

MINUTES
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE
6718 RIO GRANDE BOULEVARD NW
BOARD OF TRUSTEES REGULAR MEETING
May 9, 2018 - 7:00 P.M.

Present:

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
Bill Chappell, Attorney
Tim McDonough, Planning & Zoning Director *

**excused*

Mayor Larry P. Abraham passed away on Saturday, May 5, 2018.

1. CALL TO ORDER

A. APPROVAL OF AGENDA

Mayor Pro Tem Lopez called the meeting to order at 7:00 p.m.

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

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

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)

Robin Hopkins said I am retired from the Bernalillo County Sheriff's Department and the Village means a lot to me. As most of you know my story professionally and personally, I was able to get through difficult times because of the Village and Mayor Abraham. Mayor Abraham and the Village have been supportive of the Code of the West program at Los Ranchos Elementary. This year we have thirty-five third graders participating. The program was very successful last year and is now a non-profit organization, Cowboy Ethics Inc. Fergus Whitney has been assisting with the program. Cowboy Ethics Inc. has started a memorial scholarship in Mayor Larry Abraham's honor at Bank of America.

Tony Kader, G&T Auto on 4th Street, said I do not understand why we spend so much time and energy at the corner of where my station is. Originally the Village was going to take one of my driveways into the gas stations and did not tell me. We moved past that

point, now you want to make my driveway 24 feet wide. I have spoken with Maria Rinaldi, and I do appreciate her. I measured the Smith's gas station (4th Street) and the driveway is 35 feet wide and the Giant gas station (4th Street) which is also 35 feet wide with two entrances. I received an email today that the Village wants to give me 28 feet which is not wide enough for trucks, trailers, and RVs. It will become a safety issue, I received a letter from Western on April 30, 2018 which provides an opinion regarding my situation.

Mayor Pro Tem Lopez said we will come up with a solution to resolve the issue that is satisfactory to everyone, but I am unable to respond this evening because I need to meet with the project engineers.

Leroy Pacheco, 704 Tyler Road, said I run a loan fund to provide loans to small businesses. I have invested in several businesses in the Village. This is a beautiful project, but we are arguing about 15 feet of curb. There are letters and videos that have been provided to Maria Rinaldi, the public safety liaison, and George Radanovich that shows sixty-foot rigs trying to maneuver around the telephone pole. If we arbitrarily overlook the issue it will create a public liability such as trucks hitting a pole and potential fires. There are issues with residents traveling with travel trailers on the road. I am asking the Trustees to visit with Maria Rinaldi, the public safety liaison, George, Bradbury and Stamm, and Bohannon Huston. This is a simple public safety issue for Tony. I was very fortunate to serve on the transition team under Mayor Keller for the ART project. We have the chance for the Trustees to review the project.

3. **PRESENTATIONS**

A. PROCLAMATION HONORING MAYOR LARRY P. ABRAHAM.

Mayor Pro Tem Lopez read the proclamation:

WHEREAS, Larry Abraham was elected Mayor of the Village of Los Ranchos on March 2, 2004, and; WHEREAS, he was elected to a fourth consecutive term on March 1, 2016, and; WHEREAS, during his tenure, he enhanced the Village sense of identity and independence, established fiscal stability and accountability, created and contributed to the "Village Vision", and spearheaded the Fourth Street Revitalization Project which is currently underway, and; WHEREAS, he served on numerous boards with the Mid-Region Council of Governments including, as Chairman of MRCOG, Chairman the Metropolitan Transportation Board, Vice-Chairman of the Region Transit Authority and the New Mexico Rail Runner Express Sustainability Task Force, and; WHEREAS, he was a passionate advocate for the Village of Los Ranchos and dedicated much of his energy toward the betterment of the quality of life in the Village, and; WHEREAS, without warning, Mayor Larry Abraham passed away on May 5, 2018.

NOW THEREFORE, I DONALD T. LOPEZ, Mayor Pro-Tem/Trustee and the Board of Trustees of the Village of Los Ranchos de Albuquerque, New Mexico, do hereby proclaim that on this day the Board of Trustees and the residents of the Village of Los Ranchos do

pause to honor the life and the passing of Larry Abraham.

B. PROCLAMATION PROCLAIMING JUNE 3, 2018 AS GAY, LESBIAN, BISEXUAL, AND TRANSGENDER PRIDE DAY.

Mayor Pro Tem Lopez and Trustees recognized June 3, 2018 as Gay, Lesbian, Bisexual and Transgender Pride Day.

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 11, 2018 – REGULAR MEETING.

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

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

5. REPORTS

A. MAYOR'S REPORT

Mayor Pro Tem Lopez reported on the following:

- Monday I met with Village staff to come up to speed on Village projects.

B. ADMINISTRATOR'S REPORT

Administrator Ward reported on the following:

- We are currently recruiting for a park maintenance worker.
- Closed on the property located at 6780 Fourth Street on April 19, 2018.
- The Village submitted a recommendation, Jaramillo Accounting, to the State Auditor's Office. The firm was selected through the request for proposals process.
- Hosted a site visit for the Village Center RFP, proposal will be due in July.

C. PLANNER'S REPORT

P&Z Intern Tiffany Justice reported on the following:

- Marcy Bissell has submitted the data for the 2020 Census.
- Working on the 2030 Master Plan process.

D. LEGAL REPORT

- Working on property purchases and developing agriculture leases.
- Continuing to work with Planning and Zoning on various zoning issues.

E. PUBLIC SAFETY REPORT

Fred Radosovich, Public Safety Liaison, reported on the following:

- Continuing to meet with the Bernalillo County Sheriff's Office.
- Working with Bernalillo County to update the mutual aid agreement.
- Month of April: BCSO responded to 378 calls for service in the Village: 56 traffic stops, 92 wellness checks, 28 alarms, 1 armed robbery at Wells Fargo (suspect apprehended).

F. FOURTH STREET PROJECT REPORT

Maria Rinaldi, Fourth Street Project Manager, reported on the following:

- Provided the weekly Fourth Street Project update.
- Installing perforated pipe in the drainage basins on the eastside of the road.
- Encountered a few utility conflicts.

G. AGRICULTURE PROGRAM MANAGER'S REPORT

Fergus Whitney, Agriculture Program Manager, reported on the following:

- Increased usage in land being utilized by farmers.
- Exploring options to increase field to table concepts.
- Working with Attorney Chappell on the farm leases.

6. FINANCIAL BUSINESS

A. CASH REPORTS– APRIL 2018

Treasurer Haines said the ending cash balance as of April 30, 2018 is \$7,609,945.91, which is a decrease of \$342,291.99 for this month. The year-to-date deficiency of revenue over expenditures is \$583,257.76. The unusual or significant items were: a payment to the Bernalillo County Fire Department in the amount of \$113,000.00 for Fire and EMS services for the quarter beginning on April 1, 2018; Received a fire fund distribution in the amount of \$40,839.50; A payment to Bradburry Stamm Construction in the amount of \$154,054.63 for Fourth Street (Municipal Street Fund); a payment to Bradburry Stamm Construction in the amount of \$56,404.69 for Fourth Street (Grant - CN3131828); the purchase of property at 6780 4th Street for \$231,253.37.

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

VOTE: The motion carried unanimously, 3-0 (Mayor Pro Tem Lopez did not vote).

B. DISCUSSION AND APPROVAL OF INTERIM BUDGET FOR FISCAL YEAR 2018/2019.

Administrator Ward said there is a reflection of the current gross-receipts tax dip in the budget by 1%, we are not projecting an increase for the next fiscal year. The budget also reflects a decrease in the small city assistance grant and a decrease in the state investment pool. Wages will remain the same, however, there is a significant increase in healthcare,

which was anticipated. Looking at the spending pattern of the previous decade, the next fiscal year will remain on trend by spending \$1.5 million less than what is collected with a cash reserve of \$2 million. The final budget will be presented at the July meeting.

MOTION: Trustee Homan moved approval of the interim budget. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously, 4-0.

7. **PUBLIC HEARINGS AND APPLICATIONS**

Mayor Pro Tem Lopez requested any individual who will be speaking on Agenda Items 7.A., 7.B., and 7.C. be sworn in by Attorney Chappell.

A. DISCUSSION AND APPROVAL OF A REQUEST BY STEEL BENDER BREWYARD LLC, FOR A WAIVER OF THE 300 FOOT DISTANCE REQUIREMENT FOR PLACEMENT OF A WINEGROWERS LIQUOR LICENSE(S) AT THE PROPERTY LOCATED AT 8305 SECOND ST. NW AS THE BUILDING IS WITHIN 300 FEET OF A CHURCH/SCHOOL IN THE GATEWAY ZONE OF THE FOURTH STREET COMMERCIAL CHARACTER AREA. THE PROPERTY IS LOCATED AT 8305 SECOND STREET NW, BLDG. #1, THE POINT OF SALE IS 287.9 FEET FROM THE CHURCH/SCHOOL PROPERTY LINE. A CONDITIONAL USE FOR A WINERY AT THIS LOCATION WAS APPROVED ON JANUARY 12, 2018. THE PROPERTY IS LEGALLY KNOWN AS LOT A, PLAT OF LOT A, EL PORTAL AT PASEO, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, FILED IN THE OFFICE OF THE BERNALILLO COUNTY CLERK ON JUNE 9, 2013. THE PROPERTY CONTAINS 5.1402 ACRES MORE OR LESS.

Planning and Zoning Intern Justice said the Alcohol and Gaming Division of the State of New Mexico Regulation and Licensing Department regulations state that all measurements for the purpose of determining the location of a licensed premises in relation to churches (or) school, shall be the shortest direct line between the actual limits of the real property of the church (or) school in which there is regularly conducted church services (or) educational functions, and the licensed premises where alcoholic beverages are proposed to be sold. The premises are considered to be the building where alcoholic beverages are proposed to be sold (point of sale). The attached exhibit illustrates the approximate distance of the point of sale building and the nearest point of the church building. A license may be granted for a proposed licensed premise if a person has obtained a waiver from a local option district governing body for the proposed licensed premises. The Village approved a waiver of the 300-foot distance rule for a small brewer's license, a restaurant beer and wine license for a small brewery/restaurant in building #1 of the property located at 8305 Second Street NW on October 14, 2015. The Village also approved a request for a Conditional Use Permit for a winery with onsite consumption and

sale of products on January 12, 2018 with the condition that the appropriate state license be obtained. The department recommends approval of a waiver of the 300-foot distance requirement from a church or school for the sale of alcoholic beverages for Steel Bender Brewery, LLC located in the Gateway District Zone, for any permissive or approved conditional uses.

Mayor Pro Tem Lopez asked if the Trustees have any questions for Planning and Zoning Intern Justice (none).

Christ Chant (applicant), 8305 Second Street, said I am one of the owners of Steel Bender Brewery.

Mayor Pro Tem Lopez asked if there is anyone speaking in favor of the waiver.

Tom Donelan, 6668 Edgewood Drive, said this business has been a great business in the Village.

Mayor Pro Tem Lopez asked if there are any opponents to the waiver.

Carolyn Bennet said I would like to speak in detail about granting licenses to sell alcoholic beverages near schools, but I will speak under agenda item 7.C.

MOTION: **Trustee Lewis** moved to approve the waiver. **Trustee Rael** seconded the motion.

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

B. DISCUSSION AND APPROVAL OF A REQUEST BY STEEL BENDER BREWYARD LLC, 8305 SECOND STREET NW, LOS RANCHOS DE ALBUQUERQUE, NM FOR A WINEGROWER LIQUOR LICENSE ON PREMISE CONSUMPTION AND PACKAGE SALES. APPLICATION NO. 1084459, NM ALCOHOL AND GAMING DIVISION. STEEL BENDER BREWYARD IS LOCATED AT 8305 SECOND ST. NW, AND IS LEGALLY KNOWN AS LOT A, PLAT OF LOT A, EL PORTAL AT PASEO, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NM FILED IN THE OFFICE OF THE BERNALILLO COUNTY CLERK ON JUNE 9, 2013. THE PROPERTY CONTAINS 5.1402 ACRES MORE OR LESS.

Planning and Zoning Intern Justice said the department recommends approval for a winegrower liquor license for Steel Bender Brewery, LLC located in the Gateway District Zone with the following findings: The property is located in the GD Zone of the Transit District Character Area. Breweries and wineries are allowable uses in the GD Zone with a Conditional Use Permit. The Village approved a waiver of the 300-foot distance rule for a small brewery/restaurant in building #1 of the property located at 8305 Second Street NW on October 14, 2015, a second waiver for the winegrower's license proceeds this

action at the May 9, 2018 meeting. A Conditional Use Permit for a winery with onsite consumption and sale of products was approved on January 12, 2018 with the condition that the appropriate state license be obtained.

Mayor Pro Tem Lopez asked if the Trustees have any questions for Planning and Zoning Intern Justice (none). The applicant is present.

Mayor Pro Tem Lopez asked if there is anyone speaking in favor of the license.

Tom Donelan said he repeats his earlier comment.

Mayor Pro Tem Lopez asked if there are any opponents to the license.

Carolyn Bennet said she will have a later comment.

MOTION: **Trustee Homan** moved to approve the license. **Trustee Rael** seconded the motion.

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

C. A REQUEST BY DH RESTAURANT HOLDINGS LLC, DBA DAVE'S VALLEY GRILL, 6601 FOURTH STREET NW, SUITES N, O, P, LOS RANCHOS DE ALBUQUERQUE, NM FOR A RESTAURANT BEER/WINE LICENSE WITH ON PREMISE CONSUMPTION ONLY. APPLICATION NO. 1084461, NM ALCOHOL AND GAMING DIVISION. DAVE'S VALLEY GRILL IS LOCATED AT 6601 FOURTH STREET NW, SUITES N, O, P, AND IS LEGALLY KNOWN AS TRACT A-1-A-1, PLAT OF TRACTS A-1-A-1, A-1-A-2, B-2-A, B-2-B, AND B-C-2, NORTHDALÉ SHOPPING CENTER WITHIN THE ELENA GALLEGOS GRANT, PROJECTED SECTION 28 AND 29, T11N, R3E, N.M.P.M., VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NM, FILED 2-17-05. THE PROPERTY CONTAINS 3.4374 ACRES MORE OR LESS.

Planning and Zoning Intern Justice said the department recommends approval for a restaurant beer/wine license for DH Restaurant Holdings, LLC dba Dave's Valley Grill located in the Village Center (VC) Zone. The property is located in the VC Zone of the Fourth Street Commercial Character Area and Corridor. Alcohol sales and consumption is a permissive use in the VC Zone. The Village approved a waiver of the 300-foot distance rule from a church or school for the sale of alcoholic beverages for Dave's Valley Grill, located at 6601 Fourth Street NW, Suites N, O, P, located in the Village Center (VC) Zone of the Fourth Street Commercial Character Area on January 10, 2018. Public notice requirements were met.

Mayor Pro Tem Lopez asked if the Trustees if they have any questions for Planning and Zoning Intern Justice.

Trustee Homan asked what the true distance is between the building (business) and the

nearest building on school property.

Trustee Lewis said the distance between the property line is 45 feet, and the distance to the nearest building is 500 feet.

Trustee Rael asked what the hours of operation will be.

Dave Hanisch (applicant), 6601 Fourth Street NW, affirmed that consumption will occur on premises only (no package sales). The restaurant will close at 8:00p.m. Sunday through Thursday, and Friday and Saturday at 9:00p.m. Alcohol sales (beer/wine) will begin at 11a.m.

Mayor Pro Tem Lopez asked if there is anyone speaking in favor of the license.

Tom Donelan, 6668 Edgewood Drive, said my neighbors and I have been looking forward to this business opening.

Mayor Pro Tem Lopez asked if there are any opponents to the license.

CJ Upchurch, 1022 Pueblo Solano, said my concern is that the late Mayor and Trustees voted to grant a waiver on January 10, 2018 for a beer and wine license at Dave's Valley Grill. I am going to quote the New Mexico State Statutes Annotated 1979 Compilation, Chapter 60 Business License Liquor Control paragraph 60 8B-10 states in short: no license issued for the sale of alcoholic beverages within 300 feet of any church or school. APS sent a letter to you twenty-one days before the waiver was granted stating they did not agree with the waiver request. That letter is reproduced and is coming to be in front of you. This letter was not made public and therefore the community did not have time to comment or respond. My concern is how can the Village blatantly ignore the law and APS after they stated they are not supportive of the waiver. As you know Taft Middle School has an outdoor track that sits within the school boundary and Dave's Valley Grill is 45 feet away. This property space is being used by students, the critical words are "being used", it is being used by the students. This is concerning to me that you would be willing to expose the young students to alcohol sale and consumption. We know students have a way of getting it. Walgreens is located further away and does not sell alcoholic beverages. This makes parents anxious, they want to feel/know their children are in a safe, controlled environment. Perhaps a reason for them to relocate, to move to a better environmentally situated space for a school. This depresses our real estate, in my opinion. The outright disregard for the law and APS makes me realize that the core values of the community are deteriorated, and the Village government is no longer accountable to state law. There is a time we need to do the right thing. It is hard enough being a kid. I ask that you please revisit this waiver and rescind it. I know that you can do this tonight with a motion since a quorum is present.

Tom Montoya, PO Box 1001, said I am not opposed/unopposed. Does a municipality have the authority to override state statute?

Attorney Chappell said the Board of Trustees does not have the authority override state statute, however, the state statute does provide the ability for the Board of Trustees to grant a waiver of the 300-foot distance requirement.

Carolyn Bennet, 8200 Rio Grande, said I am requesting one of you to read the letter from APS. It was received in December and you overrode it in January.

Planning and Zoning Intern Justice read the following:

The Albuquerque Public Schools has received notification that DH Restaurant Holdings, specifically Dave's Valley Grill at 6601 Fourth Street NW, has requested a waiver of the 300-foot distance requirement for placement of a restaurant beer and wine liquor license. Albuquerque Public Schools does not agree with the waiver request. We believe the legislation was crafted to address legitimate concerns. The waiver points out the restaurant is 500 feet from a school building, but it also acknowledges it is 45 feet from the property line. While we support local businesses, we do not feel we can waive an alcohol restriction within the legal boundaries of a public school. Sincerely, Scott Elder, Chief Operations Officer.

Carolyn Bennet said the Village operates using Roberts Rules of Order and I have a copy of the latest edition. It states you can rescind, which is an effort to strike out an entire motion, resolution, order, or rule that has been adopted at a previous time. You have the right to do that tonight. We are looking at a situation that is an incredible precedent. Steel Bender is 50 feet within the 300-foot requirement. This restaurant, which is lovely, will be supported, however, they do not have to sell beer/wine 45 feet from property, which has within 15 feet a track in use. In Santa Fe, on January 30, 2018 there was a similar case and the state took the position that the store that was to be selling liquor should not be done within 300 feet of the property, selling within 60 feet of the property in use. These are our children, these homes are our Village, and this is our future. This is something that you on the Board will be held accountable for. We are going to remember this as the date of re-election is coming up. When you first put this up in January, there was not a discussion or reason why you were ignoring state statutes, and there was no reading of this letter from APS. There is no stating that you would override APS, you have the right to do, but you do not have the right to ignore dozens and dozens of people at the state level and APS level as what they feel is proper. It is not proper to put our children in front of people who have consumed alcohol, who could be at the point of inebriation and looking at young girls running on the track in their gym clothes. You do not have the right to allow this to happen. I do not understand how any one of you can do this. I would like to ask you to make a public statement why you are doing this. I wish to tell Dave that we do want to support you, but not if you are selling alcohol. You are destroying the economic base of our real estate in the Village.

MOTION: **Trustee Rael** moved to approve the license. **Trustee Lewis** seconded the motion.

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

8. OLD BUSINESS

A. DISCUSSION AND APPROVAL OF RESOLUTION 2018-5-1 A RESOLUTION FOR A LEASING PROGRAM FOR THE MANAGEMENT OF PUBLICALLY OWNED VILLAGE OF LOS RANCHOS OPEN SPACE.

Attorney Chappell said the content of this resolution has not changed, only the order was revised. This resolution will rescind Resolution 2018-4-2 approved at the last Board of Trustees meeting.

MOTION: Trustee Homan moved approval of Resolution 2018-5-1. **Trustee Lewis** seconded the motion.

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

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

9. NEW BUSINESS

A. DISCUSSION AND APPROVAL OF LEASE OF LANDS AT AGRI-NATURE CENTER, PLOT A, A1 – 9 ACRES TO WAGNER’S FARM LAND EXPERIENCE, LLC, DBA BIG JIM FARMS.

Trustee Rael provided the following corrections: paragraph 6.A. change “form” to “farm”; paragraph B, change “play” to “pay”; paragraph 11.A. remove “may”; paragraph 19, sentence should be removed.

MOTION: Trustee Rael moved approval of the lease to Wagner’s Farm. **Trustee Homan** seconded the motion.

VOTE: The motion carried, 3-0 (Mayor Pro Tem Lopez did not vote).

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 8:32 P.M.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this **13th** day of **June 2018**.

ATTEST:



Stephanie Dominguez, Village Clerk