



AGENDA

Village of Los Ranchos
Board of Trustees Regular Meeting
6718 Rio Grande Blvd NW
May 14, 2018 - 7:00 P.M.

SPECIAL MEETING CALLED BY DONALD LOPEZ-MAYOR PRO TEM/TRUSTEE

MAYOR

Larry P. Abraham

ADMINISTRATOR

Kelly S. Ward

TRUSTEES

Donald Lopez-Mayor Pro Tem/Trustee

Mary Homan, Trustee

Pablo Rael, Trustee

Allen Lewis, Trustee

1. CALL TO ORDER

A. APPROVAL OF AGENDA.

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)

3. NEW BUSINESS

A. PASSING OF MAYOR LARRY P. ABRAHAM - DISCUSSION AND ACTION ON NMSA 1978 §3-11-2 IN CASE OF THE DEATH, DISABILITY, RESIGNATION OR CHANGE OF RESIDENCE, FROM THE MUNICIPALITY, OF THE MAYOR, THE GOVERNING BODY SHALL APPOINT BY MAJORITY VOTE A QUALIFIED ELECTOR TO FILL THE VACANCY FOR THE UNEXPIRED TERM OF OFFICE.

B. DISCUSSION AND ACTION ON NMSA §3-12-1 (A) EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, ANY VACANCY ON THE GOVERNING BODY OF A MAYOR-COUNCIL MUNICIPALITY SHALL BE FILLED BY APPOINTMENT OF A QUALIFIED ELECTOR BY THE MAYOR OF THE MUNICIPALITY, WITH THE ADVICE AND CONSENT OF THE GOVERNING BODY. ANY QUALIFIED ELECTOR APPOINTED TO FILL A VACANCY ON THE

GOVERNING BODY SHALL SERVE UNTIL THE NEXT REGULAR MUNICIPAL ELECTION, OR ANY SPECIAL ELECTION CALLED IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION, AT WHICH TIME A QUALIFIED ELECTOR SHALL BE ELECTED TO FILL THE REMAINING UNEXPIRED TERM, IF ANY. (B) A SPECIAL ELECTION, FOR THE PURPOSE OF FILLING A VACANCY ON THE GOVERNING BODY, MAY BE CALLED BY THE MAYOR, WITH THE CONSENT OF THE GOVERNING BODY OR BY THE GOVERNING BODY. EXCEPT FOR THE FACT THAT THE ELECTION NEED NOT BE HELD ON THE DATE SPECIFIED IN THE MUNICIPAL ELECTION CODE [CHAPTER 3, ARTICLES 8 AND 9 NMSA 1978] FOR THE REGULAR MUNICIPAL ELECTION, THE SPECIAL ELECTION TO FILL A VACANCY SHALL BE CONDUCTED IN THE MANNER SET FORTH IN THE MUNICIPAL ELECTION CODE FOR REGULAR MUNICIPAL ELECTIONS. HOWEVER, THIS SUBSECTION SHALL NOT APPLY TO THOSE MUNICIPALITIES WHICH HAVE ADOPTED A CHARTER UNDER THE PROVISIONS OF ARTICLE 10, SECTION 6 OF THE CONSTITUTION OF NEW MEXICO OR TO THOSE COUNTIES WHICH HAVE INCORPORATED UNDER THE PROVISIONS OF ARTICLE 10, SECTION 5 OF THE CONSTITUTION OF NEW MEXICO.

4. **ADJOURNMENT**

A COPY OF THE AGENDA MAY BE OBTAINED AT THE VILLAGE OFFICE, 6718 RIO GRANDE BLVD NW, DURING REGULAR BUSINESS HOURS OF 8:00 A.M. TO 5:00 P.M. OR ON THE WEBSITE: www.losranchosnm.gov

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend and/or participate in the hearing or meeting, please contact the Village Clerk at 505-344-6582 at least one week prior to the meeting or as soon as possible. Portable microphones are available at all meetings upon request.

THE NEXT BOARD MEETING WILL BE HELD ON JUNE 13, 2018

I certify that notice of the Public Meeting has been given in compliance with the Open Meetings Act, Section 10-15-1 through 10-15-4 NMSA 1978 and the Open Meetings Resolution 2018-3-1. I certify that this agenda was posted on: **5/8/2018**



Stephanie Dominguez, Village Clerk

***Amended 5/8/2018 adding 2.C. Public Comment**

3. NEW BUSINESS

A. PASSING OF MAYOR LARRY P. ABRAHAM - DISCUSSION AND ACTION ON NMSA 1978 §3-11-2 IN CASE OF THE DEATH, DISABILITY, RESIGNATION OR CHANGE OF RESIDENCE, FROM THE MUNICIPALITY, OF THE MAYOR, THE GOVERNING BODY SHALL APPOINT BY MAJORITY VOTE A QUALIFIED ELECTOR TO FILL THE VACANCY FOR THE UNEXPIRED TERM OF OFFICE.

3-11-2. Mayor; vacated office; appointment by governing body.

Statute text

In case of the death, disability, resignation or change of residence, from the municipality, of the mayor, the governing body shall appoint by majority vote a qualified elector to fill the vacancy for the unexpired term of office.

History

History: 1953 Comp., § [14-10-2](#), enacted by Laws 1965, ch. [300](#).

Annotations

Cross references. — For election of mayor pro tem by governing body in the absence of the mayor, see [3-12-3](#) NMSA 1978.

ANNOTATIONS

Office of mayor is not vacant so long as present mayor retains authority to conduct the affairs of that office. 1969 Op. Att'y Gen. No. [69-106](#).

The fact that a mayor may have tendered to the city council a prospective resignation effective at a future date does not compromise or defeat his legal authority to act as mayor until that date. 1969 Op. Att'y Gen. No. [69-106](#).

When successor to resigning mayor acquires authority. — Although the city council may choose the successor to a resigning mayor before the effective date of the present mayor's resignation, the successor does not acquire any authority or power by way of that selection and may not assume such power or authority until the office becomes vacant. 1969 Op. Att'y Gen. No. [69-106](#).

A resigning mayor may not appoint his successor. 1969 Op. Att'y Gen. No. [69-106](#).

Members of the city council possess the authority to select a resigning mayor's successor. 1969 Op. Att'y Gen. No. [69-106](#).

Resigning mayor authorized to cast tie-breaking vote. — Since it is contemplated that the city council's action in selecting a resigning mayor's successor would be taken before the effective date of the former's resignation, the resigning mayor would be authorized to cast a deciding vote in the event of a tie on the choice of a successor. 1969 Op. Att'y Gen. No. [69-106](#).

1-1-4. Qualified elector.

Statute text

As used in the Election Code, "qualified elector" means any resident of this state who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States.

History

History: 1953 Comp., § [3-1-4](#), enacted by Laws 1969, ch. [240](#), § [4](#); 1975, ch. [255](#), § [2](#); 2011, ch. [137](#), § [5](#).

Annotations

Cross references. — For qualifications of voters, see N.M. Const., [art. VII](#), § [1](#).

For voting age unaffected by general lowering of age of majority to 18, see [28-6-1](#) NMSA 1978.

The 2011 amendment, effective July 1, 2011, defined "qualified elector" as a resident of New Mexico.

Compiler's notes. — A three-judge federal district court sitting in *Trujillo v. Garley*, U.S. Dist. Ct., Civ. A. No. 1353, entered a declaratory judgment on August 11, 1948, that Indians in New Mexico are entitled to vote, the former provisions of the New Mexico constitution to the contrary notwithstanding. The case was not appealed.

ANNOTATIONS

Qualification of grand juror. — Grand juror did not have to be a properly registered voter to be a qualified elector, for purposes of sitting on the grand jury. *State v. Chama Land & Cattle Co.*, [1990-NMCA-129](#), [111 N.M. 317](#), [805 P.2d 86](#).

A juror has only to meet the requirements of N.M. Const., [art. VII](#), § [1](#) to be a qualified elector under [38-5-1](#) NMSA 1978, and therefore to be qualified to serve as a grand juror. *State v. Chama Land & Cattle Co.*, [1990-NMCA-129](#), [111 N.M. 317](#), [805 P.2d 86](#).

Am. Jur. 2d, A.L.R. and C.J.S. references. — Women's suffrage amendment to federal or state constitution as affecting pre-existing constitutional or statutory provisions which limited rights or duties to legal or male voters, 71 A.L.R. 1332, 157 A.L.R. 461.

Validity of governmental requirement of oath of allegiance or loyalty, 18 A.L.R.2d 268.

29 C.J.S. Elections § 1(7).

3-8-2. Definitions.

Statute text

- A. The definitions in Section [3-1-2](#) NMSA 1978 shall apply to the Municipal Election Code [[Chapter 3](#), [Articles 8](#) and [9](#) NMSA 1978] in addition to those definitions set forth in the Municipal Election Code.
- B. As used in the Municipal Election Code:
- (1) "absentee voter list" means the list prepared by the municipal and county clerks of those persons who have been issued an absentee ballot;
 - (2) "ballot" means a system for arranging and designating for the voter the names of candidates and questions to be voted on and for the marking, casting or otherwise recording of such votes. "Ballot" includes paper ballots, absentee ballots, ballot sheets and paper ballots used in lieu of voting machines;
 - (3) "ballot sheet" means the material placed on the front of the voting machine containing the names of the candidates, the offices the candidates are seeking and a statement of the proposed questions to be voted upon;
 - (4) "consolidated precinct" means the combination of two or more precincts pursuant to the Municipal Election Code;
 - (5) "county clerk" means the clerk of the county or the county clerk's designee within which the municipality is located;
 - (6) "election returns" means all certificates of the precinct board, including the certificate showing the total number of votes cast for each candidate, if any, and for or against each question, if any, and shall include statements of canvass, signature rosters, registered voter lists, machine-printed returns, paper ballots used in lieu of voting machines, absentee ballots, absentee ballot registers and absentee voter lists or absent voter machine-printed returns;
 - (7) "municipal clerk" means the municipal clerk or any deputy or assistant municipal clerk;
 - (8) "municipal clerk's office" means the office of the municipal clerk or any other room used in the process of absentee voting, counting and tallying of absentee ballots or canvassing the election results within the confines of the building where the municipal clerk's office is located;
 - (9) "paper ballot" means a ballot manually marked by the voter and counted by hand without the assistance of a machine or optical-scan vote tabulating device;
 - (10) "precinct" means a portion of a county situated entirely in or partly in a municipality that has been designated by the county as a precinct for election purposes and that is entitled to a polling place and a precinct board. If a precinct includes territory both inside and outside the boundaries of a municipality, "precinct", for municipal elections, shall mean only that portion of the precinct lying within the boundaries of the municipality;
 - (11) "precinct board" means the appointed election officials serving a single or consolidated precinct;
 - (12) "qualified elector" means any person whose affidavit of voter registration has been filed by the county clerk, who is registered to vote in a general election precinct established by the board of county commissioners that is wholly or partly within the municipal boundaries and who is a resident of the municipality. Persons who would otherwise be qualified electors if land on which they reside is annexed to a municipality shall be deemed to be qualified electors:
 - (a) upon the effective date of the municipal ordinance effectuating the terms of the annexation as certified by the board of arbitration pursuant to Section [3-7-10](#) NMSA 1978;
 - (b) upon thirty days after the filing of an order of annexation by the municipal boundary commission pursuant to Sections [3-7-15](#) and [3-7-16](#) NMSA 1978, if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the annexation; or
 - (c) upon thirty days after the filing of an ordinance pursuant to Section [3-7-17](#) NMSA 1978, if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the

annexation;

(13) "recheck" pertains to voting machines and means a verification procedure where the counter compartment of the voting machine is opened and the results of the balloting as shown on the counters of the machine are compared with the results shown on the official returns;

(14) "recount" pertains to ballots and absentee ballots and means a retabulation and retallying of individual ballots;

(15) "voter" means a qualified elector of the municipality; and

(16) "voting machine" means any electronic recording and tabulating voting system as tested and approved by the secretary of state.

History
History: 1978 Comp., § 3-8-2, enacted by Laws 1985, ch. [208](#), § [10](#); 1997, ch. [266](#), § [3](#); 1999, ch. [278](#), § [1](#); 2003, ch. [244](#), § [1](#); 2009, ch. [278](#), § [1](#).

Annotations

Recompilations. — Former 3-8-2 NMSA 1978, relating to giving notice of a special election, was recompiled as [3-8-35](#) NMSA 1978 by Laws 1985, ch. [208](#), § [43](#).

The 2009 amendment, effective June 19, 2009, in Subsection B(2), in the second sentence, after "includes", deleted "marksense" and added "paper" and after the last occurrence of "ballot", deleted "faces, emergency paper ballots" and added "sheets"; in Subsection B(4), deleted the language that defined "'clerk' or 'municipal clerk'" and added new language; in Subsection B(6), after "machine-printed returns", deleted "emergency paper ballots"; deleted former Subsection B(7), which defined "emergency paper ballot"; deleted former Subsection B(8), which defined "marksense ballot"; added a new Subsection B(7); deleted former Subsection B(12), which defined "consolidated precinct"; added a new Subsection B(12); in Subsection B(14), after "pertains to", deleted "emergency paper ballots, paper ballots used in lieu of voting machines" and added "ballots"; and added Subsections B(15) and (16).

The 2003 amendment, effective June 20, 2003, deleted "early voting ballots" following " 'Ballot' includes" in the second sentence of Paragraph B(2) and following "tallying of" in Paragraph B(9); deleted "early voting" following "process of"; and in Paragraph B(15), deleted "early voting ballots" following "voting machines".

The 1999 amendment, effective June 18, 1999, in Subsection B, included early voting ballots and marksense ballots in the definition of "ballot" in Paragraph (2); substituted " 'ballot face' means the material" for " 'ballot label' means that portion of cardboard, paper or other material" in Paragraph (3); deleted "but not limited to" preceding "the certificate showing" in Paragraph (6); added Paragraphs (8) to (10); redesignated former Paragraphs (8) to (12) as Paragraphs (11) to (15); and inserted "early voting ballots" in Paragraph (15).

The 1997 amendment, effective June 20, 1997, inserted "or his designee" in Paragraph B(5) and made stylistic changes in Subsection A and Paragraph B(7).

3. NEW BUSINESS

B. DISCUSSION AND ACTION ON NMSA §3-12-1 (A) EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, ANY VACANCY ON THE GOVERNING BODY OF A MAYOR-COUNCIL MUNICIPALITY SHALL BE FILLED BY APPOINTMENT OF A QUALIFIED ELECTOR BY THE MAYOR OF THE MUNICIPALITY, WITH THE ADVICE AND CONSENT OF THE GOVERNING BODY. ANY QUALIFIED ELECTOR APPOINTED TO FILL A VACANCY ON THE GOVERNING BODY SHALL SERVE UNTIL THE NEXT REGULAR MUNICIPAL ELECTION, OR ANY SPECIAL ELECTION CALLED IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION, AT WHICH TIME A QUALIFIED ELECTOR SHALL BE ELECTED TO FILL THE REMAINING UNEXPIRED TERM, IF ANY. (B) A SPECIAL ELECTION, FOR THE PURPOSE OF FILLING A VACANCY ON THE GOVERNING BODY, MAY BE CALLED BY THE MAYOR, WITH THE CONSENT OF THE GOVERNING BODY OR BY THE GOVERNING BODY. EXCEPT FOR THE FACT THAT THE ELECTION NEED NOT BE HELD ON THE DATE SPECIFIED IN THE MUNICIPAL ELECTION CODE[CHAPTER 3, ARTICLES 8 AND 9 NMSA 1978] FOR THE REGULAR MUNICIPAL ELECTION, THE SPECIAL ELECTION TO FILL A VACANCY SHALL BE CONDUCTED IN THE MANNER SET FORTH IN THE MUNICIPAL ELECTION CODE FOR REGULAR MUNICIPAL ELECTIONS. HOWEVER, THIS SUBSECTION SHALL NOT APPLY TO THOSE MUNICIPALITIES WHICH HAVE ADOPTED A CHARTER UNDER THE PROVISIONS OF ARTICLE 10, SECTION 6 OF THE CONSTITUTION OF NEW MEXICO OR TO THOSE COUNTIES WHICH HAVE INCORPORATED UNDER THE PROVISIONS OF ARTICLE 10, SECTION 5 OF THE CONSTITUTION OF NEW MEXICO.

3-12-1. Vacancy on governing body.

Statute text

A. Except as provided in Subsection B of this section, any vacancy on the governing body of a mayor-council municipality shall be filled by appointment of a qualified elector by the mayor of the municipality, with the advice and consent of the governing body. Any qualified elector appointed to fill a vacancy on the governing body shall serve until the next regular municipal election, or any special election called in accordance with Subsection B of this section, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any.

B. A special election, for the purpose of filling a vacancy on the governing body, may be called by the mayor, with the consent of the governing body or by the governing body. Except for the fact that the election need not be held on the date specified in the Municipal Election Code [[Chapter 3, Articles 8 and 9](#) NMSA 1978] for the regular municipal election, the special election to fill a vacancy shall be conducted in the manner set forth in the Municipal Election Code for regular municipal elections. However, this subsection shall not apply to those municipalities which have adopted a charter under the provisions of [Article 10, Section 6](#) of the constitution of New Mexico or to those counties which have incorporated under the provisions of [Article 10, Section 5](#) of the constitution of New Mexico.

History

History: 1953 Comp., § [14-11-1](#), enacted by Laws 1965, ch. [300](#); 1973, ch. [129](#), § [1](#); 1985, ch. [208](#), § [107](#).

Annotations

The 1985 amendment added the second sentence in Subsection B.

ANNOTATIONS

Advice and consent required. — The power to appoint being in the mayor, "with the advice and consent of the governing body," there can be no appointment until the advice and consent has been obtained. [Arellano v. Lopez, 1970-NMSC-058, 81 N.M. 389, 467 P.2d 715.](#)

Nature of governing body. — A governing body is a continuous body although, by expiration of terms and vacancies, there may be changes in the membership. [Ackerman v. Baird, 1938-NMSC-013, 42 N.M. 233, 76 P.2d 947.](#)

"Next regular municipal election". — The phrase "next regular municipal election" in Subsection A refers to the next regular election immediately following the appointment. 1989 Op. Att'y Gen. No. [89-11.](#)

Special election not held. — Under Subsection A, if no special election is held, an appointee's term lasts until the next regular municipal election in point of time after his appointment. The person elected at such election serves out the remainder of the unexpired term of the vacated office, if any. 1989 Op. Att'y Gen. No. [89-11.](#)

Am. Jur. 2d, A.L.R. and C.J.S. references. — 56 Am. Jur. 2d Municipal Corporations, Counties, and Other Political Subdivisions § 254.

62 C.J.S. Municipal Corporations § 213 to 217.

1-1-4. Qualified elector.

Statute text

As used in the Election Code, "qualified elector" means any resident of this state who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States.

History

History: 1953 Comp., § [3-1-4](#), enacted by Laws 1969, ch. [240](#), § [4](#); 1975, ch. [255](#), § [2](#); 2011, ch. [137](#), § [5](#).

Annotations

Cross references. — For qualifications of voters, see N.M. Const., [art. VII](#), § [1](#).

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ANNOTATIONS

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 - (6) "election returns" means all certificates of the precinct board, including the certificate showing the total number of votes cast for each candidate, if any, and for or against each question, if any, and shall include statements of canvass, signature rosters, registered voter lists, machine-printed returns, paper ballots used in lieu of voting machines, absentee ballots, absentee ballot registers and absentee voter lists or absent voter machine-printed returns;
 - (7) "municipal clerk" means the municipal clerk or any deputy or assistant municipal clerk;
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 - (9) "paper ballot" means a ballot manually marked by the voter and counted by hand without the assistance of a machine or optical-scan vote tabulating device;
 - (10) "precinct" means a portion of a county situated entirely in or partly in a municipality that has been designated by the county as a precinct for election purposes and that is entitled to a polling place and a precinct board. If a precinct includes territory both inside and outside the boundaries of a municipality, "precinct", for municipal elections, shall mean only that portion of the precinct lying within the boundaries of the municipality;
 - (11) "precinct board" means the appointed election officials serving a single or consolidated precinct;
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 - (b) upon thirty days after the filing of an order of annexation by the municipal boundary commission pursuant to Sections [3-7-15](#) and [3-7-16](#) NMSA 1978, if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the annexation; or
 - (c) upon thirty days after the filing of an ordinance pursuant to Section [3-7-17](#) NMSA 1978, if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the

annexation;

(13) "recheck" pertains to voting machines and means a verification procedure where the counter compartment of the voting machine is opened and the results of the balloting as shown on the counters of the machine are compared with the results shown on the official returns;

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(15) "voter" means a qualified elector of the municipality; and

(16) "voting machine" means any electronic recording and tabulating voting system as tested and approved by the secretary of state.

History
History: 1978 Comp., § 3-8-2, enacted by Laws 1985, ch. [208](#), § [10](#); 1997, ch. [266](#), § [3](#); 1999, ch. [278](#), § [1](#); 2003, ch. [244](#), § [1](#); 2009, ch. [278](#), § [1](#).

Annotations

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The 2003 amendment, effective June 20, 2003, deleted "early voting ballots" following " 'Ballot' includes" in the second sentence of Paragraph B(2) and following "tallying of" in Paragraph B(9); deleted "early voting" following "process of"; and in Paragraph B(15), deleted "early voting ballots" following "voting machines".

The 1999 amendment, effective June 18, 1999, in Subsection B, included early voting ballots and marksense ballots in the definition of "ballot" in Paragraph (2); substituted " 'ballot face' means the material" for " 'ballot label' means that portion of cardboard, paper or other material" in Paragraph (3); deleted "but not limited to" preceding "the certificate showing" in Paragraph (6); added Paragraphs (8) to (10); redesignated former Paragraphs (8) to (12) as Paragraphs (11) to (15); and inserted "early voting ballots" in Paragraph (15).

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