

MINUTES
Village of Los Ranchos
6718 Rio Grande Blvd NW
REGULAR MEETING
AUGUST 28, 2002 - 7:00 p.m.

Present:

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

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

Absent:

Pablo Rael, Trustee

1. CALL TO ORDER

The Village of Los Ranchos Governing Body held a Regular Meeting on Wednesday, August 28, 2002, in the Warren J. Gray Hall. The meeting was called to order at 7:00 p.m.

A. Approval of Agenda

Mayor Hooker asked if agenda item 1.C could be moved up.

Motion: Trustee Lopez moved approval of the agenda with the suggested change by the Mayor to move item 1.C as item 1.B. **Trustee Rembe** seconded the motion.

Vote: The motion carried unanimously.

B. Middle Rio Grande Conservancy District - Subhas Shah

Subhas Shah Chief Engineer of the Middle Rio Grande Conservancy District, reported on the water usage and what can be expected in the next year and near future. He said the district has worked with the City of Albuquerque, and that the conservancy has made an agreement with the City to borrow water so that the season could be extended. He said that the conservancy has borrowed 70,000 feet of water that would be paid back in fifteen years, and would last until next month. He said that this is the lowest that he has seen in history, no water coming in, and it does not look good. He further stated that they are working with the State Engineers office to see what can be done. He said that all the farmers will be given water equally this year and the next.

C. NM Main Street Report - Mary Ellen Hennessey

Mary Ellen Hennessey reported on the activities that were held in the Village these past few days. She said that there was an intense study of a resource team visit, and that the reason for this visit was that an application for the MainStreet Program had been received from the Village. She said that the

team saw a considerable capacity of planning efforts in this community. She said that the multi-disciplinary team includes the staff of the NM MainStreet, Susan Fried; MainStreet program architect, Keith Chelstrom; program associate, an out of town guest; Linda Donovan Harper; Phyllis Taylor, who is with Site Southwest, and also thanked Trish and Lee Smith who hosted the MainStreet team at the Adobe Bed & Breakfast. She said that they interviewed approximately 35 people, looked closely at the physical character of 4th Street, and reviewed the existing plans. She said a detailed report of their findings and their recommendations for implementing a MainStreet program will be provided to the Village. She said NM MainStreet would be back upon invitation to conduct public forums as needed to educate and build support in the community for the program.

Linda Donovan Harper reported that her role was to look at the community as an outsider for the potential of creating a MainStreet, and the various roles that people might take as a part of that Main Street program. She said that there is great potential in the Village, but it will not be easy because this district is big, long, diverse, messy in some places, and not the typical MainStreet community. She said there are enough potential resources, and the timing is right that a very creative and inspiring MainStreet program can be done.

She also reported that there were lot's of people that were interviewed and was informed of what was important to the Village. She said building relationships was an important part of what is viewed as part of MainStreet, which is basically the relationship between the residential community and business community. Other items of information learned were retaining existing businesses and strengthening those businesses, beautification of what is in existence, creating a commercial area that was pretty place and a place you could drive down and be proud of. She said they also were informed that a greater and stronger business community on the practical side increases the gross tax receipts, which allows the government to be stronger, and provide better services to all of its citizens in this community.

She said that MainStreet provides eight guiding principles that will provide the base and the foundation from which to work with. She said those eight principles are comprehensive; assets; Incremental; quality; self-help; change; partnership; and implementation. It also deals with economic restructuring, design and organization and it encourages the use of all those things in the long-term vision. She said that MainStreet allows you to take pieces, and build on them year after and you get what you want.

She said that they recommend a non-profit 501 C 3 Organization. She said that in the next six months there needs to be a steering committee of twelve people who can put this together, create the excitement and the momentum, secure the funding, finalize all the details and documents and determine what that structure is going to look like. She said the first thing that the organization will do as a new board is determine what the job description looks like, and solicit and hire a program manager.

Mayor Hooker recessed the meeting at 7:50 and reconvened the meeting at 8:05 p.m.

2. PUBLIC COMMENT PERIOD

Leo Bartolucci reported that the Hoe Down will be held on October 5th and that the original location has been changed from Dan's Boot's and Saddles to Hacienda Home Center, because of the additional parking. He asked for approval from the board to have rope string lighting and rotating lights for that night only.

Trustee Siegel stated that he would be amenable to the use of the rotating lights for the hoe down, because for this type of situation, there can be an exception.

Mr. Bartolucci also asked about the budget item of \$500.00 that was asked for this hoe down from the Village.

Treasurer Leatherwood stated that he does not see a problem with the Village donating that amount.

Attorney Mathews stated that he would donate \$100.00.

Mike Contreras stated that the business association did donate \$1,000 to the hoe down.

Trustee Siegel reported on the 4th Street situation. He stated that he is frustrated from the slow pace of the mediation efforts. He said the Village is up against a time line in getting the funding and would hate to see the funding for the project lost. He said he wanted to do something to heal some of the divisiveness this project has caused over the years. He said that he and the Mayor had a meeting with two well known 3 lane opponents last Tuesday, and have come to an agreement to build the southern portion, and agreed to drop their opposition to the southern portion of the project from Schulte South. He said it clears away some of the opposition, and helps the Village go into this project in a more unified way. He said It had nothing to do with the lawsuit or with anything else, and this was just some people meeting trying to put aside differences and come to a consensus. Additionally, we are going to try do something about the drainage, and allocate some funding along with some AMAFCA funding for a drainage project along the northern part of the street and do some intersection improvements on Pueblo Solano at Ranchitos and at Los Ranchos Road. He said what is left to negotiate is what is going to happen to the northern portion of the road.

He said if the Village wants to significantly alter the planned layout of the road, it may require another environmental assessment hearing. He said he had a conversation with a member of Council of Governments and he was told that if the EA was changed a third time, the funding would probably be lost, because there are other people who have been eyeing this funding i.e., the City of Albuquerque.

He said that basically this clears the way to go ahead with building the southern portion, and then negotiate or mediate on the northern portion. He said he would like to thank the people that they met with and that it was a very productive meeting.

Trustee Lopez asked if something could be put in writing so that there is some type of record.

3. CONSENT AGENDA

- A. **Approval of Minutes - Regular Meeting -August 14, 2002**
- B. **Home Occupation Renewal - Mental Health Counseling- John F. Schooley/Barry Wood - 824 La Senda NW**

Trustee Siegel made the following corrections to the August 14, 2002 minutes:

- (1) Page 2, line 33 change the word "bias" to "biased".
- (2) Page 2, line 36 he would like to clarify that he stated that he protested a Home Occupation license and he lost it and that is not mentioned in the minutes. It was issued and he had opposed it and

he lost and again the word "bias" has to be changed to "biased."

- (3) Page 4, line 48 his discussion about the mediation process, he wanted something in there to be stated that he opposed the further intents to mediate along these lines that was the main idea he was trying to communicate and did not seem to get in the minutes.
- (4) Page 6, line 37 he never stated that Mr. Subhas Shah was going to deny water. What he stated was that an employee of the Middle Rio Grande Conservancy District told him this and he never named the employee, and certainly was not Mr. Shah.
- (5) Page 6, line 38, the word "by weekly" should be changed to "bi weekly"
- (6) Page 6, line 38, the word "water" should be inserted after the word "that".

Attorney Mathews made a correction on Page 5, line 17, change "public" to "public roadways"

Motion: Trustee Lopez moved approval of the consent agenda with the corrections Trustee Siegel and Attorney Mathews stated to the minutes. **Trustee Rembe** seconded the motion.

4. PUBLIC HEARINGS AND APPLICATIONS

A. Discussion and Approval of Home Occupation Renewal Request - Daniel J. Andrade dba "Los Ranchos Fence Company" - 321 Enchanted Valley NW - DEFERRED FROM THE AUGUST 14, 2002 PUBLIC HEARING.

The Village Clerk swore in all members of the audience who would be testifying under items A and B.

Trustee Lopez moved not to approve, but to give the Los Ranchos Fence Company six weeks to show good faith, and continue their effort to come in to compliance with the Home Occupation Ordinance, and that the staff work with them so that they understand exactly what it is they have to do to come into compliance.

Trustee Siegel stated that the motion stated by Trustee Lopez sounds like the motion is to deny pending that the applicant comes into compliance with the Home Occupation Ordinance within six weeks.

Trustee Lopez stated that is correct.

Trustee Siegel seconded the motion.

Planner Tidwell stated that the Board had asked that PNM be contacted regarding Mr. Thurgoods concern of power surges. She said she did contact PNM as well as the Village Engineer Karen Jacobsen. She said that PNM prefers to work directly with the property owner. She said the storage of most of the material is on a piece of residential property that is not part of the residence where Mr. Andrade is.

Attorney Mathews stated that he is interpreting the motion that he will not have to file a prosecution until the time period has elapsed.

Trustee Lopez stated that is the basic purpose of his motion. It is a way to solve this problem and give these applicants time to make faithful decisions on where they want to go.

Mayor Hooker clarified that this deadline would then be October 8, 2002.

Mrs. Andrade stated that they are willing to comply and will do this in good faith. She also stated that they feel they are not being able to live their lives in private, because there are always eyes watching them and feels very uncomfortable with this situation.

Mr. Thurgood stated that they have lived like this for over three years, and he does not understand why this is being deferred. He said it is unsafe and there has been power interruption that occurs when the welder is in use. He said he has spoken with PNM and they have indicated that the transformer which services the Andrade property to their property, and one other is not sufficient to allow operation of this type of equipment and that is why there is a power fluctuation. He said that Mr. Andrade has employees working on the property, so they also have privacy issues. He said the purpose of the ordinance is to allow people to be neighbors and when the law is not complied with, it is hard to be neighbors. It is time for the Village to enforce the laws that they have.

Trustee Rembe asked if the motion means that all the welding stops.

Trustee Lopez stated that the law will be complied with, and all they are being given is six weeks to comply with the Home Occupation Ordinance. He said that this problem came to him two weeks ago and did not know about any of these issues prior to this.

Trustee Siegel asked if at the end of six weeks he would then have to re-apply once, he has met the conditions of the ordinance. He would then have to demonstrate in his application that he has complied with all aspects of the ordinance. There is some protection there if he has not done this in six weeks he will not have a Home Occupation permit.

Planner Tidwell informed the Board that if the Board is asking for the Andrade Home Occupation renewal to be placed on the board agenda again at the October 8 deadline, and if that is the implication, it is a brand new Home Occupation license that would go before the P & Z Commission.

Mrs. Andrade asked if this means that the business cannot run?

Trustee Lopez stated no, but he is hoping that there will be compliance.

Vote: The motion carried with Trustee Rembe opposing.

B. A request by Patricia Rempen to appeal the denial of her request to allow for a variance to the side yard setback to allow 5 feet where 10 feet is permitted and a Variance to the rear yard setback to allow 5 feet where 25 feet is permitted in the A-1 Zone. The property is located at 7609 Guadalupe Trail NW and legally known as A certain Tract of Land situated in Section Twenty (20), Township 11 North, Range 3 East, N.M.P.M. This parcel contains approximately .24 of an acre. The Planning and Zoning Commission denied the request at there Regular Meeting held on July 23, 2002.

Attorney Mathews stated that the issue to be determined is whether a pool is a structure. He said there are certain rules for statutory construction that have arisen through case law and that is how he arrived to his conclusion. He said he read the definition of a "structure" and it is his opinion that the pool was not a structure. He said the court would defer to the Village's interpretation of the Village Ordinance. He further stated that after reading the transcript, the shed is really the issue rather than the pool.

Trustee Siegel asked if there was any case law regarding water leaving the pool.

Attorney Mathews stated that there is a case law established by *Budagher vs. Amrep* that water generated on your property must be contained upon the property. He also said that the Village did pass a Water Management Ordinance that the Village could enforce this with. He stated that the Board needs to decide if the pool is a structure and then go forward with the appeal of the variance. If it is not a structure it does not fit within the setback.

Trustee Siegel stated that Attorney Mathews opinion was that a pool is not a structure and if this is the case, then the basis upon which P & Z Commission rejected this was not correct. He said that on the bases of the fact that the Planning & Zoning Commission was erroneous in their conclusion, and that the pool is a structure, he will have to overturn their decision. He said the other issue brought up was that the shed is a problem and that needs to be addressed separately because it is not germane to the pool.

Attorney Mathews stated that he thinks the shed is the problem, but that is not the subject tonight.

Trustee Siegel amended his motion to instruct staff to investigate the shed issue. If the shed is in violation of the Ordinance the staff is to work out a solution for that problem. In terms of the pool regardless of what may or may not be argued in front of us, if the opinion is that a pool is not a structure then there is not much for the Board to decide.

Motion: Trustee Siegel moved to overturn the decision of the Planning & Zoning Commission. **Trustee Lopez** seconded the motion.

Mayor Hooker stated that this essentially grants them permission to build the pool to the setbacks lines that they requested.

Trustee Rembe stated that she feels it is a structure in addition to it being a small piece of property, and the pool will fillup the rest of the property.

Trustee Siegel stated that he agrees, but the Ordinance has to be changed to do this, and at this time, we have to work with the ordinance we now have.

Trustee Siegel amended his motion to remand this to the Planning & Zoning Commission to deal with the wall issue as part of the variance.

Attorney Mathews stated that the applicants could be instructed to apply for a wall variance, and that the P & Z Commission could look at the shed issue.

Trustee Rembe asked why Planner Tidwell is stating in her report that the pool is considered a "structure" under the Uniform Building Code and Attorney Mathews is stating that it is not.

Attorney Mathews stated that he cannot consider the Uniform Building Code definition because the Village zoning ordinance has a different definition, and he cannot use the UBC when it has a different definition than the Village ordinance.

Trustee Siegel stated that he is going to stick to his original motion to overturn the decision of the Planning & Zoning Commission based on the incorrect interpretation of a pool being a structure. In that case, the applicants did not have to seek a variance if the pool is not a structure. The issue of the shed can be dealt with because there is already a violation of the zoning code.

Ms. Rempen stated that in her research of Village pool records there were pool permits issued that were within five feet of a structure, and that this has been an issue in the past in the Village. She said

she is trying to work with the neighbors and would like to work with a mediator that the Village suggests.

Ms. Noskin stated that she lives west of this property. She asked why this has to go before the Planning & Zoning Commission for approval and then it comes back to this Governing Body and is overturned?

Trustee Siegel explained that there is a right to appeal and if they think the decision was incorrect, they have a chance to appeal this to the Board of Trustees, which is a higher level.

Vote: The motion carried unanimously.

5. **OLD BUSINESS**

There was no old business discussion.

6. **FINANCIAL BUSINESS**

A. **Cash Report - July**

Treasurer Leatherwood reported that the receipts for the month were \$169,713, which includes \$48,000 for the fire allotment that was received.

Motion: Trustee Lopez moved approval of the cash report and to pay all bills. **Trustee Siegel** seconded the motion.

Vote: The motion carried unanimously.

7. **REPORTS**

A. **Mayor's Report**

Mayor Hooker reported that the Village would have to deal with the drought conditions soon. He said that the City of Albuquerque would start restricting water next year, but does not know how it would apply to Village consumers. He thanked Ms. Tidwell and Ron Casias the new zoning code enforcement officer for their prioritization of their efforts. He also reported that "mastiff dogs" had escaped and killed a dog, and he will meet with the owner tomorrow. He also reported that the Alameda Little League is committing to reach an agreement with the City on the Mechenbier property and they have dropped any intent to develop any fields in the Village. He also reported that he has scheduled a meeting on September 4th at 3:00 p.m. for the Board of Trustees with Albuquerque Tribune editorial board and will be posted as a meeting of the Board. He said that no actions would be taken by the Board. He also reported that Administrator Rosoff has been given doctors permission to work part time for a two week trial. He thanked the efforts of Edna Fowler for her volunteer work. He also asked that property owners in the Village vote on September 17th against the initiative to dissolve soil and water conservation service.

B. **Administrator's Report**

There was no Administrator's Report.

C. Legal Report

Attorney Mathews reported that there is a temporary restraining order closing down the home at 500 Garduno that had a methamphetamin manufacturing facility, and will be heard by Judge Scott on September 6th. He also reported that the Heartland Farms controversy is creating a lot of contention in the community. He said that this issue was continued and was not heard by the Planning & Zoning Commission because the applicants were not present.

D. Planner's Report

Planner Tidwell reported that a resident came to the Planning & Zoning Commission meeting and reported that "mastiff dogs" attacked and killed a dog and also attacked a resident in his car. She said that the Animal Control Officer was called to pick up the dogs, but they ran back to their property. He was not able to find the dead dog, and that the property in question is 6771 Guadalupe. She also reported that the Code Enforcer has requested that Mr. Carrasco remove landscape materials from the public right-of-way. When Mr. Carrasco was asked to do this, he responded with, " take me to court." She also reported that she met with the new Code Enforcement Officer and prioritized what roads to start with, and it was decided to start on Garduno Road. She said every resident received the same letter on violations, Mr. Casias hand-delivered this letter to each resident, and most of them were very happy that he was doing this. She said that the next street that will be looked into is Willow Road, which is another one that is rapidly deteriorating.

E. Fire Dept. Report

There was no Fire Report.

F. Engineer Report

Mayor Hooker reported that the engineer's report has been provided to the Board and that they have provided engineers estimates for the french drains.

8. TRUSTEES INFORMAL DISCUSSION

There was no Trustees Informal Discussion.

9. ADJOURNMENT

Motion: Trustee Rembe moved to adjourn the meeting at 10: 25 p.m. **Trustee Siegel** 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, CMC
Village Clerk