

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
April 9, 2013, 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  
Jaime Embick, Town Planner  
Jim Coates, Town Planner

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:02 p.m.

**2. CEREMONIES** – None.

**3. PROCLAMATIONS** –

**"Sexual Assault Awareness Month", April 2013** – Mayor Marshall presented the proclamation to Colleen Boyd, Executive Director of Silver Regional Sexual Assault Support Services. Ms. Boyd thanked the Council and Mayor for the proclamation and stated that President Obama also signed a similar proclamation.

**"Child Abuse Prevention Month in Silver City", April 2013** – Mayor Marshall presented the proclamation to Andy Anderson of the Children, Youth, and Families Division of the State of New Mexico. Mr. Anderson thanked the Mayor and Council for recognizing child abuse and said it was something that could be prevented, etc.

**"Autism Awareness Month", April 2013** – Mayor Marshall presented the proclamation to Karen Morant of the Grant County Disability Advisory Council. Ms. Morant thanked the Mayor and Council for supporting them with the proclamation and other ongoing efforts for the Grant County Disability Advisory Council. She said that as a parent of a child with autism that she really appreciated awareness coming to the issue in the community, and she distributed ribbons.

**"Fair Housing Month", April 2013** – Mayor Marshall presented the proclamation to Jim Coates, Town Planner. Mr. Coates said he was representing Mike Eley, the Town's Housing Coordinator. He thanked the Mayor, the Council, and Manager Brown for their long time support of Vistas de Plata and the housing rehabilitation projects. He also said that Habitat for Humanity had become a real strong partner this year in the Vistas de Plata program, and he thanked that organization.

**4. PUBLIC INPUT** – Mayor Marshall said he invited the AmeriCorps volunteers from The Wellness Coalition to join them. Several members of the program commented on the AmeriCorps programs and that more than 830 Mayors from all 50 states were in support of the programs by participating in the first-ever Mayors Day of Recognition for National Service; that The Wellness Coalition had received over \$2,000,000 of federal funding to support National Service in Grant County and Southwest New Mexico; how the young adults benefited from serving; that the AmeriCorps members supported 12 different non-profit organizations, how they operated in a 4 county area in Southwest New Mexico; and how almost all of their programs were health related or for youth development. Faye McCalmont, Executive Director of the Mimbres Region Arts Council (MRAC), commented that MRAC was teaming up with the Town and with Comcast to create a community mural at the 12th Street bridge over Silva Creek that would be called "Aqua es la Vida / Water is Life." She provided details and invited the Council and audience to participate in the mural project on April 27th.

**5. COUNCIL COMMENTS** – Councilor Ray commented that he had received calls from the public from the Mountain View Road area and in other Council districts that said they were happy with what the Town Council was doing and that they were doing a good job. There were no other comments from the Council.

**6. CHANGES TO THE AGENDA – None.**

**7. APPROVAL OF THE MINUTES – Regular Meeting on March 26, 2013 –** Councilor Bettison moved to approve the minutes of the Regular Meeting of March 26, 2013. Councilor Cook seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of March 26, 2013. 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. Follow-up report of Planning Project for Mine Safety on Boston Hill, presented by Ken Romig, Project Manager, Dekker/Perich/Sabatini Design, contractor for Abandoned Mine Lands Program.** Mr. Romig gave an overview of the project; provided an update with details of the public input that was received at a recent public meeting; and stated that the next steps would be to develop a report for everybody's review and perusal and to conduct a 2 day workshop with community members to develop solutions that would reflect community consensus on what was suitable for Boston Hill. There were no questions from the Council.

**B. Southwest New Mexico Green Chamber Quarterly Report by Cissy McAndrew, Executive Director.** Ms. McAndrew reported on monthly visitation numbers; presented the Downtown Guide for Silver City MainStreet and the Silver City Grant County Visitor Guide; introduced Adrian Booth from the Visitor Center; commented on upcoming events; and stated the Buy Local Campaign was moving forward. She introduced George Dworin as the Arts and Cultural District's Director. Mr. Dworin said he had been the Director for 9 weeks and that he continued to focus on the assets and obligations of the Arts and Cultural District (ACD). He discussed his work with the ACD Tourism Group, advertising and marketing, the importance of advertising on the world wide web, etc. There was further discussion with the Mayor and Council about attracting tourists from China and other Asian countries because Asia had surpassed Europe in dollars spent around the world. Mayor Marshall said that he and the Council truly appreciated the volunteers for the time that they spent at the Visitor Center.

**C. Staff reports.** None.

Councilor Bettison moved for short break at 6:56 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. He called the meeting back to order at 7:05 p.m.

**9. PUBLIC HEARINGS –**

**A. Approval / Disapproval of Ordinance No. 1217: An Ordinance to amend the Official Zoning Map for the following properties from the Commercial or Residential B districts to the Mixed-use Zoning District: 1) all of Blocks 243, 254, 267 and 268 of the Fraser Survey of the Town of Silver City; 2) the east 74' of Lots 1, 3, 5, 7, 9 and 11 of Block 256 of the Fraser Survey of the Town of Silver City; 3) the east 70' of Lots 1 and 3 of Block 266 of the Fraser Survey of the Town of Silver City; 4) the west portion of Block 276 of the Fraser Survey of the Town of Silver City bordered on the east by the Town owned right-of-way in Pinos Altos Creek and including the vacated portion of 15<sup>th</sup> Street as described in Ordinance No. 702; 5) all of Blocks 1 and 6 of Schadel's Subdivision. The applicant is the Town of Silver City.** 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 all 4 Councilors said no. He qualified all of them to be on the hearing board. He 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 1 witness, Jaime Embick, Town Planner. Mayor Marshall read the procedures of how the hearing would be conducted. He said Ms. Embick had the floor and she presented the details of the zone change from Commercial or Residential B to the Mixed-Use Zoning District with a map of the area. She said that there were 7 findings required and that the Town Council would need to make at least 1 of the findings. Mayor Marshall said she did not need to read the findings since they were in the record. Ms. Embick said that it was the recommendation of the Planning and Zoning Commission that the Map Amendment/Zone Change be approved based on Findings 1, 2, 4, and 7. There was further discussion. Mayor Marshall asked Ms. Embick to confirm that she was speaking on behalf of Town Staff and as the Applicant, and she

said yes. He 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, and there were none. He asked if there were any more questions from the hearing board, and there were none. He asked the hearing board if they were ready to render a decision, and they said yes. Councilor Morones moved to approve Ordinance No. 1217 and he read the title paragraph of Ordinance No. 1217 and read Finding #1, "The proposed amendment is in substantial compliance with the Town's Comprehensive Plan." Councilor Bettison seconded. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1217 as read twice and published with Finding #1, "The proposed amendment is in substantial compliance with the Town's Comprehensive Plan." He asked if there was any discussion, and there was none. 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.

## **11. UNFINISHED BUSINESS – None.**

## **12. NEW BUSINESS -**

**A. Approval / Disapproval of Special Dispenser Permit Application for the Mimbres Region Arts Council's 18th Annual Silver City Blues Festival, to be held May 24-26, 2013 on 12th and Pope Streets adjacent to Gough Park. Liquor License Holder: Buffalo Bar, 211 N. Bullard, Silver City, NM.** Faye McCalmont, Executive Director of the Mimbres Region Arts Council, presented the details of the event and how they tried to ease the crowding for public safety by working with Police Chief Reynolds, Peter Pena, the Director of the Public Works Department, and Councilor Ray to relocate the motorcycle parking area. There was further discussion about the changes. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve the Special Dispenser Permit Application and he read the agenda item description. Councilor Ray seconded. Mayor Marshall said there was a motion and a second to approve the Special Dispenser Permit Application for the Mimbres Region Arts Council's 18th Annual Silver City Blues Festival, to be held May 24-26, 2013 on 12th and Pope Streets adjacent to Gough Park. Liquor License Holder: Buffalo Bar, 211 N. Bullard, Silver City, NM. He asked if there was any discussion, and there was none. 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.

