

# MINUTES

VILLAGE OF LOS RANCHOS de ALBUQUERQUE  
6718 RIO GRANDE BOULEVARD N.W.  
BOARD OF TRUSTEES REGULAR MEETING

**November 9, 2005 - 7:00 P.M.**

**Present:**

Larry P. Abraham, Mayor

Pablo R. Rael, Trustee

Mary E. Homan, Trustee

Tim McDonough, Trustee

Juan R. Vigil, Administrator

Annabelle Silvas, Clerk

Terry Nighbert, P&Z Director

Nancy Haines, Treasurer

Sherry Tippett, Attorney

George Dahl, Fire Chief

**Absent:**

Donald T. Lopez, Trustee/Mayor Pro-Tem (Excused)

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

The Village of Los Ranchos' Governing Body held its Regular Meeting on Wednesday, November 9, 2005 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:02 p.m.

**Mayor Abraham** read the statement of closed meeting and asked for a motion.

**MAYOR ABRAHAM STATED THAT THE BOARD OF TRUSTEES HELD A CLOSED MEETING AT 6:15 P.M., NOVEMBER 9, 2005, FOR THE PRESENTATION AND DISCUSSION OF THE INDEPENDENT AUDITOR'S REPORT OF THE FINANCIAL STATEMENT FOR THE YEAR ENDING JUNE 30, 2005, AND ONLY THE ITEMS DESCRIBED IN THE NOTICE REGARDING THE FINANCIAL STATEMENT WERE DISCUSSED.**

**MOTION:** Trustee Homan moved approval of the Closed Meeting statement. Trustee Rael seconded the motion.

**VOTE:** The motion carried unanimously 2-0, Trustee McDonough abstained.

**A. APPROVAL OF AGENDA**

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

**VOTE:** The motion carried unanimously 3-0.

**2. PUBLIC COMMENT PERIOD**

**Mayor Abraham** said he invited David Welsh and Cynthia Wister Welsh to make a presentation tonight. They are the artists exhibiting artwork in Village Hall this month.

He said it shows what talented residents live in the Village and their paintings are unbelievably beautiful.

**David Welsh** said that he and his wife, Cynthia, have been residents of the Village for 9 years. He said they lived in Pennsylvania for a long time before that. He said they used to travel to New Mexico to paint and after a while they decided to live the dream and move to New Mexico. He said the show is a mixture of both their works.

**David Siegel** said on behalf of everyone who lives on the east side of the Village, he would like to thank the administration for the speed boards that were recently placed on Fourth Street and he believes they really helped. He said he also noticed that some of the businesses have been cleaned up. He said he mainly wanted to speak about open space in the Guadalupe Character Area. He indicated that the Village is actively purchasing land to preserve open space, but he doesn't think that will be a viable way to preserve the small triapia lots that are still open and in some kind of agricultural use. He suggested a density bonus for cluster housing.

### 3. CONSENT AGENDA

#### A. MINUTES – REGULAR MEETING –OCTOBER 12, 2005

**Trustee Homan** asked for a verification on the October 12, 2005 Minutes on page 3, line 8, where it states that Los Ranchos de Albuquerque being listed in the *Albuquerque Magazine* as “number 32” or was the quote that we were the 33<sup>rd</sup> largest?

**Mayor Abraham** responded that we were listed as number 32 as the 33<sup>rd</sup> largest municipality and the reference is okay as written.

**Trustee Homan** made the following corrections to the minutes: page 10, line 32, and said “ac” should be capitalized because it is an acronym; page 10, line 35, and suggested that “loosing” should be changed to “maintaining”.

#### B. DEPARTMENT AND COMMITTEE REPORTS

1. LAW ENFORCEMENT/BCSD
2. FIRE
3. ANIMAL CONTROL

**MOTION:** Trustee Rael moved approval of the Consent Agenda with the corrections stated to the minutes. Trustee McDonough seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

### 4. REPORTS

#### A. MAYOR'S REPORT

**Mayor Abraham** reported that:

- He welcomed Rosemary Hall as the new Executive Secretary to the Mayor and Administrator Vigil.
- They had an all-day retreat on Saturday, November 5. He said they discussed every topic from Ordinances to Open Space and received direction and a good understanding of what is happening.
- Regarding the San Juan Chama Project, he met with Boyle Engineering and Eb King and they are starting to work on the pipeline which will come from Alameda and the River, south along the clear ditch and east along the northern side of Paseo. He said Boyle Engineering is trying to keep the Village a little better informed.
- He and Administrator Vigil met with Janice McCrary, Governmental Affairs Director, Metropolitan Board of Realtors®. He said they discussed the permitting process. He said he believes the process is working well and we have permitted 16 or 17 realtors in the first week or so.
- An update on Al Unser, Sr., who was operated on in Denver, Colorado, today. He said the reports are that Mr. Unser is doing okay and our thoughts are with him.

