responsibility. The statute addressed the crime of graffiti and not the cleanup. He suggested the crime of graffiti and the cleanup be addressed separately. Waller asked for clarification on privately-owned property and privately-owned public property. In sections where permission from the land owner was permitted, he requested the wording be changed to written permission. Sartin stated the changes would be made and additional suggestions taken. The item would be brought back at the next meeting.

14. LEGISLATIVE ISSUES: None.

15. EMERGENCY BUSINESS:

a. R-10-14: CONTINUITY OF GRT HOLD-HARMLESS PROVISION: Derrick moved, seconded by Volpato to approve R-10-14. Voting yes: Volpato, Hernandez, Derrick and Lara. R-10-14 was recorded as Exhibit 15.a. Passed 4-0.

b. Sartin explained the potash companies had merged in December. They requested the County waive the 30 day notice requirement. Based on the fact that there was no meeting at the time Sartin signed the waiver on behalf of the Board. He requested a confirmation motion to approve that action. Derrick moved, seconded by Lara to confirm the action taken by Sartin. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

c. EMS FUND ACT GRANT APPLICATIONS: Lara moved, seconded by Hernandez to authorize the Chairman to sign the annual EMS Fund Act Grant Applications as soon as they were available, to be delivered to the EMS Bureau prior to the January 19, 2010 deadline. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

16. PUBLIC COMMENTS/ANNOUNCEMENTS: None.

17. COUNTY MANAGER COMMENTS/ANNOUNCEMENTS: None.

18. **ELECTED OFFICIALS COMMENTS/ANNOUNCEMENTS:** None.

19. **COUNTY COMMISSIONER COMMENTS/ANNOUNCEMENTS:** Lara reported Diane Denish would be in town tomorrow to attend a meeting concerning small business. Sartin and Lara would attend the meeting.

Derrick stated an Executive Order had been signed that would create an international police force. He requested the Sheriff and the attorney investigate the matter in order to protect the rights of county residents.

20. **PROJECT UPDATES:** None.

21. **CLOSED MEETING:** At 11:13 a.m., Derrick moved, seconded by Hernandez, to recess the meeting and to hold a closed meeting, in accordance with NMSA 10-15-1H (2), (7) and (8) to discuss personnel, pending litigation, and real property to reconvene before 12:15 p.m. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

22. **RE-OPEN:** At 12:32 p.m., Volpato moved, seconded by Derrick to reconvene in open session and to certify that only the items listed in the motion to close the meeting were discussed in accordance with NMSA 10-15-1H (2), (7) and (8). Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

23. **ADJOURN:** At 12:33 p.m. Derrick moved, seconded by Lara to adjourn the meeting. Voting yes: Volpato, Hernandez, Derrick and Lara. Passed 4-0.

JANUARY 19, 2010 MEETING CANCELLED