

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy. 180, Silver City, NM
June 9, 2015, 6:00 p.m.**

Present:

Michael S. Morones, Mayor
Cynthia Ann Bettison, District 1
Lynda D. Aiman-Smith, District 2
Jose A. Ray, Jr., District 3
Guadalupe Cano, District 4

Also Present:

Alex C. Brown, Town Manager-Finance Director
Robert L. Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Jaime Embick, Zoning Administrator
James Marshall, Assistant Town Manager
Peter Pena, Public Works Director

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Morones called the meeting to order at 6:00 p.m.
- 2. CEREMONIES** – None.
- 3. PROCLAMATIONS** – None.
- 4. PUBLIC INPUT** – Mayor Morones explained the policy for public input per Resolution No. 96-52. Fred Fernandez commented that his water deposit was refunded to him without interest, etc. and how more signage was needed to direct traffic on Cooper Street to Highway 90. Nick Sussillo, Stephanie Smith, Gayle Simmons, Andy Payne, and Debaura James each commented on the PNM Power Replacement Plan, how it was deficient with investments in renewable energy, etc., and they encouraged the Town Council to stand in support of renewable energies that would also create more jobs. Raul Turrieta, County Assessor, provided an update from the County Assessor's office and stated the following: they were working on their parcel mapping system and the mapping on their website was not up to date at that time; how people should call their office if there were any issues on any property lines or any mapping questions; how they were in the process of hiring 5 employees; how by State statute they needed to certify their valuations on assessor's evaluations and state assessed valuations by June 15th; and how he would like to give a report during the next Council meeting.
- 5. COUNCIL COMMENTS** – The Council commented on the following: an invitation to attend the next day's event called "Conversation with a Councilor and Community Development" that would include Councilor Aiman-Smith and Community Development staff to discuss infrastructure; how the Southwest New Mexico Council of Governments procured a grant from the Federal Economic Development Agency for the Southwest New Mexico Green Energy Efficiency and Renewable Energy to set up an Office of Renewable and Energy Efficiency; Councilor Aiman-Smith encouraged people to recognize that the Town of Silver City passed a Resolution in 2013 supporting the work that had been done by the Green Jobs Task Force since 2010 to move towards identifying ways to develop jobs here that had to do with energy efficiency and renewable energy; how if the Governor signed the capital outlay bill the Town would do roadwork and chip seal on Little Walnut Road; how Councilor Ray was proud of the volunteers in Silver City and Grant County and he also congratulated Fred Fernandez for directing people on Cooper Street; how they were working to get more signage on Cooper Street; and how people did not have to bring their concerns only to a Council meeting, but could contact Councilor Cano by phone, email or a visit regarding anything except things that were covered in public hearings.
- 6. CHANGES TO THE AGENDA** – None.
- 7. APPROVAL OF THE MINUTES – Regular Meeting on May 26, 2015** - Councilor Aiman-Smith moved to approve the minutes of the Regular Town Council Meeting of May 26, 2015. Councilor Bettison seconded. Mayor Morones stated there was a motion and a second to approve the minutes of the Town of Silver City's Regular Council Meeting of May 26, 2015. He asked if there was any discussion, and there was none. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried.

8. REPORTS –

A. Presentation of alternatives to the PNM Power Replacement Plan by Ben Kieler. Mr. Kieler thanked the Town Council and staff for their foresight in creating the Office of Sustainability, a sustainability plan, and for supporting wise energy choices around conservation and municipal solar projects. He also gave credit to New Energy Economy (NEE) a civic coalition that intervened in PNM's application to the Public Regulation Commission (PRC) and stated NEE brought to light the fact that PNM knew from its own modeling that it was not presenting the least cost option for New Mexico when it submitted its plan. He reviewed some of the hidden costs that were likely to appear in the plan and that would add to their rates later; how closing old coal plants was among the best ways to reduce carbon and methane in the atmosphere; things that were wrong with PNM's plan and his suggested alternatives; how PNM was unloading its toxic assets on to New Mexico ratepayers; how PNM's sole focus was on profits as it disregarded its customers' interests and the environment; and he asked the Council to request the present Power Replacement Plan be denied outright and that the process of all-resource Request for Proposals' and fair comparison begin again. He said the possibility of a clean energy future in New Mexico depended upon doing it right. He introduced Janet Wallet-Ortiz as the next speaker.

Ms. Wallet-Ortiz discussed the following concerns about PNM's plan: how the plan would affect jobs and that technologies changed over time and job options and opportunities changed as well; how the City of Farmington determined that it was not in their best economic interest to acquire 65 megawatts of additional capacity from the San Juan plant; how environmental and economic factors indicated that all 4 units at San Juan needed to be closed; how according to NEE, using PNM's own numbers, 4 analyzed options were cheaper than the current plan and one of those included a shutdown of all 4 units which would save ratepayers \$334,000,000 over the next 20 years; how considering all the factors of economics, jobs, toxic waste, and climate change, it was crucial that PNM now determined an expeditious timeframe for the 4 unit closure and decide quickly on renewable power replacement options that would provide jobs in Farmington and elsewhere in New Mexico; and how there were viable alternative plans and if PNM allowed an open Request for Proposal process permitting renewable energy proposals at market value, then they would see more clearly how those plans would work effectively for New Mexico citizens and the planet. She asked the Town Council to stand as Santa Fe and Albuquerque did and pass a resolution disapproving PNM's current Power Replacement Plan and request that PNM dramatically increase the amount of renewables in its portfolio.

B. Staff reports. Councilor Bettison asked Manager Brown about the signs for weight limit restrictions on Cooper Street. He said the Police Department was looking into the weight requirements and that Peter Pena, Public Works Director, would order the signs. There was further discussion.

9. PUBLIC HEARINGS -

A. Approval/Disapproval of Ordinance No. 1239: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article VI (Administration), Sections, 3.1.1, 3.2, 3.3.1, 3.4.2, 5.9.2, New Sections 5.9.6, 5.10.2, 5.12, 5.15, 6.2.3, 6.3.1, 6.3.9, and 6.3.23 of the Town of Silver City Municipal Code. Mayor Morones 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 matter, 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. Mayor Morones stated that anyone not sworn in would not be able to testify or participate in the hearing. The Town Clerk swore in 3 witnesses; all were Town staff. Mayor Morones read the procedures of how the hearing would be conducted. He gave the floor to Jaime Embick, Zoning Administrator. She said it was the second public hearing for the item and that it was heard by the Planning and Zoning Commission on May 5th. She began by discussing the item that was recommended by the Planning and Zoning Commission to remain the same at zero (Table 3.4.2), and she strongly recommended that they go with the staff recommendation instead and she explained the reason for the 10 foot frontage requirement in commercial historic downtown. She said it would only apply to new land parcels that would be divided in the future and that staff felt very strongly that it was almost impossible to get utilities service, signage, addressing, anything like that without some frontage. She said it did not apply to any parcels that did not have frontage right now. She said it was very difficult, especially in the exchange of properties, to provide utility service through an easement. She stated the encroachment permit process would now be a decision by the Town Manager and that appeals would go

to the Town Council as a public hearing. She said it would allow the public a more timely response and they would not have to go to the expense and time of a public hearing before the Town Council unless they wanted to appeal Manager Brown's decision. She said the moving permit section was being added back into the Land Use and Zoning Code because it had somehow been omitted previously. Mayor Morones asked the hearing board if they had any questions.

Councilor Bettison asked Ms. Embick to clarify to the public what a clear sight triangle was. Ms. Embick said a couple of sections in the Land Use and Zoning Code were not cross referenced very well, and the clear sight triangle was an example of one of them. She said in the Sign Section it said you could not encroach on the clear sight triangle, but the definition was not clearly understood so now it would refer to the section with the definition. She stated a clear sight triangle was a point in the intersection where the property line was on the corner then 25 feet back and connected in a triangle. There was further discussion about signs; clear sight triangles; frontages; setbacks; land divisions; and how it was very hard to address a property with no street frontage.

Councilor Cano asked Ms. Embick how the procedure would change in Table 6.3.1 where the recommendation was to change the Council making decisions to the Town Manager and Community Development Director making decisions. Ms. Embick said it would give the applicant an easier way to have their appeal heard as well as expedite the process for them and she explained that the encroachment was not a permanent structure so the Town Manager could make the decision faster and they would not have to pay the \$75 case fee for a public hearing; if they were not happy with his decision they may further the process with an appeal to the Town Council in a public hearing. Councilor Aiman-Smith asked for the pros and cons of having the Town Manager make the decision rather than the Council. Ms. Embick said it would take away the initial expense of \$75 for the encroachment permit application fee; that it would take out the required public notice time frame for the public hearing; that Council meetings were held every 2 weeks, but the Town Manager was in his office 5 days a week normally; and that it would really shorten the time to have their initial decision and lessen their expense unless they wanted to file for an appeal. She said they felt it was in the public's best interest because it was not on their own property; that it was on Town property and could be removed within 90 days notice anyway so they were making it easier, more user friendly, and they would get a quicker decision. Manager Brown said the staff would still give him their recommendation and he would make a decision based on the requirements of the Land Use Code right-of-way, and if he gave them a negative response to their request then they could still appeal to the Council. He said the Council, as a policy-maker, did not have to follow the Land Use Code, but could change it and they still had the option to appeal to the Council. There was further discussion on how there were not that many encroachment permit requests each year with 1 so far in 2015; how most people did not want to invest in something that may have to be removed and was not on their own property; how staff really felt there was a need for access for utilities and addressing on any new land divisions; and how the moving permit was just being placed back in the Code and was not a new requirement.

Mayor Morones asked James Marshall, Assistant Town Manager, and Ms. Embick if there was anything they wanted to add. Mr. Marshall said he spoke with the Fire Marshal regarding his opinion on the safety of having lots without any street frontage and possibly just walkways between buildings. He said the Fire Marshal felt that it would create a danger and an increased hazard to emergency response personnel. Mayor Morones asked him if that concluded his case in chief, and Mr. Marshall said yes. Mayor Morones asked if there were any questions from the hearing board. There was further discussion about the zoning amendment Ordinance that they were voting on. Attorney Scavron said the Ordinance did indicate street frontage of 10 feet in Table 3.4.2 so when they voted on it they were voting on modifying the Planning and Zoning Commission's decision to leave it at zero and would be accepting the recommendation of the Planning and Zoning Commission except for Table 3.4.2 where the frontage requirement would be increased to 10 feet. Mayor Morones asked staff if there was anything else they wanted to be reflected in the record, and they said no. He asked if any member of the hearing board had any question for any witness. There were no further questions. He asked if the hearing board was prepared to consider the application and render its decision. Councilor Bettison discussed the motion with Attorney Scavron to make sure the motion was stated properly. She moved to approve Ordinance No. 1239: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article VI (Administration), Sections, 3.1.1, 3.2, 3.3.1, 3.4.2, 5.9.2, New Sections 5.9.6, 5.10.2, 5.12, 5.15, 6.2.3, 6.3.1, 6.3.9, and 6.3.23 of the Town of Silver City Municipal Code based on the recommendation of the Planning and Zoning Commission except for Table 3.4.2 increasing the minimum street frontage in C-HD to 10 feet. Councilor Aiman-Smith seconded. Mayor Morones said there was a motion and a second as read into the record. He asked if there was

any discussion, and there was none. He asked if everyone understood the motion they were voting on, and they said yes. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

Councilor Bettison moved for a short break at 7:12 p.m. Councilor Aiman-Smith seconded. Mayor Morones said there was a motion and a second for a short recess. He asked for a vote of all those in favor, and all 4 Councilors said aye. He asked if any were opposed, and there were none. Motion carried. He called the meeting back to order at 7:21 p.m.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS –

A. Approval / Disapproval of Resolution No. 2015-13: supporting a Public-Private Economic Development MainStreet Project. Manager Brown said it was the annual Resolution required by the New Mexico MainStreet Program that said the Town supported the Public-Private Partnership with the Silver City MainStreet Program and to reassure the State that they were behind the Silver City MainStreet Program and would continue to work with them. He said there was a Memorandum of Understanding that went with it that he would sign and submit with the funding that was usually provided to them and that was already budgeted. Mayor Morones said about a dozen years ago he saw a statistic from that time that showed MainStreet brought in about \$5.4 million worth of infrastructure improvements and versus the dollars up to that point that the Town had given MainStreet it reflected that it was a huge return on their investment. He said it was a great program and their MainStreet Project was one of the oldest in the State and actively did things to better the downtown community, bring improvements, and increased gross receipts tax revenues. He gave the floor to Patrick Hoskins, President of the Board of the Corporation of Downtown Development doing business as Silver City MainStreet. Mr. Hoskins said what they did was very valuable to the Town of Silver City and Grant County at large and that it was a reoccurring agreement between the Town and the State and their program; that it indicated that the Town believed in the work they were doing and provided to them a certain financial wherewithal so they could do what they said they would do. Mayor Morones asked the Council if they had any questions or comments, and there were none. He said he would entertain a motion. Councilor Ray moved to approve Resolution No. 2015-13: supporting a Public-Private Economic Development MainStreet Project. Councilor Cano seconded. Mayor Morones said there was a motion and a second for approval of Resolution No. 2015-13: supporting a Public-Private Economic Development MainStreet Project. There was no further discussion. He asked for a roll call vote. Councilor Cano voted aye; Councilor Ray voted aye; Councilor Aiman-Smith voted aye; and Councilor Bettison voted aye. Motion carried.

B. Approval / Disapproval of Resolution No. 2015-15: supporting the Town participating in the FY 2015-16 Local Government Road Fund Program Administered by New Mexico Department of Transportation.

Peter Pena, Public Works Director, said the Resolution would let them enter into a Cooperative Agreement with the New Mexico Department of Transportation, and they were looking to use some of the money as maintenance for a chip and fog seal project in District 2. He said all of the streets were in District 2 and that they were trying to centralize the street work per district per year so people could see more of the work that was actually being done. He said they were trying to do about 16 streets with the project which totaled about 4.5 miles. He said they were being awarded \$72,000 and there was a 25 percent match that was already budgeted. Manager Brown said last year when the Council increased the street maintenance funding it allowed the Public Works Department to increase the chip seal projects from \$83,000 of funding to \$140,000 of funding. He described the upcoming projects and there was further discussion. Mayor Morones said he would entertain a motion. Councilor Aiman-Smith moved to approve Resolution No. 2015-15: supporting the Town participating in the FY 2015-16 Local Government Road Fund Program Administered by New Mexico Department of Transportation. Councilor Bettison seconded. Mayor Morones said there was a motion and a second to approve Resolution No. 2015-15: supporting the Town participating in the FY 2015-16 Local Government Road Fund Program Administered by New Mexico Department of Transportation. He asked if there was further discussion, and there was none. He asked for a roll call vote. Councilor Bettison voted aye; Councilor Aiman-Smith voted aye; Councilor Ray voted aye; and Councilor Cano voted aye. Motion carried.

C. Appointment to the Planning and Zoning Commission. Mayor Morones said they had an application from Michael Larisch. He said he knew him, but the Chair of the Commission did not know him. The Mayor said Mr.

Larisch was more than qualified, a long time resident, and had expertise in real estate. He asked the Council if there was any opposition to appointing him, and they said no. Mayor Morones said Michael Larisch was appointed.

12. ADJOURNMENT – Mayor Morones asked for a motion to adjourn. Councilor Aiman-Smith moved to adjourn at 7:31 p.m., and Councilor Bettison seconded. Mayor Morones 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.

Michael S. Morones, Mayor

Attest:

Ann L. Mackie, Town Clerk

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