

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY**  
**REGULAR COUNCIL MEETING**  
**GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM**  
**November 13, 2007 – 7:00 p.m.**

**Present:** James R. Marshall, Mayor  
A. Judy 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  
Ed Reynolds, Chief of Police  
Alexandra Perrault, Town Planner  
Peter Russell, Community Development Director

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

**CEREMONIES** – Mayor Marshall remembered and paid tribute to Jesse Lopez who passed away on November 10, 2007. Mr. Lopez was a foreman in the Sewer Department and worked for the Town of Silver City for 34 years.

**PROCLAMATIONS** – Mayor Marshall presented proclamations for “National Nurse Practitioner Week” from November 11-17, 2007 and “Grant County Recycles Day” on November 15, 2007.

**PUBLIC INPUT** – Paula Beckner, owner of the Restless Natives Skate Shop, commented on several youth activities and projects at the skate park.

**COUNCIL COMMENTS** – The Council discussed garbage pickup, recycling (Mr. Brown commented that recycling has increased by 10% since the introduction of the new garbage collection system); recently attended events; parking issues that prohibit access for the new garbage collection process; the cost of the new roof for the Senior Center being carried by sources other than the Town; the swimming pool boiler; cross walks on Bullard Street; lodgers’ tax revenues; follow-up on work orders; code enforcement; contractor performance issues; the Council’s compliance with the Open Meetings Act; pedestrian and bike lane safety; and the accomplishments of the Town Council during the past two years. Mayor Marshall announced that he was going to run for a second term for Mayor in the upcoming election. Councilor Nupp announced that he was going to run for a third term for Councilor in District 2.

**CHANGES TO THE AGENDA** – The Council moved Item D under New Business to be the first item under New Business.

**APPROVAL OF MINUTES: October 23, 2007 Regular Meeting** - Councilor Ward made a motion to approve the minutes with an amendment noted by the Town Clerk. Councilor Wheaton-Smith seconded the motion, all were in favor, motion passed. **November 6, 2007 Joint Work Session** – Councilor Ward made a motion to approve the minutes. Councilor Wheaton-Smith seconded the motion, all were in favor, motion passed.

**REPORTS** – Mr. Brown reported on the septage issues that were discussed during the Joint Work Session on November 6, 2007 and stated that the NM Department of Finance and Administration (DFA) has transferred the allocation of \$350,000 directly to the Town of Silver City. He stated that a joint powers agreement was not necessary and the deadline for the completion of the project is May 15, 2008. Mr. Brown reported that the DFA had approved the Town’s Fiscal Year 2007-2008 Budget. He commented that they are close to making a contract with the Penny Park Board to make sure the graffiti is cleaned up in a timely manner and the maintenance of the park is kept up.

Thomas Ogas, Executive Director of the Southwest Regional Transit District, reported that in February 20, 2007 they were certified by the New Mexico Transportation Commission as a political subdivision of the state. He

stated that they have entered into a contract with Deming and Luna County, and a contract with Lordsburg and Hidalgo County are pending. Mr. Ogas commented on the transit issues throughout the region and encouraged Silver City to be part of the collaboration. Mayor Marshall responded that this Town Council has repeatedly voted in support of more funding for Corre Caminos Transit, more than any other local government in Grant County, and that they have been pro-transportation. He stated that they have concerns with the RTD and the assets in the organization which have not yet been resolved.

Ed Reynolds, Chief of Police, reported that he had met with officials of the Department of Transportation regarding changes to the roadway at Highway 180 and Alabama Street. He stated that according to the Department of Transportation there is not enough traffic at that intersection to justify a traffic light and the steep hill would create a problem; the best solution may be to designate turning lanes. He commented that trees, brush, etc. have been removed near that intersection in order to improve the view from Alabama Street and they are looking at the possibility of trimming back the steep hill on the southwest corner of Alabama Street. He also reported that 20 businesses had recently been affected by graffiti and he commented on the recent electrical power outage.

#### **PUBLIC HEARINGS –**

**Appeal #AP07-1: An appeal of the Planning and Zoning Commission’s decision to grant a Conditional Use Permit for the storage of sand and gravel at 11585 Hwy. 180 East. Applicant of Conditional Use Permit was Jason Turner. Appellant was Dr. Felix Robert Collard.** Mayor Marshall stated that the Town Council will serve as the hearing board and he would serve as the presiding officer. Mayor Marshall asked all Councilors if they had any ex parte discussion concerning this case. Councilor Nupp advised that he had received input from constituents, but it would not influence his deliberation. Councilor Ward advised that she had received a phone call, but did not discuss the case with the caller. The Town Clerk swore in persons that wished to testify in the case. Alexandra Perrault, Town Planner, presented the details of Appeal #AP07-1. Appellant Dr. Felix Robert Collard presented his case against the Conditional Use Permit. Applicant Jason Turner presented his case for the Conditional Use Permit. Councilor Wheaton-Smith made a motion to support the appeal, Councilor Ward seconded the motion. There was further discussion on the length of the time for the permit, code enforcement, and other types of businesses located in the same area. Mayor Marshall read the Appeal Standards in the Town’s Land Use Code, Chapter 151, Section 151.092, and stated that the hearing board was bound to follow that criteria when making their decision. Mayor Marshall re-stated the motion to grant the appeal which would deny the Conditional Use Permit. Councilor Wheaton-Smith voted aye. Councilor May, Councilor Ward and Councilor Nupp voted nay. Motion failed and the public hearing was concluded.

Councilor Wheaton-Smith made a motion to recess. The meeting was called back to order at 9:43 p.m..

#### **UNFINISHED BUSINESS –**

**A. Approval 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).** Councilor May moved to approve Notice of Intent Ordinance No. 1135, Councilor Nupp seconded the motion. Councilor May commented that plumbing contractors or occupants and property owners must follow the Town’s rules and regulations, and that the Town will share the cost of the sewer lateral replacements in the streets. Based upon the calculations of what the restorations would actually cost the Town’s crews to do the work of restoring the street, the Town will reimburse 50% of that amount to the property owner or contracting occupant to help offset the costs of following the Town’s guidelines of using the right dirt and sand to fill. There was further discussion about the work order tracking system, splitting the costs of repairing sewer lateral replacements, and notifying the plumbing contractors of the proposed ordinance. Councilor May commented on a typo that required a correction on page 5 of 8, paragraph C which was noted by the Town Clerk. All were in favor, motion passed.

**B. Approval of 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 City Limits of the Town of**

**Silver City, Grant County, New Mexico.** Peter Russell, Director of Community Development, presented the details of Notice of Intent Ordinance No. 1138. Councilor Wheaton-Smith made a motion to approve it, Councilor Ward seconded the motion. There was further discussion about the Town's rights-of-way. All were in favor, motion passed.

**NEW BUSINESS -**

**D. RFP # 07/08-1P Design and Construction of Skatepark.** Mr. Russell presented the details of the request for proposal for the design and construction of the skatepark. He stated that the Town received 3 responses, and a committee reviewed them, ranked them, and determined that Grindline Skateparks Incorporated was the highest ranked. There was further discussion of the design contract and construction contract with Grindline Skateparks Incorporated. Councilor Wheaton-Smith made a motion for Council to authorize the Town Manager-Finance Director to negotiate a design and build contract for the construction of the Silver City Skatepark, not to exceed \$688,500 net, working directly with the Town Attorney and others deemed appropriate. Councilor May seconded the motion, but he voiced his concerns about the apparent errors in the documentation that was provided to Council. There was further discussion on the amount of funds that have been allocated to build the skatepark. The Council voted on the motion. Councilor Ward, Councilor Nupp and Councilor Wheaton-Smith voted aye. Councilor May voted nay. Motion passed.

**A. Appointment to the Cemetery Board.** Mayor Marshall asked for the Council's consensus to appoint Harold Bright to the Cemetery Board. Councilor May was opposed to the appointment of Mr. Bright, Funeral Director of Bright Funeral Home. He believed it was a conflict of interest since the Cemetery Board makes recommendations to Council on the rules and regulations of the cemetery. Councilor Ward, Councilor Nupp, Councilor Wheaton-Smith voted aye. Councilor May voted nay. Mr. Harold Bright was appointed by a vote 3 to 1.

**B. Appointments to the Noise Ordinance Advisory Committee.** Mayor Marshall advised there were 7 openings and 10 applications were received. He recommended Rebecca Russell, Jacque Cusick, Helen Francis, Lynne Click, Patricia Dunn, Joe Hutto, and Deborah Kelly. He received the Council's consensus.

**C. Appointments to the Mayor's Climate Protection Agreement Citizens Advisory Committee.** Mayor Marshall advised there were 10 openings and 9 applications were received. He recommended appointing the 9 people that applied and to search for 1 more. He received the Council's consensus. Those appointed were: Deborah Kelly, Sharman Apt Russell, Kelly Kindig, Mary Stoecker, Cosette Laperruque, Allyson Siwik, Jim Kerstetter, Ph. D, Richard Earnheart, and William Joseph.

**E. Resolution 2007-36: A Resolution Establishing an Appeals Board for the Building Inspection Program.** Mr. Russell presented the details of the resolution. There was discussion of the qualifications of the people that would serve on the board and the availability of people to serve the 5 year term. Councilor Wheaton-Smith made a motion to approve Resolution 2007-36, Councilor Ward seconded the motion. All were in favor, motion passed.

**F. Approval of Destruction of Records, 13 boxes from the Utility Billing -Finance Department.** Councilor Wheaton-Smith made a motion to approve the destruction of the records, Councilor Ward seconded, all were in favor, motion passed.

**ADJOURNMENT** – Councilor Wheaton-Smith made a motion to adjourn the meeting at 11:08 p.m. Councilor May seconded the motion, 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