

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
June 11, 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
Robert L. Scavron, Town Attorney

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:02 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – "**Social Medial Day in Silver City**" - **June 30, 2013.** Mayor Marshall read and presented the proclamation to Abe Villarreal, Director of Communications for Western New Mexico University. Mr. Villarreal said it was an international event and that Silver City was one of the host cities. He said they were also raising money at the event for the Volunteer Center and the food pantry. He said the event would be a great way for people to connect and that they were targeting non-profits and small businesses so they could meet offline and increase collaboration through social media.
- 4. PUBLIC INPUT** – Carolyn Morrison and Larry McClaud commented on law enforcement on South Bullard Street and said in the past couple of years the noise had become unbearable from loud vehicles that were speeding on South Bullard Street. She read a letter that they had written to Police Chief Reynolds that requested the Silver City Police Department to take appropriate action to deal with the noise violations and the speeding violations; that it was disturbing the neighborhood and disrupting their lives, their rest, and their guests; how South Bullard had become a race track; how the drivers were going much faster than the posted 15 miles per hour speed limit; and how a number of solutions could deal with it, but primarily enforcement and possibly putting in speed bumps. They asked for the Council's help in addressing the issue since they had not seen any results in their request to the Police Department to have the laws of the Town of Silver City enforced.
- 5. COUNCIL COMMENTS** – Councilor Bettison thanked Manager Brown, Code Enforcement Officer, Julie Salaiz, the contractors for New Mexico Gas Company, and the Silver City Police Department for responding quickly to citizens' concerns about the easement at 24th Street and Juniper Street. She thanked them for putting up berms and for the increased patrols in the area, and she said the traffic had significantly decreased because of the berms. Mayor Marshall commented on the public input that was given and he said it was one of several neighborhoods that they were hearing about. He commented on how people drove without stopping at stop signs anymore; that he did not know why people were in such a hurry and that he saw the same behavior across the state; how people needed to slow down because it was dangerous and would hurt somebody; how they issued 2,000 citations in a month and people must like to donate to the Town because they were still paying; that people needed to respect each other and slow down; how they would have more discussions with the Police Department and try to come up with a better plan; that they kept adding officers and this year they took other steps to make sure they had more officers on the street; how people needed to respect each other or they would hurt somebody; and that they should slow down and show some courtesy. He also commented on the current Black Range fire and how last year the area's economic development was affected and they suffered when the word got out around the nation and the world about the Gila fire. He said the area on fire in the Black Range had over 100 years without a fire history so there were plenty of fuels, and that the burned area was reported that day to be up to 8,000 acres. He encouraged everyone to watch the media for factual reports on the fire, and that the forest service would be putting out briefers twice a day for public communication. He said that they should look for factual information and pray for their firefighters and their forest.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting on May 28, 2013 – Councilor Bettison moved to approve the minutes of the Regular Meeting of May 28, 2013. Councilor Cook seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of May 28, 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. Staff reports. Police Chief Reynolds responded to the public input and said he passed the letter on to Field Services to target that area for enforcement. He said they were short-handed and it was on their target list when manpower was available and they would be downtown more often. He said 3 new officers just out of the academy would start the following week, and another would start on July 1st. He said they had one more position to fill.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS –

A. Approval / Disapproval of Ordinance No. 1220: an Ordinance amending Ordinance No. 1195; ratifying actions heretofore taken; and repealing all action inconsistent with this Ordinance (An ordinance reflecting a name change of the wastewater solar project Industrial Revenue Bond (IRB) purchaser and re-affirming prior actions taken by the Town Council with regard to said IRB). Manager Brown said it was the second reading of the ordinance to amend the original IRB ordinance that was issued to NRG Solar. He said Affordable Solar was the current owner of the facility and the facility was almost completed. He said Ordinance No. 1220 would change the name from NRG to Affordable Solar, the current owner, and it was necessary because they did not have the assignment language in Ordinance No. 1195 for the IRB. Mayor Marshall asked if there were any comments from the audience or Council, and there were none. Councilor Bettison made a motion to approve Ordinance No. 1220 and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second and he asked if there was any discussion. There was no further discussion. He said there was a motion and a second and no further discussion to approve Ordinance No. 1220 as read twice and published. 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. 1218 an Ordinance permitting the transfer of certain real property, commonly known as the "Tennis Court Parking Lot" to Silver Consolidated Schools; all pursuant to Chapter 48, Section 48-24 of the Town of Silver City Municipal Code. Manager Brown said it was the second reading of the ordinance which would authorize the trading of two properties between the Town of Silver City and the Silver School District. He said the Town would receive a mobile building on 32nd Street at the Ben Altamirano Sports Complex that was a portable classroom. He said they had 1 year to move it and they wanted to use it for some programs for special needs individuals. He said the School District would be getting the parking lot next to Fox Field and the 32nd Street Park, and that it was basically a trade. He said that both properties would remain available to the public and since both parties were government entities that it was not a sale and no appraisals were done. He said they could just transfer property through Council action. Mayor Marshall asked if there were comments from the audience, and there were none. He asked if there were comments from the Council. Councilor Bettison asked if it was approved by the School Board and if that was why it was delayed. Manager Brown said yes. Mayor Marshall said he would entertain a motion. Councilor Morones moved for approval of Ordinance No. 1218 and he read the agenda item description. Councilor Bettison seconded. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1218 and he asked if there was any other discussion. There were no comments from the Councilors. The Mayor said the Disability Advocacy Group was excited about it, that they did a lot of work with their children, and that it would benefit the entire community. He said there was a motion and a second to approve Ordinance No. 1218 that was read twice, and he asked for a roll call vote. Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

11. NEW BUSINESS -

A. Approval / Disapproval of Public Celebration Permit Applications for the 2nd Annual Silver City Clay Festival, Clay Poker Tournament Fundraiser on July 27, 2013, 3PM - 10 PM, at the Old Elk's Lodge, 315 North Texas Street. Liquor License Holders: Little Toad Creek Brewery and Little Toad Creek Distillery.

Mayor Marshall gave the floor to Lee Gruber, Executive Director of the Silver City Clay Festival. Ms. Gruber said it was the second year for the festival and she was seeking approval of the public celebration permit applications for the Clay Poker Tournament Fundraiser at the Old Elks Lodge. She said they were seeking ways that the entity of clay could be used to bind people together, to find ways to collaborate and figure out how they can help build the economy of the community. She said that she was told the best poker chips in the world were made out of clay. She said that she would appreciate it if they would look upon the applications with consent. She introduced Jessie Thedford, Project Coordinator for the Clay Festival, and said Ms. Thedford could answer any questions that they might have. There were no questions. Mayor Marshall reminded the Council that they needed the waiver. He said that he would entertain a motion. Councilor Ray made a motion to approve the 2 public celebration permit applications with the waiver of New Mexico Statutes Annotated #60-6B-10 for the prohibition of the dispensing of alcohol within 300 feet of a church or school. Councilor Bettison seconded. Mayor Marshall said there was a motion and a second to approve, and for the record there was a letter from the Director of the Division of Alcohol and Gaming, Regulation and Licensing Department of the State, that stated the event was within the laws of the State of New Mexico. There was no further discussion. The Mayor said there was a motion and a second to approve Public Celebration Permit Applications for the 2nd Annual Silver City Clay Festival, Clay Poker Tournament Fundraiser on July 27, 2013, from 3PM - 10 PM, at the Old Elk's Lodge, 315 North Texas Street, Liquor License Holders: Little Toad Creek Brewery and Little Toad Creek Distillery, and granting of the waiver to New Mexico Statutes Annotated, Section 60-6B-10. 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 Resolution No. 2013-21 Adjusting Property Tax Rates within the Town. Manager Brown said the changes that were made at the State level to gross receipts taxes had put the municipalities and local governments in a position where they would have to try to diversify their funding. He said that currently the Town of Silver City's primary source of revenue was gross receipts taxes, the second highest revenue was from franchise fees, and the third highest revenue was from property taxes. He said Resolution No. 2013-21 would increase residential property tax rates from 1.099 mil to 2.099 mil, and non-residential from 2.225 mil to 3.225 mil. He said it was an increase of 1 mil for each one of them and would leave them with 4.425 mils remaining in authority that they could impose. He said it still left them at the bottom position in the State with regards to property tax rates. He stated the resolution was required by the New Mexico Department of Finance and Administration to be in place before they approved the final budget at the end of July. Mayor Marshall asked if there was any discussion from the audience, and there was none. He asked if there was any discussion from the Council. Councilor Cook asked if there would be an increase in gross receipts, and if sales tax would go up. Manager Brown said the issue with gross receipts taxes was that the hold harmless would be phased out in 2 fiscal years, and they were giving them time to adjust and diversify their budget and revenue sources. He said they were trying to start getting ready for the hold harmless going away. He said that he projected they would receive approximately \$9.3 million in total gross receipts taxes and \$1.7 million was the hold harmless money that would be phased out of their revenue in a period of 15 years. He said they would probably lose \$130,000 per year so they wanted to put property tax in place, and he discussed the 1/8 gross receipts tax that was subsidizing the water fund and how it needed to be put back into the general fund. He said there would be no increase to the gross receipts tax rate, and he commented further on the hold harmless monies that would be lost. There was further discussion on the following: how the reality was that they were going to have less money and in order to provide the same services they needed to come up with different revenue streams and take steps now and not leave it for a future Council; how it was a reality based decision on what the environment was giving them and they were taking baby steps to mitigate those issues; how a 1 mil increase was equivalent to a \$20 increase in property tax for a home with an assessed value of \$100,000; how there were 21 municipalities that would be affected by the removal of the hold harmless and they were given different options, but 12 of the municipalities would not be able to recoup the cumulative annual loss from hold harmless, and that it would be a significant loss to Silver City; how if the 3/8 gross receipts tax was imposed it would generate \$1.2 million, but Silver City would be losing \$1.7 million so they would still lose 30 percent; how the Council would also be imposing the increase in property tax on themselves; how they needed to continue providing services and the increase in property taxes was one small step; how a gradual increase was better than a rapid increase; how the maximum allowed for property tax was 7.65 mil and the proposal would set

them at 2.099 mil for residential and 3.225 for commercial; how the lowest rate imposed by a municipality for property tax was 0.457 mil with the high being 7.65 so the Town of Silver City was still under the median and in the lower third; how the Town had not adjusted property taxes in a long time and the tax structure was changing, etc.; and how the tax bill was giving them an opportunity to diversify their tax base and it was necessary for the vitality of the government services. Mayor Marshall said he would entertain a motion. Councilor Morones moved for the approval of Resolution No. 2013-21 and he read the agenda item description. Councilor Bettison seconded. The Mayor said there was a motion and a second and he asked if there was any discussion. There was none. He said there was a motion and a second to approve Resolution No. 2013-21 adjusting property tax rates within the Town. He asked for a roll call vote: Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

C. Approval / Disapproval of Resolution No. 2013-22 Adjusting Water and Sanitary Sewer Rates. Manager Brown said the preliminary budgets presented to the Council over the last couple of months included the proposed water rates in Resolution No. 2013-22. He said the primary difference was to maintain the base rate at \$10.25 for the first 2,000 gallons instead of 3,000 gallons and a 20 cent increase per 1,000 gallons. He said the Town would still be below the State average. He stated that part of it was going back to the hold harmless issue because they wanted to get the water and sewer rates to cover all of the debt service and operations of the water and sewer fund. He said currently the water and sewer fund was being subsidized by 1/8 gross receipts taxes in the amount of approximately \$420,000. He said they needed to stop subsidizing the water and sewer fund with gross receipts taxes, and get those gross receipts taxes back into the general fund to help mitigate the damages that would be caused by the hold harmless. Mayor Marshall asked if there was discussion from the audience, and there was none. The Council discussed the following: how it was a reality based discussion and the reality was they did not have the money that they historically had and they needed to start positioning themselves better; how the water and sewer fund was an enterprise fund and needed to make the revenue to pay for itself; how the citizens of the Town had been subsidizing the water rates to help keep them at a low number; how the Town had been very healthy relative to many of their peers, but would not be the case in the next 5 to 10 years; how they needed to take care of business and make sure the water fund could take care of itself and move the gross receipts taxes that they already collected back to the general fund to serve the residents; how the Town had been funding the enterprise fund with 1/8 gross receipts taxes and the water rate increase would ensure that the Town remained healthy and provided the services; how it would ensure that the Town would be positioned properly for the future; how it was an enterprise fund and there were a lot of fixed costs within the operations of the department, and through water conservation and other measures the billable amount of water had decreased in the last few years; how last year the water rates were increased by 2 percent and the actual billable water went down by 8 percent so they went backwards 6 percent; how in the last 10 years they pumped 63 percent of the total water rights that were available and in the last 2 years they pumped around 55 percent because people were using less water; details of the fixed costs; how the electric rates increased significantly; and how they must pump during peak hours to get the tanks full and at proper levels. The Mayor said he would entertain a motion. Councilor Bettison moved to approve Resolution No. 2013-22 and she read the agenda item description. Councilor Morones seconded. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-22 Adjusting Water and Sanitary Sewer Rates, and he asked if there was any other discussion. There was none. He said there was a motion and a second and no further discussion to approve Resolution No. 2013-22. 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 Notice of Intent Ordinance 1222 an ordinance amending the Town's Municipal Code, Appendix C (Land Use and Zoning Code of 2010), Article 6, Secs. 6.1.1. A) and 6.1.1 A)1) (Planning and Zoning Commission). Mayor Marshall said the current Code called for 7 members and that number was set back when the Planning and Zoning Commission also addressed issues within the extra territorial jurisdiction and had membership from the extra territorial jurisdiction. He said their area of authority had diminished, and it had become nearly impossible to get volunteers to sit on the Planning and Zoning Commission. He said it was critically important that the Planning and Zoning Commission be filled and have a quorum at all of the meetings that had business. He said they addressed business that dealt with people's property rights which many times was the biggest investment that families made, as well as businesses. He said they must have a quorum and have struggled with having 7 members. He said the ordinance would bump them down to 5 members which was the same as the Town Council that represented the entire town on a multitude of business topics. He asked if there was any discussion from the audience, and there

was none. He asked if there was any discussion from the Council, and there was none. He said he would entertain a motion. Councilor Morones moved for approval of Notice of Intent Ordinance No. 1222 and he read the agenda item description. Councilor Bettison seconded. Mayor Marshall said there was a motion and a second and asked if there was any discussion. There was no further discussion. He said there was a motion and a second to approve Notice of Intent Ordinance 1222 an ordinance amending the Town's Municipal Code, Appendix C (Land Use and Zoning Code of 2010), Article 6, Secs. 6.1.1. A) and 6.1.1 A)1) (Planning and Zoning Commission). 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 gave the floor to Councilor Ray. Councilor Ray said that about a month and a half ago there was a meeting with Representative Steve Pearce that asked what could be done for Silver City and Grant County. Councilor Ray said that he came up with a question to see if they could look at having a river walk down at the Big Ditch. He said he received a letter from Representative Pearce informing him that they have looked for a request for assistance into finding funding for the river walk, and once the research was completed they would send paperwork. Councilor Ray said he received the paperwork that day and gave it to Manager Brown. He said maybe it would happen or maybe not, but he hoped that it would. He said Manager Brown had the paperwork for possible funding for research on the Big Ditch as a river walk.

12. ADJOURNMENT – Mayor Marshall asked for a motion to adjourn. Councilor Bettison moved to adjourn at 7:02 p.m., and 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/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk