

# MINUTES

VILLAGE OF LOS RANCHOS de ALBUQUERQUE  
6718 RIO GRANDE BOULEVARD N.W.

BOARD OF TRUSTEES REGULAR MEETING

**March 14, 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

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## 1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Village of Los Ranchos' Governing Body held its Regular Meeting on Wednesday, March 14, 2007 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:00 p.m.

### A. APPROVAL OF AGENDA

**Mayor Abraham** announced that the Village is working with a new recording system and he requested that everyone be sure to speak directly into the microphones. He said that eventually the entire meeting will be available on the website and the public will be able to go directly to the item they want to hear. He said they also have a new setup in the front so that staff and the public can more easily address the Board.

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

**VOTE:** The motion carried unanimously, 4-0.

## 2. PUBLIC COMMENT PERIOD

**Leo Bartolucci**, 6612 Las Casitas NW, said he is a former Trustee and has served the Village for 10 ½ years. He said he is upset after reading the mailing on the VC Zone. He said what upset him was the list of businesses approved by the Master Plan. He said he helped with the Master Plan and at that time they left out gas stations, mechanics' repair shops, auto sales, and motorcycle repair shops. He said he was assured by the administration that they would put these businesses back into the Master Plan. He said these businesses all pay gross receipts tax and now their property tax for open space. He said most of these business owners don't live in the Village but pay property tax. He said he believes the Village is discriminating against these businesses and they should be put back into the Master Plan.

**Ricardo Brack** said he owns German Motorwerke at 6712 4<sup>th</sup> Street. He said he does not live in the Village but has been a business owner for 26 years. He said he thinks it is really sad that in the future no auto repair business can be opened.

**Charles Carrillo** said he owns C & A Transmission at 6777 4<sup>th</sup> Street and is going on his 17th year there. He said he pays gross receipts tax and property tax to the Village.

**Anthony Montoya** said he owns Enchantment Auto Service at 7940 4<sup>th</sup> Street and is going on his 18th year there. He said he also pays gross receipts taxes.

**Eppie Martinez** said he owns Eppies Motorcycle Services at 7201 4<sup>th</sup> Street and has been in business for 8 years. He said he loves it here and please don't change.

**Mike Faris** said he owns Mike Faris Auto Wholesale and he also pays gross receipt taxes and will now be paying taxes for open space. He said he does not live in the Village.

**Jim Brown**, 1700 Dietz Place, said he is a dog lover and he believes it is high time for the Village to have a dog park. He said he believes the reasons this hasn't been done before are that the lots are larger here and there is the ditch system where people walk their dogs. He said he believes the money for a dog park is very small considering the tremendous joy that many people would have. He said he would like to see this passed within 60 days.

### **3. CONSENT AGENDA**

#### **A. MINUTES –REGULAR MEETING–FEBRUARY 14, 2007**

**Trustee Homan** said on page 7, line 24, the words “discriminating against” should be substituted for “dinging”. She also indicated that on page 10, lines 5 and 6, the word “and” should be “where” so that it now reads: “She said she had a number of residents who are selling homes where the home was currently vacant therefore needing no service.”

#### **B. DEPARTMENT AND COMMITTEE REPORTS**

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

**MOTION:** Trustee Rael moved approval of the Consent Agenda. Trustee Homan offered a friendly amendment to include approval with her changes to the Minutes. Trustee Rael accepted the amendment. Trustee Homan then seconded the motion.

**VOTE:** The motion passed unanimously, 4-0.

### **4. REPORTS**

#### **A. MAYOR'S REPORT**

**Mayor Abraham** reported that:

- The Special Bond Election was very successful. Whether you voted yes or no, it showed by the results that our residents value open space and are willing to protect it. This means that our Village is willing to make a commitment and in turn the Governor and federal government will allocate more funds. It also gives the Board a lot more strength to try to limit the size of houses and make sure there is more open space in developments. He thanked everyone for taking part in the election.

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

**Administrator Vigil** reported that:

- The legislative session is in its final stage. They looked at capital outlay requests in terms of the reauthorizations which represent items that were vetoed by the Governor. There was \$95,000 in the bill: \$25,000 for Main Street, \$55,000 for park maintenance equipment and \$15,000 for the design of a bike path along Rio Grande Blvd. In the main bill, we requested \$2,000,000 for the fire station and have received \$500,000; in terms of open space, which includes both the properties on the northern end next to Paseo del Norte and Anderson, \$2,925,000; and the Unser Museum is in the bill for \$605,000. There is a bill for \$155,000 that affects us which is a streetscape along 4<sup>th</sup> Street between McArthur and the Village limits. Staff will need to discuss this with Councillor O'Malley. There is also \$60,000 for the bike path along Rio Grande Blvd., \$75,000 for road improvements and another \$100,000 for the bike path. In total for this session in the regular bill, the Village has \$3,650,000, the Unser Museum has \$605,000, and the \$95,000 in reauthorization for a total of \$4,360,000.
- They will be conducting the final inspection of the 4<sup>th</sup> Street Project with the State Highway Department, the Federal Highway Administration, AMAFCA, Rio Grande Conservancy District, ABCWUA, the City and County. They have scheduled 5 hours on Monday, March 19, to conduct the entire walk through. Star Paving has been given a preliminary punch list and most items have been completed.
- In terms of the comments just made, auto mechanics and the others are not prohibited under conditional uses, they are allowed and would be considered a special use permit. The auto supply store is a permitted use in the VC Zone.
- He spent a lot of time on the issues of the election to make sure we were prepared for it and addressed a lot of questions from the public about the impact of the tax on them individually.
- Staff did some grading of Village dirt streets: Alondra, Chamiso and Arada.

**Mayor Abraham** noted that in order to put the \$4.4 million the Village is slated to receive from the State of New Mexico in perspective; in the previous 5 years (1999-2004) before the current administration took office, the Village only received a total of \$480,000. He said in the last 3 years, the Village will be pushing \$9 million or \$10 million received from the State of New Mexico and that is why the bond election was so important in order to show that the Village is willing to make a commitment and put up some of its own money.

## **C. PLANNER'S REPORT**

**Planner Nighbert** reported that:

- The Planning Department welcomed 3 new members of the Planning & Zoning Commission. They conducted an in-house training session concerning conduct, ex-parte communications, the agenda, meeting formats, motions and findings. They distributed the Master Plan, Zone Code and a Commissioner's Handbook from the Municipal League. There was good participation from all 7 Commissioners at the P&Z meeting on March 12.
- The Planning staff prepared planning reports for 9 applications.
- They have managed to function with only half a staff, but the regular review of permits has been slowed down.
- The Administrative Assistant position should be filled within the month and the Code Enforcement Officer position will be advertised.
- The Department has been working on MAP and CO-OP Grant Applications for submittal.
- The Floor Area Ratio (FAR) Committee has conducted two meetings. Much has been discussed for a framework for design guidelines to complement a floor area ratio in context. They will bring that back to the Planning & Zoning Commission who will make a recommendation to the Board of Trustees.
- The water line service to the barn has been constructed and the sewer stub-out has been laid. There was some damage by the contractor to the walking trail but they are working with TLC to make sure it is repaired.

#### **D. LEGAL REPORT**

**Attorney King** reported that:

- They worked on the Landau #2 appeal which was filed this afternoon.
- She worked on the amendments to the Unser Agreement which are included in the Board's packets.
- She assisted staff in drafting notices for code violations and provided general, daily legal advice.

#### **E. FIRE DEPT. REPORT**

**Fire Chief Perez** reported that:

- For the month of February, they ran 59 EMS calls and 12 fire calls.
- Village of Los Ranchos made history by being the first fire department in the County that has sent an EKG reading from an individual's home directly to the hospital allowing the doctor to remotely interpret it. They were able to do this through the new Zol Machine they bought with Homeland Security funds and through Dan Barela's perseverance.
- Several firefighters are present to give the Mayor and the Trustees a plaque they received for fighting the Belen bosque fire. They believe it is going to be a busy wildland fire season and asked everyone to be careful with outside fires and outside burning.
- The Easter Egg Hunt will be held on Saturday, April 7 at 10:15 a.m. in Hartnett Park. They would welcome donations of eggs and candy.

**Mayor Abraham** asked the firefighters who were present to identify themselves: Dan Barela, Lt. Paramedic; Daniel Lopez, Firefighter; Jeremy Aragon, Firefighter; and Rick Healey, Driver.

**5. FINANCIAL BUSINESS**

**A. CASH REPORT – FEBRUARY**

**Treasurer Haines** reported that the ending cash balance at February 28 was \$1,864,682.80. She said for the month of February, revenues exceeded expenditures by \$68,230.63 and the year-to-date expenditures exceed revenues by \$774,214.28.

**Trustee Lopez** said on page 53 it shows the \$774,214.28 in parentheses and he asked if that was correct.

**Treasurer Haines** responded that it is correct because expenditures exceeded revenues primarily due to the \$750,000 that was expended on the Blanchard transaction.

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

**VOTE:** The motion carried unanimously, 4-0.

**6. PUBLIC HEARINGS AND APPLICATIONS**

**A. AN APPEAL BY ALLISON AND FISHER, ATTORNEYS FOR DENNIS NEFF, TO THE BOARD OF TRUSTEES OF ACTION TO DENY APPLICATION V-07-01 BY PLANNING AND ZONING COMMISSION ON JANUARY 9, 2007, AGENDA ITEM 5A, FOR A VARIANCE FROM THE TWO HUNDRED EIGHTY FEET (280') SETBACK IN THE NORTH RIO GRANDE CHARACTER AREA A TO ALLOW FOR ONE HUNDRED FIFTY FEET (150'). THE PROPERTY IS LOCATED AT 6847 RIO GRANDE BLVD. AND IS LEGALLY KNOWN AS TRACT NO. TWO (2) OF THE LANDS OF AL UNSER, JR. (BEING A REPLAT OF TRACTS A-1 AND A-2, LANDS OF WAYNE LOVELADY), VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO AS THE SAME IS SHOWN AND DESIGNATED IN THE PLAT THEREOF ON FEBRUARY 21, 1997, V. 97C, FOLIO 57. THE PROPERTY CONTAINS 1.6353 ACRES MORE OR LESS. THIS ITEM WILL BE DEFERRED UNTIL THE APRIL 11TH BOARD OF TRUSTEES MEETING.**

*Item 6.A. was deferred to the April 11, 2007 Board of Trustees Meeting.*

**B. 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 RAINHART AND ASSOCIATES, AGENTS FOR LOS RANCHOS VILLA, LLC. FOR VARIANCES FROM THE VILLAGE CENTER ZONE FOR NEW COMMERCIAL CON-STRUCTION 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.**

*Attorney Martha King swore in those wishing to speak on Item 6.B.*

**Planner Nighbert** discussed Planning Report No. PZ-07-20 which is an appeal to the Board of Trustees of the P&Z Commission's denial of applications V-07-02, V-07-04 and V-07-07. He said the Los Ranchos Villa Shopping Center is located on the south side of Chavez Road fronting on 4<sup>th</sup> Street, to the south is Sandia View, and to the west is C-1 property which has a residential house on it. He said whatever the Board does, it will go back to the Planning & Zoning Commission for action on the site plan. He said the property is located in the heart of the Village Center Zone and the proposal is for a Starbucks Coffee of 1,850 square feet and retail shops comprising 4,920 square feet. The Starbucks' design has a drive-up window. He said the variances that were denied by the Commission were: a request for a variance from Section 11(B)(2) prohibiting drive-through restaurants, a request for a variance for the requirement of building to the sidewalk along 4<sup>th</sup> Street and Osuna Blvd., and a request for a variance from blank walls along a public right-of-way. He said the applicant originally proposed 6 variances and the Planning Commission approved 3 and denied 3. He said the Starbucks would be located on the front half of the property facing 4<sup>th</sup> Street with the drive-through next to 4<sup>th</sup> Street. He said the egress points would be on Sandia View and on Chavez Roads with parking between the two structures. He said the applicant did meet with some of the opponents, including Ms. Chavez and her family. He said the applicant moved the retail building away from the property line by 16 feet where it was originally 5 feet from the property line. He said they moved the trash dumpster away from the residential area. He also noted that there would be outdoor seating on the north side of Starbucks.

**Applicant:**

**George Rainhart**, 2325 San Pedro NE, said the 3 variances the Planning Commission could not approve were the drive-through component to the Starbucks, the build to the sidewalk, and the blank wall. He said they fixed the blank wall by putting in more intensive landscaping. He said they followed the same route as they did for the Bank of Albuquerque and Walgreens' development because the VC zone does not allow some of these uses and has some specific requirements that are difficult to achieve. He said they tried to put together a center that has a mix of uses that gives you an active retail center, a real Village Center. He said the build to line issue goes along with the Starbucks to some degree. He said that while Ms. Chavez' property is zoned C-1, it is still a house and they respect this and have tried to preserve her views and to protect the house for however long it is there. He said that is why they pushed the Starbucks up to the street. He said their intent was to match the landscaping, the low wall that is already constructed in front of Walgreens and the Bank of America. He said they want to have the drive-up component on the outside, noisy side. He said they also don't want all the buildings on the street because they want to back up the small retail building close to their property to screen residential property from street noise. He said this is a redevelopment project and you have to look at compromises. He said he feels they have done a fairly adequate job of protecting the Chavez residence. He said as far as the blank wall issue, they thought it was adequate to add an intense amount of landscaping; however, he said they could add some pilasters instead of landscaping, if that is what is necessary. He said the two major issues are fronting the building

on the street and they are providing the same street scape they provided and the Board approved, on the north side of Osuna.

**Doug Peterson**, Peterson Properties, 2325 San Pedro, said the record is thorough but he would like to add that the average Starbucks with a drive-through in a neighborhood similar to the Village Center does approximately \$21,000 a week in sales. He said it was mentioned last month that Starbucks was not interested in coming in without a drive-through. He said the main reason is the density in the Village as compared to other shopping centers in the Albuquerque area where their density is 11,000 – 12,000 people versus 5,500 in the Village.

**Mayor Abraham** asked how integral this project is to being able to lease the remainder of Los Ranchos Villa.

**Doug Peterson** responded that they think it is important because there are several retailers who consider Starbucks an anchor and a mark of quality to the project.

### **Proponents:**

**Nannette Hurley**, 909 Salamanca, said she is speaking in favor of Starbucks because she believes it would be a credit worthy tenant who would draw other credit worthy tenants. She said she believes it would be a gathering place for the whole Village and a place to get to know each other. She said they have an employment policy that creates friendliness and she and a number of her neighbors are in favor of having Starbucks in the Village.

**Mike Contreras**, 6301 Indian School Road NE, said he owns the property across the street on the east side of 4<sup>th</sup> street and he believes this is a great project for the Village to get a good quality tenant and pull other tenants to fill Los Ranchos Villa. He said he thinks the developer has shown a willingness to compromise and it is a good quality development.

**Mayor Abraham** said most of the opponents' testimony was already on the record, but if they had some new testimony they should come forward. He said they would try to limit everyone to 3 minutes, but would allow more time if things were not being repeated.

### **Opposed**

**Georgia Chavez**, 428 Chavez Avenue, said she lives in the Village because her late husband's family lived here since the 1700's and were the original Village grantors. She said slowly, through the years, their rights have been taken away. She said they used to be able to enjoy the open spaces on Chavez Avenue but can no longer due to the developers' impact around them. She said the development of Starbucks will create more traffic, pollution and noise on Chavez. She said she took a traffic study from her kitchen window one morning from 7 a.m. to 7:45 a.m. and counted 130 cars coming from the west on Chavez to turn south on 4<sup>th</sup> Street. She asked them to deny the Petersons a Starbucks drive-through as the Planning & Zoning Commission denied them. She said they tried to negotiate with Peterson but he would not give anything. She said she respects the wishes of some of the people who want a Starbucks but they won't have to live next to it.

**Mayor Abraham** asked Ms. Chavez if she is opposed to Starbuck's drive-through or to Starbucks.

**Georgia Chavez** responded that she would have to see a lot of changes before she would agree to a Starbucks.

**Robert Chavez**, 324 Enchanted Valley Place, said that Ms. Chavez was against the building being directly east of her property line. He said during negotiations they said they would favor the building if they moved it on the south side. He said what they received in the negotiations was a request to participate in a variance request to have the Starbucks moved closer to 4<sup>th</sup> Street so they could grant the family a little more leeway from the eastern boundary.

**Bruce Muhr**, 336 Enchanted Valley Place, said he wanted to thank the Mayor and the Board for the request to DOT funding to repave their street. He said there are a lot of places in the Village that serve coffee and none of them have drive-ups. He said he thinks it would be unfair to give a drive-up advantage to Starbucks when that hasn't been done for those businesses that have been in the Village for a long time. He said he would like a Starbucks but not a drive-up because it would create more traffic.

**Camille Varoz Casaus**, 427 El Paraiso, said Peterson has requested 6 variances and has had 3 approved. She said there should be consideration for nearby residents and she is close enough that it will affect her quality of life. She said she doesn't believe this should be rushed through. She said she wants to respect the original residents and the new residents. She said she is a patron of Starbucks but thinks they should look for another place for a drive-through.

**David Montoya**, 517 Pueblo Solano, said he would like to remind the Trustees they originally had a concept to have a walking Village-type center. He said you don't see a lot of people walking. He said when he goes to Starbucks, he gets out of his truck and walks in. He thinks they need to set an example that here in the Village they are a little bit different.

**Alex Vallejos**, 428 Sandia View Road, said he lives across from Ms. Chavez. He said there is currently a traffic problem on Sandia View and he believes the Starbucks will only increase traffic in their area.

**Don Bradley**, 7910 Rio Grande Blvd., said he has lived in the Village for 37 years. He said he is against Starbucks because they don't need a drive-up. He said this goes against their 4<sup>th</sup> Street plan for walking and pedestrians.

**Randy Gallegos**, 501 Sandia View NW, said he also owns the property at 502 Chavez. He said drive-throughs are not allowed here. He said he is asking the Board to please go with what the Planning & Zoning Commission already voted on. He said there are just a few of his neighbors who also live in this commercial center and they are asking the Trustees to please stand up for them.

**Robert Chavez**, 324 Enchanted Valley Place, said he would like to thank the Petersons because they have made a considerable effort at negotiation and they did have a meeting. He said the Petersons do have a heavy investment and they are astute businessmen. However, he said they

disagree on certain important items. In relationship to the P & Z, he said he believes the Board should respect their judgment, their due diligence and approach it from that respect and honor their conviction. He said another serious issue is the quality of life and a livability issue. He said the pole or model his brother is holding represents the size of the building that will be 12 feet from his mother's patio/backyard and her view. He said there is no justice in that for her quality of life. He said there is no consideration of what this new development is going to do to the flooding situation. He said another highly critical thing is that they took 4 days to get signatures of all the people in that area who are directly impacted and they all signed the petition which was presented to the P&Z. He said they subsequently acquired a lot more signatures but were told that they could not add to the packet. He said all the residents of the Village are crying out to protect the rural nature of the Village.

### **Questions from Board to George Rainhart and Doug Peterson**

**Trustee Rael** asked how they envision the traffic flow through the drive-through.

**George Rainhart** said they have two means of traffic coming through the drive-through. He said 4<sup>th</sup> Street is on the right and traffic can turn west on to Sandia View and loop into the site and come right back out. He said they set it up that way so it would have the least impact on the homes. He said traffic that is coming from Caballero Ranchitos or other portions of the Village from Rio Grande Blvd. will come down Chavez Road and can turn right into the site, loop out and then immediately go back onto 4<sup>th</sup> Street. He said traffic going north can turn on Sandia View and access it that way.

**Trustee Homan** said Ms. Chavez discussed her visual survey of traffic traveling down Chavez Road. She said she believes a number of those cars will try to pull into Starbucks which will add to congestion there. She said she is a frequent observer of the Starbucks on I-25 and Montañó and usually the drive-up backs up all the way through the side of McDonald's parking lot and she said there are easily a dozen or more cars sitting in that line in the morning. She said she believes the same type of back up would occur at the Village's Starbucks.

**George Rainhart** said the Starbucks at Montañó is an unusual situation because it has the highest volume in the city. He said it is not what they are seeing at the other locations. He said Starbucks' criteria require 8-car stacking within their drive-up lane before you see cars backing up into the parking lots. He said if cars were backing up on Chavez, there are several other relief routes. He said they have done a number of things in terms of listening to the Chavez' issues and trying to deal respectfully with their condition. He said they have pulled the building almost 16 feet from the wall versus 6 feet and moved it to the south. He said they pulled the fire place they had planned so that it would not encourage outdoor activity. He said as far as walkability, they want people to walk to the storefronts.

**Trustee Lopez** said in Old Town there is a Starbucks with no drive-up that appears quite successful. He asked if it was correct to assume that once this is changed to VC Zoning, if a developer came in with no variance requests at all and wanted to build a Starbucks or a restaurant, it would be approved.

**Planner Nighbert** responded that Trustee Lopez was correct, unless the Board changed it to prohibit drive-ups.

**George Rainhart** said you don't need a drive-up when you have tremendous pedestrian traffic as in Old Town.

**Trustee McDonough** asked how many tables Starbucks normally configures.

**George Rainhart** responded that it is usually between 4 and 6 tables outside and inside probably 30 seats.

**Trustee Homan** asked what the height was for the western most building.

**George Rainhart** responded that it was 20 feet.

**Jennie Vallejos**, 428 Sandia View Rd. NW, said she lives south of Ms. Chavez. She said her street has a lot of traffic because there are renters down the street and they go back and forth all day long. She said their street is a dead end with 4 acres that she understands will have 22 townhouses built on it. She said when those townhouses go up and with Starbucks traffic coming in and out, it will be a nightmare. She asked that this be voted down.

**Cindy Sylvester**, 333 Willow Rd., said regarding pedestrian use of 4<sup>th</sup> Street it has improved, but this would be detrimental to what now seems to be a friendlier pedestrian area. She said she is not against Starbucks, but she is against the drive-up.

**Doug Peterson** said he wanted to thank the Chavez family for working with him over the years. He said regarding the comments on flooding, the existing center was built in accordance with plans prepared by professional civil engineers and the new property would be done the same way. He said traffic always becomes an issue when there is opposition to a project. He said at this point they have not been required to do a traffic study but they would be willing to do it before they come back to the Planning & Zoning Commission. He said he is not sure if any projects were approved without asking for a variance, but he believes it is just something you have to go through when building in the Village Center.

**Mayor Abraham** said his wife is adamantly opposed to a drive-up and conceptually, he is also opposed to the drive-up but he believes you have to look at what is realistic. He said he was not happy when that piece of property was sold for \$550,000 which is \$15 per square foot. He said for the 4<sup>th</sup> Street right of way they had budgeted \$6 to \$7 per square foot because that is what they thought it was worth at the time. He said when this property sold at \$15 per square foot, the Village had to buy the right of ways at an average of \$12-\$16 per square foot which resulted in spending \$500,000 more on the 4<sup>th</sup> Street right of way. He said when it sells for \$15 per square foot, none of the local businesses can afford to do business on property at that price. He said it takes a strong national business like Auto Zone, Starbucks or McDonalds. He said our local businesses are struggling because the Village doesn't have a lot of national tenants in order to draw in traffic. He said we are no closer now to having a development at 4<sup>th</sup> and Osuna on the southeast side than we were 15 years ago. He said he thinks the only way the Village will get someone to come in on the southeast corner is if they see a successful development at Los Ranchos Villa. He said it will take a minimum of \$15 million or more to develop a shopping center on the southeast corner of 4<sup>th</sup> and Osuna. He said no one is willing to invest in the Village

and they have not had a developer come in and want to put up their money like the Petersons have. He said he cannot help the fact that the Chavez family sold the property; they should have put deed restrictions in it. He said once you sell the property, it is the same as eminent domain and condemnation. He said he respects the history of the Village, but somehow there has to be a compromise on what they want as a Village Center. He said traffic is a problem and will continue to be a problem when you live at 4<sup>th</sup> and Osuna whether Starbucks has a drive-up or not. He said the Village has to find a way to work with the Petersons who have invested so much in the community.

**Trustee McDonough** said the property is zoned C-1 and owned by the Petersons. He said there are certain things they can do that fall within the zoning and the Board has no say about it. He said there are a lot of things that could happen on that property that could be worse than what is being proposed. He said the Board has no power to do anything when the plan meets the Zone Code. He said obviously traffic is a huge issue and he thinks it is appropriate to look at traffic in this whole area and maybe the Village needs to participate in it. He said he believes it is reasonable that everyone come together and come up with a solution. He said Ms. Chavez mentioned all the traffic coming down Chavez Road for the right turn; he said maybe that could be closed off and they would send everybody on Osuna and that allows some workings between Taco Bell and this area. He said they understand the desire to minimize the impact and keep it the way it was, but that is not possible. He said the property is now a commercial property owned by a developer. He said the fact that the building was moved to preserve view lines is not a concession that they had to make. He said given that the Petersons have been willing to sit down and talk, it would be his suggestion to look at the traffic from a bigger perspective than just this one lot to find a solution before it becomes even bigger with the Village Center. He said he believes there is a solution in there. He said he believes the Mayor makes a great point that we have to bring some financially significant players into the 4<sup>th</sup> Street corridor for the Village's financial future or the bond notes are going to be for survival and not for open space.

**Trustee Lopez** said he agrees with Trustee McDonough because the reconstruction of the intersection at 4<sup>th</sup> Street was done to improve the flow of traffic through the intersection and he believes it has done that. He said it seems to him that there are probably many things that could be done to alleviate the traffic problem on Chavez.

**Camille Varoz Casaus** said once you speak, it is like this is it and you are giving consideration to the Petersons as a company. She said she gives her business to 4<sup>th</sup> Street local businesses and she doesn't see why things can't just stay the way they are now. She said by the Mayor saying they should work with the Petersons, he is negating the people who are there speaking in opposition.

**Mayor Abraham** responded that he was trying to reach a consensus and get everyone to come to some sort of solution. He said they will work with the Petersons, the Chavez family and Mr. Rainhart to find something else that pleases everybody.

**Robert Chavez**, 324 Enchanted Valley Place, said he just wants the rules to be defined.

**Attorney King** responded that under New Mexico Statutes 3-21-8 you can authorize this variance if it is not contrary to the public interest where owing to special conditions or that enforcement of the Zoning Ordinance will result in unnecessary hardships so that the spirit of the

Zoning Ordinance is observed and substantial justice done. Or you can reverse any order, requirement, decision or determination of the Commission; decide in favor of the appellant; or make any change in any order, requirement, decision or determination of an administrative official, commission or committee. She said in this case it would be the Commission.

**Administrator Vigil** said several issues were brought up. He said if the Board is looking at the feasibility of closing off Chavez, staff will need some direction on that. He said if the Board wants some type of participatory traffic impact analysis, then staff would need to know what you want and what the cost-sharing would be: fund it 80:20 or 75:25 and what are the parameters for review of the traffic impact? He asked if 4<sup>th</sup> and Osuna would be the core and to what point, to Solar on the south and on the north to Schulte – what are the parameters? He said one scenario is that you are deferring with the parties to get together on a level playing field as it is now or another is that if you want to look at alternatives, staff needs direction.

**Trustee McDonough** asked how long it would take to do the traffic study.

**George Rainhart** responded that he thinks at least 60 days would be needed to study the drive-up and other issues and who is going to scope the traffic study for the Village.

**Trustee McDonough** said he thinks the traffic study needs to look at the issues from Mullen Road to Schulte.

**Administrator Vigil** said there is a deferral on an issue at Albuquerque Tortilla Factory which has been sold and if that is going to develop, they should look at that as well.

**Trustee McDonough** said there is a front footage ratio that is a fair way to do it and since the Village is dictating, they should pick up anything that the outside properties don't want to share.

**Trustee Homan** asked if that includes a traffic count on Chavez coming out eastbound on Chavez.

**Doug Peterson** said he would agree with that.

**MOTION:** Trustee McDonough moved to defer this item for 60 days during which time the Village will work with the Petersons, the Chavez family, the local property owners and whoever the developer is for the town homes on Sandia View to come to some consensus solution and to get a traffic impact study done for the area from Willow to Schulte, including Sandia View. Trustee Homan seconded the motion.

**Administrator Vigil** noted that there is a budget issue since there is no line item for a traffic impact analysis. He said there are limited resources for performing traffic impact studies. He said he is meeting with Terry Brown, P.E., later in the week and will ask him about his availability.

**Planner Nighbert** said Terry Brown, P.E., is already working for the company that is looking at the townhouses.

**Trustee Homan** said she hopes her fellow Trustees would support getting the traffic study done because there are too many issues that have come to their attention that need this type of information.

**VOTE:** The motion carried unanimously, 4-0.

*The Mayor announced a 5-minute break at 9:20 p.m.*

*The Mayor resumed the meeting at 9:30 p.m.*

## **7. OLD BUSINESS**

### **A. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE AMENDING THE COMPREHENSIVE ZONE CODE, CHAPTER 31, ZONING AND ZONE MAP, CHANGING SECTION 2, DEFINITIONS, SECTION 4 ESTABLISHMENT AND INTERPRETATION OF ZONES AND CHARACTER AREA, AND SECTION 11, VILLAGE CENTER ZONE TO CHANGE THE ZONING REGULATIONS AND REDEFINE THE BOUNDARIES OF THE VILLAGE CENTER.**

**Planner Nighbert** presented his planning report and said this ordinance revision was presented at the last meeting for advertisement purposes. He said it is being presented now for approval, amendments or deferral. He said it includes amendments to Chapter 31 of the codified ordinances of the Zoning Ordinance and Zone Map for regulating the Village Center zoning and zone map. He said the changes are underlined in the ordinance. He said they changed the “whereas” language and they changed the dwelling unit number from 22 to 3-6 dwelling units per acre. He said they also took other necessary and proper amendments to change the Village Center Zone from a very urban space where you could have buildings up to 40 feet right on the sidewalk to a plan that is open to the developer to justify his development of the special project area and to buffer the residential areas around the Village Center Zone. He said one of the major changes was that they went from a 15 foot residential buffer to a 25 foot residential buffer. He said they also require the developer to present an economic development plan when they start the development of the special project area. He said they have made the Village Center boundary a “meets and bounds” description rather than just on the map and they also defined the Village Center Zone Project Area under meets and bounds. He said they defined “Economic Development Plan”, they took out regulating plans because the original intent of past administrations was to develop large blocks of redevelopment in the area surrounding 4<sup>th</sup> and Osuna so that you could develop it with alleyways and outer roads. He said they took the permissive and conditional uses right out of the C-1 Zone that were only referred to in the Ordinance and actually spelled them out. He said there were no changes in the permissive uses or the conditional uses; however, there is a change in the prohibited uses. He said where there were 5 prohibited uses, there are now 3: a car wash, a construction yard and a mortuary. He said the old ordinance had drive-up restaurants, services stations and dry cleaning as prohibited. He said the old ordinance had minimum lot sizes and they replaced that with language that would be governed by the terms and conditions set forth by the approval of the Board. He said they do have minimum set backs and the maximum height of a building is 32 feet and is a little arbitrary. He said all of these sections or subsections are covered by design regulations that they will be developing. He said there is an open space preservation subsection that remains and there are off street parking regulations that go to the requirements set forth in the existing zone code. He said

the requirements of Section 20 will guide the basic guidelines for setting architectural style for the site development plan. He said the application process still comes through the Planning Commission and then to the Board, although the Board has more final authority for site development plans and subdivisions.

**Trustee Homan** asked for the logic in why they eliminated the following sections: Development Plans and Standards, Other Reviews and Approvals, and Waivers because they were not reworded and replaced, they were just eliminated.

**Planner Nighbert** responded that it was because they did not feel that this listing needed to be in the ordinance, rather it needed to be in a set of design criteria. He said they were looking at more freedom for the project area.

**Trustee Homan** said she agrees that it was over prescribed but you still have the Reviews and Approvals and Waivers that were removed. She said in keeping with the consistency of the other replacements, you made referrals back such as under Dark Skies.

**Planner Nighbert** said they have not quite developed the design regulations that go along with this ordinance.

**Trustee Homan** said if she is someone coming in here, she wants to know what ultimately will happen when she tries to make an application for a development. She said she wants to know if it will be just a review, automatic compliance or something else.

**Planner Nighbert** responded that all of that still goes through Section 24 which is the approval process from the Planning Commission and the Board of Trustees. He said that approval process is still in effect.

**Trustee Homan** said she sees where they are going with this and part of it has been streamlined, but she still thinks that some of it has been lost and needs to be put back in. She said she participated in developing the criteria that went into the original ordinance. She said with respect to Mr. Bartolucci's earlier comments concerning the importance of automotive related businesses to the Village, she would like to point out that within our approved or allowed type of businesses there are some that are very similar; i.e., a trailer sales outlet and a tractor sales and service. She said she doesn't believe those are any different than an automotive service center. She said she believes these should be added to the conditional use.

**Planner Nighbert** said he did not go back and change the C-1 uses because he knew they were in the special use category but he did not consider them anything but existing uses when they were looking at this. He said that needs to be fixed and he asked if the Board wanted it put under Conditional Uses or Permissive.

**Trustee Rael** said he believes it should be under conditional uses.

**Administrator Vigil** asked if they were looking at service stations as well as auto repair facilities and auto sales.

**Trustee Homan** said she understands that with a gasoline service center there are major environmental issues and she can see where that would need to be a special use. She said that although a mechanic service center does deal with a lot of petroleum products, at the same time they do have a comparable item under permissive uses, the tractor trailer on page 12, Items 105 and 106.

**Trustee McDonough** said on page 19, Item F, Open Space Preservation, you kept the language about payment in lieu of dedication but scratched the requirement to dedicate.

**Planner Nighbert** said when staff discussed this, they said since they don't have a lot of park space, whatever park space they do have, let's have the developer put in some money to keep the landscaping on the roads and Taft recreational area and even Hartnett Park as maintained as possible.

**Trustee McDonough** said if there is no requirement to dedicate land, then how can you do payment in lieu of that dedication?

**Attorney King** said it is just a language problem. She said you would just eliminate "in lieu of" and state that it is for maintenance of parks.

**Trustee Homan** said she is concerned about the 38 foot height for the buildings. She suggested they consult a contractor.

**Planner Nighbert** said he would consult with someone.

**Trustee McDonough** said under the new VC Zone they have a request for a drive-up restaurant. He asked if it fell under permissive or non-permissive.

**Planner Nighbert** responded that it is permissive since it is not prohibited. He said the Board can change that if they want to say no drive-up restaurants, but a variance could be requested.

**Trustee McDonough** said he would like to put it under conditional.

**Trustee Rael** said you took out the tenant space of 50,000 square feet and he asked if there is any limitation on the size of the building.

**Planner Nighbert** responded that the only limitation would be through the economic development plan that they would write. He said the economics of the development would be the limiting factor because the developer himself is not going to build something that would not work in the Village.

**Trustee Rael** asked if there is an opportunity for the Board to stop a huge Wal-Mart type store from coming into the Village.

**Administrator Vigil** said there will be an opportunity to evaluate it and determine, based on your input and the community's input, whether it works. He said just because it says that it is permissive does not necessarily mean that it will be allowed.

**Trustee Rael** said that earlier they were talking about the Peterson property having the right to put in a store. He asked if they wouldn't have the same right to do that since there is no limit set for it.

**Administrator Vigil** said on the 17 acres they were talking about, it requires an economic development plan. He said the other parcels of property, unless they are assembled, that project area is under a different tract in terms of the development plan.

**Trustee McDonough** said it was brought to his attention that the other Chavez properties want to be outside the VC Zone. He asked if they could remove those lots.

**Planner Nighbert** said he would caution the Board not to spot zone. He said if it is out of the zone, then they would remove it and put the right kind of zoning there for all those properties which would probably be R-2. He said that would also bring up another problem of the single spot zone where they want to put the 22 residential units at the end of Sandia View. He said it was zoned C-1 sometime in the past and it is stuck in the middle of all the neighborhoods.

**Robert Chavez** said what the Chavez family requested in writing to Terry at the previous Planning & Zoning meeting was a request to not be included in the VC Zone for certain substantial reasons. He said they don't know what the VC Zone is going to end up as and in fairness to the Chavez family, they want out until they can opt in if they so desire. He said spot zoning is inconsequential since they have always been C-1. He said they should remain C-1. He said they would like to not be included in these new boundaries until they understand what the new boundaries are going to do. He said there are certain differences in the zoning requirements.

**Trustee McDonough** said procedurally there is a problem because currently the Chavez's are in the VC Zone. He said based on the zoning of the last administration when they created the VC Zone, they included those properties in the VC Zone.

**Robert Chavez** said that is as it relates to the boundaries but it does not relate to the zoning requirements. He said they are still under the auspices of C-1.

**Mayor Abraham** said as soon as a plan or building is brought forth, you have to be governed by the VC ordinance.

**Robert Chavez** said it will all be changed with all of the amendments to the VC Zoning. He said they respectfully request to remain C-1 and out of the boundaries. He said they would like to have the opportunity to finally decide what zoning they would like. He said when his father was setting up the Village, he thought it would be advantageous to be C-1. He said right now they are living with a severe disadvantage so they need the opportunity to think about that as a family and as a long-term quality of life issue for his mother.

**Trustee McDonough** said the Chavez's cannot "remain" C-1 because their property is already in the VC Zone.

**Administrator Vigil** said based on the amendments that have already been suggested and he assumes will be made part of the motion, they will probably need to defer and re-advertise. He said staff has 30 days and he believes they should meet with the Chavez family and discuss this. He said there are legal issues about spot zoning, down-zoning, any of those issues that might come up.

**Robert Chavez** said the family is being asked to make decisions on things that aren't in writing yet.

**Administrator Vigil** said the ordinance has been before them 3 or 4 times already from the original drafts to looking at the whole thing as it has been evolving. He said the family has had every opportunity to review that and to comment on it. He said the family is saying they don't want to be in it, but they are already in it.

**Robert Chavez** said they were part of the meetings and they stated their conditions when they had the review of what was proposed in the ordinance change.

**Trustee Homan** said it was created within the Master Plan that was developed during the last administration. She said the Chavez family has been in the VC Zone for years and years.

**Robert Chavez** said when you change the ordinance they then are living with the ordinance explicitly on how the Village changes it. He said they don't want to make that decision yet. He said they want to be out of it for the time being so they can evaluate what the Village comes up with. He said they want to stay comfortably C-1 for the time being and maybe eventually A-1 or A-2 or residential.

**Mayor Abraham** said those are not options. He said you can't possibly zone something A-1 in the commercial corridor on 4<sup>th</sup> Street. He said it is not possible to do that. He said they are currently zoned C-1 and when something happens, they will have to abide by the VC ordinance.

**Robert Chavez** said if they were within the boundaries of the VC Zone then they would have to follow the VC zoning ordinance, but if they are C-1 and not part of the boundaries, then they would come under the auspices of the code for C-1 property. He said the Village is resetting the entire boundaries of the VC Zone and they requested to be removed from the boundaries.

**Mayor Abraham** said they took out the residential subdivisions because they felt they would never have a commercial center in the middle of El Paraiso and Mullen. However, he said the Chavez family is in the most prime commercial area in the Village. He said the Village in its Master Plan and all the wisdom of the past Trustees declared that as the hub of commercial activity.

**Robert Chavez** said Mayor Abraham afforded everybody the opportunity to determine whether they were going to be part of the re-boundary setting when you decided to reset the boundaries. He said they respectfully requested not to be included in the re-boundary setting and he said he believes that is an honest and reasonable request by a long-term resident of the Village.

**Mayor Abraham** said it was a residential zone that opted out and the Chavez's are not in a residential zone.

**Georgia Chavez** said when she came to the meeting for the rezoning, Terry Nighbert did not have her in the VC Zone on the map. She said then after the second meeting they were in the VC Zone without having been contacted. She then read: "Those C-1 zoned properties on Chavez Road and Sandia View Road west of the first 30 feet from 4<sup>th</sup> Street will no longer be in the VC Zone and therefore will not have the 12 dwelling units per acre density for residential structures or any other special regulation similar to the VC Zone. These properties will fall under the C-1 regulations that apply to all other properties in the 4<sup>th</sup> Street commercial corridor."

**Mayor Abraham** said it has never been anyone's intention to take the Chavez property out of the VC Zone. He said if it says that in the letter, it was obviously a mistake. He said it would not be logical for them as a Village to take the Chavez property out of the VC Zone.

**Planner Nighbert** said he apologizes for the error. He said he was trying to exclude the piece that is C-1 located to the very far west at the end of Sandia View.

**David Montoya** said he feels like what they are doing is limiting the Village's ability to have a Village that looks the way they want it to. He said with the zoning the Village has now they have been able to limit people. He said if you open the doors and make it easier, you might end up with something you don't want.

**MOTION:** Trustee McDonough moved to defer Item 7.A., Ordinance Amending the VC Zone, for 30 days to allow staff to make the following changes: to add service stations as a conditional use, restaurants with drive-up facilities a conditional use, auto sales and service centers conditional use, to resolve the question of the zoning on the Chavez property, to re-advertise and to correct the language under the open space preservation as described, and to correct other grammatical and language errors as were noted in the discussion. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously, 4-0.

**B. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE ADOPTING THE INTERNATIONAL FIRE CODE 2003 EDITION BY REFERENCE WITH ADDITIONS AND AMENDMENTS, APPENDICES INCLUDING ADOPTION OF MANDATORY AUTOMATIC SPRINKLER SYSTEMS IN ALL NEW COMMERCIAL STRUCTURES AND RESIDENTIAL STRUCTURES AND REPEALS ORDINANCE NUMBERS 30, 67, 91, 97 AND 159.**

**MOTION:** Trustee Lopez moved approval to adopt an ordinance adopting the International Fire Code (IFC) 2003 Edition by reference with additions and amendments. Trustee Rael seconded the motion.

**Chief Perez** said the Fire Department is recommending the adoption of the International Fire Code 2003 Edition. He said the 2003 IFC will align the Village fire code with the City of Albuquerque which recently adopted the code for commercial structures. He said Bernalillo

County and the State of New Mexico are also proposing to adopt this code. He said among the amendments added to the 2003 IFC by the department is the requirement for automatic fire sprinkler systems in all new commercial structures and residential buildings, including attached and detached garages. He said the adoption of the code is important to the Village because of the health, safety and welfare of the Village residents. He said the Fire Department will be enforcing the code and the goal is to reduce the potential loss of life and damage to property as a result of fire. He said adoption of the new code also will help protect the firefighters' life safety as they attempt to save a resident's home or commercial business should a fire occur there. He said having the automatic sprinklers also allows firefighters a little more safe and secure means to attack a large blaze.

**Trustee Homan** asked if any comments had been received from the residents.

**Chief Perez** said he has not received any comments. He said he visited the Prado subdivision and all of the residents have complied and they did not have any comments either negative or positive. He said a few people came in to challenge the fire sprinkler requirement but when they realized the cost savings of fire sprinklers versus having a hydrant put in, they were amazed they were not aware of it sooner. He said he believes it is a win-win situation.

**Mayor Abraham** asked whether sprinklers would be required when a commercial strip center renovates a tenant space, such as was done for the Amore Salon.

**Chief Perez** responded that if what they improve impacts more than 50% of the existing square footage, then they would have to put the sprinklers in. He said for Area A, which are assembly areas, if they impact 10% of the existing square footage, then they would have to put sprinklers in.

**Trustee Homan** said it sounds like any commercial space that does a build-out for a new tenant would fall under that category.

**Chief Perez** said that is true and that is where they are trying to go. He said they would like to see the entire Village's commercial section sprinkled.

**Mayor Abraham** asked if Calico's or Vernon's has sprinklers and Chief Perez responded that they did not.

**Trustee Homan** asked if there was any specified square footage language under our ordinance.

**Chief Perez** responded that there was not.

**Trustee Homan** asked what the original suggested square footage was.

**Chief Perez** responded that the language he had originally suggested was 3,000 sq. ft. on residential structures and zero tolerance on commercial. He said Trustee Homan had asked him to put zero tolerance on residential as well with the hope that there would be some input from the public. He said since that time, there has only been one homeowner who challenged them on the mandatory sprinklers compared to probably 10 other new home plans that have come through with no challenge to the sprinkler ordinance.

**Trustee Homan** asked what a reasonable square footage would be for a commercial piece of property. She said a “Mom and Pop” operation would not be able to afford to renovate a tenant space if they had to add sprinklers and therefore the space would go vacant.

**Chief Perez** said the cost of sprinklers is \$1.75 per square foot. He said on the commercial side, the amount of money they would save on insurance would probably offset the amount for the sprinklers.

**Mayor Abraham** said if they have a 2,000 sq. ft. house and build a 600 sq. ft. addition, would they have to add sprinklers?

**Chief Perez** responded that they would not have to have fire sprinklers.

**Mayor Abraham** asked about a building like the Petersons have and whether any new tenant improvements would have to include sprinklers.

**Chief Perez** responded that he would have to look in the code to see how that would be handled. He said if the Mayor was referring specifically to the Peterson building, that building was approved with no sprinkler system and the fire walls were put in place to satisfy the code. He said he thinks that would overrule the sprinkler ordinance because they are coming into an existing building and adding their countertops, machinery, etc. He said the fire walls would overrule the use of the sprinkler system.

**Mayor Abraham** asked if storage units have to be sprinkled.

**Chief Perez** said you don't have to sprinkle the inside of the storage unit itself. He said he believes it was taken out in one of the classifications.

**Trustee Rael** said he noticed that adobe walls were also taken out.

**Chief Perez** said they took it out because the 4 walls that are created from adobe will contain the fire within that room and prevent it from spreading to any other area.

**Mayor Abraham** said his concern is that in an existing subdivision with 50 homes and one person decides to remodel his home, he will be the only person in that subdivision with sprinklers. He said it seems like a great burden to put on the one person remodeling his home.

**Administrator Vigil** said the question is whether it really is a burden for that one person to put in the sprinkler system at the current cost.

**Mayor Abraham** said his last concern is someone like the Baird's who have not built out Calico yet, have received approval for their building, but they still have TI improvements to do, he can see them being very upset if they are mandated to install sprinklers.

**Chief Perez** said he believes they base it off of the building that was approved. He said Calico was approved the way it is today and if tenants come in and add their furnishings, he will not

make them add sprinklers. He said as far as the Peterson's, if he goes through and makes one of those areas larger, he then jeopardizes the safety of the fire wall, then he has introduced another situation that would mandate sprinklers. He said as long as they leave the 4 walls intact in each sub area, it will be okay.

**Trustee Homan** asked if that would be his interpretation of the change as it applies to any of the older shops.

**Chief Perez** said a build-out is not impacting the 4 walls that they are concerned with. He said it is when they start to take down interior walls or exterior walls to add on additional square footage that the fire department becomes concerned.

**Trustee Homan** said another situation would be where someone in the commercial area wants to upgrade because a tenant needs additional power outlets and they find they must do some upgrading of wiring in that space. She asked if that would trigger the mandate for sprinklers.

**Chief Perez** said it probably would because they have opened the walls and possibly jeopardized fire walls that were in place when the building was approved.

**Mayor Abraham** asked if this is being successfully implemented in other areas.

**Chief Perez** said it is and he sent Mr. Vigil information on a drive in New York where they are asking for areas that have successfully implemented fire sprinkler systems to come up and help to push it to a higher level there.

**Trustee McDonough** asked if the Board of Trustees has the power to grant variances to the Fire Code.

**Chief Perez** responded that the Board does not, but the individuals have the ability to appeal it to an Appeals Board made up of individuals who are experts in the field of fire and sprinklers. He said once the code is adopted, the Board of Trustees will need to appoint members to the Appeals Board under the criteria that the IFC provides. He said they used an existing Appeals Board for their last appeal.

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

## **8. NEW BUSINESS**

### **A. DISCUSSION AND APPROVAL TO ADOPT RESOLUTION NO. 2007-3-1- ESTABLISHING THE PROVISIONS OF THE NEW MEXICO OPEN MEETINGS ACT, SECTIONS 10-15-1 NMSA 1978 AS AMENDED AND REPEALING RESOLUTION NO. 2006-3-2**

**MOTION:** Trustee Homan moved to adopt Resolution No. 2007-3-1 establishing the provisions of the New Mexico Open Meetings Act and to rescind Resolution No. 2006-3-2. Trustee McDonough seconded the motion.

**ROLL CALL VOTE:** Trustee McDonough, yes; Trustee Homan, yes; Trustee Lopez, yes; Trustee Rael, yes. The motion passed unanimously, 4-0.

**B. DISCUSSION AND APPROVAL TO ADOPT RESOLUTION 2007-3- 2- APPROVING THE REDEVELOPMENT OF THE AREA LOCATED IN THE SOUTHEAST CORNER OF OSUNA AND 4TH STREET IN THE INTEREST OF PUBLIC HEALTH, SAFETY, MORALS AND WELFARE OF THE RESIDENTS OF THE VILLAGE**

**Trustee Lopez** said he would like the word “morals” struck from the entire Resolution.

**MOTION:** Trustee Lopez moved approval of Resolution No. 2007-3-2 approving the redevelopment of the area located in the southeast corner of Osuna and 4<sup>th</sup> Street in the interest of public health, safety and welfare of the residents of the Village. Trustee Homan seconded the motion.

**ROLL CALL VOTE:** Trustee McDonough, yes; Trustee Homan, yes; Trustee Lopez, yes; Trustee Rael-recused. The motion carried, 3-0.

**C. DISCUSSION AND APPROVAL TO ADOPT RESOLUTION NO. 2007-3-3 AUTHORIZING THE VILLAGE TO SUBMIT A RECREATIONAL TRAILS GRANT APPLICATION**

**MOTION:** Trustee McDonough moved approval to adopt Resolution No. 2007-3-3 authorizing the Village to submit a recreational trails grant application. Trustee Rael seconded the motion.

**Trustee Homan** asked what the total amount was in the legislative session for trails.

**Administrator Vigil** responded that it was approximately \$1 million to do a trail along Rio Grande on both sides. He said when they do the sewer system between El Pueblo and Chavez the Village hopes to be able to piggy-back on that contract. He said from Chavez to Montaña, they hope to use the same contractor to build the trail from that point to Montaña.

**Trustee Homan** said she knows they are doing it as a bike trail because of the grant, but she hopes they are going to limit it to non-motorized vehicles. She asked if equestrians and roller bladers will be able to use it.

**Administrator Vigil** said a lot depends on where they put it. He said if it is a separated trail, they can use it for multiple uses; however, if it is adjoined to the road, then there are public safety issues that may dictate that it be a bike trail only.

**Trustee Homan** asked what the construction dates would be and the disruption to traffic during that period.

**Administrator Vigil** responded that they want to do this jointly with the Area I & J sewer system construction from El Pueblo to Chavez. He said when they start the construction, then it would become a part of that.

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

**D. DISCUSSION AND APPROVAL TO AUTHORIZE THE MAYOR TO EXECUTE A SECOND AMENDMENT TO THE AGENT AUTHORIZATION AND LEASE AGREEMENT ENTERED INTO ON APRIL 15, 2005 RENDERING THE FIRST AMENDMENT NULL AND ENTERING INTO THE SECOND AMENDMENT EXPANDING THE PROJECT PROPERTY TO INCLUDE THE ENTRANCE TO THE UNSER RACING MUSEUM AND THE NORTHERN LANDSCAPED AREA SURROUNDING THE MUSEUM**

**Administrator Vigil** explained that what they are doing is amending the original agreement to include an area that is outside of what was originally granted to the Village. He said the drawing included in the Board packet shows red-hatch marks as the area that was not included. He said they want to do landscaping and other improvements in that area with money that is appropriated by the State Legislature. He said the entrance gate itself is broken and they want to repair it; however, in order to spend money appropriated by the State, it needs to be part of the Village. He said they will be donating that part to the Village and it becomes part of the total area that is included in the premises and the property that is then leased back to the Unser Racing Museum. He said the main purpose is to add those areas so they can be used by the Unser Racing Museum for programs and expenditure of money.

**Trustee Homan** asked whether they can vote on this since there is so much that is unknown.

**Attorney King** said when they updated the term “project premises”, she double-checked the coverage on maintenance and insurance throughout the document. She said sometimes they used the word “project”, sometimes “project property”, and sometimes “project premises”.

**Trustee McDonough** asked if the area hatched in red is currently owned by the Unser Museum. He also asked about the area in gold.

**Administrator Vigil** responded that the area in red is currently owned by Al Unser Sr. but was not part of the property that was deeded over to the Village with the first agreement. He said the area in gold on the drawing is the private leased property where Al Unser has offices.

**Mayor Abraham** said Al Unser still owns the area in gold on the drawing and no improvements will be made to that area with any of the money from the State. He said the Village is actually gaining more donated property.

**MOTION:** Trustee McDonough moved approval to authorize the Mayor to execute a second amendment to the Agent Authorization and Lease Agreement. Trustee Homan seconded the motion.

**VOTE:** The motion carried unanimously, 4-0.

**9. TRUSTEES INFORMAL DISCUSSION**

**Trustee Rael** discussed the grading of Alondra Lane.

**Administrator Vigil** said Phil Day came in and thanked staff for grading the road.

**Trustee McDonough** asked about the drainage basin behind the bank property that doesn't drain. He said it has 3 feet of standing water in it and will become a breeding ground for mosquitoes.

**Planner Nighbert** said the same thing happened at Baird's because they didn't dig it deep enough. He said there is a layer of heavy clay at about 8 feet and it stops everything. He said he will call the owner of that property and tell him to take care of the water.

**Trustee McDonough** asked whether the contractor is going to clean up around the track at the school.

**Administrator Vigil** said they discussed that with the contractor and when they clean up the area where the construction trailer is, they will also clean up the other areas. He said they still need to do some seeding and the striping of the running track. He said they are working with the contractor on those items.

**Trustee Homan** asked if anything has been done about Ms. Dornan's request concerning safety for students walking to school.

**Chief Perez** said the Fire Department is out there every day in the morning and evening.

**Trustee Homan** asked for a status report on painting and testing of the fire hydrants. She said she has one right in front of her house she would like to have tested.

**Chief Perez** said they will check on her hydrant and all the hydrants should be completed very soon.

**10. ADJOURNMENT**

Trustee Rael moved to adjourn at 10:52 p.m.

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

**ATTEST:**

\_\_\_\_\_  
Annabelle Silvas, CMC  
Village Clerk

