

# MINUTES

Village of Los Ranchos  
6718 Rio Grande NW

## Board of Trustees Regular Meeting

May 8, 2002 - 7:00 p.m.

### Present:

John Hooker, Mayor

Penny Rembe, Trustee/Mayor Pro Tem

By Telephone Conference

Don Lopez, Trustee

Pablo Rael, Trustee

David Siegel, Trustee

Annabelle Silvas, Clerk

David Mathews, Attorney

Allen Leatherwood, Treasurer

### Absent:

Hank Rosoff, Administrator

Cyndie Tidwell, Planning

## 1. CALL TO ORDER

The Village of Los Ranchos Governing Body held a Regular Meeting on Wednesday, May 8, 2002, in the Warren J. Gray Hall. The meeting was called to order at 7:00 p.m.

### A. Approval of Agenda

**Mayor Hooker** requested an amendment changing the order of Item-6C on the agenda, and placing the New Section-Transfer of Development Rights before Section 10-Commercial Retail Zone (C-1).

**Motion: Trustee Siegel** moved to accept the amendment changing the order of Item-6C changing the order to discuss the New Section - Development Rights before Section 10 Commercial Retail Zone (C-1). **Trustee Lopez** second the motion.

**Vote:** The motion carried unanimously.

## 2. PUBLIC COMMENT PERIOD

**Lt. Montieth** summarized his last twelve years with the Sheriff's Department. He reported on the various police activities and the crime statistics for the Village. He advised that the crime statistics run 30-45 days behind before they are logged, and mentioned that outside areas were included in the statistics prior to April 2002. Future reports will reflect only the activity for the Village of Los Ranchos.

**Mayor Hooker** stated that he attended the Traffic Safety Seminar at the convention center. He stated that they are using Step Grants, selected traffic enforcement programs and thought the Village should apply for such a grant.

**Lt. Montieth** stated that his traffic team handles all of the traffic grants, and will look into it for the Village.

**Trustee Siegel** requested comparisons of crime stats of another beat in the county that would be demographically similar, and would determine what shift the crimes are the highest. The allocation of officers as to whether a Village Officer or a non Village Officer responded, and the response time.

**3. CONSENT AGENDA**

**A. Approval of Minutes - Special Meeting - April 17, 2002  
Regular Meeting -April 24, 2002**

**B. Receive Department and Committee Reports**

1. Police
2. Fire
3. Animal Control
4. Court
5. Building Inspections

**Trustee Siegel** stated that he had changes to the April 24<sup>th</sup>, 2002 Minutes as follows:

(1) On page 2, line 18, change to read "It is the Mayor's prerogative to offer names and nominations and not the Trustees according to state law. The Trustees have an advice and consent role". He further stated that it would be nice to have a change, but he feels that Mr. Dolan is the most qualified individual for the position and he intended to be speaking in favor of his reappointment." He added that the first two sentences be stricken. On line 25, change to show that he voted no in the motion. On Page 3, Line 27, reflect that he made a motion and seconded the motion under the Residential Zone and should be changed to the correct second.

**Motion: Trustee Lopez** moved approval of the agenda with Trustee Siegel's corrections to the minutes. **Trustee Siegel** seconded the motion.

**Vote:** The motion carried unanimously.

**Trustee Siegel** questioned as to why there were no court sessions in April, because there is a backlog of court cases?

**Attorney Mathews** stated that he does not believe there is a backlog of court cases. There was a backlog in filing cases in court. Three cases have been filed this week that are scheduled for May 23, 2002.

**4. PUBLIC HEARINGS AND APPLICATIONS**

There were no Public Hearings and/or Applications.

**5. OLD BUSINESS**

There was no Old Business.

**6. NEW BUSINESS**

**A. Discussion of Governor Johnson's Executive Order on the Drought.**

**Trustee Lopez** commented that Governor Johnson's Executive Order is to alert communities throughout the state to the severity of the drought, and that it should be advertised in the Village Newsletter.

**Mayor Hooker** stated that given our recent fire, this is a reasonable thing to do.

**Attorney Mathews** advised that under state law if you are going to ban fireworks, you must do so 30 days before the Holidays.

**Mayor Hooker** said that Kirtland Air force Base is working to host a fireworks show, but their funds are limited and they are not publicizing to any great extent.

#### **B. Discussion and Approval of Road Co-op Project Number 3475-TPU-CAQ-TPE-5089(2)05 with the New Mexico State Highway & Transportation Department**

**Trustee Lopez** asked how much of the total funding for this project was allocated for the consulting engineers. He also questioned on Page 3, Item #10, the agreement notes that the certification package must be received by May 15, 2002, which is namely three items, Section F1, Certification of Pre-Construction Phase, F2 Request for Coop/JPA Federal Funding and F3 Estimate of LGA Project Pay-Out. He stated that it would be incumbent for him to review these documents before they are sent out.

**Mayor Hooker** stated that he is not aware that these items have been filled out because of delays in the project.

**Motion: Trustee Lopez** moved to approve the Road Co-op Project. **Trustee Rael** seconded the motion.

**Trustee Siegel** stated that he objected to voting on a document with three pages of information incomplete.

**Mayor Hooker** stated he would work with the consultant and our attorney to make sure the requirements of the Highway Department.

**Trustee Lopez** stated that we can either go forward with the project or end it tonight.

**Harry Weil**, stated that the Village hires people to advise us, and pay them a lot of money to do this, and they are not doing their job.

**Rick Saylor** asked if there is any process in effect right now to look at another engineering firm.

**Mayor Hooker** stated that under the state procurement code, we have to go out for RFP's for the next phase of this project because of the age of this contract.

**Mr. Saylor** asked if anyone has run an analysis on what the current numbers would be for the project as opposed to what they were three years ago.

**Mrs. Harrison** voiced her concerns with regard to the engineers, Wilson & Company, being paid and not doing their job.

**Lillian Derwelis**, said she would like someone knowledgeable in highway engineering to review this document before it goes to the Highway Department.

**Trustee Siegel** stated that he would like a stipulation on the top of the page on F2, stating "pending" before submitting. He said, he is uncomfortable sending incomplete paperwork that ties the Village to this document.

**Trustee Siegel** questioned where the information would come from to complete F3.

**Mayor Hooker** advised that this is a cash flow analysis and can use the old data and note that it is based on 2000 estimates.

**Motion: Trustee Lopez** amended his motion to include Trustee Siegel's comments.  
**Trustee Rael** seconded the motion.

**Vote:** The motion carried unanimously.

**Trustee Lopez** also discussed a letter from Mathews & Hahs stating that the 4<sup>th</sup> Street lawsuit was dismissed without prejudice, and further states it is not ready for a adjudication because the Village has not made a final decision on the configuration of North 4<sup>th</sup>.

**Mayor Hooker** advised that that decision cannot be made until FHWA gives approval.

### **C. Discussion and Comments on Draft Zoning Ordinance (dated January 19, 2001) New Section - Transfer Development Rights**

**Attorney Mathews** reported on the Transfer Development Rights. He explained the term "Transfer Development Rights (TDR)" He said that when a landowner who has several acres in the A-1 Zone that are not developed, the TDR would allow the owner to keep the land and transfer the development rights over to the commercial district. The Landowner would be paid for selling the development rights and would be able to keep the land and use it for agricultural development or recreational development. The Landowner, however, would not be permitted to build any structures on it or develop it in anyway that would detract from the open space. Attorney Mathews stated that he would need the Board's input regarding this process. There are two goals for this section of the ordinance, which is to preserve the open space and increase the commercial development.

**Mayor Hooker** stated that we could adopt the TDR Zone could be adopted as Section 5 of the Zoning Ordinance.

**Trustee Lopez** referred to Item G. He asked if there is opposition to a TDR, and is assuming that it will come to the Board.

**Attorney Mathews** stated if there is opposition to a TDR, it would come to the Board. He said he couldn't write an ordinance that does not give an appeal on zoning matters. The appeal process takes approximately 30 days.

**Mayor Hooker** questioned if receiving development rights would be seen as a zone change or more like a Conditional Use?

**Attorney Mathews** stated that receiving development rights would not be seen as a zone change.

It would be an overlay on that parcel that allows greater density or allows greater floor ratio and more like a Conditional Use or a Special Use.

**Mayor Hooker** stated that it would be noticed in the same manner as a Conditional Use and it would be posted.

**Trustee Siegel** questioned if the discussion is about transferring both residential development and commercial development rights? He said that there are lots on 4<sup>th</sup> Street that are dual zoned that have a 300 ft. commercial front and variable amount of R1, R2 and A1 in the back. The question is whether increased residential density could be transferred from 4<sup>th</sup> street to the residential portion of the lots or whether the lot is contemplated in the commercial zone to be a mix commercial/residential zone use, and could the residential density on 4<sup>th</sup> Street be increased by a TDR from someplace else.

**Attorney Mathews** stated that many of these TDR ordinances are residential transfers to residential receivers only. This is a decision that has to be made.

**Trustee Siegel** stated that, as he understands Attorney Mathews is recommending that Residential Development Rights to Commercial Development Rights be allowed.

**Attorney Mathews** stated that was correct and he understood that this is the Village's goal.

**Mayor Hooker** said this would translate from R to C.

**Trustee Siegel** said it may not be economically viable to transfer some of these dual lots that are A1 behind a commercial area. However, if a person who could put four or five homes behind the commercial area and have residential development, then that might be economically viable to develop it as a residential lot and would help solve the problem of the dual zone lots on 4<sup>th</sup> street.

**Attorney Mathews** stated that it would be an easy change, and could transfer to dually zoned lots and increase residential.

**Trustee Siegel** asked if he has a lot that he cannot develop any further because of easements covenants, can he still sell the development rights?

**Attorney Mathews** stated you could transfer the rights.

**Trustee Siegel** questioned who is going to be legally responsible to make sure the people who are doing the selling have free and clear titles to the property, deed transfer, title searches, etc.

**Attorney Mathews** stated that this would be the responsibility of the TDR Manager. An RFP would be put out to handle that. Any liability would be the responsibility of the title company or TDR Manager.

**Trustee Rembe** stated that some people make a lot of money administering the TDR's. When she did her project, they transferred 14 acres of farmland and they still had to identify who they were transferring it to. She mentioned that they used a Trust for Public Lands for one of her projects and they do not charge anything to administer.

**Trustee Siegel** commented on the importance of very specific guidelines, if the intention is to use a TDR Manager. Trustee Siegel also what the specific ratios will be, and how this impacts the

subdivision ordinance, the site development plan, and the specific criteria that the administrator will use to approve or deny the TDR.

**Attorney Mathews** stated that he is not concerned about the site development or how it may effect the subdivision ordinance, because that is still coming before the BOT. However, he would like to know what type of specific criteria that Trustee Siegel is referring to in determining if a parcel is suitable to receive development rights.

**Trustee Siegel** said that some of the criteria would be: the size of the parcel, the proximity of surrounding residents and what the actual intended use will be with some specific buffering criteria. He stated that he would be curious to see how this has worked in practicing communities, such as, Rio Rancho where there are fairly isolated commercial corridors surrounded by neighborhoods.

**Attorney Mathews** mentioned the book in his letter of May 3, 2002 "Saved (by) Development" that book lists every community in the United States that have a TDR Ordinance. It details specifically for each community, what the district is like, how many TDR's have occurred and notes whether the program has been successful.

**Trustee Rael** asked if any of the TDR's that have been proposed failed, because of some kind of problem that was not foreseen.

**Attorney Mathews** stated that some of the communities failed with the TDR process because there was not a demand for increase density, some failed because of just pure economic reasons, such as, a depressed economy in Georgia and upstate New York. The majority of the TDR's did work successfully to accomplish the purpose.

**Trustee Siegel** stated that the ordinance needs to have some specifics with regard to what the property will look like. He said that the Village can't be too restrictive, but that there needs to be some mechanism defining the permissible uses for the land with the development rights.

**Attorney Mathews** stated that he has enough information to determine the criteria for the receiving lots, but does not think he has enough criteria for the receiving zones.

**Fred Sturm** stated that the Master Plan Committee did discuss this issue and that there was general sentiment in favor of using Transfer Development Rights. He said that this needs to be economically viable and does not think that you can develop at a higher density. He said that the max should be the goal, that which would be obtainable through the use of TDR. Sturm suggested that there be some advice from developers and realtors.

**Trustee Rembe** asked what the tax implications would be to the person who transfers?

**Mayor Hooker** stated that because the seller will be giving up value of their property there would be an immediate property tax benefit. The seller could get permanent green belt exemption on that parcel that they gave up the right to develop, and IRS would recognize that as a charitable donation at the appraised value, which as a sale would be subject to ~~capital gains~~ ordinary income tax.

**Trustee Rembe** asked how it would be profitable for the Village to administer the plan.

**Mayor Hooker** stated that it may not be an appropriate business for the Village to get into to operate it's own land trust.

**Attorney Mathews** stated that some of the Transfer Development Rights in other communities were started with a grant.

**Mayor Hooker** stated that it could be started with a grant or work with someone like the Trust for Public Land or by an RFP for someone to create a program in the Village under the ordinance. Their **There** are some non-profit groups who are interested in doing this.

**Fred Sturm** stated that that the receiving area should be the 4<sup>th</sup> street character with caps being individual by zone, and that the character area should be re-drawn to cut off some of the long tripas.

**Mayor Hooker** suggested that this could be included as Section 5 in the code.

**Trustee Rembe** excused herself from the meeting at this point, and would be available if needed.

### **Section 10- Commercial Retail Zone (C-1)**

There was a lengthy discussion on this section. The following changes and comments were made as follows:

Trustee Lopez stated that he would like to delete the sentence of 6 (a) of "no body work to be done"

**Trustee Siegel** made an amendment to include automobile body work as Conditional Use in the Commercial Zone, provided that all federal, state applicable local environment and fire code documentation of conformance be provided to the Village. This change would move paragraph 6 from the current code to conditional uses in the draft, and would delete the sentence 6 (a) of "no body work to be done". **Trustee Lopez** second Trustee Siegel's amendment.

**Vote:** The motion carried unanimously.

### **Section 10. C-1 -Retail Commercial Zone of the Citizen's Advisory Committee Draft**

#### **A. PURPOSE AND INTENT**

**Trustee Siegel** suggested that the first sentence be changed to read "the purpose of the Section is to allow commercial and *mixed* residential *commercial* development in the 4<sup>th</sup> Street Corridor in conformance with the Village Master Plan." He added that the 2<sup>nd</sup> sentence is redundant and should be deleted. This second sentence would read "this zone includes the Fourth Street Corridor developed as commercial agricultural, residential and mixed parcels of diverse uses" and would leave the sentence of "the termini of Fourth St serve as gateways to the Village. He said that he would also drop the eight (8) dwelling units and come back to this under permissive uses.

**Attorney Mathews** stated that if the Village is going with TDR's, there could be a statement of density in the Conditional Use portion, and that the density should be under commercial rather than permissive section under the conditional section.

**Mayor Hooker** stated that he could come back with a white paper on the floor area ratio, and lot coverage, and come up with some options on how it would work in the C-1 zone.

**Mayor Hooker** suggested changing the title of "Section 10- Commercial Retail Zone (C-1)"

from Retail Commercial to "mixed use neighborhood commercial."

After a discussion among the Board members it was decided to drop the word "retail" and it would now read "Commercial"

## **B. PERMISSIVE USES**

**Trustee Lopez** suggested changing the 10,000 sq. ft. in paragraph B. (4) regarding (agricultural activities) as it was done on the other zones.

**Mayor Hooker** suggested that paragraph (1) regarding the 5 units per acre be discussed as one of the items in the white page list.

**Trustee Siegel** suggested moving "kennels" in paragraph B. 16 to conditional use up to the limit of (5) kennels.

There was also a suggestion to remove the word "also" from paragraph (16).

**Trustee Siegel** questioned if paragraph (k) line 53, should be permissive or conditional use, because it would depend on the definition of light manufacturing. He suggested light manufacturing should be a conditional use in the C-1 zone. Siegel also suggested that the definition of light manufacturing be added to the white paper list.

## **C. CONDITIONAL USES**

**Trustee Siegel** suggested moving paragraph(8) and paragraph (13) on page 6 to Permissive Use.

**Attorney Mathews** suggested the language of "do not incorporate any motorized outdoor activities except those necessary to maintain the facility in a safe and clean condition" to paragraph (8).

**Trustee Siegel** suggested that paragraph (23) regarding schools be moved to Permissive Uses.

**Fred Sturm** suggested that the light manufacturing be referred as handicraft and if it is something else call it Conditional Use. He said that there could be a definition of handicraft that would cover everything that we want to see and the things that already exist.

**Motion: Trustee Siegel** moved to table this item to the July 24<sup>th</sup> meeting. **Trustee Lopez** seconded the motion.

**Vote:** The motion carried 3-0.

## **7. FINANCIAL BUSINESS**

### **A. Cash Report—March 2002**

Treasurer Leatherwood reported that the receipts were \$176,508 and the expenditures were \$261,698, which included \$100,000 that was owed to the City of Albuquerque Open Space.

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

**Vote:** The motion carried unanimously.

**B. 3<sup>rd</sup> Quarterly Report**

**Treasurer Leatherwood** asked that the quarterly report be deferred, because there was an error on the report.

**Motion:** **Trustee Lopez** moved to defer the report. **Trustee Siegel** seconded the motion.

**Vote:** The motion carried unanimously.

**8. REPORTS**

**A. Mayor's Report**

Mayor Hooker reported that the Spring Fest will be held on May 11<sup>th</sup> and 12<sup>th</sup>. He also reported that he attended a Traffic Safety Bureau Seminar on changing behavior of DWI and aggressive drivers. He announced that the Growers Market will also be held on Saturday before the Spring Fest. He reported that the Village engineer is performing traffic counts and speed counts on Green Valley, Chavez, and Guadalupe. He also announced that Los Ranchos Elementary will be having an ice cream social this Friday as a fund raiser. He also stated that a discussion will be held on fire works for the Village at the Board meeting of May 22<sup>nd</sup>. He also reported that Stephanos Polyznois will be making a presentation at the May 22<sup>nd</sup> meeting.

**B. Administrator's Report**

There was no Administrators report.

**C. Legal Report**

Attorney Mathews reported that there is a lawsuit against Mr. Brummel on Ortega. He also reported that the 4<sup>th</sup> Street lawsuit has been settled, and are now going into mediation in the month of June, and does not think that the attorney's need to be involved in the mediation. He stated that there will be no appeal in the Gemini Fire Works lawsuit, and that the civil rights lawsuit is being dismissed. He also reported that there are four pending cases that will be going before the municipal court.

**D. Planner's Report**

There was no planner's report.

**E. Fire Dept. Report**

There was no fire report.

**9. TRUSTEES INFORMAL DISCUSSION**

**Trustee Lopez** stated that before the 4<sup>th</sup> Street Project goes much further and the sooner an RFP for engineering services goes out the better off the Village would be. He said that he is very disappointed with the forms not being filled out.

**Trustee Siegel** stated that for the amount of money the village has paid they have caused more harm than good, but changing horses right in the middle of mediation would **not** be wise.

**Trustee Lopez** stated that before going forward with the 4<sup>th</sup> Street project the Village needs to have an engineer that there is confidence in.

**Attorney Mathews** stated that for the mediation Wilson & Company would **not** be involved.

**10. ADJOURNMENT**

**Motion: Trustee Lopez** moved to adjourn the meeting at 10:30 p.m. **Trustee Siegel** seconded the motion.

**Vote:** The motion carried unanimously.

**APPROVED** by the Board of Trustees of the Village of Los Ranchos de Albuquerque this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

ATTEST:

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Annabelle Silvas, CMC  
Village Clerk