## **B. ADMINISTRATOR'S REPORT**

**Administrator Vigil** reported that an update on the San Juan Chama project will be given by Boyle Engineering and the Water Authority staff at the December 7th Board of Trustees meeting.

He said he has contacted our State Legislators about street improvements and there is approximately \$80,000 of Department of Transportation Co-Op funding.

He reported that today he and Arturo Andujo, the Animal Control Officer, went to look at an animal control vehicle that is being prepared for the City of Las Cruces.

He has scheduled meetings with three of the companies who did not bid on the Fourth Street Project.

He reported that he continues to work with the Trust for Public Land on the survey of Village residents concerning their perspectives on open space. He said he hopes to have a survey instrument for Board review at the December meeting and authority to proceed with a contract with Research and Polling who was the low bidder on the survey.

He said he believes they had a very successful retreat and he and staff have been discussing follow up on the issues where they received direction from the Board.

**C. PLANNER'S REPORT**

**Planner Nighbert** reported that the Planning Department initiated the Parcel Permit Ordinance and began issuance of the permits which included an affidavit pledging to report their gross receipts taxes for the sales in the Village of all contractors, realtors and remodeling contractors. He said that so far they have issued 19 permits.

He said he has been involved in the Fourth Street project bidding and working to find additional funding for the project. He said the department sent out 164 reminder letters that Home Occupation Licenses are to be renewed before the end of the year and that Business Licenses must be renewed beginning next year.

Regarding the Maddox/Lovato barn, he said they received the soils report and it contained some special requirements for engineered soil fill.

**D. LEGAL REPORT**

**Attorney Tippett** reported that she has been working on a couple condemnation actions that have been filed in concert with the Fourth Street project. She said the condemnations will become active soon. She indicated that she has been following up on the retreat regarding research on the Ordinances.

**E. FIRE DEPT. REPORT**

**Chief Dahl** reported that in October 2005 they responded to 68 calls for service. He said they accepted 11 cadets into their probationary volunteer firefighter training program and one of their projects was the painting of the Village's fire hydrants.

He said they have entered into a joint venture with the Technical Vocational Institute (TVI) to train their volunteer firefighters for a fee of \$40.

He said that Lt. Mark Hossom was chosen as the Hero of the Year by the Greater Albuquerque Chamber of Commerce. Chief Dahl invited Lt. Hossom to stand and be recognized.

He also reported that the department participated in the Horizon School Harvest Festival and the Growers' Market on Saturdays in October.

**5. FINANCIAL BUSINESS**

**A. CASH REPORT – OCTOBER**

**Treasurer Haines** reported that the ending cash balance as of October 31 was \$2,424,194 and for October the excess revenues over expenditures were \$395,463. She said there is a year-to-date deficit of \$99,217. She indicated the October excess was primarily due to receiving the State reimbursement of \$467,000 for the Fourth Street right of way purchases. She reported an additional \$33,500 will be coming in November.

**MOTION:** Trustee Homan moved approval of the Cash Report as presented. Trustee McDonough seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

## **6. PUBLIC HEARINGS AND APPLICATIONS**

*Attorney Sherry Tippett swore in those desiring to testify on Items 6.A thru 6.E.*

**A. A REQUEST BY THOMAS CREGO FOR A SITE DEVELOPMENT PLAN FOR FACILITY EXPANSION OVER 20% BY CINGULAR WIRELESS. THE PROPERTY IS LOCATED AT 8601 4<sup>TH</sup> STREET NW. THIS PROPERTY IS LEGALLY KNOWN AS LOT NUMBERED 1-A IN BLOCK NUMBERED 1 OF LANDMARK ESTATE, BEING A REPLAT OF LOTS 1 AND 2, BLOCK 1, OF LANDMARK ESTATES, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON MAY 10, 1984 IN PLAT BOOK B20, FOLIO 164. THE PROPERTY CONTAINS APPROXIMATELY .63 ACRES. DEFERRED FROM THE OCTOBER 12, 2005 MEETING.**

**Planner Nighbert** stated that the Planning Commission recommends approval of the Site Development Plan with the provisions that the grading and drainage plan be approved by a Village-designated engineer and off-street parking on Crego Roofing property be required for visitors and technicians working on the tower. He said the report has seven recommended conditions:

1. Accessibility to the property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe. The site is enclosed and protected from encroachment by a 6 foot high chain link fence around the equipment shelter and tower. A gate will provide vehicular access to the enclosure.
2. Off-street parking and loading areas are required, with particular attention to the refuse and service areas. The parking for technicians that work on the equipment should only be through the Crego property and not off of Calle Del Pajarito. Any refuse generated from the use of the site should be placed in the dumpster on the larger commercial property or taken off site by the technicians and disposed of according to the regulations governing industrial materials.
3. Water and liquid waste facilities. The equipment shelters do not have restrooms that would require water and sewer service connections to the structures.
4. On-site drainage and storm water runoff. The site is located in Flood Zone X and does not require any special finished floor height, however a drainage plan to show

how the storm water will be isolated on site will be required for review by the Village designated Engineer.

5. The noise, glare, or odor effects of the proposed use on adjoining properties are minimal. The visual affects of the tower and an additional large array of antenna at 42 feet above the ground is detrimental to the neighborhood. The economic impacts of this tower on the neighborhood property values would need to be determined by a market study and are not required in the general scope of the Zone Code. The service to cellular customers in the Village limits is minimal, since the added coverage of the new antenna is mainly provided to those customers traveling on Paseo Del Norte. The coverage map contained in the application for the tower does have some coverage for the Village.
6. Health and safety concerns of the tower site are minor, since the structural report indicates the tower able to safely accommodate the added antenna. The signals broadcast from the tower have not had inclusive studies that state any special health concerns.
7. A landscaping plan is not applicable to this expansion, since it is contained within the larger site and behind a solid fence.

He said at the last meeting there were some questions on the amount of coverage that was to be given in the Village from the new antenna collocation on the tower.

**Kim Wood**, with Wireless Facilities Inc and an agent for Cingular Wireless, said Cingular would like to place their antennas at 42 feet on this tower, optimal coverage with this height could not be had unless they went to 65 feet and that is why the Village of Los Ranchos is not fully covered. She said that in order for Cingular to have full coverage, they would need to have a 65-foot tower in the Village. She said the height of the trees in this area is a problem.

**Mayor Abraham** asked if the antennas are directed toward the Village. He also wanted to know if they are pointed throughout the Village or if they were pointed up and down Paseo.

**Kim Wood** responded that the antennas are pointed at the Village. She said they have a full sector of antennas.

**Mayor Abraham** asked if the diagram he was given indicates that the signal was absorbed by the trees.

**Kim Wood** responded that the signal is being absorbed by the trees.

**Mayor Abraham** asked if there was any way to raise the antenna to 65 feet.

**Kim Wood** responded that they could not go to 65 feet because there are existing carriers on the tower.

**Planner Nighbert** stated that Cingular is the fourth carrier on the tower and it represents the lowest position on the tower.

**Mayor Abraham** asked Ms. Wood if it was her testimony that the antennas are pointed up and down Fourth Street.

**Kim Wood** responded that “yes” we do have a full array of antennas on this site.

**Chief Dahl** asked about Item 2, the E-911 notification system and the statement that Los Ranchos is not a recognized E-911 public service access point. He said the Village is part of the Bernalillo County system and if a call is placed by cellular phone, it would go to Bernalillo County Emergency Services. He said we are part of that system and it should be a part of the coverage area.

**Kim Wood** stated that the Village Fire Department is not recognized in their system. She said they recognize Bernalillo County, but they do not recognize the Village as its own public service access entity.

**Trustee McDonough** said the exhibit showed two directional, opposing areas of coverage and asked if that was an accurate reflection for a full array of antennas.

**Kim Wood** responded that the exhibit was an accurate reflection and was made up by their Cingular Engineer, Robert Weir. She indicated that the only way to get full coverage would be to have a connecting tower.

**Trustee Homan** questioned why the Village would get east-west coverage and not north-south coverage.

**Kim Wood** responded that the way the antennas are positioned with adjoining towers on either side is what is causing more coverage on one side. She said there are no towers on the other two sides which could offer the Village optimum coverage.

**Trustee McDonough** asked if the exhibit was showing coverage between this tower and other towers.

**Kim Wood** said the exhibit shows what this tower will offer from this tower only and then once the adjoining towers come in, it will offer more coverage.

**Mayor Abraham** asked which two towers she was describing.

**Kim Wood** responded that there is one on Fourth Street around Montgomery which she thinks is a T-Mobile tower.

**Trustee Homan** commented that that would be south and by Ms. Woods’ logic, she would expect us to have southern coverage.

**Kim Wood** responded that she is not aware of any other towers that would connect to the Village at this point. She offered to get new propagation maps with the future towers shown. She said that since they are the last carrier to come in, it would take awhile to locate other towers.

**Trustee McDonough** said he would like to see an exhibit that shows all the coverage being discussed.

**Kim Wood** said the exhibit only shows the tower at 42 feet and the coverage it will offer the Village.

**Trustee Homan** said she was going back to her original question: Why does it show east-west coverage?

**Kim Wood** indicated it was because the signals come straight through to this particular tower and she is not aware of the other towers.

**Trustee McDonough** asked if it was possible that the other towers were covering more area than shown on the exhibit for north-south.

**Kim Wood** said it was possible.

**Trustee McDonough** asked if she could show the Board that coverage at another date.

**Kim Wood** asked if they could offer as a condition of approval that they show the propagation map to the Board.

**Mayor Abraham** said he believes they would be doing a disservice to the residents and businesses to allow a tower that only looks like it is giving service up and down Paseo and it will put more pressure on our Fire Department because of E-911. He said he believes the residents deserve to have coverage if they must put up with towers. He said he does not understand why the Village cannot have 360 degree coverage.

**Kim Wood** responded that the height really is the factor at this point.

**Mayor Abraham** said he does not understand why there cannot be service on Fourth Street since there are no trees to interfere. He said he does not see the difference between Paseo and Fourth Street, other than the money is servicing the vehicles on Paseo and not the residents of Los Ranchos. He said he thinks the Board would like to see a map of all the surrounding cell sites and show why the Village cannot have better coverage.

**Kim Wood** said there would need to be a tower inside the Village in order to offer optimal coverage.

**Mayor Abraham** commented that what he is understanding is that the north-south area on Fourth Street will not have Cingular service, so anyone with a Cingular phone would have their call sent to Albuquerque.

**Kim Wood** indicated that the RF engineer chooses which E-911 service access point the cell phone tower dispatches to, so they would be the ones to choose which E-911 service access point it goes to.

**Mayor Abraham** said if a cell phone is sitting somewhere on Fourth Street south of this tower, they will not be able to make the call or it will originate from an Albuquerque cell tower. He said they want the call to originate from a Los Ranchos cell tower. He then requested that the Cingular RF Engineer come before the Board of Trustees and tell them where the other towers are and if their concerns can be met. He said he believes they need to hear it from the RF Engineer why they cannot have coverage on Fourth Street.

**Kim Wood** responded that they could do that.

**Mayor Abraham** said he thought it was clear from the prior Board meeting that they deferred the item to this meeting so they could get more information. He said they need an RF Engineer, to see the other cell sites and see the exact coverage the Village is getting and they really want this tower to serve the Village on a north-south corridor. He also said the Board would be negligent if they did not get the residents service because that is what the Wireless Communications Act is about.

**Kim Wood** responded that the Village Ordinance did not state that they needed to include that information.

**MOTION:** Trustee McDonough moved to defer this item until the next Board of Trustees Regular Meeting on December 7, 2005 when they can meet with the RF Engineer and figure out why the Village cannot have full coverage from the tower. Trustee Rael seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

**B. A REQUEST BY TVSLR, LLC (KEITH BAIRD) APPROVAL OF SITE DEVELOPMENT PLAN FOR COMMERCIAL CONSTRUCTION OF PHASE II OF THE VILLAGE SHOPS AT LOS RANCHOS IN THE 4<sup>TH</sup> STREET COMMERCIAL CORRIDOR. THE PROPERTY IS LOCATED AT 6855 4<sup>TH</sup> STREET NW AND LEGALLY KNOWN AS LOT A AND LOT B LANDS OF FRESQUEZ BEING A REPLAT OF M.R.G.C.D. TRACT 188-A-3-B MAP NO. 27 AND TRACT 1-B LANDS OF FRESQUEZ SECTION 21, T. 11N.R.3E. NMPM VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO AS THE SAME IS SHOWN AND DESIGNATED ON THE MAP OF SAID SUBDIVISION, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON**

**OCTOBER 6, 2005, IN MAP BOOK 2005C. THE PARCEL CONTAINS APPROXIMATELY 2.404 ACRES.**

**Planner Nighbert** read his Planning Report (No. PZ-05-100) which indicated the Planning and Zoning Commission recommended the following:

1. The grading and drainage plan comments made by the Village designated Engineer are made a part of the approved conditions and built into the site.
2. The landscape plan meets all the requirements of the Village Landscaping Ordinance and shall be reviewed and approved by the Planning Director before a building permit is approved. This includes any special requirements imposed by the Planning and Zoning Commission for landscaping of the site.
3. The parking plan meets the requirements of the Off-Street Parking Regulations of the Zone Code, including a shared parking agreement for 11 spaces.
4. The free standing commercial sign meet the Village Sign Ordinance.
5. The exterior lighting on the site meet the Dark Skies Ordinance.
6. An operational plan providing hours of operation for all shops and the retail liquor sales and restaurants must be submitted for approval by the Board of Trustees.
7. A letter dedicating the eastern 7 feet or more of the property to the Village, if required, for the widening of Fourth Street.

**Michael Baird**, 106 E. Stella, Corrales, said that they plan the addition of three shops on the north side of the lot to go along with Phase I. He said it is 3300 sq. ft. on the front which is close to Fourth Street, the middle toward the back is 1200 sq. ft., and the back one has a 2340 sq. ft. residence above it and has been moved 15 feet off the back property line and has 2520 sq. ft. of retail space. He said they have two 16-inch deep ponds and in the back there is a third pond.

**Trustee McDonough** asked how they would make sure water got into the ponds if they have dirt and gravel roads.

**Michael Baird** responded that the road will be maintained and graded on a regular basis to make sure the levels and grades are correct. He said any rainfall off the buildings would go into gutters which are piped into the ponds.

**Trustee McDonough** asked if the grading and drainage plan had been reviewed.

**Planner Nighbert** responded that the grading plan had not been reviewed by a Village-designated engineer at this point in time. He said they are still in the process of retaining an engineer.

**Trustee Homan** asked how they would maintain the striping for the 66 parking spaces in the lot if they are going to be continually grading it.

**Michael Baird** responded that the parking spaces would be designated by bumpers on the crusher fines. He said the only spaces that would be striped would be the handicap spaces which would be concrete.

**Trustee Homan** referenced the letter of agreement with the adjoining property to the north allowing for a joint parking lot agreement. She said that it appears to be a temporary agreement, but does have a simple right of rescinding. She asked what they will do if the property to the north sells or is redeveloped.

**Michael Baird** said they would look to other neighbors to find more parking and it just happened to be this particular neighbor that they signed the agreement with.

**Proponents Testimony:**

**David Siegel**, 7014 Guadalupe Trail, said he believes it is a good proposal and that the Master Plan actually encourages having impervious paving and parking lot materials. He said his only concern is traffic. He said cars making left turns out of the business might pose a problem for people coming out of La Chamisal.

**Opponents**

None

**Public Comment Closed**

**Trustee McDonough** commented that he understands there is no operational plan for the site. He said he would like to see a more in-depth plan.

**MOTION: Trustee McDonough** moved to table this item.

**VOTE:** Motion died for lack of a second.

**MOTION:** Trustee Homan moved approval of the Site Development Plan for Phase II TVSLR with the conditions recommended above by Planning & Zoning with an additional condition that an operating plan be submitted. Trustee Rael seconded the motion.

**VOTE:** The motion carried 2-1, with Trustee McDonough voting no.

**C. A REQUEST BY DR. MARY MARK AND JAMES GLACKEN FOR A ZONE MAP AMENDMENT FROM C-1 COMMERCIAL TO R-2 RESIDENTIAL. THE PROPERTY IS LOCATED AT 423 BLEDSOE AND IS LEGALLY KNOWN AS LOT NO. THIRTY ONE (31) PUEBLO SOLANO, A SUBDIVISION OF A TRACT OF LAND IN SCHOOL DISTRICT NO. 4, BERNALILLO COUNTY, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE MAP OF SAID SUBDIVISION, FILED IN THE**

**OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON JUNE 20, 1941, IN MAP BOOK D, FOLIO 8. THE PARCEL CONTAINS APPROXIMATELY .784 ACRES.**

**D. A REQUEST BY DR. MARY MARK AND JAMES GLACKEN FOR A ZONE MAP AMENDMENT FROM C-1 COMMERCIAL TO R-2 RESIDENTIAL. THE PROPERTY IS LOCATED AT 427 BLEDSOE AND IS LEGALLY KNOWN AS ALL OF THAT PORTION OF LOT NUMBERED THIRTY TWO (32) WHICH LIES EAST OF THE STRUCTURE OF THE M.R.C.C.D., KNOWN AS THE RICE LATERAL OF PUEBLO SOLANO, A SUBDIVISION OF A TRACT OF LAND IN SCHOOL DISTRICT NO.4, BERNALILLO COUNTY, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE MAP OF SAID SUBDIVISION, FILED IN MAP BOOK D, FOLIO 8. THIS PARCEL CONTAINS APPROXIMATELY .345 ACRES.**

**Mayor Abraham** asked if the applicants were present.

**Planner Nighbert** responded that the applicants had been notified but were not present.

**MOTION:** Trustee Rael moved to defer these items to the December 7, 2005 Board of Trustees Meeting. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

**E. A REQUEST BY JAMES SHIVELEY FOR A PRELIMINARY PLAT FOR A MAJOR SUBDIVISION IN THE A-1 ZONE. THE PROPERTY IS LOCATED AT 6425 GUADALUPE TRAIL NW AND LEGALLY KNOWN AS A CERTAIN TRACT OF LAND SITUATED WITHIN SECTION 29, TOWNSHIP 11 NORTH, RANGE 3 EAST. N.M.P.M. VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO AND BEING IDENTIFIED AS LOT NO. EIGHT (8) AND LOT NO. NINE (9) OF THE RE-AMENDED PLAT OF ROADRUNNER ESTATES FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON APRIL 20, 1987 IN VOLUME C33, FOLIO 100. THIS PROPERTY CONTAINS 6.1052 ACRES MORE OR LESS.**

**Planner Nighbert** read his Planning Report (No. PZ-05-97). He said the applicant was present with his engineer to answer questions on the project. He also indicated that the applicant had received from the City of Albuquerque a water and sewer availability report that came in late and he was not sure if it got into the Board packets. He said the Planning and Zoning Commission recommended approval with one finding that the open space areas located where the lots front on both the interior road and on Mullen which become double-front properties and the areas located in the 25 foot setback area between the rear lot wall and Mullen Road are to be maintained by the lot owner. He said this language is to be a part of the subdivision covenants. Also, he said PNM shall have determination as to buried or above-ground utilities.

**Dr. Shiveley and Engineer Scott McGee** introduced themselves. **Scott McGee** said they agree with all the conditions and findings in the report.

**Trustee McDonough** asked for an explanation of how open space can be someone's backyard.

**Administrator Vigil** responded that the open space was defined by an earlier settlement and is not "open space" as generally used.

**Dr. Shiveley** said it is actually just 100 feet; not 100 feet by 200 feet, by the conditions of the settlement and it is an east-west 100 feet. He indicated the settlement agreement just says that a structure cannot be built on it.

**Trustee McDonough** asked how you control that on the deed to the property.

**Scott McGee** responded that there would be a no-build, 100 foot setback identified with language as appropriate. He said as he understands the Village's process, the final plat would come back through for the Board's review.

**Trustee Homan** asked who would be responsible for the maintenance and upkeep of that piece of property.

**Dr. Shiveley** responded that it would be the responsibility of the owner of Lot 14. He said they just can't build their house on it.

**Trustee McDonough** asked **Attorney Tippett** if she had reviewed the settlement/legal document.

**Attorney Tippett** responded that she had not reviewed it.

**Trustee McDonough** asked if any of the staff had reviewed the settlement document.

**Administrator Vigil** responded that he and **Planner Nighbert** had reviewed it.

**Trustee McDonough** said there was no topography shown, but he scaled off what he thought was 320 – 350 feet of 4 inch sewer lateral to serve the houses in the back. He asked if they had the elevation to do that.

**Engineer McGee** responded that the manhole invert at the west end of Mullen is 6 to 6-1/2 feet and there would be some fairly flat surfaces and he envisions the pads on Tracks 10 and 11 being built up.

**Dr. Shiveley** said yesterday he talked to the engineer from the City and received approval.

**Trustee McDonough** inquired if that engineer had something that showed the topography.

**Engineer McGee** said they had submitted a grading plan as well and it went to the Planning and Zoning Commission, but that maybe it did not make it into the Board's packets. He said it is fairly flat and that 4 inch sewer services can be designed at 1 percent slope as long as they are engineer stamped. He said he thinks it can be done by creating a higher building pad and finish floor on the lots.

**Trustee McDonough** asked if there would be a problem with extending the public sewer down the cul-de-sac and making the runs shorter.

**Dr. Shiveley** said the engineer at the City said the option they are using is better than running the 8-inch sewer line. He also said the 6-inch waterline on the dead end goes into the fire hydrant.

**Trustee McDonough** said his concern is about the 5 foot easement that has a 300 foot, flat 4 inch lateral and what the impact is down the road to those homeowners who have to try and maintain that flat sewer line.

**Engineer McGee** said he is recalling from the plan that from Mullen to the cul-de-sac is more like 200 feet and that cleanouts at either end would allow access but that they try not to design cleanouts within the backyards if that can be avoided. He said the ultimate construction of each home would be up to the home builder and there are several options.

**Trustee Homan** asked about the private road, specifically what kind of surface it would have and who would maintain it.

**Engineer McGee** responded that it is proposed to be 25 feet wide with asphalt and maintained by the homeowner on whose lot it is located.

**Dr. Shiveley** reported that the private road easement was designed specifically so that it is in every lot so that every lot owner has the responsibility for caring for the road. He said that he thinks on the plot plan of the architect, Preston Hall, there is a note at the top that addresses the maintenance of the road and also the setback along Mullen Road for the 25 feet.

**Trustee McDonough** commented that it appears that the 25 foot road runs mostly in Lot 13. He then said that if Lot 13 chooses not to maintain the road, he said he's seen other subdivisions where there are homeowner associations or covenants or some mutual sharing of maintenance to head off future problems.

**Dr. Shiveley** said that on the plot plan that is to be filed, it says the maintenance of the road is the responsibility of all the lot owners.

**Mayor Abraham** then asked if anyone else would like to speak in favor of the applicant.

**Proponents Testimony:**

**Elena Goodman, 5200 Eakes Road, NW, and Ana Maria Morreno, Realtors® with Kelly Williams.** **Ms. Morreno** said they are here to support; they are not Realtors® for the subdivision but they are residents of the Village. She said they support some type of planned subdivision that keeps the quality of the community and that keeps the intended rural nature of it.

**Elena Goodman** stated that she thinks there is not a large demand for 6-acre properties; however, they do have clients who are looking for a one-acre lot which is aesthetically pleasing.

**Opponents**

None

**Public Comment Closed**

**Trustee Rael** said he has the same concern about the sewer that Trustee McDonough expressed. He said the maintenance of the sewer would be a problem going that distance with such a small line.

**Trustee McDonough** said he has a concern about making sure the Board understands what the court case and the requirements of the open space are on Lot 14 and if that can be met as someone's backyard and how that can be handled through the deed. He said he also has a problem with the fact that Lot 13 has most of the road and so Lot 13 becomes the maintainer of the road and if Lot 13 becomes vacant or unwilling to maintain the road, will that become a Village problem?

**Administrator Vigil** said the Village gets calls pretty routinely by individuals living on private roads and they inform them of the fact that they are private roads and the Village cannot spend public money to maintain them. He said the responsibility to maintain the road also carries with it the responsibility to carry liability insurance if something happens. He said the owner of the property has to acknowledge that as part of his condition. As far as the term "open space" as used in that Court Order, it was not "open space for public use". He said he believes it was more of vista preservation for the neighbor. He said the Planning Commission considered that issue.

**Planner Nighbert** said that Recommendation #5 from the Planning Commission states: "The 100 foot restricted area of Lot 14 be noted on the Final Plat as 'perpetual open space area allowing no structures to be built'".

**Administrator Vigil** pointed out that on the sewer issue, he believes it is the Water Authority through their engineering who should be the ones making their professional recommendation.

**Trustee McDonough** said he would like to have that conversation with them as to what the best alternative is. He said he notes in the letter “would not be opposed to such an arrangement” is the language in the letter. He said he thinks the Board has a responsibility to try to ensure that development that occurs in the Village is quality development and thoroughly thought out. He also said he would like the Village Attorney to look at the language of the restricted building area and see what the impact would be on the homeowner. He said he sees a lot of potential problems coming up in the future that with a little more attention to detail could be alleviated.

**Administrator Vigil** explained that regarding the building, it was a Court settlement and we can enforce it. He said our prior counsel, Miss Maloy, did review this before it went to the Planning Commission.

**Mayor Abraham** asked what the next step would be since this is a preliminary plat for a major subdivision.

**Planner Nighbert** responded that if this was approved this evening, it would not come back to the Board according to the Matrix.

**MOTION: Trustee McDonough** moved to table this to allow the Board to have discussions with the Utility Authority to find out what the best approach is to providing services and to look at all of the potential issues that loom in this plat as proposed and how the impacts will be managed and controlled in the deeds, the issues of liability on the road and maintenance on the road.

**Administrator Vigil** said that Trustee McDonough is asking the Village to get into areas over which we do not have control. He said the Village does not have control over what the Authority determines. He also said that in terms of a private road and getting into the covenants, the Village never gets into the design of covenants.

**Trustee McDonough** responded that the Board made requirements on the Unser development in terms of how it was going to be sewerred.

**Mayor Abraham** said the Board stayed totally away from the covenants on the Unser development and he said he does not think they made restrictions on how to sewer. He said he believes it was up to them and the Authority.

**Administrator Vigil** said that on the Unser property, the Village determined that it was the developer’s responsibility to work out a wastewater solution. He said the Village told them the property needed to be sewerred, not private septic tanks.

**Mayor Abraham** noted there was a motion to table on the floor.

**VOTE:** The motion to table died due to lack of a second.

**MOTION:** Trustee Rael moved to approve the Preliminary Plat and have the final plat brought to the Board. Trustee Homan seconded the motion.

**VOTE:** The motion passed 2-1, with Trustee McDonough voting no.

**7. OLD BUSINESS**

**A. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE  
REPEALING ORDINANCE NO. 188 AND ADDING LANGUAGE TO FOLLOW  
THE NEW MEXICO CAMPAIGN PRACTICES ACT 1-19-1 ET SEQ NMSA 1978**

**Attorney Tippett** said she had previously reported that the Supreme Court was going to be looking at the issue of campaign finance reporting and the direction she was given was to research State Law and see if we could adopt what was in State Law and just repeal the Ordinance.

**Mayor Abraham** referenced a matrix that Attorney Tippett prepared showing what was covered by the Village Ordinance and what was covered by the State and pretty much everything was covered with the exception of a few items. He asked her to explain any exceptions.

**Attorney Tippett** said the Village went quite a bit further than State Law in terms of limiting signage and requiring spending caps, which is what gave her trouble because of First Amendment issues.

**MOTION:** Trustee Homan moved that the Board approve the repeal of Ordinance 188. Trustee Rael seconded the motion.

**ROLL CALL VOTE:** Trustee McDonough, aye; Trustee Homan, aye; Trustee Rael, aye.

**VOTE:** The motion carried unanimously 3-0.

**B. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2005-11-1 – GIVING  
DIRECTION TO THE VILLAGE CLERK TO FOLLOW THE NEW MEXICO  
CAMPAIGN PRACTICES ACT 1-19-1 ET SEQ NMSA 1978**

**MOTION:** Trustee Homan moved that the Board adopt and approve Resolution 2005-11-1. Trustee McDonough seconded the motion.

**ROLL CALL VOTE:** Trustee McDonough, aye; Trustee Homan, aye; Trustee Rael, aye.

**VOTE:** The motion carried unanimously 3-0.

**C. DISCUSSION AND APPROVAL TO AUTHORIZE LARKIN GROUP TO PROVIDE CONSTRUCTION OBSERVATION UNDER THE PROFESSIONAL SERVICES AGREEMENT WITH LARKIN GROUP NM, INC. ARTICLE III, ENGINEERING FEE, SPECIAL SERVICES – DEFERRED FROM THE OCTOBER 12, 2005 MEETING**

**Trustee McDonough** said that the amendment is for full-time observation and was reduced by about \$25,000 because everyone agreed there was some overlap in the engineering support for the construction observer. He said what is before the Board is a reduced contract amendment for \$93,160.

**MOTION:** Trustee Rael moved that the Board approve the Construction Representation by Larkin Group. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

**8. NEW BUSINESS**

**A. DISCUSSION AND APPROVAL TO CHANGE BOARD OF TRUSTEES MEETING OF DECEMBER 14, 2005 TO DECEMBER 7, 2005**

**MOTION:** Trustee McDonough moved approval to change the Board of Trustees meeting of December 14 to December 7, 2005. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

**B. DISCUSSION AND APPROVAL TO APPROVE THE FIRST AMENDMENT TO THE THIRD SUPPLEMENTAL COOPERATIVE PROJECT AGREEMENT CONTROL NUMBER 3475 PROJECT NUMBER TPU-CAQ-TPE-5089(2)05 INCREASING THE BUDGET FOR THE PROJECT BY \$1,295,646.**

**Administrator Vigil** said he would like to thank Shirley Martinez, Contract Specialist, New Mexico Department of Transportation, who on her last day at the Department of Transportation worked with him to get the amendment. He said he recommends approval because it will be very helpful to the Fourth Street Project.

**MOTION:** Trustee McDonough moved approval of the First Amendment to the Third Supplemental Cooperative Agreement. Trustee Rael seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

## 9. TRUSTEES INFORMAL DISCUSSION

**Trustee McDonough** requested that before items come to the Board for approval that they be complete. He said he thinks they are being negligent in their duties by not requiring completed items prior to review. He does not think Planner Nighbert should have to interpret whether everything is complete and would meet the Board's satisfaction.

**Planner Nighbert** said he would like to expand an RFP and get a Village contract engineer who has drainage, traffic, water and sewer experience.

**Trustee Homan** said she appreciates the Fire Department's support at the Horizon Academy's harvest festival. She said she and Planner Nighbert went to the Middle Rio Grande Council of Governments' (MRCOG) Transportation Coordinating Council meeting and one of the issues of great concern was Albuquerque Mayor Chavez' actions in the late night restriping of Montaño. She said she believes he has jeopardized the support of the other members of MRCOG. Also, she said there has been an effort in much of the state of helping low income and elderly fill out their tax forms. She suggests that the Village look into having one of those satellite centers.

**Trustee Rael** asked if there is anything special that the Board needs to do for the World War II Veterans luncheon on Friday.

**Mayor Abraham** responded that Congresswoman Heather Wilson will be coming and is bringing certificates to give to each veteran and that Senator Ryan will also be attending. He said he believes 30+ WWII veterans will attend and the total with guests of over 70 people.

**Trustee Rael** said he had previously mentioned that he will not be attending the December 7, 2005 Board of Trustees meeting. He also said that he was at the Little Art's Barber Shop last week and they wanted to know when the Village was going to paint the crosswalk. He also wanted to know if no-parking signs could be placed on Fourth Street by Horizon School. He asked if there was any way to extend the sewer hook-up deadline date for a person who has been ill.

**Administrator Vigil** responded that the Village can work with people on individual circumstances as long as their intent is to connect to the sewer. He said a letter should be written to him or the Mayor requesting an extension so there is something on file.

**Trustee Homan** said that last spring they had asked for a left-turn signal at the corner by Horizon Academy and were told that it could not be done within the last couple months of that school year. She said that now it is the new school year and there still is no left-turn signal and she would like to know the timeline.

**Administrator Vigil** responded that the control box did not have the capacity and it could not be done without replacing the whole signal. He said the Village does not have the money to do that. He indicated it was planned in the Fourth Street Project that the signals

at Fourth and Osuna will be salvaged so that they can be used at a different location and that might help.

**Trustee Homan** suggested that the signal light be looked at for the next Legislative Session rather than waiting until the Fourth Street and Osuna intersection is completed.

**Mayor Abraham** recognized Lorilee McDowell and invited her to come to the podium.

**Lorilee McDowell** said she was told the Board of Trustees would be deciding on a date and time for the lighting of the holiday tree and that information has to go in the December calendar for the *Village Vision*. She indicated a date of December 14 had previously been mentioned.

**Mayor Abraham** said a decision has to be made on whether they are having a ceremony.

**Trustee Homan** mentioned that the December 14 date was to be in conjunction with the Board of Trustees meeting, but that meeting has now been moved to December 7.

After further discussion, **Trustee Homan** suggested that a “holiday reception on December 14 from 6:30 p.m. to 8:00 p.m.” be included in the newsletter and details such as inviting Mrs. Dimas and local school children would be worked out later.

## **10. ADJOURNMENT**

**MOTION:** Trustee McDonough moved to adjourn at 9:35 p.m. Trustee Rael seconded the motion.

**VOTE:** The motion carried unanimously 3-0.

**APPROVED** by the Board of Trustees of the Village of Los Ranchos de Albuquerque this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**ATTEST:**

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Annabelle Silvas, CMC  
Village Clerk