

**MINUTES**  
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE  
6718 RIO GRANDE BOULEVARD N.W.  
**BOARD OF TRUSTEES REGULAR MEETING**  
**FEBRUARY 13, 2013 - 7:00 p.m.**

**Present:**

Larry P. Abraham, Mayor  
Mary Homan, Trustee  
Don Lopez, Trustee / Mayor Pro Tem  
Pablo Rael, Trustee  
Tim McDonough, Trustee  
Nancy Haines, Treasurer

Kelly S. Ward, Administrator  
Annabelle Silvas, Clerk  
Bill Chappell, Attorney  
Fred Radosevich, Public Safety Director  
Linda Seebach, P & Z Director

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**1. CALL TO ORDER**

**Mayor Abraham** called the meeting to order at 7:10 P.M.

**Mayor Abraham** announced that the Board of Trustees met in a closed session at 6:30 P.M. and only those matters that were on the posted notice were discussed.

**MOTION: Trustee Lopez** moved approval of the Mayors closed meeting statement. **Trustee Rael** seconded the motion.

**VOTE:** The motion carried unanimously, 3-0.

**Trustee McDonough** arrived.

**A. APPROVAL OF AGENDA**

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

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

**2. PUBLIC COMMENT PERIOD**

There were no public comments.

**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 – JANUARY 10, 2013 – 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, 4-0.

4. **REPORTS**

A. **MAYOR'S REPORT**

**Mayor Abraham** reported on the following:

- The Growers' Market will be held on Saturday, February 16, 2013
- The Mayors' caucus was held on Thursday, February 14, 2013, at the Route 66 Diner
- The Village has been following the Legislative Session closely

B. **ADMINISTRATOR'S REPORT**

**Administrator Ward** reported on the following:

- He has been up at the Legislature working on the new process for capital outlay and surveys from DFA local governments and DFA Legislator.

C. **PLANNER'S REPORT**

**Planner Seebach** reported on the following:

- She provided the Code Enforcement report from Keen Heinzelman to the Board.
- She has been working on the codification project with Attorney Chappell.
- EPA officials from Dallas will be in the Village of Los Ranchos at the Agri-Nature Center at 1:00 P.M. on February 26, 2013, to give the Village a draft of the permit.
- There are a few developers looking at new properties in the Village. Currently, she has received only one application.
- The Arid Low Impact Development (LID) Annual Conference will be in conjunction with Xeriscape New Mexico on February 28 and March 1, 2013, at the Marriott Pyramid Hotel.
- The Water Conservation Expo will be held at the New Mexico State Fair Grounds on March 2, 2013.

D. **LEGAL REPORT**

**Attorney Chappell** reported on the following:

- He has received several responses from Village residents who received letters about not connecting to sewer. There are draft complaints prepared for the people who still decline to hook up to the sewer without any reasoning.
- The litigation is still pending with responses with the Curtis appeal. He is also working on the OMNI Corporation litigation.
- He has also been working on Village ordinances, amendments, and the codification.

**E. PUBLIC SAFETY REPORT**

**Public Safety Director Fred Radosevich** reported on the following:

- During 2012, the Bernalillo County Fire Department responded to 900 calls for service in the Village, which is slightly down from 2011 where they responded to 944 calls for service. Out of these calls, 76% of them were EMS related calls, 7% were false alarm calls, 8% were smoke calls, 3% were gas related calls, 4% were fire calls. There were 6 fire station tours, 3 parades, 5 school visits, and 7 community events.
- During 2012, the Bernalillo County Sheriff's Office responded to 3,489 calls for service within the Village of Los Ranchos, which is up from 3,300 calls for service in 2011. The top calls for service included disturbances, welfare checks, suspicious persons and vehicles, traffic stops, property crimes, auto burglars, burglaries, prowlers, stolen vehicles, domestic violence, robberies, and assaults. Suspicious vehicles and suspicious calls were the two largest suspicious activities in the Village.
- He said if police activity occurs in the Village, then people need to report that activity in a timely fashion. If it is an emergency, 911 should be dialed right away. If the caller is on a cell phone, they need to tell the dispatcher they are in the Village of Los Ranchos. The problem is that, depending on what cell tower picks up that phone call, the call might go to the City of Albuquerque 911 center. If it is a non-emergency, callers should dial 798-7000 so the details can be logged and reported.

**5. FINANCIAL BUSINESS**

**A. CASH REPORT – JANUARY**

**Treasurer Haines** stated that the Village's ending cash balance at January 31 was \$5,800,045.86, which represented an increase of \$51,379.57 from the prior month. The year to date excess of revenues over expenditures is \$417,514.42. The Village made its quarterly payment to Bernalillo County for the fire department for \$110,000.00.

**MOTION: Trustee Homan** moved approval of the Cash Report. **Trustee Lopez** seconded the motion.

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

**6. PUBLIC HEARINGS AND APPLICATIONS**

**A.** There were no public hearings.

**7. OLD BUSINESS**

**A. DISCUSSION OF THE PROPOSED AMENDMENT TO THE C-1 ZONE OF THE FOURTH STREET COMMERCIAL CORRIDOR AND CHARACTER AREA**

**Planner Seebach** stated that the Village staff recognized some possible issues with there

being commercial and residential areas mixed in the plan together because of the Village's current ordinances.

**Trustee Rael** stated that he believed residential on commercial should be okay but not commercial on residential.

**Trustee Lopez** said that he concurred with Trustee Rael's statement of residential being allowed to be in a commercial zone but not ~~wise~~ vice versa.

**Trustee Homan** said that she also agreed, adding that the Village has many of these situations already existing up and down Fourth Street where some of the older properties were annexed in at one point. She asked the Board to think ahead on how certain things will be addressed because in some instances, there are residents in the middle of a commercial area that are on the same parcel. She stated that there are some challenges with this when it comes to residents wanting to do remodeling or upgrading and what they are allowed to do under certain ordinances because it could trigger a new review of their property.

**Mayor Abraham** asked the Board to discuss what kind of commercial structures would be on a residential lot that would be prevented.

**Planner Seebach** said there are a few A-1 lots that were annexed in that go all the way to Fourth Street. She said she did not think there were not any A-1 lots on the west side of Fourth Street.

**Administrator Ward** stated that the Village does not allow for a live-work zone where a property can be both residential and commercial on the same parcel in the C-1 Gateway Zone anymore. However, the Village can accommodate someone who might want to go from commercial to residential or residential to commercial, but not both.

**Trustee Homan** asked how the Village would force the mixed-use properties that were annexed in and already within the C-1 Gateway that were told they were grandfathered in.

**Administrator Ward** said the challenge comes when there is a change of ownership and a change in use and the Village might then eliminate the grandfathered provision.

**Attorney Chappell** said that when it comes to grandfathering, legally they cannot be expanded by use or size. He said if someone wanted to expand more intense use, they could not. If they wanted to expand their building, they cannot do it under grandfathering provisions.

**Trustee Homan** said a concern of hers was that if the Village said that everything up and down Fourth Street needed to be a commercial zone, then those that have lived on Fourth Street in under A-1 zoning for many years and were annexed in a long time ago, might see significant changes in their property taxes.

**Planner Seebach** said there are very few people on Fourth Street within the 300-foot or less that would fall within that category. Planner Seebach also said there are a lot of long

tripa lots that are dual zoned with C-1 up front and A-1, R-2, or R-3 on the parcel as well.

**Trustee Rael** said he thinks dual zones should be allowed all along the Fourth Street corridor if the Village is trying to promote the business community and sets up the environment allowing people to walk to and visit the different businesses on Fourth Street. He said he would like to see the live-work environment in the C-1 zone, but not the other way around.

**Trustee Homan** said that she agreed with Trustee Rael.

**Mayor Abraham** asked if the Village should include the areas that are A-1 or R-1 zones along Fourth Street.

**Planner Seebach** said there are very few parcels that go A-1 all the way to Fourth Street. She also said that the Village has very limited commercial space in the Village and asked the Board if they would consider extending the C-1 zone further back than 300-feet.

**Trustee McDonough** said he would be supportive of live-work mixed use in C-1, but there may need to be guidelines along with that.

**Planner Seebach** said the guidelines in a mixed-use say that the structure needs to be built to commercial standards.

**Trustee McDonough** said that it seemed like the general tone of the Board of Trustees was that mixed-use should be along Fourth Street and the Village needs to be cautious that it fits with an overall concept of what Fourth Street is going to be.

**Trustee Rael** said he would be in favor of providing a number of living quarters on Fourth Street without commercial with it.

**Mayor Abraham** said he agreed with Trustee Rael but said the Village will need to think about increasing density in order to support the commercial businesses.

**Administrator Ward** said the Village would take the Board's comments and feedback under consideration and will try to time it appropriately with the upcoming Fourth Street designs.

**Trustee Homan** asked Planner Seebach about the builders who expressed interest in building on Fourth Street and if they had discussed any timeframes for doing the work.

**Planner Seebach** said some of the builders would like to move forward with some properties, including the bank property on Los Ranchos, who is interested in a live-work development. She said the other builders were looking further south on Fourth Street.

**Mayor Abraham** said that the Board would revisit this topic in the March Board of Trustees meeting.

## **8. NEW BUSINESS**

### **A. DISCUSSION AND APPROVAL OF THE MAYOR'S APPOINTMENT OF JOE CRAIG TO THE PLANNING AND ZONING COMMISSION**

**Trustee Lopez** moved approval of the Mayor's appointment of Joe Craig to the Planning and Zoning Commission. **Trustee Rael** seconded the motion.

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

### **B. DISCUSSION AND APPROVAL OF WASTE MANAGEMENT'S FUEL SURCHARGE INCREASE BASED ON \$3.61/GALLON. THIS WOULD RESULT IN A SURCHARGE OF 4.86% PER RESIDENT CUSTOMERS, 2.81% FOR COMMERCIAL CUSTOMERS AND A 3.08% PER HAUL FOR INDUSTRIAL CUSTOMERS**

**Administrator Ward** provided the Waste Management of New Mexico request that was submitted on July 19, 2012, for a fuel charge increase. He said that currently the Village is paying a fuel surcharge of \$0.63 per home, which is a 4.25% fuel charge. The increase would result in a \$0.78 fuel charge, which is an increase of \$0.15 per household, making it a 4.86% fuel charge.

**Frank Santiago**, with Waste Management of New Mexico, said he would work on making their request easier to understand and more transparent the next time they request a change in fuel surcharges. He also went over the results of RecycleBank. Mr. Santiago said that the Village of Los Ranchos came in twenty-fifth out of fifty areas participating in the contest, which means the program stays for another sixteen months. During the period of time the contest took place from August 2012 through December 2012, Los Ranchos recycled 18% more when compared to 2011 and recycled approximately 505 pounds of recycled material per household versus 375 pounds of recycled material per household in 2011. According to Waste Management, the U.S. Environmental Protection Agency, International Aluminum Institute, National Association for PET Container Resources, Institute of Scrap Recycling Industries, Earth Works Group Recycler's Handbook, One Earth Recycle, BringRecycling.org, National Recycling Coalition, US Forest Products Laboratory, and Wheelabrator Technologies, the Village recycled 126 tons of newspapers, aluminum, cardboard/paper, scrap metals, and plastics between August and December 2012. These recycling efforts conserved the following resources: 1,138 mature trees were saved, 449 cubic yards of landfill airspace, 481,930 Kw-Hours of Electricity from recycling, 231 barrels of oil, avoided 533 metric tons (MTCO<sub>2</sub>E) of GHG emissions, and conserved 633,593 gallons of water.

**Trustee Homan** asked if the schools located in Los Ranchos could participate in this next time.

**Frank Santiago** said any school that is part of Albuquerque Public Schools participates in recycling programs. He said he would work to get the other schools located in the Village to participate in future programs.

**Trustee Homan** moved approval of Waste Management's Fuel Surcharge Increase.

**Trustee Lopez** seconded the motion.

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

**C. DISCUSSION AND APPROVAL TO ADVERTISE IN SUMMARY AN ORDINANCE GRANTING ZAYO GROUP A TELECOMMUNICATIONS FRANCHISE**

**Royal Harrison**, 10512 Malaguena Ln NE a project manager with Zayo Group. He said he works with the City of Albuquerque, the City of Rio Rancho, the Town of Bernalillo, and Los Ranchos.

**Trustee Lopez** asked how long the Zayo Group has been in business.

**Royal Harrison** said approximately three to four years.

**Trustee Lopez** asked what they needed from the Village.

**Royal Harrison** said they are a 100% fiber optic carrier and they need bandwidth, pipe, Ethernet services to clients, and they seek cell towers as clients.

**Mayor Abraham** asked Royal Harris what type of services will the company be providing to The Village of Los Ranchos and how will it benefit the Village.

**Royal Harrison** said they are laying fiber optic networks in as much area as possible. He said currently they have plans to lay fiber optics on Fourth Street and Ranchitos. He said he is requesting help with the Sprint cell tower just north of El Pueblo and Fourth Street.

**Administrator Ward** said the cell tower was put in prior to the annexation and is located on a PNM transmission line.

**Trustee Homan** asked Royal Harrison if the Zayo Group was installing the fiber optics aerially.

**Royal Harrison** said they were planning on doing it aerially as much as possible but, at certain points, it does have to go underground.

**Trustee Homan** said he would need to come to the Village for proper permitting prior to construction when street work was needed.

**Trustee McDonough** asked if he was anticipating putting up any additional poles.

**Royal Harrison** said they would be utilizing existing poles.

**Administrator Ward** said the Village would benefit from this work if the Zayo Group were to sell to a customer in Los Ranchos, then the Village would get 3.1% of a franchise fee.

**Mayor Abraham** asked Mr. Harrison what commercial customers would be using this service and how would they get the service.

**Royal Harrison** said it is just like a telephone service and the Zayo Group would need to establish and built their clientele.

**Mayor Abraham** asked Mr. Harrison how much of a burden the work would be for the Village and if Los Ranchos is obligated to do it.

**Administrator Ward** said the Board is not obligated to do anything and there is no foreseen burden to the Village other than road excavating or working in the right-of-way. If that were necessary, then a fee would need to be paid and would be permitted. He said the Village would see a wire from Second Street to Fourth Street, a small facility on the ground at Fourth and El Pueblo, and a covered up trench that would not be visible along the right-of-way north of El Pueblo to the back end of the apartments near Fourth Street.

**Mayor Abraham** said he would like to see a condition before proceeding with this work. Mayor Abraham would like to review the Combined Reporting System (CRS) for Sprint to verify if they are paying their gross receipts on any customer that has Sprint service in the Village prior to this moving forward since Sprint is the only benefactor of this work.

**Trustee Rael** said he agreed with Mayor Abraham. He asked Attorney Chappell if this would create a situation with Century Link given that the existing agreement with Century Link says that anyone else providing service through here must have a franchise agreement? Will Century Link interpret that as, "Now we don't have to either?"

**Attorney Chappell** said the Century Link franchise agreement requires any competitor to be charged the same rate as they are charged, which is the reason for the 3.1% rate. He said that although the rates will be the same, the revenues will be different.

**Administrator Ward** said the Sprint tower is not located in the Village of Los Ranchos. He said the Village would need to determine whether or not the support facility for this tower is located within the Village.

**Attorney Chappell** said this work should probably be done by a franchise agreement instead of a specific easement because of the nature of the easement or where it would have to be located.

**Trustee McDonough** asked if the facilities have to be located in the Village for them to pay gross receipts tax.

**Mayor Abraham** said no because any customer that has Sprint on their phone and their billing address is an address in Los Ranchos should be paying gross receipts.

**Administrator Ward** said the 3.1% franchise fee is Zayo Group's revenue from any customer within the Village of Los Ranchos.

**Trustee McDonough** moved approval of advertising with the condition of Zayo Group providing proof that Sprint has been paying their gross receipts tax to the Village of Los

Ranchos.

**Trustee Rael** seconded the motion.

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

**D. DISCUSSION AND APPROVAL OF 2013 FARM PLAN FOR THE PASEO DEL NORTE OPEN SPACE BY ALAMEDA FARMS (DAVID MONTOYA)**

**Mayor Abraham** asked Mr. Montoya to describe the photos and the plans for the Paseo del Norte Open Space by Alameda Farms.

**David Montoya** said there is water in the area now, an irrigation well was installed, the Village supplied the pump, built the well about 160-feet down, and he said the system is working very well with it putting out 18-gallons per minute, but said it seemed like it was putting out even more than that. He said he put in approximately 2,000 feet of rigid and flexible line that goes to the east and west. He said the western piece of land has not been mowed, at the request of Trustee McDonough, and it has been irrigated with no grazing allowed in the area. He said the grama grass in the area has been doing really well. Mr. Montoya showed photos of the work in the area.

**Trustee McDonough** asked Mr. Montoya how often the area is irrigated.

**David Montoya** said that it was irrigated three times in one year. He said it was a very dry year and the problem is that when the main canal is lower, it is not high enough to irrigate robustly. He said the grasses in this area are very drought tolerant, however, if it is irrigated more often, the area could develop a lot of weeds and could be a fire concern.

**Trustee McDonough** said the contract said there would be habitat in the area and that he has not seen any there. He suggested possibly that Albuquerque Open Space or Fish and Wildlife be consulted and additional avenues be exhausted to try and get habitat in the area. He acknowledged that the property is much better than it previously was but additional work needs to be done with habitat management.

**David Montoya** said that a walking path was added next to the trees, the fence was opened up, and the shady paths are now accessible and usable.

**Mayor Abraham** said the contract is up in October 2013. He said the Village would need to issue another 5-year Request for Proposal (RFP) soon.

**Trustee Lopez** moved to approve the 2013 Farm Plan for the Paseo del Norte Open Space by Alameda Farms.

**Trustee Homan** seconded the motion.

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

**E. DISCUSSION AND APPROVAL TO ADVERTISE IN SUMMARY AN ORDINANCE REPEALING ORDINANCE 213 AN ORDINANCE AMENDING THE COMPREHENSIVE ZONE CODE, CHAPTER 31, ZONING AND ZONE MAP, SECTION 24, APPLICATION AND APROVAL PROCESS, SUBSECTION D, PLANNING DIRECTOR ISSUED PERMITS ADDING PARAGRAPH (13) FLOOR AREA VARIANCE DATED SEPTEMBER 13, 2007**

**Planner Seebach** said this ordinance has expired and needs to be repealed because it is still on the books.

**Attorney Chappell** said if there is a sunset clause in an ordinance then it has to be repealed in order to make it not effective and removed from the books. He said, however, if there is an expiration date on the ordinance, and then once it is expired, it is gone. Attorney Chappell said it should be excluded from the codification and no further action needs to be taken.

**9. TRUSTEES INFORMAL DISCUSSION**

**Trustee Rael** said he thought the agenda should be organized so the people in attendance would have the opportunity to address the Board prior to the other agenda items.

**Trustee Lopez** said he noticed some congestion with the cyclists and vehicles on Rio Grande on Saturday mornings at the Growers' Market. He asked Administrator Ward if anything could be done to alleviate some of this congestion.

**Administrator Ward** said the Village had made some "Congestion Ahead" signage in 2012 and the Village will ask the Growers' Market organizers to utilize those signs again on Saturdays.

**Trustee Homan** invited the Mayor and Board of Trustees to attend the New Mexico Municipal League Legislative Day on February 19 and 20, 2013.

**Trustee McDonough** asked if taking down billboards was part of the plan for Fourth Street and the efforts to make it a destination area.

**Mayor Abraham** said he had approached Clear Channel Communications previously, but they had referred him to their team of attorney's. He said it would be addressed again once the project moves forward and said that it might hit some of the businesses that rely on rent from the billboards.

**Trustee Homan** asked if focus groups would be still be involved in the business community about the projected changes on Fourth Street.

**Administrator Ward** said nothing had been done yet but that the Village had a meeting with Tierra West and their scope of work needs to first be recrafted so it can be incorporated into the plan before hosting focus groups. The current presentation has been prominently displayed on the Village website and provided a link to the preliminary presentation on the Facebook page. The Village has welcomed initial feedback and comments from Village businesses and residents.

**10. ADJOURNMENT**

The meeting was adjourned at 9:09 P.M.

**APPROVED** by the Board of Trustees of the Village of Los Ranchos de Albuquerque this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

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Annabelle Silvas, Village Clerk