

MINUTES
VILLAGE OF LOS RANCHOS DE ALBUQUERQUE
6718 RIO GRANDE BOULEVARD NW
BOARD OF TRUSTEES REGULAR MEETING - 7:00 P.M.
May 28, 2003

Present:

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

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

1. CALL TO ORDER

The Village of Los Ranchos Governing Body held a Regular Meeting on Wednesday, May 28, 2003 in the Warren J. Gray Hall. The meeting was called to order at 7:00 p.m.

A. APPROVAL OF AGENDA

MOTION: Trustee Lopez moved approval of the Agenda. **Trustee Rael** seconded the motion.

Mayor Hooker asked that item 6B be deleted from the agenda, as no recommendation for a new auditor was ready.

MOTION: Trustee Lopez moved approval with the change. **Trustee Rembe** seconded the motion.

VOTE: The motion carried unanimously.

2. PUBLIC COMMENT PERIOD

Subhas Shaw, MRGCD Engineer, provided an update on the status of the Rio Grande flows and MRGCD diversions and the outlook on seasonal irrigation. He also provided information on the MRGCD Election being held on June 3, 2003.

Hector Gonzales asked for support of Lawrence Troncosa for the MRGCD Board of Directors in the upcoming election.

Jim Roberts said he is a full-time farmer south of Albuquerque. He explained how they were rotating the water for irrigation purposes. He also requested support for Mr. Troncosa.

Trustee Siegel stated that there are not enough hours that there is water. As there are people watering and people are being cut off unknowingly. He asked if they would consider not running water at night when people aren't watering and maybe have more water in the ditch during the day when people are actually watering. In addition, it was asked if scheduled times could be set up for people to water.

3. CONSENT AGENDA

A: Approval of the Minutes - Regular Meeting May 14, 2003.

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

Mayor Hooker said that on Page 9, it should read the 3rd, 4th and 5th of July.

Trustee Rael said on Page 4, Line 31, when referring to Trustee Siegel, "she" should be "he" and on page 5, Line 4, it should say "feels" instead of "fells."

Trustee Siegel said on Page 4, Line 34 "he's" should be changed to "Mr. Contreras."

VOTE: The motion carried unanimously.

4. PUBLIC HEARINGS AND APPLICATIONS

None.

5. OLD BUSINESS

A. Discussion and Approval of New Zoning and Zone Map Ordinance (Chapter 31 of the Codified Zoning Ordinance)

MOTION: Trustee Siegel moved approval of the zoning and zone map ordinance. **Trustee Rembe** seconded the motion.

Trustee Siegel stated that on Item 13, Line 14, Page 2-2. In the definitions, he would like to strike the first and second sentences of that and leaving the third sentence, striking the "do" in Line 18, and then in Line 20 change the "does" to also includes. He would also strike the last sentence and add a new sentence that says "*activities permitted by the New Mexico Right to Farm Act are excluded from this definition and are permissible in all zones.*" He would then remove the mention of the roadside market selling because it is covered in the last sentence.

"The Agricultural Commercial is permitted only in the AC Zone. Commercial activities include the breeding and training of livestock, transported from the livestock owner's property to a property owned by another. Commercial activity also includes the operation of riding arenas, training stables and other livestock and growing activities conducted for profit. Activities permitted by the New Mexico Right to Farm Act are excluded from this definition and are permissible in all zones."

The Board had no objections to the change suggested.

Dennis McCary presented material on the New Mexico Right to Farm Act and read statements from the New Mexico Statutes.

Trustee Lopez asked Attorney Mathews if all the activities that were happening already fell into the jurisdiction of the Right to Farm Act and therefore they were okay and they could continue.

Attorney Mathews said his understanding was the same as Trustee Lopez. He said he believed the purpose of the Right to Farm Act was to eliminate the claim that agricultural activities are a nuisance.

Trustee Siegel said he was wondering how to state the differences between Agricultural Commercial (as defined in our ordinance) and between Commercial Agriculture (state definition).

Dennis McCary suggested starting the last sentence of what Trustee Siegel suggested with "*Except for Commercial Agricultural activities, as defined in this provision,*"

Trustee Siegel accepted that change and reread the statement again as it would now read.

Administrator Rosoff said that incorporates the spirit and the letter of the Right to Farm Act, which is what you were trying to do with this definition and exempts things that you were trying to exempt from regulations and it solves the definition of Commercial Agriculture.

Dennis McCary suggested the language of "*except to the extent of commercial agricultural activities which are regulated by this ordinance,*" and then continue.

Mayor Hooker said not hearing any further comment on that the Board would go with the language recommended by Mr. McCary.

Trustee Siegel asked if on Page 2-3, 35 and 36, buffer landscape and buffer landscaping were both needed.

Administrator Rosoff said he thought that they could get away without number 35.

Trustee Siegel asked that if on Page 2-4, buildable area, should it also have a sentence that said it conforms to the maximum lot coverage for that zone. Under Commercial use, number 55, should there be a mention of non-profit as well as profit there? (Lines 22 and 25) You could just remove "for profit" from the definition too.

There were no objections to striking "*for profit*" in Lines 22 and 25.

Trustee Siegel asked on Page 2-12, Line 33 under "major arterial", what did the word "latter" refer to.

Planner Tidwell asked that the reference to Extraterritorial Zone be eliminated since we don't have that anymore.

Trustee Siegel said number 167, on 2-12 makes no sense, and he wasn't sure why they needed that one and 172 as well. You could add a reference to special use to 172 and strike 167. (renumber as needed)

The Board agreed with this change.

Administrator Rosoff said on Section 16, Page 4-F, Line 35 refers to the open space development, and there is a numbering problem that needs to be taken care of.

Trustee Siegel suggested just calling it open space plan, and refer it to the other one.

Administrator Rosoff said he had no problem with that.

Dennis McCary stated that on Section 6, Zone A-1, Page 6-1, even if you accept the language that he has proposed, if this ordinance is passed you will eliminate arguing any need for the existing horse operations to go into the AC Zone.

Trustee Siegel stated that Mr. McCary mentioned that there was no difference in impact between commercial and non-commercial activity. With the definition that we have for commercial agricultural activities that we have already discussed, he does not understand why that wouldn't encourage the commercial horse stables to apply.

Dennis McCary said if you lift the horse restriction then there would be no reason for them to apply.

David Mathews said that really is a policy decision for the Board.

There was a lengthy discussion on what was non-conforming uses, status and number of horses.

Trustee Siegel said he didn't have a problem with the definition, because he thinks it says basically the same thing that we already said in the definition of commercial agricultural. He thinks that we've been through the horse density issue and already got that worked out pretty well and can leave it the way it is.

Mayor Hooker asked Mr. Mathews if this language just reiterates what was already said in the definitions or is it worthwhile to add this to the permissive uses.

Attorney Mathews said he had no problem adding it to the permissive uses. It certainly doesn't detract from the ordinance and it possibly makes it clearer.

Trustee Siegel moved to accept Mr. McCary's change.

Mayor Hooker asked if there were any objections to making the change.

The **Board of Trustees** had no objections and the change was accepted for Page 6-1.

There was a discussion of the proposed changes mentioned in the memo that Administrator Rosoff presented.

There were no objections to the changes suggested in the memo.

J. T. Michelson said he just received Hank Rosoff's proposed changes today. He said they are not really, what he sent in the letter. The first one is, and he agrees on Section 16, Line 6 and 7, after where he wants to add the proposed use if not provided for in any other zone. What he suggested was that the preamble should include what is in Section 17. (Mr. Michelson went on to explain his suggested changes)

The Board of Trustees made no additional changes.

Trustee Rael stated that on Page 5-2, Line 45, in the Village Center Zone, the word "are" should be removed and on page 11-1, Line 50, it was asked if 12 was correct.

Mayor Hooker said that 12 was correct.

Planner Tidwell said that on Page 3-2, under L, as it was written refers to the Village Sign Ordinance which is now going to be incorporated into Chapter 31, so she would propose it say "*all signs shall conform to all applicable regulations, delineated in Section 21.*" On Page 6-2, Line 15, this would be applicable to all zones, that matter of guesthouse maximum size, she would propose that the phrase "*of heated floor area*" be added, which closely matches the assessment value placed on the property.

There were no objections to adding the wording "*of heated floor area*" as stated by the Planner.

Mayor Hooker stated that in Section 17, Page 4, paragraph H, item 2, shared parking, Line 21, the word "*principle*" should be "*principal*."

Attorney Mathews said that on Page 24-4 regarding Home Occupations there is a significant problem with the language in the Ordinance as written pertaining to vehicular traffic that is vague. Mr. Rosoff recommended adding a specific number of trips per day, such as "*10 business related trips per day is considered insignificant.*"

Mayor Hooker asked for a vote on the changes.

VOTE: Lopez, aye; Siegel, aye; Rembe, aye; Rael, aye. The motion carried unanimously.

6. NEW BUSINESS

A. Approval to Advertise Amendment to the Personnel Ordinance (Chapter 21 of the Codified Ordinance).

MOTION: Trustee Lopez moved to advertise the personnel ordinance. **Trustee Siegel** seconded the motion.

Mayor Hooker stated asked if on Page 10, Line 18 regarding demotion and the reference to a pre-demotion hearing that should be a pre-determination hearing. On Line 50, where it talks about "formal provisions have been made to resolve difficult problems" and he couldn't find those formal provisions. (add a reference to Section K - Grievance and Appeals Process)

Administrator Rosoff said it should be pre-determination. The formal provisions are the

grievance and appeal procedure on Page 14.

On Page 3, Line 4 add "*subject to review by the Board of Trustees*". On Page 11, the heading at the top of the page should be "*Section 16*, not *15*." On Page 24, Line 6, the sentence that starts on Line 5 should read "*participation is on a voluntary basis and the employee may join or withdraw from the plan at any time of open enrollment.*"

MOTION: Trustee Rembe moved to advertise the ordinance in summary. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously.

B. Approval for Recommendation for Selection of Village Auditor.

Deferred under Item 1(A).

C. Approval to Advertise Amendment to Administration Ordinance (Chapter 1 of the Codified Ordinance.)

MOTION: Trustee Lopez moved to approval to advertise the ordinance. **Trustee Siegel** seconded the motion.

VOTE: The motion carried unanimously.

7. Financial Business

A. Cash Report - April

Treasurer Leatherwood reported that receipts for April were \$258,362.00 expenses were \$137,452 leaving an excess this month of \$120,000. The actual cash increases were \$112,000 and year to date cash increased \$93,000. He said this was a very good month in terms of cash receipts, but next month might not be as good.

MOTION: Trustee Siegel moved to approve the report and to pay all bills. **Trustee Rael** seconded the motion.

VOTE: The motion carried unanimously.

B. Discussion and Approval of the Preliminary 2003-2004 FY Annual Budget.

Trustee Lopez asked if capital improvement also included playground equipment and turf care.

Administrator Rosoff stated that there is a budgeted amount for a commercial business like Chem Lawn for help with the park. We didn't spend any this year since their bid came in considerably higher than what was budgeted and we didn't include that in the budget next year.

Trustee Siegel asked about the administrative fee for the Sheriff's Department. He also asked what services the Village received from the County since we pay taxes, and we pay for our own law protection.

There was a long discussion on what the Village gets for the taxes that they pay to the County.

Administrator Rosoff pointed out the typos in the proposed budget.

MOTION: Trustee Rembe moved to approve the preliminary budget. **Trustee Siegel** seconded the motion.

VOTE: The motion carried unanimously.

8. REPORTS

A. Mayor's Report - none.

B. Administrator's Report

Administrator Rosoff stated that Karen Jacobsen has been asked to make a report on all the public works things that are going on under the Engineer's Report. He said he met with Karen and Craig Watts on the signals for 4th Street. The proposals are in for the auditors and the audit report will probably be released sometime in June.

C. Attorney's Report

Attorney Mathews reported that a lot of my time this month has been taken up with Planning & Zoning. He said Mr. Contreras's plan was approved with a few added conditions at the P&Z meeting. There were setback variances requested and they were all denied. He feels certain that at least one will be appealed and probably both will be appealed. The Planning and Zoning Commission makes a final decision on variances so it comes to the Board of Trustees on an appeal. He said he would suggest that these appeals be handled as a true appeal. The Board will get a transcript from the P&Z meeting, and read what every person has said. He further stated that witnesses couldn't be added, either you can hear this whole case again or you can make a decision based upon the record. Everyone that appeared at Planning & Zoning meeting will be available to answer questions, but it is not necessary on these appeals that you have an entire new hearing because it's not a recommendation. We have a Planning and Zoning Commission, but they are very literal and they apply the zoning ordinance very strictly. We can speed these appeals along if you don't make everybody retestify and restate what they said before. He also answered a great deal of discovery in the John Aragon case and he is sending out discovery, interrogatories and requests for admissions. He said he is willing to act as agent for service of

process for the Main Street. The Sanchez case is waiting for decision. The lawsuit on J&J Mobile Home Park is being dropped because it is being sold.

D. Planner's Report

Planner Tidwell stated that the Planning & Zoning Commission would be forwarding their recommendation for approval of the site development plan of the Mike Contreras project. She said there are some adjustments in the figures for variance requests because of the taking of property from the Osuna and 4th Street sides for road improvements. The concerns of both the Planning & Zoning Commission and the public were explained.

Attorney Mathews said he wanted to add to Cyndie's report that Mr. Contreras would like to, instead of dedicating open space to the Village, to pay the Village instead. He advised the Planning and Zoning Commission that was a policy decision for the Board. The other comment that was received from the audience were the same comments on deed restrictions, and answered their questions, and again, a lot of comments about traffic.

Planner Tidwell said that some other items of interest might be that they have received two applications that the P&Z Commission will hear at their June meeting for cluster housing, density bonus and housing developments, one on Rio Grande Blvd. and another on 4th Street.

E. Fire Department Report

Administrator Rosoff reported that one firefighter currently cannot work and a temporary position is being advertised.

F. Engineer's Report

Karen Jacobsen reported that she has nine projects that she is working on; Horizon Academy, the sketches, parking lot resurfacing, traffic signals, park irrigation, drainage issues, traffic calming, parks planning master planning. There was also a discussion on a bike trail.

Administrator Rosoff mentioned that the Larkin Group was preparing their cost proposal that goes with having been selected as our 4th Street Engineer. A contract will be presented for Board approval at one of the June meetings.

G. Trustee's Informal Discussion - none

H. Adjournment

MOTION: Trustee Lopez moved to adjourn at 10:25 p.m. **Trustee Rembe** 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 _____ 2003.

ATTEST:

Annabelle Silvas, CMC
Village Clerk