

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
March 29, 2012, 6:00 P.M.**

Present:

James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Pauline N. Hassler-Cook, 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

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:00 p.m. Councilor Cook read the Town’s Mission Statement.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS - "Professional Social Work Month" - March 2012.** Mayor Marshall read and presented the proclamation to Leslie Cook, Assistant Professor of Social Work, Western New Mexico University School of Social Work, and Patti West, President of the local branch chapter of National Association of Social Workers New Mexico. Ms. Cook said they were trying to promote their professions and to get the word out.
- 4. PUBLIC INPUT** – None.
- 5. COUNCIL COMMENTS** – The Council commented on the following: recently attended events; exploring the possibility of a roof between Yankie Street and Bullard Street; requests to drivers of vehicles to be aware of bicyclists, motorcyclists, and kids; a request for more people to fly the U.S. flag in Silver City; the upcoming Tour of the Gila Bicycle Race and a caution warning to all to be defensive and aware of each other's presence in order to keep accidents between vehicles and bicyclists down; and a reminder to everyone to be more fire conscious because the fire hazard was very high.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES – Regular Meeting, March 13, 2012** - Councilor Bettison made a motion to approve the minutes as presented. Councilor Ray seconded the motion as stated. All were in favor. Motion passed.

8. REPORTS –

A. Presentation of Tax Increment Financing by Mark Valenzuela, George K. Baum & Co. Mark Valenzuela, Vice President of George K. Baum & Co., introduced himself as a financial advisor to the Town of Silver City and he introduced Brad Angst, Assistant Vice President of George K. Baum & Co. Mr. Valenzuela presented an overview of Tax Increment Development Districts in New Mexico and stated it was a relatively new tool and was passed by the New Mexico Legislature in 2006. He said it was a financing tool for communities to create an opportunity for developers (city or private). He discussed how the incremental tax revenue, according to State Statute, could be used to sell bonds into the market in order to build infrastructure within the Tax Increment Development District (TIDD) boundary that was created by the municipality. He said the bond would be for the purpose of building sidewalks, utilities, etc., that would develop that piece of property within the TIDD, and that it was a way to have the development pay for itself rather than having the rest of the community be taxed for the development in the new development area. There was further discussion. Mr. Valenzuela commented further on the bonds; how the government board of the TIDD would have a relationship and responsibility to the Town Council and would have to present to Council a very detailed Development Plan; how the government entity of the TIDD would hold the debt, have the balance sheet, and audit; how at the end of the term of the bond the city could enjoy the incremental increase

in revenue; and current Town revenue and anticipated grown in revenue. There was further discussion. Mr. Valenzuela discussed how the state, county and municipality could contribute a portion of their revenues to the benefit of the district, but only the incremental revenue could be dedicated; how the State Board of Finance would require an application and if the State Share Gross Receipts Tax was approved, then the Legislature would have to authorize the issuance of bonds; what other municipalities had done regarding the TIDD; and the calendar of events in the TIDD Development Process and how it could take from 18-24 months to put it together. Manager Brown stated that Mr. Valenzuela's presentation was purely educational so the Council could understand the different financing mechanisms and be as informed as possible, as well as informing the community. He said they had no plans on doing anything like it any time soon. He thanked Mr. Valenzuela and Mr. Angst for coming from Albuquerque. Mayor Marshall said they had talked about having Mr. Valenzuela come to educate them for about 4 years, and that they wanted to make sure the Council understood what their options were.

B. Presentation of the Climate Change Adaptation, Addendum 2 to the 2009 Town of Silver City Climate Action Plan. Dr. Linda Thompson, member and facilitator of the Mayor's Climate Protection Agreement Citizen's Advisory Committee, said that she and Nick Sussillo, Director of the Joint Office of Sustainability, were there to ask for the Council's support for Addendum 2 of the 2009 Climate Action Plan that addressed the topic of adaptation. She said that relative to climate change the word "adaptation" addressed the changes and actions necessary to respond to the forecast of a hotter and drier future climate for southwest New Mexico. She said that creating an adaptation plan would allow them to identify strategies to address the local vulnerabilities, and also to create an opportunity to create a stronger Silver City community through the formation and extension of numerous community partnerships. She commented on the listed rationale of Addendum 2 that came from the National Climate Assessment 2009 report that included how water supplies would become increasingly scarce; how increasing temperature, drought, wildfire, and invasive species may increase and transform the local landscape; how there would be an increased frequency and altered timing of flooding that would increase risks locally; how possible impacts to tourism and recreation may result; and how the city and agriculture may face risks from a changing climate. She said Mayor Marshall had recommended in the summer of 2011 that the Committee address the issue, and she described the actions of the Committee and stated that Addendum 2 was approved by the Committee. Mr. Sussillo said the projections under the rationale were done 4 years ago by the CLIMAS (Climate Assessment for the Southwest) group out of the University of Arizona, and that they were the NOAA (National Oceanic and Atmospheric Association) lead for the southwest for the National Climate Assessment that was required to be done by NOAA by Congress every 4 years. He commented further on the upcoming assessment for 2013 by CLIMAS and how the Committee would take a closer look at it by starting with the Southwest Impacts Report, by working with the university, and by developing a relationship with the CLIMAS program. He said that they wanted to get a handle on what the vulnerabilities were locally by doing a vulnerabilities assessment of the area with the assistance of the University of Arizona and the participation of Western New Mexico University (WNMU). He said that Dr. Shepard, President of WNMU, was looking at forming a new Center of the Environment at the university and developing partnerships with New Mexico State University in Las Cruces and the University of Arizona. He gave Clerk Mackie a copy of an invitation from the City of Tucson that called out their civic leadership to hold "The Power to Prepare Tucson Summit" to address increasing risks in extreme weather that would be held on March 31, 2012 at the Tucson Convention Center. He said that he would attend as an official New Mexico observer to see how it would play out and how the community would react to the environmental projections over the years for the Tucson environment. He said that he would share Tucson's vulnerabilities assessment with the Council, and how they could benefit from it. He described the 3 steps for the implementation of Addendum 2: 1) to continue the relationships with CLIMAS and to do a vulnerabilities assessment, 2) to attend, participate, and interact in the 2nd International Conference on Climate Change Adaptation in Tucson at the end of May, and 3) to pursue grant funding to come up with a Climate Action Plan with potential projects in partnership with WNMU, CLIMAS group, Kresge Foundation, etc.

Mayor Marshall stated that he and Mr. Sussillo attended a conference a year ago and that a County Commissioner from Florida gave graphic examples on how the climate had changed, regardless of why, and how a neighborhood built in the 1940's to 1950's was currently underwater every time that high tide came in. He said that they saw in the last year some of the most catastrophic fires in our history. He said that what really mattered to the policy making body and the Town Manager was to look forward and to ask if there would be enough policemen and firefighters to respond to the issues when the fires were the worst that had ever been seen. He said that they could use the issues and tools to pre-

plan and make sure they would be able to meet the public safety needs of the Town, and that they had to look at their water policy and their infrastructure. He said that he supported Mr. Sussillo and the Climate Committee in their work and that he did not care about 10 year, 20 year, 100 year, and 1,000 year trends and whether the cause was man-made or a natural cycle because it did not matter. He said they were seeing changes in how the fires were behaving, water issues, and winter storms. He said that they had to start preparing for it and be ready to develop those policies and that infrastructure. There was no further discussion.

Councilor Bettison made a motion for a short break at 7:08 p.m. Councilor Morones seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 7:19 p.m.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS -

A. Approval / Disapproval of Ordinance No. 1195: : an Ordinance authorizing the issuance and sale of the Town of Silver City, NM Industrial Revenue bond (NRG Solar Silver City LLC Project), Series 2012 in the maximum principal amount of \$4,000,000 to provide funds to finance the acquisition, construction and equipping of a solar power facility for the purpose of generating electricity; authorizing the execution and delivery of an indenture, a lease agreement, a bond purchase agreement, bond, and other documents in connection with the issuance of the bond and the project; making certain determinations and findings relating to the bond and the project; ratifying certain actions taken previously; and repealing all actions inconsistent with this Ordinance. Manager Brown said he wanted to answer previous questions about payments in lieu of tax with the school district. He stated the school district did pass a resolution waiving the payment in lieu of taxes so no payment was required to the schools. He introduced the Town's bond counsel, Eduardo A. Duffy, from the Sutin, Thayer, and Brown Firm. Mr. Duffy said the bond ordinance before them was for the NRG project and that it also would approve a lease, indenture, and bond purchase agreement. He said the bonds would be used to finance the construction of a solar generation project, and he commented further on how the bonds were obligations paid exclusively with monies by the developer; how no matter what happened that the Town's credit or assets would not be applied to pay for the bonds; how if the developer did not repay the bonds, then the purchaser could go after the developer, but could not go after the Town's assets or Town's credit to satisfy those obligations; how the structure was a self-purchase where the developer was selling the bonds to one of its own affiliates; how self-purchase was the most common practice in New Mexico in the past 5 years, instead of through an underwritten offering; how the bonds provided property tax benefits to the developer; and how passing the Industrial Revenue Bond Ordinance would enable economics to make construction of the facility possible. Brian Cassutt with NRG Solar Silver City LLC said they formed a bond purchasing entity 2 weeks ago and registered it in New Mexico that week as NRG Silver City Bond Purchase LLC.

Mayor Marshall asked if there were any questions from the audience. Margaret Hopper, Carolyn Lewis, and Peter Burrows came forward individually and asked questions which were answered by Manager Brown, Brian Cassutt, and Mayor Marshall. Mayor Marshall said it was important to understand that the Town was just buying electricity from NRG and how they came up with that electricity was basically their business. There was further discussion. Mayor Marshall said it would not tie up any tax money; that it would not cost the Town anything; that it was savings because presently they were paying 11 to 12 cents per kilowatt hour for electricity with PNM; that PNM was going for another increase that year so that number would only grow; and how they were getting 6.9 cents per kilowatt hour from NRG the entire time. There was further discussion. Councilor Morones made a motion to approve Ordinance No. 1195. Councilor Bettison seconded the motion as stated. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Ray - aye; Councilor Cook - aye; and Councilor Bettison - aye. Motion passed.

11. NEW BUSINESS -

A. Approval / Disapproval of Bid 11/12-19: Trailer mounted sewer rodder. Manager Brown said the Town received 1 bid and that it was budgeted at \$60,000. He said they had one responsive bidder, Pete's Equipment Repair, Inc. for a total amount of \$42,884.50 that included the gross receipts taxes. He said it was staff's recommendation to award the bid to Pete's Equipment Repair, Inc. Councilor Cook asked if it was a new one. Manager Brown said yes. Councilor Bettison made a motion to approve Bid 11/12-19 per staff's recommendation to Pete's Equipment Repair,

Inc. for a total plus gross receipts tax for \$42,884.50. Councilor Ray seconded the motion. All were in favor, motion passed.

B. Approval / Disapproval of Bid 11/12-20: Homeowner rehabilitation. Manager Brown said the Town received 2 bids; one was from Chavez Plastering & Cement Construction and the second one was from Hunt & Sons Building Development, Inc. He said that Hunt & Sons was deemed non-responsive because they did not supply the subcontractor list and they did not have the licenses that they needed to do the plumbing and electrical work for the rehabilitation. He said \$80,000 was available for each home for rehabilitation and it was 100 percent grant funded. He said it was staff's recommendation to award the bid to Chavez Plastering & Cement Construction for a total amount of \$55,109.92 that included the material, labor, and gross receipts taxes. Councilor Bettison made a motion to approve Bid 11/12-20 per staff's recommendation to Chavez Plastering & Cement Construction for a total project cost which included gross receipts taxes for \$55,109.92. Councilor Morones seconded the motion as read. All were in favor, motion passed.

C. Approval / Disapproval of Bid 11/12-21: Homeowner rehabilitation. Manager Brown said the Town received 1 bid from Oakridge Home Industries, Inc. for a total amount of \$61,311.13. He said the grant allowed up to \$80,000 per home and the funds were available in the grant at 100 percent so it was staff's recommendation to award the bid to Oakridge Home Industries, Inc. for \$61,311.13. Councilor Bettison made a motion to approve Bid 11/12-21 per staff's recommendation to Oakridge Home Industries, Inc. for a total plus gross receipts tax of \$61,311.13. Councilor Morones seconded the motion as read. Mayor Marshall said Councilor Bettison said "plus gross receipts taxes". There was further discussion. Councilor Bettison amended her motion to say the total included gross receipts taxes. Councilor Morones accepted the amendment. All were in favor, motion passed.

D. Approval / Disapproval of Disposal of surplus and/or obsolete Town property. Manager Brown said the staff was asking for permission to dispose of vehicles that were obsolete, wrecked or basically totaled by the insurance companies. He said they shopped around with scrap metal vendors and the best price was from the company that bought scrap metal from the Southwest Solid Waste Authority. He said the funds would be put back into the budget. He said the other list included all of the old computer equipment and components. There was further discussion about security issues, bar codes, etc. Councilor Ray made a motion to approve the disposal of surplus and/or obsolete Town property as listed. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

E. Appointment of 1 member to the Planning and Zoning Commission. Mayor Marshall said the Chair of the Planning and Zoning Commission recommended John Tafoya's application, and that he concurred that Mr. Tafoya would be a welcomed asset to the Commission. He asked if there were any objections, and there were none.

F. Appointment of 1 member to the Recycling Advisory Committee. Mayor Marshall said he had a recommendation from the Chair of the Recycling Advisory Committee and he agreed that Amy Hart would be a good asset to the Committee. He asked if there were any objections from the Council, and there were none.

12. ADJOURNMENT – Councilor Bettison made a motion to adjourn at 8:02 p.m. Councilor Ray seconded the motion. All were in favor. Motion passed.

/s/

Cynthia Ann Bettison, Mayor Pro Tem

Attest:

/s/

Ann L. Mackie, Town Clerk