



Approved 5-0
Feb. 7, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

M-I-N-U-T-E-S

Tuesday January 24, 2017@ 3:00 pm

Valencia County Administrative Offices Commission Room

444 Luna Ave, Los Lunas, NM 87031

Present

Chairman Michael McCartney

Vice-Chairman LeRoy Baca

Commissioner Steven Otero

Commissioner Frank Gurule

Commissioner Sue Moran

Public Works Director Lina Benavidez (Not Voting)

Valencia County Legal Council David Pato (Not Voting)

1) Call the meeting to order

Chairman McCartney

2) Pledge of Allegiance

Commissioner Otero

3) Approval of Agenda

Lina Benavidez requested item 6(B) to be tabled until February 7, 2017.

Agenda approved with requested change

Motion to approve: Commissioner LeRoy Baca

Motion seconded by: Commissioner Sue Moran

Motion carries 5-0

4) Approval of Minutes December 15, 2016

Minutes approved.

Motion to approve: Commissioner Sue Moran

Motion seconded by: Commissioner Frank Gurule

Motion carries 5-0

5) Swearing in of participants

Chairman McCartney

6) Action Item(s)

A) Re-organization of Planning & Zoning Commission

Elect Chair and Vice-Chair

Commissioner Gurule motioned to nominate Commissioner Michael McCartney for Chairman.

Commissioner Baca nominated Commissioner Sue Moran for Chairman.

Commissioner Moran declined the nomination



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Feb. 7, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Commissioner Moran seconded Commissioner Gurule's motion

Roll Call Vote for Commissioner McCartney as Chairman

Commissioner Otero-Yes
Commissioner Gurule-Yes
Commissioner Baca-Yes
Commissioner Moran-Yes
Commissioner McCartney-Yes
Motion Passed 5-0

Commissioner McCartney motioned to nominate Commissioner Frank Gurule as Vice-Chairman.

Commissioner Baca seconded the motion.

Commissioner Gurule declined the nomination.

Commissioner Otero nominated Commissioner Baca for Vice-Chairman.

Commissioner Gurule seconded Commissioner Otero's motion.

Roll Call Vote for Commissioner Baca as Vice-Chairman

Commissioner Otero-Yes
Commissioner Gurule-Yes
Commissioner Baca-Yes
Commissioner Moran-Yes
Commissioner McCartney-Yes
Motion Passed 5-0

Adopt Open Meetings Act for 2017

Commissioner Moran motioned for approval as presented.

Commissioner Baca seconded the motion.

Motion passed 5-0.

Mr. Pato: I apologize for doing this and especially after approval of the motion, but in reviewing this Open Meetings Resolution, we will need to increase the time with which the agenda will be available from 24 hours to 72 hours to conform with changes in the law. That will be in paragraph two and paragraph four, or it's in paragraph three.

Chairman McCartney: I think the way the motion was made it was as presented. So we should be covered in regards to that.

Mr. Pato: That is correct. We will have to revisit this resolution here. So again, Section 10-15-1 (D) of the Open Meetings Act has been revised and requires 72 hours' notice for publication of the agenda and therefore 24 hours' notice for publication is not sufficient. Paragraph two is going to have to be updated and paragraph three is going to have to be updated and paragraph four is going to have to be updated to reflect the changes in 10-15-1.



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Feb. 7, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

89 **Chairman McCartney:** If I may ask sir, how does that affect us today?

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91 **Mr. Pato:** I understand the agenda was available more than 72 hours in advance of this
92 meeting and had been published. Is that correct Lina?

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94 **Mrs. Benavidez:** Yes, that is correct.

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96 **Commissioner Moran:** I will amend the motion to approve the Open Meetings Act
97 Resolution as amended to reflect 72 hours.

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99 **Commissioner Otero:** Does that void the last motion.

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101 **Chairman McCartney:** I think that is what the attorney is saying, correct?

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103 **Mr. Pato:** That is correct, yes. That will suffice.

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105 **Commissioner Baca:** I seconded the motion.

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107 Motion to approve the Open Meetings Act Resolution as amended passed 5-0.

Adopt Robert's Rules of Order

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109 Commissioner Gurule motioned to approve as presented.

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111 Commissioner Otero seconded the motion.

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113 **Commissioner Baca:** I would like to have a discussion on that before... I have a question on
114 number three where it states "3. Any previously tabled Agenda item that appears on a
115 subsequent Agenda is automatically un-tabled once the Agenda is approved by the Valencia
116 County Planning & Zoning Commission". I think the attorney cleared it up for me but I am
117 not sure they cleared it up for everybody in the commission.

118
119 **Mr. Pato:** Mr. Chairman I would be happy to provide clarification for that. Under Robert's
120 Rules of Order, when an item gets tabled, it will automatically be listed on the agenda for the
121 boards consideration. You can table it at that time again for subsequent consideration at a
122 later meeting but as a matter of course it will appear on the agenda for the next meeting for
123 consideration and an action by the board.

124
125 **Commissioner Baca:** It automatically has to appear, definitely I think. It has to appear
126 regardless. If it is not mentioned it still has to be put on there?

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128 **Chairman McCartney:** Not unless they request a delay.

129
130 **Mr. Pato:** Any commissioner can request an item be removed from the agenda. So yes it can
131 come off the agenda. It will automatically be un-tabled. It's just a matter of course under
132 Robert's Rules. It will just show up on the next agenda for consideration by the board.



**Approved 5-0
Feb. 7, 2017**

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Ms. Maes: My apologies Mr. Chairman. The Open Meetings Act will be Resolution Number 2017-01 and the Robert's Rules of Order will be Resolution Number 2017-02.

Commission Baca: We need to vote on this.

Chairman McCartney: Did you have a question?

Commissioner Baca: Yea, I didn't hear the motion or the vote so we have to vote on it.

Commissioner Baca moved to accept the Roberts Rules of Order as presented.

Commissioner Gurule seconded the motion.

Motion passed 5-0.

Adopt Conference Call Resolution

Chairman McCartney: Mr. Pato do you have any input on this Conference Call Resolution?

Mr. Pato: Mr. Chairman, just briefly. This is a perfectly acceptable way to approach the Conference Call Resolution. It requires that in order to participate by means of conference telephone the Board annually consider and approve the resolution reflecting that. Often times the Board of County Commissioners includes this within the Open Meetings Act Resolution. I was talking to Lina about that and hopefully next year we will provide a consolidated resolution reflecting that. But this is a perfectly acceptable way to do it as well by having a separate resolution authorizing participation by means of the conference telephone.

Chairman McCartney: Does anybody have any questions about this?

Commissioner Gurule: Is there a time notice such as an hour or a day before to be involved in the conference call?

Mr. Pato: No there isn't. Just sufficient time for staff to get the conference call ready.

Commissioner Otero: The conference call has to be from start to finish. You can't just pick and choose.

Mr. Pato: That is absolutely correct. The Attorney General's Office has made it clear that you cannot just pop in for one item and get off. You have to go through the entire hearing.

Commissioner Moran motion to accept the Conference Call Resolution as presented.

Commissioner Otero seconded the motion.

Motion passed 5-0.

Ms. Maes: That will be Resolution Number 2017-03.



**Approved 5-0
Feb. 7, 2017**

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Adopt 2017 Planning & Zoning Commission Schedule

Chairman McCartney: The next item is adoption of the 2017 Planning & Zoning Commission schedule. Does anybody have any questions or discussion or objections or suggestions?

Mrs. Benavidez: Just for the record I would like to mention that we do have that Special Meeting on February 7, 2017 and would like to reflect that.

Chairman McCartney: Just for Commissioner Otero's knowledge, the way it has been is the last Tuesday at 3:00 pm of every month Steven.

Commissioner Otero: Okay.

Chairman McCartney: Is everybody fine with that?

Mrs. Benavidez: With the exception of November and December due to the holidays.

Ms. Maes: That is reflected on the calendar.

Commissioner Otero: So the 7th is a 3:00 meeting as well?

Mrs. Benavidez: Yes that is correct.

Chairman McCartney: If I understand this correctly Kerrie, it is the 16th of November?

Ms. Maes: Yes sir. It will be Thursday November 16th and Thursday December 14th.

Chairman McCartney: Is everybody okay with that? If so let's have a motion to approve.

Commissioner Gurule motioned to accept the 2017 Planning & Zoning Schedule as presented.

Commissioner Moran seconded the motion.

Motion passed 5-0.

Chairman McCartney: As you know as Lina stated action item 6(B) has been tabled. So let's proceed to action item 6(C).

B) *This item was tabled until February 7, 2017 at 3:00 pm.*

Request for Conditional Use within a C-1 (Neighborhood Commercial) Zone

Application: CU #2016485

Applicant: Carlos Carrasco

Location: 17-A El Cerro Road, Los Lunas, NM

Legal Description: T7N, R2W, Section 26; Map 72, N.M.P.M.; Subdivision:



Approved 5-0
Feb. 7, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Bobson's Unit D, Inc.; Tract: 1; Zoned C-1 (Neighborhood Commercial); Filed in Plat Cabinet J; Plat Number 278; in the Valencia County Clerk's Office; Los Lunas, NM. 87031.

This property is located 0.20 miles south of Main Street on El Cerro Road

This property falls within District V

County Commissioner Jhonathan Aragon ♦ P&Z Commissioner Michael McCartney

C) Request for Zone Change from:

Rural Residential 2 (RR-2) to Neighborhood Commercial (C-1)

Application: ZC # 2016378

Applicant: Ladis Romero & Evelyn Braman

Address: Ladis Lane-Tract 92-A-2-C-2, Los Lunas, NM 87031

Purpose: Future development of office spaces, shops, storage facility and parking space for family owned local business(es).

Legal Description: T6N, R2E, Section 16, Map 85, N.M.P.M; Tract 92-A-2-C-2, 5.42 AC, C-5-16 (Ladis Romero); Zoned RR-2 (Rural Residential-2); Filed in Book 14, Page 240 of the Valencia County Clerk, Los Lunas, NM 87031.

This property is located approximately 0.20 miles south of Tavalopa Rd. & on the south side of Ladis Lane

This property falls within District II

County Commissioner Billy Ray Martinez ♦ P&Z Commissioner Steven R. Otero

Mrs. Benavidez read the application and legal description.

Chairman McCartney: Mr. Romero and whoever is going to speak for you please step to the podium please and state your name for the record please.

Commissioner Baca: I have a question on this and I think that we should discuss it. I asked the attorney if we had to kind of like do something or if it would just be okay for us to hear it even if it was wrongly stipulated on the news.

Mr. Pato: I would propose that it is not and the reason why is one, to show that the reason we have these notice requirements is that we want to make sure that all folks that are interested or affected by this item have an opportunity to come and attend and listen and hear the same things that you are hearing so that they can question the applicant and have the applicant question them with respect to those particular items. As unfair as it is to the applicant and I understand and appreciate their situation, we want make sure we are fair to them and we want to make sure we are fair to the County property owners as well. So therefore I don't think it would be appropriate to hear those folks out without having it properly noticed.

Chairman McCartney: Even though in essence it is from a Rural Residential zone and the fact is this body here is only a recommending body, the County Commission makes the decision.



Approved 5-0
Feb. 7, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Commissioner Baca: This is a quasi-judicial item and it is only a recommendation for the Commission so I don't see that it really matters but you stated there was a case in which it did matter.

Mr. Pato: That is correct.

Commissioner Baca: You might want to explain to the public because we don't want to put ourselves in a position that will have to go into litigation.

Chairman McCartney: I have another question. Lina, can this be on the Special Meeting on the 7th?

Mrs. Benavidez: No it cannot because we need to give proper notification to the residents which I believe is already past the deadline of 15 days.

Chairman McCartney: So your recommendation is to table it to the next meeting, correct Mr. Pato?

Mr. Pato: If it is not properly noticed then yes, absolutely.

Chairman McCartney: Will you please explain to the audience for us.

Mr. Pato: I apologize to the members of the audience for coming for an item that was improperly noticed. Ultimately the public has a right to attend and listen to the deliberations of the Board, and despite the fact that the Boards' recommendation is simply a recommendation to the Board of County Commissioners and not a binding determination, the public still has a right to attend and listen and to be properly noticed as to those items that are going to be considered by the Board and unfortunately this item was not properly noticed and therefore is not appropriate for consideration at this meeting and will be on a subsequent agenda.

Commissioner Otero: I am totally confused as to what is happening here.

Mrs. Benavidez: Chairman would you confirm which item you are talking about because we have already tabled item B for improper notice.

Chairman McCartney: Item 6 (C) in regards to Mr. Romero.

Mrs. Benavidez: This item was not...the notifications had...in December they had gone out improperly. So then they requested...

Chairman McCartney: Mr. Pato is the one claiming that it didn't. He said it says RR-1. On the agenda it says RR-2.



**Approved 5-0
Feb. 7, 2017**

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mrs. Benavidez: On the last agenda it said RR-1. That was the improper notification. Now we made the correct proper notification to RR-2 to the correct zoning.

Commissioner Baca: And that is the correct zoning?

Mrs. Benavidez: Yes that is the correct zoning RR-2.

Commissioner Baca: We have...someone saw that it was eluded to RR-1. It doesn't matter to me. I would like to hear it anyway.

Mr. Pato: That one has been properly noticed. My apologies, I thought you were talking with respect to item (B) which had been tabled for that purpose which had not been adequately noted.

Chairman McCartney: The way the agenda reads, it reads correctly.

Mr. Pato: That's correct.

Mrs. Benavidez: The last meeting it was noted as RR-1 and everything should have been corrected for this meeting.

Chairman McCartney: Are you ready to proceed Commissioner Baca?

Commissioner Baca: Yea I am ready.

Mrs. Braman: My name is Evelyn Braman and my father Ladis Romero is here. I am a resident from Georgia and in transition so I will be a resident of Valencia County within the next couple of years. In reference what we are requesting is the rezoning...the property in question is zoned RR-2 and it does have a Commercial C-1 section in the front of the property. So we are in essence requesting the rest of that property to be zoned as C-1. At this time, respectfully, we would hope and like to request a postponement of this zoning issue until April and the reason for that request is because we had spent our time and resources preparing to prove that property was zoned C-1 in the beginning and on January 12th I found out that-yes- the Planning & Zoning Office did confer with our research that it was zoned C-1 where previously we were told it was RR-2 only. So there was a little bit of confusion and as a result we spent all of our time and resources. I live in Georgia so I have been commuting back and forth. We have already consulted a surveyor to get an exact acreage as to the C-1 area that is zoned C-1. So we respectfully request a postponement. I do have a map of the area if you would like to see what map I am talking about.

Chairman McCartney: Go ahead and approach.

Mrs. Braman: If you notice the area in question is the big section that has the red and the green. We do not know the dimensions of that C-1 at this time. We have since taken the information that I had available researching from the maps that were at the County Clerk's



Approved 5-0
Feb. 7, 2017

VALENCIA COUNTY PLANNING & ZONING COMMISSION

Office. I have taken them to Mr. Tibbets and hopefully with his computer generated he can accurately calculate the exact acreage of that red portion there. So it is not the whole 5.42 acres, because that part is already zoned as C-1. We thought it was maybe an acre but it could be 1.6 acres. We are not sure as to the exact size of that this time and therefore are requesting a postponement until April.

Chairman McCartney: Commissioners do you have any questions for Mrs. Braman?

Commissioner Baca: You said you discovered that it actually was C-1, or a small portion of it. I know that when I read this information that we have here it was stated that it was not really-that was an error.

Mrs. Braman: That is what we were told but it was always my father's understanding for over twenty years that that was C-1 until he was recently informed that it was RR-2, that there was some error on the overlay. We have since consulted an attorney. I went to the court house and got copies of all of the maps and the maps and the current map is 2006 which shows this area in red is still commercial, and this map that you are seeing here was obtained from Mr. Martinez' office in 2010 which still showed the commercial area there.

Commissioner Otero: She has asked to have this rescheduled until April. Is it not proper to continue on this meeting and I am going to ask this of Mr. Pato. There are a lot of people here that have come for this meeting. Do we hear what we have to hear now and continue the meeting?

Chairman McCartney: I think the question was asked to see why it's being tabled, not to get into the project itself. I understand what Steven is saying. Basically she has explained why she needs it tabled and just needs more time and opportunity for applying resources. I think we just need to make a motion to agree with her. Mr. Pato?

Mr. Pato: If the Board is so inclined to table the matter until April, yes it would be a motion to table it until April.

Chairman McCartney: And hopefully we will have a Planning & Zoning Director by then huh Lina?

Commissioner Gurule moved to allow the applicant to table the item as per the applicants request until April 25, 2017.

Commissioner Otero seconded the motion.

Roll Call Vote:

Commissioner Otero-Yes

Commissioner Gurule-Yes

Commissioner McCartney-Yes

Commissioner Baca-Yes



**Approved 5-0
Feb. 7, 2017**

VALENCIA COUNTY PLANNING & ZONING COMMISSION

397 Commissioner Moran-Yes

398 Motion Passed 5-0

399

400 **Chairman McCartney:** Thank you for coming anyway and explaining why you want the
401 request tabled.

402

403 **Mrs. Braman:** Thank you.

404

405 **7) Discussion**

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407 **8) Next Meeting:**

408 Tuesday-February 7, 2017 @ 3:00 pm (Special Meeting)

409 Tuesday- February 28, 2017 @ 3:00 pm2

410

411 **9) Adjournment.**

412 Motioned by Commissioner Otero

413 Seconded by Commissioner Baca