

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

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

**September 8, 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  
Robert Esqueda, Utilities Director  
Ricky Villalobos, Police Lieutenant

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 7:04 p.m.

**2. CEREMONIES** – None.

**3. PROCLAMATIONS** – None.

**4. PUBLIC INPUT** – None.

**5. COUNCIL COMMENTS** – The Council commented on the following: recently attended events; fireworks; the selection of a library director and whether to put that position on hold; 2010 Census job opportunities; the upcoming animal ordinance; how the amount of rain levels were lower than normal; how the members of Council interact with one another; the number of noise citations issued for the downtown area; how the downtown merchants should be open on weekends for tourists; how the lack of trust was a leading problem in the world; EMS funding issues; the resolutions and statement of policy that would guide the actions of the New Mexico Municipal League on whether to support or oppose legislation; and the structure of municipalities and how they function with the State.

**6. CHANGES TO THE AGENDA** – None.

**7. APPROVAL OF THE MINUTES – Regular Meeting – August 25, 2009:** Councilor Bettison made a motion to approve the minutes. Councilor May seconded the motion. There was further discussion and a friendly amendment was approved by Councilor Bettison and Councilor May to make changes to the Council Comments section of the Minutes. All were in favor, motion passed.

**8. REPORTS** – Manager Brown reported on the gross receipts tax distributions and how they were 10% less than the previous year. He stated costs would be cut by reducing hours for 29 employees, changing the work schedule for 7 employees to avoid overtime on weekends, and by eliminating 3 positions. He stated the library would reduce their hours of service by 1 hour per day and the primary focus of the recreation center would be the after school program. He stated the lodgers' tax revenues were 45% less than the previous year. He stated they may have to look at further cuts in other areas if the gross receipts tax distributions continued to drop. Manager Brown and Police Lieutenant Villalobos answered questions from the Council regarding a comparison of crime statistics between August 2008 and August 2009, and how the Police Department had 5 fewer officers in August 2008 than in August 2009.

Councilor Bettison made a motion to recess at 7:48 p.m. Councilor May seconded the motion. Councilor Nupp abstained from voting. Councilor Bettison, Councilor Wheaton-Smith, and Councilor May voted in favor of the motion. Motion passed. Mayor Marshall called the meeting back to order at 8:00 p.m.

Robert Esqueda, Utilities Director, reported that the first day of construction began on that date for the CDBG project in the Chihuahua Hill area for water line replacement, service line replacement, and the installation of

additional fire hydrants in the area of Spring and Bremen from Cooper to Texas. He stated the contract was with J& S Plumbing and they would be working through November 7<sup>th</sup>.

**9. PUBLIC HEARINGS** – None.

**10. UNFINISHED BUSINESS** – None.

**11. NEW BUSINESS** –

**A. Approval / Disapproval of 2010 Census Partnership Agreement.** Jon Swapp from the U.S. Census Bureau provided information on the upcoming Census on April 1, 2010, and requested the Council's approval of the 2010 Census Partnership Agreement. He also asked that they review the Complete Count Committee Guide and requested their support in obtaining a complete count for Silver City. Mayor Marshall stated that \$1018 per person of federal money would come to the community for every person that was counted. He also stated that the Legislature and the Town's voting districts could be re-districted based on the census numbers. Mr. Swapp asked if he could return in a month to learn if the Council had any ideas for census activities. Councilor Wheaton-Smith made a motion to approve the 2010 Census Partnership Agreement. Councilor May seconded the motion. There was further discussion and Councilor Wheaton-Smith made a friendly amendment to authorize Manager Brown to fill in the appropriate blanks on the agreement. Councilor May seconded the friendly amendment. All were in favor, motion passed.

**B. Approval / Disapproval of Public Celebration Permit for the Weekend at the Galleries fundraiser called "Pollo Loco" on October 9-12, 2009.** Faye McCalmont, Artistic Director for the Mimbres Region Arts Council, presented the details and asked the Council for their approval of the public celebration permit. Councilor Wheaton-Smith commented that he had received many complaints from residents in the downtown area that were concerned about the event being held in the middle of their residential area. He asked Attorney Scavron what the criteria was for a Councilor to approve or disapprove it. Attorney Scavron stated that an argument needed to be supported by findings of fact that would have been based upon testimony from people who would have presented themselves at the meeting and argued that it would be harmful to the public health, welfare, and safety of their neighborhood. He stated if that had happened then the Councilors could have used that as a basis for denial, but in the absence of any testimony they could not deny it because the evidence would be considered circumstantial and hearsay. There was further discussion. Councilor May made a motion to approve the public celebration permit. Councilor Bettison seconded the motion as stated. Councilor Wheaton-Smith clarified that the event would be held from 5:30 to 8:00 in the evening. Councilor May amended his motion to include the time of the event as 5:30 p.m. to 8:00 p.m. Councilor Bettison seconded. All were in favor, motion passed.

**C. Approval / Disapproval of Bid 09/10-8: 4<sup>th</sup> Aeration Rotor Replacement.** Manager Brown presented the details of Bid 09/10-8 and stated 2 bids had been received; it was staff's recommendation to award Base Bid Schedule #1 for the aerator and Base Bid Schedule #2 for timer controls to Tatsch Construction for a total cost of \$142,899.07 including gross receipts tax. He stated the funding source was entirely from grants. Councilor Bettison made a motion to approve Bid 09/10-8 per staff's recommendation. Councilor Nupp seconded the motion. All were in favor, motion passed.

**D. Approval / Disapproval for Re-construction of Penny Park.** Manager Brown commented that since the fire at Penny Park the Town had received a \$50,000 advance from the insurance company to begin the reconstruction of the section of Penny Park, and had also received approximately \$22,000 in donations. He stated that he still did not know what total amount would be received for the reconstruction of the park, but the insurance was based on replacement value. He asked the Council how they would like to proceed and stated 2 options: 1) to use volunteer labor with a project manager and have the Volunteer Center assist with the coordination of volunteer labor, or 2) to go out with a Request for Proposal for a contractor to design the section of the park and to do the project. There was further discussion about using volunteers; getting assistance from the Volunteer Center; liability insurance; how the funds would be spent; and how using volunteers would bring the community together. Councilor May made a motion to approve the Town's plan for the reconstruction of Penny Park using the Volunteer Center as the coordinator, a project manager, and volunteers from the community to help re-build it. Councilor Wheaton-Smith seconded the motion as stated. Gwyn Jones from the Volunteer Center commented on how using volunteers would

benefit the community and the park. Attorney Scavron stated they would need to work closely with the Town's insurance company in order to use volunteers. There was further discussion. Councilor May called for the question and there was no objection. All were in favor, motion passed.

**12. ADJOURNMENT** – Councilor May made a motion to adjourn at 8:47 p.m. Councilor Bettison seconded the motion. Councilor Bettison, Councilor Nupp, and Councilor May voted in favor of the motion. Councilor Wheaton-Smith voted against the motion. Motion passed.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk