

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
January 21, 2015, 6:00 p.m.**

Present:

Michael S. Morones, Mayor
Cynthia Ann Bettison, District 1
Lynda D. Aiman-Smith, District 2
Jose A. Ray, Jr., District 3
Guadalupe Cano, District 4

Also Present:

Alex C. Brown, Town Manager-Finance Director
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Robert Esqueda, Utilities Director

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Morones called the meeting to order at 6:03 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – None.
- 4. PUBLIC INPUT** – Patrick Hoskins, President of Silver City MainStreet, commented on the changes within the organization and stated Lucy Whitmarsh was chosen as the Director of the Program; that he was elected by the Board as the President; that Rudy Dominguez was elected as the new Vice-President; that Marsha Stout was the Secretary; and Steve Townley was the Treasurer. He said they were excited about the changes and looked forward to continuing their work downtown and making Silver City a great place to live.
- 5. COUNCIL COMMENTS** – The Council commented on the following: an upcoming open forum for citizens' concerns called "Conversations with a Councilor" with Councilor Bettison and special guests on January 22, 2015; a warning to burglars to beware because people were watching to see if people in the area actually belonged there and how Neighborhood Watch groups were beginning to form; how the Council passed a Resolution in December 2014 requesting the Legislature, the Governor, the Attorney General, and the Office of Regulation and Licensing to address the loan sharks or high interest amount loans in New Mexico, and how there was some progress because there were 2 House bills and 1 Senate bill filed to sponsor interest rate caps; how people from Silver City should tell city workers thank you for doing good work; people were asked to write anonymous comments and Councilor Ray would pick them up; a request that downtown businesses play music to entice people to shop downtown; a request that a study be done to see if it was feasible to clean up under the Hudson Street Bridge to have a park there and how it could be a starting point for trails on the Big Ditch and to Boston Hill; how they needed to think more about economic development and on helping Western New Mexico University and that the University would help the Town; people were encouraged to vote; how Councilor Cano attended a Disability Advisory Council meeting and that the Resource Center would open in February and have a grand opening in April; information on the February 3rd School Board election; constituents were encouraged to get involved because it was better to hear from them before the Council made decisions; how the Police Department had to kill a pit bull that went after somebody again and people with dogs were advised to keep their dogs in good quarters, and to be wise to their dogs; how Silver City MainStreet was started in 1985 or 1986 so it was close to 30 years that they had been helping the area and that downtown was far more vibrant now; how the Mayor had responded to letters from 3 or 4 students at Western New Mexico University and how people wanted the town to feel like a college town; how the Mayor thought Western New Mexico University would be an important economic driver which was needed in their community because they needed diversity from their natural resources that had been the backbone of their community; and how people could give their anonymous comments on the Town's website.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES** – **Regular Meeting on January 13, 2015** - Councilor Bettison moved to approve the minutes of the Regular Town Council Meeting of January 13, 2015. Councilor Aiman-Smith seconded.

Mayor Morones stated there was a motion and a second to approve the minutes for the Regular Meeting of January 13, 2015. 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.

8. REPORTS –

A. Quarterly tourism report by George Julian Dworin, Silver City Arts and Cultural District. Mr. Dworin gave the second quarter report for October to December 2014 that included: information on the New Mexico Tourism Department and their new Secretary, and how valuable they were to Grant County and the community; how the Tourism Association of New Mexico merged with the Lodgers Association of New Mexico and were now called the New Mexico Hospitality Association; how he had been elected to serve on the Board of the New Mexico Hospitality Association so Silver City was playing its part on the State level; how the Arts and Cultural District submitted the grant to the New Mexico Department of Transportation to designate the Visitor Center as a trailhead designation, etc.; people were encouraged to volunteer at the Visitor Center; how the Visitor Center saw 19 percent growth in the second quarter due to growing partnerships, etc., and he gave examples; how they served as the headquarters for different events; how they had billboards going up near Santa Fe, 2 more on Interstate Highway 10, and were looking at expanding digital billboards in Albuquerque and Tucson; the success of the 101 Things to Do program; magazines and publications that had articles about the Silver City area attractions, etc. and how they hosted several different journalists; how the power of partnerships with various organizations, individuals, and associations help to make things work; how the Cliff Dwellings site had 59 percent growth and the City of Rocks had 61 percent growth in visitors because the Cat Walk was closed; how social media was going gangbusters under Jessie Thetford and also partnerships with other Facebook users, Pinterest users, and Instagram users in their community and statewide; and how the next generation was all about mobile media and that social media was only 1 component of that so they would continue to develop tools to reach audiences in new ways that were outside of billboards. There was further discussion and Mr. Dworin was asked if there was a phrase that he would like all of them to know. He quoted Cissy McAndrew and stated, "Silver City, it's a great place to visit and a wonderful place to live."

