

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
July 12, 2011, 6:00 P.M.**

Present:

James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Jamie K. Thomson, District 2
Jose A. Ray, Jr., District 3
Michael S. Morones, District 4

Also Present:

Alex C. Brown, Town Manager-Finance Director
Robert Scavron, Town Attorney
Ann L. Mackie, Town Clerk
Peter Russell, Community Development Director
Ed Reynolds, Police Chief
Luan Mitchell, Town Planner
Peter Pena, Public Works Director

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 6:00 p.m., and he read the Town’s Mission Statement.

2. CEREMONIES – None.

3. PROCLAMATIONS – None.

4. PUBLIC INPUT – Bill Carlis commented that the solar parking lot project in the Visitors' Center parking lot was constructed poorly and he recommended that the Town get a second opinion. Josh White commented on the vandalism problem in the community and stated that it was really depressing and difficult to want to pursue a life and raise a family in Silver City. He said people should take more pride in their jobs and in their community, that it would not require a lot of money, and it needed to be the leadership from the top starting with the Town Council. Faye McCalmont, Executive Director of the Mimbres Region Arts Council (MRAC), thanked the Town, the Parks Department, and the Police Department for doing a fantastic job during the Blues Festival. She recognized Peter Pena, Public Works Director, Chris Marrufo, Parks Supervisor, and Genaro "Hank" Pedraza, Parks Maintenance, for working tirelessly through the holiday weekend to make the event successful. She also commented that MRAC worked with the Juvenile Probation and Parole Office when murals were vandalized. Azima Lila Forest commented on community problems and crime issues and stated that groups would be gathering at various places around town for 22 days for spiritual vigils for the purification, protection, blessing, and healing of Silver City and its residents.

5. COUNCIL COMMENTS - The Council commented on the following: thanks were given to the residents that followed the fireworks restrictions during the 4th of July weekend; the Penny Park fire and defacing of the mural at the Spring Street Park; neighborhood watch programs and notifying the Police and Parks Department with concerns and issues; registering on the Reverse 911 System on the Town's website; the groundbreaking of the Vistas de Plata Affordable Housing Project; thanks were given to the Police and Fire Departments for their efforts to save businesses and residences during the Penny Park fire; Mimbres Region Arts Council's work with the Juvenile Probation and Parole Office (JPPO) regarding vandalism of murals and how the bicycle program had also worked with JPPO; how the problem of vandalism could be fixed with a comprehensive and intelligent approach; thanks were given to the Parks Department for doing a good job on Spring Street; thanks were given to Peter Pena, Public Works Director, and his crew for picking up cigarette butts downtown; the possibility of reconsidering the sale of garbage bags to the public and Manager Brown's response that they could put a bid together and the Council could reject or accept any bids; the possibility of using a rollaway bridge on Yankee and Bullard Streets; how there was compliance during the 4th of July holiday regarding fireworks; the Penny Park fire and how the Town should continue to work for solutions; how people showed that they did not have apathy and fear to speak and were coming up with solutions by partnering with people; and how people should not be afraid to tell the Council and staff what was wrong so they could work toward improvement.

Mayor Marshall commented that through adversarial issues and tragedy that bright lights did come forward and shine, and he expressed his appreciation for the public input and how people were making an effort to improve the town that they loved and took care of. He said that it did not hurt to let the criminals know that they have hurt people and their spirits, and that it costs money and time. Mayor Marshall also stated that he had met with the New Mexico Department of Game and Fish about the number of deer seen in town; how it was troubling that people were feeding them purposefully; how 1 deer was killed by a vehicle each day; and how he would not support a hunt in town of any kind, but he was working on a plan to get deer removed from property in a timely manner. He said that he may consider speaking with Attorney Scavron to come up with an ordinance about feeding deer in town, and that his biggest concern was that the predators followed the deer into town. He discussed how mountain lions had been spotted in various parts of town recently, and that he would work with Game and Fish to come up with a plan.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting, June 28, 2011 - Councilor Bettison made a motion to approve the minutes. Councilor Ray seconded the motion. All were in favor, motion passed.

8. REPORTS – Manager Brown reported on the Penny Park cleanup and said the process would be faster with insurance because they had bids for the previously burned area so they had a better idea of the rebuilding costs. He said soil samples for arsenic were taken to identify how much soil would need to be taken up and they should be able to take down what was there during the following week, and could provide alternatives for rebuilding when the numbers were in. He said that he had been working on a bond issue to issue bonds to upgrade the recreational facilities, and the process would begin at the next Council Meeting. He said that they would be able to fund bonds by rededicating the current increment of 1/8 % of gross receipts tax so there would not be a tax increase.

Peter Russell, Community Development Director, reported on the progress with negotiations with the Border Area Mental Health project that involved an acquisition by the Town of the stream to make room for trail corridors that would connect downtown with the rest of the trail system south of the Highway 90 bridge. He said that Border Area Mental Health had been presented with a proposal and an appraisal and they would present it to their board on August 10th.

Nick Sussillo, Director of the Joint Office of Sustainability, reported on the status of the solar carport that was being installed at the north end of the Visitors' Center, and he provided a copy of his notes to the Town Clerk. He said the project was funded under New Mexico's Energy Efficiency Conservation Block Grant (EECBG). He said it would contain spaces for 5 compact cars, and a space for bicycles and scooters. He said the project had stamped structural plans by Casperson Engineering and had passed both of the initial inspections for structural and electrical by inspectors from the State's Construction Industries Division (CID). He commented on the construction team and the problems that resulted from a State-mandated acceleration of the project, quality control issues, shortening the carport, the rescheduling of the assembly team by Affordable Solar, etc. He discussed the next steps of the project, and he said the permits of the inspections would be posted at the site. Mayor Marshall asked Mr. Sussillo if it was his belief that the design standards, rules, regulations, financial obligations, and audit requirements had been followed for the project. Mr. Sussillo said yes and made further comments about the professional engineer and inspection sign off. He said that he believed they had followed all state and federal requirements. Manager Brown commented that the deadline to spend the funds was moved from April 2012 to June 30, 2011 so they were put in a situation where they had to go with the state contractor to save time; how all procurement issues were addressed by the state contract; and how all of the bids had been approved by the New Mexico Energy, Minerals, and Natural Resources Department. There was further discussion, and Mike Sauber, Project Manager of the solar carport project, commented on the construction aspects of the project, how he had confidence in both of the engineers, and that he was excited to see solar coming to Silver City.

Police Chief Reynolds thanked Councilor Bettison for her compliments to the Police Department. He reported that the Penny Park investigation was continuing; that an impact team had worked the downtown area to blunt some issues happening in the downtown area, and 30 plus citations had been issued; how people should report information; and that calls to Crime Stoppers had picked up and was successful.

Councilor Bettison made a motion for a short break at 6:58 p.m. Councilor Ray seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 7:07 p.m.

9. PUBLIC HEARINGS -

A. Approval / Disapproval of Resolution No. 2011-23: a request for an Encroachment Permit for a covered porch that encroaches into the Gila Street right-of-way. The property was described as Lots 1 and 3, Block 10 of the Fraser's Addition, and was addressed as 202 Gila Street. The applicant was Mario Quintana. 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 3 witnesses for the hearing. Mayor Marshall read the procedures of how the hearing would be conducted. Luan Mitchell, Town Planner, presented the case and stated the applicant was Mario Quintana, owner of the house at 202 Gila Street of which the newly constructed covered porch was encroaching approximately 68 square feet into the Gila Street right-of-way. She said the applicant was requesting the encroachment permit because the covered porch was added to protect the house from further damage from water entering the house. She said the Town had no foreseeable plans to install sidewalks in the Gila Street neighborhood. She stated that Citizen Participation Ordinance No. 1045 was not applicable in the case because a public hearing was not required before the Planning and Zoning Commission. She reported that the Community Development Department recommended adoption of Resolution No. 2011-23 since none of the Town departments and no neighboring property owners had any objection to the request, the Town had no foreseeable plans to install sidewalks in the Gila Street neighborhood, and the Town could require the roofed porch to be removed from the encroachment area with 90-days notice if it should become necessary. She read the findings and conditions from the staff report.

Mayor Marshall asked Mr. Mario Quintana to present his case. Mr. Quintana stated the purpose was to request an encroachment permit and he described how he modified the structure to protect the entry door and the foundation of the cellar from flooding. He said that he also observed that there were quite a few structures in the neighborhood in the streets. Mayor Marshall asked about water going into the structure. Mr. Quintana described how water would go into the foundation of the cellar before he put in a sidewalk. The hearing board had no questions for the applicant or other witnesses, and there were no witnesses in support or in opposition of the application. Mr. Quintana had nothing else to be reflected in the record. Councilor Thomson asked Peter Russell, Community Development Director, if there were no plans for sidewalks because it was structurally impossible. Mr. Russell described how the property was situated in the right-of-way, and he said to put a sidewalk there would require substantial changes to the neighborhood and perhaps would require the narrowing of the street. He said there were no immediate plans in that area to do so. He said there was no problem in supporting an encroachment for this site, especially since the Town could require any encroachment to be removed within 90 days. Mayor Marshall asked if the hearing board had any questions of the witness, and they said no. He asked the hearing board if they were prepared to consider the application and render its decision. Councilor Ray made a motion to approve Resolution No. 2011-23 under Finding number 2 that the proposed encroachment did not endanger the health, safety or general welfare of the community, and he read the Conditions: (a) no further encroachments shall occur, (b) the Town may require removal of all or part of any encroaching structures or use after 90-days written notice to the property owners, and (c) the water meter must be accessible. Councilor Morones seconded the motion as stated. There was no further discussion. A roll call vote was taken with the following results: Councilor Morones - aye; Councilor Ray - aye; Councilor Thomson - aye; and Councilor Bettison - aye. Motion passed.

10. UNFINISHED BUSINESS -

A. Approval / Disapproval of Ordinance No. 1179: an Ordinance amending Municipal Code Chapter 52 (Utilities), by adding a new Section 52-75 (Septage and Grease Waste Rates and Charges). Manager Brown said it was staff's recommendation to pass the ordinance, but he said the Appendix should be corrected to 2.5 cents per gallon. He also commented that based on the 2010 numbers the revenues would be \$28,000. There were no comments from the public or Council. Councilor Bettison made a motion to approve Ordinance No. 1179 with the change to Appendix A, number 2 and 3 to state 2.5 cents. Councilor Ray seconded the motion. A roll call vote was taken with

the following results: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Ray - aye; and Councilor Morones - aye. Motion passed.

11. NEW BUSINESS -

A. Approval / Disapproval of Bid 11/12-1: Penny Park reconstruction. Manager Brown stated that 2 bids were received, but due to the second fire at Penny Park it was staff's recommendation to reject all bids in order to allow them to address the construction of the entire park rather than one piece that would not be able to be constructed because part of the area that it was supposed to connect to was also burned. Mayor Marshall asked for public comments and received comments from Nick Seibel, Susan Aumann, and William Bone. Councilor Morones made a motion to approve Bid 11/12-1 and staff's recommendation. Councilor Bettison seconded the motion as stated. Mayor Marshall said that by voting yes they would go with the bid, but by voting no they were accepting staff's recommendation and rejecting all bids. He asked for a vote in favor, and there were none. He asked if any were opposed, and each of the Councilors said no. Mayor Marshall stated the motion failed and all bids were rejected.

B. Approval / Disapproval of Resolution No. 2011-25: participation in Local Government Road Fund Program administered by New Mexico Department of Transportation. Manager Brown said it was the annual Resolution for the COOP project and it was a continuation of Phase 2 of the Cactus Street sidewalk projects. Peter Pena, Public Works Director, said it was for Phase 2 for the sidewalk, curb and gutter, and handicap improvements on Cactus Street between 22nd and 24th Streets. He said Phase 1 was between 24th and 25th Streets, and they were working their way from north to south on the project. He said the funding share was 75% and 25% with a total cost of \$59,343.00, and the Town's portion was 25% or \$14,836.00. There was further discussion about how the project was on the ICIP; how the project was being done in phases; how they were working on a paving master plan which included the conditions of existing sidewalks, and where sidewalks, handicap ramps, bicycles, etc. were needed; and how it was an engineered plan and an inventory was being taken so they could better identify priorities for those types of upgrades for current infrastructure as well. Mayor Marshall asked if there were questions from the audience or Council, and there were none. Councilor Bettison made a motion to approve Resolution No. 2011-25. Councilor Thomson seconded the motion. There was no further discussion. A roll call vote was taken with the following results: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Ray - aye; and Councilor Morones - aye. Motion passed.

C. Approval / Disapproval of Resolution No. 2011-26: Ratifying a certain Agreement between the Town and Southwest New Mexico Council of Governments for Fiscal Year 2011-2012. Manager Brown stated it was the annual Resolution required to continue their participation with the Council of Governments, to identify the designated member and alternates, and for the annual fee for the substantial help that they give the Town. There was further discussion. Councilor Bettison made a motion to approve Resolution No. 2011-26 with the designee being Alex Brown, Alternate 1 being Cynthia Ann Bettison, and Peter Pena as Alternate 2. Councilor Morones 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 Ray - aye; and Councilor Morones - aye. Motion passed.

D. Appointment of 1 member to the Recycling Advisory Committee. Mayor Marshall said he spoke with the Chair of the Recycling Advisory Committee and the Chair recommended applicant Jane Riger. Mayor Marshall said he concurred. He asked for the Council's consensus to appoint Jane Riger, and they agreed. There was further discussion about recycling glass, automated pickups of recycling materials in the future, and replacing equipment.

12. ADJOURNMENT – Councilor Bettison made a motion to adjourn at 7:42 p.m. Councilor Ray seconded the motion. All were in favor. Motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk