

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
July 26, 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
Ann L. Mackie, Town Clerk

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

2. CEREMONIES – None.

3. PROCLAMATIONS – None.

4. PUBLIC INPUT – Brad Logan commented that he was the new Operations Manager of Comcast in Silver City and Deming, and that he was attending as a Board member of Community Access Television of Silver (CATS). He said he wanted to introduce himself and acclimate himself to the proceedings. Susan Aumann said Grant County was good at providing food, but the people did not have transportation to take it away. She suggested that a van be provided twice per month to transport people to and from the food pantry. She also commented that Corre Caminos did not permit her service dog or her kitten to ride on the bus.

5. COUNCIL COMMENTS - The Council commented on the following: thanks were given to Manager Brown and Peter Pena, Public Works Director, for making sure the striping was completed on Pope Street; thanks were given to the Mayor for pointing out that U.S. Highway 180 and Silver Heights Boulevard needed to be re-striped, and that it was done; a reminder to citizens to sign up for the Reverse 911 on the Town's website; how it was the 21st anniversary of the enactment of the Americans for Disabilities Act; recently attended events; how Dr. Joseph Shepard, new President of Western New Mexico University, was a good choice; how a right of way easement on Grand Mesa was needed in case of fire; and how the community needed to be involved in the re-build of Penny Park.

Mayor Marshall stated that he, Councilor Bettison, and Manager Brown attended the New Mexico Municipal League's Resolution Committee meetings and pushed a resolution that would allow municipalities to regulate fireworks including, and up to a ban. He said the resolution made it a priority for the New Mexico Municipal League so they would pursue it as a legislative agenda item. He said that at the meeting it was applauded as a necessity and the Governor was also on board, as well as several legislators.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting, July 12, 2011 - Councilor Bettison made a motion to approve the minutes. Councilor Ray seconded the motion. All were in favor, motion passed.

8. REPORTS – A. Update on Western New Mexico University football, recruiting, and coaching changes. Report by Adam Clark, Head Football Coach of the WNMU football team. Mr. Clark introduced himself and thanked the Council. He said that he had been at WNMU for 1 year and thought it was necessary to get involved with the community. He said it was very important to the football program that they build a relationship with the community and make the town a better place. He discussed the different types of work and projects that they would

work on to build relationships and he provided information on their upcoming football schedule. Mayor Marshall stated that Mr. Clark was the first Coach that had ever talked to him about wanting to be part of the town, and that it was also important to President Shepard. He asked the town to welcome them to the community during an upcoming event on August 12th.

Manager Brown congratulated Mayor Marshall on a state award for leadership in the EMS field. He also reported on the status of Penny Park. He said that as soon as they knew what funds were available they would start working on the type of community involvement they could get for the park as far as reconstruction. He also reported that he signed the paperwork for a trail easement with Mr. McKinney that day. He said the trail easement behind Border Area Mental Health (BAMH) would be brought up at the BAMH board meeting in August.

9. PUBLIC HEARINGS - None.

10. UNFINISHED BUSINESS -

A. Approval / Disapproval of Ordinance No. 1180: an Ordinance amending the Municipal Code, Chapter 18, Article III. (Fire Code), Section 18-51 (d) by adding a new subsection regarding restrictions on the sale and use of fireworks during periods of extreme or severe drought. Mayor Marshall said it was the second reading of the Ordinance and the final passage would be considered. He said it set the Town up when the Legislature acted, and that the Town would have the laws in place to allow them to regulate fireworks up to and including a ban. He said that if the Legislature did not act then they were still okay to ban fireworks, but not all of them. He said that if they chose to, that they could most likely go to court and see who would win. He said they prepared some fair Constitutional arguments based on the New Mexico Constitution, and fireworks was identified as a safety issue, and that local governments should be empowered to address life, safety and health issues at the local level. He said Ordinance No. 1180 set them up for addressing this life, safety, and health issue at the local level where it belonged. He asked for comments from the audience, and there were none. Councilor Morones commented that he had only heard positive comments regarding it, with a caveat to not ban fireworks here and on out. He said this year it had brought awareness to the community and was a necessary thing. There was further discussion and Mayor Marshall stated that the Ordinance would require them to declare an extreme or severe drought by using science and facts, and not just on a whim by the Council. He said the Fire Chief would be very involved and would advise them on those facts. Councilor Bettison made a motion to approve Ordinance No. 1180. Councilor Morones seconded the motion as stated. There was 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.

11. NEW BUSINESS -

A. Approval / Disapproval of Public Celebration Permit Application for the 3rd Annual Pickamania! at Gough Park, Sept. 10-11, 2011, sponsored by Mimbres Region Arts Council, Liquor License Holder: High Desert Brewing Company. Faye McCalmont, Executor Director of the Mimbres Region Arts Council, asked the Council for their approval, and she asked if they had questions. There was no discussion. Councilor Morones made a motion to approve the Public Celebration Permit Application. Councilor Bettison seconded the motion. Councilor Thomson said it was a great event, and that he would be working with Mrs. McCalmont, and was a shareholder with the High Desert Brewing Company so he would rather not be part of the vote. Mayor Marshall stated that Councilor Thomson was declaring a direct conflict of interest regarding the item. He asked if anybody wanted to exclude the Councilor from voting. Councilor Bettison asked if he had a direct monetary interest. Councilor Thomson said yes, but very small. Mayor Marshall asked if anybody did not want to exclude the Councilor. Councilor Bettison, Councilor Ray, and Councilor Morones said they did not want to exclude Councilor Thomson. Mayor Marshall stated there was consensus that the Council did not want to exclude the Councilor and thought he could make a fair decision. He told Councilor Thomson that he could participate. He asked if there was any other discussion, and there was none. All were in favor, motion passed.

B. Approval / Disapproval of Request for Proposal #10/11-4P: Community Promotions (Lodgers Tax Awards). Councilor Thomson made a motion for Executive Session pursuant to NMSA 1978 Section 10-15-1(H)(6), that portion of the meeting at which a decision concerning purchases in an amount exceeding \$2,500 that can be made only from one source, and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the

Procurement Code (13-1-28 NMSA 1978) are discussed during the contract negotiations process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting. Councilor Morones seconded the motion as stated. 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. The Mayor, Councilors, and Manager Brown went into Executive Session at 6:32 p.m.

Mayor Marshall called the meeting back to open session at 7:05 p.m., and stated there were no decisions made in the meeting, and there were no items discussed outside of the motion. He thanked the Lodgers Tax Advisory Board for the hard work they did in reviewing the proposals and using the new system. He said that they did get their recommendations, and he spoke with the Chair. He said they would go forward in the near future with a task force to tweak the items in the Request for Proposal (RFP) that showed some areas of concern. He said they would keep refining the process until they got a good workable RFP for all of the applicants.

Mayor Marshall said the Board put the recommendations to the Council, and the Council had reviewed them. He asked when the Board's recommendations were made public. Clerk Mackie stated they were made public on July 13, 2011 when they were submitted by the Board. He read the list of recommendations by the Board as follows: Southwest Women's Fiber Arts Council - \$3,000; Copper Country Cruizers - \$1,250; Silver City MainStreet Project - \$23,000; Silver City Gallery Association - \$1,831; Ft. Bayard Historic Preservation Society - \$1,200; Grant County Rolling Stones - \$3,000; San Vicente Artists - \$5,000; Gila Conservation Coalition - \$5,200; Tour of the Gila - \$45,000; Silver City Arts & Cultural District - \$100,000; Mimbres Region Arts Council - \$31,000; and the Silver City Chamber of Commerce - \$0.

He asked if there was any discussion from the audience, and there was none. There was further discussion from the Council, and the Board was thanked for their hard work and decisions. Mayor Marshall commented that the Chamber of Commerce could work directly with Manager Brown to develop a contract because he could manage certain funds under his own authority and discretion. Councilor Bettison made a motion to approve RFP #10/11-4P for Community Promotions per the recommendations of the Lodgers Tax Advisory Board. Councilor Thomson seconded the motion. All were in favor, motion passed.

C. Approval / Disapproval of an amendment to the Southwest Solid Waste Authority Joint Powers Agreement in order to include Hidalgo County and the City of Lordsburg as members. Manager Brown stated the Southwest Solid Waste Authority (SWSWA) was in the process of refinancing some debt through the New Mexico Finance Authority (NMFA), and as part of that process the NMFA reviewed the Joint Powers Agreement between all of the entities involved which were Grant County, Town of Silver City, City of Bayard, Town of Hurley, Village of Santa Clara, City of Lordsburg, and Hidalgo County. He said the NMFA required some changes in the Joint Powers Agreement to reflect the current operations and how things were currently run, before they would approve the refinancing of the loan. He said that once the loan was approved and refinanced, the Town would receive a portion of those proceeds because they had an outstanding loan with the Town in the approximate amount of \$120,000. He said the SWSWA had already approved the agreement, and that it was in front of the other municipalities that week. He said the Town of Hurley had already approved it. There was no further discussion. Councilor Morones made a motion to approve an amendment to the SWSWA Joint Powers Agreement. Councilor Ray seconded the motion. 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.

D. Approval / Disapproval of Resolution No. 2011-21 : Fiscal Year 2010-2011 Final Budget Adjustment. Manager Brown said the budget adjustment was for the fiscal year that ended on June 30, 2011. He said that it took into account the new grants or any new activity that took place between the adoption of last year's budget and the end of the fiscal year. He provided further details and said the New Mexico Department of Finance and Administration required the final budget adjustment by the end of the year. There were no comments from the audience or the Council. Councilor Morones made a motion to approve Resolution No. 2011-21. Councilor Bettison seconded the motion as stated. 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. Manager Brown commended Linda Flores,

Deputy Finance Director, for all of her hard work. On behalf of the Council, Mayor Marshall also thanked her and said she did a wonderful job, and that it was proven throughout the year and every year when they got the audit.

E. Approval / Disapproval of Resolution No. 2011-22 : Final Approval of Fiscal Year 2011-2012 Budget.

Manager Brown said they would be approving the final budget numbers for Fiscal Year 2012, as well as the quarterly report for the 4th quarter which provided the beginning balances for all of the funds for the next fiscal year. He said they did not make changes other than amending the beginning cash balance, and in almost every case the beginning cash balances were above and beyond what was presented to the Council in the preliminary budget so there were increased reserves for next year. There were no comments from the audience. Councilor Bettison thanked Linda Flores, Deputy Finance Director, Manager Brown, and the staff for their hard work and for making them look good. Councilor Morones also thanked Linda Flores and stated she was a fellow C.P.A. and he knew that she was an extremely strong accountant and their biggest check and balance to the Finance Director. He said she was an extremely strong and competent accountant and he trusted her work. Councilor Morones made a motion to approve Resolution No. 2011-22. Councilor Bettison seconded the motion as stated. 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.

F. Approval / Disapproval of Notice of Intent Ordinance No. 1181: an Ordinance amending Town Ordinance No. 722 passed, adopted and approved by the governing body of the Town of Silver City, NM, on August 30, 1984, relating to the imposition of fourth increment of municipal gross receipts tax.

Manager Brown said in 1984 the Town imposed a 1/4 per cent of gross receipts tax that was dedicated to a water and sewer fund which amounted to \$800,000 annually. He said that he had discussions with each member of the Council to propose that the Town proceed to issue bonds for infrastructure; mainly quality of life infrastructure projects. He said it was the first step to go toward that process. He said that instead of dedicating the entire 1/4 per cent they would only dedicate 1/8 percent of gross receipts tax to the water and sewer fund and 1/8 per cent of gross receipts tax would go toward the payment for any future bonds that the Town wanted to issue. There was further discussion about some of the proposed projects. Manager Brown recommended that they have a special meeting to adopt the final ordinance and at that time they would do an intent resolution to issue bonds. He said at the special meeting the bonding representative would explain the entire bonding process to the Council, and they could discuss the projects in depth. He said the projects would be for quality of life and would upgrade facilities that the Town currently owned. Councilor Morones confirmed with Manager Brown that the fourth increment of municipal gross receipts tax was a tax that was already in place. Manager Brown stated they were not imposing additional taxes, but were taking part of the water and sewer fund and moving it towards the payment of the debt service. There was further discussion. Councilor Bettison made a motion to approve Notice of Intent Ordinance No. 1181. Councilor Morones seconded the motion. All were in favor, motion passed.

G. Approval / Disapproval of Addendum No. 1 to the July 1, 2010 to June 30, 2012 Agreement between the Town of Silver City and the American Federation of State, County and Municipal Employees (AFSCME).

Manager Brown discussed the 3 different unions: AFSCME, Police, and Fire. He said the addendum basically offered the AFSCME Union the same 4% salary increase and longevity pay as offered in the Police Union contract. Mayor Marshall commented that he truly appreciated the unions and their willingness to negotiate in a fair manner. He said not all communities and local governments had that cooperation from the unions. He said they valued the unions, what they represented, what they work for, and the work they provided to the community. He said it was commendable to the unions and the staff that their negotiations were fairly painless. Manager Brown commented on the time spent on negotiations. Councilor Bettison made a motion to approve Addendum No. 1 of the AFSCME Agreement. Councilor Morones seconded the motion. All were in favor, motion passed.

H. Approval / Disapproval of Agreement between the Town of Silver City and Local 2430 International Association of Firefighters, AFL-CIO, through June 30, 2013.

Manager Brown said the Town did not have a contract with the Firefighters Union since 2008, and he provided further details of the negotiations and the contract. He said they asked that the 4 per cent salary increase be distributed among all of them, and it came out to 48 cents per hour. He said it was bringing the 2008 contract up to the current levels that the other contracts were at. There was further discussion about how well the negotiations went. Councilor Morones made a motion to approve the Agreement. Councilor Bettison seconded the motion. All were in favor, motion passed. Mayor Marshall spoke to the

firefighters in the audience and said that he had worked side by side with the Silver City Fire Department with Gila Regional EMS for 20 years, and how he watched them work that year. He said they had been tested and worn down, and it was noted and appreciated. He said that he knew they worked hard and if they could they would pay them way more because there was no amount of money that could show the value of the service that they provided, and the Police Department as well. He said they could not justly compensate them for putting their lives on the line and for saving lives and people's most valued possessions. He said the work they did was appreciated and the Council would agree that they wished they could do more. He said they would work toward doing more for all of the Town staff.

I. Appointment of two members to the Museum Board. Mayor Marshall said they had 2 applications and he spoke to the Chair of the Museum Board and she was very happy with the applications. He appointed Susan Musgrove and Ida Caffey and there were no objections from the Council.

12. ADJOURNMENT – Councilor Bettison made a motion to adjourn at 7:44 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