B. Staff reports. Manager Brown stated the gross receipts tax revenues were down for the fiscal year because of the retail portion. He said he had been working with the New Mexico Taxation and Revenue Department because until 2 months ago they were 9 and one half percent below his projections and that it could not be that big. He said the Taxation and Revenue Department was fixing some glitches in their software so the Town was now getting accurate numbers and getting the money. He said he was adjusting the way they spend money because if they continued the rest of the fiscal year at being down by 3.47 percent then they would be short \$322,000. He said during the year their biggest expense in the General Fund was personnel costs so he prioritized which positions they would re-fill once they became vacant. He said he would rather not fill a position than lay somebody off or cut hours, etc. He said they would always fill safety sensitive positions such as Police and Fire personnel, and then infrastructure. He said he could put Water and Sewer personnel under Public Safety because it related to health, safety, and welfare. He said those positions would always be filled as they became open. He said the positions for infrastructure, such as streets and parks would be filled depending on how important the position was. He said then it would get down to quality of life which would be the Museum and Library, and the last positions to fill when there was a shortfall would be new positions that were added to the budget. He said he would not fill a new seat when he had to fill positions just to maintain the operations. He stated he would change the way he was doing things if the Mayor and Council had any direction for him, but if they did not have any changes then he would continue to go in that route. He said there were not a lot of openings, but fiscal responsibility had to come first. He asked for their input or questions. Councilor Bettison stated that he should continue with what he was doing because they had been very successful with him at the helm all of the years that she had been on the Council; that they had maintained the budget while still providing the services to the best of their ability. She said what he was doing was working well and to continue doing it. There was further discussion. Councilor Aiman-Smith acknowledged Manager Brown and stated he was a strategic, thoughtful, and fiscally responsible person. She said he was clearly also a financial detective when it came to the State. She commented that she would work with the Library staff on their services portfolio in March in order to do a rationalization process because perhaps they were offering too much. Manager Brown said that was an excellent idea. Mayor Morones recommended that he continued to work on Public Safety and Water, and the health, safety, and welfare of their constituents. He said when they had some extra money they could look toward the other things that they could improve upon.

Clerk Mackie provided information on absentee and early voting at City Hall for the upcoming municipal election. Councilor Bettison commented it was important that voters knew that they could not vote for the municipal election at the County Administration Center because there was a School Board election being held there; that in order to vote for the municipal election they must go to City Hall until March 3rd. She said having a School Board election running at the same time as the municipal election was confusing to voters because they wanted to just vote in one place.

Councilor Bettison moved for a short break at 6:58 pm. Councilor Cano seconded. Mayor Morones said there was a motion and a second for a short recess. He asked for a vote of all those in favor, and all 4 Councilors said aye. H asked if any were opposed, and there were none. Motion carried. Mayor Morones called the meeting back to order at 7:07 p.m.

9. PUBLIC HEARINGS -

A. Approval / Disapproval of an Application for Extension of Water Service Outside Town Limits. The request is to extend a 6" water line to serve a single residential lot located at 4360 Highway 15, located approximately 1,240 feet north of the intersection of Highway 15 and Remuda Road. The Applicant is Richard E. Pfeifer and the Authorized Representative is Scotty Calloway. The Property Owners are Richard E. Pfeifer and Ethel M. Pfeifer. Mayor Morones 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 matter, 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 3 witnesses. Mayor Morones read the procedures of how the hearing would be conducted. He gave the floor to Town staff. Robert Esqueda, Utilities Department Director, read the staff report that was included in the Council's meeting packet, and concluded that it was staff's recommendation to approve the application based on the 8 Findings that were read and the 9 Conditions that were read from the staff report. There was further discussion. Mayor Morones asked Mr. Calloway, Authorized Representative, to present his case. Mr. Calloway said the well caved in when they pulled the pump and were going to drill deeper. He said they pulled out and moved to a different location and drilled 700 feet. He said the applicant lived in Nevada and asked him to follow through with the application. Mayor Morones asked if it was his only alternative for water on the property. Mr. Calloway said there was no other alternative unless they got a truck and hauled in water. Councilor Bettison asked Mr. Calloway if the applicant was willing to meet all of the 9 conditions of approval that were read into the record and recommended by staff. He said yes, and that Engineers, Incorporated would do the engineering. There were no other questions by the hearing board. Mayor Morones asked if there were any witnesses for the applicant, and there were none. He asked if there were any witnesses in opposition to the applicant, and there were none. He asked if there were any other questions, and there were none. He asked Mr. Calloway if that completed his case in chief. Mr. Calloway said yes. Mayor Morones asked if the hearing board was prepared to consider the application and render its decision, and they said yes. He asked how the hearing board decided. Councilor Bettison moved to approve an Application for Extension of Water Service Outside Town Limits. The request is to extend a 6" water line to serve a single residential lot located at 4360 Highway 15, located approximately 1,240 feet north of the intersection of Highway 15 and Remuda Road. The Applicant is Richard E. Pfeifer and the Authorized Representative is Scotty Calloway. The Property Owners are Richard E. Pfeifer and Ethel M. Pfeifer per staff recommendation of the findings and of the conditions of approval that had been read into the record by Mr. Esqueda. Councilor Aiman-Smith seconded. Mayor Morones said they had a motion and a second as read into the record. He asked if there was any further discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

10. UNFINISHED BUSINESS – None.

11. APPROVAL OF CONSENT AGENDA -

- A. Approval / Disapproval of Resolution No. 2015-02: Adopting a Fair Housing Policy.**
- B. Approval / Disapproval of Resolution No. 2015-03: Citizen Participation Plan CDBG Program.**
- C. Approval / Disapproval of Resolution No. 2015-04: Residential Anti-Displacement and Relocation Plan and Certification.**

D. Approval / Disapproval of Resolution No. 2015-05: Section 3 Plan.

E. Approval / Disapproval of Resolution No. 2015-06: CDBG Procurement Policy.

Manager Brown said they were the annual resolutions that were required to move forward with the Housing Rehabilitation Program and the Affordable Housing Program so they could continue to apply for state and federal funds for those 2 programs. He said none of the resolutions had changed so that was why it was under a Consent Agenda. Mayor Morones said he would entertain a motion. Councilor Bettison moved to approve the Consent Agenda which included: A. Approval of Resolution No. 2015-02: Adopting a Fair Housing Policy; B. Approval of Resolution No. 2015-03: Citizen Participation Plan CDBG Program; C. Approval of Resolution No. 2015-04: Residential Anti-Displacement and Relocation Plan and Certification; D. Approval of Resolution No. 2015-05: Section 3 Plan; and E. Approval of Resolution No. 2015-06: CDBG Procurement Policy. Councilor Cano seconded. Mayor Morones said they had a motion and a second as read into the record. He asked if there was any further discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

12. NEW BUSINESS –

A. Approval / Disapproval of Pawnbroker Bond, Principal: Dee Charles DBA Pawn a Lot, 1775, Hwy. 180 E., Silver City, NM. Bond amount \$5,000.00. Attorney Scavron said he reviewed the bond for legal sufficiency and it was acceptable. Mr. Charles said he submitted a business license application and met with the Community Development Department, and that he thought he had everything up to date that needed to be done. He provided the following details concerning his application: that he had the approval of the Fire Marshal; that the Chief of Police inspected the building; that he had security bars and doors on the building; and that the Chief of Police suggested he do a different alarm system. He said it would not be a junk store and he would not handle firearms. He asked for the Council's approval to proceed with his business license. There were no questions from the Council. Mayor Morones said he would entertain a motion. Councilor Ray moved to approve the Pawnbroker Bond, Principal: Dee Charles DBA Pawn a Lot, 1775, Hwy. 180 E., Silver City, NM. Bond amount \$5,000.00. Councilor Bettison seconded. Mayor Morones said they had a motion and a second and he repeated the motion. He asked if there was any further discussion, and there was none. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. Mr. Charles said the process was not the easiest, but the staff at the Community Development Department and the city clerk were great to work with.

B. Discussion and Action on Recommendation of Library Board reference the Fred S. Norton Estate. Manager Brown said he wanted to give an update on what the Library Board had done. He said the Library Board and the Library Foundation met with the Museum Society and found some similarities and some common areas so they could move forward in the same direction. He said the Library Foundation would like the Museum Society to assist them with investments until they could recruit individuals to the Library Foundation that could help them make investments. He said at the next Library Board meeting they would look at changing their Bylaws to go more in line with what the Museum Society does. He said he would bring it back to the Council so they could make the final recommendation on where the funds would go. There was further discussion.

C. Approval / Disapproval of Request for Proposal #14/15-1P: Silco Theater Interior Renovations. Manager Brown said the Town received 1 Request for Proposal and the 5 member committee recommended that Request for Proposal #14/15-1P be awarded to White Sands Construction out of Alamogordo, New Mexico. He said they were deemed qualified to do the remainder of the work that needed to be done to get the building up and running as a theater. He said not all of it though because some of it would be done through a state contract. He said as funds became available they would negotiate with the contractor for each piece of the project. He mentioned how the next business item on the agenda would bring another \$100,000 to the project. He said MainStreet was very close to acquiring all of the funds that would be necessary to complete the project. He said it was staff's recommendation to award the Request for Proposal to White Sands Construction. There was further discussion. Mayor Morones said he would entertain a motion. Councilor Ray moved to approve Request for Proposal #14/15-1P Silco Theater Interior Renovations by staff recommendations. Councilor Bettison seconded the motion as stated and she asked Attorney Scavron if they needed to have the construction firm read into the record again. Attorney Scavron said the bid number identified the transaction. Mayor Morones said there was a motion and a second for approval of Request for Proposal #14/15-1P Silco Theater

Interior Renovations per staff recommendation. He asked if there was any further discussion, and there was none. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

D. Approval / Disapproval of March 3, 2015 Election Workers. Clerk Mackie asked for the Council's approval of the election workers and stated they would all attend election training and the vendor for the AutoVote system would be present to assist on Election Day, if needed. Councilor Bettison moved to approve the March 3, 2015 Election Workers. Councilor Aiman-Smith seconded. Mayor Morones said there was a motion and a second to approve the March 3, 2015 Election Workers. He asked if there was any further discussion, and there was none. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

E. Approval / Disapproval of Notice of Intent Ordinance No. 1236: an Ordinance adopting the restoration of the Silco Theater as an Economic Development Project within and for the Silver City Arts and Cultural District pursuant to Section 5-10-2B. NMSA 1978 (Local Economic Development Act) and Section 16-21(a) of the Municipal Code of the Town of Silver City, Grant County, New Mexico. Manager Brown said it was an ordinance that staff had been working on for a while to bring \$100,000 to go towards the Silco Project. He said it was a very new process and that Attorney Scavron had amended it. He said it was technically a grant from the state to the city, but they were trying to amend that complicated process to make it a public to public transaction. He said a few things still needed to be worked out regarding the format on how the transaction would move forward. He asked Attorney Scavron to talk about it. Attorney Scavron explained that the process for the Theater Restorations Program statewide anticipated that all theaters that would be restored would be owned by third parties or private people, and that the state could not give money to private entities unless it came as an incentive from the municipality under the Local Economic Development Act or LEDA. He said when they pointed out to the Economic Development Department that the Town owned the theater and that no third party was involved so there were no anti-donation clause issues involved, the Economic Development Department said they had a process. He said that he told them that they did not need that process because it was not going to a third party. He said he drafted documents and sent it to their General Counsel, and the General Counsel was satisfied with the proposal. He said one of the elements that was still required was an ordinance that formally adopted the Silco Theater as an economic development project. He said his draft ordinance was still under review with the state, but he believed they would want a few more points. He said the Project Participation Agreement would not be an agreement between the municipality and the Economic Development Department. He said the Intergovernmental Agreement was a document that most likely would have a claw back provision that would say they could get the \$100,000 back if the Town did not use it for the intended purpose. He said those 2 documents would be required, and because there was a time constraint since the money had to be expended within a certain amount of time, and to expedite the process, the Notice of Intent Ordinance was put on the agenda. He said it would be appropriate to amend the Notice of Intent Ordinance to include 2 changes in the title. He suggested they add to the end of the title, "and, further, authorizing the execution of a Project Participation Agreement and an Intergovernmental Agreement between the Town and the State of New Mexico." Also, he said in the ordinance there were 3 pronouncements and he read them. He suggested they add a fourth paragraph that would say, "The Town Manager is authorized to execute both a Project Participation Agreement and an Intergovernmental Agreement with the Economic Development Department of the State of New Mexico, describing the project and the means and measures to be taken in furtherance thereof, which shall be binding upon the Town." He stated it authorized the Town Manager to enter into the agreements, but it was not a mandatory direction that he do so; if he found the terms and conditions were not appropriate to the Town, then he could say no. He said to make it a good ordinance for the General Counsel's office of the Economic Development Department, and whoever else would be deciding on it, that they needed the language. He said Councilor Ray indicated he would be the sponsor of the ordinance, and that he would make a motion to amend the Notice of Intent Ordinance as discussed. There was further discussion about how the title did not match the new fourth paragraph with regard to the State of New Mexico in the title and the Economic Development Department mentioned in the fourth paragraph. They concluded that in the title they should add, "or an agency thereof" at the end of the title, and in the fourth paragraph they should take out "the Economic Development Department" and add after "the State of New Mexico" the following, "or an agency thereof," and the remainder of the paragraph would stay the same. Attorney Scavron read the title as follows, "An Ordinance adopting the restoration of the Silco Theater as an Economic Development Project within and for the Silver City Arts and Cultural District

pursuant to Section 5-10-2B NMSA 1978 (Local Economic Development Act) and Section 16-21(a) of the Municipal Code of the Town of Silver City, Grant County, New Mexico and, further, authorizing the execution of a Project Participation Agreement and an Intergovernmental Agreement between the Town and the State of New Mexico or an agency thereof." He also read the fourth paragraph again as follows, "The Town Manager is authorized to execute both a Project Participation Agreement and an Intergovernmental Agreement with the State of New Mexico or an agency thereof, describing the project and the means and measures to be taken in furtherance thereof, which shall be binding upon the Town."

Councilor Ray moved to what Mr. Scavron said by amending the Notice of Intent Ordinance. Councilor Bettison seconded the motion to approve the Notice of Intent Ordinance No. 1236 with the amendments stated by Attorney Scavron. Mayor Morones said they had a motion to amend Notice of Intent Ordinance No. 1236 to add the following to the title, "and further authorizing the execution of a Project Participation Agreement and an Intergovernmental Agreement between the Town and the State of New Mexico or an agency thereof." He said also to add a new paragraph 4, "The Town Manager is authorized to execute both a Project Participation Agreement and an Intergovernmental Agreement with the State of New Mexico or an agency thereof, describing the project and the means and measures to be taken in furtherance thereof, which shall be binding upon the Town." He asked if there was further discussion, and there was none. He said they had a motion to amend as read into the record. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Attorney Scavron said they still needed to approve the Notice of Intent Ordinance.

Mayor Morones said he was in favor of the Notice of Intent Ordinance and that it was going for a grant specifically through the Economic Development Department. He said he would entertain a motion. Councilor Bettison moved to approve Notice of Intent Ordinance No. 1236: an Ordinance adopting the restoration of the Silco Theater as an Economic Development Project within and for the Silver City Arts and Cultural District pursuant to Section 5-10-2B NMSA 1978 (Local Economic Development Act) and Section 16-21(a) of the Municipal Code of the Town of Silver City, Grant County, New Mexico and, further, authorizing the execution of a Project Participation Agreement and an Intergovernmental Agreement between the Town and the State of New Mexico or an agency thereof. Councilor Cano seconded. Mayor Morones said they had a motion and a second for approval of Notice of Intent Ordinance No. 1236 and he repeated the motion. There was further discussion. Mayor Morones asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

12. ADJOURNMENT – Mayor Morones asked for a motion to adjourn. Councilor Bettison moved to adjourn at 8:07 p.m., and Councilor Aiman-Smith seconded. Mayor Morones 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/

Michael S. Morones, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk