

MINUTES
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE
6718 RIO GRANDE BOULEVARD NW
BOARD OF TRUSTEES REGULAR MEETING
MAY 10, 2017 - 7:00 P.M.

Present:

Larry P. Abraham, Mayor
Don Lopez, Trustee / Mayor Pro Tem
Pablo Rael, Trustee
Mary Homan, Trustee
Allen Lewis, Trustee

Kelly S. Ward, Administrator
Stephanie Dominguez, Clerk
Nancy Haines, Treasurer
Tim McDonough, Planning & Zoning Director
Bill Chappell, Attorney
Robin Hopkins, Public Safety Liaison*excused

1. CALL TO ORDER

Mayor Abraham called the meeting to order at 6:58 P.M.

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

VOTE: The motion carried, 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)

NONE.

3. PRESENTATIONS

A. AGRICULTURAL RESOURCE WORKING GROUP: SHOULD LOS RANCHOS VIGOROUSLY SUPPORT AGRICULTURE? PRESENTED BY JOE BRAWLEY.

Joe Brawley provided an overview of the agriculture resource working group's presentation.

B. PROCLAMATION PROCLAIMING JUNE 4, 2017 AS GAY, LESBIAN, BISEXUAL, AND TRANSGENDER PRIDE DAY.

The Mayor and Trustees recognized June 4, 2017 as Gay, Lesbian, Bisexual and

Transgender Pride Day.

*8. OLD BUSINESS

A. DISCUSSION AND APPROVAL OF THE FOURTH STREET REVITALIZATION AND REDESIGN PLANS AT ONE HUNDRED PERCENT (100%) COMPLETE, AUTHORIZING THE VILLAGE TO ADVERTISE REQUEST FOR PROPOSAL 2017-5-1 FOURTH STREET REVITALIZATION AND REDESIGN CONSTRUCTION.

** Special Placement of Agenda Item 8.A.*

George Radnovich, Sites Southwest, said the one hundred percent plans are complete. Included in the packet is the project manual and the request for proposal (RFP) documents. By utilizing the RFP process, the selection of the contractor will not be based on price alone, experience and quality of work will also be factors in the selection process. The landscape plans have changed slightly to include edible plants such as fruit trees, currants, and other harvestable plants. The colors of some brick materials have been changed (LC 101-LC105). There will be blue concrete in the road, a metaphor for the Village logo and Rio Grande River, that will travel down the center of the street in the turning lane. We have added a sound system for the project. The gateway signs will have changeable light systems. The estimate of cost is provided in a separate sheet.

Trustee Lopez said he will provide Vinnie and George Radnovich my comments. The plans are not stamped by a PE, so they are not one hundred percent. George had indicated to me that Sites Southwest wanted to make all changes before the plans are stamped by a PE. A few of the comments are: NMDOT specs need to specify which edition the plans are referencing, and the engineer for the project needs to be listed.

George Radnovich stated that Ron Bohannon will stamp the plans once the plans are approved by the Board of Trustees.

Trustee Lopez requested a quasi-design report to accompany the plans to include geo-technical information.

Vinnie Perea, Tierra West, said we have completed an engineering report which we will provide to the Trustees.

Trustee Lopez said NMSA 1978, 61-23-26 public works projects that are more than \$20,000 need to be prepared under a responsible PE.

Trustee Rael said on C103 and C113 Enchanted Valley Circle needs to be corrected, as both sides of the street show Green Valley. I am concerned about the gateway signs and if they are intrusive to the turning lanes on Enchanted Valley and Pueblo Solano, which can cause traffic congestion.

Vinnie Perea said we will follow up on this concern.

Trustee Homan asked what comments or concerns have you received from businesses and property owners.

George Radnovich said we have received a few concerns. One being the location of a bus stop, which was moved. There are a few other cases that we have adjusted plans based on input.

Trustee Lewis said under Phase II in the cost estimate, the contingency is shown as 15% but the mathematical computation is only 10%.

George Radnovich said we will have that fixed. Plans that are not 100% retain a 15% contingency.

Trustee Lewis asked for clarification in the estimate under site prep – mobilization and demobilization

George Radnovich said the unit cost for the numbers is based on the City of Albuquerque engineer roadway improvements. These figures are calculated at 4.77%, and mobilization for a contractor is to mobilize their forces to set up a construction yard, work on details of buying materials, set aside space to store any materials, and initiate any work.

Trustee Lewis inquired about the eleven (11) month inspection in the RFP.

George Radnovich said in every construction project, a year after the project is complete, we review the project to make sure everything is held together and nothing has failed. A percentage of funds will be held back until the completion of the eleven (11) month inspection.

Keith Baird said I support the design. I have one question because in the last presentation there were a lot of questions regarding lighting. Can we get a final overview of the lighting plan? I am interested in the final plans for the string lights and pedestrian walkways. I hope there is something in the contract that ensures the enforcement of movement of traffic and accessibility to properties are enforced and complied with. There have been issues with closures with the work currently underway. Green Valley and Tyler have been closed for three weeks.

George Radnovich said there are traffic control plans in the design documents. The contractor currently working on Fourth Street is contracted with the water authority. The lighting plans are complete. There are three types of lighting on the street: lighting at intersections points which are a higher mass; pedestrian scale lights that are on sixty (60) foot centers, and string lights. The string lights will be at each end of the project and at crucial points, mostly at intersections. The string lights will be held seventeen (17) feet above traffic and will be suspended on a grid of cable. At two points in the project there are walkways that are pedestrian activated.

Vinnie Perea said one of the main reasons to pick a contractor based on qualifications rather than a low bid is to ensure that we select a contractor that has experience working in tight corridors and business districts. One of the suggestions we will provide is to complete excavation at night so that it lightens the impact of road closures and access to businesses.

Keith Baird asked which end of Fourth Street will they begin and how far will you disrupt at a time, will the project be completed in sections?

George Radnovich said in the RFP documents we have asked for a management plan. The contractor will be selected on price, a traffic control plan, and management plan. The contractors submitting proposals will provide answers to those questions.

Trustee Lopez recommended approval for the Fourth Street Revitalization and Redesign plans that were reviewed and commented upon by the Board of Trustees subject to the following conditions: Final correction and/or resolution of comments received by the design team and the affixation and approval of the plans by a registered New Mexico Professional Engineer (PE) that worked on this project, and upon that completion authorizing the Village to advertise RFP 2017-5-1 Fourth Street Revitalization and Redesign Construction. **Trustee Rael** seconded the motion.

Cindy Baca, Green Valley Meats, said I have a complaint. When I built my business I had to have seven parking spaces. I have ten and they are taking away seven away and leaving me with three. I do not have a business you can walk to. I have a destination business. No one has followed up with me. Last week George said they will need twenty-five (25) of my fifty (50) feet. I have big diesel trucks that come to my business. I then spoke with Maria and Tim. No one has followed up with me, and they suggested I conduct business in the alley. I have been here forty-four (44) years and I was born here. I want to keep my entry way just as it is. If they reduce it to twenty-five feet (25) I am not sure how trucks will turn around.

Planner McDonough said I did speak with Mrs. Baca late last week. There is a parking area in front of Green Valley Meats. Currently, there is no restriction so there is fifty (50) feet that you can enter in that parking area from Fourth Street. Along with the improvements along Fourth Street, that free access will be reduced to driveways. The parking area is not being reduced, but the driveway mouth is being reduced from fifty (50) feet to twenty-five (25) feet. There will be public parking across the street.

Cindy Baca said we arrive very early to the business and it is very dangerous to cross Fourth Street. It would be hard on my employees to park across the street.

VOTE: The motion carried unanimously, 4-0.

4. **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 – APRIL 12, 2017 – REGULAR MEETING.

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

VOTE: The motion carried, 4-0.

Meeting in recess from 8:15p.m. to 8:19p.m.

5. **REPORTS**

A. **MAYOR'S REPORT**

Mayor Abraham reported on the following:

- 25th Anniversary of the Growers' Market.
- Closed on the purchase of property at 6530 Fourth Street (AAA Storage).
- Business activity in the Village is increasing.

B. **ADMINISTRATOR'S REPORT**

Administrator Ward reported on the following:

- We are working on creating a redevelopment plan in the VC Zone.
- The property owner of 6780 Fourth Street is not interested in selling the property now, but is willing to lease the land with an option to purchase.
- The water line replacement on Fourth Street currently underway encountered some issues. The water line on the eastside of the street was installed in the wrong place, which will delay the project.

C. **PLANNER'S REPORT**

Planner McDonough reported on the following:

- Working with Maria to provide Fourth Street updates to Fourth Street businesses and property owners.
- Working on revising multiple ordinances that we will present to the Board over the next few months.

D. **LEGAL REPORT**

Attorney Chappell reported on the following:

- Working on several property purchase and numerous interpretations of ordinances.
- Working on several ordinance amendments
- Completed the conservation easement agreement with Los Poblanos.

E. **PUBLIC SAFETY REPORT**

Public Safety Liaison Hopkins reported on the following:

Public Safety Liaison Hopkins was absent.

6. **FINANCIAL BUSINESS**

A. CASH REPORT –APRIL 2017.

Treasurer Haines said the ending cash balance as of April 30, 2017 is \$9,309,223.38, which is an increase of \$91,002.91 for this month. The year-to-date deficiency of revenue over expenditures is \$467,074.17. The unusual or significant item was a payment to the Bernalillo County Fire Department in the amount of \$113,300.00 for fire protection and EMS services for the quarter beginning on April 1, 2017.

MOTION: Trustee Rael moved approval of the April 2017 cash report as presented. **Trustee Homan** seconded the motion.

VOTE: The motion carried unanimously, 4-0.

B. DISCUSSION AND APPROVAL OF INTERIM BUDGET FOR FISCAL YEAR 2017-2018.

Administrator Ward said this is a two-stage process. The first step is to create an interim budget due to DFA by June 1, 2017. In July, we will present to the Board the budget for FY 2017-2018. The primary difference between the interim budget and the budget will be expenditures. We are estimating a five percent (5%) growth in gross receipt taxes. This budget includes funding for an agricultural coordinator and funds to support that position.

MOTION: Trustee Rael moved approval of the interim budget for fiscal year 2017/2018. **Trustee Lewis** seconded the motion.

VOTE: The motion carried unanimously, 4-0.

7. **PUBLIC HEARINGS AND APPLICATIONS**

A. AN APPEAL BY ROBERT E. MARTIN OF THE PLANNING AND ZONING COMMISSION'S DENIAL OF VARIANCE V-2017-01 ON MARCH 14, 2017: VARIANCE V-2017-01, A REQUEST BY ROBERT E. MARTIN & JERI H. COOK MARTIN FOR A VARIANCE FROM §9.2.7(H)(2) NO SOLID WALL OR FENCE LOCATED IN THE REAR OR SIDE SET BACK AREAS SHALL BE MORE THAN SIX (6) FEET IN HEIGHT. APPLICANTS REQUEST A VARIANCE TO ALLOW FOR AN EIGHT (8) FOOT IN HEIGHT REAR FENCE. PROPERTY IS LOCATED AT 1007 COTTONWOOD PLACE NW AND IS LEGALLY KNOWN AS LOT 18 OF THE PRADO SUBDIVISION, WITHIN THE TOWNSHIP 11 N, RANGE 3 EAST, N.M.P.M., VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO. THE PROPERTY CONTAINS 1.1578 ACRES.

Mayor Abraham requested any individual who be speaking for any public hearing be sworn in by Attorney Chappell.

Planner McDonough said the Village became aware of a fence on Cottonwood Place that exceeded the height limitation. We measured the fence and it was eight (8) feet tall. It is located along an irrigation ditch. We spoke to the property owners and they applied to the Prado North Valley Homeowner's Association (HOA) for a fence variance. The HOA has covenants that requires a rock wall around the property. The variance request submitted to the HOA was to build an eight-foot coyote fence on the back of the property against the ditch. The HOA approved the variance, but was not specific in what the variance approved. There is language at the bottom of the HOA approval that their approval cannot override Village ordinances. We notified the owner that the eight-foot fence was non-compliant and was in violation of the code. One option is that the property owner could apply for a variance. We did notify the owner that a variance is based on a hardship and specific requirements must be met. We provided those requirements to the property owner. The property owner applied for a variance, which was heard by the Planning and Zoning Commission. The property owner did not apply for a fence permit through the Village, but the applicant may discuss how they felt that was unnecessary since the fence was approved by the HOA. The Planning and Zoning Commission voted 6-0 to deny the variance. The applicant is appealing the decision of the Planning and Zoning Commission.

Robert E. Martin, 1007 Cottonwood, said over the last sixteen months our home in the Village has been under construction with the assistance and attention of our contractor, TC Building and Realty, who has designed and developed several homes in Los Ranchos. We used care to comply with both the master plan and guidelines of the HOA, and the Planning and Zoning Ordinances. We received our certificate of occupancy on April 7, 2017 and our home was recently featured in the parade of homes. Our original submission to the HOA and Village called for a 6-foot masonry block wall which was approved the HOA. The amended request specific to the north perimeter privacy wall was made last summer after realizing two things: 1) several mature trees would have to be removed or root systems compromised, 2) and the north perimeter flood irrigation ditch is frequently used by pedestrians on foot and bicycles. With respect to the conditional approval of the original plat called for the care and attention of existing mature trees where possible. A coyote fence system, which is not allowed under the HOA, would allow us to retain the existing mature tree-scape on the north perimeter of the lot. With respect to number two our backyard abutting this perimeter and we have a swimming pool and spa in the backyard. The elevation of drainage ditch is twenty-four (24) inches above the grade of our property building envelope. Our swimming pool and hot tub will be the central gathering place of our family, which includes grandchildren (ages 1-15). For the privacy and safety of our family in mind, we requested a variance from the HOA for an eight-foot coyote fence that would accommodate for the two-foot elevation for the pedestrians use along the ditch. After being notified our fence was in violation of Village ordinances, we requested a variance from the Planning and Zoning Commission in March. Because there was some opposition and because the Commissioners were assured by Village staff that no similar variances had been granted, they voted to deny the variance 6-0. I find it very interesting that one of the Commissioners told our builder that since no similar variance had been granted, they did not want to set a precedent. That

same Commissioner received a fence height variance from the Village in June 2011 and cited one of his neighbors as a reason for the getting the variance. I know he knew there were two variances. The staff member that assured the Commissioners no similar variance had been granted himself signed the approval letter for a fence height variance in February 2014. Per records provided by the Village Clerk, there have been twenty-one (21) fence variances approved since 2000. Documentation for those is provided in your packets. The reasons are all over the place, from noise abatement, safety, aesthetics, privacy, and more. Of interest to us is the eight-foot coyote privacy fence on the south perimeter of the entrance to Los Prado de Guadalupe abutting Guadalupe Trail where our builder built several homes. That fence was built in 1999. In 2003 when someone complained about the fence, the Zoning Commission unanimously granted a variance citing the cost of cutting the fence down as the hardship. Thank you for considering our request for this variance. The rise in crime in the neighborhood west of downtown Albuquerque, where we have lived for the last seven years, has elevated our concern for our family's privacy and safety. We have invested heavily in safety components in our new residence including the elevation of the coyote fence. Myself and Jeri decided to build in the Village because we love the atmosphere and the feeling of living in a rural community. Most of the people that walk that ditch are just getting exercise, but there is an element that walks that ditch for very different reasons. We feel as if it is our right to protect ourselves and to have our privacy. Our fence does not block anyone's view of anything except our backyard. There is another reason we want the fence, the property on the other side of the irrigation ditch has been there for a long time. The property is not very well maintained and there is a lot of trash up against the chain link fence. One time there was a pickup truck with tin cans that was parked over there. We built a nice house and would like to not have to look at that.

Mayor Abraham asked if there are any questions for Mr. Martin.

Trustee Lopez asked when was the eight (8) foot fence built.

Robert E. Martin said the fence was built in November.

Trustee Lopez asked if Mr. Martin built the fence because the HOA approved the variance, and asked if he was unaware of Village ordinances.

Robert E. Martin said honestly, I did not know. My builder (Tom) has built several homes in Los Prado de Guadalupe and that fence has been up since 1999.

Trustee Lopez said I have been around for a long time as Trustee and I happen to know there have been a variety of variances for fence heights. This is a difficult issue.

Robert E. Martin said I called the Mayor after the Planning and Zoning decision and said if you make me cut my fence down will you make them cut theirs down? If you are not going to make them cut theirs down, why are you going to make me cut mine down?

Mayor Abraham asked if there is anyone speaking in favor of the appeal.

Mayor Abraham asked if there are any opponents to the appeal.

Frank Agryes said I am representing my father George Agryes. We live at 6920 Rio Grande NW, as he called our house trash. We have been living there since 1978. My father is eighty-seven years old and we help as much as possible. What I find highly annoying is that the gentleman that was building the house, was building it in Los Ranchos under covenants (HOA) that would give him an eight-foot fence but Village guidelines only provide for a six-foot fence. The fence was built without a permit. I look at that fence as trash. If I look out from their front door, I can only see his roof. He also states there are a lot of people walking and bike riding on the ditch, I can testify that no one is bike riding on the ditch. The only people on the ditch are people accessing irrigation valves. What disturbs me is if the Mayor and Trustees approve this fence, it will open a Pandora's box. Many people will apply for a fence variance. Everyone needs to adhere to the same rules. Please deny his request.

Michael Hannah, 1104 Roadrunner Lane NW, relative to this issue, standing in our backyard we are caddy corner to their backyard (1007 Cottonwood) and can see the back fence from our property. I provided comments at the Planning and Zoning Commission meeting. I focused on the long range plan and encouraging sight lines, especially along the Rio Grande corridor. My understanding of the variance is strictly from a legal point of view. As I understand the variance ordinances, the variance is strictly associated with the property. I am unaware of any issue with the property that would require a higher fence than the ordinance allows. I am also interested to hear this evening the height from his land to the top of the irrigation ditch is twenty-four (24) inches. The fence is built on a slope. If he put up a compliant six-foot fence he would have from his point of view an eight-foot fence. The property is already giving him an extra height advantage as compared to what a normal situation would allow. The only thing I see unique about the property is the reverse. The location of his property is higher than neighbors in that immediate area, and therefore the fence has a higher visual impact. I empathize with his concerns and desires, I am asking the Board to look at what the ordinances allow and define as a hardship. From what I understand, if a variance is granted it is permanent with that property regardless of who may subsequently own it. As a result, I am concerned if just owning property along an irrigation ditch may constitute a hardship. The ditch is a private ditch, and I do not see many people on the ditch other than adjacent property owners. I urge the Trustees to deny the variance based on the definition of a hardship and what constitutes a hardship.

Katherine Agryes, 6920 Rio Grande, said I would like to know the definition of rural living. In rural living, there are not eight-foot fences. We have open and beautiful space, as when I bought the house. I would like it to be the same for my sons. The distraction is the fence, when I look out my front door I see the fence.

Mayor Abraham asked if the applicant would like to speak.

Robert E. Martin said I do not know who walks on the ditch, I have only lived in the house for a month but there are a lot of people who walk on the ditch. They are not all local property owners. My insurance company and International Protection Services that I hired to come by my house 2-4 times a day and monitors my cameras/ alarms have both told me an eight-foot coyote fence is much safer than a six-foot fence. I am asking for safety, protection, and privacy. We are not blocking anyone's view. The only view we are blocking is my backyard. The precedent has already been set when the hardship for Los Prado Guadalupe was the cost of cutting down the fence. That is the same hardship I have in addition to my safety and privacy concerns. The protected views in the Village are the mountains and bosque, not my backyard.

Trustee Lopez asked how was the Village notified this fence was higher than it was supposed to be.

Planner McDonough said we received a complaint.

Mayor Abraham said regarding the Los Prado de Guadalupe fence variance, I have researched and attended the meeting in 2003. The issue was presented at the meeting that people who purchased the property in the subdivision did so under the belief that the fence was compliant. The fence was up for four years and did not need a permit at that time. Each variance needs to be reviewed independently. I have a concern that Village ordinances allow for six foot fences, and the fence on the property may be higher because the ordinance states that fences should be built on the average height of the lot. There is a builder that either has total disrespect for Village ordinances or did not apply for a permit. This builder was involved in a case in 2003, and knows that eight-foot fences are not allowed, but built this fence. This shows total disrespect for Village ordinances. We cannot allow someone create their own hardship.

Trustee Homan said the point that the fence is already on a two-foot rise and the ordinance states it must be built on the average height of the lot. The request for this variance is higher than two feet and may be upwards of four feet.

Trustee Lewis said the granting of one variance does not set precedent for other variances, each one stands alone.

MOTION: **Trustee Lewis** moved to deny the variance/appeal. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously, 4-0.

8. OLD BUSINESS

B. DISCUSSION AND APPROVAL OF THE 2017 FARM PLAN FOR THE PASEO DEL NORTE OPEN SPACE BY ALAMEDA FARMS (DAVID MONTOYA). **Deferred*

from the April 12, 2017 Board of Trustees Meeting

David Montoya said we have worked out a solution since the last meeting. This plan does not include the request for an extension.

Administrator Ward said the Village will install the well on the property and we can strike that bullet point from the plan. We will first seek permission from the state engineer to drill a replacement well, then we will file an application to establish water rights. We currently have presumptive water rights. After the last meeting, we met with David Montoya. Taking into consideration the RFP process, we are disadvantaging Mr. Montoya by having him plant a crop this year. The Village will front the cost so that any subsequent bidder is on a level playing field.

MOTION: Trustee Lopez moved approval of 2017 farm plan for the Paseo del Norte Open Space by Alameda Farms (David Montoya) with the discussed corrections. **Trustee Homan** seconded the motion.

VOTE: The motion carried unanimously, 4-0.

9. NEW BUSINESS

NONE.

10. TRUSTEES ROUND TABLE (INFORMAL) DISCUSSION

Members of the Board discussed various informal topics. No action was taken.

11. ADJOURNMENT

The meeting was adjourned at 9:40 P.M.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this **12th** day of **July** 2017.

ATTEST:



Stephanie Dominguez, Village Clerk