

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY**  
**REGULAR COUNCIL MEETING**  
**GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM**  
**August 28, 2007 – 7:00 p.m.**

**Present:** James R. Marshall, Mayor  
A. Judith Ward, District 1  
Thomas Nupp, District 2  
Simon Wheaton-Smith, District 3  
Steve May, District 4

**Also Present:** Alex C. Brown, Town Manager-Finance Director  
Ann L. Mackie, Town Clerk  
Robert Scavron, Town Attorney  
Peter Russell, Community Development Director  
Alexandra Perrault, Town Planner

**CALL TO ORDER / PLEDGE OF ALLEGIANCE** - Mayor Marshall called the meeting to order at 7:05 p.m.

**CEREMONIES** – None.

**PROCLAMATIONS** – None.

**PUBLIC INPUT** – None.

**COUNCIL COMMENTS** – Councilor Ward commented that Jim Taylor of Taylor Auto complimented the Town, during his commercial on a local radio broadcast, for the work being done on Hudson Street. She complimented Silver City MainStreet for their recent awards. She encouraged people to recycle and to call the Public Works Department if they need to change the size of their garbage container. She stated that KOAT TV mentioned Silver City in their August 28<sup>th</sup> evening broadcast because it is listed in Budget Travel Magazine as one of the ten smallest and best towns in the United States. She stated over 2 million people receive the magazine so it could make an impact on the Town.

Councilor Nupp commented that the new automated garbage collection has changed the regular schedule for garbage pick up to an earlier time. He also reported on the amounts of rain that the Silver City area has received this summer: 3.44” of rain in the last 30 days; 6.96” of rain from July 1 to present; and 7.61” of rain from June 1 to present.

Councilor Wheaton-Smith commented on several events that he had attended: the State MainStreet Conference, the opening of the Document Center, the Copper Country Cruizers’ event, and the Mimbres Regional Arts Council meeting. He commented on the Lodger’s Tax revenue received from the Copper Country Cruizers’ event because there were 142 cars displayed and 122 of those cars were from out of town visitors. He commented on the dangers facing children when they have to go around illegally parked cars. He asked Mr. Brown for the status of cross walks on Bullard Street. Mr. Brown advised that he would instruct the Director of Public Works to add more cross walks.

Councilor May commented that several of his long time customers had expressed their concern that there are not enough assisted living facilities in town. He stated that they told him that they will have to move to Las Cruces in order to obtain adequate assistance. He asked Mr. Brown, Town Manager, what was being done to remedy this situation. Mr. Brown advised that the Health Council and other organizations recognize the importance of providing this service to the community, and that it is a major part of economic development for the town. He said there were many organizations actively working on solving the problem. Councilor May stated that he would like to see the Town make an effort to expedite a solution. He also commented on the traffic light delays at Hudson and Broadway. Mr. Brown advised that the State Highway Department has been asked to correct the timing of the lights at that location. Councilor May remarked on the August 28th newspaper article in the Silver City Daily Press that addressed the laws against parking on the wrong side of the street and parking on sidewalks. Mr. Brown stated that the Silver City Police Department will enforce those laws. Councilor May commented on

the passing of Robert H. Johnson on August 25, 2007, and paid tribute to him as Director of the New Mexico Foundation for Open Government (FOG). He stated that Mr. Johnson was a tremendous newsman and a great marine, and his passing will be a real loss to the State of New Mexico with regard to his work with FOG.

Mayor Marshall commented that he issued a proclamation for "William F. Fulginiti Day" on August 30, 2007 to honor Mr. Fulginiti's 30<sup>th</sup> year of service as Executive Director of the New Mexico Municipal League. The proclamation will be presented at the New Mexico Municipal League's 50<sup>th</sup> Annual Conference on August 30<sup>th</sup>. The Mayor stated that as Chairman he conducted the first Water Planning Retreat for the Grant County Water Commission. He stated it was unanimous that they continue the meetings and remarked that there were 10 different water providers represented in the group. He expressed his pride in his wife for taking first place in the red salsa contest at the Farmer's Market on August 25<sup>th</sup>. Mayor Marshall addressed Councilor May's concerns about assisted living facilities and stated there have been a lot of meetings held by Senior Services. He stated Senior Services has been reviewing different models and they are getting a collaborative effort in the community formed so they can be more effective. He stated that there was a meeting the previous week that involved several key players in health care and long-term care. He stated progress is being made; Senior Services, SIGRED, the Health Council, and private primary care providers are involved. The Mayor commented to Councilor May that he would inform him of future meetings.

**CHANGES TO THE AGENDA** – Mayor Marshall requested that New Business: Item C: Appointments to the Recycling Advisory Board be moved to the top of New Business since Mr. Terry Timme was in the audience. There were no objections by the Council so the agenda was changed accordingly.

**APPROVAL OF MINUTES – August 14, 2007 Special Council Meeting – ETJ Joint Work Session with the Grant County Commission:** Councilor Ward moved to approve the Minutes. Councilor May seconded the motion. All were in favor, motion passed. **August 14, 2007 Regular Council Meeting:** Councilor Ward moved to approve the Minutes. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed.

**REPORTS** – None.

**PUBLIC HEARINGS – Ordinance No. 1137: A zone change (ZC 07-5) amending the Town's official zoning map by rezoning from Commercial to Residential B Lot 4, Block 268, Fraser Addition (1402 Corbin Street) bounded by Corbin Street to the west, and generally south of 16<sup>th</sup> Street, north of 13<sup>th</sup> Street, and east of Swan Street.** Mayor Marshall announced that the Town Council would serve as the Hearing Board, and he would be the presiding officer. No member of the Hearing Board had ex parte discussions with any person regarding the subject, or had any communications from any party to the case. Mayor Marshall asked all parties and witnesses, including staff members to come forward to be sworn in to testify. Alexandra Perrault, Peter Russell, Cyndi Donovan, and Pat Fell were sworn in by the Town Clerk. Mayor Marshall stated the procedures of the Hearing. Ms. Alexandra Perrault, Town Planner, presented the details of the ordinance: the applicants have applied for the zone change because the area consists of primarily residential properties and they are trying to sell their home. She stated that the applicants believe that the current Commercial zoning has resulted in a loss of potential buyers because it creates an obstacle for people trying to obtain financing. She advised that the staff of the Community Development Department recommended the zone change to the Planning and Zoning Commission, and at the August 7, 2007 Planning and Zoning Commission meeting the Commission voted to approve the applicant's request for a Map Amendment/Zone Change. The Commission's finding was that the proposed amendment is in substantial compliance with the Town's Comprehensive Plan; this finding fulfills the requirement stated in Section 151.92(B)(4) of the Land Use Code. Ms. Cyndi Donovan addressed the Council and requested approval of the zone change because it would help them to sell their house. The Mayor asked Ms. Donovan if that concluded her case, and she responded that it did. There were no opponents of the zone change. Councilor May moved to adopt Ordinance No. 1137 per Finding Number 1 that the proposed amendment is in substantial compliance with the Town's Comprehensive Plan. Councilor Nupp seconded the motion. There was no further discussion. A roll call vote was taken with the following results: Councilor Ward – aye; Councilor

Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. The motion passed unanimously. Mayor Marshall declared the Hearing closed.

**UNFINISHED BUSINESS** – None.

**NEW BUSINESS** –

**A. Appointments to the Recycling Advisory Committee.** Mayor Marshall commented that he and Mr. Terry Timme, Chairman of the Recycling Advisory Committee, reviewed the applications and recommend appointing Raul Turrieta, Nancy Cliff, Sharon Young, Alan Archer, and Richard Mahler. There was consensus by the Council to appoint those applicants. The Mayor encouraged all of the applicants that were not selected to participate in the process by attending the meetings.

**B. Resolution 2007-26: Town of Silver City shall enter into a Grant Agreement with the State of New Mexico Environment Department, identified as SAP Project 07-4475-GF Water and Wastewater System Improvements.** Mr. Alex Brown, Town Manager-Finance Director, presented the details of the Resolution and advised that the New Mexico Legislature has appropriated \$500,000 to the New Mexico Environment Department to do the project in Silver City. Mayor Marshall stated that he would entertain a motion. Councilor May moved to approve Resolution 2007-26. Councilor Ward seconded the motion. Councilor May confirmed with Attorney Scavron that the contract was worded correctly. Manager Brown advised the project should be done in 8 months. There was no further discussion. All were in favor, motion passed.

**C. Appointments to the Land Use Code Task Force.** Mayor Marshall commented that there were 12 applicants for 7 open positions. Mr. Peter Russell advised that the Task Force would be working for approximately 6 months, and their first organizational meeting with the planning consultant is scheduled for September 13, 2007. Mayor Marshall advised that he considered several factors when reviewing the applications: the history of the applicant with the Town, the applicant's formal knowledge of the Land Use Code, and to have representation from each district. The Mayor recommended John Paul Jones from District 1; Nancy Gordon from District 2; Joe Hutto from District 3; George Lundy from District 4; David Gershenson who is on the Planning and Zoning Commission; Ernest Terrazas, Jr. who is a contractor; and Patrick Conlin who is a realtor. The Mayor received consensus from the Council to appoint those applicants. Councilor May thanked all the people that had applied, but were not selected. The Mayor concurred with Councilor May and he encouraged all of the applicants that were not selected to participate in the process by attending the meetings.

**D. Bid 07/08-1: Pope Street Improvements.** Manager Brown advised that they received 1 bid for the Pope Street Improvements, Phase II, which is the section from 13<sup>th</sup> Street to Highway 180. He stated that the major part of the work will be re-construction of approximately 100 feet on 13<sup>th</sup> Street to address the drainage problems. He stated the entire project will get curbs, gutters and sidewalks where needed. He said that Pope Street between 13<sup>th</sup> Street and Highway 180 will be a mill and overlay job. He stated that the project should take 45 days, and the engineer's estimate for the project was \$155,000.00. Manager Brown stated that the 1 bid received was from Southwest Concrete and Paving for \$133,043.75 plus gross receipts tax of \$9,645.68 for a total of \$142,689.42. He stated that the Town staff's recommendation is to award the bid to Southwest Concrete and Paving. Councilor May moved to approve Bid 07/08-1 for Pope Street Improvements. Councilor Ward seconded the motion. Councilor May thanked Manager Brown and Robert Esqueda, Director of the Utilities Department, for visiting with the businesses that are on Pope Street. Manager Brown confirmed that new water lines will be put in place during the construction. Councilor Nupp asked Manager Brown if there were penalties if the 45 days were not met. Manager Brown advised that there are penalties, but there is also an allowance for extensions due to inclement weather. Councilor Nupp asked when the job would begin and Manager Brown said it would begin within 2 weeks. Councilor Ward asked if the mill and overlay will come down to 12<sup>th</sup> Street. Manager Brown confirmed that it will only go to 13<sup>th</sup> Street, but eventually the section between 12<sup>th</sup> Street and 14<sup>th</sup> Street in front of Sears will have to be re-done. Councilor Nupp asked how it was going to affect the traffic on Pope Street. Manager Brown advised that the only section of Pope Street that will have one-way traffic during the mill and

overlay process will be where it curves at 13<sup>th</sup> Street and goes to Highway 180 West, and the rest of Pope Street will not be affected. There was no further discussion. All were in favor, motion passed.

**E. Bid 07/08-2: Water System Improvements: 2007 Colonias CDBG (Community Development Block Grant) No. 07-C-NR-1-07-G-10.** Manager Brown presented the details of the bid for a water replacement project on Chihuahua Hill. He stated that they received bids from AUI, Incorporated, J & S Plumbing, Smithco Construction, Incorporated, and Morrow Enterprises. He stated that the lowest bid was from Smithco Construction, Incorporated. Their base bid was \$463,547.50 plus an additive alternate #1 at \$82,130.00 for a total of \$545,677.50 plus gross receipts tax of \$39,561.62 for a grand total of \$585,239.12. Manager Brown stated that Smithco's bid was below the engineer's estimate of \$587,535.00. He stated that it is the Town staff's recommendation to award the bid to Smithco Construction, Incorporated. He advised that the project has a 50 day construction period and Smithco has assured the Town that they can meet the CDBG deadline. Councilor Wheaton-Smith made a motion to award Bid 07/08-2 to Smithco Construction, Incorporated. Councilor Ward seconded the motion. Councilor May commented on how much lower Smithco's bid was in comparison to the engineer's estimate, and questioned why there were such great fluctuations between the 4 bids. Manager Brown stated that the costs differences are because of parts, profit and mobilization. He also stated that local businesses are competing with out of town contractors because business has slowed down throughout the state. Councilor Wheaton-Smith asked when the project will begin and end. Manager Brown stated the project has to be completed by the end of October in order to meet the CDBG deadline. Councilor Wheaton-Smith commented that this project will probably tear up the roads. He asked if this project will be followed by a street repair project; if so, would the street project address the flooding issues. Manager Brown stated that the next CDBG infrastructure project is on Chihuahua Hill and commented that the reason these projects are so expensive is because a large portion of the projects are for the drainage improvements. There was no further discussion. All were in favor, motion passed.

**ADJOURNMENT** – Councilor May made a motion to adjourn the meeting at 7:55 p.m. Councilor Wheaton-Smith seconded, all were in favor, motion passed.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk