

MINUTES

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

BOARD OF TRUSTEES REGULAR MEETING

February 11, 2009 -7:00 p.m.

Present:

Larry P. Abraham, Mayor

Donald T. Lopez, Trustee/Mayor Pro-Tem

Tim McDonough, Trustee

Pablo R. Rael, Trustee

Mary Homan, Trustee

Kelly S. Ward, Administrator

Linda Seebach, P & Z Director

Nancy Haines, Treasurer

Martha King, Attorney

Juan Cordova, Fire Marshal

Annabelle Silvas, Clerk

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Village of Los Ranchos' Governing Body held a Regular Meeting on Wednesday, February 11, 2009 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:00 p.m.

A. APPROVAL OF AGENDA

MOTION: Trustee Lopez moved approval of the agenda and noted that Senator Dede Feldman would speak after the Public Comment Period. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

2. PUBLIC COMMENT PERIOD [3 MINUTE TIME LIMIT]

Rick Quant, 8809 4th Street, NW, said he represents the owner of the Cottonwood Court Mobile Home Park. He commented on the price differences between Waste Management and All American Waste Removal dumpsters. He asked that the Village seek competitive bids to receive a better deal from Waste Management. He also mentioned the \$10.00 late fee he had to pay for his business license because of a glitch in the mail system.

James Spigel, 815 El Alhambra Circle, stated that on behalf of his neighborhood and several other neighborhoods along Chavez, Ranchitos and El Pueblo, he wanted everyone to know how much they appreciate the stop signs that were installed on Rio Grande Blvd. and urged that they be left in place.

Senator Dede Feldman, Representing District 13, spoke about the solvency package and the reauthorizing of capital outlay projects. She said she does not think any of the Village's projects reverted back to the General Fund. But she said that next year there is going to be very little if any capital outlay funding. She then discussed Senate Bill 222 concerning trails along the ditches. She said Bernalillo County tax payers pay 7.7 million dollars in property

taxes to the Middle Rio Grande Conservancy District even though the vast majority of folks in Bernalillo County do not irrigate. She said those that do irrigate pay a water service charge. She said before she introduced the bill, she talked to the Conservancy Board and asked them to make some improvements to ditches, to help neighborhoods and to deal with the diversity of neighborhoods that are in the North Valley and the South Valley. She said she came away empty handed from those discussions and that is why she introduced Senate Bill 222. She then discussed what the bill does and does not do. She said it does reassign a small portion of the property tax paid to the Conservancy District. She said 1/2 of 1 mil of assessed valuation is to be used for the purpose of establishing and maintaining a trails program within Bernalillo County. She said a trails management plan would designate what ditches would be utilized and the plan would be developed by the Mid Region Council of Governments. She said she has received numerous complaints from Village and City residents about how the trails near their homes are in bad repair, about how there is graffiti, about how they themselves clean up the ditches. She said they don't get cooperation from the Conservancy District and when they ask for improvements, they are told they must pay for them themselves.

Trustee Lopez asked if MRCOG and the City Open Space Division are ready to take on these responsibilities.

Senator Feldman responded that she has worked with both entities in developing the bill and they are willing to take on these responsibilities. She said she wants to emphasize that they would be operating this program under a joint powers agreement that could include the Village and how it wants the local ditches to be operated.

Mayor Abraham displayed a map showing the ditches that MRGCD has control of; namely, the Clear Ditch, the Albuquerque Main and the Griegos Drain. He said for all the other ditches, the Conservancy only has prescriptive easements or they are going over private property. He said the reason the Village is putting up the signs that say "Entering Private Property" is because he wants the residents to be sure that the Village is not putting formalized trails behind their backyards. He said the Village does not want the unintended consequence of land owners fencing off their ditches.

Bill Chappell, Special Council for MRGCD, said in cooperation with the City of Albuquerque, they are trying to open the trail on the west side of the Lower Corrales River Drain, La Orilla Outfall to Montañño as a trail. He said that lawsuit has been stymied because the MRGCD was unsuccessful in Federal Court and there is a Federal Court Ruling that says the Federal Government owns all of these and not the MRGCD. He said anything that they do own, they have been unable to find the grants to the MRGCD of what you are calling "fee simple." He said the adjoining property owners have claimed they have a right only for limited purposes of the MRGCD and therefore they have contested the litigation. He said so far they have kept us from getting a decision saying that the MRGCD cannot expand its use of that and that is a pretty major ditch from the La Orilla to Montañño.

Dave Simon, State Parks Director, said the thing he would emphasize is that Senate Bill 222 is not just about a single jurisdiction; it would provide benefit to the entire Rio Grande Valley State Parks which is by law the area within the entire County in between the levy on both sides of the river. He said as a resident of our Village, as he reads the bill, it is not dictating land use decisions or improvement decisions on any ditch or any potential trail

anywhere in the District. He said there does need to be a collaborative approach deciding where, if any, of these tax payer funds would be applied. He said he believes that leaves the power in the hands of those at this level. He said he also sees it as a potential opportunity for the Village because if we decide to participate, we can set the terms of that participation. He said he thinks benefits will come back to the residents.

Trustee McDonough said he thinks it is important that we get past the idea of “within the boundaries of Los Ranchos” and start acting on a regional basis. He said some examples of where the City, the County and Los Ranchos have worked together for the mutual benefit of the entire area are the Rail Runner, Rio Grande National Park, the Anderson Fields and the Community Farm. He said if we are going to do really big and special things, we have to work as a region.

3. CONSENT AGENDA

A. MINUTES – JANUARY 14, 2009

B. DEPARTMENT AND COMMITTEE REPORTS

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

MOTION: Trustee Rael moved approval of the Consent Agenda. Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously, 4-0.

4. REPORTS

A. MAYOR'S REPORT

Mayor Abraham reported that:

- They have all been working on the annexation. Pablo talked to Alan Armijo and he is alright with us annexing all along El Pueblo. We also met with Mike Roland last week and all would be willing to come into the Village. Staff will start a 2-phase annexation process and send out letters first to that group along El Pueblo then decide what to do west of 2nd Street, but priority is along El Pueblo.
- Annabelle and Rosemary are working on a history of all the Trustees and Mayors from 1959 to 2008. We are very close to getting a plaque that could be as big as 8 feet wide by 4 feet tall that would be hung on the north wall of Village Hall.

B. ADMINISTRATOR'S REPORT

Administrator Ward reported that:

- A couple years ago Representative Silva introduced a memorial to open up truck traffic on Paseo del Norte and that is coming back around. One of our Senators

will introduce a very similar memorial that has a 7.5 million dollar price tag to adjust the height of the bridge or road and install sound barrier walls.

- The Corralitos 4-H Club will soon be called the Los Ranchos 4-H Club.
- The State Auditor has approved the Fiscal Year 08 audit and it will be presented to the Board at the March meeting.
- He is working with Waste Management on the contract extension because the current contract ends the end of March. He has looked at the merits of an RFP and based on interviewing other waste haulers, we are better off with a contract extension.
- The reconstructions on Ranchitos and El Pueblo Roads have been completed. The plan for Los Ranchos Road did not work out due to the road not being wide enough to install a turn lane. We will now focus on modernizing the traffic signals.
- Bids were received for resurfacing Ortega and Osuna, and we are \$57,000 short on Ortega Road and \$28,000 short on Osuna.
- The plans for the new Fire Station are almost complete and will soon be ready for review and bids.

C. PLANNER'S REPORT

Planner Seebach reported that:

- Two new homes and two barns are under construction.
- Anticipate having a new Subdivision Ordinance in front of the Commission for referral next month and also working on several other old ordinances that need to be repealed.
- Had several Code Enforcement cases involving tenants living in substandard housing.
- Business registrations are just about complete with about 10 outstanding.
- The Village now has a new ortho map.

Mayor Abraham presented a plaque to John McDowell commemorating his years of service on the Planning & Zoning Commission.

D. LEGAL REPORT

Attorney King reported that:

- Worked with Ms. Seebach on reviewing applications and ordinances.
- Worked with Mr. Ward on administrative matters.
- Served as legal counsel on the Planning & Zoning Commission.

E. FIRE DEPT. REPORT

Fire Marshal Juan Cordova reported that:

- The Firefighters have completed training on hazmat operations.
- This past Christmas, in cooperation with Sky Dog, the Fire Department provided clothing and food to five Village families who were in need.

- The new rescue vehicle should be in service soon.
- The Fire Chief and three other firefighters are in Tucson attending Wildland Training.
- The Fire Department had 110 calls and that is up 4 calls from this time last year.
- There was an incident at Taft Middle School where one of the teachers opened up a letter that was filled with an unknown powder substance. It turned out that it was a cleaning agent but all precautions were taken.

5. FINANCIAL BUSINESS

A. CASH REPORT – JANUARY

Treasurer Haines reported that the ending cash balance at January 31 was \$7,164,951 which represents an increase of \$77,360.48 from the prior month. She said without the bond and open space money, the balance would be \$3,149,778.59. She noted that expenditures exceeded revenues by \$232,509.19 and the year-to-date revenues are in excess of expenditures; if you do not include the bond proceeds and open space, it would be \$217,592.56.

Trustee Lopez asked where the money would be found for the paving of Ortega and Osuna Roads.

Administrator Ward responded that he is going to look through the budget and see if some money can be shifted to those projects.

Trustee McDonough said the stretch of Ortega from Chamisal to 4th Street really needs to be paved. He said he doesn't think the stretch between the ditches needs to be paved.

Trustee McDonough noted that in the significant items there was mention of not receiving gross receipts for the Area I & J Sewer Project. He asked if it was that we were short on the receipts or that we just had not received any of them.

Treasurer Haines responded that her understanding from Gil is that we received some gross receipts; however, we expect to receive additional amounts.

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

VOTE: The motion carried unanimously, 4-0.

6. PUBLIC HEARINGS AND APPLICATIONS

A. A REQUEST BY GENE AND AURORA GALLEGOS FOR A SPECIAL USE PERMIT FOR AN OPEN AIR FLEA MARKET IN THE C-1 ZONE. THE PROPERTY IS LOCATED AT 300 EL PUEBLO AND IS LEGALLY KNOWN AS TRACT 140-G1 M.R.G.C.D. MAP NO. 24, ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AUGUST, 2002 AND TRACT 140C1 M.R.G.C.D. MAP

NO. 24, LANDS OF POMPA, GRIEGO AND FRANCO FILED IN THE OFFICE OF THE BERNALILLO COUNTY CLERK ON 8/6/76, VOLUME D2-A, FOLIO. THE PROPERTY CONTAINS 2.380 ACRES MORE OR LESS. SU-08-01. DEFERRED FROM THE JANUARY 14, 2009 BOARD MEETING

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

Planner Seebach discussed Planning Report No. PZ-09-08 and said at the January 13, 2009 Board of Trustees meeting, the Trustees requested additional information for clarification of several issues. She said a Grading and Drainage Plan has been prepared and submitted. She said she just received the plan last Friday and there has not been time to send it out to a Village-designated engineer for review. However, she said she spoke with Mr. Clark because she was concerned about the ponding being in the area where the merchants are located. She said his response was that the ponding area is based on the 100-year storm and anytime there is a large storm the market will not be open. She said she also talked to Donald Goldstein with the Taxation and Revenue Department regarding the Gross Receipts Tax issue. She said his answer was that if a vendor is there one time, it is considered a one-time sale and they are not required to pay Gross Receipts. However, he told her if a vendor is there two or more times, then they are required to get a Village business license and a Gross Receipts Tax number and pay Gross Receipts on the sales they receive at the flea market. She said the Planning & Zoning Department recommends approval for the Special Use Permit with the five conditions they had set. She said the Department also has additional recommendations that the Grading and Drainage Plan will be implemented and the ponding area will be maintained; the market will close during or after moderate and heavy rains until the ponding area is dry enough to be a usable surface; those vendors who participate more than once are required to pay Gross Receipts and will be required to obtain a CRS number; and the applicant will provide the Village with a list of participating vendors once a month.

Trustee Homan asked for some clarification on the Gross Receipts Tax and what the time duration would be between the first and second participation at the flea market.

Attorney King noted that there are really detailed regulations on that and if a person is an itinerant peddler, he would just be occasionally participating at the flea market. But, she said, if he does advertising that he is going to be at that location or if he has anyone employed to help him sell, he could trigger the GRT even on a one-time basis. She said she believes the Board had also requested information on whether the applicant himself, Mr. Gallegos, would be required to pay GRT for his base rental and the additional charges, the parking, and the statute is clear that he would be responsible for those. She said she believes the other question was whether Mr. Gallegos could collect taxes on behalf of the vendors within the flea market. She said Mr. Goldstein indicated it would be an unusual circumstance for him to take on that responsibility, but some shops do it. He said they collect the money at one point that is considered the last point and then use that person's tax ID number and submit the money to Santa Fe.

Gene Gallegos stated that he has been dealing with this since last February and he has prepared his 20-page operating plan.

Trustee Lopez asked about the water harvesting and a landscape plan.

Gene Gallegos responded that he will harvest water from the roofs of the buildings on the property and divert it to the trees and rosebushes that he is going to plant.

Trustee McDonough asked how many acres Mr. Gallegos actually owns. He said the Planning Report says 2.38 acres, but the Drainage Report says 1.3 acres.

Gene Gallegos said he owns the 1.3 acres and has a 5-year lease with an option to buy on the 1 acre behind his lot.

Trustee McDonough asked for clarification on where the money would be collected from people walking into the flea market.

Gene Gallegos responded that there would be two gates, one is a walk-in gate and the other one is a gate where you have to drive a car through.

Trustee McDonough indicated that he had serious concerns about the drainage plan.

Trustee Rael asked for clarification on present and future restroom facilities.

Gene Gallegos answered that he is planning to put in at least two more restrooms, plus he is remodeling the main building and will add two more there.

Trustee McDonough asked Mr. Gallegos to discuss his use of a private security firm.

Gene Gallegos responded that he has that out for bids right now and plans to have two people on site during operating hours. He said the professional security will be supplemented by his in-house staff.

Trustee McDonough stated that he thinks there are a number of issues; i.e., the security being a drain on our resources; using the vending spaces as the drainage pond; the operating plan not being specific enough; and the leased property and how the lease could be withdrawn.

Trustee Rael said the Board cannot deny or prohibit this kind of business, but he thinks the operating plan needs to be more detailed so they can make an informed decision.

Trustee Homan asked if it would be possible to award a Special Use Permit on a trial basis.

Attorney King responded that Section 23 of the Zoning Ordinances allows revocation of a Special Use Permit for violations of conditions. She also noted that she does not think there is anything in the Ordinances that prohibits setting term limits on Special Use Permits.

Trustee Homan said she would like to clarify that Planner Seebach is committing to work with Mr. Gallegos to clean up the other matters in a manner that she thinks would satisfy the concerns of the Trustees.

Planner Seebach responded that, yes, that was her intent.

Attorney Chappell said he thinks what the Board is proposing could be contract zoning and that is not legal. He said it is not proper to have Mr. Gallegos put everything in a business plan and then have the Board adopt that. He said what the Village should do is define certain conditions of the approval and dictate those conditions, with Mr. Gallegos' consent, and make those conditions of approval. He said he doesn't see anything that would keep the Board from adopting this plan and setting a periodic review process to see if it is operating in accordance with the conditions.

Mayor Abraham suggested that the questions be typed up and make sure that Mr. Gallegos can answer any of the concerns. He said then at the March 11 meeting, the concerns will become the conditions.

MOTION: Trustee Homan moved to defer this item to the March 11th meeting. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

Mayor Abraham requested that Item 8.A., Lavender in the Village Festival Committee Presentation, be discussed prior to Item 7., Old Business. (Discussion located on Page 10.)

7. OLD BUSINESS

A. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE CREATING A NEW PLANNING AND ZONING ACTION MATRIX- AND REPEALING ORDINANCE NO. 186.

Planner Seebach noted that at the January 14, 2009 meeting, the Board moved approval to advertise in summary the Ordinance P&Z Action Matrix. She said she put in code citations and also corrected some typos.

Trustee McDonough said it is his understanding that this is what is reflected in the ordinances so the Board does not have a lot of leeway to change it.

Planner Seebach said this is a reflection of what the ordinances are and it would be helpful if the Board could give her an indication of what ordinances they would like to see changed.

Trustee McDonough said his suggestion would be on "Amendment to Conditions of Approval," right now those are handled by the director?

Planner Seebach said that is a little confusing because at the bottom of the page on Note 1, they are associated with the permit and it is very loose because it doesn't say what permit. She said the Amendments to Conditions of Approval that have been brought before the Board are actually for Special Use Zones and those constitute Zone

Amendments rather than an Amendment to Conditions of Approval for the zone. She said this is one place where they should look at changing the ordinance.

Trustee McDonough said it appears that if you are going to change the conditions of approval it would need to go back to the body that gave the approval, whether that is the Board of Trustees or P&Z Commission. He said on “Conditional Use – Adverse Comments” he believes they had a discussion about broadening the area of notification. He said he thinks they should have that discussion again.

Planner Seebach said they did broaden it to within 300 feet for lots of less than 2 acres and 400 feet radius for sites over 2 acres. She said it used to be 300 feet for everything.

Trustee McDonough said he thinks they should revisit this item because there may be more people who could be impacted by a Conditional Use request.

Attorney Chappell said as a matter of policy, when you are dealing with zoning issues, there is a certain minimal constitutional requirement that you have to give notice. He said it seems to make sense from a legal perspective to keep your ordinance at that minimum because zoning can be defective if you don’t make this broader range. However, he said, as an administrative matter, you can adopt a policy to make it broader than that, but he said he would not make the area mandatorily larger because defective notice can invalidate the ordinance itself. He said by increasing it, you just create more problems for people to come in and say they did not receive the notice.

MOTION: Trustee McDonough moved approval of the Matrix. Trustee Homan seconded the motion.

Trustee Homan asked if this includes only the Matrix or is it also repealing Ordinance No. 186. She asked if Trustee McDonough would amend his motion to include both pieces of this.

Trustee McDonough said he amends his motion to read: Approval of an ordinance creating a Planning and Zoning Matrix and repealing Ordinance No. 186. Trustee Homan continued her second.

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

B. DISCUSSION AND APPROVAL OF PROPOSED BARN USAGE RULES AND REGULATIONS

Administrator Ward said in working with the Caballero Norte Homeowners Association, he believes they have drawn a good picture of how the Village would use the barn and what kinds of limits and activities we would place on it. He said the Association probably still has concerns about the number of events, Saturdays and Sundays, every weekend available and four special events per year (which would be something like the Lavender Festival). He said some language that should have been included was that the weekend before and weekend after Lavender we would not have activities in the Barn because the

grass and the facility take a beating so this would give the Village 10 days on either side of the activity.

Trustee Lopez asked who at the Village would determine the appropriateness of a requested event.

Administrator Ward responded that it would be him, the Administrator.

Trustee Homan asked how the Village responded to the Association's requests.

Administrator Ward said the draft from which those comments were garnered had the Village using the barn on Friday, Saturday and Sunday and so we reduced that to just Saturday and Sunday. He said the neighborhood would like to see fewer total days; i.e., every other weekend or once a month. He said he did not feel comfortable doing that. He said there were also some comments about Fire Department regulations and special events. Under permissible activities, he said the neighborhood was concerned about weddings because they felt that is when the Village's rules would most likely be ignored. He said he believes the prohibition against alcohol will limit those types of events plus the fact that there are no lights for an evening event. He said he also put an end date on the policy because he feels it should be reviewed on an annual basis to be sure the residents have an opportunity to express their thoughts on how the policy is working for the community.

Mayor Abraham asked if this should be adopted in the form of a Resolution for assurances of the Neighborhood Association or do we have a mechanism to change something by Board approval?

Trustee McDonough suggested that language be added that it can only be modified by Board approval.

MOTION: Trustee Rael moved approval of the Barn Usage Plan and the accompanying rental form with the amendment that it can only be modified by Board approval. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

8. NEW BUSINESS

A. LAVENDER IN THE VILLAGE FESTIVAL COMMITTEE PRESENTATION

Kelly Kuchar, 5927 Guadalupe Trail and a business at 6829 4th Street called Kelly Jo Designs, said she has been there for 9 years. She said she has been involved with the Lavender Festival since 2004 and has seen it grow to an estimated attendance in 2008 of 20,000 people. She said the Committee feels the festival showcases the Village to the public and it is the single best event to help with the Mayor's and Trustees' effort to brand and identify the Village. She said they have been working to emulate a very successful lavender festival in Washington State. She said they have now completed the process to become a non-profit. She said their goal is to give back to the community with projects to

enhance and beautify the Village along with agricultural education programs. She said she was at the meeting to let the Board know where they are at and to reiterate the necessity for a long-term financial commitment and partnership with the Village. She then discussed the rough draft of the financials and noted that they wound up with current assets of \$29,088 which carried over from the year before. She said one area where they under-served the public in general was in transportation. She said a lot of people had to wait from an hour to an hour and a half at various bus stops. She said they need to increase transportation and that could take up the majority, if not all, of their budget. She discussed some of their assumptions for 2009; namely, the Barn Dance; a 2-day festival; shuttle stops at the Village, Casa Rondeña and Los Poblanos; an increase in porta-potties and trash containers at each site; secure parking at the 3 schools; and finally they would like help with printing the program in the *Village Vision*.

Trustee Lopez said he thinks the Village supports the Lavender Festival with funds.

Mayor Abraham responded that this year there is a budget line item for \$20,000 for Lavender in the Village as a special event.

Mayor Abraham asked Kelly Jo if there was going to be an auction this year.

Kelly Kuchar responded that there will be no silent auction, but the live auction containing the big-ticket items will be held and that was the revenue generator last year.

Mayor Abraham said he would like the Board to be aware of whether they plan to charge or not charge for admission to the festival.

Kelly Kuchar responded that she has talked to other event planners for the larger festivals in the State, as well as looking at some national, similar festivals, and none of those are completely free to the public. She said, therefore, the public does anticipate some type of nominal fee. She said they have not finalized what it will be but they were thinking of maybe \$5 per car. She said even the Corrales Harvest Festival charges an admission fee.

Mayor Abraham said it is up for discussion, but he feels Village residents should be able to attend for free. He said he also feels something should be arranged for people attending the Growers' Market because he does not think they should be charged either.

Trustee McDonough said that some of the residents felt excluded because of the price of the Barn Dance.

Kelly Kuchar said she understands that is a sensitive issue, especially this year. She said on the other hand, they need a financial buffer to handle contingencies. She said the charge they discussed was minimal, perhaps \$5 or less for an adult and no charge for children. She said they are charging vendor fees of \$250 for the tents and the barn will be \$300 because it is so much nicer.

B. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2009-2-1-ADOPTING A POLICY AND PROCEDURE MANUAL FOR THE FIRE DEPARTMENT

Trustee McDonough requested that this item be deferred to next month because he has not had an opportunity to read the entire manual and he would like to do that.

Mayor Abraham said he thinks that is reasonable and there is no hurry to approve it.

MOTION: Trustee McDonough moved to defer Resolution No. 2009-2-1 to the March 11 Board of Trustees meeting. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

C. DISCUSSION AND APPROVAL OF PARSONS BRINCKERHOFF (PB AMERICAS, INC) ENGINEERING SERVICES CONTRACT FOR THE GARDUÑO ROAD DRAINAGE PROJECT

Trustee Lopez said he has reviewed the agreement and looked at the fee and he thinks the indemnification clause is fine. He said the only thing he did not see was a schedule to do the work.

Administrator Ward said we do not have a schedule. He said that will be the first order of business when they meet with the County and AMAFCA.

MOTION: Trustee Lopez moved approval of the Engineering Services Contract. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

D. DISCUSSION AND APPROVAL OF AMENDMENT TO THE RESTRICTIVE COVENANTS OF THE PRADOS TRANQUILOS SUBDIVISION LOCATED AT 6718 RIO GRANDE BLVD NW

Administrator Ward said this is our subdivision and there was a request by one of the other parties to make a change to Lot 2 which is directly behind us. He said we are Lot 1, Lot 2 is Mr. Weh and Lot 3 is Mr. Cronk. He said it concerns the property line setback between Mr. Weh's property and Mr. Cronk's property. He is looking to go from a 100 foot setback to a 65 foot setback.

MOTION: Trustee Homan moved approval of the amendment to the restrictive covenants of the Prados Tranquilos Subdivision. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

E. DISCUSSION OF FAMILY TRANSFER SUBDIVISIONS

Planner Seebach said the Family Transfer Subdivision is one of the oldest traditions in the Valley and the Village honors and recognizes it. However, she said the Ordinance Section 16.B(15) is very open and she has concerns that there may be room in the openness of the ordinance that it could be used for circumvention of the Zone Code. She said she would like to bring it to the Board so that the Board might give guidance as to how they could approach the problem to prevent any circumvention by developers who

could come in, buy a piece of property, claim transfer of family development rights and in three years sell the property. She said even if it was transferred to their son, if the son is 6 years old, he will still only be 9 years old and they are still the guardian.

Trustee Lopez said when this was first considered, he was on the Board and he championed this. He said he does not remember why they selected 3 years, but he thinks it could be changed to whatever they think is appropriate and that might be the inhibitor.

Trustee Rael said he thinks perhaps it should say the owner must have ownership for a period of 10 years before they could transfer family ownership.

Trustee Homan said she would suggest that staff present a proposal to the Board with new language for discussion.

Trustee Rael suggested if it is transferred to a child, then the property cannot be sold until the child reaches a certain age.

Trustee McDonough said he believes that would be extremely cumbersome to keep track of. He said you could transfer it to an adult child who would sell it in 3 years.

Attorney Chappell said there is a State Subdivision Act and the Village gets its authority through that Act. Therefore, he said he does not think the Village should draft an ordinance which makes a lesser standard for subdivision purposes than is authorized by the State Act. He said within that, the Village could make the procedure more expeditious, but in that process he would ask that you look at that and see if what is being proposed for family subdivisions would apply to the Act. He said he would like to see the two compared and make sure the Village is not trying to relax those standards.

Mayor Abraham said that was probably enough direction for now and staff should bring something back to the Board for the March meeting.

9. TRUSTEES INFORMAL DISCUSSION

Trustee Rael said the issue has come up where people have tried to set up a business on a side street as long as they are within the 300 foot allowable commercial area. He said he thinks there is a loop hole now where they can do that and the Village should close it. He said this needs to be corrected before we have any other types of these situations.

Mayor Abraham said if someone purchased their property and it was zoned C-1 and they think it is C-1 for 300 feet even on the side street, he doesn't think we can go back and re-zone it.

Trustee Homan said we have never taken the action, but it was a discussion in the previous Master Plan. She said when the properties on the east side of 4th Street were incorporated into the Village, they were brought over with the existing zoning established by the County.

Planner Seebach said when the Village grew and annexed, they were zoned some way, and she believes it was not until the 2003 annexation that they said it was zoned 300 feet.

Mayor Abraham asked that staff look through the properties and come back with a report for next meeting.

Trustee McDonough asked if Ortega Road will be an overlay project or are they going to remove and replace?

Administrator Ward said it is an overlay.

10. **ADJOURNMENT**

The meeting was adjourned at 10:00 p.m.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this ____ day of _____, 2009.

ATTEST:

Annabelle Silvas, Village Clerk