

1 **MINUTES OF A REGULAR MEETING**  
2 **OF THE GOVERNING BODY OF THE TOWN OF BERNALILLO**  
3 **HELD AT THE TOWN HALL**  
4 **December 14, 2009**  
5

6 The Governing Body of the Town of Bernalillo met in a regular session within the law and rules  
7 of the Town on December 14, 2009, at 6:30 P.M.

8 Upon Roll call the following members were found to be present:  
9

10 **PRESENT:**

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

**ALSO PRESENT:**

George Perez	William Carpenter
Eric Schoen	John Estrada
James Pike	John Appel
Margie Amiot	Steve Amiot
Margaret Geller	Gregory Smestad
John Brooks	Maria Rinaldi
David Soule	Mike Moloney
Will Ouellette	Ted Montoya
Lisa Benavidez	Ty Belknap

16  
17  
18  
19  
20  
21  
22 **ABSENT:**

**Others Present Not Identified**

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

25 Councilor Montoya asked for an update on Streetscape to be add to Miscellaneous Item 11a)  
26 Discussion only. Mayor Chávez asked to add acknowledgement on the passing of one our  
27 community members.  
28

29 Councilor Jaramillo moved to approve the agenda as amended. The motion was seconded by  
30 Councilor Sisneros and the motion carried unanimously.  
31

32 **ACKNOWLEDGEMENTS: 5a) Passing Stella Aguilar. Presenter: Mayor Chávez**

33 Mayor Chávez asked for a moment of silence in honor of Stella Aguilar who was a  
34 member of our community and passed away. Condolences go out to her family and friends.  
35

36 **RECOGNITION: 6a) Town of Bernalillo Christmas Nights of Lights. Presenter:**  
37 **Mayor Chávez**

38 Mayor Chávez recognized the Town of Bernalillo staff for a successful launch of the  
39 Christmas season in the Town of Bernalillo. The Tree lighting on December 4, 2009. Christmas  
40 Carols were sung by the children of Carroll Elementary. The Christmas Arts and Craft Stroll  
41 which 15 vendors participated in. The Wine Museum open house. The Night Time Christmas  
42 Parade and Bonfire all on December 5, 2009. The Police Department, Fire Department, YCC  
43 Staff, Water Department, Ida Fierro, Carla Salazar and Felicia Rodriguez. Congratulations to all  
44 town employees and community member for participating.  
45

46 **RECOGNITION: 6b) Fire Academy Graduates Michael Carroll, Lawrence**

47 **Gutierrez. Presenter: Mayor Chávez**

48 Mayor Chávez recognized Michael Carroll and Lawrence Gutierrez for their completion  
49 of Fire Fighter II School attended in Texas. Michael Carroll scored the highest on the final exam  
50 out of all the Fire Fighters attending the class.

51  
52 **PUBLIC HEARING: 7a) Discussion, Consideration and Action on Adoption of**  
53 **Ordinance #252 Loan Agreement and Intercept Agreement between the Town of Bernalillo**  
54 **and the New Mexico Finance Authority. Presenter-Santiago Chavez**

55  
56 **TOWN OF BERNALILLO, NEW MEXICO**

57  
58 **ORDINANCE NO. 252**

59  
60 AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AND  
61 SUBSIDY AGREEMENT ("LOAN AGREEMENT") AND INTERCEPT  
62 AGREEMENT BY AND BETWEEN THE TOWN OF BERNALILLO, NEW  
63 MEXICO (THE "GOVERNMENTAL UNIT") AND THE NEW MEXICO  
64 FINANCE AUTHORITY, EVIDENCING A SPECIAL LIMITED OBLIGATION  
65 OF THE GOVERNMENTAL UNIT TO PAY A PRINCIPAL AMOUNT OF NO  
66 MORE THAN ONE MILLION SIX HUNDRED FIFTY-FOUR THOUSAND  
67 THREE HUNDRED EIGHTY DOLLARS (\$1,654,380), TOGETHER WITH  
68 INTEREST, COSTS OF ISSUANCE AND ADMINISTRATIVE FEES THEREON,  
69 AND TO ACCEPT A LOAN SUBSIDY OF NO MORE THAN ONE MILLION SIX  
70 HUNDRED FIFTY-FOUR THOUSAND THREE HUNDRED EIGHTY DOLLARS  
71 (\$1,654,380), FOR THE PURPOSE OF FINANCING THE COSTS OF  
72 IMPROVEMENTS TO THE MUNICIPAL WATER SUPPLY WELLS;  
73 PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF,  
74 ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN  
75 AGREEMENT SOLELY FROM THE PLEDGED REVENUES; SETTING A  
76 MAXIMUM INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF  
77 AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND  
78 INTERCEPT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN;  
79 REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND  
80 AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH  
81 THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND  
82 INTERCEPT AGREEMENT.

83  
84 John Appel, Attorney for the New Mexico Loan Fund gave a brief explanation of the  
85 Ordinance 252 which is for a loan from the New Mexico Loan Fund which is associated with the

86 Stimulus Money the funds will be used for wells 1 & 2.

87

88 Mayor Chávez asked if anyone signed up to speak for/against Ordinance #252.

89

90 Ida Fierro, Clerk indicated no one had signed up to speak for/against Ordinance 252.

91

92 Mayor Chávez called for a vote.

93

94 Councilor Jaramillo moved to approve the adoption of Ordinance # 252. The motion was  
95 seconded by Councilor Sisneros.

96

97 Roll Call Vote

98 Councilor Sisneros Yea

99 Councilor Montoya Yea

100 Councilor Jaramillo Yea

101 Councilor Torres Yea

102

103 **PUBLIC HEARING: 7b) Discussion, Consideration and Action on Adoption of**  
104 **Ordinance #253 Loan Agreement and Intercept Agreement between the Town of Bernalillo**  
105 **and the New Mexico Finance Authority. Presenter-Santiago Chavez**

106

107 **TOWN OF BERNALILLO, NEW MEXICO**

108

109 **ORDINANCE NO. 253**

110

111 AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN  
112 AGREEMENT ("LOAN AGREEMENT") AND INTERCEPT AGREEMENT BY  
113 AND BETWEEN THE TOWN OF BERNALILLO, NEW MEXICO (THE  
114 "GOVERNMENTAL UNIT") AND THE NEW MEXICO FINANCE AUTHORITY,  
115 EVIDENCING A SPECIAL LIMITED OBLIGATION OF THE GOVERNMENTAL  
116 UNIT TO PAY A PRINCIPAL AMOUNT OF NO MORE THAN ONE MILLION  
117 TEN THOUSAND DOLLARS (\$1,010,000), TOGETHER WITH INTEREST,  
118 COSTS OF ISSUANCE AND ADMINISTRATIVE FEES THEREON, AND TO  
119 ACCEPT A LOAN FOR THE PURPOSE OF FINANCING THE COSTS OF  
120 IMPROVEMENTS TO THE MUNICIPAL WATER SUPPLY WELLS;  
121 PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF,  
122 ADMINISTRATIVE FEES AND INTEREST DUE UNDER THE LOAN  
123 AGREEMENT SOLELY FROM THE PLEDGED REVENUES; SETTING A  
124 MAXIMUM INTEREST RATE FOR THE LOAN; APPROVING THE FORM OF

125 AND OTHER DETAILS CONCERNING THE LOAN AGREEMENT AND  
126 INTERCEPT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN;  
127 REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND  
128 AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH  
129 THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT AND  
130 INTERCEPT AGREEMENT.

131  
132 John Appel, Attorney for the New Mexico Loan Fund gave a brief explanation of the  
133 Ordinance 253 which is for a loan from the New Mexico Loan Fund.

134  
135 Mayor Chávez asked if anyone signed up to speak for/against Ordinance #253.

136  
137 Ida Fierro, Clerk indicated no one had signed up to speak for/against Ordinance 253.

138  
139 Mayor Chávez called for a vote.

140  
141 Councilor Montoya moved to approve the adoption of Ordinance # 253. The motion was  
142 seconded by Councilor Torres.

143  
144 Roll Call Vote

145 Councilor Montoya Yea  
146 Councilor Sisneros Yea  
147 Councilor Jaramillo Yea  
148 Councilor Torres Yea

149  
150 **PUBLIC HEARING: 7c) Discussion, Consideration and Action on Appeal of P & Z**  
151 **Commission Decision Piedra Lisa Subdivision. Presenter: Steve and Margie Amiot**

152  
153 \_Mayor Chávez stated the Public Hearing on the Appeal of Planning and Zoning Commission  
154 decision on Piedra Lisa Subdivision was to deny or approve the appeal. Denying the appeal  
155 would uphold the Planning and Zoning Decision.

156  
157 Mayor Chávez asked Mr. Amiot and Mrs. Amiot to proceed.

158  
159 Margie Amiot stated after the building moratorium was lifted in late October of 2007, she and  
160 Steve started following the progress of Piedra Lisa Townhouse Development. They agreed with  
161 the P & Z Commission's decision that the lot size and the drainage issues do not comply with the  
162 Town of Bernalillo's Zoning Ordinance, and the Subdivision Regulations.

163

164 On May 8, 2008, the Town Council passed Ordinance #242 rezoning the parcel to Special Use  
165 (SU). The master plan for Piedra Lisa was contingent on the compliance with seven conditions.  
166

167 Steve Amiot stated when they heard that the commercial lot A was extracted in condition 4, we  
168 knew we had grounds for an appeal. The rationalization for zoning Piedra Lisa SU was Mixed  
169 Use.  
170

171 Without Tract A there can be no Mixed Use. Ordinance #242, in effect, confined Piedra Lisa to a  
172 32 unit townhouse development on roughly 2.3 acres.  
173

174 Within 30 days we filed an appeal of the Council's decision on Ordinance #242 in District Court.  
175 P & Z staff and the developers have consistently brought up the fact that we lost our appeal. Up  
176 to now we have not had an opportunity to respond.  
177

178 As you all know, we appealed the Council's decision on Piedra Lisa because we did not feel that  
179 the laws of Town of Bernalillo were being followed. But what you may not know is that Judge  
180 Sanchez stated in his findings: "Ordinance #242 made a zoning decision. It did not make a  
181 decision or order concerning a subdivision." The Council did not approve the Master Plan for a  
182 Subdivision. The Master Plan has not been approved until all 7 conditions have been met.  
183

184 It is obvious that at least 4 of the 7 conditions have not yet been complied with.  
185

186 Margie Amiot stated Condition1: "50' roadway (Gross Property) must be provided by Gross  
187 within one year."  
188

189 This proposed roadway extends Station Street south of Rail Runner Avenue down into the  
190 Gross's planned business park. At this time it is functioning as access for construction vehicles,  
191 and eventually will be used by patrons of those businesses. This road is essential to developing  
192 the business part. At this point it has nothing to do with Piedra Lisa, other than sharing a  
193 boundary line.  
194

195 The decision to give part of their property to the Town of Bernalillo for a road was a decision the  
196 Gross's made to their own advantage.  
197

198 The dedication of the road to the Town of Bernalillo is a separate issue from the litigation  
199 involving Piedra Lisa. The Gross's were not involved in the litigation whatsoever.  
200

201 Steve Amiot stated one could compare this situation to an analogy: Let's say its a few years ago,  
202 and the Town Council made the development depend on the 550 Rail Runner Depots being build  
203 within one year. Then the development gets appealed.

204  
205 MRCOG would not have been involved in an appeal on someone else's development. It is not  
206 their problem. That litigation wouldn't even slow them down, and it didn't slow down the  
207 Gross's either.

208  
209 The Gross's Pre Plat, with the road, was passed by the P & Z Commission in November 2008,  
210 but never recorded in the County Courthouse. In May 2009, a second version of the pre plat was  
211 changed in order to extract a lot for KFC.

212  
213 On June 24, 2009, at the Sandoval County Courthouse, 6 weeks after the Condition 1 deadline,  
214 the second version of the pre plat, with the road dedication, was recorded.

215  
216 In the pre plat hearing Kelly Moe, Town of Bernalillo Planning and Zoning Director stated "they  
217 requested approval of the first plat and that's what I signed off on, and they indeed recorded that  
218 plat" and "the first one was in November."

219  
220 Kelly Moe actually signed the second pre plat himself, instead of the Commission Chair, without  
221 the Commission's approval, and allowed it to be recorded even though it was not final.

222  
223 Clearly upset, Commission Chairperson Debbie Kilfoy replied; "You just nullified any decisions  
224 that we made."

225  
226 Unfortunately for Piedra Lisa, however, the Gross's did not dedicate the road until after the one  
227 year deadline set by Ordinance #242.

228  
229 The one year sunset clause for the road expired on May 7, 2009, but the dedication was not  
230 recorded until June 24, 2009.

231  
232 The Gross road was not dedicated to the Town within one year. Condition 1 was not complied  
233 with, and it never will be. Therefore, the property must revert back to the former RR Zone.

234  
235 Margie Amiot stated Condition 2 requires: "units no higher than 22 feet". The pre plat before the  
236 Commission showed 24 ft heights throughout, page after page. So, Condition #2 was not  
237 complied with. The pre plat should not have been approved.

238  
239 Condition 4 states: "setback tract A from the SU".

240  
241 We have all come to understand that “setback” is some kind of “typo” and should actually be  
242 written as “extract”.

243  
244 Tract A is still part of the pre plat, yet it should have been extracted from the SU Zone, and the  
245 development itself. Since it has nothing proposed on it, it does not qualify for a pre plat. Only a  
246 proposed development can qualify for a pre plat. Tract A shows virtually nothing.

247  
248 Tract D was also removed from the development, yet it is still part of the pre plat. The County  
249 owns Tract D, and they are not seeking a pre plat from anyone, period, and yet here it is, up for  
250 approval.

251  
252 No good reason has been show why either is still in the pre plat. Piedra Lisa consists of a 32 unit  
253 townhouse development, only.

254  
255 Steve Amiot stated Condition 5 requires that: “Drainage must be addressed and contained per  
256 Town regulations”.

257  
258 Section 11C and section 111.1.1 of the Subdivision Regulations requires an engineered drainage  
259 plan, approved by the Town Engineer. That would be HDR, the only firm on retainer by the  
260 Town of Bernalillo.

261  
262 In the October 6, 2009 P & Z meeting, David Soule, the engineer for Piedra Lisa, claimed that he  
263 did the drainage plan and Molzen and Corbin reviewed it.

264  
265 This statement does not represent the truth. Molzen Corbin did not review this plan as Mr. Soule  
266 stated, or they would have stamped the plats with signatures, date and comments.

267  
268 After going over the drainage plan with two unbiased expert drainage consultants, we all came to  
269 the conclusion that it just won’t hold water. Some of the problems are;

270 1. Grading plans require showing the proposed grades. 7 ½ feet or fill and the resulting  
271 elevation relative to the adjacent properties-not shown.

272 2. Backyard holding ponds are incomplete.

273 3. Direction of flow of storm water to front or back of each lot not shown.

274 4. Tract B holding pond design totally flawed. Vertical walls of cinder blocks and dirt  
275 floors. 9 ½ deep how close is that to the water table? It is right in it. It should be planned  
276 with a bunch of stone work cobble stone to percolate the water down. They do not have  
277 the plan in them. Of course because the water table is right there. The pond will not

278 drain. They admitted it would not drain. It will collect antifreeze, oil and anything that  
279 washes down the street. It will be a breeding ground for mosquitoes.

280  
281 No contractor would risk building such a bogus system. No way does this drainage plan comply  
282 with Bernalillo's regulations.

283  
284 If you are convinced that the drainage plan does not conform to Bernalillo regulation, hold up  
285 your hand and I'll go on to the next Condition

286  
287 Mayor Chávez asked for Steve Amiot to proceed.

288  
289 Steve Amiot stated there are requirements for a pond that does not drain. It required pesticides  
290 every week. The pond should be much wider and 18 inches deep with diagonal sides not a 9 ½  
291 feet deep swing pool 25 ft wide and 90 feet long. The walls will collapse as the ground becomes  
292 soaked. Ponds in the back of each town house have not been demonstrated.

293  
294 Margie Amiot stated the homeowners will not maintain the ponds the Town of Bernalillo will be  
295 responsible for the ponds. If the ponds are not done properly the Town will have to pay for the  
296 maintenance.

297  
298 Steve Amiot stated that engineers they spoke to work for other municipalities that have reviewed  
299 the drainage plan.

300  
301 Steve Amiot stated Condition 5 has not been complied with. The pre plat should not have been  
302 approved.

303  
304 Condition 7 requires a "retaining wall 4' to 6' in small sections". The site is 6 to 7.5 feet below  
305 the sidewalk for about 210 feet, so requiring a retaining wall is definitely necessary.

306  
307 The prospect of actually building the wall is something else again. A wall strong enough to hold  
308 back 6 to 7 feet of fill requires a broad base, footer. It must be strong enough to hold up the wall  
309 and the backyard drainage ponds, no matter how water logged the soil becomes.

310  
311 The footer for the wall would have to extend onto Eugene and Rosalie Dome's property, with an  
312 excavation width of at least 3 feet wide and hundreds of feet long. The Domes faxed a letter  
313 regarding that excavation. It totally denies entrance to their land.

314  
315 The "master plan" shows a retaining wall with an additional 6 foot screen wall on top, far beyond  
316 the 7 foot maximum height limit for a wall or fence. In the pre plat passed on October 6<sup>th</sup> for



317 Piedra Lisa, there is no mention of a retaining wall whatsoever.

318

319 Condition 7 has not been complied with, and the Commission's approval of the pre plan must be  
320 reversed.

321

322 Margie Amiot stated the administration and the Town Attorney have interfered with the  
323 democratic process regarding the pre plat. On several occasions they informed the Commission  
324 that they must obey the decision of the Town Council and approve the Piedra Lisa pre plat.  
325 Growing tired and disgusted with the whole issue, yielding to the constant pressure, the  
326 Commission gave in.

327

328 The reasoning behind the Administration's constant pressure to direct the vote is questionable at  
329 best. They said, since the Council approved the master plan the Commission must abide by their  
330 decision. But remember what the Judge said; the Council did not make a decision on a  
331 subdivision.

332

333 The Town Council did not make a decision on the master plan for the subdivision, due to the 7  
334 conditions. There should be no directive telling the Commission to abide by a decision that was  
335 never made.

336

337 Had they been allowed to follow their conscience, the Commissioners would most surely have  
338 denied the pre plat once again.

339

340 Steve Amiot stated the council made approval of Ordinance #242, a zoning decision, contingent  
341 on compliance with the 7 conditions you passed in your motion for approval.

342

343 Condition 1, the road on the Gross Property was not dedicated within one year.

344

345 Condition 2, height of the building on the pre plat exceeded the 22' limit.

346

347 Condition 4, tract A has no plan for development, yet it is still in the pre plat along with Tract D,  
348 which belongs to the County.

349

350 Condition 5, the drainage plan does not follow Bernalillo's regulations.

351

352 Condition 7, the requirement for a retaining has not been met.

353

354 The failure to comply with at least 4 of the 7 conditions has been clearly shown. At the very least  
355 the approval of the pre plat must be overturned. The reality is the Ordinance #242 should be

356 rescinded and the property should revert to R-R.

357

358 Steve Amiot closed with we urge you to follow your conscience and approve this appeal.

359

360 Mayor Chávez asked if any of the Council had question for the Steve or Margie Amiot.

361

362 Councilor Montoya stated that he admired the passion of the Amiot's. He has to question the  
363 creditability of the engineer's information because there are no facts to support it. In the defense  
364 of our Commission they are not weak and do not give in. Councilor Montoya was in attendance  
365 at the meeting where the Piedra Lisa decision was made the Commission questioned the  
366 information and Councilor Montoya did not feel that the Commission was pressured into making  
367 their decision.

368

369 Steve Amiot asked Councilor Montoya do you believe the holding pond will hold water.

370

371 Councilor Montoya stated he believes that the developers have done what has been required of  
372 them. The Commission made the decision on the information given to them by the developer.

373

374 Steve Amiot stated the drainage plan requires the approval of the Town Engineer. That was not  
375 done, therefore it fails. You do not question our passion. You seem to question why we are  
376 passionate. We have seen development plans that are poorly planned. There are 13 Townhouses  
377 planned behind the Flying Star. Without adequate parking. Without adequate drainage. This is  
378 not good and we do not like that. What kind of development do we want in Bernalillo? Our  
379 Position is legal development following the regulation we want Bernalillo to be a nice town to  
380 live in that still maintains the rural feel that is always has. If you start putting in high density  
381 development and ignoring the regulations for lot size and drainage you are asking for trouble.  
382 We are not against Piedra Lisa but against the conditions not met for item on Ordinance #242.  
383 The condition for drainage was not met, period. If you can find a drawing for a retaining wall on  
384 the pre plat. There is not one. It does not take a brilliant engineer to see there is not a retaining  
385 wall to hold the water. You cannot change the plan unless it goes before the commission. They  
386 have moved the garden wall 10ft in toward the townhouses this is a change. You can't just  
387 change things. The Council required 22ft buildings. 24ft buildings were presented to the  
388 Commission. Planning and Zoning drilled Mr. Soule on the drainage. In the end they were told  
389 it does not matter the Council passed this, so you have to abide by it. Mr. Montoya said okay, we  
390 will pass it. Is that the way to run a government? No it is not.

391

392 Margie Amiot read a letter written by Albuquerque Environmental Department on the  
393 mosquitoes in the ponds.

394

395 Mayor Chávez asked why documentation for the appeal was not given to the Town Clerk for the  
396 packet.

397 Steve Amiot stated that it was the minutes of October 6, 2009 and Ordinance #242 and  
398 information on drainage. That was in the application.

399  
400 Mr. Carpenter, Olive Drab representative stated this is the biggest opposition he has had in the  
401 years of practicing law. He does appreciate the process. You have been given documents that we  
402 have not had an opportunity to review. Mr. Soule will address the zoning issues that have been  
403 addressed this evening before this council. Zoning questions will be addressed on the final plat it  
404 is difficult to get a shot gun approach. The final plat will be approved by the town engineer and  
405 with the commission approval. Item addressed will be curb and gutter, drainage we plan on  
406 doing it all. The original plan did have 24ft walls the Council requested 22ft walls we agreed as  
407 far as technical issues Mr. Soule will address.

408  
409 The Planning and Zoning staff questioned us and asked us to present things in accordance with  
410 the law and Ordinance 242. There are two lots, a commercial lot and a residential lot. We do not  
411 have a plat approval once it is approved one will be filed with the County.

412  
413 The Road-Mrs. Gross has a planner he has met with Olive Drab. He has planned some mixed  
414 development. They have made an agreement with Olive Drab and the Council approves that.  
415 They have stated Olive Drab will pay for the development of the road. We cannot do that  
416 without plat approval. We have been held up with appeals. When we have that we will sit down  
417 with Mrs. Gross to do the road.

418  
419 These engineers the Amiot's spoke to. I tell you what a Judge would have done if I told him "I  
420 have an expert and boy is he good." He would disregard the statement. It would not be allowed. I  
421 have not had the opportunity to cross exam. They said there is not a retaining wall, there is. Mr.  
422 Soule will point that out to you. We have meet with Planning and Zoning and worked out all the  
423 issues. The Planning and Zoning Commission are not intimidated. You have a nice process and  
424 it needs to be respected. These appellants have not respected the process. If they wanted to be  
425 real they would have given us a list of reason for their appeal.

426  
427 At this point the zoning has been approved by District Court and the appeal has been rejected by  
428 the Court of Appeals. You can't go back and say "Oh well" we didn't appeal that then and raise  
429 it now. You have to present it at the time of appeal. What you don't you lose. That is the law.

430  
431 We have a zone and Ordinance 242 is legal. We have followed the law in all respects. Disregarding  
432 the law, it is not the way. It is not an all or nothing process. We have changed items that needed to  
433 be changes in good faith. We will sit with your Town Engineers and the Environment Department.

434 If something comes up we will make the changes regardless of what it is. We want town houses we  
435 can sell. We are not going to build on our neighbor's property. It would be a legal liability.

436  
437 As well intended as these appellant might be or not, they have not followed the process and it does  
438 not make sense.

439  
440 Mr. Soule will address the road way and draining issues. If you recall, this Council jumped ahead of  
441 the Planning and Zoning Commission and imposed some conditions, which we are not opposed to. I  
442 assume you have a building inspector, if we build a 24 ft. wall he is going to make us tear it down.

443  
444 This appeal just doesn't make sense. I would ask that you listen to Mr. Soule. We got grilled at  
445 Planning and Zoning and he took the brunt of it. If there is a problem, point it out, let's talk about it  
446 and we will fix it.

447  
448 Mr. Carpenter thanked the Council.

449  
450 David Soule Engineer for Olive Drab stated the grading plan was submitted twice to Molzen and  
451 Corbin Engineers. He did not appreciate being called a liar.

452  
453 Steve and Margie Amiot stated they had requested those documents from Kelly Moe.

454  
455 Mr. Carpenter directed Mr. Soule not to address the Amiot's.

456  
457 Proposed draining is on the Plat. Full blown drawing of the plan is not part of the Plat at this  
458 point. It is separate. Back yard ponds are shown on the Plat. The ponds meet the requirement.  
459 Retaining walls are shown on the Plat.

460  
461 I would love to talk to the engineers the Amiot's spoke to. I have been an engineer for a long  
462 time and will defend my actions. If they do not have an engineer they should be careful about  
463 giving advice without an engineer present. There are laws you cannot act as an engineer without  
464 a license.

465  
466 Retaining walls, they are shown on the plat the tops and the bottoms. The structural details are  
467 done on the building and it is not done on the plat. We are building it 10ft in not on the property  
468 line.

469  
470 Vector Control of the ponds is a simple method; at signs of vectors you spray them with an oil  
471 substance to keep them in the pond. It would be a requirement of the Homeowner Association to  
472 maintain the ponds. The Town has recourse to the Homeowners Association. The Homeowners

473 Association is required legally to take care of the pond.

474 Mr. Soule stood for questions.

475 Councilor Jaramillo asked do you believe you complied with Ordinance #242.

476

477 Mr. Soule state yes.

478

479 Councilor Torres asked have you met with the Coronado Water and Soil Conservation.

480

481 Mr. Soule stated he had met with the Town Engineer Molzen and Corbin and hadn't spoken to  
482 the Coronado Water and Soil Conservation.

483

484 Councilor Torres asked George Perez, Town Attorney, was it legal what Kelly Moe did verses  
485 the Chair.

486

487 George Perez stated without knowing the facts I cannot say that. It does not have any play in this.  
488 It is the Gross's. I do not know all the facts. If you give me one side I can give you all the  
489 opinions you want to hear. If I listen to the other I side may give you different opinions. It is  
490 like Councilor Montoya said; you have to question the creditability. Without knowing the facts I  
491 cannot judge Kelly on whether it was legal or not.

492

493 Councilor Jaramillo stated she was more concerned with Ordinance #242. There are very  
494 specific request from the Council that they be met.

495

496 George Perez stated he did not have Ordinance 242 in front of him and there is nothing in those  
497 conditions that says they have to be in the pre plat. It must be done at or during construction. Just  
498 that they have to comply.

499

500 Councilor Jaramillo asked how about condition #1. The road on the Gross's property be  
501 dedicated within one year.

502

503 George Perez stated that year needs to be told at each appeal. You don't start the clock running  
504 and go to Town Council in 60 days. Then District Court for a year and half then come back and  
505 say you did not comply when you are responsible for that. If just doesn't work that way. You  
506 count the days they actually had to comply.

507

508 Councilor Montoya stated I do have to say I sat in that Commission Meeting that day these  
509 gentlemen did get grilled. All the questions and concerns were brought up at that meeting.  
510 Everything that was requested, those concerns were met. Commissioner Montoya made a  
511 motion and was seconded. There was a vote 5 to 1. There is no question here. The Commission

512 did their job. They got their information they needed with a lot of work prior to that and a lot of  
513 requests prior to that. I personally feel we do not need to go any further and with that said I make  
514 a motion to deny the appeal of the Planning and Zoning Decision of Piedra Lisa Subdivision.

515  
516 Mayor Chávez stated there is a motion to deny the appeal of the Planning and Zoning Decision of  
517 Piedra Lisa Subdivision is there a second?

518  
519 Councilor Torres seconded the motion to deny the appeal of the Planning and Zoning Decision of  
520 Piedra Lisa Subdivision.

521 Roll Call Vote

522	Councilor Sisneros	Yea
523	Councilor Jaramillo	Yea
524	Councilor Montoya	Yea
525	Councilor Torres	Yea

526

527

528 **APPROVAL OF MINUTES 8a) Regular Meeting of November 23, 2009**

529 Councilor Jaramillo moved to approve the minutes of November 23, 2009 as presented. The  
530 motion was second by Councilor Sisneros and the motion carried unanimously.

531

532 **NEW BUSINESS: 9a) Discussion Consideration and Action on Adoption of**  
533 **Resolution 12/14/09 Authorizing the Application for Community Block Grant (CDBG)**  
534 **Funds for Application Year. Presenter: Maria Rinaldi**

535

536

**RESOLUTION 12-14-09**

537

538 **A RESOLUTION AUTHORIZING THE APPLICATION FOR COMMUNITY**

539

540 **DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR APPLICATION YEAR**

541

542 **WHEREAS**, The Town of Bernalillo wishes to participate in the Small Cities Non-Entitlement  
543 Community Development Block Grant (CDBG) in order to improve the infrastructure of  
544 Bernalillo and the municipal water services to our residents and

545

546 **WHEREAS**, The Town of Bernalillo has solicited public input on community needs at two  
547 public hearings held on November 9, 2009, and on November 16, 2009, and

548

549 **NOW, THEREFORE BE IT RESOLVED** that the Governing Body of the Town of Bernalillo  
550 does hereby authorize Mayor Patricia A. Chávez to sign and submit a Community Development

551 Block Grant (CDBG) application on behalf of the Town of Bernalillo under the category of  
552 Community Infrastructure for Water System Improvements Phase II in the amount of  
553 \$500,000.00.

554  
555 Mayor Chávez called for a vote.

556 Councilor Sisneros moved to approve the adoption of Resolution 12/04/09 Authorizing The  
557 Application for Community Development Block Grant (CDBG) Funds for Application Year.  
558 The motion was seconded by Councilor Jaramillo and the motion carried unanimously.

559

560 **NEW BUSINESS: 9b) Discussion on Terrain Management Plan Review for Soil and**  
561 **Water Conservation Districts. Presenter: James Pike and Will Ouellette, Coronado Water**  
562 **and Soil Conservation District**

563

564 The Terrain Management Plan Review for Soil and Water Conservation Districts was discussed.  
565 The plan review is currently used by Sandoval County Planning and Zoning department. The  
566 report given on the subdivisions terrain review plan is given to the Sandoval County  
567 Commission. It is only recommendation and comments on the subdivision. There is a fee for the  
568 review of a subdivision terrain review plan the fees start at \$450.

569

570 Mayor Chávez and Town Council agreed for staff to review the Terrain Management Plan and  
571 make a recommendation to the Governing Body.

572

573 Maria Rinaldi stated that Grip 2 funding is in line with our streetscape project all the other  
574 Legislative Appropriation funds have been frozen.

575

576 **FINANCIAL SECTION: 9a) Approval of Account Payable List.**

577 Councilor Montoya questioned the Voucher for asphalt repair.

578

579 Santiago Chavez stated it was for pavement repair due to water line repairs and emergency repair  
580 on Calle Don Rodrigo repairs on Oak Street and North of County Building.

581

582 Councilor Montoya questioned the Voucher of Above and Beyond for ornaments. It was brought  
583 to his attention by staff members. It is just a concern of spending. Larger amount of items could  
584 have been purchased for that amount of money. Was that the right thing to do?

585

586 Mayor Chávez stated the ornaments were to commemorate the opening of the Wine Museum. It  
587 is in line with give-a-ways for those special events that we invite the public to. Staff does do  
588 comparison in terms of pricing. The order was cut in half being we did not know how many  
589 individuals would be attending.

590  
591 Councilor Sisneros stated that the way it was brought up to him, was that why it was only the  
592 Mayor's name on back of the ornament.

593  
594 Mayor Chávez stated that it was not date specific, but year specific and in line with items given  
595 away at events like these.

596  
597 Councilor Montoya suggestion that in the future give-a-ways should say "from the Town of  
598 Bernalillo" not just one individual so that it will not be in question.

599  
600 Councilor Jaramillo moved to approve the Accounts Payable List totaling \$479,394.84 as  
601 presented. The motion was seconded by Councilor Sisneros and the motion carried unanimously.

602  
603 **MISCELLANEOUS SECTION: 10b) Streetscape Update.**

604  
605 Maria Rinaldi stated the Streetscape project has been awarded and the contracts are executed to  
606 Star Paving. The construction contract is 140 calendar days.

607  
608 Maria Rinaldi stated that Grip 2 funding is in line with our streetscape project. All the other  
609 Legislative Appropriation funds have been frozen. The DPS station is one of the projects that we  
610 are trying to recoup in the amount of \$217,000.

611  
612 There being no further business the meeting was adjourned at 8:46P.M.

613  
614 Done this 14th day of December 2009.

615  
616  
617 ATTEST:

618  
619 \_\_\_\_\_  
620 Ida Fierro, Town Clerk  
621 (seal)

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