

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY**  
**REGULAR COUNCIL MEETING**  
**GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM**  
**July 24, 2007 – 7:00 p.m.**

**Present:** James R. Marshall, Mayor

A. Judy Ward, District 1

Thomas Nupp, District 2

Simon Wheaton-Smith, District 3

Steve May, District 4

**Also Present:** Alex C. Brown, Town Manager-Finance Director

Ann L. Mackie, Town Clerk

Robert Scavron, Town Attorney

Ed Reynolds, Chief of Police

Robert Esqueda, Utilities Director

**CALL TO ORDER / PLEDGE OF ALLEGIANCE** - Mayor Marshall called the meeting to order at 7:02 p.m.

**CEREMONIES** – None.

**PROCLAMATIONS** – None.

**PUBLIC INPUT** – Mr. Ralph Huegel commented on how the noise from the use of fireworks in his neighborhood at La Plata Mobile Manor had affected his pets. Mr. Jim Leidich commented that the air service has changed their schedule so the return flight to Albuquerque is at 3:30 p.m.. He stated that this has resulted in a reduction of hours that the visiting oncologists work in Silver City each week. He encouraged people to call the air service and ask them to expand their hours. Mr. Dave Arguello made comments during the Unfinished Business section of the meeting.

**COUNCIL COMMENTS** – Councilor Ward encouraged people to use their new garbage containers and to recycle. She commented that most of the Council attended the Municipal Officials Leadership Institute in Albuquerque during the week of July 9, 2007, and it was very informative and beneficial. She stated that she is working with Town Attorney, Robert Scavron, on the noise ordinance with regard to fireworks.

Councilor Nupp thanked Southwest Med Evac Services for volunteering to be on standby the evening of July 4<sup>th</sup> as spotters for illegal use of fireworks and accidental fires. He also thanked the Silver City Fire Department for their good work during that time. He stated that he met with the State Fire Marshal and asked him why the fireworks were so much louder this year. He was told that a federal law now permits an increase in the amount of black powder in each device from 300 grams to 500 grams which is a little more than a pound of black powder. He stated that black powder does not burn, it detonates. He stated that currently there is legislation under consideration on the federal level to outlaw the use of fireworks by consumers nationwide, but fireworks could still be used by communities for commercial purposes. Councilor Nupp stated that he and the Mayor attended the New Mexico Municipal League's Resolution Committee meeting in Albuquerque: 48 resolutions will be presented at the next state legislative session. He commented that many of the resolutions directly affect Silver City and two were specifically about fireworks. He reported the weather forecast for the Silver City area.

Councilor Wheaton-Smith commented that the reporting of weather for Silver City has been missing for several weeks due to contractor issues with the FAA. He stated that Great Lakes Airlines has cancelled several flights because the weather reports are not available. He commented that he attended the Silver City Museum's 40<sup>th</sup> anniversary celebration and Western New Mexico University's opening of their government document repository. He stated that he was impressed with the work that the YCC group has done in the Big Ditch. He asked the Town Manager for the status of the library catalog. Mr. Brown stated that the contractor is working on the internet's network problems that exist. He asked Mr. Brown for the status of the dirt road ordinance and was told that it should be ready in a month. Councilor Wheaton-Smith advised the public to take control of their dogs so the water meter readers can do their job. He welcomed two new businesses in Silver City: Ace Hardware and Belleza Salon and Tanning. He emphasized the importance of customer service.

Councilor May commented that Silver City was the only community that sent a legal quorum to the New Mexico Municipal League's Official Training Institute in Albuquerque. He stated that there was good training and discussion. He commented on a letter about fireworks that was written to the editor of the local newspaper and stated that the community of Silver City cannot prohibit the use of fireworks because of the state legislature and interstate commerce laws. He commented that he still sees the same people skateboarding downtown on the streets and sidewalks. He asked the Chief of Police, Ed Reynolds, if they were issuing citations. Chief Reynolds advised that they were issuing citations per the Town Manager's directive and there is also police foot patrol downtown during the daytime. Councilor May asked the Town Manager if any decisions were made on the swimming pool boiler. Mr. Brown stated that it will be addressed with the Public Works Department as soon as the summer season is over. Councilor May commented on several mobile home parks in his district that are charging their tenants \$20.00 more each month to cover the cost of the new garbage containers. Mr. Brown advised the most expensive container is the 95 gallon container and the monthly cost for it is \$17.04 per month, but the price includes \$0.90 for the container and the garbage collection costs. He said an ordinance will be made after the new containers have been in use for a few months so they can work out any problems.

Mayor Marshall commented that he visited several of the Town's departments, and he toured the YCC Project in the Big Ditch. He stated that the YCC has done great work in the ditch; now that it is clear and open it will prevent people from hiding from law enforcement and it will help with flood control. He commented that he had received several complaints about Great Lakes Airlines. He stated that he had left phone messages and sent email messages to the president of the company and had not heard from him. He stated that Great Lakes Airlines promptly changed their schedule after receiving the contract, and the new schedule is very impractical for many businesses because it is difficult to conduct business in Albuquerque in one day due to the flight schedule. Mayor Marshall stated that their contract states that they will work with the community to improve ridership which they have never done. The Mayor stated that they have not fulfilled their promise and they are a 100% failure. He recommended that people call Great Lakes Airlines and tell them to put their schedule back the way it was. He thanked the Councilors for attending the Municipal Officials Training Institute and commented that this Town Council is the only one in the state that has made the commitment to complete the course. He said the quality and material of the course was very valid and was a good use of their time. He commented that the first Town and Gown meeting was held for the public. Town and Gown is a partnership between Silver City, Bayard, Hurley, Santa Clara, the university and several community organizations. He commended Dr. Counts of Western New Mexico University for answering questions at the meeting. He stated that visitors to Silver City like that we have a four year university. The goal of the Town and Gown is to improve the relationship between the community and the university. Mayor Marshall encouraged people to attend the Town and Gown meetings and stated how important it is for the community to participate and give feedback. He stated that it is very important that the public also stay in contact with the Council and give feedback because the Council has been elected to represent the public, not be the public. He also commented how important it is for the public to volunteer on the Town's Committees and Boards.

**CHANGES TO THE AGENDA** – Councilor Nupp asked to delete Item C for the Purchase of the PNM Building under New Business from the agenda since documentation was not provided to Council. Mayor Marshall confirmed that documentation was not available, but he requested that the item stay on the agenda so they could explain why it was on the agenda and what the process will be to purchase the PNM Building. No other changes were discussed.

**APPROVAL OF MINUTES** –

**June 25, 2007 Special Council Meeting** - Councilor Nupp made a motion to approve the minutes as corrected with two amendments noted by the Town Clerk. Councilor Wheaton-Smith seconded the motion as stated. All were in favor, motion passed.

**June 26, 2007 Regular Council Meeting** – Councilor May made a motion to approve the minutes. Councilor Wheaton-Smith seconded the motion. There was no further discussion. All were in favor, motion passed.

**REPORTS** – Mr. Brown reported that the state’s Local Government Division had approved the Town’s preliminary budget on July 11, 2007. Councilor Ward asked for clarification from Mr. Brown on the gross receipts check that the Town received in June. Mr. Brown confirmed that the check received in the amount of \$966,000 by the state was incorrect with an overpayment of \$267,000 which will be held back from the Town’s gross receipts earned in August.

**PUBLIC HEARINGS** – None.

**UNFINISHED BUSINESS** –

**A. Notice of Intent Ordinance 1135 Amending Chapter 54, §54.010 (Pavement Breaking and Restoration); §54.011 (Penalties); Chapter 95, §95.020 (Permit Required); §54.074 (New Section) and §95.021 (Schedule of Charges).** Councilor May commented that he met with Robert Esqueda, Utilities Director, and two local plumbers to discuss the proposed ordinance. He stated that the plumbers would like to still be able to do the repairs to existing water and street laterals, including the street cutting and filling, but they want written guidelines to follow from the Town and an inspection by the Town when the work is completed. He stated that the Town would do the street cutting for any new water and street laterals. Robert Esqueda asked for the Council’s agreement to revise the Notice of Intent Ordinance to include specifications for contractors, standard requirements, test compaction requirements, and a warranty of workmanship by the contractors. He stated that the Town currently installs 3 to 5 new water service line connections up to the meter per month, and the contractors do 3 to 5 replacements of sewer service lines within the roadways per month. Councilor May commented that in the meeting with the plumbers they also concluded that any plumbing contractors that do not follow the guidelines should be denied future permits on pavement cutting. Councilor Ward asked if the gas company was included in the discussions. Mr. Esqueda advised that they were not at the meeting, but the gas company works under the franchise agreement. Alex Brown stated that the gas company must follow the city ordinances. Councilor Wheaton-Smith confirmed with Mr. Esqueda that the cost would be passed on to the homeowner and the contractor would provide a one year warranty. Mayor Marshall asked Mr. Esqueda if the Town had enough inspectors to do the inspections in a timely manner. Mr. Esqueda advised that the Town has sufficient staff to do the inspections, and there are two local businesses that can certify the test compaction and the contractors can submit the test results to the Town. He commented that after the plumbers have completed their work they will submit a signed document to the Public Works Department so they can complete the patching of the street cut in a timely manner. Mr. Dale Arguello commented that he was one of the plumbers that attended the meeting with Councilor May and Mr. Esqueda. He stated that many of the issues were resolved in the meeting and he felt that they had come to a mutual understanding of many of the problems. Mayor Marshall asked Mr. Esqueda to revise the draft ordinance as recommended and contact Councilor May when the revision is complete; Councilor May will then request that it be placed on the agenda of a future Council meeting.

**NEW BUSINESS** –

**A. Request for Proposal 06/07-5P Lodger’s Tax Community Promotions** – Mr. Glen Griffin, Chairman of the Lodger’s Tax Advisory Board, advised that the Board reviewed 18 requests and made recommendations for disbursing the \$275,000 that is available for letting for Fiscal Year 2007-2008. He stated that the Board strongly believes in accountability and requested that the Town specify in the 2008-2009 Request for Proposal that it is required that all recipients of Lodger’s Tax funds credit the Silver City Lodger’s Tax and the Town of Silver City. Councilor May made a motion to accept the Lodger’s Tax Advisory Board’s recommendations for discussion only. Councilor Wheaton-Smith seconded the motion as stated. There was no further discussion. All were in favor and the motion passed. There was discussion about the organizations and the events that attract tourists that pay lodger’s tax by staying at the local hotels, referred to as “heads in beds”, versus organizations that do not generate much tourism. Councilor May stated that more money should be awarded to the organizations that generate the most tourism. He offered another list of recommendations for the Council to consider that awarded additional funds to the most productive organizations that bring in more lodger’s tax receipts. The Council and the Town Manager stated that the organizations should credit the Silver City Lodger’s Tax Fund in their advertising and provide proof before they are reimbursed for those expenses. Mr. Scavron, Town Attorney, commented that the organizations that do not comply should not be considered next year. Councilor May made a

motion to approve the revised list of recommendations as presented with the additional requirement of recognition that all advertising was paid for by the Silver City Lodger's Tax for reimbursement and failure to comply will result in ineligibility next year. Councilor Wheaton-Smith seconded the motion as stated. Councilor May read the revised list of recommendations. There was no further discussion. All were in favor. Motion passed.

Councilor Wheaton-Smith made a motion to recess at 8:43 p.m.. Councilor May seconded. All were in favor. The meeting was called back to order at 9:02 p.m..

**B. Professional Services Agreement with the Corporation for Downtown Development (dba Silver City MainStreet Project)** – Ms. Evangeline Zamora, President of the Corporation for Downtown Development, presented an overview of the Silver City MainStreet Project and its work in downtown revitalization. She proposed a Professional Services Contract for this Fiscal Year 2007-2008 in the amount of \$25,000 that would allow MainStreet to continue to provide essential ongoing services for the purpose of economic development. Councilor Ward made a motion to approve the Professional Services Agreement between the Town of Silver City and the Corporation for Downtown Development. Councilor May seconded the motion. There was no further discussion. All were in favor and the motion passed.

**C. Purchase of the PNM Building** – Mayor Marshall commented that the PNM Building on Broadway Street has been offered to the Town for \$200,000. He stated that the State of New Mexico has allocated \$200,000 for the purchase of that building to go to the Town of Silver City for that purpose; and the Museum Society has agreed to pay for the cost of upgrading the bathrooms to make them ADA compliant, pay the closing costs of the sale, and contribute up to \$3,000 per year towards the cost of utilities to operate the building. Mr. Brown advised that he was unable to get a copy of the appraisal of the building from PNM so the Town will have to get an appraisal on the property since government funds will be used to purchase the property. The Mayor stated that if the Council would agree that the Town has a desire to purchase the building, then a letter of intent should be given to PNM. Councilor Ward was concerned about the cost of the appraisal and the time it takes to obtain an appraisal. Mr. Brown advised that he believed that PNM would accept the delay in obtaining an appraisal if they had the Town's letter of intent to purchase the building. He stated the Museum Society would pay for the appraisal as part of the closing costs. Councilor Wheaton-Smith made a motion to instruct the Town to draft a letter of intent to purchase the PNM Building on Broadway Street for \$200,000 subject to an appraisal of at least \$200,000. Councilor Ward seconded the motion. There was no further discussion. All were in favor and the motion passed.

**D. Bid 06/07-15 Homeowner Rehabilitation House by House Program** – Mr. Brown asked the Council to postpone this item because he did not have the description of the location of the two properties. Councilor Nupp made a motion to postpone Bid 06/07-15 Homeowner Rehabilitation House by House Program. Councilor Wheaton-Smith seconded the motion as stated. There was no further discussion. All were in favor, motion passed.

**E. Appointments to the Museum Board** – Council approved the appointment of three applicants to the Museum Board: Norman Ruebush was re-appointed, Maria Vigil was re-appointed, and Kathy Anderson was newly appointed. Each of their terms expire on May 31, 2010.

**F. Appointment to the Library Board of Trustees** – Council approved the appointment of Bruce McKinney to the Library Board of Trustees. His term will expire on June 30, 2010.

**G. Resolution 2007-20 an amendment to Resolution 2005-23 adopted on September 13, 2005 authorizing a Recycling Advisory Committee for the Town of Silver City** – Mayor Marshall commented that the Town has had 5 openings on the Recycling Advisory Committee for many months: only 3 applications were received from Silver City residents, but 4 applications were received from county residents. He advised that Resolution 2005-23 states that committee members had to be residents of Silver City. He commented that an amendment to allow 2 committee members from the county may allow more participation in recycling in the county and eventually

maybe the Grant County Commission would provide funds in their budget to assist the Recycling Program as well. Councilor Wheaton-Smith made a motion to approve and adopt Resolution 2007-20. Councilor Ward seconded the motion. Mr. Scavron clarified with the Council that 5 of the volunteers shall be Silver City residents or owners of businesses located within Silver City. The motion was re-stated. There was no further discussion. All were in favor. Motion passed.

**H. Resolution 2007-21 Fiscal Year 2006-2007 Final Budget Adjustment** – Mr. Brown commented on the budget adjustments for Fiscal Year 2006-2007. Councilor Wheaton-Smith moved to adopt and approve Resolution 2007-21. Councilor Nupp seconded the motion. There was no further discussion. Mayor Marshall called for a roll call: Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted aye. Motion passed.

**I. Resolution 2007-22 Final Approval of Fiscal Year 2007-2008 Budget** - Mr. Brown commented on the budget and the adjustments that were made since the preliminary budget was submitted. Councilor Ward moved to adopt Resolution 2007-22. Councilor May seconded the motion. There was no further discussion. Mayor Marshall asked for a roll call: Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted aye. Motion passed.

Councilor Wheaton-Smith made a motion to go into Executive Session pursuant to § 10-15-1 (H) (8), NMSA 1978, to discuss water rights only and no decisions would be made. Councilor May seconded the motion. Mayor Marshall called for a roll call: Councilor Ward voted aye; Councilor Nupp voted aye; Councilor Wheaton-Smith voted aye; and Councilor May voted aye. Motion passed. Discussions were limited as specified in the motion, and no decisions were made.

**ADJOURNMENT** – Councilor Wheaton-Smith made a motion to adjourn the meeting, seconded by Councilor May. Motion passed unanimously and the meeting was adjourned at 10:40 p.m..

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann. L. Mackie, Town Clerk