

MINUTES

VILLAGE OF LOS RANCHOS de ALBUQUERQUE
6718 RIO GRANDE BOULEVARD N.W.
BOARD OF TRUSTEES REGULAR MEETING
FEBRUARY 10, 2010 -7:00 p.m.

Present:

Larry P. Abraham, Mayor
Donald T. Lopez, Trustee/Mayor Pro-Tem
Pablo R. Rael, Trustee
Mary Homan, Trustee
Tim McDonough, Trustee

Kelly S. Ward, Administrator
Nancy Haines, Treasurer
Linda Seebach, P & Z Director
Martha King, Attorney
Bill Chappell, Attorney
Annabelle Silvas, Clerk

Absent: Commander Greg Perez

1. CALL TO ORDER

Mayor Abraham called the meeting to order at 7:00 p.m.

A. APPROVAL OF AGENDA

Mayor Abraham asked that the barn item 8.B be deferred to the next meeting.

MOTION: Trustee Lopez moved approval of the agenda deferring item 8.B. to the March 10, 2010 meeting. **Trustee Homan** seconded the motion.

VOTE: The motion carried unanimously 4-0

2. PUBLIC COMMENT PERIOD [3 MINUTE TIME LIMIT] -
(PLEASE SIGN IN WITH THE CLERK IF YOU WISH TO SPEAK UNDER PUBLIC COMMENT ON AN ITEM THAT IS NOT ALREADY ON THIS AGENDA)

George Argyres, 6929 Rio Grande Blvd, stated that he was concerned with the 280 foot setback the Village of Los Ranchos created on Rio Grande Blvd and the upkeep of the area created by the ordinance on his property.

3. CONSENT AGENDA

There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A. MINUTES –DECEMBER 9, 2009–Regular Meeting
- B. DEPARTMENT AND COMMITTEE REPORTS
 - 1. ANIMAL CONTROL

Trustee Homan said she had the following corrections to the minutes:

Page 1, line 12, needs to reflect that Greg Perez was present.

Page 8, line 2, the word “needs” should be “need.”

Page 8, Line 3, the sentence that says “they were created for a reason and said they” should say “they were created for a reason and said the Trustees and Mayor have been elected to uphold these ordinances.”

Page 9, line 27, in front of Greg Perez name should have his title so that it remains consistent with the other ways we have introduced the members of management. As well as any time Greg is showing up as a discussion leader, such as on page 9, line 29, and line 41 and page 10, line 2 should have his title as Commander in front of his name.

Page 10, Line 14, should read “Trustee Homan stated that she would support adoption of the 2009 fire code.”

Page 12, line 44 should say “Administrator Ward.”

Page 13, line 2, instead of “see what we could” should say “see how they could.”

Page 13, Line 6, after recycling, get rid of the comma.

Page 13, Line 8, “open space as potential for the village” instead of “is a potential.”

Page 13, Line 15, “Kaaboom” should only have one A and should have a period after that with a new sentence at the end of that “this company installs playgrounds”.

MOTION: Trustee Rael moved approval of the consent agenda with the changes to the minutes. **Trustee McDonough** seconded the motion.

VOTE: The motion carried unanimously 4-0

4. REPORTS

A. MAYOR'S REPORT

Mayor Larry Abraham reported that:

- The Challenger Center grand opening is on March 6th at 6:00 p.m.
- Former Mayor Alfredo Garcia has passed away. He was instrumental in guiding this Village as a Trustee for 12 years and Mayor for four years. The Mayors column in the Village Vision will be on Alfredo Garcia’s accomplishments. He would also like to discuss naming the Community Barn after Mayor Alfredo Garcia at the March meeting.
- The Growers’ Market will be held this Saturday at 10:00 a.m.
- Early voting has begun as of today, but the races are uncontested.

B. ADMINISTRATOR'S REPORT

Administrator Kelly Ward reported that:

- The final agreement for the Fire station funding will be in the Village's hands tomorrow and a contract will be signed with ESA Construction to begin construction
- The Village has received a notice for re-enacting our NMDOT Grant Agreements for the bike lane. The first advertisement will appear on February 24th with a bid opening on March 17th
- Speed bumps have been installed on Vineyard Road
- Resurfacing on Green Valley Road will begin on Tuesday, February 16th and then move to resurfacing Ranchitos Road

C. PLANNER'S REPORT

Planner Linda Seebach reported that:

- The 2009 Department yearly report is in the Board packets
- The 2020 Master Plan committee is meeting every other Saturday at the Village Hall and meeting schedules have been posted through May
- The Family Transfer Subdivision Task Force met with Attorney Bill Chappell on Feb 3rd and the next meeting will be held on March 3rd at 7:00 p.m.
- The Village is working on requesting re-plats for illegal subdivisions in the Village
- The Department is watching FEMA on the re-mapping in Bernalillo County
- The Rembe's have begun construction and will be going on for the next year. The Rembe's have spent thousands of dollars on mitigation of noise in the neighborhood and preservation of plant life at Los Poblanos

D. LEGAL REPORT

Attorney Martha King reported that:

- They worked on disclosure language for the Levenson Beaty replat
- They worked on the Alameda Farm Lease Agreement
- They worked on the Subdivision Improvement Agreement with Dean McCall
- They worked on draft language for AIA contract with ESA for the Fire Station
- They worked with the administration on mandatory connection to sewer
- They worked on some amendments needed to ordinances regarding the Fire Department or Fire Marshall mentioned in ordinances

- They participated in the Family Transfer Subdivision meetings
- They worked on litigation relating to an operating of a business in the A-1 Zone

Attorney Bill Chappell explained the problems that arise with illegal subdivisions for the Village. He said it seems that in order to resolve the problem the Village might want to streamline the platting process.

E. FIRE DEPARTMENT

Mayor Abraham excused Commander Greg Perez for this meeting. Administrator Ward explained that Commander Greg Perez will have a quarterly report at the meeting in March. Mayor Abraham added that the Village signed over all the fire department vehicles over to the Bernalillo County Fire Department this month.

5. FINANCIAL BUSINESS

A. AUDIT REPORT FOR FY 2009-2010 – PRESENTATION BY AUDITOR PORCH AND ASSOCIATES, LLC.

Auditor Thad Porch presented the audit report and stated that it was a clean audit. The presentation started on page 1, which covered the independent auditors report and the opinion. The results for the Village were unqualified which is the best type of opinion. Auditor Porch said the Village looks very good.

Trustee Lopez asked about the total bonding amount.

Auditor Porch said the total bonding amount was approximately \$4,490,000.

Auditor Porch explained the business concept of net income, which he explained as revenue being more than expense. He added that positive change in net assets can be thought of as positive change in net income. During the year the Village's net assets went up \$2,858,000 which he explained meant total revenues were greater than total expenses. Auditor Porch said that this is very good for the Village.

Trustee Lopez asked if the 2009 Rio Grande sewer project was a significant increase in the Village's assets. Auditor Porch said it was a significant increase.

Auditor Porch referred to page 26 and said that significant additions were in many areas like in land purchases at \$7,700,000 and infrastructure at \$581,000 and some others were included in the report.

Auditor Porch explained that as part of being an auditor, prior year findings are looked at and it is determined whether or not the findings exist in the current year. He said the reason they do this is because it shows if management is doing its job. Auditor Porch reported that he found two findings in the prior year and they were both resolved to the credit of the Village's accountant, Gil Saavedra. He also added that in the current year, there were no other findings. He explained that it is rare to have no findings in an audit and says that the Village is in great shape.

Trustee Lopez referred to page 47 of the report. He asked about the \$292,936 for law enforcement protection and asked when the Village stopped paying this.

Mayor Abraham explained that we haven't paid them for this current fiscal year even though the Village still has in the budget about \$180,000 - \$190,000 for it but the Village did pay them the full year for the last fiscal year.

MOTION: Trustee Homan moved that the resolution of the audit to be accepted as presented. **Trustee Lopez** seconded the motion.

Mayor Abraham and **Trustee Lopez** said the Village does not have a resolution.

Trustee Homan amended her motion to state that the resolution be prepared by the next Board meeting, and that the audit can then be accepted as presented. **Trustee Lopez** seconded the motion.

Trustee Homan applauded the administration and the Village staff for the outstanding audit.

B. CASH REPORT – DECEMBER & JANUARY

Treasurer Nancy Haines presented the December and January cash report.

MOTION: Trustee McDonough moved approval of the Cash Report. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously 4-0.

C. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2010-2-1 - REVISING THE MID-YEAR BUDGET FOR 2009/2010 FISCAL YEAR

Administrator Ward referred to the detailed revenue on Page 1 of 61. The Village is decreasing what is expected to get in for the balance of the fiscal year by \$73,364.00 based on what the Village is seeing in terms of receipts for the previous seven months and the Village is projecting forward for what is anticipated.

Administrator Ward next referred to the summary data on Page 12 of 61. The revenue is on the top line, then all of the expenses, and then it slips into the capital expenditures. The total adjustments are down by \$73,000; the adjustment of expenses down by \$235,000; and then add in the capital outlay projects the Village expects to do based on the money that is available. Administrator Ward said some of the money is coming from the state, some money the Village will not receive because the Village has indicated it does not have third party contracts, and the Village only included the money where there is a contract in place.

Trustee Homan referred to the line for police. She said that only \$20,784.00 was spent for the first half. For the second half, the Village is projecting an additional \$178,000.00. Trustee Homan asked Administrator Ward if the Village was going to make an adjustment in the future because she only sees an adjustment for \$5,400.00.

Administrator Ward said the money was left in there in case the Village comes up with an

agreement with Bernalillo County that the Village is satisfied with and then the Village would have available funds to accommodate that. If at the end of the year the Village still has that amount of money that has not been spent, final adjustments will be made and will balance it out with what was actually spent.

Trustee McDonough asked Administrator Ward if the current mid-year budget reflects the grant agreements for the fire station.

Administrator Ward said it reflects the current mid-year budget that the Village has on-hand. The Village anticipates one final agreement that will balance it out to approximately \$1.2 million.

MOTION: Trustee Homan moved approval of Resolution No. 2010-2-1. **Trustee Rael** seconded the motion.

Trustee Rael made a friendly amendment to adjust the dates to reflect approval of today's date rather than last month.

ROLL CALL VOTE: McDonough-aye; Homan-aye; Lopez-aye; Rael-aye.

VOTE: The motion carried unanimously 4-0.

6. PUBLIC HEARINGS AND APPLICATIONS

A. A REQUEST BY SCOTT WHITTINGTON FOR FINAL SITE DEVELOPMENT PLAN FOR COMMERCIAL CONSTRUCTION IN THE C-1 ZONE. THE PROPERTY IS LOCATED AT 6135 AND 6137 2ND STREET AND IS LEGALLY KNOWN AS A CERTAIN TRACT OF LAND SITUATE WITHIN PROJECTED SECTION 28, T11N, R3E, N.M.P.M. ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, BEING TRACTS 74-B-1-B AND 74-B-2-B OF THE M.R.G.C.D. MAP NO. 29, AS SHOWN AND DESIGNATED ON THE RECORDS OF THE BERNALILLO COUNTY CLERK, FEBRUARY 1, 2001. THE PROPERTY CONTAINS 9.9 ACRES MORE OR LESS. **SDP-09-05. THE APPLICANT HAS REQUESTED A POSTPONEMENT UNTIL THE MARCH 10, 2010 BOARD MEETING**

Planner Seebach said she anticipates Scott Whittington will be here in March so she is requested a deferral until the March meeting.

MOTION: Trustee McDonough moved approval to defer this item to the March 10, 2010 meeting. **Trustee Lopez** seconded the motion.

VOTE: The motion carried unanimously 4-0.

B. A REQUEST BY SHAHAB BIAZAR, AGENT, FOR VACATION OF THE EXISTING TWENTY (20) FOOT RIGHT OF WAY FOR PEDESTRIAN AND EQUESTRIAN ACCESS DEDICATED TO THE VILLAGE OF LOS RANCHOS ON LOTS 3 AND 4, TINNIN FARMS SUBDIVISION AND FINAL APPROVAL OF REPLAT OF LOT 3-A OF TINNIN FARMS SUBDIVISION, CREATING A NEW TWENTY (20) FOOT RIGHT OF WAY FOR PEDESTRIAN AND EQUESTRIAN ACCESS DEDICATED TO THE VILLAGE OF LOS RANCHOS IN THE A-1 ZONE. THE PROPERTY IS LOCATED AT 6008 TOMAS COURT,

LEGALLY KNOWN AS A CERTAIN PARCEL OF LAND BEING LOT 3 (3) OF AMENDED SUBDIVISION MAP OF TRACTS 2A AND 2C OF M.R.G.C.D. MAPS 26 AND 30 AND LOTS 8 AND 9, TOMAS HERRERA ADDITION TINNIN FARMS, BERNALILLO COUNTY, NEW MEXICO FILED ON JUNE 14, 1988, IN VOLUME C36, FOLIO 163 (3). THE PARCEL CONTAINS 43612.27 SQUARE FEET (1.0012 ACRE) MORE OR LESS. **S-09-09**

Attorney King swore in those who would be speaking on this item.

Planner Seebach presented her Planner's Report.

Trustee Lopez said on page 2 of 4 it states that a revised grading and drainage plan incorporating the additional acreage will be submitted to require onsite ponding as part of the existing zone permit #1863 issued on December of 2007. He asked who is working on that.

Planner Seebach said that is for the storm water permit where grading and drainage plans are required with new construction. She said if the replatting is approved then the Village will be waiting for the final plan to be done. She added that it is standard for building permits. Planner Seebach said the incorporated land gave him more opportunity to revise and do a better grading and drainage plan than he had initially.

Shahab Biazar, with Advanced Engineering, explained that the existing easement is being vacated and moving it over in order to be able to replat the portion of Lot 3 of Tinnin Farms. He continued to explain the order in which the activity will take place and ensured that all the covenants would be followed.

Mayor Abraham said there were some concerns of trees being cutting down and he asked how this would be addressed.

Planner Seebach said the Planning & Zoning Commission has resolved the tree situation. She said Baca's Trees has assessed the trees, the trees are being maintained in order to keep them healthy, however; Levinson says there is one tree that is dying and it will have to come down. Other than that all the trees will be preserved and he provided a landscaping plan as well.

Trustee McDonough expressed his concern with the ownership of the 15 foot strip that was dedicated to MRGCD. He said the ownership of the property around the ditch was always going to be accessible to the relocated equestrian access.

Shahab Biazar (*inaudible*) He says there is plenty of access.

Trustee McDonough said he noticed on the landscaping plan, on the south line of the easement, it is proposed to have a coyote fence or a solid wall. The concern is if the people who own the land to the north builds a solid wall on their property line, there would be a corridor that has no visual line of sight which creates a dangerous corridor. Trustee McDonough asked what the Village could do to ensure that there is a visual line of sight into the easement.

Shahab Biazar said that he would talk to Mr. Beaty about it.

Trustee McDonough asked if walls were allowed in Tinnin Farms.

Mayor Abraham said he does not think that the Village can restrict it anymore than it was

restricted in the first place. He said they could have both built where the easement was before but does not think the Village can require anything more than what was already there. Walls on the north and south is what should be prevented from being built.

Treasurer Nancy Haines said the back yards have solid walls in Tinnin Farms and there are mesh fences now that are there to keep the dogs from getting in the pathway. If it is kept how it is now, there would not be a problem. She said she does not think there are any Tinnin Farms restrictions on the backside of their properties because there are currently six-foot walls there now.

Trustee McDonough said he just hopes the two property owners take it under consideration.

There were no objections from the audience.

MOTION: Trustee Homan moved to approve the vacation of the existing 20 foot pedestrian and equestrian access easement on Lot 3 and 4 dedicated to the Village of Los Ranchos by plat of Tinnin Farms, filed in June, 1988 and approve the Final Replat of Lot 3-A of Tinnin Farms Subdivision granting a new 20 foot pedestrian and equestrian access easement, dedicated to the Village of Los Ranchos, with the following conditions:

Conditions:

1) The language for the final replat Disclosure Statement shall read:

The purpose of this plat is to replat Lot 3-A and move an easement by vacating the original easement and granting a new easement in the new location shown on the plat. Lot 3-A will remain part of the Tinnin Farms Subdivision, and subject to any covenants, conditions and restrictions that currently exist. The 20 foot easement identified on this replat is dedicated to the public for equestrian and pedestrian access, and the aforementioned vacation and relocation does not impair the rights of nor increase the rights of any member of the public (including Tinnin Farms residents), for use as an equestrian and pedestrian access easement. The owners of lots within Tinnin Farms Subdivision shall have the same rights to the continued existence and use of the newly located easement, as they had with respect to the former easement. Nothing in this disclosure statement shall be construed to require the Village of Los Ranchos de Albuquerque to enforce any covenant, condition, or restriction applicable to Tinnin Farms, nor any person's right of access, nor prohibit the vacation of such easement by the Village and the following of the appropriate procedures.

2) The access between the two M.R.G.C.D. right-of-ways is continuous, so that while one is being constructed, the older one is in place. The switchover is to be immediate with no lapse time, so that continuous access to the open space is available.

3) The landscape plan as submitted will be implemented.

4) A new grading and drainage plan for Lot 3-A will be submitted to the Village and implemented.

5) Replats of Lot 4-A, Lands of Al Unser and Lot 3-A Tinnin Farms will be filed consecutively with minimal time between filings.

Findings:

- 1) Ordinance 182, Section 12 vacation requirements for major subdivision procedures and a new subdivision plat were modified by the Planning and Zoning Commission on December 8, 2009 as per Ordinance 182, Section 11.
- 2) It is in the public welfare and interest that a new 20 foot pedestrian and equestrian access easement be established and dedicated to the Village of Los Ranchos.
- 3) Public notice was given in accordance with Ordinance 183 as amended, Section 24(F)(2).
- 4) Lot 3-A, Tinnin Farms remains subject to all codes, covenants and restrictions of Tinnin Farms Subdivision.
- 5) The application meets the goals of the 2010 Master Plan 4.3.2 Ditch Goals, 4.3.2.1 Objectives “identify appropriate trail use for ditches” and “ensure access to adjacent ditches”.
- 6) The application meets the policies and actions of 4.3.2.2 Development proposals shall allow for “access/linkages to trails and ditches” and “replatting when necessary to ensure access to the ditch”.

Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously 4-0.

7. OLD BUSINESS

A. DISCUSSION AND APPROVAL OF FARMING PLAN FOR VILLAGE OPEN SPACE

Administrator Ward said the farming plan is a requirement of the Village’s lease.

Attorney King swore in those who would be speaking under item 7.A., 7.B, and 7.C.

David Montoya explained the farming plan.

Trustee Lopez asked how long it takes to irrigate.

David Montoya said between one day and two days, but it depends on how much water is being sent down the Chamisal.

Trustee Homan asked how often Mr. Montoya expects the corrals to be in use and asked what the estimated livestock count would be in the corrals.

David Montoya said it just depends what is going on. He added that currently, he does not have any cattle. Mr. Montoya said the areas are pretty large and are also used for hay storage, equipment storage, and corrals.

Trustee Homan asked what kind of equipment would be stored.

David Montoya said sometimes large trailers that carry hay, sometimes bailers, tractors,

swathers, and other farm equipment.

Trustee Homan asked if it would be limited to farm related equipment and not a make-shift construction yard.

David Montoya said no, it never has been. He said that the project is not done though but there were large heavy land leveling equipment such as scrapers, land cleaners, and discs. He said there is still work to be done and dirt moving equipment will come in.

Trustee Homan asked if the equipment would be present only for a limited time.

David Montoya said yes.

Trustee McDonough asked if there was more dirt moving to be done because he said it looks pretty well leveled out.

David Montoya said it is close, but not close enough. It is laser leveled and there are slopes still to be worked on. He said there are probably a few more weeks of work left.

Trustee McDonough said when the equipment is not being used; it should be stored at a construction yard, not on the property.

David Montoya said there will be a construction yard to store the equipment and his property has never been a construction yard and is not anticipated to be one.

Trustee McDonough asked what the difference in what is being planted in the pasture area and what is being planted in the habitat area.

David Montoya said he has been asking for guidance in the area but nothing has been planted in these areas yet. He said he is open to planting whatever the Village would like to see with the understanding that whatever is planted is not meant to be maintained so the choice of grass should be appropriate.

Trustee McDonough said he suggested at the last meeting that Mr. Montoya talk to the nature center or Albuquerque Open Space to see what they would suggest in order to attract wildlife that is appropriate for the area.

Trustee McDonough said his other concern is the fencing issue. He does not think electric fence should be adjacent to the public walking paths because a child or dog may hit the electric fence and is concerned about legal issues.

Trustee Lopez asked if there would be any barbed wire.

David Montoya said there would be no barbed wire. He said there were over 28,000 CU of dirt to level the area, the fence was taken down and replaced with hog wire that can be seen through, and got rid of a lot of debris and trash that was there for years previously. Then he added that there is some barbed wire remaining on the fence and there is some remaining on the ditch as well but every time it needs to be replaced, he said he replaces it.

Trustee McDonough said he was walking his dog on a leash and ran into six people using the

trails. He said it is becoming a high traffic area and he thinks it is because of the improvement of the area.

MOTION: Trustee McDonough moved approval of the Farming Plan. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously 4-0.

B. DISCUSSION AND APPROVAL OF A LEASE BETWEEN THE VILLAGE OF LOS RANCHOS AND ALAMEDA FARM, LLC (DAVID MONTOYA) FOR CULTIVATION AND MAINTENANCE OF VILLAGE OPEN SPACE- DEFERRED FROM THE DECEMBER 9TH BOARD MEETING

Administrator Ward explained the maps included in the lease. Administrator Ward said that in regards to the NMDOT agreements, the Village has the authority to manage more property than what is included in the lease which is the property to the west of the main canal to the river and on the south side of Paseo del Norte to 4th street.

Trustee McDonough asked if NMDOT had any issues with the Village planting their drainage pond.

Administrator Kelly Ward said discussions have taken place with NMDOT and the Village about the Village's plan and does not anticipate any problems with it.

Trustee Lopez asked about the five year term and asked is there was a reason why it is five-years.

Attorney Bill Chappell said when the Village started on this issue, there was talk about a ten year term, and because of the procurement codes, and the way the Village had to structure it, it was thought to be a better fit with a five year term with a Request for Proposal after five years. In the RFP, anyone that bids will have to reimburse Mr. Montoya for any unadvertised improvement costs so likely it was going to go ten years, but the Village thought five years was a safer term to go with.

David Montoya said it was made into a five year option because so much money invested in it. He said even in the ten years, he would not recoup what he put into it. He said the first year shown in the lease shows 2007 and he said he objects to that and is requesting it be moved to 2008 or to the present and that would start the five year plan.

Trustee Lopez said the lease states November 2007.

David Montoya said that November 2007 was the first time he stepped onto the place and it took him a full year to get it into the condition it is now.

Attorney Bill Chappell said it is more of a business situation and would like to see it start on November 7, 2007 and make it a six year term rather than move the term because under the procurement code, this was not done under RFP which is permissible for leases of property in particularly if the management of open space is the method of doing it. There was a lot of work done on it, but it is the Village's view that once the Village got into it after the fact, that if those

were done under tenant improvements, they could come under the leasing arrangement. If they were not done under tenant improvements, then they were contract services on Village Property which should have gone out in as an RFP. The intent from the beginning was to lease it from the date Mr. Montoya took over and he would improve it so he could use it, the Village has said that in order to avoid other issues, we need to comply with the concept of the lease and tenant improvements which are committed under the lease, the Village needs to start November 7th. Attorney Chappell said he is pretty fixed on that date. He said if the trustees want to say that the initial term before an RFP goes out is six years instead of five years, he is more comfortable with that variation than he is with moving the November 2007 date.

Trustee McDonough said Mr. Montoya started working on it in November 2007, so he had a growing season in 2008 when the cattle were on it, and it will expire in November of 2012. He will have five growing seasons within that first five year term. He said he feels that Mr. Montoya will have had the benefit of that land for all five years and he suggests not changing it.

Attorney John Myers, on behalf of David Montoya. He said the way it is written now, it began in November of 2007 and in 2008 all Mr. Montoya did was work on the property and received no return. He said in 2009, Mr. Montoya received a return on investment.

Trustee McDonough said the discussion wasn't that the cattle were on there last year; rather it was the year before.

David Montoya said the cattle were there before that and they were there to clear it.

Trustee McDonough said Mr. Montoya was irrigating and growing pastures.

David Montoya said no.

Mayor Abraham said he thought the cattle probably was on there in 2008 but Mr. Montoya was probably using the cattle as a clearing mechanism.

David Montoya said they were only on the east/west side but they never moved to all the way to the east side.

Mayor Abraham asked Mr. Montoya if what he is saying is that his first true growing season was in 2009 then he believes Mr. Montoya had a crop in 2008.

David Montoya said he still has the crop from 2008. He said he did not want to plant at all in 2008 but was encouraged by the Village to do something early in the year. He said he started in November and said it took him from May of 2008 to get it planted. He said if someone plants in May, a lot of weeds will grow. Mr. Montoya said the smart thing to do would have been to plant in the fall of 2008 but he said he was encouraged to plant in the spring of 2008 to show effort. But then he said he had to reseed in the fall because it did not take and it was just a cover.

John Myers said he would agree with Attorney Bill Chappell that it would be appropriate to commence the lease when Mr. Montoya started doing the lease in 2007. He is requesting the first term be six years.

Mayor Abraham asked if there was a problem with making the first a six year and adjusting the

dates adding on a year.

Attorney Bill Chappell said that if the Village does that it probably should not be amortized the sixth year.

Mayor Abraham said the Village will make the first a six year and make it a total of eleven with a five afterwards.

Trustee McDonough asked if this means it is the end of the investment - the maintenance fees - to the Village that the Village has to reimburse for. He also asked if everything, this point forward, is considered expenses to farm it.

Mayor Abraham said the amortization the Village is doing are costs that were incurred and there will be no more costs that will be submitted to substantiate the bill.

David Montoya said no. He said the rest of the work needs to go for the laser grading and the final planting which will be some cost.

MOTION: Trustee Lopez moved approval of the Lease Agreement with a 6 year term and 11 years for amortization. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously 4-0.

C. DISCUSSION AND APPROVAL OF TENANT IMPROVEMENT COSTS AS CALLED FOR IN SECTION 2.D. OF ALAMEDA FARM LEASE

Administrator Ward said in section 2.D. of the lease, the Village is to review and approve tenant improvement costs.

Trustee Homan asked what the correct reference was because section 2.D. on the lease is the definitions renewal term. She said that did not seem to flow with what was presented.

Administrator Ward said that paragraph 2.D. says for the purpose of this lease, tenant improvements shall be the amount of documented costs expended by the tenant and improved by the landlord amortized in equal amounts over now an eleven year period beginning in November 2007. There will be an additional cost with the finishing of the habitat area.

Trustee Homan asked if the cost that is being discussed is the \$89,790.71.

Trustee McDonough said there is insufficient documentation for him to justify the numbers are correct because he sees the things discussed but he does not know what they are paid.

Administrator Ward said the first two pages is the summary report from DMCI (David Montoya Construction, Inc.) and the yellow and green highlights are for expenses. The labor number is \$18,176 reflects what is a test year.

Trustee McDonough said the Village never approved expenses on any contracts. The Village agreed to a contract that has had said return for amortizing whatever those expenses are and he is requesting to see these.

Attorney Bill Chappell said they put the approval language and thought that was a request of one of the Trustees. The importance of the number is for one purpose which is that at the end of the six years the lease will go back out to RFP. If someone other than Mr. Montoya does a better deal than Mr. Montoya, then part of the bid will be a re-amortized number so a total number needs to be determined that starts the amortization over the eleven years.

Trustee McDonough said he cannot approve the costs because the numbers are not in proper order. He said if, for example, this was submitted to a state agency, they would probably require more documentation and there has to be more of a trail.

David Montoya said he did provide a paper trail. He said that it might be easier to accept a bill if he creates an invoice from his company for services provided.

Attorney Bill Chappell said that generally speaking he would agree with Trustee McDonough. He said the Village got an appraisal as to the value of the leased land. The appraisal said it was a percentage of the crops. The Village used the percentage retention that was applied for in the appraisal. The Village got market value in that area. The costs are not consideration for the lease. The costs are not being charged to the Village, nor a payment for the value of the lease. The set aside was the appraisal value of what should be received by the lease as consideration for the farm and land. This number was only an approximation for what would be fair if he did not get those numbers back. If we went to a 10 year lease, we would not have that.

Trustee Homan asked Administrator Ward if this appears to be a reasonable cost basis for the contract and for this consideration.

Administrator Ward said he believes it is.

Trustee Rael asked Administrator Ward how he came up with the dollar on the spreadsheet when the timesheets do not say how much each individual is paid.

Administrator Ward said he used Mr. Montoya's bottom line number and the presentation he provided.

Trustee Lopez said Mr. Montoya gave an example of a price per cubic yard which is a reasonable number in today's economy for this type of work.

MOTION: Trustee Lopez moved approval of the Tenant Improvement Costs as provided for in section 2.D. of Alameda Farm Lease as determined by the Village Administrator. **Trustee Homan** seconded the motion.

VOTE: The motion carried unanimously 3-1; with **Trustee McDonough** voting NO.

D. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE 207 TO REQUIRE AUTOMATIC SPRINKLER INSTALLATION FOR "A 50% STRUCTURAL ALTERATION AND/OR ADDITION TO EXISTING HEATED AREA" RATHER THAN "A REMODEL EXCEEDING 50% OF THE EXISTING STRUCTURE" AND ADDING DEFINITIONS

Administrator Ward said the Village has received no comments from the public on the

proposed changed. The Village is amending the requirements for sprinklers to have a threshold of 3,000 square feet of heated area and making a change to the definition of what the Village will consider as alteration or remodel.

Attorney King swore in those who would be speaking under item D.

Joe Brawley, 8528 Rio Grande Blvd NW, said in reading the ordinance he became aware of the 3,000 sq feet threshold. He said the International Code Council that promulgates the series of codes has mentioned three key reasons for having a sprinkler system. One is fire load; the other is fire flow, and then response time. The key issue for fire districts because water was not evenly available in most districts. Residential fire sprinkler systems require a separate line to come into the building. He said he is a strong proponent of sprinkler systems because water is able to get on the fire before the fire department can get there. On the other hand, the cost of residential sprinkler systems could be 3-6 dollars per square foot. He thinks the 6,000 square feet threshold may be too small.

Trustee McDonough said the other way is to look at each individual building and making a determination based on load response time, materials, etc. But it seems to be more a difficult and cumbersome process for the Village in lieu of setting a lower standard but allowing a variance if someone comes in and can demonstrate their using other techniques for fire suppression. He said he tends to lean towards allowing people to take a variance if they can satisfy the intent in another manner.

Joe Brawley said the commercial way of doing this is to rate the building. Most homes that are built are non-rated. He also said sprinkler systems require maintenance and would need to be kept-up.

Attorney Bill Chappell said that, in terms of context, he understood that this was an interim kind of amendment to relieve some hardships because the standards were lowered. The fact is, with the new building codes, they have a different standard and will have to be debated in terms of a long term basis and provisions for what you want the sprinkler to be and so forth. That issue will be in front of you when you look at the new 2006 International Building Code.

Trustee Rael at the last meeting Commander Greg Perez recommended the Village go with Bernalillo County, which is 6,000 square feet or greater. Trustee Rael said he was in favor of bring the number down because of the larger homes being built in the Village.

Trustee Homan said she agrees with what Trustee Rael is saying. If the Village goes with Bernalillo County's number of 6000, then it certainly would not hurt the Village to take a step in that direction and prevent between now and when the new ordinance would be adopted creating that additional burden on any new homes or models that would be proposed in the interim.

Attorney Bill Chappell said that if the Village is going to have further discussions or input, then it has to be put back on the agenda.

Joe Brawley said this is an important enough issue that he would like the fire department to be at the table for the discussion.

Trustee Homan asked Planner Seebach if the Village has any requests waiting that the decision

on the square footage may impact.

Planner Seebach said the Village does not currently have any remodels that it would impact at the moment.

Trustee McDonough said the Village is moving out the non-heated squared footage and is defining it as not just a remodel, but it is a structural remodel.

MOTION: Trustee McDonough moved to adopt the ordinance amending section 4 of ordinance 207 to require automatic sprinkler installation for “A 50% structural alteration and/or addition to existing heated area” rather than “a remodel exceeding 50% of the existing structure” and adding definitions. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: McDonough-aye; Homan-aye; Lopez-aye; Rael-aye.

VOTE: The motion carried unanimously 4-0.

E. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE AMENDING THE TEXT TO CHAPTER 31 AND ORDINANCE 183, SECTION 12, CONCERNING THE AGRICULTURAL COMMERCIAL ZONE.

Administrator Ward said this ordinance provides a change in the allowable square footage of retail space, hours of operation, and size of events. The only AC Zone the Village currently has is Casa Rondeña.

MOTION: Trustee Lopez moved approval of the ordinance amending the text to chapter 31 and ordinance 183, section 12, concerning the agricultural commercial zone. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: McDonough-aye; Homan-aye; Lopez-aye; Rael-aye.

VOTE: The motion carried unanimously 4-0.

8. NEW BUSINESS

A. DISCUSSION AND APPROVAL OF PRECINCT AND ABSENTEE BOARD MEMBERS AND COMPENSATION FOR THE MARCH 2, 2010 REGULAR MUNICIPAL ELECTION

MOTION: Trustee Homan moved approval of the Precinct Board Appointments. **Trustee McDonough** seconded the motion.

VOTE: The motion carried unanimously 4-0

B. DISCUSSION AND APPROVAL OF THE BARN USAGE POLICY DELETING EXPIRATION DATES

This item was deferred to the March 10, 2010 Board meeting.

9. TRUSTEES INFORMAL DISCUSSION

Trustee Rael stated that Chase Hardware and Big Lots are using Albuquerque, NM instead of Los Ranchos on credit card receipts.

Trustee Rael stated that Bernie Sanchez called him regarding his neighbor on the north complaining about traffic, cars etc.

Mayor Abraham stated that code enforcement has sent him a letter.

Trustee Homan said that at a New Mexico Municipal League Meeting a presentation was given by the Census Bureau, and one of the concerns when the census comes out is that many of the addresses might show up as Albuquerque locations instead of Los Ranchos. She has a concern that residents might not take the time to take a look and see that it says Albuquerque and correct it to Los Ranchos. This may come out as an under count for the Village. The Census asked for help from the Village in providing support for them perhaps in Village Vision or someone from village to provide education and support.

Trustee Homan said the census does make a difference because it changes congressional allocations between the states, school district boundaries, legislative boundaries, federal highway funds, ~~LIHEP~~ LIHEAP support and other federal funding for our residents.

Administrator Ward stated that the census did send the Village a list of addresses. Marcy has spent about 80 hours validating every address in the data base they provided.

Trustee Homan stated that the New Mexico Municipal League is asking for the Village's support as well as other municipalities with legislation that is being proposed regarding PERA retirees who are double dippers. With this legislation it would eliminate folks who have experience to be re-hired in the community they live or any other community. She asked the board to support this matter.

Trustee Homan stated that another direct impact on the Village is on the Gross Receipt Tax. There is a proposal by the legislature to totally eliminate the hold harmless and for the village it means about 97,000. One of the provisions being proposed by Senator Eric Griego, is ~~to~~ to eliminate that hold harmless. The other provision would provide for the gradual elimination of the hold harmless while they brought some of the gross receipts tax backup on food, but it would not be on all food it would be on non-staple items.

Trustee McDonough mentioned that summer is coming and problems with the music on 4th street will be starting again.

Attorney Bill Chappell said he was not sure if he was suppose to come up with the criteria for the Noise Ordinance, but they have come up with a skeleton approach ordinance.

Trustee McDonough stated that he has some hesitation of just annexing to square off boundaries, but does understand the El Pueblo Rail Runner station annexation.

10. ADJOURNMENT

The meeting was adjourned at 9:29 p.m.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2010.

ATTEST:

Annabelle Silvas, Village Clerk