

**EDDY COUNTY BOARD OF COMMISSIONERS  
MINUTES OF A REGULAR MEETING  
JUNE 2, 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 June 2, 2010 at 8:30 a.m. Volpato called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation.

**Present:**

JACK VOLPATO	CHAIRMAN, DISTRICT 4
LEWIS DERRICK	COMMISSIONER, DISTRICT 2
GUY LUTMAN	COMMISSIONER, DISTRICT 3
TONY HERNANDEZ	VICE-CHAIRMAN, DISTRICT 1
ROXANNE LARA	COMMISSIONER, DISTRICT 5
CAS TABOR	COUNTY ATTORNEY
ALLEN R. SARTIN	COUNTY MANAGER
DARLENE ROSPRIM	COUNTY CLERK
ROBIN VAN NATTA	CHIEF DEPUTY CLERK
TERRI RICHARDS	TREASURER
KAREN ROBINSON	ASSESSOR
ERNEST MENDOZA	SHERIFF
KENT WALLER	CHIEF DEPUTY SHERIFF
KENNEY RAYROUX	HR DIRECTOR
DEBBIE PENALUNA	FINANCE DIRECTOR
ROBERT STEWART	WARDEN
LINDA P. MARTINEZ	INDIGENT CLAIMS ADMINISTRATOR
CAROL HENNINGTON	IT DIRECTOR
TINA PARRISH	PURCHASING ADMINISTRATOR
GAY WEST	ADMINISTRATIVE ASSISTANT
FRANK WELDON	ROAD SUPERINTENDENT
DANNY STAFFORD	M&O SUPERVISOR
JOEL ARNWINE	EMERGENCY MANAGER
GEORGIA GOAD	RURAL ADDRESSING
LOUISE TRACY	FLOOD COMMISSIONER
STEVE MCCROSKEY	CODE ENFORCEMENT
YVONNE BASABILVAZO	COUNTY PLANNER
PHIL BURCH	ARTESIA MAYOR
JIM GRANTNER	LANDFILL COMMITTEE
STELLA DAVIS	CARLSBAD CURRENT ARGUS

**Absent:**

CHARLENE WRIGHT	PROBATE JUDGE
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**TIMED AGENDA:**

**8:30 A.M.**

1. **SERVICE AWARDS:** Service awards were presented to Larry Lopez for 20 years and Robert Helton for 10 years of service to Eddy County.

**TRAILING AGENDA:**

1. **APPROVE:**

- a. **COUNTY COMMISSION MEETING MINUTES FOR MAY 18, 2010:** Derrick moved, seconded by Hernandez to approve the County Commission Meeting Minutes for May 18, 2010. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0.

- b. **EXPENDITURE APPROVAL LIST FOR JUNE 2, 2010 CHECK RUN:** Hernandez moved, seconded by Lutman to approve the Expenditure Approval List for June 2, 2010 Check Run. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. The Expenditure Approval List for June 2, 2010 check run was recorded as Exhibit 1.b.

2. **OPEN CANVASS FOR 2010 PRIMARY ELECTION & SET DATE FOR CLOSING OF CANVASS OF JUNE 8, 2010 – DARLENE ROSPRIM:** Derrick moved, seconded by Lara to open the canvass for the June 1, 2010 Primary and set June 8, 2010 to close the canvass. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0.

3. **EAGLE DRAW MAINTENANCE - ALLEN R. SARTIN:** Artesia Mayor Burch stated the City of Artesia had maintained the draw from the First Street Bridge to the Main Street Bridge. The practice was to bill the County \$20K for the work performed. This year, however, the City was informed the bill would not be paid without approval from the Flood Commissioner. The Flood Commissioner indicated the bill would not be paid until an MOU was in place. Sartin stated after review of the statute the County did not have the authority to expend funds without the approval from the Flood Commissioner. Commissioner Tracy explained in order to expend funding, she would need an accounting of what work had been done. Lutman expressed a wish that the issue be resolved. Derrick reiterated the importance of a contract. Lutman, Derrick and Sartin would meet with the Flood Commissioner and the City Clerk of Artesia in order to resolve the issue.

4. **APPROVE BOWMAN SUMMARY REPLAT #2 - KENNEY RAYROUX:** Goad stated the owner wanted to replat the land in order to separate his home site from an easement which went to a well owned by the City of Artesia. The Planning and Zoning Board recommended approval contingent upon the fact that the easement was recorded. Cliff Currier, Owner of Currier Abstract, reported the easement was recorded. Lutman moved, seconded by Derrick to approve the Bowman Summary Replat #2. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0.

5. **REVENUE REPORT- DEBORAH PENALUNA:** Penaluna reported GRT were still down by \$331K. Oil and gas receipts were up \$1.5 million from projections. The report was recorded as Exhibit 5.

6. **RESOLUTIONS:**

a. **R-10-38: 4<sup>th</sup> QUARTER BUDGET CHANGES 2009/2010 - DEBORAH PENALUNA:** Penaluna reviewed the changes to the budget. She explained the majority of the changes were to clean up fire station line items. Lara moved, seconded by Derrick to approve R-10-38. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. R-10-38 was recorded as Exhibit 6.a.

b. **R-10-37: RESOLUTION OPPOSING NEW EPA REGULATIONS - ALLEN R. SARTIN:** Sartin stated the EPA had plans to increase requirements concerning greenhouse gas emissions. Sartin explained the new requirements would cost oil and gas companies a tremendous amount of money, which would negatively affect our local economy. Lutman moved, seconded by Derrick to approve R-10-37. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. R-10-37 was recorded as Exhibit 6.b.

c. **R-10-39: CODE ENFORCEMENT - 102 W. JAYDERS ROAD - KENNEY RAYROUX:** McCroskey stated the owner had been contacted in October of last year with no response. A final notice was served in February of this year. The owner had made no effort to clean up the property. Lutman moved, seconded by Hernandez to approve R-10-39. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. R-10-39 was recorded as Exhibit 6.c.

d. **R-10-40: CODE ENFORCEMENT – 1700 MILL ROAD - KENNEY RAYROUX:** McCroskey stated a final notice had been served in March, 2010. Derrick stated the property had been a wrecking yard, and cautioned the Commission about how they proceeded on the issue. Lutman moved, seconded by Volpato to approve R-10-40. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. R-10-40 was recorded as Exhibit 6.d.

7. **AGREEMENTS:**

a. **A-10-75: LEASE PURCHASE AGREEMENT WITH HASLER FINANCIAL SERVICES, INC. - ALLEN R. SARTIN:** Derrick moved, seconded by Lara to approve A-10-75. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. A-10-75 was recorded as Exhibit 7.a.

b. **A-10-76: ENGAGEMENT LETTER WITH HINKLE, SHANOR & MARTIN, L.L.P. - ALLEN R. SARTIN:** Lutman moved, seconded by Hernandez to approve A-10-76. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. A-10-76 was recorded as Exhibit 7.b.

c. **A-10-77: GRANT AGREEMENT BETWEEN EDDY COUNTY & NM CLEAN & BEAUTIFUL - KENNEY RAYROUX:** Basabilvazo explained the funds were used for cleanup as well as education. Lara moved, seconded by Derrick to approve A-10-77. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. A-10-77 was recorded as Exhibit 7.c.

d. **A-10-80: CONSTRUCTION AGREEMENT WITH CONSTRUCTORS, INC. FOR CONSTRUCTION OF THE WALKING TRAIL FOR THE ARTESIA MEAL SITE - KENNEY RAYROUX:** Basabilvazo passed out a picture of the proposed walking trail. Construction would begin on June 7, 2010 with six months to complete. Derrick moved,

seconded by Lutman to approve A-10-80. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. A-10-80 was recorded as Exhibit 7.d.

e. **A-10-78: DWI GRANT AGREEMENT - CYNTHIA SHARIF:** Hernandez moved, seconded by Lutman to approve A-10-78. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. A-10-78 was recorded as Exhibit 7.e.

f. **A-10-79: NM TRAFFIC SAFETY PROJECT-TRAFFIC SAFETY EDUCATION & ENFORCEMENT PROGRAM - SHERIFF ERNEST J. MENDOZA:** Lutman moved, seconded by Derrick to approve A-10-79. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0. A-10-79 was recorded as Exhibit 7.f.

8. **TRAVEL REQUEST CONSENT AGENDA  
PRIOR:**

a. **ONE (1) DEPUTY ATTENDED LAW ENFORCEMENT MEMORIAL AS REPRESENTATIVE FOR THE ECSO IN WASHINGTON, D.C.:**

b. **ONE (1) DEPUTY ATTENDED HANDS-ON VEHICLE FIRE/ARSON INVESTIGATION TRAINING IN DENTON, TX:**

c. **ONE (1) SIU SECRETARY ATTENDED COMPREHENSIVE APPROACHES TO SEX OFFENDER MANAGEMENT IN ABQ., NM:**

**FUTURE:**

d. **LUCILLE OLIVAS TO ATTEND SKILL PATH CONFERENCE IN ABQ., NM:**

e. **MATT CAMPBELL, SHERI GARNER & LEXI KESSLER TO ATTEND IAAO SCHOOL IN HOBBS, NM:**

Derrick moved, seconded by Hernandez to approve the travel requests. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0.

**9. EMERGENCY BUSINESS:**

Arnwine reported the Palmer Drought Index classified Eddy County as very moist. In order to restrict firework sales the area needed to be in moderate to severe drought condition. He recommended the Commission not restrict the sale of fireworks this season.

Lutman requested a report on the recent fires in the Carlsbad Caverns area. Arnwine stated the fires were caused by lightning strikes. Both fires were left to burn which would be beneficial to the terrain. When weather conditions changed the effort moved to suppress the fires. A Type II management team was brought in, and Washington Ranch was turned into a command center complete with catering and shower services. He reported the fires burned over 900 acres and estimated the cost at just under \$3 million for the entire operation. Lutman thanked White's City for donating water to the operation. Arnwine recognized area VFD's for their efforts.

**10. PUBLIC COMMENTS/ANNOUNCEMENTS:** None.

**11. COUNTY MANAGER COMMENTS/ANNOUNCEMENTS:** None.

**12. ELECTED OFFICIALS COMMENTS/ANNOUNCEMENTS:** Rosprim stated the Primary Election ran very smoothly. She thanked Brader and Arnwine, the Road Department, IT and Maria with the Sheriff's Office, and all involved in helping with the election process.

**13. COUNTY COMMISSIONER COMMENTS/ANNOUNCEMENTS:** Lutman stated Election Night went well and was impressed with the operations. He congratulated the Assessor and those who were elected.

**14. PROJECT UPDATES:** Volpato requested Smith Engineering update the Board on the Loop Road project.

**15. CLOSED MEETING:** At 10:08 a.m., Volpato moved, seconded by Derrick 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 at 12:00 p.m. Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0.

**16. RE-OPEN:** At 12:01 p.m., Volpato moved, seconded by Hernandez 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, Lara and Lutman. Passed 5-0.

17. **ADJOURN:** At 12:02 p.m. Volpato moved, seconded by Derrick to adjourn the meeting.  
Voting yes: Volpato, Hernandez, Derrick, Lara and Lutman. Passed 5-0.

**EDDY COUNTY BOARD OF COMMISSIONERS**

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**CHAIRMAN**

**ATTEST:**

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**COUNTY CLERK**

**DATE:** \_\_\_\_\_

**EDDY COUNTY BOARD OF COMMISSIONERS  
MINUTES OF A SPECIAL MEETING  
JUNE 8, 2010**

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

**Present:**

JACK VOLPATO	CHAIRMAN, DISTRICT 4
LEWIS DERRICK	COMMISSIONER, DISTRICT 2
GUY LUTMAN	COMMISSIONER, DISTRICT 3
TONY HERNANDEZ	VICE-CHAIRMAN, DISTRICT 1
ROXANNE LARA	COMMISSIONER, DISTRICT 5
CAS TABOR	COUNTY ATTORNEY
ALLEN R. SARTIN	COUNTY MANAGER
DARLENE ROSPRIM	COUNTY CLERK
ROBIN VAN NATTA	CHIEF DEPUTY CLERK
KENT WALLER	CHIEF DEPUTY SHERIFF
KENNEY RAYROUX	HR DIRECTOR
GAY WEST	ADMINISTRATIVE ASSISTANT

**Absent:**

CHARLENE WRIGHT	PROBATE JUDGE
KAREN ROBINSON	ASSESSOR
ERNEST MEDOZA	SHERIFF
TERRI RICHARDS	TREASURER

**TIMED AGENDA:**

**8:30 A.M.**

- 6. CLOSE CANVASS FOR 2010 PRIMARY ELECTION – DARLENE ROSPRIM:**  
Rosprim presented the final numbers for the 2010 Primary Election along with the Certification of Canvass Results. There were not any provisional ballots to count and she asked the commission to approve and close the canvass. Hernandez moved, seconded by Lara to approve and close the 2010 Primary Election Canvass. Voting yes: Hernandez, Derrick, Lara, Lutman and Volpato. Passed 5-0. A copy of the Certification of Canvass Results was recorded as Exhibit 1.

## **7. PUBLIC HEARING:**

**a. O-10-60; ORDINANCE TO REPEAL THE LODGER'S TAX – ALLEN R. SARTIN:** Sartin explained the Lodger's Tax Board had requested the repeal of the lodger's tax, and distributed a copy of the minutes from their meeting. He reviewed the process the Board had gone through before reaching their decision. The entities involved felt that by doing away with that tax, it would make their business more competitive. There had been a decline in the amount of tax collected over the last 5 years, and with the cost of advertising on television and radio increasing, it was thought they could get more for their money through the internet.

Volpato opened the meeting up to the public. Robert Defer, representing the Carlsbad Chamber of Commerce, read a letter from the Chairman of the Board which encouraged the Commissioner to deny the repeal of the lodger's tax. He spoke of the benefits provided by the tax dollars collected. Bobby Forrest, General Manager of the Stevens Inn, spoke in favor the lodger's tax and reiterated the tax came solely from outsiders not the residents of the county. Ken Britt, spoke of the benefits of tourism to the State Parks. Janell Whitlock asked the Commissioners to keep the tax in place as well.

Volpato stated he had been contacted by several residents asking him to keep the tax which was used to promote the entire county and any special events which could come up. Lara concurred with Volpato, stating it would be a great loss if the ordinance was repealed. She was looking at what was best for the entire County not just their businesses. Lutman was in favor of the repeal as a business owner, stating he would always want to do away with taxes. He stated the Board had been appointed by the Commission and thought their recommendation should be considered. Derrick stated his position was to county residents as a County Commissioner, and felt he could not presume to know what would be beneficial for them and their business. If the Board was asking for a repeal of the tax he felt he should listen to their request.

Lara moved, seconded by Volpato to deny the repeal of Lodger's Tax. Voting yes: Hernandez, Lara and Volpato. Voting no: Derrick and Lutman. Motion passed 3-2.

## **TRAILING AGENDA:**

### **1. EMERGENCY BUSINESS:**

Sartin informed the Commission he had received an appeal from Fred Alvarez on R-10-40. He asked for direction as to what meeting to hear the appeal. Mr. Alvarez would not be available for the July 6 meeting, but could provide a written appeal. If they wished they could postpone the appeal to the July 20 meeting, where Mr. Alvarez could be present. The commission directed Sartin to place it on the July 6 agenda.

**2. COMMENTS:** Lutman noted the City of Carlsbad had used WIPP acceleration funding for street improvement and suggested the County apply for possible funding to help with the Loop Road.

3. **ADJOURN:** At 9:37 a.m. Derrick moved, seconded by Lutman to adjourn the meeting. Voting yes: Hernandez, Derrick, Lara, Lutman and Volpato. Passed 5-0.

**EDDY COUNTY BOARD OF COMMISSIONERS**

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**CHAIRMAN**

**ATTEST:**

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**COUNTY CLERK**

**DATE:** \_\_\_\_\_

**EDDY COUNTY BOARD OF COMMISSIONERS  
SPECIAL MEETING MINUTES  
JUNE 29, 2010**

**BE IT REMEMBERED** that the Eddy County Board of Commissioners held a Special Meeting in Room 211 of the Eddy County Administration Complex on June 29, 2010, at 8:30 a.m. Volpato called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation.

**Present:**

JACK VOLPATO	CHAIRMAN, DISTRICT 4
LEWIS DERRICK	COMMISSIONER, DISTRICT 2
GUY LUTMAN	COMMISSIONER, DISTRICT 3
TONY HERNANDEZ	VICE-CHAIRMAN, DISTRICT 1
ROXANNE LARA	COMMISSIONER, DISTRICT 5
DARLENE ROSPRIM	COUNTY CLERK
ROBIN VANNATTA	CHIEF DEPUTY CLERK
KAREN ROBINSON	COUNTY ASSESSOR
ALLEN SARTIN	COUNTY MANAGER
MATTHEW T. BYERS	COUNTY ATTORNEY
DEBBIE PENALINA	ASSISTANT FINANCE DIRECTOR
ERNEST MENDOZA	SHERIFF
KENT WALLER	CHIEF DEPUTY SHERIFF
CAROL HENNINGTON	IT DIRECTOR
GAY WEST	ADMINISTRATIVE ASSISTANT
CYNTHIA SHARIF	DWI COORDINATOR
MIKE JAXSON	KSVP RADIO
STELLA DAVIS	CURRENT ARGUS

**Absent:**

CHARLENE WRIGHT	PROBATE JUDGE
TERRI RICHARDS	TREASURER

**1. R-10-41: FINAL BUDGET CHANGES FOR FY 09/10 - DEBORAH PENA-LUNA:**

Penaluna passed out a revised copy of the final budget changes for FY 09/10. She reviewed the changes and fielded questions from the Board. Volpato moved, seconded by Derrick to approve R-10-41 as modified. Voting yes: Lara, Lutman, Volpato, Hernandez and Derrick. Passed 5-0. R-10-41 was recorded as Exhibit 1.

**2. EMERGENCY BUSINESS:**

**a. & b. A-10-86 & A-10-87: AGREEMENT TO DESIGNATE FILM LIAISON - ALLEN R. SARTIN:** Jeff Campbell, with Carlsbad DOD, explained the liaison would act to bring film productions to the area. Sartin stated no funding would be required from the County. Lutman moved, seconded by Lara to approve A-10-86 and A-10-87. Voting

yes: Lara, Lutman, Volpato, Hernandez and Derrick. Passed 5-0. A-10-86 and A-10-87 were recorded as Exhibits 2 a. and b. respectively.

**c. A-10-84: PASS THRU PAYMENTS TO GRAMMY'S HOUSE - ALLEN R. SARTIN:** Lara moved, seconded by Hernandez to approve A-10-84. Voting yes: Lara, Lutman, Volpato, Hernandez and Derrick. Passed 5-0. A-10-84 was recorded as Exhibit 2.c.

**d. A-10-88: CDWI ALCOHOL MEDIA LITERACY GRANT - CYNTHIA SHARIF:** Sharif introduced Phyllis Luna as the DWI Deputy Director. She explained the grant would target junior high students and their parents by providing education on alcohol advertisement. Derrick moved, seconded by Hernandez to approve A-10-88. Voting yes: Lara, Lutman, Volpato, Hernandez and Derrick. Passed 5-0. A-10-88 was recorded as Exhibit 2.d.

- 3. COMMENTS:** Derrick announced that public scoping meetings would be held in various communities in the Southwest during the month of July. These meetings would address the revamping of the Resource Management Plan. He stated the meetings were very important for counties to gage the economic effects of the RMP. Sartin stated the BLM would be hosting the meetings.

Derrick passed out comments from the New Mexico Oil & Gas Association regarding the push to bury power lines on the prairie chicken habitat.

Volpato announced a brine well meeting would be held today. The project was on schedule to scope the lower cavity.

Lutman cautioned everyone to brace for a new financial year. Sartin stated the budget was at \$40 million. Lutman requested a report on how the county would be impacted if it was in debt like the Federal Government.

Sartin stated notification had been received that the PILT payment would be late. He reported revenues were on target, and we were in good shape.

Robinson reported the State assessed taxable value had grown to \$678M, with \$52M additional tied up in protest. Eddy County was \$16 million in taxable growth value.

- 4. ADJOURN:** At 8:58 a.m., Volpato moved to adjourn, seconded by Lara. Voting yes: Lara, Lutman, Volpato, Hernandez and Derrick. Passed: 5-0.

EDDY COUNTY BOARD OF COMMISSIONERS

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CHAIRMAN

ATTEST:

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COUNTY CLERK

APPROVED: \_\_\_\_\_