

MINUTES
VILLAGE OF LOS RANCHOS de ALBUQUERQUE
6718 RIO GRANDE BOULEVARD N.W.
BOARD OF TRUSTEES REGULAR MEETING
THURSDAY, NOVEMBER 12, 2009 -7:00 p.m.

Present:

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

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

Absent: Trustee Mary Homan, (excused but joined the meeting on item 8.E beginning at 8.D)

Trustee Tim McDonough, Excused

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Village of Los Ranchos' Governing Body held its Regular Meeting on November 12, 2009 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:00 p.m.

Mayor Abraham asked that item 7.A old business be moved to under 8.E

MOTION: Trustee Lopez moved approval of the agenda and the amendment requested by the Mayor. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously.

2. PUBLIC COMMENT PERIOD

There were no public comments.

3. CONSENT AGENDA

A. MINUTES – September 9, 2009 – Regular Meeting

B. DEPARTMENT AND COMMITTEE REPORTS

1. ANIMAL CONTROL

MOTION: Trustee Rael moved approval of the Consent Agenda. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously

4. REPORTS

A. MAYOR'S REPORT

Mayor Abraham reported that:

- He would like all residents and Trustees to join Facebook and Twitter by the January meeting.
- The Growers Market will be held this weekend

B. ADMINISTRATOR'S REPORT

Administrator Kelly Ward reported that:

- A memo was received from Robert Apodaca, Director of Local Government Division, Department of Finance, regarding capital outlay projects which cancels all of our capital outlay agreements and giving the Village an opportunity to justify or prove that we have expenditures for the money in those grant agreements by November 13th. A list of projects that are candidates to be eliminated to the legislature by the 27th of November will be sent.
- The Village received the okay to proceed on the Rio Grande Blvd bike lane extension.
- A bid was received for the rebuild of Green Valley and Ranchitos Roads and the paperwork was submitted to get reimbursed.
- Bids were received for 4th Street restriping.

C. PLANNER'S REPORT

Planner Seebach reported that:

- The Film in Village Task Force has met twice and currently a committee has been formed to write a draft which will be open for public review and input. The next meeting is scheduled for Tuesday, December 15th at 7 p.m.
- The Family Transfer Subdivision Task Force met and will begin to work on goals. The next meeting will be held on Thursday, November 19th at 7 p.m.
- A meeting was held on the 2020 Master plan and it has been determined that they need to have a few writing sessions to do some reformatting prior to going forward. The next open forum will be on Saturday, December 5th, at 9 a.m.

- They have received plans for the approval of 15 of the 20 allocated Los Poblanos' guest houses. So that will bring in some funding for the department.
- Business registrations for 2010 have gone out and are beginning to come in.

D. LEGAL REPORT

Attorney King reported that:

- She is working on one litigation matter regarding a landscaping business operating out of an A-1 Zone.
- Working on a lot of Planning and Zoning issues.
- Working with Kelly Ward on rafting some agreements.

E. FIRE DEPARTMENT

Greg Perez, staffing commander for Bernalillo County reported that:

- They are approaching the second month since the transfer from Los Ranchos to Bernalillo County and is going smoothly. The personnel that were former Los Ranchos firefighters seem to be integrating into the County system very well.
- The call volume continues to be approximately 70 calls per month.
- The home on Schulte and 4th was removed and transferred to the Anderson property.
- The fire apparatus is being re-labeled and will start in the next two weeks. The big Los Ranchos emblem will go away, but it will still say Los Ranchos Fire District on the apparatus. It will carry both names as agreed upon in the Joint Agreement signed on the 12th.
- The Fire Rescue unit broke down and had a back up unit within 4 to 5 hours.
- The lieutenants that are on each of the shifts are Bernalillo County fire fighters and anytime one of the original Los Ranchos firefighters are out, it's filled with a Bernalillo County firefighter.

5. FINANCIAL BUSINESS

A. CASH REPORT – SEPTEMBER & OCTOBER

Treasurer Haines presented the cash report for September and October.

Mayor Abraham stated that he met with Thaddeus Lucero, the Bernalillo County Manager, and discussed the negotiations regarding the Sheriff. It was agreed that things were going well and since they are in the middle of getting a new Sheriff, things will be left just as they are. Officer presence in the Village is known and it will be discussed again when the new Sheriff comes on board. As of now, the arrangement is that the Village does not pay for any of the service.

MOTION: Trustee Lopez moved approval of the September and October cash report. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously.

6. PUBLIC HEARINGS AND APPLICATIONS

A. AN APPEAL BY JESSE GARZA OF PLANNING AND ZONING COMMISSION DENIAL OF A VARIANCE FROM THE TWENTY-FIVE (25) FOOT REAR SETBACK REQUIRED BY ORDINANCE 183 AS AMENDED, SECTION 6(E) TO ALLOW FOR A THIRTEEN (13) FOOT REAR SETBACK FOR A POOL IN THE A-1 ZONE OF THE GUADALUPE TRAIL CHARACTER AREA, ON OCTOBER 13, 2009, AGENDA ITEM 5A. THE PROPERTY IS LOCATED AT 618 RANCHITOS ROAD AND IS LEGALLY KNOWN AS LOT B, PLAT OF LOTS A & B, LANDS OF FLORA GARCIA, M.R.G.C.D. MAP NO. 27, VILLAGE OF LOS RANCHOS, BERNALILLO COUNTY, NEW MEXICO SEPTEMBER 1995. THE PROPERTY CONTAINS .2758 ACRES MORE OR LESS. V-09-19

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

Planner Seebach presented her Planner's Report.

Jesse Garza, 618 Ranchitos Road said he requested a variance from a 25 foot setback to only 13 to 17 foot setback, because he did not want to knock down the tree that was planted for his children ten years ago. He also has a 35 foot RV that he needs to access to backup the RV and by backing in the RV and moving the pool over 13 feet, that doesn't leave him any area to put his block wall to divide the property from separating it from the street and the pool area. His big concern is about preserving life and preserving the trees of the village and he has two gorgeous cottonwoods that were moved from his wife's dad's house to his house. These trees are going to stay there until his kids inherit the home as well.

Trustee Lopez stated that Mr. Garza wrote a letter on October 22nd that states "upon receiving the permit to start construction of our pool, the pool company began to dig." Trustee Lopez asked Mr. Garza if he actually had a permit for construction.

Jessie Garza stated that it was discovered that a 25 foot setback was required so

at that point, digging came to a halt immediately. He then came and talked to Linda about it and started the whole motion for variance. There is just a hole, there is no rebar or gunite or anything like that. They did dig the whole for the actual structure of the pool.

Trustee Rael asked Mr. Garza if he did have a permit when he started digging.

Jessie Garza stated that he did.

Trustee Rael asked Mr. Garza if the permit outlined the dimensions where he was supposed to dig.

Jessie Garza stated that it did. It was a misunderstanding between the Village and Aquatic Pools. They assumed that it was 15 feet and just started digging.

Trustee Lopez asked if any of his neighbors are in opposition to this.

Jessie Garza stated that none of his neighbors are opposed to this and all neighbors are all family. His family has a lot of deep roots in the Village and there is no one opposing it.

Trustee Lopez said that after seeing the photographs he sees no problem with the pool and there was enough reason to be able to approve it but wanted to hear Linda tell him how could this misunderstanding have occurred.

Planner Seebach said there was no misunderstanding. In the packets she included a copy of the approval permit with conditions and on the setback sheet of the permit it says 25 feet, they simply ignored it and dug it 15 feet. It was very clear.

Trustee Lopez asked who marked the plans 25 feet in red.

Planner Seebach said it was her redlines on the plans that it had to be 25 feet.

Trustee Lopez asked Mr. Garza if this document was given to the pool company.

Jessie Garza said that the document was given to the pool company. He said he believes that same document was also marked down as 17 feet in red ink.

Trustee Lopez said that it does say 17 but is trying to figure out who made the misunderstanding. He said it was clear to him that Mr. Garza gave this to the pool company and they went out there and started digging.

Jessie Garza said that the pool company came out and marked the area. He said when he came home he went over the plans and the actual packet that was left on his table in the back porch. He then went over the plans and saw that they had marked a 25 foot setback, and then he halted everything that day.

Trustee Rael said that if the aquatic pool people don't know what they were doing then they shouldn't be doing this type of work. It was very plain, and the

ordinance has been in place for quite awhile with a 25 foot setback. If the neighbors don't object and you do have other buildings that are violating the 25 feet anyway, he does not see a problem with it.

Mayor Abraham stated there is no one in attendance to speak in opposition of it.

MOTION: Trustee Lopez moved to reverse the Planning and Zoning Commission denial of variance E-09-19 for a variance from the 25 rear setback required by ordinance 183 as amended section 6C to allow for a 13 foot rear setback for a pool in the A-1 Zone of the Guadalupe Trail Character on October 13, 2009 agenda item 6 and approve the variance request for E-09-19 to allow for a 13 foot rear setback for a pool in the A-1 Zone of the Guadalupe Trail in the Character area with the following findings:

The **findings** are:

The Variance request meets the hardship requirements of Section 24(E)(3)(a) and (b).

(a) The Variance is in conformance with the goals and policies of the Village Master Plan.

The 2010 Master Plan 4.02 Overall Village Goal

The goal is to plan for the future of the area based upon its three major corridors: Rio Grande Boulevard, Guadalupe Trail, and Fourth Street; to preserve the unique character of each and to maintain, and enhance the richness of architectural, and land use type within a range appropriate to Village scale; and

The 2010 Master Plan 4.6.2 Residential Goal

The goal is to maintain residential development in keeping with the rural and diverse character of the Village.

- (1) It is not contrary to the public interest; and
- (2) Owing to special conditions, a literal enforcement of this Ordinance will result in unnecessary hardship.

E(3)(b)(3) The parcel is irregular or unusually narrow in shape, and the condition existed when provisions were adopted or was created by natural force or government action for which no compensation was paid; the lot is narrow, 80 feet in depth and small .2758 acres.

Accordingly, the Variance request meets the hardship requirements of Section 24(E)(3)(a) and (b)(3).

Attorney King asked if anything should be added about the unique situation since it is a variance. She asked if there is anything about the house or the trees that should be added.

Trustee Lopez amended his motion and added as part of his findings, the parcel is irregular and unusually narrow in shape and that there are existing structures which are within the 25 foot rear setback. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously.

7. OLD BUSINESS

A. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE AMENDING ORDINANCE NO. 178 SECTION 2. A (2) INCREASING THE JUDICIAL EDUCATION FEE TO \$3.00 DUE TO THE 2008 LEGISLATURE AMENDED SECTION 35-14-11 RELATING TO THE IMPOSITION OF FEES BY MUNICIPAL COURT

This item was moved and discussed after item 8.E.

8. NEW BUSINESS

A. DISCUSSION AND APPROVAL OF THE PURCHASE AGREEMENT FOR THE CHALLENGER LEARNING CENTER SIMULATOR

Administrator Kelly Ward stated that the Village will purchase the hard unit simulator in addition to all the audio visual, all the desks, countertops as well as the software. The software comes with a license agreement and there is an annual fee that goes along with that. In the operating agreement in agenda item 8.B. we're asking that the operator pay that annual license fee which is currently \$16,500. The purchase price of \$580,000 gets us the first year of the license agreement included in that. He received some feedback from the Challenger Learning Center, it won't be on any of the components or the price, but a little bit of the language the Village might have may need to be tweaked.

MOTION: **Trustee Rael** moved approval of the Purchase Agreement for the Challenger Learning Center Simulator. **Trustee Lopez** seconded the motion.

Administrator Kelly Ward requested adding negotiation language in case changes are necessary.

Trustee Rael accepted Administrator Ward's request to change the language.

Trustee Lopez also accepted Administrator Ward's request to change the language.

VOTE: The motion carried unanimously.

B. DISCUSSION AND APPROVAL OF THE OPERATING AGREEMENT FOR THE CHALLENGER LEARNING CENTER BETWEEN THE VILLAGE OF LOS RANCHOS AND UNSER CHILDREN'S DISCOVERY CENTER

Administrator Kelly Ward provided background information. He said the Village is going to own the simulator and place it in their building and the Village will sign an agreement with them that they would be the operator so they have the rights to use the facility and use the Village's personal property. The agreement is needed to allow for the Village's placement and their use of the property. It also calls for them to maintain and operate it in such a way as it meets the standards of the Challenger Foundation. It's a significant investment on their part in that they have to hire staff and keep the place running at a certain level and maintain the license agreement at \$16,500 per year.

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

VOTE: The motion carried unanimously.

C. DISCUSSION AND APPROVAL OF GRANT AGREEMENT 02506 – 2009 GENERAL FUND APPROPRIATIONS

Administrator Kelly Ward stated that there was a reauthorization of money that is somewhat old money – the Village had left in a grant for Main Street, and it was reauthorized. The other is \$700,000 for Unser Museum.

MOTION: **Trustee Lopez** moved approval of the Grant Agreement 025-06-2009 General Fund Appropriations. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously.

D. DISCUSSION AND APPROVAL TO HIRE A LOBBYIST FOR THE 2010 LEGISLATIVE SESSION

Administrator Kelly Ward stated that due to the letter that came from DFA the Village might do well by having some eyes and ears in Santa Fe. The change at the City, the Mayor's provenance within the regional makeup of the communities, in terms of their governance through MRCOG, the time is probably right to pursue a voting position on the ABCWUA, so with that primary driver, the Village won't be shopping for much money, but we'd sure like to preserve the money we have. It's probably worth \$20,000 to \$30,000 for the Village to do it.

MOTION: **Trustee Rael** moved approval to hire a lobbyist for the 2010 legislative session. **Trustee Lopez** seconded the motion.

VOTE: The motion carried unanimously.

**E. DISCUSSION AND APPROVAL OF RESOLUTION 2009-11-1;
CALLING THE MARCH 2, 2010 REGULAR MUNICIPAL ELECTION**

Trustee Homan entered the meeting by telephonic conference with Trustee Lopez and Trustee Rael.

MOTION: Trustee Lopez moved approval of Resolution 2009-11-1; calling the March 2, 2010 Regular Municipal Election. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye; Trustee Lopez-aye; Trustee Homan-aye

VOTE: The motion carries unanimously 3-0.

**8.F. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE
AMENDING ORDINANCE NO. 178 SECTION 2. A (2) INCREASING
THE JUDICIAL EDUCATION FEE TO \$3.00 DUE TO THE 2008
LEGISLATURE AMENDED SECTION 35-14-11 RELATING TO THE
IMPOSITION OF FEES BY MUNICIPAL COURT**

MOTION: Trustee Lopez moved for approval to adopt an ordinance amending ordinance number 178 section 2.A (2) increasing the Judicial Education fee to \$3.00 to become Ordinance Number 224. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye; Trustee Lopez-aye; Trustee Homan-aye

VOTE: The motion carries unanimously 3-0.

9. TRUSTEES INFORMAL DISCUSSION

- Trustee Homan stated that she was attending the National League of Cities Conference and is getting educated so she can come back with further information to the Village.
- Trustee Lopez stated that in the past at the December meeting the Village had Christmas caroling and hot cider and perhaps this can be done this year again.
- Trustee Rael stated that at Enchanted Valley Circle there is a pot hole that has not been fixed.
- Trustee Rael stated that at the last meeting there were two items that were deferred to the next meeting that are not on this agenda. One was the David Montoya contract and the Lavender Report.
- Mayor Abraham stated that the David Montoya lease was not on this agenda because Trustee McDonough was not going to be at this meeting and the Lavender will be at the December meeting.
- Trustee Rael stated that Mr. Phil Day is asking about his road not being

paved.

- Mayor Abraham stated that Mr. Day and half the neighbors want it done and half don't want it done. We currently don't have the maintenance costs to maintain it.

10. ADJOURNMENT

Trustee Lopez adjourned the meeting at 7:54 p.m.

Trustee Rael seconded the motion.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2009.

ATTEST:

Annabelle Silvas, Village Clerk