

MINUTES
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE
6718 RIO GRANDE BOULEVARD NW
BOARD OF TRUSTEES REGULAR MEETING
September 13, 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 *excused
Tim McDonough, Planning & Zoning Director
Bill Chappell, Attorney
Robin Hopkins, Public Safety Liaison

1. CALL TO ORDER

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

MOTION: Trustee Lopez moved approval of the agenda as presented. **Trustee Rael** 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)

John McDowell, Guadalupe Trail, said I have a few comments regarding traffic. I find traffic on Fourth Street to be quite satisfactory, amazingly fast with the construction, although I have not seen a police presence in the area. I am concerned about north/south streets because at the start of the project east/west streets were mentioned. I live on a north/south street, part of which is being used to avoid Fourth Street. Most of the traffic is diverted to Rhoel. I am concerned about the traffic on Roehl and ultimately one of the considerations may be lowering the speed limit from Pueblo Solano to Ranchitos. I have only seen one Sheriff's Deputy on my street.

Senator Candice Gould said I am here to listen in order to better represent the Village. The last time I was here, I discussed issues commonly encountered when obtaining a real i.d.

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 – AUGUST 9, 2017 – REGULAR MEETING.

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:

- Preserving open space is a very important initiative for the Village, there may be a bond issue for open space in the next election.
- **Jim and Roxanne Wagner**, Wagener Farms, said we recently began farming in the Village and the Farmer's Daughter's hosted a U-Pick event. In Corrales, farmable property is declining and we encourage farmland preservation.

B. **ADMINISTRATOR'S REPORT**

Administrator Ward reported on the following:

- Anticipate that PNM will complete the Fourth Street utility work on September 21, 2017.
- Continuing to work on selecting a contractor for RFP#2017-5-1 Fourth Street Revitalization and Redesign Construction.
- Working with the North Valley Commander to discuss holding traffic court in the Village.
- Maria Rinaldi, Fourth Street Project Manager, said I continue to work on public outreach for the Fourth Street Project. I visit businesses weekly, answer any questions, and address any issues that they may have.

C. **PLANNER'S REPORT**

Planner McDonough reported on the following:

- Working on revisions to the 2020 Master Plan, the 280-foot setback, and the Castillo/Mulryan appeal.
- Advertised and conducted interviews for a new Planning and Zoning intern.

D. **LEGAL REPORT**

Attorney Chappell reported on the following:

- Working on several animal control issues.
- The Village has one pending court case (Unser.)

E. PUBLIC SAFETY REPORT

Public Safety Liaison Robin Hopkins reported on the following:

- Last month the Village averaged 500 calls, the majority of which were traffic related.
- Extended her gratitude to the Mayor and Trustees as she has notified the Village of her resignation.

6. FINANCIAL BUSINESS

A. CASH REPORT – AUGUST 2017.

Administrator Ward said the ending cash balance as of August 31, 2017 is \$8,287,366.28, which is a decrease of \$10,557.87 for this month. The year-to-date excess revenue over expenditures is \$94,162.61. The unusual or significant item was a payment to the Depository Trust Company in the amount of \$190,000.00 (principal) and interest \$64,165.00 due on August 1, 2017.

MOTION: Trustee Homan moved approval of the August 2017 cash report as presented. **Trustee Lopez** 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 from the August 9, 2017 Board of Trustees Meeting*

Planner McDonough said the parties have reached a settlement agreement resolving their differences. They will continue to work on finalizing an agreement, but have notified the Village they are comfortable denying the appeal. Provided to the Board of Trustees is the draft notice of decision, both attorneys representing the parties concur with the language. The Village recommends denying the appeal.

Mayor Abraham asked if anyone present would like to speak regarding the appeal– no members of the public requested to do so.

MOTION: Trustee Lewis said I understand that the parties have reached a settlement agreement resolving their differences which includes agreement on denial of the appeal and on certain findings. Therefore, I move to deny the appeal of the variance approval for 900 Devon Lane with the following findings:

(a) Pursuant to § 9.2.25(E)(7)(a) the variance is in conformance with the goals and policies of the Village Master Plan. It is not contrary to the public interest; the variance is extremely minor on a residence setback from public view. In addition, owing to special conditions, a literal enforcement of this Ordinance will result in unnecessary hardship. The only remedy beyond a variance would be to move the entire house north and east, which will result in unnecessary hardship.

(b) Pursuant to § 9.2.25(E)(7)(b) enforcement of the relevant ordinances would cause unnecessary hardship because the development proposed in the variance differs from that allowed in this Ordinance only enough to relieve the alleged hardship. The Variance request is only to allow the encroachment of the structure and not the reduction of the overall setback distance.

(c) Pursuant to § 9.2.25(E)(7)(b) enforcement of the relevant ordinances would cause unnecessary hardship because the alleged hardship is such that relief is justifiable in accordance with the goals and policies of the Master Plan. 2020 Master Plan Section 2 Village Form 2.1.1 Objectives, Neighborhoods: Maintain development consistent with the unique qualities of each area throughout the Village. 2.1.2 Policies and Actions Steps Policy A. Maintain the corridors and character areas of the Village as distinct sectors or neighborhoods, identified by the unique characteristics of each. Policy B. In each of the character areas, preserve the unique characteristics by recognizing and continuing the traditional land development patterns in the character areas, specifically with respect to: Prevalent land utilization Lot patterns. Therefore, the Variance request meets the requirements of § 9.2.25(E)(7)(a), and (b). The Trustees, pursuant to the agreement between the Parties and at their request, hereby incorporate into the Variance the following:

1. The survey prepared by Wayjohn Surveying. Said survey shall govern the extent of the encroachment of the existing structures. It is understood that the measurements from the property line to the house is the distance from the property line to the house wall. Nevertheless, the house structure necessarily includes the roof eaves. Therefore, the eaves are also included in the variance to the extent of their existing distance beyond the house wall.
2. The existing air conditioning pads and mechanical units are not a structure within the ordinance definitions. Nevertheless, if they were deemed to be a structure, pursuant to the agreement between the Parties they are permitted to exist within the setback.
3. Appellant's position regarding the building height does not apply as such height is only relevant to the consideration of Floor Area Ratio.

4. The Trustees acknowledge the mutual co-operation and good will exhibited by the neighbors and appreciates and thanks them for their efforts in arriving at an amicable resolution of these issues.

Trustee Rael seconded the motion.

VOTE: The motion carried, 4-0.

8. OLD BUSINESS

A. 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 12, C-1 RETAIL COMMERCIAL ZONE, §9.2.12. (ORDINANCE #260).

Planner McDonough said last month the ordinance was approved for advertisement. The Planning and Zoning Commission has approved the amendment. This ordinance addresses some of the concerns regarding mixed use development.

Trustee Rael asked if we can prohibit chain link fences in the front of properties.

Planner McDonough suggested that we allow temporary fencing during construction.

Attorney Chappell said the Village will need to re-advertise an amendment since the prohibition of a chain link fence constitutes a substantive change.

Trustee Rael said under section (H)(2) Osuna Road should be removed. Under paragraph (O) the ordinance requires developers to provide sheltered bus stops and asked Mr. Chappell for clarification if this requirement is considering a taking.

Attorney Chappell said there can be certain exactions under the zoning ordinance. If requirements (taking) are typically necessary or appropriate for the development of a property in terms of the city plans, the exactions are legal. Public transit may be in one of those categories, but this is common.

MOTION: **Trustee Homan** moved 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 12, C-1 Retail Commercial Zone, §9.2.12, with the correction removing Osuna Road from section (H)(2). **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.

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 AUGUST 9, 2017 MEETING

Planner McDonough said this amendment was discussed last month. This amendment is in response to a procedural question regarding the application of the language in the current ordinance. Several residents expressed their concern at the last meeting.

Bonnie Kelly, 6900 Rio Grande, said the revisions received are improvements that we can support.

Trustee Rael inquired why the ordinance includes the following “However, the foregoing shall not restrict the authority of the Village to adopt new or different zoning ordinances which would affect the overall densities permitted in the Development Property.” The Village has this authority.

