

MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
November 10, 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

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 7:02 p.m.

2. CEREMONIES – None.

3. PROCLAMATIONS – None.

4. PUBLIC INPUT – Dr. Terry Timme, Chair of the Town’s Recycling Advisory Committee, commented on the upcoming Recycling Drive scheduled for November 14, 2009.

5. COUNCIL COMMENTS – The Council commented on the following: an update on Penny Park; Councilor Nupp’s weather station; sustainability & how the Town’s 2 electric vehicles were paying for themselves; panhandlers; how loading zones may be needed downtown in order to prevent traffic hazards; the completion of the Leslie Street paving project; the business hours of the Community Development Department; traffic concerns at 12th Street and Pope Street and College Avenue and Pope Street; pot holes on private property near Arby’s; parking near the 6th Street School; and road construction projects.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting – October 27, 2009: Councilor May made a motion to approve the minutes. Councilor Bettison seconded the motion. All were in favor, motion passed.

8. REPORTS – Manager Brown reported that the State cut all legislative agreements and all third party agreements had to be justified. He commented on several projects and on a grant with the County for an Office of Sustainability.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS –

A. Approval / Disapproval of Resolution No. 2009-27: A Resolution supporting the Memorandum of Understanding between the NM MainStreet Program, Corporation for Downtown Development (dba Silver City MainStreet Project), and the Town of Silver City. Frank Milan, Manager of the Silver City MainStreet Project, presented the details of Resolution No. 2009-27 and said the MOU was the regular operating agreement for 2 years between New Mexico MainStreet, the Silver City MainStreet Project, and the local government entity. Manager Brown stated the MOU was required by the New Mexico Economic Development Department and that it did not require the Town to fund them, but just to support their efforts. There was further discussion and Mr. Milan answered questions from Councilor May. Manager Brown reported that he attended the Legislative Infrastructure Finance Conference and they had used the Silver City MainStreet Project and Arts and Cultural District as the example for the state. Councilor Bettison made a motion to approve Resolution No. 2009-27. Councilor Nupp seconded the motion. A roll call vote was taken with the following results: Councilor Bettison – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – aye; and Councilor May – aye. Motion passed.

B. Approval / Disapproval of Notice of Intent Ordinance No. 1159: An Ordinance to amend Title 3, Chapter 37 (Elections), Section 37.04 of the Municipal Code of the Town of Silver City, Grant County, NM. Town Clerk Mackie presented the details of Notice of Intent Ordinance No. 1159 and asked for the Council's approval to amend the Town's Code in order to conform with State Statute 3-8-33 N.M.S.A 1978. There was further discussion about the State's Municipal Election Code and the Town's Charter and Election Ordinance in reference to the date that elected officials swear their oath of office and begin the discharge of their duties. Councilor Bettison made a motion to approve Notice of Intent Ordinance No. 1159. Councilor Wheaton-Smith seconded the motion as stated. There was further discussion. Councilor Nupp made a motion to postpone, but there was already a motion on the table so he withdrew his motion. A vote was taken and all of the Councilors voted nay, motion failed. Councilor May made a motion that they give Notice of Intent to adopt Ordinance No. 1159 with a proviso that it would not be effective until after the next regular municipal election and after April 1, 2010. There was further discussion and he withdrew his motion. There was further discussion that the item could be brought back to Council after some of their concerns had been addressed. Attorney Scavron stated that they could adopt the State's Municipal Election Code and excise sections as an assertion of the Town's Charter to make rules and regulations. Mayor Marshall suggested they could have a work session to compare the State's Municipal Election Code and the Town's Code. He asked that the Council rescind the no vote and make a motion to postpone so they could have further discussions at the next regular meeting or at a work session. Councilor Bettison made a motion to reconsider Item B on the agenda. Councilor Wheaton-Smith seconded the motion as stated. A vote was taken: Councilor Bettison, Councilor Nupp, and Councilor Wheaton-Smith voted in favor of the reconsideration motion, Councilor May voted against it. Motion passed. Councilor Nupp made a motion to postpone consideration of Notice of Intent Ordinance No. 1159 until the first meeting in December. Councilor Wheaton-Smith seconded the motion as stated and commented that they should look into the issues brought up by Councilor May and Councilor Bettison. A vote was taken: Councilor Bettison, Councilor Nupp, and Councilor Wheaton-Smith voted aye, and Councilor May voted nay. Motion passed to postpone the item.

Councilor Bettison made a motion to recess at 8:20 p.m. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 8:31 p.m.

C. Approval / Disapproval of Bid 09/10-6: Library Roof. Manager Brown provided the history of the bid and stated the Library Board and the Library Foundation recommended that the Town proceed with re-roofing the library and the replacement of the HVAC units at the library, and to issue a bid up to \$185,000 from the Lennie Meryle Forward Fund. He stated the project was put out to bid and all four bids received were above the \$185,000; it was staff's recommendation to reject all bids and to re-issue it as a request for proposal. There was further discussion. Councilor May made a motion to accept Town staff's recommendation to reject all bids received on Bid 09/10-6. Councilor Bettison seconded the motion as stated. There was further discussion. All were in favor, motion passed.

D. Discussion and any action on Lodgers Tax awards. Manager Brown recommended no change to the lodgers' tax awards because they had already been decreased by \$40,000 at the time of the awards. He said that he was confident in his projections that they were right on track and the awards did not need to be reduced. There was further discussion and Lola Polley, Executive Director of the Silver City/Grant County Chamber of Commerce, answered questions from the Council.

E. Appointment of one member to the Historic Design Review Committee. Mayor Marshall received the Council's consensus to appoint Nicole Szajer to the Historic Design Review Committee to represent the architect position.

F. Approval / Disapproval of cancellation of November 24th Regular Council Meeting. Manager Brown stated there was an applicant for a zone change that would like to have their public hearing on November 24th. There was further discussion on a date to hold a Special Meeting for the public hearing and it was tentatively set for December 1, 2009. Councilor Bettison made a motion to approve the cancellation of the November 24th regular Council meeting. Councilor Nupp seconded the motion. All were in favor, motion passed.

G. Approval / Disapproval of Resolution No. 2009-26: Regular Municipal Election to be held on

March 2, 2010. Town Clerk Mackie presented the details of Resolution No. 2009-26 for the regular municipal election to be held on March 2, 2010 and stated elective offices to be filled were for 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 four year term. She also read Section C of the Resolution that was a poll question regarding a complete ban on ground audible and aerial fireworks that, if approved to be on the Election Resolution, would be placed on the ballot as an advisory poll that was neither binding upon the Town nor the Town Council, and was meant only to determine the inclination of the voters. There was further discussion from the Councilors, Mayor Marshall, Attorney Scavron and the Town Manager. Each member of the Council expressed his/her reasons for being in favor or against having a non-binding poll question on the ballot. Councilor Bettison made a motion to approve Resolution No. 2009-26 with an amendment to withdraw Section C from the Resolution. Motion died without a second. Councilor May made a motion to approve Resolution No. 2009-26 as presented. Councilor Wheaton-Smith seconded the motion as stated. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – nay; and Councilor Bettison – nay. Mayor Marshall broke the tie vote by voting nay. Motion failed. Councilor Bettison made a motion to reconsider Resolution No. 2009-26. Councilor Nupp seconded the motion. A vote was taken: Councilor Bettison – aye; Councilor Nupp – aye; Councilor Wheaton-Smith – nay; and Councilor May – nay. Mayor Marshall broke the tie by voting aye. Motion passed to put Resolution No. 2009-26 item back on the table for reconsideration. Councilor Bettison made a motion to approve Resolution No. 2009-26 with the removal of Section C. Councilor Nupp seconded the motion. There was further discussion. A roll call vote was taken: Councilor Bettison – aye; Councilor Nupp – nay; Councilor Wheaton-Smith – nay; and Councilor May – nay. Motion failed. Councilor May made a motion to reconsider Resolution No. 2009-26. Councilor Wheaton-Smith seconded the motion. A vote was taken: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – nay. Motion passed to reconsider Resolution No. 2009-26. Councilor May made a motion to approve Resolution No. 2009-26 as presented. Councilor Wheaton-Smith seconded the motion as stated. A roll call vote was taken: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – nay. Motion passed to approve Resolution No. 2009-26 as presented with the non-binding poll question.

12. ADJOURNMENT – Councilor May made a motion to adjourn at 9:40 p.m. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk