

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
December 10, 2013, 6:00 p.m.**

Present:

James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Pauline N. Hassler-Cook, District 2
Jose A. Ray, Jr., District 3
Michael S. Morones, District 4

Also Present:

Alex C. Brown, Town Manager-Finance Director
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Ed Reynolds, Police Chief
Rudy Bencomo, Fire Chief
Jaime Embick, Town Planner

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:04 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – "**Think Local, Buy Local, and Invest Local Month** " - **Dec. 10-31, 2013** - Mayor Marshall read the proclamation and presented it to Cissy McAndrew, Executive Director of the Southwest New Mexico Green Chamber of Commerce. Ms. McAndrew said they would continue the "Buy Local" campaign through 2014 by promoting buying from local businesses, and not by buying online or outside of Grant County.
- 4. PUBLIC INPUT** - Larry McLaud brought a Quality of Life Petition to the Town Council and said it had been signed by over 200 citizens. He read the petition that requested the Town Council to work towards ensuring peaceful neighborhoods by controlling loud, annoying and unnecessary noises, and speeding, for the benefit of all, residents and visitors alike. He said the petition strongly encouraged the Town Council to provide for a quality neighborhood environment by actively enforcing the ordinances already in place. He gave the petition to the Town Clerk. Many citizens came forward to talk about their concerns with noise from loud vehicles, motorcycles, barking dogs, speeding vehicles, loud music, etc. and how the noise pollution affected their quality of life.
- 5. COUNCIL COMMENTS** – The Council commented on the following: thanks were given to the public for their input on the noise ordinance and that they would work on improving the enforcement of it; thanks were given to Jim Nennich at Food Basket for their annual Thanksgiving Dinner; how some bikers had a Toy Run and took toys to the Children, Youth, and Family Division, and an apology to the public if the motorcycles were too loud during that event; how the noise issue was a society issue and the purpose of law was to set a standard so the community could see what was acceptable and what was not acceptable; and an announcement of the openings on various Town Boards and Committees.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES** – **Regular Meeting on November 12, 2013** - Councilor Bettison moved to approve the minutes of the Regular Meeting of November 12, 2013 as presented. Councilor Ray seconded. Mayor Marshall stated there was a motion and a second to approve the minutes of the Regular Meeting of November 12, 2013. He asked if there was any discussion, and there was none. He asked all those in favor to say aye, and all 4 Councilors voted aye. He asked if any were opposed, and there were none. Motion carried.
- 8. REPORTS** –
 - A. Staff reports.** Police Chief Reynolds thanked everybody that provided information and feedback on issues in the community and stated the Police Department was working hard to impact some of those issues. He provided statistics on the number of citations written and calls for service received in the past months; how they understood quality of life issues and targeted complaints; how they had to rotate areas in the community that needed enforcement because there was not enough manpower; how they tried to avoid installing speed bumps or tables on main roadways like Bullard,

but if needed they should put them in the areas of crosswalks; how the noise downtown vibrated off of the buildings; how officers were not using decibel meters, but using a standard that if the noise could be heard 25 feet or more outside of the vehicle then it was too loud; and how they had to address higher priority calls first. There was further discussion.

Fire Chief Bencomo said the Silver City Fire Department would conduct their annual end of the year Awards Ceremony to recognize firefighters for their achievements and promotions, and to award the Firefighter of the Year. He said Mayor Marshall would address the Awards Ceremony. He extended an invitation to the Council, staff, and public, and said it would be held at the Global Resource Center on December 20th at 10:30 a.m.

9. PUBLIC HEARINGS –

A. Approval / Disapproval of a Craft Distiller Off-Site License with On Premise and Package Sales, License No. / Application No.: A-891210, Applicant Name: Little Toad Creek, LLC, Doing Business As: Little Toad Creek Brewery & Distillery, Proposed Location: 200 N. Bullard St., Silver City, NM. 88061. Mayor Marshall stated the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked if any member of the hearing board had ex-parte discussions with any person regarding the subject, or had any communication from any party to the case, and all 4 Councilors said no. He qualified all of them to be on the hearing board. He asked all parties and witnesses, including staff members, to come forward to be sworn in to testify by the Town Clerk. The Town Clerk swore in 2 witnesses. Mayor Marshall read the procedures of how the hearing would be conducted. He gave the floor to Teresa Dahl-Bredine, Managing Member of Little Toad Creek, LLC. She said that she and her husband started the business 2 years ago with a restaurant and hotel in the Lake Roberts area, and she provided further details of when their liquor licenses started. She said under New Mexico law they were allowed to use the licenses to apply for a tasting room under the same license and they would like to do that in Silver City. She said they both grew up in Silver City and were excited to bring the business to downtown Silver City with a restaurant, and sell beer and spirits made in New Mexico to the public by the drink and also in unbroken packages. She said that they believed they could be a big boost to the economy in Silver City and the vibrancy of MainStreet, and hoped they could be a good addition to downtown Silver City. Mayor Marshall asked if there were any witnesses in support of the application, and there were none. He asked if that concluded their case, and she said yes. He asked the hearing board if they had any questions for the witness. There were no questions. He said the application could be disapproved for 3 reasons and he read each one and asked Ms. Dahl-Bredine to answer for each. She answered no to each question. The Mayor asked if there were any witnesses in opposition to the application, and there were none. He asked if her husband, David Crosley, would like to make a statement. Mr. Crosley said he supported everything that his wife said and that they looked very forward to being able to serve their hometown. The Mayor asked if there was anything else that they would like to be reflected in the record. They said no. He asked if the hearing board had any questions for any witness, and there were no questions. He asked if the hearing board was prepared to render its decision, and they said yes. He said he would entertain a motion. Councilor Ray moved to approve the Craft Distiller Off-Site License with On Premise and Package Sales, and he read the agenda item description. Councilor Morones seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve a Craft Distiller Off-Site License with On Premise and Package Sales, License No. / Application No.: A-891210, Applicant Name: Little Toad Creek, LLC, Doing Business As: Little Toad Creek Brewery & Distillery, Proposed Location: 200 N. Bullard St., Silver City, NM. 88061. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

B. Approval / Disapproval of a Small Brewer Off-Site License with On Premise and Package Sales, License No. / Application No.: A-891212, Applicant Name: Little Toad Creek, LLC, Doing Business As: Little Toad Creek Brewery, Proposed Location: 200 N. Bullard St., Silver City, NM. 88061. Mayor Marshall stated the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked if any member of the hearing board had ex-parte discussions with any person regarding the subject, or had any communication from any party to the case, and all 4 Councilors said no. He qualified all of them to be on the hearing board. He asked all parties and witnesses, including staff members, to come forward to be sworn in to testify by the Town Clerk. The Town Clerk swore in 2 witnesses. Mayor Marshall read the procedures of how the hearing would be conducted. He gave the floor to Teresa Dahl-Bredine, Managing Member of Little Toad Creek, LLC. She said it was the second license and she had already said enough about it. There were no questions from the hearing board. Attorney Scavron reminded them that

the testimony from the last hearing did not exist in the current hearing. Ms. Dahl-Bredine said as operators of the small brewer's license for over a year that they were excited to extend it to Silver City and requested their approval of the license to conduct sales by the glass and unbroken packages in their new tasting room in downtown Silver City at 200 N. Bullard. She said they also liked that it was "Think Local, Buy Local, Invest Local" month because as local producers, and as restaurateurs, they thought they could participate in it and be a boom to the community. The Mayor asked if there were any witnesses in support of the application, and there were none. He asked if that concluded their case, and she said yes. The Mayor asked if there were any witnesses in opposition to the case, and there were none. He asked if there was anything else that they would like reflected in the record. Mr. Crosley said craft brewed beer and craft distilled spirits were the best way to truly enjoy a nice drink, and to remember they were local, and to keep it local. Mayor Marshall said the application could be disapproved for 3 reasons and he read each one and asked Ms. Dahl-Bredine to answer for each. She answered no to each question. The Mayor asked the hearing board if they had any questions for any witness, and they said no. He asked if the hearing board was ready to render its decision, and they said yes. He said he would entertain a motion. Councilor Ray moved to approve a Small Brewer Off-Site License with On Premise and Package Sales, and he read the agenda description. Councilor Morones seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve a Small Brewer Off-Site License with On Premise and Package Sales, License No. / Application No.: A-891212, Applicant Name: Little Toad Creek, LLC, Doing Business As: Little Toad Creek Brewery, Proposed Location: 200 N. Bullard St., Silver City, NM. 88061. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

C. Approval / Disapproval of Ordinance No. 1226: an Ordinance for a Map Amendment/Zone Change, #ZC 13-05, from a Commercial zone to a Residential B zone for a tract of land which is addressed as 816 E. 19th Street, Silver City, NM. The property is located in Block 13 of the Plata Vista Addition to the Town of Silver City. The applicant is the owner, Jacob B. Vega. Mayor Marshall stated the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked if any member of the hearing board had ex-parte discussions with any person regarding the subject, or had any communication from any party to the case, and all 4 Councilors said no. He qualified all of them to be on the hearing board. He asked all parties and witnesses, including staff members, to come forward to be sworn in to testify by the Town Clerk. The Town Clerk swore in 2 witnesses. Mayor Marshall read the procedures of how the hearing would be conducted. He gave the floor to Jaime Embick, Town Planner. Ms. Embick presented details, a map and photos of the applicant's property that was currently zoned commercially, but was very near the Residential B area. She showed photos of other adjacent properties. She said to amend the Official Zoning Map the Planning and Zoning Commission and the Town Council had to make one of the 7 findings that were provided in the Council meeting packets. Mayor Marshall said she did not need to read all 7 findings because they were in the record. She said the Planning and Zoning Commission recommended approval of the map amendment/zone change based on findings #1, 2, 4 and 7, and she read those findings. There were no questions by the hearing board. Mayor Marshall asked Mr. Jacob Vega to present his case. Mr. Vega said changing it back to Residential would be a benefit to the area because 19th Street was a very narrow street. He said if it was used as Commercial the traffic would be too heavy for that street and it would impact the neighborhood worse than if it went back to Residential. The Mayor asked if there were any witnesses in support of the application, and there were none. He asked if there were any witnesses in opposition to the application, and there were none. He asked the hearing board if they had any questions for any witnesses, and there were no questions. Mayor Marshall asked Mr. Vega if he had anything else that he would like to be reflected in the record, and he said no. He asked if the hearing board was prepared to render its decision. Councilor Morones moved to approve Ordinance No. 1226 and he read the agenda item description, and said as recommended by the Planning and Zoning Commission and using finding #2, "The proposed amendment will not adversely affect the implementation of the goals and policies of the Town's Comprehensive Plan." Councilor Bettison seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Ordinance No. 1226: an Ordinance for a Map Amendment/Zone Change, #ZC 13-05, from a Commercial zone to a Residential B zone for a tract of land which is addressed as 816 E. 19th Street, Silver City, NM. The property is located in Block 13 of the Plata Vista Addition to the Town of Silver City. The applicant is the owner, Jacob B. Vega, as recommended by the Planning and Zoning Commission with the finding that this will not adversely affect the implementation of the goals and policies of the Town's Comprehensive Plan. A roll call vote was taken. Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

Councilor Bettison moved for a short break at 7:15 p.m. Councilor Ray seconded. Mayor Marshall asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. Mayor Marshall called the meeting back to order at 7:31 p.m.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval / Disapproval of a Special Dispenser Permit Application for the Rueben Ramos Concert sponsored by DJ Milligram on Dec. 28, 2013 from 7:00 pm to 1:30 am at the Grant County Veterans Memorial Business and Conference Center, 3031 Hwy. 180 E., Silver City, NM. Liquor License Holder: Buffalo Bar LLC, Liquor License No. 0361, 211 N. Bullard St., Silver City, NM. Maui Uhatafe said he was there on behalf of DJ Milligram to request approval of the Special Dispenser Permit Application to serve alcohol at the Rueben Ramos Concert on December 28th. He said there would be a special designated area where alcohol would be permitted and provided by the Buffalo Bar, and there would be licensed servers and security to monitor the alcohol in the special designated area. There was further discussion. Mayor Marshall said he would entertain a motion. Councilor Ray moved to approve the Special Dispenser Permit Application and he read the agenda item description. Councilor Morones seconded, and there was no further discussion. Mayor Marshall said there was a motion and a second to approve a Special Dispenser Permit Application for the Rueben Ramos Concert sponsored by DJ Milligram on Dec. 28, 2013 from 7:00 pm to 1:30 am at the Grant County Veterans Memorial Business and Conference Center, 3031 Hwy. 180 E., Silver City, NM. Liquor License Holder: Buffalo Bar LLC, Liquor License No. 0361, 211 N. Bullard St., Silver City, NM. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

B. Approval / Disapproval of Contract Agreement between the Town of Silver City and the Southwest Solid Waste Authority for Fiscal Year 2014 Recycling Services within the Town of Silver City. Manager Brown said the contract was for the same amount that the Town had paid in the previous 2 years and that the contract was for 2 years. He said there were minor changes that included a list of exactly what was recyclable because more items were recyclable since the Authority had gone to single-stream recycling, and he provided further details. There was no further discussion. Councilor Bettison moved to approve the Contract Agreement and she read the agenda item description. Councilor Ray seconded. Mayor Marshall said there was a motion and a second to approve the Contract Agreement between the Town of Silver City and the Southwest Solid Waste Authority for Fiscal Year 2014 Recycling Services within the Town of Silver City. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

C. Approval / Disapproval of Resolution No. 2013-38: authorizing the execution and delivery of a Loan Agreement and Intercept Agreement by and between the Town of Silver City and the New Mexico Finance Authority, in the principal amount of \$765,846 for the purpose of financing the costs of purchasing equipment for the Scott Park Baseball and Soccer Complex for use by the Governmental Unit. Manager Brown provided the details as to why the Resolution for the Sports Complex was brought back to the Council, and that all it did was change the dedication to the first and second increment of municipal gross receipts tax. There was further discussion about the Sports Complex project. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve Resolution No. 2013-38 and he read the agenda item description. Councilor Ray seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-38: authorizing the execution and delivery of a Loan Agreement and Intercept Agreement by and between the Town of Silver City and the New Mexico Finance Authority, in the principal amount of \$765,846 for the purpose of financing the costs of purchasing equipment for the Scott Park Baseball and Soccer Complex for use by the Governmental Unit. A roll call vote was taken. Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

D. Approval / Disapproval of Resolution No. 2013-41: authorizing the filing of an application for funding with the New Mexico Finance Authority for a Government Refueling Station. Manager Brown said the Resolution was a formality for New Mexico Finance Authority's records because the Town had already submitted the application. He

provided details about the refueling station, purchasing unleaded and diesel fuel, installing a card system, partnering with other government agencies, etc. There was further discussion. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve Resolution No. 2013-41 and he read the agenda item description. Councilor Ray seconded. There was no further discussion. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-41: authorizing the filing of an application for funding with the New Mexico Finance Authority for a Government Refueling Station. A roll call vote was taken. Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

E. Approval / Disapproval of Resolution No. 2013-40: authorizing the execution and delivery of a Loan Agreement and Intercept Agreement by and between the Town of Silver City and the New Mexico Finance Authority in the principal amount of \$196,079 for the purpose of financing the costs of converting and upgrading an existing gas station into a Government Refueling Station. Manager Brown said the New Mexico Finance Authority Board had already authorized it, and the Resolution was for the Town Council to approve accepting the loan and the intercept of the debt service agreement for a term of 10 years. There was further discussion. Mayor Marshall said he would entertain a motion. Councilor Morones moved to approve Resolution No. 2013-40 and he read the agenda item description. Councilor Bettison seconded. There was further discussion. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-40: authorizing the execution and delivery of a Loan Agreement and Intercept Agreement by and between the Town of Silver City and the New Mexico Finance Authority in the principal amount of \$196,079 for the purpose of financing the costs of converting and upgrading an existing gas station into a Government Refueling Station. A roll call vote was taken. Councilor Morones voted aye; Councilor Ray voted aye; Councilor Cook voted aye; and Councilor Bettison voted aye. Motion carried.

F. Approval / Disapproval of Resolution No. 2013-37 for the Regular Municipal Election to be held on March 4, 2014. Clerk Mackie requested approval of the Resolution to call the election, and said it would include the election of the following elective offices: one Mayor for a 2 year term, one Councilor in District 2 for a 2 year term, one Councilor in District 4 for a 2 year term, and one Municipal Judge for a 4 year term. She stated the following question would be on the ballot for the voters to check yes or no to, "Shall the Town of Silver City continue to impose the Municipal Infrastructure Gross Receipts Tax of one-eighth of one percent (.125%) that was adopted on July 1, 2004 and dedicated solely to expenditures for Public Safety?" She provided further details of the Resolution. There was no discussion. Mayor Marshall said he would entertain a motion. Councilor Bettison moved to approve Resolution No. 2013-37 and read the agenda item description. Councilor Ray seconded. Mayor Marshall said there was a motion and a second to approve Resolution No. 2013-37 for the Regular Municipal Election to be held on March 4, 2014. A roll call vote was taken. Councilor Bettison voted aye; Councilor Cook voted aye; Councilor Ray voted aye; and Councilor Morones voted aye. Motion carried.

G. Discussion and vote on whether to cancel or change the regular Council meeting scheduled for December 24, 2013. Mayor Marshall said they had an agenda request and the requestor said the first meeting in January would not meet their deadline for the event. There was discussion about a meeting date. Mayor Marshall said he would entertain a motion. Councilor Ray moved to change their meeting from December 24th to December 16th at 6:30 p.m. in the same room. There was no further discussion. Mayor Marshall asked all those in favor to say aye, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

12. ADJOURNMENT – Mayor Marshall asked for a motion to adjourn. Councilor Ray moved to adjourn at 8:13 p.m., and Councilor Bettison seconded. Mayor Marshall stated there was a motion and a second to adjourn. He asked all those in favor to say aye, and all 4 Councilors said aye. He asked if there were any opposed, and there were none. Motion carried.

James R. Marshall, Mayor

Attest:

Ann L. Mackie, Town Clerk