

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING**

**Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
July 14, 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  
Tony Garcia, Assistant Fire Chief  
Alexandra Perrault, Town Planner  
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** – Diane Hansen, owner of Clementine Mercantile, commented that the merchants downtown were having problems with thefts and assaults and she stated there was not enough police presence downtown. She requested that the police meet with the merchants to train them on those types of situations and to discuss the process once a police report was filed.

**5. COUNCIL COMMENTS** – The Council commented on the following: the “National Day of the American Cowboy” celebration on July 25<sup>th</sup>; the status of the reconstruction of Penny Park; the use of electric vehicles by Town departments; the upcoming fireworks ordinance; how the downtown area had noise problems; recently attended events; the street condition and drainage issues on Royal Drive; how crime affects all merchants and not just the downtown area; how the Big Ditch area was 1 of 20 projects included in a State plan about maximizing the benefits from trees called “Plan Smart, Rethinking Green”; the potential of creating jobs through economic development; and how the Viva Verde Expo was a success.

**6. CHANGES TO THE AGENDA** – None.

**7. APPROVAL OF THE MINUTES – Regular Meeting – June 23, 2009:** Councilor May made a motion to approve the minutes. Councilor Nupp seconded the motion. All were in favor, motion passed.

**8. REPORTS** – Police Chief Reynolds commented on police patrol downtown, citations regarding fireworks, and police manpower issues. Assistant Fire Chief Garcia reported on how the old Fire Department vehicles had been auctioned and would be removed; how traffic lights would be retrofitted for LED lights; and the fireworks activities during the July 4<sup>th</sup> celebrations.

**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 were Jeff and Debbie Reese.** Mayor Marshall stated that the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked the hearing board if they had any ex parte discussion concerning this case, and none had. The Town Clerk swore in three witnesses for the hearing. Alexandra Perrault, Town Planner, presented the case and stated the Planning and Zoning Commission voted unanimously to recommend approving the rezoning of the requested area to Residential B with the finding that the proposed amendment would not adversely impact the public health, safety or general welfare and would promote the original purposes of the Land Use Code. There was further discussion about the possibility of a mixed use zone in the future. Jeff and Debbie Reese presented their case and stated that they had requested the zone

change because they had planned to sell the property and their realtor had recommended that they start the rezoning request process. Mr. Reese also stated that they had no problem with the possibility of a mixed use zone. There was further discussion about the water tap on the applicant's property. There was no opposition to the case and the applicants concluded their case. Councilor May made a motion to approve Ordinance No. 1156 for the Map Amendment / Zone Change #ZC09-1 and quoted Finding #4 that the proposed amendment would not adversely impact the public health, safety or general welfare and would promote the original purposes of the Land Use Code. Councilor Wheaton-Smith seconded the motion as stated. Mayor Marshall stated that the water connection needed to be in compliance. Manager Brown stated that issue would be taken care of through Code Enforcement. 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.

#### **10. UNFINISHED BUSINESS – None.**

Councilor May made a motion to recess at 7:55 p.m. Councilor Bettison seconded the motion. Councilor May, Councilor Bettison, and Councilor Nupp were in favor, and Councilor Wheaton-Smith was not in favor. Motion passed. Mayor Marshall called the meeting back to order at 8:08 p.m.

#### **11. NEW BUSINESS –**

**A. Presentation and Request for Approval of a Conceptual Design of a Proposed Veterans' Memorial.** Monica Cruz-Arvidson, Secretary of the Veterans Memorial Citizens Advisory Committee, stated the purpose of the Committee and said they had accomplished most of the assignment, but requested an extension so the Committee could investigate sources of public and private funding and complete the project. She presented the conceptual design of the proposed Veterans Memorial. There was discussion about how the park should be named; how the Committee would like the plaques to contain the names of all veterans, living and deceased; how the park should be lighted; funding issues; and the material used for the plaques. Mayor Marshall thanked the Committee for their work and stated he would propose another Resolution to extend the life of the Committee.

**B. Approval / Disapproval of Special Dispenser Permit Application for the 2<sup>nd</sup> Annual Pickamania! at Gough Park, Sept. 11-13, 2009, sponsored by Mimbres Region Arts Council, Liquor License Holder: High Desert Brewing Company.** Nikki Szajer, Operations Manager of the Mimbres Region Arts Council, requested the Council's approval of the Special Dispenser Permit for the 2<sup>nd</sup> Annual Pickamania in September. She stated the event would be smaller than last year and would have a smaller beer garden. There was further discussion about the addition of Friday night to the event. Councilor May made a motion to approve the Special Dispenser Permit Application. Councilor Bettison seconded the motion as stated. All were in favor, motion passed.

**C. Approval / Disapproval of a Joint Powers Agreement between the Town of Silver City and the Pinos Altos Mutual Domestic Water Consumers' Association.** Manager Brown stated the current contract with the Association had expired in 2007. He provided the details of the contract and recommended that the Town enter into the Agreement. He said the Association had already approved the contract. He further stated that the opportunity for the Town to sell water to the Association would afford all of the users of the system to keep their water rates lower because the Town was not investing in the infrastructure of the Association; it was strictly the sale of water. Councilor Wheaton-Smith made a motion to approve the Joint Powers Agreement, 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 Bettison – aye. Motion passed.

**D. Approval / Disapproval of Resolution No. 2009-15: Participation in Local Government Road Fund Program Administered by the New Mexico Department of Transportation.** Peter Pena, Public Works Director, presented the details of Resolution No. 2009-15 and stated it supported the sidewalk work and ADA improvements on Cactus Street from 21<sup>st</sup> Street to 25<sup>th</sup> Street. He stated the money would be available in July upon approval of the Resolution. There was further discussion about how Cactus Street was chosen and how another phase would be needed to complete Cactus Street from 19<sup>th</sup> Street to 21<sup>st</sup> Street. Manager Brown stated the match funding had already been budgeted. Councilor Bettison made a motion to approve Resolution No. 2009-15, Councilor Nupp seconded the motion. A roll call was taken with the following results: Councilor Bettison – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

**E. Approval / Disapproval of Resolution No. 2009-16: Rescinding Resolution No. 2006-05, Finding the Hillcrest Hospital Site Non-Essential for Municipal Purposes; Authorizing Sale, Lease, or Exchange.** Mayor Marshall presented the details of Resolution No. 2009-16. There was discussion between the Council and Les Rubin and Carmen Maynes of Hidalgo Medical Services (HMS) on whether a federally qualified health center would be the appropriate type of business to be located on the old Hillcrest Hospital Site because it was such a prominent and prestigious property, and how HMS would not generate gross receipts tax for the Town since it was a non-profit organization. There was further discussion on other Town properties that could be offered to HMS in support of their request for federal stimulus funding to construct a new health center. Councilor May, Councilor Wheaton-Smith, and Councilor Bettison agreed that they needed more time and public comments before making a decision. Councilor Wheaton-Smith made a motion to postpone action on Resolution No. 2009-16, Councilor May seconded the motion. There was further discussion on whether action on the Resolution should be postponed, tabled or voted on. Councilor Wheaton-Smith amended his motion to table Resolution No. 2009-16, Councilor May seconded the amended motion. All were in favor, motion passed to table Resolution No. 2009-16.

**F. Approval / Disapproval of Notice of Intent Ordinance No. 1158: An Ordinance Amending the Municipal Code of the Town, Title III (Administration), Chapter 33, Section 33.078 (Municipal Court; Court Costs) Relating to Increasing the Judicial Education Fee.** Mayor Marshall stated the New Mexico legislature authorized an increase in the Judicial Education Fee from \$2 to \$3 and they had authorizing language to allow them to do that. There was further discussion on whether they were authorized or required to increase the fees, how the Town would not get the fees because it was for judicial education, and how there were too many fees added to fines already. Councilor Wheaton-Smith made a motion to approve Notice of Intent Ordinance No. 1158, Councilor Nupp seconded the motion. Mayor Marshall commented that a person would not have to pay the fees and fines if they would not break the law. Councilor Nupp voted aye, and Councilor Bettison, Councilor Wheaton-Smith, and Councilor May voted nay. Motion failed.

**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