

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY  
REGULAR COUNCIL MEETING  
Grant County Administration Center, 1400 Hwy 180, Silver City, NM  
November 8, 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 L. Scavron, Town Attorney  
Ann L. Mackie, Town Clerk  
Jim Coates, Town Planner

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE** – Mayor Marshall called the meeting to order at 6:02 p.m. Councilor Bettison read the Town’s Mission Statement.

**2. CEREMONIES** – None.

**3. PROCLAMATIONS** – None.

**4. PUBLIC INPUT** – David Thomas introduced himself as President and General Manager of Western New Mexico Telephone, currently known as Western New Mexico Communications; he said they entered the Silver City market a year ago to compete against Century Link. Art Martinez commented on taxes within the current economic conditions and how county and city governments should limit themselves on increasing taxes, etc. Susan Aumann commented that the Gospel Mission would have a volunteer service to serve food 6 days each week; chickens in the town; water; service animals; new business openings, etc. K Dunagan commented on the steps in getting a small business license for Best Pawn. Maria Izquierdo, Family Coordinator for the New Mexico Systems of Care Family Support Group, invited the public to their next meeting on November 10th at the Wellness Coalition with a presentation by Life Quest.

**5. COUNCIL COMMENTS** – Councilor Morones commented that New Mexico was one of the lower sales tax states; that it probably had one of the larger income taxes in the nation, but it was a progressive tax that effected the higher earners; that property tax was one of the lowest in the nation; and that the Town had not raised their sales tax piece in a long time (10 years per Manager Brown). Councilor Morones also announced that he would re-run for District 4 Councilor. Councilor Ray announced that he would run for District 3 Councilor. He also commented on property taxes and how they should be fair about the chicken issue. Councilor Thomson and Bettison had no comments. Mayor Marshall commented on the state tax code; gross receipts taxes and how it impacted municipalities; how a strong tax policy needed to be developed; how counties were supported mostly from property taxes which were much more stable than gross receipts taxes; and how it was a very important and complicated issue. He commented on the Code regarding pawnbrokers and how they would need to get a bond that was approved by the Council. The topic was discussed further with Attorney Scavron.

Mayor Marshall described the process that he took in considering whether to continue to run for office, and he announced that he would run again for Mayor. He encouraged residents to get out and vote. He said the Council did not take a single vote for granted, and that they wanted to work very hard for every vote that they received. Councilor Ray said he was very happy to be on the Council, and that they had a very strong group of people. He said that one of his goals was to have downtown economic development, and that he would like to see the city do something for the veterans and for the hospital. Mayor Marshall said economic development and the way that system worked in communities was very confidential until a company was ready to make a decision and announce. He said there was a lot of discussion going on for potential recruitment opportunities, but they just could not discuss it publicly without risking or totally losing that opportunity. He said that hopefully they will be successful in recruiting some of them.

**6. CHANGES TO THE AGENDA – None.**

**7. APPROVAL OF THE MINUTES –Special Meeting, October 18, 2011** - Councilor Bettison made a motion to approve the minutes. Councilor Morones seconded the motion as stated. All were in favor, motion passed. **Regular Meeting, October 25, 2011** - Councilor Bettison made a motion to approve the minutes. Councilor Thomson seconded the motion as stated. All were in favor, motion passed.

**8. REPORTS** – Manager Brown said they closed on \$6,300,000 worth of bonds, that the money was in the bank, and that they did not raise taxes to get them. He said they would refinance some of the loans to free up cash that was currently used for debt service, and that there would be \$5,000,000 for projects. He provided status on the projects: how the bid for the roof on the Parks maintenance shop would be awarded during the first meeting in December; how he was currently in discussion with the school for the tennis court project; and how the baseball fields project was well under way. Mayor Marshall asked for an update on Penny Park. Manager Brown said the bids for the demolition of the park would be brought to the November 22nd Council meeting and that the results of the public input on the design options of the park showed that options 1 and 4 were the top 2 options. He said he hoped to get guidance from the Council on which design to go forward with so they could order the equipment and get it installed as soon as possible. There was further discussion on the designs.

**9. PUBLIC HEARINGS – None.**

**10. UNFINISHED BUSINESS -**

**A. Approval / Disapproval of Ordinance No. 1186: an Ordinance amending Municipal Code Chapter 2, Article II (Elections), Section 2-50 (b) (1-4) reorganizing existing Town Council districts of the Town of Silver City. (Plan A-1)**

