

**REGULAR CITY COUNCIL MEETING MINUTES
MONDAY, SEPTEMBER 11, 2006
SAN GABRIEL MISIÓN
1 CALLE DE LAS ESPAÑOLAS
ESPAÑOLA, NEW MEXICO**

The meeting was called to order at 6:03 p.m. with the following present:

Mayor	Joseph M. Maestas
Mayor Pro Tem	Alice Lucero
Councilors	Helen Kain-Salazar Eddie Maestas Alfred Herrera Danielle Duran Cecilia Lujan Dennis Tim Salazar Rosario “Chayo” Garcia
City Manager	Chris Rainwater
City Attorney	Angela “Spence” Pacheco
City Clerk	Veronica Martinez
Staff	Ivan Guillen Cyrus Samii Rick Vigil John Kitchen Lesah Sedillo

Mayor Maestas led the Pledge of Allegiance and Mayor Pro Tem Lucero led the invocation. A moment of silence was observed in honor of the fifth anniversary of the terror attacks of September 11, 2001.

Approval of Agenda

Mayor Maestas presented the agenda and asked if there were any changes, deletions or amendments.

Councilor Lujan made a motion to approve the agenda as presented, Mayor Pro Tem Lucero seconded; the motion passed with an 8/0.

Approval of Minutes

Mayor Maestas presented the minutes of August 14, 2006 for approval.

Mayor Pro Tem Lucero moved to approve the minutes as presented, seconded by Councilor Kain-Salazar; the motion passed with an 8/0 vote.

Public Hearing

Mayor Maestas introduced the next item, Public Hearing for appeal from Ernesto Sena of the Planning and Zoning Commission’s decision to deny his special use permit.

Cyrus Samii, Planning Director spoke to this item. He described Mr. Sena’s application as a special use permit to operate a day care center out of his home, and stated that at the time it went to the Planning and Zoning commission, it was denied. Mr. Sena chose to appeal the commission’s decision to the City Council. Mr. Samii stated that there was no further recommendation from the Planning Department.

The public hearing opened at 6:08 p.m.; Mayor Maestas asked for citizens to speak for or against the appeal. He asked if there were group representatives to speak on behalf of the organizations present. He asked the clerk’s office to time the speeches and limit them to two minutes.

Mr. Rawley spoke against the appeal. His mother lives at 141 Valley Estates Drive. He stated that the reasons for his dissent was on behalf of his mother, who lives next door, and this daycare center would be stressful to his mother and detrimental to the neighborhood. He stated that a petition had been signed by 62 of 67 residents of Valley Estates against the Sena's request for a special use permit.

Jeanette Salazar, also of Valley Estates, spoke against the appeal. She stated that granting the Sena's request would set precedents in conflict with their current covenants. Of the five neighbors within 100 feet who received a letter, four signed the petition against the appeal. She stated that the architectural and planning committee of the Valley Estates Association Board was not consulted on this request, as is required.

Mr. Jose Romero, Vice President of Valley Estates Board, stated that they wanted to send a strong message of the importance of their covenants. He stated that going against their covenants could affect resale values and increase traffic in the neighborhood.

Ms. Norma Robinson, who lives across the street from the Senas, and a board member in Valley Estates spoke against the appeal. She stated that she had sent a letter stating her reasons against the appeal were the issue of violating covenants, concerns about safety of children loading and unloading by the fire station, and that those next door would be affected by the noise of the children in the morning, which is contrary to their peace and comfort.

Chief John Kitchen stated that he was approached by Janette Salazar and Ms. Watson and was sent documents regarding the issue. He stated that there was an easement sold to Valley Estates by the original property owners for use of the fire department to turn the engine out of the station. He stated that the proposed loading area in this same easement, and would be of concern to him, because without the easement, the truck would be unable to turn, and it would be dangerous if it were allowed to remain as there could be children present while the truck needed to go out on call.

Mary Jo Apodaca of Valley Estates stated that initially Mr. Sena had said they intended to have 4-8 kids and not 8-15; to allow them to have a daycare would set precedent for businesses in the residential area and doesn't think its appropriate. She stated that this issue had created animosity amongst the neighbors, but wished the Senas well.

Joe Salazar, of Valley Estates stated that one of the reasons he bought a home in Valley Estates in 1980 was that it would be exclusively residential; covenants assured it would remain residential. He stated that there are many who exercise by walking early in the morning and in the evening and that more traffic would endanger the life of those on the streets during their exercise.

Mabel Amador stated he is against the appeal because the home it is not designed for 20 kids, and that Mr. Sena has told a different story about the number of children to different people, but it is too many children to be safe.

Karen Yardmire, against the appeal, stated that Mr. Sena should have a daycare center if he chooses, but not in a residential area; there are plenty of commercial areas. All residents signed the covenants and the set clear expectations of homeowners. Peace and quiet is appropriate in a residential area; daycare is appropriate in a commercial area.

Ms. Robinson passed out pictures for the council to review.

Ernesto Sena spoke in favor of the appeal. He thanked the council for their consideration. He stated that when he brought the issue to Planning and Zoning, his intentions were not to undermine the covenants of Valley Estates. He said he spoke with June Kelley, who was president of the board at the time, and that the board did not meet for 2 years. He worked with Ms. Kelly to find out how to pursue the matter, and was sent to petition Planning and Zoning. He stated that he had changed the anticipated number of children from 20 to 8 since then. New Mexico allows up to 6 children to be watched in a home without permitting and that the proposed square footage was sufficient for 8 children. He stated that the daycare would not create detrimental traffic amount compared to Wal-Mart, Sears, Taco Bell, etc. across the street. He stated that he would like to be allowed to have 8 children, which is his appeal.

Arthur Mascarenas, stated he has lived in Valley Estates for 37 years, and is the chair of Architectural Committee. He stated that Mr. Sena's claim that the Valley Estates Board was defunct is not true, that they just missed one meeting because a member was out of town. The proposed daycare is on the corner out to McCurdy road, which is a dangerous blind spot and it is not a good situation, combined with the Fire Department, and the traffic from Sunset Drive, it's a

bad idea to approve the appeal, bad to people of Valley Estates, the children he might serve and himself would be exposed to danger and he prone to liability issues.

Jeanette Salazar stated that Mr. Sena was incorrect; June Kelly was Treasurer of the water board, not president, and she also signed the petition against the appeal, and said Sena had misled June Kelly. Jose Romero is the Vice president, and Steve Quintana is the Treasurer.

The public hearing closed at 6:30 p.m.

Mayor Maestas asked for the pleasure of council.

Councilor Salazar made a motion to uphold the Planning and Zoning's decision for denial, seconded by Councilor Lujan and Councilor Lucero.

Under discussion, Councilor Duran commented that she had contacted the New Mexico Municipal League regarding the covenants and zoning laws, making sure that they are only allowed to make decision regarding the zoning ordinance, regardless of the outcome, the covenants would be a separate issue.

A question of what reason the original application was denied was directed to Cyrus Samii. Mr. Samii defined that a Special Use Permit is required when most aspects of the proposed use is compatible with regulations, but one thing may be incompatible, making a Special Use Permit required. The Planning department has no criteria to weigh against, per se, but stated that the use should not be detrimental to the peace, quiet, health, or welfare of the neighborhood. In reviewing the application, the parking and site plans were considered and it was voted that it would not be compatible, with traffic being the main reason stated. He stated that the Planning Department had no further recommendation.

Councilor Herrera thanked the participants of the public hearing and stated that he applauded Mr. Sena for his day care center endeavor because there was a need in the Valley. He stated that regardless of the vote, he encouraged Mr. Sena to continue with his effort, even if not approved, to pursue his business in a commercial area.

Councilor Lujan commented on the participation of parties on both sides of the appeal and on Valley Estate's organization and preparation. She wished Mr. Sena the best, and stated that we needed to take a stand on safety.

Mayor Pro Tem Lucero stated that she was familiar with the area, and was also concerned with the safety of citizens who walk in neighborhood. She stated that she was not convinced of the safety of children in the area. The traffic and congestion had already increased in the area due to developments on North Riverside, and all the neighbors want a quiet, safe neighborhood. Her main concern was safety, and as the use did not conform with the neighborhood, stated she would be voting against the appeal. She stated that she hopes the Senas pursue their business elsewhere.

Roll call: Councilor Kain-Salazar – for the motion, Councilor Maestas – for the motion, Mayor Pro Tem Lucero - for the motion, Councilor Herrera – for the motion, Councilor Duran – for the motion, Councilor Lujan – for the motion, Councilor Salazar – for the motion, Councilor Garcia – abstained from voting; the motion passed with a 7/0 vote.

Old Business

Mr. Rainwater introduced Resolution 2006-24 Declaring Surplus Property. Mr. Rainwater stated that he would suggest removing the three vehicles that did not have a year indicated and asked for approval.

Mayor Pro Tem Lucero moved to approve Resolution 2006-24, seconded by Councilor Lujan and Councilor Herrera.

Under discussion, Councilor Herrera had a question whether the late 1990 models were inoperable or obsolete and not repairable.

Mr. Rainwater stated that when these items are presented for disposition, most times they are junk, and the maintenance is cost-prohibited, and they are better to salvage.

Councilor Garcia asked if the pool could use the walkers from the senior center. It was agreed that they are inoperable and/or not usable, as they could be a liability issue.

Motion passed 8/0.

New Business

Mayor Maestas stated that the City would be hosting a reception and dinner in conjunction with the National League of Cities Hispanic Elected Local Officials Summit on September 29 from 6:00-9:00 or 9:30 and requested permission to serve beer and wine in the Misi3n. He encouraged the council to attend. Mayor Pro Tem Lucero commented it was an honor to host the HELO Summit, as it would bring people from all over the nation.

Mayor Pro Tem Lucero moved to approve the request to serve beer and wine during the reception, seconded by Councilor Lujan.

Councilor Duran asked if was city-funded or a National League of Cities event. Mayor Maestas stated that it was NLC; no city funds were involved.

The motion passed with an 8/0 vote.

Matters from the Mayor

Mayor Maestas welcomed Councilor Garcia back to the council after having two back surgeries.

Mayor Maestas stated that in future meetings the Council would be bringing up matters formally to discuss in an open manner and to set the stage for those items to be acted on in the future. He stated that the retreat last Friday they were able to comprehensively look at capital projects, discussed all projects and plans to make them happen and encumber funds. He stated that the governing body and management are preparing to finalize legislative agenda to set stage to be able to engage with other governments and entities to talk about a regional agenda. This will happen annually for both capital improvements and the legislative agenda.

Councilor Garcia stated that she was amazed at what was done at the retreat, and appreciates everyone's hard work. She asked if the City planned on having a lobbyist, or if the council would be lobbying on behalf of the City. Mayor Maestas stated that it had not yet discussed, but elected officials should do it, noting that there was neither the desire nor the budget for a lobbyist and it seems like it's not needed. Councilor Garcia offered her help with this effort.

Councilor Herrera commended the council and administration for embarking on the endeavor of trying to understand the current status of appropriations and grants and looking to the future. He commented that the retreat session was a diligent and cooperative effort and he was very happy with it. He was glad that they were tracking the things they said they would during the campaign. He was glad that the legislative discussions had happened early so that we could be prepared to express our priorities to the legislative delegation.

Mayor Maestas stated the next step was a federal legislative agenda to secure those funds, which are not as easy.

Mayor Maestas introduced the ethics in government discussion issue. They ran on this in the election, and stated that it is not the history they are concerned with but the future. He stated that a resolution would be acted on at this meeting and that an Ordinance would be coming at the October 23 meeting, with the council to be able to provide feedback in the meantime. He stated that this administration would not tolerate cronyism, nepotism, or things of that nature. He stated there was a need to implement ethics starting with the council.

Mayor Maestas commented on the communication efforts made by the administration. He stated that accountability is the act of opening up the doors of government and making affairs transparent to the public, as well as welcoming feedback from citizens. He stated that historically, the local newspaper has not always been reliable to report accurately, and so we had hired a Public Information Officer to help with these efforts. Mayor Maestas reported that city officials would be talking on a Los Alamos radio station to discuss city affairs, a 1/2 hour show every Monday to report what's going on in the City of Espa3ola. KDCE had also committed to one show on the Friday after city council meetings but the city was working on a weekly show so the public can find out first hand what's happening. He stated that other venues for broadcasting city news was being looked into, including a new website and newsletter. Additionally, the city was working to have meetings televised on local access.

Councilor Herrera commended the administration for its efforts at an accountable, responsible, transparent government. He stated that he was disappointed and upset by the press coverage and asked that the local newspaper engage to promote a positive image for our beautiful city, and get away from the negativity constantly portrayed. He stated that Chris Rainwater was doing a good

job on his efforts to get the word out by meeting with the media regularly. He stated that someone should provide complete fair accurate info to the citizens, as that's what they deserved.

Councilor Lujan stated that we are moving in the right direction, because citizens need to hear the positive along with the negative.

Mayor Pro Tem Lucero commended Chris Rainwater and Mayor Maestas for implementing new policy and stated that with change comes growing pains but we'd get through them.

Councilor Salazar added that there were good things happening in the city and this was a good start to get the word out.

Mayor Maestas stated that we would be working together for 3.5 years and need to settle into a peaceful coexistence. He stated that there is so much to do and we must share the attitude and commitment to work together and communicate, and if we did, great things would be done.

Matters from the City Manager

Mr. Rainwater reported on the status of the Special Audit. He reported that the contract had been prepared by our City Attorney and sent to the audit firm. He stated that the audit was scheduled to begin October 1 and that the firm would determine the end date

Mr. Rainwater gave an update on the status of City Hall, the Police Department and Detention. He reported that the asbestos removal in the tile glue would begin September 5 and would be complete by the end of the month, and that during the removal; there would be no harm to employees or visitors. He reported that there was not a damage estimate yet and that the police department and detention were working well at the Valor Center. He reported that 911 would be operating out of the mobile command center while their space was being cleaned at the city hall building.

Policies and procedures status; Mr. Rainwater reported that a team of staff was working on revising the personnel policy, the drug and alcohol policy, and the safety policy. He stated that the safety function had been reorganized, and moved directly into the individual departments where it belongs. Each department would have a safety representative, which would comprise the citywide safety committee. He stated that the Utility ordinance would be brought to committee for review.

Mr. Rainwater gave an update on the utility collections efforts, reporting that in January of 2006, the delinquent active accounts balance was \$74,5000, and as of August 2006, it was \$45,500, a 39% reduction. He stated that currently staff was focusing on the collection of active accounts but would also be working on collecting all outstanding accounts.

Mr. Rainwater gave an update on water/wastewater connections, stating that there are two issues, those without available service and those not willing to connect. He stated that the with the compliance issue, those persons would be identified, a public meeting would be held explaining the need to connect to available services and then we would be able to enforce compliance. As for those who cannot connect due to lack of available services, a map would be made listing those without services and a plan to connect them as rapidly as possible would be made.

Mr. Rainwater stated that though he was not in attendance at the Taos workshop, it seemed as though the meeting was productive. He thanked the Council for the goals they set out for him, stating that he was looking forward to accomplishing those goals and that they had provided an exciting agenda. Councilor Herrera stated that meeting was productive, that he came away with sense of accomplishment and enthusiasm. All agreed that the workshop was very productive and that the Council should conduct more. Councilor Salazar agreed that a lot was accomplished and that many important goals were set. Councilor Maestas stated that more retreats should be scheduled quarterly to discuss progress and evaluate campaign promises. Councilor Kane-Salazar stated that she was sorry she could not attend, but would like to participate in future workshops.

Councilor Lucero asked that Executive Session be moved to the end of the agenda.

Mayor Maestas introduced Resolution 2006-31, an Ethics Resolution, stating that this resolution set ethics standards for the governing body and set the stage for an Ethics Ordinance that would be brought to council at a later date.

Councilor Duran moved to adopt Resolution 2006-31, seconded by Councilor Maestas; the motion passed 8/0.

Mayor Maestas introduced Resolution 2006-32, ICIP Adoption; Ivan Guillen spoke about the ICIP stating that the ICIP program was for 2008-2012, and all comments have been incorporated from the Taos workshop. Mr. Guillen asked for questions from Council; there were none.

Councilor Lujan moved to adopt Resolution 2006-32, seconded by Councilor Kane-Salazar and Councilor Herrera; the motion passed 8/0.

Mayor Maestas introduced Resolution 2006-33, A Resolution Declaring GRIP II Project, and explained that the priority was the widening of 106 to El Llano Road, but because 106 was a state highway, it was discussed that the Laguna Street project was the next priority. He stated that the City should also urge the Governor to consider the extension of the Rail Runner Commuter line. Councilor Durán stated that Secretary Faught had given a presentation at NMLL conference regarding GRIP II projects, stating that the highway department will find money besides the GRIP II funds for state highways, so they want to see local street projects for the GRIP II projects. Councilor Duran stated that she had also spoken with Santa Clara Development Corporation, and that they were also interested in opening Laguna Street to help alleviate congestion caused by casino traffic.

Mayor Pro Tem Lucero moved to approve Resolution 2006- 33, seconded by Councilor Salazar, the motion passed 8/0.

Mayor Maestas introduced Resolution 2006-34, Mainstreet Reconstruction Project, stating that this project had been discussed numerous times and then the project stopped. He stated that this was a top priority for the City and the citizens on North Railroad, stating that this Resolution asks that this project move forward to improve our downtown area.

Councilor Duran moved to adopt Resolution 2006-34, seconded by Councilor Herrera; motion passed with an 8/0 vote.

Mayor Maestas presented Resolution 2006-35, Establishing Housing Commission. Angela Pacheco commented on this resolution. She stated it was cautionary on her part to ensure that they set the housing commission on a solid foundation, and to make sure that there are no problems in the future; essentially, this resolution reaffirms the commission and the commissioners already appointed.

Councilor Maestas moved to adopt, Councilor Kane-Salazar and Councilor Lujan seconded; the motion passed with an 8/0 vote.

Committee Reports

Councilor Lucero reported that the Public Utilities meeting would be September 12 at 6:00 p.m. at city hall.

Councilor Maestas gave a community services report stating that he was glad to see participation of division heads at the meeting, and thanked Chris Rainwater for his efforts in inviting them to participate. He reported that Mainstreet is working on the light parade project and that it is tentatively scheduled for December 9 and that they are proposing a fundraiser.

Councilor Durán reported that at the last Economic Development meeting they discussed open meetings for Windstream, but those were pending research by the governing body. The second item discussed was hiring a true economic developer, but they did not come to a conclusion at the meeting. She reported that there was not a meeting in September.

Councilor Herrera stated that at the Public Works meeting on August 23, they discussed many items. The discussion continued on easement with schools for drainage purposes; Chris Rainwater would meet with the schools and DOT and report back. Ohkay Owingeh's need for road services was discussed, as was the Ash Loop drive issue and lighting issue; and reported that the committee would be working on street light policy and speed bump policy.

Public Safety – Councilor Salazar stated that the next meeting would be September 21 at 6:00 P.M. He also welcomed Anabelle Gasca as the new interim Police Chief.

Public Housing – Councilor Maestas reported that Rick Vigil had drafted a status report that was provided to Council. Rick Vigil reported that the Authority had been reporting on time and correctly and were regaining the good graces of HUD. Councilor Herrera complimented Mr. Vigil for his good work and accountability to HUD.

Employee Recognition

Mayor Pro Tem Lucero introduced Eric Tafoya of the Fire Department, who was selected for Employee of the Month for August. Mayor Maestas presented the certificate of award and check for \$50 to Mr. Tafoya.

Mayor Maestas began the next presentation of employee recognition, stating that at the beginning of this administration's term, it was overwhelming and lonely, and our City Clerk Veronica Martinez took on a lot, including a role as Personnel Director in addition to her duties as City Clerk. Mayor Pro Tem Lucero presented a plaque to Ms. Martinez in appreciation for her service.

Executive Session

Councilor Lujan moved to go into executive session pursuant to Section 10-15-1 (H) 7 of the Open Meeting Act to discuss the enforcement of an existing settlement agreement, seconded Mayor Pro Tem Lucero. The roll call vote: Councilor Kane-Salazar for the motion, Councilor Maestas for the motion, Mayor Pro Tem Lucero for the motion, Councilor Herrera for the motion, Councilor Duran for the motion, Councilor Lujan for the motion, Councilor Salazar for the motion, Councilor Garcia for the motion; motion passed 8/0.

The governing body convened in closed session at 8:11 p.m.

Councilor Duran made a motion to come out of executive session stating that the only matter discussed was the matter of the enforcement of an existing Settlement Agreement, seconded by Councilor Lucero, roll call vote: Councilor Kane-Salazar for the motion, Councilor Maestas for the motion, Mayor Pro Tem Lucero for the motion, Councilor Herrera for the motion, Councilor Duran for the motion, Councilor Lujan for the motion, Councilor Salazar for the motion, Councilor Garcia was absent for the vote; motion passed 7/0.

Executive session ended 9:40 p.m.

Councilor Durán made a motion to adjourn, seconded by Councilor Lujan; the motion passed 7/0.

PASSED, APPROVED AND ADOPTED OCTOBER 10, 2006.

Electronic copy – signatures on file