

MINUTES

VILLAGE OF LOS RANCHOS de ALBUQUERQUE
6718 RIO GRANDE BOULEVARD N.W.
BOARD OF TRUSTEES REGULAR MEETING
JULY 11, 2007- 7:00 P.M.

Present:

Larry P. Abraham, Mayor

Donald T. Lopez, Trustee/Mayor Pro-Tem

Mary Homan, Trustee

Tim McDonough, Trustee

Pablo R. Rael, Trustee

Annabelle Silvas, Clerk

Juan Vigil, Administrator

Terry Nighbert, P&Z Director

Nancy Haines, Treasurer

Martha King, Attorney

Greg Perez, Fire Chief

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Village of Los Ranchos' Governing Body held its Regular Meeting on Wednesday, July 11, 2007 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:05 p.m.

Mayor Abraham stated that a closed session was held on July 11, 2007 at 6 p.m. and only those items stated on the posted notice for the closed meeting were discussed at the closed session.

MOTION: Trustee Lopez moved approval of the Mayor's closed session statement. Trustee McDonough seconded the motion.

VOTE: The motion carried, 3-0. Trustee Homan abstained.

MOTION: Trustee Lopez moved that the Village of Los Ranchos' Attorney be authorized to proceed with the threatened and pending litigation matters discussed in the closed meeting held on July 11, 2007 at 6:00 p.m. within the parameters set by the Board of Trustees. Trustee Rael seconded the motion.

VOTE: The motion carried, 3-0. Trustee Homan abstained.

A. APPROVAL OF AGENDA

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

VOTE: The motion carried unanimously, 4-0.

2. PUBLIC COMMENT PERIOD

Jim Ellis, 7618 Rio Grande Blvd., said they heard screaming in their backyard and it turned out a baby raccoon had crawled into their crawl space and then fallen out. He said the baby raccoon then came into their kitchen. He said he captured it and put it into a cage. He said he suggests that the Village set up an agreement with the County like we have with the Sheriff's Department

whereby a fee is paid when a wild animal is picked up. He said he believes Village residents should have the same coverage as the City and County.

Ed Paschich, 6844 Rio Grande Blvd., said on Monday, May 28th he found that thieves had smashed a double glass door at the home he is building and he called the Bernalillo County Sheriff's Office. An hour later the dispatcher told him to meet the officer on Rio Grande Blvd. because he could not drive his motorcycle down the dirt road. He said Officer Meeks demonstrated his refusal to investigate the break-in and burglary of his home.

George Hunsaker, 6908 Isleta Blvd. SW, 87105, said he was Chief Clerk for the Village 45 years ago when Sam Hartnett was Mayor, Darrel Harris was Fire Chief, and Nordhaus was Attorney. He said things have changed since then and he lives in Los Padillas now. He said what the Mayor has done now is quite impressive, including opening a new fire station. He said he hopes they have the groundbreaking pretty soon so that he can attend.

3. CONSENT AGENDA

A. MINUTES –REGULAR MEETING–MAY 9, 2007

There were no changes or additions to the Minutes.

B. DEPARTMENT AND COMMITTEE REPORTS

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

C. RENEWAL OF AGREEMENT BETWEEN THE REGENTS OF THE UNIVERSITY OF NM AND THE VILLAGE OF LOS RANCHOS – EMS SERVICES

Trustee McDonough asked what caused the need to renew the agreement with UNM.

Administrator Vigil responded that the Term of Agreement needed to be renewed.

MOTION: Trustee Homan moved approval of the Consent Agenda as presented. Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously, 4-0.

4. REPORTS

A. MAYOR'S REPORT

Mayor Abraham reported that:

- He wanted to thank the entire staff and all the volunteers for such a successful Lavender event. There were at least 12,000 people who attended. Staff worked very hard to get the

park prepared and the barn showed off very well. Residents commented that people are coming from the City just to see what the rural lifestyle is like. Everyone appeared to enjoy themselves.

- The biggest milestone this last month was the closing on the 23 acres of the Blanchard property just north of Paseo del Norte. He will be meeting with Secretary Faught next week to ask them to deed over some land so that hopefully there will be 40 acres of open space on the north side of the Village.
- The cell tower was erected today! From a distance you should not be able to tell it is a cell tower. We hope to have 5 carriers on the tower and T- Mobile has assured us it will be operational by August 1.

B. ADMINISTRATOR'S REPORT

Administrator Vigil reported that:

- He made a presentation before AMAFCA's Capital Outlay Committee for a project on its bond issue coming up in 2008. The North Valley Area Drainage Project was where they were looking for the ability to provide drainage that will help the residents along Garduño and east of 4th Street. It will be before the AMAFCA Board at their next meeting.
- The El Pueblo Project was completed and Albuquerque Asphalt did a fantastic job and stayed within budget.
- He has been working on Village Center issues and the June 5 meeting with all parties was very productive.
- There are two issues on the 4th Street Project concerning Star Paving and Heads Up on the sprinkler system at the Taft running track. They are prepared to do clean-up on the project this week. The tree replanting in that area is scheduled for the Fall.
- The final inspection on Paseo del Norte was held and some of those trees need to be replanted which will take place in the Fall.
- The Unser Agreement was finalized by the Department of Finance and Administration.

C. PLANNER'S REPORT

Planner Nighbert reported that:

- The Floor Area Ratio for A-1 zone was implemented and a few complaints were received from those builders and designers who were caught between having a house that was 90% complete as far as design when the Ordinance went into effect. They are looking at some administrative relief for a couple of the houses.
- The department made contact with the Assessor's Office in order to work with their database to research character area floor area ratios. It appears they will get the information they need to bring forward to the Planning Commission a floor area ratio and character area zone for the entire Village.
- A representative from FEMA will be here next week on Tuesday and Wednesday to examine our enforcement of regulations imposed on local government by the Feds for governing flood zones. Linda Seebach has been busy getting ready for the visit.

Trustee Lopez said he understands we have cleaned up a property in the Village that was an extreme fire hazard. He said he believes the public should be told about it.

Administrator Vigil said this particular property was located in the Tinnin Farms area close to the Bosque. The matter was brought before our Municipal Court and Judge Garcia ruled that we had a responsibility to clean the property for public safety. The property has now been cleaned.

D. LEGAL REPORT

Attorney King reported that:

- She worked with Administrator Vigil to obtain the Municipal Court Judgment authorizing the Village to enter on the property and clean it up and to also place a lien on that property for the \$8,000+ spent to clean it up.
- She worked with Administrator Vigil on the collocation cell tower lease draft.
- It was a heavy litigation couple of months with a new lawsuit filed against the Village asking it to condemn some property on a right of way for some private individuals. She also filed a lawsuit to condemn property at 4th & Osuna. She continued with all the Gasman activities.
- The two separate Landau suits have been consolidated and there is now an opinion from the Judge but the opinion may be appealed.
- She has been working with Planner Nighbert on a potential taking issue which they can work with the property owner to avoid litigation.

E. FIRE DEPT. REPORT

Chief Perez reported that:

- He would like to thank everyone for the support the department received during their 4th of July event. Trustee McDonough and Trustee Rael were both present and he appreciated their support.
- During the Lavender Festival the volunteers raised over \$2,000 selling hot dogs and that money will be used to send the volunteers to the EMS Academy.
- During June, members of the Swift Water Team participated in a diving exercise with the Albuquerque Police Department at Tingley Beach and Perch Lake.
- Two individuals have become Instructor II's which means they are now certified to do adjunct instructing at the State Fire Academy which in turn will allow them to perform training in-house.
- The department is working to lower its ISO.
- The department received a letter from an individual who wishes to donate his hovercraft to the Swift Water Program.
- They have had 116 EMS and Fire calls during this period.

5. FINANCIAL BUSINESS

A. CASH REPORT – MAY & JUNE

Treasurer Haines reported that the cash report ending balance at 5/31/07 was \$1,742,390.28 and the expenditures exceeded revenues by \$287,250.16 and the year to date expenditures exceeded revenues by \$896,506.80. She said approximately 65% of that deficit was due to the payments to

Star Paving. She said the ending cash balance for June went up to \$2,453,694.20 and revenues exceeded expenditures by \$711,303.92. She said the year to date expenditures exceeded revenues but went down to \$185,202.88. She noted the significant decrease in the deficit was due to the receipt of the grants on open land from the State.

She also reported that the State Auditor has approved Hinkle and Landers for the next two years as our auditors and an entrance conference is scheduled for Monday, July 16.

Trustee McDonough asked if the \$525,000 for the Anderson property is included in the \$2.4 million ending cash balance.

Treasurer Haines responded that the \$525,000 was received but it has not been spent.

MOTION: Trustee Homan moved approval of the cash report for May and June. Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously, 4-0.

B. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2007-7-1- FINAL ADJUSTMENT TO THE 2007 BUDGET

Administrator Vigil reported that the interim budget was submitted to the Department of Finance and Administration per the rules and regulations. He said they have reviewed the budget and given us authority to proceed with the final budget adjustments. He said Resolution No. 2007-7-1 incorporates some of the budget revisions that were discussed by the Board and also makes some final adjustments.

Trustee Lopez asked if we have received all of our monies from the State grants.

Administrator Vigil responded that we have not received all of our monies. He said he has been in communication with the grants office and has sent them e-mails. He said some of them are for the severance tax and others are general fund.

MOTION: Trustee McDonough moved approval of Resolution No. 2007-7-1. Trustee Homan seconded the motion.

ROLL CALL VOTE: Trustee McDonough, aye; Trustee Homan, aye; Trustee Lopez, aye; Trustee Rael, aye. The motion carried unanimously, 4-0.

C. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2007-7-2 – ADOPTING THE FY 2007/08 OPERATING BUDGET

Administrator Vigil reported that when DFA reviewed our preliminary budget there were a few minor changes that needed to be made and these are included in the resolution for the final budget. He said with this adoption we can proceed with all of the expenditures as discussed by the Board and reviewed by DFA for this fiscal year. He said after the December report they will do a mid-year adjustment and make any adjustments for grants that may come in after that.

Trustee McDonough asked if anything had changed since they reviewed this budget two months ago.

Accountant Saavedra said the most significant change is that we ended our June 30th year and we now know what our cash balances are as of June 30.

Trustee Lopez said on Page 56 of 56 he sees that we started the year with \$2,470,000 and we ended the year with \$2,886,000 and that is pretty good.

MOTION: Trustee Rael moved approval of Resolution No. 2007-7-2 adopting the FY 2007/08 operating budget. Trustee Lopez seconded the motion.

ROLL CALL VOTE: Trustee McDonough, aye; Trustee Homan, aye; Trustee Lopez, aye; Trustee Rael, aye. The motion carried unanimously, 4-0.

6. PUBLIC HEARINGS AND APPLICATIONS

A. AN APPEAL BY DOUG PETERSON, LOS RANCHOS VILLA, LLC, TO THE BOARD OF TRUSTEES OF ACTION TO DENY APPLICATIONS V-07-02, V-07-04, AND V-07-07 BY PLANNING AND ZONING COMMISSION ON FEBRUARY 13, 2007 AGENDA ITEM 5A, REQUESTS BY GEORGE RAINHARD AND ASSOCIATES, AGENTS FOR LOS RANCHOS VILLA, LLC. FOR VARIANCES FROM THE VILLAGE CENTER ZONE FOR NEW COMMERCIAL CONSTRUCTION IN THE VC ZONE AND IN THE FOURTH STREET COMMERCIAL CORRIDOR. THE PROPERTY IS LOCATED AT 6561 4TH STREET NW AND IS LEGALLY KNOWN AS TRACT 41G, M.R.G.C.D. MAP NO. 29, ELENA GALLEGOS GRANT IN PROJECTED SECTIONS 28 AND 29, T11N, R3E, N.M.P.M. CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, MAY 31, 1962. THE PROPERTY CONTAINS .9317 ACRES MORE OR LESS. **THIS ITEM WAS DEFERRED FROM THE MAY 9, 2007 BOARD MEETING.**

Attorney King swore in those persons wishing to speak on Item 6.A.

Planner Nighbert said he prepared an updated Planning Report No. PZ-07-55. He said the Board of Trustees requested a traffic impact study be conducted by a qualified traffic engineer to determine the impact of traffic volumes that a Starbuck's Drive-In Coffee Shop would generate on Fourth Street, Sandia View Road and Chavez Road. He said Terry Brown, P.E., has prepared a traffic impact study that was delivered to the Board. He said the traffic study concluded that increase in delays at the intersections of 4th and Osuna would be in the range of .2 to .5 of a second. He said the increase in traffic on Sandia View Road and Chavez Road would not be impacted beyond acceptable levels. He said Village staff met with the architect and applicant to discuss alternatives to the traffic and drive-up window flow pattern and a possible solution would be to provide a private gated drive for Georgia Chavez. He said this option was only discussed with the developer as an alternative to present to the Board and the developer was to meet with the Chavez family to present this as a possible alternative. He said if the appeal is upheld for the variances and this alternative is considered, the Board of Trustees should request the Planning and Zoning Commission to review the new site development plan.

Trustee Lopez said the Traffic Impact Study is dated June 19, 2007 but he did not receive it until last night and that means the public has not been able to review it either.

Mayor Abraham said he would like Peterson Properties to make a presentation, then Terry Brown should explain the traffic study, then have the opponents speak and then the proponents. He said at that point public discussion will be closed.

Trustee McDonough asked Planner Nighbert to explain what actions the Board could take.

Planner Nighbert said the actions the Board could take would be to uphold the denial or overturn the denial and approve the variances. He said currently the variances have been denied by the Planning Commission and denial was their recommendation to the Board. He said another action would be that the Board could remand it based on information received at this meeting that the Commission may not have had.

Trustee McDonough asked if they deny it whether there would be restrictions on Peterson taking it back to P&Z with a revised plan.

Planner Nighbert responded that Peterson's site development plan would have to be revised to take out those items that he requested in the variance.

Trustee Rael asked if the Board has to uphold or overturn all three variances.

Planner Nighbert said it is up to the Board. He said they can approve or deny the individual variances if the motion is made on an individual variance basis.

George Rainhart, 2325 San Pedro, said at the last Board meeting they were down to one variance which had to do with a drive-up facility for Starbuck's. He said the concern of the Trustees was that they would like a traffic study to show how the traffic flows and whether the drive-up use severely impinged on any of the existing improvements. He said Terry Brown did a joint traffic study with part of it being for the Village. He said they met with Village staff to look at an option to present to the Chavez's. He said that option would close off Chavez Road, vacate the right of way, and would basically connect the Taco Bell area, the proposed shops building and the Starbuck's area as a parking lot. He said this would prohibit through traffic in front of Ms. Chavez's house. He said the original traffic study was done with Chavez Road open, but Mr. Brown has a handle on the number of cars that would not go in front of the Chavez house. He said the developers are open to either direction the Trustees may choose after hearing the testimony.

Trustee Lopez asked if it is essential to have a drive-up.

George Rainhart said they have gone back to Starbuck's with that question and the answer was yes, they do need a drive-up window as part of their marketing and business plan.

Terry Brown, Traffic Engineer/Registered Professional Engineer, Post Office Box 92051, Albuquerque, said he met with Village staff and came to an agreement on the scope of the traffic study. He said the corridor on 4th Street to the north including Enchanted Valley Road and all along that corridor, all the major intersections to the south, including Mullen Road were analyzed in the traffic impact study. He said the traffic counts were taken during the second week of May

2007 and the trip generation rates calculated for the proposed development were based on criteria of the ITE Trip Generation Manual Standards. He said there was no ITE data for Starbuck's so they have counted three or four local Starbuck's in the area and obtained the trip generation data from those studies.

Terry Brown said the traffic was distributed on to 4th Street based on a population distribution within a 2 mile radius of the site and that was the basis for assigning trips to the transportation network and the various intersections that were analyzed. He said the results of the study indicated that the improvements on 4th Street were well done and the results came out really well. He said the intersections to the north and south of Osuna all operated well except for Schulte Road. He said all of his recommendations about how the corridor and the project itself work are based on the premise that any construction of driveways or improvements to intersections maintains adequate sight distances and does not block visibility. He said when they did their traffic counts this was open and they based their study on existing counts. He said there are right turns exiting on Chavez and they added their traffic into that. He said there are about 60 vehicles per peak hour currently making the right turn and if Chavez was closed off, those 60 vehicles would have to travel to Osuna and turn right there. He said he doesn't believe that would have a significant impact on the operation of either intersection.

Trustee McDonough said the Village is considering a significant development on the southeast corner of Osuna and 4th Street and he asked if the impact of that was considered during the traffic study.

Terry Brown responded that it was not considered in his study and it was his understanding that the developer for the other project would perform his own traffic study and it would have to take into account any previously approved developments.

Doug Peterson said they did meet again with the Chavez family on Tuesday of last week. He said it was a cordial meeting but they are still at an impasse.

Opponents

Georgia Chavez said she met with Mr. Peterson's group but they do not want to work with her. She said they want to have their own little Starbuck's and their own little strip mall beside her property. She said she has appealed to the Trustees to take a good look at where she lives and she is asking each one of the Trustees to meet with her and Mr. Peterson and take a walk through her property before they make their final decision. She said her family gave Chavez Road to the Village and she will not allow Peterson to close her off.

Bruce Muhr, 336 Enchanted Valley Place, said he wanted to thank the Board for the repaving on Enchanted Valley. He said there are three groups concerning the Village Center: the businesses, the Villagers and the Village. He said he would ask that the Board deny the drive-up for Starbuck's.

Kathy Gallegos, 501 Sandia View, said she and her husband own property at 502 Chavez Road NW and she is also a business owner in the Village. She said she is in favor of Starbuck's but is against the drive-up. She said there is not enough parking in that area and the traffic would be tremendous. She said she doesn't believe the Village supports that type of center because she thought it was supposed to be a pedestrian-friendly area and a drive-up would cut down on the

number of pedestrians who could walk in that area. She said giving Chavez Road over to the Petersons is a horrible idea.

Carlos Osuna, 4104 Palo Duro NE, said he represents 321 Osuna Road NW. He said he is speaking against the Starbuck's drive-up.

Erin Mowris said she owns the Desert Sunrise Coffeehouse at 7015 4th Street, NW, and it is the epitome of what a small business in Los Ranchos is all about. She said she is the local alternative to Starbuck's and she sees no reason to make Los Ranchos look like every other neighborhood in the nation.

Robert Chavez, 324 Enchanted Valley Place NW, said he wants to thank the Petersons for again attempting to mitigate the issues that the Chavez's have with the development. He said they respectfully request that the variances be denied. He said he also believes that there are two legal issues: the first is that they substantiated the fact that this appeal was based totally on the evidence presented to the Planning & Zoning Commission and that no additions or deletions could be made to that. He said the second item is that there should be a sign requirement to notify the public that this appeal is going through this evening and some sort of posting on the property. He said he is not sure that has been accomplished.

Mayor Abraham said the traffic report was requested by the Board and would be proper to introduce here.

Attorney King referred the Board to Resolution 2007-4-2 which was the rules for appeal. She said the Board is not limited to the testimony or information that was given before.

Planner Nighbert said the sign was posted at the original time of the appeal.

Proponents

Doug Peterson said he was under the impression that petitions could not be submitted to the Board. He said he has petitions in favor of Starbuck's that he can distribute. He said regarding the traffic study, he thought there was a draft that was available before the final copy was produced.

Planner Nighbert said there was a draft available prior to tonight's meeting and Ron Chavez had reviewed it.

Doug Peterson said regarding who paid for the study, the agreement was to share the cost of the study with the Village based on how many intersections were analyzed and the Petersons would pay for the 4th and Osuna and 4th and Chavez and the Village would pay for the remainder which equates to about 80% of the study. He said any suggestion about the ethics of the engineer with regard to who paid for the study is inappropriate for consideration.

Public Comment Closed

Trustee Rael said it was included in the Master Plan that drive-throughs would not be allowed in the Village Center. He said the petition that had over 50 signatures of the nearest property owners should not be ignored.

Trustee McDonough said one of the concerns from the April meeting was the amount of traffic that was going down Chavez to make the right-hand turn. He said he understood that to be a nuisance to Ms. Chavez which then brought about the suggestion to close off Chavez. He asked if the Chavez's are now saying they would prefer to have that traffic than to have Chavez closed off.

Georgia Chavez said she is requesting that the Trustees walk through her property so they have a clear view of what is going on.

Mayor Abraham said he believes that under our current ordinances, if the Petersons wanted to, they could build a 28 foot building right up against the property line. He said they could also build at least 20,000 sq. ft. of building there when they are proposing to only build 5,000 sq. ft. He said the VC Zone actually allows a 42 foot tall building and they dropped it down to 28 feet tall.

Mayor Abraham said there is a battle here between trying to keep the Village rural and trying to develop it economically. He said a normal Starbuck's is going to give the Village about \$17,000 per year in gross receipts tax. He said the Village does not have any strong, independent businesses anywhere near the Village that can attract traffic for other independent businesses.

Mayor Abraham said he has not done anything to hurt the Chavez's. He said unfortunately Ms. Chavez lives close to 4th Street and unfortunately her relatives sold the property. He said if she wanted to protect the property, it should never have been sold. He said at one point in time the Chavez's had requested that their property be zoned commercial. He said they are going to try to create something that is pedestrian friendly on the southeast corner of 4th and Osuna.

Trustee Lopez said he had a question for Ms. King regarding the actual closing off of Chavez Road. He said in the Planner's Report it said that she was looking into this. He asked when she anticipated having an answer.

Attorney King responded that it would be a couple weeks until she could have a more developed analysis.

Trustee Lopez said he just received the traffic study last night and it will take several days to review it. He said on the drawing it says "existing Chavez Road area to be vacated". He said he understands that "vacated" means forever.

Trustee Homan said as an elected Board they are the voice of the residents, but in their role they try to balance the interests of both the residents and the businesses within the Village. She said they can never please everybody on every situation but they do try to take into consideration the various interests and viewpoints. She said that is part of the reason for the Master Plan and the codes to help give the Board further guidance.

Trustee McDonough said his concern is that the property is one-acre and zoned C-1. He said within the Zoning Code that allows certain things that the Board can't do anything about. He said many of those things would have a greater impact to Ms. Chavez than what is being proposed. He said that building could be moved much closer to her house and be much taller. He said unless there was some variance requested, they would not come to Planning & Zoning or

the Board of Trustees. He said it could meet present zoning, have a bigger impact and get approved administratively and there would be nothing anyone could do about it because it meets the Zoning Code. He said the discussion is not so much about what is acceptable, it is understanding the rules and what could be. He said he is looking for a common ground that they could agree on. He said he appreciates that the Chavez family has been here for generations and what they have done for the Village. He said he is not thrilled with the way the whole shopping center functions in terms of vehicles and movements, but there is nothing he can do about that. He said his hope was that by looking at options for closing off Chavez, then reconfiguring flow around the Taco Bell in conjunction with future development, making something that flowed better and was pedestrian friendly, that there would be some options that would make this more tolerable to everyone. He said unfortunately what came back as a proposal did not do any of those things. He said it essentially uses that portion of Chavez for additional parking and opens out Chavez for right in, right out instead of just the right out as it is now. He said he doesn't see that anything that was proposed did anything to enhance those movements. He said the issue of the drive-up window is a difficult issue because of how it was addressed in the Master Plan and that it does conflict with the Village's vision of a rural area. He said what the Mayor said is true also because if we are to create synergy, we need some permanent anchors. He said if they throw this out, then they open up the possibility for someone to come in and build a 28 foot tall building right up against Ms. Chavez's fence. He said he believes Peterson has tried to make the building the least imposing on Ms. Chavez's property. He said he would be willing to get involved to help reach a consensus on the development of this property.

MOTION: Trustee Lopez said it will take at least two weeks for Attorney King to respond to the question about vacating Chavez Road and he believes he and the other Trustees need more time to look at the Traffic Study. He said he also plans to walk the Chavez property. Therefore, Trustee Lopez moved that this item be deferred until the August 8, 2007 Board of Trustees meeting. Trustee Homan seconded the motion.

Trustee McDonough asked Attorney King if it was inappropriate for him to have volunteered to get involved to help reach a consensus.

Attorney King said she believes Trustee McDonough's direct involvement would be inappropriate under ex parte communications. She also noted that visiting the site could be inappropriate as well because the Board is required to be fair and open under ex parte communications.

VOTE: The motion carried unanimously, 4-0.

B. A REQUEST BY DAVID HARTMAN FOR PRELIMINARY SITE DEVELOPMENT PLAN APPROVAL FOR NEW COMMERCIAL CONSTRUCTION IN THE VC ZONE. THE PROPERTY IS LOCATED AT 6711-25 4TH STREET NW AND IS LEGALLY KNOWN AS TRACT A-1-A SCHULTE ACRES WITHIN SECTION 28, T11N, R3E, N.M.P.M.. VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, JULY 1998. THE PROPERTY CONTAINS 1.3736 ACRES MORE OR LESS. SDP-07-05

Planner Nighbert reported that Mr. Hartman has asked for a deferral on consideration of his site development plan because the grading and drainage plan was not ready for review by the Village designated engineer. He asked for a deferral to the August meeting.

7. OLD BUSINESS

A. 1) DISCUSSION AND MOTION TO ADOPT AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF VILLAGE OF LOS RANCHOS INDUSTRIAL BONDS (SANDIA PREPARATORY SCHOOL PROJECT) SERIES 2007 IN THE PRINCIPAL AMOUNT OF UP TO \$10,000,000; AUTHORIZE THE MAYOR TO EXECUTE THE INDENTURE TRUST, THE BOND PURCHASE AGREEMENT AND THE INSTALLMENT PURCHASE AGREEMENT; AND

Mayor Abraham announced a break at 8:45 p.m. Reconvened at 8:55 p.m.

Administrator Vigil reported that this item had previously been before the Board for introduction. He said the proposed development is within the City of Albuquerque and part of it is in Bernalillo County. He said the City of Albuquerque has performed its due diligence and they had another TEFRA hearing.

Duane Brown, Modrall Sperling Lawyers, Bond Counsel for Sandia Prep, said they have asked to have this matter deferred for the last three meetings so they could comply with the Memorandum of Understanding between the Village and the City of Albuquerque with respect to issuing bonds for a project located within the City. He said on July 3 they went before the Albuquerque Development Commission and made a full presentation. He said there was no public comment and the Commission voted unanimously to approve the transaction and made a recommendation to Mayor Chavez to give his approval under the TEFRA requirements. He said they received that signed document back from the Mayor's office as of yesterday. He said they are now ready to recommend to the Board of Trustees that it adopt the ordinance that authorizes the issuance of bonds up to \$10,000,000 and further authorizes Mayor Abraham to execute the documents that will be needed to complete the transaction.

MOTION: Trustee Homan moved to adopt Ordinance No. 210 authorizing the issuance and sale of Village of Los Ranchos Industrial Bonds (Sandia Preparatory School Project) Series 2007 in the principal amount of up to \$10,000,000; and authorize the Mayor to execute the Indenture Trust, the Bond Purchase Agreement and the Installment Purchase Agreement Trustee Rael seconded the motion.

ROLL CALL VOTE: Trustee McDonough, aye; Trustee Homan, aye; Trustee Lopez, aye; Trustee Rael-aye. The motion carried unanimously, 4-0.

2) DISCUSS AND AUTHORIZE THE MAYOR TO EXECUTE THE PUBLIC APPROVAL CERTIFICATE, U.S. TREASURY REGULATIONS SECTION 5F.103-2 (C) (3)

MOTION: Trustee McDonough moved approval to authorize the Mayor to execute the Public Approval Certificate. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

8. NEW BUSINESS

A. DISCUSSION AND APPROVAL TO ADOPT RESOLUTION NO. 2007-7-3- PROVIDING FOR THE NOTICE OF BOND SALE OF VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, NEW MEXICO GENERAL OBLIGATION BONDS AND DISCUSSION AND MOTION TO PUBLISH THE BOARD'S INTENT TO ADOPT AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$3,600,000 AT ITS AUGUST 8, 2007 MEETING

Administrator Vigil reported that at the election on March 13, 2007 the voters authorized General Obligation Bonds for the purchase of open space. He said the Village is working closely with the Trust for Public Land and the Andersons to negotiate the purchase of land from the Andersons. He said in conjunction with Bond Counsel, the Village looked at the calendar to determine when they could propose to sell the bonds and to be on the tax roles for the next tax year. He said Bond Counsel has prepared the notice as well as the resolution to adopt the ordinance.

Tommy Hughes, Hughes and Strumor, said there are two items and the first is the resolution that allows them to publish notice of the sale and conduct the sale. He said it will be done by interactive internet auction where they have found they get a better interest rate. He said the statute requires the municipality to adopt an ordinance through the actual sale. He said the ordinance will then approve the sale and they will come back on August 8th to do that so they need to publish notice of intent to adopt that ordinance.

Administrator Vigil noted that with the sale in August, the Village can also begin to earn interest on that bond money which can be applied to the purchase of the property.

MOTION: Trustee Rael moved approval of Resolution No. 2007-7-3. Trustee Homan seconded the motion.

ROLL CALL VOTE: Trustee McDonough, aye; Trustee Homan, aye; Trustee Lopez, aye; Trustee Rael, aye. The motion carried unanimously, 4-0.

MOTION: Trustee Homan moved approval to publish the Board's intent to adopt an Ordinance authorizing the issuance and sale of \$3,600,000 General Obligation Bonds at the August 8, 2007 meeting. Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously, 4-0.

B. DISCUSSION AND APPROVAL AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE SITE LEASE AGREEMENTS WITH ALLTEL, VERIZON, CINGULAR AND OR SPRINT

Administrator Vigil said that the T-Mobile Agreement was brought up at the May 2007 meeting during his Administrator's Report. He said the agreement was not ratified by the Board as prescribed by the action they took in November 2006 to approve the cell tower. He said he has discussed the issue with Attorney King and she has informed him that based on notice requirements, the Board can take action on the T-Mobile Agreement at tonight's meeting. He said the other issue is the collocation agreements which are negotiated between T-Mobile and the other providers. He said at this point T-Mobile is working with Cingular, Verizon, Alltel and

Sprint. He said Cingular has had some changes in operations and they are now part of the AT&T network area. He said according to Karen Siegman, the T-Mobile representative, they are in discussions with Cingular/AT&T, but it may take a while longer until their budget plan is ready. He said Alltel and Verizon are in process and will soon need ground lease agreements. He said Sprint is reviewing theirs and will soon be on board. He said when the Board approved the land use agreement for the cell tower to be built on Village property, one condition was that T-Mobile have at least four other providers collocated on the tower and in the agreement that was negotiated with them. He said they built the space according to the conditions and specifications of the land use agreement to accommodate the other collocators' equipment. He said what is before the Board is a preliminary agreement and Attorney King has reviewed the lease agreement from Alltel. He said the terms of agreement are basically for 5 years and the renewal term is for 4 additional 5-year terms. He said the rent payable will be \$1,500 per month for the rent on the lease and the rate escalations of 10% payable during the renewal period have also been built in. He said there is also an interference clause that assures that one of the providers does not interfere with the others. He said the agreement can be terminated without penalty based on both parties giving the notices required. He said the reason they are recommending that the Mayor have authority to execute the agreements is because in order for T-Mobile to meet its obligation on collocation, if they do the collocation agreement and we don't give them the land lease agreement, there may be a delay in their ability to get their operations underway.

Trustee Rael said concerning Item 5 it shows that rent should be increased by 110% and that appears to need correction to 10%.

Administrator Vigil said the agreement in the Board packet was a draft and the 110% will be corrected to 10%.

Trustee McDonough asked if the Board could or could not take action on the T-Mobile Agreement.

Attorney King said the Board may take legal action on the T-Mobile lease because it is not an ordinance and it does not have that notice requirement. She said it would be a technical ratification of the agreement.

Trustee McDonough said he has a concern about authorizing negotiation and execution of the agreements because he felt that it was the Board's responsibility to share in making those final types of decisions. However, he said recognizing the timing issues that Administrator Vigil discussed and the fact that the Board is approving the primary agreement which is T-Mobile and that subsequent agreements will follow in form and substance, he said he is satisfied that the Board is sharing the burden for the execution of these contracts.

MOTION: Trustee McDonough moved that the Board accept and ratify the agreement with T-Mobile for the ground lease for their cellular equipment. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

MOTION: Trustee McDonough moved that the Mayor be authorized to negotiate and execute site lease agreements with Alltel, Verizon, Cingular and/or Sprint. Trustee Homan seconded the motion.

VOTE: The motion carried unanimously, 4-0.

C. DISCUSSION AND APPROVAL AUTHORIZING WASTE MANAGEMENT A RATE ADJUSTMENT TO THE COLLECTION RATES BASED ON THE EXTRAORDINARY COST OF OPERATION PURSUANT TO EXHIBIT C SECTION 26 OF THE CONTRACT

Administrator Vigil said in the agreement that was signed between the Village and Waste Management there is a clause under Exhibit C wherein the contractor can petition the Village for a rate adjustment based on “extraordinary cost of operation”. He said it also states in that process that the Village can perform a review if the conditions change so that it can be adjusted if, hopefully, gas prices go down. He said the Board did approve a cost of living adjustment in April due to the CPI. He said this rate adjustment is for a fuel adjustment which is 2.52% based on the rate increase of the fuel from April 2004 to April 2007. He said the cost to a home will increase by about 33 cents and commercial by about 54 cents.

Marlene Feuer, Waste Management, said their Controller has prepared a spreadsheet showing how the fuel cost has gone from \$1.69 to \$2.90 over the 3-year period. She said their residential trucks get 3.25 miles per gallon, the commercial trucks, 3.91 miles per gallon, and on the roll-off trucks it is 3.89 miles per gallon. She said they have a very intensive use of diesel fuel. She said they have already instituted fuel surcharges in Rio Rancho and other communities.

Trustee Homan asked if the fuel charge will be a specific line item on the bill.

Marlene Feuer said she was going to recommend that it be a specific item so that it is not confused with the standard rate. She said she would like to make a commitment to review the surcharge on a quarterly basis so that if it goes down, they will lower the rate.

Trustee McDonough said his question had to do with the CPI and if they do the fuel adjustment now and prices stay high, then wouldn't the CPI next year capture the increase in fuel?

Marlene Feuer said fuel in the CPI is insignificant versus the impact on Waste Management. She said they use 10% as the indicator to adjust up or down.

MOTION: Trustee Rael moved approval to authorize Waste Management a rate adjustment to the collection rates based on the extraordinary cost of operation. Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously, 4-0.

D. DISCUSSION AND APPROVAL TO EXECUTE THE 1ST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF BERNALILLO AND THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE TO PROVIDE LAW ENFORCEMENT WITHIN THE VILLAGE LIMITS

Administrator Vigil stated that he met with the Public Safety Director, County of Bernalillo, and the administration of the Sheriff's Department and they are enthusiastic about renewing the contract. He said that having two deputies who live in the Village has enhanced their visibility in the community and the other two deputies are excellent as well. He said the rate increase has to

do with health care and benefits that were negotiated in the contract with the County. He said the overhead remains low and he believes it is a good agreement.

Trustee Lopez said he supports the law enforcement agreement. He said he got a call from the Principal of North Valley Academy who said they had restrained a drug dealer and it took law enforcement over two hours to arrive. He said he spoke to Sgt. Lazo about it and he too felt that two hours was excessive.

Administrator Vigil said he discussed this incident with Sgt. Lazo who indicated that they had simultaneous incidents occurring and it was a matter of prioritizing issues and also a problem with the communication center.

Trustee Lopez said he had heard that one of the motorcycles was broken down or needed repairs.

Administrator Vigil responded that one of the components on the radar was malfunctioning and it had to be sent out for repair but the motorcycle could still be ridden.

MOTION: Trustee Homan moved approval of the 1st Amendment to the Intergovernmental Agreement for Law Enforcement services within the Village of Los Ranchos. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

E. DISCUSSION AND APPROVAL TO ENTER INTO TWO LICENSE AGREEMENTS BETWEEN THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT AND THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE TO INSTALL PIPE GATES ON THE ALBUQUERQUE MAIN CANAL AND THE CHAMISAL LATERAL' RIGHT OF WAY WITHIN THE VILLAGE'S JURISDICTION

Administrator Vigil stated that the Village has finalized and closed on the Blanchard and Mountain Run properties but one of the issues with the property is the illegal dumping and also the difficulty of maintaining control of motorized vehicles on the trail. As a result of that, the Mayor discussed the problem with Mr. Shah of the Conservancy District who authorized Ray Gomez of his staff to accompany Administrator Vigil on a drive of the trouble area where installing gates would alleviate the problem. He said the Village has now received the license agreements to install the gates and he has also contacted the Water Authority to let them know the Village would provide them with keys to the gates but they would be responsible for closing the gates. He said he believes it will serve a great benefit to the residents by keeping the motorized vehicles from entering the property.

MOTION: Trustee Rael moved approval to enter into 2 license agreements between Middle Rio Grande Conservancy District and the Village. Trustee Lopez seconded the motion.

Trustee McDonough said his concern is the gates on the Chamisal will cut off those ditches from pedestrian and equestrian use. He said Gate 3 does not have the horse bypass because it is only a 14 foot gate. He said those are the trails that lead to the bridge over the Paseo. He said with a little work you could widen the area where the gate goes in.

Administrator Vigil said they will work on that and it was their intent that it could be used by horses as well as pedestrians.

Trustee Homan asked if Trustee Rael would accept a friendly amendment that we approve with correcting Gate 3 and Trustee Rael agreed.

VOTE: The motion carried unanimously, 4-0.

F. DISCUSSION AND APPROVAL TO ADVERTISE AN ORDINANCE ESTABLISHING STORMWATER MANAGEMENT ACCORDING TO EPA, NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REQUIREMENTS WITHIN THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE

Planning Assistant Seebach stated that the Clean Water Act, National Pollutant Discharge Elimination System designated the Village as a small MS4 designator operator for our 5 cfs outfall on 4th Street. She said because of that one of the requirements is that we must pass an ordinance that enforces the Clean Water Act NPDES.

Trustee Homan said there have always been problems in the Village with runoff. She said by creating an ordinance that we are going to adhere to EPA standards, she questioned what the Village intends to do about enforcement.

Planning Assistant Seebach responded that it will be the responsibility of the Code Enforcement Officer to view the stormwater runoff.

Trustee McDonough said the limitation on the application of where this applies, he believes it applies Village-wide. He said EPA thinks it gets in the river no matter what.

MOTION: Trustee Homan moved approval to advertise for adoption an ordinance for stormwater management according to EPA National Pollutant Discharge Elimination System requirements. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

G. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2007-7-4 – APPROVING THE CITY OF ALBUQUERQUE/BERNALILLO COUNTY HAZARD MITIGATION PLAN AS REQUESTED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Chief Perez stated that the Federal Mitigation Plan was put together by the City of Albuquerque and Bernalillo County with input from the Village. He said basically what the plan will do is allow the Village to receive federal funding from FEMA should the need arise in the future. He said the City of Albuquerque picked up all the fees that were associated with compiling the Hazardous Mitigation Plan.

MOTION: Trustee Rael moved approval of Resolution No. 2007-7-4 approving the City of Albuquerque/Bernalillo County Hazard Mitigation Plan. Trustee Lopez seconded the motion.

ROLL CALL VOTE: Trustee McDonough, aye; Trustee Homan, aye; Trustee Lopez, aye; Trustee Rael, aye. The motion carried unanimously, 4-0.

H. DISCUSSION AND APPROVAL OF THE DESIGN CONTRACT WITH LARKIN GROUP NM, LLC FOR THE DESIGN SPECIFICATIONS FOR THE INTERSECTION UPGRADE OF SIGNALS AT FOURTH STREET AND LOS RANCHOS ROAD AND THE DESIGN OF THE REPAVING OF FOURTH STREET FROM SCHULTE ROAD TO PASEO DEL NORTE

Planner Nighbert stated that the Village has been placed on the priority list for the GRIP II funding for the repaving of 4th Street from Schulte to Paseo del Norte in the amount of \$3,360,000 with a local match of \$840,000. He said in order to be prioritized the Village needs to present the design, estimates for the work, drainage infiltrator designs and other safety improvements to the NM DOT for review. He said Larkin Group was chosen from the County RFP rotation for small engineering projects. He said the design fees were negotiated at \$57,940.

Trustee Homan said she is hoping that when they do the study they will see they need to grind down part of 4th Street in this area since it is much higher than properties on either side and storm water runoff is actually coming into the properties.

Planner Nighbert said the scope of work includes the design of the infiltrators, changing the intersections of Ranchitos and El Pueblo so that they are aligned with the lights, and providing estimates and sections across those roads and also the signage issue. He said it will address all the safety issues. He said \$24,000 of the \$50,000 is for the signals.

Trustee Lopez said it appears the Village has to do this to get the funding.

Planner Nighbert said unless NM DOT actually receives an engineer's estimate and design, they would not consider funding us.

Trustee Homan asked if this would also take into consideration the turn lane or signal that is needed for North Valley Academy.

Planner Nighbert responded that they will be looking at the revamp of the intersection at Ranchitos.

MOTION: Trustee Lopez moved approval of the engineering design contract with Larkin Group, NM, LLC, for the design specifications for the intersection upgrade of signals at Fourth Street and Los Ranchos Road and the design of the repaving of Fourth Street from Schulte Road to Paseo del Norte. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

I. DISCUSSION AND APPROVAL TO DRAFT AND ADVERTISE A REQUEST FOR PROPOSAL TO DEVELOP THE PROJECT AREA OF THE VILLAGE CENTER ZONE INTO A COMMERCIAL/RETAIL CENTER IN CONCERT WITH THE VILLAGE OF LOS RANCHOS AND THE PROPERTY OWNERS OF CERTAIN PARCELS WITHIN THE PROJECT AREA

Planner Nighbert stated that the Village has met with all the property owners in the project area of the Village Center Zone and in accordance with the VC Zone plan, the Village must develop and advertise for a developer to be selected to develop the project area into a commercial and retail center envisioned in the 2010 Master Plan. He said the RFP is currently being drafted and staff would request permission to complete the RFP and advertise for responses.

MOTION: Trustee McDonough moved approval to advertise and draft the RFP for the VC Zone. Trustee Lopez seconded the motion.

Carlos Osuna , 4104 Palo Duro, said he represents 321 Osuna Road and asked if this is the Osuna/4th Street project and whether it concerns some of the condemnation proceedings going on with Contreras.

Mayor Abraham responded that this is the Osuna/4th Street project but it is not about the Contreras situation.

VOTE: The motion carried unanimously, 3-0. Trustee Rael recused from voting.

J. DISCUSSION AND APPROVAL TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENT AND OR REHABILITATION OF ENCHANTED VALLEY ROAD AND VARIOUS VILLAGE ROADS FOR \$143,950.67

MOTION: Trustee Lopez moved approval to enter into a Cooperative Agreement with NM DOT for the improvement and/or rehabilitation of Enchanted Valley Road and various other roads for \$143,950.67. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

K. DISCUSSION AND APPROVAL TO CONSENT TO THE MAYOR'S ACTION OF ENTERING INTO A JOINT POWERS AGREEMENT BETWEEN THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION AND THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE ALLOCATING \$3,375,000 AND AMENDED BY GRANT AGREEMENT NO. 1, CORRECTING THE DESIGNATION OF THE OPEN SPACE FUNDING AND THE OTHER GRANT FUNDED PROJECTS

Administrator Vigil stated that at the May meeting the Board approved the original agreement and after that there were a couple areas he felt they had not taken into account when they made the original appropriation. He said one area was that the funding for the Anderson property was combined with the total appropriation and the second was that the Governor had vetoed the language regarding the total appropriation going to the Anderson property. Also, he said there had been legislation amending 2006 appropriations taking what the Governor had originally appropriated for the Blanchard property and combining it with Anderson. He said DFA's attorney decided that rather than keeping the agreement the way it was originally, they wanted to enter into a new Joint Powers Agreement to clarify the issues. He said due to the timing issues and the fact that Blanchard was getting impatient because the Village wasn't closing on the property, it was determined that the Mayor should sign the agreement. He said staff is now requesting the Board's concurrence with the action that was taken not only for clarification but

also for audit purposes.

MOTION: Trustee Rael moved approval to consent to the Mayor’s action of entering into a Joint Powers Agreement between NM DFA and the Village allocating \$3,375,000 and amended by Grant Agreement No. 1 correcting the designation of the open space funding and the other grant funded projects. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

9. TRUSTEES INFORMAL DISCUSSION

Trustee Homan asked if there is an update on the body that was found on Pueblo Solano and Chamisal.

Administrator Vigil said he spoke with Sgt. Lazo about it and they believe it was an accidental death, not a homicide. He said he has requested a copy of the Sheriff’s report so that he can provide it to the Board and to the residents in the area. He said he has also had a discussion with the Water Authority about the subsidence at Chamisal and they said they would check on it.

Trustee Rael asked if it was true that we do not pick up skunks or raccoons.

Administrator Vigil said there are private agencies who will pick them up. He said if the Animal Control Officer responded to every one of those calls that is all he would be doing.

10. ADJOURNMENT

Trustee Homan moved to adjourn at 10:00 p.m.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2007.

ATTEST:

Annabelle Silvas
Village Clerk