Attorney Chappell said case law is clear that vested rights are not included zoning ordinances, however, to change it over objection you must show that it is erroneously zoned or there is significant change in circumstances. I recommend including the statement as there is an increase in vested rights claims which are litigated.

MOTION: **Trustee Rael** moved 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 Agriculture/Residential Zone, §9.2.9. **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 7, CRIMINAL CODE, ARTICLE 2, ANIMAL CONTROL, SECTION 5, OWNERS’ DUTIES AND PROHIBITED ACTIVITIES, §7.2.5. (ORDINANCE #261)

Dominic Tomba, Animal Control Officer, said we are requesting to add to the ordinance a requirement that all domesticated animals be spayed or neutered to reduce intact strays and animal euthanasia.

Trustee Homan asked if the term *domesticated animal* is used correctly.

Attorney Chappell said *domesticated animal* is not defined in the ordinance. The Board should replace *domesticated animal* with *dogs, cats, and canine hybrids*.

MOTION: **Trustee Homan** moved approval of Ordinance #261 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, under (N)(8) so that it reads: "All dogs, cats, and canine hybrids shall be spayed or neutered. Domesticated animals exempt from the Ordinance exclude:" **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 OF 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. (Ordinance #262)

Administrator Ward said this ordinance is in response to a procedural change from the New Mexico Supreme Court. The ordinance was advertised and did not receive any comments.

MOTION: **Trustee Lopez** moved approval of 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., (Ordinance #262) **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 AWARD AND CONTRACT FOR RFP#2017-7-1 SOLID WASTE AND DISPOSAL COLLECTION SERVICES FOR THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

Administrator Ward said the Village received two proposals in response to the request for proposals: Waste Management of New Mexico and RoadRunner Waste Service. The committee reviewed the proposals and are recommending award to Waste Management. The new contract includes: addition of optional commercial business recycling, roll offs

will continue to be exclusive, and rates will increase 2.5% every two years as opposed to using the CPI (consumer price index). We are requesting the Board to include the following changes to the contract: Under Paragraph 13 Insurance, change per *accident* to per *occurrence*, and Paragraph 22 Default Attorney's Fees, remove *either/prevaling party* and replace with the *Village*, and Paragraph 5 add *tax* to Gross Receipts.

MOTION: Trustee Lopez moved approval of the award and contract for RFP#2017-7-1 Solid Waste Disposal Collection Services for the Village of Los Ranchos de Albuquerque, authorizing the Mayor execute the contract with Waste Management, with the discussed changes. **Trustee Homan** seconded the motion.

VOTE: The motion carried, 4-0.

9. **NEW BUSINESS**

A. DISCUSSION AND APPROVAL OF TEXT REVISIONS TO THE 2020 MASTER PLAN, SECTION 3 AGRICULTURE, AND SECTION 7 RESIDENTIAL.

Planner McDonough said there is a need for a mechanism to allow variability in subdivisions to improve consolidation of open space that is better suited to promote agriculture in the Village. The revision adds language in the agriculture section that emphasizes the promotion of agriculture and the preservation of agricultural land. The revision also includes language under the residential section that will allow additional options for the development of subdivisions.

Trustee Homan asked Planner McDonough to identify the transit zone.

Planner McDonough said the transit zone is the Gateway Zone, the 2020 Master Plan references outdated terms.

MOTION: Trustee Homan moved approval of the text revisions to the 2020 Master Plan, Section 3 Agriculture, and Section 7 Residential. **Trustee Lopez** seconded the motion.

VOTE: The motion carried, 4-0.

B. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2017-9-1 A RESOLUTION ADOPTING A PUBLIC PARTICIPATION PLAN.

Maria Rinaldi, Fourth Street Project Manager, said the purpose of this Resolution is to increase the Village's ability to receive federal funding for the Fourth Street Project. One of the requirements to obtain federal funding is the adoption of a formal public participation plan.

MOTION: Trustee Rael moved approval of Resolution No. 2017-9-1. **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.

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 9:06 P.M.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this **11th** day of **October 2017**.

ATTEST:

Stephanie Dominguez, Village Clerk