

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
January 24, 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

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 6:00 p.m. Councilor Ray read the Town’s Mission Statement.

Mayor Marshall said that before they got into Public Input that he wanted to clear the air about discussions brought up at the last Council meeting. He said the first issue was the discussion of Silver City’s participation on the Mayor’s Against Illegal Guns that was on his desk for 3 to 4 months, and that he was approached by them and was asked to consider joining. He said that he did not have time to research it so he brought the topic to the public during the last Council meeting and requested public input. He said that was all he did. He said many of them received a postcard from the NRA (National Rifle Association) that was not factual because he never expressed an interest or an intent to join the Mayor’s Against Illegal Guns, but he had said that he was approached by them and he requested input. He said that many provided input and some provided him with very good information on why that was not a desirable organization to associate with. He said he accepted the input and acted on it a week ago by notifying the Mayor’s Against Illegal Guns organization that he had no interest in signing on with the organization.

Mayor Marshall said the second issue was his request to not have deadly weapons in the Council meetings. He said that he did research and there was a part in the New Mexico Constitution that stated the New Mexico Legislature shall lean toward local control, and that the State of New Mexico takes the liberty to impose bans on guns in certain public places, such as the state fair. However, he said, there was a New Mexico Supreme Court Case, *Baca vs. New Mexico Department of Public Safety*, that examined the intent of the legislature and the intent of the Constitution, in creating the part that local governments, municipalities and counties, shall not create laws that interfered with the right to keep or bear arms or any incident of the right to bear arms. He said the Town’s lawyers looked at what he did; that the Town did not create a law and there was no Council action so the New Mexico Constitution was not violated. He said his statement was that he did not want deadly weapons; that firearms were specifically preempted in the Constitution; and that his duty to run the meeting had many aspects. He commented on the aspects of the Constitution in relation to his duty to run the meetings. He said the Constitution prohibited him from banning certain things and it was his interpretation that the intent of the Constitution was that he not touch the issue, and he said that he would not touch the issue. He said that he would take back the comments that he made at the last meeting that banned deadly weapons in the meeting. He talked about openly carrying firearms into a public meeting where they addressed people’s rights, people’s money, and where they created the laws that were adjudicated in the courts of New Mexico, and how those topics could be extremely emotional, and rightfully so. He said it was extremely personal when somebody made an investment in their property. He said the Council needed to make sure, as they went through the proceedings as a judicial body to ensure compliance with the Land Use Code, that the meeting and the room was comfortable and welcoming for everyone to participate in the functions of the meeting. He commented on complying with the State’s Open Meetings Act, and he asked that they be considerate of each other and not do any kind of actions that would intimidate anybody else, and that an open carry of a firearm would possibly intimidate somebody. He described the hearing process and how difficult it could be for some people, and how his intent was to ensure that people could feel free to speak freely. He said he did own firearms and did support the Constitution and its amendments. He said it was never his intent to violate their rights or his rights. He said they asked for transparency in their government, and that he gave it to them, but he asked for them to come back and be informed.

Mayor Marshall commented on the usual low attendance at Council meetings; that the function of their government was extremely important to them on many issues; that there was no public attendance when they raised the sewer rates; and how he begs for months to ask people to sign up and be active on the Town's committees. He said that he understood that threatening the Constitutional rights given to them by the country and the state was very emotional and that it should be, but so should many other things that came before the Council. He told the full audience that was in attendance that he truly hoped they would stay and participate in the meeting, that they would come to the next meeting, and that they would continue to send the Council input and letters on the other issues that involved them. He said it was a representative government and that they had gone to great lengths to make sure that they were open and transparent. He said the Council needed the public to participate as well, but they were not seeing it, and it was extremely important. He commented that the law stated that appointed commissions that had the authority to effect policy were required to follow the Open Meetings Act, and how he took it one step further six years ago and made all of the Town's committees follow the Open Meetings Act. He said that meant the public was notified when meetings happen and had an opportunity to participate in them. He said that he hoped that laid the issue to rest, that they could go back to their business with comfort, and that he had no intention of violating their rights or his rights as a firearm owner. He said they would go back and conduct the business of the Town. He asked that they respect each other, respect their neighbors, and respect the government and the need for the government to function in an open, honest, transparent manner that they could all participate in.

2. CEREMONIES – None.

3. PROCLAMATIONS - None.

4. PUBLIC INPUT – Jim Kelly provided an update on the Poet Laureate Program; that the selection committee was going through the application process; the makeup of the selection committee; and how they hoped that by the end of April they would be able to inaugurate the Silver City area's first Poet Laureate. Tom Joines thanked Mayor Marshall for his opinion on the gun ban, and said he was also nervous about people carrying openly and that he had no problem with the Mayor wanting to ban open carry in a City Council meeting. Tony Mendoza commented that he had the same opinions that others had on gun control; that the Mayor made a good decision; how people that used the concealed weapon intimidated and scared him; how he gave up hunting because alcohol with firearms was very prevalent; how firearms were visibly present in vehicles; limitations of open carry and concealed carry; the judicial system and that laws should be enhanced; and how the death penalty should pass.

5. COUNCIL COMMENTS – Councilor Morones commented on the responsibilities of representing the Town and being a Councilor; how when taking the oath they swear that they will uphold the U.S. Constitution and the State Constitution; how he did not like acting on federal issues and preferred that the citizens motivated the federal representation via their vote, but it was important to discuss the issues; how he was glad the Mayor solicited input from the people as opposed to taking the solicitation and throwing it in the trash or signing on to it; how the government was a republic and that historically speaking republics were very fragile governments; how the constitution was drafted with teeth given to the people to ensure the perpetual existence of the country, and that the teeth was the second amendment; how if they did not want the country to succumb to the fragile nature of a republic then they needed to make sure they did not deteriorate the second amendment; how he appreciated the Mayor's research and his conclusions; how he did not bring his gun to Council meetings; how he hoped people would not bring their guns to the meetings; and how he appreciated the Mayor's transparency and openness for questioning the citizens and asking them to bring him input. Councilor Ray said that he supported the Mayor's call for reasonableness and consideration for others; how he knew that many good citizens in the town owned guns as he did; how he hoped that the need to be a good neighbor would win over the right to bear arms when attending Council meetings; how he was a combat veteran and was very familiar with weapons and their use, but he did not come to the meetings carrying weapons even though it was his right to do so; how he might get a bit nervous if he looked to the audience and saw armed citizens and how he imagined that others would be nervous as well which would interfere with the open and relaxed way that the government functions in Silver City; and that he appealed to their good judgment and asked them to leave their weapons at home. Councilor Bettison said Councilor Ray, the Mayor, and Councilor Morones had expressed her views; how she was a gun owner and worked at the university, but did not take her gun on university property; how she respected the Mayor for asking for the public's opinion and how that was something they did on a daily basis and at

every council meeting; how she hoped that the people that provided input on the subject that the Mayor asked for input on would continue to provide input on other matters that affected them; how everything they did at the table did affect them and their livelihood in the town, and they were asked to participate; how the Mayor's comments were very eloquent; congratulations were given to Morones and Knuttinen for being named the Small Business Development Center's Small Business of the Year for the State of New Mexico; an invitation to attend the 2012 Western New Mexico University (WNMU) Founder's Day on February 10, 2012 and the WNMU Museum's exhibition opening of a centennial of New Mexico Statehood event called "Aspiration, Politics and Willpower: the people behind the formation of the territorial Normal School at Silver City"; how the Town of Silver City was instrumental in the formation of the university and that it was the Town Council with Mayor John Fleming that provided the land upon which the university sits; how the fire danger was extreme in the State of New Mexico and the local area, and to be careful with hot ashes from wood stoves, cigarette ashes, and trash burning outside; how the recent Whippy/Armijo fire incident burned 1,316 acres and the volunteer fire departments, Silver City Fire Department, and New Mexico Forestry were congratulated for putting the fire out as quickly as possible; the public was asked to support the Town of Silver City and other municipalities in seeking to be able to ban fireworks in extreme drought conditions through several legislative bills; and how the problem was not the firework, but it was the ignition of it or the lighting of the match or any instrument that could set something on fire. Mayor Marshall commented on his job of going to Santa Fe every year for the legislative session to work the bills that were of interest to the Town, and that he had 21 bills on his list; the general obligation bond for WNMU and how it indirectly effected the Town as the Town worked on building its partnership with WNMU, and how the WNMU recreational facilities would be able to be utilized by the citizens of the entire county; a review of some the bills and how the public can contact the Mayor for his input or to help guide actions on the bills.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES –Regular Meeting, January 10, 2012 - Councilor Bettison made a motion to approve the minutes as presented. Councilor Morones seconded the motion as stated. All were in favor. Motion passed.
Special Meeting, January 12, 2012 - Councilor Bettison made a motion to approve the revised minutes as presented. Councilor Morones seconded the motion. Councilor Morones said they did not meet at the Grant County Administration Center, but met at the City Hall Annex on Hudson Street. Councilor Bettison accepted the amendment. Clerk Mackie noted the correction. All were in favor. Motion passed.

8. REPORTS –

A. High Desert Humane Society's Animal Intake Report for 2011 by Heidi Sexton. Ms. Sexton reported that the High Desert Humane Society had an agreement with the Town; that there was a slight increase in 2010, but a nice decrease in 2011 hopefully due to responsible breeding and neutering; how she reported monthly to Police Chief Reynolds; how their thrift store provided money back to the community in spaying and neutering assistance; how the agreement was to house animals for 3 to 4 days and then they became the property of the Humane Society; and how 2 animals were impounded for 86 days per court order and that it was not fair to house animals that long without companionship. There was further discussion. Ms. Sexton said the Human Society had a disaster plan in place for the potential fire season to house evacuated people's animals free of charge until the people could pick them up.

B. Southwest New Mexico Green Chamber of Commerce's Tourism and Visitor Center Quarterly Report by Cissy McAndrew, Executive Director. Ms. McAndrew reported that in August 2011 the Southwest New Mexico Green Chamber became the fulfillment organization for the Visitor's Center, and through December 2011 they had 6,378 people through the Visitors Center. She said it was a partnership working for the good of the community and the Visitor's Center was funded by the Silver City Lodgers Tax. She presented photos of the Visitor Center and said one exterior wall would have a mural project done by the Mimbres Region Arts Council. She described the changes that had been made since August 2011 and the function of the Visitor Center, including how they taught people about sustainability and recycling. Mayor Marshall expressed his appreciation for Ms. McAndrew's participation in the development of the Grant County Economic Development Plan. Councilor Bettison thanked her for the quarterly presentations and said it gave them a sense of how the lodgers tax funds were being utilized. Councilor Ray said he liked the idea of a mural on the building. Ms. McAndrew introduced Julie Minicucci, the Silver City Arts and Cultural Director and Silver City's Director of Tourism, and Ms. Minicucci explained the marketing and tourism plan. She said

the Silver City Arts and Cultural District would coordinate a large portion of advertising and promotions to align with the efforts of the State in their quest to accelerate New Mexico tourism by focusing on travelers with an adventurous spirit and thirst for authenticity. She said they would be able to better position Silver City and Grant County as a vibrant cultural tourism destination. She said they were happy that Secretary Jacobsen and staff had taken an interest in their marketing plan which promoted effective and efficient partnering between multiple organizations to create a stronger, more targeted marketing presence. She said with the State's co-op funds and the Town of Silver City's lodgers tax funds, it offered an unprecedented opportunity for the Silver City Arts and Cultural District to promote a county-wide cohesive marketing campaign with the slogan, "Find Your SELF in Silver City, Grant County, New Mexico." She said finding yourself meant finding your spirit, finding your purpose, and finding your adventure. She commented on how they had to start from scratch by re-negotiating and negotiating new contracts. She introduced members of their staff, commented on their website, and said one of their purposes was to serve as a central location for organizations to coordinate their events throughout the year. She commented that they had partnered with Welcome Newcomers in Tucson; that they were taking a special interest in the lodgers and merchants and had received a positive response; that the Silver City Roving Ambassador Program would be launched in the Spring; that a citizen journalist element would be added to their website; and she described plans for the next quarter. Mayor Marshall said the ads were very fresh and new for Silver City and that he appreciated the ad that specifically targeted the wild, wild west aspect for tourism.

C. Police Statistics 2011 by Police Chief Ed Reynolds. Police Chief Reynolds reported on statistical data from 2011 and he said the statistics would be on the Police Department's website at silvercitypublicsafety.org. He said the purpose of the statistics was to provide information to the department's employees, the City Manager, the City Council, and the citizens at large, including community organizations such as the Health Council. He said it was also used to identify areas of concern and to allocate manpower to those areas of concern, and to provide initiatives and aggressive programs to impact those issues. He said it was also for the purpose of providing internal accountability, productivity, and to reduce the number of crimes and crashes within Silver City. He said each employee was held accountable for the main purpose to make the community safer for those who live in Silver City and visit Silver City. He reported the statistical data, compared the 2011 data with previous years, and answered questions from the Council. Police Chief Reynolds stated the reduction in crime was a result of the sworn employees and civilians working hard and being dedicated to the protection and service to the community. He said they had come a long way since 2005 and were a more professional Police Department and were protecting and serving the community. He asked that the next time they saw an officer to thank him or her for what they were doing because they worked hard and continued to maintain a high standard within the department. He said they could put together any other statistical data that was required. Councilor Bettison thanked the Chief and the department and officers for the excellent job that they were doing to reduce the crime and increasing citizen awareness.

Councilor Bettison moved for a short break at 8:03 p.m. Councilor Ray seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 8:14 p.m. Mayor Marshall asked Manager Brown if he had items to report. Manager Brown reported that the Gabby Hayes well was down 400 feet, and it would be drilled 1,200 feet; the tennis courts were completed and playable, but a second surface would be put on in the summer; the baseball and soccer fields were 85 per cent complete in the design; the sheds near the golf course club house were being moved down to the old landfill area; the park roof was under construction; the 10th and Mountain View project was almost done; the CDBG project on Chihuahua Hill was done; a grant was awarded to extend sewer out to Blackhawk; the Purchase Power Agreement for the solar panels at the wastewater treatment plant would be brought to the next Council meeting; and the PNM franchise agreement would be coming soon.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS - None.

11. NEW BUSINESS -

A. Approval / Disapproval of Town of Silver City Audit Report for Fiscal Year ended June 30, 2011. Mike Stone of Stone, McGee and Co., CPAs reported there was an unqualified opinion on the financial statements which were as high as they could get, an unqualified opinion with regard to complying with federal regulations, and there were no

findings or comments. He said it was as good as it could get. He said the State Auditor made them put in a couple of comments in the previous year's audit report, but they subsequently withdrew and said they were wrong and apologized. Mayor Marshall thanked the staff and said they were the ones that made the report clean every single year. He said that during the six years that he had been Mayor, that they had not had a justified finding. He said that he truly wanted to send their appreciation to the staff that did the day to day work and utilized the resources throughout the year to make sure that they were doing things correctly and legally, and that they had proper accounting. He thanked the staff for being prepared when the auditors showed up because it made the auditor's job less painful, and it was noted and appreciated by the Council that they pulled it off every year. Mr. Stone said the staff should be congratulated because it was incredible not to have any audit findings when they were managing \$68,000,000 worth of assets. There was further discussion. Councilor Morones made a motion to approve the Town of Silver City Audit Report for Fiscal Year ended June 30, 2011. Councilor Ray seconded the motion. 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 Bid #11/12-13: Library renovation. Manager Brown said 3 bids were received for the renovation of the roof and the HVAC system as well as some additive alternates for carpet. He said one of the contractors, Sun City Builders, was deemed non-responsive so staff wanted to move forward because the process had been going on for a long time. He said they would like to award the bid to C.D. General Contractors for the base bid and additive alternate #1 and contingent on the staff being able to negotiate with them to bring the cost of the project down and within the budgeted funds. There was further discussion. Councilor Bettison moved to approve Bid #11/12-13 for the Library renovation per staff's recommendation to C.D. General Contractors for a total with gross receipts tax of \$639,674.36 contingent on successfully negotiating the cost of the project within budget. Councilor Ray seconded the motion. There was no discussion. All were in favor, motion passed.

C. Approval / Disapproval of Bid #11/12-18: Water pipeline. Manager Brown said 2 bids were received for the water pipeline of 1,100 feet of 12 inch water line. He said the purpose for the water line was to replace a 12 inch water main that hung over one of the entrances to one of the mine shafts because they had their second water break on that piece of the main, and it was very dangerous for staff to hang out to fix the pipeline. He said they were trying to purchase the pipeline and either install the pipeline themselves or have a contractor install it, but it would be re-routed around the entrance and moved underground. He said it was staff's recommendation to award the bid to HD Supply Waterworks Ltd. for \$27,214.00 plus gross receipts tax for a total amount of \$29,221.03. Councilor Morones made a motion to approve Bid #11/12-18 water pipeline as per staff's recommendation to award the bid to HD Supply Waterworks Ltd. for a total amount of \$29,221.03 which included gross receipts tax. Councilor Bettison seconded the motion as stated. All were in favor, motion passed.

D. Approval / Disapproval of March 6, 2012 Election Workers. Clerk Mackie presented the list of election workers for the March 6, 2012 election and asked for the Council's approval. Councilor Bettison made a motion to approve the list as presented. Councilor Morones seconded the motion as stated. Mayor Marshall thanked the election workers. Clerk Mackie announced that Cody S. Petty was the certified Write-In Candidate for Mayor. There was further discussion on registering to vote; the new district map; absentee voting; new voter registration cards for individuals that had a change in their district; and instructions on voting for the Write-In Candidate for the Mayor position. All were in favor, motion passed.

E. Approval / Disapproval of Resolution No. 2012-03: a Resolution of the Town Council of Silver City, NM authorizing the submission of a New Mexico 2009-2010 Surplus Colonias Initiative Fund application to the Department of Finance and Administration/Local Government Division; 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 Colonias Initiative application. Manager Brown presented Resolution No. 2012-03 and said it was a resolution to authorize the Town to submit an application to further complete the infrastructure at the Vistas de Plata subdivision. He said it was going to be submitted in the Colonias portion of the CDBG (Community Development Block Grant) program. He said that under normal circumstances the Department of Finance and Administration and the CDBG Board did not allow submittal of 2 projects, one in infrastructure and one in Colonias, but this year they made allowances for housing projects. He said it was for \$250,000. Councilor Morones

asked if #3 in the Resolution was correct to say ". . . officials and staff . . .". Attorney Scavron said to delete the words "officials and" and change it to say, "The Town of Silver City staff is directed . . .", and that the motion should include the change. Councilor Morones made a motion to approve Resolution No. 2012-03 with the correction to #3 to read, "The Town of Silver City's staff is directed to conduct any and all acts necessary to carry out the intent of this Resolution." Councilor Bettison seconded the motion as stated. 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.

F. Appointment of 3 members to the Cemetery Board. Mayor Marshall said they received applications from Elizabeth Miller, Rider South, and Carl Scholl, and that all 3 were incumbents to the Cemetery Board. He said that he spoke with the Chair and they had served the Cemetery Board well. He asked to re-appoint them if there was no objection from the Council. The Council agreed.

G. Approval / Disapproval of changing the next Council meeting date from Tuesday, February 14, 2012 to Monday, February 13, 2012. Mayor Marshall said that he was requesting it because he would be on his way to Washington, D.C. to discuss some issues with the federal delegation, the Veteran's Administration, and Health and Human Services, as a part of his job in advocating for better health care services for veterans. He said that he would have to leave on February 14th. There was further discussion. Councilor Morones moved to approve the changing of the next Council meeting date from Tuesday, February 14, 2012 to Monday, February 13, 2012 at 6:00 p.m. Councilor Ray seconded the motion. All were in favor, motion passed.

12. ADJOURNMENT – Councilor Bettison made a motion to adjourn at 8:44 p.m. Councilor Morones seconded the motion. All were in favor. Motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk