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**MINUTES OF A REGULAR MEETING  
OF THE GOVERNING BODY OF THE TOWN OF BERNALILLO  
HELD AT THE TOWN HALL  
February 25, 2008**

10 The Governing Body of the Town of Bernalillo met in a regular session within the law and rules  
11 of the Town on February 25, 2008, at 6:30 P.M.

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

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**PRESENT:**

11 Mayor Chávez  
12 Councilor Montoya  
13 Councilor Sisneros  
14 Councilor Jaramillo  
15 Councilor Torres

**ALSO PRESENT:**

Stephen Jerge                      Ron Skelly  
Fred Radosevich                  James Pike  
Paul Brown                        Mary Kwapich  
Santiago Chavez                 Mike Potter  
Hess Yntema                       Nick Mora  
Diane Costales                  Richard Costales  
Clifford Fitzsimmons          Irma Patton  
Steve Amiot                        George Perez  
Monica Tenorio

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**ABSENT:**

**Others Present Not Identified**

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**APPROVAL OF AGENDA: 4a)**

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

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**PUBLIC HEARING: 5a) Discussion, Consideration and Action on Appeal of P & Z Commission Decision: Corazon del Bosque Plat Properties. Agent Hessel E. Yntema III for Nick Mora. Presenter: Kelly Moe**

34 Kelly Moe, Planning and Zoning Director presented the appeal of Corazon del Bosque Plat  
35 Properties approved at the September 4 2007. January 8, 2008 the Final Plat was approved.  
36

37 Mr. Yntema, Attorney for Mr. Nick Mora stated that this is an appeal of a plat approved at the  
38 January 8<sup>th</sup>, 2008 Planning and Zoning Commission for “Corazon del Bosque. The Moras’  
39 property is located at the end of Sheriff Posse Rd. It has been in their family for a long time. In  
40 2000 they moved to the property and call it their farm home. There are currently two “Dead  
41 End” signs. On point to be corrected is that Mr. Nick Mora did not have notice of the September  
42 2007 Planning and Zoning Meeting that is erroneous. Mr. Mora attended the meeting. Mr. Nick  
43 Mora did understand the right to appeal that approval made at the September 2007 Planning and  
44 Zoning Meeting.  
45  
46

47 The Plat discloses a 30ft. access easement on the Moras' property. The Moras' agree what is on  
48 the map.

49  
50 Currently, Corizon del Bosque has a lawsuit filed in District Court stating the access is 70 ft.  
51 wide easement and is public the Moras position is that it is 30 ft. wide easement and is private.  
52 The proposed Corazon del Bosque Plat shows a 30 ft. easement. The Plat would be true to the  
53 Moras' position. The lawsuit is pending since 2005 and has not been resolved. The Moras do  
54 not contend the 70 ft. easement over Ms. Mora's property but the 70 ft. does extend over the  
55 other two parcels of property.

56  
57 In 2006, the Planning and Zoning Commission tabled the Corazon del Bosque until the lawsuit  
58 was resolved. However a decision made by Kelly Moe, Planning and Zoning Director Corizon  
59 del Bosque was allowed to proceed with the subdivision despite there were no legal public  
60 access. The court has not ruled on the size or the nature of the easement.

61  
62 From the September 2007 Planning and Zoning Commission Mr. Yntema quotes Kelly Moe,  
63 Planning and Zoning Director "I do not believe the legal matters involving Sheriff Posse Road  
64 has reached a point to where I feel comfortable allowing the application of Corizon del Bosque  
65 to come back before the Planning and Zoning Commission. I feel very strongly and have always  
66 agreed that Sheriff Posse Road was a public roadway and had never been vacated. My goal as a  
67 planner is just to make sure that connection is made by the developer of the Tenorio's property  
68 and improve to the standards of the existing part of Sheriff Posse Road and that it is done in  
69 conjunction with this development. Planning and Zoning Commission subsequently acted on  
70 that statement made by Kelly Moe, Planning & Zoning Commission.

71  
72 The 30 ft. roadway does not satisfy the requirements of the Town's Subdivision Ordinance, as  
73 local residential street have a minimum required right-of-way of 50 ft. Sheriff's Posse Road is  
74 not wide enough to be a collector street, and "private driveway access to single development is  
75 not permitted on principal arterial or collector streets".

76  
77 It is clear that Kelly Moe, Planning and Zoning Director and the developer intend to enlarge the  
78 30 ft. private access easement to make Sheriff Posse Road a major connection between 550 &  
79 528.

80  
81 The Moras ask that the plat be denied at this time or at least the plat state clearly that the  
82 roadway across the Moras' properties is not a public right-of-way.

83  
84 Nick Mora addressed the Council, Mayor and Public, he stated the road in 1950 was moved to  
85 the west. It was there for a while until they put 528 and connect to 550. Mr. Mora and his father  
86 in law went before the County Commission. They inquired about the road going thru BLM land.  
87 Mr. Tom Montoya indicated to them it was Montoya Road because it went thru private property  
88 which was Nick C de Baca's. This then went before the County Commission at another meeting

89 where they agreed that they would give an original deed to Mr. Montoya and Mr. C de Baca. The  
90 road measured 30 ft by 1800 ft to my father in law Mr. Montoya and 30 ft by 1500 ft to Mr. C de  
91 Baca. Then they moved on that and there was no more Corrales Road.

92

93 Councilor Jaramillo asked what has taken the court from 2005 so long.

94

95 Mayor Chávez asked if there has been a preliminary or initial opinion by the Judge.

96

97 Mr. Yntema answered the question. A summary judgment motion asking the Court to declare  
98 that there was a 30 ft. access easement but not a 70 ft. access and no public access. The Court  
99 denied the summary judgment motion. So that means the Court found there was a question of  
100 fact for trial as to whether the road is public or not.

101

102 Councilor Torres asked if there were two different cases pending or one.

103

104 Mr. Yntema answered just one.

105

106 Councilor Torres asked if it was all tied into the area with the locked gate.

107

108 Mr. Yntema answered the locked gates are at Tenorios' property. Sheriff Posse starts north on  
109 Mr. Mora's property. That is the private access point of discussion.

110

111 Councilor Jaramillo asked if it goes through both the properties.

112

113 Mr. Yntema explained the property is three parcels. Northern parcel is owned by Mr. Mora the  
114 middle parcel is owned by both of them and the lower parcel is owned by Ms. Mora. The deed to  
115 Ms. Mora clearly reserves a 70 ft easement.

116

117 Mayor Chávez asked about the September 2007 meeting that Mr. Mora had received notice. Mr.  
118 Mora did speak at the meeting.

119

120 Mr. Yntema stated Mr. Mora was there at the September 2007 meeting and did speak. It was an  
121 error stated in the appeal that he was not notified.

122

123 Mr. Tim O'Brien and Mr. Richard Costales

124

125 Mr. O'Brien states that the question is access. This is consistent with the Town's comprehensive  
126 plan and reaction to some Bosque fires that happened. If there is ever going to be a connection to  
127 528 Mr. Tenorio's property is the key. The Planning and Zoning and Emergency Service told  
128 them this is an essential connection and wanted it to be both ways. It is a safety issue. They  
129 were told clarify the status of the road so file the suit. Mr. Tenorio and Mr. Costales have been  
130 proceeding with the law suit. Mr. O'Brien stated it is lack of prosecution on their part. The

131 summary judgment hearing of an easement which clarified the access. Prices Dairy property is  
132 being developed and has gone through preliminary plat approval. The request has been made  
133 to do the traffic circle for traffic calming efforts on Sheriff Posse Road. In September 2007 the  
134 Planning and Zoning asked the development to commit to improve Sheriff Posse Road as it is on  
135 the existing Sheriff Posse Road of 24 ft. wide pavement and get rid of the dirt.  
136

137 Mr. Tenorio has done what he has been asked to do. Under the Town's Zoning Ordinance has  
138 the Developer done what was requested to do under the Preliminary Plat for approval of the  
139 Final Plat. Mr. Tenorio invested the money to complete the Final Plat. Under New Mexico Law  
140 there is only one way to vacate a public road and is a very formal process it is not just going  
141 before the County Commission and have some one write you a deed and that vacates a public  
142 road. Ultimately when the court schedules a hearing that will be resolved in that other case. For  
143 this development to proceed we do not need that decided. We have a dedicated road thru Plaza  
144 Veneda and the access easement thru Mr. Moras' property to the highway. We have provided  
145 access to the area to make it possible for emergency services to come in two ways in and out to  
146 the development and other developments on Sheriff Posse Road.  
147

148 If the end result of the Law suit says only the people that purchase the property can only access  
149 the 30 ft easement on the Moras' Property there is other access on Plaza Veneda and the private  
150 access the other way. What it says is it become private and signs are posted that it is a private  
151 road and the only people can use it those that live there.  
152

153 The requirements for larger road are not mandatory. Simply because you connect to a public  
154 road you do not have to increase the right of way. The subdivision ordinance first goal is  
155 harmonious development. That is what is being required here. 24ft pavement now is on Sheriff  
156 Posse Rd that is what would be done. This would keep traffic down because of the calming  
157 circle and the width of the road would only be 24ft wide.  
158

159 Mr. Tenorio addressed the Council, Mayor and Public, he stated Old Sheriff Posse Road was the  
160 original road to Corrales. We have signature that used that road to Corrales and is Corrales Rd. I  
161 went with my Grandfather to Corrales on that road. His grandfather gave the property to his aunt  
162 Dolores but on the deed shows it is a public road.  
163

164 Mr. Costated addressed the Council, Mayor and public he stated that he had an old map of 1938  
165 that was done by the State of New Mexico used by the Federal Aid Urban used to paved roads  
166 which shows the road a public road.  
167

168 Councilor Torres stated that it was his understanding the one road could support the development  
169 which is Plaza Veneda.  
170

171 Mayor Chávez indicated that this was brought up in the approval of the other developments  
172 which involved the connection to 528. Thru the Wal-mart and Prices Dairy development.

173  
174 Councilor Sisneros stated his questions was what was the width of the Sheriff Posse Road itself  
175 which you answered is 24 ft.. We currently are serving other developments on Sheriff Posse  
176 Road Bosque Encantado, Casitas, Bosque Rio Grande and the current residents living on Sheriff  
177 Posse Road. Councilor Sisneros does not quite understand how this road is serving all those  
178 developments and so why should it not be able to support this development as well.

179  
180 Mr. O'Brien stated there will also be the Plaza Veranda Road which will probably be used by  
181 most residents.

182  
183 Councilor Jaramillo asked the width of Plaza Veneda.

184  
185 Kelly Moe stated it is 50 ft. wide with access to the shopping center at the signalized  
186 intersection.

187  
188 Mayor Chávez stated the request had been made for that road way to be commercial grade  
189 because of the access to the Shopping Center. The round-about was a purpose to calm the traffic  
190 to not make a thru fare from 550 to 528.

191  
192 Kelly Moe indicated that was correct. The landscape would also hide the character of that road.  
193 The name of that road would change to Spanish Bluff.

194  
195 Mayor Chávez stated as per the Planning and Zoning Commission meeting September 4, 2007.  
196 Several requests were made to comply with to approve the Final Plat. Extension and completion  
197 of the round-about in the final plat that was concurred.

198  
199 Kelly Moe indicated that it is being constructed by the Wal-mart development. The 30 ft.  
200 easement is being done by the Tenorio Development. The round-about is in the property of the  
201 Tenorio.

202  
203 Mayor Chávez asked if the road was being dedicated as a public right away.

204  
205 Kelly Moe indicated that the final plat has not been submitted but it was submitted as the master  
206 plat for approval.

207  
208 Councilor Jaramillo asked Kelly Moe is it true Mr. Mora did not appeal the preliminary plat.

209  
210 Kelly Moe stated that no appeal was submitted to Planning and Zoning on the preliminary plat it  
211 is not the procedure of Planning and Zoning to tell an individual about the right to appeal. All  
212 appeals made to Planning and Zoning is made without advice to do so by Planning Zoning.  
213 Kelly Moe final comment to the Mayor and Councilors that the road is a public right away.  
214 Preliminary Plat approval is a nature of a contract under the law of the State. Unfortunately,

215 they are not timely. Once the Preliminary Plat is approved by the Town it becomes a binding  
216 contract between the Town and the sub divider at that point in time all the public debate is  
217 silenced under the law. It is simply between the sub divider and the Town. They must comply  
218 with the subdivision regulations such as water rights and so forth. Once, that is done under that  
219 contract the law says the Town has an obligation. That obligation verifies that the entire request  
220 has been done and the Town shall approve that contract.

221  
222 Kelly Moe request therefore that the Council deny the appeal and uphold the decision of the  
223 Planning and Zoning to approve the Final Plat.

224  
225 James Pike stated he was at that meeting and several of the Planning Zoning Commissioners that  
226 voted for the development felt they were forced to vote for this Project by Mr. Kelly Moe.

227  
228 Councilor Torres asked Mr. Pike who felt that way.

229  
230 Mayor Chávez stated in the notes from of the Planning and Zoning meeting of January 8, 2008 a  
231 roll call was taken it was three in favor and two against.

232  
233 Jeff Tenorio stated that on Sheriff Posse Road in August of 1997 he placed a home on the far  
234 south of Sheriff Posse Road. His address was 600 Sheriff Posse Road which indicates that  
235 Sheriff Posse does not end at Mr. Moras' property.

236  
237 Monica Tenorio stated that she was at the meeting of January 8, 2008 they complied with  
238 everything the Planning and Zoning Commission asked of them. She felt there was no indication  
239 that the Planning and Zoning Commission felt pressured to make their decisions.

240  
241 Mayor Chávez asked for a vote.

242  
243 Councilor Jaramillo asked for the appeal of Mr. Mora to be denied and the Final Plat approval  
244 made by the Planning and Zoning Commission be upheld. Councilor Sisneros second the  
245 motion.

246  
247 Roll Call Vote

248                   Councilor Montoya    Yea  
249                   Councilor Jaramillo    Yea  
250                   Councilor Sisneros     Yea  
251                   Councilor Torres        Yea

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254                   **Approval of Minutes 6a) Regular Meeting of February 11, 2008**

255 Council Jaramillo moved to approve minutes of February 11, 2008 as presented. The motion  
256 was second by Councilor Torres and carried unanimously.

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**NEW BUSINESS: 8a) Discussion, Consideration and Action on Award of RFP for Sandoval County Detention Center Pretreatment Facility. Presenter: Stephen Jerge/Paul Paulette Wilson & Company**

Three sealed bids were received for the Wastewater Treatment Facility Improvements Project. The bids were read aloud on Monday, February 18, 2008 as prescribed in the specifications for the above project. The bids were evaluated.

All bidders submitted all documents required by the specifications. No irregularities were noted on any of the bids. There were no math errors in the bids in determining cost including NMGRT. All bidders attended the mandatory Pre-Bid Meeting on February 4, 2008.

Bid Amounts Received

<u>Bidder</u>	<u>Base Bid</u>
AUI. Inc.	\$256,618.65
Cone Construction Corp., Inc.	\$226,976.56
RMCI, Inc.	\$211,916.00
Engineer's Estimate	\$288,383.75

Based upon the bids received, the apparent low bidder is RMCI, Inc.

This process was a rebid of the project with some modification. The block wall and electric hoist, which were previously deductive alternatives, were deleted from the project entirely. Also, the location of the structure was moved westward approximately 100 feet. This change had tow effects on the project, increasing the length of gravity sever required but also decreasing the depth of the overall structure. The equipment to be installed within this structure was not changed, however. While there have been changes to the project, the changes do not appear to be logically associated with the difference in bids received this time and the previous bidding.

The difference in funding availability from Sandoval County is still significant. Previously, the County had agreed to pay \$87,000, leaving a balance required from the Town of Bernalillo is approximately \$125,000. There was discussion with the County staff regarding potential of an increasing in funding from the County. It would be reasonable to continue to pursue such additional funds.

RECOMMENDATION

Wilson & Company recommend that the bid received from RMCI, Inc. of \$211,916.00 be accepted and a letter of award be issued.

299  
300 Mayor Chávez indicated that in the contract with RMCI, Inc. to make certain that language is  
301 included for penalty for non-performance.

302  
303 Councilor Jaramillo moved to approve the Award of the RFP for the Sandoval County Detention  
304 Center Pretreatment Facility to RMCI, Inc.. The motion was seconded by Councilor Sisneros.

305  
306 Roll Call Vote  
307 Councilor Montoya Yea  
308 Councilor Jaramillo Yea  
309 Councilor Torres Yea  
310 Councilor Sisneros Yea

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314 **FINANCIAL SECTION: 9a) Approval of General Fund Vouchers #33064-#33146.**  
315 Councilor Jaramillo moved to approve the General Fund Vouchers #33064-#33146 as presented.  
316 The motion was seconded by Councilor Sisneros and carried unanimously.

317  
318 **FINANCIAL SECTION: 9b) Approval of Utility Fund Vouchers #63271-#63296.**  
319 Councilor Sisneros moved to approve the Utility Fund Vouchers #63271- #63296 as presented.  
320 The motion was seconded by Councilor Torres and carried unanimously.

321  
322 **FINANCIAL SECTION: 9c) Approval of MVD Fund Vouchers #66615-#66627**  
323 Councilor Sisneros moved to approve the MVD Fund Vouchers #66615-#66627 as presented.  
324 The motion was seconded by Councilor Torres and carried unanimously.

325  
326 **FINANCIAL SECTION: 9d) Approval of Housing Low Rent Vouchers #5571LR-**  
327 **#5586LR**  
328 Councilor Torres moved to approve the Housing Low Rent Vouchers #5571LR-#5586LR as  
329 presented. The motion was seconded by Councilor Sisneros and carried unanimously.

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332 **FINANCIAL SECTION: 9e) Approval of Housing Meter Deposit Vouchers #36.**  
333 Councilor Jaramillo moved to approve the Housing Meter Deposit #36 as presented. The  
334 motion was seconded by Councilor Torres and carried unanimously.

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337 **FINANCIAL SECTION: 9f) Approval of Waste Water Treatment Plant Vouchers**  
338 **#35.**  
339 Councilor Jaramillo moved to approve the Waste Water Treatment Plant #35 as presented. The  
340 motion was seconded by Councilor Torres and carried unanimously.



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There being no further business the meeting was adjourned at 8:10 P.M.

Done this 25th day of February 2008.

ATTEST:

\_\_\_\_\_  
Ida Fierro, Town Clerk  
(seal)

\_\_\_\_\_  
Patricia A. Chávez, Mayor