

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 24, 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
Alexandra Perrault, Town Planner
Rudy Bencomo, Fire Chief
Milo Lambert, Fire Marshal
Robert Esqueda, Utilities Director

CALL TO ORDER / PLEDGE OF ALLEGIANCE - Mayor Marshall called the meeting to order at 7:00 p.m.

PROCLAMATIONS – None.

PUBLIC INPUT – Josh White commented on the excessive speeds of the traffic on South Cooper Street near San Vicente Street, and asked for more law enforcement in the area. Abraham Martinez, Silver City Pool Manager, commented on the hard work of the Town’s Public Works Department’s Parks Division, and stated that he was always available for suggestions, concerns or complaints.

COUNCIL COMMENTS – The Council commented on the following: speeding traffic on Cooper Street; recently attended events; praises were given to the employees of the Parks and Recreation Division of the Public Works Department for their hard work at the pool, parks and cemetery; the N.O.A.A. (National Oceanic and Atmospheric Administration) National Weather Service radio transmitter was reported to be fully operational 24 hours per day/7 days per week on 162.45 megahertz; a Proclamation for “Beta Sigma Phi Week” that was read at the Beta Sigma Phi State Convention in Silver City on June 21st; New Mexico Municipal League’s interim meetings to develop policies regarding items for the legislature; Lodgers Tax reimbursements; and status reports for requests for proposals and bids.

CHANGES TO AGENDA – None.

APPROVAL OF MINUTES – June 10, 2008, Regular Council Meeting. Councilor Ward made a motion to approve the Minutes, Councilor Nupp seconded. All were in favor, motion passed.

REPORTS –

Manager Brown reported that the New Mexico Environment Department congratulated the Town’s Public Works Department’s Sanitation Division because the Town of Silver City had the first and only “Pay as you Throw” sanitation system in the State of New Mexico. He also reported that residents and commercial businesses were requesting additional recycling bins.

Per Mayor Marshall’s request, Attorney Scavron commented on a New Mexico Municipal League committee that dealt with government operations. He stated that he was a member of the committee and they discussed the different proposals and then pushed to amend or change the direction that the Municipal League was taking with the proposals. He stated that four major areas were discussed: support of the promotion of affordable housing; support of the use and promulgation of tax incentive districts; support of an amendment to the State sex offender regulations so municipalities could designate safe zones; support of increased funding to libraries, and to propose an amendment to the proposed rule that would make policy changes to the State’s Construction Industries Division (C.I.D.). He stated their proposed amendment to the C.I.D. changes would delay any implementation of policy from July 2009 to July 2010 in order to give municipalities an opportunity to work things out with C.I.D., to do joint powers agreements, and to allow municipalities to inspect state buildings outside their own jurisdiction.

Mayor Marshall reported on a scam in Albuquerque that involved a woman that claimed to be from Silver City when she asked people for money to get back home. Robert Esqueda, Utilities Department Director, reported that the septage improvements at the Wastewater Treatment Plant were near completion.

PUBLIC HEARINGS –

A. Ordinance No. 1146 for Zone Change # ZC08-2: Request for a Map Amendment/Zone Change from Rural to Residential B for a tract of land approximately 15.626 acres in size, and located within the SW ¼ NE ¼ and the NW ¼ SE ¼ of Section 15, within the Town of Silver City. The applicants were Silver 400 LLC. Mayor Marshall stated that the Town Council would serve as the Hearing Board and he would serve as the presiding officer. Mayor Marshall asked the members of the Hearing Board if they had any ex parte discussion concerning the case, and none had. The Town Clerk swore in all parties and witnesses that wished to testify in the hearing. Alexandra Perrault, Town Planner, presented the details of the case, and stated the Town staff recommended the approval of the request based on 7 findings and a condition that any development would be required to comply with drainage/detention requirements. She stated the Planning and Zoning Commission voted unanimously to approve the applicant's request for the map amendment/zone change. Jim Thomison, agent for Silver 400 LLC, presented and concluded his case. There were no witnesses in opposition to the zone change. There was further discussion. Mayor Marshall concluded the hearing and asked the Hearing Board to render a decision. Councilor Wheaton-Smith moved to adopt Ordinance No. 1146, Councilor May seconded the motion. Councilor Wheaton-Smith amended his motion to include Findings #1, #2, and #4, and the condition requested by Town staff. Councilor May seconded the amendment to 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 to approve Ordinance No. 1146.

UNFINISHED BUSINESS –

A. Ordinance No. 1145: An Ordinance amending Chapter 32, Section 32.01 of the Town of Silver City Municipal Code, relating to Library Board. Mayor Marshall stated that he had sent a letter to the County Commission Chair regarding the Commission's membership on the Library Board. He stated that the Commission had placed an item on their June 26th agenda to vote on whether to maintain the position on the Library Board. Councilor May made a motion to postpone action on Ordinance No. 1145. Councilor Wheaton-Smith seconded the motion, but stated that it should only be postponed for one Council Meeting. Councilor May agreed. There was no further discussion. All were in favor, motion passed to postpone Ordinance No. 1145 until the July 8, 2008 Council Meeting.

NEW BUSINESS –

A. Resolution No. 2008-24: to declare a state of fire emergency for the Town of Silver City. Chief Rudy Bencomo, Silver City Fire Department, stated the reasons for the state of fire emergency within the Town were due to the drought and winds. He commented that the Fire Department generally followed the decisions made by the U. S. Forest Service which had the Gila National Forest at Level 1 fire restrictions. There was further discussion between the Council, Fire Chief, and the Fire Marshal. Councilor May made a motion to approve Resolution No. 2008-24 with an amendment to add a fourth item to state the penalty. Councilor Wheaton-Smith seconded the motion as stated. There was further discussion on enforcement issues. A roll call vote was taken with the following results: Councilor Ward – aye, Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed to approve Resolution No. 2008-24.

B. Notice of Intent Ordinance No. 1147: an ordinance amending Section 32.03 of the Town of Silver City Municipal Code, relating to rules and regulations pertaining to the use and maintenance of the Town of Silver City Cemetery. Councilor May presented the details of Notice of Intent Ordinance No. 1147, and made a motion to approve it. Councilor Wheaton-Smith seconded the motion. There was further discussion and two changes were made to the Rules and Regulations, Part I. A. Rules. Councilor Wheaton-Smith amended his motion accordingly, Councilor May seconded. There was further discussion. All were in favor, motion passed to approve Notice of Intent Ordinance No. 1147.

C. Discussion of having a contest to design a Town flag. Councilor Nupp stated that most municipalities have a flag, and he thought it would be appropriate for the Town to have a contest to create a Town flag. The Council

agreed that Councilor Nupp, with the Town Manager's assistance, should conduct a contest for a design for a Town flag that would be awarded with a grand prize.

D. Bid 07/08-9: Silver City Sludge Digester. Manager Brown presented the details of the bid and stated that three bids were received, but the Town staff recommended the rejection of the lowest bid with gross receipts tax by A.S. Horner, Inc. in the amount of \$817,015.35 because it was above the project's budget (a legislative allocation) by \$300,000. There was further discussion on the available funds and how they could possibly be used to retrofit the existing digester. Councilor May moved to accept the Town Manager's recommendation to reject the bid. Councilor Wheaton-Smith seconded the motion. There was no further discussion. All were in favor, motion passed to reject the bid.

E. Appointments of seven members to the Veteran's Memorial Citizens Advisory Committee. Mayor Marshall received the Council's consensus to appoint the seven applicants: Frank Donohue; Gilbert Helton; Luis Perez; Monica L. Cruz-Arvidson; Fred S. Fernandez; Gerald A. Ullery; and Martin Rael, Jr. Mayor Marshall stated that Councilor Nupp would organize the first meeting.

EXECUTIVE SESSION – Councilor Ward made a motion to go into Executive Session pursuant to NMSA 1978 Section 10-5-1 (H) (8) to discuss the purchase, acquisition or disposal of real property or water rights. Councilor May 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. The matters discussed in the closed meeting were limited only to those specified in the motion for closure.

ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn the meeting at 9:23 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