

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
GRANT COUNTY ADMINISTRATION CENTER, 1400 HWY. 180 E., SILVER CITY, NM
June 10, 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: Alex C. Brown, Town Manager-Finance Director
Ann L. Mackie, Town Clerk
Robert L. Scavron, Town Attorney
Ed Reynolds, Chief of Police
Robert Esqueda, Utilities Director
Justin Reese, Public Works Assistant

CALL TO ORDER / PLEDGE OF ALLEGIANCE - Mayor Marshall called the meeting to order at 7:03 p.m.

PROCLAMATIONS – None.

PUBLIC INPUT – Fred Hernandez, spokesperson for the U. S. Forest Service, reported that due to the critically dry conditions the Stage 1 Fire Restrictions would be placed on the Gila National Forest at 12:01 a.m. on June 11, 2008. He stated the restrictions would prohibit the use of open fires except in designated campgrounds and picnic areas. He also reported that there had been 27 fires to date and 23 of those fires were human caused. He stated that the same time period in the previous year had 25 fires and only 1 fire was human caused. He attributed some of the increase to the drier weather pattern, carbon ejection and brake issues from vehicles on the highway, and abandoned campfires. There was further discussion about the use of fireworks and how the restrictions would be enforced.

COUNCIL COMMENTS – The Council commented on the following: recently attended events; praises were given to the Public Works Department for their notices to the public regarding the new sanitation rules and for the installation of an Hours of Operation sign at the swimming pool; thanks were given to Dr. John Counts, President of Western New Mexico University, for re-establishing the Displaced Worker Assistance Team; the Silver City MainStreet Project was recognized for their recent designation as the “Best MainStreet Program in the Nation”; the Fitness and Nutrition Committee of the Grant County Health Council was recognized for having the Boston Hill Trail System included in the upcoming edition of the National Geographic Adventure Magazine; upcoming events; the maintenance of trails and open space; and a contest was proposed to design a Town flag.

Mayor Marshall invited Lt. Eloy Medina, Silver City Fire Department, to comment on fire restrictions and fireworks. Lt. Medina reported that burn permits had been restricted for the past several months due to the dry weather conditions and wind. He stated that the Fire Department would follow the same Stage 1 Restrictions as the U. S. Forest Service. He stated that the sale of fireworks would begin on June 20th. There was further discussion on why the Town could not ban fireworks, but how the Council could make a finding that extreme danger existed and authorize the Fire Chief the power to ban an open flame. There was further discussion about the process of making a recommendation to Council. Manager Brown stated he would bring a written recommendation to the Council.

Mayor Marshall commented that a website called www.citydata.com had reported Silver City’s crime statistics to be three times higher than the national average. He stated that Chief Reynolds had confirmed that the data was inaccurate. He requested that Chief Reynolds contact www.citydata.com to correct the data.

CHANGES TO AGENDA – None.

APPROVAL OF MINUTES – May 27, 2008, Regular Council Meeting. Councilor Ward asked if the Minutes should be corrected in the second paragraph of the Reports section that documented Manager Brown’s statement that there were no commercial water rates. Manager Brown stated to the Council that the May 27, 2008 Minutes were correct, but his statement was incorrect. Councilor Ward made a motion to approve the Minutes. Councilor Nupp seconded the motion. All were in favor, motion passed.

REPORTS –

Manager Brown reported that Lodger's Tax revenues had continued to increase in the past five years. There was further discussion regarding the rate of each year's increase in revenues, and the shortage of hotel space in the Town.

Ann Mackie, Town Clerk, reported that important permanent records for the Town were missing: the original Minutes of the Town Council Meetings from June 7, 1891 through April 30, 1902 and from April 5, 1911 through February 10, 1925, and the original signed Ordinances numbered 1 through 40. She stated that she had been unable to locate the records in the municipal buildings, and Town staff had indicated that the records had been missing for a very long time. She asked the Mayor what course of action should be taken to document that the records were either lost or stolen. Mayor Marshall stated that the missing records belonged to the Town and should be returned to the Town. He stated that appropriate action should be taken if they were not returned within thirty days. Attorney Scavron commented that the Minutes between 1911 and 1912 were very important because it was when New Mexico became a state; those specific Minutes could provide the history of why Silver City maintained its powers with its territorial charter and did not give it up for a legislative charter. He encouraged whoever may have possession of the missing records to return them to the Town within thirty days; after that time he would file reports of the missing records as stolen goods with the F.B.I. and other agencies nationwide that could conduct an investigation. Mayor Marshall requested that the Town advertise its claim and desire to have the records returned; the goal was to have them returned willingly.

PUBLIC HEARINGS – None.

UNFINISHED BUSINESS –

A. Approval of Ordinance No. 1143: An Ordinance amending Chapter 54, Section 54.046 of the Town of Silver City Municipal Code, relating to water rates. Manager Brown presented the details of the ordinance. There was further discussion. Councilor Wheaton-Smith made a motion to approve Ordinance No. 1143. Councilor Nupp seconded the motion. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Ward – aye. Motion passed.

Councilor Nupp made a motion to recess at 8:22 p.m., and Councilor May seconded the motion. All were in favor of the recess except Councilor Ward. Motion passed. The Mayor called the meeting back to order at 8:37 p.m.

NEW BUSINESS –

A. Approval of Memory Lane Cemetery's Rules and Regulations Governing Burials. Dana Nupp, Chairperson of the Town's Cemetery Board, presented the details of the Cemetery's Rules and Regulations. Councilor May, ex officio of the Cemetery Board, commented that the Rules and Regulations that were being presented to Council were a revision of the existing Rules and Regulations; he felt the revision protected the Town's interest and the sanctity of the Memory Lane Cemetery. There was further discussion and Justin Reese, Public Works Assistant, answered questions concerning the Cemetery. Councilor May made a motion to approve the Rules and Regulations with an amendment to Page 3 of 5, Part III Opening and Closing, 3rd bullet, which was noted by the Town Clerk. Councilor Wheaton-Smith seconded the motion. There was further discussion and Attorney Scavron commented that the Rules and Regulations would only be enforceable if they were adopted by ordinance, and he suggested that the Rules and Regulations could be an appendix to the ordinance. Councilor May stated that the majority of the Cemetery Board would like an ordinance so the Rules and Regulations could be enforced, and suggested that a proposed ordinance be brought to Council with the Rules as an appendix. Mrs. Nupp agreed with his statement. Councilor May withdrew his previous motion, Councilor Wheaton-Smith seconded. Mayor Marshall asked the Council if there were any objections to the withdrawal of the motion and having an ordinance drawn up by Attorney Scavron, and there were none. Councilor May stated that he and Councilor Wheaton-Smith would co-sponsor the ordinance.

B. Resolution No. 2008-23: To declare a parcel of real property known as the "Hillcrest Hospital Site" to be non-essential to the Town, and to set terms and conditions for the sale or lease of said property for commercial development. Councilor Ward recused herself from the discussion and the vote on Resolution No. 2008-23 because she believed there was a possible direct financial interest according to the Town of Silver City's

Code of Ethics, Section 35.04 (B), and she submitted her statement in writing to the Mayor. Councilor Wheaton-Smith introduced Resolution No. 2008-23. There was further discussion. Councilor Wheaton-Smith made a motion to approve Resolution No. 2008-23 with an amendment to page 3 of 3, Item 5, which was noted by the Town Clerk. Councilor May seconded the motion, and there was further discussion. A roll call vote was taken with the following results: Councilor May – aye, Councilor Wheaton-Smith – aye, and Councilor Nupp – nay. Motion failed.

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