

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM
January 22, 2008 – 7:00 p.m.

Present: James R. Marshall, Mayor
A. Judith Ward, District 1
Thomas Nupp, District 2
Simon Wheaton-Smith, District 3
Steve May, District 4

Also Present: Chief Ed Reynolds, Acting, Town Manager
Ann L. Mackie, Town Clerk
Robert Scavron, Town Attorney
Alexandra Perrault, Town Planner
Eva Maldonado, Purchasing Agent
Peter Pena, Public Works Director

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

CEREMONIES – None.

PROCLAMATIONS – Mayor Marshall proclaimed January 19, 2008 as “Welcome Slipstream/Chipotle Racing Team Day”. He and Councilor Ward presented the proclamation to the members of the Slipstream/Chipotle Racing Team who were introduced by Mr. Jack Brennan of Gila Hike and Bike as the premier cycling team in the United States.

PUBLIC INPUT – None.

COUNCIL COMMENTS – The Council commented on the following: the Mattocks Interpretive Site in the Mimbres and the Silver City Museum Society; the upcoming election that would have no opposition for the offices of Mayor, Councilor of District 2 and Councilor of District 4; a resolution that would be submitted by the Town to the New Mexico Department of Transportation for installation of traffic calming devices at the intersection of Highway 180 and Alabama Street; recently attended events; the need for volunteers for the Southwest Area Workforce Development Committee as requested by Councilor Nupp; upcoming meetings for the Noise Ordinance Advisory Committee and the Festival Grounds Task Force; the Gross Receipts Tax report; the Arts and Culture District designation that was awarded to the Town by the New Mexico Arts Commission; the need to advertise for an Incentive Review Committee; and the announcement that the Council would have a work session on animal control issues on Monday, February 11th at the Grant County Administration Center.

CHANGES TO THE AGENDA – Mayor Marshall received the Council’s consensus to move Item B of New Business ahead of Item A of New Business.

APPROVAL OF MINUTES: January 8, 2008, Regular Meeting – Councilor May made a motion to approve the minutes. Councilor Ward seconded the motion. All were in favor, motion passed.

REPORTS – Chief Ed Reynolds reported on the Highway 180 Project and commented that the New Mexico Department of Transportation would hold a public meeting on February 19, 2008.

PUBLIC HEARINGS –

A. Appeal # AP07-2: An appeal of the Planning and Zoning Commission’s decision to deny a request for a variance to allow a land division where the lots would not meet the minimum lot size and frontage requirements per the Land Use Code at 803 and 805 W. 7th Street. Appellant was Joseph Kelly. Mayor Marshall stated that the Town Council would serve as the hearing board and he would serve as the presiding officer. Mayor Marshall asked all Councilors if they had any ex parte discussion concerning this case. Councilor Wheaton-Smith commented that the appellant was his neighbor and he advised the appellant to contact Peter Russell at the Community Development Department regarding the matter. The other members of the hearing board were in favor for Councilor Wheaton-Smith to remain on the hearing board. The Town Clerk swore in all parties and witnesses that wished to testify in the hearing. Alexandra Perrault, Town Planner, presented the case

and stated the Planning and Zoning Commission and Staff did not recommend the approval of the variance and the Planning and Zoning Commission voted unanimously to deny the applicant's request for a variance on November 6, 2007. Appellant, Joseph Kelly, and his wife Deborah presented their case and distributed additional evidence to the hearing board that had not been presented to the Planning and Zoning Commission. There was further discussion with the hearing board and the Town Attorney. Several other witnesses testified that they were not opposed to the variance. Mrs. Perrault was allowed to respond to the new testimony and evidence. There was further discussion. Councilor May moved to go into closed session pursuant to NMSA 1978 Section 10-5-1(H)(3) to deliberate in connection with an administrative adjudicatory proceeding. Councilor Ward seconded the motion. A roll call vote was taken of the Council with the following results: Councilor Ward – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May - aye. Motion passed. The matters discussed in the closed meeting were limited only to those specified in the motion for closure. Councilor Ward made a motion to remand the case back to the Planning and Zoning Commission for the purpose of permitting the new evidence provided during the hearing to be put before the Planning and Zoning Commission for their further consideration. Councilor May seconded the motion. Councilor Wheaton-Smith offered his concurrence. There was no further discussion. All were in favor. The motion passed to remand the case back to the Planning and Zoning Commission.

B. Ordinance No. 1141 – A Zone Change Request #ZC07-7 from Rural to Residential B for a tract of land addressed as 1121 S. Bard Street, and located in the NE ¼ of Section 10 of the Town of Silver City. The applicant was Sylvia L. Murillo. Mayor Marshall stated that the Town Council would serve as the hearing board and he would serve as the presiding officer. Mayor Marshall asked all Councilors if they had any ex parte discussion concerning this case. Councilor May commented that he had a conversation with Mrs. Murillo prior to her application and he had advised her to contact Peter Russell at the Community Development Department. Mayor Marshall commented that he had a phone conversation with Boyd Frost regarding the situation and he referred him to the Town Manager. There were no problems with those ex parte discussions and the hearing continued. The Town Clerk swore in all parties and witnesses that wished to testify in the hearing. Alexandra Perrault, Town Planner, presented the case and commented that the applicant applied for a zone change on behalf of her mother, Gloria Lopez, because she would like to move a double-wide on the property to care for her mother who had an existing home there. She reported that Staff recommended the zone change, and the Planning and Zoning Commission voted unanimously to approve the applicant's request for a Map Amendment/Zone Change at their meeting on January 2, 2008. Gloria Lopez, mother of applicant Sylvia Murillo, presented her case. There was further discussion. There was no opposition to the request. Councilor Wheaton-Smith made a motion to pass, adopt and approve Ordinance No. 1141 for the requested Map Amendment/Zone Change from Rural to Residential B per Findings 1, 2 and 4. Councilor May seconded the motion. A roll call vote was taken of the Council with the following results: Councilor Ward – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

UNFINISHED BUSINESS – None.

NEW BUSINESS –

B. Approval of Bid 07/08-4 Polyethylene Trash Bags. Eva Maldonado, Purchasing Agent, presented the bids for polyethylene trash bags, size 32 gallon 2.0 mil. and size 60 gallon 1.6 mil. She recommended awarding the bid for 4000 units of the 32 gallon size trash bags to Jadcore, Incorporated for \$20,760 and 100 units of the 60 gallon trash bags to Central Poly Corporation for \$840. Councilor Ward made a motion to accept the bids per Staff recommendation, and Councilor Wheaton-Smith seconded the motion. Councilor May stated that he was not supportive of the Town selling trash can liners because other businesses in the town sell trash can liners. There was further discussion concerning the sale of trash bags by the Town and the quantity of bags that were actually sold or used by the various departments of the Town. Peter Pena, Public Works Director, commented that his department needed the 100 units of 60 gallon trash bags and they would use 1000 units of the 32 gallon trash bags. Councilor Ward withdrew her motion. Mayor Marshall confirmed with Mrs. Maldonado that the Council could just approve one of the bids. Councilor Wheaton-Smith moved to award only the bid for the size 60 gallon 1.6 mil trash bags to Central Poly Corporation for \$840 plus gross receipts tax and limited to the

Town's business usage. Councilor Nupp seconded the motion. There was no further discussion. All were in favor, motion passed.

A. Approval of Notice of Intent Ordinance No. 1140: An Ordinance amending Title V (Public Works), Chapter 50 (Garbage and Refuse), §50.01 ET SEQ. of the Town of Silver City Municipal Code. Peter Pena, Public Works Director, presented the Notice of Intent Ordinance No. 1140. Councilor May asked for several changes and there was further discussion. Councilor Wheaton-Smith moved to approve Notice of Intent Ordinance No. 1140 with the revisions that were recommended in the revised document that was distributed by the Town Attorney. Councilor Nupp seconded the motion. Councilor May commented that he would vote against the Notice of Intent Ordinance until some of the recommendations that he made were also included. There was no further discussion. Councilor Ward, Councilor Nupp, and Councilor Wheaton-Smith voted in favor of the motion. Councilor May voted against the motion. Motion passed.

C. Approval of March 4, 2008 Election Workers. Ann Mackie, Town Clerk, presented a list of election workers for the March 4, 2008 Regular Election for approval from the Council. Councilor Wheaton-Smith made a motion to approve the list of election workers, Councilor May seconded the motion. All were in favor, motion passed.

ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn the meeting at 9:40 p.m. Councilor May seconded the motion, all were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann. L. Mackie, Town Clerk