

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING
Grant County Administration Center, 1400 Hwy 180, Silver City, NM
December 13, 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
Yolanda C. Holguin, Acting Town Clerk
Anita Norero, Purchasing Agent

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 6:04 p.m. Councilor Bettison read the Town’s Mission Statement.

2. CEREMONIES – None.

3. PROCLAMATIONS - “Statehood Day in the Town of Silver City” - Mayor Marshall read the proclamation and presented it to Nick Seibel, Manager of Silver City MainStreet Project, proclaiming January 6, 2012, as “Statehood Day in the Town of Silver City.” Mr. Seibel talked about the events and activities that would be taking place.

4. PUBLIC INPUT – Lori Ford, Executive Director of Community Access Television in Silver (CATS), invited the Council to the CATS annual membership meeting and holiday event on December 17, 2011. She thanked the public for their patience with the changes and improvements taking place and thanked the Council for their support.

5. COUNCIL COMMENTS – Councilor Thomson stated that he would not be running for re-election and that he had not been effective. Councilor Bettison wished all a Happy Holiday and New Year. Mayor Marshall thanked Milagre Coates, a student at Aldo Leopold, for her commitment and interest in wanting to learn procedures, and debating skills, and that he was looking forward to working with other students in January.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES –Regular Meeting, November 22, 2011 - Councilor Bettison made a motion to approve the minutes as presented. Councilor Thomson seconded the motion as stated. All were in favor. Motion passed.

8. REPORTS – Robert Scavron, Town Attorney, stated that PNM had moved the closing of their payments centers date to March 31, 2012, that 70% of customers in Hidalgo and Grant County use the payment centers, and that the centers were in high demand.

9. PUBLIC HEARINGS – None.

10. UNFINISHED BUSINESS -

A. Approval / Disapproval of 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, Planner / Zoning Administrator, presented the details and gave a brief history of the property and stated that the Town had determined no further plans for the property. He stated that the grade of the property was unusable and steep; that adjoining landowners were contacted and no comments or interests were received; and if approved, the ordinance would be effective 45 days after passage. Councilor Thomson voiced his concern of the sale of Town property because of the grade. Councilor Ray made a motion to approve Ordinance No. 1190. Councilor Morones 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 Ordinance No. 1192: an Ordinance authorizing the issuance of the Town of Silver City, NM gross receipts tax improvement bond. Manager Brown discussed the process of the bonds authorizing the issuance to borrow \$750,000 in gross receipts tax for six years with an interest rate from 3 to 6 percent for capital improvements throughout the Town with the Council's direction. Discussion continued on the Town's credit rating; on the direct financing versus the bond route; negotiating price depending on the market; bond rating at A+; and the use of state share portion. Councilor Morones made a motion to approve Notice of Intent Ordinance No. 1192. Councilor Bettison seconded the motion as stated. All were in favor. Motion passed.

B. Approval / Disapproval of Notice of Intent Ordinance No. 1191: an Ordinance revising in its entirety Chapter 6 (Animals); Section 6-1 et seq. of the Town of Silver City Municipal Code. Councilor Thomson commented on a brief history of what went into the ordinance; the guiding principles; following state ordinance; the Town's Land Use Code improving the governing of animal control; the problems of managing dogs and cats; flexible market mechanism; the cost, supply and policing of animals; creating an ordinance to remove inflexibility; behavior of animals that should be prosecuted; preventing dog attacks and finding solutions; the Town maintaining standards that worked to solve conflict; encountering failure; and the need to encourage elements of cohesion when discussing the issues of the ordinance. Mayor Marshall thanked Councilor Thomson and those who worked on the ordinance. He stated that animals are considered part of the family and that the issue could be emotional. He then allowed for public comment.

Karen Blockland commented on how the Town listens to the opinions and beliefs of its residents and thanked Councilor Thomson for his efforts on researching the issue; the burden that the animal control officer (ACO) had and the need of assistance for him; and her concerns on the Intact Animal Permit and Intact Animal License. Councilor Thomson stated that enforcement concerns should go down. Police Chief Ed Reynolds stated that the ACO did get back-up when needed. Discussion continued on the need for the jurisdiction to continue into the county; the importance of the ordinance; the processing of the Notice of Intent; dogs being tied in the back of trucks; and the idea of a petition in support of the ordinance. Jean Martin stated that this was the second time the animal ordinance came before the Council and encouraged the Council to continue the work to get it done. She stated that violations needed to have some teeth in it. Lisa Clark stated that she was in favor of the ordinance; that the ordinance was more comprehensive in terms of the welfare and care of animals and making society aware of it; that Silver City deserved an ordinance that took into account the care for animals like shade and chaining; neighbors dealing with animals; animal nuisance being a case to case issue; the number of animals that could be owned; and encouraged the Council to consider the ordinance fully and not to dismiss it. Sharon Lyle thanked Councilor Thomson for his work and had questions on the number of animals allowed per household. Discussion continued on not noticing the number of animals because they were not a nuisance; the county buying into the ordinance; and that five animals per household would be pushing it.

Councilor Bettison made a motion to take a short recess at 7:15 p.m. Councilor Ray seconded the motion. All were in favor. Motion passed. Mayor Marshall called the meeting back to order at 7:33 p.m.

Lori Ford stated that she lived in the county and asked how important it was to document nuisances, and suggested using cameras to video-tape the nuisance and use it as a deterrent. Discussion continued on learning the animal's behavior and strategies to reduce noise. Mark Woodard thanked the Council for giving a fair shake to public input. He talked about his concern with the number of animals; that nuisances needed to be dealt with; how he would like to see the number of chickens allowed increased; and his liberties and right to make a decision.

Mayor Marshall stated that a special session would be needed to address the issue of cruelty and abuse of animals; to fully understand and vote on the ordinance; and that he appreciated the work that had gone into the ordinance. Councilor Bettison thanked Councilor Thomson, those that worked on it, and those that contacted her on the ordinance. She commented on the licensing and permitting of animals; providing an end to un-restricted dogs; safety for owners

and animals; her concerns on the definition language of service animals and the term “qualified” and requested the use of federal ADA language in the proposed ordinance; the number of animals per household; that the proposed ordinance would completely replace the recently adopted amendments to the animal ordinance that permits up to six chickens under certain conditions and would place restrictions to certain zoning areas; exotic animals; stream-lining the ordinance; and encouraged the public to contact the Council. Councilor Ray gave credit to Councilor Thomson for taking on the animal ordinance and that he was looking forward to the work session. Mayor Marshall commented on not putting the NOI to a vote at that time; taking time to work through the issues and coming to a consensus on areas; addressing the enforcement policy; and having a special meeting in January to address the issues. Councilor Bettison made a motion to postpone action on Notice of Intent Ordinance No. 1191. Councilor Ray seconded the motion. Councilor Morones stated that he was looking forward to working on the ordinance in January. All were in favor. Motion passed.

C. Approval / Disapproval of Resolution 2011-40: A Resolution authoring the submission of a NM Community Development Block Grant Program Application to the Dept. of Finance and Administration/Local Government Division; and authorizing the Mayor as the Town of Silver City’s Chief Executive Officer and authorized representative to act in all matters pertaining to the Town of Silver City’s participation in the Community Development Block Grant Program. Peter Pena, Public Works Director, explained the details of the resolution which would include street and drainage improvements on Alice, Bullard, Garcia, and Texas Streets in the Chihuahua Hill area and that the application would be for a complete and phased project. Councilor Ray made a motion to approve with the noted correction to the resolution number on the agenda. Councilor Morones seconded the motion. A roll call vote was taken: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Ray - aye; and Councilor Morones - aye. Motion passed.

D. Approval / Disapproval of Bid #11/12-10: Old Armory Roof Replacement. Anita Norero, Purchasing Agent, stated that seven bids were received, and that staff’s recommendation was to award the bid to Chavez Plastering and Cement Construction for the base bid of \$144,369.24, Additive Alternate #1 -\$5,761.20, Additive Alternate#2 - \$8,428.00 for a total project cost with gross receipts tax of \$170,252.12. She stated that the bid fell into the 5% residential bidder preference. Councilor Thomson was pleased that the roof would be replaced. Councilor Morones made a motion to approve per staff recommendation. Councilor Bettison seconded the motion. All were in favor. Motion passed.

E. Approval / Disapproval of Bid #11/12-11: Vistas de Plata – Affordable Housing. Ms. Norero stated that three bids were received, and that it was staff’s recommendation to reject all of the bids and re-bid the project. She stated that the Town would return the design to the architect and have them submit a design for a more favorable home. Councilor Morones made a motion to reject all bids per staff recommendation. Councilor Bettison seconded the motion as stated. All were in favor. Motion passed.

F. Approval / Disapproval of Bid #11/12-12: Pope and 12th Street Signalization. Ms. Norero stated that three bids were received, and that it was staff recommendation to reject all bids upon review of Engineers Inc. and the New Mexico Department of Transportation (NMDOT); that each of the bids received were incomplete; and that all three bids were determined non-responsive by the NMDOT. Councilor Morones made a motion to reject all bids per staff recommendation. Councilor Bettison seconded the motion. All were in favor. Motion passed.

G. Approval / Disapproval of Bid #11/12-14: Jose Barrios/Silva Creek Pedestrian Bridge Project. Ms. Norero stated that four bids were received, and that it was staff’s recommendation to award the bid to Reiman Corp. SW for the base bid of \$243,627.80, Additive Alternate #1 - \$9,484.27 for a total project cost with gross receipts tax of \$271,776.10. She stated that federal funds were available for the project and that all other bids were non-responsive.

Councilor Bettison made a motion to take a short break at 8:20 p.m. Councilor Ray seconded the motion. All were in favor. Motion passed. Mayor Marshall called the meeting back to order at 8:44 p.m.

There was discussion as to why Tatsch Construction was non-responsive. Manager Brown stated that Mr. Pena would provide the documentation as to why Tatsch Construction was deemed non-responsive by NMDOT. Mayor Marshall

suggested postponing the item possibly until the end of the meeting. Councilor Bettison made a motion to postpone the Approval / Disapproval of Bid #11/12/14. Councilor Ray seconded the motion. All were in favor. Motion passed. See page 4 of 5 of these Minutes for action on Item G.

H. Approval / Disapproval of Bid #11/12-15: Woodward Well Booster Pump Motor Replacement. Ms. Norero stated that two bids were received, and that it was staff's recommendation to award the bid to B & M Machinery Co. for the Motor - \$32,919.98, Installation/Electrical Connection – \$2,444.38, for a total project cost with gross receipts tax of \$37,972.50. Manager Brown stated that the funds were budgeted as capital replacement in the water and sewer fund. Councilor Bettison made a motion to approve per staff recommendation. Councilor Morones seconded the motion as stated. Manager Brown stated that Robert Esqueda, Utilities Director, consulted with the engineer and that the 300% extra high thrust efficiency motor would accomplish the job. All were in favor. Motion passed.

I. Approval / Disapproval of Bid #11/12-16: Penny Park Demolition. Ms. Norero stated that four bids were received, and that it was staff's recommendation to award the bid to Turner Brothers Construction for the base price of \$18,250.00 for a total project cost with gross receipts tax of \$19,595.94. She stated that funds were available from monies received through the insurance. There was discussion on the dollar range of the bids; contractors wanting to keep their employees working through the winter; and that the four contractors received the same documents and information, and were at the pre-bid conference. Councilor Morones made a motion to approve per staff recommendation. Councilor Ray seconded the motion. All were in favor. Motion passed.

J. Approval / Disapproval of Penny Park Reconstruction Plan. Manager Brown commented on the public input that was received and asked for the Council's direction now that the bid for the demotion was approved. He stated that the five concepts were posted at the Library and Community Development Departments, and at the Red Hot Children's Fiesta, and that concepts 1 and 4 were the favored ones. He stated that it would take eight weeks for the equipment to arrive; that the contractor would be willing to work with the community and organization to schedule work days; and that the train could be moved to either concept. The Council talked about their preference of the concepts; foregoing the wish-bone in lieu of the train, the importance of the shade structures and that Town staff could erect them; picnic tables having built-in checkers and chess boards; drawing people of all ages to the park; having the built-in boards at Gough Park; and defining the public participation. Discussion continued on whether the Town would agree for ExerPlay to place the concept in their catalog; funding and working with the Arts Council, school and Up with America for a mural; and a memorial to honor the volunteers that worked on Penny Park. Councilor Bettison made a motion to approve Concept 1 with the removal of the wish-bone, but replacing it with the train for the Penny Park reconstruction plan. Councilor Morones seconded the motion. Councilor Bettison amended her motion to include the public work participation as feasibly possible with the contractor. Councilor Morones seconded the amendment to the motion. All were in favor. Motion passed.

K. Approval / Disapproval of cancellation of Regular Council Meeting scheduled for December 27, 2011. Councilor Morones made a motion to approve the cancellation. Councilor Bettison seconded the motion. All were in favor. Motion passed.

Councilor Bettison made a motion to go into **Executive Session** at 9:08 p.m. pursuant to NMSA 1978 Section 10-15-1(H)(8) for the following reason: meeting for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body. Councilor Morones seconded the motion. A roll call vote was taken: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Ray - aye; and Councilor Morones - aye. Motion passed. Mayor Marshall stated that after a short recess the Council would go into Executive Session. Mayor Marshall called the meeting back to regular session at 9:22 p.m. He stated that a motion and second to go into Executive Session was approved and that the Council took a short recess, but never went into Executive Session. He called the meeting back to order. He said the item on the agenda to be considered was Item G under New Business. He re-introduced Item G and asked Manager Brown to present it.

G. Approval / Disapproval of Bid #11/12-14: Jose Barrios/Silva Creek Pedestrian Bridge Project. Manager Brown stated that four bids were received, and that after numerous e-mail and contact with NMDOT, who reviewed the bids and deemed that all bids, but Reiman Corp. SW, to be non-responsive. Tatsch Construction was deemed non-

responsive by the NMDOT for not completing Form A-644, a federal form required for federal funding. Staff recommendation was to award the bid to Reiman Corp. SW for the base bid of \$243,627.80, Additive Alternate #1 - \$9,484.28, for a total project cost with gross receipts tax of \$271,779.10. Councilor Thomson made a motion to approve as per staff recommendation to Reiman Corp. SW. Councilor Bettison seconded the motion. All were in favor. Motion passed.

Councilor Bettison made a motion to go into **Executive Session** at 9:27 p.m. pursuant to NMSA 1978 Section 10-15-1(H)(8) for the following reason: meeting for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body. Councilor Morones seconded the motion. A roll call vote was taken: Councilor Bettison - aye; Councilor Thomson - aye; Councilor Ray - aye; and Councilor Morones - aye. All were in favor. Motion passed. Mayor Marshall called the meeting back to order at 10:59 p.m. and stated there was no discussion outside the motion that was made to go into Executive Session, and there were no decisions made in Executive Session.

12. ADJOURNMENT – Councilor Bettison made a motion to adjourn at 11:00 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