

MINUTES
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE
6718 RIO GRANDE BOULEVARD NW
BOARD OF TRUSTEES REGULAR MEETING
August 9, 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 7:02 p.m.

MOTION: Trustee Lopez moved approval of the agenda with the following amendment: Defer action on Agenda Item 7.A. at the request of the attorneys representing the two parties until the September 13, 2017 Board of Trustees Meeting. **Trustee Rael** seconded the motion.

**It was acknowledged that the temporary certificate of occupancy for 900 Devon Lane will be extended for thirty days.*

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

NONE.

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 – JULY 12, 2017 – REGULAR MEETING.

Trustee Rael said on page 8 line 109, change “Trustee Pablo” to “Trustee Rael”.

Trustee Lopez said on page 301 change “pins” to “plans”.

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

VOTE: The motion carried, 4-0.

5. REPORTS

A. MAYOR'S REPORT

Mayor Abraham reported on the following:

- The Lavender in the Village Festival was very successful.
- Recently hired an Agriculture Program Manager, Fergus Whitney.

B. ADMINISTRATOR'S REPORT

Administrator Ward reported on the following:

- Continuing to work on RFP#2017-5-1 - Fourth Street Revitalization and Redesign Construction
- Working on updating franchise agreements.

C. PLANNER'S REPORT

Planner McDonough reported on the following:

- Working on revisions to the 2020 Master Plan, it was presented to the Planning and Zoning Commission.
- The Planning and Zoning meeting held yesterday was well attended. Interest was generated by a flyer that included information regarding development on Guadalupe Trail and Chavez, the Village has not received any notification of development for that property.

D. LEGAL REPORT

Attorney Chappell reported on the following:

- Working on litigation regarding the Unser Museum.

E. PUBLIC SAFETY REPORT

Public Safety Liaison Hopkins was absent.

6. FINANCIAL BUSINESS

A. CASH REPORT – JULY 2017.

Treasurer Haines said the ending cash balance as of July 31, 2017 is \$8,297,924.15, which

is an increase of \$104,720.48 for this month. The year-to-date excess revenue over expenditures is \$104,720.48. The unusual or significant item was a payment to Bernalillo County in the amount of \$113,300.00 for Fire and EMS services for the first quarter beginning July 1, 2017.

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

VOTE: The motion carried unanimously, 4-0.

7. **PUBLIC HEARINGS AND APPLICATIONS**

A. AN APPEAL BY GARY MULRYAN OF THE PLANNING AND ZONING COMMISSION'S APPROVAL, ON MAY 9, 2017, OF VARIANCE V-17-02 - A REQUEST BY ISIDRO CASTILLO FOR A VARIANCE FROM 9.2.7(E)(A)2. SIDE SETBACK SHALL BE FIFTEEN (15) FEET. THE PROPERTY IS LOCATED AT 900 DEVON LANE AND IS LEGALLY KNOWN AS TRACT 101-A OF THE REPLAT OF TRACTS 101, 1160A AND 116-B, MRGCD MAP NO. 27, AS THE SAME ARE SHOWN AND DESIGNATED ON THE PLAT THEREOF FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON JULY 16, 2007 IN PLAT BOOK 2007C, PAGE 188, AS DOCUMENT NO. 200910288. THE PROPERTY CONTAINS 1.399 ACRES MORE OR LESS.

**Action deferred to the September 13, 2017 Board of Trustees Meeting*

8. **OLD BUSINESS**

A. DISCUSSION AND APPROVAL TO ADVERTISE AN AMENDMENT TO THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CHAPTER 9 LAND USE REGULATIONS, ARTICLE 2, ZONING AND ZONE MAP, SECTION 12, C-1 RETAIL COMMERCIAL ZONE, §9.2.12. DEFERRED FROM THE JULY 12, 2017 MEETING. *DEFERRED FROM THE JULY 12, 2017 MEETING*

Planner McDonough said the Planning and Zoning Commission has reviewed the proposed changes for several months. We worked with Susan Henderson from Placemakers to draft the changes to the C-1 Zone. The amendment includes changes to uses and the goal was to organize uses in a succinct manner. There are a few adjustments to setbacks for commercial properties that abut other commercial properties. The proposed amendment includes mixed use that will allow for a broader range of development. There was a slight decrease in off-street parking, which is in concurrence with national trends.

Trustee Homan asked if the proposed changes address setbacks for commercial properties that abut agriculture properties.

Planner McDonough said the ordinance does not address that for single lots (dual zoning). If a commercial lot abuts an agriculture lot (or residential) in the C-1 Zone there are buffer requirements.

Trustee Rael inquired about the twenty dwelling units per acre, which seems to be excessive.

Planner McDonough said previously the dwelling units per acre was six, unless it was common wall construction then it was twelve. One of the goals as we understood with the Fourth Street Corridor is to increase residential density. The Planning and Zoning Commission toured the metro area to view higher density developments, which resulted in the determination of twenty dwelling units per acre.

Trustee Rael said I am bothered that there is not a maximum of units per acre if there is 10% retail facing Fourth Street. It seems as though 10% is too low.

Planner McDonough said Susan Henderson did caution us from increasing that percentage and to keep it at a manageable level in order to foster development.

Trustee Lopez asked about the prohibition of certain retail establishments such as fireworks, adult bookstores, adult entertainment, and large retail stores.

Attorney Chappell said if a municipality attempts to zone out a constitutionally protected use, the zoning ordinance is unconstitutional. The Village has a special use permit which allows uses in other zones meeting certain criteria, but does not zone out the business.

Mayor Abraham asked if any attendees had any questions. No one from the audience presented any questions.

Trustee Lewis moved to advertise the ordinance, §9.2.12, in summary. **Trustee Lopez** seconded the motion.

VOTE: The motion carried, 4-0.

B. DISCUSSION AND APPROVAL TO ADVERTISE AN AMENDMENT TO THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CLARIFICATION OF THE TWO HUNDRED AND EIGHTY FOOT SETBACK (280) IN CHAPTER 9 LAND USE REGULATIONS, ARTICLE 2, ZONING AND ZONE MAP, SECTION 7, A-1 AGRICULTURAL/ RESIDENTIAL ZONE §9.2.7, SECTION 8, A-2 AGRICULTURAL/ RESIDENTIAL ZONE, §9.2.8, AND SECTION 9, A-3 AGRICULTURAL/ RESIDENTIAL ZONE, §9.2.9. *DEFERRED FROM THE JULY 12, 2017 MEETING*

Planner McDonough said this amendment is in response to a procedural question regarding the application of the language in the current ordinance. In that requirement, full development will be allowed behind the 280-foot setback. There are multi-acre properties

zoned A-1 and the question is how to apply the requirements to subdivisions and residential development behind the setback line. If there is a ten-acre property and two acres are dedicated to the setback, the property is still entitled to ten dwelling units. In this case, the lots are no longer one acre net, which is required in the A-1 Zone. To address that conflict Mr. Chappell has drafted procedures that provide the full development rights behind the 280-foot set back line. The Planning and Zoning Commission did request that additional comments be added. Recently we have received additional comments regarding the uses.

Attorney Chappell stated this ordinance deals with a significant legal issue. When this ordinance was adopted there was concern that the setback itself constituted a condemnation and taking of property, therefore the Village would have to pay for the property in the setback. The outlet in the ordinance states that the Village has not taken any property rights and the property can be built the maximum overall density. There are a few properties in which this can apply.

Mr. Hank Kelly, 6900 Rio Grande Blvd., said in December 2016 we (Bonnie Kelly) placed a conservation easement against our nine acres and Meem house. The Meem house is on both state and federal historic registries. We have restricted the nine acres against further development, restricted future modification of the house, and have restricted the transfer of water rights. I believe this ordinance is an explanation of the FAR relation and the intent is healthy. However, we are concerned about the language regarding town homes and patio homes in an ordinance that cannot possibly be administered based on the economics of the situation. This can be construed as a finding for future Board members that such developments are appropriate on the restricted corridor along Rio Grande. The Board of Trustees should use caution on the language used when trying to accommodate a commonsensical application of the setback to prevent a substantial increase in density in the corridor. Everyone that has read the amendment, without knowledge of the ordinances, believes the intent is to increase density. I am concerned about the use of the term dwelling units as opposed to cluster development. I also have concerns regarding the context of waivers of setbacks. For example, Section F state, "Setback requirements between construction on the Development Property are hereby waived". If the setback is waived it should be specifically limited to the cluster development concept. If you limit it, people can understand what that is. I recommend that the references to A-1, A-2, and A-3 zones to which this applies be more expressively spelled out. I also believe Section H needs additional review. I am in favor of the concept, but encourage the Board of Trustees to allow Planner McDonough and Attorney Chappell additional time to review the ordinance.

Attorney Chappell said to address Mr. Kelly's concern regarding dwelling units, the ordinance does provide a specific definition for dwelling units.

Trustee Rael provided the following correction, under summary change to "develop" to "developed".

MOTION: **Trustee Rael** moved to defer Agenda Item 8.B. to the September 13, 2017 Board of Trustees meeting **Trustee Lopez** seconded the motion.

VOTE: The motion carried, 4-0.

C. DISCUSSION AND APPROVAL OF AN AMENDMENT TO THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CHAPTER 9 LAND USE REGULATIONS, ARTICLE 1, SUBDIVISION, VACATION, AND DEVELOPMENT, SECTION 7, PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS, §9.1.7. (ORDINANCE #257)

Planner McDonough said this ordinance adds additional language to address non-record lots and parcels sold by deed. This is acceptable to the Bernalillo County Assessor, however, it does not comply with the Village's ordinances. Currently in that situation property owners must re-plat, which becomes challenging. State statute allows for a boundary survey to be completed to define the lot and file with the County Clerk. The Village is requesting to use this process.

MOTION: Trustee Rael moved approval of the amendment to §9.1.7. **Trustee Lewis** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye, Trustee Lopez-aye; Trustee Homan-aye; Trustee Lewis-aye.

VOTE: The motion carried, 4-0.

D. DISCUSSION AND APPROVAL OF AN AMENDMENT TO THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CHAPTER 9 LAND USE REGULATIONS, ARTICLE 2, ZONING AND ZONE MAP, SECTION 25, APPLICATION AND APPROVAL PROCESS, §9.2.25. (ORDINANCE #258)

Planner McDonough said this amendment clarifies the appeals process.

MOTION: Trustee Homan moved approval of the amendment to §9.2.25. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye, Trustee Lopez-aye; Trustee Homan-aye; Trustee Lewis-aye.

VOTE: The motion carried, 4-0.

E. DISCUSSION AND APPROVAL OF AN AMENDMENT TO THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CHAPTER 14 MOTOR VEHICLES, ARTICLE 1, MOTOR VEHICLE CODE, SECTION 1, STATE CODE ADOPTED BY REFERENCE, §14.1.1, SECTION 5, VEHICLES ABANDONED OR DISPLAYED FOR SALE ILLEGALLY, §14.1.5. (ORDINANCE #259)

Attorney Chappell said under the current ordinances the Village has adopted the state motor vehicle code by reference, which is an allowable process under state statutes. However, it was not clear regarding the adoption of penalties, and the Village was not able to modify sections of the code. These concerns were raised by Judge Maw.

Judge Maw said over the past couple of years we have been trying to resolve the motor vehicle situation. This amendment upholds best practices by specifically referencing penalties.

MOTION: Trustee Lopez moved approval of Ordinance #259, amending §14.1.1 and §14.1.5. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye, Trustee Lopez-aye; Trustee Homan-aye; Trustee Lewis-aye.

VOTE: The motion carried, 4-0.

9. **NEW BUSINESS**

A. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2017-8-1, A RESOLUTION ESTABLISHING ANIMAL CONTROL FEES AND MINIMUM FINES AS REQUIRED BY THE VILLAGE OF LOS RANCHOS ANIMAL CONTROL ORDINANCE, CHAPTER 7, ARTICLE 2.

Administrator Ward said this resolution changes the following: under breeder permit replacing *dog and cat* with *companion animal*, and adding an animal removal fee (\$30) for companion animals.

Trustee Homan asked for clarification of the animal exhibit permit. I am concerned about how this fee applies to agriculture related education such as 4-H.

Judge Maw stated that under penalty assessment, the fee for the third offense should be removed. The third offense under penalty assessment requires that a complaint be filed against the offender.

Meeting in recess from 8:50p.m. to 8:54p.m.

Administrator Ward said the animal exhibit permit applies to petting zoos, the circus, and other commercial animal related events.

MOTION: Trustee Homan moved approval of Resolution 2017-8-1 Establishing Animal Control Fees and Minimum Fines as required by Village of Los Ranchos Ordinance Chapter 7, Article 2, with the discussed changes. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye, Trustee Lopez-aye; Trustee Homan-aye; Trustee Lewis-aye.

VOTE: The motion carried, 4-0.

B. DISCUSSION AND APPROVAL TO ADVERTISE AN AMENDMENT TO THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CHAPTER 7, CRIMINAL CODE, ARTICLE 2, ANIMAL CONTROL, SECTION 5, OWNERS' DUTIES AND PROHIBITED ACTIVITIES, §7.2.5.

Administrator Ward said this amendment adds the specific requirement that domesticated animals must be spayed or neuter. There are few exemptions to requirement which include: age of the animal, condition/health of the animal, and permitted breeders.

Trustee Homan asked what resources the Village has for low income spay and neuter services.

Administrator Ward said Animal Control Officer Dominic Tomba has several resources for residents.

MOTION: Trustee Homan moved approval to advertise an amendment the 2013 Codified Ordinances of the Village of Los Ranchos de Albuquerque, Chapter 7, Criminal Code, Article 2, Animal Control, Section 5 Owners' Duties and Responsibilities, §7.2.5. **Trustee Lewis** seconded the motion.

VOTE: The motion carried, 4-0.

C. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2017-8-2 ADOPTING THE 2019-2023 INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN.

Administrator Ward provided an overview of the 2019-2023 Infrastructure Capital Improvement Plan.

MOTION: Trustee Lopez moved approval Resolution 2017-8-2 ICIP2019-2023. **Trustee Rael** seconded the motion.

ROLL CALL VOTE: Trustee Rael-aye, Trustee Lopez-aye; Trustee Homan-aye; Trustee Lewis-aye.

VOTE: The motion carried, 4-0.

D. DISCUSSION AND APPROVAL TO ADVERTISE AN AMENDMENT TO

THE 2013 CODIFIED ORDINANCES OF THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE CHAPTER 11 MUNICIPAL COURT, ARTICLE 1, MUNICIPAL COURT, ADDING SECTION 13, FAILURE TO APPEAR, FAILURE TO PAY, §11.1.13.

Judge Maw said this amendment is the result of a mid-cycle change from the New Mexico Supreme Court. The Supreme Court has eliminated the show cause procedure for contempt. This section would allow the court to issue a summons under failure to appear/failure to pay as opposed to issuing a bench warrant.

MOTION: **Trustee Lewis** moved approval to advertise an amendment to the 2013 Codified Ordinances of the Village of Los Ranchos de Albuquerque, Chapter 11, Municipal Court, Article 1, Municipal Court, adding Section 13 Failure to Appear, Failure to Pay, §11.1.13. **Trustee Homan** seconded the motion.

VOTE: The motion carried unanimously, 4-0.

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 9:48 P.M.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this **13th** day of **September 2017**.

ATTEST:

Stephanie Dominguez, Village Clerk