

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
September 1, 2009**

BE IT REMEMBERED that the Eddy County Board of Commissioners held a regular meeting in Room 211 of the Eddy County Administration Complex on September 1, 2009 at 8:30 a.m. Derrick called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation.

Present:

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| LEWIS DERRICK | CHAIRMAN, DISTRICT 2 |
| GUY LUTMAN | COMMISSIONER DISTRICT 3 |
| 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 VANNATTA | CHIEF DEPUTY CLERK |
| KAREN ROBINSON | ASSESSOR |
| TERRI RICHARDS | TREASURER |
| ANNA GALINDO | CHIEF DEPUTY TREASURER |
| ERNEST MENDOZA | SHERIFF |
| KENT WALLER | CHIEF DEPUTY SHERIFF |
| CAROL HENNINGTON | I.T. DIRECTOR |
| SHAWN FUNK | WARDEN |
| KENNEY RAYROUX | HR DIRECTOR |
| TINA PARRISH | PURCHASING ADMINISTRATOR |
| ROBERT BRADER | FIRE SERVICE COORDINATOR |
| DEBBIE PENALUNA | FINANCE DIRECTOR |
| FRANK WELDON | ROAD SUPERINTENDENT |
| STEVE MCCROSKEY | CODE ENFORCEMENT |
| STELLA DAVIS | CARLSBAD CURRENT ARGUS |
| LINDA P. MARTINEZ | INDIGENT CLAIMS ADMINISTRATOR |

Absent:

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| CHARLENE WRIGHT | PROBATE JUDGE |
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TIMED AGENDA:

8:30 A. M.

1. BID AWARDS:

a. B-09-05: BRIDGE FOR FISHERMAN'S LANE-FRANK WELDON: Weldon recommended the bid be awarded to Roscoe Bridge. He pointed out the back wall estimate from Roscoe Bridge was \$1,200 not \$6,600. Lutman moved, seconded by Lara to award B-09-05 to Roscoe Bridge. Voting yes: Lara, Lutman, Derrick, Hernandez and

Volpato. Passed 5-0. The invitation to bid and bid minutes were recorded as Timed Agenda Exhibit 1.a.

TRAILING AGENDA:

1. APPROVE:

a. COMMISSION MEETING MINUTES FOR AUGUST 18 , 2009: Volpato moved, seconded by Hernandez to approve the County Commission Minutes for August 18, 2009. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

b. MINUTES OF EDDY COUNTY BOARD OF COMMISSIONERS & CARLSBAD CITY COUNCIL SPECIAL JOINT MEETING FOR AUGUST 19, 2009: Hernandez moved, seconded by Derrick to approve the Special Joint Meeting Minutes of the Eddy County Commission and the Carlsbad City Council for August 19, 2009. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

c. EXPENDITURE APPROVAL LIST FOR SEPTEMBER 1, 2009 CHECK RUN: Volpato moved, seconded by Lara to approve the Expenditure Approval List September 1, 2009 Check Run. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. The Expenditure Approval List for the September 1, 2009 check run was recorded as Exhibit 1.c.

2. FINAL BUDGET APPROVAL-DEBBIE PENALUNA: Sartin reported DFA had officially approved the 09/10 budget without changes or suggestions.

3. CODE ENFORCEMENT ACTIONS:

a. APPEAL: CODE ENFORCEMENT RESOLUTION, R-09-40, 4007 TAOS STREET-ALLEN SARTIN: Sartin stated the owner's appeal letter and the case history were attached in the Commissioner's packet. Joel Brown, owner of the property, stated he had been saddled with the property in a divorce. He drove a truck for a living, and explained financially he was unable to clear the property. Brown had boarded up the windows and padlocked the front door. He was awaiting an insurance settlement to pay for the cleanup. Brown estimated the cost of the cleanup at \$3K to \$5K. Lutman stated the property remained a hazard to the neighborhood and pointed out the case had been open since 2004. Brown stated the property was a hassle and basically he had no desire to deal with the issue. Lutman moved, seconded by Lara to deny the request for appeal. Lara cited a lack of willingness to clean the property as the reason for the second. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

b. APPEAL: CODE ENFORCEMENT RESOLUTION, R-09-63, 1214 EAST ORCHARD LANE: Sartin reported the owner would not be present. Lutman stated the County had done due diligence when dealing with the property. McCroskey reported the mobile home was in poor condition and the property had additional debris on it. Hernandez expressed concern over the owner's health, and the fact that she was in a nursing home. Lutman stated the property was uninhabitable and would be unless a lot of work was done. Lara questioned if the son could be cited in the case. Tabor reported unless the son lived on

the property, the County would have to site the actual owner. Volpato moved, seconded by Lutman to deny the appeal. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

4. **APPROVE/DISAPPROVE SOLE COMMUNITY HOSPITAL SUPPLEMENTAL-LINDA MARTINEZ:** Sartin stated that each year in December/January the State was notified of the level at which the County would fund local hospitals. The procedure was to start with a base fund, add the supplemental and that was the figure used in the December/January process. In the past year the County had committed a level of funding that necessitated a subsidy from the general fund of \$61K; an increase to \$690K this year. Sartin stated come December/January the Board would absolutely have to cut the supplemental funding. The funding could not continue at this level without enacting an additional 1/8% GRT. Sartin asked the Board to be very conservative in their consideration, pointing out oil and gas revenues were down over projections. Sartin stated if the Board did not approve the funding, it would be an opportunity to reduce the subsidy from the general fund. Martinez stated regardless of what was approved today the Board could always “normalize” or cut the funding at a later date. It was important to understand the amount of approved funding had a direct effect on the formula for next year’s distribution from the State. Volpato explained that Eddy County was underfunded and by approving the requested amount it helped the county catch up. If revenues did not pick up, the Commission could always “normalize” the funding. He stated the dollars the County funded would be matched 3 to 1 by the State. Shelly Choate, Artesia General Hospital, thanked the Board for previous and continued funding. Choate reported the Artesia Hospital Board met and agreed to provide for a short fall if the County could not meet today’s request. Choate stated it was unique to be able to put a dollar in and get three dollars back, and it was important to capitalize on potential funding from the State. She requested the Board approve today’s request with the option to “normalize” at a later date. Janet Carbary, Carlsbad Medical Center, thanked the Board for their support with the indigent program. Carbary stated CMC had reinvested over \$35 million over the last 3 years back to the community. If today’s request was approved, it would allow the hospital to recruit doctors and fund capital projects. Carbary had been selected to meet with the Legislative Finance Committee concerning the budget of health care and anticipated budget cuts. Carbary urged the Commission to consider the request carefully. She stated the opportunity to turn \$200K into \$1.1 million for the residents of this county should be taken. The hospital was certainly willing to come back at a later date and discuss reduced funding. Sartin reported the last year’s budget was \$3,190,000, with this year’s budget at \$4,258,000. The Commission had been very generous with funding. Lutman stated the county’s mission was to take care of the health and welfare of our residents. Hernandez questioned if the budget could sustain this level of funding until November. Sartin reported the budget could not sustain it without an additional revenue source. The Board would have to pull back funding by at least \$700K in order to balance the budget. Volpato moved, seconded by Lutman to approve the funding as requested with the stipulation that the Board review their options to equalize funding in November. Derrick agreed, and cautioned that everyone would have to bite the bullet in order to get through this economic crisis. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

5. **AGREEMENT:**

- a. **A-09-113: WILDLAND CACHE EQUIPMENT MOU-ROBERT BRADER:** Brader explained the equipment was purchased with grant funds approved previously by the Commission. A twin agreement was in place with the City of Carlsbad. Lara moved,

seconded by Volpato to approve A-09-113. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. A-09-113 was recorded as Exhibit 5.a.

b. A-09-114: DOE/WIPP MUTUAL AID AGREEMENT-JOEL ARNWINE: Brader stated the agreement had been in place for several years. He explained some language had been cleaned up which did not affect the substance of the agreement. The arrangement with WIPP had greatly enhanced the County's emergency service and been a tremendous asset. Hernandez moved, seconded by Lutman to approve A-09-114. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. A-09-114 was recorded as Exhibit 5.b.

c. A-09-115: CLIENT MOTOR VEHICLE AGREEMENT-KENNEY RAYROUX: Rayroux explained Road II had requested temporary help to finish out mowing season. A temp service would provide employees; however they requested an agreement to allow the employees to operate county equipment. Derrick questioned if the legal department had reviewed the agreement. Tabor stated the agency simply wanted the county to take responsibility for any accident or damage to the equipment. Lutman moved, seconded by Derrick to approve A-09-115. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. A-09-115 was recorded as Exhibit 5.c.

d. A-09-116: PASS THRU PAYMENTS TO GRAMMY'S HOUSE-ALLEN SARTIN: Sartin reported the budget was \$340K and the actual contract was \$350K. Derrick moved, seconded by Volpato to approve A-09-116. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. A-09-116 was recorded as Exhibit 5.d.

6. PUCHASE OF SERVICES AGREEMENT:

a. PSA-09-25: PSA WITH ARTESIA DOD-ALLEN SARTIN: Lara moved, seconded by Lutman to approve PSA-09-25. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. PSA-09-25 was recorded as Exhibit 6.a.

7. TRAVEL REQUESTS: Sartin reported that item (a.) was cancelled and the employee would not be attending the class. Lutman requested the department heads consider a college class instead of a 3 day training session.

RETRO:

a. LUCILLE OLIVAS ATTENDED BUSINESS WRITING & GRAMMAR SKILLS CONFERENCE IN EL PASO, TX:

FUTURE:

b. JUDY PRESSETT TO ATTEND COUNTY COLLEGE IN SOCORRO, NM:

c. KAREN ROBINSON TO ATTEND COUNTY COLLEGE & ASSESSOR FALL CONFERENCE IN SOCORRO, NM:

d. DARLENE ROSPRIM & ROBIN VAN NATTA TO ATTEND COUNTY COLLEGE & CLERK'S AFFILIATE MEETING IN SOCORRO, NM:

e. LINDA MARTINEZ & YOLANDA SING TO ATTEND NMAC HEALTH CARE AFFILIATE FALL WORKSHOP & TRAINING IN ALAMOGORDO, NM:

f. ONE (1) ECSO INVESTIGATOR SERGEANT TO ATTEND ELEMENTS FOR SUCCESSFUL INTERVIEW IN EL PASO, TX:

g. KENNEY RAYROUX TO ATTEND SHRM STRATEGY CONFERENCE IN PHOENIX, AZ:

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

8. LEGISLATIVE ISSUES: Sartin reported a lengthy special session would be held by the legislature in order to balance the budget.

9. EMERGENCY BUSINESS:

A-09-117: EQUITABLE SHARING AGREEMENT & CERTIFICATION FOR PVDTF: Waller passed out copies of the Equitable Sharing Agreement and Certification. Lutman moved, seconded by Hernandez to approve A-09-117 and authorize the Chairman to sign the document. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0. A-09-117 was recorded as Exhibit 9.

Waller explained in the past the County Manager had been directed to sign the agreement, and asked for direction on how the Board would like future requests handled. Derrick stated any and all agreements should be brought before the Commission.

10. PUBLIC COMMENTS/ANNOUNCEMENTS: Sonia Raftery, Senator Bingaman's Representative, presented Sheriff Mendoza with the Edward Byrne Memorial Justice Assistant Grant for \$16,193 to help pay for law enforcement at school events. She commended Mendoza, who wrote the grant request. Raftery passed out a synopsis in plain English of the proposed health care reform. Lutman requested help with any funding that would place additional officers in the schools. Raftery reported the southern border grants would be announced in the next few weeks and fully expected the regional task force to get some of that money. Mr. Sullivan had put a lot of time and effort into obtaining funding. Lara thanked Raftery for her hard work and dedication to Eddy County.

11. COUNTY MANAGER COMMENTS/ANNOUNCEMENTS: Sartin announced Shawn Funk had been appointed acting Warden on Friday. Funk assured the Board that operations would continue in the same efficient manner.

12. ELECTED OFFICIALS COMMENTS/ANNOUNCEMENTS: None.

13. COUNTY COMMISSIONER COMMENTS/ANNOUNCEMENTS: Lutman thanked the Road Department for their work on the transfer station next to the fairgrounds in Artesia.

Lara reported Dr. Williams, Superintendent of Carlsbad Schools, had requested her attendance at a Graduation Rate Summit in Las Cruces. The theory was for different entities in the community to come together and help improve graduation rates. Carlsbad students would attend along with five or six community members, with the hope of hosting a summit in our area. The following week, the Domenici Public Policy Conference would be held in Las Cruces, and would be reviewing nuclear energy issues. She passed around the invitation and stated it would be great if a couple of Commissioners could attend.

14. PROJECT UPDATES: Weldon reported the department was still picking up trash in Happy Valley; however residents had been more cooperative in recent months. He was in the process of writing an RFP to move the bins and build a fence.

Derrick asked if any progress had been made on the roll-offs in Sun Country. Weldon reported he had contacted Robert Forrest with the City of Artesia and had made no progress. Weldon suggested the bins be moved to Airport Road. Derrick would follow up with the City.

Volpato questioned progress on the Plaza Street transfer station. Weldon reported a site plan would be available in the next 30 days, and would be reviewed at the next Landfill Committee Meeting.

Hernandez asked for an update on County Road 725 re-route. Weldon stated the land owner had given verbal permission to the county to build a road wherever needed. Tabor stated a written agreement was preferable. Derrick suggested a plat and an agreement be drawn up to facilitate the process.

Weldon reported the portion of Roberson Road from Derrick to Carrasco would be widened and brought up to county standard.

15. CLOSED MEETING: At 9:55 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 at 12:00 p.m. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

16. RE-OPEN: At 12:42 p.m., Derrick moved, seconded by Volpato 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: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

Sartin stated a request had been received for an assignment from Eddy County regarding SENMCAC's action against Wade Construction. Tabor explained the document would

assign the county's cause of action to SENMCAC. Lutman moved, seconded by Volpato to approve the assignment and authorize the Chairman to sign the document. Hernandez asked for a refresher on the issue. Sartin explained the Head Start building in Artesia had experienced multiple problems and the assignment would transfer the right to sue Wade Construction from the County to SENMCAC. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

Tabor requested a motion to prepare an addendum to the County Manager's contract. Tabor asked Sartin to read the addendum and specified it was the Commission who requested the change not Sartin. Sartin stated the change would include professional movers to conduct the entire move from his home in Washington State to Eddy County. The total cost would be \$14,700. The amount was taxable so the gross income required to pay for the move would be \$19,600. The current contract provided for \$5K for relocation and \$2,850 unused temporary housing allowance which would be applied to the cost of the move. Sartin would relinquish 10 days of vacation for \$4,300 which would also be applied to the cost. Total income from the current contract applied to the move after taxes would be \$9,113, which would leave a balance of approximately \$10,500. The balance of \$10,500 would be added into the agreement. Lutman moved, seconded by Derrick to approve the change to the Manager's contract as stated. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

17. **ADJOURN:** At 12:47 p.m., Lara moved, seconded by Volpato to adjourn the meeting. Voting yes: Lara, Lutman, Derrick, Hernandez and Volpato. Passed 5-0.

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
September 15, 2009**

BE IT REMEMBERED that the Eddy County Board of Commissioners held a regular meeting in Room 211 of the Eddy County Administration Complex on September 15, 2009 at 8:30 a.m. Derrick called the meeting to order. Sartin led the Pledge of Allegiance and gave the invocation.

Present:

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|------------------------|------------------------------------|
| LEWIS DERRICK | CHAIRMAN, DISTRICT 2 |
| GUY LUTMAN | COMMISSIONER DISTRICT 3 |
| ROXANNE LARA | COMMISSIONER DISTRICT 5 |
| TONY HERNANDEZ | COMMISSIONER DISTRICT 1 |
| JACK VOLPATO | VICE-CHAIRMAN DISTRICT 4 |
| ALLEN SARTIN | COUNTY MANAGER |
| CAS TABOR | COUNTY ATTORNEY |
| RONDA NELSON | DEPUTY CLERK |
| TERRI RICHARDS | TREASURER |
| DEBBIE PENALUNA | FINANCE DIRECTOR |
| GAY WEST | ADMINISTRATIVE ASSISTANT |
| DIANE DEARING | CHIEF DEPUTY ASSESSOR |
| KENNEY RAYROUX | HUMAN RESOURCES DIRECTOR |
| SHAWN FUNK | WARDEN |
| LINDA P. MARTINEZ | INDIGENT ADMINISTRATOR |
| YOLANDA SING | INDIGENT ASSISTANT |
| CAROL HENNINGTON | INFORMATION SYSTEMS SUPERVISOR |
| TINA PARRISH | PURCHASING ADMINISTRATOR |
| FRANK WELDON | ROAD SUPERINTENDENT |
| DANNY STAFFORD | M&O SUPERVISOR |
| STEVE MCCROSKEY | CODE ENFORCEMENT |
| YVONNE BASABILVAZO | COUNTY PLANNER |
| JIM GRANTNER | CARLSBAD CITY COUNCILOR |
| STELLA DAVIS | CARLSBAD CURRENT ARGUS |
| JESSICA LEE | ARTESIA DAILY PRESS |
| MARIA MERJIL-MALDONADO | SHERIFF'S ADMINISTRATIVE ASSISTANT |

Absent:

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| CHARLENE WRIGHT | PROBATE JUDGE |
| KAREN ROBINSON | ASSESSOR |
| DARLENE ROSPRIM | COUNTY CLERK |

TIMED AGENDA:

8:30 A.M.

1. **SERVICE AWARDS:** None.

TRAILING AGENDA:

1. & 2. **RECESS EDDY COUNTY COMMISSION MEETING & CONVENE AS INDIGENT HOSPITAL CLAIMS BOARD:** At 8:31 a.m., Volpato moved, seconded by Lara, to recess the regular meeting and convene as the Indigent Hospital Claims Board. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.
3. **INDIGENT HOSPITAL CLAIMS BOARD – LINDA P. MARTINEZ:** Indigent Board Meeting.
4. **RECONVENE EDDY COUNTY COMMISSION MEETING:** At 8:36 a.m., Volpato moved, seconded by Hernandez, to adjourn the Indigent Hospital Claims Board and reconvene the regular meeting. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.
5. **APPROVE/DISAPPROVE INDIGENT BURIAL:** Derrick moved, seconded by Lara, to approve the indigent burial. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.
6. **APPROVE:**
 - a. **COUNTY COMMISSION MEETING MINUTES FOR SEPTEMBER 1, 2009:** Sartin requested the minutes be corrected as follows: Page 12, Item 4, Sentence 5, should read, "...subsidy from the general fund of \$61K; an increase to \$690K this year." He requested an additional correction stating, "...last year's budget was \$3,190,000, with this year's budget at \$4,258,000." Lara moved, seconded by Lutman, to approve the County Commission Minutes for September 1, 2009, as corrected. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.
 - b. **EXPENDITURE APPROVAL LIST FOR CHECK RUN 9-15-2009:** Derrick moved, seconded by Lara, to approve the Expenditure Approval List for September 15, 2009 Check Run. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. The Expenditure Approval List for September 15, 2009 check run was recorded as Exhibit 6.b.
 - c. **PURCHASE CARD EXPENDITURE APPROVAL LIST FOR AUGUST, 2009:** Hernandez moved, seconded by Volpato, to approve the Purchase Card Expenditure Approval List for August, 2009. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. The Purchase Card Expenditure List was recorded as Exhibit 6.c.
7. **APPROVE/DISAPPROVE APPLICATION FOR REVERTED DISTRIBUTION GRANT FUNDS – CYNTHIA SHARIF:** The unspent grant funds from last fiscal year were authorized by the State for expenditure in the current fiscal year, provided the funds went to a specific purpose. The \$3,813.29 would be available to purchase audio/visual equipment. Volpato moved, seconded by Hernandez, to approve the application for reverted distribution grant funds. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.

8. RESOLUTIONS:

a. **R-09-65: FY 2011-2015 INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP) – YVONNE BASABILVAZO:** The resolution would identify the document for submission to the upcoming legislative session in Santa Fe. The prioritized projects were listed as: South Loop Road, Juvenile Detention Facility, Morningside Infrastructure Improvements, Legacy Treatment Center and Artesia Shooting Range. Basabilvazo noted funds were currently available for the Artesia Senior Center Walk Track and the project would be out for bids. Bids would also go out for Phase 3 of the Malaga Project. Lutman moved, seconded by Hernandez, to approve R-09-65. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. R-09-65 was recorded as Exhibit 8.a.

b. **R-09-66: PROPERTY TAX LEVIES FOR THE 2009 TAX YEAR - ALLEN R. SARTIN:** Sartin submitted proposed changes he received from the State. The Treasurer verified the levies for 2009. Volpato moved, seconded by Derrick, to approve R-09-66. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. R-09-66 was recorded as Exhibit 8.b.

9. AGREEMENTS:

a. **A-09-118: CONTRACT FOR OFFENDER TRACKING SERVICES, PAULINE MORALES - CYNTHIA SHARIF:** The previous contractor was unavailable for the mandatory position. Hernandez moved, seconded by Lutman, to approve A-09-118. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-118 was recorded as Exhibit 9.a.

b. **A-09-119: LAX FLIGHT SUPPORT - ALLEN R. SARTIN:** Lara stated she was opposed to the \$5K amount designated for marketing. Lutman moved, seconded by Volpato, to approve A-09-119. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-119 was recorded as Exhibit 9.b.

c. **A-09-120: COUNTY MANAGER CONTRACT, AMENDMENT #1 - ALLEN R. SARTIN:** Hernandez moved, seconded by Lutman, to approve A-09-120. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-120 was recorded as Exhibit 9.c.

d. **A-09-121: APPROVE GRANT AGREEMENT A-09-121 - YVONNE A. BASABILVAZO:** Lutman moved, seconded by Volpato, to approve A-09-121. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-121 was recorded as Exhibit 9.d.

e. **A-09-122: GRANT AGREEMENT A-09-122 - YVONNE A. BASABILVAZO:** All of the grant money had been spent; however, DFA had failed to close out the grant within the timeframe specified so a new number was issued in order to properly close the grant. Hernandez moved, seconded by Derrick to approve A-09-122. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-122 was recorded as Exhibit 9.e.

f. **A-09-123: AMENDMENT #3 - YVONNE A. BASABILVAZO:** The amendment was for preliminary design of Phase 2 of the Morningside Water and Street Improvement Project.

Volpato moved, seconded by Derrick, to approve A-09-123. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-123 was recorded as Exhibit 9.f.

g. A-09-124: GRANT AGREEMENT AMENDMENT NO. 4 07-L-G-5245 -YVONNE A. BASABILVAZO: The amendment would delete \$150K of the Sunset Gardens Cemetery Improvements from the agreement. Volpato moved, seconded by Lara, to approve A-09-124. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-124 was recorded as Exhibit 9.g.

h. A-09-125: GRANT AGREEMENT NO. 2 08-L-G-4299 – YVONNE A. BASABILVAZO: The amendment would delete \$198K of Sunset Gardens Cemetery Improvements from the agreement. Volpato moved, seconded by Derrick, to approve A-09-125. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0. A-09-125 was recorded as Exhibit 9.h.

i. A-09-126: PHARMACY AGREEMENT FOR LOWELL’S PHARMACY - LINDA P. MARTINEZ:

j. A-09-127: PHARMACY AGREEMENT FOR BROWN DRUG - LINDA P. MARTINEZ:

k. A-09-128: PHARMACY AGREEMENT FOR SOUTHWEST PHARMACY - LINDA P. MARTINEZ:

l. A-09-129: PHARMACY AGREEMENT FOR LA TIENDA PHARMACY - LINDA P. MARTINEZ: The agreements would update the current pharmacy agreements. Derrick moved, seconded by Lutman, to approve A-09-126 through A-09-129. Voting yes: Lutman, Derrick, Hernandez, and Lara. Abstaining: Volpato Passed 4-0. A-09-126 through A-09-129 were recorded as Exhibit 9.i. through 9.l., respectively.

10. TRAVEL REQUEST CONSENT AGENDA:

PRIOR:

a. JOEL ARNWINE ATTENDED TACTICAL INTEROP COMM WORKSHOP IN RUIDOSO, NM

FUTURE:

b. ROXANNE LARA TO ATTEND DOMENICI PULIC POLICY CONFERENCE IN LAS CRUCES, NM: Lara withdrew her request for travel.

c. DANNY STAFFORD TO ATTEND ADA COORDINATOR TRAINING IN ROSWELL, NM:

d. JOEL ARNWINE TO ATTEND NM EMERGENCY MANAGEMENT CONFERENCE IN CLOVIS, NM:

e. JOEL ARNWINE TO ATTEND E-132 EXERCISE DESIGN AND EVALUATION TRAINING IN EMMETSBURG, MD: Derrick moved, seconded by Lutman, to approve all travel requests listed. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.

11. EMERGENCY BUSINESS: John and Pam Adkins addressed the Commission requesting a 60-day extension on the Order issued to them by the County to remove a storage unit from the road right-of-way. They stated the unit held their household belongings while they completed repairs and new construction on their home. A water pipe had burst inside their home, flooding it and resulting in over \$40K in damage to the home. The repair work was in progress, but additional time was needed to complete the repairs. The 40-foot storage unit

had been delivered during a period of extensive rain, limiting placement to the front road area. He stated it would cost in excess of \$600 to move the unit. Adkins also spoke on the severe weed problem on the property across the road from his. He had mowed and cleaned up the property, which he believed to be in foreclosure. McCroskey stated Carlsbad National Bank informed him the property was not in foreclosure. McCroskey had been called to address the weed problems in the neighborhood and had issued 30 letters to the area in addition to three right-of-way violation letters. Sartin stated anything in the road right-of-way presented a liability issue to the County. McCroskey stated the Adkins' had not contacted him prior to the meeting with respect to an extension on the Order. Lutman stated he found the Adkins' to be very responsible citizens and felt an exception was in order. Lara supported an extension. Hernandez had concerns about an extension due to the County liability issue. Tabor noted the right-of-way was a violation to the State statute, as well as to the County ordinance. Volpato stated this was a unique situation on a quiet road and felt County liability was minimal. Volpato moved, seconded by Lara, to waive Ordinance 7 and grant a 60-day extension from today's date (September 15, 2009) to leave the unit in the right-of-way. Derrick requested reflectors be put on each end of the storage unit for safety. Voting yes: Lutman, Derrick, Volpato and Lara. Voting no: Hernandez. Passed 4-1.

Debbie Penaluna clarified the charges appearing on her P-Card for Cave Country were there in the interim while new management for the Lodgers Tax Committee was in transition. Cave Country would soon take over the payment of the bills.

12. **PUBLIC COMMENTS/ANNOUNCEMENTS:** Janell Whitlock inquired when Sunset Gardens Cemetery would be placed on the agenda for discussion in an open meeting. She was concerned the funding for it could be withdrawn by the State unless it was obligated in some way. She noted many pioneer families and veterans were interred there and requested the City and Commission work something out for the benefit and good of the citizens of Eddy County.
13. **COUNTY MANAGER COMMENTS/ANNOUNCEMENTS:** None.
14. **ELECTED OFFICIALS COMMENTS/ANNOUNCEMENTS:** None.
15. **COUNTY COMMISSIONER COMMENTS/ANNOUNCEMENTS:** Hernandez thanked Debbie Penaluna, Allen Sartin and Robert Brader for their work on the Fire Board meeting materials. Lara attended the Graduation Rate Summit in Las Cruces. Information of interest gleaned from the meeting was that less than 50 percent of Carlsbad's ninth graders were actually graduating. Carlsbad Municipal School would be initiating a summit in the future and she urged support of the summit.
16. **PROJECT UPDATES:** Sartin noted the Treasurer's drive-through would be changed to go along the alley west of the building. Stafford passed out copies of his water conservation plan for the County. Sartin noted utilities for the NMSU Construction Trades Building at the airport were paid by NMSU per their lease agreement with the County.
17. **CLOSED MEETING:** At 10:00, a.m., Derrick moved, seconded by Lara, to recess the meeting and to hold a closed meeting following a 10 minute break, in accordance with NMSA 10-15-1H (2), (7) and (8) to discuss personnel, pending litigation, and real property. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.

- 18. RE-OPEN:** At 11:25 a.m., Derrick moved, seconded by Lara 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: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.

Sartin stated the Board's discussion in closed session concerning the counterproposal received from the City regarding Sunset Gardens was discussed at length and was interpreted to include the County in the ownership and operation of the cemetery. He noted the Board directed him to confirm with the City that the proposal sent on September 1 was, in fact, the current County proposal and that is what the County wanted to do.

Hernandez did not support the additional \$100K issue. He noted tax revenues were declining presently.

- 19. ADJOURN:** At 11:28 a.m. Lutman moved, seconded by Derrick to adjourn the meeting. Voting yes: Lutman, Derrick, Hernandez, Volpato and Lara. Passed 5-0.

**EDDY COUNTY BOARD OF COMMISSIONERS
SPECIAL EMERGENCY MEETING
September 24, 2009**

BE IT REMEMBERED that the Eddy County Board of Commissioners held a special emergency meeting in Room 211 of the Eddy County Administration Complex on September 24, 2009 at 10:00 a.m.

Present:

| | |
|-----------------|---|
| LEWIS DERRICK | COUNTY COMMISSIONER CHAIR, DIST. 2 |
| JACK VOLPATO | COUNTY COMMISSIONER VICE-CHAIR, DIST. 4 |
| TONY HERNANDEZ | COUNTY COMMISSIONER, DIST. 1 |
| ROXANNE LARA | COUNTY COMMISSIONER, DIST. 5 |
| GUY LUTMAN | COUNTY COMMISSIONER, DIST. 3 |
| DARLENE ROSPRIM | COUNTY CLERK |
| ROBIN VANNATTA | CHIEF DEPUTY CLERK |
| ALLEN SARTIN | COUNTY MANAGER |
| CAS TABOR | COUNTY ATTORNEY |
| GAY WEST | ADMINISTRATIVE ASSISTANT |
| DEBBIE PENALUNA | FINANCE DIRECTOR |
| KENNEY RAYROUX | H R DIRECTOR |
| LINDA MARTINEZ | INDIGENT ADMINISTRATOR |
| REID WRIGHT | CARLSBAD CURRENT ARGUS |
| JOHN BEASLEY | CITY DIRECTOR OF COMMUNITY DEVELOPMENT |

1. **OPEN MEETING & INVOCATION:** At 10:00 a.m. Derrick called the meeting to order. Sartin led the Pledge of Allegiance and gave the Invocation.
2. **DISCUSS & APPROVE/DISAPPROVE COUNTY PARTICIPATION IN SUPPLEMENTAL ALLOCATION FOR ARTESIA GENERAL HOSPITAL:** Martinez explained Artesia General Hospital was publicly owned which made them eligible for a second round of supplemental funding from the State. Martinez stated \$49,425.29 in matching funds would be needed in order to receive an additional \$240,395.38 in supplemental funds from the State. Artesia General Hospital provided a check to the County for the matching funds. Martinez stated the County would need to issue a check to the State for the match, and have it in Santa Fe by the close of business on Monday. Sartin stated a change would be made to both the revenue and expenditure budgets equally; however there would be no impact to county money. Lara clarified the request was legal due to the fact that the hospital was publicly owned. Martinez stated Tabor had drawn up an agreement for the intergovernmental transfer of funds in order to provide a paper trail of the transaction. Volpato moved, seconded by Lutman to approve A-09-131. Volpato pointed out the additional supplemental would increase the leverage on the 3 to 1 funding from the federal government next year. Voting yes: Derrick, Hernandez, Volpato, Lara and Lutman. Passed 5-0. A-09-131 was recorded as Exhibit 2.

3. **EMERGENCY BUSINESS:** None.

4. **COMMENTS:** Lutman asked Sartin for an update concerning an e-mail he received from Bill Armstrong concerning the flight from Roswell to LAX. Sartin reported Armstrong had checked with the President of American Airlines and the flight was already able to support itself. Armstrong anticipated the flight would continue with no support from outside agencies after January, 2010.

Volpato expressed condolences to Harry Burgess, City Manager, for the unexpected loss of his mother.

5. **ADJOURN MEETING:** At 10:08 a.m. Derrick moved, seconded by Lara to adjourn the meeting. Voting yes: Derrick, Hernandez, Volpato, Lara and Lutman. Passed 5-0.