**B. Approval / Disapproval of Bid #12/13-10: Homeowner Rehabilitation Project.** Manager Brown said the Town put out Bid #12/13-10 for the Homeowner Rehabilitation Project, and it was originally staff's recommendation to award the project because the funds were available for the award in the grant. He said that when the bid was sent to the Mortgage Finance Authority they learned that it exceeded the estimated cost of the project by more than 10 percent so it had to be put back out to bid. He said that it was staff's recommendation to reject the bid and put it out for the minimum of days required because the contractor knew about it, and they could bring it back to the next Council meeting. Councilor Bettison moved to reject Bid #12/13-10: Homeowner Rehabilitation Project per staff recommendation. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to reject Bid #12/13-10: Homeowner Rehabilitation Project per staff recommendation. He asked if there was any discussion, and there was none. 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. Fiscal Year 2013-2014 Budget presentation by Alex C. Brown, Town Manager-Finance Director, and request for Council's direction.** Manager Brown presented the proposed budgets for the Water and Sewer Funds and the Sanitation Fund and stated they were enterprise funds and should be run like non-profit businesses because they were not for profit. He discussed the current ordinance and that annually he brought any rate change recommendations to the Council so it would cover all of the operational, debt service, capital costs, and to develop a 1/12th reserve. He said that they would not get to the 1/12th reserve this year because the billings for water had decreased in the number of gallons being billed for, and the number of gallons pumped was also decreasing so the revenues that were projected would not be met this year. He said they still had the same operating costs that were projected and the debt service costs, and that there was an increase in capital costs because the Gabby Hays well took longer than expected to get online. He discussed the current rate structure and said for In-Town rates they charged 25 cents for the first 3,000 gallons and \$3.44 from 3,000 to 13,000 gallons, then \$4.21 for anything over 13,000 gallons. He said that Out of Town rates were \$18.02 for the first 3,000 gallons, \$5.90 for the next 10,000 gallons, and \$6.98 for anything above that. He proposed to increase the number of billable gallons by decreasing the base rate from 3,000 gallons to 2,000 gallons so

it would increase a certain amount of residents to get into the first tier faster. He recommended changing the first tier from 3,000 gallons to 13,000 gallons to 3,000 gallons to 10,000 gallons so it would be the next 7,000 gallons. He said it would be the first 2,000 gallons, then the next 8,000 gallons in the first tier, and anything over that would be in the third tier. He recommended increasing the second tier by 20 cents from \$3.44 to \$3.64, and the third tier from \$4.21 to \$4.51. On the Out of Town rates he recommended that they maintain the current base rate, but go down to 2,000 gallons for the base rate, change the second tier for the next 8,000 gallons, increase it 20 cents the same as the In-Town rates, and the second tier would go up 30 cents the same way. He said they currently billed 6,243 accounts including the 3 water associations, and that they directly billed the fourth water association in Tyrone. He said that if you included the water associations they had a total of 6,941 accounts that were tied on to their water system. He said there was a recommendation in the Water Conservation Plan during its first phases of development that recommended that they decrease the number of gallons in the first tier and to shorten the base so people would get into the third tier more quickly in order to help promote water conservation. He discussed a comparison of the billing compared to the rest of the state and said currently it was \$20.57 for the first 6,000 gallons that was billed, and under his proposal it would go up to \$24.81, and that the state average for the previous year was \$25.85 for the first 6,000 gallons. He said they used the same criteria for sewer and wastewater rates; that the base rate for sewer had to cover the debt service costs associated with sewer; that the debt service had not changed so he was not recommending changing the base rate for that. He said that because of increased capital costs for upgrades to the infrastructure and regular maintenance that he was recommending that they increase the per thousand gallons for the In-Town rates from \$1.10 to \$1.20 per thousand gallons and the wastewater would go from \$1.80 to \$2.01 per thousand gallons. He said they currently supplemented the Water/Sewer Fund with 1/8 percent of the gross receipts tax revenues which amounted to \$424,000 annually at the current rate of revenue. He discussed his plan to pull back the 1/8 percent that was subsidizing the Water and Sewer fund and to move it back in to the General Fund to alleviate some of the short falls that they would see in future years because of the elimination of the hold harmless. He discussed the Water and Sewer Fund budget in more detail; that personnel were remaining the same; that debt service was remaining the same; and that capital and maintenance was increasing because of their older infrastructure.

Mayor Marshall stated that none of them enjoyed raising rates or taxes; that the Water and Sewer Fund should be operated as a true enterprise fund and if they could move the General Fund from supporting it that hopefully it would set them up for a smaller tax increase to respond to the hold harmless. There was further discussion. Manager Brown said the Water and Sewer and Sanitation Funds had some salary increases that were contractually obligated because of the AFSCME Union; that the recent legislation raised the costs for the Town regarding the Public Employee Retirement Association (PERA); and that insurance was increasing an average of 4.5 percent for the Town. He said the Sanitation Fund's ordinance did not require him to make recommendations because the ordinance already maintained an automatic 3 percent rate increase annually. He discussed the Sanitation Fund budget details and how there was a 1/16 percent gross receipt tax revenue that was dedicated to the Sanitation Fund through state legislation and that it could not be moved. He said there was cushion in the fund for capital expenditures and that personnel, etc., would remain the same. There were no questions from the Council. He discussed the General Fund and said the largest revenue source was the gross receipts taxes or \$9,300,000 total and that \$8,000,000 of that went to the General Fund and the rest was separated between the 2011 bond debt service, the Water and Sewer Fund, the Sanitation Fund, and the public safety tax. He said the next highest source of revenues were from franchise fees in the amount of approximately \$480,000 per year, and the third highest source of revenues were from property taxes in the amount of \$280,000 to \$290,000 per year and that they had never been raised. He said that they could work with the property tax. He said they had revenues from user fees, such as library fees, pool fees, etc., and there was about \$160,000 of revenues from fines and penalties, but the cost to operate Municipal Court was about \$280,000 so it was subsidized. He said that he was looking at maintaining the current personnel and operational levels in all of the departments, except that he proposed to increase the staffing levels at the Police Department. He said that was the only major place of change in the General Fund. He said the Public Works Department was doing well at the current staffing levels; the Fire Department had budgeted increases due to their union contract with 1.5 percent annual cost of living increases and certification increases; and the Police Department had a 1 percent cost of living increase with their union contract. He said that was where they were at and the revenues did not currently cover the expenditures, that it was not a long way off, but he was looking at different things to balance it and to get the 1/12 reserve that was required.

Mayor Marshall said the Town's portion was .0001 percent of the property tax or \$1 per \$1,000 valuation and that it was very, very low, and that they may have to look at that at some point. There was further discussion about the property tax revenues and possibly increasing it, but with caution; how the Town was at the bottom 1/3 in the state for property tax rates; how the Town had not increased property taxes in a very long time or ever; how the County had already maxed out; how many municipalities had already maxed out across the state, but Silver City was way at the bottom; how due to the looming loss of the hold harmless that raising property taxes had to be considered when looking at ways to mitigate the fact that expenses slightly exceeded the revenues so they could provide the same level of services to the citizens; how the Town had a population of 10,300 people, but served 18,000 people daily; how the loss of hold harmless tax revenues would amount to 18 percent of the Town's gross receipts taxes so they had to find some way of mitigating that while still providing services; how legislative cuts affected local governments and how they needed to develop stability in local governments' revenue sources; how the Town could only react to legislation that was enacted; how a 10,000 population was considered a small community so Silver City was grouped with the large communities and had to react with large communities; how they needed to take care of themselves by taking care of economic drivers that could stimulate gross receipts and economic activity; and how tourism was important for bringing more people to town and bringing more business to the people that lived here, i.e. different retail and other outlets, and to work together to move forward and to make sure the Town continued to provide services and have the required 1/12th reserve.

Mayor Marshall said he would entertain a motion to go into Executive Session. Councilor Bettison moved to go into Executive Session pursuant to NMSA 1978 Section 10-15-1(H)(5) for the discussion of bargaining strategy preliminary to collective bargaining negotiations. Councilor Cook seconded. Mayor Marshall said there was a motion and a second to go into **Executive Session pursuant to NMSA 1978 Section 10-15-1(H)(5) for the discussion of bargaining strategy preliminary to collective bargaining negotiations**. He asked if there was any discussion, and there was none. He called for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Mayor Marshall asked if any were opposed, and there were none. Motion carried. At 8:10 p.m. he said they would have a recess before going into Executive Session and would take no action when they returned. Mayor Marshall called the meeting back to order at 8:46 p.m. and stated the matters discussed in the closed meeting were limited only to those specified in the motion for closure, and he asked for a roll call vote. Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Mayor Marshall asked if any were opposed, and there were none. Motion carried.

**13. ADJOURNMENT** – Mayor Marshall asked for a motion to adjourn. Councilor Cook moved to adjourn at 8:47 p.m., and Councilor Bettison 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