

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

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

September 28, 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
Tim Heidrick, Asst. Fire Chief
Aric Ray, Firefighter EMT Intermediate
Ricky Villalobos, Police Lieutenant

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 Thomson read the Mission Statement.

2. CEREMONIES – None.

3. PROCLAMATIONS – "Robert Gerald Pack, Eagle Scout" - Mayor Marshall announced that the proclamation was to honor Robert Gerald Pack for obtaining Eagle Scout. He said it was important to recognize youth that were successful, and that Mr. Pack had gone to great extremes to reach that level in the Boy Scouts. Mr. Pack was not present to receive the proclamation. **"Fire Prevention Week", October 3-9, 2010** - Mayor Marshall read the proclamation and presented it to Tim Heidrick, Assistant Fire Chief, and Aric Ray, Firefighter EMT Intermediate. Mr. Ray commented that "Fire Prevention Week" had been celebrated across the country for almost 90 years. He said the theme for 2010 was to teach the importance of having smoke alarms in the home. He commented on the planned activities of the Fire Department during that week that would include tours of the fire station by school students, demonstrations, outreach programs to schools, etc. Manager Brown introduced Tim Heidrick as the new Assistant Fire Chief.

4. PUBLIC INPUT – None.

5. COUNCIL COMMENTS - The Council commented on the following: a federal grant that was awarded to the Town for \$87,000 to restore trails and to build a pedestrian bridge that would connect to the Big Ditch Park; recent legislation about helmet laws for persons under 18 years of age and a project with the Department of Health; how no students at the high school and only one student at the middle school commuted by bicycle; how the Town should be commended for building the skatepark because kids of all ages and genders helped each other learn; the recent work sessions on the proposed revision to the Land Use Code and meeting with citizens about it; how the skatepark's rules did not address helmets, but did address appropriate safety equipment; complaints of noise and the running of stop signs; how the PNM coalition put together under a Memorandum of Cooperative Agreement between governments in the southern area of the state was working to protect citizens of Silver City and the Town of Silver City's budget; and how the Council had volumes of material to read that was very time consuming so returning calls could take more time.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Work Session - September 8, 2010 - Councilor Bettison made a motion to approve the minutes. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

Regular Meeting - September 14, 2010 - Councilor Bettison made a motion to approve the minutes. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

Joint Work Session with the Lodgers Tax Advisory Board - September 15, 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 – Manager Brown reported that he and Peter Pena, Public Works Director, met with the New Mexico Department of Finance and Administration (DFA) about the legislative allocation that the State tried to take away from the Memory Lane Cemetery. He said they were able to secure the entire allocation so they would be able to finish the work on the new section, and address drainage issues on a road in the old section of the Cemetery. He said they also met with the Solid Waste Bureau about the methane monitoring of the old landfill, and everything went well. He said it would be a long term process and would cost significant dollars. He commented that the Southwest Solid Waste Authority was refinancing all of their debt and they owed the Town of Silver City approximately \$150,000. He said if they were able to do that, he would like to set those funds aside for future costs for the monitoring and operation of the old landfill so they would not have to touch the current rates in order to do that work. He reported that he and Mr. Pena also met with the DFA to discuss the ability to apply for the Colonias Grant; there were no problems with DFA, but there were issues with HUD (Department of Housing and Urban Development) from the federal level that questioned the Town's designation as a Colonias. He said they were working diligently to make sure they could keep the designation, especially for the Chihuahua Hill and Brewer Hill areas regarding CDBG (Community Development Block Grant).

Police Lieutenant Ricky Villalobos reported on stop sign violations and said there had been 46 citations in the past month. He said the Police Department currently had 2 operations for selective traffic enforcement for stop sign violations, red light violations, and speeding violations. He said the court fines for a stop sign violation was \$92, if found guilty, and 3 points could be lost on the driver's license.

At 6:26 PM Councilor Wheaton-Smith made a motion to go into **Executive Session pursuant to NMSA 1978 Section 10-15-1(H) (6)** concerning purchases in an amount exceeding \$2,500 from one source or the contents of competitive sealed proposals solicited pursuant to the Procurement Code (13-1-28 NMSA 1978), and he referenced the agenda item concerning Community Promotions. Councilor Bettison 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. At 6:45 PM Mayor Marshall called the meeting back to open session and stated there was nothing discussed in the Executive Session that was not included in the motion, and no decisions were made. Councilor Bettison made a motion for a short recess at 6:45 PM. Councilor Wheaton-Smith seconded. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 6:57 PM.

9. PUBLIC HEARINGS - A. Approval / Disapproval of a Request for a Beer and Wine Restaurant Liquor License, Application #643711, Applicant Name: Laughing Tortoise, LLC, DBA: Tre Rosat Cafe, Proposed Location: 101 N. Cooper St., Silver City, NM 88061. Mayor Marshall stated that 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 none had. Mayor Marshall 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 1 witness for the hearing. Mayor Marshall read the procedures of how the hearing would be conducted. Applicant Jason Marsh presented his case and said the restaurant was serving lunch and would soon add dinner. He said he would like to add beer and wine to satisfy the customers. There was further discussion about page 2 of the application regarding the restaurant's distance from nearby schools and how the terms of his lease had an error in the date. Attorney Scavron confirmed that the date of the lease could be amended on the application without harm to the hearing. Mr. Marsh concluded his case. There were no opponents to the application, and no other questions from the hearing board. Mayor Marshall asked the hearing board if they were ready to render a decision. Councilor Wheaton-Smith made a motion to approve the request for a beer and wine restaurant liquor license application with the knowledge that there was a change to the dates of the lease as specified. Councilor Morones seconded the motion as stated. All were in favor, motion passed.

10. UNFINISHED BUSINESS - None.

11. NEW BUSINESS -

A. Approval / Disapproval of a Request for Proposal #10/11-1P: Community Promotions (Lodger's Tax Promotions). Mayor asked Dan Cook, President of the Chamber of Commerce, if he wanted to speak since he had signed up for public input. Mr. Cook said that he wanted to submit a letter for the record as a written response to the

comments that were made about the Chamber's Request for Proposal (RFP) and its content. He said that he believed his letter was not outside the scope of the RFP or the questions from the discussion during the work session with the Lodgers Tax Advisory Board on September 15, 2010. He said the majority of the questions and comments were not related to the Chamber's RFP, and he stated that Silver City was one of four cities in the state that had seen a lodgers tax increase, and Silver City was not on a major interstate. He said that he believed the Chamber was very instrumental in promoting Silver City's events and charm, and increased the number of heads and beds in the town. He said the Chamber of Commerce respectfully requested a fair and impartial consideration and specific regard to the RFP. Keith LeMay and Luis Perez also spoke on behalf of the Chamber of Commerce, etc. There was further discussion. Mayor Marshall thanked the Lodgers Tax Advisory Board for their work. He recommended that the Council accept the Board's recommendations with the following exceptions: the Silver City Museum Society would change to zero; the Tour of the Gila would get an additional \$19,999 for total of \$49,999; and the Chamber of Commerce would change to \$26,000; leaving a balance of approximately \$19,000. There was further discussion. Councilor Wheaton-Smith made a motion to accept the recommendations as stated by the Mayor. Councilor Thomson seconded the motion. All were in favor, motion passed.

B. Notice of Intent Ordinance No. 1172: an Ordinance adding a section to the Town of Silver City Municipal Code establishing sex offender residency prohibitions near private or public elementary or secondary schools, playgrounds and daycare facilities, within the Town of Silver City, Grant County, NM. Councilor Wheaton-Smith presented the details of Notice of Intent Ordinance No. 1172 and stated it would protect 3 groups of people: 1) the victim, 2) the entire community, and 3) the original offender. There was further discussion about changing the word "misdemeanor" to "municipal offense" in the Penalties section because the Municipal Court had no jurisdiction over misdemeanors; how the Police Department would have the responsibility of posting the warning sign on Halloween near the property's entryway of the sex offender's residence; the definitions of daycare facility and school; how the State did not have a statute so it was up to municipalities to pass their own law; how the ordinance was modeled after the City of Farmington's ordinance; and the Offenses and Exceptions sections. Public input was received from Walter Szymanski. There was further discussion. Councilor Wheaton-Smith made a motion to approve Notice of Intent Ordinance No. 1172 with the proviso that Attorney Scavron would adjust the items discussed. Councilor Morones seconded the motion as stated. There was further discussion. All were in favor, motion passed.

C. Appointment of 1 member to the Historic Design Review Committee. Mayor Marshall received the Council's consensus to appoint Steven Shelendich to fill the architect position in the Committee.

D. Appointment of 1 regular member and 1 alternate member to the Grant County/ Silver City Extraterritorial Subdivision Commission. Mayor Marshall received the Council's consensus to appoint John H. Lawson and Moses Clark to the Commission.

12. ADJOURNMENT – Councilor Wheaton-Smith made a motion to adjourn at 8:06 PM. Councilor Bettison seconded the motion. All were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk