

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM
December 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
Robert Esqueda, Utilities Director
Peter Russell, Community Development Director

CALL TO ORDER / PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 7:01 p.m.

PUBLIC INPUT – Mr. Bill Dickerson thanked Councilor Wheaton-Smith for his support of the Senior Citizen’s Center. He and Mr. Brown discussed the timing of bank drafts for water payments.

COUNCIL COMMENTS – The Council commented on the following: recently attended events; issues with barking dogs and dogs that run loose; the need for public input on the design of the new skatepark; the new roof on the Senior Citizen’s Center; the designation of an Arts and Cultural District; the street light report; recognition of Town employees for their years of service and good work; the need to increase air service in order to bring more tourism and business to the area; the funding of Emergency Medical Services and the difficulty in recruiting volunteers; the reporting of hazardous materials to the State; programs provided by the State that will help our emergency responders know the layout of a building before entering it; and items for the upcoming legislative session. Councilor May announced his candidacy for re-election for a fourth term representing District 4.

CHANGES TO THE AGENDA – Councilor Wheaton-Smith recommended that future agendas indicate on page 2 that the Council may go into Executive Session pursuant to NMSA Chapter 10, Article 15, Subsection H and list the specific exceptions for Executive Session or closed meetings. He stated that the list of exceptions would assist the Council when making a motion to go into Executive Session, and it would also be available to the public. Mayor Marshall agreed with his recommendation.

APPROVAL OF MINUTES: November 27, 2007, Regular Meeting – Councilor May made a motion to approve the minutes. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed.

REPORTS – Mr. Brown recognized Mr. Steven Lopez who was voted as Employee of the Year for the Town of Silver City. He also recognized Mr. Robert Scavron, Town Attorney, because he was voted as the President of the New Mexico Municipal Attorney’s Association. Councilor Ward commented that she had been sending the monthly Gross Receipts Reports to a developer over the last few years and recently learned that they were largely responsible for the new shopping center and businesses across from Albertsons; our census figures had shown a decline in population, but the Gross Receipts Reports had shown an increase in sales. Mayor Marshall congratulated Mr. Scavron on being chosen as the President of the New Mexico Municipal Attorney’s Association. Mr. Scavron thanked the Council and stated that part of the recognition that he had received was due to the reputation of the Town which is quite high. He stated the Council had been complimented publicly and privately for its interest in an open government, for its interest in being further educated, and for its collegiality. Chief Reynolds commented that he would report on animal control issues during the next Council Meeting.

UNFINISHED BUSINESS –

A. Approval of 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 presented the ordinance and moved to adopted it. Councilor Wheaton-Smith seconded the motion. There was further discussion. Mr. Robert Esqueda, Utilities Director, recommended a change on page 5 of 8, paragraph C that was written as “..., the Town Council chooses to

partially share the costs with property owners or contracting occupants for the restoration of the paved roadway and the replacement of curb, gutter and sidewalk located within the Town's rights-of-way.", to be changed to "..., the Town Council chooses to partially share the costs with property owners or contracting occupants for the restoration of street excavation, street breaking, and the replacement of curb, gutter and sidewalk located within the Town's rights-of-way." Councilor Wheaton-Smith made a motion to amend Ordinance No. 1135 per Mr. Esqueda's recommendation. Councilor May seconded the motion. All were in favor of the amendment. There was further discussion about the reimbursements to contractors, and how the reimbursements would be calculated. A roll call vote was taken: Councilor Ward – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

B. Approval of 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. Councilor Wheaton-Smith presented the ordinance and proposed to add additional language on page 2 of 5, paragraph 1 that was written as "No person shall grade, construct upon, or otherwise develop or improve public rights-of-way within the municipal boundaries ...", to be changed to "No person shall grade, construct upon, remove native or ornamental vegetation, except as provided in Section 93.05, or otherwise develop or improve public rights-of-ways within the municipal boundaries ...". Mr. Peter Russell, Community Development Director, commented on the concerns of the Code Enforcement Officer and agreed with Councilor Wheaton-Smith's amendment to the ordinance. Councilor Wheaton-Smith moved to adopt Ordinance No. 1138 with the amendment. Councilor May seconded the motion. There was further discussion. A roll call vote was taken: Councilor Ward – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

NEW BUSINESS –

A. Approval of Joint Powers Agreement for Corre Caminos between the Town of Silver City, the City of Deming, Grant County and Luna County. Mr. Brown and Mr. Scavron presented the details of the Joint Powers Agreement (JPA) between the Town of Silver City, the County of Grant, the County of Luna, and the City of Deming to establish a public transportation system that shall provide public transportation services within the Town of Silver City, the County of Grant, the County of Luna, and the City of Deming. Mr. Scavron stated this JPA was the successor to the JPA with Corre Caminos; instead of being just in Silver City and Grant County, it would also include Luna County and the City of Deming. He stated the routes and services currently being provided to Silver City and Grant County would not be diminished. He commented on additional changes that he would like to make to the document. There was further discussion. Councilor Wheaton-Smith moved to approve the JPA with the amendments made by Mr. Scavron. Councilor May seconded the motion. A roll call vote was taken: Councilor Ward – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

Councilor Wheaton-Smith made a motion to recess. Councilor May seconded. The meeting was called back to order at 8:33 p.m.

B. Approval of Resolution 2007-42: Endorsing the Application to Create a State-Authorized Arts and Cultural District in Silver City. Mr. Frank Milan, Manager of the Silver City MainStreet Project, presented the details of the resolution, and described the boundaries of the proposed Arts and Cultural District. There was further discussion and the Mayor asked the Town Clerk to include a copy of the map of the district boundaries with the minutes. Councilor Ward made a motion to approve Resolution 2007-42. Councilor Nupp seconded the motion. All were in favor, motion passed.

C. Approval of Silver City MainStreet Project's request for the Town to function as fiscal agent in their request for state funding for Phase III of the Silver City Downtown Streetlights Project. Mr. Milan requested the Town to be fiscal agent for the Silver City MainStreet Project's request to the New Mexico State Legislature for \$95,000 in funding for Phase III of the Silver City Downtown Streetlights project. Mayor Marshall commented that entities were required to attend a workshop with the Council of Governments before

they could ask the Town to be their fiscal agent when asking the New Mexico Legislature for funds for their projects. Councilor Wheaton-Smith moved to approve the request, Councilor Nupp seconded. There was no further discussion. All were in favor, motion passed.

D. Approval of Black Range Resource Conservation & Development, Inc.’s request for the Town to function as fiscal agent for any State appropriations or capital outlay funds directed at local projects. Mr. Richard Olson, Coordinator of the Black Range Resource Conservation and Development, Incorporated, requested the Town to function as fiscal agent for any state appropriations or capital outlay funds for their organization including but not limited to a business incubator. Mayor Marshall requested that Mr. Olson provide documentation on the amount of funding that was being requested so the Town Manager-Finance Director could ensure that the reimbursement process would be handled properly. Mr. Olson stated the Black Range would be providing the match for the grant and the other funds were coming out of the Economic Development Department unencumbered so they would not require matches. He stated that at this time they did not foresee any matches from the Town. Councilor Ward moved to approve the request. Councilor Wheaton-Smith seconded the motion. There was no further discussion. All were in favor, motion passed.

E. Approval of Resolution 2007-41: Authorizing the execution and delivery of a Loan Agreement and Intercept Agreement by and between the Town of Silver City and the New Mexico Finance Authority for the purpose of purchasing two fire pumper trucks for the Town. Mr. Brown presented the details of the resolution and the loan agreement. He stated that the loans would be paid for from the Fire Protection Funds that were received from the State Fire Marshal’s Office; the loans would not be paid out of the General Fund or from the Public Safety Tax. There was further discussion. Councilor Wheaton-Smith moved to approve Resolution 2007-41. Councilor Nupp seconded the motion. A roll call vote was taken: Councilor Ward – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

F. Approval of Resolution 2007-43: Authorizing a grant application with the NM Community Development Council under the terms of the Community Development Block Grant Program. Mr. Brown presented the details of the resolution and stated it would be through the Infrastructure Colonias CDBG Program. He stated the grant application of \$500,000 would allow them to complete 4 blocks of street and drainage improvements in the Chihuahua Hill area. Councilor Wheaton-Smith moved to approve Resolution 2007-43. Councilor May seconded the motion. There was no further discussion. All were in favor, motion passed.

G. Appointment to the Mayor’s Climate Protection Agreement Citizens’ Advisory Committee. Mayor Marshall requested postponement of this item because other applications had been received that he would like to consider. Councilor Wheaton-Smith moved to postpone this item. Councilor May seconded the motion. All were in favor, motion passed.

ADJOURNMENT – Mayor Marshall announced that the Council Meeting scheduled for December 27, 2007, had been cancelled. The next Regular Council Meeting is scheduled for Tuesday, January 8, 2008. Councilor Wheaton-Smith made a motion to adjourn the meeting at 9:11 p.m. Councilor May seconded the motion, all were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann. L. Mackie, Town Clerk