

# MINUTES CONTINUED FROM THE OCTOBER 16<sup>TH</sup> SPECIAL MEETING

VILLAGE OF LOS RANCHOS de ALBUQUERQUE  
6718 RIO GRANDE BOULEVARD N.W.  
BOARD OF TRUSTEES REGULAR MEETING  
**November 8, 2006 - 7:00 P.M.**

**Present:**

Larry P. Abraham, Mayor

Donald T. Lopez, Trustee/Mayor Pro-Tem

Mary Homan, Trustee

Tim McDonough, Trustee

Pablo R. Rael, Trustee

Annabelle Silvas, Clerk

Juan Vigil, Administrator

Terry Nighbert, P&Z Director

Nancy Haines, Treasurer

Sherry Tippett, Attorney

Greg Perez, Fire Chief

---

Tape 1-Side 1-Index #000

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**A. APPROVAL OF AGENDA**

**B. MINUTES – SPECIAL MEETING – OCTOBER 16, 2006**

**Mayor Abraham** announced that because of the continuation of the October 16<sup>th</sup> Special Meeting, the draft minutes were included for reference only. He said the final minutes will be on the December 13, 2006 Agenda for approval.

**MOTION:** Trustee Lopez moved approval of the agenda. Trustee Rael seconded the motion.

**VOTE:** The motion carried unanimously, 4-0.

**Mayor Abraham** explained that they would begin with the continuation of the October 16 meeting and give the spokesperson on each side 15 minutes to present and summarize and then give the public 12 minutes each. Public Comment would then close at which point the Trustees could ask any questions. He said he hopes that this meeting will last under an hour and then they would convene the regular November 8, 2006 Board of Trustees Meeting.

***(PLEASE NOTE THAT ON THE OCTOBER 16, 2006 SPECIAL MEETING AGENDA, THE ITEMS FOR PUBLIC HEARINGS AND APPLICATIONS WERE NUMBERED AS 3.A., 3.B. AND 3.C.)***

Tape 1-Side 1-Index #025

**2. PUBLIC HEARINGS AND APPLICATIONS**

**A. AN APPEAL BY MELENDRES AND MELENDRES, LLC OF PLANNING AND ZONING COMMISSION APPROVAL OF A REQUEST BY DAN VARELA, ROMANO**

**AND ASSOCIATES, LLC AGENT FOR T-MOBILE L. P. TEXAS TO CONSTRUCT NEW, CONCEALED WIRELESS TELECOMMUNICATIONS FACILITY(S) LOCATED ON VILLAGE OF LOS RANCHOS PROPERTY, ON SEPTEMBER 19, 2006, AGENDA ITEM A. THE PROPERTY IS LOCATED AT 6718 RIO GRANDE BLVD. NW AND IS LEGALLY KNOWN AS LOT 1 OF LAND DIVISION PLAT PRADOS TRANQUILOS, BEING A PORTION OF M.R.G.C.D. TRACTS 32 AND 33, MAP 29, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, MAY, 1977. THE PARCEL CONTAINS 2.276 ACRES MORE OR LESS. TC-06-01**

**(NOTE: This item is discussed on Pages 2 through 14.)**

*Attorney Tippett swore in those persons wishing to speak on these items.*

**Jeffrey Albright** said he was representing T-Mobile and had the following persons with him: Nick Romano, Development Supervisor; Terry Quinn, Development Manager for New Mexico and El Paso; Mark Lane, RF Engineer; and Archie Kahn, Verizon RF Engineer. He said he would like to point out that the hearing that prompted the application was noticed via publication on July 24, 2006 in accordance with the requirements under the state statute and scheduled within 30 days after the July 27 notice of completion. He said in going through the process, the requirements of Ordinance No. 162 for Wireless Communication Facilities have been met by T-Mobile. He said there was a Planning Report dated July 31, 2006 from Terry Nighbert that went through the Application for Variance for cell tower height of 75 feet where 60 feet was allowed under the Ordinance and the findings were that the department recommended that the variance application for 75 feet of cell tower height and allowing for 3 service providers to reside on the tower was appropriate. He said the Ordinance Section 7.7.1.d. governed the installation of cell towers and that the applicant, T-Mobile, met the intent of those sections. He said Section 3 also provides for the Planning and Zoning Commission to have some latitude in allowing for height variance when the overall goal is to provide for the safety, health and welfare of Village citizens and that was met by T-Mobile. He noted that the requirements under the Ordinance state that new wireless telecommunication facilities may only be permitted in the C-1 zone or on municipal property and T-Mobile met that requirement. He said the 3 criteria concerning siting on municipal property have been met and the lease will be met upon approval. He said with respect to some of the other legal issues, T-Mobile demonstrated during the last hearing and as was iterated by the consultant for a few of the Village members and CMS folks that there was a gap in coverage. He said with regard to the collocation for other carriers and for T-Mobile to locate, that is a requirement and to deny them entry would be a barrier to entry for telecommunication service. He said a proposed alternate site was mentioned along 4<sup>th</sup> Street and testimony was given as to why that site would be inadequate. He said that tower has not been built and is only proposed and would have to go through the same process and procedures. He said it is speculative that the tower would be an acceptable substitute. He said from a competitive point of view, T-Mobile is willing and prepared to collocate other carriers on the proposed cell tower that complies with the Ordinance and with regard to permitting competition within the industry.

**Nick Romano**, 4520 Montgomery Blvd., Development Supervisor for T-Mobile, said they delivered a letter dated November 7, 2006, which was a summary of what has already been discussed. He said there were sections of the letter starting on page 3 that he would like to go over regarding a question on whether a site at 4<sup>th</sup> Street and Schulte would be more appropriate to

resolve the lack of coverage along Rio Grande Blvd. He said that Ordinance No. 162, Section 6.2.A.9 makes it clear that confidential and proprietary information is not a requirement for an applicant under the Ordinance. He said some of the data requested by the Park Watch Group and their paid consultants is considered proprietary confidential by T-Mobile. He said that Ordinance No. 162 also clearly states that the burden of proof on the applicant is to evaluate existing facilities if they are within the targeted market coverage area of a proposed site. He said T-Mobile's position is that 4<sup>th</sup> Street is completely outside the targeted market coverage for this particular site. He said T-Mobile already has 2 sites along 4<sup>th</sup> Street, one at the car wash and one at 4<sup>th</sup> and Ranchitos which provide more than adequate coverage along 4<sup>th</sup> Street. He said they are not trying to cover 4<sup>th</sup> Street with this site, they are trying to cover Rio Grande Blvd., in particular the areas provided on the coverage maps and on the drive-test map which showed where the hole was. He said T-Mobile feels 4<sup>th</sup> Street is irrelevant to this discussion because it is not within the targeted market coverage area. However, he said they did evaluate 4<sup>th</sup> and Schulte because they know the question came up and they felt they should evaluate it. He said they provided a coverage map with the November 7 letter which depicts the hypothetical 4<sup>th</sup> & Schulte tower in conjunction with the coverage from their other sites. He said those maps show that even with the site at 4<sup>th</sup> and Schulte, they still have a band of yellow all along Rio Grande Blvd. which means vehicular coverage only at best. He said they want to bring service within people's homes so they can connect telephone calls with their wireless phones reliably inside their homes, not just inside their vehicles. He said this includes emergency calls where the reliability factor is essential. He said the Park Watch Group in a number of their letters stated that T-Mobile's maps are not designed to "accepted industry standards". He said this is a technical issue and they disagree with them because they don't feel the Park Watch Group has the expertise or the understanding to comment on what signal strength T-Mobile needs in order to provide reliable coverage in buildings. He said attached to T-Mobile's letter was an affidavit provided by the prior Director of RF Engineering which provided the scientific basis by referencing academic publications, research that was conducted by industry and academics as to why the coverage levels that T-Mobile has designed their network to are the coverage levels that are appropriate for a GSM network. He said the propagation map provided by an anonymous source to the Center for Municipal Solutions actually reinforces T-Mobile's own case. He said their map shows that it does not reach Rio Grande Blvd. and is very similar to T-Mobile's own map. He said he would like to remind everyone that at the last meeting they agreed that the location behind Village Hall would be the ideal location for the targeted market coverage area of the site that is being discussed today. He said the bottom line is that everyone acknowledges that there is a hole in coverage here. He said the question remains whether T-Mobile's proposal will solve the problem and whether it is the appropriate use for this particular property. He said he noticed that the Park Watch Group brought their own photo simulations but he would like to point out that he feels T-Mobile's simulations are much more accurate and to scale. He said the survey he provided at the last meeting was done by a professional land surveyor who spotted the height of every individual tree around this area. He said the image of a pine tree that the Park Watch Group is using has no branches until about 80 feet. He said the pictures that T-Mobile provided are of actual trees built in California and they don't resemble in any way the simulations the Watch Group provided. He said there was another letter included in their packet that was signed by the RF Engineers and the Managers from Alltel Communications, Verizon, Sprint-Nextel and T-Mobile which discussed in a technical way the industry standards question. He said they feel it is unfair to try to impose a standard upon people who are operating with a very different set of tools.

**Jeffrey Albright** said he wanted to be sure the letter provided to the Mayor and Board of Trustees dated November 7, 2006 on the proposed T-Mobile telecommunications facilities, the two maps, a

letter also dated November 7, 2006 concerning the RF Engineering Standard and the confidential nature were entered into the record. He said he was authorized by the Cingular representatives to say that they also endorse and support the overall confidential nature of what is reflected in the letter. He said he also wants to include the affidavit from Mark Cosgrove with regard to the RF Engineering Standard.

**Mark Lane**, 11335 Campo del Oso, said he is the RF Manager for T-Mobile. He said he has been working as an RF Engineer for over 12 years and 10 of those years were spent in this local market providing RF engineering expertise to his company in Albuquerque and El Paso, Texas. He said he would like to discuss the issue with the different propagation maps. He said the public can often times mistrust what a corporation presents and sometimes that is valid and sometimes it is not. He said their propagation models are freely given for viewing to each and every prospective customer for T-Mobile service. He said you can go directly to the T-Mobile website, put in your address, and you can see what their prediction tool predicts for coverage levels at your house, your work address, and the route you travel to and from work. He said if you want to go on vacation, you can look anywhere you want in the nation for T-Mobile coverage and see exactly what their models predict for coverage. He said because of that their models must be absolutely as accurate as they can get them. He said the other propagation studies that have come forth from the Center for Municipal Solutions use a very outdated, very broad and general Longley-Rice model which is good for any frequency from 20 megahertz to 40 gigahertz and does not take into account the clutter losses. He said clutter means anything that is above the ground – trees, buildings, cars. He said they can digitize the terrain, the clutter on top of the terrain and with that they can apply all of their mathematical models to predict how a 1900 megahertz wave will propagate through that environment. He said they must be as accurate as possible because they provide their predictions directly to their prospective customers. He said their propagation map information can be verified by going to the T-Mobile website, pulling up the personal coverage check, punching in any address within Los Ranchos and verifying the coverage that he submitted.

**Steve “Archie” Kahn**, 4821 Eubank NE, said he represents Verizon and they use CDMA technology. He said in his propagation studies he was not as concerned with signal strength, he was more concerned with interference versus signal. He said in the industry, they call it “EC over INOT”. He said when he did his studies, he found that putting a site at 4<sup>th</sup> and Schulte actually made the EC over INOT worse on Rio Grande than it is presently. He said he can say that they have one site on 4<sup>th</sup> Street and one on 2<sup>nd</sup> Street and that is what covers most of this area. He said they would have no interest in going to 4<sup>th</sup> and Schulte, even if there was a tower erected there.

**Mayor Abraham** asked Mr. Kahn if he was saying that if Verizon located on a tower at 4<sup>th</sup> and Schulte, they could not cover the Rio Grande corridor. Mayor Abraham asked him if his feeling was that Verizon could not cover the Rio Grande corridor from 4<sup>th</sup> and Schulte.

**Steve “Archie” Kahn** responded that their propagation model shows that putting a new tower at 4<sup>th</sup> and Schulte only provides another interferer on Rio Grande Blvd.

**Tape 1-Side 1-Index #298**

**Paul Melendres** said he wanted to address certain issues that occurred at the last hearing that he thinks are important to reiterate. He said Mr. Patterson told everyone that propagation maps can be used to prove anything and that was one of the reasons why they needed the numbers behind the

propagation study in order to evaluate whether the propagation study itself had any legitimacy. He said they actually provided the numbers behind their study which showed that usage could occur at 4<sup>th</sup> and Schulte. He said T-Mobile has fallen behind the old trick of saying it is a trade secret. He said he would like to note for the Trustees that he offered to enter into a confidentiality agreement with T-Mobile for himself as well as Mr. Patterson in order to obtain the numbers so that they could run them to see if T-Mobile's propagation study is accurate. He said T-Mobile at no time wanted to provide that to them. He said the fact that they would not enter into a confidentiality agreement with the attorney and the expert so that they could provide an analysis to everyone, he finds distressing. He said it appears his organization is the only one that is actually providing data to the Trustees. He said his group is the only one going out and trying to present the evidence behind what is being set forth. He said it is distressing to them that the Village staff did not ask the original questions and instead his group is the one doing the questioning. He said the propagation studies his group provided show the numbers and they can be verified. He said they don't have anything from T-Mobile or Verizon. He said if "Mr. Archie" would like to sign an affidavit and submit it to them regarding the propagation study and the numbers behind it, he thinks that would be more interesting instead of him just coming up there to speak this evening.

**Mayor Abraham** said he would like to put in the record that Mr. Kahn was under oath. He said the people who came here this evening are either telling the truth or not.

**Paul Melendres** said without the numbers they will never know. He said the reality is that when you look at the application it is not about where the ideal location is, the Ordinance says you have to demonstrate that there is no existing building or site that will show that the coverage can be provided. He said he doesn't believe they have the evidence before them to ensure that 4<sup>th</sup> and Schulte does not work. He said he found it interesting that counsel said there isn't even a tower at 4<sup>th</sup> and Schulte. He said there isn't a tower here either so you are dealing with the same sort of theories behind whether there is going to be a tower or not. He said there is no tower, a tower would have to be constructed somewhere. He said based on the Ordinance itself it doesn't appear that they have demonstrated that there is no other suitable site and without providing verifiable numbers to the Trustees, to ensure the propagation study is correct, he said he doesn't know how they could decide in favor of the application. He said Section 7.1. specifically deals with the fact that you also provide for standards that need to be addressed such as visual impact, color and materials. He said they took the Mayor's picture of his tree and hired George Ranovich, a landscape architect of Sites Southwest to come here and actually do an analysis of heights, take pictures and provide to the Trustees their understanding of what the tree would look like. He then showed his group's interpretation of what the tree would look like, presumably for the next 25 years. He said this would be the Mayor's gift to the Village. He said their landscape engineer is sure that his depiction is accurate. He said the Mayor has never provided a diagram of what the height is actually going to be. He said he doesn't understand why the Trustees don't want someone to come out and measure the actual heights so the Trustees know what they are voting on. He said his clients, the Park Watch Group, hired someone to go out and do that for you. He said he believes their depiction of the tree is what they believe will exist and their position is that this is a violation of the Village's own ordinance regarding visual impact, color and material and they perceive that if the Trustees voted in favor of the application, they would be violating their own ordinance. He said someone commented at the last meeting: "Analysis paralysis, Mr. Mayor, get it done." He said the ironic thing is that there has been no analysis. He said whether you wait one month or six months to make a determination of what you are going to get, it is distressing to his clients if they end up seeing this tree for the next 25 years. He said a monopine out of California was chosen to be placed in the Village and no alternatives have been offered. He said he would

ask the Trustees to think about whether they have all the information they need to make a decision that will affect the Village for the next 25 years.

**Mel Patterson**, 711 Tramway Place, said he would respond to T-Mobile's last minute submittals dated November 8, 2006. He said he personally has reviewed hundreds of applications submitted by Cingular, Alltel, Nextel, Cricket, Alamosa, etc., using accepted industry standards. He said on a national basis, thousands of applications were processed using those same standards. He said T-Mobile currently has over 30 projects in various stages of approval nationwide that will be subject to the accepted standards. He said to date no applicants he has processed have deemed their supporting data as private and confidential. He said if they did, it would be treated in an appropriate manner. He said they have shown through their propagation studies that a 75 foot tower would provide coverage for T-Mobile and other carriers on 4<sup>th</sup> and Schulte and they have also provided verifiable numbers with that propagation study. He said he also asked another independent RF Engineer who resides in Albuquerque and works for the industry to do another independent study and he came up with the same result that an 85 foot tower at 4<sup>th</sup> and Schulte would work. He said the latest propagation study submitted by T-Mobile using industry standards of in-building -85 dBN shows that it would work. He said Mr. Cosgrove presented a strong technical argument on T-Mobile's preferred operating parameters for in-building and in-vehicle coverage. He said CMS in conjunction with T-Mobile Omnipoint conducted call tests in New York State that proved signal levels of -95 dBN in-vehicle and -85 dBN in-building for buildings less than 4 stories would work absolutely fine. He said that although T-Mobile did not like those results, they agreed to use those standards for their applications. He said he doesn't believe there are any 4 story or greater buildings on Rio Grande Blvd. He said T-Mobile also noted that emission standards are exclusively enforced by the FCC and not local municipalities; however, he said municipalities do have the authority and right to ensure that carriers meet FCC standards. He said T-Mobile also asserts they are not responsible for looking at any areas beyond 2,000 feet as stated in the Ordinance, but he said this is not applicable unless the applicant is trying to locate a new wireless facility within 2,000 feet of an existing facility. He said it does not place a limit on the applicant's requirement to demonstrate that no other facility can reasonably accommodate the applicant's proposed facility. He said an example would be the PNM poles along 4<sup>th</sup> Street that are 90 feet in height. He said T-Mobile and Nick specifically used the propagation map that they submitted last time for the "talk-back" path; i.e., the path from the cell phone back to T-Mobile's receiving radios. He said the -85 dB assumption is that you are using the standards for a cell phone or handset. He said the talk-back path uses the receiver sensitivity of the radio itself which is more sensitive than a handset. He said T-Mobile claims that CMS only reads propagation studies and he said that is true but the propagation studies submitted at the last meeting were prepared by an independent and experienced RF Engineer who was employed by T-Mobile in the past. He said the propagation studies were not prepared by CMS. He said CMS believes T-Mobile should locate the proposed site at 4<sup>th</sup> and Schulte because: the location is commercially zoned and preferred by the Ordinance, the Village should receive the same monetary benefits, all E-911 benefits would be available, and a cell tower on 4<sup>th</sup> would blend into the current environment of 90-foot PNM transmission line poles. He said the site would not have an unreasonable, adverse impact to the scenic resources and a properly designed site on 4<sup>th</sup> and Schulte would end the controversy and allow needed services to be installed. He said regardless of the location, T-Mobile and all future applicants should be required to provide completed applications using verifiable formats in accordance with Ordinance No. 162 prior to any final approval. He said the Village's failure to meet these fundamental requirements jeopardizes the Village's ability to regulate wireless facilities in the future.

**Paul Melendres** said he thinks the Trustees have been provided with things that his group has given them. He said they must question where the Village was in order to do their independent research. He said you have a group who believes this is going to damage the scenic nature of the community and you have T-Mobile who has an application they want to get approved. He said the Trustees are going to have to choose between them because the Village didn't choose to get a landscape architect, they didn't hire an independent consultant to confirm whether the propagation studies were actually necessary and in place. He said therefore the Trustees are being asked to make a decision without complete information. He said his group is asking that this matter be tabled and that the Trustees and the community work together to bring in some independent experts to give an analysis of whether the back of the Village Hall is the place for the tower or 4<sup>th</sup> and Schulte. He said they are simply asking that the matter be tabled. He said cell service is important but with the information before the Trustees and the momentous decision they will make which will affect the Village for the next 25 years, he believes the issues should be addressed.

**Tape 1-Side 1-Index #545**

**In Favor of Cell Tower**

**Greg Solove**, 1603 Narcisa Court, Tinnin Farms, said he thinks having good coverage is important and urgent enough that even if a bare tower were erected behind Village Hall, he would be in favor of that.

**J.C. Lopez**, 6845 4<sup>th</sup> Street, said he has a business called Minuteman Refinishing. He said about a year and a half ago he came here upset because every time he was coming down Rio Grande or Green Valley he would lose service on his phone. He said at that time he was told they were trying to do something about it but as time went on he saw they were trying but then he read about a lot of negativity from people who didn't want it. He said he took 2 hours of his busy day to get some petitions signed by the business owners on 4<sup>th</sup> Street. He said his cell phone works on 4<sup>th</sup> Street but not in the Village and it is embarrassing when you are talking to a customer and you have to say, "If I lose you, I'll call you right back." He said the businesses are the ones who pay the gross receipts to the Village. He said the other 28 owners who signed the petitions said he could speak on their behalf and they are in favor of the cell tower. He said they want to see it get built now.

**Tape 1-Side 2-Index #003**

**Randy Briggs**, 7011 Rio Grande, said he has a petition to the Village of Los Ranchos Board of Trustees that says: "As community minded residents, we are petitioning the Board of Trustees to approve a comprehensive solution to address the poor wireless service in the Village of Los Ranchos. We are in favor of improved cell service, that this tower serves at least 4 providers, and that we use a camouflaged monopine cell tower behind the Village Hall. We feel that this is the best solution while still maintaining the rural ambiance of Rio Grande Blvd. We also would propose that you earmark the income from this to acquire and maintain open space." He said the factors that they considered were: 1) that this is the only site that seems to have the proper zoning and it also addresses the poor cell service because it appears that the other location is going to be a bandaid for the people on Rio Grande especially; 2) the public safety and welfare are definitely affected by your decision; 3) you have had a public hearing and numerous meetings to consider the location and type of tower; 4) the location behind the Village Hall is the least intrusive and most practical given the zoning restrictions; and 5) Information given in the Mayor's October *Village Vision* article addresses their concern and demonstrates that the Village has considered this issue carefully and fully. He said he urges the Trustees to look at the 250 signatures from people in the Village. He said there are over 400 acres represented by the people in the Village and 65

signatures from people on Rio Grande Blvd. He said he also has a petition from 26 people who live at 4<sup>th</sup> and Schulte who circulated their own petition because they oppose the cell tower being at their location. He said he thinks they feel they have a bitter pill to swallow with the fire station so why should they have to have an 85 foot tower at their location as well. He said he thinks you have to consider that those people live in the Village, too. He said there were also 12 residents of Caballero Norte who supported the petition but he did not ask them to sign it. He said he would pass out copies of the map to anyone in the audience who wanted them.

**Bruce Muhr**, 336 Enchanted Valley Place, said he is one of the ones who signed the petition that they would not like to have the tower at 4<sup>th</sup> and Schulte. He said it seems to him if you want to rent something to people, you ask them what they want, then you build it and rent it to them. He said you don't put it someplace else and tell them that's where they have to move to.

**Tape 1-Side 2-Index #040**  
**Opposed to Cell Tower**

**Roberta Ramo**, 908 El Alhambra Circle, said she has been a property owner in the Village for over 30 years. She said they have done their very best to try to do what they thought the Village should do and that was to be very clear about what the impact was going to be on the rural atmosphere of the Village. She said when they are asked to approve taxes for more open space, she said she has to wonder what is going to be put on that open space when she saw what is happening to what she thought was a park in her neighborhood. She said for 25 years people will look at something that looks like what is depicted in their rendering. She said there has been no effort on behalf of the Village administration to find some joint ground in which they could find some sort of mechanism to deal with the cell phone service that did not destroy the atmosphere of the entire Village and she said she thinks that has not been done. She said as the Trustees vote, she hopes they know that when the cell phone tower goes up, wherever it is, but especially if it goes up in the park that everybody in the whole Village will be affected. She said their property values will be affected and the quality of the semi-rural atmosphere that she thinks is unique in any metropolitan area. She said she has not seen any cell towers in the Albuquerque area that are in a neighborhood similar to the Village. She said it is the lack of effort in making sure the culture, atmosphere and views of the Village are not disturbed is what troubles her the most. She said there is an Ordinance and in their view that Ordinance has been disregarded in many ways and she thinks that is not a good government. She said her group believes that all of the rules have not been followed and they are disappointed about that as members of the Village. She said they are all sympathetic to the problem of having spotty cell phone coverage at the moment but they genuinely believe that at 4<sup>th</sup> and Schulte, which is a proper property, there is no difference in the kind of structures that are located up and down on 4<sup>th</sup> Street. She said the rural atmosphere of the Village doesn't exist at that intersection. She said she would ask that the Trustees vote to table this item, that a month or so be taken to consult with an independent landscape architect, and have an independent propagation study conducted to see if this is the only solution. She said they believe it is not the only solution and that if the Trustees conclude that it is the only solution then they believe you have not taken the time to give them the least impact possible and that would be very disappointing.

**Patti Serna**, 900 El Alhambra Circle, read the following letter: "Dear Trustees: One year ago you considered an application to expand on an existing cell tower at 8601 4<sup>th</sup> Street, NW, near 4<sup>th</sup> and Paseo del Norte. Approval was recommended by the Planning Commission along with seven conditions and the fifth condition begins like this: "The noise, glare or odor effects of the proposed

use on adjoining properties are minimal, the visual effects of the tower and an additional large array of antennas at 42 feet above the ground is detrimental to the neighborhood. The economic impacts of this tower on the neighborhood property values would need to be determined by a market study and are not required in the general scope of the zone code.’ Where did the Planning Commission’s awareness of visual effects detrimental to neighborhoods go in the case of allowing a 75 foot fake tree to dominate the vista of the park on Rio Grande? Is this area not a scenic resource that the community takes pride in? Isn’t it worth protecting from detrimental effects? What about the economic impact of this tower on our property values? How is it that an application to add antennas to an existing tower is treated with greater sensitivity than an application to construct a new tower in an historic and scenic area? When the Planning Commission discussed T-Mobile’s application in September, much head scratching took place about the hole in T-Mobile’s coverage. ‘They have built themselves a hole’, I heard a Commissioner say; let them unbuild it, I say. Had this property remained residential no one would be pointing at it and calling it a hole. T-Mobile would probably find that the hole existed somewhere else. It is a head scratcher to watch all these people driving around in the hole talking on cell phones. We invite people to this part of Los Ranchos for a view, for an eyeful of nature. How absurd it is now to be asked to pretend for 25 years that the ‘Frankenpine’ is just another tree nestled among its fellow trees. That has a special and sad disappointment built right in for everyone who looks at it and ignoring that will be impossible. This year of contention over cell phone towers began with our protesting the first plan to put five monopolies adjacent to the barn. Village leadership demonstrated from the very beginning that they had no problem putting 5 towers in the heart of the park. We have no way to know whether they will be satisfied with the current arrangement or whether they’ll propose more. We will know soon what measures you will take to protect this area. I am hopeful that you will take action tonight that will lead to a better solution than what has been approved thus far. Thank you.”

**Marianne Woodard**, 909 El Alhambra Circle NW, said she has lived there since 1979. She said she did a Public Records request to take a look at all the cell tower applications in the Village and there weren’t that many. She said one of the things among the many distinctions was that in each of the others there was more treatment given to the issue of noise. She said she visited more cell tower sites than she had been to before and she noticed that the towers are not without noise. She said the Board will have to decide whether they are going to advocate the responsibility to look at compliance with the Ordinances or not. She said she realizes the Board took action realizing that it needed expertise to deal with this application. She said the answer to why the Board has advocated every piece of the application is in the public record. She said a recommendation was made by a Trustee to hire an expert last December and the answer was quote from the Mayor: “I would rather see the Village get more money as a result of my business and cellular experience. I was involved when the first cell towers were built and have kept abreast of the industry since then.” She said this Board will have to decide whether the Board is going to ensure compliance with the Ordinance on the array of issues that have not been dealt with by the Village. She said she hopes the Board will take on the responsibility of dealing with the Ordinance.

**Tape 1-Side 2-Index #143**

**Questions from the Trustees**

**Trustee Lopez** said he would like to ask Mr. Romano a couple questions. He said he believed at one of the other meetings someone indicated that T-Mobile was not interested in building another cell tower site on 4<sup>th</sup> Street.

**Nick Romano** said that is true – they are not interested in building a site on 4<sup>th</sup> Street.

**Trustee Lopez** said another thing that was said at the last meeting was that the reason T-Mobile needs 75 feet is because you must get above the tree canopy which is at 40 – 50 feet and causing a lot of problems.

**Nick Romano** said there are two reasons and the first is the canopy. He said they provided at the last meeting a survey by a professional land surveyor which measured the height of every tree out there. He said the second reason is that the Ordinance requires that the pole be designed for 3 carriers and they interpreted design to mean feasibly designed. He said their thought was to get the other carriers as high above the trees as possible.

**Trustee Lopez** asked how many carriers could be included on the 75 foot cell tower.

**Nick Romano** said their current plans were to design it to accommodate the minimum of 4 carriers, which would be T-Mobile plus 3 more and possibly a 5<sup>th</sup> carrier which would be roughly at the 48 foot level on a 75 foot tower.

**Trustee Lopez** said he had a question for Mr. Nighbert and Mr. Vigil regarding the talk that the application is not completed. He asked if, in the opinion of Village staff, the application is complete.

**Planner Nighbert** responded that, yes, in the opinion of the Village staff, the application is complete. He said all 10 of the requirements outlined in the Ordinance were met by T-Mobile in their application.

**Trustee Homan** said Mr. Melendres had stated that the Village had never looked at the alternate designs. She said early on in the process at the beginning of the year, they had presentations that included not only the trees but flagpoles, church towers, and bell towers. She said they also posted those in the *Village Vision* and had the Village residents send e-mails, letters, and invited them to come to the Village Hall to let the Board know what their preferences were. She said when Mr. Patterson was questioned back on October 16 by Trustee Lopez, he asked Mr. Patterson directly if in his opinion the site at Rio Grande was the optimal site and Mr. Patterson agreed. She said another item that was brought up was the preferred Ordinance issue. She said Mr. Melendres stated that the Ordinance was taking a look at commercial property basically on 4<sup>th</sup> Street versus Village property and he implied that 4<sup>th</sup> Street or commercial property was the preferred property according to our Ordinance. She said she does not believe that is so; she said she believes the Ordinance states that either Village property or our commercial corridor is appropriate but it does not state that one is preferred over the other. She asked Planner Nighbert if he would confirm that.

**Planner Nighbert** responded that under Article 7.1.C., Siting on Municipal Property, there is no hierarchy that talks about siting. He said there are only two places under B. that state: “New wireless communications may be permitted only in the C-1 Zone or on municipal property.” He said it does not say A., B., it says “or”.

**Trustee Homan** said along the same logic line, many of the folks opposing the use of the property at Village Hall are basically stating that they have issues as to property effects, visual effects and similar concerns. She said if the property on 4<sup>th</sup> Street gave the same coverage and it truly was a balanced decision between one versus the other, would not those residents have the same issues

over there on 4<sup>th</sup> Street? She said wouldn't they too be talking about the visual impacts, the property impacts that they would have? She said what they have heard from the experts is that it is not a balanced decision. She said the decision is leaning toward Rio Grande because that is where the coverage is needed, and it was even confirmed by Mr. Patterson in the October 16 meeting. She said those are her observations.

**Trustee McDonough** said assuming this was approved this evening and noting that the wording in the Request for Appeals refers to towers, plural, and have we opened the door for additional towers? He asked what the process would be for another tower to come in, if a conditional use for towers over 60 feet was approved.

**Planner Nighbert** said the question becomes whether the Village, which has the municipal property on Rio Grande, would grant that to another carrier. He said if you are approving one tower tonight, it would be difficult to approve another one for conditional use since there have been 4 meetings so far trying to approve this one tower.

**Mayor Abraham** said according to the Telecommunications Act, any new tower on this area or any new carrier with an application would first have to collocate on the existing tower. He said that is why they are looking at one 75-foot tower.

**Trustee McDonough** said he would like to amend both actions to remove the "s" from tower and make it singular, one tower. He said if they approve the tower, then they want to maximize collocation, ideally 5 carriers. He asked if they could make their approval contingent upon an executed lease agreement that has a minimum of 4 carriers on that tower.

**Attorney Tippett** responded that they could do that and if the lease does not get signed, then this would fall.

**Mayor Abraham** said he is the one negotiating with them and he plans that they should have at least 3 or 4 other carriers but he is not sure he can make that a condition.

**Attorney Tippett** said she believes they can encourage as much collocation as possible by way of the lease and as a condition. She said it is true that FCC preempts the Village but she does not see anything that violates Federal law by requiring as many carriers as possible.

**Jeffrey Albright** said with regard to other leases he has worked on with carriers, as part of the lease you can require that the design of the tower be engineered to accommodate 3, 4 or a number of additional carriers. He said with regard to requiring T-Mobile to have those carriers on, that is not something you could have in the lease but the Village's Ordinance does address collocation and having that as a priority. He said the requirement in the lease to have it engineered to accommodate those additional carriers is within the Village's right to do so.

**Mayor Abraham** said he has made it extremely clear to T-Mobile that he will not sign the lease if there are no other carriers to follow.

**Jeffrey Albright** said T-Mobile cannot be held hostage that before they can go on there has to be other carriers, but he said there are letters of intent from other carriers to collocate.

**Attorney Tippett** said the Village's Ordinance does require that it be engineered for at least 3 carriers and if it can't be, then the burden switches to the Applicant to show why they can't collocate. She said that issue has not come up in this application so she assumes 3 or more could be accommodated.

**Jeffrey Albright** said part of the lease agreement could have the requirement in it and be perfectly appropriate for it to be engineered to accommodate 3 or 4 additional carriers on the tower.

**Trustee McDonough** asked if the lease of the other carriers that collocate on T-Mobile's tower will be a lease with T-Mobile.

**Mayor Abraham** said at the present time what they are looking at is the carriers who want on the tower will enter into a lease with T-Mobile to put their cells on the monopole, but they will enter into an agreement with the Village for a ground lease which is where the income will be generated for the Village. He said he anticipates 5 identical spaces, almost like mini storage units, that will be built beside the maintenance building.

**Trustee McDonough** said he understands that all the carriers suffer from this common problem of a hole in the Village. He said his concern is that he only wants to do this one time. He said what he has heard is that Verizon is interested in collocating, the other carriers are interested in collocating and he just wants to make sure it gets done. He said the worst case scenario is they all come in and say they can't collocate because they need to be 75 feet also and the Village winds up with 5, 75 foot towers because everybody wants to be above the canopy. He said he would like for that to be resolved before they move forward on this issue.

**Mayor Abraham** said that the negotiation that has taken place has T-Mobile at the top, followed by Alltel, which is also represented by Nick Romano, next would be Cingular at 65 feet and Verizon would be at 60 feet. He said Verizon has agreed to go as low as 55 feet if there is a problem with spacing out carriers. He said it will be unprecedented that everyone is going within 5 feet of each other because that is not industry standard, but that would be their intent. He said they already have the agreements at the heights from the carriers.

**Trustee Homan** asked if there was going to be a problem of bleed-over because of only having the 5 foot separation.

**Mayor Abraham** responded that there would not be a problem because T-Mobile is a GSM, Alltel would be on an 800 megaHertz, Cingular would be on CDMA and Verizon would be on CDMA but will be on the 800 megaHertz, and below them would be either Sprint or Nextel. He said they have everyone separated and the biggest deal is to keep Verizon and Alltel 10 feet away from each other.

**Nick Romano** said to date they have received formal applications from Alltel and Cingular who have actually submitted application fees to T-Mobile as part of the processing of their application. He said this means they have officially said they are interested. He said two other companies have submitted letters of intent. He said T-Mobile has no problem of distances from any other carriers and the Mayor made it very clear that this must be engineered to accommodate as many as humanly possible so that more people could feasibly use this facility.

**Trustee McDonough** said he understands that this lease will come back for Board approval. He said he would suggest that if they decide to take action on the appeals, that they make it contingent upon approval of that lease and that they make it really clear to T-Mobile and the administration that they want to see all those come together. He said he is extremely wary of opening the door without knowing that they have a package deal. He said it is hard enough to take this step without having some assurance that they are not going to have 3 or 4 towers out there. He said he appreciates the concerns of the neighborhood. He said regarding the discussions at the last meeting, the carriers and their RF experts don't tell stories. He said they don't come in and make up numbers. He said the question that went to Mr. Patterson last time concerning when you do reviews, are the carriers' numbers correct? And he said the answer that came back was yes, by and large they are correct. He said these are professional associations and to suggest that they are trying to pull the wool over our eyes for something that is not needed, he said he has a hard time accepting that. He said it is his feeling that from what they have seen over the past year it is pretty clear that coverage around the Rio Grande Blvd. area is not good. He said the people they have talked to have been complaining about it for years. He said he just wants to fix it one time and he does not want to be here again. He said the Hartnett Park site seems to be the ideal location to solve the cell coverage problem and society is moving toward a wireless society. He said as part of their responsibility as Board members, they have to make hard decisions to meet the needs of the community. He said emergency services are needed in this community. He said they have tried to mitigate the impacts by looking at different designs and trying to find something that has the least impact. He said a "no impact" cell tower does not exist. He said he believes they have done their best and you don't please all the people all the time, but he thinks they are trying to be responsive to the entire community.

**Trustee Rael** said initially when this started there was a proposal to put 5 towers by the barn and use the barn as the place to put the equipment so it would not be visible from the street. He said he received many letters and phone calls opposing that. He said now they are down to one tower and it is somewhat hidden behind Village Hall and trees and he believes it is a good compromise. He said businesses do not go out and look for trouble; they try to do what is easiest for them and the least expensive. He said to say that T-Mobile is coming in here and purposely trying to put it here when they could do it on 4<sup>th</sup> Street, he said he could not accept that because they are in business to make money and they are going to do it the easiest and best way for them. He said if they did not think it was going to work, they would not be here. He said that Mr. Melendres said earlier that we don't need the ideal place; but why should the Village settle for second best? He said he believes you should try to get the best all the time. He said all the people in the Village deserve the best. He said the people in El Caballero Norte do not like it because they are the closest to it, but he said he thinks they have come to the best solution to the cell phone situation and he is ready to vote.

**Trustee Homan** said she would like to commend the residents and the businesses in the community on both sides for their passionate displays, stepping out of their daily lives and taking time to research cell towers and how they could affect their daily lives. She said this is not an easy decision for the Trustees and she realizes it is not an easy decision for the residents either. She said she does want to commend the residents and businesses for participating in the process because without hearing from them, the Trustees would be blindly making decisions but they have listened. She said she realizes they can't please everybody, but they must do what they think is right for the majority of the Village and they hope that given time, the residents will accept the decisions they make.

**Trustee Rael** said he believes they will not be looking at the cell tower for 25 years because technology is moving so fast you will have satellites and there won't be towers anywhere. He said he knows the Mayor doesn't agree with that, it is available now but it is expensive.

**Trustee McDonough** asked how much license they can take in amending the wording. He specifically referenced 3.A. which read: "An application for approval for a permit for construction of concealed wireless antennas and associated equipment." He asked if they could insert "a concealed monopole" because he wants it to be really clear that this is an approval of one thing.

**Planner Nighbert** said that would be a condition you would put in there and if T-Mobile accepts that, then they would be agreeing to the condition.

**Trustee McDonough** said he would like to insert "a single tower" because if a wonderful design comes up, he doesn't want to limit it to a monopine.

**Tape 2-Side 1-Index #000**

**MOTION:** Trustee McDonough moved to partially deny the appeal of the application for approval for a permit for construction of a concealed wireless antenna conditioned upon execution of the lease agreement with T-Mobile and with the condition that it specifically state a single tower engineered for a minimum of 5 total antenna arrays. Trustee Rael seconded the motion.

**Jeff Albright** said he has no objection to the conditions that are imposed and asked for a clarification that it is for a total of 5 carriers each with an antenna array and that it was a denial of the appeal but the Trustees are setting conditions. He said with that clarification, they accept.

**VOTE:** The motion carried unanimously, 4-0.

**B. APPEAL BY MELENDRES AND MELENDRES, LLC OF PLANNING AND ZONING COMMISSION APPROVAL OF A REQUEST FOR A CONDITIONAL USE PERMIT BY DAN VARELA, ROMANO AND ASSOCIATES, LLC AGENT FOR T-MOBILE L.P. TEXAS TO CONSTRUCT NEW, CONCEALED WIRELESS TELECOMMUNICATIONS FACILITY(S) AND ASSOCIATED EQUIPMENT, WITH ABILITY TO COLLOCATE TWO OTHER WIRELESS CARRIERS (TO BE DETERMINED) LOCATED ON VILLAGE OF LOS RANCHOS PROPERTY, ON SEPTEMBER 19, 2006, AGENDA ITEM B. THE PROPERTY IS LOCATED AT 6718 RIO GRANDE BLVD. NW AND IS LEGALLY KNOWN AS LOT 1 OF LAND DIVISION PLAT PRADOS TRANQUILOS, BEING A PORTION OF M.R.G.C.D. TRACTS 32 AND 33, MAP 29, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, MAY, 1977. THE PARCEL CONTAINS 2.276 ACRES MORE OR LESS. CU-06-05**

**MOTION:** Trustee McDonough moved to partially deny the application for a conditional use permit with the condition that it specifically state that there will be a single tower with the ability to collocate a total of 5 carriers. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously, 4-0.

**C. AN APPEAL BY MELENDRES AND MELENDRES, LLC OF PLANNING AND ZONING COMMISSION APPROVAL OF A VARIANCE REQUEST BY DAN VARELA, ROMANO AND ASSOCIATES, LLC AGENT FOR T-MOBILE L. P. TEXAS FOR A SEVENTY FIVE FOOT (75’) NEW, CONCEALED WIRELESS TELECOMMUNICATIONS FACILITY WHERE SIXTY (60) FEET IS ALLOWED PER ORDINANCE 162, ON SEPTEMBER 19, 2006, AGENDA ITEM C. THE PROPERTY IS LOCATED AT 6718 RIO GRANDE BLVD. NW AND IS LEGALLY KNOWN AS LOT 1 OF LAND DIVISION PLAT PRADOS TRANQUILOS, BEING A PORTION OF M.R.G.C.D. TRACTS 32 AND 33, MAP 29, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, MAY, 1977. THE PARCEL CONTAINS 2.276 ACRES MORE OR LESS. V-06-13**

**MOTION:** Trustee McDonough moved to partially deny the approval of a variance request which is conditioned upon execution of a lease agreement with T-Mobile.

**Trustee Homan** offered a friendly amendment that the lease agreement also be approved ultimately by the Board of Trustees.

**Trustee McDonough** accepted the friendly amendment.

**MOTION:** Trustee McDonough moved to partially deny the approval of a variance request which is conditioned upon execution of a lease agreement with T-Mobile and that the lease agreement also be approved ultimately by the Board of Trustees. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously, 4-0.

**Mayor Abraham** said he knows this is an emotional issue but he said he promises Mr. Melendres that the cell tower will not look like what Sites Southwest depicted, nor will it be that high.

Tape 2-Side 1-Index #050

**4. ADJOURNMENT OF CONTINUATION OF OCTOBER 16TH SPECIAL MEETING**

**MOTION:** Trustee Lopez moved adjournment of the continuation of the October 16, 2006 Special Meeting at 8:36 p.m. Trustee Rael seconded the motion.

**VOTE:** The motion carried unanimously, 4-0.

**APPROVED** by the Board of Trustees of the Village of Los Ranchos de Albuquerque this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**ATTEST:**

\_\_\_\_\_  
Annabelle Silvas, CMC  
Village Clerk

