

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY**  
**REGULAR COUNCIL MEETING**  
**Grant County Administration Center, 1400 Hwy 180, Silver City, NM**  
**June 23, 2009 – 7:00 P.M.**

**Present:** James R. Marshall, Mayor  
Cynthia A. Bettison, District 1  
Thomas A. 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, Police Chief  
Rudy Bencomo, Fire Chief  
Milo Lambert, Fire Marshal  
Peter Pena, Public Works Director

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

**2. CEREMONIES** – None.

**3. PROCLAMATIONS** – None.

**4. PUBLIC INPUT** – Don and Marti Trammell commented on an upcoming meeting about a proposed senior housing complex. Paula Geisler commented on how the noise issues were not being addressed by the elected officials. Jesse McHenry commented on how the Palace Hotel was losing customers because of the issues of noise and criminal activity downtown. Sam Conn expressed appreciation to the Town Council, Police Chief, Fire Chief, Fire Marshal, Town Manager, and the Community Enforcement Officer for what they do for the Town.

**5. COUNCIL COMMENTS** – The Council commented on the following: recently attended events; graffiti issues; how kids were abusive to Police, Fire, and EMS personnel; how the noise issue needed to be addressed; how the Noise Ordinance Advisory Committee was taking too long to present a draft noise ordinance to the Council for review; how bad manners and bad conduct cannot be legislated; how attendance was up at the swimming pool; how beautiful the Mimbres Region Arts Council’s “History Windows” mural was that was recently dedicated downtown; the Cemetery Board and Parks Department were credited for the improved condition of the Memory Lane Cemetery; how the YCC project was building community capital because the youth were learning life lessons and job skills as they work on the project; and how people needed to show respect for their fellow citizens.

**6. CHANGES TO THE AGENDA** – Mayor Marshall announced that Item 9. Public Hearing was not ready and needed to be removed from the agenda.

**7. APPROVAL OF THE MINUTES – Regular Meeting – June 9, 2009:** Councilor May made a motion to approve the minutes. Councilor Bettison seconded the motion. All were in favor, motion passed.

**8. REPORTS** – Manager Brown reported on the upcoming CDBG project, a mill and overlay project, and the digester project. Peter Pena, Public Works Director, commented on how the funding source for the mill and overlay project required engineering and ADA ramps on every corner so the project was scaled back due to those additional costs. Fire Chief Bencomo reported that the Fire Department would be doing fireworks patrol and would be educating the public on fireworks safety.

**9. PUBLIC HEARINGS – A) Approval / Disapproval of Ordinance No. 1156: Request for a Map Amendment/Zone change (#ZC09-1) from Commercial to Residential B for a tract of land approximately .2 acres in size, and located on a tract of land addressed as 1421 N. Corbin St., on Lot 5, Block 1, Section 34 of the Fraser Survey. The applicants are Jeff and Debbie Reese.** Mayor Marshall advised this item was not ready and was removed from the agenda.

**10. UNFINISHED BUSINESS – A) Approval / Disapproval of Ordinance No. 1155: An ordinance amending Title V (Public Works), Chapter 54 (General Utilities; Sewer), §54.07 of the Town of Silver City Municipal Code.** Manager Brown presented the details of Ordinance No. 1155. Councilor Wheaton-Smith made a motion to approve Ordinance No. 1155. Councilor May seconded the motion, but offered an amendment to the Ordinance to correct two typographical errors that were noted by the Town Clerk. Councilor Wheaton-Smith accepted the friendly amendment. There was further discussion. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed.

Councilor Bettison made a motion to recess at 7:50 p.m. Councilor May seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 8:00 p.m.

#### **11. NEW BUSINESS –**

**A. Approval / Disapproval of Resolution No. 2009-14: A Resolution designating as park land a portion of the Tenth Street Right-of-Way located in the Town of Silver City, for the purpose of constructing and maintaining a Veterans' Memorial Park.** Manager Brown presented the details of Resolution No. 2009-14. There was further discussion. Councilor May made a motion to approve Resolution No. 2009-14. Councilor Bettison seconded the motion. A roll call vote was taken with the following results: Councilor Bettison – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

**B. Approval / Disapproval of Notice of Intent Ordinance No. 1157: An Ordinance amending Chapter 91 (Fire Protection and Prevention: Fireworks), by adding a new Subsection 91.44 to the Town of Silver City Municipal Code, relating to the sale or use of aerial and ground audible devices within the Town limits of the Town of Silver City, Grant County, New Mexico.** Mayor Marshall commented on the fireworks issue and said the proposed ordinance was the only tool to effect change. Attorney Scavron presented the details of the Notice of Intent Ordinance No. 1157 and stated one correction on page 1 that was noted by the Town Clerk. The Council received public input from the audience and Fire Marshal Lambert. The Council expressed their views, and Councilor Wheaton-Smith said he would vote against the NOI because it would not make any difference to the noise. The Mayor discouraged a vote against the NOI so the public would have time to comment on it. He said he would make sure it would not come back to Council for final consideration until the second meeting in July. Councilor May said they should not ban fireworks, but should address the noise problem and the length of time that fireworks could be set off. He made a motion to postpone action on Ordinance No. 1157. Councilor Nupp seconded the motion. There was further discussion on whether the fireworks issues would be addressed in the noise ordinance; the citation process for fireworks violations; and how the use of fireworks should have time limits. Councilor Wheaton-Smith said he would not support the ban on the sale of fireworks, but would support a time limit. The Mayor called for a vote, and all were in favor. Motion passed to postpone action on Notice of Intent Ordinance No. 1157.

**C. Approval / Disapproval of a letter supporting funding of the Southwest Solid Waste Authority (SWSWA).** Manager Brown stated the landfill was currently in the 5<sup>th</sup> cell of 12 cells and the last cell was being filled up at a very fast pace. He said the SWSWA was looking to obtain grant funding through the New Mexico Colonias Initiative and the letter was to support grant funding for the construction of the 6<sup>th</sup> and 7<sup>th</sup> cells. Councilor Bettison suggested that the letter should have more clarification as Manager Brown had explained it. Councilor Wheaton-Smith made a motion to approve a letter supporting funding of the SWSWA in the general tenor of the letter that was presented. Councilor Bettison seconded the motion. All were in favor, motion passed. Mayor Marshall commented that the landfill was in a critical position and if the cell was not opened, it would raise the disposal fees by \$10,000 per day.

**D. Approval / Disapproval of Request for Proposal 08/09-3P: Audit Services.** Manager Brown presented the details of RFP 08/09-3P and stated 1 bid was received for auditing services. He stated the State Auditor had changed the rules for an auditing service to do continual audits from 5 years to 7 years due to the increased complexity of doing audits for government entities. He stated the RFP was put out, but they only received 1 bid from the current auditor. He said it was staff's recommendation to award the RFP to Stone, McGee and Company. There was further discussion. Councilor Bettison made a motion to approve RFP 08/09-3P Audit Services to be

awarded to Stone, McGee and Company for \$38,950 plus gross receipts taxes. Councilor Wheaton-Smith seconded the motion. There was no further discussion. All were in favor, motion passed.

**E. Approval / Disapproval of Bid 08/09-9: Memory Lane Cemetery Expansion Phase I, and Leslie Road Improvements.** Manager Brown presented the details of Bid 08/09-9 and said the project was put out in 2 bid lots to save money. He said 3 bids were received and it was staff's recommendation to award the bid to Southwest Concrete and Paving, Incorporated, Silver City, NM. There was further discussion about the projects. Councilor Wheaton-Smith made a motion to award Bid 08/09-9 to Southwest Concrete and Paving, Incorporated, Silver City, NM, Bid Lot #1 – Cemetery \$169,102.08, Bid Lot #2 – Leslie \$185,346.35, total bid without gross receipts tax \$354,448.43, gross receipts tax \$25,697.51, total bid including gross receipts tax \$380,145.94. Councilor May seconded the motion. There was further discussion about the gaps in the bids between Councilor May and Peter Pena, Public Works Director. Mayor Marshall said the motion was too long and asked Councilor Wheaton-Smith to make the motion to accept staff's recommendation. Councilor Wheaton-Smith withdrew his original motion and Councilor May withdrew his second to that motion. Councilor Wheaton-Smith made a motion to award Bid 08/09-9 as stated in the public package. Councilor May seconded the motion. Councilor Wheaton-Smith commented that Southwest Concrete and Paving did a very good job on San Vicente and Sonora Streets. All were in favor, motion passed.

**ADJOURNMENT** – Councilor Wheaton-Smith made a motion to adjourn at 9:15 p.m. Councilor May seconded the motion. All were in favor, motion passed.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk