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**MINUTES OF A REGULAR MEETING
OF THE GOVERNING BODY OF THE TOWN OF BERNALILLO
HELD AT THE TOWN HALL
November 10, 2008**

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

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

10 **PRESENT:**

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

ALSO PRESENT:

Stephen Jerge James Pike
Leo Archuleta Arthur Montano
Margaret Geller Rob Burpo
Santiago Chavez John Estrada
George Perez Maria Rinaldi
Pinky Montano Chris Stoyell
Mary Kwapick

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20 **ABSENT:**

21 Councilor Jaramillo

22 **Others Present Not Identified**

23
24 **APPROVAL OF AGENDA: 4a)**

25 Councilor Torres moved to approve the agenda as presented. The motion was seconded by
26 Councilor Sisneros and motion carried unanimously.

27
28
29 **PRESENTATIONS: 5a) Capital Financing Recognition by First Financial Advisors,**
30 **Modral, Sperling, Roehl, Harris & Sisk, Law Firm and RBC Dain Rauscher. Presenter;**
31 **Mayor Patricia A. Chávez and Rob Burpo**

32 Mayor Patricia A. Chávez and Rob Burpo presented each council member with a plaque for their
33 assistance in the negotiations to the Town of Bernalillo for the \$8,215,000 State Shared Receipts
34 Tax Revenue Financing.

35
36 **PUBLIC HEARING: 7a) Discussion, Consideration and Action on Appeal of P & Z**
37 **Commission Decision; Variance of Setback requirements for a Mobile Home at the**
38 **property located at Lots 7, 8 and Portion of vacated alley a.k.a. 1313 Old HWY 85. Arthur**
39 **Montano-Presenter**

40
41 Arthur Montano stated he is presenting a plat which separates the lot into two lots and
42 appealing a decision made by the Planning and Zoning Commission declining the variance on his
43 mobile home located at 1313 Old HWY 85. The trailer actually sits on lot 9A and part of the
44 vacated alley and some of the roadway. There is a 5ft on the back and on the south, west of the
45 trailer is 10ft on the east side and the front of the trailer.

46

47 Mayor Chávez stated the question was to establish the square footage of the property.

48

49 Mayor Chávez asked what was the square footage of the property.

50

51 Leo Archuleta who did the survey of the property square footage for lot 8A is 5,732 sq. ft. and lot
52 9A 4,328 sq. ft.

53

54 Arthur Montano stated that Las Casitas set back is 11.5 sq. ft and New Mexico Community
55 Capital is 11.9 both located on Camino Del Pueblo.

56

57 Stephen Jerge read the Staff Notes on the property from Kelly Moe, Planning and Zoning
58 Director.

59

60 Summary:

61 The applicant request approval of a Variance from the Setback & Requirements for a Mobile
62 Home at the property know as, 1313 Old Hwy 85 within T13N R4E SEC6 NMPM, Bernalillo,
63 New Mexico. The application for a Variance request was heard by the Planning & Zoning
64 Commission at its regular meeting of July 8, 2008 at which time the application was denied. The
65 applicant appealed the decision to the Council at its regular meeting of August 25, 2008 at which
66 time the application for variance was tabled". Until a boundary survey can be done on the
67 property." The applicant has now submitted an actual proposed plat for approval, not a mere
68 boundary survey.

69

70 New Notes

71 At the August meeting, the applicant provided proof of legal access to NM313. A separate water
72 & sewer service would have to be provided to the property, and appropriate easements provided
73 for the lines, as necessary. The property is currently zoned C-1 (Retail Commercial) which
74 allows single-family residential use under the requirements of R-1 (Single-Family Residential)
75 zoning. The R-1 Zone does not allow mobile homes, does require 6,000 sq. ft. minimum lot
76 sizes, does require municipality utility connection on most lots, does require setbacks of: front—
77 20', rear –10', and side 5'. The proposed lot sizes are less than the 6,000 sq. ft. . . . No easement
78 is provided for water/sewer service lines on the proposed plat. Required setbacks have not been
79 provided. State Building & Fire codes also require a greater separation between the sides of the
80 mobile home and other flammable structures such as the wood fencing on the south property
81 lines, such as 10-15 ft. instead of the existing 6ft.

82

83 Recommendation:

84

85 P & Z Commission: Deny

86 Staff: Deny. The creation of smaller than a required lot size, in itself, does not concern staff—
87 they are consistent with the historic character of the Town. However, to do so for a mobile home

88 rental unit, when mobile homes are not permissive use under current zoning, and the dwelling
89 does not add to the character and quality of life of the neighborhood or of the Town, and where
90 the dwelling does not meet setback requirements of either the Zoning Code or the Building Code;
91 the P&Z staff cannot support proposal and request.

92

93 Councilor Torres stated there are several mobile homes on Calle San Lorenzo that are in smaller
94 lots that the one Mr. Montano has are we picking and choosing where these mobile homes are.

95

96 Ida Fierro, Town Clerk stated that those mobile homes were prior to this administration.

97

98 Councilor Torres asked if the mobile home on the Whites property was prior.

99

100 Ida Fierro stated yes.

101

102 Councilor Sisneros asked if the vacated alley was included in the square footage for the property.

103

104 Mr. Archuleta stated yes.

105

106 Councilor Sisneros asked when he saw the plat it was not what he was looking for being the
107 request was a boundary map.

108

109 Ida Fierro, stated she spoke with Kelly Moe and the plat is more detail than a boundary survey
110 and does answer the questions about the setbacks.

111

112 Mayor Chávez asked with the survey the plat shows a front setback of 6 ft. the required is 20 ft.
113 the rear setback is 8.7ft. the required is 10 ft. and the side required is 5ft. the side setback on the
114 plat is 6.7 ft.

115

116 George Perez, Town Attorney made a comment before you is a request for a variance. Attached
117 is a request for a summary plat to create two lots. This must be sent back to Planning and Zoning
118 to see if the lots meet the requirements. The appeal for a deny of a variance is the question you
119 must take the following into consideration;

120

1. Size of Lot

121

2. Does the size of the lots meet the requirements of 6,000 sq ft

122

3. Mobile homes on a C-1 lot are not allowed. It is irrelevant if the lot is big enough.

123

4. Call for a vote is to uphold the decision for denial of the Planning and Zoning

124

Commission.

125

The question before you is clearly answered the lot is not big enough and mobile homes are not
126 allowed in a C-1 zone. Therefore, you cannot grant a variance.

127

128

Mayor Chávez asked if there were any further questions.

129 Councilor Torres asked why did we have Mr. Montano do this if we knew mobile homes were
130 not allowed.

131

132 Ida Fierro stated it was the request of Council at the last meeting of August 25, 2008.

133

134 Councilor Sisneros stated that the reason the boundary survey was requested was to know the
135 size of the lots in question.

136

137 Mr. Montano stated that the variance is for small lots and this is the case of the lot in question.

138

139 Mayor Chávez stated the task at hand is to call for a vote to uphold the Planning and Zoning
140 decision or resend it back to Planning and Zoning for the plat and placement of the mobile home.

141 The results are going to be the same.

142

143 George Perez stated that his advice is the request of variance be denied uphold the Planning and
144 Zoning Commission. This request should go back to Planning & Zoning and start the application
145 for summary plat and see if it meets the requirement if it does meet it then request a zone change.

146

147 Councilor Montoya made a decision to uphold the denial of the Planning and Zoning
148 Commission on the variance for Arthur Montano. Councilor Sisneros seconded the motion and
149 carried unanimously.

150

151

152 **Approval of Minutes 7a) Regular Meeting of October 27, 2008**

153 Mayor Patricia A. Chávez stated that on line 38 college should read “colleague.”

154

155 Councilor Sisneros moved to approve the minutes of October 27, 2008 as amended. The motion
156 was second by Councilor Torres and carried unanimously.

157

158 **NEW BUSINESS: 8a) Discussion, Consideration, and Action on Award of Lodgers**
159 **Tax Funds.**

160

161 In accordance with New Mexico State Statute and Town Ordinance, the following
162 recommendations for the expenditure of Lodgers Tax fund for the purpose of promoting and
163 tourism activities in Bernalillo for November 2008.

164

165 Fiscal Year 08-09

166

- 167 • Friends of Coronado Monument for promotion activities to increase awareness of and
168 visitation to Coronado Monument in the amount of \$13, 304.00 the “Friends will conduct
169 surveys (written) at sponsored events to determine effectiveness of print media.

- 170 • Sandoval County Historical Society for advertising monthly education events and
171 promotion of historical archives to generate increase visitation to the Edmund Delavy
172 House in the amount of \$6,000. The Historical Society will conduct surveys (written) at
173 sponsored events to determine effectiveness of print media. They will also have sign-in
174 sheets for educational sessions.
- 175 • Western Music Association Chapter for promotion of the First Annual Western Music
176 Festival to be held at the Art Gallery 66 in the amount of \$4,034.00 only if the event is
177 held in December and not as indicated on the application of November 14, 2008.

178
179 Total Recommending Award This Funding Cycle: \$23,334.00

180
181 Mayor Chávez entertained a motion.

182
183 Councilor Torres made a motion to approve November 2008 Lodger Tax fund award
184 recommendation of \$23,334.00. The motion was seconded by Councilor Sisneros and carried
185 unanimously.

186
187

188 **NEW BUSINESS: 8c) Discussion, Consideration, and Action on State of New**
189 **Mexico Taxation & Revenue Department Municipal Motor Vehicle Service Provider**
190 **Agreement. Presenter: Ida Fierro**

191 ***Municipal Motor Vehicle Service Provider Agreement***

192 The purpose of effecting economy in carrying out the functions of MVD and of providing
193 necessary services to the people of the State of New Mexico, Section 66-2-14 authorizes the
194 TRD secretary to appoint agents to act on behalf of MVD to perform certain functions of MVD.
195 Under this authority, MVD hereby appoints the Town of Bernalillo to perform certain service on
196 behalf of MVD, and the Town of Bernalillo accepts this appointment. The Agreement would be
197 in effect for four years.

198

199 Councilor Sisneros moved to approve the Professional Service Agreement for Municipal Motor
200 Vehicle Service Provider as presented. The motion was seconded by Councilor Torres.

201

202

203 **FINANCIAL SECTION: 10a) Approval of Account Payable List.**

204 Councilor Torres moved to approve the Accounts Payable List totaling \$870,352.63 as presented.
205 The motion was seconded by Councilor Montoya and carried unanimously.

206

207 There being no further business the meeting was adjourned at 7:51P.M.

208

209 Done this 10th day of November 2008.

210

Minutes of the Town Council Meeting
November 10, 2008
Page 6

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ATTEST:

Ida Fierro, Town Clerk
(seal)

Patricia A. Chávez, Mayor