

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

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

January 26, 2010 – 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
Alexandra Perrault, Town Planner

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 7:00 p.m.

2. CEREMONIES – None.

3. PROCLAMATIONS – Mayor Marshall proclaimed “The week of January 25, 2010 through January 29, 2010 to be a week honoring the Honorable Liguori V. Saladin, Moose International Supreme Governor, and all other members of Silver City Moose Family Center #1718, and Silver City Women of the Moose Chapter #1458.”

4. PUBLIC INPUT – None.

5. COUNCIL COMMENTS – The Council commented on the following: recently attended events; an exhibit at Western New Mexico University (WNMU) Museum about women in 2009 in Juarez, Mexico; super computing power available and free of charge at WNMU; how campaign signs were being removed; the game warden’s request that people do not feed the animals in Town; the recent candidates’ forum; neighborhood meetings in District 3; how a band of Warm Springs Apaches wanted to establish a homeland at old Ft. Bayard; how Ft. Bayard could become State surplus property if another mission was not found for it; snow and rainfall amounts; the legislative session and how the Town was trying to make sure that the State did not balance its budget by removing the hold harmless on gross receipts tax; suggested improvements from the Bike Ability Advocacy Group (BAAG) and Walk Ability Advocacy Group (WAAG) and how the trail from the San Vicente off of the Big Ditch could be tied into the whole system of the Town as a major economic development push for businesses and eco-tourism.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting – January 12, 2010: Councilor Bettison made a motion to approve the minutes. Councilor Nupp seconded the motion. There was further discussion about Secretary Mondragon’s promise to hold the Silver Anniversary of the New Mexico MainStreet Program in Silver City. All were in favor, motion passed.

8. REPORTS – Town Clerk Mackie reported on the dates to absentee and early vote at City Hall and reminded residents to register to vote or to correct their voter registration by February 2nd at 5:00 p.m. if they wanted to vote in the upcoming municipal election. Manager Brown reported that he and the Mayor met with Congressman Teague to discuss issues with funding and projects. He said that he also presented those same issues to Senator Bingaman’s representative, as well as economic development projects and regional water issues. He commented that the New Mexico Department of Transportation (NMDOT) would be addressing encroachments that business had on the Highway 180 right-of-way. He said they would either have to remove whatever was encroaching on the right-of-way or enter into some type of lease agreement with NMDOT to use the property. He said the State was not trying to generate revenue, but that they were trying to ensure that anti-donation issues were addressed. Police Chief Reynolds reported on the 2009 Statistics for calls for service; traffic crashes and specific intersections; citations summary; citations type; activity by Town quadrants; arrest categories; and juvenile crimes. He answered questions from the Council. Mayor Marshall announced that there were 4 openings on the Grant County/Silver City Extraterritorial Subdivision Commission. There was further discussion on the role of the Commission.

Councilor Bettison made a motion to recess at 7:43 p.m. Councilor May seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 7:53 p.m.

9. PUBLIC HEARINGS –

A. Approval / Disapproval of Ordinance No. 1162: Request for a Map Amendment/Zone Change, ZC09-3, from Commercial to Residential B for a tract of land approximately .0.3 acres in size, and located on a tract of land addressed as 1414 N. Bennett St., on Lot 16, Block 267, Section 34 of the Fraser Survey. The applicant is Jeff Vasquez. 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 the case, and none had. The Town Clerk swore in 2 witnesses for the hearing. Alexandra Perrault, Town Planner, presented the case and said the Planning and Zoning Commission and the Community Development Department's staff recommended the approval of the request from Commercial to Residential B, addressed as 1414 N. Bennett St. Mr. Vasquez, applicant, stated he sent out about 40 letters and the responses he received were in favor of the zone change. He said that he and the people that responded had concerns that homes that were zoned Commercial would not be replaced if they burned down, and how they could not sell the properties because there were financing issues because of the commercial zoning. Ms. Perrault answered questions from the hearing board. There was no opposition to the case and Mr. Vasquez concluded his case. Mayor Marshall asked the hearing board if they were prepared to render a decision. Councilor May made a motion to adopt Ordinance No. 1162 and he cited Finding #2 that the proposed amendment would not adversely affect the implementation of the goals and policies of the Town's Comprehensive Plan. Councilor Wheaton-Smith seconded the motion. There was further discussion. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed.

B. Approval / Disapproval of Ordinance No. 1163: Request for a Map Amendment/Zone Change, ZC09-4, from Industrial to Residential B for a tract of land approximately 13.77 acres in size, and located on a tract of land on Blocks 150, 151, 154, 155, 188, 189, a portion of 190, and Lots 2, 4, 6, 8, 10, 12, 14, and 16 of Block 152, and portions of Lots 2, 4, 6, 8, 10, 12, 14, and 16 of Block 153, Section 2 of the Fraser Addition. The applicant is the Town of Silver City. 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 the case, and none had. Mayor Marshall asked Attorney Scavron if the Council's past discussions involving the Vista de Plata subdivision were qualified as ex parte discussions. Attorney Scavron said they were not. The Town Clerk swore in 5 witnesses for the hearing. Alexandra Perrault, Town Planner, presented the case and said the property was currently undeveloped. She said the Planning and Zoning Commission and the Community Development Department's staff recommended the approval of the request from Industrial to Residential B to develop approximately 27 acres for an affordable housing project. Mayor Marshall told the hearing board that they would be considering whether it was in the best interest of the Town to zone from Industrial to Residential B. He said they were not addressing the specifics of what may go on the Town property, because it would be whatever was allowable for Residential B. Tim Grattan, applicant and architect of T G Architecture, stated the zone change would allow the development of the Vista de Plata affordable housing project. He said the preliminary plat was the engineering portion of the project, and it would identify the utilities, streets, and other infrastructure including drainage improvements and a traffic impact study. There was further discussion. Mike Eley commented that an ordinance and housing plan would be brought to the Council for approval at a later date. There were no witnesses in opposition to the application, and Mr. Grattan concluded his case. Mayor Marshall asked the hearing board if they were prepared to render a decision. Councilor May made a motion to adopt Ordinance No. 1163 and he cited Finding #2 that the proposed amendment would not adversely affect the implementation of the goals and policies of the Town's Comprehensive Plan. Councilor Bettison seconded the motion as stated. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS -

A. Approval / Disapproval of Public Celebration Permit Application for “Chocolate Fantasia X’ocotal” on February 13, 2010, and sponsored by Mimbres Region Arts Council and Curious Kumquat. Nikki Szajer, Operations Manager of Mimbres Region Arts Council, presented the details of the event and stated it would be a fund raiser for the Mimbres Region Arts Council. Councilor Bettison made a motion to approve the public celebration permit application. Councilor Nupp seconded the motion. All were in favor, motion passed.

B. Approval / Disapproval of Town of Silver City Audit Report for Fiscal Year ended June 30, 2009. Mike Stone of Stone, McGee & Co., CPAs reported that the Town’s audit report for Fiscal Year ended June 30, 2009 was as good as it gets. He said there were no comments related to the audit for the year at all; no findings related to financial statements; no findings related to major federal award programs; an unqualified opinion on the financial statements; and an unqualified opinion with the compliance with federal regulations. He said the Town was managing \$68 million worth of assets, had approximately \$20 million in revenue, and Town staff were extremely cooperative and everything was ready. He said that he was in high admiration and offered his congratulations. There was further discussion. Mayor Marshall stated it was important that the Council and the Town recognize the staff for the superior job that they had done, and he named Alex C. Brown, Town Manager-Finance Director, Linda Flores, Deputy Finance Director, Eva Jauriqui Maldonado, Linda Nunez and their staff. Councilor Wheaton-Smith made a motion to approve per Section 2.2.2.10.J.(3)(d) NMAC 1978, *Requirements for Contracting and Conducting Audits of Agencies*, the audit as submitted. Councilor Bettison seconded the motion as stated. All were in favor, motion passed.

C. Approval / Disapproval of Resolution No. 2010-03: A Resolution to Oppose the Repeal of the Hold Harmless Provisions of the State’s Gross Receipts Tax Laws. Councilor Bettison presented the details of Resolution No. 2010-03 and said if the State repealed the hold harmless provision of the gross receipts tax it would affect the Town in a loss of an amount exceeding \$1,100,000 which would dramatically and negatively affect the health, safety and welfare of the Town and its inhabitants. She stated that the Resolution would show the Town’s support of the New Mexico Municipal League’s actions to make sure the hold harmless provision was not repealed. Manager Brown commented on the current loss of gross receipts tax revenues (8% decrease), and how the additional loss of revenue if the hold harmless provision was repealed (14% decrease) would cause a 22% decrease in operating revenues, and would devastate a majority of the services to the community. He said it would impact the Town of Silver City more than any other community or county in southwest New Mexico. There was further discussion. Councilor Bettison made a motion to approve Resolution No. 2010-03. Councilor May 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.

D. Appointment of two members to the Parks and Recreation Board. Mayor Marshall received the Council’s consensus to appoint Jesse Steven Hargrave to a 3 year term, and Cameron Martin to a two year term on the Parks and Recreation Board.

Councilor Wheaton-Smith made a motion to go into Executive Session pursuant to NMSA 1978 Section 10-5-1(H) (8) for the discussion of the purchase, acquisition or disposal of real property or water rights. Councilor Nupp seconded the motion. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed and the Council went into Executive Session at 8:58 p.m. The matters discussed in the closed meeting were limited only to those specified in the motion for closure.

12. ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn at 10:15 p.m. Councilor May seconded. All were in favor, motion passed.

/s/

Simon W. Wheaton-Smith, President Pro Tempore
Attest:

/s/

Ann L. Mackie, Town Clerk