

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
January 10, 2012, 6:00 P.M.**

Present:

James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Jamie K. Thomson, District 2
Jose A. Ray, Jr., District 3
Michael S. Morones, District 4

Also Present:

Alex C. Brown, Town Manager-Finance Director
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Ed Reynolds, Police Chief
Luan Mitchell, Town Planner

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 6:05 p.m. Councilor Morones read the Town’s Mission Statement.

2. CEREMONIES – Mayor Marshall said he had a special presentation to make. He said that during the last semester he had worked with Aldo Leopold High School and that they selected a very fine student, Milagre Coates, to work with him. He said they worked together and that she was given the Council meeting packets and provided her comments, talking points, and input that helped to guide his comments and his concerns. He said it was truly an honor to work with her and he asked her to join him at the podium where he presented her with a certificate to acknowledge and recognize her for her accomplishments and exceptional work as an intern with him through the Aldo Leopold High School Internship Program during the Fall Semester of 2011. Ms. Coates accepted the certificate and thanked Mayor Marshall. He also added that he had discussions for many years about developing a Student Town Council and that Milagre and he had discussed it. He said she researched it to look at different models around the world, and that she designed the program that had been implemented. He said she wrote the first agenda, did the recruiting and got kids to come out on a Saturday to spend the day with him to discuss what the Council did, what their functions were, and how to go about analyzing issues to develop good quality policy. He said a lot of that work came from Milagre in the work she did in the last semester and it would be reflected for years to come.

3. PROCLAMATIONS - None.

4. PUBLIC INPUT – None.

5. COUNCIL COMMENTS – Councilor Bettison wished everyone a Happy New Year. Councilor Thomson said he met with Attorney Scavron on the animal ordinance and that Attorney Scavron recommended that the animal ordinance should be simplified. He said he was thinking about limiting it to 2 main topics or concerns: 1) to address the root causes for animal related expenditures, i.e. the number of euthanized animals, the number of complaints about barking, etc. and 2) to have protections from having a repeat of the chicken incident which was an embarrassment to the Town. He also said he was developing a community marching band. Councilor Ray said Happy New Year to everybody. Councilor Morones said the same and said Happy Birthday to the State of New Mexico for 100 years. He also commented on how Dr. Martinez was a huge motivator to him to participate in government and he credited him for influencing his decisions to actively participate in the political system. Dr. Martinez stood up and said it was one of the finest compliments that he had ever had. Mayor Marshall said he attended the centennial event at the Silco Theater and that it was great to see the young people come out to celebrate the centennial of the State. He commented that he received a call from Mayor Bloomberg’s office in New York City and that Mayor Bloomberg was heading up a Coalition for Mayors Against Illegal Guns with 9 guiding principals to ensure that illegal guns were not in the wrong hands. He said they asked if the Town of Silver City would sign on to that coalition. He said that he owned guns and was not anti-gun, but he was anti-illegal gun. He said the Coalition’s principals allowed for better control at the local level, and pushed for better information to our local law enforcement to allow them to access and communicate with those that had the authority by current statutes. He said hopefully they could develop rules to assist them in getting guns off the street. He said he would consider signing on for Silver City unless he received strong opposition to it.

Mayor Marshall also commented on an issue that was raised to him by a concerned citizen. He said that at a recent Council meeting a citizen noticed that a member of the public seated near him had an exposed firearm on his hip which made him uncomfortable to the extent that he felt inhibited from attending future public meetings. He said that after due consideration he had concluded, as the Mayor, that he had certain obligations to those who attend the public meetings. He said that by law, he was charged with the duty of maintaining the decorum of the Council meetings, as well as fostering an atmosphere where participants and observers could feel comfortable in their security. He said that to those ends, he found that the carrying of deadly weapons by anyone other than public safety officials was detrimental to the decorum of the meetings in which he presided. He said that from the next meeting of the City Council and onward, that no firearms of any sort would be permitted within the four walls of the meeting hall when the Council was conducting its business. He asked for the public's understanding and cooperation. He said that he wanted absolutely no reason for anybody to feel intimidated or apprehensive about attending and participating in their government. He said he was not against guns, that there was a time and place for them, and this was not the place.

6. CHANGES TO THE AGENDA – Mayor Marshall announced that New Business Item B would be struck since it was not ready.

7. APPROVAL OF THE MINUTES –Regular Meeting, December 13, 2011 - Councilor Bettison made a motion to approve the minutes as presented with revisions. Councilor Morones seconded the motion as stated. All were in favor. Motion passed.

8. REPORTS – Police Chief Reynolds reported that he finished the statistical information for 2011 which would be reviewed by the City Manager. He said that he was still working on a document about the worst intersections and the worst parking lots in the city and the reports would be available at the next Council meeting. Clerk Mackie reported the names of the certified candidates for the upcoming election on March 6, 2012 as follows: the position of Mayor – James R. Marshall; the position of Councilor District 2 – Pauline N. Hassler-Cook; the position of Councilor District 3 – Jose A. Ray, Jr. and Thomas W. Joines; and Councilor District 4 – Michael Shawn Morones. She provided other election information regarding how the date to file as a write-in candidate would be January 17th; how voters should check the new district map to confirm their district; how voters should check their voter registration for accuracy and to make any necessary corrections by February 7th; and how absentee voting would begin on January 31st and early voting on the machine would begin on February 15th through March 2nd at City Hall.

9. PUBLIC HEARINGS –

A. Approval / Disapproval of Ordinance No. 1193: an Ordinance for a Map Amendment/Zone Change request #ZC 11-05 from Commercial to Mixed Use for property described as the Lot 7 of Block 227 of the Fraser's Addition and addressed as 1113 N. Bennett St., Silver City, NM. The applicant is David Horcasitas. Mayor Marshall stated the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked if any member of the hearing board had ex-parte discussions with any person regarding the subject, or had any communication from any party to the case, and none had. Mayor Marshall asked all parties and witnesses, including staff members, to come forward to be sworn in to testify by the Town Clerk. The Town Clerk swore in 2 witnesses for the hearing. Mayor Marshall read the procedures of how the hearing would be conducted. Luan Mitchell, Town Planner, read the Staff Report that included 7 findings. She said the Planning and Zoning Commission recommended approval of Map Amendment/Zone Change request ZC 11-05 changing the parcel at 1400 N. Corbin Street from Commercial to Mixed Use and recommended no conditions. There were no questions from the Council. Mayor asked Judy Ward to present the case for David Horcasitas. She said the current zoning prevented Mr. Horcasitas from selling it as a house; that he lived in Albuquerque so he asked her to represent him; and that the findings covered the reasons. She requested permission from the Council to change the zoning. There were no questions from the Council. Mayor Marshall asked if that concluded her case and she said it did. He asked if there were any witnesses in opposition to the case, and there were none. Mrs. Ward had nothing else to add to the case. There were no questions from the Council and they said that they were ready to render a decision. Councilor Morones moved to approve Ordinance No. 1193 with finding #7 that the proposed amendment provided additional flexibility in meeting the objectives of the Land Use Code without lowering the standards of the Land Use Code. Councilor Bettison seconded the motion as stated. There was no further discussion. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Ray – aye; Councilor Thomson – aye; and Councilor Bettison – aye. Motion passed.

B. Approval / Disapproval of Ordinance No. 1194: an ordinance for a Map Amendment/Zone Change request # ZC 11-04 from Commercial to Mixed Use for property described as Lot 2, Block 268 of the Fraser's Addition and addressed as 1400 N. Corbin St., Silver City, NM. The applicant is Jeffrey Reese. Mayor Marshall stated the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked if any member of the hearing board had ex-parte discussions with any person regarding the subject, or had any communication from any party to the case, and none had. Councilor Thomson said he did not have ex-parte discussion, but Jeffrey was his best buddy. Mayor Marshall said that as long as he had not discussed the hearing with him that he was qualified. Mayor Marshall asked all parties and witnesses, including staff members, to come forward to be sworn in to testify by the Town Clerk. The Town Clerk swore in 2 witnesses for the hearing. Mayor Marshall read the procedures of how the hearing would be conducted. Luan Mitchell, Town Planner, read the Staff Report that included 7 findings. She said the Planning and Zoning Commission recommended approval of the Map Amendment/Zone Change request ZC 11-04 changing the parcel at 1400 N. Corbin Street from Commercial to Mixed Use and recommended no conditions. Jeffrey Reese presented his case and stated he was the owner of the subject lot. He said the area was primarily residential and a good candidate for this particular zone change and met most of the criteria required for the zone change. He asked that they consider the zone change. Mayor Marshall asked Mr. Reese if there was anything else that he would like to be reflected in the record, and he said no. Mayor Marshall asked if there were any other witnesses in support of the case, and there were none. He asked if there were any witnesses in opposition to the case, and there were none. He asked Mr. Reese if there was anything else to reflect in the record, and Mr. Reese said no. There were no questions from the Council and they said that they were ready to render a decision. Councilor Morones moved to approve Ordinance No. 1194 with finding #7 that the proposed amendment provided additional flexibility in meeting the objectives of the Land Use Code without lowering the standards of the Land Use Code. Councilor Bettison seconded the motion as stated. There was no further discussion. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Ray - aye; Councilor Thomson - aye; and Councilor Bettison - aye. Motion passed.

At 7:00 p.m. Councilor Morones moved to go into **Executive Session pursuant to NMSA 1978 Section 10-15-1(H) (8)** for the discussion of the purchase, acquisition or disposal of real property or water rights. Councilor Bettison seconded the motion as stated. Mayor Marshall asked if they would add a short recess before the Executive Session and they agreed. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Ray - aye; Councilor Thomson - aye; and Councilor Bettison - aye. Motion passed. Mayor Marshall called the meeting back to order at 7:42 p.m. and stated there was no discussion outside the motion that was made to go into Executive Session, and there were no decisions made in Executive Session.

10. UNFINISHED BUSINESS -

A. Approval / Disapproval of Ordinance No. 1192: an Ordinance authorizing the issuance of the Town of Silver City, NM gross receipts tax improvement bonds. The Town's bonding attorney, Chris Muirhead of Modrall, Sperling, Roehl, Harris & Sisk, P.A. presented the details of Ordinance No. 1192. He said it was heard in December and was the bond ordinance for potential financing for some capital improvements and to authorize up to \$1,000,000, and that the final principal amount, interest rate, maturities, and purchaser would be determined in a subsequent resolution in the next month to 6 weeks. He said it was structured similarly to the 2011 bonds that were issued last year with 2 revenue streams: 1) the State's share of gross receipts tax in order to strengthen the Town's credit and lower borrowing costs, and 2) a 1/4 increment of municipal gross receipts tax that would be used to pay the debt service. He remarked that the title paragraph of the Ordinance needed to be amended to show 1/4 percent, but the rest of the document was correct. He provided further details and said it was a significant step if they decided to move forward, but did not preclude them from changing their mind prior to the sale resolution. Councilor Bettison asked Manager Brown to explain the 1/4 percent gross receipts tax that would be paying the loan back, where it was coming from and that it was not a new tax. Manager Brown stated local governments had options to impose six 1/4 increments of gross receipts tax, and that the Town had imposed 5 of them. He said Ordinance No. 1192 was dedicating the 3rd increment that was adopted in 1981 so basically they were using some of the governmental gross receipts tax, the State share portion and the 3rd increment, so it was not a new tax. There was further discussion.

Mayor Marshall said there were 3 projects on the table and that they had been in negotiations for several months. He said all of the projects fit within the different plans within the Town. He said the first project was the block where the current Shamrock was and the drive-up bank for Bank of America sat, and that the Town owned the entire block

except where the Shamrock was. He said there had been plans for many years to develop a municipal complex around Gough Park to consolidate city offices and functions in that area. He said to do that the Town would need to acquire the Shamrock lot, and it was currently available and they had been in negotiations and currently had a contract with them. He said they did not have the money to build a city hall so the short term would be to utilize the asset to service the local government vehicles for fuel and fill-up other local government vehicles with fuel at a reduced rate because the Town would be the dealer. He said the Town would be buying fuel off the rack so that was some of the savings that Manager Brown had referred to. He said in the long term the Shamrock would disappear and they would complete the plan for a municipal complex there. He said the next project was to purchase the Silco Theater which was part of the MainStreet Program for many years and that they had put several thousands of dollars of investment into it. He said there was a grand opportunity to purchase the theater, to work to develop it, to work to enhance its ability as an asset to support MainStreet to increase the business and activity. He said the third project was to continue doing work on College Street and that its important feature was that it led right up to the college. He said it was part of the Arts and Culture District and was a good avenue to get to the college. He said it was important to develop College Street in a manner that invited college students to walk downtown and enhance the vitality of downtown. He said the Silco and College Street improvements could truly be considered a MainStreet project as well. He said with the 3 projects they did not intend to borrow the entire \$1,000,000 that the Ordinance would allow. He said there was not enough funding to do all 3 of the projects so they were exploring lots of different options to find the best funding source to complete the 3 projects. He said if the Ordinance was carried out, then most likely the Shamrock project would be under the bond, and on the other 2 projects they would continue to look for the best funding options, and add those to the assets of the Town. He said that on the College Street improvements they would take it from Cooper to Pope Streets which would also allow for the criterium for the Tour of the Gila to have a nice, safe corner which would be advantageous to that race. He said there were multiple uses and benefits to all of the projects, and that the Ordinance was one of the funding options that they had. He said they would continue to seek creative and innovative funding for the best expenditure of public funds.

Mayor Marshall asked for comments from the audience. Dr. Art Martinez commented that the Ordinance was difficult to understand; that it was not a new tax but appeared to be an increment on a tax; that it was complicated; and that many things were disturbing to many folks, etc. Nick Seibel, Manager of the Silver City MainStreet Program, said he was excited to hear about the latest bond and financing ideas going forward, and that it was exciting to see the community taking advantage of opportunities to build the community themselves, and how the College Avenue and Silco projects were economic development tools for the community, etc. Mayor Marshall responded to some of the comments made by Dr. Martinez. There was further discussion. Councilor Morones made a motion to approve Ordinance No. 1192 and he read the title paragraph of the Ordinance with a change in the 11th line to change 1/8 percent to 1/4 percent municipal gross receipts tax. Councilor Bettison seconded the motion as stated. There was no further discussion. A roll call vote was taken with the following results: Councilor Morones – aye; Councilor Ray – aye; Councilor Thomson – aye; and Councilor Bettison – aye. Motion passed.

11. NEW BUSINESS -

A. Approval / Disapproval of Resolution No. 2012-01: Open Meetings. Clerk Mackie presented the details of Resolution No. 2012-01 and stated it was the same as the previous year except it included the 2012 Council meeting dates. Councilor Bettison moved to approve Resolution No. 2012-01. Councilor Morones seconded the motion. There was no further discussion. A roll call vote was taken with the following results: Councilor Bettison – aye; Councilor Thomson – aye; Councilor Ray – aye; and Councilor Morones – aye. Motion passed.

B. Approval / Disapproval of Resolution No. 2012-02: a Resolution authorizing the submission of a WaterSMART Water and Energy Efficiency Grant Program Application to the U.S. Department of the Interior, Bureau of Reclamation; and authorizing the Mayor as the Town of Silver City's Chief Executive Officer and authorized representative to act in all matters pertaining to the Town of Silver City's participation in the WaterSMART Water and Energy Efficiency Grant Program. See Item 6, Changes to the Agenda, above.

C. Appointment of one member to the Museum Board. Mayor Marshall said one application was received and it was reviewed by the Chair of the Museum Board and recommended for approval. He said that he found the applicant

to be qualified and interested and that he would like to appoint Bonita Montz. He asked if there were any objections from the Council, and there were none.

12. ADJOURNMENT – Councilor Ray made a motion to adjourn at 8:31 p.m. Councilor Thomson seconded the motion. All were in favor. Motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk