

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
September 11, 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  
Ann L. Mackie, Town Clerk  
Robert L. Scavron, Town Attorney  
Robert Esqueda, Utilities Director

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:00 p.m. He stated that it was the anniversary of the 9-11-2001 events and that he wanted to take a moment of silence to remember those that lost their lives and had given their lives since.

**2. CEREMONIES** – None.

**3. PROCLAMATIONS - "Hunger Action Month, September 2012"** – Mayor Marshall read and presented the proclamation to Randy Salars from the Silver City Gospel Mission.

**4. PUBLIC INPUT** – None.

**5. COUNCIL COMMENTS** – Councilor Ray commented that he would like to see more residents participate in the events throughout the year and that maybe it would cause more out of town people to come. He also said the constituents had inquired on the chances of having legalized gambling within the Town under the authority of the Town Territorial Charter, and that most had suggested it as a form of economic development. He commented that he had met with the Town Attorney and had learned that it had been almost 80 years since the courts of New Mexico had reviewed the Town's powers under the Charter. He suggested that the Town Attorney be directed to explore the possibilities of Town regulated gambling and to report back to the Council as to the law and opportunities. He said the request was not his endorsement of gambling in the Town, but to be informed of the possibilities could not hurt. There were no other comments from the Council.

**6. CHANGES TO THE AGENDA** – None.

**7. APPROVAL OF THE MINUTES – Regular Meeting on August 23, 2012** – Councilor Bettison moved to approve the minutes of the Regular Meeting of August 23, 2012. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of August 23, 2012. He asked if there was any discussion, and there was none. He asked all those in favor to say aye, and all 4 Councilors voted aye. He asked if any were opposed, and there were none. Motion carried.

**8. REPORTS** –

**A. Presentation of Gila Regional Medical Center's Strategic Facility Plan Project by Brian Bentley, CEO.**

Mr. Bentley presented the expansion and renovation plans for the Gila Regional Medical Center (GRMC) by 2017. He said their mission was to provide exceptional quality, patient-centered care in healing environments. He gave some basic information about GRMC and stated they were County-owned, locally managed, not-for-profit, and employed over 700 caregivers. He talked about how GRMC needed to grow to keep up with health care changes and he gave examples. He said the new building space would be 42,500 square feet, the renovated space of the existing facility would be 75,900 square feet, and the estimated cost would be \$40.68 million. He presented the master plan of the campus; provided the source of funds and said the project would be paid for by GRMC; and how there would be no tax impact to the public. He said the project would generate jobs and significant gross receipts revenues. He described the

timeline of the project and said they would continue to operate the facility comfortably and continuously throughout. There were no questions from the Council or the audience.

**B. Report of volunteer effort by W & N Enterprises and Deming Coca-Cola for Gough Park's basketball court.**

Ken Perry from Deming Coca-Cola said it was an opportunity to give back to the community, and that they had partnered with W & N Enterprises to bring in a community effort to the program. He said they would provide a \$5,000 donation toward the renovation of the basketball courts at Gough Park; that the city needed to approve it to allow them to do it; and that a representative from the city would need to publicly accept the donation from Deming Coca-Cola and Snappy Mart. Mayor Marshall said the approval would be done administratively through the Town Manager, but he would be happy to accept the donation. Manager Brown said it was already approved and that the donation would be used to resurface the courts. Councilor Bettison asked if there would be signage to say it would be a Sprite Spark Park and Mr. Perry said no.

**9. PUBLIC HEARINGS – None.**

**10. UNFINISHED BUSINESS -**

**A. Approval / Disapproval of Ordinance No. 1208: an Ordinance amending Chapter 10 (Business), Articles II, III, and VII of the Town of Silver City Municipal Code, relating to business registrations, business licenses, and permits within the Town of Silver City, Grant County, NM.** Mayor Marshall said it was the final reading of the ordinance and that it simply increased the business registration fee from \$25 to \$35, that it cleaned up some of the language from the old Code, and that it ensured that they were regulating pertinent businesses that applied currently. Councilor Bettison confirmed with the Mayor that the ordinance also ensured that business registration fees would be paid by all persons doing business within the Town that may not have a specific place of business in Town. There was no discussion from the audience or the Council. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Ordinance No. 1208 and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1208: an Ordinance amending Chapter 10 (Business), Articles II, III, and VII of the Town of Silver City Municipal Code, relating to business registrations, business licenses, and permits within the Town of Silver City, Grant County, NM, and no further discussion. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

**B. Approval / Disapproval of Ordinance No. 1210: an Ordinance amending the Municipal Code of the Town of Silver City, Grant County, NM, Chapter 28 (Municipal Court), Article IV (Initiation of Proceedings, Sentencing, Fine and Court Costs).** Mayor Marshall said the ordinance added a warrant fee of \$100 that was already implemented in the State courts, but not in the Municipal Courts. He said it would allow the Municipal Judge to impose a fee for a warrant rather than imposing an additional charge of Contempt of Court and that it would decrease the criminal burden of the offender while ensuring that the court fees were recovered with the increased demand in issuing a warrant. There was no discussion from the audience or the Council. Mayor Marshall said he would entertain a motion. Councilor Ray moved to approve Ordinance No. 1210 and he read the agenda item description. Councilor Cook seconded. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1210: an Ordinance amending the Municipal Code of the Town of Silver City, Grant County, NM, Chapter 28 (Municipal Court), Article IV (Initiation of Proceedings, Sentencing, Fine and Court Costs), and no further discussion. He asked for a roll call vote and Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

**C. Approval / Disapproval of Ordinance No. 1212: an Ordinance amending Chapter 30, Article II (Museum Board), Section 30-21 (Purpose) and Section 30-27 (Authority to Accept Gifts and Donations) of the Town of Silver City Municipal Code.** Councilor Bettison said the ordinance clarified the nature of the Museum Board's advisory role, duties and responsibilities thereof, and also clarified and distinguished between the Silver City Museum Board (Society) and the Town's Board. There was no discussion from the audience or the Council. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Ordinance No. 1212 and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1212: an Ordinance amending Chapter 30, Article II (Museum Board), Section 30-21 (Purpose) and

Section 30-27 (Authority to Accept Gifts and Donations) of the Town of Silver City Municipal Code, and no further discussion. He asked for a roll call vote and Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

**D. Approval / Disapproval of Ordinance No. 1213: an Ordinance amending Chapter 44, Article III (Lodgers' Tax, Section 44-125 (Advisory Board Created; Composition; Disposition of Proceeds) of the Town of Silver City Municipal Code.** Councilor Bettison said the ordinance imposed a 3 year term of office for the Lodgers Tax Advisory Board members in order to promote additional community involvement and the flow of new perspective and ideas. She said it also provided for the development of staggered terms. She said it did not prevent the Board members from seeking re-appointment and there was no term limit on the number of times they could seek re-appointment. There were no comments from the audience or the Council. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Ordinance No. 1213 and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1213: an Ordinance amending Chapter 44, Article III (Lodgers' Tax, Section 44-125 (Advisory Board Created; Composition; Disposition of Proceeds) of the Town of Silver City Municipal Code, and no further discussion. He asked for a roll call vote and Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

## 11. NEW BUSINESS -

**A. Approval / Disapproval of Public Celebration Permit Application and request for a waiver of NMSA 1978, Section 60-6B-10, for the VIP Opening Reception for The NAN Ranch Collection: The Legacy of Margaret Ross Hinton, to be held on Oct. 6, 2012, from 6:00 p.m. to 9:30 p.m. at the Western New Mexico University Museum. License Holder: High Desert Brewing Co., License # 6801, 1201 W. Hadley Ave., Las Cruces, NM.** Phillip Cave, Assistant Director of the Western New Mexico University Museum, presented the details of the event and asked for approval of the Public Celebration Permit application. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve the Public Celebration Permit application and to grant a waiver of NMSA 1978, Section 60-6B-10. Councilor Ray seconded. There was further discussion. Mayor Marshall said there was a motion and a second to approve the Public Celebration Permit Application and to issue a waiver of NMSA 1978, Section 60-6B-10, for the VIP Opening Reception for The NAN Ranch Collection: The Legacy of Margaret Ross Hinton, to be held on Oct. 6, 2012, from 6:00 p.m. to 9:30 p.m. at the Western New Mexico University Museum. License Holder: High Desert Brewing Co., and no further discussion. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none.

Councilor Bettison moved for short break at 6:43 p.m. Councilor Cook seconded. Mayor Marshall said there was a motion and a second for a short break. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. Mayor Marshall called the meeting back to order at 7:00 p.m.

**B. Approval / Disapproval of Notice of Intent Ordinance No. 1211: an Ordinance amending Chapter 32 (Nuisances), Article III (Unattended Vacant Buildings), Sections 32-50 et seq., of the Town of Silver City Municipal Code.** Councilor Morones presented the details of Notice of Intent Ordinance No. 1211 and said a downtown merchant group saw a need for it and the Silver City MainStreet Project saw that it filled their scope and purpose under their 4 point approach and under economic development. He commented on the vacant buildings downtown; the concern of how safe the vacant buildings were; how they detracted from the economic viability and vibrancy of downtown, and were creating a very dangerous environment; how the ordinance would offer a great opportunity to help the district in a number of ways; how neighbors of the vacant building were at risk of fire and other problems; how the vacant building put pedestrians at risk; and how they created a definite lack of appeal as a business district, etc. He offered some language changes in Section 32-51 Purpose to change the paragraph to read, "The purpose of this Article is to regulate unattended vacant building that are used primarily for commercial purposes in the Historic Downtown District of the Town of Silver City . . ." He also requested a change in Section 32-53 Applicability to change the paragraph to read, "The provisions of this chapter shall apply to all properties that are used primarily for commercial purposes in the Silver City Historic Downtown District as designated on the Silver City Zoning Map, as existing and as may be amended." He said with those changes the intent and substance of the ordinance was not materially changed, but it did add clarity to the area that they were proposing the ordinance to. He said it was fair and

put vacant buildings on par with active buildings, and he explained how. Mayor Marshall asked for comments from the audience. Comments were received from Joanie Connors, resident of the historic district, Nick Seibel, Silver City MainStreet Project Manager, Sandra Hicks, owner of a renovated building in Historic Downtown, and Susie Calhoun, owner of property downtown. Councilor Morones responded to their comments. There was further discussion. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve Notice of Intent Ordinance No. 1211 and he read the agenda item description and the changes in Sections 32-51 and 32-53. Councilor Ray seconded. Mayor Marshall said there was a motion and a second to approve Notice of Intent Ordinance No. 1211: an Ordinance amending Chapter 32 (Nuisances), Article III (Unattended Vacant Buildings), Sections 32-50 et seq., of the Town of Silver City Municipal Code with the amendments as read twice by Councilor Morones in Section 32-51 and 32-53. Councilor Bettison asked to clarify the language in the amendment to Section 32-51. Mayor Marshall said there was a motion and a second and no further discussion to approve Notice of Intent Ordinance No. 1211 as read and discussed. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**C. Approval / Disapproval of Resolution No. 2012-23: a Resolution for the submission of the 4th Quarter Financial Report for Fiscal Year 2011-2012.** Manager Brown said the resolution was basically a duplication of part of the ordinance that was approved for the final budget and the final 4<sup>th</sup> quarterly report. He said the State asked that they submit a separate resolution for the 4th quarterly report even though it was already done. He said the State (Department of Finance and Administration, Local Government Division) already sent a letter that the Town's Fiscal 2013 budget had been approved, but they asked the Town to do the resolution for their records. Councilor Bettison said that legislatively they had completed the task, and that it was unnecessary and redundant for the State to ask for it. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Resolution No. 2012-23 and she read the agenda item description. Councilor Ray seconded. Mayor Marshall said there was a motion and a second to approve Resolution No. 2012-23: a Resolution for the submission of the 4th Quarter Financial Report for Fiscal Year 2011-2012. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

**D. Approval / Disapproval of Bid 12/13-1: Wastewater Treatment Plant Bar Screen Replacement.** Manager Brown said the Town received 1 bid for the replacement of the bar screen from Tatsch Construction with a base bid amount of \$142,583.00 with the additive alternate #1 at \$5,625.00 for a total amount that included gross receipt tax of \$159,138.34. He stated it would be 55 percent covered by an EPA grant and 45 percent by water and sewer funds that had been budgeted for the project. Robert Esqueda, Utilities Director, and Manager Brown answered questions by the Council. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Bid 12/13-1 per staff recommendation to Tatsch Construction for a total with gross receipts tax of \$159,138.34. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to approve Bid 12/13-1: Wastewater Treatment Plant Bar Screen Replacement per staff recommendation to Tatsch Construction for a total with gross receipt tax of \$159,138.34, and no further discussion. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**E. Approval / Disapproval of Bid 12/13-3: Cactus Street, Phase II ADA and Street Improvements.** Manager Brown said the Town received 4 bids and that it was staff's recommendation to only award the base bid for \$107,649.60 for a total bid amount of \$115,588.76 to Diamond Construction. He said the base bid was sidewalk, curb and gutter, dry pad, and ADA improvements to Cactus Street from north of the 22nd Street intersection to 24th Street. He said the additive alternate was the ADA ramps and that they were recommending not to award it. He said the total grant from the NM Department of Transportation was \$59,343.00. He said they knew the project would cost significantly more than that so they budgeted an additional amount, but they did not budget enough to do the ADA ramps so they were only recommending that the sidewalks be done. There was no further discussion. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Bid 12/13-3 per staff recommendation to Diamond Construction, Inc. for a total with gross receipts tax of \$115,588.76. Councilor Ray seconded. Mayor Marshall said there was a motion, a second, and no discussion to approve Bid 12/13-3 per staff recommendation to Diamond Construction, Inc. for a total with gross receipts tax of \$115,588.76. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

**F. Appointments to the Mayor's Climate Protection Agreement Citizens Advisory Committee.** Mayor Marshall said that he had applications from Linda K. Thompson, the current chair, an application from Denise Smith, a current member, and an application from Shelby Hallmark, a current member. He said that he was very acquainted with all of the applicants and found them to all be qualified and actively contributing to the community, and that they would return to contribute once they had a quorum. He said that he would like to appoint them if there was no objections from the Council. There were no objections.

**12. ADJOURNMENT** – Mayor Marshall asked for a motion to adjourn. Councilor Cook moved to adjourn at 7:53 p.m. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to adjourn. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if there were any opposed, and there were none. Motion carried.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk