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48 According to the Subdivision Regulations, Section 6.B. Definitions, a “Collector Street is a
49 street which carries traffic from local streets to the arterial streets”. The streets within the
50 subdivision which have homes fronting on them are considered local streets. The
51 definition of Local Streets is “a street which is used primarily for access to the abutting
52 properties”. Arterial streets are defined as “a street or highway usually designed to move
53 high volumes of through traffic”. Venada Plaza Road and Sheriff’s Posse Road can be
54 considered arterials. As shown by the applicant on the proposed plat, Las Ramblas is
55 designed and functions as a collector street by providing access between the local streets
56 within the subdivision to the arterial roadways. There will be no homes fronting on Las
57 Ramblas: it serves to funnel traffic from the local residential streets (which will have
58 homes/driveways abutting the street) to the arterial roadways. Also, the recent rezoning of
59 the Casitas from R-R Rural Residential to R-1 Single Family Residential doubled the
60 density of proposed lots from 19 to 38 in that part of the Subdivision. Any increase in
61 density has the subsequent effect of increasing traffic counts on Las Ramblas.
62

63 In order to grant a variance, there must be a demonstration of substantial hardship on the
64 part of the developer (Subdivision Regulations, Section 18. Modifications and
65 Exceptions). Based on information presented to the Planning and Zoning Commission,
66 there was no substantial hardship demonstrated by the applicant, and the request was
67 denied. According to Bernalillo Planning and Zoning Commission Rules of Procedures, a
68 Main Motion presents a proposition for the passage, adoption or approval of a measure. A
69 motion should not be offered if its only effect is to propose that the Commissioners refrain
70 from doing something since the same result can be accomplished by no motion at all
71 (Article II, Procedures, Sections 2.4.2 and 2.4.5). Since there was no Main Motion by the
72 Planning and Zoning Commission, the request was denied. The applicant is appealing the
73 “non-action of the Planning and Zoning Commission on the
74 Roadway Width Variance Request, VAR 14-014, Corazon del Bosque-Casitas
75 Subdivision.”
76
77

78 From: Andrew Edmondson PE
79 **Re: Appeal of Planning & Zoning Commission Non-Action of Roadway Width Variance**
80 **Request – VAR 14-014 Corazon Del Bosque-Casitas**

81 Tierra West, LLC (Tierra) has submitted an appeal to the Town requesting a variance to the street
82 classification of Las Ramblas. Town staff has classified Las Ramblas as a collector street and
83 Tierra requests Las Ramblas be classified as a local street.

84 Planning and Zoning has submitted information to the Council which provides definitions and
85 regulatory citations for street widths in the Town of Bernalillo. This memo provides additional
86 information concerning street widths.

87 1. The subdivision was designed with: 1) Las Ramblas as the only street into the subdivision; 2)
88 all residential streets are connected to Las Ramblas; and 3) driveway access to property along Las
89 Ramblas. These characteristics are typical of a collector road, and atypical of a residential road.

90
91 2. Increased accidents – In 1994 the Federal Highway Administration conducted a statistical
92 analysis of accident rates on low volume traffic roads for various lane and shoulder widths. The
93 analysis resulted in 11, 12, and 13ft lane widths have substantially lower accident rates than 10ft
94 lane widths, particularly where narrow shoulders exist. The analysis also indicated that wider
95 shoulders reduced accident rates. With 13ft lanes, the accident rate for shoulders 5ft or wider was
96 one-half that for narrower shoulders.

97
98 3. Delays for local residents – Los Ramblas is the only access road to the subdivision. If an
99 accident occurs on the access road and one or more lanes are closed on a narrow road, local
100 residents will be delayed until the accident scene is cleaned up. Wider streets allow more
101 flexibility for routing traffic around the accident scene.

102
103 4. To ensure public health and safety, fire trucks, school buses, and garbage trucks will need to
104 access the subdivision. These vehicles average 10 feet wide and require significantly more room
105 than passenger vehicles to operate. Drivers of passenger vehicles are more comfortable when
106 driving next to larger vehicles when wider lanes and shoulders exist.

107 5. In general terms:

108 a. wider streets allow for faster emergency response times;

109 b. wider streets allow greater site distances, especially when vehicles are parked along the sides
110 or shoulders;

111 c. pedestrians are less likely to “jay” walk across wider streets;

112 d. wider streets provide more options to a driver for unforeseen occurrences (i.e. child runs into
113 road)

114
115 6. Although the subdivision is currently platted for 161 lots, 123 of those lots could be rezoned
116 and re-platted to add in excess of 100 lots.

117
118 Public works believes that Las Ramblas should be defined as collector road according
119 to the Towns Subdivision Design Standards and no waiver granted.

120
121 Ron Bohannon for Tierra West agent for Corazon del Bosque gave a brief overview of the project
122 and reason for variance. The history of the development is in 2008 the subdivision was approved
123 there was an issue with access to the property with a dispute on the entrance with another
124 property owner. It was approved in 2008 with the one entrance to the site. Recession caused the
125 project to stall. The west side was changing drastically new development ceased. In 2014 we
126 noticed life coming back in the housing market. We looked at the front part of the project to

127 change to R1 use. Changing the property from RR to R1 keeping all the drainage solutions and
128 move forward. The biggest change in the roadway next with two access points and relieve traffic
129 of any additional traffic to the area. Lots of work has gone into to create a feeling of arrival
130 special by two drive lanes. Basically, Corazon Del Bosque we project 1,600 cars using the
131 intersection on Sherriff Posse to Venda Plaza to the entrance of the development. A true
132 definition of traffic of 12,000 to 15,000 cars average daily trip is a collector street. Arterial streets
133 traffic is much higher than that. This is what we consider to be a major local street. We want to
134 create the ambiance of the right of way and we are faced with a dilemma.

135
136 The variance we are asking for is a request to allow the right-of-way width to be a minimum of
137 50 feet and the roadway width to be a minimum of 32 feet, back of curb to back of curb. No
138 residential lots will front onto Las Ramblas and based on the total number of possible maximum
139 trips that can be generated in the short stretch of Las Ramblas Road under the existing zoning,
140 the 50 foot minimum right-of-way and 32ft back of curb to back of curb roadway width will be
141 sufficient to carry the traffic. The 32ft width would allow for two 12ft minimum driving lanes
142 and a 4ft to 6ft bike lane if desired. No side streets will connect to Las Ramblas between the
143 gated entrance and its connection to Sheriff's Posse Road, therefore no center turn lane is
144 required and the two 12 to 15 foot driving lanes are sufficient. We therefore appeal to the Town
145 Council to approve the variance request to allow for the Las Ramblas right-of-way and pavement
146 widths as proposed in the preliminary plat for Corazon Del Bosque, Casitas Subdivision.

147
148 Note: Ron Bohannon is presenting the sidewalk variance along with the roadway variance.

149
150 Mayor Torres stated that they will vote on separately and Janet Cunningham-Stephens will have
151 an opportunity to present her staff report on the side walk variance.

152
153 Ron Bohannon stated that the issue of the sidewalks is a hardship to the developer for project.
154 Variance Request to the design standard for construction of sidewalks adjacent to residential
155 roadways within the Corazon Del Bosque Subdivision is requested. The request was to allow
156 sidewalks to be excluded from one or both sides of residential roadways. The justification for the
157 sidewalk variance is from the east property line of the Casitas to Calle del Sol Road is proposed
158 to have a 5ft walking path on each side of the roadway. The sidewalk variance request was
159 intended to allow for the exclusion of sidewalk on one side of a portion of Las Ramblas Road
160 and for the exclusion of sidewalks from both sides of the remaining, minor local residential
161 streets within the subdivision.

162
163 From Calle Del Sol Road to Sherriff's Posse Road, a sidewalk is proposed for only the left side
164 (west) of Los Ramblas. This single sidewalk will link up with the single pedestrian gate at the
165 proposed gated entrance to the Corazon Del Bosque Subdivision. No pedestrian gate is proposed
166 for the right side of the roadway at the entrance which negates the need for a sidewalk on that

167 side of the street. The existing typical section of Sheriff's Posse Roadway from Venada Plaza
168 Road to US 550 does not include sidewalks on either side of the roadway.
169 Back in 2008 they had all of their project set up for a certain market now that has changed to R-1.
170 The changes to the streets and sidewalks would cause changes to the design, marketing ability
171 and drainage which would be a hardship.

172
173 Councilor Jaramillo asked why we would want to eliminate sidewalks

174
175 Ron Bohannon stated that we have small little streets and try to create a connectivity keeping the
176 ambiance of the local feel in the subdivision.

177
178 Councilor Sisneros asked Maria Rinaldi a question there were two other subdivision that wanted
179 the rural type feel with gravel streets no sidewalks how many problems have we had with them.

180
181 Maria Rinaldi Capital Improvements Director stated we have granted variances in the past to
182 several subdivisions and have to address lack of curb and gutter, lack of roadway, on street
183 parking and access of public safety vehicles and are dealing with those subdivisions.

184
185 Councilor Dominguez stated that Mr. Bohannon made a comment that there are not very many
186 subdivisions with sidewalks. The requirements at the time did not require them. There are a few
187 subdivision with narrow streets and there are problems with on street parking and don't
188 accommodate emergency vehicle. If you wanted to keep the style a rural I think you should have
189 kept the lots bigger to accommodate that feel. But you doubled the density which is doubling the
190 amount of houses. When the zoning change was approved it was stated that you would comply
191 with the subdivision ordinance as written. There was a purpose for the ordinance update to be
192 written to require road way width and sidewalks in our subdivisions. I do not see anything in this
193 presentation or in the documentation to grant the variance.

194
195 Ron Bohannon stated all the streets are paved with curb and gutter on street parking. There will
196 be a curb 4 inches in height called a state curb not the normal curb you have on a normal street.

197
198 Councilor Prairie stated that basically the subdivision ordinance needs to be followed so that we
199 do not have to deal with issues that arise with the subdivision not conforming to our ordinances.

200
201 Mayor Torres stated the very first thing I dealt with was on the subdivision that was granted a
202 variance and now the residents wanted curb and gutter and sidewalks didn't want the rural look.
203 We can't undo what was approved in the past. If we approve the variance we assure that there
204 will be not connectivity with the sidewalks on Venada Plaza.

205
206 Mayor Torres swore in those individual that wished to speak for or against the variance roadway

207 width or sidewalk variance.

208

209 Juanita Duran Planning and Zoning Chair stated we looked at the variance and at the ordinance
210 to ensure that we comply with them.

211

212 Mike Moloney Planning and Zoning member stated that we could not see a hardship it is clear in
213 the ordinance that if is for ambiance and local feel to me that is the marketing side of it. The
214 preliminary plat must still come before the Planning and Zoning commission and I will be
215 against the State Curb.

216

217 Tim Flynn O'Brien Attorney for the Corazon Del Bosque stated that these are private roads and
218 have to be maintained by the Homeowners Association. I would disagree on a legal matter and
219 you still have the discretion. I think hardship is not the character and ambiance of the subdivision
220 is not a financial gain. I think someone on private roads is trying to create a certain kind of
221 situation if you agree with it that meets the standard for a variance. I live in a neighborhood in
222 the heights in Albuquerque that has cul-de-sacs and the sidewalks end where they begin. It
223 creates a certain feel more neighborly. It was our intent to go with what was approved in 2008.

224

225 Mayor Torres stated that he wanted to state for the record that the non-action by the Planning and
226 Zoning Commission resulted as a denial of the variance according to their rules and the
227 appropriate method to handle the denial.

228

229 Mayor Torres stated with respect to everyone that has spoken each one of us have been up here
230 for different periods of time and have dealt with similar action that have taken place in the past.
231 Some of us live in those neighborhoods. There are no sidewalks in most of our neighborhoods
232 that each of us live in. The issues and concerns vary from community to community. Our job is
233 to do what is best for our community. I think you have covered the issues well. Is there anything
234 further on this item.

235

236 Mayor Torres entertained a motion.

237

238 Councilor Dominguez moved to uphold the denial of the Planning and Zoning Commission of a
239 Request for a Variance to the Design Standards for Roadway Width for the Corazon Del Bosque
240 Casitas Subdivision. The Motion was seconded by Councilor Jaramillo.

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242 Roll Call Vote

243 Councilor Dominguez Yea

244 Councilor Prairie Yea

245 Councilor Sisneros Yea

246 Councilor Jaramillo Yea

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PUBLIC HEARING: 5b) Discussion, Consideration and Action on Appeal the Decision of the Town Planning and Zoning Commission’s Denial of a Request for a Variance to Sidewalk Construction Width for the Corazon Del Bosque Casitas Subdivisions, located at the Southern End of Sheriff’s Posse Road Containing 12,202 Acres, Zoned R-1 (Single-Family Residential) (Blocks 1 and 2). Presenter: Janet Cunningham-Stephens

Town Council Meeting
Regular Meeting
January 26, 2015

Staff Report
Appeal of Planning and Zoning Commission

Planning and Zoning Commission:

At a regularly scheduled meeting on December 9, 2014, the Planning and Zoning Commission *denied* a request for a Variance to Sidewalk Construction within the Corazon del Bosque, Casitas Subdivision. The applicant is proposing the exclusion of sidewalks from one or both sides of residential roadways within the subdivision including Calle del Sol, Calle Alegria, Calle del Cielo, and a portion of Las Ramblas.

In order to grant a variance, there must be a demonstration of substantial hardship on the part of the developer (Subdivision Regulations, Section 18. Modifications and Exceptions). Based on information presented to the Planning and Zoning Commission, there was no substantial hardship demonstrated by the applicant, and the request was denied.

According to Bernalillo Planning and Zoning Commission Rules of Procedures, a Main Motion presents a proposition for the passage, adoption or approval of a measure. A motion should not be offered if its only effect is to propose that the Commissioners refrain from doing something since the same result can be accomplished by no motion at all (Article II, Procedures, Sections 2.4.2 and 2.4.5). Since there was no Main Motion by the Planning and Zoning Commission, the request was denied. The applicant is appealing the “non-action of the Planning and Zoning Commission on the Sidewalk Variance Request, VAR 14-011, Corazon del Bosque-Casitas Subdivision.”

Planning and Zoning Commission Meeting

*Regular Meeting
December 9, 2014*

Staff Report

Subject:

The applicant, Richard Costales (Corazon del Bosque LLC), represented by Tierra West, LLC (Agent) requests approval of a Variance to the Construction of Sidewalks. Sidewalks would be eliminated along various stretches of roadways within the Corazon Del Bosque, Casitas Subdivision, located at the southern end of Sheriff's Posse Road, containing 12.202 acres, zoned R-1, Town of Bernalillo, Sandoval County, New Mexico.

The Casitas portion of the Corazon del Bosque Subdivision consists of thirty-eight (38) lots out of the total one hundred sixty-one (161) lot subdivision. A final plat of the Corazon del Bosque Subdivision was approved by the Town in February 2008 and recorded at the Office of the Sandoval County Clerk on May 19, 2008. The entire property was zoned R-R (Rural Residential) which requires 12,000 square foot lots, and a minimum width of 70 feet along the front yard setback line. A Zone Map Amendment changing the zoning of the Casitas portion to R-1 (Single-Family Residential) was approved by Town Council on June 9, 2014 as Ordinance No. 282. The Casitas lots are approximately 6,000 square feet in size with lot widths of 60-65 feet.

The applicant wants to eliminate the construction of sidewalks along Calle Alegria, Calle Del Sol and Calle Del Cielo (refer to preliminary plat) and instead provide landscape and pedestrian amenities on Las Ramblas, a collector street within the subdivision. The applicant's justification for sidewalk elimination is that the subdivision is a gated community and it is intended to have a rural feel.

According to the Subdivision Regulations, Section 108 Sidewalk Design, sidewalks must be provided for all properties within the Town of Bernalillo. "Sidewalk designs must provide for the mobility, safety, and comfort of the pedestrian and provide for adequate pedestrian access to abutting property. Sidewalk width shall be 4'-0' minimum."

Section 18 of the Subdivision Regulations allows Modifications and Exceptions if the tract to be subdivided is of such unusual size or shape and/or surrounded by such development or unusual conditions that the strict application of the Regulations would result in real difficulties and substantial hardships. In that instance, the

327 Commission may vary or modify the requirements, so that the subdivider is allowed
328 to develop his property in a reasonable manner, but at the same time so that the
329 public welfare and interest of the Town are protected and the general intent and spirit
330 of the regulations are preserved. Such relief may not be granted if it is detrimental to
331 the public good or impairs the intent and purpose of the Regulations or the desirable
332 development of the community.

333
334 Concerns with eliminating the sidewalks on the local residential streets are as follow:

- 335 1. Subdivision design standards will not be met if sidewalks are not
336 constructed throughout the subdivision.
337 2. For those lots without sidewalks, handicapped persons' mobility
338 options within the subdivision are limited. This includes individuals who
339 are frail, in wheelchairs or walkers, blind, or have other types of
340 handicaps. Americans with Disabilities Act (ADA) standards should be
341 considered in providing safe mobility options for all residents and
342 visitors.

343
344 The subject site is located at the south end of Sheriff's Posse Road, west of the Rio
345 Grande River, south of U.S. Highway 550, and east of NM528.

346
347 **Site Data:**

348
349
350 **Zone:** R-1 (Single-Family Residential)

351 **Surrounding Zoning:** North – R-R and R-1, South – Rio Grande River, East – R-R
352 and R-1, West – S-U (Special Use) and R-1.

353 **Current Land Use:** Vacant

354 **Surrounding Land Uses:** Residential, commercial and vacant

355 **Required Lot Size:** Area – R-R – 12,000 square feet with a lot width of 70 feet along
356 the front yard setback line

357 Area – R-1 – 6,000 square feet with a lot width of 60 feet along
358 the front yard setback line

359 **Access:** Via Sheriff's Posse Road and Venada Plaza Road

360 **Utilities:** Municipal water and sewer to be provided by Town of Bernalillo

361 **Parking:** Residential – Two parking spaces per unit

362 **Handicapped Parking:** Not applicable

363 **Setbacks:** Rural Residential - Front-20 feet, Side-5 feet, Rear-10 feet

364 Single-Family Residential - Front-20 feet, Side-5feet, Rear-10 feet

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Notifications:

Notices were posted at US Bank, T&T Supermart, Town Hall, US New Mexico Federal Credit Union, US Post Office, and on the Town of Bernalillo website. Notices were mailed (certified, return receipt requested) to abutting property owners within 100 feet of the subject site.

Staff Recommendation:

Refer to Findings.

Findings:

1. **VAR 14-011:** Richard Costales (Corazon del Bosque LLC), represented by Tierra West, LLC (Agent) requests approval of a Variance to the Construction of Sidewalks. Sidewalks would be eliminated along various stretches of residential roadways within the Corazon Del Bosque, Casitas Subdivision, located at the southern end of Sheriff's Posse Road, containing 12.202 acres, zoned R-1, Town of Bernalillo, Sandoval County, New Mexico.
2. Section 108 of the Subdivision Regulations states that sidewalks must be provided for all properties within the Town of Bernalillo. "Sidewalk
3. Designs must provide for the mobility, safety, and comfort of the pedestrian and provide for adequate pedestrian access to abutting property. Sidewalk width shall be 4'-0' minimum."
4. Section 18 of the Subdivision Regulations allows Modifications and Exceptions if the tract to be subdivided is of such unusual size or shape and/or surrounded by such development or unusual conditions that the strict application of the Regulations would result in real difficulties and substantial hardships.
5. The applicant is proposing the elimination of sidewalks adjacent to residential roadways because of the intended rural nature of the subdivision.

From: Andrew Edmondson PE

Re: Appeal of Planning & Zoning Commission Non-Action of Sidewalk Variance Request – VAR 14-011 Corazon Del Bosque-Casitas

Tierra West, LLC (Tierra) has submitted an appeal to the Town requesting a variance for sidewalk requirements. According to the Town subdivision regulations and standards all streets within the Town of Bernalillo shall have sidewalks installed. Planning and Zoning has submitted information to the Council which provides definitions and regulatory citations for requirements of sidewalks in the Town of Bernalillo. This memo provides additional information concerning the need for sidewalks.

- 407 1. The Federal Highway Administration (FHWA) Safety Program provides the following
408 information concerning the safety and other benefits of sidewalks.
409 a. Sidewalks separated from the roadway are the preferred accommodation for pedestrians.
410 Sidewalks provide many benefits including safety, mobility, and healthier communities.
411 b. Roadways without sidewalks are more than twice as likely to have pedestrian crashes as sites
412 with sidewalks on both sides of the street
413 c. Providing walkways for pedestrians dramatically increases how well pedestrians perceive their
414 needs are being met along roadways.
415 d. Moving pedestrians off the travel lanes, motorist operations are improved and capacity
416 increased.
417 e. Research indicates that people will walk for recreational purposes if a facility is provided.
418
- 419 2. Public Works contacted the Bernalillo School District and discussed the requirements for
420 school buses. Based upon these requirements there is only one location within the subdivision
421 where students can get on the bus. Only one bus stop will increase the number of pedestrians
422 walking in the subdivision.
423
- 424 3. Tierra states in the appeal letter that several recreational areas have been established which
425 will include pedestrian amenities. Recreational areas within the subdivision will increase
426 pedestrian traffic.
427
- 428 4. Public Works believes that the addition of sidewalks will help prevent damage to various
429 infrastructure components including:
430 a. Water meter cans can be installed on the sidewalks reducing damage to cans.
431 b. The subdivision design includes drainage swales along the road edge. Without sidewalks
432 vehicles will park along the side of the road and damage the drainage swale.
433
- 434 5. There are many areas within the Town where homeowners have encroached upon public right
435 of way by installing fences. Sidewalks help define right of way boundaries and reduce
436 encroachment.
437

438 Public works believes sidewalks should be installed according to the subdivision
439 regulations.
440

441 Mayor Torres stated if there were any further questions in reference to the Sidewalk variance.
442

443 There were no other comments from the public.
444

445 Mayor entertained a motion.
446

447 Councilor Dominguez moved to uphold the denial of the Planning and Zoning Commission of a
448 Request for a Variance to Sidewalk Construction for the Corazon Del Bosque Casitas
449 Subdivision. The Motion was seconded by Councilor Prairie.

450

451 Roll Call Vote

452 Councilor Prairie Yea

453 Councilor Jaramillo Yea

454 Councilor Sisneros Yea

455 Councilor Dominguez Yea

456

457

458 **APPROVAL OF MINUTES:6a) Regular Meeting of January 12, 2015**

459 Councilor Jaramillo moved to approve the minutes of January 12, 2015 as presented. The motion
460 was seconded by Councilor Sisneros and the motion carried unanimously.

461

462 **PERSONNEL: 7a) Water Utility Worker (1). Presenter: Yolanda Mora**

463 Yolanda Mora stated that she is requesting the ratification for hiring Joseph Herrera as a Water
464 Utility Worker for the Town of Bernalillo Water Department.

465

466 Councilor Sisneros moved to approve the hiring of Joseph Herrera as a Water Utility Worker for
467 the Town of Bernalillo Water Department. The motion was seconded by Councilor Dominguez
468 and the motion carried unanimously.

469

470 **NEW BUSINESS: 8a) Discussion Consideration, Action and Adoption of**
471 **Memorandum of Agreement Between the New Mexico Brewers Guild and the Town of**
472 **Bernalillo. Presenter: Maria Rinaldi**

473

474 **MEMORANDUM OF AGREEMENT**

475

476 **WHEREAS**, the Town of Bernalillo has successfully produced an annual festival on Labor Day
477 weekend for twenty-seven years; and

478

479 **WHEREAS**, the New Mexico Brewers Guild desires to establish an annual festival; and

480

481 **WHEREAS**, the Town of Bernalillo and the New Mexico Brewers Guild, wish to enter into a
482 one-year agreement between the parties for the hosting of the Great Southwest Brew Festival at
483 Bernalillo (Festival) September 5 & 6, 2015.

484

485 **NOW THEREFORE**, the parties enter into the following agreement:

486

487 1. The Town of Bernalillo, through its designee, Maria Rinaldi, or her successor, agrees
488 to host the Great Southwest Festival at Bernalillo for the length of this agreement. The Town of
489 Bernalillo will provide the current site for the hosting of this Festival and will participate in the
490 establishment and implementation of a budget for this Festival. Included in this budget will be
491 reasonable site improvements and maintenance expenses directly related to the Festival.
492

493 2. The New Mexico Brewers Guild, through its designee, Chris Goblet, or his successor,
494 agrees that it will participate in the Great Southwest Brew Festival at Bernalillo, New Mexico,
495 for the length of this agreement and will participate in the establishment and implementation of a
496 budget for this Festival. The New Mexico Brewers Guild agrees to encourage New Mexico
497 commercial brewers to participate in this festival and agrees that a minimum of twenty-five will
498 participate
499

500 3. The New Mexico Brewers Guild will contract the commercial brewers, obtain all
501 necessary permits for submittal to the Town of Bernalillo and manage all aspects of brewery
502 involvement in the festival. The parties agree that the New Mexico Brewers Guild will assign
503 booth spaces according to the festival layout and will provide the necessary supplemental
504 agreements for participation by the individual breweries. The parties further agree that all
505 participating breweries will provide tastings at no cost to festival goers.
506

507 4. The Town of Bernalillo and the New Mexico Brewers Guild, through their designees, will
508 jointly develop all aspects of promotion and production and both parties will equally share all
509 expenses and profits of the Festival.
510

511 5. New Mexico Brewers Guild will obtain and keep all rights to the name Great Southwest
512 Brew Festival and associated websites greatsouthwestbrewfest.com and greatswbrewfest.com.
513 The Guild will also maintain all rights to any logo, graphic concepts and designs it creates for the
514 Festival. For the purpose of this festival, "At Bernalillo" will be added to the name
515

516 **Duties and Responsibilities**

517

518 **The Town of Bernalillo agrees to provide the following:**

- 519 • Annual accounting and primary fiduciary responsibility
- 520 • Event grounds and maintenance of the festival grounds (Loretto Park)
- 521 • Event staffing, volunteer coordination, and staff training
- 522 • Coordination of all service provider contracts for festival infrastructure
- 523 • Coordination of festival insurance and security
- 524 • Website development and ticketing services
- 525 • Operation of cash management system and festival bank
- 526

527 **New Mexico Brewers Guild agrees to provide the following:**

- 528 • Coordinate the participation and permitting of all alcohol vendors
- 529 • Coordinate all day-of infrastructure and logistics for alcohol vendors
- 530 • Creation of all graphic design, marketing and promotional materials
- 531 • Engaging all vendors to utilize social media in the promotion of the event
- 532 • Statewide “street team” delivering posters, flyers and marketing materials

533

534 **Both parties agree to collaborate on the following:**

- 535 • Annual budgeting for festival revenue and expenditures
- 536 • Booking of all musicians and non-alcohol vendors
- 537 • Solicitation of additional funding from governmental entities such as New Mexico
538 Tourism Department (NMDT)
- 539 • Finalizing of all marketing materials and advertising placement to include logo,
540 graphic concepts, and designs for the Festival.
- 541 • Acquiring bids/quotes for advertising and placement of all advertising
- 542 • Press Releases and all PR/media coverage of the event
- 543 • Identification of potential service providers and obtaining quotes for services
- 544 • Transportation and Safe Ride options
- 545 • Proper training of all participating vendors to comply with all applicable
546 regulations
- 547 • Coordinate the integration of local businesses into the festival format where
548 possible
- 549 • Oversight of cash management system and festival bank

550

551 **NOW THEREFORE BE IT RESOLVED THAT**, the terms of this agreement shall be enacted
552 from the date of execution through Sept. 30th, 2015. This agreement may be amended by mutual
553 agreement of the parties in writing, but shall not be cancelled by either party prior to Sept 6th,
554 2015."

555 **Done this 26th day of January, 2015:**

556

557 Mayor Torres entertained a motion.

558

559 Councilor Jaramillo made a motion to approve the Memorandum of Agreement between the New
560 Mexico Brewers Guild and the Town of Bernalillo. The motion was seconded by Councilor
561 Sisneros and carried unanimously.

562

563 **NEW BUSINESS:8b) Discussion, Consideration and Action of Bernalillo Police**
564 **Department Personnel Policy Per 3.17 Temporary Disability and Limited Duty Policy.**
565 **Presenter: Chief Tom Romero**

**Bernalillo Police Department
Temporary Disability and Limited Duty PER.03.17**

I. PURPOSE

In the interest of promoting health, wellness, physical rehabilitation and retention of employees, the Department may provide for temporary limited disability benefits and may allow personnel to work in a temporary limited or modified duty assignment based on the employees documented ability and other pertinent restrictions and needs of the Department.

II. POLICY

It is the policy of the Department that it may allow employees who have a serious incapacitating and in the line of duty injury, to be placed on temporary limited disability leave and also any employee who suffers a temporary illness, injury, or disability may be placed on temporary limited or modified duty assignment.

III. SCOPE

Paid temporary limited disability leave shall not exceed six (6) weeks. Paid temporary limited disability leave and temporary limited or modified duty assignment combined shall not exceed twelve (12) weeks. Temporary limited or modified duty assignment only shall not exceed twelve (12) weeks.

IV. PROCEDURE

A. Employees who are unable to perform their regular duties due to a serious incapacitating injury that occurred while in the line of duty enforcing or attempting to enforce laws of the Town of Bernalillo, State of New Mexico or Federal law may be eligible for paid disability leave not to exceed six (6) weeks. For purposes of this policy, a serious incapacitating injury is one that is traumatic and may be considered life threatening or the nature and extent of the injury is such that it requires hospitalization, severally limits the physical capabilities of the employee, and is generally accompanied by severe pain and suffering and a doctor's certificate is provided to the department.

1. The employee or supervisor must submit a written request for temporary limited disability leave through the Chain of Command as soon as practical but no later than five days after the injury is incurred.

2. The employee must provide a written medical release and submit a medical certificate that specifies the extent of the injury and prognosis for complete recovery and the ability to return to full duty.

3. Employees on temporary disability status will not be compensated for shift differential, hazardous duty pay, overtime, or any additional compensation other than continuing to receive their usual and customary pay and benefits they were receiving at the time of the

- 606 injury.
- 607 B. Employees who are unable to perform their regular duties due to a temporary illness,
608 injury, or disability must notify their supervisors immediately. If the employees' regular
609 work assignment has a probability of aggravating the employee's condition or creates a
610 potential work hazard for the employee or others, the employee shall immediately take sick
611 leave or other leave as provided for pursuant to existing leave policies and law except as
612 specified hereinafter.
- 613
- 614 C. Employees may be temporarily assigned to modified duty which poses no threat to the
615 employee's condition or to other employees. Employees, pursuant to this policy, may be
616 assigned to a temporary limited or modified work assignment or schedule assignment with
617 the Department based on the following:
- 618 1. The employee must make a written request for temporary limited or modified duty
619 through the Chain of Command as soon as practical but no later than five (5) days after
620 the illness, injury, or disability affects their ability to fulfill their regular and normal
621 duties.
- 622 2. The Department will make objective decisions when approving requests for temporary
623 limited or modified assignments and will make them consistent with E.E.O.C. and ADA
624 guidelines. Final approval for granting temporary limited or modified duty assignments
625 will be made on an individual basis and will be based on the needs of the Department.
626 Temporary limited or modified work duty assignments will not be made for off-duty
627 injury, illness, or disability if the potential for the situation to develop into a Workman's
628 Compensation action is inherent and probable.
- 629 3. An employee that has been on temporary disability may qualify for temporary limited or
630 modified duty provided that the total time of the disability leave and temporary limited or
631 modified duty leave may not exceed a total of sixty (60) work days (twelve (12) weeks).
- 632 4. The employee must provide a written medical release and submit a medical certificate
633 signed by the employee's physician releasing the employee to work in a temporary and
634 limited assignment. In order to be considered for temporary limited or modified work
635 assignment, the certificate MUST specify the following:
- 636 a. Any specific work restrictions.
- 637 b. A prognosis for complete recovery and the ability to return to full duty.
- 638 c. If approved, the employee will be assigned and report directly to the Chief of
639 Police or Lieutenant for limited or modified assignment.
- 640 d. Working hours are generally 0800 to 1700, with one hour for lunch unless
641 otherwise specified by the Lieutenant or Chief of Police.

- 642 e. Employees may be assigned to work at another Department within the Town of
643 Bernalillo at the discretion of the Chief of Police and Town Administrator with
644 approval by the Mayor.
- 645 f. The employee may be assigned to take walk in reports, assist citizens with record
646 requests, administrative duties, or any other duties as assigned. Employees may leave
647 the department for other purposes as may be authorized by the Chief of Police or
648 Lieutenant.
- 649 g. Employees on temporary limited or modified duty will not be compensated for
650 shift differential, hazardous duty pay, comp time, or overtime.
- 651 h. Dress code for administrative duty shall be consistent with department policy
652 PER .03.04.
- 653 5. The temporary limited or modified duty assignment shall be reviewed every 14 days by
654 the Chief of Police, Town Administrator, and the Human Resources Director. A written
655 request for extension shall be provided by the employee for each 14 day review period.
- 656 6. Employees on limited or modified duty assignment shall complete and submit a written
657 weekly report to the Lieutenant and Chief of Police.
- 658 7. Employees are expected to return to full duty as soon as possible and shall immediately
659 report and submit a request along with a written release from the employee's physician to
660 the Chief of Police for return to full duty. The release will be forwarded to Human
661 Resources.
- 662 8. Department personnel shall not feign injury or illness in order to obtain a temporary
663 limited duty status. Department personnel may be subject to disciplinary action up to and
664 including termination if an injury, disability, or illness is discovered to be false or
665 misleading.
- 666 9. Approval for temporary limited or modified duty assignment may be withdrawn and
667 terminated if an employee participates in any non-work related or personal activity that
668 would involve physical use or be contradictory to the physical limitation or disability that
669 initially allowed for the authorization of temporary limited or modified duty assignment.
- 670 10. Temporary limited or modified duty assignment shall immediately terminate for any
671 employee who incurs an additional or further injury, illness, or disability while on
672 temporary limited or modified duty assignment.
- 673 11. Employees on temporary limited or modified duties are not allowed to have or maintain
674 secondary employment.
- 675 12. Employees who are on temporary limited duty may be eligible to participate in any
676 promotional processes or transfers, based on the understanding that the employee has a
677 favorable prognosis for full recovery.

- 678 13. When an employee is granted limited or modified duty based on a non-work related
679 injury, illness, or disability, the limited or modified duty may be granted for a maximum
680 period of sixty (60) work days (twelve (12) weeks).
- 681 14. The sixty (60) work days (twelve (12) weeks) are based upon an eight (8) hour day and
682 five (5) day work week including any leave time utilized.
- 683
- 684 15. Work hours may be adjusted for additional medical appointments for work related
685 injuries.
- 686 a. For work related injuries there is a date of maximum medical improvement. This
687 is the date after which further recovery from or lasting improvement to an injury can
688 no longer be reasonably anticipated based on reasonable medical probability.
689 (Workman's Compensation Act – Chapter 52, Article 1 NMSA 1978).
- 690 16. Employees who are assigned a Department vehicle shall be required to discontinue use of
691 the vehicle and return the vehicle to the Department. Employees will not be assigned a
692 take home vehicle while on limited or modified duties. Employees may be allowed to
693 utilize an unmarked Department vehicle, if available, for approved on-duty related Town
694 business. A doctor's release is required in order for an employee to operate a department
695 vehicle while on limited or modified duty and to return to unrestricted duty.
- 696 17. Employees may be reassigned to a vehicle upon full release to duty, based on availability
697 and Department need.
- 698 18. Sworn employees may not carry firearms or take any type of law enforcement action
699 while on temporary limited or modified duty. Upon obtaining a medical/physical release
700 to return to unrestricted duty, a doctor's written release to carry a firearm is required and
701 the employee must re-qualify with all firearms the employee is authorized to carry.
- 702 19. Probationary employees that have been employed by the Town for at least six months and
703 are placed on temporary limited or modified duty assignments shall have their probation
704 period suspended until such time they return to unrestricted duty. Probationary employees
705 employed less than six months are not eligible for temporary limited or modified duty.
- 706 20. Upon exhausting the total of twelve (12) weeks of temporary disability leave and/or
707 temporary limited or modified duty leave, and if applicable and necessary, the employee
708 may utilize any other leave as may be available at that time by Town policy, State and/or
709 Federal law.
- 710 21. Temporary limited or modified duty leave time may only be utilized once in a rolling
711 twelve (12) month period regardless of the amount of time used or the reason for any
712 subsequent injury, illness, or disability.
- 713 22. The rolling twelve (12) month period begins on the first day of use of temporary limited
714 or modified duty leave.

- 715 23. Violation of any provision(s) of this policy may result in immediate disciplinary action up
716 to and including termination of employment.
717 24. This policy supersedes all previous policies, procedures, directives, and referenced
718 appendixes currently in effect or previously rescinded regarding limited or temporary
719 duty.

720 Mayor Torres entertained a motion.

721
722 Councilor Dominguez made a motion to approve the Police Department Personnel Policy PER
723 3.17 Temporary Disability and Limited Duty Policy. The motion was seconded by Councilor
724 Jaramillo and the motion carried unanimously.

725

726

727

**NEW BUSINESS: 8c) Discussion, Consideration, Action and Approval of
Amendments to Vacation and Leave Policy. Presenter: Juan Torres**

728

729

730 Juan Torres presented the changes on the amendments to the Vacation and Leave Policy with the
731 corrections requested when it was first presented and the exemption of the Police Department from
732 Section V Scheduling Vacation Leave. Page 12 last bullet added “However a continuation may be
733 granted month by month for any amount of time that management approves.” Page 16 top of the page
734 Compensatory Leave add the acronym “FSLA non-exempt employees of the Town of Bernalillo”
735 Last bullet of Procedures for Employees added ‘in taking sick leave, the employee shall take
736 compensatory time prior to using earned sick leave’. Those are all the changes made.

737

Attachment A Leave Policy

738

739

740

Mayor Torres entertained a motion.

741

742

Councilor Prairie made a motion to approve the Amendments made to the Vacation and Leave
Policy. The motion was seconded by Councilor Dominguez and the motion carried unanimously.

743

744

FINANCIAL SECTION: 9a) Approval of Accounts Payable Voucher List.

745

Mayor Torres asked for a motion to approve the accounts payable voucher list in the amount of
\$159,711.69.

746

747

748

749

Councilor Sisneros made a motion to approve the accounts payable voucher list in the amount of
\$159,711.69. The motion was seconded by Councilor Prairie and the motion carried
unanimously.

750

751

752

753

754 **MISCELLANEOUS SECTION: 10a) Public Comment.**

755 None.

756

757

758 **MISCELLANEOUS SECTION: 10b) Announcements. Presenter: Mayor Torres**

759 Ida Fierro stated that the Municipal Legislative Day will be February 25th with the reception on
760 the 24th at La Fonda. Please let me know by Friday to register those interested in going.

761

762 The fire department is close to completion.

763

764 Juan Torres Town Treasurer stated that he has received the completed action plan from our
765 auditors on repairing the audit finding. On Thursday the Mayor, Ida and I are meeting with the
766 State Auditor on the corrective action plan for our audit exceptions. I have received the 2014
767 audit and it will come before you at the next meeting for approval.

768

769

770 Andy Edmondson Public Works Directors stated the restrooms are now working at the recreation
771 center.

772

773 Mayor Torres stated that there will be a State of the Town on February 18, 2015 @ 6:30 here in
774 the Council Chambers.

775

776 There being no further business, Councilor Jaramillo moved to adjourn the meeting at
777 7:50 P.M. The motion was seconded by Councilor Sisneros and carried unanimously.

778

779

780 Done this 26th day of January 2015.

781

782

783 ATTEST:

784

785 _____
786 Ida Fierro, Town Clerk
(seal)

Jack S. Torres, Mayor