Mayor Marshall asked if anyone needed to see the presentation again, and there was no request to see it again. Councilor Bettison said that she mentioned before in several meetings that she preferred Plan A-1 over Plan B, and that both plans were within the government guidelines. She said that she felt that Plan A-1 ensured that in both Districts 2 and 4 that people could elect from their communities of interest, and it would still give a slight majority of Hispanics in the voting ages in Districts 1 and 3. She said she was concerned about Plan B because by changing the districts as proposed it would dilute the Hispanic vote and there could not be a surety that one of those districts would be able to elect from their community of interest the same way as District 2 would be able to elect from their community of interest. Councilor Thomson said he was not bothered between either one of the plans because they were both improvements. He commented on how the plans needed to protect the communities of interest, that his concern was the amount of interior edge and how it could break up neighborhoods, the number of precincts, etc. Councilor Bettison commented on the interior edge point and said what was most important was what the law dictated in that they did not dilute the minority vote, and that was the reason she strongly supported Plan A-1. Councilor Morones said the idea of not diluting the Hispanic vote was very important, and that he had been drawn to Plan B because it was a better looking plan, seemed equitable, and gave simple majorities in 3 districts to the Hispanic voters. He said there was a variable that was not being talked about; that there was a low turnout among Hispanic voters, that even with a simple majority that they were still not feeling represented. He said they needed to make sure that they did feel that they were being represented by the people of their choice, and for that reason he said that he was in strong support of Plan A-1. Councilor Ray said he was in support of Plan A-1. Mayor Marshall said that because they were a small enough town that they did not have to worry about district lines, other than when they were campaigning. He said there were many other divisions within the town, and that neighborhood associations were developing rapidly. He said that they may be getting elected by district, but they needed to be thinking at-large when doing priority lists for the Town, etc. He said that he did not have an issue with either one of the plans. He thanked Denise Rinehart from Research and Polling, Inc. for being present at many of the meetings, and that he appreciated the company for doing the Town a very good service.

Mayor Marshall asked if anyone from the audience would like to speak. Dr. Martinez said he appreciated everyone's comments, especially Councilor Morones' comments. He said that super majorities were sometimes debatable, but critical. He said that he wanted to be on the record, and that there were good reasons why they must continue, not the least of which was the Voting Rights Act of 1965. He talked about super majorities and said that studies showed that political participation and electoral participation have pointed out electoral reforms that concluded that minority persons had considerably lower turnout historically because of several factors of minorities in the U.S.: the average age

was lower than the national average because of the larger families, that some were younger than the voting age so the population was larger, but most were not a mature age for voting; the depressed poverty status of minority members in the U.S.; lower registration of voters in minority communities; lower socio-economic levels; lower educational levels; that poverty levels were getting worse; the number of potential voters that were still working towards their citizenship; and the feeling of powerlessness and futility among the poor. He said they needed to work to improve all of those things, and act to get it done. Susan Aumann said it was a great idea to have voting at large so everybody could be happy and satisfied, that hopelessness kept people from the polls, etc. Councilor Thomson commented that his concern was turnout and how they would be effected by the 2 distributions; how the interior edge represented people that lived across the street from each other, but were in different districts; how the voting terms came up at different times and made the voting process more difficult; whether the super majority was greater than the loss in complexity in what you lose in Plan A-1 in complexity and edge; and how being across the street will be more critical than the increment difference of a super majority.

Councilor Bettison made a motion to approve Ordinance No. 1186 for Plan A-1. Councilor Morones seconded the motion. There was no further discussion. A roll call vote was taken: Councilor Bettison - aye; Councilor Thomson - nay; Councilor Ray - aye; and Councilor Morones - aye. Motion passed.

**B. Approval / Disapproval of Ordinance No. 1187: an Ordinance amending Municipal Code Chapter 2, Article II (Elections), Section 2-50 (b)(1-4) reorganizing existing Town Council districts of the Town of Silver City. (Plan B)**

Mayor Marshall asked if there was a motion, and there was none. Mayor Marshall stated that seeing there was no motion, Ordinance No. 1187 was dead.

Councilor Bettison moved for short break at 7:14 p.m. Councilor Ray seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 7:29 p.m.

**C. Approval / Disapproval of Ordinance No. 1188: an Ordinance amending Chapter 6, Section 6-1 (Definitions), Section 6-4 (Keeping of dogs and cats), Section 6-6 (Keeping of cattle, horses, fowl or livestock restricted), Section 6-55 (Citations; Contents), Section 6-56 (Failure to pay penalty assessment or correct violation), Section 6-78 (Annual license; permit) of the Town of Silver City Municipal Code.**

Councilor Morones said that he and Councilor Bettison started working on the ordinance last summer due to issues that arose in town with some citizens that had chickens. He said that he wanted to see that there was a corrective action plan to several potential problems so individuals could be notified that they were in violation and could make good, and then could come back into compliance. He said that the staff would not be going to court on simple violations, and it would inform the citizens and allow them to fix the problems that they may not have known existed. He said the main thrust was to allow chickens in the town, to be fair to those that wanted chickens and to those that were the neighbors of those that wanted chickens. He said it was a fairly balanced ordinance and had subjective and objective standards. He commented further. Councilor Bettison said that she agreed with everything that Councilor Morones had stated and she commented on the amount of research that they had done. She said that after hearing a lot of public input from a wide variety of people that she would hope that they could amend the ordinance to strike Chapter 6, Section 6-4 (a) which was the keeping of dogs and cats to completely strike that section to reverse it back to the current Town ordinance which would limit the number of dogs and cats to any combination of 2. Councilor Bettison asked the Mayor if the deletion should be in the form of a motion to strike that portion of the ordinance under consideration. Mayor Marshall said yes. Councilor Bettison made a motion to strike Chapter 6, Section 6-4(a), which referred to the number of dogs and cats per dwelling. Councilor Morones seconded the motion. Attorney Scavron stated that there was no main motion to adopt the main ordinance. He said the motion should be to move to adopt the ordinance. Mayor Marshall said Councilor Bettison was amending the Notice of Intent Ordinance which had already been considered. Attorney Scavron stated they were amending the ordinance that was going to be adopted. Mayor Marshall asked if that was okay, and Attorney Scavron said yes. Mayor Marshall clarified that the motion was to just vote on the deletion of the section in the Notice of Intent Ordinance. All were in favor, motion passed.

Mayor Marshall stated that there was an avenue in place currently to allow more than the 2 dogs or cats by getting a kennel license. He said they were back on the discussion and asked if there were any comments from the audience. Public comments were received and there was further discussion. Councilor Bettison moved for a short break at 8:32 p.m. Councilor Ray seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back

to order at 8:47 p.m. Additional comments were received from the audience, and there was further discussion between the public and the Council. Mayor Marshall said that he was not in favor or against chickens, but the Town had to set a standard. He said that he thought it was worth a try and that the Councilors had made a good effort.

Councilor Morones made a motion for the approval of Ordinance No. 1188 with the following amendments: Chapter 6, Section 6-6 (4) (a) “. . . a household be permitted to keep up to 6 female chickens within the corporate limits of the Town”; same section, (j), to "With due regard for neighboring properties, chickens shall be fed dry fed, clean water or kitchen scraps in a feed container kept free of garbage and rotten scraps."; same section, (k), last sentence, number of chickens up to a total of 6 female chickens; same section, (l), taken out; and on final page, Section 6-78 (a), chickens: 1-6 chickens \$25.00. Councilor Bettison seconded the motion as stated. Attorney Scavron said there was another change to the ordinance, Section 6-4 (a), should be included in the motion. Councilor Morones amended his motion to include striking out Section 6-4 (a). Councilor Bettison seconded the amended motion. There was further discussion. A roll call vote was taken: Councilor Morones – aye; Councilor Ray – aye; Councilor Thomson – aye; and Councilor Bettison – aye. Motion passed.

**D. Approval / Disapproval of Ordinance No. 1189: an Ordinance amending Appendix C (Land Use and Zoning Code of 2010), Article VI (Administration), Section 6.1.1 (Planning and Zoning Commission) of the Town of Silver City Municipal Code.** Mayor Marshall presented the details of Ordinance No. 1189. Attorney Scavron said that one other point that was significantly different from the previous Code was that in this case all appointees must be residents of the Town. Mayor Marshall said that was done based on the ETZ Commission. Councilor Bettison moved to approve Ordinance No. 1189. Councilor Ray seconded the motion. A roll call vote was taken: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Ray - aye; and Councilor Morones - aye. Motion passed.

## 11. NEW BUSINESS -

**A. Approval / Disapproval of Notice of Intent to Adopt Ordinance No. 1190: an Ordinance authorizing the sale of that Town property described as Lot 7 Block 7, San Vicente Subdivision, Silver City, Grant County, NM.** Jim Coates, Town planner, presented the details of Notice of Intent Ordinance No. 1190. He said that Charles Deming of 121 Richard Street had approached the Town several months ago to purchase the lot next to his home that was owned by the Town since 1984. He said that Mr. Deming wanted to purchase the lot to have defensible space for his home. He described the lot, the neighboring lots, and the area. He said the departments of the Town looked at the property and did not see any reason not to sell the property; it would not obstruct any of the plans or any further development of the adjacent park. He said if the ordinance did pass that it would take Mr. Deming 45 days to wait for the sale to go through. He said the property was appraised at \$8,000, and since the value was over \$5,000 they had to go through the ordinance process. There was further discussion about the process of selling Town property either by private sale or by competitive bid. Councilor Ray made a motion to approve Notice of Intent Ordinance No. 1190. Councilor Morones seconded the motion. A roll call vote was taken: Councilor Morones – aye; Councilor Ray – aye; Councilor Thomson – aye; and Councilor Bettison – aye. Motion passed.

**B. Approval / Disapproval of destruction of records from the Executive, Finance-Accounts Payable, Finance-Utility Billing, Municipal Court, Police, Recreation Center, and Public Works Departments. Quantity: 152 boxes.** Clerk Mackie requested the approval of the destruction of 152 boxes of Town records. She said the destruction of the records had been approved by the State Records and Archives. Councilor Bettison moved to approve the destruction of records. Councilor Morones seconded the motion. All were in favor, motion passed.

**12. ADJOURNMENT** – Councilor Morones made a motion to adjourn at 9:34 pm. Councilor Bettison seconded the motion. All were in favor. Motion passed.

/s/

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James R. Marshall, Mayor

Attest:

/s/

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Ann L. Mackie, Town Clerk