

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

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

September 14, 2010 – 6:00 PM

Present: James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Jamie K. Thomson, District 2
Simon Wheaton-Smith, 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
Ricky Villalobos, Police Lieutenant
Jason Woods, Acting Police Sergeant
Mike Eley, Town Planner
Peter Russell, Community Development Director
Peter Pena, Public Works Director

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND READING OF MISSION STATEMENT – Mayor Marshall called the meeting to order at 6:05 PM, and Councilor Bettison read the Mission Statement.

2. CEREMONIES – None.

3. PROCLAMATIONS – "Celebrate Pro Bono Week" October 24-29, 2010 - Mayor Marshall read the proclamation and presented it to Judge H.R. Quintero, District Judge, Division I, 6th Judicial District. Judge Quintero commented on the planned activities during Pro Bono Week, and the legal assistance, etc. that would be available to the public.

4. PUBLIC INPUT – Tom Hines, President of the Silver City Museum Society, commented that the date had changed for an upcoming gala event to raise money for the Susan Berry Memorial Research Library; the date had changed from September 24, 2010, to December 4, 2010. Carol J. Crosley of the Southwest Horsemen's Association commented on carnival permits and requested that the Council consider changing the ordinance to a first come first serve basis so there would not be multiple carnivals in town at the same time.

5. COUNCIL COMMENTS - The Council commented on the following: how non-profit businesses in Town were working hard to try to make a collaborative effort to improve the Town, i.e. the new downtown gateway arch; thanks were given to the legal community for doing wonders for the Town; how complaints of trashy yards had risen and people were encouraged to clear their lots; how gross receipts tax was allowed for food at convenience stores when food was not their primary business; thanks were given to the Streets Department for their very coordinated work on pot holes; recently attended events; Phase I and Phase II of the Safe Routes to School grant and how a better location was designated for a bridge; how improved routes for bike races were needed through Silver City in order to give a better impression; thanks were given to the Royal Drive Neighborhood Watch Association for their National Night Out event; thanks were given to the people that attended the dedication of the Silver City downtown entry arch and to everyone that contributed to it; thanks were given to the Town's Code Enforcement Officers for their work in District 1; how the Town could lose almost 19% of its budget or \$1.5 million if the State took away the Hold Harmless tax provisions on food and medical; the Volunteer Center was commended for assisting a disabled resident's ability to get into compliance with Code issues on his property; and the issue of whether the Town should control the number of carnivals and intervene in the competitiveness of business.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting – August 24, 2010 - Councilor Bettison made a motion to approve the minutes. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

8. REPORTS – A. State approval of FY 2010-2011 Final Budget by Alex C. Brown, Town Manager – Finance

Director. Manager Brown reported that a letter was received from the State of New Mexico, Department of Finance and Administration, that informed the Town that the final budget of Fiscal Year 2010-2011 was approved and that it was required to report it in the minutes of the Town Council meeting.

Manager Brown also reported that the Town could lose \$1.5 million (based on population, \$143 per person per year) if the State took away the Hold Harmless tax provisions on food and medical. He said he was gathering information to compare the impact on different communities throughout the State, and that the Town provided community services for 16,000 to 18,000 people, but the population of the Town was only 10,000. He said that if the tax was taken away then the burden of providing those services would be on the residents of Silver City rather than on the people that used the services.

Police Lieutenant Ricky Villalobos reported that the new yellow striping on the streets around Town was for safety reasons and to have a clear sight triangle. There was further discussion. Acting Police Sergeant Jason Woods, new Community Resource Officer, reported on two upcoming programs that would be conducted by the Police Department: 1) the GREAT (Gang Resistance Education and Training) Program at the Silver City elementary schools during the first week of October, and 2) the Child Safety Night Out on October 28th and parents could have their children photographed, fingerprinted, and an available DNA option. There was further discussion about how the Community Resource Officer's position showed a positive side of law enforcement, etc.; how the DARE Program had been ineffective; whether the new GREAT Program was an evidence-based program; and how police officers would be handing out Halloween bags and advising kids about safety; and that a working operations plan would be in full force on the streets on Halloween night.

9. PUBLIC HEARINGS - None.

10. UNFINISHED BUSINESS-

A. Approval / Disapproval of Ordinance No. 1168: an Ordinance adopting and enacting a new Code for the Town of Silver City, NM; providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof; providing for the manner of amending such code; and providing when such Code and this Ordinance shall become effective. Councilor Wheaton-Smith commented on the recodification process and how inconsistencies were resolved, and that there were no substantial substantive changes, etc. He said he was proud to sponsor the Ordinance. Clerk Mackie thanked the committee and the departments for their work on the project, and she gave special recognition to Attorney Scavron for his careful review of each chapter of the Code. Councilor Wheaton-Smith made a motion to pass, adopt and approve Ordinance No. 1168. Councilor Bettison seconded the motion as stated. Councilor Wheaton-Smith commented that Clerk Mackie had developed a valuable spreadsheet of the history of research done on the project and that it served to function as a preamble because it explained the decisions that were made. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Wheaton-Smith - aye; Councilor Thomson - aye; and Councilor Bettison - aye. Motion passed.

11. NEW BUSINESS -

A. Approval / Disapproval of Special Dispenser Permit Application for the Amateur Mixed Martial Arts Event, Sanctioned by NM Athletic Association on September 18, 2010, 5:30 PM - 11:00 PM at the Grant County Conference Center. License Holder: Drifter Lounge, Silver City, NM. David May, licensed promoter of the event, presented the details. Councilor Wheaton-Smith made a motion to approve the Special Dispenser Permit Application. Councilor Morones seconded the motion as stated. No further discussion. All were in favor, motion passed. Mayor Marshall questioned whether every event in Town had to have alcohol. There was further discussion about how these types of permits were coming before the Council more frequently; whether Mr. May had ever held an event without a permit to serve alcohol, and his reply that it was more controlled and with security, etc.; how so many events in Town included alcohol; and the new Town staff reporting process for liquor related applications.

B. Approval / Disapproval of Public Celebration Permit Application for the WNMU Museum 5th Triennial Black-on-White Gala, November 6, 2010, 5:00 PM - 11:00 PM at WNMU Fleming Hall (Museum). License Holder: St. Clair Winery and Tasting Room, Deming, NM. Councilor Bettison commented that she was employed by the Western New Mexico University (WNMU), as the Director of the WNMU Museum, and she felt that she should

recuse herself from the discussion and the vote. Mayor Marshall said the Town's ethics policy was about having a direct financial interest, and other than her normal salary, he did not think she had a direct financial interest in the event or the overall success of the Museum. He asked for the Council's opinion. Councilor Wheaton-Smith, Councilor Morones, and Councilor Thomson said there was no conflict. Attorney Scavron agreed, and Councilor Bettison was allowed to participate and vote on the agenda item. Phillip Cave, Acting Assistant Director and Curator of Education and History of the WNMU Museum, presented the details of the event and requested the Council's approval. He also asked the Council to grant a waiver, pursuant to Section 60-6B-10 of the New Mexico Statutes Annotated, of the prohibition of the dispensing of alcohol within 300 feet of a school or church. He said the waiver was required because the WNMU Museum was located on the campus of WNMU. Councilor Bettison made a motion to approve the Public Celebration Permit Application and a waiver for the event. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

Councilor Bettison made a motion for a short recess at 7:00 PM. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 7:14 PM.

C. Approval / Disapproval of Resolution No. 2010-25: Town of Silver City Housing Plan. Mike Eley, Town Planner, presented the details of Resolution No. 2010-25 and the long process that was involved in the affordable housing project. He said Vistas de Plata would be a 56 unit affordable/workforce development located at the southwest corner of 10th and Mountain View. He said the Housing Plan determined the feasibility of the project as well as who in the community would be best served or needed to be served, and he explained the process. He said the reason the Town became involved was to provide housing for city employees, hospital employees, university employees, and employees of other businesses because it was difficult to recruit employees to the area because of the cost of housing. There was further discussion, and Peter Russell, Community Development Director, and Mr. Eley answered questions from the Council. Councilor Bettison commended Mr. Eley and Mr. Russell for their work; Bare Boot Consulting, LLC for the editing; and Medius Incorporated for preparing the Housing Plan document. She said it was extremely well-written and was an extremely useful document, etc. Councilor Morones said he had a lot of interest in real estate, and the Housing Plan document was materially close to what he had found in his own personal research; he found no inconsistencies with it compared to his background knowledge and his research. Councilor Bettison made a motion to approve Resolution No. 2010-25. Councilor Wheaton-Smith seconded the motion as stated. There was no further discussion. A roll call vote was taken with the following results: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Wheaton-Smith - aye; and Councilor Morones - aye. Motion passed.

D. Approval / Disapproval of Notice of Intent Ordinance No. 1171: an Ordinance amending the Municipal Code of the Town of Silver City, Chapter 70, Section 70.01 (NM Uniform Traffic Code Adoption), Uniform Traffic Code Section 12-6-6.2 (Additional Parking Regulations). Mayor Marshall stated the current Uniform Traffic Ordinance (UTO) for most of the State of New Mexico required parking with 18" of the traffic curb, and how that did not work well in downtown Silver City because of the 2-3 foot curbs. He made it clear that the proposed ordinance was not based on the outcry, but the proposed change was based on the fact that between a car and the 18" to the curb there was no safety issue. He said the safety issue arose on the other side of the car where it may interfere with traffic, and was already covered in 12-6-6.3 in the UTO. There was further discussion. Councilor Wheaton-Smith made a motion to approve Notice of Intent Ordinance No. 1171. Councilor Bettison seconded the motion as stated. There was no further discussion. All were in favor, motion passed.

E. Approval / Disapproval of Resolution No. 2010-27: Participation in Local Government Road Fund Program administered by NM Department of Transportation (street and drainage improvements on College Ave.) Peter Pena, Public Works Director, presented the details of Resolution No. 2010-27. Manager Brown said the project was part of the Infrastructure Capital Improvement Plan (ICIP). Councilor Morones made a motion to approve Resolution No. 2010-27. Councilor Wheaton-Smith seconded the motion as stated. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Wheaton-Smith - aye; Councilor Thomson - aye; and Councilor Bettison - aye. Motion passed.

F. Approval / Disapproval of a Memorandum of Cooperative Agreement between the Counties and Municipalities generally located in the southcentral and southwest areas of the State of New Mexico, all being

located within service areas of Public Service Company of New Mexico (PNM). Mayor Marshall said the purpose of the agreement was because PNM had a proposed rate increase before the Public Regulations Commission that would go through a very complex process. He said he was contacted by the Mayor of Ruidoso, and he had a meeting with the Mayors of Ruidoso, Ruidoso Downs, Alamogordo, the attorney for Alamogordo, Attorney Scavron from the Town of Silver City, the Town Manager of Ruidoso, and the Mayor of Lordsburg. He said in the meeting they felt it was in the best interest of the public that a unified front be put together in order to have a single and louder voice to make sure that PNM was following a best business practice and not creating an unjust need for an increase. He said currently they were not satisfied if they were or were not creating an unjust need for an increase, because they did not have the information. He said they felt that the Agreement was in the best of the public, the Town of Silver City, and that it was to join the counterparts that were in the same predicament. He said Grant County had expressed an interest in joining in the Agreement. He said the goal and effort was to understand that PNM was an important utility to the community, but that they also had a responsibility, as the sole provider, to provide fair and equitable rates. There was no other discussion. Councilor Wheaton-Smith made a motion to approve the Memorandum of Cooperative Agreement. Councilor Morones seconded the motion as stated. Attorney Scavron suggested adding to the motion that they authorize the Mayor to sign on behalf of the Town. Councilor Wheaton-Smith and Councilor Morones accepted the friendly amendment. Councilor Bettison thanked Mayor Marshall, the Mayors of the other communities, and the counties for bringing it together because it would be very beneficial to municipalities and counties, as well individual residents and businesses. There was further discussion. All were in favor, motion passed.

G. Approval / Disapproval of Bid #10/11-3: 2010 CDBG Roadway Improvements (Bremen St. and Spring St.)

Manager Brown presented the details of Bid #10/11-3, and stated they received one bid from Southwest Concrete and Paving, Inc. for \$507,346.48 plus gross receipts tax for a total of \$544,763.28. He commented on several issues. Manager Brown said it was staff's recommendation to award the bid to Southwest Concrete and Paving, Inc. Councilor Wheaton-Smith made a motion to approve Bid #10/11-3 to Southwest Concrete and Paving for a total of \$544,763.28 that included gross receipts tax, and with a provision that there would be ongoing discussions with the contractor to optimize the costs. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

12. ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn at 8:00 PM. Councilor Bettison seconded the motion. All were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk