

**MINUTES OF A SPECIAL MEETING
OF THE GOVERNING BODY OF THE TOWN OF BERNALILLO
HELD AT THE TOWN HALL
July 02, 2007**

The Governing Body of the Town of Bernalillo met in a special session within the law and rules of the Town on July 02, 2007, at 5:00 P.M.

Upon Roll call the following members were found to be present:

PRESENT:

Mayor Chávez
Councilor Torres
Councilor Sisneros
Councilor Jaramillo

ALSO PRESENT:

Stephen Jerge
Fred Radosevich
Carol Cristiano
Santiago Chavez
George Perez

ABSENT:

Councilor Montoya

Others Present Not Identified

APPROVAL OF AGENDA: 4a)

Councilor Edward Torres asked for item 5)a Ordinance #230 to be changed to a discussion item only with action to be taken on July 23, 2007.

Councilor Sisneros moved to approve the agenda as amended. The motion was seconded by Councilor Jaramillo and motion carried unanimously.

PUBLIC HEARINGS: 5a) Discussion of Ordinance 230 an Ordinance amending Ordinance #19 relating to compensation of the Fire Chief, Two Full Time Fire Fighters and One Part Time Fire Fighter of the Town of Bernalillo. Presenter Ida Fierro

ORDINANCE NO. 230

AN ORDINANCE AMENDING ORDINANCE NO. 19 PROVIDING FOR THE ESTABLISHMENT OF THE TOWN OF BERNALILLO FIRE DEPARTMENT, ITS OFFICERS AND MEMBERS AND THEIR DUTIES, AND THE PURPOSES, OPERATION AND GOVERNMENT OF THE DEPARTMENT, DISSOLVING A FIRE DEPARTMENT ADVISORY BOARD AND FIRE COMMISSIONER POSITION AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERNALILLO
NEW MEXICO:

ARTICLE II - FIRE DEPARTMENT

PART 1. CREATION OF DEPARTMENT AND PURPOSES

Section 1-201. Creation of Department and Purposes. There is hereby created the Town of Bernalillo Fire Department, which shall be a Combination Fire Department (paid and volunteer members) of the Town the officers and members of which shall receive no compensation for their services other than is now or hereafter may be authorized by law and ordinance for officers and members of a volunteer fire department; the principal object of the Department shall be the prevention of fire and the protection of life and property within the Town of Bernalillo.

Section 1-201(A). Commencing July 1, 2007 the Fire chief, two firefighters and one part-time firefighter shall become paid positions as provided in the Town budget. The Board of Trustees, through resolution, may provide for additional paid positions.

Part 2. OFFICERS

Section 1-202. Positions Created. The Officers of the Department may consist of a Fire Chief, two Assistant Fire Chiefs, and such other subordinate officers as the Fire Chief and the Mayor may deem necessary for the effective operation of the Department.

Section 1-203. Fire Chief to be Appointed. The Chief shall be appointed by the Mayor, with the advice and consent of the Board of Trustees, for an indefinite period of time, and his tenure of office shall depend upon his good conduct and efficiency. The position of Fire Chief is an exempt position as defined by the Personnel Rules and Regulations of the Town of Bernalillo. He or she shall be technically qualified by training and experience and shall have ability to command men and women and hold their respect and confidence.

Section 1-204. Accountability and Reports. The Chief shall be held accountable. to the Mayor and the Board of Trustees, and shall make such written or verbal reports as the Mayor or Board of Trustees may require. All other Department and Company officers shall be accountable and make their reports to the Chief only.

Part 3. DUTIES OF THE CHIEF

Section 1-211. General Authority and Responsibility. The Fire Chief shall have complete command over all members of the Department, and all apparatus and property belonging to the

same; he shall be responsible to the Board of Trustees for the personnel, morale and efficiency of the Department, and while working at fires he shall have complete command over all persons assisting there at.

Section 1-212. Fire-Fighting Companies. The Chief shall determine the number and kind of companies of which the Department is to be composed and shall determine the response of such companies to alarms.

Section 1-213. Firemanship Training. The Chief shall at least once a month conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings and streets in the Town of Bernalillo area, tire prevention, water supplies, and all other matters generally considered essential to good Firemanship and safety of life and property from fire.

Section 1-214. Arson Prevention and Suppression. The Chief or his designee is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin, and circumstances of all fires.

Section 1-215. Inspection of Buildings for Fire Hazards. The Chief or his designee is hereby empowered to inspect all business buildings including warehouses, factories, stores, etc. at any reasonable hour, and to serve written notice upon the owner or occupant to abate within a specified time any and all fire hazards that may be found. He shall also inspect any private dwelling upon invitation of the owner or occupant, unless by proper Court order he is authorized to inspect without such invitation.

Section 1-216. Abatement of Fire Hazards. Any person so served with a notice to abate any fire hazard or hazards, shall comply therewith and promptly notify the Chief.

Section 1—217. Records. The Chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the Department.

Section 1-218. Monthly Reports. The Chief shall report monthly in writing to the Mayor the condition of the apparatus and equipment; the number of fires and EMS calls during the month, their location and cause, and date of same and loss occasioned thereby; the number and purpose of all other runs made; and the number of members responding to each fire or other run, and any changes in membership.

Section 1-219. Annual Report. The Chief shall make a complete written annual report to the Board of Trustees within twenty days after the close of the fiscal year, such report to include the information specified in Section 1—217, together with comparative data for previous years and recommendations for improving the effectiveness of the Department.

Section 1-220. Assistant Chiefs. The Assistant Chiefs shall perform such duties as the Chief and Mayor may prescribe. In the absence of the Chief, the Senior Assistant Chief (as designated by the Chief) shall have overall command of the Department, and shall assume and perform all the duties of the Chief. In the absence of the Chief and of both Assistant Chiefs, the ranking senior officer present shall assume command.

Part 4. FIRE DEPARTMENT MEMBERSHIPS

Section 1-225. Selection of Members. The volunteer membership of the Department shall consist of such persons as may be appointed by the Chief with the approval of the Mayor, and shall be able-bodied citizens. Determination of whether candidates for appointment are able-bodied shall be made by the Chief after a medical and physical examination has been made in a manner prescribed by the Chief and approved by the Mayor. The number of members shall be prescribed by resolution of the Board of Trustees.

Section 1-226. Termination of Membership. Any paid member of the Department may be suspended or discharged, pursuant to the Personnel Rules and Regulations of the Town of Bernalillo. A volunteer member may be suspended or discharged by the Chief at any time he deems such action necessary for the good of the department. Any person aggrieved by the decision of the Chief shall on request be granted a hearing before the Town Administrator.

Part 5. FIRE DEPARTMENT EQUIPMENT

Section 1-231. Purchases and Donations. The Department shall be equipped with such apparatus and other equipment as shall be recommended by the Chief and purchased with the approval of the Board of Trustees in the manner prescribed by law. All fire-fighting equipment, apparatus and clothing donated to the Department, the Chief, or any Department or Town officer, immediately becomes the property of the Department and shall be entered in its inventory.

Section 1-232. Safekeeping of Equipment. All apparatus and equipment of the Department shall be safely and conveniently housed in such places as may be designated by the Fire Chief with the approval of the Board of Trustees.

Section 1-233. Fire Alarm Equipment. Suitable arrangement or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the Department so that they may promptly respond.

Section 1-234. Unlawful Use. No person shall use any fire apparatus, or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department.

Section 1-235. Unauthorized Entry to and Handling. No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the Department unless accompanied by, or having the special permission of, an officer or authorized member of the Department.

Section 1-236. One Serviceable Fire Truck to be Always Available Within Town. Upon recommendation of the Fire Chief, the Board of Trustees is hereby authorized to enter into agreements with the governing boards of the County or nearby communities for mutual fire protection aid, but only on condition that at such time, if possible, there are two or more Fire Trucks in the Department and that at least one serviceable Fire Truck and a trained Company must remain in the Town and available for duty at all times.

Section 1-237. Chief to Inventory, Inspect and Account For Property. The Chief shall be responsible and accountable to the Board of Trustees for all fire-fighting equipment, apparatus and other property belonging to the Department, shall keep an up-to-date. inventory of the same and shall inspect and check the inventory as often as necessary and not less than once a month, and shall promptly report to the Mayor in writing any damages, losses or shortages and the circumstances thereof.

Section 1-238. Willful or Negligent Damage or Loss. Any person, whether or not a member of the Department, whose willful or negligent act or conduct proximately causes damage to or loss of any property of the Department, shall be liable therefore in damages, and it shall be the duty of the Fire Chief to collect the same and if necessary to institute suit for damages in the Magistrate Court or in the District Court in the name of the Town of Bernallilo.

Part 6. MISCELLANEOUS

Section 1-256. Rules and Regulations. The Chief shall, with the approval of the Mayor and the Board of Trustees, formulate and adopt written rules and regulations, not inconsistent with any Town Ordinance, for the Government of the Department, and may in like manner amend the same, and when so formulated and adopted they shall have the same force and effect as an ordinance, to the extent permitted by law, and it shall be the duty of the Chief to enforce the same.

Section 1-257. Separability Clause. If for any reason any section, subsection, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid, the validity of the remaining portions thereof shall not be affected.

Section 1-258. Repeal of Conflicting Ordinances. All ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

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3 Section 1-261. Penalties. Any person violating any provision of this ordinance shall upon
4 conviction thereof be fined up to \$500.00 or by imprisonment-for not more than 180 days, or
5 both at the discretion of the Court, and each violation shall constitute a separate offense.
6

7 Section 1-262. Department Members Granted Special Police Powers. All regularly
8 appointed members of the Department are hereby given the necessary special police powers for
9 the purpose of enforcing the provisions of this ordinance.
10

11 Section 1-263. Police Officer to Respond to Fire Alarm. It is hereby made the special
12 duty of the Chief of Police and/or other peace officers who may be on duty and available for fire
13 duty, to respond to all fire alarms and assist the Department in the protection of life and property,
14 in regulating traffic, maintaining order, and in enforcing observance of all sections of this
15 ordinance.
16

17 Councilor Torres had a concern with Part 8. Enforcement where the ordinance gave the Fire
18 Department Police Powers and felt that was not something to be given to a Fire Department and
19 Police officers to respond to a fire. Councilor Torres both departments are separate in their
20 duties.
21

22 Mayor Chávez gave a directive to Fire Chief John Estrada and Police Chief Fred Radosevich to
23 review the ordinance and come back with recommended language to the draft for the
24 Enforcement section and Section 226 to be revised.
25

26 Mayor Chávez asked for the workshop to have the old Ordinance 19 along with the changes
27 made to Ordinance 230 in red to show the changes for the Governing Body.
28

29 Mayor Chávez gave a directive to the George Perez, Town Attorney to draft up a Resolution to
30 add the Fire Chief as an exempt employee to the Personnel Rules and Regulations.
31

32 **PUBLIC HEARINGS: 5b Discussion of Ordinance 231 an Ordinance amending**
33 **Ordinance #155 “Subdivision Ordinance” deleting compensation in lieu of Water Rights**
34 **and amending provision requiring Commercial & Industrial Users to provide Water**
35 **Rights. Presenter: Ida Fierro**
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37
38 STATE OF NEW MEXICO

TOWN OF BERNALILLO

39
40 ORDINANCE NO.231

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42 AN ORDINANCE AMENDING TOWN OF BERNALILLO ORDINANCE NO. 155 “THE
43 LAND SUBDIVISION REGULATIONS OF THE TOWN OF BERNALILLO”

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WHEREAS, the Town of Bernalillo desires to amend its ordinance as above-described regulating the subdivision of land within its subdivision jurisdiction.

NOW, THEREFORE, be it ordained by the Governing Body of the Town of Bernalillo, as follows:

SECTION 22 – OF TOWN OF BERNALILLO ORDINANCE NO. 155 IS AMENDED TO READ AS FOLLOWS:

SECTION 22. TRANSFERS OF WATER RIGHTS

- A. **REQUIREMENT.** An applicant for subdivision approval shall agree that if the Town of Bernalillo approves the subdivision, in consideration of that approval the applicant will make water rights available to the Town in amount as specified in this Ordinance. The applicant shall make these water rights available to the Town, as follows;
 - 1. By transferring ownership and location of the water rights to the Town in accordance with the rules and procedures of the State Engineer of New Mexico.

- B. **AMOUNT OF WATER RIGHTS TO BE TRANSFERRED OR TO BE COMPENSATED FOR:** The amount of water rights required for any subdivision shall be not less than 0.336 acre-feet per annum of consumptive use for each dwelling unit in the subdivision. Two exceptions to this amount of water rights are made: special provisions for water conserving developments are discussed in Section C; commercial development is discussed in Section D.

- C. **WATER CONSERVATION.** Applicants will be permitted to transfer fewer rights than specified in Section B if they are able to demonstrate that the subdivision in question will serve fewer people; require less water; or have a higher return flow than a normal subdivision. Such demonstration shall be made in a formal report submitted to the Town, which report will be reviewed by the Town Engineer or other expert, and any reduction in water rights requirements shall be determined by the Town based on all available evidence. Under no circumstances shall a subdivided be allowed to transfer water rights in the amount which is less than 0.2 acre-feet per annum of consumptive use per dwelling unit.

- C. **COMMERCIAL AND INDUSTRIAL DEVELOPMENT.** Where a subdivision involves for commercial or industrial purpose that, in the opinion of the Town

86 may exceed one and one-half (1 ½) AFY of consumptive use, the Town shall
87 require the applicant to pay a none-refundable fee of \$600 (or an amount as the
88 Town may adopt by resolution from time –to-time) to compensate the Town for
89 the cost to prepare a report that describes the use of the property and estimates
90 that total diversion and consumptive water use for all commercial or industrial
91 purposes within each subdivision plat under conditions of full development. The
92 applicant shall cooperate in this process by providing all requested information
93 with respect to water use at the property.
94

- 95 1. If total consumptive uses for these purposes will be no more than one and one
96 half (1 ½) acre foot per year AFY, no grant of water rights or compensation
97 shall be due from the applicant to the Town.
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- 99 2. If total consumptive use for these purposes will be in excess of one and one-
100 half (1 ½) AFY, the town shall require that all or a portion of consumptive use
101 in excess one and one- half (1 ½) AFY be offset by transferring consumptive
102 use right to the Town as provided in Paragraph A.
103
- 104 3. If the Applicant amends the commercial or industrial purposes within the
105 subdivision, an amended must be filed and consumptive use must be
106 recalculated.
107

108 E TRANSFERS IN EXCESS OF REQUIREMENT. Where an applicant
109 transfers more water rights than required, the applicant shall be given credit for
110 water rights in an amount equal to the difference between the rights transferred
111 and the rights required. The applicant may use this credit in on of three ways.
112

- 113 1. The credit may be used to help meet the requirements of this Section with
114 respect to a different subdivision owned by the applicant.
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- 116 2. The credit may be used to help meet the requirements of this Section with
117 respect to a different subdivision owned by a different applicant, if and when
118 the original applicant so assigns the credit for whatever consideration he
119 deems adequate.
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- 121 3. The credit may be assigned to the Town in which case the Town will
122 compensate the applicant.
123

124 F. ENGINEERING FEES TO BE PAID BY APPLICANT. Any and all
125 engineering or other profession fees incurred by the Town under this Regulation
126 shall be paid for by the applicant at the time they are incurred.
127

128 Councilor Jaramillo moved to approve Ordinance 231 as presented. The motion was seconded by
129 Councilor Sisneros.

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131 Roll Call Vote

132 Councilor Jaramillo Yea

133 Councilor Torres Yea

134 Councilor Sisneros Yea

135

136 **PUBLIC HEARINGS: 5b Discussion of Ordinance 232 an Ordinance amending**
137 **Ordinance #81 adding the requirement that Industrial and Commercial users provide**
138 **Water Rights prior to commencing of business. Presenter: Ida Fierro**

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141 STATE OF NEW MEXICO

TOWN OF BERNALILLO

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143 ORDINANCE NO.232

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145 AN ORDINANCE AMENDING TOWN OF BERNALILLO ORDINANCE NO. 81 “THE
146 WATER USE AND WATER RATE ORDINANCE OF THE TOWN OF BERNALILLO”

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148 WHEREAS, the Town of Bernalillo desires to amend its ordinance as above-described to
149 to include the requirement of providing to the Town water right for certain commercial
150 developments.

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152 NOW, THEREFORE, be it ordained by the Governing Body of the Town of Bernalillo,
153 as follows:

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155 ORDINANCE NO. 18 OF THE TOWN OF BERNALILLO IS AMENDED TO ADD THE
156 FOLLOWING ARTIVLE NINE AS FOLLOWS:

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158 **ARTICLE NINE – SECTION ONE- WATER RIGHTS FOR COMMERCIAL AND**
159 **INDUSTRIAL DEVELOPMENT.** Where an applicant involves commercial or industrial

160 purposes that in the opinion of the Town may exceed on and one half (1 ½) AFY of

161 consumptive use, the Town shall require the applicant to pay a non-refundable fee of \$600

162 (or an amount as the Town may adopt by resolution from time-to-time) to compensate the

163 Town for the cost to prepare a report that describes the use of the property and estimates the

164 total diversion and consumptive water use for all commercial or industrial purposes under

165 conditions of full development. The applicant shall cooperate in this process by providing all

166 requested information with respect to water use at the property.

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168 1. If total consumptive use for these purposes will be no more than one and one-half (1
169 ½) acre foot per year AFY, no grant of water right or compensation shall be due fro

170 the applicant to the town.

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173 2. If total consumptive use for these purposes will be in excess of one and one-half (1
174 ½) AFY, the Town shall require that all or a portion of consumptive use in excess of
175 one and one-half (1 ½) AFY be offset by transferring consumptive use rights to the
176 Town as provided by Paragraph A, Section 22 of the Subdivision Ordinance of the
177 Town of Bernalillo No. 155 as amended by 231.

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179 Councilor Sisneros moved to approve Ordinance 232 as presented. The motion was seconded by
180 Councilor Torres.

181

182 Roll Call Vote

183 Councilor Torres Yea

184 Councilor Sisneros Yea

185 Councilor Jaramillo Yea

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187

188 There being no further business the meeting was adjourned at 6:46 P.M.

189

190 Done this 2nd day of July 2007.

191

192 ATTEST:

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195 _____
Ida Fierro, Town Clerk

196 (seal)

Patricia A. Chávez, Mayor