

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM
September 11, 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
Robert Esqueda, Utilities Director
Peter Pena, Public Works Director
Chief Ed Reynolds, Police Department

CALL TO ORDER / PLEDGE OF ALLEGIANCE - Mayor Marshall called the meeting to order at 7:02 p.m.

CEREMONIES – None.

PROCLAMATIONS – Mayor Marshall proclaimed September 24-28, 2007 as “Employ Older Workers Week” and September 24, 2007 as “Family Day – A Day to Eat Dinner with Your Children”.

PUBLIC INPUT – Mr. Frank Kenney, Executive Director of Grant County Senior Services, made comments following the Mayor’s proclamation of “Employ Older Workers Week”. He commented on the benefits of employing older workers, and invited all employers and interested retirees to attend the Open House of “Employ Older Workers Week” at the Grant County Administration Center on October 3, 2007 from 11:00 a.m. to 1:30 p.m.. Ms. Amy Silva made comments following the Mayor’s proclamation of “Family Day – A Day to Eat Dinner with Your Children”. She commented that in 2004 President George W. Bush proclaimed the fourth Monday in September as “Family Day – A Day to Eat Dinner with Your Children”. She stated that a study done by Columbia University determined that the more often children eat dinner with their families; the less likely they are to smoke or use alcohol or drugs. She thanked the Mayor for supporting the children of this community by issuing the proclamation. Mr. Dale Arguello made his comments during the discussion of the Notice of Intent Ordinance No. 1135 under Unfinished Business.

COUNCIL COMMENTS – Councilor Steve May commented on a citizen’s letter that expressed several concerns: the trash on Ridge Road; the traffic light problems on Highway 90 at Broadway and at College; her desire to have a Denny’s Restaurant and Target Store; and the weeds that are around fire hydrants. He discussed with Mr. Alex Brown, Town Manager, how to issue citations to drivers with uncovered loads. Mr. Brown stated that the landfill is in the county and any citations given at the landfill would have to be made by the County’s Code Enforcement Officer. He and Councilor May agreed that it is an issue that both entities, Town and County, need to work on together to resolve. Councilor May referred back to the citizen’s concern about the traffic lights on Highway 90 and asked Mr. Brown if the State Highway Department had resolved the traffic light problems. Mr. Brown stated that the State Highway Department has been here many times to fix the problems at several locations, but he will call them again. Councilor May commented that the citizen wants a major department store and a national restaurant in Silver City, and remarked that those businesses would be great, but we don’t have the population to support them. Mr. Brown commented that the owners’ of the companies make their business decisions based on the population; it is not decided by Town Council. Councilor May asked Mr. Brown what can be done about the weeds around the fire hydrants. Mr. Brown stated that the Fire Department has a fire hydrant testing program, and he will ask them to notify the Public Works Department when any weeds need to be cleared. Councilor May asked Mr. Brown why the Lodger’s Tax Revenues are down. Mr. Brown stated he did not think it was because of a down-turn, but it may be attributed to the weather. Councilor May commented on the reduction in water consumption and asked Mr. Robert Esqueda, Utilities Director, to explain. Mr. Esqueda stated that the

differences in the water production between 2006 and 2007 are mostly based on the timing of the rains each year; increased rains mean less water production. He stated that so far this year the Town has pumped 50 million gallons of water less than was pumped at this time last year. He stated that 50 million gallons is the same as one winter month's amount of gallons pumped, which is a significant savings. Other reasons for the reduction in water production were discussed: it was attributed to the rains; consumer conservation; increased efficiencies of the water pumps at the wastewater treatment plant; upgrades of the motors at the well fields; and because many leaks have been repaired. Councilor May referred to the Municipal Court's monthly report and asked Chief Reynolds to explain what a Stop, Stand, Park Prohibit citation is. Chief Reynolds advised there are about 8 different violations in that section: stopping traffic in roadway; blocking traffic; parking within a certain amount of feet in an intersection; crosswalk; stopping/blocking/parking at railroad crossings, fire hydrants, sidewalks; and parking against traffic, etc.. Councilor May commented that he still sees a lot of skateboard violations. Chief Reynolds stated that the amount of citations written during the month of August was about half the normal amount because other activities have increased. Councilor May commented that crosswalks are still needed on Bullard and he has also received a request for a crosswalk at Hudson and 12th Street. Mr. Brown confirmed those requested crosswalk locations with Mr. Peter Pena, Public Works Director, who was in attendance.

Councilor Wheaton-Smith requested status of the online Library catalog from the Town Manager. Mr. Brown advised that the hardware is in and the Library is close to resolving the problem. Councilor Wheaton-Smith asked Mr. Brown if he tracks the progress of Requests for Proposal (RFP's) because many are delayed before they are brought to Council. Mr. Brown stated that the Purchasing Department will submit a status report on the RFP's to the Council before each meeting. Councilor Wheaton-Smith commented that he spoke with the lady that sent the letter to the Council. He stated that when the new Code Enforcement Officer is hired, that person could help with the problem of the weeds around fire hydrants, etc.. He also commented that Denny's Restaurant needs a population of 50,000 people, and the reason that Deming has one is because they are on the freeway. He added that Home Depot and Lowe's require a population of 20,000. Councilor Wheaton-Smith asked Mr. Brown how the Town is addressing the issue of very narrow streets where people park on both sides of the street. Mr. Brown stated that that is a very important issue, especially now with the new garbage trucks. He stated that the Public Works Department and the Police Department were looking into that problem. Councilor Wheaton-Smith commented that he attended a Mimbres Region Arts Council affair and stated how important they are to our community; as well as the Chamber of Commerce and the Silver City MainStreet Project.

Councilor Nupp commented that he has accumulated 25 inches of rain at his station in the north end of town from September 1, 2006 to September 1, 2007, and he also had 30 inches of snow. He stated that those were good reasons why the Town is not selling as much water. He stated that it has rained all but two days in the month of August in Silver City or the tri-city area. He commented that the training that the Council received at the Municipal Officials Leadership Institute was beneficial because some members of the Council are writing legislation now. He stated that we have over 125 years of ordinances from the past, and some may need to be corrected; such as those regarding streets, sidewalks, and building permit fees. He also commented that the Council will also be working on a new City Hall, a new Library, a new events center, and a new outdoor center; all of which need more space. Councilor Nupp asked Mr. Brown for the status of the patching of Little Walnut Road; Mr. Brown advised the batch plant went down so the completion date cannot be determined. Councilor Nupp asked Attorney Scavron if littering is a criminal offense with reference to the trash on Ridge Road. Attorney Scavron advised that any violation of a Town ordinance is a misdemeanor, and it is a criminal offense. He stated that there is a difference in our Municipal Code of Ordinances between throwing litter out your window and having an uncovered load. He stated that there is a general illegality of misdemeanor for littering, but for uncovered loads there is a penalty assessment of \$10 for each unsecured or uncovered load that shall be paid by the person or entity who agrees to accept the penalty assessment instead of a citation for violation of Ordinance 915 (Code of Ordinances, Title V, Chapter 50.03). Mayor Marshall asked Councilor Nupp and Councilor May to research the issue of litter versus uncovered loads and bring the issue back to Council at another time. Councilor Nupp recommended to the Council that the Town hire a traffic signal electrician and purchase a boom truck for the purpose of maintaining the Town's traffic signals. He asked if cleaning around the fire hydrant was the home owner's responsibility; Mr. Brown stated that keeping the Town's right-of-ways clean is a shared responsibility

between the Town and the home owner, but the home owner should keep the area around the fire hydrant clean. Councilor Nupp commented on the new garbage bins and reminded everyone to place the bins with the handle facing the house, not facing out toward the street.

Councilor Ward commented that she attended a reception for the Mimbres Region Arts Council. She commented that the Silver City Museum has a new brochure and encouraged everyone to visit the Museum and become a member. She stated the Museum's newsletter, "The Mansardian", has articles on curator Harry Benjamin; the Museum's 40th Anniversary; the Cliff Dwellings Centennial Exhibit; an update on the Mimbres Cultural Heritage Site; and membership information. Councilor Ward encouraged home owners to clean up the weeds on their sidewalks, and commented that it is a breeding place for mosquitoes.

Mayor Marshall commented on an article in the Daily Press regarding the Grant County Commission's Work Session and their discussion on the Extra-Territorial Jurisdiction. He stated that the comments reported in the article were not factual: the Town Council has made an effort and will continue to make an effort to resolve the issue of having a unified standard in the Extra-Territorial Jurisdiction (ETJ) that allows for one set of rules that all the developers will have to follow. He commented that in the joint work session with the Grant County Commission they discussed several different structures to accomplish a unified standard. He stated the reported comments in the Daily Press article were incorrect: the Town Council wants a Commission which would consist of one more County appointee than the number of Town appointees. He also stated the Town Council strongly feels that when the final decision is made, it should be made with the elected body performing in that capacity: the County Commission and the Town Council. Mayor Marshall stated that he has directed Attorney Scavron to draft a Joint Powers Agreement. He commented that the issue was a high priority to the Town Council and they want to work together with the County Commission on this matter.

CHANGES TO THE AGENDA – None.

APPROVAL OF MINUTES – August 28, 2007 Regular Council Meeting. Councilor Ward asked for permission to correct her words in the Minutes of August 28, 2007. She stated that she said Silver City was one of the ten smallest and best towns in the United States, but she would like to correct the statement to say that Silver City was one of the ten coolest towns in the United States. Mayor Marshall stated that these Minutes may reflect the correct award received in the Budget Travel Magazine: Silver City, New Mexico was listed as "one of the ten coolest small towns." Councilor Ward made a motion to approve the Minutes of August 28, 2007 with her Councilor comments corrected. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed.

REPORTS – Chief Ed Reynolds reported that the Police Department had received a large number of phone calls in reference to an explosion in the Mountain View Road area. He stated that they have been unable to determine the source or the location of the explosion. He asked the public to call the Police Department or Central Dispatch if they have seen anything, such as a flash, that will help determine the location and source of the explosion.

PUBLIC HEARINGS – None.

UNFINISHED BUSINESS –

A. Ordinance No. 1136: Authorizing the Private Exchange of Properties Owned by the Town of Silver City for Properties Owned by L & R Partnership and by J. C. Robinson and Thomas Livermore. Mr. Peter Russell, Director of Community Development, presented the details of the ordinance. He stated the land exchange will allow Western Bank to expand its premises, it will allow the skate park to be constructed on the site that is currently used as a skate park, and it will effectively consolidate the Town holdings within a single continuous boundary. He commented that he believed all of the concerns of the different parties had been resolved, and the bid for constructing the skate park was proceeding. He stated that the project was thoughtfully developed and he encouraged its accomplishment. Councilor Wheaton-Smith made a motion to adopt Ordinance No. 1136. Councilor May seconded the motion as stated. Councilor Wheaton-Smith thanked Mr. Russell,

Western Bank, and the skateboard committee, for all their efforts and hard work. The Mayor concurred with his comments. A roll call vote was taken: Councilor Ward - aye; Councilor Nupp - aye; Councilor Wheaton-Smith - aye; and Councilor May - aye. Motion passed unanimously to adopt Ordinance No. 1136.

B. Discussion of Notice of Intent Ordinance No. 1135 Amending Chapter 54, §54.010 (Pavement Breaking and Restoration); §54.011 (Penalties); Chapter 95, §95.020 (Permit Required); §54.074 (New Section) and §95.021 (Schedule of Charges). The Council discussed the issues of this ordinance with Robert Esqueda, Utilities Director, Attorney Scavron, and a local plumber named Dale Arguello. Mayor Marshall stated that the Council will schedule a work session to discuss NOI Ordinance No. 1135 further.

Mayor Marshall called for a recess at 8:40 p.m.. The meeting was called back to order at 8:50 p.m.. The Mayor entertained Councilor Wheaton-Smith's request to make a comment. Councilor Wheaton-Smith commented that the discussion of Notice of Intent Ordinance No. 1135 was an example of how important it is to the Town Council to comply with the Open Meetings Act because there have been many discussions with public input during the open sessions. He expressed his pride and gratitude to the Town Council for complying with the law and working in the spirit of the law.

NEW BUSINESS –

A. Public Celebration Permit: Application by St. Clair Winery for Weekend at the Galleries Wine Gala on October 5, 2007, sponsored by Mimbres Region Arts Council. Ms. Faye McCalmont, Director of Mimbres Region Arts Council, requested the Council's approval of the Public Celebration Permit. She stated that this was the ninth year for the two hour fund raising event. Councilor Wheaton-Smith made a motion to approve the permit. Councilor Nupp seconded the motion. There was no further discussion, all were in favor, motion passed.

B. Contract Agreement between the Town of Silver City and the Southwest Solid Waste Authority for Fiscal Year 2008 Recycling Services within the Town of Silver City. Manager Brown presented the contract agreement and stated the monthly cost has been reduced by \$242 per month because of the increased amount of recycling that is being done by the residents of the Town of Silver City. He stated that they expect to see more recycling done since the new garbage collection system is in place. There was discussion about the septage problem and the recycling program. Councilor Ward encouraged the county and the other municipalities to participate in resolving the septage problem. Mr. Terry Timme, Chairman of the Recycling Advisory Committee, thanked the Council for supporting the recycling program, and Mr. Raul Turrieta thanked the Council for recently appointing him to the Recycling Advisory Committee. Mayor Marshall encouraged Mr. Turrieta, who is known as a county-wide leader, and the Recycling Advisory Committee to encourage the county government and the other municipalities to participate in the recycling program. There was no other discussion. Councilor Ward moved to approve the contract agreement. Councilor Nupp seconded the motion. All were in favor, motion passed.

C. Bid 06/07-4P: Project Implementation Manager/Managing Consultant for La Capilla Heritage Park. Mr. Brown commented that only one bid was received which was from Weitlauf Management of Silver City for \$45,000 per year. He stated that the Town staff's recommendation was to award the bid to Weitlauf Management. Members of the La Capilla Board presented the Council with the scope of work for the project. Councilor May asked where the \$45,000 was coming from and Mr. Brown advised that it was a legislative allocation. Councilor Wheaton-Smith moved to award the bid to Weitlauf Management. Councilor Ward seconded the motion. Councilor Wheaton-Smith commented on how the project and the recent improvements of the drainage will greatly improve the potential for that area's three major elements: La Capilla, the Senior Center and the wetlands. Councilor Ward asked the members of the La Capilla Board if the \$45,000 per year is for this fiscal year or would it continue for several years. Mr. Raul Turrieta, a member of the La Capilla Board, advised that it will be a long project, and if needed they will ask the legislature for additional funding. Mr. Turrieta thanked Councilor Wheaton-Smith for attending all of their meetings to discuss the project. There was no further discussion. All were in favor, motion passed.

D. Resolution 2007-29: Supporting the Silver City MainStreet Project Grant Application for the Purchase and Initial Rehabilitation of the Historic Silco Theater. Mr. Frank Milan, Manager of the Silver City MainStreet Project, requested that the Town Council support their grant application to the New Mexico MainStreet Program Grants Fund in the amount of \$300,000 for the purchase and initial rehabilitation of the historic Silco Theater. He stated that the Silver City MainStreet Project would be required to match \$150,000. Mr. Milan commented that the Corporation for Downtown Development, doing business as Silver City MainStreet Project, requests that the Town of Silver City become the owner of the Silco Theater if the grant proposal is approved, and provide a long-term lease to the Silver City MainStreet Project for the operation, rehabilitation, and development of the theater. Councilor Ward asked for the number of years for the long-term lease, and Mr. Milan commented that he thought it would be in the best interest of the Town to have a long-term lease rather than a short-term lease because it will take time to develop the facility and to demonstrate the viability of it over a long term; he suggested a long-term lease of 15 to 20 years. The Council discussed the application, the ownership of the building, operating costs, and the wording of the Resolution. They decided that the wording of the Resolution on page 1, section 1 would be changed to read, "The Town of Silver City hereby resolves to co-sponsor an application with the Corporation for Downtown Development, doing business as Silver City MainStreet Project, to the New Mexico MainStreet Program Grants Fund ...". Attorney Scavron explained that as co-sponsor to the application we are supporting the application, but can also sign the application if needed. Mr. Milan was agreeable to the revised wording of the Resolution. Councilor Nupp asked Mr. Milan who currently owns the Silco Theater; Mr. Milan advised that Jim and Rita Sherwood have owned the building since 2002. Councilor Wheaton-Smith made a motion to pass, approve and adopt Resolution 2007-29 with the amendment to page 1, section 1. Councilor May seconded the motion. There was no further discussion. Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted aye. Motion passed to adopt Resolution 2007-29.

E. Resolution 2007-28: Establishment of Noise Ordinance Advisory Committee. Councilor Ward commented on the number of complaints regarding fireworks that were received this year around the Fourth of July and requested an Advisory Committee to develop a comprehensive and enforceable Noise Ordinance. Councilor Ward moved to adopt Resolution 2007-28. Councilor Nupp seconded the motion. Councilor May recommended that the Advisory Committee consider other noises; such as, straight pipes on motorcycles, ATV's, boom boxes, dogs, etc.. There was no further discussion. Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted aye. Motion passed to adopt Resolution 2007-28 which states that the Noise Ordinance Advisory Committee shall consist of seven (7) people acting in a voluntary capacity; at least one shall be from each voting district of the Town, and the remaining three may be selected from any district. Councilor Nupp stated that he would like to volunteer to be on the Advisory Committee.

F. Resolution 2007-27: Implementation of a Festival Grounds Task Force. Councilor Ward commented that at a recent Town Council Meeting they were asked by Faye McCalmont, Director of Mimbres Region Arts Council, and Nicole Robbins, Executive Director of the Silver City/Grant County Chamber of Commerce, to consider the development of festival grounds. She stated that they commented that the Blues Festival has grown and they would like to invite other types of festivals to come to town, but a larger venue would be required to accommodate the activities. She commented that the purpose of Resolution 2007-27 would be to determine if a new festival grounds would be feasible, what it would cost, and to consider the other kinds of festivals that might come to town. Councilor Ward moved to approve Resolution 2007-27. Councilor Nupp seconded the motion. There was no further discussion. Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted aye. Motion passed to adopt Resolution 2007-27 for the implementation of a Festival Grounds Task Force which will consist of seven (7) people made up of a Town Council member, the Town Manager, a representative of the Chamber of Commerce, a member representing the Arts Community, a member of the Lodging Community, and two members at large.

G. Notice of Intent Ordinance No. 1138: an Ordinance Amending Chapter 95, by Adding a New Subsection 95-090 of the Town of Silver City Municipal Code, Relating to the Use, Improvement and Development of Town-Owned Streets and Public Rights-of-Way within the Town Limits of the Town of

Silver City, Grant County, New Mexico. Mr. Peter Russell, Director of Community Development, presented the details of Notice of Intent Ordinance No. 1138 and stated that the purpose of the ordinance is to require people to secure the approval of the Town Manager, or his designee, before they proceed with activities involving the Town's rights-of-ways. He also stated that the ordinance addresses sidewalks, and establishes a driveway permit process and driveway standards. The Council discussed the Town's rights-of-ways; "paper streets" or streets in the Town that were platted, but never developed; easements; sidewalks; driveways; and liability issues. Mr. Russell invited public comment. Mayor Marshall entertained a motion to approve Notice of Intent Ordinance No. 1138. Councilor Wheaton-Smith moved to proceed forward with the Notice of Intent No. 1138 with a correction to the title to change "City Limits" to "Town Limits". He also invited people to comment on it. Councilor Ward seconded the motion as stated. There was no further discussion. Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted nay. Motion passed.

ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn the meeting at 9:55 p.m. Councilor Ward seconded, all were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk