

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

Grant County Administration Center, 1400 Hwy 180, Silver City, NM

July 28, 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

Also Present: Alex C. Brown, Town Manager-Finance Director
Ann L. Mackie, Town Clerk
Ed Reynolds, Police Chief
Rudy Bencomo, Fire Chief
Alexandra Perrault, Town Planner

Not Present: Steve May, District 4

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 – None.

5. COUNCIL COMMENTS – The Council commented on the following: recently attended events; thanks were given to Manager Brown, Peter Pena, Public Works Director, and his staff for the road work done on Royall Drive; status of Penny Park; National Night Out scheduled for August 4th; the importance of building codes; the dedication of a mural at the Public Library; fireworks; and praises were given to the Fire Department, Police Department, Central Dispatch, and the State Police for their work during the recent fire at Hudson Plaza.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting – July 14, 2009: Councilor Bettison made a motion to approve the minutes. Councilor Nupp seconded the motion. All were in favor, motion passed.

8. REPORTS – Manager Brown commended the Fire Department and Police Department for their work during the fire at Hudson Plaza. He also reported on the status of Penny Park and the options they had for reconstructing it; the upcoming use of two electric vehicles; how the budget was tighter than originally anticipated and it would be necessary to cut 8% or \$700,000; and how many of the upcoming projects would create jobs. Police Chief Reynolds reported on National Night Out scheduled for August 4th; a meeting with the downtown merchants scheduled for August 3rd; appreciation was given to the New Mexico State Police, State Fire Marshall, and Grant County Sheriff's Office for their assistance during the fire at Hudson Plaza; and a report on crime issues by comparing 2008 and 2009 statistics. Fire Chief Bencomo commended his staff and stated it was a coordinated team effort and he commended Captain Gutierrez, Incident Commander on the scene, for the magnitude of responsibility he had in implementing tactics, strategies, ensuring the fire fighters were safe, etc. Captain Gutierrez commented on the fire at Hudson Plaza and stated they had 15 personnel on scene and 4 from the Tyrone Fire Department. He reported that a fire that size in a larger city would have had at least 50 personnel, but they handled it with 15 personnel. He thanked the Police Department and Central Dispatch for the good communication during the incident.

9. PUBLIC HEARINGS – A) **Approval/Disapproval of Resolution No. 2009-18: Authorizing an encroachment for approximately 2,145 square feet into the Yankee Street right-of-way for a proposed chain-link fence near property located on Lots 1, 3, 5, 7, and part of Lots 2, 4, 6, and 8, Block 85 of the Fraser Survey, addressed as 307 Silver Street, applicants Peggy Q. and Ramon S. Gomez.** 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. Councilor Wheaton-Smith stated he had met with the family on a completely unrelated issue. Mayor Marshall stated that it was irrelevant. Councilor Nupp

stated he had asked the Planning and Zoning Commissioner, David Gershenson, why the Encroachment Permit had not gone through the Planning and Zoning Commission, but had gone directly to the Town Council. Town Planner, Alexandra Perrault, commented that an Encroachment Permit only required 1 hearing. Mayor Marshall stated that it was irrelevant and all were qualified to serve on the hearing board. The Town Clerk swore in three witnesses for the hearing. Alexandra Perrault, Town Planner, presented the case and stated the Community Development Department and other Town staff recommended approval of the request for an Encroachment Permit for approximately 2,145 square feet into the Yankee Street right-of-way. She stated the applicants wanted to fence in their backyard with a chain-link fence to feel safer and to prevent trespassers and animals from entering on to their property. She stated the Community Development Department recommended adoption of Resolution No. 2009-18, approving an Encroachment Permit for Yankee Street based on 3 Findings and 2 Conditions. Applicant Peggy Q. Gomez had no comments to add. There was further discussion about the property line; the Yankee Street right-of-way; eminent domain; the terrain of the property; and the possibility of hitting a historical site. Councilor Bettison asked the applicants if they were fine with the condition that the Town could require removal of the encroachment portions of the structures after a 90-day notice to the owners. Applicant Peggy Q. Gomez said she was fine with the condition. She made further comments about a culvert that was required in an arroyo on Town property, and then concluded her case. Mayor Marshall asked the hearing board if they were prepared to render a decision. Councilor Wheaton-Smith made a motion to approve Resolution No. 2009-18. Councilor Bettison seconded the motion. There was no further discussion. A roll call vote was taken with the following results: Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed.

10. UNFINISHED BUSINESS – None.

Councilor Bettison made a motion to recess at 8:00 p.m. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 8:14 p.m.

11. NEW BUSINESS –

A. Approval / Disapproval of Grant submitted for Purchase of Radar Equipment. Police Chief Reynolds stated the grant was the second part of a Federal stimulus program and Grant County was allocated \$20,772. He said that Grant County signed a Memorandum of Understanding that they had no interest in the funds so the Town was able to spend the entire amount. He stated the funds would be used to replace outdated and older radar equipment. There was discussion on how the funding would provide outcomes of increased citations issued by 20%, reduction of traffic crashes by 12%, and crime reduction by 10% within a one year period. Mayor Marshall asked Police Chief Reynolds to report back in a year on the outcomes. There was further discussion on whether the money would be better spent on other equipment and on equipment maintenance and warranties. Councilor Wheaton-Smith made a motion to approve the grant submitted for purchase of radar equipment. Councilor Nupp seconded the motion. There was further discussion on the time period of 2009-2013 to spend the funds. All were in favor, motion passed.

B. Approval / Disapproval of Resolution No. 2009-17: Fiscal Year 2008-2009 Final Budget Adjustment. Manager Brown presented the details. Councilor Bettison made a motion to approve Resolution No. 2009-17. Councilor Nupp seconded the motion. A roll call vote was taken with the following results: Councilor Bettison – aye; Councilor Nupp – aye; and Councilor Wheaton-Smith – aye. Motion passed.

C. Approval / Disapproval of Resolution No. 2009-19: Final Approval of Fiscal Year 2009-2010 Budget. Manager Brown presented the details. Councilor Bettison made a motion to approve Resolution No. 2009-19. Councilor Nupp seconded the motion. A roll call vote was taken with the following results: Councilor Bettison – aye; Councilor Nupp – aye; and Councilor Wheaton-Smith – aye. Motion passed.

D. Selection of a Voting Delegate and Alternate to vote at the New Mexico Municipal League's Annual Conference. Mayor Marshall stated that he and Manager Brown would attend the annual conference. Councilor Bettison made a motion to select Mayor Marshall as the voting delegate and Manager Brown as the alternate. Councilor Nupp seconded the motion. There were no other nominations. Councilor Bettison made a motion to close the selection and stated Mayor Marshall and Manager Brown were selected as the voting delegates by acclamation. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed.

E. Reconsideration of Notice of Intent Ordinance No. 1158: Increasing the Judicial Education Fee. This item died for lack of a motion.

ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn at 8:30 p.m. Councilor Bettison seconded the motion. All were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk