



VILLAGE OF CORRALES
GOVERNING BODY

MINUTES

December 13, 2011

6:30 p.m.

COUNCIL/MUNICIPAL COURT CHAMBERS

Governing Body present:

Mayor Gasteyer
Councilor Garcia-Miera
Councilor Clauser
Councilor Gerhart
Councilor Gagliano
Councilor Alsobrook
Councilor Harper

Village Staff present:

Village Administrator John Avila
Village Clerk Juan Reyes1
Police Chief Ray Vigil
Fire Chief Anthony Martinez
Village Attorney John Appel

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Gasteyer called the meeting to order at 6:36 pm and led the Pledge of Allegiance in both English and Spanish (Juramento de Fidelidad).

II. APPROVAL OF AGENDA

Motion: Move to approve the Agenda, **Action:** Approve, **Moved by** Councilor Gerhart, **Seconded by** Councilor Garcia-Miera.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

III. APPROVAL OF MINUTES

1. November 7, 2011 Special Meeting Minutes, redistricting

Mayor Gasteyer said the word "don't" should be removed from the third line in the fourth paragraph.

Motion: Move to approve the Minutes of the Special Meeting on November 7, removing the word "don't" in the third line in the fourth paragraph, **Action:** Approve, **Moved by** Councilor Clauser, **Seconded by** Councilor Alsobrook.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

November 8, 2011 Council Minutes

Councilor Clauser said that on page 2, line 70, the ribbon cutting ceremony for the Corps of Engineers was for the restoration project, not the habitat plan. Also, on page 6, line 320 should read "Councilors are not going to risk public safety or jeopardize staff effectiveness."

Motion: Move to approve the November 8 Council Minutes with the changes discussed by Councilor Clauser, **Action:** Approve, **Moved by** Councilor Gagliano, **Seconded by** Councilor Gerhart.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

October 25, 2011 Council Minutes

Councilor Gerhart said that on line 71, the ribbon cutting ceremony for the Corps of Engineers was for the restoration project, not the habitat plan.

Motion: Move to approve the October 25 Council Minutes with the changes discussed by Councilor Gerhart, **Action:** Approve, **Moved by** Councilor Alsobrook, **Seconded by** Councilor Gerhart.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

October 26, 2011 Special Meeting Minutes, rentals

Mayor Gasteyer said that he wanted to add a sentence at the end that referenced the testimony of Kevin Calman, the realtor that sold the property there at the Old Church where the activity was being criticized. He suggested that a more complete record be considered at the next meeting.

IV. ANNOUNCEMENTS

Mayor Gasteyer announced the following:

- Members of the Council are invited to the staff office holiday potluck at 11:00 am on Friday, December 17;
- On December 21, the Historical Society is sponsoring the Las Posadas event at 7:00 pm at the Old Church;
- On Saturday, December 24, recycling will not be open;
- Monday, December 26, will be observed for the Christmas holiday, and Village Offices will be closed;
- On Sunday, January 1, there will be a Winter Growers' Market;

- On Monday, January 2, if the Holiday Schedule Resolution is approved, the Village Offices will be closed in observance of the New Year holiday;
- On Sunday, January 8 at 2:00 pm, the Historical Society will have two historians discussing the period between the end of Spanish crown rule and the territorial government installed 30 years later;
- Tuesday, January 10 is the first regular meeting of the new year;
- Tuesday, January 10 is also the ONLY day for a declaration of candidacy for the March 6, 2012 Municipal Election. Councilor seats are open for districts 2, 5, 6 and for Municipal Judge;
- On Tuesday, January 17 at 6:30 pm, there will be a joint workstudy with MainStreet on the subject of the Local Economic Development Act (LEDA);
- Tuesday, January 17 is the ONLY day for declaration of write-in candidacy for those wishing to run in the March 6, 2012 Municipal Election;
- Tuesday, January 24 is the second regular meeting of the month of January.

Mayor Gasteyer said that the Casa Vieja property was granted recognition on the New Mexico State Register of Cultural Properties.

V. PETITIONS

VI. COMMUNICATIONS

2. Administrator's Report

Administrator John Avila reviewed his written report (see attached).

VII. COUNCILORS FORUM: This section is for information purposes only, not for discussion and debate, to inform the Governing Body of an issue/ concern that would not be addressed on the agenda during the business session.

Councilor Clauser expressed pleasure with the reopening of the gas station on Corrales Road.

Councilor Gerhart said that there is a "giving tree" up in Village Hall to benefit needy families in Corrales. She encouraged all to get an ornament to help those families. She thanked the Fire Department for their effort in this project.

Councilor Garcia-Miera said that there have been people using paintball and airsoft guns in the Bosque. That's a violation of Village ordinance and is unsafe.

VIII. CORRALEÑOS FORUM: This section is for information purposes only, not for discussion and debate, to inform the Governing Body of an issue or concern that would not be addressed on the agenda during the business session. There is a 3-minute time limit, unless approved by the Presiding Officer.

Janelle Antone expressed concern with people using air and paintball guns in the Bosque. She relayed a story about when she encountered people in the Bosque shooting these types of guns playing "war games." She said that when she contacted the police department, she was misinformed about what the law is regarding air and paintball guns and sporting activity in the Bosque.

Sandy Gold expressed appreciation for the signage indicating the "no cell phone while driving" and the "three foot from cyclists" signs on Corrales Road and Loma Larga.

IX. CONSENT AGENDA:

3. Reports from Boards, Commissions, and Department Head Personnel

Councilor Clauser said that she noticed that when the safety grant was applied for, Access A was not included. Administrator Avila said there is still room to amend that.

Councilor Clauser thanked the librarian for informing the Governing Body that there are two Kindles for use in the Library.

Motion: Move to accept the Consent Agenda, **Action:** Approve, **Moved by** Councilor Gerhart, **Seconded by** Councilor Alsobrook.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

X. CONFIRMATION OF PERSONNEL RECOMMENDATION:

4. Brandi Vigil for Payroll / Accounts Payable Specialist

Motion: Move to approve Brandi Vigil for Payroll/Accounts Payable Specialist, **Action:** Approve, **Moved by** Councilor Gerhart, **Seconded by** Councilor Clauser.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

Royce Vigil for Police Officer

Mayor Gasteyer said that Mr. Vigil was in the top of his class at the Law Enforcement Academy.

Motion: Move to approve Royce Vigil for Police Officer, **Action:** Approve, **Moved by** Councilor Gerhart, **Seconded by** Councilor Gagliano.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

Councilor Clauser asked to receive an update on how many police officers are not staffed.

XI. CONFIRMATION OF APPOINTMENTS

5. N/A

XII. OLD BUSINESS:

6. Discussion and instruction to the Mayor regarding Village road projects and their priority rank for Local Government Road Co-op Program funding, to include the possible paving and improvement of Ruffles Lane.

Mayor Gasteyer said that this the list distributed for this meeting comes from previous discussion from the Governing Body and has been altered by Public Works Director Tony Tafoya. He noted that Ruffles Lane has been removed from the list, pending the survey ordered at the September 27th discussion.

Councilor Gerhart wondered how Paseo de Corrales was added to the list? Was it added by petition or does it have maintenance issues that Public Works has been dealing with? Public Works Director Tony Tafoya said it has bad drainage issues. Councilor Gerhart said that \$40,000 seems like a good amount, and wondered if the road needs paving? Mr. Tafoya said that only half the road is public. Councilor Gerhart wondered if there was a drainage design and could co-op fund funds pay for that? Mr. Tafoya said the road is designed to drain into the ponds along Loma Larga at its base.

Motion: Move to instruct the Mayor to forward the Co-Op list as amended, **Action:** Approve, **Moved by** Councilor Gerhart, **Seconded by** Councilor Clauser.

Councilor Alsobrook suggested an amendment dropping the position of Ruffles Lane to the bottom of the paving and overlay list.

Motion: Move Ruffles Lane to the bottom of the paving and overlay list, **Action:** Amend, **Moved by** Councilor Alsobrook, **Seconded by** Councilor Gerhart.

Vote on amendment: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

Vote on original motion as amended: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

7. Discussion and consideration of Resolution 11-054, a resolution to provide for the appropriate care and placement for adoption of unclaimed domestic dogs and cats; authorizing the mayor to enter into one or more agreements with animal rescue organizations to provide such care and placement as contractors to the village; establishing minimum standards for animal rescue organizations contracting with the village; authorizing payment of a rescue fee for each domestic dog or cat for which rescue services are provided.

Bill Woldman from CARMA said that over the last 11 years, the organization has provided medical services to the animals that CARMA receives. Because of the new "no kill" ordinance, medical services are now required of these "rescue groups." CARMA charges \$85 as an adoption fee to provide the required services after negotiations with a local vet to reduce some of the traditional costs. The City of Albuquerque and Animal Humane Association have in-house, salaried veterinarians, and therefore, can significantly reduce their adoption fees along with other benefits. On a per capita basis, CARMA has

more animals in its care than the City of Albuquerque, which requires not only the daily maintenance of food, litter, etc. Mr. Woldman asked that the Council consider increasing the amount provided to rescue groups enabling the groups to cover the costs for medical services and allow them the option to reduce adoption fees to remain competitive with the City of Albuquerque and the Animal Humane Association.

Councilor Clauser said that she has spoken to other rescue groups. She was told that Village residents have been very generous to the Second Chance Rescue Thrift Store, a group who is not so concerned with the amount given for the care of animals, but they are concerned about being inspected by the Building Inspector. She wondered if that was necessary and wondered if Animal Control could look at the facility instead? Councilor Clauser also noted that the last paragraph on page 3, which states "Nothing contained in this Resolution shall be deemed to impair or require any modification of any Village contracts or agreements for the care of impounded, unclaimed or abandoned animals that are in effect on the date of adoption of this Resolution, and all such contracts or agreements shall remain in full force and effect," and said that there are probably other rescue groups that are accepting animals. Attorney Appel clarified that what he was concerned about in drafting the Resolution is simply to acknowledge that contracts, such as the one with Corrales Kennels, will remain in force. It doesn't require the Village to contract with only one provider.

Mayor Gasteyer noted that he and the Village Clerk had tried to get formal written input from other groups to no avail.

Barbara Bayer said that CARMA is open to working with other groups to help take animals. She also said that CARMA keeps records of their activities because they are a non-profit group and they need to operate as such. She questioned what the term "facility for the reception" in the resolution means? She said most rescue groups don't have a facility. There are no shelters or sanctuaries. Such facilities would be a huge benefit.

Attorney Appel said that there is no specific definition of "facility" in the Resolution, and the use of term wasn't meant to be restrictive. He said if fostering an animal in a home could be considered a "facility". The disbursed nature of some of the animal organizations in the Village can be addressed by using the term "facility or facilities" for the reception of animals. Attorney Appel said he would be reluctant to recommend passage of this if the Governing Body does not require that there be some place to locate the animal.

Councilor Gerhart said that under the compensation clause on page 3 of the resolution she's not sure the question about when compensation happens is clearly addressed. Does the animal have to be adopted before the organization can be compensated or does compensation occur at the time of placement? Attorney Appel said that he considered the comments from the discussion a month ago, and deliberately left that open. He said the time of payment is best dealt with in terms of the individual agreement with each entity. He said it may depend on the model of the organization. If they are accepting the animal with a guarantee at the time of acceptance that they will follow through and the Village is confident of that, then maybe compensation can occur at the time of acceptance of the animal. Otherwise, the fallback position is going to be a very strict analysis of what is in fact state law, which is, the State and other public entities don't pay until the service is provided. That's simple Procurement Code. If the Village wants to push that, then payment wouldn't occur until a certificate is received that the animal has been adopted. Attorney Appel noted that the Village doesn't have to follow that route, but that would be the fall-back position.

Ms. Bayer said that in CARMA's case, the service that is provided is that the rescue group takes possession of the animal and prepares it for adoption.

Councilor Gagliano said that Animal Control should do the inspections to ensure how services are being met before compensation.

Councilor Alsobrook wondered if there should be a set ceiling fee regardless of who the contractor is? Attorney Appel said that the resolution sets a ceiling of \$35. In testimony, it is the view of many potential providers that \$35 is not enough. Councilor Alsobrook asked if the initial impound of an animal is considered separate from this resolution? Attorney Appel answered yes.

Councilor Gerhart thought the ceiling should be raised to \$75.00 for a dog or cat.

Motion: Move to approve Resolution 11-054, to provide for the appropriate care and placement of unclaimed domestic dogs and cats, with the following changes: the inspection should be done by the animal control officers of the Village, and that the ceiling for services for each animal be raised to \$75, **Action:** Approve, **Moved by** Councilor Gagliano, **Seconded by** Councilor Alsobrook.

Attorney Appel suggested the following as amendments: In paragraph 2B, first line, the word facility might be changed to "facility or facilities" as previously discussed; and regarding the 4th line of the same paragraph, there was a discussion at the last meeting about whether these organizations are required to get a Village business license. Attorney Appel said that in our municipal code, there is not an exclusion as such for not-for-profit corporations, but the definition of "business" in the code does imply that you're not a business unless you're making money. So, Attorney Appel suggested that in the 4th line of paragraph of 2B, the words "licensure as a business, if required..."

Motion: Move to amend as suggested by Attorney Appel, **Action:** Approve, **Moved by** Councilor Clauser, **Seconded by** Councilor Gagliano.

Vote on amendment: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

Vote on motion as amended: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

XIII. NEW BUSINESS:

8. FUTURE AGENDA ITEMS

Mayor Gasteyer announced the following as possible future agenda items:

- Changes to the land use ordinances and sign ordinance, forwarded by the Planning & Zoning Commission to include creation of a demolition permit in the commercial zone for older structures and rewrite of the sign ordinance;
- Update of the fire code, particularly the organizational structure which reflects the all-volunteer department of years ago;

- Lodger's Tax disbursement;
- An amendment to Ordinance 09-008 to improve compliance with the Real Estate Transaction Permit requirement when agents list real properties in the Village for sale.

Councilor Garcia-Miera said he'd like to see an update on the airsoft/paintball gun in the Bosque issue.

Councilor Alsobrook would like to see a discussion item on the Agenda regarding the recommendation from the National Transportation Safety Board that all cell phone usage be banned in vehicles.

9. Discussion and instruction to the Mayor, regarding possible removal, and/or preservation and maintenance, of the designated landmark cottonwood trees at the Village's Old Church property.

Councilor Gerhart said there has been some confusion about the procedure for tree removals. The removal procedure in the ordinance is flawed. As written it appears that the decision to remove could already be made before the review occurs by the tree advisory committee. She apologized for putting the Council on the spot by requesting this agenda item.

Sue Hallgarth said the nomination for the cotton wood tree to become a landmark tree was done in September, and it took at least 5 meetings to get through the Planning and Zoning Commission. Two days before the designation plaque was put on the tree, a huge limb fell off the tree. An arborist came in to give advice about what to do with the tree. Before the presentation however, another limb fell from the tree and struck a car, and an insurance claim was filed. The arborist said that the cottonwood does display characteristics of a hazardous tree and it could either be cut down, or preserved by mulching, trimming, watering, making sure cars were not parked under it and by putting a barrier around it. There was a meeting between Village staff, the Tree Preservation Committee and the Historical Society about how to proceed to help the tree. She said that when the insurance investigator came out, he was surprised that the tree had not been removed. On November 9, the claim was settled. In the meantime, the cooperative spirit of everyone trying to help the tree live diminished and there was a change of attitude, and there were suggestions to remove the tree. The Tree Preservation Committee was then left with a decision to make about what recommendation to make. The Committee talked to the Corrales Comment and got suggestions and ideas from citizens. The Committee would like to see the tree stay. Also, she urged for more transparency about when meetings are held about the tree.

Alice Glover of the Historical Society said that some cottonwood trees, while historic and beautiful, cannot be saved. The tree in question at the Old Church, is a safety liability and has a history of failure. It is an unpredictable environmental hazard. In addition, the reality is possible serious damage to humans or property.

Bill Perkins said that both from a safety and fiscal standpoint perhaps the tree should come down. But from a cultural standpoint, the cottonwood defines the Village and should be protected. The tree is alive. How much is that worth? He thinks there are workable solutions and the Village should commit to measures to help the tree thrive. He thinks it would be unfortunate to see the tree come down at this time.

Mary Ellen Capek urged the Governing Body to leave the tree. She thinks the tree can be saved by being watered, mulched and trimmed until next Spring. She also said there has been a lack of transparency about meetings held about the tree. She urged for more transparency.

Ed Zendel, Risk Services Director for the New Mexico Municipal League Self Insurer's Fund, which is the group self-insurance arrangement that the Village has been involved with for many years along with other local municipalities, spoke next. He said that after hearing testimony from various groups and citizens, a couple of things struck him. Two days before the tree was plaqued, a large limb fell, and thirty minutes before the arborist began inspection of the tree, another limb fell and hit a car. NMML became involved in this as a result of the limb hitting the car. He said that initially, the claim was denied because NMML didn't have the arborist's report, and no idea what the condition of the tree was. Generally speaking, when a branch falls off a tree, it's an act of God. Once the arborist's report was received, it was realized that the tree in question is a hazard in the community. He said from a liability standpoint, the report by the arborist will be exhibit A in any lawsuit that is brought against the Village of Corrales as a result of someone being damaged by the tree. The very first line of the report says the tree exhibits many characteristics of being a hazardous tree. In his opinion, a jury would look at that and say it's a hazardous tree. The one line in the report that is the most telling is the line that says that if you prune it and doing routine inspections annually and after major storm events, it will limit the likelihood of more serious property damage when there is a failure. He says he's not advocating for removal or salvation of the tree. However, he wants the Governing Body to know that the Village is "on notice," a legal term that makes the Village aware of a hazardous condition in the community. The Governing Body has a duty to the public to protect them from a dangerous condition. It could mean removing the tree, or eliminate the ability of the public to access anywhere under the canopy of the tree. That is, for parking purposes as well as for pedestrians or people on foot. He said he's not as concerned with car damage, as cars can generally be fixed, but if a limb was to fall and hit someone on the head, the outcome could be serious. If one person were to be injured as a result, the Village could be liable for up to \$700,000 in damages. If more than one person was involved and incurred catastrophic injuries, the Village liability could be as much as \$1,050,000. Mr. Zendel recommended that at a minimum, there be no parking or access to the area under the tree's canopy.

Councilor Harper asked Mr. Zendel if someone ignored restrictions from the area of the tree and was injured, what liability would the Village have? Mr. Zendel answered that the Village could be sued for not adequately preventing the person from entering the area, for negligently maintaining the barrier, for failure to sign the area properly. There are a number of allegations that could be made, and once entered into litigation, it would be up to the NMML to take it from there. However, he noted, with the Village being "on notice," it is very difficult to insure a known hazard.

Councilor Alsobrook said this is about risk and how to mitigate it. One way to mitigate the risk completely is to get rid of the tree. But if the Village takes other mitigation measures, such as a licensed arborist monitoring and caring for the tree, he wondered what impact that has on jury findings? Mr. Zendel said that mitigation is a good argument toward a jury. There still is the problem, however, that there is a tree that is in a known hazardous condition that has not been totally mitigated.

Mayor Gasteyer asked Mr. Zendel if there are implications for the Village's premium as a result of the damage to the car? Mr. Zendel said that there are no implications so far, but going forward, there could be implications based on the decisions about the tree.

Councilor Alsobrook wondered if the failure of the tree was neglect? Mr. Zendel said the tree is probably close to 100 years old, and isn't the first cottonwood tree that the NMML has dealt with. The potential for liability is there, and the Village has been made aware of the hazard. The Village now has the option of blocking off the area around the canopy of the tree, or taking the tree down. Councilor Alsobrook said that what has been shown to be hazardous are some distinct, individual limbs. If a limb

falls off a tree once, does that forever make that tree hazardous? Mr. Zendel said that the arborist report does make the tree forever more hazardous because the arborist pointed to the fact that the tree has a history of failure, that there are visible areas of decay, deadwood is present and there is some die-back on the top of a large root.

Councilor Alsobrook asked if the Village was on notice for all trees on municipal property? Mr. Zendel said the Village is on specific notice for the tree in question, but there is general notice that the Village has an obligation to deal with trees within the Village's property.

Councilor Garcia-Miera asked if the suggestion is to wait until the Spring to see what the tree is doing before making a decision regarding what to do with it? Ms. Hallgarth said yes, the arborist said "through the next growing season" before looking at it again.

Councilor Gagliano said that not all decisions can be based on logic only and there needs to be a creative solution to this situation, and taking the tree down is not very creative.

Dick Foote from the Historical Society said that initially, he wanted to save the tree. He loves trees, but he also has been involved in risk management and litigation. He said however, that after taking into consideration the risk of the tree, he made the motion to have the tree removed. He said the tree is seriously damaged and is an accident waiting to happen. He said the only way to exclude people from entering under the canopy of the tree is to put up a high chain link fence which is contrary to the historical aspect of the Old Church. He urged the Governing Body to follow the Historical Society's recommendation to take the tree down.

Jim Fahey suggested that the tree could come down, and a memorial and a new cottonwood put in its place.

Public Works Director Tony Tafoya said that there is a hole in the tree, and at least a thousand gallons of water has been put in the tree, and it never filled up, indicating that the cavity is very deep.

Motion: Move to instruct the Mayor to invite the arborist who wrote the report to attend the next meeting so that the Governing Body may question him directly about the tree before proceeding with any decisions, thereby suspending a decision on the removal of the tree, **Action:** Instruct the Mayor, **Moved by** Councilor Alsobrook, **Seconded by** Councilor Garcia-Miera.

Administrator Avila said that he was waiting on a decision to move forward on providing treatment on the tree. Is that permitted? Councilor Alsobrook said that if treatment for the tree without cutting it down must be done then he is in favor of that.

Councilor Harper said that he is in favor of taking the tree down and replacing it with a younger tree. He said that is not a stand that he takes lightly; he appreciates preservation and extending the life of anything that is valuable, but for him, it's a matter of where the tree is. The burden of excluding the public from the area of the canopy of the tree and the sum of all the efforts to be taken could be better spent.

Administrator Avila said he needed clarification on the suspension of action on the tree? Councilor Alsobrook said that what he had said was he wanted suspension on the decision process about removal and if the administration deemed that there was action necessary in keeping with what the arborist has in his report for mitigation or maintenance, then to proceed with that. Councilor Gerhart said that she'd like to see the administration work with the Tree Committee.

Attorney Appel said he has a couple of procedural concerns. In effect, the process that is set forward in the statute have been short circuited. The decision is now being made by the Governing Body, not through the process that's set forth in the ordinance. Second, as structured in the Ordinance, the Landmark Tree Committee is to be an advisory committee to the Village, not an advocacy group. He said he thinks the motion is clear enough, as long as Administrator Avila understands the scope of the Administration's authority in dealing with the imminent hazard, which does need to be considered if the decision is going to be put off for another month.

Motion: Move to proceed with measures to exclude members of the public from the area under the canopy of the tree, **Action:** Amend, **Moved by** Councilor Harper, **Seconded by** Councilor Garcia-Miera.

Vote on amendment: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Harper, Councilor Alsobrook, Councilor Gagliano.

Motion: Move to instruct the administration to work with the Tree Preservation Committee to do whatever has been drawn up in terms of trying to improve the health of the tree in the interim, **Action:** Amend, **Moved by** Councilor Gagliano, **Seconded by** Councilor Clauser.

Vote on amendment: Motion carried by roll call vote (summary: Yes = 5, No=1).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Alsobrook, Councilor Gagliano.

No: Councilor Harper

Motion: Move to instruct the Mayor as amended, **Action:** Approve, **Moved by** Councilor Clauser, **Seconded by** Councilor Gagliano.

Vote: Motion carried by roll call vote (summary: Yes = 5, No=1).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Alsobrook, Councilor Gagliano.

No: Councilor Harper

10. Discussion and consideration of Resolution 11-059, a resolution directing that the Village Administration not provide public maintenance for West la Entrada Road from Loma Larga to the Thompson Fence Line.

Michele Martin said that she has always known the Village to maintain her road. She said if she had to maintain it as a private road, she wouldn't be able to afford it.

Will Zartman said that he would like to keep the road public for maintenance and for property value.

Don Knight said that a realtor told him that putting the financial burden of the maintaining the road on homeowners will decrease property values. He also discussed emergency vehicle access of private versus public roads.

Larry Rolls said that when the subdivision was annexed into the Village, road maintenance was included in that deal along with police, fire and animal control services.

Randy Hines said he would like West La Entrada to be a dirt road to help control traffic.

Thomas Johns said that West La Entrada is a private road easement, but when the Village annexed it, the residents were told that the Village would maintain it.

Joey Fields said that the land on West La Entrada was platted as a private road and should stay private. He said that if the road is deemed public, then he wants compensation for it.

Mayor Gasteyer said that on the Mid-Region Council of Governments' maps, the road is shown as a public road which goes back to the time of annexation. It was characterized as such when it was turned over from Sandoval County.

Mike Sorce said that in 1974, the road was platted as a private road and inclusive in the residential lots. There is no other documentation that says the road became public. There was no indication to the residents on the road that that it was made public. He said it's always been private and suddenly comes across as public in the Comprehensive and Master Trails Plans.

Attorney Appel said that without stating any opinion as to the status of any portion of this road, which would be fact-based, he commented on how a public way may develop or be created under New Mexico law. There are two basic ways it can happen; the cleanest and easiest is the statutory procedure that has been in effect since adoption of the Municipal Code in 1965, which is dedication of a public way by plat and acceptance by the municipality which establishes a fee interest in the municipality. Based on what he has heard, there is no such right-of-way established for any portion of the road in question. There is another way in which a public way can be established, called "common law dedication." Under common law dedication, a maintenance of a way by the public authorities, municipal, county or state, for a significant period of time, can establish a way in question as a public road and can continue to be maintained as a public road if the public authority chooses to do so. The difference is, in most interpretations, and this seems to be the interpretation in New Mexico courts since territorial days, a common law dedication does not establish a fee interest in the public authority. It establishes an easement interest in the public authority, and if the public authority was to choose not to maintain the road any longer, then the underlying land would revert to the property owner. It is entirely possible that the Governing Body may not want to fight this battle because history shows that this way has been maintained by the Village, and to that point, it may very well be a public road that is located within an easement on private land.

Councilor Alsobrook asked whether the Council should acknowledge West La Entrada as a public road? Mr. Appel advised to leave the matter "as is".

Councilor Harper observed that if the road is not public it would be advisable for the property owners to establish a private road maintenance agreement which was something P&Z required of subdivisions when he served as P&Z Chair.

Attorney Appel was asked if the Village has the right to pave the road? Attorney Appel answered that if the Village maintains a common law dedication of the road, then yes, the Village can pave it. Attorney Appel was asked if the Village is obligated to upgrade the road? Attorney Appel answered no.

The possibility of keeping maintaining the road and keeping the easements private was discussed, as well as the implications for liability, legality and the impact on such transactions as mortgages and fee interests.

Motion: Move to deny Resolution 11-059, **Action:** Second, Moved by Councilor Harper, **Seconded** by Councilor Alsobrook.

Vote: Motion carried by roll call vote (summary: Yes = 4, No=2).

Yes: Councilor Garcia-Miera, Councilor Harper, Councilor Gerhart, Councilor Alsobrook,

No: Councilor Clauser, Councilor Gagliano

11. Discussion and consideration of Resolution 11-056, a resolution calling for a regular election to be held on March 6, 2012 in the Village of Corrales.

Mayor Gasteyer referred to the discussion held at the November meeting and that the resolution establishes a single voting location.

Motion: Move to approve Resolution 11-056, **Action:** Approve, **Moved by** Councilor Gagliano, **Seconded by** Councilor Clauser.

Vote on amendment: Motion carried by roll call vote (summary: Yes = 5, No=1).

Yes: Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Gagliano, Councilor Harper.

No: Councilor Alsobrook.

12. Discussion of possible controls over short term rentals of residential properties in the Village of Corrales.

Mayor Gasteyer said that the Administration is taking steps to address zoning and business license violations at these properties. There have been signs installed at the Old Church property saying that parking is for the Old Church only. Mayor Gasteyer recommended that the Planning and Zoning Commission could be tasked to develop a short-term rental permit, addressing issues such as occupancy load, frequency and compliance with noise ordinance.

Councilor Harper said that short term rentals should not be prohibited in the "H" zone, and prohibit events at short term rentals.

Councilor Gagliano said that the enforcement of whatever regulations are established is important and he would like to see the P&Z Commission tasked to address those issues as well.

13. Discussion and instruction to the Mayor regarding requests to Corrales State Representatives and Senators prior to the Second Regular Session of the 50th Legislature.

The Mayor suggested this item be discussed at the next Regular Meeting.

14. Discussion and consideration of Resolution 11-057, a resolution establishing Holiday schedule for all Village employees.

Motion: Move to approve Resolution 11-057, **Action:** Approve, **Moved by** Councilor Gagliano, **Seconded by** Councilor Clauser.

Vote on amendment: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Alsobrook, Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Gagliano, Councilor Harper.

15. Discussion and consideration of Resolution 11-058, a resolution authorizing adjustments of various funds for Fiscal Year 2011-2012.

The Mayor said the adjustments to revenue and expense are occasioned by the receipt of Fire and DWI grants in Special fund categories.

Motion: Move to approve Resolution 11-058, **Action:** Approve, **Moved by** Councilor Gerhart, **Seconded by** Councilor Harper.

Vote on amendment: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Alsobrook, Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Gagliano, Councilor Harper.

16. Discussion and consideration of Resolution 11-060, a resolution authorizing the assignment of official representatives and signatory authorities.

The Mayor said this was necessary as part of the Environment Department's routines for the Clean Water State Revolving Fund loan previously authorized by the Council.

Motion: Move to approve Resolution 11-060, **Action:** Approve, **Moved by** Councilor Gagliano, **Seconded by** Councilor Gerhart.

Vote on amendment: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Alsobrook, Councilor Garcia-Miera, Councilor Clauser, Councilor Gerhart, Councilor Gagliano, Councilor Harper.

17.

CLOSED SESSION:

On motion duly made and approved the

Governing Body may go into closed session to discuss potential threatened or pending litigation involving the Village of Corrales. The meeting will be closed in accordance with Section 10-15-1(H)(7), NMSA 1978, "meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant; "

Motion: Move to go into closed section pursuant to Section 10-15-4 (H)(7) of the Open Meetings Act, **Moved by** Councilor Clauser, **Seconded by** Councilor Gagliano.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 6).

Yes: Councilor Alsobrook, Councilor Clauser, Councilor Gerhart, Councilor Gagliano, Councilor Garcia-Miera Councilor Harper

Upon re-entering open session, Attorney Appel said that no action was taken while in closed session.

XIV. ADJOURNMENT:

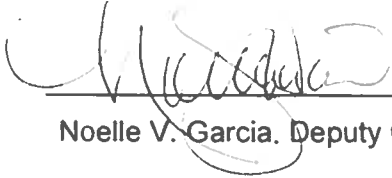
Motion: Move to adjourn, **Moved by** Councilor Clauser, **Seconded by** Councilor Gagliano.

Vote: Motion carried by unanimous vote (summary: Yes = 6).

Yes: Councilor Alsobrook, Councilor Clauser, Councilor Gerhart, Councilor Gagliano, Councilor Garcia-Miera Councilor Harper

BEING NO FURTHER BUSINESS TO COME BEFORE THE GOVERNING BODY, THE MEETING ADJOURNED AT 10:09 PM.

APPROVED THIS 10th DAY OF January, 2012.



Noelle V. Garcia, Deputy Clerk

Administrator's Report

Tuesday, December 13, 2011

Announcement:

Elena Kayak attended the National Safe Routes to School Conference this summer partly sponsored by CSRTS Phase II funding and is here to report to Council. *Attached*

We unfortunately received a denial to our request for a COOP match waiver. *Attached*

We will begin work on West Ella this week. Unfortunately the delay in obtaining environmental and cultural clearance has placed the expected completion date into spring of next year. We will be making the required changes to the subsurface this month in preparation for final paving in the New Year. *Attached*

PNM solar REC Status: we have completed connection including a Return Energy Credit meter to both the Recreation Center and the Village Office building. The REC for the Village Hall/ Safety Building is and the REC for the Recreation Center is \$0.14/ kWh. The Senior Center PV installation at REC of \$0.13/ kWh, is completed and ready to be brought on line this week. The Main Fire Station \$0.14 kWh is scheduled to have PV system construction start next week. The reservation REC reservation price of \$0.14 kWh Library, \$.014 Court House, \$0.12 kWh Loma Larga and \$0.12 kWh Fire Sub Station are forfeit and projects are eligible at queue price \$0.07 kWh. With the completion of the Fire Station the Village will use 85 kWh system capacity PV.

Items:

Cell Phone usage prohibited by Ordinance 11-003 and Ordinance 11-012. Motorist duty to Bicyclist Signs had been placed at locations in the Village. Give three feet signs were placed on Corrales road northbound at Cabezon road, southbound near trees of Corrales and Todos los Santos. On Loma Larga signs are at Cabezon and near Todos los Santos and on Meadowlark west bound.

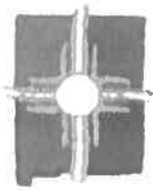
Ruffles lane COOP survey has started by contacting the 16 owners of the 24 properties along the road. The individuals of couples identified by Sandoval County Records were asked their opinion of paving improvements on Ruffles Lane and whether to keep the project on the COOP list. The responses correlated exactly if in favor of paving the road they were also in favor of keeping it on the COOP list and visa versa. The owners of 14 properties responded in the affirmative, owners of 8 properties responded in the negative there was one returned letter and one no response letter. Of the 14 owners responding 8 responded in the negative and 6 responded in the positive. Some of their comments: *Attached*

EXHIBIT B

Item	SRTS Funds	Value of Donated Goods/Services	Total Costs
Personnel			
Bike and Pedestrian Instructor		2,700	2,700
SRTS Champion	11,000		11,000
Walking-Bus Drivers	4,200		4,200
Equipment and Materials			
Bicycles, adaptive use equipment		10,000	10,000
Documentation/digital media	100	160	260
Promotion/Advertising			
Mailer and Web posting		2,000	2,000
Encouragement material	700		700
Printing Costs			
Banners at training sites	600		600
Facility Rental			
Storage Sheds on public property	6,000	12,000	18,000
Other Costs (describe)			
Bike and Pedestrian training material	600	200	800
Bike/Ped. Instructor training	1,000	480	1,480
National SRTS conference	800	350	1,150
TOTAL	\$25,000	\$25,540	\$50,540

- Bicycle and Pedestrian Instructor hours; for two instructors for one hour each day for five days each week for nine weeks at \$30.00 average salary cost for a total of \$2,700.00. SRTS Champion for 733 hours at \$15.00 totaling \$11,000. SRTS Drivers for 280 hours at \$15 totaling \$4,200.
- Donated bicycle 40 at \$250 per bicycle new and used combined from the Corrales community to be stored at Corrales Elementary School and Corrales Recreation Center.
- Digital storage equipment to be used by event Recorder/Photographer at \$100.00 and his 16 hours at \$10.00/Hour for in kind service.
- Produce and Mail 4,000.00 promotional Pamphlets at \$0.50 each for \$2,000.00.
- Encouragement Materials of Water bottles and Tee shirts for 100 at \$7.00 for \$700.00

- Storage Sheds 2 at \$3,000.00 to hold 50 pieces of equipment and be stored on public property at Corrales Elementary and Corrales Recreation Center. VOC labor \$2,000 to double storage space by build out. The estimated value of the storage space on Corrales road is \$5,000.00 for each site for two years although a similar space is rented for \$500.00 monthly outside of Corrales.
- Training material can be produced with \$600.00 in initial material costs and the Village of Corrales can reproduce the material for \$200.00
- Cost for classes for two instructors can be offset with \$500.00 each and volunteer instructors at the events are estimated at 8 hours for 6 staff \$10.00/Hour for \$480.00
- Elena Kayak expenses for National Safe Routes To School Conference \$800.00 for travel expenses. \$350 tuition by school.



New Mexico DEPARTMENT OF
TRANSPORTATION

November 28, 2011

John Avila, Village Administrator

Village of Corrales

4324 Corrales Road

Corrales, New Mexico 87048-

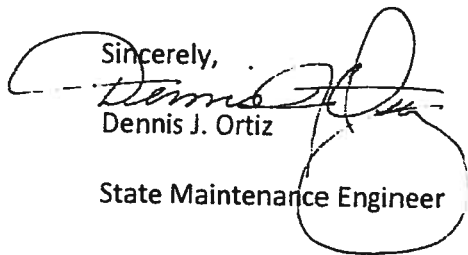
Project No: SP-3-12(908)

Dear Mr. Avila:

We regret to inform you that the application for the FY 2011/2012 Local Government Road Fund Match Waiver Program for the 2011/2012 was deemed as not qualifying for a match waiver.

Please consider requesting waiver of new projects granted for next year. If you have any questions or comments please contact me at (505) 827-5498.

Sincerely,


Dennis J. Ortiz
State Maintenance Engineer

Cc: Ernest D. Archuleta, Division Director
District 3 Engineer

Susana Martinez
Governor

Alvin C. Dominguez, P.E.
Cabinet Secretary

Commissioners

Pete Rahn
Chairman
(505) 827-5498

Debra Hicks
Vice-Chairman
(505) 827-5498

Dr. Kenneth White
Member
(505) 827-5498

Ronald Schmeitz
Member
(505) 827-5498

Butch Mathews
Member
(505) 827-5498

Jackson Gibson
Member
(505) 827-5498



LOCAL GOVERNMENT CATEGORICAL EXCLUSION STATE-FUNDED PROJECT

Project Number ST-3-11(986)

Control Number HW2 M300206

NMDCIT District 1

16 SUMMARY OF ENVIRONMENTAL COMMITMENTS

Commitments to be included in the construction plans:

1. If construction activities occur during the 2012 bird nesting season (March 15 - September 15), preconstruction surveys for protected birds will be conducted.
2. Corrales will replant disturbed soils with certified weed-free native vegetation.
3. Corrales will bury any trenching or excavation concurrently to reduce trapping of small mammals and reptiles (see attached New Mexico Department of Game and Fish Trenching Guidelines).
4. The construction contractor will prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESCP) in compliance with Section 402 of the Clean Water Act. Best Management Practices (BMPs) will be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants from storm water runoff from entering Waters of the U.S. Temporarily disturbed areas will be re-vegetated after construction to limit erosion potential.
5. If any archeological materials are encountered during construction activities, Corrales will cease work immediately and notify the New Mexico Historic Preservation Division and Village of Corrales for consultation on treatment of the discovery.

Other commitments:

The proposed project will have no significant impact on the quality of the human or natural environment, either singularly or cumulatively, provided stipulations identified during this analysis are met. Supporting documentation is available at the following location: Office of the Village Clerk, 4324 Corrales Road, Corrales, New Mexico

Joni S.J. 12/8/11
 Environmental Professional Date

Local Gov. Authority Date
 Signed by: [Signature] Title: [Blank]

[Signature]
 NMDCIT Env. Program Manager Date

How will this affect the SSCFCA drainage grid that are on both sides (N&S) of Ruffles?

Please keep the road on the list if the majority of residents don't want it paved. They may move and the option for pavement in the future shouldn't be lost. 1.) Paving Ruffles Lane will reduce particulates which will have a positive impact on Air Quality; 2.) Paved Roads allow better access for emergency vehicles increasing quality of life in Corrales; 3.) a paved road with multi-use trails for horses and walkers increases foot traffic which increases overall community awareness (neighborhood watch).

One of the primary concerns is runoff and drainage along Ruffles Lane. I would like to make sure the paving accommodates and helps relieve runoff drainage to the properties.

Please, I feel strongly that our road should be paved. I think a good compromise would be to pave the center and leave soft shoulders for the horse riding people. It's not right to punish those of us who choose not to have horses. Anyways, they (the horses) leaving major messes on this street. I do hope for a positive response.

We are principle owners of nine lots on South side of Ruffles Lane. Norman sub-division.

Paving Ruffles land would decrease the amount of sediment that would impact the existing storm drain inlets and infrastructure.

Horses don't like pavement.

To reiterate from the public meeting: this road, in its unpaved state, represents the goal of the Village supporting the rural community, nature and the natural community environment; 2.) the non-residential landowner on Ruffles Lane never intends to live on this road, and will never have to deal with the consequences of this decision. He did not publically speak at the meeting. He went up at the conclusion to have his opinion recorded, his vote is based on what he assumes, the future residence of his land will want. Decisions of this nature should not be based on assumptions for future residence.

Almost everyone on this street has horses – not a good mix w/walker and bikes. As it is, we have a serious problem w/speeders and lack of apparent enforcement. Also, can something be done about the sign at entrance off Loma Larga to Ruffles Lane which should be 15 but at night reflects 25 miles per hour. Need a new 15 mile sign. Please.