

**MINUTES**  
**BOARD OF TRUSTEES REGULAR MEETING**  
**APRIL 10, 2002 – 7:00 P.M.**

**PRESENT:**

**John Hooker, Mayor**  
**Penny Rembe, Mayor Pro Tem**  
**David Siegel, Trustee**  
**Don Lopez, Trustee**  
**Pablo Rael, Trustee**

**Annabelle Silvas, Clerk**  
**Hank Rosoff, Administrator**  
**Cyndie Tidwell, Planner**  
**Allen Leatherwood, Treasurer**  
**David Mathews, Attorney**

**1. CALL TO ORDER**

The Village of Los Ranchos Governing Body held a Regular Meeting on Wednesday, April 10, 2002, in the Warren J. Gray Hall. The meeting was called to order at 7:00 p.m.

**A. Approval of Agenda**

**Motion: Trustee Rembe** moved approval of the agenda. **Trustee Lopez** seconded the motion.

**Vote:** The Motion carried unanimously.

**2. PUBLIC COMMENT PERIOD**

**Lillian Derwelis** reported that the Los Ranchos Spring Fest will be held on May 11<sup>th</sup> and 12<sup>th</sup>. She stated that the Spring Fest is coming together very nicely with lots of paid sponsors and vendors in addition to some quality art.

**3. CONSENT AGENDA**

**A. Approval of Minutes - Regular Meeting - March 13, 2002**

**B. Receive Department and Committee Reports**

1. Police
2. Fire
3. Animal Control
4. Court
5. Building Inspections

**C. Approval of Home Occupation Renewals**

**Motion: Trustee Rembe** moved approval of the Consent Agenda. **Trustee Rael** seconded the motion.

**Trustee Siegel** stated that he has a correction to be made to the minutes on page 9, line 22 to change "his" to "Mr. Dolan" and also "him" to Mr. Dolan.

**Trustee Siegel** stated that in the police report there is no baseline for comparison to the other

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areas in the county and he would like to see that information so a comparison can be made. He said he was concerned about the high numbers with regard to larceny and aggravated assault.

**Administrator Rosoff** stated that it was a partial upgrade and it is the level of information that we requested, which does not include the response time.

**Vote:** The motion carried unanimously.

#### **4. PUBLIC HEARINGS AND APPLICATIONS**

##### **A. Discussion and Approval of the New Mexico Wine Growers License for Anderson Valley Vineyards 4920 Rio Grande Boulevard NW to be transferred to the New Mexico Winery Associates, LLC.**

**Attorney Mathews** stated that the liquor license process in the State of New Mexico is done by the State Alcohol and Gaming Department and they recommend approval. He said the state has the authority to override the municipalities decision.

**Trustee Rembe** asked if Anderson Valley Vineyards have the right to hold as many public celebrations as they wish.

**Attorney Mathews** stated that the Anderson Vineyards have the right to as many celebrations as they want. He said that the State does not know where this is located in relationship to the neighborhood, and does not necessarily know what the zoning is for this area. He further stated that it is the decision of the municipality to determine how extensive the use is. He said that the license can not be denied, but conditions can be placed on the license.

**Trustee Lopez** stated that this is a new license to a new grower, however, there has been wine growing on the property for years.

**Attorney Mathews** stated that this is not actually a new license, but an opportunity to revisit or reject the conditions that were imposed when the license was first granted.

**Trustee Lopez** stated that as he reads the Planning Report there are no recommendations for conditions other than that it meets the requirements and it supports 2010 Master Plan goal.

**Planner Tidwell** stated the conditions that were approved in the 1980's remain intact. If the new applicant, New Mexico Wine Growers, wants to expand or change any of the conditions, they will have to come to the Planning and Zoning Commission and to Board with a zone map amendment.

**Attorney Mathews** stated that the New Mexico WineGrowers are not asking for a renewal to the SU-1 Zoning.

**Planner Tidwell** stated that the SU-1 Zone remains intact and it runs with the land.

**Trustee Siegel** stated he was in favor of the new applicant having the winery, however, he has a few concerns on the complaints about special events, namely how big are the events and how often will they occur. Trustee Siegel further stated that he felt there should be some

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controls. After reading Resolution 85-4-1, which gives the new applicant SU Zoning, nothing is mentioned about Special Events, existing buildings being enlarged, how much parking will be permitted and no limits on the size of the operation. He stated the resolution does include tours and wine tasting for the public.

**Attorney Mathews** stated that the Board could request from the applicant an operations plan. He said that the zone could not be changed, because the zone runs with the land, but the conditions can be changed.

**Attorney Mathews** stated that the approval of the license couldn't wait until an operations plan are received before transferring the license. He said that the Board is only considering transfer of the liquor license. The New Mexico WineGrower's will continue to operate under the present conditions. The State liquor law requires the Village to act within 45 days, which has nothing to do with the conditions the Board might place on the operations.

**Trustee Rael** asked if the board could approve the transfer of the liquor license pending an operations plan from the applicant.

**Attorney Mathews** stated that the transfer of the liquor license pending an operations plan can be done.

**Trustee Siegel** questioned the legal authority the Board has to require that this be part of the conditions of the license.

**Attorney Mathews** stated that the Board is not looking at it as a condition of licensing but as a condition of zoning. He said that the Board has a right with a new owner to request an operations plan, because there is a substantial change in conditions since 1985.

**Mayor Hooker** stated that the Board could request an operations plan but have to be reasonable in considering changes.

**Motion: Trustee Siegel** moved approval of the wine growers license on the condition that the applicant submit to the Village within 120 days, an operations plan and proposed new conditions for the SU zoning. **Trustee Rael** seconded the motion.

**Trustee Lopez** stated that he rarely hears of any complaints and is surprised that it has become an issue. He stated we might want to change some of the conditions.

**Attorney Mathews** stated that he is trying to preempt possible problems due to the fact that, presently there are many houses in that area.

**Trustee Siegel** stated that in the past several years a lot of problems on Chavez Road have occurred. He stated this is a good kind of business to have in the village.

**Christine McDonald**, new owner of the winery stated that she is the agent for the New Mexico Winery Associates. She said that they do have intentions of bringing some new life

back into the winery. She stated the winery has intentions of planting over 100 vines this year and another two hundred vines next year. She said that the winery hopes to produce some great wine and that the Village will be proud to have them there. She stated that at this stage, the New Mexico Winery Associates do not desire to have to come up with an operations plan.

**Mayor Hooker** stated the license will be signed today, but it will still require the winery to come back within four months.

**Mrs. McDonald** stated that potentially if in 100 days from now restrictions are placed from a business prospective and making assumptions on how the business was run, this could potentially change the business. She said that there were no formal complaints about current activities. She stated that they would work within the 2010 Master Plan and in fact, try to work with it to improve the facility.

**Trustee Siegel** stated there have not been any complaints recently. He noted that on Page 2 in the Planning Report indicates violations pertaining to the Special Use Zone uses. The intent is not to derail the wineries plans, but to forestall potential problems that may occur down the line. Trustee Siegel further stated it might be wise to meet with the homeowners in the area advising them of the plans for the property, and after this is done, return and present that plan to the Board. He said that the problem would be the winery plans for a certain number of special events, etc.

**Mayor Hooker** stated although he could not guarantee it the traditional events that have already been at the winery will be respected.

**Trustee Siegel** stated one of the problems is that if the zone changes, it could be problematic for the new applicant to make plans on something that is obsolete.

**Administrator Rosoff** stated that is why the new zoning ordinance proposes Special Use Permits while the underlining zoning of the land will stay the same, and the permit will not be transferable.

**Trustee Siegel** stated that he can see other owners with a similar property saying how come the McDonalds can operate without conditions, and I can not. He said that this is something that has to be dealt with now.

**Trustee Lopez** asked if there was an option for making recommendations with another condition or can the Board approve the wine growers license now. He also asked what happens when a year from now, if the license is approved and Mrs. McDonald follows the conditions of 1985 and are new problems that have arisen.

**Attorney Mathew** stated that if it is permitted with the conditions that have been placed and the problems are just the complaints it will not be successful. The resolution from 1985 does not state anything regarding the Special Events except tours and wine tasting. He further stated the Resolution does not mention weddings or jazz concerts. If conditions are placed on this use and Mrs. McDonald does not violate the conditions, any complaints are without foundation. He stated that at that point, you have already established the conditions for that use. He stated unless it rises to the level of a nuisance, the conditions that the Board has placed stay in place.

**Patty Anderson** stated that she feels the winery should be grandfathered in because the winery has been in the Village since 1984. She said that some people complain about every thing. She said that she feels the winery is an asset to the Village and wants to make it something that the Village will be proud of. She said that it is just a transfer of the license, and that there are no intentions of putting a bar in.

**Trustee Rembe** stated that the Anderson Valley Vineyards have been an asset to the Village and to the whole community and the winery is something that we want to stay here.

**Mrs. Anderson** stated that they no longer have the Jazz Events, because the neighbors said the music was too loud. Mrs. Anderson further stated that there is a lot of loud music in the Village due to graduation parties and weddings that has not come from the winery. She also said that parking is not a problem, since 1986 weddings have been held at the winery and would hate to see that stopped.

**Trustee Lopez** stated that if there had not been a change in the winegrower's license these conditions would have continued and Anderson Valley would have been able to do exactly what they have been doing since 1985. Trustee Lopez further stated that he saw absolutely no reason to impose additional conditions at this time.

**Trustee Siegel** stated that he is concerned that this is a new owner and he has no idea of what the scale of that operation is going to be. He said that if it is the same scale as it is now, he sees no problem.

**Trustee Siegel** withdrew his motion and moved approval of the license only.  
**Trustee Lopez** seconded the motion.

**Trustee Rael** stated that he is not against the winery, but does have some of the same concerns that Trustee Siegel has stated.

**J. T. Michaelson** stated that he had no opposition to the WineGrower's License, but did have opposition to the commercialization of any residential property and the commercialization of activities on Rio Grande Blvd. He said that there is no enforcement when Special Use Zoning is granted even when there are restrictive conditions. He said that he lives in this Village because he wants a residential agricultural type of environment, but it is slowly diminishing.

**Susan Weymouth** stated that it is good that the winery activities will come back and has been a loss to the community, but her concern goes back to the Jazz Festival. She said that the amplification is too loud, and that the Special Use Zoning tends to stretch the rules on what they are doing. She said that the Special Use properties are suppose to have an annual review, however, the last review was done in 1998.

**Vote:** The Motion carried unanimously.

**B. Discussion and Approval of Home Occupation Renewal of Liz Sanchez Stable/Elm Tree From - Liz Sanchez - 7622 Rio Grande NW Tabled from the March 27<sup>th</sup>, Public Hearing.**

**Attorney Mathews** stated that the board does not have the right to deny this renewal. He said that the reason a Special Use is the best use in this case is that the Village does not have an agriculture commercial zone. He further stated that it does not fit into the Home Occupation and denying this Special Use is opening the Village to civil liability under the very recent changes passed by the Supreme Court last year. He said that addressing the problem is not the number of horses per acre, but how you care for the horses on that acre. He said the Special Use is needed on this because if it were limited to only four horses per acre, the Village would

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essentially be putting Mrs. Sanchez out of business. He said the Village of Los Ranchos has the reputation of being a quality horse raising community, we have several high quality facilities in the Village, and also brings in gross receipts taxes. He also stated that the condition that is listed in the planner's recommendations, Item D, is from a 1999 state statute. The Statute states that for any new lighting that is installed they must be shielded to avoid disturbing glare. Allowing this as a Conditional Use or a Special Use, there is more flexibility with the Special use in this case. He further stated that by allowing it to continue as a Special Use, you serve Mrs. Sanchez's purposes to continue an economically viable vital business along with protecting the neighbor's concerns.

**Trustee Lopez** advised that he has been familiar with this property for over 35 years and is only aware of one complaint. He said that during this period, the Trustees had approved this property as a Home Occupation. He said that the Village attorney is advising the Board to approve the use as a Conditional Use or a Special Use and said he would like to ask Mrs. Sanchez what her preference is. He further stated that to deny the request for a home occupation would be totally in error, and that based upon what the Village Attorney is advising the Village does not want to be involved in a lawsuit. This has to be approved, but his question is which use does the Board approve.

**Mayor Hooker** stated that the zoning conditions cannot be changed, but we can discuss the Business Registration and the Home Occupation Registration.

**Motion:** **Trustee Lopez** made a motion subject to discussions by the other Trustees, to approve the use and not impose these conditions. He stated that he agrees that it could be a Home Occupation.

**Attorney Mathews** stated that the reason he feels that it is not a Home Occupation is because of the way that the Ordinance is written. He said that a Home Occupation shall be conducted entirely within the residence or accessory building, and only is conducted by persons living at the residence. He said that there are employees that do not live at the residence. He also said that the Home Occupation Ordinance states that no more than 25 sq. ft. of the dwelling or 600 sq. ft of an accessory building shall be used to conduct a Home Occupation. He said that he believes that the barns and stables are greater than the Home Occupation portion allowed.

**Trustee Lopez** stated that in the past, this property was routinely approved as a Home Occupation and that means it was routinely approved even prior to 1992. He said that he wants to approve the use and not be involved in a taking. He said that there might be a question as to whether it is Home Occupation, and he moves to approve the use. **Trustee Rael** seconded the motion made by Trustee Lopez.

**Trustee Siegel** asked how the use can be approved without any kind of a permit.

**Mayor Hooker** stated that the question is to approve or deny the Home Occupation License. The use per say is not the question, but the license is.

**Trustee Lopez** clarified his motion stating that he is approving the Home Occupation License. **Trustee Rael** seconded Trustee Lopez' approval of the Home Occupation License.

**Trustee Siegel** stated that this is a long-standing business that has not changed in years, a very quality stable, and the kind of thing we encourage in the Village. Some commercial activity

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has to be allowed in "residential areas" otherwise will get a build out of whatever the maximum housing statistics can be put on the land. Therefore, an effort needs to be made to allow this business to continue. He said this is why he is proposing the Agricultural Commercial Zone because that should cover this problem. He said that the Sanchez property would be a perfect property to have that kind of zoning. He said, the problem regarding the Home Occupation, as written in the definition, is not a Home Occupation. If this is approved tonight, he feels that there will be more complaints received. He said that if a Home Occupation is granted that is not a Home Occupation, a precedence would be set for many other businesses. He said that he does not think it is wise to grant an extension of the Home Occupation Permit. Trustee Siegel asked Attorney Mathews what other remedies the Board has if the Home Occupation is denied for Ms. Sanchez that would allow Ms. Sanchez to continue the operation with minimal problems until the issues are straightened out.

**Attorney Mathews** stated that Ms. Sanchez should be allowed to operate her business at the same scale that she is currently operating, and should also be directed to apply for the Special Use Permit. If the Home Occupation is approved, it will violate the Home Occupation Ordinance. He said this would cause violation of two different ordinances. With the Special Use permit, the violations can be eliminated by allowing Mrs. Sanchez to have more animals than would be permitted by our Ordinance on that piece of property. The Special Use gives you a lot more flexibility. The Village does not want to do anything that denies continued use as it is at this time.

**Trustee Rael** stated that his concern is that if the Board advises Mrs. Sanchez to apply for a Special Use, the same thing is going to happen because the Special Use also has restrictions.

**Attorney Mathews** stated that the Special Use has much more flexibility, and with the Special Use, you can give Ms. Sanchez a variance without going through the variance procedure by making it a condition of the Special Use.

**Trustee Rael** asked why not change this to a Special Use and run the same type of business that Mrs. Sanchez is currently operating without making any changes.

**Attorney Mathews** said this can be done, but not tonight, as it has not been advertised.

**Trustee Siegel** stated that he agrees with Trustee Lopez, but he feels that it is a mistake to go ahead and re-approve the Home Occupation License. He said that Ms. Sanchez should be allowed to be in business and should be assisted in obtaining the SU Zoning. He said that if his AC proposal goes through, Mrs. Sanchez could be AC zoned, and that would give her more latitude.

**Attorney Mathews** stated that if the Board approves this as a Home Occupation and the Planning & Zoning Commission enforces the ordinance, which says you can only have four (4) horses per acre, the Board is putting the Planning & Zoning in a position where they are criticized for not enforcing an ordinance. If the P&Z enforces this ordinance, this would put Mrs. Sanchez out of business and this would be a taking.

**Trustee Rembe** stated that Planning and Zoning has worked very hard to help Mrs. Sanchez and that she agrees with Trustee Siegel. She said that there are a lot of people that have come in for a Home Occupation License, and the Board has been very strict about that. She also stated that the Board is giving Mrs. Sanchez the opportunity to run a good business, which she

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has always run, but there are a few more requirements. She said she believes Mrs. Sanchez is willing to comply.

**Trustee Lopez** stated that he would argue that this is a Home Occupation and that is what is before the Board tonight. The Board should either deny it or approve it. He said he has recommended approval, and his motion has been seconded. He said that he would prefer not to change it.

**Mayor Hooker** asked if the Home Occupation is not renewed, is there an alternative for 90 days or six months or allows the existing Home Occupation License to continue for a year as is.

**Planner Tidwell** stated that the License is an annual license and is renewed the first of the year. Ms. Sanchez is currently operating without a license at this time. She said that the reason Mrs. Sanchez's application is being heard now, was due to her schedule of shows and activities, which caused her to be out of the state.

**Attorney Mathews** stated that the language in the ordinance states "Any Home Occupation License shall be valid for one year from the date of issue". Therefore, the license is good for one year.

**Planner Tidwell** stated that in the past year, an application was received for a horse facility, which is nearly eight acres as a Home Occupation. She said that all the conditions that are here were imposed upon that applicant. That applicant is restricted to one horse per 10,000 square feet of open area. She said that this is severe and there were no employees because that is what the Ordinance states. The Planning and Zoning Commission does not have discretionary power and has to follow the law.

**Trustee Siegel** stated that if Ms. Sanchez applied for a Special Use Zoning, there is nothing that says the Board has to impose any or all conditions. He stated that the Board is not bound; the Board has the right to enforce our own conditions, as there are different circumstances with each property.

**Liz Sanchez** stated that she does not have legal counsel, but would like to have Pat McGrave speak on her behalf.

**Pat McGrave** stated she is a member of the coalition for Land & Livestock and a member of Acorn, which is a community active organization that makes sure that local government is responsible to the wishes of the citizens. She also stated that she runs her own newspaper called the South Valley Inc. She said that rural lifestyle is not 10,000 sq. ft. per horse. She said that for those who do not know horses, horses live in a 14 x 14 stalls. She said if the horse is a Racehorse, they do not get out of their stall until they race. If they are a show horse of the quality that Mrs. Sanchez shows, they are clean and spotless and there is not a single fly on those horses. She said that horses do not need 10,000 sq. ft. per acre and neither do cows, but due to the fact of her concern regarding livestock restrictions, she has made herself informed. She said that the Right to Farm Act does protect any commercial agricultural operation that has been operating for a year or more. She requested that the Board grant the Home Occupation License. She asked if a Special Use Permit goes with the lifetime of the property.

**Attorney Mathews** stated that this is a Special Use Zone and that is why he thinks it takes advantage over the Home Occupation License, and it does run with the property. The Home

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Occupation has to be renewed on a yearly basis, and that is one of the reasons that the Special Use was actually more favorable to Mrs. Sanchez than the Home Occupation License.

**Trustee Siegel** stated that no one is trying to close her business. He said the SU Zone allows the Board to make exceptions to allow more. If the Board approves the Home Occupation then the regulations will have to be enforced. He said if it is a SU Zone, then we can let Mrs. Sanchez have as many horses as she prefers.

**Mayor Hooker** asked Ms. McGrave if she opposed to the Board granting Ms. Sanchez a Special Use Zone.

**Ms. McGrave** stated that if it is a Special Use Zone and did not have conditions, she feels that it would be advantageous for Mrs. Sanchez to be granted the Home Occupation now and then try to complete the Special Use and revisit it a year from now.

**Trustee Siegel** said that the problem is whether it is justified or not. There is a complaint that has to be dealt with. He said if the Board gives a Home Occupation License, the Village is going to have to enforce the one horse per 10,000 sq. ft that the A1 Zone currently has in our ordinance.

**Ms. McGrave** stated that the Right to Farm Act should protect that enforcement of the 10,000 sq. ft shouldn't it.

**Attorney Mathews** stated that he does not think that the Right to Farm Act protects the enforcement.

**Ms. Mc Grave** stated that an attorney could argue this in court.

**Attorney Mathews** said he did not think it has to be that confrontational, because the Board is willing to give Mrs. Sanchez the exact same use she has now. He said that the only question

is whether it should be a Special Use Zone, which runs with the land forever or whether Mrs. Sanchez should have a Home Occupation that has to be renewed annually which has conditions in the ordinance that she cannot meet.

**Ms. McGrave** stated that the Village has to keep her operating because this has to be advertised for 15 days before the hearing.

**Attorney Mathews** stated that this hearing has been convened and all that needs to be done once the hearing is started is to continue the issue until the application is received. The hearing has already been opened.

**Ms. McGrave** said she would support a Special Use License.

**Attorney Mathews** stated that the only condition is that in the State Statutes regarding outside lighting, the Night Sky Protection Act. He said that the existing lights are grandfathered in, but that any replacements must be complied with by Ms. Sanchez. This is the only condition that seems to be mandated by state law and that is only when she repairs or replaces the lights.

**Ms. McGrave** thanked the Board for allowing her to speak and that she realized after listening that the Board does support Agriculture.

**Mayor Hooker** asked if the Board denies the Home Occupation License pending approval or hearing on the Special Use Zone, can Ms. Sanchez be allowed to continue operation.

**Attorney Mathews** stated that the only condition, out of all of the conditions listed that he feels strongly about, is the Night Sky Protection Act.

**Trenton Cleff** stated that he would be interested in knowing what other agenda items Trustee Siegel seems to think he has on this issue. Mr. Cleff presented several photographs, and stated that in the photographs a pit was excavated under the pile of manure that Ms. Sanchez has stated has been there for over 35 years. He said that this soil was removed and placed inside his property line against his boundary of his home. He stated that when collection occurs, the loader reaches up and dumps a lot of the waste onto his property. He also said that there are many conditions that the board should seriously look at, because it has nothing to do with the Right to Farm Act. It has to do with property rights and conditions. He further stated that the down flood lighting has been changed and now is halogen flood lighting that directly shines to his home. He said he feels Ms. Sanchez could come up with alternative ways of dealing with her waste. She is currently contracted with the City of Albuquerque. In addition, he said she has heavy equipment approximately 26 times per year on this property parked on the right-of-way, and most businesses are required to keep everything within their property specifically in the Home Occupation Ordinance. He said that the Village did offer mediation to discuss these problems, but Ms. Sanchez has made no gesture or accepted the mediation.

**Motion:** Trustee Lopez made a follow up motion. Adding that the question be continued for 90 days, and that automatically allows Ms. Sanchez to operate in her present form with no conditions. **Trustee Rael** seconded the motion.

**Trustee Siegel** asked if there was not going to be any stipulation of the SU Zoning. Otherwise, the Board will be in the exact same situation.

**Trustee Lopez** stated that this would have to be re-visited. He said that the purpose for making the motion is to allow time for the Mayor, staff and the administration to be able to discuss this issue with Ms. Sanchez. He said that if there is resolution of the issues the Board will be in a better position 90 days from now then we are today.

**Trustee Siegel** stated that he is unclear on what Trustee Lopez is recommending, and asked what will happen during these 90 days.

**Mayor Hooker** stated that this would give allows time to review the zoning status and propose a Special Use Zone structure for the property that addresses the concerns of the board.

**Trustee Siegel** stated that he does not want to be back 90 days from now with something else on the table.

**Mayor Hooker** stated that this would allow enough time to schedule a hearing for a Special Use Zone prior to that 90 days, otherwise we will be back with the same question.

**Trustee Siegel** stated that he mis-spoke during the last part of the debate. Mr. Cleff did not have any ulterior motives, and misinterpreted some letters that were sent regarding his bed and breakfast business. The SU could work for both of their benefit and hopes this can be worked out.

**Attorney Mathews** asked if Liz Sanchez could do this earlier than 90 days?

**Trustee Lopez** stated that staying the question for 90 days does not preclude Liz Sanchez from approaching the Board or the Village administration with another alternative.

**Trustee Rembe** stated that she does not understand why the Home Occupation is not denied.

**Trustee Lopez** stated that what the Mayor has offered is basically to allow some time for the Mayor, staff and administration to discuss with Ms. Sanchez other alternatives. By continuing this for 90 days, this allows her to continue operating and the Village can't be accused of taking.

**Attorney Mathews** stated that all you can act on is approve, deny or continue the Home Occupation, because of the open meetings act.

**Vote:** The motion carried unanimously.

**Administrator Rosoff** stated that since it is the Village that is requesting that Ms. Sanchez take some sort of re-zoning action, he feels it would be appropriate that the Village sponsor this and also that no fees would be involved. He said that Planning and Zoning would be doing that on April 23<sup>rd</sup>.

**A. Discussion and Approval of - Job Description for Code Enforcement Officer (part-time) - TABLED FROM THE MARCH 13<sup>TH</sup> PUBLIC HEARING.**

**Motion:** **Trustee Siegel** moved approval. **Trustee Rembe** seconded the motion.

**Trustee Lopez** stated that he understands the Village's administration desire to have a part-time zone enforcement officer. He said that based upon the list of complaints before the Village that the staff on board has been able to handle it. If the zone code officer is approved tonight, that the Board be advised of the qualifications of the individual that is being interviewed and provided the opportunity to comment on those qualifications.

**Trustee Rembe** stated that she thinks that because of the job that mediation and training need to be added. This person will have to be able to handle confrontations. She said she would like to see a six (6) month probationary period rather than a year. She said what worries her is that there is no plan on how it will be dealt with, and should be able to return to the board and report. A lot of it seems that these should have been going to court, and keep continuing and need to deal with it quickly and set priorities.

**Trustee Siegel** stated that there is no question about the need of this position. As he reads the list correctly, there are 44 new complaints and problems since the first of the year. There was a tradition in the enforcement section that required a citation process. This is a lot of time and effort that someone will have to put into it. He would like to see the code enforcement section streamlined when dealing with violations. It now takes years and almost never comes to resolution. Part of it is the flaws in the ordinance the way code enforcement is written. It now requires using legal staff to help with code enforcement at an extreme cost to the Village. He does not see how the Village can get along without this individual. He will stipulate that there are changes that can be made in the job description. The mediation skills are good, perhaps inserting training.

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**Administrator Rosoff** stated that it is in the paragraph under probationary period.

**Trustee Siegel** stated that in that sections the mediation training can be added. He further stated not having this individual, dooms the Village to more of the same sling shots that we been having.

**Trustee Rembe** stated that the Village needs to be a little more restrictive.

**Trustee Siegel** stated that this why we have to change our enforcement provisions in our code. He said their needs to be serious consideration having an individual who will enforce the code.

**Attorney Mathews** stated that there are approximately four more that he is not enforcing, that are letters from attorneys to him that have not been passed to Cyndie.

**Trustee Rael** stated that the concern he has with the addition of another person is that the gross receipts are dropping. He said that a better way to address this is to re-define the responsibilities of the current staff and perhaps allow them to be part of the enforcement rather than hiring another person. He said that he does not feel the Village can afford this position at this time.

**Administrator Rosoff** stated that this position was budgeted in the current fiscal year, and was budgeted for in the mid-year review. He said that the plan was to pay \$12.00 to 12.50 per hour part-time. He said that overhead for benefits are approximately 36 & 40%. He said that another adjustment in the budget for this fiscal year was made and does not think that there would be a problem covering it in the next fiscal year.

**Miranda Alcott** stated that the properties leading up to her house have inoperable cars. She said that she could see that if you don't have someone with good skills in mediation and someone who is focused on conflict resolution there would be problems. Personally, she would

support this position. She said that this person would have to be well versed in being calm. It can't just be someone who does not have training and does not know how to remain calm.

**Mary Homan**, vice chair of the Planning & Zoning Commission stated that from a commission stand point she would ask that the Board please consider this position. She said that she has repeatedly heard from village residents that the zoning is not enforced. She said that she does realize that there are a lot of violations in the Village that do need to be enforced to help clean up our neighborhoods and keep our rural atmosphere.

**Trustee Rael** stated that he is not against an enforcement person, but feels that present staff should be able to handle the enforcement.

**Vote:** The motion tied 2-2. **Trustee Lopez and Trustee Rael voted no.** The Mayor voted in favor of the position. The motion passed 3-2.

#### **B. Approval of the appointment of Planning & Zoning Commissioner Dan Dolan**

**Trustee Lopez** stated that the concern was that Mr. Dolan had missed quite a few meetings, and we are considering allowing someone else to fill this position. He said that the Mayor had mentioned a couple of names, and we should give someone else the opportunity to be on the Planning & Zoning Commission. He said he does not have any problem with re-appointing

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someone, but if there are other well-qualified residents in the Village, they should be given the chance. This is no desperation of Mr. Dolan.

**Trustee Siegel** stated that he would be interested in knowing the other names. Mayor Hooker stated that the volunteers are Steve Derwelis, Mathais, John Sparks, and Glenn Fellows.

**Trustee Siegel** stated that the board needs to see these before re-appointing, because it all depends on the qualifications. Mr. Dolan did state in his letter that he intends to be at all the meetings except for one. This is the first time he has heard that there was anyone else interested.

**Mayor Hooker** stated that all the nominations could be presented to the board at the next meeting.

**Motion: Trustee Siegel** moved to table the appointment until the next meeting of (April 24<sup>th</sup>) until the board has had a chance to review them along with the qualifications involved with Mr. Dolan. **Trustee Lopez** seconded the motion.

**Vote:** The motion carried unanimously.

#### **A. Discussion and Comment on Draft Zoning Ordinance, Sections 1, 3,4 & 6, dated January 19, 2001**

**Trustee Lopez** stated that he has not had the time to review this in extensive detail, and he has not seen the AC Zone that Trustee Siegel has recommended.

**Trustee Siegel** stated that he is currently going through the legal issues with Attorney Mathews. He said he won't be able to make a proposal until Mathews has finished with this.

**Administrator Rosoff** stated that the AC zone was included in the list that was mailed out to residents and is on the agenda for one of the May meetings.

**Mayor Hooker** suggested continuing this discussion to a Special Meeting.

**Audience members** had concerns of people moving in and not liking what is next to them, that people should be made aware that agriculture will be around them, there needs to be more definition for the A1 and R1, keeping the rural atmosphere, and also support the A1 zone.

**Attorney Mathews** stated that he represents a community that has an ordinance that requires the realtors who sell property in the community to disclose to the residents what is or what is not permitted in that zone. This requires the realtors to give a copy of that ordinance that applies to that zone.

**Trustee Rembe** stated that this is why the Village needs a welcome letter so that the Village is not only relying on the Realtor.

**Trustee Siegel** stated that in the A-1 zone, section B4 the list of agricultural activities includes alpacas as permissive uses. He said that it is clear in the old A-1 and the current A-1 that agricultural activities are permissive uses. It is nice to have a welcome letter. The people need to

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realize what they are getting into. When a person purchases a piece of property, it is incumbent on that person to do some research.

**Mary Homan** stated that in the A-1 zone there is outdoor storage of materials. She said that the current zone law states that anything over 500 sq. ft. has to be screened. She also said that in the A-1 zone 500 sq. ft. does not cover much, especially if you are running any kind of livestock. It does not too many of these farm implementations or large yard implementations to take up the 500 sq. ft. She said that the Planning & Zoning Commission had hoped the board would consider an increase to 1000 sq. ft. She said that there was also some issues of screening, and did not come to a consensus if the 1000 sq. ft. should be fully screened. She said that the other item the Planning & Zoning Commission had considered was the lot coverage. The current rule stated that the lot coverage was limited to 50% and that is defined as structures with a roof on it. The commission suggested 25% coverage of open space that would allow more agriculture, animal usage.

**The Board of Trustees** discussed the time needed to carefully review the sections and sticking to the timetable already advertised.

**Motion: Trustee Lopez** moved to defer this item to the next Regular Meeting of April 24<sup>th</sup>. **Trustee Rael** seconded the motion.

**Trustee Rembe** made an amendment to Trustee Lopez's motion changing it to a Special Meeting on April 17<sup>th</sup> at 6:00 p.m. **Trustee Rael** seconded the motion.

**Vote:** The motion carried unanimously.

#### 4. NEW BUSINESS

##### A. Discussion and Approval of an Ordinance - Amending the Business Registration and Licensing Ordinance, Chapter 5 of the Codified Ordinances

**Motion: Trustee Lopez** moved approval of the ordinance. **Trustee Rembe** seconded the motion.

**Mayor Hooker** stated that the change is that the fee has been increased to \$35.00, and deletion of the exemption for home occupations. He said this means that all home occupations will not be treated as businesses and will pay the \$35.00 fee.

**Trustee Siegel** stated that when this was discussed before he had mentioned that the Los Ranchos address is listed so that the Village collects the gross receipts taxes.

**Administrator Rosoff** stated that this would be done.

**Vote:** Lopez-aye; Siegel-aye; Rembe-aye; Rael-aye. The motion passes unanimously.

#### 7. FINANCIAL BUSINESS

##### A. Cash Report - February -

**Treasurer Leatherwood** reported that revenues for the month of February were \$145,402 and the expenditures were \$138,148, with an excess of revenues over expenditures of \$7200.

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**Motion:** Trustee Siegel moved to accept the cash report and pay all bills. **Trustee Rembe** seconded the motion.

**Vote:** The motion carried unanimously.

**B. Recommendation for Continuation of Auditor Services by Rice Associates, CPA**

**Motion:** Trustee Rembe moved approval of the audit services with Rice & Associates. **Trustee Rael** seconded the motion.

**Vote:** The motion carried unanimously.

**8. REPORTS**

**A. Mayor's Report**

**Mayor Hooker** reported that he attended the National Association of Regional Councils Policy Conference in Washington. He said that he is currently serving as the Vice Chairman of the Board of Directors and Vice Chairman of the UTTPB for the Middle Rio Grande Council of Governments, and that that he does not feel this will take any further time away from Village business. He said that the big issues that will face the Village are water resources. He said that another project that is becoming intense is the Little League Field, because Alameda Little League is looking for a field. He also said that he has been meeting with the leaders of the churches, because they provide a service that the Village can't. He also reported that the Easter Egg Hunt was a success.

**B. Administrator's Report**

**Administrator Rosoff** reported that the construction on Chavez Road is almost completed. He said that a large tree fell on Roehl Road today. He also reported that he attended the Risk Management Training, because it was mandatory that the Village have some one attend in order to continue to participate in the insurance credit program. He said that the Village safety record is good enough to receive about a 20% credit and is one of the best in the state. He said the Anderson Field Agreement has been executed by the City of Albuquerque and that the \$100,000 has been paid so that the County can receive their payment back from the State. He said that there was a six hour road closure by the Cancer walk-a-thon on one lane on Rio Grande last Sunday morning that was a violation of the Village and County permits. Different conditions will be placed if this is proposed for the next year. He also reported that the tree planting along Schulte Road, that is part of a forest tree service grant, will take place on April 20<sup>th</sup> and is being done as an Eagle Scout project. The tree planting will be done by the Boy Scout volunteers with APS donating the water. He stated that there is a great need for a Brush Truck for the fire Department. He said that Trustee Rembe had suggested a welcome letter and suggested that it should be something that looked like the Village Newsletter. He said that several years ago, the Board approved plans for the City of Albuquerque open space to build a parking area west of Rio Grande just south of Paseo and it has begun.

**C. Legal Report**

**Attorney Mathews** reported that he is preparing a twelve page letter that informs the Board all the legal issues that are going on in the Village, and hopes to do this every time there is an election. He said that the Fire Code Board of Appeals for Gemini Fireworks met on Monday night

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at 6:00, and finished at 10:00 p.m. and again started at 6:00 p.m. Tuesday, and ended at 1:30 a.m. on Wednesday morning. He said that the decision from the Board was unanimous in favor of the Village and the Board did recognize that the Village's legal position regarding the sprinkler system and the fire alarm was correct under the ordinance, under the state law and under the fire code. He said that the Board also recognized that Mr. Ruiz has been a model citizen of the Village and has run a good business in both the City and the Village for a total of 25 years. Mr. Ruiz has never had any problems and has been cooperative with everything that the Village has done, with the exception of the alarm and the sprinkler system. Mr. Ruiz has 60 days to install the fire alarm and eighteen months to install the sprinkler system. He said he believes the Village will be a safer place with the fire alarm and sprinkler system.

#### **D. Planner's Report**

**Planner Tidwell** stated that the Planning and Zoning Commission continues to work on the subdivision ordinance.

**Trustee Rembe** asked Planner Tidwell how she is dealing with all the complaints. She asked if there is a list of priority matters and due dates for completion, and would like to know how she is dealing with this matter.

**Planner Tidwell** stated that she now has all of the open violations and recently closed cases on her side of the office so that she can keep track of where each and everyone of them is, so that there are not any scattered responses from different staff people. She said that some have lingered from before she was even hired. She said that some of the people that they are dealing with are difficult because they have difficulty conforming. She said the problem is massive and people are discouraged because they want immediate response. She said that she will be sending a letter of notification and a second letter of notification, and then she will make a telephone call. She said that there are those who refuse to take their mail, and it becomes necessary for a process server to serve. She said that they are spending an enormous amount of time driving, rechecking and taking pictures, and are not ignoring the issue. She said that making sure you are citing a person correctly does take time. She said she is trying to deal with people with respect, dignified and compassionate manner, which does not mean that they can disobey the law.

**Trustee Rembe** stated that she would like to see a system for a follow up.

**Planner Tidwell** stated that she is working on a tickler system. However, with regard to issuing a criminal citation that requires her to prepare the case, there is a lot of preparatory work involved. She said she thinks that the comments by Trustee Siegel regarding issuing citations, ticketing ability for very obvious and very ordinary complaints would speed up the

process and lots of the violations would stop, as people would realize that they could get a \$37.00 ticket per citation.

**Attorney Mathews** stated the Village only has municipal court once per month and every case takes a minimum of two months as the Judge arraigns one month and tries the next, however many take longer than that.

**Mayor Hooker** stated that the Planner could report back to the Board on a more regular basis and establish tracking information.

**Attorney Mathew** stated that once it is filed in municipal court, it is public record.

#### **E. Fire Dept. Report**

**Fire Chief Kelly Clarke**, reported that she has finished a Federal Fire Act Grant for \$160,000, and the Village will be asked to match 10% of that figure. She said that in this grant there is a request for assistance in paying for 36 bumper gears, turn out gear for the firefighters, 30 sets of wildlife gear and training materials that is badly need to be in compliance with certain standards that NFPA requires. She said that the Fire Department has implemented a ban on open fire burning, and will be published in the Newsletter. In addition, she said that the 1992-brush truck is becoming a serious problem and that there is a need for a new brush truck. She said that there are places that they cannot get to without a Brush Truck, also with a brush truck we can put the fire out a lot quicker because of the large volume of water on the truck. She said that the approximate cost will be \$37,000 to replace the truck plus accessories that will cost an additional \$18,000.

**Trustee Rembe** asked if this area if the Government declares a disaster area due to a fire, can the Village get money through FEMA or some kind of funding.

**Chief Kelly** stated that she is currently searching for the information and guidelines for this kind of funding, and is also attending a graduating fellowship for information for funding resources.

**Trustee Rembe** asked if the watering of the trees that will be placed on Schulte will be watered from Schulte.

**Administrator Rosoff** stated that the trees will be on a sprinkler system and APS is providing the water.

**Attorney Mathews** stated that he is acknowledging the members of the Volunteer Fire Board, John Calvin, Harry Weil, Chairman, Susan Kelly, Mike and Glen Fellows. I am sure they did not expect to stay in the Village until 1:30 in the morning and I want to thank them for their volunteer efforts.

**Trustee Rembe** stated that she would like a letter of thank you sent to the Fire Board Volunteers.

**Trustee Rembe** asked about the appraisal of the old Village building.

**Mayor Hooker** stated that we would bring forth an explanation of what it will take to get this building appraised.

**Administrator Rosoff** stated that in regard to Chief Kelly statement regarding the max for the grant that is within the amount of money that would be programmed for that kind of equipment.

#### **9. TRUSTEES INFORMAL DISCUSSION**

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**Trustee Rael** stated that he attended the Water and wastewater Board Meeting, but due to no quorum, the meeting was re-scheduled to a Special Meeting. However, at this meeting, the budget was approved. He said that he also attended the New Mexico Municipal League training and it was very informative.

**Trustee Siegel** stated that the Old Village Hall/Temporary Community Center is falling apart and is becoming an eye sore. He asked what the long-term plans are for this property. He said that there is grant money available for a community center, and either we use it to rehabilitate that property or tear the building down and sell the property.

**Trustee Rembe** asked if this property has been appraised yet.

**Administrator Rosoff** stated that he has quotes for the appraisal, but they are higher than what was budgeted for and is requesting new appraisals.

**Trustee Siegel** stated that the old Village building is becoming a potential liability.

**Mayor Hooker** stated he would make sure it is cleaned.

#### 10. ADJOURNMENT

**Motion:** Trustee Rembe moved to adjourn. Trustee Lopez seconded the motion.

**Vote:** The motion carried unanimously.

**APPROVED** by the Board of Trustees of the Village of Los Ranchos de Albuquerque this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

**ATTEST:**

\_\_\_\_\_  
Annabelle Silvas, Clerk